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10 **Attorneys for Plaintiff Juan Caamal and the Putative Class**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF MARIN**

13 **JUAN CAAMAL,**

14 **Plaintiff,**

15 **v.**

16 **TRG CA EMPLOYMENT, INC., a**
17 **corporation; TIBURON LODGE CA**
18 **HOTEL MANAGER, LLC, a limited**
19 **liability company; and DOES 1-100,**
20 **inclusive,**

21 **Defendants.**

Case No.: CIV-2001374

DECLARATION OF JOHN P. BRISCOE
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT

Date: _____
Time: _____
Dept.: _____

22 I, John P. Briscoe, declare:

23 1. I am an attorney duly licensed to practice before all the courts of this state and am a
24 shareholder of Mayall Hurley P.C., attorneys for Plaintiff Juan Caamal ("Plaintiff"). Plaintiff and
25 Defendants TRG CA Employment, Inc. ("TRG") and Tiburon Lodge CA Hotel Manager, LLC
26 ("Tiburon Lodge") are collectively herein referred to as "the Parties."

27 2. I have personal knowledge of the matters set forth herein and, if called upon to do
28 so, could and would competently testify thereto under oath.

3. Attached hereto as **Exhibit A** is a true and correct copy of the Joint Stipulation of
Class Action and PAGA Settlement and Release ("Proposed Settlement"), executed by (1) myself,

1 on behalf of Mayall Hurley P.C., counsel for Plaintiff and the Class; (2) Juan Caamal, Class
2 Representative; (3) TRG; (4) counsel for TRG; (5) Tiburon Lodge; and (6) counsel for Tiburon
3 Lodge. A true and correct copy of the proposed Notice of Class Action Settlement (which is also
4 itself Exhibit 1 to the Proposed Settlement) is attached hereto as **Exhibit B**.

5 4. The Proposed Settlement provides for a classwide settlement for any and all claims
6 based upon the allegations as set forth in the Third Amended Complaint. Plaintiff contends that he
7 and other Class Members were not provided with rest and meal periods or paid premiums (and, to
8 the extent premiums were paid, they were not paid at the appropriate rate), were not paid overtime
9 or paid sick days at the correct rate of pay, were not furnished with accurate itemized wage
10 statements, were not reimbursed for business expenses incurred (as against Tiburon Lodge only),
11 and were not paid all wages due upon cessation of employment.

12 5. Before filing this action, on June 9, 2020, I sent written notice to the Labor and
13 Workforce Development Agency (“LWDA”) and Defendants, alleging violations of the Labor
14 Code. (See **Exhibit C**.) The LWDA did not provide written notice that it intended to investigate
15 the alleged violations. (See Lab. Code, § 2699.3.) As such, Plaintiff was and is authorized by the
16 PAGA to recover civil penalties on his behalf and on behalf of other “aggrieved employees”. The
17 LWDA was provided with a copy of both the original Complaint (as well as the operative Third
18 Amended Complaint). On August 10, 2021, and in light of the decision in *Ferra v. Loews*
19 *Hollywood Hotel, LLC* (2021) 11 Cal.5th 858 (holding that nondiscretionary bonuses and other
20 payments must be accounted for when paying rest/meal period premiums), I sent further written
21 notice to the LWDA and Defendants, and a copy of said notice is attached hereto as **Exhibit D**.

22 6. In or around mid-2021, the Parties discussed the prospect of attending private
23 mediation so as to reach a classwide settlement of the alleged claims, as well as a binding
24 settlement for the alleged PAGA claims. It was subsequently agreed that the Parties would attend
25 mediation before Lisa Klerman, Esq., a highly qualified and well experienced mediator of cases
26 such as this one.

1 7. In advance of and during mediation, Defendants disclosed key wage-and-hour data
2 pertaining to the size and composition of the Class and respective Subclasses. I personally and
3 meticulously analyzed said data and documents; based on said analysis and my extrapolation
4 therefrom, I estimated the total exposure for the class claims alleged in this case—inclusive of
5 unpaid wages (including meal/rest premiums) and statutory penalties under Labor Code section
6 203—to be a maximum of approximately \$415,000. This is based on the following data, for the
7 class period, which I found in the subject records:

8 a. As to Defendant TRG:

- 9 i. TRG employed 30 putative class members during the relevant time
10 period (June 16, 2016 – September 30, 2019).
- 11 ii. Hourly employees of TRG worked approximately 4,172 total pay
12 periods.
- 13 iii. There were 222 separate wage payments (or “employee pay periods”) in
14 which service charges and overtime/doubletime were paid.
- 15 iv. There were 190 separate employee pay periods in which service charges
16 and rest/meal periods were paid.
- 17 v. There were 63 separate employee pay periods in which service charges
18 and sick pay were paid.
- 19 vi. The average portion of a banquet service charge, paid to a putative class
20 member, was approximately \$632.50 per week.
- 21 vii. Putative class members worked, on average, 2.99 hours of overtime and
22 0.24 hours of doubletime, every week, for total weekly hours of 43.23.
- 23 viii. Putative class members were underpaid overtime in an average weekly
24 amount of \$21.87 ($\$632.50 / 43.23 = \14.63 regular rate / 2 = \$7.32 OT
25 premium x 2.99 hours).
- 26 ix. Putative class members were underpaid doubletime in an average weekly
27 amount of \$3.51 ($\14.63×0.24 hours).

- x. Putative class members were underpaid, for each rest and meal premium that was paid, \$0.47 (\$237,958 banquet service charges paid w/ premiums / 190 pay periods / 2 weeks / 46.45 hours = \$13.48).
- xi. The underpaid meal period premiums amount to approximately \$8,115.72 (\$237,958 / 190 employee pay periods / 2 weeks / 46.45 hours = \$13.48 x 602 premiums).
- b. As to Defendant Tiburon Lodge:
- i. Tiburon Lodge approximately 73 putative class members from August 20, 2019 to September 15, 2022.
- ii. Following a shutdown caused by the Covid-19 pandemic, employee headcount was reduced drastically and banquets and other events—which entailed banquet service charges—had not reopened. This resulted in a substantial drop in potential exposure, since it was these service charges which, it is alleged, were not incorporated into the regular rate of pay for purposes of overtime and paid sick leave.
- iii. Tiburon Lodge’s hourly employees worked approximately 2,576 workweeks during this period of time, at an average rate of \$16.28 per hour.
- iv. Only approximately *seven* of these employees worked overtime/doubletime, and earned portions of service charges, in the same pay period (for a total of approximately 25 total employee-pay periods). These persons were paid overtime at 1.5 times or more, and double time at two times or more their regular rate of pay.
- v. Only approximately 10 of these employees received portions of service charges and rest/meal period premiums in the same pay period.

vi. Tiburon Lodge furnished approximately 24 wage statements in which an employee was paid rest/meal period premiums and also a portion of service charges.

vii. Tiburon Lodge furnished approximately 459 wage statements in which an employee was paid meal/rest period premiums.

c. Based on the foregoing, I determined that Defendants jointly faced *maximum* exposure for approximately \$271,000 in waiting time penalties (Lab. Code § 203, \$50,550 in statutory penalties for inaccurate wage statements (§ 226(e)), \$11,269 in underpaid overtime, \$1,567 in underpaid paid time off/sick leave, and \$81,260 in meal/rest period premiums.

d. Additionally, it was determined that Tiburon Lodge faced potential exposure for civil penalties under the PAGA, in the approximate maximum amount of \$357,600. (As Tiburon Lodge took over business operations from TRG approximately nine weeks before the start of the statutory period applicable to this claim, TRG's exposure for civil penalties was negligible.)

8. On November 19, 2021, the Parties attended mediation with Ms. Klerman. At all times, the negotiations were at arms'-length and non-collusive. Due in no small part to her efforts, the Parties were able to reach an agreement to settle the instant claims for a gross sum of \$180,000 (with Tiburon Lodge contributing \$95,000 and TRG paying \$85,000).

9. Following several months of meeting and conferring over the specific terms, a memorandum of understanding was executed as between Caamal and TRG, outlining the latter's contributions and responsibilities vis-à-vis a global, three-party agreement. Again, that MOU provided that TRG would contribute no more than \$85,000 towards settlement.

10. Negotiations over specific terms as to the Proposed Settlement with Tiburon Lodge proved more difficult and protracted. In June 2022, I spoke with counsel for Tiburon Lodge (Robert Pepple) who disclosed that his client also wanted to obtain a release for claims under Labor Code section 2802 (failure to reimburse for business expenses). Though such claims were not

1 alleged in the then-operative Second Amended Complaint, I discussed this issue with my
2 colleagues, and it was agreed that Tiburon Lodge would provide data relevant to valuating
3 classwide claims for violations of Labor Code section 2802. On June 23, 2022, I was provided with
4 a declaration from Tiburon Lodge's general manager, outlining actual or potential expenses
5 incurred by their employees and evidencing a general lack of requests from employees for
6 reimbursement. Based on this declaration and my analysis thereof, I concluded that Tiburon
7 Lodge's exposure for claims under Labor Code section 2802 was relatively negligible. It was
8 agreed that, so as to obtain a release for this claim, Tiburon Lodge would pay an additional \$5,000,
9 increasing its total payment to \$100,000, for its contribution to the Gross Settlement Amount (now
10 \$185,000).

11 11. However, negotiations hit a further snag when Tiburon Lodge then requested, for
12 the first time, that its MOU included a release for claims for failure to pay the minimum wage.
13 While such a claim was never advanced in this case, there was, in the prayer for relief, an
14 erroneous reference to Labor Code section 1197.1 (a statute which provides for civil penalties for
15 minimum wage violations). It was subsequently stipulated that Caamal would file a Third
16 Amended Complaint to (a) strike the reference to this statute and (b) add a claim for violations of
17 Labor Code section 2802 (as against Tiburon Lodge only).

18 12. On or around December 1, 2022, and pursuant to stipulation of the Parties, the
19 operative Third Amended Complaint was filed with this Court. Again, this struck the reference to
20 Labor Code section 1197.1 and added a claim for violations of Labor Code section 2802 (as against
21 Tiburon Lodge only).

22 13. I prepared a draft of the instant Proposed Settlement. The Parties met and conferred
23 extensively over a period of months. Finally, on May 8, 2023, the Proposed Settlement was
24 executed by all Parties and counsel.

25 14. I estimate that the average payment to each Class Member will be approximately
26 **\$829.69**. This is an estimate only and could go up or down depending on what the court decides at
27 the final approval hearing and the number of valid requests for exclusion that are received by the

1 Settlement Administrator. After deducting from the Gross Settlement Amount (\$185,000) the (1)
2 fees and costs of the Settlement Administrator (not to exceed \$9,000), (2) the fees and costs of
3 Class Counsel (not to exceed \$61,667 and \$10,000, respectively), (3) the payment of 75 percent of
4 recovered civil penalties to the Labor and Workforce Development Agency (\$13,875); and (4) the
5 Service Payment to Plaintiff (not to exceed \$5,000), I estimate that the Net Settlement Amount to
6 be distributed to Class Members will be approximately \$85,548.

7 15. While I believe evidence exists from which the trier of fact could conclude that
8 Defendants engaged in a pattern and practice failing to provide rest and meal periods, to pay
9 rest/meal premiums, overtime/doubletime, and paid sick leave at the correct rate, to furnish
10 accurate wage statements, reimburse for business, expenses, and pay all wages upon cessation of
11 employment, continued litigation is guaranteed to be costly, time consuming and uncertain.
12 Appellate proceedings would only further delay and jeopardize recovery by the Class. By contrast,
13 the Proposed Settlement ensures timely, meaningful and substantial relief to the Class.

14 16. Absent settlement, I anticipate a vigorous and lengthy challenge to both class
15 certification and the merits of this class action. Defendants asserted and would continue to assert,
16 through certification, trial, and the appellate process, legal and factual grounds to defend itself.
17 Among other things, Defendants would continue to assert that statutory penalties for inaccurate
18 wage statements are not recoverable in this instance, and that waiting time penalties under Labor
19 Code section 203 are not recoverable where the failure to pay all wages is not “willful”, or when
20 the alleged failure is premised on a failure to pay rest/meal premiums. (See *Bettencourt v. OS*
21 *Restaurant Services, LLC* (2020) 49 Cal.App.5th 420, 247.) Defendants contend they maintained a
22 timekeeping system designed to capture all time recorded, required its employees to record all time
23 worked, and paid them for all time they reported and/or Defendants were otherwise aware of being
24 performed. Defendants also intended to argue that their employees were, at all times relevant,
25 authorized and permitted to take rest and meal periods. Based on the declaration provided to me,
26 *supra*, Tiburon Lodge also, most likely, would argue that any business expenses its employees
27 were required to incur are negligible and that its employees have in any event not requested

1 reimbursement. Defendants also argued Class Members could not establish the “injury” or
2 “knowing and intentional” elements of their Labor Code section 226(a)(1), (2), (5), and (9) claim
3 where (i) the alleged inaccuracies did not themselves cause any distinct injury and are frowned
4 upon by some courts¹, (ii) Defendants accurately listed the amounts actually paid to its non-exempt
5 California employees, and (iii) case law suggests such does not create derivative wage statement
6 violations². Furthermore, continued litigation—through a motion for certification, a classwide trial
7 on the merits of the claims, post-trial motions, and an appeal—would probably take in excess of
8 two years, during which time the Class Members would receive nothing. On the other hand, the
9 Proposed Settlement provides for relatively immediate relief to the Class Members, at a *very*
10 reasonable portion of the maximum case value, and providing a substantial payment to the average
11 Class Member. Given the time value of money, it is likely that the increased class disbursement a
12 Class Member *might* receive (following trial and a likely appeal) would be substantially *if not*
13 *entirely* offset by the considerable length of time it would take to get to that point.

