

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DARYEL BUESKING,  
Plaintiff,

v.

PRINCESS CRUISE LINES, LTD.,  
et al.,  
Defendants.

Case No. 2:24-cv-04935-MRA-PD

**REPORT AND  
RECOMMENDATION OF  
UNITED STATES  
MAGISTRATE JUDGE**

This Report and Recommendation is submitted to the Honorable Monica Ramirez Almadani, United States District Judge, pursuant to 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

Before the Court is specially appearing Defendant/Garnished Party Aloschi Bros. SRL's ("Aloschi") motion to vacate the order and summonses and process of maritime attachment and garnishment, vacate any default and dismiss the second amended verified complaint for lack of jurisdiction (the "Motion").<sup>1</sup> Dkt. No. 108. Plaintiff/Garnisher Daryel Buesking ("Plaintiff")

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<sup>1</sup> Supplemental Rule E states in relevant part: "An appearance to defend against an admiralty and maritime claim with respect to which there has issued process in rem, or process of attachment and garnishment, may be expressly restricted to the defense

1 filed an opposition (the “Opposition”), and Aloschi filed a reply (the “Reply”).  
2 Dkt. Nos. 109, 119. For the following reasons, the Court recommends that  
3 Aloschi’s Motion be granted.

4 **I. Pertinent Background**

5 On June 12, 2024, Plaintiff filed a maritime action against Defendants  
6 Princess Cruise Lines, LTD. (“Princess”), Aloschi, SNAV S.P.A. (“SNAV”), and  
7 XYZ Corporation(s) for damages in excess of \$1,000,000.00. Dkt. No. 1.  
8 Pursuant to Rule B of the Supplemental Rules for Admiralty or Maritime  
9 Claims of the Federal Rules of Civil Procedure (hereinafter, “Supplemental  
10 Rule B”), Plaintiff prayed for attachment and garnishment of property  
11 belonging to Aloschi and SNAV in the possession of Princess, Royal Caribbean  
12 Cruise Lines, Ltd., Celebrity Cruises Inc., Magical Cruise Company, Ltd., and  
13 MSC Cruises S.A. (collectively, “Garnishees”). *Id.* ¶¶ 48–59. Plaintiff alleges  
14 that in August 2023, he was a passenger on a Princess cruise ship and  
15 suffered neck and spinal injuries while he was on an off-ship tour excursion to  
16 the Island of Capri. *Id.* ¶¶ 14–24. Aloschi was the tour provider of the ferry,  
17 owned and operated by SNAV, upon which Plaintiff became injured. *Id.*  
18 ¶¶ 18–19.

19 On August 19, 2024, Plaintiff filed a First Amended Complaint (“FAC”),  
20 which revised the original Complaint to include an affidavit of Plaintiff’s  
21 Counsel in support of Plaintiff’s prayer for Rule B attachment and  
22 garnishment (the “Attorney Verification”). Dkt. Nos. 14, 14-1. On that same  
23 date, Plaintiff filed his initial Motion for Issuance of Summons and Process of  
24 Maritime Attachment and Garnishment, seeking an order directing issuance  
25 of summonses and process on Garnishees. Dkt. No. 15.

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28 of such claim, and in that event is not an appearance for the purposes of any other  
claim with respect to which such process is not available or has not been served.” Fed.  
R. Civ. P., Supp. R. E(8).

1 On September 9, 2024, the District Court denied Plaintiff's Motion,  
2 identifying deficiencies in the Attorney Verification and finding that "the  
3 conditions supporting Rule B attachment do not appear to exist." Dkt. No. 17  
4 at 4–5. Plaintiff thereafter filed a Revised Attorney Verification and a  
5 Revised Motion for Issuance of Summons and Process of Maritime  
6 Attachment and Garnishment (the "Revised Motion"). Dkt. Nos. 18, 19. The  
7 District Court denied the Revised Motion, determining that Plaintiff "ha[d]  
8 cured some, but not all, of the deficiencies in its prior Order." Dkt. No. 21 at  
9 2.

10 On September 23, 2024, Plaintiff filed a Second Revised Attorney  
11 Verification and a Second Revised Motion for Issuance of Summons and  
12 Process of Maritime Attachment and Garnishment. Dkt. Nos. 22, 23.

13 On October 2, 2024, the District Court issued an Order granting  
14 Plaintiff's Second Revised Motion for Order Directing the Issuance of  
15 Summons and Process of Maritime Attachment and Garnishment, pursuant  
16 to Federal Rule of Civil Procedure, Supplemental Admiralty Rule B (the "Rule  
17 B summons"), the effect of which to attach property belonging to Defendants  
18 Aloschi and SNAV within the control or possession of Garnishees. Dkt. No.  
19 24. Aloschi and SNAV are based in Italy and are not subject to this Court's  
20 personal jurisdiction. Dkt. No. 22-1.

21 On October 3, 2024, a Summons and Process of Maritime Attachment  
22 and Garnishment was issued to each of the Garnishees regarding Aloschi's  
23 property. Dkt. Nos. 25, 27, 29, 31, 33, ,35, 38. The summonses expressly  
24 stated that it had the power to attach and garnish the following "property,  
25 goods, chattels, credits and/or effects" in the hands of the Garnishees,  
26 belonging to Aloschi:

27 **past, present and future** earnings from their Tour  
28 Agreement(s) and/or any other agreements between Defendant  
and Garnishees, PRINCESS CRUISE LINES, LTD., CARNIVAL

1 CORPORATION, NCL (BAHAMAS) LTD., ROYAL CARIBBEAN  
2 CRUISES LTD., CELEBRITY CRUISES INC., MAGICAL  
3 CRUISE COMPANY, LTD. and MSC CRUISES S.A. This  
4 includes, but is not limited to, all moneys owing under the  
5 aforementioned agreements from the Garnishees (directly or  
6 indirectly from any of the Garnishees' entities, affiliates and/or  
7 agents) to ALOSCHI BROS. SRL., and/or any person and/or  
8 entity acting as agent and/or collecting moneys for ALOSCHI  
9 BROS. SRL.

10 *Id.*, Court issued Rule B summons for Garnishees as to Aloschi (emphasis  
11 added).

12 On November 25, 2024, Princess accepted service of the Rule B  
13 summons issued for Aloschi. Dkt. No. 73 at 2. On November 26, 2024,  
14 Princess waived service of process of a maritime attachment and garnishment  
15 issued for Defendant Aloschi and executed a waiver which was subsequently  
16 filed with the Court. Dkt. Nos. 73, 73-1, 73-2. On December 3, 2024, Plaintiff  
17 voluntarily dismissed Garnishee NCL (Bahamas) Ltd. Dkt. No. 76.

18 On January 29, 2025, Plaintiff filed the second amended complaint  
19 ("SAC") against Defendants Princess, Aloschi, SNAV, and XYZ Corporation(s),  
20 and named Princess as the sole garnishee. Dkt. No. 93. On February 6, 2025,  
21 in response to the District Court's order [Dkt. No. 94], Plaintiff filed a Joint  
22 Stipulation of Partial Voluntary Dismissal as to Garnishees Carnival Corp.,  
23 Royal Caribbean Cruises Ltd., Celebrity Cruises Inc., Magical Cruise  
24 Company, Ltd., and MSC Cruises S.A. Dkt. No. 95.

25 As a result, the only remaining garnishee is Princess. On February 25,  
26 2025, Plaintiff filed a Notice of Partial Voluntary Dismissal as to SNAV and  
27 XYZ Corporation(s), leaving Princess and Aloschi as the only named  
28 defendants. Dkt. No. 99.

On April 7, 2025, pursuant to Plaintiff's motion for entry of default  
[Dkt. No. 100], the District Court directed the Clerk to enter default against  
Aloschi. Dkt. No. 106. That same day, default was entered. Dkt. No. 107.

1 On June 5, 2025, in accordance with the District Court’s order granting  
2 Princess’s motion to dismiss [Dkt. No. 113], Plaintiff filed the operative third  
3 amended complaint (“TAC”). Dkt. No. 125.

