



May 27, 2020

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAFilings@dir.ca.gov

Re: Private Attorneys General Act of 2004 Notice

Employee: Benjamin Zermeno

Employer: Remington Lodging & Hospitality, LLC and Marriott International, Inc.

To Whom It May Concern:

We represent Benjamin Zermeno, who is a former employee of Remington Lodging & Hospitality, LLC and Marriott International, Inc. (“Defendants”). We intend to file a Private Attorneys General Act (“PAGA”) complaint against Defendants on behalf of Benjamin Zermeno and all other similarly situated, hourly, non-exempt Defendants employees in California (the “Aggrieved Employees”). Pursuant to California Labor Code § 2699.3, we hereby provide notice of our clients’ intent to bring claims under California Labor Code § 2699(a) and (f).

Benjamin Zermeno and Aggrieved Employees are current and former similarly situated, hourly, non-exempt employees of Defendants in California. Benjamin Zermeno intends to file a complaint against Defendants on behalf of himself and other current and former non-exempt employees of Defendants who have been denied proper gratuity payments, minimum wages, proper overtime compensation, payment for all hours worked, compliant rest breaks, and premium pay for non-compliant rest breaks. Benjamin Zermeno will pursue claims pursuant to California Labor Code § 351 (gratuity violation), § 1194 (failure to pay minimum wage), § 510 (failure to pay overtime wages), § 204 (failure to compensate for all hours worked), § 226.7 and 512 (failure to provide compliant rest periods), §§ 226 and 226.3 (failure to provide timely and compliant itemized wage statements), §§ 201-203, 225.5 and 256 (failure to timely pay all wages owed during employment and following separation from employment); and California Business and Professions Code §§ 17200, *et seq.* (engaging in unfair business practices).

Benjamin Zermeno intends to state causes of action pursuant to California Labor Code §§ 2699(a) and (f) for civil penalties for violating the various California Labor Code



provisions enumerated above. Pursuant to Section 2699(a), Benjamin Zermeno will seek civil penalties pursuant to each provision of the Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, including but not limited to those Labor Code provisions referenced above, as well as Sections 225.5, 226.3, and 256 of the California Labor Code. To the extent a provision of the Labor Code does not provide for a civil penalty, Benjamin Zermeno will seek civil penalties pursuant to California Labor Code Section 2699(f). Defendants, at all relevant times, were employers who violated the rights of Benjamin Zermeno and other Aggrieved Employees by violating various sections of the California Labor Code as outlined in this letter.

Defendants own, manage, and operate hotels in California, including the Beverly Hills Marriott where Benjamin Zermeno was employed. Defendants hire non-exempt, hourly employees, including servers, to provide services at their hotels.

Benjamin Zermeno worked as a lounge attendant and server for Defendants from approximately December 2018 to August 2019 at Defendants' Beverly Hills Marriott location in Los Angeles, California. Benjamin Zermeno was paid at an hourly rate of approximately \$16.37 per hour. On average, Benjamin Zermeno worked 6 to 8 hours per shift, 4 days per week, and was scheduled anywhere from 16 to 40 hours in a week.

Defendants charge their customers a mandatory "service fee" of 12.5% for in-room dining, and a separate service fee percentage for events, both of which customers reasonably believe represent gratuity/tips for Benjamin Zermeno and the Aggrieved Employees. In reality, Benjamin Zermeno and Aggrieved Employees did not receive the full amount of the paid service fees. Defendants retain a portion of the in-room dining service fee, and the entire amount of the service fee paid for events. As a result, Benjamin Zermeno and Aggrieved Employees are denied all gratuity payments that customers reasonably believe would be paid to these service workers. Defendants and their non-service worker employees improperly keep portions of gratuity that customers believe to be left for or given to Benjamin Zermeno and Aggrieved Employees.

Defendants schedule Benjamin Zermeno and the Aggrieved Employees to work on average 6 to 8 hours per shift, but do not always provide the required rest breaks. This oftentimes results from understaffing. Even though Defendants do not permit Benjamin Zermeno and other Aggrieved Employees to take all their rest breaks, Defendants fail to pay them the required premium pay.

Defendants also deny Benjamin Zermeno and Aggrieved Employees proper compensation for all hours worked. Benjamin Zermeno and Aggrieved Employees are not paid for work performed while off the clock. Indeed, Benjamin Zermeno was regularly directed by Defendants to clock out at the end of his shift but continue working. Benjamin Zermeno spent 30 to 60 minutes, twice per month conducting post-shift lounge attendant work such as vacuuming, mopping, and preparing the lounge room. As a server, he further spent 30 to 60 minutes, three times per month, conducting post-shift work such as cleaning,



picking up glassware, and finishing his server duties. The work performed after the end of the shift, which sometimes includes work beyond eight hours, goes unrecorded and uncompensated, giving rise to minimum wage and overtime violations.

Benjamin Zermeno and the Aggrieved Employees experience a number of derivative issues from these wage and hour practices, including but not limited receiving incorrect wage statements and not receiving all pay owing to them during and at the end of their employment. Compensation for off-the-clock work and premium pay for missed breaks remains outstanding after termination.

Benjamin Zermeno is represented by Schneider Wallace Cottrell Konecky LLP (“SWCK”), a law firm based in Emeryville, California. SWCK has extensive experience in the successful litigation and resolution of employment and representative actions nationwide. A description of the work, mission, and credentials of the firms can be found at www.schneiderwallace.com. Benjamin Zermeno and her counsel are committed to zealously pursuing redress on behalf of the State of California and all other similarly situated employees for the violations and civil penalties set forth above.

Sincerely,

SCHNEIDER WALLACE
COTTRELL KONECKY LLP

/s/ Carolyn Cottrell

CAROLYN H. COTTRELL
Attorney at Law

CC via certified mail:

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