

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

MICHELLE HOLLAND and THOMAS
WILHELM, on behalf of themselves and
all others similarly situated,

Case No.:

Plaintiffs,

Judge:

v.

LIVE NATION WORLDWIDE, INC., a
foreign corporation, and MADONNA
LOUISE CICCONE,

CLASS ACTION COMPLAINT

Plaintiffs, MICHELLE HOLLAND and THOMAS WILHELM, individually and as Class Representatives, sue Defendants, LIVE NATION WORLDWIDE, INC., a foreign corporation (“Live Nation”), and MADONNA LOUISE CICCONE (“Madonna”), and state:

NATURE OF THE ACTION

1. This cause of action arises out of the representations and subsequent ticket sales by Defendants regarding a concert that Madonna was going to perform as part of her Madame X Tour. The Tour was promoted and marketed as something altogether different than any tour Madonna had performed since becoming an international superstar: it would be a personal, intimate theatre tour in which Madonna would play smaller venues than normal over a longer period of time than she usually stayed in a city. It was supposed to be the ultimate Madonna experience for Madonna fans. However, Madonna began to grudgingly attend tour dates early on in the Tour, routinely showed up late, and cancelled numerous tour dates in the leadup to the Miami, Florida concert scheduled for December 22, 2019.

2. Citing health concerns, Madonna canceled the December 22, 2019 Tour date approximately 15 minutes before it had initially been set to begin. However, inside sources told the Daily Mail that, in fact, a “furious” Madonna had thrown a temper tantrum while warming up before firing two employees and then ultimately canceling the show. A Facebook user wrote, “[s]he threw a fit at rehearsals and was upset for low ticket sales and the venues unprofessionalism and said she was out.” This lawsuit concerns the fans who relied on her representations and prepared themselves for what was supposed to be a truly special experience.

PARTIES, JURISDICTION, AND VENUE

3. This is an action for damages exceeding \$30,000.00, exclusive of attorney’s fees and costs.

4. The Class Representatives, Michelle Holland and Thomas Wilhelm, are individuals over the age of 18 who are otherwise sui juris.

5. Defendant, Live Nation, is a foreign corporation that is registered to do business in the State of Florida and that transacts business in the State of Florida, which is otherwise sui juris.

6. Defendant, Madonna, is an individual doing business in the State of Florida as a concert performer under the name “Madonna” and is otherwise sui juris.

7. Venue is proper in Miami-Dade County, Florida because causes of action accrued in Miami-Dade County, Florida.

8. All conditions precedent have been fulfilled, waived, or occurred.

COMMON FACTUAL ALLEGATIONS

9. Live Nation Entertainment, Inc. (“Live Nation Entertainment”) styles itself as the “GLOBAL LEADER IN LIVE ENTERTAINMENT” and markets itself to customers as being driven by their concerns: “FAN DRIVEN.” It acknowledges that it is “the world’s leading ticketing

platform.” Included in its promise is that one of “Live Nation’s guiding principles is to take care of fans”

10. Upon information and belief, Live Nation Entertainment owns and operates a website called Ticketmaster.com (“Ticketmaster”) through which Live Nation Entertainment provides tickets to music concerts and other entertainment and sporting events.

11. Live Nation is a subsidiary of Live Nation Entertainment.

12. Tickets to Madonna’s “Madame X” concert tour were offered by Ticketmaster. Ticketmaster maintains a Terms of Use and Purchase Policy on its website which purports to bar class action lawsuits.

13. Neither Plaintiffs, Michelle Holland or Thomas Wilhelm, nor any other ticketholder class of members agreed to or were bound by the Terms of Use on Ticketmaster’s website. Ticketmaster is not a party to this action and its Terms of Use are unenforceable under Florida law.

