

To: All individuals identified by FabFitFun and to whom FabFitFun sent notice that their information may have been exposed in the Security Incident defined below (the “Settlement Class Members”).

A proposed Settlement has been reached in a class action lawsuit titled, *Gaston, et al. v. FabFitFun, Inc.*, No. 2:20-cv-09534-RGK-E (C.D. Cal.). The lawsuit asserted claims against Defendant FabFitFun, Inc. related to a security incident that may have affected new customer sign ups from April 26, 2020 to May 14, 2020 and May 22, 2020 to August 3, 2020 and about which FabFitFun notified consumers in September 2020 (the “Security Incident”). Defendant denies all of the claims and denies that it did anything wrong.

The Settlement offers payments to Settlement Class Members who were sent notice that they were potentially affected by the Security Incident. The amount paid will depend upon how many people submit valid claims and whether:

- (1) the Settlement Class Member potentially had their payment card, login and password information exposed in the Security Incident (preliminarily set at **\$55.00** per Settlement Class Member in this category and subject to adjustment based on the number of claims made);
- (2) the Settlement Class Member potentially had their login and account password, but not payment information, exposed in the Security Incident (preliminarily set at **\$25.00** per Settlement Class Member and subject to adjustment based on the number of claims made); or
- (3) none of the above (preliminarily set at **\$12.00** per Settlement Class Member and subject to adjustment based on the number of claims made); or
- (4) if you experienced unauthorized charges that were not denied, reversed or otherwise credited or reimbursed and which you believe in good faith were more likely than not caused by the Security Incident, you may instead file a claim for a Reimbursement Award as explained below.

If you are a Settlement Class Member, your options are:

SUBMIT A CLAIM FORM DEADLINE: JULY 31, 2021	You must submit a valid claim form to receive a payment from this Settlement.
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DO NOTHING	You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the Settlement.
EXCLUDE YOURSELF DEADLINE: JUNE 16, 2021	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you receive no payment. Exclusion instructions are provided in this notice.
OBJECT DEADLINE: JUNE 16, 2021	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the Settlement.

The court must give final approval to the settlement before it takes effect, but has not yet done so. No payments will be made until after the court gives final approval and any appeals are resolved.

Please review this notice carefully. You can learn more about the Settlement by visiting www.FFFdbSettlement.com.com or by calling **(833) 775-1513**.

Further Information about this Notice and the Lawsuit

1. Why was this Notice issued?

You received this notice because you may be a Settlement Class Member able to receive payment from a proposed settlement of the class action lawsuit *Gaston, et al. v. FabFitFun, Inc.*, United States District Court, Central District of California, Case No. 2:20-cv-09534-RGK-E (the “Lawsuit”). The Court overseeing the Lawsuit authorized this Notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. The Notice explains certain legal rights and options you have in connection with that settlement.

2. What is the Lawsuit about?

The Lawsuit is a proposed class action lawsuit brought on behalf of FabFitFun customers whose Personal Information may have been accessed and/or compromised by unauthorized individuals as part of the Security Incident. The Security Incident involved the potential exposure of payment card data of customers who used a credit or debit card to purchase a membership on the FabFitFun website, as well as FabFitFun website credentials for those and other users. The potentially-exposed information may include customers’ names, FabFitFun username and

password, payment card numbers, CVV security codes, and credit card expiration dates.

The Lawsuit claims Defendant is legally responsible for the Security Incident and asserts various legal claims, including negligence, declaratory relief, and violations of the Colorado Consumer Protection Act. Defendant denies these claims and denies that it did anything wrong.

3. *Why is the Lawsuit a class action?*

In a class action, one or more representative plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all of these people are the “class” and each individually is a “class member.” There are two Representative Plaintiffs in this case: Cheryl Gaston and Renate Garrison. The class in this case is referred to in this Notice as the “Settlement Class.”

4. *Why is there a Settlement?*

The Representative Plaintiffs in the Lawsuit, through their attorneys, investigated the facts and law relating to the issues in the Lawsuit. The Representative Plaintiffs and Class Counsel believe that the settlement is fair, reasonable, and adequate and will provide substantial benefits to the Class. The Court has not decided whether the Representative Plaintiffs’ claims or Defendant’s defenses have any merit, and it will not do so if the proposed settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will receive compensation. The settlement does not mean that Defendant did anything wrong, or that the Representative Plaintiffs and the Class would or would not win their case if it were to go to trial.

