

STIPULATION AND SETTLEMENT AGREEMENT OF CLASS ACTION CLAIMS

This Stipulation and Settlement Agreement of Class Action Claims (the “Agreement”) is entered into by, between, and among plaintiff Lenell Timberlake, on behalf of himself and all members of the defined class (“The Class”) and defendant, Fusione, Inc., a California corporation (“Fusione”). This Agreement is subject to Court approval as required by California Law.

1. Claims and Disputes.

On April 13, 2016, Plaintiff Timberlake, on his own behalf, and on behalf of The Class, filed a class action complaint for damages, injunctive relief, and civil penalties alleging violations of the Gender Tax Repeal Act of 1985 (Civ. Code, § 51.6 (b)), the Unruh Act (Civ. Code § 51.5, subd. (a)), and Unfair Business Practices in violation of Business & Professions Code section 17200 arising from Defendant Fusione’s purportedly discriminatory practices utilized in promoting and hosting social events.

The initial Mandatory Settlement Conference held on March 7, 2017, failed to resolve the matter.

On November 17, 2017, Timberlake and The Class filed the First Amended Complaint which included the same alleged violations against additional Fusione social events (the “Action”).

On April 24, 2018, the Court granted plaintiff’s contested motion and certified the Action as a class action. The Class, as certified, is defined as :

All males who paid to attend events promoted by Fusione, Inc. from April 13, 2015, to the present time at which differing prices of admission or discounts were offered to males and females.

Proper Notice of the Class Action proceedings was given by JND Legal Administration as of November 30, 2018 in accord with the Court’s Order of August 9, 2018. The Exclusion / Opt-Out deadline was set for January 14, 2019. There were no Opt-Outs.

Depositions were taken and written discovery was conducted. As the case entered its third year of litigation, the parties began efforts in earnest to resolve the case. The case was set for the Final Status Conference on June 19, 2019, and for Trial on July 8, 2019. At a Status Conference on May 8, 2019, after being advised that the parties had a Mediation set for May 22, 2019, the Court graciously agreed to vacate the Final Status Conference and Trial Dates in order to allow the parties to focus their efforts on settlement.

After litigating for almost three years, the legal and economic realities dictated that the case should be settled without burdening the Court with a trial and saddling the parties with unacceptable risks. Fusione had only recently emerged from a Bankruptcy proceeding, and had only limited insurance defense coverage, but not indemnity, under a reservation of rights. Further, despite the facial simplicity of The Class claims, The Class had significant evidentiary and proof problems. Recognizing the potential impacts of those issues, the parties engaged in a good faith full day Mediation at JudicateWest with Greg D. Derin, and successfully resolved this case as reflected by the terms of this Agreement.

The Class and Fusione represent and warrant that this Agreement was negotiated at arms-length, in good faith, after years of litigation by experienced counsel. The Class and Fusione further represent that they believe that this Agreement is fair, reasonable, adequate, and in the best interests of The Class. Fusione and The Class expressly acknowledge that this Agreement must be submitted to the Court for both provisional approval and final approval, both with appropriate Notices to the Settlement Class under Code of Civil Procedure sections 382 and 384 and Rules 3.769 and 3.771 of the California Rules of Court.

This Agreement is made without any of the parties admitting any liability or conceding any question of fact or law, in accord, full compromise, and final settlement of all of the claims and disputes which are, have been, or could have been asserted in the Action.

2. Settlement Class.

The parties acknowledge the court's requirement that the class period encompass only those events investigated and accounted for by the parties. Fusione has identified events that it

promoted starting with “B Tribe” on September 26, 2015, and ending with “Madame Methven” on March 24, 2018. Accordingly the Settlement Class shall be defined as:

All males who paid to attend events promoted by Fusione, Inc. from September 26, 2015, to March 24, 2018, at which differing prices of admission or discounts were offered to males and females.

For the avoidance of doubt, the list of promoted by Fusione between September 26, 2015, and March 24, 2018, at which differing prices of admission or discounts were offered to males and females is as follows: B Tribe, Sept. 26, 2015, Lace, Oct. 17, 2015; Carnavale, Oct. 31, 2015; Couture Du Couture, Dec. 19, 2015; Tango Saturday Feb. 13, 2016; Gold Oscar Party, Feb. 27 2016; Geisha, April 3 2016; Brit Week, May 5, 2016; Brit Week, May 7, 2016; Blanco, June 18, 2016; Rose, July 23, 2016; B Tribe, Oct. 1, 2016; Lace, Oct. 29, 2016; Carnavale, Nov. 19, 2016; Grammys, Feb. 11, 2017; Oscars, Feb. 25, 2017; Couture Du Couture, March 18, 2017; Cirque De Lala, April 29, 2017; Geisha, June 10, 2017; Rose, July 29, 2017; Blanco, Aug. 25, 2017; B Tribe, Sept. 23, 2017; Lace, Oct. 23, 2017; Couture Du Couture, Dec. 9 2017; Casino Royale, Dec. 31, 2017; Musica, Jan. 27, 2018; Fashion Week, March 16, 2018; and Madame Methven, March 24, 2018.

