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FILED
Superior Court of California
County of Los Angeles

JUL 27 2018

Sherril K. Carter, Executive Officer/Clerk
By Heather Flores, Deputy

8 Attorneys for Defendant, FUSIONE INC.

9
10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 **LENELL TIMBERLAKE, on behalf of**
13 **himself and all others similarly situated;**

Case No.: BC616783

14 **Plaintiffs;**

DEFENDANT FUSIONE, INC.'S
RESPONSE TO PLAINTIFF'S MOTION
FOR APPROVAL OF CLASS NOTICE

15 **v.**

Assigned for all purposes to the:
Honorable Carolyn B Kuhl, Dept. 12
312 Spring St., Los Angeles, CA, 90012

16 **FUSIONE INC., a California Corporation,**
17 **doing business as UNICI CASA and**
18 **SOCIETY UNICI, and DOES 1 through**
19 **100, inclusive,**

Hearing date: Aug 9, 2018
Time: 11:00 am
Dept.: 12

20 **Defendants.**

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25 Pursuant to California Rules of Court 3.766, Defendant Fusione, Inc. ("Fusione") hereby
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07/31/2018

1 responds to the Motion for Approval of Class Notice submitted to this Court by Plaintiff Lenell
2 Timberlake ("Timberlake") as follows:

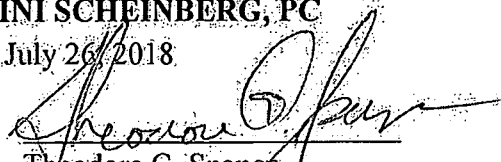
3 Under California Rules of Court 3.766(e), the Court is required to consider the following
4 factors when determining whether a proposed class notice is appropriate: (1) the interests of the
5 class; (2) the type of the relief requested; (3) the stake of the individual class members; (4) the
6 cost of notifying class members; (5) the resources of the parties; (6) the possible prejudice to
7 members of the class who do not receive notice; and (7) the res judicata effect on class members.

8 Applying this standard, Fusione contends that the procedure proposed by Timberlake would only
9 work if Fusione has possession, custody or control of the mailing addresses, phone numbers,
10 and/or email addresses of all individuals within the defined class. That is not the case.

11 Therefore, Timberlake's class notice procedure is acceptable, but only to the extent that the
12 information required is available.

SAMINI SCHEINBERG, PC

Date: July 26, 2018

By: 

Theodore G. Spanos

Attorneys for Defendant FUSIONE, INC.

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07/31/2018

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) SS:
COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2801 Pacific Coast Highway, Suite 200, Newport Beach, CA 92663.

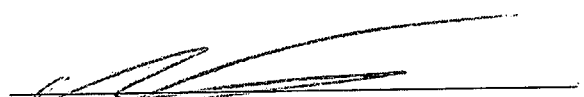
On July 27, 2018, I served the foregoing document(s) described as: **DEFENDANT FUSIONE, INC.'S RESPONSE TO PLAINTIFF'S MOTION FOR APPROVAL OF CLASS NOTICE** on the interested parties in this action:

See Attached Service List

- (BY US MAIL) I caused a sealed envelope addressed to each of the interested parties and containing the foregoing document to be deposited in the mail at Newport Beach, California with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (BY FEDERAL EXPRESS) I caused to have served such document(s) by depositing them in the drop box at Newport Beach, California, for priority overnight next day delivery.
- (BY FACSIMILE TRANSMISSION) I caused such document to be faxed to the persons identified with fax numbers on the attached Service List.
- (BY PERSONAL SERVICE) I delivered such envelope(s) by hand to the offices of the addressee.
- (BY EMAIL TRANSMISSION) I caused the above-referenced document to be transmitted via email to _____

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on July 27, 2018, at Newport Beach, California.


Mary Bezanilla

SAMINISCHNEINBERG, PC

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Lenell Timberlake, etc., et al. v. Fusione, Inc., etc., et al.
Los Angeles County Superior Court Case No. BC616783

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