## 4 **II. Legal Standards**

5 The Federal Rules of Civil Procedure, Supplemental Admiralty Rule B,  
6 provides in pertinent part:

7 In an in personam action:

8  
9 If a defendant is not found within the district . . . , a verified  
10 complaint may contain a prayer for process to attach the  
11 defendant’s tangible or intangible personal property--up to the  
12 amount sued for--in the hands of garnishees named in the  
process.

13 Supplemental Rule B(1)(a).

14 Under Supplemental Rule B, in personam jurisdiction over the  
15 defendant is obtained by compelling its appearance through attachment of its  
16 goods and chattels, or credits and effects. *Polar Shipping Ltd. v. Oriental*  
17 *Shipping Corp.*, 680 F.2d 627, 629–30 (9th Cir. 1982); *see also Ultra Deep*  
18 *Picasso Ltd. v. Dynamic Industries Saudi Arabia Ltd.*, 2023 WL 4275503, at  
19 \*3 (S.D. Tex. May 18, 2023).

20 Supplemental Rule B provides for a special process of attachment, only  
21 in admiralty cases, wherein a plaintiff can obtain quasi in rem personal  
22 jurisdiction over a defendant that “is not found within the district” but whose  
23 property is within the district. “Under Rule B of the Supplemental Admiralty  
24 Rules, [a] plaintiff may attach a defendant’s property if four conditions are  
25 met: (1) Plaintiff has a valid prima facie admiralty claim against the  
26 defendant; (2) defendant cannot be found within the district; (3) property of  
27 the defendant can be found within the district; and (4) there is no statutory or  
28 maritime law bar to the attachment.” *Sikousis Legacy, Inc. v. B-Gas Ltd.*, 97  
F.4th 622, 628–29 (9th Cir. 2024), *cert. denied*, 145 S. Ct. 593 (U.S. Nov. 25,

2024) (internal quotations and citations omitted); *Equatorial Marine Fuel Mgmt. Servs. PTE v. MISC Berhad*, 591 F.3d 1208, 1210 (9th Cir. 2010). Through attachment of a defendant’s property in the district, a court gains jurisdiction over the defendant’s person, and the plaintiff can gain a judgment against the defendant up to the value of the property attached. *See Limonium Mar., S.A. v. Mizushima Marinera, S.A.*, 961 F. Supp. 600, 605 (S.D.N.Y. 1997).

Thus, a Supplemental Rule B attachment has a dual purpose: obtaining personal jurisdiction over an absent defendant and securing collateral for a potential judgment in plaintiff’s favor. *See Aqua Stoli Shipping Ltd. v. Gardner Smith Pty Ltd.*, 460 F.3d 434, 437 (2d Cir. 2006), *overruled on other grounds by Shipping Corp. of India Ltd. v. Jaldhi Overseas Pte Ltd.*, 585 F.3d 58, 61 (2d Cir. 2009); *see also STX Panocean (UK) Co. v. Glory Wealth Shipping Pte Ltd.*, 560 F.3d 127, 130 (2d Cir. 2009) (“Maritime parties are itinerant, their assets transitory. Thus, the traditional policy underlying maritime attachment has been to permit the attachment of assets wherever they can be found, thereby obviating the need for a plaintiff to ‘scour the globe’ to find a proper forum for suit, or property of the defendant sufficient to satisfy a judgment.”).

Supplemental Rule E(4)(f) provides: “Whenever property is arrested or attached, any person claiming an interest in it shall be entitled to a prompt hearing at which the plaintiff shall be required to show why the arrest or attachment should not be vacated or other relief granted consistent with these rules.” Fed. R. Civ. P., Supp. R. E(4)(f). “When a defendant challenges the validity of a Rule B attachment, the burden is on the plaintiff to prove there was reasonable grounds for issuing the writ. The court’s inquiry must focus on the facts known at the time of the attachment.” *Dannebrog Rederi AS v. M/Y True Dream*, 146 F. Supp. 2d 1307, 1311 (S.D. Fla. 2001) (internal

