

**Shiplion, LLC v Bauble Bar, Inc.**

2023 NY Slip Op 34703(U)

November 28, 2023

Supreme Court, New York County

Docket Number: Index No. 653927/2023

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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|-------------------|------------|-----------------|--------------------|
| SHIPLION, LLC     |            | INDEX NO.       | <u>653927/2023</u> |
|                   | Plaintiff, | MOTION DATE     | <u>11/06/2023</u>  |
|                   | - v -      | MOTION SEQ. NO. | <u>003</u>         |
| BAUBLE BAR, INC., |            |                 |                    |
|                   | Defendant. |                 |                    |

**DECISION + ORDER ON MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 29, 30, 33, 36, 38 were read on this motion to STAY DISCOVERY.

Defendant Bauble Bar, Inc. (“Defendant”) moves to stay discovery pursuant to CPLR § 3214(b) and Rule 11(g) of the Rules of the Commercial Division of the Supreme Court of New York, pending Defendant’s Motion to Dismiss Plaintiff ShipLion, Inc.’s (“Plaintiff”) Verified Complaint (Mot. Seq. 002).

Commercial Division Rule 11(g) provides that “[t]he court will determine, upon an application of counsel, whether discovery shall be stayed, pursuant to CPLR 3214(b), pending determination of any dispositive motion.” CPLR § 3214(b), in turn, provides: “Service of a notice of motion under rule 3211... stays disclosure until determination of the motion unless the court orders otherwise.” Thus, Rule 11(g) gives the Court discretion to determine whether discovery should go forward pending a dispositive motion.

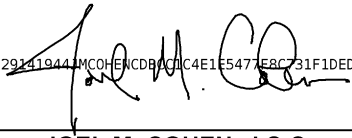
“[I]t is the presumption of the Commercial Division that discovery continues during motion practice” (*In Re Dentsply Sirona, Inc. v XXX*, 2019 NY Slip Op 32297[U], 14 [Sup Ct, NY County 2019] [Scarpulla, J.]; *Quadriad Realty Partners, LLC v Wilbee Corp.*, 2020 NY Slip

Op 30024[U], \*12 [Sup Ct, NY County 2020]), and a stay is not typically granted simply because a defendant believes its motion to dismiss is a strong one (*Hartman, David E. v Snellen, Eric*, 2014 WL 7876752 at \*1 [Sup Ct, NY County 2014]). Here, there are no special circumstances here warranting a stay.

Accordingly, it is

**ORDERED** that Defendant’s motion is **DENIED**.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

11/28/2023  
\_\_\_\_\_  
DATE

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  OTHER  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT  REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: