

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHRIS DOWLING, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Case No.

NOTICE OF REMOVAL

Sterling Mets, L.P. (“SMLP” or “Defendant”)¹ hereby removes the above-entitled action from the Supreme Court of Queens County, New York to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. §§ 1446, 1453, and the Class Action Fairness Act of 2005, 28 U.S.C. § 1711, *et seq.* (“CAFA”). In support thereof, Defendant states as follows:

I. INTRODUCTION

1. On September 5, 2024, Plaintiff Chris Dowling filed this lawsuit in the Supreme Court of Queens County, New York, styled as *Chris Dowling v. Sterling Mets, L.P. and DOES 1-10*, Case No. 718313/2024 (the “State Action”). Plaintiff served the complaint in the State Action on September 9, 2024.

2. In short, Plaintiff claims SMLP sells, leases, trades, and/or shares biometric identifier information from visitors to Citi Field for value or otherwise profits from such a transaction. Compl. ¶ 3. Based on that allegation, Plaintiff asserts three claims for relief: (1) Violation of New York City Biometric Identifier Information Protection Code (N.Y.C. Admin.

¹ Sterling Mets, L.P. is not the proper defendant in this action. Counsel anticipates effecting a substitution of the proper party and correction of the caption, preferably through an agreed-upon amendment of the Complaint or, only if necessary, motion practice.

Code § 22-1202(b)); (2) Violation of New York General Business Law § 349; and (3) Unjust Enrichment. Plaintiff purports to bring those claims on behalf of a putative class consisting of “[a]ll consumers who visited Citi Field for a sporting event or concert from the enactment of the relevant statute on July 9, 2021 through present who had their biometric identifiers collected as a result of Defendants conduct alleged herein.” *Id.* ¶ 27. Plaintiff seeks, among other things, statutory, actual, and punitive damages, equitable relief, and attorneys’ fees. *Id.* ¶ 54.

3. As shown below, the State Action is removable to this Court because all procedural requirements for removal are satisfied, and this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d).

II. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

4. Pursuant to 28 U.S.C. § 1446(b), the “notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” As stated above, Plaintiff served the complaint on the Defendant’s registered agent in the State of New York on September 9, 2024. Thus, SMLP’s Notice of Removal is timely, as it is filed within 30 days of service. *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

5. Venue lies in the United States District Court for the Eastern District of New York because Plaintiff filed the State Action in this District. *See* 28 U.S.C. § 1441(a) (mandating venue for removal actions).

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on SMLP are attached hereto as **Exhibit A**.

7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on counsel for Plaintiff and a copy is being filed with the Clerk of the Supreme Court of Queens County, New York.

III. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER CAFA.

8. The State Action is a civil action over which this Court has original jurisdiction pursuant to CAFA. Under CAFA, federal courts have original jurisdiction over a class action if: (1) it involves 100 or more putative class members; (2) any class member is a citizen of a state different from any defendant; and (3) the aggregated amount in controversy exceeds \$5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d). The State Action meets those requirements.

9. To remove a case under CAFA, a defendant need only “file in the federal forum a notice of removal ‘containing a short and plain statement of the grounds for removal’”—*i.e.*, the same liberal pleading standard required by Federal Rule of Civil Procedure 8(a), requiring only plausible allegations as to the basis for removal. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 87 (2014) (quoting 28 U.S.C. § 1446(a)). Defendant easily meets that standard.

10. As set forth below, this is a putative class action in which it is alleged that: (1) there are more than 100 members in Plaintiff’s proposed class; (2) at least one member of the putative class has a different state citizenship than SMLP; and (3) the claims of the proposed class members exceed the sum or value of \$5,000,000 in the aggregate, exclusive of interests and costs. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d).

A. The State Action Is A “Class Action” Under CAFA

11. CAFA defines a “class action” as “any civil action filed under Rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule or judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 26 U.S.C. § 1332(d)(1)(B).

12. Here, Plaintiff styled the complaint as a “Class Action Complaint;” he specifically alleges that he is bringing the State Action “on behalf of himself and all others similarly situated” (Compl. ¶ 5); he contends that a “class action is superior to any other available methods for the fair and efficient adjudication of this controversy” (*id.* ¶ 34); and he seeks “an Order certifying this Action as a class action and appointing Plaintiff and their Counsel to represent the Class[.]” (*id.* ¶ 54). Actions seeking class treatment in this manner are “class actions” under CAFA. *Erausquin v. Notz, Stucki Mgmt. (Bermuda) Ltd.*, 806 F. Supp. 2d 712, 724 (S.D.N.Y. 2011) (“CAFA jurisdiction attaches when a case is filed as a class action ...”) (quoting *In re Burlington Northern Santa Fe Ry. Co.*, 606 F.3d 379, 381 (7th Cir.2010)).

B. The Putative Class Consists Of More Than 100 Members

13. The putative class consists of more than 100 individuals. Plaintiff claims the “members of the Class are so numerous that joinder of all of them is impracticable” and that “the Class consists of over 100,000 individuals.” Compl. ¶ 29. By Plaintiff’s own allegations, the requirement of 100 or more class members is met.

C. Minimal Diversity Exists

14. Under CAFA’s “minimal diversity” requirement, a “federal court may exercise jurisdiction over a class action if ‘any member of a class of plaintiffs is a citizen of a State different

from any defendant.” *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 165 (2014) (quoting 28 U.S.C. § 1332(d)(2)(A)).

15. Under CAFA, minimal diversity exists if any member of the proposed class is a citizen of a State other than New York or Delaware. 28 U.S.C. § 1332(d)(2)(A), (d)(2)(B); *Mississippi ex rel. Hood*, 571 U.S. at 165. Minimal diversity exists here.

16. Defendant avers that it is a Delaware limited partnership with its principal place of business in New York. Defendant, therefore, is a citizen of both Delaware and New York for removal purposes. *Hertz Corp. v. Friend*, 559 U.S. 77, 80–81 (2010); 28 U.S.C. § 1332(c)(1).

17. As alleged, members of the putative class are citizens of states other than Delaware and New York. As shown above, Plaintiff seeks to represent a class of “[a]ll consumers who visited Citi Field for a sporting event or concert” from July 9, 2021 onwards. Compl. ¶ 27. By Plaintiffs’ own allegations, the putative class action includes “the citizens and visitors of the City of New York.” Compl. ¶ 1. And Defendant avers that at least 100,000 individuals, including individuals from around the country, visited Citi Field since July 9, 2021. Because the putative class includes “visitors of the City of New York” (*id.*), at least one member of the proposed class is a citizen of a state other than Delaware or New York. Minimal diversity, therefore, exists.

D. The Amount-in-Controversy Requirement is Satisfied

18. To establish CAFA’s amount-in-controversy requirement, a defendant “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold” of \$5 million. *Dart Cherokee*, 574 U.S. at 89. The State Action meets that threshold.

