



Superior Court of the District of Columbia
CIVIL DIVISION
Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

Filed
D.C. Superior Court
12/09/2020 12:58PM
Clerk of the Court

District of Columbia

Plaintiff

vs.

Case Number 2020 CA 004921 B

Urban Athletic Club Convention Center L.L.C.

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Jennifer L. Berger, D.C. Bar No. 490809

Name of Plaintiff's Attorney

Office of the Attorney General of the District of Columbia

Address

400 6th Street, N.W., Washington, DC 20001

202-727-1038

Telephone

如需翻译,请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

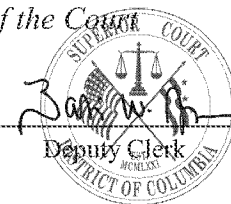
Để có một bản dịch, hãy gọi (202) 879-4828

번역을 원하시면, (202) 879-4828로 전화주세요

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Clerk of the Court

By



Date

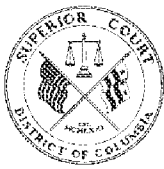
12/8/2020

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation

Vea al dorso la traducción al español



TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
Sección de Acciones Civiles
 500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
 Teléfono: (202) 879-1133 Sitio web: www.dccourts.gov

District of Columbia

Demandante
 contra

Número de Caso: 2020 CA 004921 B

Urban Athletic Club Convention Center L.L.C.
 Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le requiere entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veintidós (22) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días, contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

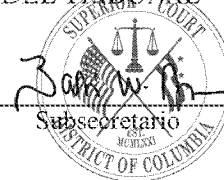
A usted también se le requiere presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que usted le entregue al demandante una copia de la Contestación o en el plazo de siete (7) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

Jennifer L. Berger, D.C. Bar No. 490809

SECRETARIO DEL TRIBUNAL

Nombre del abogado del Demandante

Por:



Office of the Attorney General of the District of Columbia

Dirección

400 6th Street, N.W., 10th Floor, Washington, DC 20001

202-727-1038

Fecha 12/8/2020

Teléfono

如需翻译, 请打电话 (202) 879-4828

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IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍA RETENÉRSELE SUS INGRESOS, O PODRÍA TOMÁRSELE SUS BIENES PERSONALES O BIENES RAÍCES Y SER VENDIDOS PARA PAGAR EL FALLO. SI USTED PRETENDE Oponerse a esta acción, NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.

Si desea conversar con un abogado y le parece que no puede pagarle a uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse sobre otros lugares donde puede pedir ayuda al respecto.

Vea al dorso el original en inglés
 See reverse side for English original

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH INFORMATION SHEET

District of Columbia

Case Number: **2020 CA004921 B**

vs

Date: **12/8/2020**

Urban Athletic Club Convention Center, LLC

☐ One of the defendants is being sued
in their official capacity.

Name: <i>(Please Print)</i> Jennifer L. Berger		Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff <input type="checkbox"/> Self (Pro Se) <input type="checkbox"/> Other: _____
District Name: District of Columbia Office of the Attorney General		
Telephone No.: 202-727-1038	Six digit Unified Bar No.: 490809	

TYPE OF CASE: ☐ Non-Jury ☐ 6 Person Jury

☒ 12 Person Jury

Demand: \$ _____

Other: permanent injunction from violation CPPA and Mayoral Order No. 2020-080

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: *(Check One Box Only)*

A. CONTRACTS

COLLECTION CASES

- | | | |
|---|---|---|
| <input type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 18 OVER \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 27 Insurance/Subrogation | <input type="checkbox"/> 26 Insurance/Subrogation |
| <input type="checkbox"/> 07 Personal Property | Over \$25,000 Pltf. Grants Consent | Over \$25,000 Consent Denied |
| <input type="checkbox"/> 13 Employment Discrimination | <input type="checkbox"/> 07 Insurance/Subrogation | <input type="checkbox"/> 34 Insurance/Subrogation |
| <input type="checkbox"/> 15 Special Education Fees | Under \$25,000 Pltf. Grants Consent | Under \$25,000 Consent Denied |
| | <input type="checkbox"/> 28 Motion to Confirm Arbitration | |
| | Award (Collection Cases Only) | |

B. PROPERTY TORTS

- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | | |

C. PERSONAL TORTS

- | | | |
|---|--|--|
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile- Personal Injury | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 20 Friendly Suit |
| <input checked="" type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE

IF USED

Information Sheet, Continued

C. OTHERS

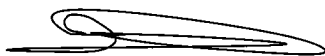
- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |



Attorney's Signature

12/8/2020

Date

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA

a municipal corporation
400 6th Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

**URBAN ATHLETIC CLUB
CONVENTION CENTER L.L.C.**

804 N Street, N.W.
Washington, D.C. 20001

Serve on: Registered Agent

GRAHAM KING

804 N Street, N.W.

Washington, D.C. 20001

Defendant.

Case No.: 2020 CA 004921 B

COMPLAINT

Plaintiff the District of Columbia (“District”), through the Office of the Attorney General, brings this action against Defendant Urban Athletic Club Convention Center L.L.C. (“Urban Athletic Club”), a gym that operates in the District of Columbia. The District is currently in the middle of a public health crisis caused by the COVID-19 virus. In order to protect District residents, Mayor Muriel Bowser has taken a series of executive actions that create rules for businesses and individuals with regards to wearing masks, maintaining social distance, and following other procedures for public health. Urban Athletic Club has been operating its gym for several months in violation of these emergency executive measures. Specifically, both employees and patrons of the gym have been observed, on multiple occasions, not wearing masks both inside

of the gym and on the public sidewalk outside of the gym, where some exercise classes take place. Urban Athletic Club has also failed to comply with social distancing requirements, and rules for spacing and cleaning equipment properly. These actions directly violate the Protecting Businesses and Workers from COVID-19 Congressional Review Emergency Amendment Act of 2020 (“Emergency Act”), D.C. Code § 32-141.01 *et seq.*, which requires compliance with both the Mayor’s Order of July 22, 2020 and related guidance. (See Mayor’s Order No. 2020-080 (July 22, 2020), <https://coronavirus.dc.gov/maskorder> (“Order”); Guidance for Gyms and Workout Studios (Sept. 21, 2020), https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/COVID-19_DC_Health_Guidance_for_Gyms_and_Workout_Studios_2020.08.31_FINAL.pdf (“Guidance”). These actions further violate the District’s Consumer Protection Procedures Act (“CPPA”), D.C. Code § 28-3901, *et seq.* The District brings this enforcement action against Urban Athletic Club to stop the gym’s on-going violations of the Order and Guidance.

Jurisdiction

1. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code §§ 11-921 and 28-3909.
2. This Court has personal jurisdiction over Urban Athletic Club pursuant to D.C. Code § 13-423(a).

Parties

3. Plaintiff the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the government for the United States. The District brings this action through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal

business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). OAG has the authority to enforce the Emergency Act, pursuant to D.C. Code § 32-141.04. The Attorney General is also specifically authorized to enforce the District's consumer protection laws, including the CPPA, pursuant to D.C. Code § 28-3909.

4. Defendant Urban Athletic Club is registered to do business in the District of Columbia and operates a gym located at 804 N Street, N.W., Washington, D.C. 20001. Defendant engages, and has engaged, in the offer and sale of goods or services to consumers in D.C. for their personal, household or family purposes, by offering and selling gym memberships and services.

Facts

COVID-19 Mayoral Order and Guidance and Legislation

5. COVID-19 is a novel and deadly coronavirus. As of the time of this filing, it has plunged the United States into a public health crisis and has infected over 14,600,000 Americans and killed over 281,000 according to the Centers for Disease Control and Prevention. According to the Office of the Mayor, COVID-19 has infected more than 23,500 District residents, and 701 District residents have died from COVID-19 infections.

6. In response to the threat of COVID-19, on March 11, 2020, Mayor Muriel Bowser issued Mayor's Order 2020-045 declaring a public emergency, pursuant to D.C. Code § 28-4102(b), as well as declaring a public health emergency, pursuant to D.C. Code § 7-2304.01. Other states and the United States federal government have likewise declared an emergency concerning the COVID-19 outbreak and issued similar emergency measures.

7. On July 22, 2020, Mayor Bowser issued Mayor's Order No. 2020-080 (the "Order"), which clarified and extended emergency requirements related to wearing masks both indoors and outdoors in the District. Mayor's Order 2020-080 (July 22, 2020).

8. The Order requires that, "[b]usinesses . . . open to members of the public shall post signage on their exterior doors stating that a person may not enter unless the person is wearing a mask. In addition, the business . . . shall exclude or attempt to eject persons who are not wearing masks or who remove their required masks."

9. The Order contains some limited exceptions from the mask-wearing requirement. Specifically, wearing a mask is not required when, "[a] person is engaged in vigorous outdoor exercise and is maintaining social distance of at least six (6) feet from each other person."

10. To clarify and elaborate on the Order, the Mayor soon thereafter released Phase Two Guidance specifically for gyms ("Guidance"), which provides additional rules regarding proper procedures for maintaining social distance, maintaining distance between equipment, and properly disinfecting equipment. Guidance for Gyms and Workout Studios (Sept. 21, 2020).

11. The Guidance, which has the same force as the Order, clarifies how the mask-wearing provisions of the Order apply to gyms and requires all gym staff and patrons to "wear a face covering while entering, exiting or within the facility, including while exercising if able to do so safely."

12. The Guidance also dictates proper procedures for social distancing, including spacing between persons and equipment. Specifically, the Guidance states that all gym staff and patrons must maintain six feet of social distance from each other. The arrangement of "workout areas, including those with cardio and strength equipment, must ensure at least 10 feet in all directions between patrons." Group classes must be limited in size so that there can be 10 feet of

space between patrons. Further, while “[o]utdoor activities are preferred over indoor . . . it is important to follow social distancing and cloth face covering recommendations” in either environment.

13. Additionally, the Guidance sets out procedures for ensuring that equipment is properly cleaned and sanitized. Specifically, gyms must “[r]equire clients to use one piece of equipment at a time . . . so that machines can be cleaned by staff after each use.” Any equipment that cannot be cleaned or disinfected between each use should be removed.

14. On November 16, 2020, the Protecting Businesses and Workers from COVID-19 Congressional Review Emergency Amendment Act of 2020 was enacted. The law requires, on an emergency basis, that employers adopt and implement social distancing policies that adhere to the Order and subsequent Mayor’s orders. D.C. Code § 32-141.01 *et seq.*

Urban Athletic Club’s Failure to Comply with the Emergency Act, Order and Guidance

15. On September 28, 2020, a District resident visited the Urban Athletic Club at 804 N Street, N.W. (“the club”), because he was considering becoming a member of the gym. During his time inside the gym, the resident observed that staff and patrons were neither maintaining social distance nor wearing masks.

16. On October 7, 2020, OAG notified Urban Athletic Club of the resident’s report of staff and patrons not wearing masks and not complying with social distancing guidelines at the club. Graham King, owner of Urban Athletic Club, acknowledged receipt of the notification.

17. On October 14, 2020, Graham King sent a letter to the District acknowledging there had been non-compliance with the mask mandate at the gym.

18. On October 20, 2020, an OAG investigator visited the club and observed approximately eight people working out outside on the sidewalk, using various equipment, at least

four of whom were not wearing masks. These individuals also were not maintaining the required six feet of social distancing. The investigator also observed that pedestrians on the sidewalk had to walk past maskless gym patrons, often at close distances, to travel down the sidewalk. The investigator further observed gym patrons who were not wearing masks walking in and out of the gym without placing their masks over their nose and mouth. The investigator observed more than one person use the same piece of equipment with the equipment being cleaned.

19. The OAG investigator visited the club again on October 27, 2020. Again, the investigator observed maskless patrons of the gym outside of the gym and maskless individuals entering and exiting the gym. The investigator noted that a tent had been erected outside the gym, with equipment placed under the tent. Passing pedestrians were not able to maintain safe social distance from gym patrons as they travelled down the sidewalk. The investigator further noted that there appeared to be gym-provided mats on the ground with less than appropriate social distance between them. Again, at no point did the investigator observe anyone cleaning the equipment or mats.

