

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

SAMUEL HERNANDEZ and RICHARD
MONTAURE, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

ULTRA ENTERPRISES INC.,

Defendant.

Case No.:

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiffs Samuel Hernandez and Richard Montoure, individually and on behalf of all others similarly situated, by and through counsel, bring this action against Defendant Ultra Enterprises Inc. (“Ultra”). Plaintiffs’ allegations herein are based upon personal knowledge and belief as to their own acts, upon the investigation of their counsel, and upon information and belief as to all other matters.

INTRODUCTION

1. Plaintiffs bring this action on behalf of themselves and a class of similarly situated purchasers of tickets to the 2020 Ultra Music Festival, an annual festival held in Miami, Florida.

2. This year, the Ultra Music Festival was scheduled to take place from March 20 to March 22, 2020 in Miami, Florida. Due to the spread of COVID-19, however, the City of Miami and Ultra agreed to postpone the 2020 festival until sometime in 2021.

3. After learning of the cancellation, Plaintiffs and other similarly situated purchasers contacted Ultra for refunds. Ultra has uniformly denied these requests and offered only to honor tickets during either the 2021 or 2022 Ultra Music Festival, neither of which has been scheduled. Initially, Ultra also gave customers only 30 days to choose which festival they would like to have

their 2020 tickets transferred to, a deadline Ultra repeatedly has extended because Plaintiffs and other Class members are reluctant to agree to defer their tickets in lieu of receiving the refund to which they are entitled.

4. Accordingly, Plaintiffs bring this action for conversion and unjust enrichment in order to recover amounts paid for tickets to the 2020 Ultra Music Festival.

PARTIES

Plaintiff Samuel Hernandez

5. Plaintiff Samuel Hernandez is a resident of Miami, Florida.

6. On or about September 24, 2019, Plaintiff Hernandez purchased six tickets to Ultra for approximately \$3,000.

7. On or about March 9, 2020, Plaintiff Hernandez received an email from Ultra with the subject “Ultra Miami 2020 Rescheduled.” In the email, Ultra informed Plaintiff that the 2020 festival was cancelled, that he could “transfer” his tickets to either the 2021 or 2022 iteration of the festival by filling out and returning an attached form, and that the offer to defer his tickets to a subsequent year would remain open for only thirty (30) days.

8. When Plaintiff Hernandez learned that Ultra had been cancelled, he attempted to contact Ultra to obtain a refund for his tickets.

9. On or about March 10, 2020, Plaintiff Hernandez first attempted to locate a telephone number at which he could call Ultra to obtain a refund, but was unable to locate one. Plaintiff Hernandez then emailed Ultra to request a refund for four of his Ultra tickets

10. On or about March 13, 2020, Ultra responded to Plaintiff Hernandez’s email. Ultra ignored Plaintiff Hernandez’s refund request and directed him to “fill out the form found in the email [he] received earlier this week to confirm the package of benefits that are being offered.”

Ultra also reminded Plaintiff Hernandez that its deferral offer would only remain open until April 8, 2020, and confirmed that it considered all festival tickets non-refundable.

11. On or about March 17, 2020, Plaintiff Hernandez sent an email to Ultra indicating that that he “WILL NOT accept for the 4 tickets that should have never been passed due to incorrect billing address. I ask to find compromise in refunding my 4 and ill accept the 2 other.”

12. Because Plaintiff Hernandez did not want to lose the entire value of his Ultra tickets and because Ultra did not provide him any other option, he claimed his benefits for two of his tickets on or about May 20, 2020.

13. As of the filing of this complaint, Plaintiff Hernandez has not received a refund for any of his Ultra tickets.

Plaintiff Richard Montoure

14. Plaintiff Richard Montoure is a resident of Grayland, Washington.

15. On or about November 23, 2019, Plaintiff Montoure purchased two General Admission 3-day Tier 3 passes to the Ultra Music Festival, paying approximately \$1,032.30 inclusive of taxes and fees.

16. On or about March 9, 2020, Plaintiff Montoure received an email from Ultra with the subject “Ultra Miami 2020 Rescheduled.” In the email, Ultra informed Plaintiff that the 2020 festival was cancelled, that he could “transfer” his tickets to either the 2021 or 2022 iteration of the festival by filling out and returning an attached form, and that the offer to defer his tickets to a subsequent year would remain open for only thirty (30) days.

17. Plaintiff Montoure does not plan to attend the Ultra festival in 2021 or 2022, so he attempted to contact Ultra in order to secure a full refund.

18. Plaintiff Montoure first attempted to locate a telephone number at which he could call Ultra to obtain a refund, but was unable to locate one. Accordingly, on or about March 18, 2020, Plaintiff Montoure sent an email to Ultra requesting a refund for the purchase price of his tickets.

19. Ultra did not respond to Plaintiff Montoure's refund request.

20. On or about March 27, 2020, Plaintiff Montoure received an email from Ultra informing him of the purported April 9, 2020 deadline to claim his "benefits" for future festivals.

21. Because Plaintiff Montoure did not want to lose the entire value of his Ultra tickets and because Ultra did not provide him any other option, he "claimed [his] benefits" on or about April 7, 2020.

22. Despite claiming his benefits on April 7, 2020, on or about April 9, 2020, Plaintiff Montoure received an email from Ultra indicating that the deadline to claim his benefits was extended from April 9, 2020 to May 7, 2020.

23. Despite claiming his benefits on April 7, 2020, on or about May 4, 2020, Plaintiff Montoure received an email from Ultra indicating that the FINAL deadline to claim his benefits was extended from April 9, 2020 to May 7, 2020.

24. Despite claiming his benefits on April 7, 2020, on or about May 12, 2020, Plaintiff Montoure received an email from Ultra indicating that the deadline to claim his benefits was extended to July 1, 2020.

25. Plaintiff Montoure still has not received a refund for his Ultra tickets.

Defendant

26. Ultra is a Florida corporation with its principal place of business in Hialeah, Florida.

27. Ultra is a for-profit corporation that organizes and produces an annual music festival in Miami-Dade County, as well as a brick-and-mortar store within and during the festival, and owns and operates www.ultramusicfestival.com and www.ultramerchandise.com.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d). The aggregated claims of the individual class members exceed the sum or value of \$5,000,000, exclusive of interest and costs; there are more than 100 putative class members defined below; and there are numerous members of the proposed class who are citizens of a state different from Ultra.

29. This Court has personal jurisdiction over Ultra because it is formed under the laws of the State of Florida, its corporate headquarters are located in this District, it conducts substantial business in the District, and because a substantial part of the acts and omissions complained of occurred in the District.

30. Venue as to Ultra is proper in this judicial district under 28 U.S.C § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this District. Ultra has its principal place of business in this District, it is authorized to conduct business in this District, has intentionally availed itself of the laws and markets within this District, does substantial business in this District, and is subject to personal jurisdiction in this District.

FACTUAL ALLEGATIONS

The 2020 Ultra Music Festival

31. The Ultra Music Festival is an annual outdoor festival that focuses heavily on the performance of electronic dance music, and is typically hosted in March, in Miami, Florida.

32. This year, Ultra was scheduled to run from March 20, 2020 to March 22, 2020. Ticket prices ranged from \$300 to \$400 depending on when the tickets were purchased, with VIP tickets sold for \$1,500 (collectively, the “Tickets”).

33. On March 2, 2020, as the COVID-19 pandemic rapidly spread, Ultra posted to its social media informing the public that the event would be occurring in “just a few weeks” and that Ultra was preparing the festival grounds for the event.¹

34. As news of the pandemic spread, the City of Miami and Ultra entered into negotiations in order to reach agreement on postponing the event.²

35. Following days of extensive negotiations, on March 4, 2020 the City and Ultra agreed that the 2020 festival would be postponed indefinitely.³

36. On March 6, 2020, Ultra announced that due to a purported “directive” from the City of Miami—rather than by mutual agreement of the parties—the Ultra festival would be postponed until March 26 to March 28, 2021.⁴ Ultra posted the following message to its Twitter account:

¹ <https://twitter.com/ultra/status/1234624700271284232> (last visited May 7, 2020).

