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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LENELL TIMBERLAKE, on behalf of
himself and all others similarly situated,

Plaintiffs,

v.

FUSIONE INC., a California Corporation,
doing business as UNICI CASA and
SOCIETY UNICI, and DOES 1 through 100,
Inclusive.

Defendants.

CASE NO. BC616783

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, AND CIVIL
PENALTIES**

- 1. Violation of Civil Code section 51.6(b)**
- 2. Violation of Civil Code section 51.5**
- 3. Unfair Business Practices (Business and Professions Code section 17200, et seq.)**

PREFACE

All allegations in this complaint are based upon information and belief except for those allegations that pertain to the named plaintiff or his counsel. Plaintiff's information and belief is based upon, inter alia, the investigation conducted to date by plaintiff and his counsel. Each

1 allegation in this complaint either has evidentiary support or is likely to have evidentiary support
2 after a reasonable opportunity for further investigation and discovery.

3 **THE PARTIES**

4 1. PLAINTIFF LENELL TIMBERLAKE:

5 (A) Is an individual male who resides in Los Angeles County, California; and

6 (B) Patronized DEFENDANT'S place of business located at 9461 Jefferson
7 Blvd., Culver City, California 90232, on October 31, 2015.

8 2. PLAINTIFF is informed and believes, and alleges that DEFENDANT FUSIONE,
9 INC., is, and at all relevant times was:

10 (A) A California Corporation authorized to conduct business, and actually
11 conducting business, in the State of California; and

12 (B) The owner and operator of the place of business located at 9461 Jefferson
13 Blvd., Culver City, California 90232, sometimes referred to as Unici Casa or Society
14 Unici.

15 3. The true names and capacities, whether individual, corporate, partnership,
16 associate or otherwise of DEFENDANTS Does 1 through 100, inclusive, are unknown to the
17 PLAINTIFF who therefore sue these DEFENDANTS by those fictitious names under California
18 Code of Civil Procedure section 474. The CLASS will seek leave to amend this complaint to
19 allege the true names and capacities of Does 1 through 100, inclusive, when they are ascertained.

20 4. PLAINTIFF is informed and believes, and based upon that information and belief
21 alleges, that the DEFENDANTS named in this complaint, including Does through 100, inclusive,
22 are responsible in some manner for one or more of the events and happenings that proximately
23 caused the injuries and damages alleged in this complaint.

24 5. PLAINTIFF is informed and believes, and alleges, that each of the
25 DEFENDANTS, including Does 1 through 100, inclusive, in performing or omitting to perform
26 the acts alleged in this complaint, was, at various times, acting within the course and scope of his
27 or her employment, authority, or apparent authority as an employee, agent and/or representative
28 of the other DEFENDANTS. PLAINTIFF is further informed and believes, and alleges, that at

1 various other times the DEFENDANTS, in performing or omitting to perform the acts alleged in
2 this complaint, acted outside the course and scope of the employment, authority, or apparent
3 authority; did not utilize or operate through any corporations or businesses; and were not
4 engaged in any business activities whatsoever, but rather, were acting outside the realm of any
5 business individually liable for all damages alleged in this complaint, jointly and severally.

6 6. PLAINTIFF is informed and believes, and based upon that information and belief
7 alleges, that each DEFENDANT named in this complaint, including Does 1 through 100,
8 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
9 themselves and entered into a combination and systemized campaign of activity to, inter alia,
10 damage the PLAINTIFF and to otherwise consciously and/or recklessly act in derogation of the
11 PLAINTIFF'S rights, and the trust reposed by PLAINTIFF in each of the DEFENDANTS, with
12 the acts being negligently and/or intentionally inflicted. The conspiracy, and DEFENDANTS'
13 concerted actions, were such that, to the PLAINTIFF'S information and belief, and to all
14 appearances, DEFENDANTS, and each of them, represented a unified body so that the actions of
15 one DEFENDANT were accomplished in concert with, and with knowledge, ratification,
16 authorization and approval of each of the other DEFENDANTS.

17 7. PLAINTIFF is informed and believes, and alleges, that each of the
18 DEFENDANTS named in this complaint, including Does 1 through 100, inclusive, is, and at all
19 times mentioned was, the agent, servant and/or employee of each of the other DEFENDANTS
20 and that each DEFENDANT was acting within the course of scope of his, her or its authority as
21 the agent, servant and/or employee of each of the other DEFENDANTS. Consequently, all of
22 the DEFENDANTS are jointly and severally liable to PLAINTIFF and the CLASS for the
23 damages sustained as a proximate result of their conduct.

24 **JURISDICTION AND VENUE**

25 8. This court has jurisdiction over this action under Code of Civil Procedure section
26 410.10. The action is brought under Code of Civil Procedure section 382; the procedural
27 provisions of Federal Rules of Civil Procedure, Rule 23; Civil Code sections 51.5 and 51.6; and
28 Business and Professions Code section 17200, et seq. PLAINTIFF brings this action on his own

1 behalf, on behalf of all persons in the defined class, and as private attorney general on behalf of
2 the general public.

3 9. Venue is proper in this court under Code of Civil Procedure sections 395 and
4 395.5 because the injuries to the persons complained of occurred in Los Angeles County and
5 because the DEFENDANT owned and operated the venue where the acts complained of
6 occurred in Los Angeles County.

7 **CLASS DEFINITION**

8 10. The PLAINTIFF CLASS (the CLASS) consists of the following individuals:
9 “All males who paid to attend events promoted by FUSION, INC. from April 13,
10 2015 to the present time at which differing prices of admission or discounts were
11 offered to males and females.”

12 **CLASS TREATMENT**

13 11. The persons who comprise the CLASS are so numerous that joinder of all of them
14 is impracticable, and the disposition of their claims will benefit the parties and the Court. The
15 claims of the PLAINTIFF are typical of the claims of the CLASS that PLAINTIFF seeks to
16 represent. The PLAINTIFF will fairly and adequately protect the interests of the CLASS that he
17 seeks to represent. The PLAINTIFF does not have any interests antagonistic to the CLASS that
18 he seeks to represent. Counsel for the PLAINTIFF are experienced, qualified and generally able
19 to conduct complex class-action litigation.

20 12. This Court should permit this action to be maintained as a class action under Code
21 of Civil Procedure section 382 because:

22 (A) The questions of law and fact common to the CLASS predominate over
23 any question affecting only individual members;

24 (B) A class action is superior to any other available method for the fair and
25 efficient adjudication of the claims of the members of the CLASS;

26 (C) The members of the CLASS are so numerous that it is impractical to bring
27 all members of the CLASS before the Court;
28

1 (D) PLAINTIFFS, and the other members of the CLASS, will not be able to
2 obtain effective and economic legal redress unless the action is maintained as a class
3 action;

4 (E) There is a community of interest in obtaining appropriate legal and
5 equitable relief for the common-law and statutory violations and other improprieties, and
6 in obtaining adequate compensation for the damages and injuries for which
7 DEFENDANT is responsible in an amount sufficient to adequately compensate the
8 members of the CLASS for the injuries sustained;

9 (F) Without CLASS certification, the prosecution of separate actions by
10 individual members of the CLASS would create a risk of:

11 (i) Inconsistent or varying adjudications with
12 respect to individual members of the CLASS
13 that would establish incompatible standards
of conduct for DEFENDANT FUSIONE,
INC.; and/or

14 (ii) Adjudications with respect to the individual
15 members that would, as a practical matter,
16 be dispositive of the interests of other
members not parties to the adjudications, or
17 would substantially impair or impede their
ability to protect their interests, including
18 but not limited to the potential for
exhausting the funds available from those
parties who are, or may be, responsible
DEFENDANTS; and,

19 (G) DEFENDANT FUSIONE INC. has acted or refused to act on grounds
20 generally applicable to the CLASS, thereby making final injunctive relief appropriate
21 with respect to the CLASS as a whole.
22

23 **THE CONDUCT**

24 13. DEFENDANT FUSIONE, INC. owns and operates the venue known as Unici Casa
25 or Society Unici (the Venue) located at 9461 Jefferson Blvd., Culver City, California 90232.