3. Settlement Consideration.

(a) Fusione shall pay each member of the Settlement Class \$105.88 and provide one (1) complimentary pass to one (1) Fusione sponsored event to each member of the Settlement Class. The complimentary pass shall be good for a period of one (1) year from the date of entry of the Final Judgment approving this Agreement. The complimentary pass shall be solely for the benefit of the Settlement Class members and may not be transferred to any other person.

(b) Fusione shall make a lump sum total settlement payment in the amount of \$129,000. This payment shall be treated as a common fund, inclusive of any and all damages, attorney fees, costs, and Class Representative Enhancements. For purposes of transparency, the settlement amount was derived as follows: Average of \$70.00 per admission paid x estimated 362 Class Members x a 1.5 “premium” for \$38,010 (the “Settlement Class Members”); Class

costs of \$16,000; Enhancement for Lenell Timberlake as Class Representative \$5,000 ; Attorney fees \$60,000; Expense of Final Administration \$10,000 for the total sum of \$129,000. Fusione will not oppose a motion for approval of class action settlement that allocates the settlement payments in these amounts or approximate amounts.

(c) In the event that any of the amounts associated with the allocated payments to Settlement Class Members remain unclaimed, or the checks have not been cashed or negotiated within 180 calendar days after the date they are issued, they shall be void and the funds represented by such voided checks will be considered unpaid, unclaimed or abandoned cash residue pursuant to Code of Civil Procedure section 384 (“Unpaid Residue”). The Unpaid Residue, together with any accrued interest, shall be transmitted to the Justice Gap Fund as the *cyprès* recipient. The parties believe that the Justice Gap Fund promotes the law consistent with the objectives of the underlying causes of action because this is a case in which unequal treatment based on gender is alleged. Indigent defendants often do not have the resources to defend their civil rights, including those based on gender, without free legal assistance, which The Justice Gap Fund provides. The parties through the Class Administrator shall report the Unpaid Residue within 30 calendar days after those checks have become void. The parties shall also submit a proposed amended judgment to the court directing Fusione, through the Class Administrator, to pay the Unpaid Residue, along with any accrued interest to the Justice Gap Fund.

4. Mutual General Releases.

A. Release by Fusione.

Excepting only the covenants and express obligations under this Agreement, Fusione, on its own behalf and on behalf of each and all of its respective agents, beneficiaries, servants, employees, partners, shareholders, officers, directors, affiliates, attorneys, predecessors, successors and assigns, and all other persons claiming through or under them, hereby releases, forever discharges, and holds harmless The Class from any and all liability, acts, actions, causes of action, suits, proceedings, debts, dues, sums of money, accounts, accountings, reckonings, bonds, bills, covenants, contracts, controversies, conveyances, leases, assignments, agreements,

promises, representations, damages, trespasses, judgments, executions, claims and demands, or any combination of the same, of any nature whatsoever, whether known or unknown, suspected or unsuspected, whether at law or in equity, which Fusione ever had, now has, or may hereafter have against The Class related to the claims in the First Amended Complaint, from the beginning of the World to the date that this Agreement is approved by the Court and Judgment is entered,.

Excepting only the covenants and express obligations under this Agreement, Fusione, on its own behalf and on behalf of each and all of its respective agents, beneficiaries, servants, employees, partners, shareholders, officers, directors, affiliates, attorneys, predecessors, successors and assigns, and all other persons claiming through or under them, hereby releases, forever discharges, and holds harmless Lenell Timberlake from any and all liability, acts, actions, causes of action, suits, proceedings, debts, dues, sums of money, accounts, accountings, reckonings, bonds, bills, covenants, contracts, controversies, conveyances, leases, assignments, agreements, promises, representations, damages, trespasses, judgments, executions, claims and demands, or any combination of the same, of any nature whatsoever, whether known or unknown, suspected or unsuspected, whether at law or in equity, which Fusione ever had, now has, or may hereafter have against him by reason of anything whatsoever, from the beginning of the World to the date that this Agreement is approved by the Court and Judgment is entered, including, but not limited to, any and all claims relating to, arising from or in connection with the Action.