² <https://www.miamiherald.com/news/local/community/miami-dade/downtown-miami/article240878956.html> (last visited May 7, 2020).

³ *Id.*

⁴ <https://www.miamiherald.com/news/local/community/miami-dade/downtown-miami/article240878956.html> (last visited May 7, 2020).

Dear Ultronauts,

It is with a heavy heart that we inform you that The City of Miami has issued an official directive requiring that the 22nd edition of Ultra Music Festival, originally scheduled for March 20, 21 and 22, 2020 will be postponed to March 26, 27 and 28, 2021. Due to the Florida Governor's declaration of a public health emergency and Centers of Disease Control and Prevention's Interim Guidance for COVID-19, it is impossible for the City to provide access to Bayfront Park at this time.

We completely understand how extremely frustrating this is because so many of you are looking forward to coming to Ultra, having already made travel arrangements.

This is, however, an unprecedented issue which is not being taken lightly, and we must continue to defer to the authorities for guidance. Ultimately, there is no higher priority for us than the health, safety and physical well-being of each of you, together with everyone else involved in the production of the event.

We sincerely thank you for your continued loyalty and patience during this difficult time.

All ticket purchasers will be contacted by email on Monday regarding next steps.

- Team Ultra

37. On March 10, 2020, in response to mounting requests for refunds for the cancelled 2020 festival, Ultra issued a statement confirming it will not provide refunds for 2020 ticket purchases notwithstanding that by postponing the festival until 2021, the 2020 iteration effectively had been cancelled.⁵

38. Ultra's statement also informed Plaintiffs and Class members that tickets instead would "be honored at either the 2021 or 2022 Ultra Miami event, at your option. You will have 30 days to choose which Ultra Miami event you want to attend."⁶

⁵ <https://www.miamiherald.com/news/local/community/miami-dade/downtown-miami/article241050006.html> (last visited May 7, 2020).

⁶ *Id.*

Ticketing Terms and Conditions

39. Ultra allows for consumers to purchase different tiers of tickets. An advertisement listing the different tiers of admission is included below.



40. In order to purchase Tickets, Ultra requires purchasers to agree to its Ticketing Terms and Conditions (“TT&C”), a copy of which are attached hereto as **Exhibit A**. The TT&C include several provisions relevant to this action.

41. The TT&C contain a choice-of-law provision that states: “This Agreement shall be governed and construed in accordance with the laws of the state of Florida, notwithstanding any contrary choice-of-law principles, and all claims relating to or arising out of this Agreement or breach thereof.”

42. The TT&C also state that “[a]ny proceeding to enforce [the] arbitration agreement must be brought in the state court or, if jurisdiction permits, in the U.S. District Court in the Southern District of Florida with venue lying in Miami-Dade County.”

43. The TT&C also include a provision that Ultra “may, in its sole and absolute discretion elect to either issue a full or partial refund to Purchaser, not issue any refunds, or reschedule the Event.” The provision also states: “[i]f Issuer elects to issue a refund, the Ticket purchaser of record shall be refunded an amount up to the face value of the Ticket(s) only. If Issuer elects to reschedule the Event for a future date, You shall not be entitled to a refund. Under no circumstances shall You be entitled to a refund of any shipping, handling or other processing and service fees.”

44. Through the refund provision, Ultra purports to reserve to itself the right to retain any and all monies paid for tickets regardless of whether Ultra elects to put on the festival, essentially (and impermissibly) rendering its obligations under the TT&C illusory and the agreement itself an unenforceable unilateral option contract.

