

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals
2 for the Second Circuit, held at the Thurgood Marshall United
3 States Courthouse, 40 Foley Square, in the City of New York,
4 on the 1st day of July, two thousand sixteen.

5
6 **PRESENT: DENNIS JACOBS,**
7 **REENA RAGGI,**
8 **DENNY CHIN,**

9 Circuit Judges.

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11 - - - - -X

12 **RITCHIE CAPITAL MANAGEMENT, L.L.C.,**
13 **RITCHIE CAPITAL MANAGEMENT, LTD., &**
14 **RITCHIE SPECIAL CREDIT INVESTMENTS,**
15 **LTD.,**

16 Plaintiffs-Appellants,

17
18 -v.-

15-3294

19
20 **COSTCO WHOLESALE CORPORATION,**
21 Defendant-Appellee.

22 - - - - -X

23
24 **FOR APPELLANTS:**

ALEXANDRA A.E. SHAPIRO (with
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FOR APPELLEE:

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CHAMBER OF COMMERCE OF
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Appeal from a judgment of the United States District
Court for the Southern District of New York (Broderick, J.).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED
AND DECREED** that the judgment of the district court be
AFFIRMED.

Appellants Ritchie Capital Management, L.L.C., Ritchie
Capital Management, Ltd. and Ritchie Special Credit
Investments, Ltd. ("Ritchie") appeal from the judgment of
the United States District Court for the Southern District
of New York (Broderick, J.), granting defendant-appellee
Costco Wholesale Corporation's ("Costco") motion to dismiss
for lack of personal jurisdiction. We assume the parties'
familiarity with the underlying facts, the procedural
history, and the issues presented for review.

Ritchie's sole argument on appeal is that Costco is
subject to general personal jurisdiction because it
registered to do business in New York. It is undisputed
that Ritchie did not raise this argument below; it is
forfeited. See Spiegel v. Schulmann, 604 F.3d 72, 77 n.1
(2d Cir. 2010) ("On appeal, the [p]laintiffs argue that [the
company] was subject to the district court's personal
jurisdiction because the company had registered to do
business in New York State. Although such registration
would have been sufficient to establish personal

1 jurisdiction,¹ the [p]laintiffs did not raise this argument
2 before the district court and thus, it is waived." (internal
3 citation omitted)).
4

5 Seeking to avoid this result, Ritchie relies on the
6 Supreme Court's decision in Yee v. City of Escondido, 503
7 U.S. 519, 534 (1992). Such reliance is misplaced. In
8 Eastman Kodak Co. v. STWB, Inc., 452 F.3d 215 (2d Cir.
9 2006), this Court interpreted Yee as supporting the
10 unremarkable proposition that "this court ordinarily will
11 not hear arguments not made to the district court. But
12 appeals courts *may* entertain additional support that a party
13 provides for a proposition presented below." Id. at 221
14 (emphasis added) (internal citation omitted). We decline to
15 entertain Ritchie's belated argument; Ritchie has presented
16 no explanation for why it did not make this argument before
17 the district court, or why it would be a "manifest
18 injustice" if Ritchie is prevented from blindsiding Costco
19 on appeal. Sniado v. Bank Austria AG, 378 F.3d 210, 213 (2d
20 Cir. 2004).
21

22 For the foregoing reasons, as we are not reaching
23 Ritchie's other arguments, we hereby **AFFIRM** the judgment of
24 the district court.
25

26 FOR THE COURT:
27 CATHERINE O'HAGAN WOLFE, CLERK
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The image shows a handwritten signature in blue ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is red, white, and blue, with the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom. There are small stars on either side of the central text.

¹ This conclusion may no longer be sound in light of the Supreme Court's decision in Daimler AG v. Bauman, 134 S. Ct. 746, 751 (2014); we express no view one way or the other on the underlying merits of Ritchie's argument.