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JAMES T. GENGO, individually  
and on behalf of himself and  
all others similarly situated,  
  
Plaintiff(s),  
  
v.  
  
JETS STADIUM DEVELOPMENT, LLC  
and NEW YORK JETS LLC,  
  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY - LAW DIVISION  
DOCKET NO.:

Civil Action

**CLASS ACTION COMPLAINT**

Plaintiff, **James T. Gengo**, individually and on behalf of himself and all others similarly situated (hereinafter "**Plaintiff**"), by and through his attorneys, Cohn Lifland Pearlman Herrmann & Knopf LLP ("**Proposed Class Counsel**"), alleges against defendants, Jets Stadium Development, LLC ("JSD") and New York Jets LLC ("Jets LLC") (JSD and Jets LLC are referred to, together, as "**Defendants**"), the following:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this class action individually and on behalf of a putative class of persons and entities (as defined herein, the "**Class**") that purchased one or more Personal Seat Licenses for 200-level seats in Metlife Stadium (the "PSLs"), sold by JSD and marketed by Defendants.

2. Plaintiff and the Class members purchased the PSLs based on Defendants' representations, express and/or implied, that doing so would give them an exclusive right; namely, the right to purchase season tickets for 200-level seats for all New York Jets home football games at Metlife Stadium.

3. Plaintiff asserts that Defendants' decision, announced in January 2018, to begin selling 200-level season tickets to non-PSL holders is, among other things, an unconscionable commercial practice that denies Plaintiff and the Class of the fundamental benefit underlying the PSL transaction.

4. Defendants' conduct has rendered the PSLs entirely or substantially worthless.

**PARTIES**

5. Plaintiff James T. Gengo is a natural person who is, and at all times relevant to the allegations in this matter was, an individual residing in the town of Trumbull, within the State of Connecticut.

6. JSD is a foreign limited liability company that does business in the State of New Jersey, and is headquartered at 1 Jets Drive, Florham Park, Morris County, New Jersey 07932.

7. Jets LLC is a foreign limited liability company that does business in the State of New Jersey, and is headquartered at 1 Jets Drive, Florham Park, Morris County, New Jersey 07932.

**JURISDICTION AND VENUE**

8. This Court has jurisdiction over JSD because it is a limited liability company that is headquartered and regularly conducts business in this state, and otherwise has sufficient minimum contacts with New Jersey to justify the exercise of jurisdiction.

9. This court has jurisdiction over Jets LLC because it is a limited liability company that is headquartered and regularly conducts business in this state, and otherwise has sufficient minimum contacts with New Jersey to justify the exercise of jurisdiction.

10. Venue properly lies in Bergen County, New Jersey, because Defendants regularly conduct business in Bergen County, the New York Jets football team plays its home games at Metlife Stadium, located in the borough of East Rutherford, within Bergen County, and many of the actions complained of herein occurred within Bergen County.

**FACTUAL ALLEGATIONS AS TO THE CLASS**

11. Jets LLC owns and operates the New York Jets professional football team (the "Jets"), which is a member club of the National Football League ("NFL").

12. JSD was formed in approximately 2005 to own, operate, and develop a new stadium in conjunction with entities owned and operated by the owners of the New York Giants NFL franchise.

13. Jets LLC and JSD are affiliated entities, both owned by Robert Wood Johnson IV and his family.

14. JSD owns a 50% membership interest in New Meadowlands Stadium Company LLC ("NMSCO"), which is the developer, owner, and operator of Metlife Stadium (the "Stadium"), where the Jets football team plays its home games.

15. The remaining 50% interest in NMSCO is owned by an entity affiliated with the New York Giants football team.

16. In order to help finance the construction of the Stadium, Defendants required the purchase of a PSL as a pre-condition to purchasing season tickets for approximately two-thirds of the seats in the Stadium, including all 200-level seats.

17. On or about August 12, 2010, Plaintiff purchased from JSD a PSL for two 200-level seats in the Stadium (the "Seats"), at a cost of \$4,000 per seat, for a total of \$8,000 (the "PSL Fee").

Plaintiff's purchase of the Seats was financed over 15 years at an interest rate of 8%.