45. Ultra also purports to reserve to itself the right to “modify, add, remove, supplement, amend, update or revise any of [the] terms and conditions, without advanced notification to” the customer. Ultra failed to provide any limitations on its right to modify the contract with consumers, thereby rendering the TT&C illusory and void in their entirety.

CLASS ALLEGATIONS

46. Plaintiffs bring this action individually and on behalf of a nationwide class pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2), and/or 23(b)(3), defined as follows:

All persons who purchased tickets to the 2020 Ultra Music Festival.

47. In the alternative, Plaintiff brings this class action on behalf of the following State Subclasses:

The Florida Class

All Florida residents who purchased tickets to the 2020 Ultra Music Festival.

The Washington Class

All Washington residents who purchased tickets to the 2020 Ultra Music Festival.

48. Excluded from the Class(es) are: (a) Defendant; (b) Defendant's affiliates, agents, employees, officers and directors; and (c) the judge assigned to this matter, the judge's staff, and any member of the judge's immediate family. Plaintiffs reserve the right to modify, change, or expand the various class definitions set forth above based on discovery and further investigation

49. **Numerosity**: Upon information and belief, the Class is so numerous that joinder of all members is impracticable. While the exact number and identity of individual members of the Class are unknown at this time, such information being in the sole possession of Defendant and obtainable by Plaintiffs only through the discovery process, Plaintiffs believe, and on that basis allege, that the Class consists of hundreds of thousands of people. The number of Class members can be determined based on Ultra's records.

50. **Commonality**: Common questions of law and fact exist as to all members of each Class. These questions predominate over questions affecting individual Class members. These common legal and factual questions include, but are not limited to

- a. Whether Ultra should be required to provide refunds for its 2020 festival;
- b. Whether the contract between Ultra and Plaintiffs and the Class contained an impermissible unlimited ability to modify the agreement unilaterally;

- c. Whether the contract between Ultra and Plaintiffs and the Class was illusory and void; and
- d. Whether Ultra was unjustly enriched by its conduct.

51. **Typicality**: Plaintiffs have the same interest in this matter as all Class members, and Plaintiffs' claims arise out of the same set of facts and conduct as the claims of all Class members. Plaintiffs' and Class members' claims all arise out Ultra's uniform conduct and statements.

52. **Adequacy**: Plaintiffs have no interest that conflicts with the interests of the Class, and are committed to pursuing this action vigorously. Plaintiffs have retained counsel competent and experienced in complex consumer class action litigation. Accordingly, Plaintiffs and their counsel will fairly and adequately protect the interests of the Class.

53. **Superiority**: A class action is superior to all other available means of fair and efficient adjudication of the claims of Plaintiffs and members of the Class. The injury suffered by each individual Class member is relatively small compared to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Ultra's conduct. It would be virtually impossible for members of the Class individually to effectively redress the wrongs done to them. Even if the members of the Class could afford such individual litigation, the court system could not. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of this case. Individualized rulings and judgments could result in inconsistent relief for similarly-situated individuals. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VIOLATIONS ALLEGED

**COUNT I
CONVERSION**

(On Behalf of the Nationwide Class or, in the alternative, the State Subclasses)

54. Plaintiffs incorporate by reference each of the allegations contained in paragraphs 1 through 53 of this Complaint.

55. Plaintiffs and the Class are entitled to a refund of monies paid in exchange for 2020 Ultra tickets because the festival was cancelled.

56. Plaintiffs and the Class have demanded that Ultra return their property.

57. Ultra has refused to issue refunds to Plaintiffs and the Class, and thus has, unlawfully and without authorization, assumed and exercised dominion and control over that property to the exclusion of, or inconsistent with, the rights of Plaintiffs and the Class.

58. Ultra's conversion has damaged Plaintiffs and the Class in the amount that they paid for 2020 festival tickets.

59. Plaintiffs and the Class are entitled to recover the amount each paid to Ultra for their tickets, as well as attorneys' fees, costs and interest.