19. Although SMLP denies Plaintiff or any putative class member suffered any cognizable injury or is entitled to any relief, Plaintiff asserts a claim for relief under the New York City Biometric Identifier Information Protection Code (N.Y.C. Admin. Code § 22-1202(b)).

Compl. ¶¶ 36-43. According to Plaintiff, “Defendants are liable to Plaintiff and each Class member damages of \$5,000 for each intentional or reckless violation of the statute.” *Id.* ¶¶ 41, 43.

20. Plaintiff alleges that “the Class consists of over 100,000 individuals.” Compl. ¶ 29. Even if the putative class consisted of 100,000 individuals, the amount in controversy exceeds CAFA’s \$5 million threshold. And Defendant avers that at least 100,000 individuals visited Citi Field in New York City since July 9, 2021. Plaintiff further seeks “actual damages, restitution, treble damages, [and] statutory damages” “[u]nder GBL 349,” as well as “attorneys’ fees ... as allowable by law.” Compl. ¶ 48, 54. By all counts, CAFA’s \$5 million amount-in-controversy requirement is satisfied.

IV. CONCLUSION

WHEREFORE, Defendant respectfully removes the State Action to this Court pursuant to 28 U.S.C. § 1441(b).

Respectfully submitted,

By: /s/ Shawn Patrick Regan
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Attorneys for Defendant Sterling Mets, L.P.

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2024, I caused to be served a true and correct copy of the foregoing upon all counsel of record, by first-class mail:

TO: Jennifer Czeisler
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Counsel for Plaintiff Chris Dowling

By: /s/ Shawn Patrick Regan
Shawn Patrick Regan

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Chris Dowling on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Unknown (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Blake Yagman Esq., Sterlington, PLLC, 212-433-2995; Adam Pollock Esq., Pollock Cohen LLP, 212-433-2995

DEFENDANTS

Sterling Mets, L.P., and DOES 1-10

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Shawn Patrick Regan, Esq., Hunton Andrews Kurth LLP, 200 Park Avenue, NY, NY 10166, (212) 309-1000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Contract, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Removal under Class Action Fairness Act - 28 U.S.C. § 1332(d)(2) Brief description of cause: Alleged violations of certain city and state statutes; unjust enrichment claim

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

October 8, 2024

Handwritten signature

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Shawn Patrick Regan, counsel for Defendant, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

Defendant Sterling Mets, L.P. is a private company. Sterling Mets, L.P. does not have a parent corporation or any corporate affiliates or subsidiaries. There is no publicly held corporation that owns ten percent or more of Sterling Mets, L.P

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 3 in Section VIII on the front of this form. Rule 3(a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 3(a) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case involves identical legal issues, or the same parties." Rule 3 further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (b), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 1(d)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: SL PL B

Exhibit A

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS
(COMMERCIAL DIVISION)**

CHRIS DOWLING on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Index No.:

Date Purchased: Sept. 5, 2024

SUMMONS

The basis of venue is CPLR § 503.

Plaintiff designates Queens County as
the place of trial; the basis of venue is
residency of Defendants.

To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to
serve a copy of your answer or, if the complaint is not served with this summons, to serve
a notice of appearance on the plaintiff's attorney within 20 days after the service of this
summons, exclusive of the day of service (or within 30 days after the service is complete
if this summons is not personally delivered to you within the State of New York). In case
of your failure to appear or answer, judgment will be taken against you by default for the
relief demanded in the verified complaint.

Dated: September 5, 2024

STERLINGTON, PLLC

/s/ Blake Yagman
Blake Hunter Yagman
One World Trade Center
New York, New York 10004
(212) 433-2995

POLLOCK COHEN LLP

By: */s/ Adam Pollock*
Adam Pollock
111 Broadway, Suite 1804
New York, NY 10006
(212) 337-5361

*Counsel for Plaintiff and the
Proposed Class*

To:

STERLING METS, L.P.
c/o C T Corporation System
28 Liberty Street
New York, NY 10005

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS
(COMMERCIAL DIVISION)**

CHRIS DOWLING on behalf of himself
and all others similarly situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Index No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Chris Dowling (“Plaintiff”), on behalf of himself and all others similarly situated, brings the following Class Action Complaint (the “Complaint”) against the above-captioned Defendants, Sterling Mets, L.P. (the “New York Mets”), and Does 1–10 (collectively, “Defendants”), and alleges as follows:

I. INTRODUCTION

1. This putative class action (hereinafter, the “Action”) concerns the biometric privacy of the citizens and visitors of the City of New York.

2. Citi Field, the home of Major League Baseball’s New York Mets franchise as well as numerous concerts and other events each year, is a commercial establishment located within the city limits of the City of New York that provides entertainment services as a professional sports and concert stadium. Defendants, under New York City’s Local Law 2021/003 (the “New York City Biometrics Law”), collect biometric identifiers from its visitors. Biometric identifiers encompass “*any physiological or biological characteristic that is used by or on behalf of a commercial establishment, singly or in*

combination, to identify, or assist in identifying, and individual, including but not limited to [...] a retina or iris scan, [...] a fingerprint or voiceprint [...] a scan of the hand or facial geometry, or any other identifying characteristic.”¹

3. In violation of the New York City Biometrics Law, Defendants illegally sell, lease, trade, and/or share biometric identifier information for value or otherwise profit.

4. Specifically, Defendants use facial recognition and collect facial templates, and previously failed to disclose the collection, retention, conversion, storage, and/or sharing of those biometric identifiers, in addition to the selling, leasing, trading, and/or sharing those biometric identifiers to the detriment of consumers. Indeed, Defendants admit to the collection of biometric data from Plaintiff and Class members; however, Defendants’ unlawful use of biometric identifier information for value or profit violates the New York City Biometrics Law.

5. Plaintiff Dowling, on behalf of himself and all others similarly situated, brings this Action under New York City Biometric Law’s private right of action² for the negligent, reckless, or intentional violation of the statute. Thus, Plaintiff, on behalf of himself and all other similarly situated, brings this Action for statutory damages, reasonable attorneys’ fees and costs, and injunctive relief to enjoin the unlawful behavior pled herein.

¹ **Ex. A**, 2021 N.Y.C. Local Law No. 3, N.Y.C. Admin. Code § 22-1201.

² *Id.* at § 22-1203.

II. PARTIES

Plaintiff Chris Dowling

6. Plaintiff Chris Dowling is a citizen of New York. Defendants unlawfully collected Plaintiff's biometric identifier information, and thus, the Plaintiff was harmed.

7. Plaintiff attended at least four New York Mets games at Citi Field within one year of the filing of this Action.

Defendant Sterling Mets, L.P.

8. Defendant Sterling Mets, L.P. ("Sterling") is a Delaware limited partnership with its principal place of business in Queens, New York. Defendant is associated with the New York Mets, a professional baseball team and uses facial recognition on its fans who attend games at Defendant's stadium, Citi Field.

