

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Funicular Funds, LP,

Plaintiff,

-v-

Pioneer Merger Corporation,  
et al.

Defendants.

22-cv-10986(JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

On April 17, 2023, the Court heard oral argument on the defendants' motion to dismiss the plaintiff's Amended Complaint or, in the alternative, stay this litigation pending resolution of a related action in the Cayman Islands. See ECF No. 12; see also ECF 9 ("Amended Complaint"). After having carefully considered the arguments made at that hearing and in the parties' briefs, the Court rules as follows.

First, the Court denies the defendants' motion to dismiss as to the plaintiff's breach of contract claim -- set forth as Count II of the Amended Complaint -- and request for declaratory relief on this issue -- styled separately as Count I of the Amended Complaint. Second, it dismisses Count III of the Amended Complaint -- which alleges that the defendants breached fiduciary duties they owed to the plaintiff under Cayman Islands law -- without prejudice to that claim being pursued in the Cayman Islands action. Third, because the plaintiff agreed to withdraw its claim for unjust enrichment -- Count IV of the

Amended Complaint -- based on certain representations made by the defendants, see ECF No. 15 at 9, the Court also dismisses that claim without prejudice. Fourth, and finally, the Court denies the defendants' request to stay this litigation until the parallel action in the Cayman Islands is resolved. An opinion explaining these rulings will issue in due course.

The Clerk of the Court is respectfully ordered to close entry at docket number 12.

SO ORDERED.

New York, NY  
5/1, 2023

  
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JED S. RAKOFF U.S.D.J.