14 17. Due not least to my own experience litigating and settling numerous similar cases,
15 and the input my colleagues at Mayall Hurley (with whom I conferred extensively regarding this
16 matter, from its inception to date), I strongly believe that the Proposed Settlement is a fair,
17 adequate, and reasonable resolution of the Class’s disputes with Defendants and is definitely
18 preferable to continued litigation. The Proposed Settlement will result in substantial benefit to all
19 Class Members.

20 18. There was no fraud or collusion in the settlement negotiations, all of which were
21 adversarial and conducted at arm’s-length.
22
23

24 ¹ See e.g., *Elliott v. Spherion Pacific Workforce, LLC* (C.D. Cal. 2008) 572 F.Supp.2d 1169, 1179 (shortening the term
25 “Workforce” to “Work” while otherwise stating the full name of the employer); *York v. Starbucks Corp.* (C.D. Cal.
26 2009) 2009 WL 8617536 *7-8 (showing the registered dba “Starbucks Coffee Company” instead of “Starbucks
27 Corporation”); and *Hurst v. Buczek Enters. LLC* (N.D. Cal. 2012) 2012 WL 1564733 *17 (granting summary judgment
to defendant on the plaintiff’s Labor Code § 226 claim on the basis of the good faith dispute defense).

² See e.g., *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308 and *Naranjo v. Spectrum Sec. Svcs., Inc.*
(2019) 40 Cal.App.5th 444, on review in California Supreme Court Case No. S258966.

19. Plaintiff worked diligently with my office throughout this entire litigation, including providing the necessary factual intake and documents, responding promptly to all of our communications, and executing the subject Proposed Settlement. He evinced a thorough understanding of his duties as Class Representative, and at all times showed a genuine commitment to obtaining just relief for the other Class Members. He should be rewarded for taking the initiative to pursue these claims on behalf of her former coworkers, and for his instrumental role in reaching a substantial settlement providing valuable relief to the Class Members.

20. Mayall Hurley P.C. diligently prosecuted this Action on behalf of Plaintiff and the putative class.

21. I obtained from Simpluris a bid for claims administration for an amount not to exceed \$9,000. I believe this to be eminently reasonable in relation to a class this size and the work to be performed. I have considerable experience using Simpluris as claims administrator for multiple, similar employment class actions and have found their services excellent and rates competitive.

Experience of Class Counsel

22. In 2007, I received a Bachelor of Arts degree from the University of California, Santa Barbara. In 2010, I received a J.D. from University of California, Davis School of Law (King Hall). Later that same year, I was admitted to the State Bar of California.

23. I began working for the firm of Mayall Hurley in July 2011. From that point through August 2016, I practiced (almost exclusively) employment law, on behalf of plaintiffs. This practice included working on a number of wage-and-hour class actions and representative cases under the Private Attorneys General Act. In August 2016 I left Mayall Hurley for a short while, in which time I worked for the firms of Burton Employment Law and Gordon Rees Scully Mansukhani LLP, both in Oakland, California. For both firms, I worked exclusively in employment law. While working for Gordon & Rees, I worked on a number of employment class actions (from the defense perspective) involving alleged multistate violations of wage-and-hour laws. Notably, my work in this regard largely entailed analyzing and quantifying potential class

1 liability. In April 2017, I returned to the plaintiffs' side at Mayall Hurley, and have continued to
2 concentrate much of my practice in employment class actions, chiefly under the California Labor
3 Code but also in cases under the Fair Labor Standards Act. In 2020 I became a shareholder at
4 Mayall Hurley and have continued to dedicate my practice, in overwhelming part, to representing
5 plaintiffs in employment cases.

6 24. Mayall Hurley P.C., primarily through attorneys Robert J. Wassermann and myself,
7 has pursued this action aggressively, as well as many other similar representative actions.

8 25. For instance, Mayall Hurley P.C. has recently been approved as class counsel in
9 *Mansur v. Owens-Brockway Glass Container, Inc.*, San Joaquin County Superior Court, Case No.
10 STK-CV-UOE-2018-14631; *Garcia v. Host International, Inc.*, United States District Court,
11 Northern District of California, Case No. 3:17-cv-02069-RS; *Grady, et al. v. People 2.0 dba The*
12 *Hire Source, et al.*, San Joaquin County Case No. STK-CV-UOE-2017-13867; *Kumar v. Forty*
13 *Niners Stadium Management Company*, Santa Clara County Superior Court, Case No.
14 17CV3121427; *Russell v. KeHe Distributors, Inc.*, United States District Court, Eastern District of
15 California, Case No. 2:17-at-00592; *Smith v. Wal-Mart Stores, Inc. et al.*, United States District
16 Court, Northern District of California, Case No. 3:16-cv-02832-JD; *Van Lith v. iHeartmedia +*
17 *Entertainment, Inc. et al.*, United States District Court, Eastern District of California, Case No. 1-
18 16-cv-00066-SKO; *Titus v. The Martin-Brower, LLC*, United States District Court, Eastern District
19 of California, Case No. 2:17-cv-00558-JAM-GGH; *Ahmed v. Beverly Health and Rehabilitation*
20 *Services, Inc., et al.*, United States District Court, Eastern District of California, Case No. 2:16-cv-
21 01747-WBS-KJN; *Hugues v. The Morning Star Trucking Company, LLC, et al.*, Yolo County
22 Superior Court Case No. CV16-1215; *Guzman-Padilla, et al. v. Gerard Van De Pol, et al.*, United
23 States District Court, Eastern District of California, Case No. 2:17-cv-00196-JAM-KJN; *Davis v.*
24 *Balfour Beatty Infrastructure, Inc.*, Los Angeles County Superior Court, Case No. BC592580;
25 *Jaime v. Walt Disney Parks and Resorts U.S., Inc.*, United States District Court, Central District of
26 California, Case No. SACV 15-01618-CJC(DFMx); *Moser v. O'Connor Woods Housing*
27 *Corporation*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2014-0009861;

1 *Bastami v. Semiconductor Components Industries, LLC*, Santa Clara County Superior Court, Case
2 No. 16cv297447; *Clark v. Arrow Sign Co.*, San Joaquin County Superior Court, Case No. STK-
3 CV-UOE-2016-6457, *Moreno v. B.R. Funsten & Co.*, Solano County Superior Court Case No.
4 FCS046149, *Taylor v. Meadowbrook Meat Company, Inc.*, United States District Court, Norther
5 District of California, Case No. 3:15-cv-00132-LB, *Terry v. Mare Island Dry Dock Company,*
6 *LLC*, Solano County Superior Court Case No. FCS051650, *Alderson v. Alameda County*
7 *Agricultural Fair Association*, Alameda County Superior Court Case No. RG18912654, *Wilk v.*
8 *Skechers U.S.A., Inc.*, United States District court, Central District of California, Case No. 5-18-
9 CV-01921-JGB-SP; *Titus v. Paramount Equity Mortgage, LLC*, United States District Court,
10 Eastern District of California, Case No. 2:17-cv-00349-MCE-KJN; *Solati v. RPM Mortgage, LLC*,
11 Solano County Superior Court Case No. FCS048401; *LeBarre v. Rowtown, Inc., et al.*, Monterey
12 County Superior Court Case No. 21CV002021; and *Perez et al. v. Abbate Family Farms Limited*
13 *Partnership et al.*, San Joaquin County Superior Court, Case No. 39-2012-00288653-CU-OE-STK,
14 all wage-and-hour class actions with claims similar to the instant matter.

15 26. Not including this matter, Mayall Hurley P.C. has a number of other wage-and-hour
16 class actions currently pending final approval in which we have been preliminarily approved as
17 class counsel. My law firm and I have also represented plaintiffs in numerous representative
18 employment actions, settlements in which have been approved by multiple California and federal
19 courts, and are currently prosecuting dozens more.

20 27. I am also co-lead counsel in another wage-and-hour class action, in addition to
21 approximately ten cases with a PAGA wage-and-hour component.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed this 20th day of June, 2023, in Lodi, California.

24 

25 _____
26 JOHN P. BRISCOE
27

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

JUAN CAAMAL,

Plaintiff,

v.

TRG CA EMPLOYMENT, INC., a
corporation; TIBURON LODGE CA HOTEL
MANAGER, LLC, a limited liability
company; and DOES 1-100, inclusive,

Defendants.

Case No.: CIV-2001374

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

1 This Joint Stipulation of Class Action and PAGA Settlement and Release (hereinafter
2 “Stipulation of Settlement” or “Settlement”) is made and entered into by and between Plaintiff Juan
3 Caamal (“Plaintiff”), on behalf of himself and all others similarly situated and as a proxy for the
4 Labor and Workforce Development Agency (“LWDA”), Defendant TRG CA Employment, Inc.
5 (“TRG”), and Defendant Tiburon Lodge CA Hotel Manager, LLC (“Tiburon Lodge”). (Tiburon
6 Lodge and TRG are jointly referred to as “Defendants”).)

7 This Stipulation of Settlement shall be binding on Plaintiff and those persons he seeks to
8 represent, and on (i) Defendants; (ii) each of Defendants’ respective past, present and future parents,
9 subsidiaries and affiliates; and (iii) the past, present and future partners, shareholders, directors,
10 officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents,
11 consultants, representatives, fiduciaries, benefit plans, transferees, predecessors, successors and
12 assigns of any of the foregoing.

13 THE PARTIES STIPULATE AND AGREE as follows:

14 1. Plaintiff and Defendants are collectively referred to herein as “the Parties.”

15 2. On June 16, 2020, Plaintiff filed a class action and individual complaint in the Marin
16 County Superior Court against Defendants, alleging wage and hour violations on behalf of himself
17 and other similarly situated non-exempt employees who worked for Defendants. (TRG and, later,
18 Tiburon Lodge, operated and employed persons at the Tiburon Lodge in Tiburon, California.) On
19 September 23, 2020, Plaintiff filed a First Amended Complaint, adding a cause of action under the
20 Private Attorneys General Act (“PAGA”). On September 1, 2021, Plaintiff filed a Second Amended
21 Complaint to add allegations that rest and meal period premiums were not paid at the correct “regular
22 rate of compensation,” pursuant to *Ferra v. Loews Hollywood Hotel LLC* (2021) 11 Cal.5th 858.
23 Defendants have filed answers in response to the Second Amended Complaint, denying all
24 allegations and asserting various affirmative defenses.

25 3. Plaintiff’s Second Amended Complaint alleges failure to properly calculate and
26 pay overtime and double time wages, failure to provide meal and rest periods or pay premiums at
27 the correct rate, failure to furnish accurate itemized wage statements, failure to properly pay sick
28 leave, failure to pay all wages due and owing at end of employment (waiting time penalties), and

1 unlawful business practices (unfair competition) on a class-wide basis (collectively, the “Class
2 Claims”), and a PAGA cause of action (the “PAGA Claims”). Defendants dispute all allegations in
3 this matter. The term “Action” as used herein means the allegations asserted on behalf of the Class
4 Members, in the operative complaint pending in Marin County Superior Court, including the Class
5 Claims and the PAGA Claims. The “Class Period” is from June 16, 2016 to September 15, 2022.
6 The “TRG Subclass Period” is defined as June 16, 2016 to September 30, 2019. The “Tiburon Lodge
7 Subclass Period” is defined as August 20, 2019 to September 15, 2022.

8 4. This Action has been actively litigated. There have been ongoing investigations,
9 Plaintiff has conducted (and responded to) formal discovery, and there has been an informal
10 exchange of extensive information.

11 5. In November 2021, the Parties attended mediation with Lisa Klerman, Esq., a
12 highly competent mediator with extensive experience in mediating employment class actions.

13 6. Pursuant to the stipulation of the Parties, on October 22, 2022, Plaintiff filed a
14 Third Amended Complaint adding a cause of action pursuant to Labor Code section 2802, as against
15 Tiburon Lodge only.

16 7. Following mediation and several additional months of negotiation and informal
17 document and data exchange, it is agreed that the claims in the Third Amended Complaint shall be
18 resolved for the gross sum of \$185,000 (with TRG contributing \$85,000 and Tiburon Lodge
19 contributing \$100,000).

20 8. For purposes of this Settlement, the “Settlement Class” or “Class Members” shall
21 consist of all current and former non-exempt California employees of Defendants within California
22 who worked at least one shift at between June 16, 2016 to September 15, 2022. The Settlement
23 Class, however, shall not include any person who previously settled or released any of the claims
24 covered by this Settlement, or any person who submits a timely and valid Request for Exclusion as
25 provided in this Settlement¹. The Class Members are divided into the following subclasses:

26 _____
27 ¹ Submitting a timely and valid Request for Exclusion as provided in this Settlement may also be referred to as “opt
28 out” or “opting out” herein.

1 a. The “TRG Subclass” – All hourly-paid, nonexempt employees employed by TRG
2 in the State of California from June 16, 2016 to September 30, 2019.

3 b. The “Tiburon Lodge Subclass” – All other hourly-paid, nonexempt employees
4 employed by Tiburon Lodge in the State of California from August 20, 2019
5 through September 15, 2022.

6 9. For purposes of this Settlement, the “PAGA Group Members” mean all Class
7 Members employed by Defendants at any time between July 20, 2019 through September 15,
8 2022 (“PAGA Period”).

9 a. The “TRG PAGA Members” – All hourly-paid, nonexempt employees employed
10 by TRG in the State of California from July 20, 2019 to August 20, 2019.

11 b. The “Tiburon Lodge PAGA Members” – All other hourly-paid, nonexempt
12 employees employed by Tiburon Lodge in the State of California from August 20,
13 2019 through September 15, 2022.

