

Electronically Received 09/21/2021 06:46 PM

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**FILED**  
Superior Court of California  
County of Los Angeles  
10/05/2021  
Sherri R. Carter, Executive Officer / Clerk of Court  
By:           L. M'Greené           Deputy

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

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

12 **Plaintiffs,**

13 v.

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

16 **Defendants.**

**CASE NO. BC616783**

Assigned for all purposes to the Hon. Carolyn  
B. Kuhl, Dept. 12

[proposed] ORDER

- (1) GRANTING PRELIMINARY APPROVAL TO THE PROPOSED CLASS ACTION SETTLEMENT;
- (2) APPROVING THE FORM AND MANNER OF NOTICE;
- (3) APPOINTING CLASS COUNSEL;
- (4) APPOINTING JND LEGAL ADMINISTRATION AS THE SETTLEMENT ADMINISTRATOR;
- (5) ESTABLISHING A SCHEDULE FOR THE PROVISION OF NOTICE OF THE SETTLEMENT TO THE MEMBERS OF THE SETTLEMENT CLASS;
- (6) APPROVING CY-PRES RECIPIENT; AND
- (7) SETTING THE FINAL APPROVAL HEARING

Date: October 5, 2021 [Reserved]  
Time: 10:00 a.m.  
Dept.: 12

Action Filed: April 13, 2016  
Trial Date: None set

1           On October 25, 2019, Plaintiff submitted a notice of motion and motion for  
2 preliminary approval of class action settlement. A hearing took place on April 21, 2020, and  
3 a further hearing took place on October 5, 2021. The Court having read and considered the  
4 motion for preliminary Approval, the Settlement Agreement and Release, all notices to class  
5 members, and all other accompanying documents, IT IS HEREBY ORDERED AS  
6 FOLLOWS:

7           1. Subject to further consideration by the court at the final approval hearing, the  
8 court preliminarily approves the Settlement as fair, reasonable, and adequate to the members  
9 of the class, as falling within the range of possible final approval, and as meriting  
10 submission to the members of the settlement class for their consideration.

11           For purposes of the Settlement, the parties have agreed that the class is defined as  
12 follows:

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

16           2. The court approves, as to form and content, the “Notice of Settlement of Class  
17 Action” attached as Exhibit “A.”

18           3. The court approves, as to form and content, the proposed objection form attached  
19 as Exhibit “B.” Class members who object shall submit this completed form to the  
20 settlement administrator by mail, postmarked on or before ~~OCTOBER 15, 2021~~, ~~2021~~. The  
21 settlement administrator shall provide copies of all objection forms it receives to counsel.  
22 The settlement administrator shall file a declaration concurrently with the filing of any  
23 motion for final approval authenticating a copy of each objection form it receives. The  
24 settlement administrator shall give notice to any objecting party of any continuance of the  
25 motion for final approval.

26           4. The court approves, as to form and content, the proposed “opt-out” form,  
27 attached as Exhibit “C.” Class members electing to opt out shall submit this completed form  
28

1 to the settlement administrator by mail, postmarked on or before Ö^8&FI ÄGEGF, 202   .

2 The settlement administrator shall provide copies of all opt out forms it receives to counsel.

3 The settlement administrator shall file a declaration concurrently with the filing of any  
4 motion for final approval authenticating a copy of each “opt-out” form it receives.

5         5. The court approves as to form and content, the proposed Change of Address  
6 Form attached as Exhibit “D.”

7         6. The court finds that the plan for providing notice to the members of the  
8 settlement class as described in the Settlement Agreement constitutes the best notice  
9 practicable under the circumstances, constitutes due and sufficient notice to the members of  
10 the class of the terms of the Settlement, and complies fully with the requirements of the  
11 California Rules of Court, the Code of Civil Procedure, the California Constitution, due  
12 process, and any other applicable law.

13         7. The court appoints the following firms (attorneys) as Class Counsel: the Law  
14 Offices of David R. Greifinger, the Law Offices of Howard A. Goldstein and Kenneth M.  
15 Lipton, Esq.

16         8. The court directs that notice to the class be given in accordance with the schedule  
17 set forth below. The court finds that the dates and form selected for the notice meet the  
18 requirements of due process, provides the best notice practicable under the circumstances,  
19 and constitutes due and sufficient notice to all persons entitled to notice.

20         9. The court appoints JND Class Action Administration as the settlement  
21 administrator for purposes of settlement notice and administration.

22         10. The court directs Defendant to provide to the settlement administrator the names  
23 and addresses of the class members to whom the notice is to be mailed.

24         11. The Justice Gap Fund is approved as the *cy près* recipient for all uncashed  
25 checks.

