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Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID M. HOPTMAN, an individual, on
 behalf of himself and others similarly
 situated,

Plaintiff,

vs.

LIVE NATION WORLDWIDE, INC.; and
 DOES 1 to 50, inclusive,

Defendants.

Case No.: **20STCV18776**

**REPRESENTATIVE ACTION
 COMPLAINT**

1. Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 203, 226(a), 226.7, 512 and 2802

JURY TRIAL DEMANDED

Plaintiff DAVID M. HOPTMAN (“Plaintiff”), an individual, on behalf of himself and the people of the State of California and as an “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, § 2699, *et seq.* (“PAGA”) complains against Defendant LIVE NATION WORLDWIDE, INC. (“Defendant”), a corporation, and DOES 1 to 50 (collectively “Defendants”), as follows:

I

INTRODUCTION

1. This is a Representative Action, pursuant to Labor Code § 2699, *et seq.*, on behalf of the following individuals: All persons who are employed or have been employed by

1 LIVE NATION WORLDWIDE, INC., in the State of California since one (1) year prior to the
2 date of Plaintiff's notice letter to the Labor and Workforce Development Agency ("LWDA")
3 and continuing to the present. ("Aggrieved Employees")

4 2. For at least one (1) year prior to the date of the letter sent to the LWDA and
5 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
6 Defendant has had a consistent policy of failing to provide Plaintiff and the Aggrieved
7 Employees a meal period of at least thirty (30) minutes for shifts over five (5) hours, to be
8 provided within the first five (5) hours of the shift, and a second meal period of at least thirty
9 (30) minutes for shifts over ten (10) hours. Defendant failed to maintain a policy informing
10 Plaintiff and the Aggrieved Employees of this right. Defendant failed to provide Plaintiff and
11 the Aggrieved Employees with proper meal periods as required by the Labor Code during the
12 relevant time period.

13 3. For at least one (1) year prior to the date of the letter sent to the LWDA and
14 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
15 Defendant has had a consistent policy of failing to inform employees of their right to take rest
16 periods and of failing to provide employees within the State of California, including Plaintiff,
17 rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and
18 failing to pay such employees one (1) hour of pay at the employees regular rate of compensation
19 for each workday that the rest period was not provided, as required by California state wage and
20 hour laws.

21 4. For at least one (1) year prior to the date of the letter sent to the LWDA and
22 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
23 Defendant has failed to comply with Labor Code § 226(a) by failing to include necessary and
24 required information on wage statements provided to Plaintiff and the Aggrieved Employees.
25 Defendant failed to include the total hours worked, all applicable hourly rates in effect during
26 the pay period, and the corresponding number of hours worked at each hourly rate by the
27 employee.

28 5. For at least one (1) year prior to the date of the letter sent to the LWDA and

1 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
2 Defendant has failed to properly reimburse Plaintiff and Aggrieved Employees the cost of using
3 and maintaining their personal cell phones during the relevant time period in violation of Labor
4 Code § 2802.

5 6. For at least one (1) year prior to the date of the letter sent to the LWDA and
6 Defendant giving notice of this claim pursuant to PAGA and continuing to the present,
7 Defendant has failed to pay all wages due at the time of termination or resignation to Plaintiff
8 and the Aggrieved Employees.

9 7. Plaintiff, on behalf of himself and all Aggrieved Employees, brings this
10 representative action pursuant to Labor Code § 2699, *et seq.* seeking penalties for Defendant's
11 violation of California Labor Code §§ 203, 226(a), 226.7, 512, and 2802.

12 II

13 **JURISDICTION AND VENUE**

14 8. This Court has subject matter jurisdiction over all causes of action asserted
15 herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil
16 Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in
17 controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted
18 arises under the laws of the State of California or is subject to adjudication in the courts of the
19 State of California.

20 9. This Court has personal jurisdiction over Defendant because Defendant has
21 caused injuries in the County of Los Angeles and the State of California through their acts, and
22 by their violation of the California Labor Code and California state common law.