1 citation omitted). A plaintiff has the burden of justifying continued  
2 attachment under Rule E(4)(f). *Equatorial Marine*, 591 F.3d at 1210. The  
3 plaintiff does not need to prove its case at a Rule E(4)(f) hearing; however, the  
4 plaintiff does need to show “probable cause” for the issuance of the writ by  
5 establishing that the plaintiff is “reasonably likely to prevail” on the merits of  
6 the contested issue. *See, e.g., OS Shipping Co. Ltd. v. Glob. Mar. Tr.(s)*  
7 *Private Ltd.*, 2011 WL 1750449, at \*5 (D. Or. May 6, 2011).

### 8 **III. The Parties’ Contentions**

9 Aloschi moves for three related orders: (1) vacating the attachment  
10 order and quashing the Rule B summonses; (2) vacating any default entered;  
11 and (3) to dismiss the SAC.<sup>2</sup> Plaintiff opposes the first and third requests, but  
12 not the request to vacate the default. Dkt. No. 109 at 4.

13 Aloschi argues the attachment summons should be quashed since  
14 Plaintiff has not shown that Aloschi has attachable property within the  
15 Central District of California (the “District”). Dkt. No. 108-1 at 7. Therefore,  
16 because no attachable property exists in this District, the Court lacks  
17 jurisdiction and the SAC should be dismissed.

18 In opposition, Plaintiff contends that Princess owes Aloschi 86,087.48  
19 Euros (+/- \$94,696.22), which is held in a bank in London, England. Plaintiff  
20 argues this money is located in the District because Princess is within the  
21 District and has constructive possession of the funds. Dkt. No. 109 at 8.  
22 Furthermore, even if Princess obtained Aloschi’s property after the summons  
23 was served, it is still attachable because the Rule B Summons explicitly  
24 encompassed “future earnings” between Princess and Aloschi and is  
25 consistent with maritime caselaw.

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28 <sup>2</sup> While the moving papers ask to dismiss the SAC, since then, the TAC has become  
the operative pleading. *See* Dkt. No. 125.



1 In reply, Aloschi argues that the location of the property—not the  
2 garnishee, is dispositive. Dkt. No. 119 at 3. Second, the writ of attachment  
3 only attaches property held by the garnishee at the time of service; the  
4 *Johnson* case cited by Plaintiff is not reflective of the current law.

#### 5 **IV. Request for Judicial Notice**

6 Aloschi requests judicial notice of the Complaint and Demand for Jury  
7 Trial with Prayer for Attachments in *Daryel Buesking v. Aloschi Bros, SRL, et*  
8 *al.*, filed January 30, 2025 in the United States District Court for the  
9 Southern District of Florida, Case No. 1:25-cv-20454. Dkt. No. 108-2. Court  
10 records are properly subject to judicial notice. *See* Fed. R. Evid. 201(b) (court  
11 may take judicial notice of fact that is not subject to reasonable dispute  
12 because it is (1) generally known within the trial court's territorial  
13 jurisdiction; or (2) can be accurately and readily determined from sources  
14 whose accuracy cannot reasonably be questioned); *see also MGIC Indem. Co.*  
15 *v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986). Accordingly, Aloschi's request  
16 is GRANTED.

#### 17 **V. Discussion**

##### 18 **A. Plaintiff Has Not Established the Third Condition Under** 19 **Supplemental Rule B to Secure a Writ of Attachment as to** 20 **Property Belonging to Aloschi**

21 As noted above, to secure a writ of attachment, Plaintiff must  
22 demonstrate the following: (1) Plaintiff has a valid prima facie admiralty  
23 claim against the defendant; (2) defendant cannot be found within the district;  
24 (3) property of the defendant can be found within the district; and (4) there is  
25 no statutory or maritime law bar to the attachment. *Sikousis Legacy, Inc.* 97  
26 F.4th at 628–29.  
27  
28



1 Plaintiff asserts that three of the four conditions under Supplemental  
2 Rule B to secure an attachment have been met. Plaintiff asserts that he has a  
3 prima facie admiralty claim; Aloschi cannot be found in this District [See Dkt.  
4 No. 22-1]; and there is no statutory or general maritime law proscription to  
5 the instant attachment as Plaintiff brought his in personam and  
6 Supplemental Rule B claim against Aloschi within the three-year limit to do  
7 so. Dkt. No. 109 at 7. Aloschi has not challenged Plaintiff's assertions  
8 regarding conditions one, two, and four. Accordingly, Plaintiff has established  
9 three of the four conditions necessary to secure an attachment.