26 14. DEFENDANT under the name Society Unici presented and promoted an event
27 called "Carnevale" (the Event) to take place starting at 9:00 p.m. on October 31, 2015, and
28 ending at 2:00 a.m. on November 1, 2015. The event was promoted as "the most beautiful and
extravagant celebration of Halloween."

1 15. The cost for attending the Event was \$75.00. However, DEFENDANT offered “200
2 limited COMP VIP tickets for ladies which also include a complimentary welcome drink.”

3 16. PLAINTIFF is a male who purchased a \$75.00 ticket for the event and attended the
4 event. Plaintiff purchased beverages at the Event.

5 17. DEFENDANT offered free admission and beverages to women to obtain an
6 economic advantage over its competitors and in an attempt to lure women to the Venue by
7 offering extra accommodations and services that men do not receive. Male patrons pay for
8 goods and services provided free of charge to women, which results in gender-based
9 discrimination.

10 18. DEFENDANT’s actions in this case follow DEFENDANT’s pattern and practice of
11 offering free or discounted admission to its events for females while offering lesser or no
12 discounts to males. In addition to “Carnevale,” events at which DEFENDANT offered greater
13 discounts to females than males of which PLAINTIFF has become aware include “Lace
14 Halloween Party” on October 29, 2016; “Grammys” held on or about February 11, 2017,
15 “Oscars” held on February 25, 2017; “Couture du Couture” held on March 18, 2017; Cirque de
16 LaLa held on or about April 29, 2017, “Geisha” held on or about June 10, 2017, “Papillon Social
17 St. Tropez” held on or about July 15, 2017, “Rose” held on or about July 29, 2017, “Papillon
18 Social A Night In Rio” held on August 25, 2017; and “B Tribe” held on about September 23,
19 2017.

20 **First Cause of Action for Violation of the Gender Tax Repeal Act of 1985**

21 **(Civ. Code, § 51.6, subd. (b))**

22 19. PLAINTIFF realleges and incorporates by reference, as though fully set forth,
23 paragraphs 1 through 17 of this complaint.

24 20. PLAINTIFF purchased a \$75.00 ticket for the Event and attended the Event on
25 October 31, 2015. Plaintiff purchased beverages at the event.

26 21. DEFENDANT offered free admission to the Event and free beverages to women
27 who attended the Event. DEFENDANT did not offer free admission or free beverages to male
28 patrons.

1 22. Civil Code section 51.6, subdivision (b) prohibits California business
2 establishments from discriminating with respect to the price charged for services of similar or
3 like kind against a person because of the person's gender.

4 23. DEFENDANT violated Civil Code, section 51.6, subdivision (b) by charging
5 PLAINTIFF more than to female patrons for identical goods and services all on account of
6 PLAINTIFF'S gender.

7 24. PLAINTIFF suffered damages by paying more for good and services than female
8 customers at the Event paid solely because of his gender.

9 25. Under Civil Code sections 51.6, subdivision (d) and 52, subdivision (a),
10 PLAINTIFF and each CLASS member is entitled to actual damages; an amount equal to three
11 times the actual damages, but in no case less than \$4,000; and attorney's fees.

12 **Second Cause of Action for Violation of the Unruh Act (Civ. Code, § 51.5, subd. (a))**

13 26. PLAINTIFF realleges and incorporates by reference, as though fully set forth,
14 paragraphs 1 through 24 of this complaint.

15 27. Civil Code section 51.5, subdivision (a) prohibits California business
16 establishments from discriminating on the basis of gender.

17 28. DEFENDANT violated Civil Code section 51.5, subdivision (a) by charging
18 PLAINTIFF more than to female patrons for identical goods and services all on account of
19 PLAINTIFF'S gender.

20 29. PLAINTIFF suffered damages resulting from DEFENDANT'S discrimination
21 by paying more for good and services than female customers at the Event paid solely because of
22 his gender.