23 10. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
24 Civil Procedure § 395. Defendant operates within California and does business within Los
25 Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and
26 Aggrieved Employees within the State of California and the County of Los Angeles.

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III

PARTIES

A. PLAINTIFF

11. Plaintiff DAVID M. HOPTMAN is a resident of California.

12. Plaintiff and the Aggrieved Employees were regularly required to:

a. Work without being provided their meal periods;

b. Work without being provided their rest periods;

c. Work without being provided accurate itemized wage statements that properly indicate the total hours worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee; and

d. Work without being reimbursed for expenses as a condition of employment.

13. Defendant willfully failed to compensate Plaintiff and all Aggrieved Employees for wages at the termination of their employment with Defendant.

14. Plaintiff and all current and former employees are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

B. DEFENDANTS

15. Defendant LIVE NATION WORLDWIDE, INC. is believed to be a Delaware corporation operating within the State of California. Defendant's corporate address is believed to be 9348 Civic Center Drive, Beverly Hills, CA 90210. Upon information and belief, Defendant employed Plaintiff and similarly situated persons as employees within California. Defendant has done and does business throughout the State of California.

16. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names

1 and capacities of the Defendants designated hereinafter as DOES when such identities become
2 known.

3 17. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
4 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
5 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
6 Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all
7 respects acted as the employer and/or joint employer of Plaintiff and the Aggrieved Employees.

8 IV

9 **FACTUAL BACKGROUND**

10 18. Plaintiff and the Aggrieved Employees are, and at all times pertinent hereto, have
11 been classified as non-exempt hourly employees by Defendant.

12 19. Upon information and belief, Plaintiff and the Aggrieved Employees are covered
13 by California Industrial Welfare Commission Occupational Wage Order No. 4-2001 (Title 8
14 Cal. Code of Regs. § 11040).

15 20. On a regular and consistent basis, Plaintiff and the Aggrieved Employees have
16 been forced by Defendant to work over five (5) hours in one day without being provided a thirty
17 (30) minute uninterrupted meal break and not being compensated one (1) hour of pay at the
18 regular rate of compensation for each workday that a meal period was not provided or provided
19 after five (5) hours. Additionally, Plaintiff and the Aggrieved Employees have been forced by
20 Defendant to work over ten (10) hours in one day without being provided a second thirty (30)
21 minute uninterrupted meal period and not being compensated one (1) hour of pay at the regular
22 rate of compensation for each workday that a second meal period was not provided or provided
23 after ten (10) hours. Defendant failed to inform Plaintiff and the Aggrieved Employees of their
24 right to take meal periods by way of a lawful policy.

25 21. Plaintiff and the Aggrieved Employees have been required to work four-hour
26 increments (or major fractions thereof) without being provided with a ten (10) minute rest
27 period. Additionally, Defendant failed to inform Plaintiff and the Aggrieved Employees of their
28 right to take rest periods by way of a lawful policy.

22. Defendant has failed to provide accurate itemized wage statements in compliance with Labor Code § 226(a) that properly indicate the total hours worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

23. On a regular and consistent basis, Plaintiff and the Aggrieved Employees have not been properly reimbursed expenses associated with the cost of using and maintaining their personal cell phones. These expenses were incurred as a necessary part of the performance of Plaintiff's and the aggrieved employees' job duties.

24. Defendant willfully failed to pay wages and compensation, when Plaintiff and all Aggrieved Employees quit or were discharged. Defendant failed to pay the wages described above at the time of termination or resignation. This failure was willful, without legal justification, and interfered with Plaintiff's and the Aggrieved Employees' rights.

25. As a result of the acts alleged herein, Defendant violated Labor Code § 2699, *et seq.*

V

FIRST CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.

26. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

27. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts over ten (10) hours. Defendant failed to maintain a policy informing Plaintiff and the Aggrieved Employees of this right. Defendant failed to provide Plaintiff and the Aggrieved Employees with proper meal periods as required by the Labor Code during the relevant time period.

