

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Kaleigh R. Dittus, Courtney A. Snyder,
and Joanna L. Tabler, all individually and
on behalf of all other similarly situated
individuals,

Plaintiffs,

vs.

K.E.G., Inc., d/b/a Heart Breakers
Gentlemen’s Club; Shadow Management
Company, Inc., d/b/a Platinum Plus
(Columbia); Splash, Inc., d/b/a
Platinum Plus (Columbia); Elephant, Inc.,
d/b/a Platinum Plus (Greenville);
KWE Group, LLC; KWON, LLC,
d/b/a Platinum West; Gregory Kenwood
Gaines, a/k/a Ken Wood; and David A.
Henson, a/k/a Kevin Ford,

Defendants.

Civil Action No. 3:14-cv-00300-JFA

**STIPULATION AND AGREEMENT
REGARDING CONTENTS AND
DISSEMINATION OF NOTICE
OF PENDENCY OF FLSA
COLLECTIVE LAWSUIT**

The undersigned counsel for the parties in the above-captioned case hereby submit this Stipulation and Agreement Regarding Contents and Dissemination of Notice of Pendency of FLSA Collective Lawsuit, which confirms the parties’ agreement to the following terms:

1. The parties jointly request that the Court approve the language of the proposed Notice previously submitted to the Court on Friday, July 25, 2014, via e-mail from Plaintiffs’ counsel, David E. Rothstein, a copy of which is attached hereto.

2. Plaintiffs’ counsel shall mail copies of the Notice to potential members of the Plaintiff class, using the names and addresses of individuals who may have performed or danced at one or

more of Defendants' clubs in South Carolina during the relevant period, as reflected in the photocopied IDs and other lists produced by Defendants in discovery in this matter.

3. Potential class members shall have 90-days from the date of the Court's order formally approving the Notice, to file consent forms to join the case as Plaintiffs under 29 U.S.C. § 216(b). Consent forms must be filed with the Court or mailed to Plaintiffs' counsel in an envelope that is post-marked on or before the 90-day deadline.

4. Defendants will post at least two copies of the Notice in a conspicuous location in the break room, locker room, or other location where employment notices are posted, in each of Defendants' clubs in South Carolina. Defendants will take reasonable measures to ensure that the Notices are not defaced, altered, or removed during the entire 90-day notice period.

5. Defendants will not interfere in any way with any dancer's reasonable opportunity to read or review the Notice, without intimidation, coercion, or retaliation by any employee or agent of Defendants' clubs.

6. Plaintiffs' attorneys may post copies of the Notice, the Court's Order approving the Notice, and the Amended Complaint on each law firm's web-site.

7. Plaintiffs' attorneys may publish the Notice in the Legal Notices sections of regional newspapers of general circulation in Columbia, Greenville, Charleston, Myrtle Beach, Charlotte and/or Atlanta.

8. Plaintiffs' attorneys may provide a copy of the Notice to any individual who requests one.

9. Plaintiffs' attorneys will be responsible initially for the costs of reproducing and mailing the Notices to potential class members, although Plaintiffs reserve the right to seek

reimbursement of such costs at a later date, as part of a statutory award of fees and costs or from any common fund that might be recovered in the case by way of settlement, judgment, or otherwise.

10. The parties jointly request that the Court's Order approving the Notice include the above items regarding the dissemination and mailing of the Notice.

Respectfully submitted this 31st day of July, 2014.

FOR PLAINTIFFS:

s/David E. Rothstein
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Harold Lichten (Admitted *pro hac vice*)
Shannon Liss-Riordan (Admitted *pro hac vice*)
Matthew Thomson (Admitted *pro hac vice*)
LICHTEN & LISS-RIORDAN, P.C.
[100 Cambridge St., 20th Floor](#)
Boston, MA 0114
Tel: 617-994-5800
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FOR DEFENDANTS:

s/D. Christopher Lauderdale
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NOTICE OF PENDENCY OF FLSA COLLECTIVE LAWSUIT

To: All individuals who have performed or are currently performing as exotic dancers at Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, or Platinum West at any time since February 4, 2011.

From: Rothstein Law Firm, PA and Lichten & Liss-Riordan, P.C.