B. Release by The Class.

Excepting only the covenants and express obligations under this Agreement, The Class, in its collective entirety, and each individual member on his own behalf, and each and all of their respective agents, beneficiaries, servants, employees, partners, officers, directors, affiliates, attorneys, predecessors, successors and assigns, and all other persons claiming through or under them, hereby release, forever discharge, and hold harmless Fusione from any and all liability, acts, actions, causes of action, suits, proceedings, debts, dues, sums of money, accounts, accountings, reckonings, bonds, bills, covenants, contracts, controversies, conveyances, leases,

assignments, agreements, promises, representations, damages, trespasses, judgments, executions, claims and demands, or any combination of the same, of any nature whatsoever, whether known or unknown, suspected or unsuspected, whether at law or in equity, which The Class or any of its individual members ever had, now have, or may hereafter have against Fusione by reason of anything whatsoever related to the claims in the First Amended Class Action Complaint, from the beginning of the World to the date that this Agreement is approved by the Court and Judgment is entered.

Excepting only the covenants and express obligations under this Agreement, Lenell Timberlake, on his own behalf, and each and all of his agents, beneficiaries, servants, employees, partners, officers, directors, affiliates, attorneys, predecessors, successors and assigns, and all other persons claiming through or under him, hereby releases, forever discharges, and holds harmless Fusione from any and all liability, acts, actions, causes of action, suits, proceedings, debts, dues, sums of money, accounts, accountings, reckonings, bonds, bills, covenants, contracts, controversies, conveyances, leases, assignments, agreements, promises, representations, damages, trespasses, judgments, executions, claims and demands, or any combination of the same, of any nature whatsoever, whether known or unknown, suspected or unsuspected, whether at law or in equity, which he ever had, now have, or may hereafter have against Fusione by reason of anything whatsoever, from the beginning of the World to the date that this Agreement is approved by the Court and Judgment is entered, including, but not limited to any and all claims relating to, arising from or in connection with the Action.

4. Waiver of Unknown Claims.

The Class and Fusione acknowledge that they may subsequently discover facts which, if known, would have materially affected this Agreement. However, it is the intention of each of the parties to be bound by the terms of the Agreement, and each of the mutual general releases, notwithstanding any such discovery. Upon the advice of their counsel, each of the parties to this Agreement expressly waives the benefits of California Civil Code Section 1542, which provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

5. Entire Agreement.

This Agreement constitutes the entire agreement between and among the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties, whether oral or written. No modifications to this Agreement shall be valid unless they are made in writing and signed by all parties to the Agreement. This is an integrated Agreement.

6. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, heirs, successors, and assigns.

7. Severability.

In the event any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity or enforceability of any other provision.

8. Execution.

This Agreement shall be executed by the parties and their counsel and submitted to the Court for approval as required by California law.

9. Non-Assignment of Claims.

The parties covenant, represent and warrant that they: (1) are the sole and lawful owner of all right, title and interest in and to every claim or matter each of the parties releases herein; (2) have not assigned or transferred, in whole or in part, to any person or entity, any claim or other matter herein released; (3) have not filed any complaint, charge, or lawsuit of any kind whatsoever against any of the released parties hereunder, with any governmental agency, arbitration tribunal, or court; (4) shall not file any action or proceeding against any of the parties released hereunder, for any matter herein released; and (5) shall indemnify, defend and hold

harmless the other parties released hereunder from any and all claims, demands, suits, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies of any kind or nature whatsoever (including, without limitation, for attorneys' fees) arising out of, concerning, or relating to any assignment or transfer, or any purported or attempted assignment or transfer, or any other violation of the terms of this Agreement. Each of the parties hereto specifically represents that they have the legal authority to bind the persons and entity on whose behalf they sign this Agreement.

10. No Admission of Liability.

The execution of this Agreement and the performance of the obligations specified herein relate to the full compromise and settlement of claims and disputes that are contested and denied. Neither the doing of any acts hereunder nor anything contained herein shall be construed as an admission by any of the parties of any liability of any kind to any of the other parties.

11. Adequate Consideration and No Undue Influence.

The Class, on the one hand, and Fusione, on the other hand, each agree and represent that they have consulted with, obtained legal advice, and retained legal counsel for the purpose of negotiating this Agreement, they have received sufficient consideration in exchange for entering into this Agreement, and each has freely and voluntarily consented to the terms set forth in this Agreement, which has not involved coercion, undue influence or economic pressure.

12. Choice of Law.

This Agreement shall be governed and construed in accordance with the laws of the State of California. This Agreement was entered into in Los Angeles County, California, and any suit to interpret or enforce this Agreement shall only be brought in Los Angeles County.

13. Continuing Jurisdiction and Attorney Fees to Enforce Agreement.

Should any legal action, arbitration or other proceeding become necessary to enforce the terms and conditions of this Agreement, the prevailing party in such proceeding shall be entitled to recover all costs of suit and attorneys' fees. The Parties agree that this Agreement must be approved by the Court and a Judgment entered to terminate the Action. Accordingly, the Court

shall retain jurisdiction to enforce the terms of this Agreement, as merged into the Judgment, pursuant to Code of Civil Procedure Section 664.6 and Evidence Code Section 1123.

14. Interpretation.

In the event of a dispute hereunder, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted for or against any of the parties because such parties or his or her attorneys drafted or caused to be drafted this Agreement or any part hereof.

15. Warranties.

The parties acknowledge that they have had the opportunity to consult with and obtain advice from a licensed California attorney or have been represented by independent legal counsel of their own choice, they have reviewed this Agreement with their legal counsel, they have read this Agreement and are fully aware of its contents and its legal effect. The parties warrant and agree that they have entered into this Agreement freely and voluntarily after an independent investigation of the facts. The parties warrant and agree they have entered into this Agreement based solely upon such independent investigation and have not relied upon any representation of a material fact by any of the other parties. Other than any facts set forth within the provisions of this Agreement, the parties expressly warrant and agree that none of the parties has made any representation of fact in connection with the execution of this Agreement or the facts underlying the subject matter of this Agreement as an inducement for any other party to execute this Agreement. The parties confirm that this Agreement resulted from arms-length, good faith negotiations during a full day Mediation. This Agreement is jointly being submitted to the Court for approval on the grounds that it is fair, reasonable, adequate, and in the best of interests of the Class.

16. Further Assurances.

In addition to the acts expressly required in this Agreement to be performed by the parties, the Class and Fusione agree to fully cooperate and perform or cause to be performed all further acts and to promptly execute or cause to be executed any and all agreements, documents,

and instruments necessary or appropriate to give effect to the letter and spirit of each term of this Agreement, and to obtain the requisite approval from the Court.

17. Court Approval

This agreement is subject to court approval under California Rules of Court, rule 3.769, and shall become null and void ab initio if not approved by the court.

18. Identification of Class Members

Fusione will provide a complete list in electronic form of the names and e-mail addresses of putative class members to the Class Administrator under a timeline proposed in the motion for preliminary approval of settlement and approved by the court. The parties acknowledge that Fusione has prepared and provided the complete list in electronic form of the names and e-mail addresses of putative class members to Plaintiff's counsel. The list includes 359 putative class members.

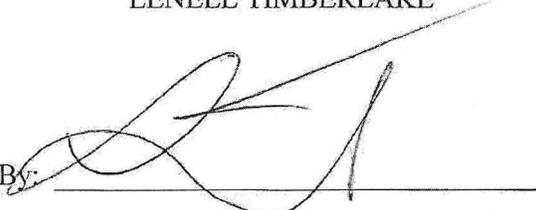
19. Headings.

The headings prior to each paragraph of this Agreement are for reference purposes only and are not part of this Agreement.

20. Signatures.

Lenell Timberlake and Fusione acknowledge that they have carefully read this Agreement, consulted with their own counsel, fully understand the terms and conditions, and freely and voluntarily enter into this Agreement.

The Class by and Through
LENELL TIMBERLAKE

By: 

Lenell Timberlake, on behalf of
himself and all others similarly situated

Dated: 8-4-21

FUSIONE, INC.

By: _____

Reza Foroutan
President

Dated: _____

STIPULATED AND AGREED:

LAW OFFICES OF DAVID R. GREIFINGER



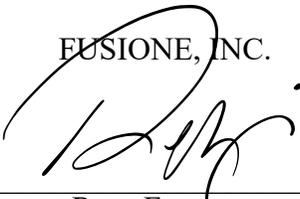
By: David Greifinger
Attorneys for Plaintiff

The Class by and Through
LENELL TIMBERLAKE

By: _____
Lenell Timberlake, on behalf of
himself and all others similarly situated

Dated: _____

FUSIONE, INC.

By: _____

Reza Foroutan
President

Dated: _____

STIPULATED AND AGREED:

LAW OFFICES OF DAVID R. GREIFINGER

By: _____
David R. Greifinger
Attorneys for Plaintiffs

Dated: _____

THE SAMINI FIRM APC

By: _____

Bobby Samini
Attorneys for
Defendant, Fusione, Inc.

Dated: _____