9. The New York Mets own Citi Field. This means that the New York Mets control the venue for both baseball games for their own team as well as concerts and other events that are held at the stadium.

Doe Defendants 1-10

10. Doe Defendants are parties that might be later unveiled in the discovery portion of this Action that are involved in the collection, retention, sale, or sharing for profit of biometric identifiers and information.

III. JURISDICTION

11. This Court has personal jurisdiction over the New York Mets because they maintain their principal place of business in this County within the State of New York. This Court further has personal jurisdiction over Defendants because they unlawfully collected biometric identifier information from Plaintiff and Class members (and,

therefore caused harm) in this County, and the events giving rise to this Action occurred within the State of New York.

12. Venue is proper in this Court against because Defendants maintain their principal places of business in this County.

IV. FACTUAL ALLEGATIONS

A. The Critical Significance of Biometric Information

13. Biometric identifiers come in a variety of forms, including traditional fingerprints, as well as palm prints, iris/retinal scans, and scans of the facial geometry (facial recognition), and are unique to each person. Thus, they uniquely identify an individual and cannot be changed or deleted.

14. Biometric security is important for numerous reasons, including creating a specific link between an individual and a data record; thwarting fraud efforts to create fake digital identities; and creating a form of identification which is not exchangeable.³

15. It follows then that a person's biometric identifiers are extremely valuable and must be protected with even more than the precautions that one would normally take when protecting other forms of identification, like credit card numbers, passports, and social security cards.

16. Biometrics can also be used by consumer businesses to identify consumers and tie a subset of data to that consumer, including their credit card number. This creates a rich reservoir of information (consumer buying history, purchasing habits, medical history for services paid with that credit card, etc.) that is readily accessible when a

³ MITEK SYSTEMS, "Looking ahead: 7 reasons why biometric security is important for digital identity" (Aug. 30, 2019), <https://www.miteksystems.com/blog/looking-ahead-7-reasons-why-biometric-security-is-important-for-digital-identity>.

consumer's biometric identifier appears and matches the identifiers which are stored by that consumer business. This allows the consumer business to quickly identify consumers and access a trove of information – whether it be consumer information, criminal history, or other information – at a moment's notice.

17. As explained by Bayometric, which provides fingerprint scanning:

Verification and identification are the two ways in which an individual's identity can be determined using biometric technology. Verification confirms that a person is indeed who they claim to be and performs a one-to-one comparison of the individual's [biometric] sample with a stored reference template. Identification, on the other hand, performs a one-to-many comparison to confirm an individual's identity. The identification process compares the individual's [] sample against all the reference templates stored on file. An individual is positively identified if the individual's [] image matches any of the stored templates.⁴

18. Consumers are left entirely helpless and vulnerable when consumer businesses take their biometric information; the situation is much like taking a person's social security or credit card number without their consent, but consumers cannot be separated from their biometric consumer information. Biometric identifiers cannot be replaced like a stolen credit card.

19. Legislatures have correctly identified that the privacy rights tied to biometric identifiers are worthy of protection by statute. As such, state legislatures and city counsels across the country have either passed, or are considering, biometric privacy statutes to protect the privacy rights of their constituents.

⁴ Mary Clark, BAYOMETRIC, "Importance of Biometric Fingerprinting Technology: Does Your Organization Really Need It? This Will Help You Decide!," <https://www.bayometric.com/importance-of-biometric-fingerprinting-technology/>.

B. New York City's Biometric Privacy Law

20. The New York City Council passed Local Law 3 in 2021 in an effort to help protect the privacy rights of the citizens of the City of New York.

21. Specifically with respect to entertainment venues, the New York City Council stated in its committee report:

As early as the early 2000's, facial recognition technology has been on the rise at entertainment venues. In January 2001, facial recognition technology was installed at the Raymond James Stadium by the Tampa Police Department to scan the faces of Super Bowl attendees. Since then, this technology has proliferated, and is now used at several entertainment venues including Madison Square Gardens and Barclays Center. In 2018, Live Nation and Ticketmaster invested in Blink Identity, a company that specializes in military-grade facial recognition software.

The details surrounding how this technology will be used is closely guarded, but venues claim that the technology is needed for security and operational purposes in order to determine who is allowed into the building. For example, some of artists, like Taylor Swift, use this technology at concerts to track stalkers. Venues also use this technology to identify employees and vendors. Barclay's Center, in Brooklyn, has teamed up with IDEMIA, which manages the Transportation Security Administration's PreCheck program, to offer expedited entry lines. Similarly, Live Nation claims that they intend to use the technology to improve the customer experience by linking tickets to faces and offering tailored services.

It is unclear how the data collected through facial recognition technology is managed and stored by entertainment venues. Facial recognition technology can often determine the age range and likely gender of concertgoers. Technology experts warn that this data could be collected and sold to third parties for marketing purposes without the consent of consumers. Several artists and activists have begun to speak out on the use of the technology. Fight For the Future, a nonprofit digital rights group, is campaigning to ban facial recognition software as a law enforcement tool, and recently launched a campaign against the use of the technology at concerts and festivals. Tom Morello, of Rage Against the Machine, Amanda Palmer, Downtown Boys, Anti-Flag, and others have spoken up in support of the campaign. Some musicians have expressed concerns that the technology will be used to target undocumented immigrants. In response, several music festivals, including the

Governor's Ball, in New York City), Bonnaroo in Tennessee, Punk Rock Bowling, in Las Vegas, Electric Forest in Michigan, and Austin City Limits announced that they would not be using the technology.⁵

22. As such, the New York City Council felt that entertainment venues, such as the one that Defendants operate, should not have complete, unfettered power to use facial recognition and other types of biometric identifier collection in their facilities.

C. Defendants' Collection of Biometric Identifier Information

14. Defendants collect biometric identifiers at Defendant Sterling's home stadium, "Citi Field," which is located in New York City, in the borough of Queens.

15. According to an article about Citi Field in 2018,

security blends both personnel and technology to secure fans and players during the game. **Facial recognition technology is deployed through 11 cameras at the main fan entrance, and faces are checked against a blacklist. If the camera detects a "Do Not Admit" – someone who has been arrested onsite before for fighting, larceny or assault, for example, and banned from future Citi Field events – the security operator calls down to the officer at the entrance to approach the person, ask for his or her ID, and if they match the blacklisted person, the matter is handed over to the NYPD as a trespassing violation.**⁶

16. Below is an image of Citi Field at the main entrance. Cameras, which may be the ones described by Defendants that are used for facial recognition purposes, can be seen in pairs on the columns of each pillar:

⁵ **Ex. B**, N.Y.C. City Council, Committee Report 10719 (Oct. 7, 2019).

⁶ SECURITY MAGAZINE, "Security in the Outfield" (Aug. 30, 2018), <https://www.securitymagazine.com/articles/89369-security-over-center-field>.