28. Labor Code § 226.7 requires an employer to pay an additional hour (1) of

1 compensation for each rest period the employer fails to provide. Employees are entitled to a
2 paid ten (10) minute rest break for every four (4) hours worked (or major fraction thereof).
3 Defendant failed to maintain a policy informing Plaintiff and the Aggrieved Employees of this
4 right. Plaintiff and the Aggrieved Employees consistently worked shifts with no rest breaks or
5 with only some of their required rest breaks during the relevant time period.

6 29. Labor Code § 226(a) requires employers to itemize in wage statements all
7 deductions from payment of wages, the appropriate rates of pay, and to accurately report total
8 hours worked by Plaintiff and the aggrieved employees.

9 30. Labor Code § 226(a)(2) requires that the itemized wage statement properly state
10 the total hours worked by the employee. Plaintiff and the Aggrieved Employees are issued
11 wage statements that do not state the total hours worked during the pay period.

12 31. Labor Code § 226(a)(9) requires that the itemized statement in writing showing
13 all applicable hourly rates in effect during the pay period and the corresponding number of
14 hours worked at each hourly rate by the employee. Plaintiff and the Aggrieved Employees are
15 issued wage statements that do not include all applicable hourly rates in effect during the pay
16 period and the corresponding number of hours worked at each hourly rate by the employee.

17 32. Labor Code § 2802 requires employers to indemnify employees for all necessary
18 expenditures incurred by employees in the discharge of their duties. Defendant has failed to
19 reimburse Plaintiff and the Aggrieved Employees the cost of using and maintaining their
20 personal cell phones. These expenses were incurred as a necessary part of the performance of
21 Plaintiff's and the aggrieved employees' job duties. As a result, Defendant has violated Labor
22 Code § 2802.

23 33. Defendant's failure to pay wages, as alleged above was willful in that Defendant
24 knew wages to be due but failed to pay them, thus entitling Plaintiff and the Aggrieved
25 Employees to penalties under Labor Code § 203, which provides that an employee's wages shall
26 continue as a penalty until paid for a period of up to thirty (30) days from the time they were
27 due. Defendant has failed to pay Plaintiff and others a sum certain at the time of termination or
28 within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty

1 (30) days thereafter in violation of Labor Code § 203.

2 34. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
3 § 2699, *et seq.* because of Defendant's violation of Labor Code §§ 203, 226(a), 226.7, 512, and
4 2802, which call for civil penalties.

5 35. For each such violation, Plaintiff and all other Aggrieved Employees are entitled
6 to penalties in an amount to be shown at the time of trial subject to the following formula:

- 7 a. \$100 for the initial violation per employee per pay period; and
8 b. \$200 for each subsequent violation per employee per pay period.

9 36. These penalties will be allocated 75% to the Labor Workforce Development
10 Agency and 25% to the affected employees.

11 37. On March 12, 2020, in compliance with Labor Code § 2699.3(a)(1), Plaintiff
12 gave written notice by online filing to the LWDA, setting forth the facts and theories of the
13 violations alleged against Defendant ("Notice Letter", see Exhibit "1") and paid the filing fee.
14 Plaintiff also mailed notice to Defendant by certified mail, return receipt requested, to the
15 address listed on the California Secretary of State's website as the entity address for LIVE
16 NATION WORLDWIDE, INC., which is 9348 Civic Center Drive, Beverly Hills, CA 90210.
17 (See Exhibit "2").

18 38. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff
19 from the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of
20 March 12, 2020. Therefore, Plaintiff is entitled to commence a civil action as though the
21 LWDA has chosen not to investigate. Plaintiff will also provide the LWDA with a filed-
22 stamped copy of the Representative Action Complaint immediately.

23 **RELIEF REQUESTED**

24 **WHEREFORE**, Plaintiff prays for the following relief:

- 25 1. For penalties and other relief pursuant to Labor Code § 2699, *et seq.*;
26 2. An award of prejudgment and post judgment interest;
27 3. An award providing for payment of costs of suit;
28 4. An award of attorney's fees; and

1 5. Such other and further relief as this Court may deem proper and just.