10 The issue here is the third condition—property of the defendant that  
11 can be found in this District. Aloschi argues that Plaintiff cannot meet his  
12 burden to show that it has attachable property within the District.

13  
14 **1. Aloschi Had No Attachable Property on the Date of**  
15 **Service of the Summons**

16 In opposition, Plaintiff argues that Princess owes Aloschi 86,087.48  
17 Euros (+/- \$94,696.22) but sets forth no evidence showing that Princess owed  
18 this money at the time the Rule B summons was served.

19 According to Aloschi, because the funds were not owed at the time the  
20 Rule B summons was served, the attachment is void. Dkt. No. 119 at 5. In  
21 *Reibor Int'l Ltd. v. Cargo Carriers (KACZ-CO.) Ltd.*, 759 F.2d 262 (2d Cir.  
22 1985), a Rule B summons was served on a garnishee bank before the  
23 defendant made a transfer request under a letter of credit. *Id.* at 263. The  
24 Second Circuit, after noting that “Rule B does not mention attachment of  
25 after-acquired property”, turned to the applicable state law which clearly  
26 stated that property is attachable only at the time of service. *Id.* at 265–66  
27 (“[T]he precedent in federal admiralty law is so thin that we should turn to  
28 state law more directly on point.”). After applying the state law, the court

1 held that because the Rule B summons was served *before* the desired  
2 garnished funds were received by the bank, the attachment was “absolutely  
3 void.” *Id.* at 263.

4 Following the reasoning in *Reibor*, Aloschi cites California caselaw that  
5 an attachment and garnishment is not effective against after-acquired  
6 property. *Smith v. Crocker First Nat. Bank of San Francisco*, 314 P.2d 237,  
7 240 (Cal. Ct. App. 1957) (California appellate court finding that under state  
8 law an attachment does not reach property acquired after service of the writ).

9 On this point, Plaintiff has not cited contrary California law or shown  
10 that Princess possessed money owed to Aloschi at the time the summons was  
11 served. Instead, Plaintiff argues that even if money owed to Aloschi became  
12 due after the summons was served, it is still attachable. The Court disagrees  
13 for the reasons below.

## 14 **2. Plaintiff Cannot Attach After-Acquired Property**

15 As stated earlier, Plaintiff asserts that Princess possesses 86,087.48  
16 Euros (+/- \$94,696.22) that is owed to Aloschi, which Princess acquired  
17 sometime after the summons was served on November 26, 2024, but before  
18 December 17, 2024, when Princess filed its motion to quash summons. Dkt.  
19 No. 109 at 6.<sup>3</sup>

20 Plaintiff argues that the summons applies to property Princess has or  
21 “would have within a reasonable amount of time”. Dkt. No. 109 at 10; *see*  
22 *DSND Subsea AS v. Oceanografia, S.A. de CV*, 569 F. Supp. 2d 339, 345–47  
23 (S.D.N.Y. 2008) (approving of “continuing service” orders in writs of  
24 attachment whereby service is deemed effective throughout a period of time in  
25 order to attach funds entering a bank). In *DSND Subsea AS*, the court found  
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27 <sup>3</sup> Princess’s motion to quash summons [Dkt. No. 83] was also referred to the  
28 Magistrate Judge and is being concurrently decided. A hearing on that motion was  
held on May 29, 2025; counsel for Aloschi was present. Dkt. No. 123.

1 a “continuous service provision”, either by court order or by the garnishee’s  
2 consent, did not violate the Admiralty Rules or *Reibor*, and was merely  
3 “intended to avoid the absurdity, security problems, and inconvenience of  
4 requiring the garnishee banks to accept service repeatedly throughout the  
5 day.” *DSND Subsea AS*, 569 F. Supp. 2d at 347 (internal citation and  
6 quotations omitted).