17. This means that Defendants collect biometric identifiers from fans as they enter the premises.

18. With respect to how Defendants collect biometric identifiers, Citi Field “also monitors the field’s 187 surveillance cameras and 115 doors and card readers through the Genetec Command Center platform.”⁷ Genetec Inc. is a software company that provides various types of security software to its customers, like Defendants. According to Genetec, its technologies allow for a range of different capabilities, but all data collected by a given customer, like Citi Field, remains locally stored on that customer’s systems.

19. Additionally, on Reddit, Mets fans have detailed the use of facial recognition by Citi Field which has been weaponized against them. For example, just one year ago, Reddit user “jahpizzie” stated:

In 2008, I was wrongfully arrested at [the Mets’ stadium that predated Citi Field]. I have been to at least 60 games at Citi Field.

⁷ *Id.*

The day before Fathers Day [2023] I was there with my wife and kids and security walked up to me and asked [if] I was (my name). I said yes and he had to call his supervisor because I have been “banned” since 2008. When the supervisor came with 7 uniformed officers, he told me I was “officially not banned” I told him I’ve been to a ton of games since then and he seemed surprised then told me **that [Citi Field] started [using] facial recognition [in 2022] and that this year[, 2023,] it is in full effect.**

20. On Reddit, another user, much to their dismay, stated:

I thought everyone was [aware of Citi Field’s use of facial recognition]? If you look at the iPad screens at the [Citi Field] rotunda gates entrance, you can see it picking up faces like your phone camera does with the box and running the scan. And when the scan triggers something, they halt the line.

I realized it [in 2023] when [the Defendant] made me take off my hat to walk through the metal detector. I was confused [be]cause the detector would pick up anything I am trying to hide in my hat! After the third time, I realize[d] it was because my hat was hiding my face and blocking their scan.

I do not like it one bit.

21. Defendants use facial recognition to financially profit. First, Defendants increase their profit margin when they choose to use facial recognition as opposed to using manual labor to adequately protect its 400,000 square foot premises. which would be tasked with the same security responsibilities. Second, Defendants also sell tickets for baseball games and concerts at a premium price because the price includes costs related to this level of security; however, had Plaintiff and Class members known that this premium price also included the surreptitious collection of their biometrics, they would have never paid premium prices (or bought a ticket to Citi Field at all).

22. Thus, Defendants intentionally violated the aforementioned statute, which forbids sharing of biometric information for anything of value; here, the “thing of value”

is the contract between Defendants and non-party Genetec, and the profit made when Defendants save money on security and make further profit from a premium ticket price.

D. Defendants' Collection of Plaintiffs' Biometric Identifier Information

23. Plaintiff attended a Mets game at Citi Field on at least four occasions within the past year.

24. While attending the event, Defendants collected Plaintiff's biometric identifiers.

25. At that time, Defendants did not disclose that they were collecting Plaintiff's and the Class members' biometric identifiers. Defendants unlawfully collected Plaintiff and Class members' biometric information, and compared their facial biometric data to that of other people on Defendants' "blacklist" at Citi Field. Then Defendants shared images with a third party, possibly Genetec, to process Plaintiff and Class members' facial biometric data upon entry into Citi Field. Defendants did this for profit: to save on security costs and to be able to charge a premium baked into event ticket prices with respect to security.

26. As such, by way of the New York City Biometrics Law and the deeply personal privacy rights protected by that statute, Plaintiff and all other class members were harmed by Defendants' conduct.

V. CLASS ACTION ALLEGATIONS

27. Plaintiff seeks to certify a class consisting of all persons who fall under the following definition ("Class Definition" or, the "Class"):

Class Definition. All consumers who visited Citi Field for a sporting event or concert from the enactment of the relevant statute on July 9, 2021 through present who had their biometric identifiers collected as a result of Defendants' conduct alleged herein.

28. Excluded from the Class are Defendants' officers, directors, and employees; and their affiliates, legal representatives, attorneys, successors, heirs, and assigns. Also excluded from the Class are members of the judiciary to whom this case is assigned, their families, and members of their staff.

29. **Numerosity.** The members of the Class are so numerous that joinder of all of them is impracticable. While the exact number of Class Members is unknown to Plaintiff at this time, based on information and belief, the Class consists of over 100,000 individuals.

30. **Commonality.** There are questions of law and fact common to the Class, which predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation, whether the Class Members' biometric information was taken by Defendants in violation of New York City's Biometrics Law.

31. **Typicality.** Plaintiff's claims are typical of those of other Class Members because Plaintiff's biometric information was taken by Defendants, like that of every other Class Member.

32. **Adequacy of Representation.** Plaintiff will fairly and adequately represent and protect the interests of the Members of the Class. Plaintiff's Counsel are competent and experienced in litigating Class actions.

33. **Predominance.** Defendants have engaged in a common course of conduct toward Plaintiff and Class Members, in that all of Plaintiff's and Class Members' data was taken by Defendants. The common issues arising from Defendants' conduct affecting Class Members set out above predominate over any individualized issues.

Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

34. **Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation. Absent a class action, most Class Members would likely find that the cost of litigating their individual claims is prohibitively high and would therefore have no effective remedy. The prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual Class Members, which would establish incompatible standards of conduct for Defendant. In contrast, the conduct of this action as a Class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class Member.

35. Defendants have acted on grounds that apply generally to the Class as a whole, so that Class certification, injunctive relief, and corresponding declaratory relief are appropriate on a Class-wide basis.

VI. CAUSES OF ACTION

COUNT I

2021 N.Y.C. Local Law No. 3, N.Y.C. Admin. Code § 22-1202(b)

36. Plaintiff restates and realleges each preceding paragraph as if fully alleged herein.

37. Under the New York City Biometrics Law, “[i]t shall be unlawful to sell, lease, trade, share in exchange for anything of value or otherwise profit from the transaction of biometric identifier information.”

38. Plaintiff and Class members’ biometric identifiers were used to identify them, and, therefore, constitute “biometric identifier information” as defined by the New York City Biometrics Law.

39. As described above, Defendants shared, sold, leased and/or traded biometric identifier information with third parties by collecting facial recognition scans upon entrance to Citi Field.

40. Defendants violated and continue to violate the statute by selling, leasing, trading, sharing in exchange for anything of value, or otherwise profiting from the transaction of Plaintiff and the Class’ biometric identifier information. Specifically, Defendants have received both monetary (in the form of price premiums) and non-monetary (savings on physical security and additional safeguards which are then replaced with biometric surveillance) benefits in exchange for the biometric information that they unlawfully collect from Plaintiff and Class members.

41. Defendants did so intentionally or recklessly.

42. Alternatively, Defendants did so negligently.

43. Thus, the Plaintiff and the Class were harmed and are entitled to the relief requested by this Complaint. Under New York City Biometrics Law, Defendants are liable to Plaintiff and each Class member damages of \$5,000 for each intentional or reckless violation of the statute.

