

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KATHERINE MORENO and AARON DUMAS,  
individually and on behalf of other persons similarly situated  
who were employed by SONY MUSIC  
ENTERTAINMENT,

Case No. 13 Civ. 5708 (GBD)

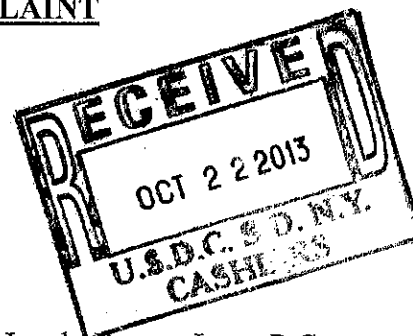
Plaintiffs,

AMENDED COLLECTIVE ACTION  
COMPLAINT

- against -

SONY MUSIC ENTERTAINMENT, and/or any other  
entities affiliated with or controlled by SONY MUSIC  
ENTERTAINMENT,

Defendants.



Plaintiffs, by their attorneys, Virginia & Ambinder, LLP and Leeds Brown Law, P.C.,  
allege upon knowledge to themselves and upon information and belief as to all other matters as  
follows:

PRELIMINARY STATEMENT

1. This action is brought pursuant to the Fair Labor Standards Act (hereinafter referred to as "FLSA"), 29 U.S.C. §§ 206 and 216(b) to recover unpaid minimum wages owed to Plaintiffs and all similarly situated persons who are presently or were formerly employed by SONY MUSIC ENTERTAINMENT and/or any other entities affiliated with or controlled by SONY MUSIC ENTERTAINMENT (hereinafter referred to as "Defendants").

2. Beginning in approximately 2010 and, upon information and belief, continuing through the present, Defendants have wrongfully withheld wages from Plaintiffs and other similarly situated individuals who worked for Defendants.

3. Beginning in approximately 2010 and, upon information and belief, continuing through the present, Defendants have wrongfully classified Plaintiffs and others similarly situated as exempt from minimum wage requirements.

4. Beginning in approximately 2010 and, upon information and belief, continuing through the present, Defendants have engaged in a policy and practice of failing to pay their employees minimum wages as required by applicable federal law.

5. Plaintiffs have initiated this action seeking for themselves, and on behalf of all similarly situated employees, all compensation that they were deprived of, plus interest, damages, attorneys' fees and costs.

### **JURISDICTION**

6. Jurisdiction of this Court is invoked pursuant to FLSA, 29 U.S.C. § 216(b), and 28 U.S.C. §§ 1331 and 1337.

7. The statute of limitations under FLSA, 29 U.S.C. § 255(a), for willful violations is three (3) years.

### **VENUE**

8. Venue for this action in the Southern District of New York under 28 U.S.C. § 1391(b) is appropriate because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of New York.

### **THE PARTIES**

9. Plaintiff KATHERINE MORENO is an individual who is currently a resident of Florida, and was employed by Defendants in their New York headquarters from approximately October 2011 until December 2011, and from January 2012 through May 2012.

10. Plaintiff AARON DUMAS is an individual who is currently a resident of California, and was employed by Defendants in California from February 2011 through April 2011.

11. Although the Defendants misclassified Plaintiffs and other members of the putative collective as unpaid interns, Plaintiffs are covered employees within the meaning of the FLSA.

12. Upon information and belief, Defendant SONY MUSIC ENTERTAINMENT is a general partnership organized and existing under the laws of Delaware, headquartered in the State of New York, with its principal place of business at 550 Madison Avenue, New York, New York, and is engaged in the music recording and publishing industry.

13. Upon information and belief, Defendant Sony Music Entertainment is a subsidiary of Sony Corporation of America.

14. Upon information and belief, Columbia Records operates as a business unit of Sony Music Entertainment, with its principal place of business at 550 Madison Avenue, New York, New York, and is engaged in the music recording and publishing industry.

15. Upon information and belief, Sony Music Entertainment US Latin LLC operates as a business unit of Sony Music Entertainment, with its principal place of business at 550 Madison Avenue, New York, New York, and is engaged in the music recording and publishing industry.

16. Defendants engage in interstate commerce, produce goods for interstate commerce, and/or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce.

17. Upon information and belief, Defendants' annual gross volume of sales made or business done is not less than \$500,000.

**COLLECTIVE ALLEGATIONS**

18. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 17 hereof.

19. This action is properly maintainable as a collective action pursuant to the FLSA, 29 U.S.C. § 216(b).

20. This action is brought on behalf of the Plaintiffs and a collective consisting of similarly situated employees who worked for Defendants as interns, and were thus misclassified as exempt from minimum wage requirements.

21. Plaintiffs and potential plaintiffs who elect to opt-in as part of the collective action are all victims of the Defendants' common policy and/or plan to violate the FLSA by (1) failing to pay all earned wages; (2) misclassifying Plaintiffs and members of the putative collective as exempt from minimum wage requirements; (3) failing to provide the statutory minimum hourly wage for all hours worked pursuant to 29 U.S.C. § 206.

22. The putative collective is so numerous that joinder of all members is impracticable. The size of the putative collective is believed to be in excess of 1,000 employees. In addition, the names of all potential members of the putative collective are not known or knowable without Defendants' records or discovery.

23. Upon information and belief, Defendants uniformly apply the same employment policies, practices, and procedures to all interns who work at Defendants' locations.

24. Plaintiffs and their counsel will fairly and adequately protect the interests of the putative collective. Plaintiffs have retained counsel experienced in complex wage and hour collective and class action litigation.

25. A collective action is superior to other available methods for the fair and efficient adjudication of this controversy. The individual Plaintiffs and members of the putative collective lack the financial resources to adequately prosecute separate lawsuits against Defendants. A collective action will also prevent unduly duplicative litigation resulting from inconsistent judgments pertaining to the Defendants' policies.

#### FACTS

26. Beginning in or about 2010 until the present, Defendants employed the Plaintiffs and other members of the putative collective as interns to perform various tasks related to the maintenance and operations of its mass media company.

27. Defendants did not provide any compensation to Plaintiffs and members of the putative collective for the hours worked.

28. Defendants have benefited from the work that Plaintiffs and members of the putative collective performed.

29. Defendants would have hired additional employees or required existing staff to work additional hours had Plaintiffs and the members of the putative collective not performed work for Defendants.

30. Defendants did not provide academic or vocational training to Plaintiffs or members of the putative collective.

31. Defendants' unlawful conduct has been pursuant to a corporate policy or practice of minimizing labor costs by denying Plaintiffs and members of the putative collective wages in violation of the FLSA.

32. Defendants' unlawful conduct, as set forth in this Complaint, has been intentional, willful, and in bad faith, and has caused significant damages to Plaintiffs and members of the putative collective.

33. While working for Defendants, Plaintiffs and the members of the putative collective were regularly required to perform work for Defendants, without receiving minimum wages as required by applicable federal law.

34. Specifically, Named Plaintiff Katherine Moreno was employed by the Defendants from approximately October 2011 through December 2011, and again from January 2012 through May 2012.

35. While employed as an intern, Plaintiff Moreno was responsible for carrying out various tasks necessary to the operation and maintenance of Defendants' Digital Marketing and A&R Departments. These tasks included extensive data entry, inventory control, creating reports, digital ad campaigns, in addition to menial tasks such as retrieving lunch and coffee for paid employees, filing, photocopying, delivering cds, ordering supplies, consolidating cds, and other similar duties.

36. Throughout the length of her employment, Plaintiff Moreno typically worked three or four days each week, eight hours per day.

37. Plaintiff Moreno was not paid any wages, and thus was not compensated at a rate in compliance with the statutory minimum wage rate.

38. Named Plaintiff Aaron Dumas was employed by the Defendants from approximately February 2011 through April 2011.

39. While employed as an intern, Plaintiff Dumas was responsible for carrying out various tasks necessary to the operation and maintenance of Defendants' Marketing Department. These tasks included creating power point projects, developing strategy to promote artists, and other similar duties.

40. Throughout the length of his employment, Plaintiff Dumas typically worked two day each week, eight hours per day.

41. Plaintiff Dumas was also not paid any wages, and thus was not compensated at a rate in compliance with the statutory minimum wage rate.

42. Upon information and belief, members of the putative collective also did not receive minimum wages, in violation of federal law.

**FIRST CAUSE OF ACTION:  
FLSA MINIMUM WAGE COMPENSATION**

43. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 42 hereof.

44. Pursuant to 29 U.S.C. § 206, "Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates: (1) except as otherwise provided in this section, not less than -- (A) \$5.85 an hour, beginning on the 60th day after May 25, 2007; (B) \$6.55 an hour, beginning 12 months after that 60th day; and (C) \$7.25 an hour, beginning 24 months after that 60th day [July 24, 2009]."

45. SONY MUSIC ENTERTAINMENT is an employer, within the meaning contemplated, pursuant to 29 U.S.C. § 203(d).

46. Plaintiffs and other members of the putative collective action are employees, within the meaning contemplated, pursuant to 29 U.S.C. § 203(e).

47. Plaintiffs and other members of the putative collective, during all relevant times, engaged in commerce or in the production of goods for commerce, or were employed in an enterprise engaged in commerce or in the production of goods for commerce.

48. None of the exemptions of 29 U.S.C. § 213 applies to Plaintiffs or other similarly situated employees.

49. Defendants violated the FLSA by failing to pay Plaintiffs and other members of the putative collective minimum wages for all hours worked in any given week.

50. Upon information and belief, the failure of Defendants to pay Plaintiffs and other members of the putative collective their rightfully-owed wages was willful.

51. By the foregoing reasons, Defendants are liable to Plaintiffs and members of the putative collective in an amount to be determined at trial, plus liquidated damages in the amount equal to the amount of unpaid wages, interest and attorneys' fees and costs.

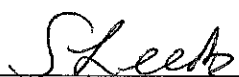
**WHEREFORE**, Plaintiffs, individually and on behalf of all other persons similarly situated who were employed by Defendants, demand judgment:

(1) on the first cause of action against Defendants, in an amount to be determined at trial plus liquidated damages in the amount equal to the amount of unpaid wages, interest, attorneys' fees and costs;

(2) together with such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
October 22, 2013

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