14 10. Solely for the purpose of settling this case, the Parties stipulate and agree that the
15 requisites for establishing class certification with respect to the Class Members have been met and
16 are met. More specifically, the Parties stipulate and agree that:

17 a. The Class Members are ascertainable and so numerous as to make it
18 impracticable to join all Class Members.

19 b. There are common questions of law and fact including, but not limited to, the
20 following:

21 i. Whether Defendants complied with applicable laws affecting Plaintiff
22 and the Class Members under the California Labor Code and the Wage Orders of the California
23 Industrial Welfare Commission; and

24 ii. Whether Plaintiff and the Class Members are entitled to alleged
25 unpaid wages, penalties, interest, and attorneys’ fees and costs.

26 c. For the purpose of settling this case, Plaintiff’s claims are typical of the
27 claims of the members of the Class Members.

28

1 d. For the purpose of settling this case, Plaintiff will fairly and adequately
2 protect the interests of the Class Members, and that Mayall Hurley P.C. should be "Class Counsel,"
3 and will fairly and adequately protect the interests of the Class Members.

4 e. The prosecution of separate actions by individual members of the Class
5 Members would create the risk of inconsistent or varying adjudications, which would establish
6 incompatible standards of conduct.

7 f. For the purpose of settling this case, that questions of law and fact common
8 to the members of the Class Members predominate over any questions affecting any individual
9 member in such Class, and a class action is superior to other available means for the fair and efficient
10 adjudication of the controversy.

11 8. Defendants deny any liability or wrongdoing of any kind whatsoever associated with
12 the claims alleged in the Third Amended Complaint, and further deny that, for any purpose other
13 than settling this Action, this Action is appropriate for class or representative treatment. With
14 respect to Plaintiff's claims alleged in the Third Amended Complaint, Defendants contend, among
15 other things, that they complied with all applicable state, federal, and local laws and the provisions
16 of applicable IWC Wage Orders affecting Plaintiff and the Settlement Class.

17 9. It is the desire of the Parties to fully, finally and forever settle, compromise and
18 discharge all disputes and claims based on and/or reasonably arising from the factual allegations
19 and causes of action asserted in the Third Amended Complaint on behalf of the Class Members, and
20 PAGA Group Members, including the Class Claims and the PAGA Claims. However, and
21 notwithstanding any other provision within this Settlement, only members of the Tiburon Lodge
22 Subclass (who do not submit a timely and valid Request for Exclusion as provided in this
23 Settlement) are releasing claims for alleged violations of Labor Code section 2802; provided that
24 Tiburon Lodge Subclass members, who are also Tiburon Lodge PAGA Members, cannot opt out of
25 the release of the PAGA Claims derivative of alleged Labor Code section 2802 violations.

26 10. As qualified herein, it is the intention of the Parties that this Stipulation of Settlement
27 shall constitute a full and complete settlement and release of all claims arising from the factual
28

1 allegations in the Third Amended Complaint asserted on behalf of the Settlement Class against
2 Defendants, delineated as follows:

3 a. As to TRG: TRG, and each of TRG's respective past, present and future parents,
4 subsidiaries and affiliates; the past, present and future partners, shareholders,
5 directors, officers, agents, employees, attorneys, insurers, members, partners,
6 managers, contractors, agents, consultants, representatives, fiduciaries, benefit
7 plans, transferees, predecessors, successors and assigns of any of the foregoing;
8 and any individual or entity which could be jointly liable with any of the
9 foregoing (collectively "Released TRG Parties"²).

10 b. As to Tiburon Lodge: Tiburon Lodge, and each of Tiburon Lodge's respective
11 past, present and future parents, subsidiaries and affiliates; the past, present and
12 future partners, shareholders, directors, officers, agents, employees, attorneys,
13 insurers, members, partners, managers, contractors, agents, consultants,
14 representatives, fiduciaries, benefit plans, transferees, predecessors, successors
15 and assigns of any of the foregoing; and any individual or entity which could be
16 jointly liable with any of the foregoing (collectively "Released Tiburon Lodge
17 Parties"³).⁴

18 11. Class Counsel conducted a thorough investigation into the facts of this Action, and
19 have diligently pursued an investigation of Class Members' claims against Defendants. Based on
20 their own independent investigation and evaluation, Class Counsel are of the opinion that the
21 Settlement with Defendants for the consideration and on the terms set forth in this Stipulation of
22 Settlement is fair, reasonable and adequate and is in the best interest of the Class Members in light
23 of all known facts and circumstances, including the risk of significant delay, the risk the Class
24 Members will not be certified by the Court, defenses asserted by Defendants and numerous potential
25

26 ² It is agreed that Tiburon Lodge is not one of the Released TRG Parties.

27 ³ It is agreed that TRG is not one of the Released Tiburon Lodge Parties.

28 ⁴ Released TRG Parties and Released Tiburon Lodge Parties collectively shall be referred to as Released Parties.

1 appellate issues. Defendants and Defendants' counsel also agree that the Settlement is fair and in
2 the best interest of the Parties.

3 12. The Parties agree to cooperate and take all steps necessary and appropriate to
4 consummate this Settlement and for entry of judgment in accordance with this Stipulation of
5 Settlement.

6 13. This Settlement provides for an administration process. Settlement Awards (defined
7 below) shall be paid according to a specified formula. The maximum total payment under the
8 Settlement is \$185,000 (the "Maximum Settlement Amount"), including all Settlement Awards, the
9 attorneys' fees and litigation costs to Class Counsel, the Enhancement Award to the Class
10 Representative, the claims administration costs, the PAGA penalties, and any other payments
11 provided by the Settlement. It is understood and agreed that TRG shall contribute \$85,000 to the
12 Maximum Settlement Amount, and that Tiburon Lodge shall contribute \$100,000 to the Maximum
13 Settlement Amount. It is understood and agreed that Defendants shall have no obligation to pay any
14 person, entity or organization more than their respective shares of the Maximum Settlement
15 Amount, as set forth above, to resolve the Released Claims⁵, except as provided in Paragraph 14.c.i.
16 It is further understood and agreed that Defendants will separately pay their respective employer
17 shares of the payroll taxes associated with the wage portion of the Settlement Awards.

18 TERMS OF SETTLEMENT

19 14. NOW THEREFORE, in consideration of the mutual covenants, promises and
20 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

21 a. It is agreed by and among Plaintiff and Defendants that this Action and any
22 claims, damages or causes of action arising out of the factual allegations in the Third Amended
23 Complaint asserted on behalf of the Class Members which are the subject of this Action, be settled
24 and compromised as between the Class Members and Released Parties, subject to the terms and
25 conditions set forth in this Stipulation of Settlement and the approval of the Court.

26 _____
27 ⁵ Tiburon Lodge PAGA Released Claims, Tiburon Lodge Released Class Claims, TRG PAGA Released Claims and
28 TRG Released Class Claims shall collectively be referred to as "Released Claims" herein.

1 b. Effective Date: The Settlement embodied in this Stipulation of Settlement
2 shall become effective when all of the following events have occurred: (i) this Stipulation of
3 Settlement has been executed by all Parties and by counsel for Plaintiff and Defendants; (ii) the
4 Court has given preliminary approval to the Settlement; (iii) the class settlement notice has been
5 given to the Class Members, providing them with an opportunity to opt out of or object to the
6 Settlement; (iv) the Court has held a formal fairness hearing and entered a final order and judgment
7 certifying the Settlement Class and finally approving this Stipulation of Settlement, without
8 objection by the California Labor and Workforce Development Agency ("LWDA"); and (v) in the
9 event there are written objections filed prior to the formal fairness hearing which are not later
10 withdrawn, the later of the following events: when the period for filing any appeal, writ or other
11 appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate
12 proceeding having been filed; or any appeal, writ or other appellate proceeding opposing the
13 Settlement has been dismissed finally and conclusively with no right to pursue further remedies or
14 relief; or any appeal, writ or other appellate proceeding has upheld the Court's final order with no
15 right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the
16 Settlement shall not become effective until the Court's order approving the Settlement is completely
17 final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.
18 It is further agreed by the Parties that this Settlement will not become effective if any Defendant,
19 contrary to Paragraph 13 above, is required to pay more than the total amount of its maximum total
20 liability under the Settlement as set forth in Paragraph 13 under any circumstances, except those
21 outlined in Paragraph 14.c.i. In the event there are no written objections filed prior to the former
22 fairness hearing, the "Effective Date" shall be the date that all of (i) through (iv) above have
23 occurred. It is further agreed by and between the Parties that this Settlement shall not become
24 effective, and Defendants shall not have any obligation (monetary or otherwise) under the terms of
25 this Settlement, unless and until any objections, writs and/or appeals, and any rights of appeal with
26 respect to any objections or the judgment, have been finally exhausted and resolved upholding the
27 terms of this Settlement.

1 c. Maximum Settlement Amount, and Net Settlement Amount: To implement
2 the terms of this Settlement, Defendants agree to pay a total of \$185,000 ("Maximum Settlement
3 Amount"), inclusive of all Settlement Awards, the attorneys' fees and litigation costs to Class
4 Counsel, the Enhancement Award to the Class Representative, the claims administration costs, the
5 PAGA penalties, and any other payments provided by the Settlement. As set forth above, Tiburon
6 Lodge shall contribute \$100,000 to the Maximum Settlement Amount, and TRG shall contribute
7 \$85,000 to the Maximum Settlement Amount. The Maximum Settlement Amount will be fully paid
8 out without any residue returning to Defendants. Defendants shall pay their respective shares of the
9 Maximum Settlement Amount, as set forth above, to the Settlement Administrator within fifteen
10 (15) calendar days after the Effective Date defined herein. At no time prior to this time shall
11 Defendants have the obligation to segregate the funds comprising the Maximum Settlement
12 Amount, and Defendants shall retain exclusive authority over and responsibility for those funds until
13 they are obligated to transfer such to the Settlement Administrator pursuant to the terms of this
14 Settlement Agreement. The Settlement Awards paid to Settlement Class and PAGA Group
15 Members, the attorneys' fees and litigation costs to Class Counsel, the Enhancement Award to the
16 Class Representative, the fees and expenses of the Settlement Administrator, the payment to the
17 LWDA pursuant to PAGA, and any other payments provided by this Settlement, shall be paid by
18 the Settlement Administrator out of the Maximum Settlement Amount.

19 The employer's share of payroll taxes arising from the payments made under this settlement
20 shall be paid by Defendants separate from and in addition to the Maximum Settlement Amount. The
21 Maximum Settlement Amount is subject to a pro rata increase pursuant to Section 14(c)(i) below.
22 No part of the Maximum Settlement Amount shall revert to Defendants. Defendants shall not be
23 required under any circumstances to pay more than the Maximum Settlement Amount, save the
24 remission of payroll taxes paid outside of this Settlement.

25 The Settlement Administrator shall, throughout the administration process, keep
26 Defendants' contributions to the Maximum Settlement Amount in separate accounts. Following and
27 subject to the order of Final Approval, the Settlement Administrator shall deduct from each account:
28 (1) a portion of attorney's fees and costs of counsel; (2) a portion of the payment to the LWDA as

described below; (3) a portion of the Enhancement Award; and (4) a portion of the fees and expenses of the Settlement Administrator. The deductions shall be proportional to each Defendant's respective contribution to the Maximum Settlement Amount.

The "Net Settlement Amount," the amount available for distribution to Settlement Class Members, shall be calculated by deducting from the Maximum Settlement Amount: (i) Class Counsel's attorneys' fees and litigation costs, (ii) the Enhancement Award, (iii) the payment to the LWDA as described further below, and (iv) the fees and expenses of the Settlement Administrator.

Settlement Awards to the Settlement Class and PAGA Group Members will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth below.

Defendants will separately pay the employer share of the payroll taxes associated with the wage portion of the Settlement Awards (defined and allocated below).

i. Settlement Awards to Class Members: Settlement Awards to members of the TRG Subclass will be determined based on the number of weeks worked by each such member during the TRG Subclass Period based on information provided by TRG. Settlement Awards to members of the Tiburon Lodge Subclass will be determined based on the number of weeks worked by each such member during the Tiburon Lodge Subclass Period based on information provided by Tiburon Lodge. Partial workweeks and/or pay periods will be rounded down; however, if a Class Member worked only one day as a Class Member, such Class Member will be credited with having worked one workweek, or pay period, for purposes of the Class Action portion, and PAGA portion, respectively. Each member of the TRG Subclass who does not submit a timely and valid Request for Exclusion as provided in this Settlement will receive a proportional share of the Net Settlement Amount, based on the ratio of the number of workweeks he/she was employed during the TRG Subclass Period to the total number of workweeks worked by all members of the TRG Subclass who do not opt out. Each member of the Tiburon Lodge Subclass who does not opt out of the class action portion of the Settlement will receive a proportional share of the Net Settlement Amount, based on the ratio of the number of workweeks he/she was employed during the Tiburon Lodge Subclass Period to the total number of workweeks worked by all members of the Tiburon Lodge Subclass who do not opt out. PAGA Group Members will receive their pro rata

1 portion of the PAGA Settlement Payment regardless of whether they opt out of the class action
2 portion of the Settlement (i.e., by returning the Notice of Settlement Award Form). Defendants'
3 workweek data will be presumed to be correct, unless a particular member of the Settlement Class
4 proves otherwise to the Settlement Administrator by credible written evidence submitted with the
5 Notice of Settlement Award Form. All workweek disputes will be resolved and decided by the
6 Settlement Administrator, and the Settlement Administrator's decision on all workweek disputes
7 will be final and non-appealable. Any Class Member who opts out of the class action portion of the
8 Settlement is not in the Settlement Class, and is ineligible to object to the Settlement or to participate
9 in the Settlement; provided that opting-out of the class action portion of the Settlement will have no
10 impact on a PAGA Group Member's receipt of a pro rata portion of the PAGA Settlement Payment,
11 if applicable.

