

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
Twelfth Division

GRANT WILLIAMS, *individually and
on behalf of a class of similarly situated persons*

PLAINTIFFS

VS.

CASE NO. 60-CV-15-2799

PIPELINE PRODUCTIONS, INC,
BACKWOOD ENTERPRISES, LLC,
THE MADISON COMPANIES, LLC, and
HORSEPOWER ENTERTAINMENT LLC

DEFENDANTS

**** AGREED MOTION ****

**PLAINTIFFS' MOTION TO PRELIMINARILY APPROVE
CLASS ACTION SETTLEMENT**

COMES NOW Plaintiff Grant Williams and the Settlement Class ("Plaintiffs"), through Class Counsel, and respectfully move for preliminary approval of the class action settlement with Brett Mosiman, Backwood Enterprises, LLC., and Horsepower Entertainment LLC ("Backwood") pursuant to Arkansas Rule of Civil Procedure ("ARCP") 23(e), and state:

1. The sole and remaining parties to this action, the Plaintiffs and Backwood, have agreed to settle their dispute.
2. Because this Settlement involves a class action resolution, this Court's preliminary approval of its terms and notice plan to Settlement Class members is necessary under ARCP 23(e).
3. The Settlement Agreement is provided as **Exhibit 1**.
4. The parties have agreed to an order preliminarily approving the Settlement and the class notice plan, which is provided as **Exhibit A** to Settlement Agreement (**Exhibit 1**).

5. Additionally, Plaintiffs will electronically file the agreed preliminary approval order with this motion separately for the Court's convenience.

6. Plaintiffs have also filed a memorandum of law in support of this motion, and fully incorporate it herein by reference.

7. In order to effectuate the terms of the Settlement, Plaintiffs are also filing an amended complaint for settlement purposes only. If for any reasons the Settlement does not receive the Court's preliminary or final settlement approval, the amended complaint shall have no effect.

WHEREFORE, Plaintiffs move for entry of the agreed Preliminary Settlement Approval Order, which has been agreed to by all parties.

Dated: September 4, 2018

Respectfully submitted,

STEEL, WRIGHT, GRAY, PLLC



Scott E. Poynter, Of Counsel

Nate Steel
Alex T. Gray
400 W. Capitol Ave, STE 2910
Little Rock, AR 72201
(501) 251-1587

Class Counsel

CERTIFICATE OF SERVICE

I certify that on this 4th day of September, 2018, the foregoing was filed electronically with the Court's eflex system, which in turn will serve all Counsel of Record. Additionally, I also caused to be served a copy of the foregoing on Backwood, c/o Jack McInnes, 3500 W. 75th Street, Prarie Village, KS 66208.



Scott Poynter

EXHIBIT 1

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
Twelfth Division**

GRANT WILLIAMS,
*individually and on behalf of a class of
similarly situated persons,*

Plaintiffs,

v.

**PIPELINE PRODUCTIONS, INC,
BACKWOOD ENTERPRISES, LLC,
BRETT MOSIMAN, THE MADISON
COMPANIES, LLC, and HORSEPOWER
ENTERTAINMENT, LLC**

Defendants.

Case No. 60-CV-15-2799

SETTLEMENT AGREEMENT

**Between the Class Representative and the Class,
and Pipeline, Backwood, and Mosiman**

The undersigned Parties hereby stipulate and agree, subject to the approval of the Court pursuant to Rule 23 of the Arkansas Rules of Civil Procedure, that this Action, as defined herein below, shall be partially settled, compromised, and dismissed with prejudice as to Pipeline, Backwood, and Mosiman pursuant to the terms and conditions set forth in this Settlement Agreement.

RECITALS

WHEREAS Grant Williams is the named Plaintiff and the Class Representative in the Action and seeks to recover damages on behalf of himself and similarly situated persons;

WHEREAS Pipeline Productions, Inc. (“Pipeline”), Backwood Enterprises, LLC (“Backwood”) and Brett Mosiman (“Mosiman”) (collectively, the “Settling Defendants”) are Defendants in the Action and were engaged in the Thunder on the Mountain Music Festival (“Thunder”);

WHEREAS the Class Representative and Class Members (hereafter, the “Plaintiffs”) are those that purchased parking passes, camping passes, shower passes, vendor booths, day passes, or passes of any kind to Thunder (“Purchases”);

WHEREAS the Plaintiffs and the Settling Defendants are the only parties to this agreement (“Parties”). Defendants The Madison Companies, LLC and Horsepower Entertainment LLC (collectively, “Horsepower”) are not parties to this agreement.

WHEREAS the Plaintiffs allege, in general terms, that the Settling Defendants and Horsepower joint ventured Thunder, and sold to Plaintiffs their parking passes, camping passes, vendor booths, and/or day passes to Thunder, but then cancelled Thunder and failed to fully refund Plaintiffs their money;

WHEREAS the Settling Defendants believe that the Plaintiffs should be reimbursed for unreimbursed Purchases, but assert that Horsepower is responsible for Thunder’s cancellation;

WHEREAS the Plaintiffs also believe that Horsepower, not the Settling Defendants, are primarily responsible for Thunder’s cancellation;

WHEREAS Horsepower's action devastated the Settling Defendants' finances, substantially damaged their reputation, and significantly hindered their ability to put on festivals going forward;

WHEREAS the Settling Defendants have had default judgments entered against them in Arkansas because they did not have money to defend themselves in Arkansas;

WHEREAS the Settling Defendants allege they are financially unstable, have no insurance that could satisfy Plaintiffs' claims, and thus, they are financially unable to satisfy a monetary judgment entered against them;

WHEREAS the Settling Defendants are pursuing claims against Horsepower in Kansas (more fully identified below), and wish to use any sums recovered in that action to satisfy the claims between them and the Plaintiffs;

