

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STUART FRANKEL,

Plaintiff,

-against-

LYONS PARTNERSHIP L.P.,

Defendant.

06 Civ. 6413 (LLS) (MHD)

**DEFENDANT'S NOTICE OF
MOTION TO DISMISS**

PLEASE TAKE NOTICE that upon the annexed Declaration of Thomas R. Greenwood and the accompanying Memorandum of Law, defendant Lyons Partnership, L.P. shall move this Court, before the Honorable Louis L. Stanton, United States District Judge, at the United States Courthouse at 500 Pearl Street, New York, New York, on October 27, 2006 at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order dismissing the captioned complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and for such other relief as this Court deems proper.

Dated: New York, New York
September 29, 2006

Respectfully submitted,

GIBNEY, ANTHONY & FLAHERTY, LLP

By: _____

Brian W. Brokate (BW 8430)
Jeffrey E. Dupler (JD 5430)

665 Fifth Avenue
New York, New York 10022
Tel: (212) 688-515
Fax: (212) 688-8315

Attorneys for Defendant Lyons Partnership, L.P.