23 30. Under Civil Code sections 51.5, subdivision (a) and 52, subdivision (a),
24 PLAINTIFF and each CLASS member is entitled to actual damages; an amount equal to three
25 times the actual damages, but in no case less than \$4,000; and attorney's fees.

26 **Third Cause of Action for Violation of Business and Professions Code Section 17200, et seq.**

27 31. PLAINTIFF realleges and incorporates by reference as though fully set forth,
28 paragraphs 1 through 29 of this complaint.

1 32. PLAINTIFF brings this claim on behalf of himself, all persons similarly situated,
2 and the general public.

3 33. DEFENDANT FUSIONE INC. is a “person” as that term is defined under
4 Business and Professions Code section 17201.

5 34. On about October 31, 2015 and November 1, 2015, and at all relevant times, by
6 and through the conduct described in this complaint, DEFENDANT has engaged in unfair and
7 unlawful practices by charging male patrons more than female patrons for identical goods and
8 services, violating Civil Code sections 51.5, subdivision (a) and 51.6, subdivision (b), and has
9 thereby deprived the CLASS of fundamental rights and privileges guaranteed to all persons
10 under the California Civil Code.

11 35. By and through the unfair and unlawful business practices described in this
12 complaint, DEFENDANT has obtained valuable property, money and services from the CLASS,
13 and has deprived the CLASS of valuable rights and benefits guaranteed by the law, all to their
14 detriment.

15 36. All of the acts described as violations of, among other things, the California Civil
16 Code, are unlawful and in violation of public policy; and in addition are immoral, unethical,
17 oppressive, and unscrupulous, and constitute unfair and unlawful business practices in violation
18 of California Business and Professions Code section 17200 et seq.

19 37. PLAINTIFF is entitled to, and does, seek relief necessary to restore to himself and
20 the CLASS the money and property that DEFENDANT has acquired, or of which the CLASS
21 has been deprived, by means of DEFENDANT’S unfair and unlawful business practices.

22 38. PLAINTIFF is further entitled to, and does, seek a declaration on behalf of
23 himself and the CLASS that the DEFENDANT’S business practices are unfair and unlawful and
24 that injunctive relief should be issued restraining DEFENDANT from engaging in any of these
25 unfair and unlawful business practices in the future.

26 35. PLAINTIFF has no plain, speedy, and/or adequate remedy at law to redress the
27 injuries that he and the CLASS have suffered as a consequence of the DEFENDANT’S unfair
28 and unlawful business practices. As a result of these unfair and unlawful business practices, the

1 CLASS has suffered and will continue to suffer irreparable harm unless DEFENDANT is
2 restrained from continuing to engage in these unfair and unlawful business practices. In
3 addition, DEFENDANT should be required to restore overpayments by male patrons as
4 compared to female patrons at the Event.

5 **PRAYER**

6 **WHEREFORE**, PLAINTIFF prays for judgment as follows:

7 1. **ON THE FIRST CAUSE OF ACTION:**

- 8 A. For compensatory damages, according to proof;
9 B. For general damages, according to proof;
10 C. For an amount equal to up to three times each CLASS member's actual
11 damages, but not less than \$4,000 for each CLASS member; and
12 D. For attorney's fees.

13 2. **ON THE SECOND CAUSE OF ACTION:**

- 14 A. For compensatory damages, according to proof;
15 B. For general damages, according to proof;
16 C. For an amount equal to up to three times each CLASS member's actual
17 damages, but not less than \$4,000 for each CLASS member; and
18 D. For attorney's fees.

19 3. **ON THE THIRD CAUSE OF ACTION:**

- 20 A. For restitution;
21 B. For injunctive relief ordering the continuing unfair business acts and
22 practices to cease, or other order the court deems just and proper; and

23 4. **ON ALL CAUSES OF ACTION:**

- 24 A. For reasonable attorneys' fees;
25 B. For costs of suit;
26 C. For prejudgment interest; and
27 D. For other and further relief this court deems just and proper.
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DATED: November 17, 2017

LAW OFFICES OF DAVID R. GREIFINGER


By: DAVID R. GREIFINGER, ESQ.
Attorney for Plaintiffs