20. The OAG investigator visited the club for a third time on November 3, 2020. At that time, the investigator observed several individuals working out on the sidewalk, at times taking off their masks. Over the course of an hour, the investigator saw approximately ten people arrive at the club, at least three of whom were not wearing a mask while entering the gym. The investigator then observed the beginning on an outdoor fitness class for approximately 12 gym patrons. During the class, at least five patrons removed their masks and all patrons moved around in close proximity to each other without maintaining social distance. Throughout the class, patrons periodically entered and exited the gym to bring out equipment. The instructor, also maskless, stood in the area of the sidewalk that pedestrians would otherwise use. As a result, the class took

up the entirety of the sidewalk and left no room for pedestrians to safely pass while maintaining social distance. During the course of an hour, the investigator did not see any patrons or staff disinfect equipment.

21. On November 19, 2020, the investigator entered the club through its front doors, which were open. Inside the club, the investigator observed a man working at the front desk who was not wearing a mask. Approximately six people were working out, two of whom were not wearing masks. One woman had a mask hooked on one of her ears, which was hanging down and not covering her nose or mouth. Another man who was working out did not appear to have a mask on him at all. The investigator observed that the maskless man stood close to the gym equipment and was very close to, and less than six feet away from, two other individuals, in a location that would have been easily visible to the employee at the desk. There was no enforcement of staff or patron mask-wearing.

22. The OAG investigator visited the club for a fifth time on November 23, 2020. The investigator observed that once again there was a tent on the sidewalk, and the mats underneath the tent were pushed next to one another with no space in between. A male club patron ran out of the front door of the club, ran down to the end of the block, and then ran back down the block and inside of the club. He repeated this at least five times. He was not wearing a mask and he did not appear to have a mask available on his neck or in his hand.

23. On November 23, 2020, the investigator went inside the club again and observed two club patrons worked out nearby without masks covering their noses and mouths. Both patrons were visible to the staffers at the front desk, who did not enforce mask-wearing.

Urban Athletic Club's Social Media Confirms Non-Compliance with Mask-Wearing, Social-Distancing, and Other Requirements

24. On November 25, 2020, the OAG investigator accessed the publicly-available Instagram account for Urban Athletic Club.¹ This account represents all locations of the gym and is used to share content from and about the various locations. On this page, the investigator observed the following photo, posted on November 22, 2020. The investigator recognized that the photo depicts the sidewalk outside of the club. In the photo, many maskless club patrons were exercising, including one on the portion of the sidewalk that pedestrians would need to use in order to pass. At least two individuals in the background of the photo are maskless and not maintaining social distance.



25. On the same Instagram page, another photo, posted on October 31, 2020, depicted seventeen club patrons standing close together, and in some cases touching, outside of the club. Of the seventeen individuals in the photo, eight are not wearing masks.

¹ Available at <https://www.instagram.com/urbanathleticclub/>.



26. Another photo posted on Instagram on October 29, 2020, similarly depicts six individuals inside the club, five of which are not wearing masks. None of the individuals depicted in the photograph are maintaining social distance from others in the photo.



27. Urban Athletic Club requires that patrons sign a COVID-19 waiver form before going into the gym. That form states that the signatory will comply with District of Columbia Phase 2 Guidelines for gyms. It further states that the signatory “voluntarily assume[s] the risk that [they] may be exposed to or infected by COVID-19 by attending Urban Athletic Club.” However, Urban Athletic Club has failed to enforce Phase 2 Guidelines, or its own requirement that its patrons comply with Phase 2 Guidelines.

28. On its website, Urban Athletic Club states that, “[y]our health and safety is our highest priority.”² It further reports that, “[m]ask guidelines are changing frequently. If you’re unsure what the standards are today, simply wear a mask when in the facility at all time.” The website further requests, “[p]lease maintain at least 6 feet between you and other (non-family or same household) members. When you are working out, extend this radius to 10 feet.”

29. As of the filing of this Complaint, Urban Athletic Club continues to flout the requirements of the Emergency Act and the CPPA, and in doing so endangers the health of its staff and patrons, and District residents more broadly.

Count I: Violation of the District of Columbia Protecting Businesses and Workers from COVID-19 Congressional Review Emergency Amendment Act of 2020 (“Emergency Act”)

30. The District incorporates the allegations of paragraphs 1 through 29 into this Count.

31. Pursuant to the Emergency Act, “employers in the District shall adopt and *implement* social distancing and worker protection policies to prevent transmission of COVID-19 in the workplace that adhere to the requirements of Mayor’s Order 2020-080, or subsequent Mayor’s Order.” D.C. Code § 32-141.02 (emphasis added).

² <https://www.urbanathletic.club/covid-response>.

32. Mayor's Order 2020-080 (the Order) is an emergency executive order issued by the Mayor of the District of Columbia pursuant to D.C. Code § 7-2307, which requires businesses operating in the District of Columbia to comply with mask-wearing requirements in order to mitigate the current COVID-19 public health crisis.

33. The Guidance is an emergency executive order issued by the Mayor of the District of Columbia pursuant to D.C. Code § 7-2307, which requires businesses operating in the District of Columbia to comply with mask-wearing, social-distancing, and other requirements in order to mitigate the spread of COVID-19. It was issued subsequent to Mayor's Order 2020-080.

34. In operating its business, Urban Athletic Club has failed to implement social distancing, masking-wearing, and other worker protection requirements from the Order and Guidance in order to prevent transmission of COVID-19.

35. As of the filing of this Complaint, Urban Athletic Club continues to violate the Emergency Act by failing to comply with the Order and Guidance, and in doing so endangers the health of its staff and patrons, and District residents more broadly, amid the ongoing COVID-19 public health emergency.

36. OAG has the authority to enforce the Emergency Act, pursuant to D.C. Code §§ 7-2307 and 32-141.04.

37. As of the filing of this Complaint, Urban Athletic Club continues to violate the Emergency Act by failing to comply with the Order and Guidance.

Count II: Violation of the Consumer Protection Procedures Act ("CPPA")

38. The District incorporates the allegations of paragraphs 1 through 37 into this Count.

39. The CPPA establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.

40. Per the CPPA, “[i]t shall be a violation of this chapter for any person to engage in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged thereby, including to: (a) represent that goods or services have . . . characteristics . . . that they do not have.” D.C. Code § 28–3904 (emphasis added). It is also an unenumerated violation of the CPPA for a merchant to operate a business in ways that violate other District laws.

41. Urban Athletic Club engages, and has engaged, in the offer and sale of goods or services to consumers in D.C. for their personal, household or family purposes, by offering and selling gym memberships and services.

42. Urban Athletic Club continues to operate a gym during a global pandemic. Despite representing to its consumers that, “[y]our health and safety is our highest priority,” Urban Athletic Club has failed to comply with numerous public health requirements, and in doing so has endangered its consumers and citizens of the District more broadly. This conduct violates D.C. Code § 28-3904(a).

43. Urban Athletic Club also violates the CPPA by providing its consumer goods and services in ways that violate other District laws, including the Mayor’s Order and Guidance.

44. As of the filing of this Complaint, Urban Athletic Club continues to violate the CPPA.

Prayer for Relief

WHEREFORE, the District of Columbia respectfully requests this Court enter a judgment in its favor and grant relief against Defendant Urban Athletic Club as follows:

- (a) Enjoin Defendant, pursuant to D.C. Code § 32-141.04(b)(3)(D), from violating the Emergency Act by failing to comply with Mayor's Order No. 2020-080 and related Guidance;
- (b) Award civil penalties in an amount to be proven at trial for each violation of the Emergency Act, as authorized by D.C. Code §§ 7-2307(a) and 32-141.04(b)(3)(B).
- (c) Enjoin Defendant, pursuant to D.C. Code § 28-3909(a), from violating the CPPA;
- (d) Award civil penalties in an amount to be proven at trial and as authorized per violation of the CPPA pursuant to D.C. Code § 28-3909(b);
- (e) Award the District the costs of this action and reasonable attorney's fees, pursuant to D.C. Code § 32-141.04(b)(3)(A) and D.C. Code § 28-3909; and
- (f) Grant such further relief as the Court deems just and proper.