**COUNT II
UNJUST ENRICHMENT**

(On Behalf of the Nationwide Class or, in the alternative, the State Subclasses)

60. Plaintiffs incorporate by reference each of the allegations contained in paragraphs 1 through 53 of this Complaint.

61. Plaintiffs and the Class conferred a direct benefit on Ultra by purchasing Tickets.

62. Ultra knowingly and willingly accepted and enjoyed the benefits conferred on it by Plaintiffs and the Class.

63. Ultra voluntarily accepted and retained these benefits, with full knowledge and awareness that, as a result of Ultra's conduct, Plaintiffs and the Class would not, and did not, receive the benefit of their bargain that had been represented by Ultra and that reasonable consumers would expect.

64. Ultra's retention of these benefits is unjust and inequitable.

65. As a direct and proximate result of Ultra's unjust enrichment, Plaintiffs and the Class are entitled to recover the amount each paid to Ultra for their Tickets, attorneys' fees, costs and interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class, respectfully request that this Court:

- A. Determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;
- B. Appoint Plaintiffs as the representative of the Class and their counsel as Class Counsel;
- C. Award actual damages and equitable monetary relief to Plaintiffs and the Class and/or order Ultra to return to Plaintiffs and the Class the amount each paid to Ultra;
- D. Award pre-judgment and post-judgment interest on such monetary relief;
- E. Grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Ultra to issue refunds to any member of the class who requests a refund;
- F. Award reasonable attorneys' fees and costs; and

G. Grant such further relief that this Court deems appropriate.

JURY DEMAND

Plaintiffs, on behalf of themselves and the putative Class, demand a trial by jury on all issues so triable.

Dated: May 26, 2020

Respectfully submitted,

/s/Adam M. Schachter

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EXHIBIT A



TICKETS ▾ LINEUP ▾ TRANSPORT INFO ▾ SUSTAINABILITY ▾ MEDIA ▾ MORE ▾ WORLDWIDE ▾

! GA TICKETS ALMOST SOLD OUT!

CREATE MY ACCOUNT / SIGN IN



99%

BUY NOW >

Ticketing Terms and Conditions

IF YOU DO NOT AGREE WITH ANY OF THE TERMS AND CONDITIONS AS SET FORTH IN THIS AGREEMENT, OR IF YOU DO NOT AGREE WITH, OR AGREE TO ASSUME THE ALLOCATION OF RISK TO YOU AS SET FORTH HEREUNDER, DO NOT PURCHASE A TICKET AND/OR ENTER THE EVENT.

Any purchase, possession, or presentation of this ticket ("Ticket(s)") by you ("You," "Your" "Bearer" or "Holder" of this Ticket) constitutes your irrevocable acceptance of, and agreement to be bound by, these terms and conditions respecting the event ("Event").