WHEREAS the Plaintiffs will continue to pursue their claims against Horsepower, but perhaps in another venue or jurisdiction;

WHEREAS the Parties have had a full and fair opportunity to evaluate the strengths and weaknesses of the claims and defenses;

WHEREAS the Plaintiffs have concluded that, in light of the risks of litigation of the matters in dispute, and in the desire to ensure relief to the Class, this Settlement is fair, reasonable, adequate, and in the best interests of the Class;

WHEREAS the Settling Defendants deny they were at fault, but nevertheless have concluded that, in light of the risks, costs and disruption of litigation, this Settlement is appropriate on the terms and conditions set forth herein;

WHEREAS the Parties successfully mediated the claims in the Action on November 29, 2017, with Chris Gomlicker of Hamlin Dispute Resolution;

NOW, THEREFORE, the Parties stipulate and agree that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement; for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; and subject to the approval of the Court, this Action shall be fully and finally settled and dismissed with prejudice as between the Plaintiffs and Settling Defendants only, and pursuant to the following terms and conditions:

ARTICLE I – DEFINITIONS

As used in this Settlement Agreement and the documents attached hereto as exhibits, the terms set forth below shall have the meanings set forth below. The singular includes the plural and vice versa.

1.1 “Action” means this civil action entitled *Williams v. Pipeline Productions, et al.*, pending in the Circuit Court of Pulaski County, Arkansas and having the Case No. 60-CV-15-2799.

1.2 “Class” or “Class Definition” means:

All persons who purchased day passes, children passes, VIP passes, camping passes, RV passes, hotel passes or packages, reserved seating, shower passes, passes of any other kind, or vendor booths to Thunder on the Mountain to be held on Mulberry Mountain, near Ozark, Arkansas between June 26th and 28th, 2015.

Excluded from the Class are the following:

- a) Any of the named Defendants, their directors, officers, employees, and/or agents;
- b) The judge presiding over this action and her immediate family members;
- c) Any person that timely and properly excludes himself/herself/itself pursuant to the orders of the Court.

1.3 “Class Counsel” means Scott Poynter, Of Counsel to Steel, Wright, Gray, PLLC.

1.4 Class Notice means the notice provided to the Class by Class Counsel as fully described in Article III, and includes the following methods of notification.

(a) “Mail Notice” means notice of this Settlement by mail as set forth in Article III.

(b) “Press Release Notice” means a national press release issued by the Plaintiffs introducing the Settlement and directing readers to the Settlement’s Website.

(c) “Email Notice” means the notice of this Settlement by email as set forth in Article III.

(d) “Web Notice” or “Settlement’s Website” means the posting of content of the Mail Notice and Email Notice on a website specifically created for information purposes related to the Action and this Settlement.

1.5 “Class Member” means a person who is a member of the Class.

1.6 “Class Representative” or “Plaintiff” means Grant Williams.

1.7 “Court” means the Circuit Court of Pulaski County, Arkansas.

1.8 “Effective Date” means the first date by which all of the following events shall have occurred: (a) the Court has entered the Preliminary Approval Order; (b) the Court has entered the Final Approval Order; and (c) the Final Approval Order has become Final.

1.9 “Fees and Costs Application” means that written motion or application by which Class Counsel requesting that the Court award attorney’s fees and costs.

1.10 “Final” means that the Final Approval Order has been entered on the docket in the Action and (a) the time to appeal from such order has expired and no appeal has been timely filed,

(b) if such an appeal has been filed, it has finally been resolved and has resulted in an affirmation of the Final Approval Order, or (c) the Court, following the resolution of the appeal, enters a further order or orders approving settlement on the terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

1.11 “Final Approval Hearing” means the hearing at which the Court shall, among other things: (a) determine whether to grant final approval to this Settlement Agreement; (b) consider any timely objections to this Settlement Agreement and all responses thereto; (c) rule on the Fees and Costs Application; and (d) rule on the Incentive Award Application.

1.12 “Final Approval Order” means the order, substantially in the form of **Exhibit B** hereto, in which the Court, among other things, grants final approval of this Settlement Agreement and authorizes entry of final judgment and dismissal of the Settling Defendants with prejudice.

1.13 “Incentive Award Application” means that written motion or application by which Class Counsel requests that the Court approve an incentive award to the Class Representative.

1.14 “Parties” means the Plaintiff, Pipeline, Backwood, and Mosiman.

1.15 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government, or any political subdivision or agency thereof, and any business or legal entity, and their spouses, heirs, predecessors, successors, representatives, or assignees.

1.16 “Preliminary Approval Order” means the order, substantially in the form of **Exhibit A** hereto, in which the Court grants preliminary approval of this Settlement Agreement.

1.17 “Released Claims” means all claims, demands, rights, liabilities, actions or causes of action, in law or in equity, damages, losses, obligations, judgments, duties, suits, fees, expenses,

costs, matters and issues of any kind or nature whatsoever, whether known or unknown, matured or unmatured, accrued or unaccrued, fixed or contingent, suspected or unsuspected, disclosed or undisclosed, direct, individual or representative, that have been, could have been or in the future can or might be asserted in the Action or in any court, tribunal or proceeding (including but not limited to any claims arising under federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside the United States) by or on behalf of any Releasing Party, against any of the Released Parties, whether or not any such Released Parties were named, served with process or appeared in the Action, which have arisen, could have arisen, arise now or hereafter arise out of, or relate in any manner to, the allegations, facts, events, matters, acts, occurrences, statements, representations, omissions or any other matter, thing or cause whatsoever, or any series thereof, embraced, involved or set forth in, or referred to or otherwise related, directly or indirectly, in any way to the Action.

