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11 Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14  
15 ANIL GUPTA, COLIN GHARRITY, and  
16 MORGAN KATZ, individually and on behalf of all  
others similarly situated,

17 Plaintiffs,

18 vs.

19 LIVE NATION WORLDWIDE INC.; LIVE  
20 NATION ENTERTAINMENT, INC.; and DOES 1  
through 50, inclusive,

21 Defendants.  
22

Case No. 2:21-cv-07081

**COLLECTIVE ACTION**

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

Failure to Pay Overtime Wages under the Fair  
Labor Standards Act

1 **I. INTRODUCTION**

2 1. Plaintiffs Anil Gupta, Colin Gharrity, and Morgan Katz bring this collective action  
3 against Defendants Live Nation Worldwide, Inc., Live Nation Entertainment, Inc., and DOES 1  
4 through 50, inclusive (collectively, “Live Nation” or “Defendants”), on behalf of themselves and all  
5 other similarly situated individuals employed by Live Nation under the titles of “Senior Directors,”  
6 “Directors,” “Sales Managers,” “Sales Coordinators,” or other inside sales representative whose  
7 primary duty is and was to sell, cross-sell, and upsell Live Nation’s products and services while at Live  
8 Nation’s offices (collectively, “Reps”).

9 2. This Complaint challenges Live Nation’s misclassification of its inside sales  
10 representatives as exempt from the FLSA’s overtime requirements.

11 3. During the entire collective action period, Live Nation uniformly and consistently  
12 misclassified Reps as exempt from overtime requirements under the FLSA.

13 4. During the entire relevant period, Live Nation uniformly and consistently required Reps  
14 to work more than forty (40) hours in a week without overtime pay.

15 5. As a result, Plaintiffs brings this FLSA collective action alleging that they and all other  
16 current and former Reps: (i) were misclassified as exempt from the overtime protections of the FLSA;  
17 (ii) are entitled to unpaid wages from Live Nation for work performed over forty (40) hours per week  
18 for which they did not receive any overtime compensation; and (iii) are entitled to liquidated damages  
19 pursuant to the FLSA.

20 **II. JURISDICTION AND VENUE**

21 6. This Court has jurisdiction over Plaintiffs’ federal FLSA claim under 28 U.S.C. § 1331.

22 7. Venue is proper in this Court under 28 U.S.C. § 1391 because, upon information and  
23 belief, Defendants reside in this district and a substantial part of the events or omissions giving rise to  
24 Plaintiffs’ claims occurred in this district.

25 **III. PARTIES**

26 8. Plaintiff Gupta is a former Live Nation Director of Sales for Premium Seating. His  
27 employment with Live Nation ended in October 2017.

1 9. Plaintiff Gharrity is a former Live Nation Director of Sales for Premium Seating. His  
2 employment with Live Nation ended in August 2019.

3 10. Plaintiff Katz is a former Live Nation Senior Director of Sales for Premium Seating.  
4 Her employment with live nation ended in December 2018.

5 11. Defendant Live Nation Worldwide is a Delaware Corporation with its principal place of  
6 business in Beverly Hills, California and is the employer of Plaintiffs and other Reps.

7 12. Defendant Live Nation Entertainment is a Delaware Corporation that is jointly and  
8 severally liable as the employer of Plaintiffs and other Reps because it employed, exercised control  
9 over, and possessed the right to control and direct the wages, hours, and working conditions of  
10 Plaintiffs and other Reps. On information and belief, Live Nation Entertainment controlled the  
11 employment decisions of its subsidiary, Life Nation Worldwide. On information and belief, a unity of  
12 interest and ownership exists between Live Nation Entertainment and Live Nation Worldwide such  
13 that both entities acted as a single employer of Plaintiffs and other Reps.