7 Plaintiff contends the District Court’s summons contemplated the  
8 continuous service rule when it stated that the attachable property would  
9 pertain to “past, present and **future** earnings . . . .” Dkt. No. 109 at 10  
10 (emphasis added). However, “future earnings” is broad, and differs from the  
11 orders in other cases which limited continuous service to specific timeframes.  
12 See *DSND Subsea AS v. Oceanografia, S.A. de CV*, 569 F. Supp. 2d at 346  
13 (summarizing past district court cases where service of an attachment order  
14 was effective for “the remainder of that particular business day” or “through  
15 the opening of the garnishee’s business the next business day”). Furthermore,  
16 Plaintiff does not show that the District Court ordered continuous service or  
17 that it was consented to by the Garnishees.

18 Plaintiff also relies on *Marco Polo Shipping Co. Pte. v. Supakit Prods.*  
19 *Co.*, 2009 WL 562254 (S.D.N.Y. Mar. 4, 2009), which stands for the  
20 proposition that under Second Circuit caselaw, a court may issue an  
21 attachment even if funds are expected to pass through the district at an  
22 unknown future time. *Id.* at \*1. However, the court can only authorize such a  
23 maritime attachment if Plaintiff alleges some facts to render it *plausible* that  
24 funds will be present in the district in the future. *Id.* at \*2.

25 Here, Plaintiff alleges that Princess has an agreement with Aloschi  
26 whereby Princess sells shore excursions to its passengers and then pays  
27 Aloschi to operate those excursions. Dkt. No. 109 at 12. Therefore, it was  
28 plausible that there would be future payments from Princess to Aloschi. *Id.*

1           However, it can be inferred by this allegation that in order for Princess  
2 to pay Aloschi, it must first sell shore excursions to its passengers. Additional  
3 facts are needed to show that it was plausible Princess would sell the  
4 excursions in the future. Regardless, Plaintiff fails to provide binding  
5 authority to support that an attachment could apply to property acquired in  
6 the future indefinitely.

7           Plaintiff also cites a Florida district court case, *Johnson v. Luzon Strait*  
8 *Schiffahrtsgellschaft MBH & Co., et. al.*, 2010 WL 11553595, at \* 4 (S.D. Fla.  
9 2010), to support the proposition that future payments to a foreign defendant  
10 can be subject to maritime attachment under Rule B. In *Johnson*, the  
11 plaintiff claimed that the garnishees were in possession of monies owed to  
12 defendants under a Time Charter Agreement. Plaintiff submitted the Time  
13 Charter Agreement and other evidence of the monies owed in support of  
14 attachment to the court. *Id.* at \*2. *Johnson* found that under the Time  
15 Charter Agreement, one of the garnishees agreed to charter certain vessels  
16 from defendants at a rate of \$20,000 per day, payable in advance every 30  
17 days, for three years beginning in November 2007. *Id.* As to that garnishee,  
18 defendants did not dispute that they were obligated to remit approximately  
19 \$600,000 per month (\$20,000 × 30 days) under the Time Charter Agreement;  
20 however, defendants argued that the garnishee was not in possession of their  
21 property, in this district, at the time of attachment. *Id.* *Johnson* disagreed,  
22 finding caselaw supporting maritime attachment of future payments owed  
23 under an **executed contract** regardless of whether the debts have matured.  
24 *Id.* at \*3 (emphasis added). *See Iran Express Lines v. Sumatrop, AG*, 563 F.2d  
25 648, 650 (4th Cir. 1977) (“[M]aturity of the debt is not a prerequisite for  
26 garnishment. An unmatured debt may be garnished provided it arises from  
27 an executed contract.”); *see also Schirmer Stevedoring Co. Ltd. v. Seaboard*  
28 *Stevedoring Corp.*, 306 F.2d 188, 193 (9th Cir. 1962) (noting that attachable

1 property may include unmatured debts, but not those under an executory  
2 contract); *Robinson v. O.F. Shearer & Sons, Inc.*, 429 F.2d 83, 85–86 (3d Cir.  
3 1970) (finding that the contractual obligation to indemnify is not a “debt”  
4 under maritime attachment until liability is determined and the subject is  
5 within the policy coverage). In *Johnson*, the defendants did not dispute that  
6 the Time Charter Agreement was an executed (not an executory) contract.<sup>4</sup>  
7 *Johnson*, 2010 WL 11553595, at \*3.

