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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

DANA MULVANY,
Plaintiff,
v.
LIVE NATION ENTERTAINMENT, INC.,
Defendant.

Case No. 15-cv-04371-BLF

**ORDER SUBMITTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT WITHOUT
ORAL ARGUMENT; VACATING
HEARING ON MOTION; GRANTING
MOTION; AND DIRECTING THE
PARTIES TO SUBMIT A PROPOSED
MODIFIED CASE SCHEDULE**

[Re: ECF 21]

Plaintiff Dana Mulvany filed this action in the Santa Clara County Superior Court small claims division, alleging that Defendant Live Nation Entertainment, Inc. committed an unspecified violation of her rights under the Americans with Disabilities Act. Defendant removed the action to the United States District Court for the Northern District of California. Plaintiff seeks leave to file a first amended complaint, as the original complaint was filed on a small claims form that does not meet federal pleading requirements. Plaintiff has submitted a proposed first amended complaint in compliance with the Court's Civil Local Rules which fleshes out the factual and legal bases for her claims.

Defendant has filed a response to Plaintiff's motion representing that it would have stipulated to amendment, but Plaintiff filed the present motion before discussions regarding stipulation could be concluded. Defendant also asserts that Plaintiff's proposed first amended complaint contains pleading deficiencies which Defendant outlines in its response.

Plaintiff's reply disputes Defendant's characterization of events and in particular Defendant's representation that it never opposed Plaintiff's request to amend the complaint.

1 Based upon the parties' submissions, it appears that there has been a significant breakdown
2 in communication between counsel. The Court urges counsel to meet and confer more effectively
3 on any future issues that arise in the case so as to avoid wasting resources on matters that do not
4 require judicial intervention. In light of the liberal standard governing amendment under Federal
5 Rule of Civil Procedure 15(a)(2), providing that "[t]he court should freely give leave when justice
6 so requires," the reasons given by Plaintiff for seeking leave to amend, and Defendant's lack of
7 opposition, Plaintiff's motion for leave to amend is GRANTED. Plaintiff may file the proposed
8 first amended complaint it has submitted to the Court or it may submit a revised first amended
9 complaint that addresses the asserted deficiencies raised by Defendant in its response to Plaintiff's
10 motion.

11 The Court will direct the parties to meet and confer regarding any modifications to the case
12 schedule necessitated by the filing of a first amended complaint.

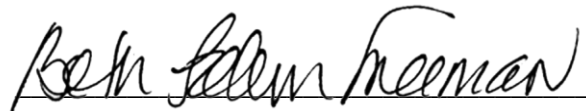
13 Accordingly, IT IS HEREBY ORDERED that:

- 14 (1) Plaintiff's motion for leave to file a first amended complaint, previously set for
15 hearing on June 2, 2016, is hereby SUBMITTED without oral argument and the
16 hearing is VACATED. *See* Civ. L.R. 7-1(b).
- 17 (2) Plaintiff's motion for leave to file a first amended complaint is GRANTED.
- 18 (3) Plaintiff shall file a first amended complaint on or before June 3, 2016.
- 19 (4) The parties shall meet and confer regarding any modifications to the case schedule
20 necessitated by the filing of a first amended complaint and shall submit a stipulated
21 proposed modified case schedule on or before June 3, 2016.

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23 Dated: May 19, 2016

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BETH LABSON FREEMAN
United States District Judge

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