IF YOU DO NOT AGREE WITH ANY OF THE TERMS AND CONDITIONS AS SET FORTH IN THIS AGREEMENT, OR IF YOU DO NOT AGREE WITH, OR AGREE TO ASSUME THE ALLOCATION OF RISK TO YOU AS SET FORTH HEREUNDER, DO NOT PURCHASE A TICKET AND/OR ENTER THE EVENT. You agree that EVENT ENTERTAINMENT GROUP, INC., ("Issuer," "We," "Our" or "Us") may modify, add, remove, supplement, amend, update or revise any of these terms and conditions, without advanced notification to You (collectively, "Revise" or "Revision(s)") by posting such Revisions on Issuer's website located at ultramusicfestival.com (the "Site") and which Revisions shall, at Issuer's option, relate back to the date of purchase. Your Ticket shall be deemed a revocable license issued for the sole purpose of accessing the venue where the Event is scheduled to occur (the "Venue") and for attending the Event (the "License"). Issuer may revoke the License at any time without additional notification or compensation to You, including denying You access to the Venue. Issuer assumes no legal, financial, or other liability whatsoever for any lost, stolen or destroyed Tickets. Upon delivery of Your Tickets, You assume 100% risk of loss relating to the Tickets. If You obtain Your Ticket(s) from any unauthorized source(s), You assume all risks associated with such Ticket(s), including that such Ticket(s) may have been reported lost or stolen or that such Ticket(s) may be counterfeit and in all cases, such Ticket(s) shall be voidable and dishonored by Issuer. The unlawful or prohibited resale or attempted resale of tickets is grounds for seizure of all or some of Your tickets and cancellation of this License without compensation to You. This Ticket may not be used for advertising, promotion (including contests and sweepstakes), or other trade purposes without the express written consent of Issuer. Issuer also reserves the right to investigate orders suspected to be in violation of these Ticketing Terms and Conditions and shall be the sole and final arbiter regarding violations or potential violations hereunder. Issuer may, in its sole discretion, cancel or relocate seating on an order for accessible seating that it believes to be fraudulent. Your Ticket is not redeemable for cash. Upon Event cancellation by Issuer, Issuer may in its sole and absolute discretion elect to either issue a full or partial refund, not issue any refunds, or reschedule the Event. Once Venue gates open, the Event, on that particular date, shall be deemed to have been delivered in its entirety and not subject to any refunds. Delayed Venue gate openings and Your inability to access any parts of the Venue or Event due to Federal, state, municipal or other code regulations, Issuer's policy(ies), weight load restrictions, emergency and/or partial or complete Event or stage shutdown or evacuation, performance or Event delays and inclement weather shall not entitle You to refunds or future credits. Upon the cancellation of the entire Event, including, but not limited to events not within Issuer's control, governmental acts, acts of

God, riots, production delays, strikes, natural disasters or inclement weather (regardless of severity), Issuer may, at its sole and

discretion, either, (a) issue You a full or partial refund or (b) postpone the Event for a future date and/or offer a comparable ~~make good~~ ^{make good}. Under no circumstances shall You be entitled to any type of refund or exchange due or contributed to by

weather or governmental acts. If Issuer elects to issue a refund, the Ticket purchaser of record shall be refunded an amount up to the face value of the Ticket(s) only. If Issuer elects to reschedule the Event for a future date, You shall not be entitled to a refund. Under

no circumstances shall You be entitled to a refund of any shipping, handling or other processing fees. At all times prior to the Event, Issuer reserves all rights to cancel or postpone the Event or to change the Venue, artist lineup, times and dates of the Event, or other

Event details without prior notice. Issuer shall not be responsible for any exchange rate losses to You during the order  return process. ALL TICKET SALES ARE FINAL. THERE SHALL BE NO TICKET REFUNDS AND/OR TICKET EXCHANGES. This Event

is "Rain or Shine" and is "Standing Room Only." As a condition to attend the Event, You represent and warrant that You are the

"Minimum Age" or older. Minimum Age means 18 years of age or older on the date and time listed on the front of the Ticket. Valid government issued photo identification of You ("ID") WILL be required at entry in order to gain entry to the Venue. Bearer or Holder of any Ticket represents and warrants that the information provided on the ID presented by them is valid, true, and correct. Issuer reserves the right, without the obligation to refund any portion of the Ticket purchase price, to refuse entry to the venue to any person

who is not 18 years of age on the date listed on the Ticket. Bearer or Holder of this Ticket hereby affirmatively knowingly and voluntarily consents to Issuer swiping their ID as presented by them to verify, collect, store and use such personal information for any lawful purpose (collectively "Swipe") including Your photo, legal name, date of birth, sex, address of record, telephone number and

any other personal information obtained on Your ID. The Code of the City of Miami (the "Code") imposes a surcharge against paid admissions for events produced in City of Miami parks, including Marine Stadium and Historic Virginia Key Beach Park. The

organizers of Ultra Music Festival are correspondingly required to collect the surcharge specified in the Code and remit such surcharges to the proper city authorities. In anticipation of an increase to the existing rate of the surcharge, we are collecting

surcharges that exceed the amount currently set forth in the Code in anticipation of paying such excess surcharge over to the City. If

the Code, however, is not amended to increase the rate of the surcharge, we reserve the right to elect to either retain the excess surcharge collected or to instead pay over the excess to the City (even though we may not be required by law to do so) but in no event shall the excess surcharge be refunded or returned to you. Furthermore, we collect the surcharge on all tickets that we sell.

