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

In the Matter of the Application of MADISON SQUARE GARDEN ENTERTAINMENT CORP., MSG ARENA LLC, MSG BEACON LLC, and RADIO CITY PRODUCTIONS LLC, Petitioners, For a Judgment Pursuant to CPLR Article 78 -against- NEW YORK STATE LIQUOR AUTHORITY; SHARIF KABIR, in his official capacity as Chief Executive Officer, New York State Liquor Authority; MICHAEL AMMIRATO, in his official capacity as Assistant General Counsel, New York State Liquor Authority; and CHARLES STRAVALLE, in his official capacity as Investigator, New York State Liquor Authority, Respondents.	Index No. **Oral Argument Requested** **VERIFIED PETITION**

Petitioners Madison Square Garden Entertainment Corp., MSG Arena LLC, MSG Beacon LLC, and Radio City Productions LLC (together, "MSG"), by and through their undersigned counsel, bring this Verified Petition against Respondents New York State Liquor Authority ("SLA"), Sharif Kabir, in his official capacity as Chief Executive Officer of the SLA, Michael Ammirato, in his official capacity as Assistant General Counsel at the SLA, and Charles Stravalle, in his official capacity as Investigator at the SLA (collectively, the "SLA"), and allege as follows:

NATURE OF THE PROCEEDING

1. This is a case about abuse of power targeting a good corporate citizen with bogus charges brought in bad faith that threaten to strip that company of State-issued liquor licenses integral to its business. It is about misconduct at the SLA—a State agency with a long and sordid history of abuse now on full display here. And it is about a cadre of lawyers getting the SLA to

misuse its regulatory authority to try to punish and pressure this private venue operator to drop a lawful policy they dislike that temporarily bans adverse attorneys from some of its venues. But this is the antithesis of how government is supposed to make decisions. It is conduct so unconscionable that it cries out for this Court's intervention to put an immediate end to the SLA's abuse of power. Indeed, the SLA's improper actions are an assault on not only MSG, but also all of its fans, who will be deprived of the full MSG experience if the SLA gets its way and strips MSG of its right to serve alcohol at its venues.

2. MSG is now compelled to bring this Article 78 Petition to challenge the SLA's recent decision—well outside its statutory authority under the Alcoholic Beverage Control ("ABC") Law—to charge MSG with violating SLA Rules, on the pretext that its venue policy (affecting less than 0.8% percent of New York lawyers and less than 0.01% of all New Yorkers) somehow renders MSG's venues no longer "bona fide premises" that are "open to the public." Ex. A (SLA's Notices of Pleading, dated Feb. 13, 2023). The stakes are high, as MSG now faces suspension or revocation of its liquor licenses as the ultimate penalty for the violations charged. But the SLA Respondents responsible for bringing these charges are ***not*** fulfilling any actual statutory mandate. In fact, they are clearly exceeding their statutory authority. And they have ***not*** been able to articulate any rational basis for their decision to charge MSG. A private venue operator's lawful policy to temporarily exclude adverse attorneys from its venues has nothing whatsoever to do with the proper distribution of alcohol in this State, which is supposed to be the SLA's concern. How can it be rational to construe this narrow policy to mean that MSG's venues are no longer "open to the public," as the SLA claims here, when they continue to host millions of patrons every year? The answer is obvious: the SLA's charging decision cannot stand because it exceeds its statutory authority, and in any event, is arbitrary, capricious, and irrational.

3. To be clear, on an annual basis, MSG's venues welcome millions of patrons to its New York City venues, including Radio City Music Hall, the Beacon Theater, and Madison Square Garden—home of the New York Knicks and New York Rangers. This continues to be the case, even after MSG implemented this June 2022 policy temporarily excluding adverse attorneys from its venues during their pending litigations (the "Venue Policy").

4. This Venue Policy applies to very few attorneys, consisting of less than 1% of all lawyers in New York, less than 0.03% of the five million annual visitors to MSG's venues, and less than 0.01% of all New Yorkers. Nevertheless, the SLA ended up bringing these charges against MSG on the ground that, as a result of that policy, MSG's venues are somehow now no longer "bona fide premises" that are "open to the public," and are therefore subject to having the SLA revoke its liquor licenses at each of its New York venues. Ex. A (SLA's Notices of Pleading, dated Feb. 13, 2023); Ex. B (SLA's Letter of Advice to MSG Arena LLC, dated Nov. 29, 2022); Ex. C (SLA Rule 53.1(d)).

5. How did this happen? Because a cadre of affected lawyers reached out to the SLA.[1] These lawyers, angry they had been barred from MSG venues and able to achieve only limited success in their court challenges to MSG's ban, decided to ratchet up the pressure. They

[1] On information and belief, two plaintiffs' firms, in particular, stand out here: Davis, Saperstein & Salomon ("DSS") and Davidoff Hutcher & Citron ("DHC"). DHC filed the first lawsuit against MSG challenging its Venue Policy and, ever since, has been leading the charge to pressure MSG to end this policy. *See* Kris Rhim, *Suing Madison Square Garden? Forget About Your Knicks Tickets*, N.Y. TIMES (Oct. 13, 2022), https://www.nytimes.com/2022/10/13/sports/lawsuit-msg-lawyers-banned-knicks-rangers.html. Then, DSS, apparently in communication with DHC, submitted a complaint to the SLA that ultimately led to these charges against MSG over its Venue Policy. And on information and belief, DHC apparently knew from DSS what was going on because, within days of the SLA's "Letter of Advice" to a private party (MSG) launching its investigation of this Venue Policy, DHC got ahold of that letter and publicly disclosed it in court filings. *See* NYSECF No. 12 ¶ 3 & Ex. A, *Hutcher v. Madison Square Garden Ent. Corp.*, No. 2022-5178 (1st Dep't Dec. 9, 2022).

prevailed upon the SLA to go after MSG's liquor licenses. The SLA launched this investigation, insisted upon deposing MSG senior management, leaked information for public release, conducted a pretextual raid on MSG-owned premises, and brought its own administrative charges imperiling MSG's liquor licenses—all at breakneck speed over the past three months. Indeed, the SLA has front-run its own investigation, rushing to file these charges while still pursuing and awaiting responses to several pending investigative requests, including a third-party subpoena seeking confidential information generated in an unrelated Delaware litigation that MSG has moved to quash as defective. *See In the Matter of the Application of Madison Square Garden Ent. Corp.*, Index No. 151152/2023 (Sup. Ct. N.Y. Cnty.). But such SLA shenanigans come as no surprise here: The same SLA investigator responsible for the SLA's Cloister Cafe license suspension debacle, Respondent Charles Stravalle, is also the lead investigator in this case. *See Cloister E., Inc. v. N.Y. State Liquor Auth.*, 563 F. Supp. 3d 90, 101, 104 (S.D.N.Y. 2021) (finding "the SLA's behavior in this case" to be "troubling" and a "bad faith effort[] to avoid judicial review of its summary suspension" after the New York State Supreme Court had issued a TRO blocking the SLA's suspension order).

6. The SLA's decision to bring these charges against MSG is unlawful because it far exceeds Respondents' statutory authority under the ABC Law, which is limited to certain enumerated purposes and policies relating to regulating alcohol "manufacture, [] and distribution." *See* Ex. D (ABC Law § 2). But MSG's Venue Policy has nothing to do with alcohol "manufacture, [] and distribution" or any other purpose spelled out in the ABC Law. Indeed, even the notion the SLA advances here—that, as a result of that limited policy, MSG is somehow no longer "open to the public"—is itself outside the SLA's statutory authority. Exs. A, B. And it turns this regulatory scheme on its head for the SLA to claim that MSG, by paying a higher price

to acquire liquor licenses that enable it to serve alcohol to the public, should now lose its licenses unless it serves the entire public and foregoes its longstanding common-law right as a private venue operator to be able to impose certain limits on access to its premises. Indeed, taken to its logical extreme, the SLA's position would produce absurd results, such as preventing MSG from having a policy, as it does, of banning those individuals who have committed acts of violence at its venues for security reasons.

7. The SLA's decision to bring these charges against MSG is also unlawful because it is arbitrary, capricious, and irrational, an abuse of discretion, and premised entirely upon errors of law. Neither the ABC Law nor the SLA Rules define, or provide any standards for, the SLA's "bona fide premises" and "open to the public" requirements. The SLA's Rule only contains the phrase, "bona fide premises," without any definition at all. SLA Rule 53.1(d). And the SLA's "open to the public" criterion is nowhere to be found in the ABC Law or the SLA Rules. Nor have Respondents ever attempted to define what makes premises "bona fide" or how much of the "public" MSG must admit to meet the SLA's so-called "requirements." Exs. A, B. On that basis alone, the offenses charged are so vague that they cannot stand.

8. Instead, the SLA Respondents have threatened to revoke MSG's liquor licenses on the ludicrous basis that it is no longer "open to the public" because it supposedly now excludes an "entire population class." Ex. E (SLA Opposition to Petitioners' Motion to Quash, NYSCEF No. 11, Feb. 15, 2023). But even if the SLA had the authority to revoke a license on that basis—and it does not—what "entire population class" is excluded? It is not all lawyers. It is not even all lawyers who have sued MSG, but only those currently suing certain of its venues in certain types of cases—even then, only temporarily while the litigations are pending. That ever-changing, relatively small group can hardly be said be an "entire population class" by any legal

measure. Indeed, the SLA is grasping at straws here, trying to justify its gross overreach by giving some context to a vague standard that is not actually within its powers to impose. And in any event, no one could question with a straight face that MSG's venues are "bona fide" venues "open to the public," when millions continue to flock to its events every year. That is one reason why Madison Square Garden remains "The World's Most Famous Arena."

9. Moreover, the SLA's decision to bring these charges against MSG is also arbitrary, capricious, irrational, and an abuse of discretion, because Respondents are engaging in selective prosecution, targeting MSG in ways it has not for other licensees. As explained below, many other New York venues, like nightclubs, openly exclude wide swaths of potential patrons, based on appearance, age, and dress, admitting only a certain type of "crowd." *See* Jeanette Settembre, *How to befriend the bouncers running NYC's exclusive nightlife scene*, N.Y. POST (May 11, 2022), https://nypost.com/2022/05/11/how-to-get-in-to-the-most-exclusive-clubs-bars-in-nyc/. Yet the SLA Respondents have turned a blind eye to the exclusionary policies of those other venues, and instead, focused their sights on MSG. Hence, even assuming *arguendo* SLA enforcement authority in this regard, its actions are the very definition of selective prosecution that cannot be permitted.

10. Accordingly, MSG now seeks injunctive relief to vacate and void the SLA's charges against MSG, and to enjoin Respondents from investigating, charging, or taking any further actions against MSG, based on its Venue Policy. MSG also seeks declaratory relief that Respondents' charges against MSG are null and void, exceed Respondents' statutory authority

under the ABC Law, and are arbitrary, capricious, and irrational, as well as an abuse of discretion, and affected by errors of law.[2]

PARTIES

11. Petitioner Madison Square Garden Entertainment Corp. is an entertainment company based in New York City that owns or operates event venues such as Madison Square Garden, The Theater at Madison Square Garden (formerly the Hulu Theater), Radio City Music Hall, the Beacon Theater, and the Chicago Theatre (collectively, the "MSG Venues"). Madison Square Garden is home to the New York Knicks and the New York Rangers.

12. Petitioner MSG Arena LLC is a limited liability company based in New York City that holds certain on-premises liquor licenses issued by the SLA.

13. Petitioner MSG Beacon LLC is a limited liability company based in New York City that holds certain on-premises liquor licenses issued by the SLA.

14. Petitioner Radio City Productions LLC is a limited liability company based in New York City that holds certain on-premises liquor licenses issued by the SLA.

15. Respondent the SLA is a government agency of the State of New York established to enforce and oversee New York's ABC Law. The SLA and corresponding Division of Alcoholic Beverage Control were created in 1934. The agency was created to "regulate and control the

[2] The SLA has brought four separate charges here, the first three of which relate directly to the Venue Policy. *See* Ex. A. The fourth charge is something it has tacked on as further punishment for MSG, even though such a ministerial matter would ordinarily be excused or handled administratively on consent—namely, the timeliness of notifying the SLA of a change in the identity of one of the licensee's corporate officers. *See id.* To be clear, there is no issue here about the background of the replacement named to serve in that capacity, only the timeliness of the notification. Thus, that charge relating to the timeliness of reporting a corporate officer change is clearly pretextual, further evidencing selective prosecution and disparate treatment, and should be voided for the same reasons previously explained about the SLA's arbitrary, capricious, and irrational actions here, as well as its abuse of discretion.

manufacture, sale and distribution within the state of alcoholic beverages for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to law." Ex. D (ABC Law § 2).

16. Respondent Sharif Kabir is the SLA's Chief Executive Officer. On information and belief, Respondent Kabir is complicit in the SLA's misconduct, because he is both directing those efforts and failing to supervise and restrain misconduct by Respondents Ammirato and Stravalle, who are misusing public resources for purposes wholly outside the SLA's mandate.

17. Respondent Michael Ammirato is a former plaintiffs' attorney, and the current Associate General Counsel for the SLA, who signed off on administrative charges against MSG and directed arbitrary and harassing investigative requests that were untethered to any legitimate enforcement purpose.

18. Respondent Charles Stravalle is an Investigator of the New York State Liquor Authority. He is a "per diem" employee of the SLA, meaning that he is compensated on a part-time and hourly basis. Respondent Stravalle's work has resulted in three lawsuits against the SLA for discriminatory practices and malicious enforcement. Alongside his SLA-related work, Respondent Stravalle operates a private investigative business under ID number 11000120684. On information and belief, Stravalle has been the primary SLA operative here, as described in detail below, working at the direction of Respondent Ammirato.

JURISDICTION AND VENUE

19. The Court has jurisdiction over this matter, pursuant to CPLR §§ 7803(2) and (3), because Respondents made decisions that exceed the scope of their statutory jurisdiction and were arbitrary, capricious, and irrational, an abuse of discretion, and affected by errors of law.

20. This proceeding is timely because the SLA's imposition of charges against MSG in each of its February 13, 2023 Notices of Pleading constitute a definitive agency position that caused and continues to cause MSG harm and concrete injury; MSG need not exhaust administrative remedies here where an administrative remedy would be futile or its pursuit would cause irreparable injury; and, in any event, the questions presented are questions of law relative to the application of the ABC Law and SLA Rules.

21. The Court has personal jurisdiction over Respondents, pursuant to CPLR §§ 301 and 307(2).

22. Venue is proper in New York County, pursuant to CPLR § 506(b), because it is the County where one or more of Respondents made the decisions that MSG seeks to reverse, where Respondents' principal offices are, and where the underlying circumstances are taking place.

STATEMENT OF FACTS

23. In June 2022, MSG adopted this Venue Policy, which is based on MSG's longstanding, absolute common law right to exclude individuals from its premises "for any reason or no reason at all." *Oakley v. MSG Networks*, No. 17-CV-6903 (RJS), 2021 WL 5180229, at *4 (S.D.N.Y. Nov. 8, 2021).

24. On information and belief, after MSG implemented the Venue Policy, two plaintiffs' firms, Davidoff Hutcher & Citron ("DHC") and Davis, Saperstein & Salomon ("DSS"), appear to have coordinated to get the SLA to go after MSG.

25. What ensued was a bizarre, multi-pronged, rushed, and unprecedented "investigation," with the SLA filing a set of four charges before even completing its sham review.

A. The SLA Has a Long History of Corruption and Bad Faith

26. The SLA was originally established to prevent corruption in the liquor distribution industry in this State.[3] Instead, it has been a cesspool of corruption and scandal over many decades, resulting in indictments, convictions, and terminations of senior or mid-level managers. "Since its inception," the New York State Law Revision Commission observed, "the SLA has been plagued with problems of licensing delays, inadequate enforcement, inefficient and ineffective administration and, indeed, bribery."[4]

27. For example, in the 1950s, the State Commission on Investigation investigated widespread "rumors of fraud and corruption in [the SLA's] activities," which resulted in over a dozen resignations and/or dismissals.[5]

28. In the 1960s, the New York District Attorney's office convicted a number of high-profile figures after a grand jury investigation into complaints from bar and restaurant owners that they had to pay bribes ranging from $3,000 to more than $10,000 to obtain liquor licenses.[6] In one well-publicized example, the then SLA Chairman and former State Republican Chairman were convicted of taking more than $40,000 in bribes from the Playboy Club to expedite liquor licenses. In another investigation, business owners described operating in a repressive environment where "every businessman in New York must pay graft" to the SLA and feared "retaliation" by the SLA

[3] *See The New York State Law Revision Commission Preliminary Report on the Alcoholic Beverage Control Law and its Administration* at 10–14 (Sept. 1, 2008).

[4] *The New York State Law Revision Report on the Alcoholic Beverage Control Law and Its Administration* at 6 (Sept. 30, 2009).

[5] *Supra* note 3 at 14 (quoting Ernest Henry Breuer, *Moreland Act Investigations in New York, 1907–1965*, at 134 (1965) (quoting page one of the Commission's Report)).

[6] *Supra* note 3 at 15 (citing Public Papers of Averell Harriman, Fifty-Second Governor of the State of New York 428, 472 (1955)).

if they spoke out.[7] The SLA, they said, "holds the power of life and death" over their businesses. Business owners picketed in protest while testifying before the District Attorney:[8]

29. In the 1970s, the SLA was investigated for bribery and corruption by a special grand jury and the Manhattan District Attorney. Among the persons investigated was a New York State judge, who was separately under investigation for purchasing his judgeship.[9]

[7] Richard P. Hunt, *Hogan Gets Files of Liquor Agency*, N.Y. TIMES (Nov. 17, 1962), Page 1, Col. 2, Page 21, Column 6.

[8] *Life Magazine* (Apr. 5, 1963).

[9] Marcia Chambers, *Judge Mercorella Called in Nadjari S.L.A. Inquiry*, N.Y. TIMES (Feb. 17, 1976), https://www.nytimes.com/1976/02/17/archives/judge-mercorella-called-in-nadjari-sla-inquiry.html.

30. In the 1980s, the State Senate Committee on Investigations and Taxation undertook a two-year investigation and concluded that organized crime had infiltrated bars, discotheques, nightclubs, and restaurants and was influencing or controlling the SLA.[10] The investigation found what it called a "bizarre behavior" and "a virtual top-to-bottom" breakdown in the licensing process. The Committee found there were 5,000 bars operating without licenses. At the same time, the agency had granted a liquor license to one restaurant operating within 200 feet of a synagogue, in violation of ABC Law.

31. In the 1990s, the State Comptroller audited the SLA's enforcement activities and issued a Report concluding that the SLA lacked consistent enforcement priorities and needed a better process for determining which cases could best be referred to the police.[11] The SLA further faced multiple civil rights complaints by private parties, including a complaint that the SLA intentionally conspired to drive a bar out of business.[12]

32. In the mid-2000s, a New York Attorney General investigation concluded that favored retailers received illegal benefits from the SLA in excess of $50 million.[13]

33. The incidences of misconduct have continued in recent years.

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[10] Breuer, *supra* note 5 at 134 (quoting page one of the Commission's Report).

[11] *See* H. Carl McCall, *State Liquor Authority Division of Alcoholic Beverage Control Investigator Productivity Report 95-S-138* at 10, https://web.osc.state.ny.us/audits/audits/9596/95s138.pdf.

[12] *Bad Frog Brewery, Inc. v. New York State Liquor Auth.*, 134 F.3d 87 (1998); *D'Agostino v. N.Y. State Liquor Auth.*, 913 F. Supp. 757 (1996).

[13] *Liquor Wholesalers Settle Probe Of Pay-to-play Practices*, New York State Office of the Attorney General: Press Release | Archives (Aug. 30, 2006), https://ag.ny.gov/press-release/2006/liquor-wholesalers-settle-probe-pay-play-practices.

34. In 2008, one of the Governor's aides resigned after the aide was exposed for influencing SLA board members to give a licensee special treatment at a high-profile vote concerning the Cipriani family businesses.[14]

35. Soon after, in early 2009, the Inspector General and District Attorney raided an SLA office to investigate bribery and corruption of an SLA Deputy Commissioner for handling his own nephew's license applications and bribing SLA staff to expedite license applications. The raid resulted in a grand jury investigation. Law enforcement stated that "[m]oney and bribes flowed freely" at the SLA. The *Daily News* reported that "a small army of 'expediters'—often ex-Liquor Authority employees—offered to plow through red tape, for a fee." Sources told the N.Y. Daily News that "[n]o one was paying attention," employees did not run the requisite criminal background checks for licensees, and "bribery was rampant."[15]

36. On the heels of that raid, the New York State Law Revision Commission issued a scathing report on the SLA in September 2009. The Commission called the bribery that had been uncovered in the raid "a new creature of corruption, the corrupt 'expediter,'" where SLA licensing examiners would be bribed to fast-track applications. *See supra* note 3 at 10. The Commission generally concluded that the SLA's administration of the ABC Law over the period it studied "jeopardizes public health and safety, and exacerbates the economic crisis currently plaguing New York." *Id.* at 9.

37. In August 2020, 25 State Senators issued an open letter, calling on the SLA to "cut back on the exorbitant fines and create due process for restaurant owners." The State Senators

[14] Brendan Scott, *Scandal Aide Out*, N.Y. Post (Dec. 4, 2008), https://nypost.com/2008/12/04/scandal-aide-out/.

[15] Kerry Burke, *'Money and bribes flowed freely,' says prober after state liquor office raid in Harlem*, Daily News (Apr. 9, 2009), https://www.nydailynews.com/news/crime/money-bribes-flowed-freely-prober-state-liquor-office-raid-harlem-article-1.360862.

wrote that they had "heard of harassment tactics which include sirens and megaphones taunting owners with the threat of closure during working hours." Letter from State Senator Jessica Ramos *et al*. to New York State Liquor Authority Commissioners and Chairman (Aug. 26, 2020), *Cloister E., Inc. v. N.Y. State Liquor Authority*, No. 20-cv-6545 (S.D.N.Y.), ECF No. 49-1.

38. In 2021, a Manhattan restaurant, Cloister Café, alleged in a lawsuit that the SLA improperly suspended its license based on a botched investigation and rigged hearing process. The SLA's investigator in this matter—Respondent Stravalle—also featured prominently in the Cloister Café case, as further explained below.

39. In the *Cloister Café* case, U.S. District Judge Lewis Kaplan called the SLA's behavior "troubling," reflecting "bad faith efforts to avoid judicial review of its summary suspension orders."[16] After issuing a summary suspension order, the SLA rescinded the order in an attempt to avoid judicial review of that order while it completed disciplinary hearings. The SLA then cancelled the plaintiff's license after the hearings were completed. In other words, for the SLA, the ends justified the means: it effectively evaded review of its summary suspension order while still achieving the ultimate result it wanted of cancelling the license.

B. Respondent Stravalle Has Also Been the Subject of Past Controversy

40. Respondent Stravalle was an NYPD officer from 1986 until 2005. According to a press account the year before he left the NYPD, questions were raised about crime statistics reported in the precinct where he had been the commanding officer.[17] After he left the NYPD,

[16] *Cloister E., Inc. v. New York State Liquor Auth.*, 563 F. Supp. 90, 104 (S.D.N.Y. 2021).

[17] Robert Brodsky, NYPD Probes Crime Statistics At Forest Hills' 112th Precinct, Queens Chronicle (Apr. 8, 2004), https://www.qchron.com/editions/central/nypd-probes-crime-statistics-at-forest-hills-112th-precinct/article_f16141cc-f853-5344-8186-4fa13d753dc9.html.

Respondent Stravalle began working for the SLA, while also concurrently working as a private investigator, creating the potential for conflicts of interest.

41. In a 2016 complaint involving a restaurant primarily serving the Asian community, *360 Lounge, LLC, et al. v. City of New York, et al.*, the plaintiffs accused Respondent Stravalle of engaging in selective and malicious enforcement designed to intimidate the Asian community. *See* Complaint, *360 Lounge, LLC v. City of New York*, Case No. 16-cv-04590-NG-VMS at 7–16 (E.D.N.Y. Aug. 17, 2016), ECF No. 1. At the time, New York prosecutors were investigating related law enforcement corruption in what was known as the "Karaoke Bar Protection Scandal." *Id.* at 6–7.

42. The accusations in the "Karaoke Bar Protection Scandal" were that police officers accepted bribes from karaoke club owners in exchange for notifying them about scheduled police raids. According to the plaintiffs' complaint, Respondent Stravalle intimidated the plaintiffs into not cooperating with the prosecutors' investigation. *See id.* at 15. The plaintiffs alleged that Respondent Stravalle, as an SLA investigator and two police officers increased their presence in front of the plaintiffs' business, conducted pretextual "business inspections" (a tactic he is now using against MSG, *see* ¶ 71 *infra*), squatted in the plaintiffs' restaurant for hours causing patrons to leave, and frisked patrons outside the business.

43. Similarly, in *KB Venture Group, LLC v. City of New York*, the plaintiffs alleged that Respondent Stravalle was part of a campaign of harassment to close a business due to the race and/or national origin of the business owner, its patrons, and other stakeholders. *See* Complaint, *KB Venture Group, LLC v. City of New York*, No. 18-cv-07003 (E.D.N.Y. Dec. 10, 2018), ECF No. 1.

44. In the *Cloister Café* case, the plaintiff alleged that Respondent Stravalle claimed to be investigating the plaintiff's restaurant premises because of 2020 media reports the plaintiff was holding unlawful "pandemic parties" in violation of COVID occupancy restrictions. *See* Amended Complaint, *Cloister E., Inc. v. N.Y. State Liquor Auth.*, No. 20-cv-6545 (S.D.N.Y. Dec. 15, 2020), ECF No. 82 ¶¶ 36, 44. The plaintiff there alleged that Respondent Stravalle conducted a cherrypicked investigation of the plaintiff's premises. According to the plaintiff's allegations, when Respondent Stravalle arrived, he erroneously asserted that the premises had an unlawful outdoor structure—a matter unrelated to the SLA's authority to investigate ABC Law violations—and he further questioned the owner of Cloister Café on several topics, none relating to the purported purposes of his investigation. *Id.* ¶¶ 39–41.

45. The plaintiff there further alleged that Respondent Stravalle submitted an inaccurate report to the SLA Board that primarily channeled headlines from the media reports as his basis to investigate. According to the plaintiff's allegations, Respondent Stravalle overstated his findings, failed to properly investigate allegations before compiling his report, caused an erroneous report to be submitted to the SLA Board, failed to include relevant facts (and included irrelevant facts) in his report, and relied exclusively on headlines from news articles. And the plaintiff alleged that it was treated arbitrarily unequal in comparison with other establishments that had been investigated. *Id.* ¶¶ 45, 57, 80–103, 124.

C. In Mid-2022, MSG Adopts Its Venue Policy

46. In June 2022, MSG adopted this Venue Policy, which temporarily excludes some attorneys from its venues while their firms are actively pursuing litigation against MSG.

47. MSG adopted the Venue Policy because of, among other things, the adversarial nature inherent in litigation, related concerns regarding the potential for plaintiffs' lawyers to improperly leverage their access to MSG's venues to craft and develop discovery strategy—for

example, by engaging in improper communication with MSG employees during pending litigation—and the potential for adverse counsel to seek information outside of proper discovery channels or otherwise undermine MSG's interests in ongoing litigation.

48. The Venue Policy was adopted pursuant to longstanding New York law, which provides that tickets to attend events at venues are merely licenses revocable at will, and that MSG therefore has the discretion to exclude individuals from its premises "for any reason or no reason at all." *Oakley v. MSG Networks*, No. 17-CV-6903 (RJS), 2021 WL 5180229, at *4 (S.D.N.Y. Nov. 8, 2021).[18]

49. To implement the Venue Policy, MSG sent letters in late June 2022 to the law firms suing MSG or its affiliates, informing them that attorneys at their firms will not be permitted to attend events at MSG Venues during the pendency of the lawsuit(s).

50. The June 2022 letters contained an explanation of the Venue Policy. Attorneys excluded from an MSG Venue under the Venue Policy were further able to request a refund for tickets they had purchased.

51. On February 6, 2023, MSG revised its Venue Policy so that any law firms representing plaintiffs in litigation against an MSG affiliate (the "Restaurant Group") were no longer subject to the Venue Policy. Accordingly, all attorneys employed at those firms (almost half of the total excluded firms) were welcomed back to attend events at all MSG Venues. The Restaurant Group is operated by independent management and never implemented the Venue Policy, nor did MSG require it to do so.

[18] The Venue Policy makes clear that MSG will not exclude any person or group of people "on grounds prohibited by law," and that MSG "will comply with any laws proscribing retaliation against litigants raising certain types of claims," including claims asserting sexual harassment or discrimination. *See Hutcher v. Madison Square Garden*, No. 2022-653793, NYSCEF No. 17 (Jul. 28, 2022).

52. The impact of the Venue Policy on the public is minimal, especially as revised. The Venue Policy temporarily limits the admission of less than 0.8% percent of New York lawyers, less than 0.03% of the five million visitors to MSG's venues every year, and less than 0.01% of all New Yorkers.

D. Excluded Plaintiffs' Firms Have Filed Lawsuits Against MSG Over This Venue Policy and Complained to the SLA

53. Three plaintiffs' law firms and their lawyers filed lawsuits against MSG challenging the Venue Policy. The first and most publicized of those lawsuits was filed by the plaintiffs' firm, Davidoff Hutcher & Citron ("DHC"), which also has a strong lobbying and government relations arm and has repeatedly sued MSG on behalf of ticket scalpers. Ever since filing that lawsuit, DHC has been leading the charge to pressure MSG to end the Venue Policy.[19]

54. On October 13, 2022, DHC sought interim temporary and preliminary injunctive relief in New York State Supreme Court to challenge the non-renewal of Larry Hutcher's Knicks season tickets. MSG asserted its right to implement the Venue Policy based on the century-old common law principle that venue operators have the discretion to exclude individuals from their premises for any reason or no reason at all.

55. The New York State Supreme Court (Frank, J.) at first denied the temporary restraining order application in its entirety, *Hutcher v. Madison Square Garden*, Index No. 653793/2022, NYSCEF No. 18 (Oct. 19, 2022), as did the First Department. *See Larry Hutcher, et al., v. Madison Square Garden Ent. Corp. & Harold Weidenfeld,* Index No. 04150/2022, 2022 WL 16944956 (N.Y. App. Div. Nov. 15, 2022). Then, on the preliminary injunction application,

[19] *See* Kris Rhim, *Suing Madison Square Garden? Forget About Your Knicks Tickets*, N.Y. Times (Oct. 13, 2022), https://www.nytimes.com/2022/10/13/sports/lawsuit-msg-lawyers-banned-knicks-rangers.html.

the court agreed that MSG was free to apply the Venue Policy to all sporting events. *See Hutcher v. Madison Square Garden*, NYSCEF No. 64 (Nov. 14, 2022). The court concluded that "there is no basis for enjoining the defendants from denying access to the plaintiffs for sporting events" under CRL § 40-b, and that MSG "may refuse to sell tickets to the plaintiffs and may revoke tickets of the plaintiffs up until the time they present such tickets for entry into the locations and for the events listed above." *Id.* at 3. But the court carved out a narrow exception requiring MSG to admit individuals presenting a valid ticket on the day of the event when the venue is holding a theatrical performance or musical concert.[20] *Id.* On March 7, 2023, the First Department heard argument on MSG's appeal to vacate that preliminary injunction (and DHC's cross appeal) and reserved decision.

56. While DHC was the vanguard, other plaintiffs' firms have also since sued. On December 8, 2022, Greenberg Law, a plaintiffs' personal injury law firm, filed a lawsuit, piggybacking on DHC's claims and relief. *See Greenberg Law, P.C. et al v. Madison Square Garden Ent. Corp.*, Index. No. 0160482/2022, NYSCEF No. 1 (N.Y. Sup. Ct. Dec. 8, 2022). Similarly, on December 16, 2022, Burns & Harris, another plaintiffs' personal injury law firm, filed an identical lawsuit. Both requested the same relief before the same state court judge. *See Burns & Harris et al. v. Madison Square Garden Ent. Corp.*, Index No. 160770/2022, NYSCEF No. 1 (N.Y. Sup. Ct. Dec. 19, 2022).

57. DHC failed to block the Venue Policy in court, so, on information and belief, it coordinated with another firm, DSS, whose managing partner, Sam Davis, complained to the SLA about MSG's Venue Policy.

[20] That injunction's exception pertains only to tickets that are presented at the door on the date and time of the event. In other words, MSG can refuse to sell or revoke tickets of anyone at any time before the event.

58. On information and belief, these firms planted stories in the media, highlighting the Venue Policy and its adverse effect on their lawyers,[21] saw various elected officials support their cause, putting pressure on MSG,[22] and through DSS's complaint, prevailed upon the SLA to use its authority and resources to go after MSG.

59. DSS lodged the complaint that led to the SLA's investigation. On information and belief, DHC coordinated with DSS concerning the SLA bringing these charges against MSG.

60. DHC has a substantial SLA practice and is also well-known for its lobbying practice generally. In 2021, DHC spent $3,059,504 on lobbying in New York State. In 2022, *City & State* ranked DHC high among its "Top 60 New York State Lobbyists."[23]

61. DHC has represented numerous clients before the SLA and in Albany on matters relating to the SLA. For example, Alexander Victor, DHC's partner in its Restaurant and Hospitality Practice Group, regularly appears before the SLA and comments in articles on agency developments. And Steve Malito, the head of DHC's Government Relations Practice Group, represents the liquor retailer interest group, Metropolitan Package Store Association ("Metro"), as its chief lobbyist. On its homepage, Metro states that it "provides a strong voice for independent liquor retailers through our lobbyist, Steve Malito," and "a member-funded Political Action Fund."

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[21] *See, e.g.*, Emily Saul, *Madison Square Garden Entertainment's Policy Barring Plaintiffs' Lawyers From Venues Is Unlawful, Attorney Says*, New York Law Journal (Dec. 21, 2022), https://www.law.com/newyorklawjournal/2022/12/21/madison-square-garden-entertainments-policy-barring-plaintiffs-lawyers-from-venues-is-unlawful-attorney-says/ (explaining DSS's decision to file complaint with the SLA after other firms filed requests for injunctions, because partner Samuel Davis thought MSG would "appeal everything," so he was "going to take a shot" where MSG has its "greatest liability").

[22] *See, e.g.*, Letter from Jerrold Nadler, *et al.* to James Dolan (Jan. 15, 2023) (sending letter on behalf of "elected representatives of the neighborhood" where MSG venues are located).

[23] *See Top 60 New York State Lobbyists 2022*, City & State (Aug. 22, 2022), https://www.cityandstateny.com/power-lists/2022/08/top-60-new-york-state-lobbyists-2022/375969/.

Metro's homepage also boasts of its "long-standing relationship[]" with "the NYS Liquor Authority."[24]

62. Of note, the Chairman of the SLA was recently reported as saying he was "putting his neck on the line" to grant DHC's client a liquor license, even though the Chairman was not "100% comfortable" doing so, "because of the background that [DHC] ha[s]."[25]

63. DHC is also a prominent member of the New York State Trial Lawyers Association ("NYSTLA"), which consists largely of plaintiffs' firms and spent $742,846 on lobbying in 2021 alone. NYSTLA recently moved to file an amicus brief in support of DHC's position in its lawsuit against MSG. One of the lawyers representing NYSTLA in that case, Evan Miles Goldberg, is also subject to the Venue Policy.

64. NYSTLA is a major political contributor to elected officials who have become outspoken critics of the Venue Policy. On January 15, 2023, eight elected officials sent an open letter to MSG. A leading signatory of this letter, State Senator Brad Hoylman-Sigal, has received $47,600 from NYSTLA since 2018. Three other elected officials—State Senator Liz Krueger, State Senator Brian Kavanagh, and State Assemblymember Tony Simone—have also received donations from NYSTLA: $26,800 (since 2018), $19,300 (in 2022), and $4,700 (in 2022), respectively.

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[24] *Metropolitan Package Store Association - The Power of Membership: Together We Will Succeed!*, Metropolitan Package Store Association, https://www.metropsa.org/ (last visited March 9, 2023); *see also Meet Metro's Lobbyist Steve Malito*, Metro Package Store Association, https://www.metropsa.org/page/MetrosLobbyist (last visited March 9, 2023).

[25] Anna Codrea-Rado, *The Story of NYC's Biggest Music Venue That Almost Never Happened*, Vice (Apr. 11, 2017), https://www.vice.com/en/article/jpze4p/cityfox-brooklyn-mirage-reopening-new-york-nightlife.

E. The SLA Recently Launches its "Investigation" of MSG

65. On November 14, 2022, DSS wrote to the SLA, complaining about the Venue Policy, and claiming that, through it, MSG was "violating the conditions of its liquor licenses" because it was not open to "the public." DSS's complaint cited a single case in support of this hare-brained theory, which was entirely distinguishable.[26]

66. In breakneck speed for the SLA, barely two weeks later, on November 29, 2022, the SLA sent MSG a "Letter of Advice," adopting DSS's tortured theory, claiming that MSG was in violation of SLA Rule 53.1(d) for failure to be a "bona fide premises." Ex. B (SLA's Letter of Advice to MSG Arena LLC, dated Nov. 29, 2022). In the SLA's letter, it advanced a definition of "bona fide premises" out of left field, saying that the term meant that a location must be "open to the public," although that phrase appears *nowhere* in the ABC Law or SLA rules. The letter went on to claim that—by temporarily excluding this small group of plaintiffs' lawyers—MSG was somehow no longer "open to the public."

67. Only 10 days later, DHC had (i) learned that a Letter of Advice had been sent to MSG; (ii) became aware of a Freedom of Information Law ("FOIL") request to the SLA from DSS, which apparently knew of the "Letter of Advice," even though that is not one of the types of documents listed in the SLA's own guidance as a subject matter "that can be requested for

[26] The DSS Complaint cited to *330 Restaurant Corp. v. State Liquor Authority*, 26 N.Y.2d 375 (1970), for the proposition that the public must be permitted to enter MSG. However, that case is distinguishable as it only pertains to restaurants, which are governed by ABCL § 64, whereas MSG is governed by ABCL § 64-a. To the extent the case holds any precedential value, it merely holds that a restaurant's on-premises license under ABCL § 64 can be canceled when a restaurant is not "open to the public" because it is operating as a private "membership club." *Id.* at 377. There can be no such allegation here, as MSG's venues remain open to the general public and welcome millions of patrons every year.

review" under FOIL; (iii) obtained a copy of that "Letter of Advice"; and (iv) was then able to incorporate that "Letter of Advice" into a public court filing on December 9, 2022.[27]

68. According to data from an independent public records site, *Muckrock*, the median time the SLA has typically taken to process a FOIL request over the past four years is 44 days.[28] In addition, agency response time has been even more delayed during COVID-19.[29] As a government watchdog group observed, "FOIL is often slow and frustrating for both the public and government."[30] But not here.

69. The fact that DHC learned that the SLA had issued a "Letter of Advice" to a private party (MSG), was also aware that another plaintiffs' law firm (DSS) aligned in interest with it in opposing this Venue Policy had submitted a FOIL request for documents to the SLA, and then obtained that "Letter of Advice" within days to disclose it publicly in court and thereby generate adverse publicity to MSG, almost immediately, appears to reflect the firms' coordination here.

70. But there is more. On December 22, 2022, DSS's managing partner, Sam Davis, made a conveniently timed visit to a restaurant (the "Target Restaurant") within MSG's affiliate, the Restaurant Group. After making his presence known, he approached a security guard,

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[27] New York State Liquor Authority, *FOIL Freedom of Information Law*, https://sla.ny.gov/foil-0 (last visited Mar. 9, 2023).

[28] *Muckrock*, State Liquor Authority, https://www.muckrock.com/foi/list/?page=1&per_page=100&agency=3459 (last visited Mar. 9, 2023) (data from Jan. 2019 to Mar. 2022).

[29] Giuliana Bruno, *FOIL responses delayed by COVID-19*, NEWS10 (Apr. 9, 2021), https://www.news10.com/top-stories/foil-responses-delayed-by-covid-19/?ipid=promo-link-block1; Giuliana Bruno, *NYS cites COVID as contributor for ongoing delay in FOIL responses*, NEWS10 (May 5, 2021), https://www.news10.com/top-stories/foil-responses-still-delayed-nys-citing-covid-as-contributor/.

[30] Reinvent Albany, *Strengthening Freedom of Information Law*, https://reinventalbany.org/foil-reform/ (last visited Mar. 9, 2023).

questioned him about the Venue Policy, and started cross-examining the guard about MSG's facial recognition technology.

71. On information and belief, it now appears that Davis was scouting for the SLA. Indeed, within weeks, Respondent Stravalle—with an NYPD Vice Unit officer and a Department of Health inspector—recently made a surprise inspection at this same restaurant (even though the Restaurant Group has over two dozen restaurants in New York alone), issuing dozens of violations for the pettiest of purported "offenses."

F. Respondent Stravalle Launches a Harassment Campaign Against MSG

72. From the beginning of this investigation, Respondent Stravalle behaved erratically. Despite the purportedly narrow ambit of the inquiry—concerning the genesis and implementation of the Venue Policy—Respondent Stravalle repeatedly demanded supplemental and additional documentation in multiple formats. He sent serial and ever-changing document demands. And even though MSG responded to and produced documents in response to these demands, keeping Respondent Stravalle apprised at each juncture, Respondent Stravalle constantly (and falsely) accused MSG of missing deadliness, "defaulting," and failing to produce documents and information he requested. And despite his many moving targets, Stravalle repeatedly demanded that MSG produce an affidavit testifying to the completeness of the productions.

73. The entire investigation was a farce. Charges against MSG were preordained: As was apparent from its "Letter of Advice" to MSG launching this investigation, SLA intended to file charges from the very beginning, even before MSG had made any document production and before the SLA had spoken to any witnesses.

74. The SLA's lack of interest in performing a fair "investigation" is underscored by the back-and-forth between Respondent Stravalle and MSG's counsel relating to the SLA's ever-changing document demands.

75. MSG's counsel and Respondent Stravalle first agreed to a production of letters MSG had sent to all attorneys subject to the Venue Policy and letters sent to any non-attorneys who had been banned for harassing and violent behavior.

76. After MSG made its first production, however, Respondent Stravalle requested that MSG create a complex spreadsheet with information from these letters and additional information he had not once mentioned on several calls and correspondence.

77. After MSG compiled and produced this spreadsheet, Respondent Stravalle again asked for more and new information. MSG went through the same process, producing more information in a new iteration of the spreadsheet. Respondent Stravalle's response: MSG must produce and create still more documents and respond to new requests, this time including detailed information about any *non*-attorneys excluded from MSG's venues.

78. Respondent Stravalle also moved agreed-upon timelines and, after unilaterally moving deadlines, accused MSG of failing to meet those deadlines. For example, on January 6, 2023, MSG's counsel and Respondent Stravalle agreed to a schedule for voluntary document production. MSG would make a first production by January 13 and a second production by January 20.

79. But three days before the first production was due, Respondent Stravalle insinuated, on January 10, that MSG was somehow late. He emailed MSG's counsel that the documents he had requested were still "outstanding" and had not yet been "received."

80. Notwithstanding this posturing, MSG made its first production on January 13 in accordance with the agreed-upon schedule and made a second production on January 20, again as agreed and promised.

81. Similarly, MSG agreed with Respondent Stravalle that it would produce Respondent Stravalle's requested spreadsheet by January 25. On January 24, however, Respondent Stravalle accused MSG of being "in default of the document production promised to me last week, with no request for an extension of time." Yet MSG timely produced the spreadsheet, as previously agreed, by January 25.

82. Aside from the moving production targets, Respondents—and Respondent Stravalle, in particular—were inexplicably laser focused on obtaining an interview with MSG's Chairman and CEO, James Dolan, from day one. Respondent Stravalle first insisted on a call with Dolan to "inform" Dolan of the investigation. He next said that he needed to interview Dolan about the history and implementation of the Venue Policy.

83. On January 6, 2023, MSG's counsel explained that other persons would be better-able to answer questions on those topics. MSG offered two senior MSG executives for Respondent Stravalle to interview. One of those executives was the person who actually signed the SLA renewal license, and the other executive administered the Venue Policy. Respondent Stravalle agreed.

84. Four days later, on January 10, 2023, Respondent Stravalle pivoted. He emailed MSG's counsel to say that Respondent Ammirato was requiring him to interview Dolan after all.

85. Over the next several days, MSG sought a meeting with Respondent Ammirato to understand why he thought interviews with the other two senior executives were insufficient. The SLA apparently believed that dragging Dolan into the fray would pressure him into reversing the Venue Policy.

86. During a call with counsel on January 18, 2023, Respondent Stravalle became increasingly agitated, saying that he was "told Dolan needed to be interviewed" and he asked that

MSG at least agree to provide "safety dates" for a potential interview of Dolan while counsel sought a meeting with Respondent Ammirato. MSG agreed to provide safety dates.

87. Before MSG had the opportunity to provide those dates, Respondent Ammirato jumped the gun, issuing a defective subpoena the very next day, January 19, 2023, for Dolan's testimony and ignoring counsel's repeated requests to discuss the SLA's insistence on an interview. While Dolan was more than willing to sit for an interview voluntarily, the SLA refused to engage with MSG's counsel on its rationale for why an interview with Dolan was necessary at all.

88. The subpoena demanded that Dolan appear in six days, on January 25, 2023, and thus failed to comply with the basic procedural requirement that a party subpoenaed for testimony receive at least 20 days' prior notice.[31] Thus, the subpoena was unenforceable, even assuming for argument's sake that the SLA had authority to issue such a subpoena during one of its investigations.

89. Nonetheless, on January 20, 2023, Dolan agreed to appear for a voluntary interview on February 6, 2023. But Respondent Stravalle was not satisfied, demanding that the interview occur on January 25, 2023—the untimely date listed on the defective subpoena. When MSG's counsel explained that the subpoena was defective, Respondent Stravalle withdrew his demand.

90. Leading up to the interview, MSG's counsel requested the topics that would be covered. On January 23, 2023, Respondent Stravalle responded that, according to Respondent Ammirato, the interview would cover, essentially, anything related to MSG, even if unrelated to

[31] Under ABC Law § 17(5), the SLA's subpoenas must comply with the Civil Practice Law and Rules. Section 3106 of the CPLR requires at least 20 days' notice before an examination. *See MG v. RG*, 2015 WL 9263861, at *2 (Sup. Ct. Kings Cnty. Dec. 10, 2015) (quashing defective subpoenas under CPLR 3016(b) when they were served only nine days prior to the examination date commanded in the subpoenas).

the Venue Policy (which, in and of itself, is a topic outside the SLA's mandate). Specifically, the SLA provided this response: "topics will be general business, operations, and the creation and implementation of the exclusion policy and any other ABC Law or Rules of the Authority potential violations." In other words, the topics that Respondent Stravalle proposed to cover were virtually unlimited.

91. In advance of the interview, on February 2, 2023, the SLA served a subpoena on plaintiffs' lawyers involved in Delaware litigation involving MSG that is wholly unrelated to the Venue Policy. The subpoena sought deposition testimony and documents there that the SLA knew were subject to confidential treatment pursuant to a protective order entered in that case. The Delaware litigation was brought by minority stockholders of MSG and MSG Networks Inc. challenging a July 2021 merger transaction involving those two entities. In other words, the claims and defenses there are completely untethered to the Venue Policy. This lack of relevance, of course, did not dissuade the SLA. The SLA demanded "any and all" "exist[ing]" deposition transcripts and exhibits for four high-level current and former MSG executives, including Dolan.[32]

92. On February 6, 2023, the SLA's interview of Dolan went forward, but the lines of questioning were confounding. Respondent Stravalle spent nearly half of the time asking questions that had no conceivable relation to the purported purpose of the SLA's investigation: the Venue Policy. For example, he asked: (i) whether MSG received tax abatements, (ii) where MSG has cameras positioned, (iii) whether Charles Oakley or Michael Rappaport are banned from the Garden (they are not), and (iv) whether any government officials had been banned or disinvited to events at the Garden (they have not).

[32] MSG is currently challenging the SLA's Delaware litigation subpoena in a Petition to Quash and for a Protective Order that is pending in the New York Supreme Court, Index No. 151152/2023.

93. Respondent Stravalle spent little time asking questions about the Venue Policy itself or its implementation. Instead, he asked questions based on speculative media reports or shared his own opinions about the Venue Policy. He was combative and antagonistic throughout the interview. His conduct, and reliance on media reports, echoed his prior behavior in the *Cloister Café* case, where he started an inquiry based on unsubstantiated media coverage and pursued the investigation to a predetermined outcome.

94. Respondent Stravalle has continued to issue increasingly absurd demands, including, incredibly, since the SLA recently filed these charges. For example, he recently requested the names of signatories on MSG bank accounts and identities of persons who manage "signing checks, transacting business, hiring and firing of staff (authority) and things of that nature, etc." There is no connection whatsoever between these requests and the Venue Policy. But Respondent Stravalle is no longer attempting to hide that he is harassing and burdening MSG in an attempt to pressure it into dropping its Venue Policy. Indeed, Respondent Stravalle admitted multiple times to MSG's counsel back in January 2023 that he just wanted to "make this all go away," which MSG's counsel understood to mean the SLA wanted MSG to drop this policy.

95. Respondent Stravalle did not stop there. On February 15, 2023, he arrived at the Target Restaurant—the very same restaurant where DSS's managing partner had recently appeared and asked lots of questions. Respondent Stravalle arrived wearing a body camera, along with an N.Y.P.D. officer in the Vice Unit and a public health inspector. He said they were there to investigate a fight outside the restaurant from four days earlier, which begged the question as to why a public health inspector was there at all.

96. Respondent Stravalle was evasive when approached onsite by a senior representative of the Target Restaurant. The senior representative asked Respondent Stravalle to

produce his identification or a badge. Respondent Stravalle refused and accused the senior representative of "attempting to impede his investigation." Of course, the senior representative was doing nothing of the sort. Indeed, even after the senior representative provided Respondent Stravalle with a business card, Respondent Stravalle refused to produce his own identification and told the senior representative it would be provided upon completion of his investigation and production of his report. When the senior representative asked several more times, Respondent Stravalle flashed a badge while mumbling his name but would not let the senior representative see or photograph it.

97. Respondent Stravalle demanded security footage for the cameras at the Target Restaurant related to the incident four days prior, which the affiliate had already previously provided to investigating police officers in connection with a subpoena. The senior representative suggested that the affiliate could handle the request through normal channels and issue a subpoena. Respondent Stravalle again complained that the senior representative was impeding his investigation. He demanded the Target Restaurant's contracts with security vendors, as well as a roster of security guards, including their licenses and identification numbers.

98. Respondent Stravalle then sat down in a private dining room for almost an hour as he drafted a "report" of purported violations at the Target Restaurant while the senior representative and staff gave him licenses and other documentation to review. Respondent Stravalle also requested the senior representative's driver's license, which was promptly provided and photographed by Respondent Stravalle despite the fact Respondent Stravalle was unwilling to let the senior representative photograph his ID or badge earlier in the evening. Respondent Stravalle gave the form of violations to the senior representative and other employees in attendance and said the investigation would be closed when the violations were cleaned up and he could

review security footage. He finally provided identification and left, handing the senior representative a laundry list of 33 alleged violations and threatening license revocation, including:

a. "Security Guard [A] failed to attend annual training since 3/11/21";

b. "Uninspected fire extinguishers";

c. "Failed to display in a conspicuous place on the licensed premises the warning sign regarding the consumption of alcoholic beverages during pregnancy";

d. "Dual addresses not reflected on the Establishment Questionnaire"; and

e. "The SLA investigator [Respondent Stravalle] was not permitted to inspect the surveillance video or cameras during hours when the licensed premised was open for the transaction of business."

99. The SLA then took the extraordinary step of filing charges against the Target Restaurant only two days later.

100. Unless this Court grants Petitioners relief, MSG expects this harassment to continue.

G. The SLA is Acting Well Beyond and Outside its Statutory Authority

101. Despite its new requests for documents and information, the SLA, in its rush to judgment, sent Notices of Pleading to three MSG entities detailing charges relating to the Venue Policy. MSG received these charges on February 21, 2023. The charges allege that MSG is no longer "open to the public," supposedly in violation of SLA Rule 53.1(d). *See* Ex. A.

102. The fundamental problem for the SLA is that, as noted, the "open to the public" language on which the SLA purports to rely appears nowhere in the SLA's rules or the ABC Law, and has no connection to alcohol distribution in the State or any other policy goals underlying the ABC Law. *See* Exs. A, B, C.

103. The ABC Law grants the SLA the authority "to determine whether public convenience and advantage will be promoted by the issuance of licenses to traffic in alcoholic beverages, the increase or decrease in the number thereof and the location of premises licensed thereby, subject only to the right of judicial review." Ex. D, ABC Law § 2. New York's ABC Law declares these policies:

> It is hereby declared as the policy of the state that it is necessary to regulate and control the manufacture, sale and distribution within the state of alcoholic beverages for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to law; for the primary purpose of promoting the health, welfare and safety of the people of the state, promoting temperance in the consumption of alcoholic beverages; and, to the extent possible, supporting economic growth, job development, and the state's alcoholic beverage production industries and its tourism and recreation industry; and which promotes the conservation and enhancement of state agricultural lands.

Id. [33]

104. The SLA has not shown how its attack on this Venue Policy accomplishes any of these policies. This grant of power for the SLA to "carr[y] out" the "policies" specified in the ABC Law does not provide the SLA unfettered discretion to regulate anything it wishes. MSG

[33] In reviewing the ABC Law and its administration, the New York State Law Revision Commission also described the general policies underlying the regulation of alcoholic beverages as including: (i) "assur[ing] the integrity of the three tier" distribution system; (ii) excluding "criminal elements from all aspects of the three tier system and prevent[ing] the use of such elements by those in the system"; (iii) "promot[ing] competition"; (iv) assuring "the objective, fair and equitable nature of the regulatory system"; (v) "protect[ing] against impure or adulterated products"; (vi) "protect[ing] state revenue streams of excise and sales taxes"; (vii) "protect[ing] the health, safety and welfare of patrons of on-premises establishments"; (viii) "vouchsafe[ing] the health, safety welfare, and repose of the inhabitants of residential areas where on-premises establishments are located"; (ix) "us[ing] the licensing and enforcement process to restrict the consumption of alcoholic beverages by underage individuals"; (x) "us[ing] the licensing and enforcement process to insure the licensees are not selling to visibly intoxicated patrons"; (xi) "reduc[ing] alcohol abuse and limit consumption to temperate use"; and (xii) "encourag[ing] economic development of craft breweries and distilleries, farm wineries, wineries, and other developing alcoholic beverage industries in New York." The New York State Law Revision Commission Preliminary Report on the Alcoholic Beverage Control Law and its Administration (Sept. 1, 2008). These policies say nothing about a venue having to be "open to the public."

has explained this to the SLA numerous times. The SLA did not substantively engage with MSG but, instead, chose to proceed on the pretext of enforcing what it claims is an unwritten "policy" about being "open to the public" that appears nowhere in the law as it stands.

105. The SLA's ill-conceived "open to the public" theory rests on a flawed foundation. The theory stems from an unwritten SLA policy of inspecting premises to determine if the premises were "open to the public," as certain businesses were obtaining caterer licenses—with cheaper fees than on-premises licenses—while operating as a restaurant or bar. When the SLA became aware of this loophole, the SLA developed the "open to the public" policy to ensure that restaurants and bars were paying the higher on-premises licensing fees. In other words, the policy concerned ensuring that the SLA did not lose out on licensing fees—not any policy goal under the ABC Law.

106. Because MSG already pays the higher open-premises license fee, the SLA's rationale does not apply here. It would turn this regulatory scheme on its head for the SLA to claim that MSG, by paying a higher price to acquire liquor licenses that enable it to serve alcohol to the public, now should lose its licenses unless it serves the entire public and foregoes its longstanding common-law right as a private venue operator to be able to impose certain limits on access to its premises. Indeed, taken to its logical extreme, the SLA's position would produce absurd results, such as preventing MSG from having a policy, as it does, of banning those individuals who have committed acts of violence at its venues for security reasons.

107. The SLA now invokes Rule 53.1(d), referring to "bona fide premises" as the basis for requiring a licensee to be "open to the public." But that rule is so vaguely written that it allows the SLA the unfettered ability to arbitrarily weaponize it toward whichever enforcement goal it pleases. And the SLA has done exactly that here. Even assuming the rule imposes an articulable "open to the public" requirement—which it does not—the Garden and other venues are obviously

open and, indeed, host millions every year. The Venue Policy implicates a minuscule fraction of lawyers, let alone people, in New York. So MSG's venues are obviously "open to the public."

108. Facing that obstacle, the SLA recently set forth a post-hoc gloss on the rule—also nowhere specified in the ABC Law or an SLA Rule: "[i]f a licensee is excluding an *entire population class* from its licensed premises, i.e. personal injury attorneys and entire law firms that have sued it, it is not open to the public." Ex. E at 7 (SLA's Opposition to Petitioners' Motion to Quash, dated Feb. 15, 2023) (emphasis added). The temporary ban of adverse attorney firms is not an "entire population class." It is a fraction of a percent of all lawyers in the State, and only a small group of plaintiffs' lawyers at that, and only temporarily. Indeed, if that were considered a "class," then so too would be the "class" of otherwise unrelated individuals banned from many venues for violent or inappropriate conduct.

109. There is no precedent for the SLA's interpretation. MSG found and presented to the SLA the only two scenarios where a premises has ever been deemed no longer a "bona fide premises": (1) when it excludes a significant demographic in its entirety, or (2) when it admits only a select group.[34] Neither situation even remotely applies here. The SLA has offered no examples that suggest otherwise. The charges the SLA has now filed admit as much, describing MSG as being "open to the public at large," except for the temporarily banned attorneys.

[34] *See, e.g.*, *Fabulous Steak House, Inc. v. N.Y. State Liq. Auth.*, 186 A.D.2d 566 (2d Dep't 1992) (finding a club excluding non-Chinese persons was not open to the public); *Harari Rest. Corp. v. McLaughlin*, 81 A.D.2d 512, 513 (1st Dep't), *rev'd on other grounds,* 55 N.Y.2d 730 (1981) (finding a bar excluding men was not open to the public); *Bamberger v. N.Y. State Liq. Auth.*, 112 A.D.2d 158, 159 (2d Dep't 1985) (finding restaurant admitting only friends of licensees was not open to the public).

110. Because Respondents have not ever attempted to define what makes a premises "bona fide" or how much of the "public" MSG must admit to meet the SLA's so-called "requirements," that alone establishes that the offenses charged are so vague that they cannot stand.

H. The SLA Cherry-picks What Venues it Chooses to "Investigate"

111. The SLA's enforcement practices with respect to this supposed "open to the public" policy prove its decision to issues charges against the SLA was arbitrary, capricious, and irrational, as well as an abuse of discretion, and affected by errors of law. The SLA has selectively enforced the supposed "bona fide premises" and "open to the public" requirements. In purporting to apply SLA Rule 53.1(d) to MSG, the SLA has singled out MSG and disregarded numerous other venues that apply formal and informal exclusionary policies far more restrictive than the Venue Policy.

112. For example, many bars and nightclubs regularly exclude patrons who do not meet certain dress codes, display a certain "vibe" or "energy," act in a certain manner, arrive in a large group of a certain gender, or even have certain skin colors. Several publicly acknowledged examples include:

a. **Bar A (32 Lafayette Street)**: They admit people with a "cool vibe" who are the "mature, martini-drinking crowd." According to the bouncer, "you gotta really know how to get the right people inside."[35]

b. **Bar B (380 Canal Street):** They are "pretty strict at the door with who [they] let in . . . . Even with reservations we're curious and interested in who's booking and if they'll fit in with the environment."[36]

[35] Jeanette Settembre, *"How To Befriend The Bouncers Running NYC's Exclusive Nightlife Scene,"* N.Y. Post (May 11, 2022), https://nypost.com/2022/05/11/how-to-get-in-to-the-most-exclusive-clubs-bars-in-nyc/.

[36] *Id.*

c. **Bar C (11 Howard Street):** According to the bouncer, "if you come to the door, looking great; well dressed and with a point of view about style, we welcome that. It's not the only determining factor by far, but an important one." [37]

d. **Bar D (305 Spring Street):** According to the bouncer, "the sole determining factor is if you'll make the room more sexy, more elegant, more fun, more … something."[38] The Yelp.com review website reflects an aggregate 1.5 star (out of 5 rating).[39] Of the 85 reviews, 67 are one-star reviews (the lowest possible score). These reviews contain numerous accusations that the bouncers exclude non-white and non-heterosexual individuals.[40]

113. Several New York City restaurants are also notorious for excluding a large portion of the general population, including:

a. **Restaurant A (57 Great Jones Street):** This infamous Japanese eatery does not require "membership," *per se*, but it is as private as private gets. The restaurant's number is unlisted and the only way to get in is if you were invited or referred by a previous diner.

b. **Restaurant B (455 E 114th Street):** It is almost impossible to get a table at here unless you are a long-time customer who has a regularly reserved table.

114. Similarly, First Class lounges in New York City airports have a very steep barrier to entry—namely the requirement that an individual purchase a First-Class ticket or become a

[37] *Id.*

[38] *Id.*

[39] [Redacted name], Yelp, https://www.yelp.com/biz/[redacted]-new-york?start=20 (last visited Mar. 9, 2023).

[40] *Id.*

member of a Frequent Flier Club. Yet these lounges have open-premises liquor licenses that supposedly requires them to be "open to the public."

115. In each of the examples just described, which are illustrative of many more, the SLA turns a blind eye to the exclusion of populations considerably greater than the narrow group of plaintiffs' attorneys temporarily excluded under MSG's Venue Policy. According to public records, the SLA has not brought charges against any of these clubs, bars, restaurants, or First-Class lounges, despite their explicit, exclusionary policies that are far more restrictive and extensive than MSG's limited Venue Policy. This confirms that the SLA has been selectively enforcing Rule 53.1(d) against MSG, and its actions are therefore arbitrary, capricious, and irrational, as well as an abuse of discretion, and affected by errors of law.

FIRST CAUSE OF ACTION
New York Civil Practice Law & Rules § 7803(2)
Past, Present, and/or Forthcoming Actions Without or in Excess of Jurisdiction

116. MSG repeats and realleges the allegations in paragraphs 1 through 115 as if fully set forth herein.

117. Respondents' actions are subject to review and void where Respondents "proceeded, [are] proceeding or [are] about to proceed without or in excess of jurisdiction." CPLR § 7803(2).

118. Under well-settled New York law, a state agency may not use its authority as a license to correct whatever societal issues it perceives. *See Boreali v. Axelrod*, 71 N.Y.2d 1, 9 (1987).

119. The SLA is a creation of the New York Legislature and only has those powers expressly conferred by the ABC Law. Accordingly, the SLA may only adopt rules and regulations that are consistent with the ABC Law's statutory language and purposes.

120. The ABC Law grants the SLA authority over the issuance of liquor licenses, but only to the extent that authority is exercised to "carr[y] out" the purposes and policies set forth by New York's ABC Law. ABC Law § 2.

121. Further, the ABC Law operates in derogation of the common law and therefore must be strictly construed.

122. MSG's Venue Policy has nothing to do with alcohol distribution, or any of the other purposes set forth in ABC Law § 2.

123. Further, whether a premises is a "bona fide premises" or "open to the public," the SLA's self-serving definition of what it means to be a bona fide premises has nothing to do with alcohol distribution or any of the other purposes set forth in ABC Law § 2.

124. Respondents, however, have investigated and charged MSG, and threatened to suspend or revoke MSG's liquor licenses, on the ground that MSG's Venue Policy violates SLA Rule 53.1(d). This is the SLA's transparent attempt to use its authority to change the Venue Policy, rather than exercising its specific and limited rule-making authority in accordance with the ABC Law.

125. SLA Rule 53.1(d), and Respondents' actions in investigating and charging MSG, therefore fall outside the authority that the ABC Law grants to the SLA.

126. The Court should therefore invalidate SLA Rule 53.1(d) and find it inapplicable here, vacate the SLA's pending charges against MSG as null and void, and enjoin Respondents from further investigating, pursuing charges, or taking any other actions against MSG on the basis of or in relation to MSG's Venue Policy.

SECOND CAUSE OF ACTION
New York Civil Practice Law & Rules § 7803(3)
Decision-Making That is Arbitrary, Capricious,
Irrational, an Abuse of Discretion, and Affected by Errors of Law

127. MSG repeats and realleges the allegations in paragraphs 1 through 126 as if fully set forth herein.

128. Respondents' actions are subject to review and void where determinations were "arbitrary and capricious or an abuse of discretion," or "affected by an error of law." CPLR § 7803(3).

129. SLA Rule 53.1(d)'s requirement that MSG be a "bona fide premises" fails to give notice that MSG's attorney admission policy is prohibited and would be grounds for suspending or revoking MSG's liquor licenses. *See* SLA Rule 53.1(d). Neither the ABC Law nor the SLA Rules define "bona fide premises." *See id.*; ABC Law § 2. Furthermore, neither the ABC Law nor the SLA Rules provide any guidance or standards for what a venue operator must do to maintain a sufficiently "bona fide" business.

130. Similarly, the SLA's purported requirement that a premises must be "open to the public" fails to give notice that MSG's attorney admission policy is prohibited and would be grounds for suspending or revoking MSG's liquor licenses. The term "open to the public" appears nowhere in the ABC Law or the SLA rules. Furthermore, neither the ABC Law nor the SLA Rules provide any guidance or standards for how much of the "public" a venue operator must admit to be "open to the public."

131. Because Respondents have not ever attempted to define what makes premises "bona fide" or how much of the "public" MSG must admit to meet the SLA's so-called "requirements," that alone establishes that the offenses charged are so vague that they cannot stand.

132. Further, MSG's attorney admission policy temporarily excludes a fraction of a percent of lawyers in New York, less than 0.03% of the five million annual visitors to MSG's venues, and less than 0.01% of New Yorkers. Respondents nevertheless opened an investigation against MSG and charged MSG on the grounds that MSG's venues are no longer "bona fide premises" "open to the public" because MSG has supposedly excluded an "entire population class." Ex. E. But there is no such "entire population class" here—only a relatively few attorneys temporarily excluded from MSG's venues.