12 TRG certifies that there are 30 persons who fall within the TRG Subclass, and the number
13 of pay periods for all members of the TRG Subclass is 4,172. In the event it is determined that the
14 number of these pay periods exceeds 4,172 by more than five (5) percent, Plaintiff and TRG shall
15 agree to a good-faith renegotiation of TRG's contribution thereto. If the renegotiation is
16 unsuccessful, Plaintiff may exercise the option to require TRG to withdraw from the Settlement,
17 however under no circumstances shall TRG's withdrawal have any effect on the Settlement between
18 Plaintiff and Tiburon Lodge set forth herein. If the number of members of the TRG Subclass
19 exceeds 30 by ten (10) percent or more, there shall be an equal increase in TRG's contribution to
20 the Maximum Settlement Amount (e.g., if there are 25 percent more Class Members than certified
21 herein, then TRG's contribution to the Maximum Settlement Amount shall increase by 25 percent).
22 If more than five (5) members of the TRG Subclass submit exclusion forms, TRG may exercise the
23 option to withdraw from the Settlement and the Settlement shall be voided.

24 Tiburon Lodge certifies that there are 73 persons who fall within the Tiburon Lodge
25 Subclass, and that the number of workweeks for all such persons is approximately 2,919. If this
26 number of workweeks increases by more than five percent (5%) through September 15, 2022,
27 Tiburon Lodge's contribution to the Maximum Settlement Amount shall increase pro rata with a
28 five percent (5%) grace margin (e.g., if the number of workweeks increases by six percent (6%),

1 Tiburon Lodge's contribution to the Maximum Settlement Amount shall increase by one percent
2 (1%)).

3 ii. Private Attorneys General Act Allocation: The Parties have agreed
4 to allocate \$18,500.00 of the Maximum Settlement Amount to resolve the PAGA Claims.
5 Seventy-five percent (75%) of this amount, or in other words \$13,875.00, will be paid out of the
6 Maximum Settlement Amount to the Labor and Workforce Development Agency ("LWDA") of
7 the State of California, and the remaining balance of \$4,625.00 will remain included within the Net
8 Settlement Amount for distribution to the PAGA Group Members. PAGA Group Members shall
9 not have the right to opt-out or exclude themselves from the PAGA Settlement and the State of
10 California will have been deemed to release the Tiburon Lodge PAGA Release Claims and TRG
11 PAGA Released Claims, as defined below, upon the Effective Date.

12 iii. Allocation of Settlement Awards: Settlement Awards pursuant to the
13 terms of the Settlement Agreement shall be allocated as follows: 20% will be allocated to alleged
14 unpaid wages; and 80% will be allocated to statutory penalties and interest. The Settlement
15 Administrator will issue IRS Forms W-2 and 1099-MISC will issue, as appropriate.

16 iv. Settlement Awards Do Not Trigger Additional Benefits: All
17 Settlement Awards to Settlement Class and PAGA Group Members shall be deemed to be income
18 to such Settlement Class and PAGA Group Members solely in the year in which such awards
19 actually are received by the Settlement Class members and PAGA Group Members. It is expressly
20 understood and agreed that the receipt of such Settlement Awards will not entitle any Settlement
21 Class member or PAGA Group Member to additional compensation or benefits under any
22 company bonus, contest or other compensation or benefit plan or agreement in place during the
23 period covered by the Settlement, nor will it entitle any Settlement Class member or PAGA Group
24 Member to any increased retirement, 401(k) benefits or matching benefits, or deferred
25 compensation benefits. It is the intent of this Settlement that the Settlement Awards provided for
26 in this Agreement are the sole payments to be made by Defendants to the Settlement Class and
27 PAGA Group Members in connection with this Settlement, and that the Settlement Class and
28 PAGA Group Members are not entitled to any new or additional compensation or benefits as a

1 result of having received the Settlement Awards (notwithstanding any contrary language or
2 agreement in any benefit or compensation plan document that might have been in effect during the
3 period covered by this Settlement).

4 v. Attorneys' Fees and Litigation Costs: Subject to Court approval or
5 modification, Defendants further agree to pay, from the Maximum Settlement Amount, Class
6 Counsel's attorneys' fees and litigation costs as set forth in Paragraph 16 below.

7 vi. Class Representative: The Parties agree to the designation of Plaintiff
8 as "Class Representative." Subject to Court approval, Defendants agree to pay Plaintiff, from the
9 Maximum Settlement Amount, an Enhancement Award at no additional cost to the Released Parties.
10 The Enhancement Award cannot exceed \$5,000.00, or 2.70 percent of the Maximum Settlement
11 Amount, subject to Court approval, and is in addition to any claimed individual Settlement Award
12 to which Plaintiff is entitled under this Stipulation of Settlement. The Enhancement Award is to be
13 part of, and to be deducted from, the Maximum Settlement Amount. Defendants or the Settlement
14 Administrator will issue an IRS Form 1099-MISC for the Enhancement Award to the Plaintiff for
15 Plaintiff's service as a Class Representative, and Plaintiff will be responsible for correctly
16 characterizing this compensation for tax purposes and for paying any taxes on the amounts received.
17 Plaintiff agrees that in the event that some federal, state, or local agency takes the position that taxes
18 should have been withheld from the Enhancement Award, Plaintiff will be solely responsible for
19 payment of any such alleged tax obligations and will indemnify and hold Defendants and/or
20 Released Parties harmless from any resulting tax liability, interest, or penalty associated therewith,
21 including reasonable attorneys' fees for defending any such matter. Should the Court approve an
22 Enhancement Award to the Class Representative in an amount less than that set forth above, the
23 difference between the lesser amount approved by the Court and the Enhancement Award set forth
24 above shall be added to the Net Settlement Amount. The amount of this Enhancement Award to
25 Plaintiff is not a material term of this Settlement. In other words, if the Court does not grant the
26 Enhancement Award, it does not invalidate this Settlement or otherwise affect the other terms of the
27 Settlement.

vii. Settlement Administrator: The Settlement Administrator will be Simpluris, as mutually agreed upon by the Parties, after review and approval by the Parties of a not-to-exceed quote for settlement administration expense. All settlement administration expenses shall be paid out of the Maximum Settlement Amount. In the event that the settlement fails, the parties will equally bear the Settlement Administrator's fees incurred to date that either party informs the Settlement Administrator to stop work. The expenses associated with settlement administration are not to exceed \$9,000.00

viii. Mailing of Settlement Awards: The Settlement Administrator will cause the Settlement Awards to be mailed to all members in the Settlement Class within thirty (30) calendar days after the Settlement becomes effective as defined in Paragraph 14(b). The Settlement Administrator will mail all PAGA Group Members limitations their *pro rata* share of twenty-five percent (25%) of the PAGA Settlement Payment.

ix. Notice of Settlement Award: For each Class Member, there will be pre-printed information on the Notice of Settlement Award Form mailed to the Class Member with the Class Notice, based on Defendants' records, stating the number of weeks worked as a Class Member during the Class Period, along with each Class Member's estimated Settlement Award amount; if the Class Member is also a PAGA Group Member, the Notice of Settlement Form will also reflect their qualifying workweeks/pay period in the PAGA Period, as well as their *pro rata* portion of the PAGA Settlement Payment. The pre-printed information based on Defendants' records shall be presumed to be correct, unless written proof to the contrary is provided to the Settlement Administrator. A Class Member, or PAGA Group Member, may challenge the pre-printed information on the Notice of Settlement Award Form as to the weeks (or pay periods) worked during the Class Period by submitting written evidence to the Settlement Administrator with the Notice of Settlement Award Form. All disputes regarding weeks worked will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all disputes will be final and binding.

x. Enhancement Award to Plaintiff for Service as Class Representative:

The Settlement Administrator will pay the Enhancement Award approved by the Court to Plaintiff within ten (10) calendar days after the Settlement becomes effective as defined in Paragraph 14.b.

SETTLEMENT ADMINISTRATION

15. The Parties have agreed to the appointment of Simpluris to perform the customary duties of Settlement Administrator; provided, however, the Parties shall have the right to select or substitute a different Settlement Administrator by mutual agreement and approval by the Court. The Settlement Administrator will calculate the amounts due to Class Members, and PAGA Group Members, in accordance with this Stipulation of Settlement and populate the Notice of Pendency of Class and Representative Action and Proposed Settlement accordingly. The Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendants' records to perform its duties. The Settlement Administrator will mail the Notice of Pendency of Class Action and Proposed Settlement. In accordance with orders from the Court, and upon receipt of funds from Defendants, the Settlement Administrator will issue and mail Settlement Award checks to all Settlement Members; and the Settlement Administrator will issue and mail (or combine as appropriate) PAGA Settlement Payment checks to all PAGA Group Members, regardless of whether they opt out of the class action portion of the Settlement. Defendants shall be able to review proposed distributions and workweek and pay period data to ensure correct and accurate distributions and representations to the Settlement Members, and PAGA Group Members.. Tax treatment of the Settlement Awards will be as set forth herein, and in accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Stipulation of Settlement until all payments and obligations contemplated by this Stipulation of Settlement have been fully carried out.

ATTORNEYS' FEES AND LITIGATION COSTS

16. In consideration for settling this Action, in exchange for the release of claims by the Settlement Class, and subject to final approval or modification by the Court, Defendants agree to

1 pay, from the Maximum Settlement Amount, Class Counsel attorneys' fees not to exceed one-third
2 of the Maximum Settlement Amount, or \$61,667, and actual costs, not to exceed \$10,000.
3 Defendants will not object to Class Counsel's application for attorneys' fees and litigation costs up
4 to these amounts. The amounts set forth above will cover all work performed and all fees and costs
5 incurred to date, and all work to be performed and all fees and costs to be incurred in connection
6 with the approval by the Court of this Stipulation of Settlement, the administration of the Settlement,
7 and obtaining the final judgment. Should Class Counsel request lesser amounts, or should the Court
8 approve lesser amounts for attorneys' fees and litigation costs, the difference between the lesser
9 amounts and the maximum amounts set forth above shall be added to the Net Settlement Amount.
10 The amount of attorney's fees and costs awarded to Class Counsel is not a material term of this
11 Settlement. In other words, if the Court does not grant the requested fees and costs, it does not
12 invalidate this Settlement or otherwise affect the other terms of the Settlement, although Class
13 Counsel will have the right to appeal any decision regarding the amount of attorneys' fees and
14 litigation costs awarded. Such an appeal will not impact the Effective Date of this Stipulation of
15 Settlement or the distribution schedule to Settlement Class as outlined in Paragraph 20. In the event
16 of an appeal of the award of attorneys' fees and litigation costs, only those amounts subject to the
17 appeal (i.e. the difference between the amount awarded by the Court and the maximum request of
18 \$66,667) will remain undistributed until the resolution of any appellate process.

19 17. The attorneys' fees and litigation costs approved by the Court shall be paid to Class
20 Counsel within ten (10) calendar days after the Settlement becomes effective as defined in Paragraph
21 14.b.

22 NOTICE TO THE CLASS

23 18. A Notice of Pendency of Class and Representative Action and Proposed Settlement
24 shall be jointly drafted by the Parties, and as approved by the Court, shall be sent by the Settlement
25 Administrator to the Class Members by first class mail. The Notice of Pendency of Class Action
26 and Representative Proposed Settlement shall be substantially in the form identified as Exhibit 1 to
27 this Settlement.
28

1 a. Within fifteen (15) calendar days of preliminary approval of this Settlement
2 by the Court, Defendants shall provide to the Settlement Administrator the Class Members' and
3 PAGA Group Members' names, last-known addresses, last-known telephone numbers, Social
4 Security Numbers, workweek and pay period data and employment status. The Parties agree the
5 Social Security Numbers will be used only by the Settlement Administrator for the sole purpose of
6 effectuating the Settlement and will not be provided to Class Counsel at any time or in any form.
7 Notwithstanding anything herein to the contrary, Class Counsel will not be entitled to receive the
8 confidential contact information and/or Social Security Numbers of Class Members. To the extent
9 Class Counsel possesses or comes to possess the Class Members' contact information and/or Social
10 Security Numbers from the Settlement Administrator, Class Counsel shall return all such
11 information (including copies and data or information derived therefrom) within five (5) calendar
12 days from the date the Court finally approves the Settlement, shall not retain copies of such
13 information, and shall not maintain or use such information for any purpose. The spreadsheet
14 provided for above, shall be based on Defendants' payroll and other business records and in a format
15 acceptable to the Settlement Administrator. Defendants agree to consult with the Settlement
16 Administrator prior to the production date to ensure that the format will be acceptable to the
17 Settlement Administrator. The Settlement Administrator will run a check of the Class Members'
18 and PAGA Group Members' addresses against those on file with the U.S. Postal Service's National
19 Change of Address List. Within fifteen (15) calendar days of preliminary approval of this
20 Settlement, the Settlement Administrator will mail the Notice and Notice of Settlement Award Form
21 to Class Members.

22 b. Notices returned to the Settlement Administrator as non-delivered/
23 undeliverable during the 45-calendar day period for the filing of requests for exclusion or objections
24 shall be re-sent to the forwarding address, if any, on the returned envelope. If there is no forwarding
25 address, the Settlement Administrator will do an NCOA check and will skip-trace return mail and
26 re-mail within three (3) days of receipt using the Class Member's (or PAGA Group Member's)
27 Social Security Number; this search will be performed only once per Class Member by the
28 Settlement Administrator. Upon completion of these steps by the Settlement Administrator,

1 Defendants and the Settlement Administrator shall be deemed to have satisfied their obligations to
2 provide the Notice of Pendency of Class and Representative Action and Proposed Settlement and
3 Notice of Settlement Award Form to the affected Class Member or PAGA Group Member. If the
4 affected Class Member does not opt out, he or she shall become a member of the Settlement Class
5 and shall be bound by all the terms of the Stipulation of Settlement and the Court's Order and Final
6 Judgment; provided no PAGA Group Member may opt out from the terms of the PAGA portion of
7 the Stipulation of Settlement, provided that the same receives final approval.