Terms of the Proposed Settlement

5. *Who is in the Settlement Class?*

The Settlement Class is defined by the Court as all individuals identified by FabFitFun and to whom FabFitFun sent notice that their information may have been exposed in the Security Incident.

6. *What are the terms of the Settlement?*

The proposed Settlement would create a Settlement Fund of \$625,000.00 that would be used to pay all costs of the settlement, including: (i) payments to Settlement Class Members who submit valid claims; (ii) costs of Claims Administration (\$80,000); (iii) any payments made to the Claims Referee to resolve any disputed claims; (iv)

any attorneys' fees and costs awarded by the Court to Class Counsel (\$156,250 plus costs of approximately \$10,000); and (v) any service awards to the Representative Plaintiffs awarded by the Court (\$10,000 total). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Security Incident, as detailed in the Settlement Agreement.

7. *What claims are Settlement Class Members giving up under the Settlement?*

Settlement Class Members who do not validly exclude themselves from the Settlement will be bound by the Settlement Agreement and any final judgment entered by the Court, and will give up their right to sue Defendant for the claims being resolved by the Settlement, including all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Security Incident. The claims that Settlement Class Members are releasing are described in Section 1.27 of the Settlement Agreement and the persons and entities being released from those claims are described in Section 1.28 of the Settlement Agreement. Section VIII of the Settlement Agreement explains when such releases will occur.

Payments to Settlement Class Members

8. *What kind of payments can Settlement Class Members receive?*

Settlement Class Members who submit valid claims and all required documentation may receive one of two types of payments to be paid from the Settlement Fund: (1) a Basic Award; or (2) a Reimbursement Award. Settlement Class Members may receive only one Award. Depending on how many valid claims are submitted, the amount of each Award may be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims, as explained further below in Question 11. Only one Settlement Claim may be submitted per Settlement Class Member.

9. *What is a Basic Award?*

Every Settlement Class Member is eligible to receive a Basic Award of up to \$12, \$25, or \$55, regardless of whether he or she experienced any unauthorized charges on a payment method used to purchase a membership from FabFitFun. Settlement Class Members seeking a Basic Award must provide the information required on the Claim Form. The maximum amount paid as a Basic Award (\$12, \$25, or \$55) will depend on what information may have been exposed for a particular Settlement Class Member, based on FabFitFun's records and determination by the Settlement Administrator, and is subject to upward or downward adjustment as described below in Question 11.

There are three tiers for the Basic Award:

(a) Tier 1: Settlement Class Members who potentially had their payment card, login and password information exposed in the Security Incident will receive \$55.00, subject to upward or downward adjustment depending upon how many Settlement Class Members file claims;

(b) Tier 2: Settlement Class Members who potentially had their login and account password, but not payment information, exposed in the Security Incident will receive \$25.00, subject to upward or downward adjustment depending upon how many Settlement Class Members file claims; and

(c) Tier 3: Settlement Class Members who neither had their login and account password or their payment information exposed in the Security Incident but to whom Defendant sent a notice will receive \$12.00, subject to upward or downward adjustment depending upon how many Settlement Class Members file claims.

Eligibility for any award, including the maximum amount for a Basic Award, is within the discretion of the Settlement Administrator as outlined in Paragraph 16.

10. What is a Reimbursement Award?

Settlement Class Members who, at any time from April 26, 2020, through January 30, 2021, experienced unauthorized charges on their payment card that were not denied, reversed or otherwise credited or reimbursed, which charges the Settlement Class Member believes in good faith were more likely than not caused by the Security Incident, are eligible to receive a Reimbursement Award of up to \$5,000 as reimbursement for: (i) those unreimbursed, unauthorized charges, (ii) up to three hours of lost time spent dealing with the unreimbursed, unauthorized charges or the Security Incident, at a rate of \$20 per hour, and (iii) the following types of out of pocket expenses related to the Security Incident:

- unreimbursed payment card fees or unreimbursed bank fees incurred as a result of the Security Incident, including card reissuance fees, overdraft fees, charges related to unavailability of funds, late fees, over-limit fees and unreimbursed fees relating to an account being frozen or otherwise unavailable due to the Security Incident;
- cell, internet or text charges incurred as a result of the Security Incident;

- unreimbursed costs or charges for obtaining credit reports, credit freezes, or credit monitoring or identity theft protection services (up to two years of coverage) incurred as a result of the Security Incident; and
- postage costs incurred as a result of the Security Incident.

