

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

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Index No.: 105972/07

ELLEN MASSEY,

Plaintiff,

COMPLAINT

-against-

STERLING METS, L.P.; ARAMARK SPORTS and
ENTERTAINMENT GROUP, INC. d/b/a ARAMARK
@ SHEA STADIUM; SERVICE EMPLOYEES
INTERNATIONAL UNION (SEIU) LOCAL 177;
"JOHN DOE",

Defendants.

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Plaintiff, complaining of the defendants, by her attorneys,
Alpert & Kaufman, LLP, alleges:

1. At all times hereinafter mentioned, plaintiff was a resident of the County, City and State of New York.
2. Upon information and belief, at all times hereinafter mentioned, defendant Sterling Mets, L.P. (Hereinafter "Sterling") was a limited partnership organized and existing pursuant to the laws of the State of Delaware, and authorized to transact business in New York.
3. Upon information and belief, at all times hereinafter mentioned, defendant Aramark Sports and Entertainment Group, Inc., d/b/a Aramark @ Shea Stadium (hereinafter "Aramark") was a corporation duly organized and existing pursuant to the laws of the State of Delaware, and authorized to transact business in New York.

4. Upon information and belief, at all times hereinafter mentioned, Service Employees International Union (SEIU) Local 177 (hereinafter "Service Employees") is a union organized and existing pursuant to the laws of the State of New York.
5. Upon information and belief, at all times hereinafter mentioned Sterling operated Shea Stadium located at 123-01 Roosevelt Avenue, Corona, N.Y. for the purpose of exhibiting to the public baseball games and other events.
6. Upon information and belief, at all times hereinafter mentioned, Aramark operated concessions for food, drink and merchandise sales at Shea Stadium.
7. Upon information and belief, at all times hereinafter mentioned, Service Employees provided uniformed security guards at Shea Stadium.
8. Upon information and belief, at all times hereinafter mentioned, "John Doe" was a spectator and patron at Shea Stadium on April 9, 2007.
9. Upon information and belief, at all times hereinafter mentioned, Aramark sold alcoholic beverages at Shea Stadium during a baseball game.
10. Upon information and belief, at all times hereinafter mentioned, both Sterling and Service Employees were aware that Aramark was selling alcoholic beverages at Shea Stadium.
11. At all times hereinafter mentioned, it was the duty and obligation of Sterling to provide reasonable protection for the

safety of spectators and patrons during baseball games at Shea Stadium.

12. At all times hereinafter mentioned, it was the duty and obligation of Aramark not to sell alcoholic beverages to spectators and patrons who appeared to be intoxicated at Shea Stadium.

13. At all times hereinafter mentioned, it was the duty and obligation of Service Employees to prevent unruly behavior by spectators and patrons which could endanger the safety of other spectators.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

14. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "13" as if more fully alleged at length herein.

15. On April 9, 2007 plaintiff was a paying patron and spectator at Shea Stadium seated in the second row of Section 43 of the stadium watching a baseball game.

16. On April 9, 2007 "John Doe" was a spectator at Shea Stadium and had a seat 4-5 rows behind plaintiff.

17. Upon information and belief, "John Doe" was visibly intoxicated having purchased quantities of beer from vendors under the control of Aramark.

18. Upon information and belief, "John Doe" due to his intoxication had been acting in a rowdy, boisterous and dangerous manner for a long period of time.

19. On April 9, 2007 at about 3:30 p.m. said "John Doe" in an intoxicated condition fell upon plaintiff causing her to sustain severe personal injuries.

20. Upon information and belief, at all times hereinafter mentioned, that solely by reason of the negligence of the defendants as aforesaid, plaintiff, Ellen Massey, became sick, sore, lame and disabled and still remains and still suffers; was caused to suffer great pain and mental anguish, sustained personal injuries in and about her head, body, arms and limbs, including injuries to soft tissues and ligaments; was obligated to expend sums of money for hospital and medical treatment; was caused to limit and curtail her activities; was caused to spend periods of time in a hospital and at home in an effort to enable her injuries to heal, and upon information and belief will continue to suffer the results of severe personal injuries for an extended period of time.

21. That the aforesaid occurrence was due to the negligence of "John Doe" in falling upon plaintiff, and the concurrent negligence of Sterling, Aramark and Service Employees in failing to maintain proper crowd control; in failing to restrain "John Doe" and eject him from the Stadium; in allowing "John Doe" to purchase beer when he was already intoxicated; in failing to protect plaintiff from being injured; in failing to adequately control the sale of alcoholic beverages to patrons.

22. Upon information and belief, at all times hereinafter mentioned, said accident and injuries resulting therefrom were caused solely as a result of the negligence, carelessness and recklessness of the defendants, by its agents, servants and/or employees and without any negligence on the part of the plaintiff, Ellen Massey contributing thereto.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT ARAMARK AND STERLING

23. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "22" as if more fully alleged at length herein.

24. On April 9, 2007, defendant Aramark by its duly authorized employees, agents and servants sold, gave and/or allowed to be served alcoholic beverages to "John Doe" who consumed such beverages at Shea Stadium.

25. Defendant "John Doe" was at the time of consuming said alcoholic beverages or soon thereafter intoxicated, although defendants knew or had reason to know from his behavior that he was already intoxicated.

26. That due to his intoxicated condition, defendant "John Doe" became drunk, unruly, uncoordinated and fell upon plaintiff causing her to be injured.

27. By reason of the foregoing facts and premises, plaintiff is entitled to be compensated under the provisions of General

Obligation Law, sec. 11-101.

28. Because of the egregious nature of the defendants violating General Obligations Law, sec. 11-101, plaintiff is entitled to punitive in addition to compensatory damages.

29. This cause of action falls within the exception contained in CPLR 1602(7) in that defendants acted with reckless disregard for safety of others.

30. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment for both compensatory and exemplary money damages; together with the costs and disbursements of this action.

Yours, etc.

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