However, if a ticket is sold but not used to gain entry into the event, we reserve the right to elect to either retain the amount of the surcharge we collect in connection with the sale of such ticket or to instead elect to pay the surcharge for such ticket to the City but in no event shall collected surcharges or any portion thereof be refunded or returned to you. If you do not agree with these terms, do

not purchase a ticket. By proceeding to purchase a ticket pursuant to the foregoing terms and conditions, you are expressly agreeing to waive any and all potential rights, claims or entitlements you may have respecting surcharge claims. You hereby assume any and

all risks, whether or not expressly set forth herein, as well as any risks or dangers incidental, or in any way relating to the Event, including those arising from or relating to the acts or omissions of third parties (including Artists, Event attendees, Venue owners, operators, staff, employees or agents; or Event organizer, its affiliates, subsidiaries, officers, directors, employees, members,

partners, agents or designees) including risk of loss or damage to Your personal property and risks of personal injury. Issuer and its respective Indemnitees (as later below), designees, successors or assigns shall not be held responsible, financially or otherwise, for any personal property that is left, lost, stolen, destroyed, confiscated, damaged or misplaced anywhere in the Venue or at Venue

access/entry points, for personal injuries sustained by You relating to or arising from extremely loud sounds and special effects, such as flashing lights, rapidly changing or alternating images, the use of fog, haze or smoke with theatrical stage lighting, laser

projections, strobe lights and fireworks, whether such injuries or manifestation of those injuries occur during or subsequent to the

Event. You hereby agree to defend, covenant not to sue, indemnify, save and hold harmless and forever release, Issuer, EVENT ENTERTAINMENT GROUP, INC., Ticketfreak, LLC, Ultra Enterprises Inc., Event organizers, sponsors, participants and artists, The

City of Miami, Virginia Key Beach Park Trust, the U.S. Army Corps of Engineers and each of their respective subsidiaries, affiliates, officials, officers, directors, principals, members, employees, personnel, authorized agents, predecessors, assigns, successors,

licensees and designees (collectively "Indemnitees") from any and all injuries (whether personal injuries, property damage or

otherwise), demands, suits, costs and/or claims relating in any way to the Event. Issuer or its designee(s), successor(s), or assign(s)

shall have the right to use, copy, sell, distribute, record, publish, republish print, display, publicly perform, transmit, create derivative