14. Live Nation teamed up with Madonna to announce and deliver “the ultimate opportunity” for Madonna fans in presenting the Madame X Tour (the “Tour”), which tour was to include a series of concert dates in various cities, including Miami, Florida. These performances were promised to be “very special.”¹

15. In the announcement, Madonna emphasized that she was “going on a theater tour” that would be “special” because there is “magic” and “intimacy” to a theater and she wanted “to have an intimate experience with” her fans.²

16. For purposes of the Tour, Live Nation acted as promoter and agent for Madonna.

¹ *Madonna Madame X Tour Intimate Concert Experience Announced in Limited Number of Cities Beginning September 12*, <https://www.livenationentertainment.com/2019/05/madonna-madame-x-tour-intimate-concert-experience-announced-in-limited-number-of-cities-beginning-september-12/>, (last accessed April 18, 2020).

² *Madonna – A Madame X Tour Announcement*, <https://www.youtube.com/watch?v=Iv4SgNWSR8E&feature=youtu.be> (last accessed April 18, 2020).

17. On or about December 21, 2019, Michelle Holland purchased, for valuable consideration, in the amount of \$1,884.67, two tickets to attend a musical performance on December 22, 2019 by Madonna, during the Tour.

18. On or about November 27, 2019, Thomas Wilhelm purchased, for valuable consideration, in the amount of \$1,132.00, two tickets to attend a musical performance on December 22, 2019 by Madonna, during the Tour.

19. Madonna has a long history of arriving and starting her concerts late, often more than two hours late. This history occurred throughout her 2016 Rebel Heart Tour where Madonna continuously started her concerts in excess of two hours late.

20. The initial concert for the Tour that took place in Brooklyn, New York on September 17, 2019 started nearly two and a half hours late. At the concert, Madonna apologized to the audience and admitted that the late start was her fault.

21. Madonna continued to appear late to concerts for the Tour for dates in Brooklyn, New York and Chicago, Illinois in September and October 2019.

22. At one such concert in Las Vegas, Nevada, Madonna boasted, “There’s something that you all need to understand ... And that is that a queen is never late.”³

23. On October 23, 2019, Madonna and Live Nation, due to Madonna’s consistently late starts to her concerts, changed the start time for all subsequent concert dates on the Madame X Tour from 8:30 p.m. to 10:30 p.m.

24. Madonna was scheduled to perform seven dates of the Tour at The Fillmore Miami Beach, in Miami Beach, Florida, including December 14, 15, 17, 18, 19, 21, and 22, 2019.

³ *Madonna, Live Nation Sued by Fan Over Concert Start Delays*, <https://www.ticketnews.com/2019/11/madonna-live-nation-sued-late-starts/> (last accessed April 18, 2020).

25. Prior to the December 22, 2019 performance, Madonna had canceled six Tour dates: September 15, 2019, October 7, 2019, November 12, 2019, November 30, 2019, December 1, 2019, and December 2, 2019.

26. With regard to the six canceled Tour dates, the cited reason for four of the six Tour dates was injury.⁴

27. The December 22, 2019 date was to be the last date in Florida.

28. However, after already having rescheduled the concert from 8:30 p.m. to 10:30 p.m., Madonna and Live Nation cancelled the December 22, 2019 Tour date at approximately 8:15 p.m. on the date of the concert.

29. With regard to the cancellation, Madonna stated:

We regret to inform you that Madonna is unable to perform this evening. The Madame X concert scheduled for tonight December 22nd at The Fillmore Miami Beach at Jackie Gleason Theater is cancelled.

Interestingly, this statement from Madonna did not state a reason for the late cancellation. Upon information and belief, Plaintiffs believe Madonna, who had been served earlier that day with a lawsuit from her former husband, Guy Ritchie regarding custody, was upset and furious. Upon further information and belief, Madonna threw a temper tantrum while warming up at the venue before firing two employees and then ultimately canceling the show. As stated earlier herein, upon information and belief, Madonna was upset because of low ticket sales for that evening's performance and over the venue's unprofessionalism.

⁴ *Madonna injured, postpones 'Madame X' concert in Brooklyn*, <https://nypost.com/2019/10/07/madonna-injured-postpones-brooklyn-madame-x-show/> (last accessed April 18, 2020); *Madonna Cancels Boston Madame X Dates on Doctor's Orders*, <https://www.billboard.com/amp/articles/business/touring/8545001/madonna-cancels-boston-madame-x-concerts> (last accessed April 18, 2020).

However, Madonna did not offer details about the nature of the injury.⁵

30. Upon information and belief, the December 22, 2019 Tour date was not cancelled because of an injury.

31. Alternatively, upon information and belief, the December 22, 2019 Tour date could have been cancelled at an earlier and more convenient time.

32. Defendants eventually offered refunds for the face value of the tickets. However, this offer did not fully compensate Plaintiffs for the damages they suffered.

CLASS REPRESENTATION ALLEGATIONS

33. **Class Definition:** Plaintiffs, Michelle Holland and Thomas Wilhelm, bring this action pursuant to rule 1.220, Florida Rules of Civil Procedure, both on behalf of themselves and on behalf of the following class:

All individuals throughout the United States who purchased a ticket or tickets or became a ticketholder to a concert that was to have been performed by Madonna, as part of the Madame X Tour, in Miami Beach, Florida on December 22, 2019.

34. The following people are excluded from the Class: (1) any judge or magistrate presiding over this action and members of their families; (2) defendants, defendants' subsidiaries, parents, successors, predecessors, and any entity in which defendants or their parents have a controlling interest, and its current or former employees, officers, and directors; (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) plaintiffs' counsel and defendants' counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

⁵ *Madonna cancels final North American concert in Miami due to injury*, https://www.upi.com/Entertainment_News/Music/2019/12/25/Madonna-cancels-final-North-America-concert-in-Miami-due-to-injury/8421577296225/ (last accessed April 18, 2020).

35. Plaintiffs reserve the right to modify or amend the definition of the proposed Class and/or to add subclasses, if deemed necessary, before this Court determines whether certification is appropriate.

36. **Numerosity pursuant to rule 1.220(a)(1):** While the exact number of class members is unknown at this time, there are hundreds, if not thousands of tickets purchased for the December 22, 2019 Tour date, the purchasers of which are each potential class members in this action.

37. The number of class members is so numerous that separate joinder of each member is impractical.

38. **Common questions of law and fact pursuant to rule 1.220(a)(2):** This action poses questions of law and fact that are common to and effect the rights of all members of the class. Common questions of fact and law exist as to all members of the class and such questions predominate over any questions solely affecting any individual member of the class. The common questions include, but are not limited to:

- (a) Whether there was a reasonable expectation that the concert would occur on December 22, 2019;
- (b) Whether there was a reasonable expectation that the concert, if it were to be canceled, would be canceled within approximately 15 minutes of the originally-scheduled start time;
- (c) Whether, subsequent to the knowledge that the concert may be canceled, Defendants owed a duty to warn of the possibility of a cancelation;
- (d) Whether Defendants breached their contracts in canceling the December 22, 2019 Tour date;

- (e) Whether Defendants actions or omissions unfairly interfered with Plaintiffs' and all other members of the class' receipt of the contracts' benefits;
- (f) Whether it was likely that Tour dates would be canceled;
- (g) Whether Defendants knew that Tour dates were likely to be canceled;
- (h) Whether Defendants should have known that Tour dates were likely to be canceled;
- (i) Whether Defendants misrepresented Madonna's willingness to perform concerts scheduled on the Tour;
- (j) Whether Defendants misrepresented Madonna's ability to perform concerts scheduled on the Tour; and
- (k) Whether Plaintiffs and all other members of the class suffered damages.

39. **Typicality pursuant to rule 1.220(a)(3):** Based on the facts and circumstances set forth herein, Plaintiffs', Michelle Holland and Thomas Wilhelm, claims are typical of the claims of the members of the class in that they arise out of the same wrongful conduct of Live Nation and Madonna, with regard to the same set of circumstances occurring in the same city and during the same period of time, as described herein.

40. Further, other individual plaintiffs may elect to join this action upon such grounds as this Court may set forth and these individuals will likewise have issues that are common to those of all other class members.

41. **Avoidance of risk pursuant to rule 1.220(b)(1):** The prosecution of separate claims or defenses by or against individual members of the class would create a risk of either inconsistent or varying adjudications concerning individual member of the class which would establish incompatible standards of conduct for the party opposing the class and/or adjudications concerning individual members of the class which would, as a practical matter, be dispositive of

the interests of other members of the class who are not parties to the adjudications, or substantially impair or impede the ability of other members of the class who are not parties to the adjudications to protect their interests.

42. **Appropriateness of declaratory or injunctive relief pursuant to rule 1.220(b)(2):** Live Nation and Madonna have acted or refused to act on grounds generally applicable to all the members of the class with regard to the late cancellation of the December 22, 2019 Tour date, thereby making final injunctive relief or declaratory relief concerning the class as a whole appropriate.

43. **Superiority pursuant to rule 1.220(b)(3):** The questions of law or fact common to the claim of the representative party and the claim of each member of the class predominate over any question of law or fact affecting only individual members of the class, and class representation is superior to other available methods of adjudication. Because the amount of each individual members of the class' claim is very small relative to the complexity of the litigation and because the financial resources of Live Nation and Madonna are enormous, no member of the class could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the members of the class will continue to suffer losses and defendants' conduct will proceed without remedy. In addition, even if members of the class themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action present far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing

individual lawsuits, and provides the benefits of adjudication, economies of scale, and comprehensive supervision by a single court

44. The respective interests of each member of the class in individually controlling the prosecution of separate claims is minimal, inasmuch as the claims would be similar and each claim, individually, would be too small to warrant individual litigation, thereby making controlling the prosecution meaningless in light of the fact that such claims would not be pursued.

45. Upon information and belief, there is no pending litigation involving a member of the class which poses a question of law or fact that would be controverted in this action.

46. This forum presents a desirable location for the litigation because the concert was scheduled to occur in Miami-Dade County, Florida and the venue is located in Miami-Dade County, Florida.

47. There are likely minimal difficulties in managing the claim on behalf of the class because the class will be limited to the capacity of the venue, which is no more than 2,462 seats and the members of the class are unlikely to have opposing interests.

48. Based on the facts and circumstances set forth herein, Plaintiffs, Michelle Holland and Thomas Wilhelm, will fairly and adequately protect and represent the interests of each member of the class. Plaintiffs, Michelle Holland and Thomas Wilhelm, each purchased tickets to the December 22, 2019 Tour date and suffered damages as a result of the cancellation. In addition:

- (a) They are committed to the vigorous prosecution of this action on behalf of themselves and all others similarly situated and have retained competent counsel experienced in the prosecution of class actions and, in particular, actions regarding concert promoters and performers;
- (b) There is no hostility between them and the unnamed members of the class;

- (c) They anticipate no difficulty in the management of this litigation as a class action; and
- (d) Their legal counsel have the financial and legal resources to meet the substantial costs and legal issues associated with this type of work.

49. Plaintiffs, Michelle Holland and Thomas Wilhelm, have retained the undersigned law firm that is experienced in handling class actions and other complex litigation over the last five years. As a result, the attorneys are qualified and experienced in class action litigation and will adequately protect the interests of the class.

COUNT I – BREACH OF CONTRACT

50. Plaintiffs reallege paragraphs 1 through 49 of this Complaint as though fully set forth herein.

51. Plaintiffs and all other members of the class entered into valid and enforceable contract with Live Nation and Madonna for a concert that was promised to commence on December 22, 2019.

52. Plaintiffs and all other members of the class fully performed under the contracts by paying valuable consideration to Defendants.

53. Defendants breached the contracts by cancelling the concert on the date of the concert, approximately 15 minutes before it was initially scheduled to begin.

54. As a direct and proximate result of said breach, Plaintiffs and all other members of the class have suffered actual and consequential damages.

