

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ZIGI USA, LLC,

Plaintiff,

Index Number

/2023

-against-

VERIFIED COMPLAINT

AVENUE OF AMERICAS, LLC,

Defendant.

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Plaintiff, by its attorneys, Jacobs P.C., as for its complaint against the defendant alleges as follows:

NATURE OF THIS ACTION

1. This action is for declaratory relief as a result of the Defendant’s questionable tactics to disgorge Plaintiff of its lease.

PARTIES

2. At all relevant times, plaintiff ZIGI USA, LLC (“Zigi”) was and is a Delaware limited liability company in good standing, existing under the virtues of the law of the State of Delaware with its principal place of business located at 14205 NE 18th Avenue, North Miami, FL 33181 and maintaining a showroom and conducting business in the State of New York and County of New York.
3. At all relevant times, upon information and belief, defendant AVENUE OF AMERICAS, LLC is a Delaware Limited Liability Company and

maintains offices and conducts business in the State of New York and County of New York.

JURISDICTION AND VENUE

4. The jurisdiction of this Court is invoked pursuant to New York CIVIL PRACTICE LAW & RULES (CPLR), §§ 301 and 302.
5. Venue of this action is proper in this Court pursuant to CPLR §§ 503(a) and 509, based on this being the county in which a substantial part of the events giving rise to the claim occurred.

FACTS

6. Zigi is a manufacturer and distributor of shoes.
7. Zigi uses leased space as a showroom at 1370 Avenue of the Americas, 16th floor, New York, New York 10019 pursuant to a First Amendment of Lease, dated January 2, 2018, with Defendant as landlord.
8. Zigi made regular lease payments until the Spring of 2020, when the COVID-19 pandemic forced New York's Governor to issue Executive Orders shutting down business activity for all but essential workers.
9. The pandemic and the Executive Orders brought Zigi's ability to use the leased premises to a halt.

10. As a result, there were simply no potential customers that would visit Zigi's showroom at the leased premises.
11. Zigi's operations and income were drastically reduced.
12. On or about June 17, 2010, Zigi and the Defendant signed a lease for premises on the 11th floor of 1370 Avenue of the Americas, New York, New York 10019 (the "Original Lease").
13. The Original Lease provides the leased premises was to be used for office and showroom use.
14. On or about February 2, 2018, the parties amended the Original Lease to provide that the leased premises would be relocated from the 11th floor to the 16th floor of the same building (the "Lease Amendment" and together with the Original Lease, the "Lease").
15. Plaintiff presently uses the leased premises on the sixteenth floor as showroom space.
16. Zigi used the leased premises as a showroom until the Spring of 2020, when the COVID-19 pandemic forced New York's Governor to issue Executive Orders shutting down business activity for all but essential workers.
17. Plaintiff made regular payments under the Lease until the Spring of 2020, when the COVID-19 pandemic forced New York's Governor to issue

- Executive Orders shutting down business activity for all but essential workers.
18. The pandemic and the Executive Orders brought Plaintiff's ability to use the leased premises to a halt. Plaintiff was legally prohibited from using the leased premises from March 2020 until June 2020. (See Governor Cuomo's Executive Order 202.8, dated March 20, 2020, ordering all nonessential businesses to reduce their in-person workforce by 100%).
19. Even after non-essential businesses were permitted to have an in-person work force, the reluctance of business travelers to come to New York (typically by airplane) after June 2020 made it economically impractical for Plaintiff to use the leased premises as a showroom because of, among other things, state and local quarantine requirements.
20. In addition, there were simply no potential customers to visit Plaintiff's showroom at the leased premises.
21. Despite these facts, Defendant insisted on attempting to collect full rent during the New York City lockdown and pandemic periods.
22. Even worse, Defendant miscalculated the amount of rent allegedly due by failing to credit Plaintiff for a \$354,392.50 rent abatement that the Lease provides.

23. On February 10, 2021, the Defendant commenced a lawsuit by filing a Summons and Complaint with this Court. *See* Index No. 650932/2021.
24. On April 28, 2023, a Special Referee of the Court entered an Order granting entry of judgment in favor of Defendant and against Plaintiff.
25. On May 10, 2023, the Judgment was entered with the New York County Clerk's Office in favor of Defendant and against Plaintiff in the amount of \$1,419,749.53, inclusive of interest thereon.
26. On May 15, 2023, Plaintiff received an information subpoena (the "Subpoena") from Defendant.
27. On May 17, 2023, Plaintiff received a Restraining Notice to Judgment-Debtor, dated May 15, 2023, from Defendant.
28. The Restraining Notice provides that "A judgment debtor... served with a restraining notice is forbidden to make or suffer any sale, assignment, transfer or interference with any property in which he or she has an interest...."
29. On May 17, 2023, Plaintiff filed a Petition with supporting documentation for entry of an Order to Show Cause pursuant to CPLR 5240 for entry of a protective order staying Defendant's enforcement of its judgment against Plaintiff (the "Order to Show Cause"). *See* Index No. 652412/2023.

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