No other types of expenses will be reimbursed, and you cannot recover for emotional distress. Claimants must exhaust all available credit monitoring insurance and identity theft insurance before seeking a Reimbursement Award. Settlement Class Members seeking a Reimbursement Award must provide the information and documents required on the Claim Form. The amount paid as a Reimbursement Award is subject to upward or downward adjustment as described below in Question 11.

11. When and how will the amount of Settlement Payments be adjusted?

The amounts paid for all Basic Awards and Reimbursement Awards will be adjusted upward or downward from the amounts listed in Questions 9-10 above depending on how many Settlement Class Members submit valid claims.

If the total dollar value of all valid claims is less than the amount of money available in the Settlement Fund for payment of Settlement Class Member claims at the amounts listed above in response to Questions 9-10, the amount of payment for Basic Awards and Reimbursement Awards will be adjusted upward proportionally among all valid claims, up to a maximum of twice the dollar amounts listed in Questions 9-10 (e.g., certain Basic Awards may be adjusted up to \$110).

If the total dollar value of all valid claims is more than the amount of money available in the Settlement Fund for payment of Settlement Class Member claims at the amounts listed above in response to Questions 9-10, the amount of payment for Basic Awards and Reimbursement Awards will be adjusted downward proportionally among all valid claims.

12. What happens after all claims are processed and there are funds remaining?

If there are any funds remaining after all valid claims are processed and the time to cash any payment checks has passed, those funds shall be distributed as directed by the Court, including potential distribution to a charitable organization. No remaining funds will be returned to Defendant.

Your Options as a Settlement Class Member

13. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. **However, if you wish to seek a Settlement Award, you must complete and submit a Claim Form postmarked or submitted online by Saturday, July 31, 2021.** You may submit a Claim Form online at www.FFFdbSettlement.com.

If you do not want to give up your right to sue Defendant about the Security Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 17 below for instructions on how to exclude yourself.

If you object to the settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and file a written objection in this case only with the Court at the address in Question 20 below. If you object, you must still submit a claim if you want any monetary relief.

14. What happens if I do nothing?

If you do nothing, you will get no Settlement Award from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant related to the claims released by the Settlement.

15. How do I submit a claim?

You may complete the Claim Form online at www.FFFdbSettlement.com. You may also obtain a paper Claim Form by downloading it at www.FFFdbSettlement.com or by calling the claims administrator at **(833) 775-1513**. If you choose to complete a paper Claim Form you may either submit the completed and signed Claim Form and any supporting materials electronically at www.FFFdbSettlement.com or mail them to: **Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103**.

16. Who decides my Settlement claim and how do they do it?

The Claims Administrator will initially decide whether a Claim Form is complete and valid and includes all required documentation. The Claims Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid. If a Claim Form is complete but the Claims Administrator denies or partially denies the claim, the claimant will have an opportunity to have their claim reviewed by an impartial Claim Referee who has been appointed by the Court.

17. *How do I exclude myself from the Settlement?*

You must make a signed written request that (i) says you wish to exclude yourself from the Settlement Class in this Lawsuit, and (ii) includes your name, address and phone number. You must mail your request to this address:

ATTN: EXCLUSIONS, Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103

Your request must be postmarked by **Wednesday, June 16, 2021**.

18. *If I exclude myself, can I receive any payment from this Settlement?*

No. If you exclude yourself, you will not be entitled to any Award. However, you will also not be bound by any judgment in this Lawsuit.

19. *If I do not exclude myself, can I sue Defendant for the Security Incident later?*

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a payment.

20. *How do I object to the settlement?*

All Settlement Class Members who do not request exclusion from the Settlement Class have the right to object to the settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and it and any supporting papers must be submitted to the Court by mailing it to the Clerk of Court, United States District Court for the Central District of California, Roybal Federal Building and U.S. Courthouse, 255 East Temple Street, Los Angeles, CA 90012, or by filing it in person at any location of the United States District Court for the Central District of California. Objections must be filed or postmarked no later than **Wednesday, June 16, 2021**.