18. In order to purchase PSLs for the Seats, Plaintiff was required to enter into a Personal Seat License Agreement and a PSL Seat Confirmation with JSD (the Personal Seat License Agreement and PSL Seat Confirmation are referred to, together, as the "PSL Agreement").

19. Among other things, the PSL Agreement obligates Plaintiff to pay the PSL Fee and states that Plaintiff: "shall have the right and the obligation to purchase admission tickets for the Seats for all pre-season and regular season home games of the Jets scheduled to be played at the Stadium and (ii) shall have the right, but not the obligation, to purchase admission tickets for the Seats for all post-season home games of the Jets scheduled to be played at the Stadium (excluding the Super Bowl), in each case for as long as the Jets play home games at the Stadium and at prices and in a manner established by JSD, the Jets or, if applicable, the National Football League."

20. Defendants' marketing materials similarly represent that "PSLs are good for as long as the Jets play in the new building in its current configuration." See <http://www.newyorkjets.com/tickets-and-stadium/faq.html> (last visited on March 15, 2018).

21. The PSL Agreement also gives Plaintiff the right to transfer the PSLs.

22. The PSL Agreement contains a New Jersey choice of law provision: "This PSL Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey applicable to agreements made and to be performed entirely in New Jersey."

23. Plaintiff purchased the PSLs based on Defendants' representations, express and/or implied, that doing so was the only way to obtain the right to purchase 200-level season tickets at the Stadium.

24. Plaintiff has paid and/or is paying the PSL Fee.

25. Having obtained the exclusive right to do so via his PSLs, Plaintiff has purchased, and continues to purchase, season tickets from Jets LLC pursuant to the PSL Agreement.

26. Upon information and belief, at some point after Plaintiff entered into the PSL Agreement, Defendants elected to do away with the PSL requirement for 200-level seats.

27. On or about January 16, 2018, Jets LLC informed Plaintiff, for the first time, that season tickets for seats located in his section would be offered for sale to the public without the requirement of purchasing a PSL.

28. Indeed, Jets LLC is currently advertising the sale of non-PSL 200-level season tickets for sale to the general public on

the Jets' website. See <http://www.newyorkjets.com/tickets-and-stadium/new-stadium/non-psl.html> (last visited on March 15, 2018).

29. Upon information and belief, Jets LLC has sold and is currently selling to the public season tickets for 200-level seats without the requirement of purchasing a PSL.

30. The PSL Agreement, which JSD required Plaintiff to sign, contains identical terms, and/or terms substantially similar, to PSL contracts utilized by JSD in its transactions with other similarly situated individuals.

#### **CLASS ALLEGATIONS**

31. This action is brought, and may properly proceed, as a class action, pursuant to New Jersey Court Rule 4:32(b)(3).

32. Plaintiff seeks certification of a Class, initially defined as follows:

All persons or business entities who, at any time prior to January 1, 2018: (i) entered into a Personal Seat License Agreement with Jets Stadium Development, LLC, for the purchase of a personal seat license covering one or more 200-level seats in Metlife Stadium, whether by cash purchase or finance, (ii) made payment pursuant to the Personal Seat License Agreement, and (iii) as of the date of this Complaint, own a personal seat license covering one or more 200-level seats in Metlife Stadium.

33. The members of the Class for whose benefit this action is being brought are so numerous that joinder of all members is impracticable.

34. Specifically, upon information and belief, there are well over five thousand (5,000) 200-level seats in Metlife Stadium.

Even if: (i) putative Class members purchased PSLs covering only half of the 200-level seats, and (ii) the average putative Class member purchased 2 PSLs, the Class would still consist of over 1,000 members.

35. There are questions of law and fact common to the members of the Class. These common questions include, but are not limited to:

(a) Whether Defendants' conduct of offering 200-level season tickets for sale to the public without a PSL requirement constitutes an unconscionable commercial practice under New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.* ("NJCFA"), with respect to Plaintiff and the proposed Class members;

(b) Whether Defendants' conduct of offering 200-level season tickets for sale to the public without a PSL requirement constitutes a breach of the implied covenant of good faith and fair dealing contained within the PSL Agreement entered into with JSD by Plaintiff and the proposed Class members;

(c) Whether Plaintiff and the proposed Class members are entitled to recover treble damages and

attorney's fees under the NJCFA for the Defendant's violations thereof;