14 13. Plaintiffs do not know the true names or capacities, whether individual, corporate,  
15 partner, associates, or otherwise, of Live Nation sued as DOES 1 through 50, inclusive, and he  
16 therefore sues such Defendants by fictitious names under Code of Civil Procedure section 474.  
17 Plaintiffs are informed and believes that each DOE Defendant is legally responsible in some manner  
18 for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to  
19 reflect the true names and capacities of the Defendants designated as DOES when such identities  
20 become known.

21 14. At all times herein mentioned, Defendants, and each of them, were agents, partners,  
22 joint venturers, representatives, servants, employees, successors-in-interest, co-conspirators and  
23 assigns, each of the other, and at all times relevant hereto were acting within the course and scope of  
24 their authority as such agents, partners, joint venturers, representatives, servants, employees,  
25 successors, co-conspirators and assigns, and that all acts or omissions alleged herein were duly  
26 committed with ratification, knowledge, permission, encouragement, authorization and consent of each  
27 Defendant designated herein.

28

1 **IV. FACTUAL BACKGROUND**

2 15. Plaintiffs seek to represent similarly situated current and former employees of Live  
3 Nation whose primary duty is and was to sell, cross-sell, and upsell Live Nation’s products and  
4 services while at Live Nation’s offices, including but not limited to, inside sales representatives who  
5 hold or held the job title of “Senior Director,” “Director,” “Sales Manager,” or “Sales Coordinator.”

6 **A. Live Nation Uniformly Misclassifies Reps as Exempt from Overtime**

7 16. Pursuant to a common policy and practice, Live Nation misclassified Plaintiffs and  
8 other Reps as exempt instead of their true status as non-exempt employees.

9 **B. Live Nation Fails to Pay Reps Overtime Wages**

10 17. As a result of Live Nation’s misclassification, Live Nation fails to pay Reps overtime  
11 compensation.

12 18. Reps are not paid one and one-half times their regular rate of pay for the overtime hours  
13 they work beyond forty (40) in a workweek.

14 19. Reps’ regular compensation includes both salary wages and commission wages. Reps’  
15 commission wages do not represent more than half of their total compensation.

16 **C. Live Nation Fails to Keep Accurate Payroll Records for Reps**

17 20. Live Nation has failed to keep accurate payroll records of Reps’ wages and hours  
18 worked as required by the FLSA under 29 U.S. Code § 211(c).

19 21. Because of Live Nation’s misclassification, Live Nation did not maintain any system to  
20 track and record Plaintiffs and other Reps’ actual time worked each day during their terms of  
21 employment.

22 **V. COLLECTIVE ACTION ALLEGATIONS**

23 22. Plaintiffs, on behalf of themselves and all others similarly situated, re-alleges and  
24 incorporates by reference the allegations contained in the foregoing paragraphs as if fully set forth  
25 herein.

26 23. Pursuant to 29 U.S.C. § 216, Plaintiffs seek to prosecute the FLSA claims as a  
27 collective action on behalf of  
28

1 All current and former employees of Live Nation who have been given the  
2 titles of “Senior Director,” “Director,” “Sales Manager,” “Sales  
3 Coordinator,” or any other similar sales representatives whose primary  
4 duty is and was to sell, cross-sell, and upsell Live Nation’s products and  
5 services while at Live Nation’s offices in any state from three years prior  
6 to the filing of this Complaint to the close of the opt-in period (“Collective  
7 Action Members”).

8 24. There are numerous similarly situated current and former Reps throughout the United  
9 States who would benefit from the issuance of a Court-supervised notice. Those similarly situated  
10 employees are known to Live Nation and are readily identifiable through Live Nation’s records.

11 25. Plaintiffs and Collective Action Members are similarly situated because, among other  
12 things, they all: (a) had the same duties; (b) performed the same tasks; (c) were misclassified as exempt  
13 from overtime wages; (d) were paid under the same pay plans; (e) were required, suffered, or permitted  
14 to work, and did work in excess of forty (40) hours per week; and (f) were not paid at a rate of one and  
15 one-half times their regular rate of pay for all overtime hours worked.