To be considered by the Court, your objection must list the name of this Lawsuit, *Gaston v. FabFitFun, Inc*, and the case number, Case No. 2:20-cv-09534-RGK-E, and include all of the following information: (i) your name, address, phone number, and an email address (if you have one); (ii) a statement that you are a member of the

Settlement Class and any proof of your membership (e.g., proof of purchase of a new subscription from FabFitFun’s website during the time period of April 26, 2020 to May 14, 2020 or May 22, 2020 to August 3, 2020, or a copy of a notice of the Security Incident sent to your physical or email address); (iii) whether your objection applies only to yourself, to a specific subset of the Settlement Class, or to the entire class; (iv) a detailed statement of the specific legal and factual bases for all of your objections, along with any applicable legal support; (v) the identity of any lawyer representing you; (vi) whether you intend to appear at the final settlement approval hearing and the identity of any lawyer(s) who will attend that hearing with you or on your behalf; (vii) a list of anyone you plan to have testify at the Final Approval Hearing in support of your objections; and (viii) your signature and the signature of your attorney or other authorized representative.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

21. How, when and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Settlement Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for **October 4, 2021 at 9 a.m.** at the United States District Court, Central District of California, Roybal Federal Building and U.S. Courthouse, 255 East Temple Street, Los Angeles, CA 90012, Courtroom 850, 8th Floor. Please visit the Court’s website at <https://www.cacd.uscourts.gov> for current information regarding courthouse access, court hearings, and filing information. At the Final Settlement Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Class Counsel’s request for attorneys’ fees and costs, and the request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.FFFdbSettlement.com or access the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://www.cacd.uscourts.gov/> to confirm the schedule if you wish to attend.

22. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 20. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

23. *What happens if the Court approves the Settlement?*

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be funded. The Claims Administrator will pay any Attorney Fees' and Costs Award and any Representative Plaintiffs' Awards from the Settlement Fund. Then, within the later of 90 days after the Effective Date or 30 days after all disputed claims have been resolved, the Claims Administrator will send Settlement Payments to Settlement Class Members who submitted timely and valid Settlement Claims. No distributions will be made without authorization from the parties.

If any appeal is taken, it is possible the Settlement could be disapproved on appeal.

24. *What happens if the Court does not approve the Settlement?*

If the Court does not approve the Settlement, no Settlement Fund will be created, there will be no Settlement Payments to Settlement Class Members, Class Counsel or the Representative Plaintiffs, and the case will proceed as if no Settlement had been attempted.

Lawyers for the Settlement Class and Defendant

25. *Who represents the Settlement Class?*

The Court has appointed the following Class Counsel to represent the Settlement Class and Settlement Class Members in this Lawsuit:

Rachele R. Byrd Wolf Haldenstein Adler Freeman & Herz LLP 750 B Street, Suite 1820 San Diego, CA 92101 619-239-4599	M. Anderson Berry Clayo C. Arnold, A Professional Law Corporation 865 Howe Avenue Sacramento, CA 95825 916-777-7777
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Settlement Class Members will not be charged for the services of Class Counsel; Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this

matter or represent you in making an objection or appearing at the final settlement approval hearing.

26. *How will the lawyers for the Settlement Class be paid?*

Class Counsel will request the Court's approval of an award for attorneys' fees up to 25% of the Settlement Fund (or up to \$156,250), plus reasonable costs and expenses (approximately \$10,000), which shall be paid from the Settlement Fund. Class Counsel will also request approval of service awards of \$5,000 to each of the Representative Plaintiffs, which shall also be paid from the Settlement Fund.

27. *Who represents Defendant in the Lawsuit?*

Defendant is represented by the following lawyers:

Kathleen R. Hartnett Joseph D. Mornin (415) 693-2000 Cooley LLP 101 California St., 5th Floor San Francisco, CA 94111	Travis LeBlanc Charles A. Wood (202) 842-7800 Cooley LLP 1299 Pennsylvania Ave. NW Suite 700 Washington, DC 20004
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For Further Information

28. *What if I want further information or have questions?*

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.FFFdbSettlement.com, by contacting Class Counsel at the phone numbers provided in response to Question 25 above, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://www.ecf.cacd.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Central District of California, Roybal Federal Building and U.S. Courthouse, 255 East Temple Street, Los Angeles, CA 90012 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

Angeion Group, LLC will act as the Claims Administrator for the Settlement. You can contact the Claims Administrator at:

**Info@FFFdbSettlement.com or (833) 775-1513 or at Settlement Administrator
1650 Arch Street, Suite 2210, Philadelphia, PA 19103**