8 Therefore, *Johnson* may support attaching future funds from an  
9 executed contract, but not from an executory contract. See *Schirmer*  
10 *Stevedoring Co. Ltd.*, 306 F.2d at 193. Based on Plaintiff’s allegations, the  
11 contract between Princess and Aloschi appears executory in nature since it  
12 relies on Princess to first sell excursions to its passengers before conducting  
13 business with Aloschi. This is different from the contract in *Johnson* where  
14 there was a fixed monthly rate paid in advance. Therefore, Plaintiff fails to  
15 meet his burden to show that the agreement between Princess and Aloschi  
16 was executed, and that future payments flowing from that contract were  
17 attachable.

18 While this finding on its own supports granting the Motion, this Court  
19 also finds that the attached funds are not found within the Central District of  
20 California.

### 21 3. The After-Acquired Funds Are Not Located in This 22 District

23 In opposition, Plaintiff asserts that the funds owed to Aloschi are being  
24 held in a bank in London, England. Despite this, however, they are within  
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26 <sup>4</sup> Although discussing the term “executory contract” as it relates to the Bankruptcy  
27 Code, “[t]he Supreme Court has defined [it] as a contract on which performance  
28 remains due to some extent on both sides.” *In re Frontier Props., Inc.*, 979 F.2d  
1358, 1364 (9th Cir. 1992) (citing *N.L.R.B. v. Bildisco & Bildisco*, 465 U.S. 513, 522  
n. 6 (1984)).

1 the District for maritime attachment purposes because Princess is within the  
2 District and controls the funds. Dkt. No. 109 at 8. Plaintiff asks the Court to  
3 deem Princess in “constructive possession” of the funds, citing *Johnson*. In  
4 *Johnson*, the court agreed that a garnishee located in its district, with  
5 ownership and control to draw on desired funds, had constructive possession  
6 of the funds to support a maritime attachment. *Johnson*, 2010 WL 11553595,  
7 at \*4.

8 Plaintiff also cites *Boland Marine & Indus., LLC v. Bouchard*  
9 *Transportation Co.*, 2020 WL 10051743 (W.D. Tex. Feb. 28, 2020), report and  
10 recommendation adopted sub nom. *Boland Marine & Indus. v. Bouchard*  
11 *Transportation Co.*, No., 2020 WL 10051738 (W.D. Tex. Mar. 26, 2020), which  
12 observed that some courts have found debts to be located within their districts  
13 when the garnishee that owes the debt is also located in the district. *Id.* at \*4.  
14 Other courts are split on where intangible assets, such as funds in a bank  
15 account, are “located” for attachment purposes. *Id.* at \*5. After reviewing the  
16 competing theories, including the Second Circuit’s “separate entity rule”,  
17 which treats each branch of a bank as a separate entity for attachment  
18 purposes, the *Boland Marine & Indus., LLC* court adopted the opposite rule,  
19 finding that bank “accounts are ‘located’ wherever they are available for  
20 withdrawal by the depositor.” *Id.* at \*6. The court rejected the “separate  
21 entity rule”, finding it was “based on an antiquated view of the banking  
22 system that predates modern computerized banking” and noted that money  
23 sitting in an account in a different district can be accessed from any branch.  
24 *Id.* Therefore, as long as a bank has a branch within the court’s district, any  
25 account can be “found” within said district. *Id.* at \*7.