8 c. The Notice of Pendency of Class and Representative Action Settlement shall
9 also identify the procedures for opting out of or objecting to the Settlement.

10 d. Class Counsel shall provide to the Court a declaration by the Settlement
11 Administrator of due diligence and proof of mailing with regard to the mailing of the Notice of
12 Pendency of Class and Representative Action and Proposed Settlement.

13 ADMINISTRATION PROCESS

14 19. Class Members shall have forty-five (45) calendar days from the date of mailing to
15 respond to the Notice of Pendency of Class and Representative Action and Proposed Settlement.

16 20. A member of the Settlement Class or PAGA Group Member may dispute the amount
17 of his or her share of the Net Settlement Amount, and the number of wage statements used to
18 calculate his or her share, by timely sending a written notice to the Settlement Administrator
19 regarding the nature of the dispute and providing any records or documentation supporting his or
20 her position. To be considered timely, any dispute regarding the Settlement Class member's, or
21 PAGA Group Member's, share or the underlying data used to calculate his or her share must be
22 submitted to the Settlement Administrator within 45 days of the mailing of the Class Notice. In
23 response to any timely dispute, Defendant will verify the information contained in the Settlement
24 Class member's, or PAGA Group Member's, personnel file and Defendant's payroll records.
25 Unless the Settlement Class member, or PAGA Group Member, can establish a different number or
26 type of wage statements based on documentary evidence, the number of wage statements established
27 by Defendant's records will control. Any dispute shall be resolved by the Settlement Administrator,
28 who shall examine the records provided by Defendant and the Settlement Class member, or PAGA

1 Group Member, and issue its determination in accordance with this paragraph. The Settlement
2 Administrator's determination shall be final. The Settlement Administrator will certify jointly to
3 Class Counsel and Defendants' Counsel the outcome of any disputes regarding workweeks.
4 Settlement Awards to Settlement Class will be mailed by the Settlement Administrator within thirty
5 (30) calendar days after the Settlement becomes effective as defined in Paragraph 14(b) provided
6 the Class Member does not opt out. Pro rata portion of the PAGA Settlement Payment will be
7 mailed by the Settlement Administrator to PAGA Group Members regardless of whether such
8 person is also a Class Member who opts out of the class action portion of the Settlement. Settlement
9 Award checks shall remain valid and negotiable for one hundred eighty (180) calendar days from
10 the date of their issuance; upon the deadline to cash the Settlement Award checks, the checks will
11 automatically be cancelled by the Settlement Administrator if not cashed by the Class Member
12 within that time, at which point the Settlement Class member's and/or PAGA Group Member's
13 claim(s) will be deemed void and of no further force or effect, and the Settlement Class member's
14 claims will remain released by the Settlement. The checks provided to Settlement Class and/or
15 PAGA Group Members shall prominently state the expiration date or a statement that the checks
16 will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a
17 letter accompanying the check. Expired Settlement Award checks will not be reissued, except for
18 good cause and as mutually agreed by the Parties in writing. Any residue from uncashed Settlement
19 Award checks after the expiration date will be sent to Marin Court Appointed Special Advocates
20 (serving Marin County), 1401 Los Gamos, Suite 130, San Rafael, CA, 94903, pursuant to Code of
21 Civil Procedure section 384(b). Upon completion of its calculation of payments, the Settlement
22 Administrator shall provide Defendants with a report listing the amount of all payments to be made
23 to each Settlement Class member and PAGA Group Member. Defendants, on behalf of the Released
24 parties, will pay to the Settlement Administrator the Maximum Settlement Amount within fourteen
25 (14) calendar days after the Settlement becomes effective as defined in Paragraph 14.b. The
26 Settlement Administrator will be responsible for making appropriate deductions, calculating and
27 reporting the employer payroll taxes on the Settlement Awards, paying to Class Counsel any Court-
28 approved attorneys' fees and litigation costs, paying to the Class Representatives any Court-

1 approved Enhancement Award, paying the LWDA seventy-five percent (75%) of the amount
2 allocated for PAGA penalties above, meeting tax reporting obligations, calculating the employers'
3 share of payroll taxes, and for issuing the individual Settlement Awards to Settlement Class and pro
4 rata portions of PAGA Settlement Payments to PAGA Group Members. Proof of compliance with
5 the Court's final approval order will be provided to counsel for the Parties by the Settlement
6 Administrator within twenty-one (21) days after all payment obligations, the check cashing deadline
7 for Class Members, and payment to the *Cy Pres* Beneficiary have passed.

8 OPTING OUT OF / OBJECTING TO THE SETTLEMENT

9 21. Opting Out of the Settlement. For those Class Members who do not wish to
10 participate in the class action portion of the Settlement, such Class Members may exclude
11 themselves by submitting a timely written request to the Settlement Administrator. The written
12 request ("Request for Exclusion") should state that he/she has received the Notice of Pendency of
13 Class and Representative Action and Proposed Settlement, decided not to participate in the class
14 action portion of the Settlement, and words to the effect that he/she desires to be excluded from the
15 Settlement, substantially similar to the following:

16 "I elect to opt-out of the *Caamal v. TRG CA Employment, Inc., et. al* class
17 action settlement. I understand that by doing so, I will not be able to
18 participate in the class action portion of settlement and will not receive a
19 share of the class action portion of the settlement. I acknowledge that I
20 may, however, receive a portion of the Private Attorneys General Act
21 portion of the settlement."

22 The Request for Exclusion must also state the individual's full name, address, date of birth,
23 and the dates he/she worked as a non-exempt employee for one or both Defendants in California.
24 The Request for Exclusion must be signed, dated and mailed by First Class U.S. Mail, or the
25 equivalent, to the Settlement Administrator. All Requests for Exclusion must be postmarked and
26 mailed to the Settlement Administrator no later than forty-five (45) calendar days after the
27 Settlement Administrator mails the Notice of Pendency of Class and Representative Action and
28 Proposed Settlement and Notice of Settlement Award Form to the Class Members. Any individual

1 who submits a Request for Exclusion will not be allowed to object to the terms of the Settlement.
2 Class Members shall not have the right to request exclusion from the PAGA portion of the
3 settlement; to the extent that Class Members are also PAGA Group Members, they shall receive
4 their pro rata share of the PAGA Settlement Payment regardless of whether they opt-out or not from
5 the class action portion of this Settlement.

6 22. Objecting to the Settlement. Any individual who does not exclude himself/herself
7 from the Settlement, i.e. any individual in the Settlement Class, can object to the terms of the
8 Settlement before the deadline to object to the Settlement. To object, the individual must file a
9 written objection and a notice of intention to appear at the Final Approval hearing with the Clerk of
10 the Marin County Superior Court of the State of California and send copies to the Settlement
11 Administrator, Class Counsel and counsel for Defendants. Any written objection must state each
12 specific reason in support of the objection and any legal support for each objection. The individual
13 must state his/her full name, address, date of birth, email address (to facilitate remote court
14 appearances as necessary), and the dates he/she worked as a non-exempt employee for one or both
15 Defendants. To be valid and effective, any objections to approval of the Settlement must be filed
16 with the Clerk of the Court and delivered to the Settlement Administrator, Class Counsel and
17 counsel for Defendants no later than forty-five (45) calendar days after the Settlement Administrator
18 mails the Notice of Pendency of Class Action and Proposed Settlement and Notice of Settlement
19 Award Form to the Class Members. If the Court rejects the objection, the individual will be bound
20 by the terms of the Settlement. No Class Member or PAGA Group Member shall be permitted to
21 object to the PAGA portion of this Settlement, PAGA Settlement Payment, or the release of PAGA
22 claims contemplated by the Settlement, as the State of California is the real party in interest with
23 respect to the PAGA claims in this lawsuit.

24 RELEASE BY THE CLASS

25 23. Release by the Tiburon Lodge and TRG Subclass and PAGA Group Members:

26 (a) Release by Tiburon Lodge Subclass and Tiburon Lodge PAGA Members:

27 On the Effective Date, and except as to such rights or claims as may be created by this
28 Stipulation of Settlement, each Class Member of the Tiburon Lodge Subclass who has not submitted

1 a valid Request for Exclusion fully releases and discharges the Released Tiburon Lodge Parties from
2 any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees,
3 damages, action or causes of action of whatever kind or nature, whether known or unknown,
4 contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts
5 alleged in the Action, including claims for: (a) failure to pay overtime wages in violation of Labor
6 Code Section 510, 558, and 1194; (b) failure to provide accurate itemized wage statements in
7 violation of Labor Code section 226 and 226.3; (c) failure to pay final wages upon separation of
8 employment in violation of Labor Code sections 201-203; (d) failure to provide timely, duty-free
9 meal periods and/or pay required meal period premiums at the regular rate of pay in violation of
10 Labor Code section 226.7 and 512; (e) failure to provide compliant rest periods and/or pay rest
11 required period premiums at the regular rate of pay in violation of Labor Code section 226.7; (f)
12 failure to pay wages timely during employment in violation of Labor Code sections 204 and 351;
13 (g) failure to accurately pay sick pay in violation of Labor Code sections 233, 246, 246.5 and 248.5;
14 (h) failure to reimburse employees pursuant to Labor Code section 2802; (i) any right or claim for
15 damages, unpaid wages, statutory penalties, or civil penalties under the California Labor Code or
16 Wage Orders based on the alleged failures set forth above in (a)-(h) and which were alleged, or that
17 reasonably could have been alleged based on the facts alleged in the Action; (j) any right or claim
18 for unfair business practices in violation of California Business & Professions Code sections 17200,
19 et seq., based on the alleged failures set forth in (a)-(h) and which were alleged, or that reasonably
20 could have been alleged based on the facts alleged in the Action; (k) any violation of the California
21 Labor Code arising from or related to the conduct alleged in in (a)-(k) and which were alleged, or
22 that reasonably could have been alleged based on the facts alleged in the Action, including violations
23 of California Labor Code sections cited above in (a)-(i) ; and expressly excluding all other claims,
24 including claims for unemployment insurance, disability, social security, and workers'
25 compensation, and claims outside of the Class Period. (The foregoing are referred to as the "Tiburon
26 Lodge Released Class Claims.")

27 On the Effective Date, and except as to such rights or claims as may be created by this
28 Stipulation of Settlement, each Tiburon Lodge PAGA Member fully releases and discharges the

Released Tiburon Lodge Parties from any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including claims for all claims for civil penalties under PAGA based on the Labor Code violations alleged in each and every Notice sent by each Plaintiff to the LWDA, including those cited in (a)-(i) above, as well as all facts, theories, or claims for civil penalties that would be considered administratively exhausted under applicable law by the PAGA Notices Plaintiff sent to the LWDA ("Tiburon Lodge PAGA Released Claims").

(a) Release by TRG Members and PAGA Group Members:

Release by the TRG Class Members and PAGA Group Members: On the Effective Date, and except as to such rights or claims as may be created by this Stipulation of Settlement, each Class Member of the TRG Subclass who has not submitted a valid Request for Exclusion fully releases and discharges the TRG Released Parties from any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including claims for: (a) failure to pay overtime wages in violation of Labor Code Section 510, 558, and 1194; (b) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and 226.3; (c) failure to pay final wages upon separation of employment in violation of Labor Code sections 201-203; (d) failure to provide timely, duty-free meal periods and/or pay required meal period premiums at the regular rate of pay in violation of Labor Code section 226.7 and 512; (e) failure to provide compliant rest periods and/or pay rest required period premiums at the regular rate of pay in violation of Labor Code section 226.7; (f) failure to pay wages timely during employment in violation of Labor Code sections 204 and 351; (g) failure to accurately pay sick pay in violation of Labor Code sections 233, 246, 246.5 and 248.5; (h) any right or claim for damages, unpaid wages, statutory penalties, or civil penalties under the California Labor Code or Wage Orders based on the alleged failures set forth above in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; (i) any right or claim for unfair business practices in violation of

1 California Business & Professions Code sections 17200, et seq., based on the alleged failures set
2 forth in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the
3 facts alleged in the Action; (j) any violation of the California Labor Code arising from or related to
4 the conduct alleged in in (a)-(j) and which were alleged, or that reasonably could have been alleged
5 based on the facts alleged in the Action, including violations of California Labor Code sections cited
6 above in (a)-(h); and expressly excluding all other claims, including claims for unemployment
7 insurance, disability, social security, and workers' compensation, and claims outside of the Class
8 Period. (The foregoing are referred to as the "TRG Released Class Claims.") On the Effective Date,
9 and except as to such rights or claims as may be created by this Stipulation of Settlement, each
10 PAGA Group Member of the TRG Subclass fully releases and discharges the TRG Released Parties
11 from any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees,
12 damages, action or causes of action of whatever kind or nature, whether known or unknown,
13 contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts
14 alleged in the Action, including claims for all claims for civil penalties under PAGA based on the
15 labor code violations alleged in each and every Notice sent by each Plaintiff to the LWDA, including
16 those cited in (a)-hi) above, as well as all facts, theories, or claims for civil penalties that would be
17 considered administratively exhausted under applicable law by the PAGA Notices Plaintiff sent to
18 the LWDA ("TRG PAGA Released Claims").