Date: [date of mailing]

The purpose of this notice is to advise you of a lawsuit under the federal Fair Labor Standards Act ("FLSA") that has been filed against the following companies and individuals:

**K.E.G., INC., D/B/A HEART BREAKERS GENTLEMEN'S CLUB;
SHADOW MANAGEMENT COMPANY, INC., D/B/A PLATINUM PLUS (COLUMBIA);
SPLASH, INC., D/B/A PLATINUM PLUS (COLUMBIA);
ELEPHANT, INC., D/B/A PLATINUM PLUS (GREENVILLE);
KWE GROUP, LLC;
KWON, LLC, D/B/A PLATINUM WEST;
GREGORY KENWOOD GAINES A/K/A KEN WOOD; AND
DAVID A. HENSON**

The lawsuit is called *Dittus, et al. v. K.E.G., Inc., et al.* and is pending in the United States District Court for the District of South Carolina, Docket Number 3:14-cv-00300-JFA.

You are receiving this notice because we have received information which indicates that *you may have* performed as an exotic dancer at one or more of the named clubs during the statutory period.

1. DESCRIPTION OF THE LAWSUIT

The plaintiffs who filed this lawsuit are: Kaleigh R. Dittus, Courtney A. Snyder, and Joanna L. Tabler (collectively referred to herein as "Plaintiffs"). Rothstein Law Firm, PA and Lichten & Liss-Riordan, P.C. represent Plaintiffs in this lawsuit. The defendants in this lawsuit are K.E.G., Inc., d/b/a Heart Breakers Gentlemen's Club; Shadow Management Company, Inc., d/b/a Platinum Plus (Columbia); Splash, Inc., d/b/a Platinum Plus (Columbia); Elephant, Inc., d/b/a Platinum Plus (Greenville); KWE Group, LLC; KWON LLC, d/b/a Platinum West, Gregory Kenwood Gaines a/k/a Ken Wood; and David A. Henson (collectively referred to herein as "Defendants"). Defendants are represented by the law firms of Jackson Lewis, PC and the Harry T. Heizer, Jr. Law Firm.

Plaintiffs are current and former exotic dancers who allege that Defendants violated the Fair Labor Standards Act by misclassifying the exotic dancers who performed at Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, or Platinum West as independent contractors or lessees as opposed to employees and thereby failed to comply with the Act's minimum wage and overtime requirements. Plaintiffs also allege that Defendants made improper deductions from the exotic dancers' tips and wages by requiring the payment of house fees and mandatory tip outs. Plaintiffs' claim that they were entitled to minimum wage and overtime payments, if applicable, in addition to any tips or dance fees that they received directly from customers.

Defendants deny that they acted in violation of the law in any way, and allege that the exotic dancers who performed at Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, or Platinum West were properly classified, and that their pay practices were and are lawful.

2. YOUR RIGHT TO MAKE A CLAIM IN THIS SUIT

If at any time between February 4, 2011 and the present you performed as an exotic dancer in South Carolina at Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, or Platinum West, you may join this suit and assert a claim under the Fair Labor Standards Act. To do so, you must follow the procedure described below. If you decide not to join the lawsuit, you do not need to do anything.

You may choose to join or not to join this lawsuit. If you do join the lawsuit, you may be represented by the plaintiffs' lawyers or by an attorney of your own choosing, and you will be bound by the determinations made by the court in this case. To join this lawsuit and assert a claim you must sign a written Consent Form to be made a plaintiff in the lawsuit and return it as directed below. The Consent Form will then be filed with the United States District Court for the District of South Carolina. If you choose not to join the lawsuit there is nothing you need to do. It is entirely up to you whether or not to sign and file a Consent Form.

3. YOUR RIGHT TO BE FREE FROM RETALIATION

The law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, Defendants are prohibited from preventing you from performing or otherwise retaliating against you in any manner if you choose to participate in this lawsuit.

4. HOW TO MAKE A CLAIM IN THIS LAWSUIT

Attached to this notice is a form entitled Consent to Join Collective Action Pursuant to the Fair Labor Standards Act, 29 U.S.C. §216(b). If you choose to join this lawsuit and make a claim in it, you must fill out the Consent Form, sign it, and return it to the following address. You must return a signed, completed Consent Form to the following address via mail, fax, or e-mail no later than [90 days after the Court's Order on Plaintiffs' Motion for Conditional Certification].

David E. Rothstein, Esq.
Rothstein Law Firm, PA
1312 Augusta Street
Greenville, SC 29605
(864) 232-5870/ fax (864) 241-1386
E-mail: drothstein@rothsteinlawfirm.com
Web-site: www.rothsteinlawfirm.com

If you have any questions regarding this lawsuit, you may contact the attorneys listed below:

David E. Rothstein, Esq.
Rothstein Law Firm, PA
1312 Augusta Street
Greenville, SC 29605
Phone: (864) 232-5870
Fax: (864) 241-1386
Email: drothstein@rothsteinlawfirm.com

Matthew Thomson, Esq.
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100 Cambridge Street, 20th Floor
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Phone: (617) 994-5800
Fax: (617) 994-5801
E-mail: mthomson@llrlaw.com

5. THE LEGAL EFFECT OF FILING OR NOT FILING THE CONSENT FORM

If you join the lawsuit by filing the signing the consent form, you will be bound by the judgment of the court in this case. Your right to recovery, if any, will be determined at a later date by the court. If you do not return a Consent Form, you will not receive any relief from this lawsuit in the event that monetary damages or other relief is awarded. You will, however, retain your right to file a separate lawsuit. However, you should be aware that the statute of limitations on your claim continues to run until you have actually filed a lawsuit or an opt-in consent form with the court.

If you file a Consent Form and participate in the lawsuit you may be required to respond to written questions, to produce documents substantiating your claim, and to sit

for a deposition or testify at the trial. As a plaintiff, you will be bound by any rulings, judgment, award, or other order of the court, whether favorable or unfavorable. If the case is settled, you will also be bound by any settlement that Plaintiffs reach with Defendants, subject to the Court's approval of any such settlement for fairness. If you elect to opt-in to this lawsuit and be represented by Plaintiffs' lawyers, you will not have to pay legal fees or costs. Any such legal fees or costs would be paid from the common fund, if any, recovered by way of judgment or settlement, or Defendants could be required by the court to pay attorney's fees and costs, if the plaintiffs prevail at trial.

6. STATUTE OF LIMITATIONS

The FLSA has a general statute of limitations of two years, which may be extended to three years in instances in which a willful violation of the law is established. If you choose to join this lawsuit, and a final determination is rendered that finds minimum wages or overtime pay is owed, you may be able to recover damages if you were not paid such minimum wages or overtime pay, but only for the hours worked during the applicable statute of limitations period, as determined by the court.

7. THE COURT EXPRESSES NO OPINION ON THIS LAWSUIT

The Court has not made a final determination that any Defendant failed to comply with the Fair Labor Standards Act. Whether the Defendant has failed to comply with the Fair Labor Standards Act is in dispute. There is no money currently available from this lawsuit to Plaintiffs (or to persons receiving this notice) and there is no guarantee that Plaintiffs (or the persons receiving this notice) will recover any money by joining this lawsuit.

Dated: [date of mailing]

OPT-IN CONSENT FORM

Dittus, et al. v. K.E.G., Inc. d/b/a Heartbreakers, et al.
District of South Carolina, Civil Action No. 3:14-cv-00300-JFA

Complete and return to: David E. Rothstein, Esq.
Rothstein Law Firm, PA
1312 Augusta Street
Greenville, SC 29605
(864) 232-5870/ fax (864) 241-1386
E-mail: drothstein@rothsteinlawfirm.com

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ (home) _____ (work) _____ (cell)

E-mail: _____

CONSENT TO JOIN COLLECTIVE ACTION
Pursuant to the Fair Labor Standards Act, 29 U.S.C. §216(b)

1. I consent and agree to pursue my claims arising out of the work I performed for Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, and/or Platinum West in connection with the above-referenced lawsuit.

2. I was an exotic dancer from about _____ (month, year) to about _____ (month, year). I perform/performed at (circle all that apply): Heartbreakers, Platinum Plus Columbia, Platinum Plus Greenville, and/or Platinum West.

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. §201, et seq. I hereby consent, agree, and “opt-in” to become a plaintiff herein and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate the Rothstein Law Firm, PA and Lichten & Liss-Riordan, P.C. to represent me for all purposes in this action.

5. I also designate Plaintiffs in this action, the collective action representatives, as my agents to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with Plaintiffs’ Counsel concerning attorneys’ fees and costs (with the understanding that Plaintiffs’ Counsel are being paid on a contingency fee basis, which means that if there is not recovery, there will be no attorneys’ fees), and all other matters pertaining to this lawsuit.

Signature: _____ Date: _____