COUNT II
New York General Business Law § 349

44. Plaintiff restates and realleges each preceding paragraph as if fully alleged herein.

45. Defendants are considered “businesses” under New York General Business Law § 349 (“GBL 349”).

46. Defendants’ business acts and practices are unfair and deceptive under GBL 349. New York has a strong public policy of protecting consumers’ privacy interests, including their biometric privacy. Defendants violated GBL 349 by collecting Plaintiff and Class members’ biometric data without written consent and did so in order to profit, as explained herein.

47. Defendants’ acts and practices are “unfair” in that they are immoral, unethical, unfair, oppressive, unscrupulous, and/or substantially injurious to consumers. The gravity of the harm of Defendants secretly collecting and sharing Plaintiff’s biometric data is significant and there is no corresponding benefit resulting from such conduct. Finally, because Plaintiff and many Class members were completely unaware of the full breadth of Defendants’ conduct, including the use of their biometric identifier information for profit, they could not have avoided the harm caused by this conduct.

48. Under GBL 349, Plaintiff seeks all available remedies, including actual damages, restitution, treble damages, statutory damages, reasonable costs and attorneys’ fees, and any other relief this Court deems just and proper.

COUNT III
Unjust Enrichment

49. Plaintiff restates and realleges each preceding paragraph as if fully alleged herein.

50. A plaintiff has a claim for unjust enrichment when the defendant was enriched at the plaintiff's expense, and it is against equity and good conscience to permit the defendant to retain what is sought to be recovered.

51. Because Defendants failed to disclose that they collect, retain, convert, store and share biometric information, Plaintiff and other Class members who entered the stadium would not have purchased tickets to the venue (or would have paid substantially less for them) if they had known they were also paying in the form of their valuable biometric data.

52. At bottom, the visits to Citi Field enriched Defendants at Plaintiff's expense because it allowed Defendants to save on security costs and to charge an unjustified premium for the price of tickets to the venue. It is against equity and good conscience to permit Defendants to retain the money they received from Plaintiff and the members of the Class under these circumstances.

53. Defendants are therefore liable to Plaintiffs and members of the Class for the profit that Defendants earned from the sales of tickets to New York Mets games and concerts at Citi Field due to Defendants' use of Plaintiff and Class members' biometric data for profit, at all times.

VII. REQUEST FOR RELIEF

54. WHEREFORE, Plaintiff seeks a judgment as follows:

- A. an Order certifying this Action as a class action and appointing Plaintiff and their Counsel to represent the Class;
- B. statutory damages awardable by the statute plead herein;

- C. equitable relief requiring Defendants to make the necessary disclosures with respect to biometric identifier information collection and retention;
- D. attorneys' fees, costs, and other damages to be awarded in an amount to be determined as allowable by law;
- E. reasonable expert witness fees;
- F. pre- and post-judgment interest on any amounts awarded; and,
- G. such other and further relief as this Court may deem just and proper.

VIII. JURY TRIAL DEMANDED

55. Plaintiff hereby demands a jury trial for all claims so triable.

DATED: September 5, 2024

Respectfully Submitted,

/s/ Blake Hunter Yagman
Jennifer Czeisler
jen.czeisler@sterlingtonlaw.com
Edward Ciolko*
ed.ciolko@sterlingtonlaw.com
Blake Hunter Yagman
blake.yagman@sterlingtonlaw.com
STERLINGTON, PLLC
One World Trade Center
New York, New York 10004
Tel.: 212-433-2995

/s/ Adam Pollock
Adam Pollock
Adam@PollockCohen.com
Anna Menkova
Anna@PollockCohen.com
POLLOCK COHEN LLP
111 Broadway, Suite 1804
New York, NY 10006
Tel.: (212) 337-5361

Counsel for Plaintiff and the Proposed Class

**Pro Hac Vice Forthcoming*



REQUEST FOR JUDICIAL INTERVENTION

Supreme COURT, COUNTY OF Queens

UCS-840
(rev. 01/01/2024)

Index No: 718313/2024 Date Index Issued: 09/05/2024

For Court Use Only:

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

Chris Dowling

Plaintiff(s)/Petitioner(s)

-against-

Sterling Mets, L.P., Does 1-10

Defendant(s)/Respondent(s)

IAS Entry Date
Judge Assigned
RJI Filed Date

NATURE OF ACTION OR PROCEEDING: Check only one box and specify where indicated.

COMMERCIAL

Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)

Contract

Insurance (where insurance company is a party, except arbitration)

UCC (includes sales and negotiable instruments)

Other Commercial (specify): Biometrics Violation

NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the **COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)**.

MATRIMONIAL

Contested

NOTE: If there are children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum (UCS-840M)**.

For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (**UD-13**).

TORTS

Asbestos

Environmental (specify): _____

Medical, Dental or Podiatric Malpractice

Motor Vehicle

Products Liability (specify): _____

Other Negligence (specify): _____

Other Professional Malpractice (specify): _____

Other Tort (specify): _____

REAL PROPERTY Specify how many properties the application includes: _____

Condemnation

Mortgage Foreclosure (specify): Residential Commercial

Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the **FORECLOSURE RJI ADDENDUM (UCS-840F)**.

Partition

NOTE: Complete and attach the **PARTITION RJI ADDENDUM (UCS-840P)**.

Tax Certiorari (specify): Section: _____ Block: _____ Lot: _____

Tax Foreclosure

Other Real Property (specify): _____

SPECIAL PROCEEDINGS

Child-Parent Security Act (specify): Assisted Reproduction Surrogacy Agreement

CPLR Article 75 - Arbitration [see **NOTE** in **COMMERCIAL** section]

CPLR Article 78 - Proceeding against a Body or Officer

Election Law

Extreme Risk Protection Order

MHL Article 9.60 - Kendra's Law

MHL Article 10 - Sex Offender Confinement (specify): Initial Review

MHL Article 81 (Guardianship)

Other Mental Hygiene (specify): _____

Other Special Proceeding (specify): _____

OTHER MATTERS

Certificate of Incorporation/Dissolution [see **NOTE** in **COMMERCIAL** section]

Emergency Medical Treatment

Habeas Corpus

Local Court Appeal

Mechanic's Lien

Name Change/Sex Designation Change

Pistol Permit Revocation Hearing

Sale or Finance of Religious/Not-for-Profit Property

Other (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

	YES	NO	
Has a summons and complaint or summons with notice been filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	If yes, date filed: <u>09/05/2024</u>
Has a summons and complaint or summons with notice been served?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, date served: _____
Is this action/proceeding being filed post-judgment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