Jury Demand

The District of Columbia demands a trial by jury by the maximum number of jurors permitted by law on all claims triable to a jury.

Dated: December 8, 2020

Respectfully submitted,

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Attorney General for the District of Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division

JIMMY R. ROCK
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/s/

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Telephone: (202) 879-1133 • Website: www.dccourts.gov

DISTRICT OF COLUMBIA

Vs.

C.A. No. 2020 CA 004921 B

URBAN ATHLETIC CLUB CONVENTION CENTER

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure ("Super. Ct. Civ. R.") 40-I, it is hereby **ORDERED** as follows:

(1) This case is assigned to the judge and calendar designated below. All future filings in this case shall bear the calendar number and the judge's name beneath the case number in the caption.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of service on each defendant of copies of (a) the summons, (b) the complaint, and (c) this Initial Order and Addendum. The court will dismiss the claims against any defendant for whom such proof of service has not been filed by this deadline, unless the court extended the time for service under Rule 4(m).

(3) Within 21 days of service (unless otherwise provided in Rule 12), each defendant must respond to the complaint by filing an answer or other responsive pleading. The court may enter a default and a default judgment against any defendant who does not meet this deadline, unless the court extended the deadline under Rule 55(a).

(4) At the time stated below, all counsel and unrepresented parties shall participate in a remote hearing to establish a schedule and discuss the possibilities of settlement. Counsel shall discuss with their clients **before** the hearing whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this hearing.**

(5) If the date or time is inconvenient for any party or counsel, the Civil Actions Branch may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. To reschedule the hearing, a party or lawyer may call the Branch at (202) 879-1133. Any such request must be made at least seven business days before the scheduled date.

No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website <http://www.dccourts.gov/>.

Chief Judge Anita M. Josey-Herring

Case Assigned to: Judge FERN FLANAGAN SADDLER

Date: December 8, 2020

Initial Conference: **REMOTE HEARING - DO NOT COME TO COURTHOUSE**
SEE REMOTE HEARING INSTRUCTIONS ATTACHED TO INITIAL ORDER

9:30 am, Friday, March 12, 2021

Location: Courtroom 100

500 Indiana Avenue N.W.

WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

D.C. Code § 16-2821, which part of the Medical Malpractice Proceedings Act of 2006, provides, "[a]fter action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ('ISSC'), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC."

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at <https://www.dccourts.gov/pa/>. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. D.C. Code § 16-2825 Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. Unrepresented plaintiffs who elect not to eFile must either mail the form to the Multi-Door Dispute Resolution Office at, Suite 2900, 410 E Street, N.W., Washington, DC 20001, or deliver it in person if the Office is open for in-person visits.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following people are required by D.C. Code § 16-2824 to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is unrepresented may mail the form to the Civil Actions Branch at [address] or deliver it in person if the Branch is open for in-person visits. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Anita M. Josey-Herring

Civil Remote Hearing Instructions for Participants

The following instructions are for participants who are scheduled to have cases heard before a Civil Judge in a **Remote Courtroom**

Option1: (AUDIO ONLY/Dial-in by Phone):

Toll 1 (844) 992-4762 or (202) 860-2110, enter the Meeting ID from the attachment followed by #, press again to enter session.

