

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**COREY MCMILLAN, INDIVIDUALLY AND ON
BEHALF OF A CLASS OF SIMILARLY SITUATED PERSONS** **PLAINTIFFS**

V. **4:11CV00332 JMM**

LIVE NATION ENTERTAINMENT, INC., ET AL. **DEFENDANTS**

CERTIFICATION ORDER

Now on this 12 day of July, 2011, pursuant to Rule 6-8 of the Rules of the Supreme Court of the State of Arkansas, this Court upon its own motion certifies to the Supreme Court of Arkansas a question of law that may be determinative of this case and as to which it appears there is no controlling precedent in the decisions of the Supreme Court of Arkansas.

I.

QUESTION OF LAW TO BE ANSWERED

Whether Arkansas Code Annotated § 5-63-201 is applicable to an exclusive agent of a public facility who sells music entertainment tickets which 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?

II.

ALLEGATIONS RELEVANT TO THE QUESTION

Plaintiff, individually and on behalf of a purported class, filed a complaint against Defendants alleging Defendants charged fees in excess of the printed ticket price to customers purchasing tickets to musical or entertainment events in Arkansas which Plaintiff contends violates Arkansas Code Annotated § 5-63-201. Arkansas Code Annotated § 5-63-201(a)(1)(b) states that it is unlawful for any person, corporation, firm, or partnership to sell or offer for sale any ticket to “[a]ny music entertainment event at a greater price than that printed on the ticket or the box office sale price plus any reasonable charge for handling or credit card use, whichever is the greater.” Arkansas Code Annotated § 5-63-201 is a criminal statute and violation of the statute constitutes a misdemeanor.

The allegations are that Defendants have the exclusive right to sell all tickets for any of Verizon Arena’s (“Verizon”) attractions and that Verizon is a public facility. It is alleged that Defendants sell tickets to the Verizon events by phone or over the internet and add additional fees to the face value and advertised price of tickets sold. Plaintiff alleges that Defendants uniformly and systematically add additional fees to the face value of tickets for events hosted at Verizon and other venues for which it markets tickets. Plaintiff alleges that in order to attend the musical event he was required to buy his ticket from Defendants and that Defendants sold him four tickets charging him additional fees in the amounts of \$2.00 for a “facility charge,” \$9.40 for a “convenience charge,” and \$4.00 for an “order processing fee.”

III.

REFORMULATION OF THE QUESTION

The United States District Court hereby acknowledges that the Arkansas Supreme Court, acting as the receiving court, may reformulate the question presented.

IV.

COUNSEL OF RECORD AND PARTIES

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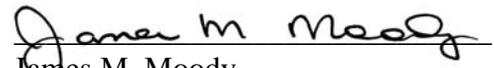
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The Clerk of this Court is hereby directed to forward this Order to the Supreme Court of Arkansas under his official seal.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "James M. Moody". The signature is written in a cursive style with a horizontal line drawn through the middle of the text.

James M. Moody
United States District Judge