19 25. General Release by Plaintiff: In addition to the Tiburon Lodge PAGA Released Claims
20 and Tiburon Lodge Released Class Claims and the TRG Released Class & PAGA Claims identified
21 above, Plaintiff agrees to release any and all claims, whether known or unknown, under all federal,
22 state and local statutes, and federal and state common law (including but not limited to those for
23 contract, tort, and equity), including, without limitation, the California Unfair Competition Act
24 (California Business and Professions Code section 17200 et seq.) and the California Labor Code
25 against the Released Tiburon Lodge Parties and the TRG Released Parties. Plaintiff acknowledges
26 the language of Section 1542 of the California Civil Code, which provides:

1 A general release does not extend to claims that the creditor or releasing party
2 does not know or suspect to exist in his or her favor at the time of executing
3 the release and that, if known by him or her, would have materially affected
his or her settlement with the debtor or released party.

4 Plaintiff expressly waives the protection of Section 1542. Plaintiff understands and agrees
5 that claims or facts in addition to or different from those which are now known or believed by them
6 to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all of the
7 claims he now has against the Released Parties, whether known or unknown, suspected or
8 unsuspected.

9 DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

10 26. Plaintiff shall promptly submit this Stipulation of Settlement to the Marin County
11 Superior Court in support of Plaintiff's Motion for Preliminary Approval and seek determination by
12 the Court as to its fairness, adequacy and reasonableness. Plaintiff agrees to provide Defendants the
13 opportunity to review, and to approve before filing, Plaintiff's Motion for Preliminary Approval.
14 At the same time Plaintiff submits this Stipulation of Settlement to the Marin County Superior Court,
15 Plaintiff agrees to submit a copy of the Stipulation of Settlement to the LWDA. Promptly upon
16 execution of this Stipulation of Settlement, Plaintiff shall apply to the Court for the entry of an order
17 preliminarily approving the Settlement in a form that is mutually agreeable between the Parties and
18 also provides for the following:

19 a. Scheduling a fairness hearing on the question of whether the proposed
20 Settlement, including payment of attorneys' fees and litigation costs, costs of administration and the
21 Class Representative's Enhancement Award should be finally approved as fair, reasonable and
22 adequate as to the members of the Settlement Class;

23 b. Certifying a Settlement Class, Plaintiff Juan Caamal as Class Representative,
24 and Mayall Hurley P.C. as Class Counsel;

25 c. Approving as to form and content the proposed Notice of Pendency of Class
26 and Representative Action and Proposed Settlement attached hereto as Exhibit 1;

27 d. Approving the manner and method for Class Members to request exclusion
28 from and/or object to the class-action portion and/or aspects of Settlement, but not the PAGA portion

1 and/or aspects of the Settlement as contained herein and within the Notice of Pendency of Class and
2 Representative Action and Proposed Settlement;

3 e. Directing the mailing of the Notice of Pendency of Class and Representative
4 Action and Proposed Settlement by first class mail to the Class Members; and

5 f. Preliminarily approving the Settlement subject only to the objections of
6 Settlement Class and final review by the Court; and

7 g. Enjoining Plaintiff and all Class and PAGA Group Members from filing or
8 prosecuting any other cases, claims, suits or administrative proceedings (including filing claims with
9 the Division of Labor Standards Enforcement of the California Department of Industrial Relations)
10 regarding the Tiburon Lodge Released Class Claims and Tiburon Lodge PAGA Released Claims
11 and the TRG Released Class & PAGA Claims identified above unless and until such Class Members
12 have filed valid Requests for Exclusion from the class action portion of the Settlement with the
13 Settlement Administrator..

14 DUTIES OF THE PARTIES FOR FINAL COURT APPROVAL

15 27. Class Counsel agrees to return or delete all confidential documents, lists and data in
16 all forms and formats (originals and copies) within seven (7) calendar days from final Court approval
17 of the Settlement. Plaintiff agrees to provide Defendant the opportunity to review Plaintiff's Motion
18 for Final Approval of Class Action Settlement before they file the same. Class Counsel agrees to
19 submit a proposed final order and judgment, in a form that is mutually agreeable between the parties
20 and also provides for the following:

21 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable
22 and adequate, and directing consummation of its terms and provisions;

23 b. Approving Class Counsel's application for an award of attorneys' fees and
24 litigation costs;

25 c. Approving the Enhancement Award to the Class Representative; and

26 d. Entering judgment in accordance with California Rules of Court, Rule
27 3.769(h), and permanently barring and enjoining all members of the Settlement Class who have not
28

submitted a timely and valid opt-out from prosecuting the Released Claims against Defendants or the Released Parties.

PARTIES' AUTHORITY

28. The signatories hereto hereby represent that they are fully authorized to enter into this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

MUTUAL FULL COOPERATION

29. The Parties agree to fully cooperate with each other to accomplish the terms of this Stipulation of Settlement, including, but not limited to, execution of such documents and taking such other action as reasonably may be necessary to implement the terms of this Stipulation of Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation of Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. As soon as practicable after execution of this Stipulation of Settlement, Class Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's final approval of this Stipulation of Settlement.

30. The Parties and their respective counsel agree that they will not attempt to encourage or discourage Class Members from filing Requests for Exclusion or objections.

NO PRIOR ASSIGNMENTS

31. The Parties and their counsel represent, covenant and warrant that they have not directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged except as set forth herein.

NO ADMISSION

32. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendants. Each of the Parties hereto has entered into this Stipulation of Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

33. The Parties agree that the Marin County Superior Court shall retain jurisdiction to enforce the terms of this Settlement pursuant to California Code of Civil Procedure Section 664.6. In the event one or more of the Parties to this Stipulation of Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Stipulation of Settlement or to declare rights or obligations under this Stipulation of Settlement, the successful party or Parties shall be entitled to recover from the unsuccessful Party or Parties' reasonable attorneys' fees and litigation costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

34. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Settlement Class:

John P. Briscoe
Robert J. Wassermann
Mayall Hurley P.C.
112 S. Church St.
Lodi, CA 95240

To Defendant Tiburon Lodge CA Hotel Manager, LLC:

Robert H. Pepple
Hillary J. Baca
Andrea Chavez
Nixon Peabody LLP
300 S. Grand Avenue, Suite 4100
Los Angeles, CA 90071

To Defendant TRG CA Employment, Inc.:

Mollie M. Burks
Sat Sang Khalsa
Gordon Rees Scully Mansukhani LLP
1111 Broadway, Suite 1700
Oakland, CA 94607

CONSTRUCTION

35. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and this Stipulation of Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Stipulation of Settlement.

CAPTIONS AND INTERPRETATIONS

36. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Stipulation of Settlement or any provision of it. Each term of this Stipulation of Settlement is contractual and not merely a recital.

MODIFICATION

37. This Stipulation of Settlement may not be changed, altered or modified, except in writing and signed by the Parties hereto and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

38. This Stipulation of Settlement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

39. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties and the Released Parties hereto, and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS MEMBER SIGNATORIES

40. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The Notice of Pendency of Class Action and Proposed Settlement will advise all Class Members of the binding nature of the release, and the release shall have the same force and effect as if this Stipulation of Settlement were executed by each member of the Class.

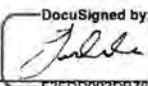
COUNTERPARTS

41. This Stipulation of Settlement may be executed in counterparts and by facsimile signatures, and when each party has signed and delivered at least one such counterpart, each counterpart, including e-mail and PDF versions, shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement binding upon and effective as to all Parties.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiffs and Defendants as of the date(s) set forth below:

Plaintiff and Class Representative

Dated: 5/8/2023

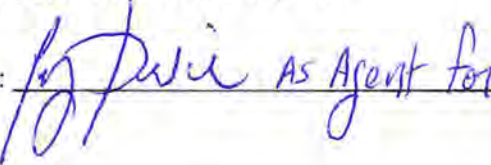
DocuSigned by:

 F3FD093D876436...
 JUAN CAAMAL

Defendant TRG CA Employment, Inc.

Dated: 5-8-23

TRG CA EMPLOYMENT, INC.

By:

 AS Agent for

Defendant Tiburon Lodge CA Hotel Manager, LLC

Dated: _____ TIBURON LODGE CA HOTEL MANAGER, LLC

By: _____

APPROVED AS TO FORM:

Dated: 5/8/2023 MAYALL HURLEY P.C.

By:  _____

Robert Wassermann
John P. Briscoe
Attorneys for Plaintiff

Dated: _____ GORDON REES SCULLY MANSUKHANI LLP

By: _____
Mollie M. Burks
Attorneys for Defendant TRG CA Employment, Inc.

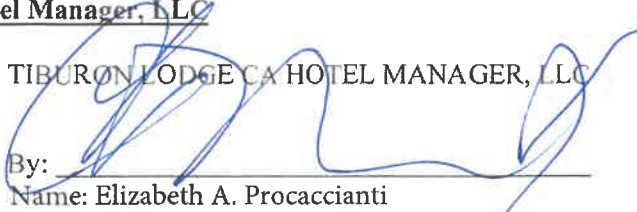
Dated: _____ NIXON PEABODY LLP

By: _____
Robert H. Pepple
Hillary J. Baca
Andrea Chavez
Attorneys for Defendant
Tiburon Lodge CA Hotel Manager, LLC

1 **Defendant Tiburon Lodge CA Hotel Manager, LLC**

2 Dated: 4/18/2023

TIBURON LODGE CA HOTEL MANAGER, LLC

3
4 By: 

Name: Elizabeth A. Procaccianti

Title: Manager

5 APPROVED AS TO FORM:

6
7 Dated: _____

MAYALL HURLEY P.C.

8 By: _____

Robert Wassermann

9 John P. Briscoe

Attorneys for Plaintiff

10
11 Dated: _____

GORDON REES SCULLY MANSUKHANI LLP

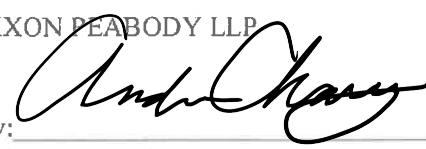
12
13 By: _____

Mollie M. Burks

14 Attorneys for Defendant TRG CA Employment, Inc.

15 Dated: 4/19/2023

NIXON PEABODY LLP

16
17 By: 

Robert H. Pepple

18 Hillary J. Baca

19 Andrea Chavez

Attorneys for Defendant

20 Tiburon Lodge CA Hotel Manager, LLC

1 **Defendant Tiburon Lodge CA Hotel Manager, LLC**

2 Dated: _____ TIBURON LODGE CA HOTEL MANAGER, LLC

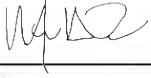
3
4 By: _____

5 APPROVED AS TO FORM:

6
7 Dated: _____ MAYALL HURLEY P.C.

8 By: _____
9 Robert Wassermann
10 John P. Briscoe
11 Attorneys for Plaintiff

12 Dated: 5/9/2023 GORDON REES SCULLY MANSUKHANI LLP

13 By:  _____
14 Mollie M. Burks
15 Attorneys for Defendant TRG CA Employment, Inc.

16 Dated: _____ NIXON PEABODY LLP

17 By: _____
18 Robert H. Pepple
19 Hillary J. Baca
20 Andrea Chavez
21 Attorneys for Defendant
22 Tiburon Lodge CA Hotel Manager, LLC
23
24
25
26
27
28

Exhibit 1

[CLASS MEMBER NAME and ADDRESS]

**[CLASS MEMBER NAME], PLEASE READ THIS NOTICE CAREFULLY.
IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

*This is **not** a solicitation from a lawyer. A court authorized this notice.*

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Juan Caamal vs. TRG CA Employment, Inc., et al.

Superior Court of The State of California, County of Marin Case No. CIV-2001374

If you are or were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC at any time between June 16, 2016 and September 15, 2022 (the "Settlement Class"), a proposed class action settlement may affect your rights and you may be entitled to money under the proposed Settlement.

You are **not** being sued. A court authorized this notice. This is **not** a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION
ABOUT YOUR RIGHTS.**

1. Why Did I Get This Notice?

The Court has granted preliminary approval of the Settlement of the class action brought on behalf of all individuals who were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC in the State of California at any time between June 16, 2016 and September 15, 2022.

You are receiving this Notice because Defendants' records show that you are in the proposed Settlement Class. This notice informs you about settlement of this pending lawsuit, that you may be a member of the Settlement Class, and that you have certain rights to object to the settlement.

2. What Is This Lawsuit About?

This Action was filed on June 16, 2020. Plaintiff Juan Caamal ("Plaintiff") alleges that TRG CA Employment, Inc. and Tiburon Lodge CA Hotel Manager, LLC ("Defendants" collectively the "Parties") engaged in unfair competition and failed to properly calculate and pay overtime and double time wages, failed to provide meal and rest periods or pay premiums at the correct rate, failed to provide accurate wage statements, failed to properly calculate and pay sick pay, and failed to timely pay final wages to him and other similarly situated employees. On September 23, 2020, Plaintiff filed his First Amended Complaint to include a representative Private Attorneys General Act ("PAGA") claim. On September 1, 2021, Plaintiff filed his Second Amended Complaint to add additional allegations regarding rest and meal periods. On October 22, 2022, Plaintiff filed a Third Amended Complaint to add a cause of action under Labor Code section 2802 (failure to reimburse for business expenses) as against Defendant Tiburon Lodge CA Hotel Manager, LLC only.

Plaintiff filed this Action in the Superior Court of The State of California, County of Marin Case No. CIV-2001374 (the "Action").

Defendants deny Plaintiff's claims and allegations and assert that they have complied with all of their legal obligations under the California Labor Code, PAGA, Cal. Bus. & Prof. Code section 17200, and other applicable laws.

This description of the case is general and does not cover all the issues of this case. This Notice is not an expression by the Court about the merits of the case. The Settlement is not an admission of any wrongdoing, and the Court has not made any findings of liability.