1.18 “Released Parties” means the Settling Defendants and any and all of their present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and Persons, firms, trusts, corporations, officers, directors, other individuals or entities in which a Settling Defendant has a controlling interest or which is related to or affiliated with it, or any other representatives of any of these Persons and entities.

1.19 “Releasing Parties” means the Class Representative and any Class Member (whether individual, direct, class, derivative, representative, legal, equitable or any other type in any other capacity).

1.20 “Settlement Agreement” or “Settlement” means this Settlement Agreement, including the exhibits hereto.

1.21 “Settling Defendants” are Pipeline, Backwood, and Mosiman.

ARTICLE II- SETTLEMENT CONSIDERATION

2.1 Assignment of Claims. In consideration of a full, complete, and final settlement of the Action with respect to the Settling Defendants, dismissal of the Action with prejudice as to the Settling Defendants, and the releases below, and subject to the Court’s approval, the Settling Defendants assign to Plaintiffs 7% of all money recovered in settlement or judgment of claims the Settling Defendants have against Horsepower in *Pipeline, et al. v. Madison, et al.*, U.S.D.C., District of Kansas, Case No. 5:15-cv-4890 (the “Kansas Action”), or any global settlement resolving the claims in the Kansas Action with any other action involving, even partially, the Settling Defendants and Horsepower.

(a) Plaintiffs’ recovery of these assigned claims shall not exceed \$1 million, but shall not fall below \$450,000.00. This settlement, however, is not contingent upon the Settling Defendants recovering in the Kansas action.

(b) Any money recovered by Plaintiffs from the Horsepower Defendants before settlement or judgment is reached in the Kansas Action shall offset the Settling Defendants monetary obligations herein related to the 7% assignment. The offset shall be a 50% per dollar reduction from any sums recovered by Plaintiffs from the Horsepower Defendants.

(c) This assignment shall be the sole mechanism for Plaintiffs to recover from the Settling Defendants.

2.2 Other Class Compensation and Responsibilities of Settling Defendants. In addition to the agreed assignment of interest detailed above, the Settling Defendants also agree to provide the Plaintiffs the following in Settlement consideration:

(a) The Settling Defendants shall work with Plaintiffs to produce relevant documents they request, including but not limited to text messages, emails, draft and final agreements, memos, notes, and/or spreadsheets, relating to their relations with the Horsepower Defendants and Thunder.

(b) The Settling Defendants will not oppose Plaintiffs' filing of a lien in the Kansas Action in order to protect and secure Plaintiffs' assigned interest that is the consideration of this Settlement.

(c) Upon approval of the Court, Class Counsel may enter an appearance on behalf of the Settling Defendants in the Kansas Action in order to further secure and protect Plaintiffs' assigned interest, and may also move for *pro hac vice* admission in the Kansas Action to meet the terms of this Settlement.

(d) The Settling Defendants will not oppose any possible separate action brought by any member of the Class by Class Counsel against Horsepower.

(e) Class Counsel shall pay all costs related to the provision of Class Notice to the Class. Such costs shall be reimbursable from the proceeds of the assignment.

ARTICLE III– SETTLEMENT NOTICE AND ADMINISTRATION

3.1 **Class Notice.** Class Counsel shall provide Notice of this Settlement and of the Class Members' rights with respect to this Settlement pursuant to Ark. R. Civ. Pro. 23 and due process of law, and substantially in the form of **Exhibit C** hereto.

3.2 **Mail and Email Notice.** Within seven (7) days after the Court's entry of the Preliminary Approval Order, Class Counsel shall provide Email Notice by sending a mailer substantially in the form of **Exhibit C** to each Class Member. For any emails returned as undeliverable, Class Counsel shall, within one day of receiving the return, send Mail Notice to each such Class Member for which Class Counsel has a mailing address substantially in the form of **Exhibit C**.

3.3 **Press Release.** Within seven (7) days after the Court's entry of the Preliminary Approval Order, Class Counsel shall issue a national press release announcing preliminary approval of the Settlement, summarizing the Action and the Settlement, and directing readers to the Settlement's Website for more information. Further, within the same time frame, Class Counsel shall also publish a blog on www.poynterlawgroup.com, which will also be emailed to all subscribers and posted on Class Counsel's firm's social media outlets.

3.4 **Internet Notice.** Within seven (7) days after the Court's entry of the Preliminary Approval Order, Class Counsel shall cause to be posted the Class Notice on Settlement's Website. The website shall be available at the following web address: www.thundermountainlawsuit.com.

3.5 **Requests for Exclusion.** Class Members may exclude themselves from the Class only by submitting a valid Request for Exclusion. All Class Members who do not submit a valid Request for Exclusion will be included in the Class and will be bound by this Settlement Agreement on the Effective Date.

3.6 Validity of Requests for Exclusion. To be valid, a Request for Exclusion must (a) be submitted by a Class Member; (b) be submitted to the Class Counsel and postmarked within the later of thirty (30) days of Mail Notice first being sent; (c) be signed by the Class Member and clearly request exclusion from the Class; (d) contain the Class Member's name, address and telephone number. Requests for Exclusion shall be mailed, in a timely fashion, to the following:

Scott Poynter
STEEL, WRIGHT, GRAY, PLLC
400 W. Capitol Ave., Suite 2910
Little Rock, AR 72201

3.7 List of Requests for Exclusion. Within seven (7) days after the last day for Class Members to submit a Request for Exclusion, Class Counsel shall submit to Settling Defendants' Counsel a copy of all Requests, and then file same under seal with the Court. Class Members submitting such requests will not be entitled to receive any relief under this Settlement Agreement, object to this Settlement, or in any way be bound to it.

3.8 Declaration of Compliance. Class Counsel shall prepare a declaration attesting to compliance with the Notice requirements set forth in this Article. Such declaration shall be filed with the Court with the motion for final approval of the Settlement.

3.9 Best Notice. The Parties agree, and the Preliminary Approval Order shall state, that compliance with the procedures described in this Article is the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Class of the pendency of the Action, the terms of this Settlement Agreement, and the Final Approval Hearing, and shall satisfy the requirements of the Arkansas Rules of Civil Procedure, the Arkansas Constitution, the United States Constitution, and any other applicable law.

3.10 Inquiries. Class Counsel will place his phone number in the Class Notice for Class Members to call for more information about the Settlement.

3.11 Notice Costs. Class Counsel shall pay the reasonable costs associated with the Settlement, including the reasonable costs of providing Class Notice. Such costs shall be reimbursable from the proceeds of the assignment.

ARTICLE IV – FEES, COSTS, AND INCENTIVE AWARD

4.1 Fees and Costs Award. Class Counsel may seek an award of attorneys' fees and costs up to but not exceeding one-third of any recovery from the assignment that is the subject of this Settlement or any recoveries achieved from the Horsepower Defendants directly. Further, Class Counsel shall also be entitled to reimbursement of litigation costs of not more than \$50,000.00 from any recovery from the proceeds of the assignment that is the subject of this Settlement or any recoveries achieved by from the Horsepower Defendants directly. The Settling Defendants agree not to oppose an award of attorneys' fees of up to one-third and costs consistent with what is detailed in this paragraph.

4.2 Incentive Award. The Class Representative may be awarded \$2,500.00, total, as an incentive award, and from any recovery from the proceeds of the assignment that is the subject of this Settlement or any recoveries achieved from the Horsepower Defendants directly.

4.3 Neither the resolution of, nor any ruling regarding, any award of attorneys' fees and costs shall be a precondition to this Settlement or to the dismissal with prejudice of the Action as to the Settling Defendants. Notwithstanding anything in this Settlement Agreement to the contrary, the effectiveness of the releases and the other obligations of the Parties under this Settlement (except with respect to the payment of attorneys' fees and costs) shall not be conditioned upon or subject to the resolution of any appeal from any order, if such appeal relates solely to the issue of any award of attorneys' fees and/or the reimbursement of costs.

ARTICLE V – COURT APPROVAL OF SETTLEMENT

5.1 Amended Complaint and Motion for Preliminary Settlement Approval. As soon as practicable after execution of this Settlement Agreement, an amended complaint will be filed naming Mosiman as a defendant solely for purposes of this Settlement and in order for the Court to consider the fairness of the Settlement as to him and to provide him a release under the terms of this Settlement after final approval of the Settlement. Further, the Class Representative, through Class Counsel, shall apply for entry of the Preliminary Approval Order in the form of **Exhibit A** hereto. The Preliminary Approval Order shall include provisions: (a) preliminarily approving this Settlement and finding this Settlement sufficiently fair, reasonable and adequate to allow Notice to be disseminated to the Class; (b) approving the form, content, and manner of the Notice; (c) setting a schedule for proceedings with respect to final approval of this Settlement; (d) immediately staying the Action as to the Settling Defendants, other than proceedings related to this Settlement; and (e) issuing an injunction against any actions by Class Members to pursue claims released under this Settlement Agreement, pending final approval of the Settlement Agreement.

5.2 Objections. Any Class Member who does not submit a timely and valid Request for Exclusion and who wishes to object to or oppose the approval of (a) this Settlement Agreement, (b) the Fees and Costs Application, (c) the Incentive Award Application, and/or (d) the proposed Final Approval Order shall file a written objection with the Court and serve it on the Parties at least ten (10) days before the Final Approval Hearing. The written objection must include: (1) a statement of the reasons for the objection and any evidence supporting the objection; (2) the objecting Class Member's name, address, and telephone number; (3) proof of the objecting Class Member's membership in the Class; (4) a statement regarding whether the objecting Class Member

intends to appear at the Final Approval Hearing and whether he or she is represented by counsel; and (5) any other requirements set forth in the Notice. Any Class Member who fails to file a timely written objection that meets the requirements of this paragraph shall be deemed to have waived such objection or opposition and forever shall be foreclosed from making such objection or opposition to the fairness, reasonableness, or adequacy of the Settlement, the payment of attorney's fees, costs, expenses, and the incentive award, or the Final Approval Order. Any Class Member who makes an objection shall submit to the jurisdiction of the Court and make him or herself available for deposition by either Party within a reasonable time before the Final Approval Hearing.

5.3 Motion for Final Settlement Approval. The Class Representative, through Class Counsel, shall file with the Court a motion for final settlement approval at least seven (7) days before the Final Approval Hearing.

5.4 Final Approval Hearing. The Parties shall request that the Court conduct a Final Approval Hearing to, among other things: (a) determine whether to grant final approval to this Settlement Agreement; (b) consider any timely objections to this Settlement and the Parties' responses to such objections; (c) rule on the Fees and Costs Application; and (d) rule on the Incentive Award Application. At the Final Approval Hearing, the Class Representative, through Class Counsel, shall ask the Court to give final approval to this Settlement Agreement. If the Court grants final approval to this Settlement Agreement, then the Class Representative, through Class Counsel, shall ask the Court to enter a Final Approval Order, substantially in the form of Exhibit B attached hereto, which, among other things, approves this Settlement Agreement, enters final judgment, and dismisses the Action with prejudice.

5.5 Separate Consideration of Applications. The Parties agree that the Fees and Costs Application and Incentive Award Application and any claim or dispute relating thereto will be considered by the Court separately from the remaining matters to be considered at the Final Approval Hearing as provided for in this Settlement Agreement. Any order or proceedings relating to the Fees and Costs Application and Incentive Award Application, including any appeals from or modifications or reversals of any order related thereto, shall not operate to modify, reverse, terminate, or cancel the Settlement Agreement, affect the releases provided for in the Settlement Agreement, or affect whether the Final Approval Order becomes Final.

5.6 Dismissal of Alexander Action. Upon entry of the Final Approval Order and Dismissal with Prejudice, Class Counsel shall advise the federal court in *Alexander v. Pipeline Productions, Inc.*, Eastern District of Arkansas, Case No. 1:16-cv-00005-KGB and move for dismissal of the default judgments entered there against the Settling Defendants.

ARTICLE VI – TERMINATION

6.1 Termination Due to Requests for Exclusion. The Settling Parties shall have the right, in their sole discretion, to terminate this Settlement Agreement if ten (10) or more percent of the Class Members submit timely and valid Requests for Exclusion. If the Settling Defendants elect to terminate this Agreement under this section, it must provide written notice to Class Counsel no later than seven (7) days before the Final Approval Hearing.

6.2 Effect of Termination. If this Settlement Agreement is terminated pursuant to its terms, to include any denial of final approval of the Settlement, then: (i) this Settlement Agreement shall be rendered null and void; (ii) this Settlement Agreement and all negotiations and proceedings relating hereto shall be of no force or effect and without prejudice to the rights of the Parties; (iii) all Parties shall be deemed to have reverted to their respective status as of the date and

time immediately preceding the execution of this Settlement Agreement; (iv) the amended complaint naming Mosiman as a defendant shall have no force or effect, and Plaintiffs shall moot the amendment by filing a voluntary dismissal of Mosiman without prejudice after the termination; and (v) except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed. Upon termination of this Settlement Agreement, the Parties shall not seek to recover from one another any costs incurred in connection with this Settlement including, but not limited to, any amounts paid for Notice.

ARTICLE VII – RELEASES UPON EFFECTIVE DATE

7.1 Binding and Exclusive Nature of Settlement Agreement. On the Effective Date, the Parties and each and every Class Member shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights, and remedies provided hereunder. No other action, demand, suit, or other claim may be pursued by the Class Members against the Released Parties with respect to the Released Claims.

7.2 Releases. On the Effective Date, the Class Members shall be deemed to have, and by operation of this Settlement Agreement shall have, fully, finally and forever released, relinquished and discharged the Released Parties from any and all Released Claims.

7.3 Waiver of Unknown Claims. On the Effective Date, the Class Members shall be deemed to have, and by operation of this Agreement shall have, with respect to the subject matter of the Released Claims, expressly waived the benefits of any statutory provisions or common law rule that provides, in substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known

by it, would have materially affected its settlement with any other party. The Parties stipulate and agree that, upon the Effective Date, the Class Representative shall have expressly waived, relinquished and released any and all rights and benefits related to any unknown claims with respect to the subject matter of the Released Claims and each Class Member shall be deemed to have, and by operation of the Final Approval Order shall have, waived, relinquished and released any and all rights and benefits related to any unknown claims with respect to the subject matter of the Released Claims. The Class Representative acknowledge, and the Class Members shall be deemed by operation of the entry of a Final Approval Order to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of the Class Representative and, by operation of law, the Class Members, to completely, fully, finally, and forever, compromise, settle, release, discharge, extinguish, and dismiss any and all Released Claims, known or unknown, suspected or unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. The Class Representative acknowledge, and the Members of the Class shall be deemed by operation of the entry of a Final Approval order to have acknowledged, that the waiver of unknown claims was separately bargained for, is an integral element of the Settlement, and was relied upon by the Settling Defendants in entering into the Settlement.

ARTICLE VIII – MISCELLANEOUS

8.1 **No Admission of Liability.** Neither the acceptance by the Settling Defendants of the terms of this Settlement Agreement nor any of the related negotiations or proceedings constitutes an admission with respect to the merits of the claims alleged in the Action. The Settling Defendants specifically deny any liability or wrongdoing of any kind associated with the claims

alleged in the Action and assert that the Horsepower Defendants are responsible for damages suffered by the Class.

8.2 Limitations on Use. This Settlement Agreement shall not be used, offered, or received into evidence in the Action, or in any other action or proceeding for any purpose other than to enforce, to construe, or to finalize the terms of the Settlement Agreement and/or to obtain the preliminary and final approval by the Court of the terms of the Settlement Agreement, except that the Settlement Agreement may be used, offered, or received into evidence in the Kansas Action to establish damages caused by the Horsepower Defendants, the Settling Defendants' denial of liability, and the Plaintiffs' belief that Horsepower, not the Settling Defendants, are primarily responsible for Thunder's cancellation.

8.3 Cooperation. The Parties agree to support approval of this Settlement Agreement by the Court and to take all reasonable and lawful actions necessary to obtain such approval. Plaintiffs and their counsel further agree to continue to vigorously pursue their claims against Horsepower.

8.4 Binding on Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, successors, and assigns.

8.5 Captions. Titles or captions contained in this Settlement Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof.

8.6 Class Member Signatures. It is agreed that, because the Class Members are so numerous, it is impractical to have each Class Member execute this Settlement Agreement. The Notice will advise all Class Members of the binding nature of the Release and of the remainder of this Settlement Agreement, and in the absence of a valid and timely Request for Exclusion, such

Notice shall have the same force and effect as if each Class Member executed this Settlement Agreement.

8.7 Construction. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party, or his or its counsel, participated in the drafting of this Settlement Agreement.

8.8 Counterparts. This Settlement Agreement and any amendments hereto may be executed in one or more counterparts, and either Party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and both of which counterparts taken together shall constitute but one and the same instrument. A facsimile or PDF signature shall be deemed an original for all purposes.

8.9 Governing Law. Construction and interpretation of this Settlement Agreement shall be determined in accordance with the laws of the State of Arkansas without regard to the choice-of-law principles thereof.

8.10 Integration. This Settlement Agreement, including the exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants, or undertakings governing the subject matter of this Settlement Agreement other than those expressly set forth in this Settlement Agreement. This Settlement Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action. This Settlement Agreement may not be changed, altered or modified, except in a writing signed by the Parties; if any such change, alteration or modification of the Settlement Agreement is

material, it must also be approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

8.11 Jurisdiction. The Court shall retain jurisdiction, after entry of the Final Approval Order, with respect to enforcement of the terms of this Settlement, and all Parties and Class Members submit to the exclusive jurisdiction of the Court with respect to the enforcement of this Settlement and any dispute with respect thereto.

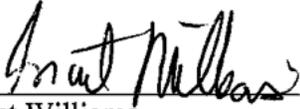
8.12 No Collateral Attack. This Settlement Agreement shall not be subject to collateral attack by any Class Member at any time on or after the Effective Date. Such prohibited collateral attacks shall include, but shall not be limited to, claims that a Class Member's Claim was improperly denied and/or that a Class Member failed to receive timely notice of the Settlement Agreement.

8.13 Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to the terms and conditions hereof.

8.14 Receipt of Advice of Counsel. The Parties acknowledge, agree, and specifically warrant to each other that they have read this Settlement Agreement, have received legal advice with respect to the advisability of entering into this Settlement, and fully understand its legal effect.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the

2nd day of August, 2018.



Grant Williams
Individually and as Class Representative

brett mosiman

08/13/18

Brett Mosiman
On behalf of Settling Defendants

EXHIBIT A

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
Twelfth Division**

GRANT WILLIAMS, et al.

Plaintiffs,

v.

**PIPELINE PRODUCTIONS, INC,
et al.**

Defendants.

Case No. 60-CV-15-2799

**ORDER GRANTING PRELIMINARY
APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT**

WHEREAS, the Plaintiff and Class Representative Grant Williams (“Plaintiff”) and Pipeline Productions, Inc. (“Pipeline”), Backwood Enterprises, LLC (“Backwood”) and Brett Mosiman (“Mosiman”) (collectively, the “Settling Defendants”) have reached a proposed settlement and compromise of the disputes between them in the above-captioned action, which is embodied in a Settlement Agreement filed with the Court;

WHEREAS, Plaintiff has applied to the Court for preliminary approval of the proposed Settlement of the Action, the terms and conditions of which are set forth in the Settlement Agreement;

AND NOW, the Court having read and considered the Settlement Agreement and accompanying documents, and the parties to the Settlement Agreement having agreed and

consented to the entry of this Order, IT IS HEREBY ORDERED AS FOLLOWS:

1. The capitalized terms used in this Preliminary Approval Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be ordered.

2. Subject to further consideration by the Court at the time of the Final Approval Hearing, the Court preliminarily approves the Settlement and all of its terms as fair, reasonable and adequate to the Class Members, as falling within the range of possible final approval, and as meriting submission to the Class Members for their consideration.

3. The Class shall consist of the following:

All persons who purchased day passes, children passes, VIP passes, camping passes, RV passes, hotel passes or packages, reserved seating, shower passes, passes of any other kind, or vendor booths to Thunder on the Mountain to be held on Mulberry Mountain, near Ozark, Arkansas between June 26th and 28th, 2015.

Excluded from the Class are the following:

- a) Any of the named Defendants, their directors, officers, employees, and/or agents;
- b) The judge presiding over this action and her immediate family members;
- c) Any person that timely and properly excludes himself/herself/itself pursuant to the orders of the Court.

4. A Final Approval Hearing shall be held before this Court at ___ a.m./p.m. on _____ to address: (a) whether the proposed Settlement should be finally approved as fair, reasonable and adequate; (b) whether a final Order and Judgment should be entered; and (c) any other matters that the Court deems appropriate.

5. With the exception of such proceedings as are necessary to implement, effectuate and grant final approval to the terms of the Settlement Agreement, all proceedings are stayed in

this Action and all Class Members are enjoined from commencing or continuing any action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement Agreement against the Settling Defendants unless the Class Member files a valid and timely Request for Exclusion. However, Class Counsel is permitted to file a lien in the federal action in the District of Kansas per the terms of the Settlement and enter his appearance on behalf of the Defendants there in order protect Plaintiffs' assigned interest and to effectuate the terms of the Settlement.

6. The Court approves, as to form and content, the Class Notice as provided in the Settlement Agreement.

7. Within seven (7) days of entry of this Order, Class Counsel shall ensure the Class Notice (including, the Mail and Email Notice, Press Release, and Internet Notice) is provided as agreed in the Settlement Agreement.

8. The Court finds that Plaintiff's plan for providing Notice to the Class Members as described in the Settlement Agreement constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Class Members of the pendency of the Action and the Final Approval Hearing, and complies fully with the requirements of the Arkansas Rules of Civil Procedure, the Arkansas Constitution, the U.S. Constitution, and any other applicable law.

9. The Court further finds that the Class Notice described in the Settlement Agreement will adequately inform the Class Members of their right to exclude themselves from the Class so as not to be bound by the terms of the Settlement Agreement. Any Class Member who desires to be excluded from the Class, and therefore not bound by the terms of the Settlement Agreement, must submit to Class Counsel, pursuant to the instructions set forth in the Class Notice, a timely and valid written Request for Exclusion.

10. In order to be valid, a Request for Exclusion must: (1) be signed by the member of the Class or his or her authorized representative; (2) be timely mailed to Class Counsel; (3) clearly request exclusion from the Class; and (4) contain the Class Member's name, address, and telephone number. Any Class Member who elects to be excluded shall not be entitled to receive any of the benefits of the Settlement, shall not be bound by the release of any claims pursuant to the Settlement Agreement, and shall not be entitled to object to the Settlement or appear at the Final Approval Hearing. The names and addresses of all Persons timely submitting valid Requests for Exclusion shall be provided to the Court under seal.

11. Any Class Member who does not timely submit a valid Request for Exclusion may object to the Settlement Agreement, to Class Counsel's application for attorney's fees and expenses, to the payment of an incentive award, or to the proposed Final Judgment and Order of Dismissal with Prejudice. Class Members making objections must do so in writing setting forth their full name, current address and telephone number, and must state in writing all objections and the reasons therefore, provide copies of any documents relied upon for such objection, and state whether he or she intends to appear at the Final Approval Hearing and whether he or she is represented by separate legal counsel. Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

12. All objections must be filed with the Court and served on Class Counsel within ten days of the Final Approval Hearing.

13. Any Class Member that files and serves a proper and timely objection shall have the right to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Class Member's own expense. Any Class Member that makes an objection

shall make themselves available for deposition by either Party within a reasonable time before the Final Approval Hearing.

14. Within seven days of Final Approval Hearing, the following shall occur:
 - a. Class Counsel shall cause to be filed with the Court declarations attesting to compliance with the notice requirements set forth above.
 - b. The Class Representative shall file with the Court a motion in support of final approval of the Settlement and in response to any objections.
 - c. Class Counsel and the Plaintiff shall file applications for an award of attorneys' fees and/or incentive award.

15. Service of all papers relating to an objection shall also be made on counsel for the Parties as follows:

Class Counsel:

Scott Poynter
STEEL, WRIGHT, GRAY, PLLC
400 W. Capitol Ave., Suite 2910
Little Rock, AR 72201

16. Only Class Members who have filed and served valid and timely notices of intention to appear, together with supporting papers, shall be entitled to be heard at the Final Approval Hearing.

17. Any Class Member who does not make an objection in the time and manner provided in the Settlement Agreement shall be deemed to have waived such objection and forever shall be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement, the payment of attorney's fees and expenses, the payment of an incentive award, or the Final Judgment and Order of Dismissal with Prejudice.

18. In the event that the proposed Settlement does not become Final, or in the event

that the Settlement Agreement becomes null and void pursuant to its terms, this Preliminary Approval Order and all documents filed and orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in this civil action or in any other case or controversy; in such event, the Settlement Agreement and all negotiations and proceedings directly related thereto shall be deemed to be without prejudice to the rights of any and all of the Parties, who shall be restored to their respective positions as of the date of the Settlement Agreement. Additionally, the amended complaint filed pursuant to the Settlement Agreement will also have no effect, and the operative complaint preceding entry of this Order shall become the operative complaint once again.

19. The Court may, for good cause, extend any of the deadlines set forth in this Preliminary Approval Order without further notice to the Class Members. The Final Approval Hearing may, from time to time and without further notice to the Class, be continued by order of the Court. Any notice of postponement shall be posted on the Settlement's website.

So Ordered this ___ day of _____, 2018

Judge Alice S. Gray

Agreed as to form.

/s/ Brett Mosiman
Brett Mosiman
For Defendants Brett Mosiman, Pipeline
Productions, and Backwood Entertainment

/s/ Scott Poynter
Scott Poynter
Counsel for Plaintiff Grant Williams
and the Settlement Class

EXHIBIT B

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
Twelfth Division**

GRANT WILLIAMS, et al.

Plaintiffs,

v.

**PIPELINE PRODUCTIONS, INC,
et al.**

Defendants.

Case No. 60-CV-15-2799

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

WHEREAS, the Plaintiff and Class Representative Grant Williams (“Plaintiff”) and Pipeline Productions, Inc. (“Pipeline”), Backwood Enterprises, LLC (“Backwood”) and Brett Mosiman (“Mosiman”) (collectively, the “Settling Defendants”) have reached a proposed settlement and compromise of the disputes between them in the above-captioned action, which is embodied in a Settlement Agreement filed with the Court;

WHEREAS, On _____, an order preliminary approving the Settlement (“Preliminary Approval Order”) the Plaintiff applied to the Court for preliminary approval of the proposed Settlement of the Action, the terms and conditions of which are set forth in the Settlement Agreement;

WHEREAS, pursuant to Plaintiff’s plan for providing notice to the Class Members, the

Class Members were notified by mail and electronic mail of the terms of the proposed Settlement and of a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate for the release of the Released Claims against the Released Parties; (2) whether judgment should be entered dismissing the claims of the Complaint; (3) whether Class Counsel's application for attorney's fees and expenses should be approved; and (4) whether the payment of the incentive award should be approved.

WHEREAS, the Class Members were therefore notified of their right to appear at the hearing in opposition to the proposed Settlement, the award of attorney's fees to Class Counsel, and the payment of incentive awards.

WHEREAS, a Final Approval Hearing was held on _____, at which [] objectors appeared and the Court reviewed all properly filed written objections and heard argument from the parties' counsel.

NOW, THEREFORE, the Court, having heard the presentations to the Court, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate, and reasonable, having considered the application of Class Counsel for an award of attorney's fees, and having reviewed the materials in support thereof, it is hereby ORDERED, ADJUDGED and DECREED THAT:

1. The capitalized terms used in this Order and Judgment shall have the same meaning as defined in the Settlement except as may otherwise be ordered.

2. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all Parties thereto, including the Class.

3. The Class, which will be bound by this Order and Judgment, shall include all Class Members who did not submit a timely and valid Request for Exclusion. A list of all Class Members who submitted a timely and valid Request for Exclusion has been filed under seal.

4. The Class consists of the following:

All persons who purchased day passes, children passes, VIP passes, camping passes, RV passes, hotel passes or packages, reserved seating, shower passes, passes of any other kind, or vendor booths to Thunder on the Mountain to be held on Mulberry Mountain, near Ozark, Arkansas between June 26th and 28th, 2015.

Excluded from the Class are the following:

- a) Any of the named Defendants, their directors, officers, employees, and/or agents;
- b) The judge presiding over this action and her immediate family members;
- c) Any person that timely and properly excludes himself/herself/itself pursuant to the orders of the Court.

5. The Court finds that the Notice set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constituted due and sufficient notice to Class Members of the pendency of the Action, the terms of the Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of Arkansas and federal due process of law.

6. The Settlement, as set forth in the Settlement Agreement, is in all respects fair, reasonable, adequate and in the best interests of the Class, and it is approved. The Stipulation and Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.

7. Any Class Member who does not submit an Approved Claim shall not be entitled to any benefits under the Settlement.

8. Upon the Effective Date, the Class Representative and all Class Members shall have, by operation of this Final Judgment and Order of Dismissal with Prejudice, fully, finally and forever released, relinquished, and discharged all Released Parties from all Released Claims, whether or not such Class Member executes and submits a Claim Form.

9. Class Members, including the Class Representative, and the successors, assigns, parents, subsidiaries, affiliates or agents of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any Released Claim against any of the Released Parties.

10. This Order and Judgment, the Stipulation and Settlement Agreement, the Settlement which it reflects, and any and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, or used as an admission by or against the Settling Defendants or any other Released Party of any fault, wrongdoing, or liability on their part, or of the validity of any Released Claim or of the existence or amount of damages.

11. The Court approves the payment of up to one-third of any funds recovered pursuant to the terms of the Settlement, and to reimbursement of costs to Class Counsel for as provided in the Settlement Agreement

12. The Court approves the payment of \$2,500.00 to the Class Representative as an incentive award for any funds recovered pursuant to the Settlement Agreement.

13. The payments described in paragraphs 11 and 12, above, shall be made in the manner and at the times set forth in the Settlement Agreement.

14. The above-captioned Action is hereby dismissed in its entirety with prejudice. Except as otherwise provided in this Order, the parties shall bear their own costs and attorney's fees. Without affecting the finality of the Judgment hereby entered, the Court reserves jurisdiction over the implementation and interpretation of the Settlement, including distribution of the settlement benefits, enforcement and administration of the Settlement Agreement, including any releases in connection therewith, and any other matters related or ancillary to the foregoing.

So Ordered this ___ day of _____, 2018

Judge Alice S. Gray

Agreed as to form.

/s/ Brett Mosiman
Brett Mosiman
For Defendants Brett Mosiman, Pipeline
Productions, and Backwood Entertainment

/s/ Scott Poynter
Scott Poynter
Counsel for Plaintiff Grant Williams
and the Settlement Class

EXHIBIT C

NOTICE OF CLASS ACTION SETTLEMENT

A proposed settlement has been reached in a class action involving the Thunder on the Mountain music festival to be held in Ozark, Arkansas in June of 2015. The festival was cancelled just before it was to begin, and many purchasers of various passes and vendors buying booths were never refunded. **This summary notice informs you of the proposed settlement so that you can decide what to do about it.**

Who's included? The Class is defined as all persons who purchased day passes, children passes, VIP passes, camping passes, RV passes, hotel passes or packages, reserved seating, shower passes, passes of any other kind, or vendor booths to Thunder on the Mountain to be held on Mulberry Mountain, near Ozark, Arkansas between June 26th and 28th, 2015 (the "Class")

What is the settlement? This is only a partial settlement of the case and only involves the organizers of the festival, which were Brett Mosiman, Pipeline Productions, and Backwood Entertainment ("Settling Defendants"). The Settling Defendants have sued the venture capital firms, Madison Companies and Horsepower Entertainment, which reneged on their deal to fund the festival. That action is pending in federal court in Kansas. The Settling Defendants have agreed to a 7% assignment of their interest in those claims, allowing up to a potential recovery of \$1 million for the Class, but no less than \$450,000. The Settlement provides that Class Counsel and other members of the Class will file a lien in the federal court action in Kansas and Class Counsel will enter an appearance in that case in order to protect that lien. Further, Class Counsel is permitted under the terms of the Settlement to continue prosecuting the claims against the venture capital firms in any other venue. Although there is no settlement fund presently, the Court in this case will also determine the amount of any fees and costs that could be awarded, which will not exceed 1/3 of the potential recovery with respect to the lien and costs of no more than \$50,000. Additionally, any incentive award to the Class Representative may not exceed the sum of \$2,500.

Your options. If you do not exclude yourself by [insert – thirty days after Notice], you will release your rights except as provided by the settlement. If you do not exclude yourself, you may appear in the case through your own attorney at your expense. You may file an objection to the settlement by [insert – ten days prior to Final Approval Hearing]. Your objection must set forth your full name, current address and telephone number, the reasons for your objection, and a statement as to whether you intend to appear at the Final Approval Hearing on [insert date of Final Approval Hearing] at the Pulaski County Circuit Courthouse, Little Rock, Arkansas, 72201 at [insert time]. If you do not properly and timely file and serve your objection by the required date, any objections you have to the settlement will be waived and you will be foreclosed from objecting to the settlement. If you file an objection, you may be asked to provide deposition testimony in support of it.

For more information, please visit www.thundermountainlawsuit.com, email Class Counsel at scott@poynterlawgroup.com, or call 501-251-1587 and speak to Class Counsel, Scott Poynter.