26         12. The following dates shall govern for the purposes of this Settlement:  
27  
28

Proposed Date	Action
5 days after execution of this order Date: _____	Defendant shall provide last known email addresses of all class members to the settlement administrator
10 days after execution of this order Date: _____	The settlement administrator shall send the class notice by electronic mail to all class members at their last known electronic mail addresses provided by Defendant
70 days after execution of this order Date: _____	Last day for class members to: (1) Serve notice of objection on settlement administrator; and (2) Opt out/send opt-out request; and
80 days after execution of this order Date: _____	Last day for the settlement administrator to notify class counsel and counsel for Defendant of the number of timely opt-outs, timely objections, and timely elections for cash payments in lieu of coupons.
<del>_____ days after execution of this order</del> Date: <del>_____</del>	Fairness and final approval hearing

13. The court may, for good cause, extend any of the deadlines set forth in this order without further notice to the members of the settlement class. The final approval hearing may, from time to time be continued by order of the court, in which case the settlement administrator shall give notice to the members of the settlement class.

IT IS SO ORDERED.

Dated: 10/05/2021



*Carolyn B. Kuhl*

Carolyn B. Kuhl / Judge

Honorable Carolyn B. Kuhl  
JUDGE OF THE SUPERIOR COURT

Ex. A

## NOTICE OF SETTLEMENT OF CLASS ACTION

### YOU MAY BE ENTITLED TO RECEIVE MONEY AND COUPONS UNDER THE PROPOSED SETTLEMENT

THE DEFENDANT HAS AGREED TO THIS SETTLEMENT AND WILL NOT RETALIATE AGAINST ANYONE WHO ACCEPTS THESE BENEFITS.

**YOUR RIGHTS MAY BE AFFECTED: PLEASE READ IMMEDIATELY**

**Lenell Timberlake v. Fusione, Inc., a California Corporation**

Los Angeles Superior Court Case No. BC616783

The Court has granted Preliminary Approval to a proposed Settlement of a class action lawsuit (“Action”) against Fusione, Inc., doing business as Unici Casa and Society Unici. It is important that you read this Notice carefully. The court has preliminarily approved the following individuals/customers, as “Class Members” and collectively as a “class” and they are now part of the Settlement.

**The Class:**

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.

The following events fall within the relevant time period: 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.

#### **A. DESCRIPTION OF THE LAWSUIT.**

On April 13, 2016, Plaintiff LENELL TIMBERLAKE, on behalf of others similarly situated, filed a class action complaint entitled *Lenell Timberlake v. Fusione, Inc.*, Los Angeles Superior Court Case No. BC616783. Plaintiff alleges that the Defendant offered greater discounts or free admissions to female guests at its venue while charging male customers full price. Plaintiff alleges that Defendant violated the Unruh Act, the Gender Tax Repeal Act, and committed an unfair business practice.

Defendant denies the class claims and any wrongdoing. The parties however have entered into the Settlement relating to the Action.

The attorneys (“Class Counsel”) for the Fusione’s customers in this lawsuit are:

David R. Greifinger  
15515 Sunset Blvd., No. 214  
Pacific Palisades, California 90272

Tel: (424) 330-0193  
Fax: (831) 920-4864  
tracklaw@me.com

The Settlement Administrator is:

Timberlake v. Fusione Settlement  
Administrator  
c/o JND Class Action  
Administration  
P.O. Box 6878  
Broomfield, CO 80031  
(720) 540-4422

The attorneys for Defendant are:

Michael A. Vacchio, Esq.  
SAMINI COHEN SPANOS LLP  
333 S. Hope St., 40th Floor, Suite  
4025  
Los Angeles, California 90071  
Tel: (213) 863-0080  
Fax: (213) 863-0751  
michaelvacchio@saminicohen.com

#### **B. SUMMARY OF PROPOSED SETTLEMENT TERMS.**

Subject to the Court’s Final Approval, the terms of the Settlement are:

1. **Benefits for the Class.** The parties estimate that there are 359 class members. Based on this estimate, Fusione will pay each class member \$105.88, and provide a coupon good for admission to one event at Fusione’s facility in Culver City, California, valid from \_\_\_\_\_, 2021 to \_\_\_\_\_,

2022. If there are more than 359 class members, the payment to each member shall be prorated by multiplying \$105.88 by a fraction, with 359 being the numerator and the total number of class members being the denominator. If there are fewer than 359 class members, the payment to each member shall be \$105.88, with the balance being paid to the *cy prè*s beneficiary. PAYMENTS AND COUPONS WILL BE SENT TO CLASS MEMBERS BY ELECTRONIC MAIL. CLASS MEMBERS MUST KEEP THE SETTLEMENT ADMINISTRATOR INFORMED OF THEIR PROPER EMAIL ADDRESSES AT ALL TIMES.

2. **Un-cashed Checks.** The funds from un-cashed checks plus any accrued interest will be paid to the Justice Gap Fund. The Justice Gap Fund was created by Assembly Bill 2301, signed by the Governor in August 2006. (Bus. & Prof. Code, § 6033.) The fund helps close the gap between the legal services the California State Bar can provide and the legal needs of over six million indigent Californians who have little or no access to critical legal help.

3. Class Counsel will seek an award of \$5,000.00 for the class representative, Lenell Timberlake, to compensate him for the time and risks he undertook in bringing this action. He has spent substantial time on class members' behalf.

4. The Settlement Agreement provides for \$16,000 in costs. Class Counsel will seek reasonable attorneys' fees and expenses not to exceed \$60,000, subject to court approval.

#### **C. RECEIVING YOUR SHARE OF THE SETTLEMENT; RELEASE.**

By receiving your share under the Settlement, you will be bound by all of the terms of the Settlement, including a Release of claims that will prevent you from suing the Defendant for the matters being settled in this case and only for the issues raised in the lawsuit.

Each class member who does not request to be excluded from the Settlement will be deemed to release and discharge the Defendant, together with its officers, directors, employees, and agents, from the claims stated in the Action and those based on the facts alleged in the complaint. **Released Claims** shall only include claims for violations of Civil Code sections 51.5 and 51.6, subdivision. (b) and Business and Professions Code, sections 17200, and following sections., as those Business and Profession code sections would apply to Civil Code sections 51.5 and 51.6, subdivision (b), and more specifically relate to Defendant's prices of admission to events at its venue. (The complete terms of the Release are set forth in the settlement agreement filed with the court, attached as an exhibit to the Compendium of Exhibits to the motion for preliminary approval of class settlement.)

#### **D. YOUR OPTIONS.**

1. **Option One: Take No Action if You Wish to Receive Payment and Coupons:** If you are a member of the Class and take no action, you will receive by mail a check for \$105.88 and one coupon for free admission to an event hosted by Defendant at its facility in Culver City California, valid from [redacted] to [redacted].

2. **Option Two: You Can Exclude Yourself ("Opt Out") From the Lawsuit:** If you do not wish to participate in the action, you may exclude yourself from the case (referred to as "opting out") by submitting a signed and dated Request for Exclusion on the Opt-Out Form included with this notice to the Settlement Administrator at the address below no later than [redacted]. Your Request for Exclusion on the Opt-Out form provided with this notice include your name and address. You must sign your Opt-Out form for it to be valid.

The Request for Exclusion must be sent to: Timberlake v. Fusione Settlement Administrator  
c/o JND Class Action Administration  
P.O. Box 6878  
Broomfield, CO 80021

Any person who submits and delivers a timely Request For Exclusion shall, upon receipt, no longer be a class member and shall be barred from participating in any portion of the settlement.

#### **E. CHANGE OF ADDRESS.**

If your mailing address is different than the address of this Notice, please notify the administrator by mailing the enclosed change of address form to Timberlake v. Fusione Settlement Administrator, c/o JND Class Action Administration, P.O. Box 6878, Broomfield, CO 80021, including your new and former address.

#### **F. TO OBJECT TO THE SETTLEMENT.**

The court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final approval hearing. If you believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement by sending a written objection on the Objection Form included with this notice by mail to Timberlake v. Fusione Settlement Administrator, c/o JND Class Action Administration, P.O. Box 6878, Broomfield, CO 80021. All objections must

be signed and include your name and address. All Objection Forms must be postmarked no later than [REDACTED]. If you submit a timely objection, you have a right to appear and speak at the Final Approval Hearing, but are not required to do so.

**G. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT.**

The court has determined that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. The court will make a final determination on these issues at the final approval hearing. The final approval hearing on the fairness and adequacy of the proposed Settlement, will be held on [INSERT DATE] at [INSERT TIME] in Department 12 of the Los Angeles County Superior Court, at 312 North Spring Street, Los Angeles, California 90012. The final approval hearing may be continued, in which case you will receive notice from the Settlement Administrator. It is not necessary for you to appear at this hearing.

**H. INSPECTION OF SETTLEMENT AGREEMENT AND OTHER PAPERS FILED IN ACTION.**

The Settlement Agreement, which is attached to the Revised Compendium of Settlement Agreement and Declarations, and which was filed with the motion for preliminary approval may be viewed at the Los Angeles County Superior Court clerk's office located at 111 North Hill Street, Los Angeles, California 90012. This case is assigned to Department 12 of the Los Angeles County Superior Court located at 312 North Hill Street, Los Angeles, California 90012. You may view the Declaration and Settlement Agreement and other documents filed in this Action at the court clerk's office, or by viewing the case file online. The address of the court's website for viewing the file online is [www.lacourt.org](http://www.lacourt.org).

**IF YOU HAVE QUESTIONS ABOUT THIS NOTICE, PLEASE CALL THE SETTLEMENT ADMINISTRATOR AT (720) 540-4422. DO NOT CALL THE COURT.**

Ex. B

**OBJECTION FORM**

**Lenell Timberlake v. Fusion, Inc., a California Corporation**

Los Angeles Superior Court Case No. BC616783

I am a class member and I object to the proposed settlement of the class action lawsuit entitled *Lenell Timberlake v. Fusion, Inc.*, Los Angeles Superior Court Case No. BC616783.

The grounds for my objection are as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets if necessary)

\_\_\_\_\_  
(NAME)

\_\_\_\_\_

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(CITY)

\_\_\_\_\_  
(ZIP CODE)

\_\_\_\_\_  
(E-MAIL ADDRESS)

\_\_\_ Please check if this address is different than the address to which the class notice was mailed or e-mailed.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

This form must be postmarked **NO LATER THAN**                     , 2020.

Mail this form to: Timberlake v. Fusion Settlement Administrator, c/o JND Class Action Administration, P.O. Box 6878, Broomfield, CO 80021.

**IF YOU FILE AN OBJECTION TO THE PROPOSED SETTLEMENT,  
YOU MAY NOT ALSO OPT OUT OF THE CLASS ACTION LAWSUIT.**

Ex. C

**OPT-OUT FORM**

**Lenell Timberlake v. Fusion, Inc., a California Corporation**

Los Angeles Superior Court Case No. BC616783

I am a class member and I object to the proposed settlement of the class action lawsuit entitled *Lenell Timberlake v. Fusion, Inc.*, Los Angeles Superior Court Case No. BC616783. I understand that by opting out I will receive no benefits or compensation from the lawsuit.

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(CITY)

\_\_\_\_\_  
(ZIP CODE)

Please check if this address is different than the address to which the class notice was mailed.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

This form must be postmarked **NO LATER THAN**                     , 2020.

Mail this form to: Timberlake v. Fusion Settlement Administrator, c/o JND Class Action Administration, P.O. Box 6878, Broomfield, CO 80021.

Ex. D

**CHANGE OF EMAIL ADDRESS FORM**

***Lenell Timberlake v. Fusion, Inc., a California Corporation***  
Los Angeles Superior Court Case No. BC616783

I am a class member in the class action lawsuit entitled *Lenell Timberlake v. Fusione, Inc.*, Los Angeles Superior Court Case No. BC616783. My new electronic mail address is stated below. Please send all notices and class benefits to this new electronic mail address.

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(E-MAIL ADDRESS)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Mail this form to: Timberlake v. Fusione Settlement Administrator, c/o JND Class Action Administration, P.O. Box 6878, Broomfield, CO 80021.

**PROOF OF SERVICE**

STATE OF CALIFORNIA            )  
  )  
COUNTY OF LOS ANGELES        )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is: Law Offices of David Greifinger, 15515 Sunset Blvd., No. 214, Pacific Palisades, CA 90272.

On September 21, 2021, I served the foregoing document described as **PROPOSED ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL** on the interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows, and by transmitting by CaseAnywhere and email:

**SEE ATTACHED SERVICE LIST**

  X   **BY ELECTRONIC MAIL** – I caused a true and correct copy of the document to the email address on the attached service list.

  X   **BY CASE ANYWHERE** – (BY CASE ANYWHERE E-SERVICE) Under the court’s October 5, 2016, Order Authorizing Electronic Service, the above-named document has been electronically served on counsel of record by transmission through the Case Anywhere system on the date below. The transmission of this document to Case Anywhere system was reported as complete and a copy of the Case Anywhere confirmation will be maintained in our office.

  X   **STATE** - I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

     **FEDERAL** - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 21, 2021, at Pacific Palisades, California.

David Greifinger  
Type or Print Name

/s/ David Greifinger  
Signature

**PROOF OF SERVICE LIST**

Bobby Samini (SBN 181796)  
The Samini Firm APC  
650 Town Center Drive, Suite 1700  
Costa Mesa, CA 92626-7025  
bsamini@saminilaw.com