3. Has The Court Decided Who Is Right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendants' defenses.

4. Why Did This Case Settle?

The Parties in this action disagree as to the probable outcome of the action with respect to liability and damages if it were not settled. Although Plaintiff believe his claims and that of the Settlement Class have merit, Plaintiff recognizes that litigating is a risky proposition, and that they may not have prevailed on all or some of their claims. Likewise, while Defendants are confident that they have strong defenses to Plaintiff's and the Settlement Class' claims, they recognize the risks, distractions, and costs involved with litigation. The Parties engaged in direct settlement negotiations and, recognizing the risks and costs inherent in litigation, thereafter reached the proposed settlement of all the claims asserted in the lawsuit.

On [INSERT PRELIMINARY APPROVAL DATE], the Court granted preliminary approval of the proposed settlement, upon finding this proposed settlement is the result of good faith, arm's-length negotiations between the parties through their respective attorneys. The Court has expressed no opinion on the merits of Plaintiff's claims or Defendants' defenses.

5. What Are The Terms Of The Proposed Settlement And How Much Will I Receive?

Without admitting any fault or liability and in exchange for a release of all claims, Defendants have agreed to pay a total of \$185,000 to create a non-reversionary settlement fund ("Gross Settlement Amount"). The Gross Settlement Amount shall be available to pay each Settlement Class member who has not previously opted out; provided that a portion of the Gross Settlement Amount will be distributed to the PAGA Group (defined below) regardless of whether a Settlement Class Member opts out. Under the proposed settlement, the following amounts will be deducted from the Gross Settlement Amount before any payments are made to employees, subject to final approval by the Court:

- Attorneys' Fees – up to \$61,667
- Attorneys' Costs of Suit – up to \$10,000
- PAGA Payment – \$18,500 (\$13,875 of the \$18,500 Payment to the Labor & Workforce Development Agency; and \$4,625 of the \$18,500 in PAGA Penalties will be distributed separately to all PAGA Group Employees, as further explained below).
- Settlement Administration Expenses – up to \$9,000
- Service Award to Class Representative – \$5,000

After these deductions, \$#,###,### will be available for payment to the Settlement Class receiving this notice as the "Net Settlement Amount." Specifically, each Class Participant shall receive a credit of one

work week for each week worked between June 16, 2016 and September 15, 2022. The proposed method of allocation is fair and reasonable.

PAGA Group Employees¹ will receive an equal portion of the 25% of the PAGA Payment allocated to the PAGA Group Employees (i.e., \$4,625 of the \$18,500), on a pro rata basis. This Individual PAGA Payment shall be made to each and every PAGA Group Employee, including those who submit valid Requests for Exclusion/ Opt-Outs.

Final approval and a determination of attorneys' fees, attorneys' costs, PAGA penalties, settlement administration expenses, and a service award to the class representative are subject to a fairness hearing that will occur on **[INSERT FINAL APPROVAL HEARING DATE]** in Dept. of the Marin County Superior Court, 3501 Civic Center Dr., San Rafael California 94903 on , 2023, at **XX** Pacific Time.

6. What Are Your Options?

As a member of the Settlement Class, you have several options available to you:

PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT	<u>YOU DO NOT NEED TO DO ANYTHING TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT.</u> By doing nothing, you <u>WILL</u> receive a share of the Settlement proceeds if the proposed Settlement is finally approved, and you will be covered by the release summarized in section 7 below and will therefore give up any rights you may otherwise have to sue Defendants separately regarding certain claims. Your estimated Individual Settlement Amount is [INSERT ESTIMATED INDIVIDUAL SETTLEMENT AMOUNT AS CLASS PARTICIPANT] based on Defendants' records that indicate you worked [INSERT WORK WEEK VALUE] weeks for Defendants between June 16, 2016 and September 15, 2022. It is important that if your address has changed, you give your current mailing address to the Settlement Administrator to ensure you receive your share of the Settlement proceeds if the proposed Settlement is finally approved.
ASK TO BE EXCLUDED (SUBMIT A VALID REQUEST FOR EXCLUSION/ OPT-OUT) FROM THE CLASS ACTION SETTLEMENT	If you timely request in writing to be excluded from the proposed Settlement, you <u>WILL NOT</u> receive a share of the Net Settlement Amount, and the settlement will not affect any rights you may otherwise have to sue Defendants separately about the same legal claims in this lawsuit, other than those claims brought under the Private Attorneys General Act (PAGA) for civil penalties. Section 9 below explains how

¹ "PAGA Group Employees" shall include and mean all individuals who or were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC in the State of California during the PAGA Covered Period from July 20, 2019 through September 15, 2022.

	to request to be excluded from the settlement. Your written Request for Exclusion/ Opt-Out letter must be postmarked by _____, 2023. However, if you are a PAGA Group Employee, even if you request to be excluded from of the settlement, you will still receive your pro rata portion of the (\$18,500) PAGA Payment that will be distributed to the PAGA Group Employees. Your estimated Individual PAGA Payment is [INSERT ESTIMATED INDIVIDUAL PAGA PAYMENT].
OBJECT	You may object to the settlement if you did not ask to be excluded from the settlement. If you timely submit in writing an objection to the settlement and the settlement is nonetheless granted final approval, you <u>WILL</u> (i) receive a share of the settlement proceeds and (ii) release legal claims against Defendants. Your written notice of intent to object must be postmarked by _____, 2023. Note, however, that whereas you may object to the Class Action Settlement portion of the Settlement, you cannot object to the PAGA Portion of the Settlement.
DISPUTE YOUR SETTLEMENT AWARD	You may dispute Defendants' records of number of weeks worked during the Class Period by submitting information to the Settlement Administrator, XX not later than _____, 2023. XX shall make the final decision based on the information presented by you and Defendants.

7. What Rights Am I Giving Up?

As part of the settlement, Plaintiff and each member of the Settlement Class (excluding those who elect to exclude themselves from the class settlement) will fully release and discharge Defendants as well their respective past, present and future parents, subsidiaries and affiliates; the past, present and future partners, shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and any individual or entity which could be jointly liable with any of the foregoing (the "Release").

The Release covers any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including claims for: (a) failure to pay overtime wages in violation of Labor Code Section 510, 558, and 1194; (b) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and 226.3; (c) failure to pay final wages upon separation of employment in violation of Labor Code sections 201-203; (d) failure to provide timely, duty-free meal periods and/or pay required meal period premiums at the regular rate of pay in violation of Labor Code section 226.7 and 512; (e) failure to provide compliant rest periods and/or pay rest required period premiums at the regular rate of pay in violation of Labor Code section 226.7; (f) failure to pay wages timely during employment in violation of Labor Code sections 204 and 351; (g) failure to accurately pay sick pay in violation of Labor Code sections 233, 246, 246.5 and 248.5; (h) failure to reimburse

employees pursuant to Labor Code section 2802 (as to Tiburon Lodge CA Hotel Manager, LLC only); (i) any right or claim for damages, unpaid wages, statutory penalties, or civil penalties under the California Labor Code or Wage Orders based on the alleged failures set forth above in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; (j) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, et seq., based on the alleged failures set forth in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; (k) any violation of the California Labor Code arising from or related to the conduct alleged in in (a)-(k) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including violations of California Labor Code sections cited above in (a)-(i).

The Release does not include any claims for workers compensation, unemployment, or disability benefits of any nature, nor do they include any claims, actions, or causes of action which may be possessed by Settlement Class Members under state or federal anti-discrimination statutes, including, without limitation, the Cal. Fair Employment and Housing Act, the Cal. Government Code § 12940, et seq.; the Unruh Civil Rights Act, the Cal. Civil Code § 51, et seq.; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq.; the Fair Credit Reporting Act, the Investigative Consumer Reporting Agencies Act (ICRAA), and/or the Consumer Credit Reporting Agencies Act (CCRAA).

8. What Are PAGA Penalties?

PAGA Penalties: \$18,500 of the Gross Settlement Amount is allocated to alleged Private Attorneys General Act (PAGA) civil penalties (“PAGA Penalties”), subject to Court approval. By law, 75% of the PAGA Penalties (*i.e.*, \$13,875) will be paid to the California Labor & Workforce Development Agency and 25% of the PAGA Penalties (*i.e.*, \$4,625) will be distributed to the PAGA Group Employees. Under PAGA, the state of California deputizes private attorney generals, such as Plaintiff, to prosecute employers for alleged violations of the Labor Code and all employees are entitled to share in the 25% of the penalties that would otherwise be recoverable by the State if it directly prosecuted Defendants for the alleged Labor Code violations.

If this settlement is approved, and you are a PAGA Group Employee, you will receive a portion of the 25% of the PAGA Penalties allocated for distribution to the PAGA Group Employees on a pro rata basis based on your weeks worked during the PAGA Covered Period regardless of whether or not you otherwise submit a valid Request for Exclusion/ Opt-Out of the Settlement.

9. What If I Do Not Wish To Be Part Of The Proposed Settlement?

Anyone not wishing to participate in the class action portion of the proposed settlement may exclude himself or herself (“opt out”) by completing, signing and mailing a Request for Exclusion letter by **XXXX** to the Settlement Administrator as follows.

Settlement Administrator: XX INSERT INSERT INSERT	
---	--

If your Request for Exclusion is postmarked after **XXX**, it will be rejected, and you will be a Settlement Class member and be bound by the Settlement terms.

To be valid, any Request for Exclusion must state something similar to the effect that the Settlement Class member wishes to be excluded from the class settlement and contain the following additional information: (1) the name, employee identification number and/or last four digits of the employee's social security number for identification purposes; (2) a statement that the Settlement Class member wishes to be excluded from the class settlement such as "I wish to be excluded from the Settlement in *Caamal v. TRG CA Employment, Inc., et al.* pending in Marin County Superior Court. I understand that in asking to be excluded from the Settlement class, I will not receive any money as part of the settlement approved by the Court"; and (3) be postmarked by the **[INSERT RESPONSE DEADLINE <<forty-five (45) days>>]** and mailed to the Settlement Administrator at the address specified above.

Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Settlement Class member and will not receive payment as part of this proposed settlement, except for his or her pro rata share of the PAGA penalties, if they are a PAGA Group Employee, as outlined above in section 8. Such persons will keep any rights they may otherwise have to sue Defendants separately about the claims made in this lawsuit, other than those brought under PAGA for civil penalties.

10. What If I Have An Objection?

Any objection to the class action portion of the proposed Settlement must be in writing and mailed to the Settlement Administrator (identified above) by _____. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name; (2) be postmarked by the **[INSERT RESPONSE DEADLINE]** and mailed to the Settlement Administrator at the address specified above; and (3) should provide each specific reason in support of the objection. Class Members need not include legal arguments for their written objections to be considered.

11. Who Represents The Settlement Class?

The Court has appointed Plaintiff (Juan Caamal) as the class representatives and appointed the following Plaintiff's attorneys as Class Counsel:

ROBERT J. WASSERMAN JOHN P. BRISCOE MAYALL HURLEY P.C. 2453 Grand Canal Blvd. Stockton, California 95207-8253 Telephone: (209) 477-3833 Facsimile: (209) 473-4818

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, including to make any objections to the proposed settlement, you are free to hire one at your own expense.

12. What Happens Next In The Case?

The proposed settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 10B of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903 on _____, 2023, at XX Pacific Time, to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the settlement of the PAGA representative claim and also Class Counsel's request for attorneys' fees and costs, the costs of settlement administration, and the proposed service award. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing. Face masks and/or facial coverings may be required or mandatory at all times to enter any courthouse or courtroom and may be required to be worn covering the nose and mouth. Social distancing may be observed in the courthouse and courtroom in the event you elect to appear at the hearing. If a Class Member would like to arrange to appear by telephone or video conference, please contact Class Counsel and they will make efforts to facilitate that.

13. How Can I Receive More Information?

This Notice is a summary of the basic terms of the proposed settlement. For the precise terms and conditions of the proposed settlement, you may review the detailed "Stipulation of Settlement" on file with the Clerk of the Court as well as the pleadings and other records in this litigation at the Office of the Clerk of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903. You must make an appointment to view documents at the Office of the Clerk.

For further information, you may also call or email Class Counsel (listed above) or the Settlement Administrator (listed above). You may also ask Class Counsel to send you a copy of the Stipulation and Settlement Agreement. The pleadings and other records in this litigation may also be examined at the Office of the Clerk of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903. You must make an appointment to view documents at the Office of the Clerk. Additional information is also available through the Court's online system at <https://www.lacourt.org/>.

Please do not telephone the Court, the Office of the Clerk, or Defendants for information regarding this proposed Settlement.

EXHIBIT B

[CLASS MEMBER NAME and ADDRESS]

**[CLASS MEMBER NAME], PLEASE READ THIS NOTICE CAREFULLY.
IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

*This is **not** a solicitation from a lawyer. A court authorized this notice.*

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Juan Caamal vs. TRG CA Employment, Inc., et al.

Superior Court of The State of California, County of Marin Case No. CIV-2001374

If you are or were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC at any time between June 16, 2016 and September 15, 2022 (the "Settlement Class"), a proposed class action settlement may affect your rights and you may be entitled to money under the proposed Settlement.

You are **not** being sued. A court authorized this notice. This is **not** a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION
ABOUT YOUR RIGHTS.**

1. Why Did I Get This Notice?

The Court has granted preliminary approval of the Settlement of the class action brought on behalf of all individuals who were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC in the State of California at any time between June 16, 2016 and September 15, 2022.

You are receiving this Notice because Defendants' records show that you are in the proposed Settlement Class. This notice informs you about settlement of this pending lawsuit, that you may be a member of the Settlement Class, and that you have certain rights to object to the settlement.