(d) Whether Plaintiff and the proposed Class members are entitled to rescission of their PSL Agreements; and

(e) Whether Section 11(h) of the PSL Agreement used by JSD in the PSL transaction with Plaintiff, and those similarly situated, violated the Truth-in-Consumer Contract, Warranty and Notice Act, N.J.S.A. 56:12-14, *et seq.* ("TCCWNA") by stating: "The maximum liability of JSD to Licensee under any theory of law, including contract or tort, for a breach by JSD under this PSL Agreement shall not exceed the amount of the PSL Fee paid by Licensee," in light of the clearly established legal right of a consumer, pursuant to N.J.S.A. 56:8-19, to recover treble damages for NJCFA violations.

36. Plaintiff asserts claims that are typical of the claims of the members of the Class which he seeks to represent, because all such claims arise out of an identical, or similar, PSL Agreement as the one used by JSD in its PSL transaction with Plaintiff, as well as related representations and/or commercial practices used by Defendants in connection with Plaintiff's PSLs.

37. Plaintiff will fairly and adequately protect the interests of the Class.

38. Plaintiff does not have any interests which are incompatible or contrary to those of the Class.

39. The questions of law or fact common to the Class members, as detailed above, predominate over any questions affecting only individual members.

40. A class action is superior to other available methods for the fair and efficient adjudication of the claims of Plaintiff and the putative Class.

41. Specifically, the Class is too numerous for individual actions and the economic damages are too small to warrant individual actions when compared to the expense and burden of individual litigation.

42. A class action for these claims will provide an orderly and expeditious process for the Class members, and will serve to conserve judicial resources, as well as time and expenses for the Class members.

43. The members of the Class are readily identifiable from the records of Defendants.

44. Plaintiff has retained competent counsel who is experienced in the prosecution of consumer class action litigation. The Proposed Class Counsel will fairly and adequately represent the interests of the Class. Proposed Class Counsel has

identified and investigated the potential claims in this action. Proposed Class Counsel has extensive experience in handling class actions, other complex litigation, and consumer claims of the type asserted in the instant action. Proposed Class Counsel has knowledge of the applicable law for this action and will commit the necessary resources to represent this Class.

**CLASS ACTION CLAIMS**

**COUNT I**

**(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING -  
Jets Stadium Development, LLC)**

45. Plaintiff, individually and on behalf of himself and those similarly situated, repeats and realleges each and every allegation contained in the preceding paragraphs as if set out at length herein.

46. The PSL Agreement contains an implied covenant of good faith and fair dealing.

47. JSD's conduct, as set forth above, has had the effect of destroying or injuring the rights of Plaintiff and the proposed Class members to receive the fruits of the PSL Agreement.

48. In light of JSD's solicitation and acceptance of payment under its PSL Agreement with Plaintiff and the proposed Class members, JSD has acted in bad faith in offering 200-level season tickets for sale to the public without a PSL requirement.

**COUNT II****(Violations of the New Jersey Consumer Fraud Act - Jets Stadium Development, LLC and New York Jets LLC)**

49. Plaintiff, individually and on behalf of himself and those similarly situated, repeats and realleges each and every allegation contained in the preceding paragraphs as if set out at length herein.

50. Defendants' conduct, as set forth above, constitutes an unconscionable commercial practice, as defined in N.J.S.A. 56:8-2.

51. The PSL Agreement granted Plaintiff and the proposed Class members an established legal right; namely, the exclusive right to purchase season tickets for 200-level seats for all Jets home football games at the Stadium.

52. Plaintiff and the proposed Class members paid JSD significant consideration to obtain this right.

53. Defendants were fully aware that Plaintiff and the proposed Class members had this vested right.

54. The exclusive right to purchase season tickets for 200-level seats for all Jets home football games at Metlife Stadium went to the essence of the PSL Agreement.

55. Defendants unilaterally took actions to effectively terminate this right so that season tickets for 200-level seats are now available to the public at large without the requirement of purchasing a PSL.

56. Defendants' conduct, as set forth above, was carried out with a lack of good faith, honesty in fact and observance of fair dealing.