Infant's Compromise

Extreme Risk Protection Order Application

Note of Issue/Certificate of Readiness

Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined: _____

Notice of Motion Relief Requested: _____ Return Date: _____

Notice of Petition Relief Requested: _____ Return Date: _____

Order to Show Cause Relief Requested: _____ Return Date: _____

Other Ex Parte Application Relief Requested: _____

Partition Settlement Conference

Poor Person Application

Request for Preliminary Conference

Residential Mortgage Foreclosure Settlement Conference

Writ of Habeas Corpus

Other (specify): _____

RELATED CASES				
List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .				
Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES				
For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .				
Un-Rep	Parties	Attorneys and Unrepresented Litigants	Issue Joined	Insurance Carriers
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: Dowling, Chris Role(s): Plaintiff/Petitioner	ANNA MENKOVA, Pollock Cohen LLP, 111 Broadway , New York, NY 10006, 2123375361, anna@pollockcohen.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Sterling Mets, L.P. Role(s): Defendant/Respondent	28 Liberty Street, New York, NY 10005	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Does 1-10 Role(s): Defendant/Respondent		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 09/05/2024

ANNA MENKOVA
Signature

5587761
Attorney Registration Number

ANNA MENKOVA
Print Name



New York State Unified Court System

nycourts.gov

Request for Judicial Intervention Commercial Division Addendum

UCS-840C (01/2024)

Page 1 of 2

nycourthelp.gov

Supreme Court County of Queens

Plaintiff/Petitioner (persons/entities that started the case):

Chris Dowling

Index #:

718313/2024

Defendant/Respondent (persons/entities the case is against):

Sterling Mets, L.P., Does 1-10

Plaintiff/Petitioner's cause(s) of action [check all that apply]:

- Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g., sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)
- Transactions governed by the Uniform Commercial Code, excluding those concerning individual cooperative or condominium units
- Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only
- Shareholder derivative actions (without consideration of the monetary threshold)
- Commercial class actions (without consideration of the monetary threshold)
- Business transactions involving or arising out of dealings with commercial banks and other financial institutions
- Internal affairs of business organizations
- Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters
- Environmental insurance coverage
- Commercial insurance coverage (e.g., directors and officers, errors and omissions, and business interruption coverage)
- Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures (without consideration of the monetary threshold)
- Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues (where the applicable agreement provides for the arbitration to be heard outside the United States, the monetary threshold set forth in 22 NYCRR 202.70(a) shall not apply)



ADA Accommodations ada@nycourts.gov



Spoken or Sign Language Interpreters interpreter@nycourts.gov



1-800-COURT-NY (268-7869)

UCS-840C (01/2024)

Page **2** of **2**

Index #: 718313/2024

Plaintiff/Petitioner's claim for compensatory damages, excluding punitive damages, interest, costs and counsel fees claimed: \$null

Plaintiff/Petitioner's claim for equitable or declaratory relief [brief description]:

Defendant/Respondent's counterclaims, including claims for monetary relief [brief description]:

I request that this case is assigned to the Commercial Division. I certify that the case meets the Commercial Division's jurisdictional requirements as set forth in 22 NYCRR 202.70(a), (b) and (c).

Dated: 09/05/2024

ANNA MENKOVA
Signature

ANNA MENKOVA
Print Name

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF QUEENS

718313/2024

Pollock Cohen LLP

(BKS/CFH) Date Filed:

111 Broadway, Suite 1804, New York, NY 10006

Court Date:

CHRIS DOWLING on behalf of himself and all others similarly situated,

Plaintiff

vs.

STERLING METS, L.P., DOES 1-10

Defendant

AFFIRMATION OF SERVICE

Luis Arriaga, affirms and says that, the Deponent is not a party herein, is over the age of 18 years and resides in the state of New York. That on September 9, 2024, at 12:58 pm at 28 Liberty Street, New York, NY 10005, Deponent served the within Summons + Complaint, Notice of Commencement, with the index number and filing date of the action were endorsed upon the face of the papers so served herein. On: Sterling Mets, L.P. (hereinafter referred to as "subject") by leaving the following documents with Ingrid Lopez who as Managing Agent at CT Corporation System is authorized by appointment or by law to receive service of process for Sterling Mets, L.P.

Hispanic or Latino Female, est. age 45-54, glasses: N, Black hair, 160 lbs to 180 lbs, 5' 6" to 5' 9". Geolocation of Serve: <https://google.com/maps?q=40.707930849,-74.0091554801> Photograph: See Exhibit 1

Total Cost: \$95.00

I affirm this 11th day of September, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

I asked the person spoken to, on whether the subject was in active military service or financially dependent upon any one who is in the military service of the United States or the State of New York in any capacity whatsoever and received a negative reply. The source of my information and belief are the conversations above narrated. Upon that information and belief I assert that the recipient is not in the military service of New York State or of the United States as that term is defined either in the State or Federal statutes.

Executed in

/s/ Luis Arriaga

Kings County,

Signature

Server Name: Luis Arriaga

License#: 2104295-DCA

NY on 9/11/2024.

PROOF TECHNOLOGY NEW YORK , LLC 1800 Gaylord Avenue, Denver, CO 80206 License # 12103684-DCA

