

Cite as 2011 Ark. 302

SUPREME COURT OF ARKANSAS

No. 11-732

COREY MCMILLAN, Individually and
on Behalf of a Class of Similarly Situated
Persons,

PETITIONER,

VS.

LIVE NATION ENTERTAINMENT,
INC., ET AL.,

RESPONDENT,

Opinion Delivered July 27, 2011

REQUEST TO CERTIFY QUESTION
OF LAW

CERTIFIED QUESTION ACCEPTED.

PER CURIAM

In accordance with section 2(D)(3) of Amendment 80 to the Arkansas Constitution and Rule 6-8 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas, Honorable James M. Moody of the United States District Court for the Eastern District of Arkansas filed a motion and certification order with our clerk on July 18, 2011. The certifying court requests that we answer a question of law that may be determinative of a cause now pending in the certifying court, and it appears to the certifying court that there is no controlling precedent in the decisions of the Arkansas Supreme Court.

After a review of the certifying court's analysis and explanation of the need for this court to answer the question of law presently pending in that court, we accept certification of the following question, as herein formulated:

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1) Whether Arkansas Code Annotated § 5-63-201 is applicable to an exclusive agent of a public facility who sells music entertainment tickets that include in the price of the ticket additional fees, resulting in the price of the ticket being more than the face value and advertised price of the ticket?

This per curiam order constitutes notice of our acceptance of the certification of the question of law. For purposes of the pending proceeding in this court, the following requirements are imposed:

A. Time limits under Ark. Sup. Ct. R. 4-4 will be calculated from the date of this per curiam order accepting certification. The plaintiff in the underlying action, Corey McMillan, individually and on behalf of a class of similarly situated persons, is designated the moving party and will be denoted as the “Petitioner,” and his brief is due thirty days from the date of this per curiam; the defendants, Live Nation Entertainment, Inc. and others, shall be denoted as the “Respondents,” and their brief shall be due thirty days after the filing of Petitioner’s brief. Petitioner may file a reply brief within fifteen days after Respondents’ brief is filed.

B. The briefs shall comply with this court’s rules as in other cases except for the briefs’ content. Only the following items required in Ark. Sup. Ct. R. 4-2(a) shall be included:

(3) Point on appeal which shall correspond to the certified question of law to be answered in the federal district court’s certification order.

(4) Table of authorities.

(6) Statement of the case which shall correspond to the facts relevant to the certified question of law as stated in the federal district court’s certification order.

(7) Argument.

(8) Addendum.

(9) Cover for briefs.

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C. Oral argument will only be permitted if this court concludes that it will be helpful for presentation of the issue.

D. Ark. Sup. Ct. R. 4-6 with respect to amicus curiae briefs will apply.

E. This matter will be processed as any case on appeal.

F. Rule XIV of the Rules Governing Admission to the Bar shall apply to the attorneys for the Petitioners and Respondents.

Pursuant to Arkansas Supreme Court Rule 6-8(d), we request that the parties include in an Addendum the following pleadings: the complaint, the answer, if any; the motion to dismiss; and any responses, replies, and briefs in support thereof. In addition, if the parties believe that any additional pleadings will be useful to our understanding of the legal issues presented in this certified question, those pleadings should be included as well.

Certified Question Accepted.