

INJUNCTIVE RELIEF SETTLEMENT AND RELEASE AGREEMENT

This Injunctive Relief Settlement and Release Agreement (“Agreement”) is entered into between Plaintiff DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (hereinafter “DFEH”), Plaintiff-Intervenor CHRISTYNN LILI WRENE WOOD (hereinafter “Plaintiff-Intervenor” or “Ms. Wood”) and Defendant CFG JAMACHA, LLC dba CRUNCH FITNESS (hereinafter “Crunch”) and John Romeo (hereinafter “Defendant”). DFEH, Plaintiff-Intervenor and Defendant are sometimes referred to collectively hereinafter as the “Parties.”

1. INTRODUCTION

On April 17, 2018, DFEH initiated a lawsuit against Defendant in the Superior Court of the State of California, County of San Diego entitled *Department of Fair Employment and Housing, et al. v. CFG Jamacha, LLC, et al.*, and identified by Case No. 37-2018-00019066-CU-CR-CTL (hereinafter “the Action”). Thereafter, on June 18, 2018, Plaintiff-Intervenor filed a complaint-in-intervention in the Action. Both DFEH and Plaintiff-Intervenor alleged Defendants violated the Unruh Act. Plaintiff-Intervenor also asserted causes of action for general negligence and negligent supervision, hiring, training and/or retention. All claims asserted against Defendants arise out of Plaintiff-Intervenor’s membership with CFG Jamacha, LLC, and use of the gym facilities located at 522 Jamacha Road, El Cajon, California 92020. DFEH and Plaintiff-Intervenor sought statutory damages and injunctive relief for Defendants’ alleged Unruh Act violation. Plaintiff-Intervenor also claimed she suffered emotional distress damages as a result of the alleged conduct. The details of DFEH and Plaintiff-Intervenor’s claims are more fully set forth in the operative complaint and complaint-in-intervention on file in the Action.

The Parties desire to settle this lawsuit by resolving their differences not through continued litigation and trial but rather through settlement of the, including all liabilities connected with the claims asserted in the Action, or which could have been raised in the Action, or which arise from or relate to the Action, and to avoid incurring additional costs and expenses arising out of the Action.

The Parties enter into this Agreement to fully settle and discharge all disputed civil claims and actions upon the terms and conditions set forth herein.

2. NO ADMISSION OF LIABILITY

It is expressly understood, acknowledged and agreed to by the Parties, that by reason of entering into this Agreement, the Parties do not admit, expressly or impliedly, any fact or liability of any type or nature with respect to the Action, whether or not referred to herein, or the sufficiency of any claims, allegations, assertions, or the positions made or taken or that could have been raised or taken by any party in the Action. This Agreement is entered into solely by way of compromise and settlement.

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3. SETTLEMENT TERMS

DFEH and Crunch agree to the following:

(a) Defendant Crunch will provide all employees anti-discrimination and harassment training, including but not limited to training on identification and prevention of harassment based on gender identity or gender expression, as required by all applicable anti-discrimination laws. Defendant Crunch further agrees to provide this training to all new employees within 60 days of hire, and then every two years thereafter, or as otherwise required by applicable law.

(b) Defendant further agrees to comply with all applicable anti-discrimination laws.

(c) Defendant agrees to report its compliance with the above-identified requirements to DFEH. DFEH is required to engage in a meet and confer process with Defendant should it deem Defendant's compliance reporting to be insufficient and provide Defendant with 30 days to correct any deficiency before involving the Court.

In exchange for the above, DFEH and Plaintiff-Intervenor agree to dismiss, with prejudice, their respective operative complaints filed in the Action against Defendants.

All parties are to bear their own attorneys' fees and costs.

4. RELEASE

In consideration for the above equitable terms and the settlement set forth in the separate settlement and release agreement between Plaintiff-Intervenor and Defendants, DFEH does hereby fully and forever completely release, acquit, and discharge Defendants, together with any and all past and present employees, agents (whether ostensible or actual), officers and directors, partners, owners, representatives, insurance carriers, additional insured parties, and their respective owners, partners, representatives and successors (collectively "Releasees") from any and all civil claims, demands, damages, wages, costs, attorneys' fees, rights or causes of action, whether known or unknown, past, present or future which DFEH and Plaintiff-Intervenor may have against the Releasees, or any of them, that arise from, or are directly related to, or are directly connected with, any of the facts or circumstances alleged in the Action or the subject matter of the Action, including claims for violations of any federal, state or local statute, ordinances, public policy or common law. The Department does not waive its right to process any other complaints against Defendant by any other person. The Department's participation in this Agreement is limited to the particular factual allegations of the Action. In other words, the Department does not, nor is it able to, waive the rights of any other person who may want to file a complaint of discrimination against Defendant.