2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

4
5 DATED: May 18, 2020

KINGSLEY & KINGSLEY, APC

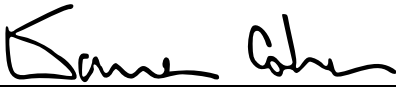
6
7 By: 
8 DARREN M. COHEN
9 Attorneys for Plaintiff and the Aggrieved Employees

EXHIBIT 1

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Service Email](#)
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, March 12, 2020 3:20:14 PM

3/12/2020

LWDA Case No. LWDA-CM-778034-20
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : David M. Hoptman
Employer: Live Nation Worldwide, Inc.

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 2



March 12, 2020

PAGAfilings@dir.ca.gov
<https://dir.tfaforms.net/266>

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

LIVE NATION WORLDWIDE, INC.
9348 Civic Center Drive
Beverly Hills, CA 90210
Certified Mailing: # 7015 0640 0003 6593 1660

Re: DAVID M. HOPTMAN V. LIVE NATION WORLDWIDE, INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents David M. Hoptman (“Plaintiff”) for the violations of California Labor Code §§ 203, 226(a), 226.7, 512, and 2802. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et seq.* We herein set forth the facts and theories of California Labor Code violations, which we allege Live Nation Worldwide, Inc. (“Defendant”) engaged in with respect to our client and all of their California employees.

Specifically, Defendant has violated Labor Code § 512. Labor Code § 512 states that an employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes. Additionally, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that a thirty-minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide compliant meal periods. Defendant required Plaintiff and the aggrieved employees to work shifts without providing them with meal periods. When employees were required

to work through meal periods, Defendant failed to pay such employees one hour of pay at their regular rate of compensation.

Further, pursuant to Labor Code § 226.7 and Wage Order 4-2001, Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to provide Plaintiff and the aggrieved employees with these rest periods and failed to inform them of their right to rest periods. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7.

Defendant engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Specifically, Labor Code § 226(a)(2) requires that the itemized wage statement properly state the total hours worked by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not state the total hours worked during the pay period. Labor Code § 226(a)(9) requires that the itemized wage statement properly state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the aggrieved employees are issued wage statements that do not include the applicable regular rate, overtime rate, and double time rates. In addition, Plaintiff and the aggrieved employees are issued wage statements that do not include the correct number of hours worked at each applicable hourly rate and do not include meal/rest period premiums. Thus, Plaintiff is aggrieved employees within the meaning PAGA and Defendant has violated Labor Code § 226(a) with respect to Plaintiff and the aggrieved employees.

In addition, Labor Code § 2802 and Wage Order 4-2001 require employers to indemnify employees for all necessary expenditures incurred by employees in the discharge of their duties. Defendant has failed to properly reimburse Plaintiff and aggrieved employees the cost of using and maintaining their personal cell phones. These expenses were incurred as a necessary part of the performance of Plaintiff's and the aggrieved employees' job duties. As such, Defendant violated Labor Code § 2802.

Lastly, Defendant failed to pay Plaintiff and the aggrieved employees all wages at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

Defendant's failure to provide meal and rest periods, failure to provide compliant itemized wage statements, failure to reimburse expenses, and failure to pay all wages upon termination/resignation were all done on a regular and consistent basis.

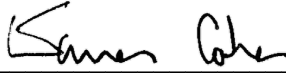
We are constrained to move forward with the filing of this complaint alleging causes of action

LABOR & WORKFORCE DEVELOPMENT AGENCY
LIVE NATION WORLDWIDE, INC.
California Labor Code § 2699 Penalties
March 12, 2020
Page 3 of 3

pursuant to Labor Code §§ 203, 226(a), 226.7, 512, and 2802, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

DARREN M. COHEN

DMC/mt

LWDA Filed Electronic Submission via <https://dir.tfaforms.net/266>
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
LIVE NATION WORLDWIDE, INC. # 7015 0640 0003 6593 1660