26 However, the decision in *Boland Marine & Indus., LLC* was influenced  
27 by the fact there was “no Texas law directly on the subject” and by the  
28 inference “that the Texas Supreme Court would reject the separate entity

1 rule . . .” *Boland Marine & Indus., LLC*, 2020 WL 10051743 at \*6. While  
2 *Boland Marine & Indus., LLC* and *Johnson* show that some federal district  
3 courts have applied a constructive possession rule around attaching funds in a  
4 bank account, they fail to provide binding authority in this case.

5 In reply, Aloschi argues that *Johnson* is not reflective of the current  
6 law, and cites *ProShipLine Inc. v. Aspen Infrastructures Ltd.*, 609 F.3d 960,  
7 968 (9th Cir. 2010), where the Ninth Circuit held that a district court “is  
8 completely unable to entertain a claim seeking admiralty attachment of  
9 property” when the subject property is located outside of the district in which  
10 the court sits. Dkt. No. 119 at 4. This rule is repeated by the Ninth Circuit in  
11 *Sikousuis Legacy, Inc.* when the court stated that a maritime attachment  
12 requires the “property of the defendant . . . be found within the district.” 97  
13 F.4th at 628–29; *see also Allied Mar., Inc. v. Descatrade SA*, 620 F.3d 70, 74  
14 (2d Cir. 2010) (applying the “separate entity rule” under New York law to find  
15 that the existence of a bank branch office within district did not give the court  
16 jurisdiction over funds held in the Paris branch).

17 In short, Plaintiff has not identified Ninth Circuit authority or  
18 California law to support attaching funds held in a foreign country and  
19 currency.

20 Therefore, because Plaintiff fails to show that the property is within this  
21 District, this Court is unable to attach the funds held in London, England.

## 22 **B. Motion to Dismiss**

23 In light of the ruling vacating the Rule B order and summonses, Aloschi  
24 moves for a dismissal based on lack of jurisdiction. *See Fed. R. Civ. P.*  
25 12(b)(2). “When a defendant moves to dismiss for lack of personal jurisdiction,  
26 the plaintiff bears the burden of demonstrating that the court has jurisdiction.  
27 However, the plaintiff must make ‘only a prima facie showing of jurisdictional  
28 facts to withstand the motion to dismiss.’ For the purposes of deciding



1 whether a prima facie showing has been made, ‘the court resolves all disputed  
2 facts in favor of the plaintiff.’” *In re W. States Wholesale Nat. Gas Antitrust*  
3 *Litig.*, 715 F.3d 716, 741 (9th Cir. 2013) (internal citations omitted).

4 As summarized above, a Rule B attachment allows a court to obtain  
5 quasi in rem jurisdiction over a foreign defendant when personal jurisdiction  
6 cannot be obtained. *See Shipping Corp. of India v. Jaldhi Overseas Pte Ltd.*,  
7 585 F.3d 58, 69 n. 12 (2d Cir. 2009) (“Because of the requirement that the  
8 defendant not be ‘found’ within the district where the action is brought, . . .  
9 Rule B contemplates that a court will lack *in personam* jurisdiction over the  
10 defendant when it orders that a writ of attachment be issued.”). Therefore,  
11 finding that Plaintiff failed to support the maritime attachment or provide an  
12 alternative basis for jurisdiction, the order and summonses regarding  
13 Aloschi’s property are vacated, and the TAC is dismissed as to Aloschi.

## 14 VI. Recommendation

15 It is recommended that the District Judge issue an Order: (1) accepting  
16 this Report and Recommendation; and (2) granting Aloschi’s motion to vacate  
17 the order and summonses and process of maritime attachment and  
18 garnishment, vacate the default entered against Aloschi, and dismiss Aloschi  
19 from the third amended complaint for lack of jurisdiction.

20 DATED: October 6, 2025

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22 PATRICIA DONAHUE  
23 UNITED STATES MAGISTRATE JUDGE  
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**NOTICE**

Reports and Recommendations are not appealable to the Court of Appeals but are subject to the right of any party to file Objections as provided in the Local Rules Governing Duties of Magistrate Judges, and review by the District Judge whose initials appear in the Dkt. number. No Notice of Appeal pursuant to the Federal Rules of Appellate Procedure should be filed until entry of the Judgment of the District Court.