- *Please call in no sooner than 5 minutes before your scheduled hearing time. Once you have joined the session, please place your phone on mute until directed otherwise. If you should happen to get disconnected from the call, please call back in using the phone number and access number provided and the courtroom clerk will mute your call until the appropriate time.*

If you select **Option 2** or **Option 3** use the **Audio Alternative**

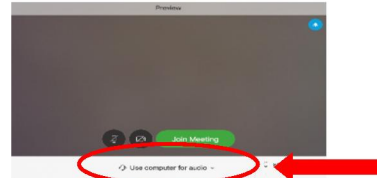
Option 2: (LAPTOP/ DESKTOP USERS 1):

Open Web Browser in Google Chrome and copy and paste following address from the next page:
<https://dccourts.webex.com/meet/XXXXXXXXX>

Option 3: (LAPTOP/ DESKTOP USERS 2):

Open Web Browser in Google Chrome and copy and paste following address
<https://dccourts.webex.com> Select **Join**, enter the Meeting ID from the next page

AUDIO ALTERNATIVE: Instead of automatically using **USE COMPUTER FOR AUDIO**, select **CALL-IN** and follow the **CALL-IN** prompt window. Use a cell phone or desk phone. You will be heard clearer if you **do not** place your phone on **SPEAKER**. It is very important that you enter the **ACCESS ID #** so that your audio is matched with your video.



Option 4: (Ipad/SMART PHONE/TABLET):

- Go to App Store, Download WebEx App (Cisco WebEx Meetings)
- Sign into the App with your Name and Email Address
- Select Join Meeting
- Enter address from the next page: <https://dccourts.webex.com/meet/XXXXXXXXX>
- Click join and make sure your microphone is muted and your video is unmuted (if you need to be seen). If you only need to speak and do not need to be seen, use the audio only option.
- When you are ready click "Join Meeting". If the host has not yet started the meeting, you will be placed in the lobby until the meeting begins.

For Technical Questions or issues Call: (202) 879-1928, Option #2

Superior Court of the District of Columbia
Public Access for Remote Court Hearings
(Effective August 24, 2020)

The current telephone numbers for all remote hearings are: 202-860-2110 (local) or 844-992-4726 (toll free). After dialing the number, enter the WebEx Meeting ID as shown below for the courtroom. Please click a WebEx Direct URL link below to join the hearing online.

Audio and video recording; taking pictures of remote hearings; and sharing the live or recorded remote hearing by rebroadcasting, live-streaming or otherwise are not allowed

Division	Courtroom	Types of Hearings Scheduled in Courtroom	Public Access via WebEx	
			WebEx Direct URL	WebEx Meeting ID
Auditor Master	206	Auditor Master Hearings	https://dccourts.webex.com/meet/ctbaudmaster	129 648 5606
Civil	100	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb100	129 846 4145
	205	Foreclosure Matters	https://dccourts.webex.com/meet/ctb205	129 814 7399
	212	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb212	129 440 9070
	214	Title 47 Tax Liens; and Foreclosure Hearings	https://dccourts.webex.com/meet/ctb214	129 942 2620
	219	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb219	129 315 2924
	221	Civil 1 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb221	129 493 5162
	318	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb318	129 801 7169
	320	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb320	129 226 9879

	400	Judge in Chambers Matters including Temporary Restraining Orders, Preliminary Injunctions and Name Changes	https://dccourts.webex.com/meet/ctb400	129 339 7379
	415	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb415	129 314 3475
	516		https://dccourts.webex.com/meet/ctb516	129 776 4396
	517		https://dccourts.webex.com/meet/ctb517	129 911 6415
	518		https://dccourts.webex.com/meet/ctb518	129 685 3445
	519		https://dccourts.webex.com/meet/ctb519	129 705 0412
	JM-4		https://dccourts.webex.com/meet/ctbjm4	129 797 7557
	A-47	Housing Conditions Matters	https://dccourts.webex.com/meet/ctba47	129 906 2065
	B-52	Debt Collection and Landlord and Tenant Trials	https://dccourts.webex.com/meet/ctbb52	129 793 4102
	B-53	Landlord and Tenant Matters including Lease Violation Hearings and Post Judgment Motions	https://dccourts.webex.com/meet/ctbb53	129 913 3728
	B-109	Landlord and Tenant Matters	https://dccourts.webex.com/meet/ctbb109	129 127 9276
	B-119	Small Claims Hearings and Trials	https://dccourts.webex.com/meet/ctbb119	129 230 4882