16 26. As part of its regular business practice, Live Nation intentionally, willfully, and  
17 repeatedly engaged in a uniform pattern, practice, and/or policy of violating the FLSA with respect to  
18 the Collective Action Members. This policy and pattern or practice included, but is not limited to,  
19 willfully: (a) misclassifying Reps as exempt from overtime wages; (b) failing to pay Reps overtime  
20 wages for hours that they worked over forty (40) hours per workweek; and (c) failing to record all of  
21 the time that Reps worked for the benefit of Live Nation.

22 27. Live Nation was aware or should have been aware that federal law required it to pay  
23 employees an overtime premium for hours worked in excess of forty (40) hours per workweek.

24 28. Live Nation’s deceptive conduct prevented Plaintiffs and all other Collective Action  
25 Members from discovering or asserting their claims earlier than they did because Live Nation, among  
26 other things, repeatedly declared that Reps were exempt from overtime.  
27  
28

**FIRST CAUSE OF ACTION**  
**Violations of the Fair Labor Standards Act**  
**[29 U.S.C. §§ 201 *et seq.*]**

1  
2  
3       29. Plaintiffs, on behalf of themselves and all Collective Action Members, re-allege and  
4 incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth  
5 herein.

6       30. Live Nation has been, and continues to be, an employer engaged in interstate commerce  
7 and/or the production of goods for commerce, within the meaning of the FLSA.

8       31. Live Nation employed and/or continues to employ Plaintiffs and Collective Action  
9 Members within the meaning of the FLSA.

10       32. Live Nation has had annual gross revenues in excess of \$500,000.

11       33. Plaintiffs expressly consent in writing to be a party to these collective actions pursuant  
12 to 29 U.S.C. § 216(b).

13       34. Plaintiffs and Collective Action Members are non-exempt employees.

14       35. However, Live Nation misclassifies Reps, including Plaintiffs and Collective Action  
15 Members, as exempt employees.

16       36. Live Nation has a policy or practice of refusing to pay any overtime compensation to  
17 Reps for hours worked in excess of forty (40) hours per week.

18       37. Live Nation has violated and continues to violate the FLSA, including §§ 207(a)(1) and  
19 215(a) because Live Nation willfully fails to compensate its Reps for all hours worked and at a rate not  
20 less than one and one-half times their regular rate of pay for work performed in excess of forty (40)  
21 hours in a workweek.

22       38. Live Nation's conduct, as alleged, constitutes a willful violation of the FLSA within the  
23 meaning of the statute, 29 U.S.C. § 255(a).

24       39. Due to Live Nation's FLSA violations, Plaintiffs, on behalf of themselves and all  
25 Collective Action Members, are entitled to recover from Live Nation unpaid wages, as well as  
26 overtime compensation, an additional amount equal to the unpaid wages and overtime as liquidated  
27 damages, reasonable attorneys' fees, and costs pursuant to § 216(b) of the FLSA, as well as further  
28 relief as described below.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs prays for judgment for themselves and for all others on whose behalf this suit is brought against Live Nation, jointly and severally, as follows:

A. Designate this action as a collective action on behalf of the Collective Action Members and authorize issuance of notice pursuant to 29 U.S.C. § 216(b) to all Collective Action Members, apprising them of the pendency of this action and permitting them to timely assert FLSA claims in this action by filing individual consents to opt into this proceeding;

B. Declare that Live Nation misclassified all Collective Action Members under the FLSA as exempt from overtime wages under 28 U.S.C. §§ 2201 and 2202;

C. Award unpaid wages, including all overtime compensation, due under the FLSA, to Plaintiffs and Collective Action Members;

D. Award pre-judgment and post-judgment interest;

E. Award reasonable attorneys’ fees;

F. Award costs and expenses of this action; and

G. Award such other relief as this Court deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiffs demand a trial by jury on claims so triable.

Dated: September 2, 2021

Respectfully submitted,

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Live Nation Sales Reps Misclassified as Exempt from Overtime Pay](#)

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