57. As a consequence of Defendants' conduct, Plaintiff has suffered an ascertainable loss.

58. Specifically, Defendants' conduct, as set forth above, has rendered Plaintiff's PSLs, as well as the PSLs of the proposed Class members, valueless or of minimal value.

**COUNT III**

**(Truth-in-Consumer Contract, Warranty and Notice Act - Jets Stadium Development, LLC)**

59. Plaintiff, individually and on behalf of himself and those similarly situated, repeats and realleges each and every allegation contained in the preceding paragraphs as if set out at length herein.

60. Plaintiff, and those similarly situated, are "consumers" within the meaning of the TCCWNA, as set forth in N.J.S.A. 56:12-15.

61. JSD is a seller, lessor, creditor and/or lender within the meaning of TCCWNA, as set forth in N.J.S.A. 56:12-15 and -17.

62. The PSL Agreement used by JSD in its transaction with Plaintiff, and the PSL Agreements used by JSD with members of the

putative Class, are written consumer contracts within the meaning of TCCWNA, as set forth at N.J.S.A. 56:12-15.

63. TCCWNA states, in relevant part:

No seller, lessor, creditor, lender or bailee shall in the course of his business offer to any consumer or prospective consumer or enter into any written consumer contract or give or display any written consumer warranty, notice or sign after the effective date of this act which includes any provision that violates any clearly established legal right of a consumer or responsibility of a seller, lessor, creditor, lender or bailee as established by State or Federal law at the time the offer is made or the consumer contract is signed or the warranty, notice or sign is given or displayed.

N.J.S.A. 56:12-15.

64. Section 11(h) of Plaintiff's PSL Agreement, which states: "The maximum liability of JSD to Licensee under any theory of law, including contract or tort, for a breach by JSD under this PSL Agreement shall not exceed the amount of the PSL Fee paid by Licensee," violates TCCWNA at N.J.S.A. 56:12-15 in that it violates a clearly established legal right of a consumer, pursuant to N.J.S.A. 56:8-19, to recover treble damages for NJCFA violations, such as the violations Plaintiff asserts herein.

65. Pursuant to N.J.S.A. 56:12-17, and as a result of Defendant's violations of TCCWNA, Plaintiff, and all Class members similarly situated, are statutorily entitled to damages of not less than \$100 for each such violation or actual damages, together with reasonable attorney's fees and court costs.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and all others similarly situated, demands Judgment against Defendants as follows:

- A. Certifying this matter as a class action for money damages pursuant to R. 4:32-1(b)(3);
- B. Appointing Plaintiff as Class Representative;
- C. Appointing Plaintiff's attorneys, the Proposed Class Counsel, as Class Counsel;
- D. Awarding Plaintiff and the Class members compensatory damages pursuant to N.J.S.A. 56:8-19;
- E. Awarding Plaintiff and the Class members treble damages pursuant to N.J.S.A. 56:8-19;
- F. Awarding Plaintiff and the Class members compensatory damages due to JSD's breach of the implied covenant of good faith and fair dealing;
- G. Rescission of the PSL Agreements of Plaintiff and the proposed Class;
- H. Awarding Plaintiff and the Class members the maximum civil penalties under TCCWNA, pursuant to N.J.S.A. 56:12-17;
- I. Awarding Plaintiff and the Class members reasonable attorneys' fees and costs pursuant to N.J.S.A. 56:8-19 and N.J.S.A. 56:12-17;
- J. Awarding Plaintiff and the Class members pre-judgment and post-judgment interest; and

- K. Awarding Plaintiff and the Class members such other relief as the Court deems equitable, just, and appropriate.

**COHN LIFLAND PEARLMAN  
HERRMANN & KNOFF LLP**  
*Attorneys for Plaintiff and  
the Putative Class*

BY: /s/Jeffrey W. Herrmann  
Jeffrey W. Herrmann  
A Member of the Firm

Dated: March 16, 2018

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Jeffrey W. Herrmann, Esq., is hereby designated as trial counsel for Plaintiff and the putative class in this matter.

**COHN LIFLAND PEARLMAN  
HERRMANN & KNOFF LLP**  
*Attorneys for Plaintiff and  
the Putative Class*

BY: /s/Jeffrey W. Herrmann  
Jeffrey W. Herrmann  
A Member of the Firm

Dated: March 16, 2018