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5. DISMISSAL

DFEH and Plaintiff-Intervenor shall cause their respective attorneys to execute a request for dismissal with prejudice of the operative Complaint and Complaint-in-Intervention filed in the Action as to all Defendants upon Plaintiff-Intervenor's receipt of the settlement funds subject to a separate settlement and release agreement. DFEH and Plaintiff-Intervenor agree their respective counsel shall execute the requests for dismissal and this Agreement and return to counsel for Defendants for filing. Defendants' counsel will file the dismissals and provide DFEH and Plaintiff-Intervenor's counsel with conformed copies of the dismissals upon receipt.

6. WAIVER OF SECTION 1542

As to the matters released by this Agreement, the Parties expressly waive all rights under section 1542 of the California Civil Code and of any comparable principle of law, whether by statute or decision. Section 1542 provides as follows:

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

This Agreement expressly includes a discharge of unknown and unsuspected claims relating to the Action. The Parties understand and acknowledge the consequences of such a specific waiver.

7. NO PRIOR ASSIGNMENT OR TRANSFER

Each Party to this Agreement represents and warrants that there has been no assignment or other transfer of any claims or causes of action which they are releasing pursuant to the terms of this Agreement.

8. NO ENTRY OF JUDGMENT

None of the Parties hereto has nor shall they prepare and enter a judgment in this matter.

9. MISCELLANEOUS PROVISIONS

A. Entire Agreement

This Agreement constitutes the full and entire Agreement regarding the civil claims between the Parties hereto, and such Parties acknowledge that there is no other civil claim Agreement, oral and/or written, between the Parties hereto, except the separate settlement and release agreement between Plaintiff-Intervenor and Defendants.

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B. Authority to Enter Agreement

This Agreement is the result of arms-length negotiations. Each Party to this Agreement represents and warrants to the others that the persons executing this Agreement on behalf of such Party are duly and fully authorized to do so, and that each such Party is acting pursuant to the power and authority granted by their respective principals, and that no further approvals are required to be obtained from any persons or entities.

C. Final Agreement

The Parties to this Agreement, and each of them, acknowledge that (1) this Agreement and its reduction to final form is the result of extensive good faith negotiations; (2) counsel for the Parties has carefully reviewed and examined this Agreement before execution by said Parties, or any of them; and (3) any statute or rule of construction that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Agreement.

D. Binding Agreement

This Agreement is and shall be binding upon and shall inure to the benefit of the predecessors, affiliates, subsidiaries, successors, insurance carriers, assigns, parties, agents, officers, employees, shareholders, associates, legal representatives, heirs, executives and/or administrators of each of the Parties hereto.

E. Governing Law

This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable for whatever reason, the remaining provisions not so declared shall nonetheless continue in full force and effect without being impaired in any manner whatsoever.

F. Modifications

This Agreement may be amended or modified only by a writing signed by all Parties to this Agreement.

G. Paragraph Headings

Paragraph headings are for reference only and shall not affect the interpretation of any paragraph hereto.

H. No Inducement

Each of the Parties to this Agreement acknowledges for itself that it has read this Agreement and fully understands its contents and consequences and has voluntarily

executed it. Each of the Parties also warrants that no promise or inducement has been made or offered by any of the Parties, except as set forth herein, and that this Agreement is not executed in reliance upon any statement of representation of any of the Parties or their representatives, concerning the nature and extent of the injuries, damages or legal liability thereof. The Parties further represent that they have been represented by legal counsel during the course of the negotiations leading to the signing of this Agreement, and that they have been advised by legal counsel with respect to the meaning of this Agreement and its legal effect.

I. Counterparts/Original Signature

This Agreement may be executed in counter-parts with the same effect as if all original signatures were placed on one document and all of which together shall be one and the same Agreement. Also, signatures received via facsimile or email shall have the same force and effect as an original.

J. Additional Documents

All Parties agree to cooperate fully to take any and all steps, perform any acts, and execute any documents consistent with the terms and conditions of this Agreement, which may be needed or required to effectuate the terms, intent, conditions, covenants, and provisions hereof.

K. Enforcement and Venue

The Parties agree that the court in which the Action is venued will retain jurisdiction over this Agreement for a period of five years. In the event of a dispute about compliance with the terms of this Agreement, the Parties will make a good-faith effort to meet and confer to resolve the dispute before seeking court intervention.

L. Drafter

No provision, principle, or other concept of law or equity wherein the terms and conditions of the Agreement are interpreted against the Party who drafted the Agreement shall have any application to this Agreement.

M. Good Faith

The Agreement described herein was made "in good faith" within the meaning of Code of Civil Procedure section 877.6.

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N. Effective Date

The Parties deem this Agreement effective as of the date when all Parties and their respective counsel have signed the Agreement.

WE HEREBY CERTIFY THAT WE HAVE READ ALL OF THIS INJUNCTIVE RELIEF SETTLEMENT AND RELEASE AGREEMENT AND FULLY UNDERSTAND THE SAME, AND IN WITNESS WHEREOF WE HAVE EXECUTED THIS AGREEMENT IN CALIFORNIA.

IT IS SO AGREED:

PLAINTIFF:



Department of Fair Employment and Housing,
Plaintiff


DATED: 11-21-2021

PLAINTIFF-INTERVENOR:

Christynne Lili Wrene Wood,
Plaintiff-Intervenor

DATED: _____

DEFENDANT:



Jeff Clark for CFG Jamacha, LLC
dba Crunch Fitness,
Defendant

DATED: Nov/29/21

DEFENDANT:

John Romeo,
Defendant

DATED: _____

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N. Effective Date

The Parties deem this Agreement effective as of the date when all Parties and their respective counsel have signed the Agreement.

WE HEREBY CERTIFY THAT WE HAVE READ ALL OF THIS INJUNCTIVE RELIEF SETTLEMENT AND RELEASE AGREEMENT AND FULLY UNDERSTAND THE SAME, AND IN WITNESS WHEREOF WE HAVE EXECUTED THIS AGREEMENT IN CALIFORNIA.

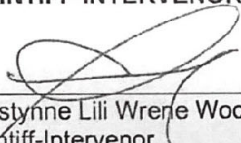
IT IS SO AGREED:

PLAINTIFF:

Department of Fair Employment and Housing,
Plaintiff

DATED: _____

PLAINTIFF-INTERVENOR:



Christynne Lili Wrene Wood,
Plaintiff-Intervenor

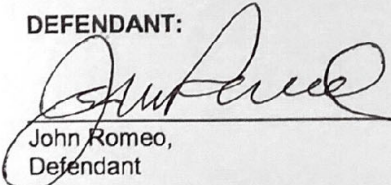
DATED: Wood 11/22/2021

DEFENDANT:

Jeff Clark for CFG Jamacha, LLC
dba Crunch Fitness,
Defendant

DATED: _____

DEFENDANT:



John Romeo,
Defendant

DATED: 11/23/21

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APPROVED AS TO FORM



Nelson Chan, Esq.
Renee Paradis, Esq.
Department of Fair Employment and Housing
Attorneys for Plaintiff

DATED: 11/23/2021

David Loy, Esq.
American Civil Liberties Union Foundation of
San Diego and Imperial Counties
Attorneys for Plaintiff-Intervenor, Christynne Lili Wrene Wood

DATED: _____


Tami G. Vail, Esq.
Kahana Feld, LLP
Attorneys for Defendants, CFG Jamacha, LLC
dba Crunch Fitness, and John Romeo

DATED: _____

APPROVED AS TO FORM

Nelson Chan, Esq.
Renee Paradis, Esq.
Department of Fair Employment and Housing
Attorneys for Plaintiff

DATED: _____



David Loy, Esq.
American Civil Liberties Union Foundation of
San Diego and Imperial Counties
Attorneys for Plaintiff-Intervenor, Christynne Lili Wrene Wood

DATED: 11/22/21



Tami G. Vail, Esq.
Kahana Feld, LLP
Attorneys for Defendants, CFG Jamacha, LLC
dba Crunch Fitness, and John Romeo

DATED: December 2, 2021