works or incorporate, translate or otherwise publicly use, for purposes of trade or for any commercial or advertising purpose or any other purpose, without the prior written consent of Issuer. Issuer and the Venue maintain a zero tolerance policy regarding illegal or illicit drug use at the Event. You affirmatively, knowingly, intelligently and voluntarily consent to be searched by Issuer for the presence of illegal or illicit drugs, weapons and/or other prohibited items prior to or during Your presence at the Event or Venue. Issuer and the Venue maintain a zero tolerance policy regarding lewd and lascivious behavior or conduct, including disorderly or violent behavior or vulgar or violent language. You hereby acknowledge and agree that the discovery of any prohibited items or such lewd and lascivious behavior shall constitute a violation of Issuer's policies and shall correspondingly give Issuer the right to confiscate any such prohibited item(s) and/or correspondingly give Issuer the right to immediately revoke Your License to access the Venue and to deny You any future entry to the Event or Venue without any legal or financial liability to Issuer. Issuer shall, at all times, have the right to assign or delegate any or all of its rights, title and interests or duties hereunder without notification to, or consent by, You. You agree that these terms and conditions, as supplemented by the terms and conditions on the Site, including the Ticketing terms and conditions and prohibited items list, as amended from time to time by Issuer with or without notification to You, and those additional policies published at the Venue represent the entire agreement between You and the Issuer with respect to its subject matter hereof. You agree that any disputes arising from or relating to Your purchase of Tickets hereunder or any relationship or dispute between You and Issuer or You and any company or person employed by or which is affiliated with Issuer, (a "Dispute") shall only be resolved subject to FINAL AND BINDING ARBITRATION, and may only be resolved through an individual arbitration governed by the Federal Arbitration Act or by the applicable sections of the Florida Arbitration code. THE PARTIES TO THIS AGREEMENT GIVE UP THEIR RESPECTIVE RIGHTS TO GO TO COURT in connection with any Dispute and that such rights will be determined by a NEUTRAL ARBITRATOR; NOT A JUDGE OR JURY. NO PARTY TO WHICH THIS AGREEMENT APPLIES SHALL BRING OR PARTICIPATE IN ANY CLASS ACTION OR OTHER CLASS PROCEEDING, INCLUDING CLASS ARBITRATION, IN CONNECTION WITH ANY DISPUTE. The parties shall participate in non-binding mediation at least 30 days before commencing any arbitration (or taking any other action if applicable). If the parties are unable to resolve a Dispute by informal means, the arbitration of Disputes will be administered by the American Arbitration Association (AAA) in accordance with Commercial Arbitration Rules, and if deemed appropriate by the arbitrator, the Supplementary Procedures for Consumer-Related Disputes. Such arbitration will be conducted at the AAA office located in Miami, Florida. Any proceeding to enforce this arbitration agreement must be brought in the state court or, if jurisdiction permits, in the U.S. District Court in the Southern District of Florida with venue lying in Miami-Dade County. This Agreement shall be governed and construed in accordance with the laws of the state of Florida, notwithstanding any contrary choice-of-law principles, and all claims relating to or arising out of this Agreement or the breach thereof. In light of Your agreement to all the terms and conditions contained herein, You further agree, in conformity therewith that, in no event shall You commence a chargeback dispute with Your credit or debit card issuer relative to the Tickets or services purchased hereunder or regarding any amounts forfeited hereunder or similar charge reversal. You further agree that Issuer shall not have a legal obligation to mitigate any of its potential or actual losses sustained hereunder.





Don't have an account? Sign up to register for events, earn points, and more!

TICKETS ▾ LINEUP ▾ TRANSPORT INFO ▾ SUSTAINABILITY ▾ MEDIA ▾

Enter your email address to get started...

MORE ▾

WORLDWIDE ▾

GET STARTED >

CREATE MY ACCOUNT / SIGN IN



March 29, 30, 31 — 2019

Historic Virginia Key Beach Park
& Miami Marine Stadium

Miami, FL

Tickets	Ultra Worldwide
Activate	Road to Ultra
Set Times	RESISTANCE
Artists	UMF Films
Visual Art Lineup	UMF TV
Visual Art	UMF Radio
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SAMUEL HERNANDEZ and RICHARD MONTOURE,
on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Adam M. Schachter, Gelber Schachter & Greenberg, P.A.,
1221 Brickell Avenue, Suite 2010, Miami, Florida 33131,
Tele: (305) 728-0950

DEFENDANTS

ULTRA ENTERPRISES INC.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input checked="" type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act		
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)

Brief description of cause:
Conversion and Unjust Enrichment

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
20,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

05/26/2020

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

SAMUEL HERNANDEZ and RICHARD
MONTTOURE, on behalf of themselves and all
others similarly situated,

Plaintiff(s)

v.

Civil Action No. _____

ULTRA ENTERPRISES INC.

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

ULTRA ENTERPRISES INC.
Law Center of Florida, Inc., R.A.
201 S Biscayne Blvd.
Suite 800
Miami, FL 33131

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Adam M. Schachter

Gelber Schachter & Greenberg, P.A.
1221 Brickell Avenue, Suite 2010
Miami, Florida 33131
Telephone: (305) 728-0950

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: