

1 Bryan J. Freedman, Esq. (SBN 151990)
 Jesse A. Kaplan, Esq. (SBN 255059)
 2 FREEDMAN + TAITELMAN, LLP
 1901 Avenue of the Stars, Suite 500
 3 Los Angeles, CA 90067
 Telephone: (310) 201-0005
 4 Facsimile: (310) 201-0045
 E-mail: bfreedman@ftllp.com
 5 jkaplan@ftllp.com

6 Attorneys for Plaintiff Turner Tenney

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 8 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
 9

10 TURNER TENNEY pka "TFUE", an individual)
 11 Plaintiff,)
 12 vs.)
 13 FAZE CLAN INC., a Delaware corporation;)
 14 and DOES 1 through 25, inclusive,)
 15 Defendants.)

Case No.:

Unlimited Civil Case
Demand over \$25,000

COMPLAINT FOR:

- 16 1. DECLARATORY RELIEF;
- 17 2. DECLARATORY RELIEF;
- 18 3. UNFAIR BUSINESS PRACTICES;
- 19 4. MONEY HAD AND RECEIVED;
- 20 5. QUANTUM MERUIT;
- 21 6. BREACH OF WRITTEN CONTRACT; AND
- 22 7. BREACH OF FIDUCIARY DUTY

1 Plaintiff Turner Tenney pka “Tfue” (“Tenney”) alleges causes of action against defendants Faze
2 Clan Inc. (“Faze Clan”), and Does 1 through 25 (collectively, “Defendants”) as follows:

3 **INTRODUCTION**

4 1. Esports is a new and rapidly growing entertainment format. Unlike traditional “sports”,
5 significant revenue in the esports entertainment industry is driven by creative content and performances,
6 namely videos, featuring and created by the gamers themselves. In no uncertain terms, these gamers are
7 artists, entertainers and content creators- they perform, they act, they direct, they edit and they stream.
8 Moreover, the content created by these gamers is typically not found on traditional broadcast media such
9 as network or cable television. Instead of broadcasting television programs, these gamer content
10 creators “stream” their videos on online platforms such as YouTube and Twitch.¹ The videos created by
11 these content creator/streamers have become increasingly popular, especially amongst younger viewers.
12 Millions subscribe to the content creators/streamers’ online channels and/or view these videos. As a
13 result, these videos can be extremely profitable.

14 2. Because the esports industry is so new, there is little to no regulation or oversight. There
15 are no real organizations such as unions or guilds to help protect the content creators/streamers that drive
16 the industry. Most of these content creator/streamers are also very young, and are often unsophisticated,
17 unseasoned and trusting. As a result, these young content creator/streamers are susceptible to being
18 taken advantage of and exploited - often by those that are supposed to be looking out for their best
19 interests. Unfortunately, this has become industry standard.

20 3. Tenney, professionally known as “Tfue”, is a twenty-one year old professional gamer and
21 content creator/streamer. Tenney performs in and creates popular videos that he streams online.
22 Because Tenney’s videos are viewed by millions, sponsors are willing to pay for Tenney to perform in
23 and create videos that will, at least in part, promote their goods, services and brands.

24 4. Defendant Faze Clan Inc. (“Faze Clan”) is a so-called esports entertainment company.
25 Through Tenney’s brief relationship with Faze Clan, he has come to learn that Faze Clan subscribes to
26 the business model described above. Faze Clan’s goal is to essentially “own” Tenney and other content

27 _____
28 ¹ For at least the purpose of this Complaint, “streaming” includes both live and pre-recorded creative content that
is made available for viewing on these various platforms.

1 creator/streamers and professional gamers. Tenney signed a “Gamer Agreement” with Faze Clan when
2 Tenney was only twenty (20) years old. That Gamer Agreement is grossly oppressive, onerous, and
3 one-sided. Indeed, the Gamer Agreement purportedly entitles Faze Clan to a finder’s fee of up to **eighty**
4 **percent (80%)** of the revenue paid by third-parties for Tenney’s services. Additionally, Faze Clan uses
5 illegal and anti-competitive provisions in the Gamer Agreement to severely limit Tenney’s ability to
6 compete in the marketplace. These conspicuously anti-competitive provisions, which are probably
7 found in every Faze Clan Gamer Agreement, undoubtedly violate California Business and Professions
8 Code § 16600 *et seq.*, (“Section 16600”) which provides that “every contract by which anyone is
9 restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.” In
10 simple terms, Faze Clan uses its illegal Gamer Contracts to limit Tenney to deals sourced exclusively by
11 Faze Clan and to prevent Tenney from exploring deals presented by others; deals that are potentially
12 superior to deals procured by Faze Clan; and deals that are not saddled with an eighty percent (80%)
13 finder’s fee.

14 5. Faze Clan’s Gamer Agreements are illegal for yet another reason: they violate
15 California’s Talent Agency Act which protects artists from those like Faze Clan that act as an unlicensed
16 talent agency. Though Faze Clan does not hold the requisite talent agency license, Faze Clan
17 continuously and systematically procures and attempts to procure employment and engagements for
18 Tenney as an artist in violation of Labor Code § 1700.5. As a result of Faze Clan’s violation of
19 California’s Talent Agency Act, the California Labor Commissioner is concurrently presiding over and
20 considering a Petition to Determine Controversy. A copy of that Petition is attached hereto as Exhibit
21 “1”.²

22
23
24 ² Faze Clan’s conduct at issue in the Labor Commissioner proceeding is summarized as follows: Under Faze
25 Clan’s illegal Gamer Agreements, Faze Clan secures the purported right to procure employment or engagements
26 for young artists like Tenney. To that end, Faze Clan’s primary and essential function is to promote and sell
27 Tenney’s artistic services and procure sponsorship deals which feature those services. Sponsors pay for Tenney
28 to perform in and create online content and/or to model apparel featuring the sponsors’ brands. Faze Clan then
retains a grossly unconscionable commission for sourcing the deal. Because Faze Clan is unlicensed, it has
avoided regulation by California’s Labor Commissioner. The need for licensure and regulation, however, is dire.
Not only does Faze Clan take advantage of these young artists, it jeopardizes their health, safety and welfare in
violation of the Talent Agency Act, in particular Labor Code §§ 1700.33, 1700.34, 1700.35 and 1700.36.

1 Angeles County, California, the contract at issue was entered into in Los Angeles County, California,
2 and the acts and occurrences alleged herein occurred in Los Angeles County, California. Moreover,
3 California has a strong public policy and interest in preventing those that reside and conduct business in
4 California like Faze Clan from engaging in anti-competitive conduct in California in violation of Section
5 16600.

6 **FIRST CAUSE OF ACTION**

7 **(For Declaratory Relief against Faze Clan – Termination of the Gamer Agreement)**

8 12. Tenney realleges herein by this reference each and every allegation contained in
9 paragraphs 1 through 11, inclusive, of this Complaint as if set forth fully herein.

10 13. In or around April or May 2018, Faze Clan and Tenney entered into a certain written
11 Gamer Agreement with the effective date of April 27, 2018 (the “Gamer Agreement”). The Gamer
12 Agreement was entered into in California. Tenney was only twenty (20) years old at the time. The
13 Gamer Agreement had an initial term of six (6) months and would automatically be extended for an
14 additional thirty-six (36) months if certain conditions were met.

15 14. The section of the Gamer Agreement entitled “Compensation” requires Faze Clan to
16 distribute certain percentage[es] of monies (or other consideration) to Tenney “from any brand deals
17 featuring Tenney that exist on Gamer or Company’s content creation platforms (e.g. Twitch/YouTube)
18 or social media sites ...and ... appearances, touring ...”. The Gamer Agreement purported to require
19 such monies to be paid directly to Faze Clan on Tenney’s behalf. Faze Clan was required to then
20 distribute those funds (minus Faze Clan’s illegal commission) to Tenney. Specifically, the section of the
21 Gamer Agreement entitled “Payment Terms” requires Faze Clan to distribute certain payments to
22 Tenney pursuant to the following schedule: “All Prizes and other income generated in connection with
23 this Agreement shall be payable to, and collected by, Company, and Company shall account and pay
24 Gamer his/her share of such income on a monthly basis, within thirty (30) days after the end of each
25 month; provided, however that any Prizes received from Tournaments and/or Matches over \$5,000 will
26 be paid to Gamer within thirty (30) days of receipt thereof by Company.”

27 15. Since the inception of the Gamer Agreement, Faze Clan actively participated in the
28 procurement and negotiation of sponsorship deals which included Tenney’s services as an artist. Faze

1 Clan frequently and continuously presented such sponsorship opportunities to Tenney. Under these
2 proposed sponsorship deals procured by Faze Clan, sponsors would agree to pay monies so that their
3 brands, good and/or services would be promoted in connection with videos featuring Tenney's
4 performances and created by Tenney and/or live performances. Stated differently, Tenney would
5 perform creative services (performing in and creating video content and/or live performances) in
6 connection with these sponsorship deals. By way of example only, Tenney created and performed in a
7 video for sponsor Digital Storm promoting Digital Storm's products that garnered over 19 million
8 views. Faze Clan has also procured and attempted to procure modeling engagements for Tenney where
9 he would model apparel and jewelry for certain sponsors.

10 16. Upon information and belief, Faze Clan has received payment of funds on Tenney's
11 behalf from third-parties under the sponsorship deals that included Tenney's services. Faze Clan has
12 retained those payments from third-parties without distributing them to Tenney. Faze Clan's continuous
13 failure to distribute these monies to Tenney constitutes a material breach of the Gamer Agreement.

14 17. On or about September 26, 2018, Tenney, through his counsel, sent Faze Clan a letter
15 informing Faze Clan of Tenney's intent to terminate the Gamer Agreement pursuant to Section 6.d of
16 the Gamer Agreement's Terms and Conditions based on Faze Clan's numerous breaches. In response to
17 Tenney's September 26 letter, Faze Clan disputed Tenney's termination of the Gamer Agreement.

18 18. In an abundance of caution, on or about May 20, 2019, Tenney, through his counsel, sent
19 Faze Clan yet another letter reiterating that Faze Clan was in breach of the Gamer Agreement due to its
20 failure to distribute all payments (or other consideration) to Tenney as required by the Gamer
21 Agreement.

22 19. An actual controversy has arisen and now exists between Tenney and Faze Clan
23 concerning their respective rights and duties with respect to the Gamer Agreement. Faze Clan
24 apparently disputes that the Gamer Agreement was terminated based on Faze Clan's material breach.
25 Faze Clan further contends that Tenney continues to owe Faze Clan various obligations under the Gamer
26 Agreement. Conversely, Tenney contends that the Gamer Agreement was terminated based on Faze
27 Clan's material breach and/or for cause, and disputes that he continues to owe Faze Clan any further
28 contractual obligations.

1 24. Section 5.b of the Gamer Agreement's Terms and Conditions states as follows:

2
3 In addition to the foregoing, during the Exclusivity Period, Company shall have approval
4 over any and all third-party requests for Gamer's services. Accordingly, Gamer shall
5 notify Company immediately after Gamer's receipt of the third party request. Nothing in
6 this paragraph shall in any way (i) obligate Company to approve any third-party request
7 or (ii) be deemed to limit the exclusivity provisions set forth in the Agreement. Gamer
8 shall also be prohibited from entering into any agreements, which require any third party
9 to exploit any merchandising in connection with Gamer's business or businesses to the
10 exclusion of Company's ability to exploit any merchandising with such third party.

11 25. On their face, Sections 5.a and 5.b of the Gamer Agreement's Terms and Conditions
12 constitute illegal restraints on trade and an anti-competitive agreement in violation of Section 16600.
13 Indeed, those provisions explicitly purport to prevent Tenney from providing certain services, working
14 or being employed in certain spaces or otherwise competing in the marketplace. As Sections 5.a and 5.b
15 of the Gamer Agreement's Terms and Conditions limit the ability of Tenney to compete in the
16 marketplace and lawfully pursue his trade and profession, those sections are void and unenforceable.

17 26. Section 5.c of the Gamer Agreement's Terms and Conditions states as follows:

18 If at any time prior to the end of the Exclusivity Period, or within three (3) months
19 thereafter, Gamer receives an offer from another Fortnite team to join such team upon
20 lawful termination of the Agreement by Gamer ("Offer"), Gamer shall be obligated to
21 provide the Offer to Company and the identity of the party providing the Offer, and
22 Company shall have the right to match such Offer during a period of fifteen (15) business
23 days following Company's actual receipt of the Offer (the "Matching Right"). If
24 Company elects to exercise the Matching Right, Company shall inform Gamer within
25 said fifteen (15) business day period, and Company shall, automatically have exclusive
26 rights to Gamer's services on the same terms as the Offer, as supplemented by all of the
27 terms and conditions of the Agreement not inconsistent therewith, if Company elects to
28 move forward with the Matching Right (provided that Company shall not be required to
 match any term which may not be as easily met by one person as another and/or any term
 which is not readily reducible to a determinable sum of money). Provided that Company
 decides not to go forward with the Matching Right, and provided that Gamer is not in
 breach of the Agreement, Gamer shall be free to enter into an agreement based on the
 Offer. If Gamer does not accept the Offer, then Company's Matching Right shall revive
 and shall apply to any future Offer.

 27. On its face, Section 5.c of the Gamer Agreement's Terms and Conditions, at least in part,
 constitutes an illegal restraint on trade and an anti-competitive agreement in violation of Section 16600.
 That provision explicitly purports to prevent Tenney from providing certain services to any Fortnite

1 team following the term of the Agreement if Faze Clan exercises certain matching rights. As Sections
2 5.c of the Gamer Agreement's Terms and Conditions limits the ability of Tenney to compete in the
3 marketplace and lawfully pursue his trade and profession, that section is void and unenforceable.

4 28. Section 4.c of the Gamer Agreement's Terms and Conditions entitled "Gamer Name and
5 Likeness" ("Section 4.c") also purports to provide Faze Clan with certain limited rights to use Tenney's
6 name, image, voice and likeness (the "Tenney Publicity Rights") in connection for Tenney's purported
7 services to Faze Clan. While on its face, Section 4.c does not prevent Tenney from using or licensing
8 the Tenney Publicity Rights in connection with services to others, upon information and belief, Faze
9 Clan seeks to use Section 4.c (in conjunction with Section 5) to prevent Tenney from providing certain
10 services, working or being employed in certain spaces or otherwise competing in the marketplace. To
11 the extent used to limit Tenney's ability to compete in the marketplace and lawfully pursue his trade and
12 profession, Section 4.c is void and unenforceable.

13 29. To the extent the Gamer Agreement is not void *ab initio* and has not been terminated,
14 Tenney is entitled to a judicial determination that Sections 5 and 4.c of the Gamer Agreement's Terms
15 and Conditions are void and unenforceable pursuant to Section 16600. Accordingly, Tenney requests a
16 judicial determination declaring that those provisions in the Gamer Agreement are void, illegal and
17 unenforceable, or at least partially unenforceable, as they violate Section 16600. Tenney further seeks a
18 declaration that he does owe Faze Clan any further obligations under those provisions of the Gamer
19 Agreement.

20 **THIRD CAUSE OF ACTION**

21 **(For Violation of Unfair Business Practices under California Business and Professions Code,**
22 **Section 17200 et seq., against Faze Clan)**

23 30. Tenney realleges herein by this reference each and every allegation contained in
24 paragraphs 1 through 29, inclusive, of this Complaint as if set forth fully herein.

25 31. This is a claim for violation of California Business and Professions Code § 17200 *et seq.*
26 ("Section 17200"). Section 17200 precludes a person or entity from engaging in unfair competition,
27 defined as business practices that are unlawful, unfair or fraudulent.

28 32. Faze Clan's use of Sections 5 and 4.c of the Gamer Agreement's Terms and Conditions

1 restrains Tenney from engaging in his lawful profession, trade or business in violation of Section 16600,
2 and therefore constitutes an unlawful and/or unfair business practices under Section 17200.

3 33. Tenney has suffered injury in fact or is being threatened with injury in fact as a result of
4 Faze Clan's unfair and unlawful business practices described above. Such injury in fact has been
5 occasioned by the loss or threatened loss of the ability to freely engage in his lawful profession, trade
6 and/or business.

7 34. Tenney respectfully requests that this Court permanent enjoin Faze Clan and anyone
8 acting in concert with Faze Clan, from continuing to engage in the unfair and unlawful business practice
9 alleged herein.

10 35. Tenney further respectfully requests an award of restitutionary relief requiring Faze Clan
11 to disgorge any monies earned by Faze Clan as a result of its unfair and unlawful business practices,
12 including without limitation, the revenues and profits illegally made by Faze Clan as a result of such
13 unfair and unlawful business practices.

14 **FOURTH CAUSE OF ACTION**

15 **(For Money Had and Received against all Defendants)**

16 36. Tenney realleges herein by this reference each and every allegation contained in
17 paragraphs 1 through 35, inclusive, of this Complaint as if set forth fully herein.

18 37. Faze Clan and/or other Defendants received money from third-parties that belonged to
19 and/or was intended to be for the benefit of Tenney. That is, upon information and belief, Faze Clan has
20 received payment of funds on Tenney's behalf from third-parties under the sponsorship deals that
21 included Tenney's services.

22 38. Those monies were not used for the benefit of Tenney and were not provided to Tenney.
23 Faze Clan has retained payments from third-parties for Tenney's services without distributing them to
24 Tenney.

25 39. Based on Defendants' retention of Tenney's monies and failure to distribute same to
26 Tenney, Tenney is entitled to damages in an amount to be proven at trial.

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **(For Quantum Meruit against all Defendants)**

3 40. Tenney realleges herein by this reference each and every allegation contained in
4 paragraphs 1 through 39, inclusive, of this Complaint as if set forth fully herein.

5 41. Assuming the Gamer Agreement is void and unenforceable, Faze Clan and the other
6 Defendants must compensate Tenney for the services he provided for various sponsors.

7 42. Throughout the course of his relationship with Faze Clan, and at Faze Clan's request,
8 Tenney provided the services alleged above. In particular, Tenney provided services to various
9 sponsors. Faze Clan and the other Defendants benefited from those services.

10 43. Though Faze Clan and the other Defendants benefited from the services provided by
11 Tenney, Defendants have failed to and have refused to compensate Tenney for the value of his services.
12 Again, Faze Clan has retained payments from third-parties for Tenney's services without distributing
13 them to Tenney.

14 44. Tenney is entitled to the fair and reasonable value of the services he provided, which
15 would equal at least any amounts paid to Defendants by third-parties for or related to Tenney's services,
16 if not more. Tenney has been damaged based on Defendants' retention of monies paid for Tenney's
17 services and failure to distribute same to Tenney. Tenney is entitled to damages in an amount to be
18 proven at trial.

19 **SIXTH CAUSE OF ACTION**

20 **(For Breach of Written Contract against Faze Clan)**

21 45. Tenney realleges herein by this reference each and every allegation contained in
22 paragraphs 1 through 44, inclusive, of this Complaint as if set forth fully herein.

23 46. Assuming the Gamer Agreement is a valid and enforceable agreement, Tenney did all, or
24 substantially all, of the significant things that the Gamer Agreement required Tenney to do. In
25 particular, Tenney provided artistic services to sponsors.

26 47. Faze Clan has retained payments from third-parties for Tenney's services without
27 distributing them to Tenney. Accordingly, Faze Clan has breached the Gamer Agreement by failing to
28 distribute payments to Tenney. Based on such breach, Tenney is entitled to damages in an amount to be

1 proven at trial.

2 **SEVENTH CAUSE OF ACTION**

3 **(For Breach of Fiduciary Duty against Faze Clan)**

4 48. Tenney realleges herein by this reference each and every allegation contained in
5 paragraphs 1 through 47, inclusive, of this Complaint as if set forth fully herein.

6 49. Irrespective of whether Faze Clan qualifies as a “talent agency” as that term is defined by
7 California’s Talent Agency Act, Faze Clan acted as Tenney’s agent. In particular, Faze Clan acted as
8 Tenney’s agent in sourcing and negotiating sponsorship deals that would offer Tenney’s services.
9 Accordingly, Faze Clan owed Tenney a fiduciary duty by virtue of such agent/principal relationship.

10 50. As a fiduciary, Faze Clan owed Tenney a duty of undivided loyalty and was required to
11 act with the utmost good faith and in Tenney’s best interest, in particular in connection with sponsorship
12 (or any other deals) that may be brought to Tenney.

13 51. Faze Clan knowingly acted against Tenney’s interest by passing on and/or preventing
14 Tenney from moving forward with a sponsorship/brand deal with HyperX. Upon information and
15 belief, Faze Clan passed on that sponsorship deal due to a conflict of interest. Faze Clan perceived that
16 HyperX was a competitor of another sponsor that did business with Faze Clan. As a result, Faze Clan
17 elected to cause Tenney to pass on the HyperX sponsorship deal because that deal conflicted with Faze
18 Clan’s own interests – its interest not to upset another sponsor and potentially jeopardize and negatively
19 impact its relationship with that sponsor. Faze Clan also knowingly acted against Tenney’s interest by
20 preventing third-parties from helping Tenney source sponsorship (or other) deals. Consequently, Faze
21 Clan breached its fiduciary duty of undivided loyalty owed to Tenney.

22 52. Upon information and belief, at least some of the other Defendants aided and abetted in
23 Faze Clan’s breach of fiduciary duty as alleged above. Those Defendants knew that Faze Clan was
24 acting against Tenney’s best interests as alleged above. Moreover, upon information and belief, those
25 other Defendants gave substantial assistance and/or encouragement to Faze Clan by actively
26 participating in Faze Clan’s rejection of HyperX sponsorship deal on Tenney’s behalf as well as the
27 decision to preclude Tenney from using third-parties to help source deals.

28 53. As a direct and proximate result of Faze Clan and the other Defendants’ conduct, Tenney

1 has suffered and continues to suffer damages in an amount to be proven at trial. Specifically, Tenney
2 was prevented from moving forward with certain deal(s) that would have realized substantial revenue
3 for Tenney. Faze Clan and the other Defendants were substantial factors in causing this harm.

4 54. The acts of Faze Clan and the other Defendants as alleged herein were willful, wanton,
5 and oppressive, and were taken with the knowledge that they would harm Tenney. As a result, Tenney
6 is entitled to an award of punitive and exemplary damages in an amount sufficient to punish Defendants
7 and to deter similar conduct.

8 WHEREFORE, Tenney prays for judgment in its favor against Defendants, and each of them, as
9 follows:

10 **ON THE FIRST CAUSE OF ACTION**

11 1. For a declaration that that as a result of the termination of the Gamer Agreement based on
12 Faze Clan’s material breach, Tenney does not owe Faze Clan any further obligations under that
13 agreement (except possibly any contractual obligations that survive the Gamer Agreement’s termination
14 based on a material breach);

- 15 2. For the costs of suit incurred herein; and
- 16 3. For such other and further relief as this Court may deem just and proper.

17 **ON THE SECOND CAUSE OF ACTION**

18 1. For a declaration that Sections 5 and 4.c of the Gamer Agreement are void, illegal and
19 unenforceable and that Tenney does not owe any further obligations under same;

- 20 2. For the costs of suit incurred herein; and
- 21 3. For such other and further relief as this Court may deem just and proper.

22 **ON THE THIRD CAUSE OF ACTION**

23 1. For an order temporarily, preliminarily and permanently enjoining Faze Clan, and anyone
24 acting in concert with Faze Clan, from attempting to enforce Section 5 and the illegal portions of Section
25 4.c of the Gamer Agreement;

- 26 2. For disgorgement and restitution of any monies received by Faze Clan as a result of its
27 unfair business practices and unlawful conduct, including without limitation, the revenues and profits
28 illegally made by Faze Clan as a result of such unfair competition;
- 3. For the costs of suit incurred herein; and

1 4. For such other and further relief as this Court may deem just and proper.

2 **ON THE FOURTH CAUSE OF ACTION**

3 1. For damages in an amount in excess of the Court's general jurisdiction, to be
4 proven at the time of trial;

5 2. For pre-judgment interest at the maximum rate permitted by law

6 3. For the costs of suit incurred herein; and

7 4. For such other and further relief as this Court may deem just and proper.

8 **ON THE FIFTH CAUSE OF ACTION**

9 1. For damages in an amount in excess of the Court's general jurisdiction, to be
10 proven at the time of trial;

11 2. For pre-judgment interest at the maximum rate permitted by law

12 3. For the costs of suit incurred herein; and

13 4. For such other and further relief as this Court may deem just and proper.

14 **ON THE SIXTH CAUSE OF ACTION**

15 1. For damages in an amount in excess of the Court's general jurisdiction, to be
16 proven at the time of trial;

17 2. For pre-judgment interest at the maximum rate permitted by law

18 3. For the costs of suit incurred herein; and

19 4. For such other and further relief as this Court may deem just and proper.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


ON THE SEVENTH CAUSE OF ACTION

1. For damages in an amount in excess of the Court's general jurisdiction, to be proven at the time of trial;
2. Punitive and exemplary damages;
4. For pre-judgment interest at the maximum rate permitted by law
5. For the costs of suit incurred herein; and
6. For such other and further relief as this Court may deem just and proper.

Dated: May 20, 2019

FREEDMAN + TAITELMAN, LLP

By:


Bryan J. Freedman, Esq.
Jesse A. Kaplan, Esq.
Attorneys for plaintiff Turner Tenney

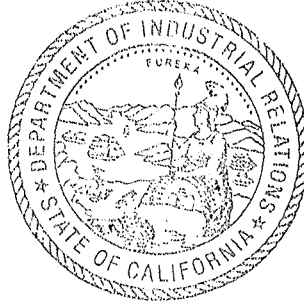
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “1”

COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bryan J. Freedman, Esq. (SBN 151990)
Jesse A. Kaplan, Esq. (SBN 255059)
FREEDMAN + TAITELMAN, LLP
1901 Avenue of the Stars, Suite 500
Los Angeles, California 90067
Telephone: (310) 201-0005
Facsimile: (310) 201-0045
E-mail: bfreedman@ftllp.com
jkaplan@ftllp.com



RECEIVED

MAY 15 2019

STATE OF CALIFORNIA
LABOR COMMISSIONER'S OFFICE
OAKLAND-LICENSING & REGISTRATION

Attorneys for Petitioner Turner Tenney

**BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA**

TURNER TENNEY, an individual,

Petitioner,

vs.

FAZE CLAN INC., a Delaware corporation,

Respondent.

Case No. 52704

**PETITION TO DETERMINE
CONTROVERSY**

(Labor Code Section 1700.44)

1 This petition is filed pursuant to the authority of Section 1700.44 of the Labor Code of the
2 State of California. Petitioner Turner Tenney (“Tenney”) alleges the following:

3 **INTRODUCTION**

4 1. Tenney, professionally known as “Tfue”, is a twenty-one year old gamer and content
5 creator. Tenney performs in and creates videos featured on online platforms which have become
6 increasingly popular, and in turn, lucrative. Because Tenney’s videos are viewed by millions,
7 sponsors are willing to pay for Tenney to perform in and create videos that will, at least in part,
8 promote their goods, services and brands.

9 2. Respondent Faze Clan Inc. (“Faze Clan”) is a so-called esports entertainment
10 company. Faze Clan’s business model is illegal and designed to take advantage of and exploit
11 young artists. To make matters worse, Faze Clan knowingly if not intentionally subjects these
12 young artists to derelict and even dangerous conditions.

13 3. Faze Clan, which is not a licensed talent agency, exploits young artists like Tenney
14 through oppressive and predatory long-term contracts whereby Faze Clan essentially “owns” the
15 artist and the artist’s career. Under Faze Clan’s illegal Gamer Agreements, Faze Clan secures the
16 purported right to procure employment or engagements for young artists like Tenney. To that end,
17 Faze Clan’s primary and essential function is to promote and sell Tenney’s artistic services and
18 procure sponsorship deals which feature those services. That is, sponsors pay for Tenney to perform
19 in and create online content and/or to model apparel featuring the sponsors’ brands. Faze Clan then
20 retains a grossly unconscionable commission for sourcing the deal – up to eighty percent (80%). To
21 add insult to injury, Faze Clan uses the Gamer Agreement to prevent Tenney from procuring or
22 negotiating such employment opportunities without Faze Clan, and prevents Tenney from using the
23 services of a legitimate and licensed talent agency.

24 4. Faze Clan’s continuous and systematic procurement and attempted procurement of
25 employment and engagements for Tenney as an artist is illegal and is a brazen violation of
26 California’s Talent Agency Act, in particular Labor Code § 1700.5 which protects artists from those
27 like Faze Clan that act as an unlicensed talent agency. Because Faze Clan has illegally procured and
28 attempted to procure employment and engagements without the required license from the California

1 Labor Commissioner, the Gamer Agreement should be deemed void and unenforceable. Likewise,
2 Faze Clan must disgorge all commissions, monies or other consideration that it has retained under
3 the Gamer Agreement.

4 5. Because Faze Clan is unlicensed, it has avoided regulation by California's Labor
5 Commissioner. The need for licensure and regulation, however, is dire. Not only does Faze Clan
6 take advantage of these young artists, it jeopardizes their health, safety and welfare in violation of
7 the Talent Agency Act, in particular Labor Code §§ 1700.33, 1700.34, 1700.35 and 1700.36. Faze
8 Clan pressures and encourages young artists like Tenney to perform dangerous stunts. In one
9 instance, Tenney suffered an injury (a deep wound that likely required stitches) which resulted in
10 permanent disfigurement. Faze Clan also encourages underage drinking and gambling in Faze
11 Clan's so-called "Clout House" and "FaZe House", where Faze Clan talent live and frequently
12 "party". It is also widely publicized that Faze Clan has attempted to exploit at least one artist who is
13 a minor.

14 6. Unfortunately, Tenney is not alone. Faze Clan has a roster of other high-profile
15 gamers and content creators who have all entered into similarly oppressive contracts with Faze Clan.
16 Like Tenney, Faze Clan also pressures and encourages other young artists to perform dangerous and
17 derelict activities. This Petition to Determine Controversy will not only relieve Tenney from the
18 illegal and oppressive Gamer Agreement, but will hopefully send a message to Faze Clan and
19 prevent it from continuing to illegally profit from and take advantage of other young artists. Faze
20 Clan's illegal and dangerous business model must end.

21 FACTUAL ALLEGATIONS

22 7. At all relevant times, Tenney has resided in Los Angeles, California and Indian Rocks
23 Beach, Florida.

24 8. Tenney is an individual who is an artist as that term is defined by Labor Code §
25 1700.4(b). Tenney both creates and performs in audio-video/motion picture content that is featured
26 on popular online platforms such as YouTube, Twitch, Instagram and elsewhere. Tenney's
27 performance in and creation of such videos is the primary source of his economic value, especially
28 due to the millions who view videos that feature Tenney's performances. Notably, Tenney's

1 YouTube channel which streams videos created by Tenney and featuring Tenney's performances has
2 grown to over ten million subscribers. Tenney has also modeled and promoted brands on his
3 Instagram channel.

4 9. Upon information and belief, Faze Clan is a Delaware corporation with its principal
5 place of business in Los Angeles, California. Faze Clan is an esports entertainment company.
6 Upon information and belief, Faze Clan has never held a valid license to act as a talent agency in
7 California where it conducts business. At all times mentioned herein, Faze Clan has acted in the
8 capacity of an unlicensed talent agency.

9 10. In or around April or May 2018, Faze Clan and Tenney entered into a certain written
10 Gamer Agreement with the effective date of April 27, 2018 (the "Gamer Agreement"). The Gamer
11 Agreement was entered into in California. Tenney was only twenty (20) years old at the time. The
12 Gamer Agreement had an initial term of six (6) months and would automatically be extended for an
13 additional thirty-six (36) months if certain conditions were met.¹

14 11. Based on the express terms of the Gamer Agreement, Faze Clan was tasked with
15 procuring and attempting to procure employment or engagements featuring Tenney as an artist.
16 Under the section of the Gamer Agreement entitled "Compensation", Faze Clan was entitled to an
17 unconscionable eighty percent (80%) commission for certain employment/engagements procured by
18 Faze Clan. Specifically, the Gamer Agreement states in pertinent part as follows: "**brand deals**
19 **featuring the Gamer that exist on Gamer or Company's content creation platforms (e.g.**
20 **Twitch/YouTube) or social media sites, if the deal is brought to Gamer by Company: 20% to**
21 **Gamer and 80% to Company"**. (emphasis added). Moreover, Section 5.a of the Gamer Agreement
22 purports to require Tenney to submit all sponsorship opportunities to Faze Clan so that Faze Clan
23 can "**negotiate the terms and conditions of any such opportunities ... and "Company will also**
24 **work to source sponsorship and/or endorsement opportunities on behalf of Gamer."** (emphasis
25 added). The Gamer Agreement also requires Tenney to pay Faze Clan a fifty percent (50%)
26 commissions on Tenney's appearances, touring and similar activities.

27 _____
28 ¹ On or about September 26, 2018, Tenney provided written notice of his intent to terminate the Gamer Agreement for cause. Faze Clan, however, disputed Tenney's termination of the Gamer Agreement for cause.

1 12. Since the Gamer Agreement was entered into, Faze Clan has acted as Tenney's
2 unlicensed California talent agency in violation of Labor Code § 1700.5. Faze Clan has
3 continuously and systematically procured and attempted to procure employment and/or engagements
4 for Tenney as an artist. Doing so was Faze Clan's central purpose.

5 13. Since the inception of the Gamer Agreement, Faze Clan actively participated in the
6 procurement and negotiation of sponsorship deals which included Tenney's services as an artist.
7 Faze Clan frequently and continuously presented such sponsorship opportunities to Tenney. Under
8 these proposed sponsorship deals procured by Faze Clan, sponsors would agree to pay monies so
9 that their brands, good and/or services would be promoted in connection with videos featuring
10 Tenney's performances and created by Tenney. Stated differently, Tenney would perform creative
11 services (performing in and creating video content) in connection with these sponsorship deals. By
12 way of example only, Tenney created and performed in a video for sponsor Digital Storm promoting
13 Digital Storm's products that garnered over 19 million views. Faze Clan has also procured and
14 attempted to procure modeling engagements for Tenney where he would model apparel and jewelry
15 for certain sponsors. Furthermore, on any deal or potential deal for Tenney's services as an artist,
16 Faze Clan has insisted that it negotiate such a deal.

17 14. Upon information and belief, Faze Clan has received payment of funds on Tenney's
18 behalf from third-parties under the sponsorship deals that included Tenney's services as an artist.
19 Over the past year, Faze Clan retained at least a portion of those payments as a commission under
20 the Gamer Agreement.

21 15. Faze Clan has also violated Labor Code §§ 1700.33, 1700.34, 1700.35 and 1700.36.
22 Faze Clan moved Tenney to Los Angeles, California and pressured him to live in one of Faze Clan's
23 homes in the Hollywood Hills with other young "YouTubers" on Faze Clan's roster. Faze Clan
24 would frequently host parties at its "Clout House" or "FaZe House" which were fueled by alcohol.
25 Even though Tenney was underage until he turned twenty-one in January 2019, Faze Clan would
26 furnish and encourage Tenney to consume alcohol. Additionally, Faze Clan would encourage
27 Tenney and others to illegally gamble at the "Clout House" or "FaZe House". Such conduct by Faze
28 Clan was in violation of Labor Code §§ 1700.34 and 1700.35.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. An order requiring Faze Clan to disgorge and repay to Tenney any and all monies, consideration or things of value received by Faze Clan, directly or indirectly, as a result of the Gamer Agreement, including without limitation, any and all commissions, fees, profits, advances, plus interest thereon at the rate of then percent (10%) per annum;

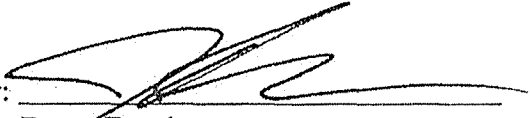
7. An accounting by Faze Clan to Tenney of all monies consideration or things of value received by Faze Clan, directly or indirectly, as a result of the Gamer Agreement, including without limitation, any and all commissions, fees, profits, advances;

8. An order permanently enjoining Faze Clan, and anyone acting in concert with Faze Clan, from continuing to violate Labor Code §§ 1700.33, 1700.34, 1700.35 and 1700.36; and

9. Such other relief as the Labor Commissioner may deem just and proper.

Dated: May 15, 2019

FREEDMAN + TAITELMAN, LLP

By: 
Bryan Freedman
~~Jesse Kaplan~~
Attorneys for Petitioner Turner Tenney