STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CIVIL RIGHTS BUREAU

January 24, 2023

VIA USPS AND E-MAIL
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Dear Counsels,

The New York State Office of the Attorney General (OAG) has reviewed reports alleging that Madison Square Garden Entertainment Corp. and its affiliates (collectively, the "Company"), have used facial recognition software to forbid all lawyers in all law firms representing clients engaged in any litigation against the Company from entering the Company's venues in New York, including the use of any season tickets (the "Policy"). Reports indicate that approximately 90 law firms are impacted by the Company's Policy, constituting thousands of lawyers.

We write to raise concerns that the Policy may violate the New York Civil Rights Law and other city, state, and federal laws prohibiting discrimination and retaliation for engaging in protected activity. Such practices certainly run counter to the spirit and purpose of such laws, and laws promoting equal access to the courts: forbidding entry to lawyers representing clients who have engaged in litigation against the Company may dissuade such lawyers from taking on

legitimate cases, including sexual harassment or employment discrimination claims. *See*, *e.g.*, N.Y. Civ. Rights Law § 40-b (prohibiting wrongful refusal of admission to and ejection from public entertainment and amusement, such as legitimate theaters, burlesque theatres, music halls, opera houses, concert halls, and circuses, etc.); N.Y. State Exec. Law ("NYSHRL") § 296(2) (prohibiting public accommodations from engaging in discrimination in New York State); New York City Human Rights Law ("NYCHRL") § 8-107(4) (prohibiting public accommodations from engaging in discrimination in New York City). And attempts to dissuade individuals from filing discrimination complaints or encouraging those in active litigation to drop their lawsuits so they may access popular entertainment events at the Company's venues may violate state and city laws prohibiting retaliation. *See* NYSHRL § 296(7) (prohibiting retaliation); NYCHRL § 8-107(7) (prohibiting "retaliatory or discriminatory act or acts [that are] reasonably likely to deter a person from engaging in protected activity"). Lastly, research suggests that the Company's use of facial recognition software may be plagued with biases and false positives against people of color and women.[1]

By February 13, 2023, please respond to this Letter to state the justifications for the Company's Policy and identify all efforts you are undertaking to ensure compliance with all applicable laws and that the Company's use of facial recognition technology will not lead to discrimination. Discrimination and retaliation against those who have petitioned the government for redress have no place in New York.

Thank you for your cooperation with this inquiry.

Sincerely,

/s/ Kyle S. Rapiñan, Esq.
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[1] *See* Davide Castelvecchi, Is facial recognition too biased to be let loose? Nature. Nov. 18, 2020, https://www.nature.com/articles/d41586-020-03186-4 (last accessed Jan. 18, 2023); *see also* Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification,* Proceedings of Machine Learning Research 81, 1–15, 10 (2018), http://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf (last accessed Jan. 18, 2023) (finding facial recognition was more accurate for white people and men overall but less accurate for people of color and women).