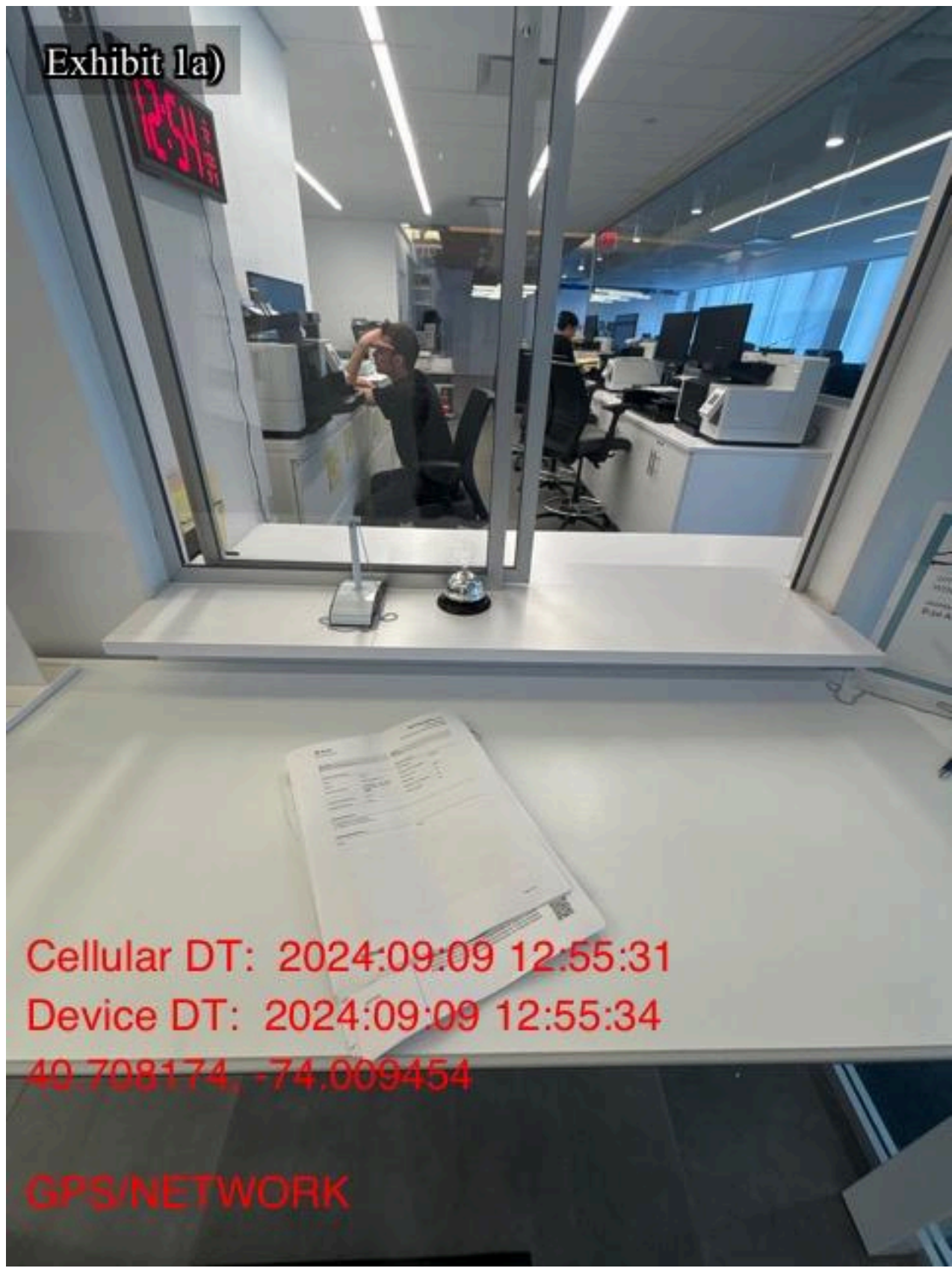


Exhibit 1a)

Cellular DT: 2024:09:09 12:55:31
Device DT: 2024:09:09 12:55:34
40.708174, -74.009454
GPS/NETWORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS – COMMERCIAL DIVISION

CHRIS DOWLING on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Index No.: 718313/2024

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the Affirmation of Adam Pollock, dated September 12, 2024, and the Affidavit of Edward W. Ciolko, with an exhibit thereto, a motion will be made, pursuant to Section 520.11(a)(1) of the Rules of the Court of Appeal and Section 1250.4(e) of the Rules of Appellate Division, Second Department (22 NYCRR 1250.4[e]), before the Motion Submission Part at 88-11 Sutphin Boulevard, Room 140, Jamaica, New York 11435, on September 24, 2024, at 9:00 A.M. or as soon thereafter as counsel can be heard, for an Order admitting Edward W. Ciolko to temporary practice (admission *pro hac vice*) before this Court, for all purposes in conjunction with the above-captioned action, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), answering papers, if any, shall be served at least two days before the date on which this motion is noticed to be heard.

Dated: September 12, 2024
New York, New York

Respectfully Submitted,

POLLOCK COHEN LLP

By: /s/ Adam Pollock

Adam Pollock

111 Broadway, Suite 1804

New York, NY 10006

(212) 337-5361

Adam@PollockCohen.com

Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS – COMMERCIAL DIVISION

CHRIS DOWLING on behalf of himself
and all others similarly situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Index No.: 718313/2024

**AFFIRMATION OF ADAM POLLOCK IN SUPPORT OF MOTION FOR
ADMISSION OF EDWARD W. CIOLKO PRO HAC VICE**

Adam Pollock, an attorney duly admitted to practice in the Courts of the State of New York, hereby submits this affirmation in support of the motion for an order admitting Edward W. Ciolko *pro hac vice* for the duration of this action, and further affirms under penalty of perjury that:

1. I am a partner at the law firm of Pollock Cohen LLP, counsel for Plaintiff. I have appeared in this matter on behalf of Plaintiff. I make this Affirmation in support of Plaintiff's motion for an Order for admission of Edward W. Ciolko *pro hac vice* for the duration of this action pursuant to Section 520.11(a)(1) of the Rules of the Court of Appeal and Section 1250.4(e) of the Rules of Appellate Division, Second Department (22 NYCRR 1250.4[e]).

2. Edward W. Ciolko is a partner, co-head of complex litigation practice, at Sterlington, PLLC, One World Trade Center, 85th Floor, New York, New York, 10004. He is admitted to practice, in good standing, in the District of Columbia and various federal courts. I am informed that since his admission to this bar, Mr. Ciolko has not been reprimanded or disciplined by any court.

3. I understand that Mr. Ciolko has reviewed the Court's *pro hac vice* requirements and is familiar with the standards of professional conduct imposed upon members of the New York bar. Mr. Ciolko is also aware that he is subject to the jurisdiction of the courts in this State with respect to any acts occurring during the course of their representation in this matter.

4. No previous application has been made in the above-captioned action for the relief requested.

5. I affirm this 12th day of September, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

WHEREFORE, it is respectfully requested that the Court admit Edward W. Ciolko *pro hac vice* to represent Plaintiff before this Court for the duration of this action.

Dated: September 12, 2024
New York, NY

By: Adam Pollock
Adam Pollock

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS – COMMERCIAL DIVISION

CHRIS DOWLING on behalf of himself
and all others similarly situated,

Index No.: 718313/2024

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

**AFFIRMATION OF EDWARD. W. CIOLKO IN SUPPORT OF
MOTION FOR ADMISSION *PRO HAC VICE***

EDWARD W. CIOLKO, being duly sworn, deposes and says:

1. I make this affirmation in support of Plaintiff's motion for my admission *pro hac vice* for the duration of this action pursuant to Section 520.11(a)(1) of the Rules of the Court of Appeal and Section 1250.4(e) of the Rules of Appellate Division, Second Department (22 NYCRR 1250.4[e]).

2. I am a partner of the law offices of Sterlington PLLC, One World Trade Center, 85th Floor, New York, New York, 10004. I am admitted to practice, in good standing, in the state of District of Columbia and the following federal courts: U.S.D.C., District of New Jersey, U.S.D.C., District of Colorado, U.S.D.C., Eastern District of Michigan, U.S.D.C., Northern District of Illinois, U.S.D.C., Central District of Illinois, U.S.D.C., Southern District of Illinois, U.S.D.C., Eastern District of Wisconsin, U.S. Court of Appeals, 1st Circuit, U.S. Court of Appeals, 2nd Circuit, U.S. Court of Appeals, 3rd Circuit, U.S. Court of Appeals, 4th Circuit, U.S. Court of Appeals, 5th Circuit, U.S. Court of Appeals, 6th Circuit, U.S. Court of Appeals, 8th Circuit, U.S. Court of Appeals, 9th Circuit, U.S. Court of Appeals, 10th Circuit, U.S. Court of Appeals, 11th Circuit.