133. Given (i) the absence of any definition, standards, or guidelines for "bona fide premises" in SLA Rule 53.1(d); (ii) the absence of any reference to any "open to the public" requirement in either the ABC Law or the SLA Rules; and (iii) the SLA's unfounded determination that MSG excluded an "entire population class," the SLA's decision to investigate and charge MSG was arbitrary and capricious, an abuse of discretion, and affected by errors of law.

134. The Court should therefore invalidate SLA Rule 53.1(d) and find it inapplicable here, vacate the pending charges against MSG as null and void, and enjoin Respondents from investigating, pursuing charges, or taking any other action against MSG on the basis that MSG's Venue Policy renders its venues no longer "bona fide premises" "open to the public."

THIRD CAUSE OF ACTION
New York Civil Practice Law & Rules § 7803(3)
Selective Enforcement That is Arbitrary, Capricious, Irrational, an Abuse of Discretion, and Affected by Errors of Law

135. MSG repeats and realleges the allegations in paragraphs 1 through 134 as if fully set forth herein.

136. Respondents' actions are subject to review and void where determinations were "arbitrary and capricious or an abuse of discretion," or "affected by an error of law." CPLR § 7803(3).

137. Respondents have investigated and charged MSG, and threatened to suspend or revoke MSG's liquor licenses, on the ground that MSG's Venue Policy violates SLA Rule 53.1(d), because it is no longer a "bona fide premise" "open to the public."

138. The term "open to the public" appears nowhere in the ABC Law or the SLA rules. Furthermore, neither the ABC Law nor the SLA Rules provide any guidance or standards for how much of the "public" a venue operator must admit to be "open to the public."

139. Nonetheless, the SLA is treating MSG differently than numerous other venues that apply formal and informal exclusionary policies that are far more restrictive than MSG's Venue Policy. There is no indication that the SLA has enforced any such requirements against the other similarly situated venues.

140. Given the SLA's selective enforcement of Rule 53.1(d) and disparate treatment of MSG, the SLA's decision to investigate and charge MSG was arbitrary, capricious, and irrational, as well as an abuse of discretion, and affected by errors of law.

141. The Court should therefore invalidate SLA Rule 53.1(d) and find it inapplicable here, vacate the pending charges against MSG as null and void, and enjoin Respondents from investigating, pursuing charges, or taking any other action against MSG on the basis that MSG's Venue Policy renders its venues no longer "bona fide premises" "open to the public."

FOURTH CAUSE OF ACTION
New York Civil Practice Law and Rules §§ 3001 & 3017(b)
Declaratory Judgment

142. MSG repeats and realleges the allegations in paragraphs 1 through 141 as if fully set forth herein.

143. An action for declaratory judgment may be brought alongside an Article 78 petition where the legality or meaning of a statute is in question and no question of fact is involved. *See Playtogs Factory Outlet, Inc. v. Cnty. Of Orange*, 51 A.D.2d 772, 780 (2d Dep't 1976).

144. An actual controversy exists between MSG and Respondents. Respondents have acted outside their statutory authority by investigating and charging MSG for purported violations of SLA Rule 53.1(d). In addition, Respondents' decision to charge MSG with violations of SLA Rule 53.1(d) on the ground that MSG's venues are no longer "bona fide premises" "open to the public" was arbitrary and capricious, irrational, an abuse of discretion, and affected by errors of law. Further, Respondents have threatened to suspend or revoke MSG's liquor licenses on the basis of its investigation of and charges against MSG.

145. This Court may accordingly declare the rights between MSG and Respondents here because the legality and/or meaning of the ABC Law and the SLA Rule 53.1(d) are at issue. Respondents have acted outside their statutory authority by investigating and charging MSG for purported violations of SLA Rule 53.1(d). In addition, Respondents' decision to charge MSG on the ground that MSG's venues are no longer "open to the public" was affected by errors of law.

146. Under well-settled New York law, a state agency may not use its authority as a license to correct whatever societal issues it perceives.

147. The SLA is a creation of the New York Legislature and only has those powers expressly conferred by the ABC Law. Accordingly, the SLA may only adopt rules and regulations that are consistent with the ABC Law's statutory language and purposes.

148. The ABC Law grants the SLA authority over the issuance of liquor licenses, but only to the extent that authority is exercised to "carr[y] out" the purposes and policies set forth in the ABC Law. ABC Law § 2.

149. Further, the ABC Law operates in derogation of the common law and therefore must be strictly construed.

150. MSG's Venue Policy has nothing to do with alcohol distribution, or any of the other purposes set forth in ABC Law § 2.

151. Further, SLA Rule 53.1(d)—specifically, whether a premises is a "bona fide premises" or "open to the public"—has nothing to do with alcohol distribution, or any of the other purposes set forth in ABC Law § 2.

152. Respondents, however, have investigated and charged MSG, and threatened to suspend or revoke MSG's liquor licenses, on the ground that MSG's Venue Policy violates SLA Rule 53.1(d).

153. SLA Rule 53.1(d)'s requirement that MSG be a "bona fide premises" fails to give notice that MSG's attorney admission policy is prohibited and would be grounds for suspending or revoking MSG's liquor licenses. *See* SLA Rule 53.1(d). Neither the ABC Law nor the SLA Rules define "bona fide premises." *See id.*; ABC Law § 2. Furthermore, neither the ABC Law nor the SLA Rules provide any guidance or standards for what a venue operator must do to maintain a sufficiently "bona fide" business.

154. Similarly, the SLA's purported requirement that a premises must be "open to the public" fails to give notice that MSG's attorney admission policy is prohibited and would be grounds for suspending or revoking MSG's liquor licenses. The term "open to the public" appears nowhere in the ABC Law or the SLA rules. Furthermore, neither the ABC Law nor the SLA Rules provide any guidance or standards for how much of the "public" a venue operator must admit to be "open to the public."

155. The SLA has not enforced any such rule against others and the SLA is treating MSG differently than numerous other venues that apply formal and informal exclusionary policies that are far more restrictive than MSG's venue policy.

156. MSG's attorney admission policy temporarily excludes a fraction of a percent of lawyers in New York, less than 0.03% of the five million annual visitors to MSG's venues, and less than 0.01% of all New Yorkers. Respondents nevertheless opened an investigation against MSG and charged MSG on the grounds that MSG's venues are no longer "bona fide premises" "open to the public" because MSG has supposedly excluded an "entire class" of the population. But there is no such "entire class" here—only a relatively few attorneys temporarily excluded from MSG's venues.

157. Given (i) the absence of any definition, standards, or guidelines for "bona fide premises" in SLA Rule 53.1(d); (ii) the absence of any reference to any "open to the public" requirement in either the ABC Law or the SLA Rules; (iii) the SLA's selective enforcement of Rule 53.1(d); and (iv) the SLA's unfounded determination that MSG excluded an "entire population class," the SLA's decision to investigate and charge MSG was arbitrary and capricious, an abuse of discretion, and affected by errors of law.

158. The Court should therefore enter a judgment declaring that SLA Rule 53.1(d) is inapplicable here, and Respondents' pending charges against MSG are null and void, exceed the SLA's jurisdiction under the ABC Law, and that the SLA's decision to investigate and charge MSG was arbitrary and capricious, an abuse of discretion, and affected by errors of law.

PRAYER FOR RELIEF

WHEREFORE, MSG seeks judgment against Respondents as follows:

i. A permanent injunction invalidating SLA Rule 53.1(d) and holding it inapplicable here, vacating the SLA's pending charges against MSG as null and void, and enjoining Respondents from investigating, pursuing charges, or taking any other action against MSG on the basis of or in relation to the Venue Policy;

ii. A declaration by this Court that SLA Rule 53.1(d) is invalid and inapplicable here because it exceeds the SLA's jurisdiction under the ABC Law, that Respondents' pending charges against MSG are null and void, in excess of the SLA's jurisdiction under the ABC Law, and that the SLA's investigation and subsequent charges were arbitrary and capricious, an abuse of discretion, and affected by errors of law;

iii. Leave to take expedited discovery pursuant to CPLR § 408;

iv. A preliminary injunction staying the SLA's pending charges against MSG, and barring the SLA from pursuing these charges, further investigating MSG, or taking any other action against MSG on the basis of or in relation to the Venue Policy during the pendency of this action pursuant to CPLR §§ 6301, 6311, 7803 and 7805;

v. An award of reasonable attorneys' fees and costs incurred in this action; and

vi. Any such further relief as this Court deems just and proper.

Dated: New York, New York
March 10, 2023

By: */s/ Randy M. Mastro*

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STATE OF NEW YORK)
)ss.::
COUNTY OF NEW YORK)

VERIFICATION

HAL WEIDENFELD, being duly sworn, deposes and says:

I am Senior Vice President, Associate General Counsel for Petitioner Madison Square Garden Entertainment Corp. I make this Verification on behalf of the Petitioners, pursuant to §§ 3020 and 3021 of the Civil Practice Law and Rules ("CPLR"). I have read the foregoing Verified Petition, brought pursuant to Article 78 of the CPLR, and I am familiar with the contents thereof. I verify that the same is true to the best of my knowledge, except as to the matters stated upon information and belief, and as to those matters, I believe them to be true based upon the information available to me, such as statements made to me, publicly available information, and public statements of the Respondents or their representatives.

HAL WEIDENFELD

Sworn to before me this
10th day of March, 2023

LINDA TUNG
NOTARY PUBLIC-STATE OF NEW YORK
No. 01TU6389327
Qualified in New York County
My Commission Expires 03-25-2023

X