WHEREFORE, Plaintiffs, individually, and on behalf of all members of the class, demand judgment against Defendants, Live Nation and Madonna, for actual and consequential damages, as well as attorney fees and costs pursuant to the Contract or other Florida law or Federal law, pre

and post-judgment interest as permitted by law, and any other relief that this Court deems just and proper.

**COUNT II – BREACH OF THE IMPLIED COVENANT
OF GOOD FAITH AND FAIR DEALING**

55. Plaintiffs reallege paragraphs 1 through 49 of this Complaint as though fully set forth herein.

56. Plaintiff and all other members of the class entered into the subject contracts with Live Nation and Madonna.

57. Implied in the contracts are the covenant of good faith and fair dealing.

58. Plaintiffs and all other members of the class did all, or substantially all, of the significant things that the contracts required.

59. All conditions required for Defendants' performance had occurred.

60. Defendants actions or omissions unfairly interfered with Plaintiffs' and all other members of the class' receipt of the contracts' benefits, including the anticipated concert.

61. Defendants' conduct did not comport with reasonable contractual expectations.

62. Plaintiffs and all other members of the class have been harmed by Defendants' conduct.

WHEREFORE, Plaintiffs, individually, and on behalf of all members of the class, demand judgment against Defendants, Live Nation and Madonna, for actual and consequential damages, as well as attorney fees and costs pursuant to the Contract or other Florida law or Federal law, pre and post-judgment interest as permitted by law, and any other relief that this Court deems just and proper.

COUNT III – PROMISSORY ESTOPPEL

63. Plaintiffs reallege paragraphs 1 through 49 of this Complaint as though fully set forth herein.

64. Defendants represented to Plaintiffs and all other members of the class that the tickets they were purchasing were for a concert for December 22, 2019, contrary to a later-assert position that the concert would not occur.

65. Plaintiffs and all other members of the class relied on said representation that the concert would occur on December 22, 2019 when they bought their tickets to the December 22, 2019 Tour date and paid valuable consideration for same.

66. Defendants changed their position by canceling the December 22, 2019 Tour date, to the detriment of Plaintiffs and all other members of the class.

67. Plaintiffs and all other members of the class have suffered damages as a result of the actions of Defendants.

WHEREFORE, Plaintiffs, individually, and on behalf of all members of the class, demand judgment against Defendants, Live Nation and Madonna, for actual and consequential damages, as pre and post-judgment interest as permitted by law, and any other relief that this Court deems just and proper.

COUNT IV – NEGLIGENT MISREPRESENTATION

68. Plaintiffs reallege paragraphs 1 through 49 of this Complaint as though fully set forth herein.

69. At all times material hereto, Defendants represented to Plaintiffs and all other members of the class that Madonna had the willingness and ability to perform concerts dates scheduled for the Tour.

70. Said representation was made for the purpose of inducing Plaintiffs and members of the class to purchase the concert tickets.

71. Defendants had a duty of reasonable care to provide Plaintiffs and all other members of the class with a concert on December 22, 2019.

72. Based on the history of Madonna arriving late to and canceling tour dates, including dates on the Tour, Defendants knew or should have known that the December 22, 2019 had a reasonable likelihood of being canceled.

73. As a result of Defendants' misrepresentation, Plaintiffs and all other members of the class have suffered actual and consequential damages.

WHEREFORE, Plaintiffs, individually, and on behalf of all members of the class, demand judgment against Defendants, Live Nation and Madonna, for actual and consequential damages, as well as pre and post-judgment interest as permitted by law, and any other relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

74. Plaintiffs hereby request a trial by jury of all issues so triable.

Dated: May 20, 2020

Respectfully submitted,

/s/ Marcus W. Corwin

Marcus W. Corwin, Esq., FL Bar # 0764647

CORWIN LAW

MARCUS W. CORWIN, P.A.

6001 Broken Sound Parkway NW

Suite 404

Boca Raton, FL 33487

561.482.3636 – Telephone

561.482.5414 – Facsimile

mcorwin@corwinlawfirm.com

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Fans Sue Madonna, Live Nation After Alleged 'Temper Tantrum' Derails Dec. 2019 Miami Concert](#)