3. Since my admission to these bars, I have never been reprimanded, nor have I had a grievance, complaint, or order of discipline of any kind filed against me in any state or jurisdiction.

4. Attached as **Exhibit A** is my certificate of good standing from the State of District of Columbia.

5. I have reviewed the Court's *pro hac vice* requirements and I am familiar with the standards of professional conduct imposed upon members of the New York bar. I am also aware that I am subject to the jurisdiction of the courts in this State with respect to any acts occurring during the course of my representation in this matter.

6. No previous application has been made in the above-captioned action for the relief requested.

7. I affirm this 12th day of September, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

WHEREFORE, it is respectfully requested that the Court admit me *pro hac vice* to represent Plaintiff before this Court for the duration of this action.

By: 

Edward W. Ciolko

Exhibit A



On behalf of JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals,
the District of Columbia Bar does hereby certify that

Edward W Ciolko

was duly qualified and admitted on December 8, 2008 as an attorney and counselor entitled to
practice before this Court; and is, on the date indicated below, an Active member in good
standing of this Bar.

*In Testimony Whereof,
I have hereunto subscribed my
name and affixed the seal of this
Court at the City of
Washington, D.C., on June 04, 2024.*

Julio A. Castillo
JULIO A. CASTILLO
Clerk of the Court

Issued By:

David Chu - Director, Membership
District of Columbia Bar Membership

**For questions or concerns, please contact the D.C. Bar Membership Office at 202-626-3475 or email
memberservices@dcbbar.org.**

At IAS Part __ of the Supreme Court of the State of New York, held in and for the County of QUEENS at the Courthouse at 88-11 Sutphin Boulevard Jamaica, New York, on the __ day of _____, 2024.

PRESENT: _____
Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS – COMMERCIAL DIVISION

CHRIS DOWLING on behalf of himself
and all others similarly situated,
Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,
Defendants.

Index No.: 718313/2024

[Proposed]
ORDER ADMITTING
EDWARD W. CIOLKO PRO
HAC VICE

This matter having been brought before the Court by motion, pursuant to Section 520.11(a)(1) of the Rules of the Court of Appeal and Section 1250.4(e) of the Rules of Appellate Division, Second Department (22 NYCRR 1250.4[e]), for an order admitting Edward W. Ciolko *pro hac vice*, on notice to all parties, and the Court having reviewed and considered the papers filed in support of this motion including the Affirmation of Adam Pollock, dated September 12, 2024, it is hereby

ORDERED that Edward W. Ciolko is admitted *pro hac vice* in connection with this action, and that he shall abide by the rules of the Court in all respects and is subject to the disciplinary jurisdiction of the Court in all respects and is subject to the disciplinary

jurisdiction of this Court in accordance with Part 130 of the Rules of the Chief Administrator and the inherent authority of this Court.

IT IS SO ORDERED.

ENTER:

J.S.C.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS
(COMMERCIAL DIVISION)**

CHRIS DOWLING on behalf of himself and all
others similarly situated,

Index No. 718313/2024

Plaintiffs,

NOTICE OF APPEARANCE

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

PLEASE TAKE NOTICE that Blake Hunter Yagman hereby enters his appearance in the above captioned matter as counsel for Plaintiff Chris Dowling on behalf of himself and all others similarly situated (“Class members”).

Date: September 23, 2024

By: /s/Blake Hunter Yagman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been electronically filed with the Court and service of same has been transmitted via the Court's efilng portal this 23rd day of September 2024.

/s/Blake Hunter Yagman

Short Form Order

NEW YORK SUPREME COURT – QUEENS COUNTY

Present: HONORABLE JOSEPH RISI

IA PART 3

A. J. S. C.

-----X
CHRIS DOWLING on behalf of himself and all
others similarly situated,

Index Number: 718313/2024

Motion Date: September 24, 2024

Plaintiff,

Motion Sequence #1

-against-

STERLING METS, L.P. and DOES 1-10,

DECISION/ ORDER

Defendant.

-----X

The following EF numbered papers read on this motion by plaintiffs for admission *pro hac vice* of attorney Edward W. Ciolko, Esq. pursuant to 22 NYCRR §520.11(a)(1).

Papers
Numbered

Notice of Motion, Affirmation, Affidavit and Service..... EF 5-8

Upon the foregoing papers, it is ordered that this unopposed motion is determined as follows:

Plaintiffs move to have Edward W. Ciolko, Esq. an attorney in good standing of the bar of the District of Columbia, admitted *pro hac vice* pursuant to 22 NYCRR §520.11(a)(1). Mr. Ciolko has demonstrated compliance with 22 NYCRR §520.11(a)(1), (c) and (e) and no opposition has been filed to this application.

Accordingly, the motion is granted.

This is the decision and order of the Court.

Date: September 26, 2024



Hon. Joseph Risi, A.J.S.C.



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

CHRIS DOWLING, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

Index No. 718313/2024

Hon. Joseph J. Risi

**STIPULATION EXTENDING
DEFENDANT’S TIME TO ANSWER,
MOVE OR OTHERWISE RESPOND TO
COMPLAINT**

WHEREAS, Sterling Mets, L.P. has represented to Plaintiff’s counsel that the proper
defendant in this action is Queens Ballpark Company, L.L.C., rather than Sterling Mets, L.P.;

IT IS HEREBY STIPULATED, that the deadline for Sterling Mets, L.P. to answer, move,
or otherwise respond to the complaint is hereby extended *sine die*; and

IT IS FURTHER STIPULATED that, by October 8, 2024, Plaintiff will either (i) file an
Amended Complaint naming the proper defendant or (ii) advise counsel for the Defendant in
writing, which may include email, that it does not intend to file an Amended Complaint.

Dated: September 30, 2024

/s/ Edward Ciolko
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

CHRIS DOWLING, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

STERLING METS, L.P. and DOES 1-10,

Defendants.

COMMERCIAL DIVISION

Index No. 718313/2024

Hon. Joseph J. Risi

**STIPULATION TO ADJOURN
OCTOBER 7th CONFERENCE**

WHEREAS, a preliminary conference on this matter was scheduled for October 7, 2024;

WHEREAS, Plaintiff filed the Complaint in this action on September 5, 2024;

WHEREAS, the parties entered a stipulation on September 30, 2024, extending *sine die* Defendant's time to answer, move or otherwise respond to the Complaint pending Plaintiff's filing of an amended complaint;

IT IS HEREBY STIPULATED, that the preliminary conference schedule for October 7, 2024, be adjourned; and

IT IS FURTHER STIPULATED, that the preliminary conference be rescheduled for November 18, 2024, or another date as set by the Court.

Dated: October 2, 2024

/s/ Jennifer Czeisler

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