2. What Is This Lawsuit About?

This Action was filed on June 16, 2020. Plaintiff Juan Caamal ("Plaintiff") alleges that TRG CA Employment, Inc. and Tiburon Lodge CA Hotel Manager, LLC ("Defendants" collectively the "Parties") engaged in unfair competition and failed to properly calculate and pay overtime and double time wages, failed to provide meal and rest periods or pay premiums at the correct rate, failed to provide accurate wage statements, failed to properly calculate and pay sick pay, and failed to timely pay final wages to him and other similarly situated employees. On September 23, 2020, Plaintiff filed his First Amended Complaint to include a representative Private Attorneys General Act ("PAGA") claim. On September 1, 2021, Plaintiff filed his Second Amended Complaint to add additional allegations regarding rest and meal periods. On October 22, 2022, Plaintiff filed a Third Amended Complaint to add a cause of action under Labor Code section 2802 (failure to reimburse for business expenses) as against Defendant Tiburon Lodge CA Hotel Manager, LLC only.

Plaintiff filed this Action in the Superior Court of The State of California, County of Marin Case No. CIV-2001374 (the "Action").

Defendants deny Plaintiff's claims and allegations and assert that they have complied with all of their legal obligations under the California Labor Code, PAGA, Cal. Bus. & Prof. Code section 17200, and other applicable laws.

This description of the case is general and does not cover all the issues of this case. This Notice is not an expression by the Court about the merits of the case. The Settlement is not an admission of any wrongdoing, and the Court has not made any findings of liability.

3. Has The Court Decided Who Is Right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendants' defenses.

4. Why Did This Case Settle?

The Parties in this action disagree as to the probable outcome of the action with respect to liability and damages if it were not settled. Although Plaintiff believe his claims and that of the Settlement Class have merit, Plaintiff recognizes that litigating is a risky proposition, and that they may not have prevailed on all or some of their claims. Likewise, while Defendants are confident that they have strong defenses to Plaintiff's and the Settlement Class' claims, they recognize the risks, distractions, and costs involved with litigation. The Parties engaged in direct settlement negotiations and, recognizing the risks and costs inherent in litigation, thereafter reached the proposed settlement of all the claims asserted in the lawsuit.

On [INSERT PRELIMINARY APPROVAL DATE], the Court granted preliminary approval of the proposed settlement, upon finding this proposed settlement is the result of good faith, arm's-length negotiations between the parties through their respective attorneys. The Court has expressed no opinion on the merits of Plaintiff's claims or Defendants' defenses.

5. What Are The Terms Of The Proposed Settlement And How Much Will I Receive?

Without admitting any fault or liability and in exchange for a release of all claims, Defendants have agreed to pay a total of \$185,000 to create a non-reversionary settlement fund ("Gross Settlement Amount"). The Gross Settlement Amount shall be available to pay each Settlement Class member who has not previously opted out; provided that a portion of the Gross Settlement Amount will be distributed to the PAGA Group (defined below) regardless of whether a Settlement Class Member opts out. Under the proposed settlement, the following amounts will be deducted from the Gross Settlement Amount before any payments are made to employees, subject to final approval by the Court:

- Attorneys' Fees – up to \$61,667
- Attorneys' Costs of Suit – up to \$10,000
- PAGA Payment – \$18,500 (\$13,875 of the \$18,500 Payment to the Labor & Workforce Development Agency; and \$4,625 of the \$18,500 in PAGA Penalties will be distributed separately to all PAGA Group Employees, as further explained below).
- Settlement Administration Expenses – up to \$9,000
- Service Award to Class Representative – \$5,000

After these deductions, \$#,###,### will be available for payment to the Settlement Class receiving this notice as the "Net Settlement Amount." Specifically, each Class Participant shall receive a credit of one

work week for each week worked between June 16, 2016 and September 15, 2022. The proposed method of allocation is fair and reasonable.

PAGA Group Employees¹ will receive an equal portion of the 25% of the PAGA Payment allocated to the PAGA Group Employees (i.e., \$4,625 of the \$18,500), on a pro rata basis. This Individual PAGA Payment shall be made to each and every PAGA Group Employee, including those who submit valid Requests for Exclusion/ Opt-Outs.

Final approval and a determination of attorneys' fees, attorneys' costs, PAGA penalties, settlement administration expenses, and a service award to the class representative are subject to a fairness hearing that will occur on **[INSERT FINAL APPROVAL HEARING DATE]** in Dept. ____ of the Marin County Superior Court, 3501 Civic Center Dr., San Rafael California 94903 on _____, 2023, at XX Pacific Time.

6. What Are Your Options?

As a member of the Settlement Class, you have several options available to you:

PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT	<u>YOU DO NOT NEED TO DO ANYTHING TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT.</u> By doing nothing, you <u>WILL</u> receive a share of the Settlement proceeds if the proposed Settlement is finally approved, and you will be covered by the release summarized in section 7 below and will therefore give up any rights you may otherwise have to sue Defendants separately regarding certain claims. Your estimated Individual Settlement Amount is [INSERT ESTIMATED INDIVIDUAL SETTLEMENT AMOUNT AS CLASS PARTICIPANT] based on Defendants' records that indicate you worked [INSERT WORK WEEK VALUE] weeks for Defendants between June 16, 2016 and September 15, 2022. It is important that if your address has changed, you give your current mailing address to the Settlement Administrator to ensure you receive your share of the Settlement proceeds if the proposed Settlement is finally approved.
ASK TO BE EXCLUDED (SUBMIT A VALID REQUEST FOR EXCLUSION/ OPT-OUT) FROM THE CLASS ACTION SETTLEMENT	If you timely request in writing to be excluded from the proposed Settlement, you <u>WILL NOT</u> receive a share of the Net Settlement Amount, and the settlement will not affect any rights you may otherwise have to sue Defendants separately about the same legal claims in this lawsuit, other than those claims brought under the Private Attorneys General Act (PAGA) for civil penalties. Section 9 below explains how

¹ "PAGA Group Employees" shall include and mean all individuals who or were employed by TRG CA Employment, Inc. or Tiburon Lodge CA Hotel Manager, LLC in the State of California during the PAGA Covered Period from July 20, 2019 through September 15, 2022.

	to request to be excluded from the settlement. Your written Request for Exclusion/ Opt-Out letter must be postmarked by _____, 2023. However, if you are a PAGA Group Employee, even if you request to be excluded from of the settlement, you will still receive your pro rata portion of the (\$18,500) PAGA Payment that will be distributed to the PAGA Group Employees. Your estimated Individual PAGA Payment is [INSERT ESTIMATED INDIVIDUAL PAGA PAYMENT].
OBJECT	You may object to the settlement if you did not ask to be excluded from the settlement. If you timely submit in writing an objection to the settlement and the settlement is nonetheless granted final approval, you <u>WILL</u> (i) receive a share of the settlement proceeds and (ii) release legal claims against Defendants. Your written notice of intent to object must be postmarked by _____, 2023. Note, however, that whereas you may object to the Class Action Settlement portion of the Settlement, you cannot object to the PAGA Portion of the Settlement.
DISPUTE YOUR SETTLEMENT AWARD	You may dispute Defendants' records of number of weeks worked during the Class Period by submitting information to the Settlement Administrator, XX not later than _____, 2023. XX shall make the final decision based on the information presented by you and Defendants.

7. What Rights Am I Giving Up?

As part of the settlement, Plaintiff and each member of the Settlement Class (excluding those who elect to exclude themselves from the class settlement) will fully release and discharge Defendants as well their respective past, present and future parents, subsidiaries and affiliates; the past, present and future partners, shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and any individual or entity which could be jointly liable with any of the foregoing (the "Release").

The Release covers any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including claims for: (a) failure to pay overtime wages in violation of Labor Code Section 510, 558, and 1194; (b) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and 226.3; (c) failure to pay final wages upon separation of employment in violation of Labor Code sections 201-203; (d) failure to provide timely, duty-free meal periods and/or pay required meal period premiums at the regular rate of pay in violation of Labor Code section 226.7 and 512; (e) failure to provide compliant rest periods and/or pay rest required period premiums at the regular rate of pay in violation of Labor Code section 226.7; (f) failure to pay wages timely during employment in violation of Labor Code sections 204 and 351; (g) failure to accurately pay sick pay in violation of Labor Code sections 233, 246, 246.5 and 248.5; (h) failure to reimburse

employees pursuant to Labor Code section 2802 (as to Tiburon Lodge CA Hotel Manager, LLC only); (i) any right or claim for damages, unpaid wages, statutory penalties, or civil penalties under the California Labor Code or Wage Orders based on the alleged failures set forth above in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; (j) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, et seq., based on the alleged failures set forth in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; (k) any violation of the California Labor Code arising from or related to the conduct alleged in in (a)-(k) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including violations of California Labor Code sections cited above in (a)-(i).

The Release does not include any claims for workers compensation, unemployment, or disability benefits of any nature, nor do they include any claims, actions, or causes of action which may be possessed by Settlement Class Members under state or federal anti-discrimination statutes, including, without limitation, the Cal. Fair Employment and Housing Act, the Cal. Government Code § 12940, et seq.; the Unruh Civil Rights Act, the Cal. Civil Code § 51, et seq.; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq.; the Fair Credit Reporting Act, the Investigative Consumer Reporting Agencies Act (ICRAA), and/or the Consumer Credit Reporting Agencies Act (CCRAA).

8. What Are PAGA Penalties?

PAGA Penalties: \$18,500 of the Gross Settlement Amount is allocated to alleged Private Attorneys General Act (PAGA) civil penalties (“PAGA Penalties”), subject to Court approval. By law, 75% of the PAGA Penalties (*i.e.*, \$13,875) will be paid to the California Labor & Workforce Development Agency and 25% of the PAGA Penalties (*i.e.*, \$4,625) will be distributed to the PAGA Group Employees. Under PAGA, the state of California deputizes private attorney generals, such as Plaintiff, to prosecute employers for alleged violations of the Labor Code and all employees are entitled to share in the 25% of the penalties that would otherwise be recoverable by the State if it directly prosecuted Defendants for the alleged Labor Code violations.

If this settlement is approved, and you are a PAGA Group Employee, you will receive a portion of the 25% of the PAGA Penalties allocated for distribution to the PAGA Group Employees on a pro rata basis based on your weeks worked during the PAGA Covered Period regardless of whether or not you otherwise submit a valid Request for Exclusion/ Opt-Out of the Settlement.

9. What If I Do Not Wish To Be Part Of The Proposed Settlement?

Anyone not wishing to participate in the class action portion of the proposed settlement may exclude himself or herself (“opt out”) by completing, signing and mailing a Request for Exclusion letter by **XXXX** to the Settlement Administrator as follows.

Settlement Administrator: XX INSERT INSERT INSERT	
---	--

If your Request for Exclusion is postmarked after **XXX**, it will be rejected, and you will be a Settlement Class member and be bound by the Settlement terms.

To be valid, any Request for Exclusion must state something similar to the effect that the Settlement Class member wishes to be excluded from the class settlement and contain the following additional information: (1) the name, employee identification number and/or last four digits of the employee's social security number for identification purposes; (2) a statement that the Settlement Class member wishes to be excluded from the class settlement such as "I wish to be excluded from the Settlement in *Caamal v. TRG CA Employment, Inc., et al.* pending in Marin County Superior Court. I understand that in asking to be excluded from the Settlement class, I will not receive any money as part of the settlement approved by the Court"; and (3) be postmarked by the **[INSERT RESPONSE DEADLINE <<forty-five (45) days>>]** and mailed to the Settlement Administrator at the address specified above.

Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Settlement Class member and will not receive payment as part of this proposed settlement, except for his or her pro rata share of the PAGA penalties, if they are a PAGA Group Employee, as outlined above in section 8. Such persons will keep any rights they may otherwise have to sue Defendants separately about the claims made in this lawsuit, other than those brought under PAGA for civil penalties.

10. What If I Have An Objection?

Any objection to the class action portion of the proposed Settlement must be in writing and mailed to the Settlement Administrator (identified above) by _____. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name; (2) be postmarked by the **[INSERT RESPONSE DEADLINE]** and mailed to the Settlement Administrator at the address specified above; and (3) should provide each specific reason in support of the objection. Class Members need not include legal arguments for their written objections to be considered.

11. Who Represents The Settlement Class?

The Court has appointed Plaintiff (Juan Caamal) as the class representatives and appointed the following Plaintiff's attorneys as Class Counsel:

ROBERT J. WASSERMAN JOHN P. BRISCOE MAYALL HURLEY P.C. 2453 Grand Canal Blvd. Stockton, California 95207-8253 Telephone: (209) 477-3833 Facsimile: (209) 473-4818

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, including to make any objections to the proposed settlement, you are free to hire one at your own expense.

12. What Happens Next In The Case?

The proposed settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 10B of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903 on _____, 2023, at XX Pacific Time, to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the settlement of the PAGA representative claim and also Class Counsel's request for attorneys' fees and costs, the costs of settlement administration, and the proposed service award. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing. Face masks and/or facial coverings may be required or mandatory at all times to enter any courthouse or courtroom and may be required to be worn covering the nose and mouth. Social distancing may be observed in the courthouse and courtroom in the event you elect to appear at the hearing. If a Class Member would like to arrange to appear by telephone or video conference, please contact Class Counsel and they will make efforts to facilitate that.

13. How Can I Receive More Information?

This Notice is a summary of the basic terms of the proposed settlement. For the precise terms and conditions of the proposed settlement, you may review the detailed "Stipulation of Settlement" on file with the Clerk of the Court as well as the pleadings and other records in this litigation at the Office of the Clerk of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903. You must make an appointment to view documents at the Office of the Clerk.

For further information, you may also call or email Class Counsel (listed above) or the Settlement Administrator (listed above). You may also ask Class Counsel to send you a copy of the Stipulation and Settlement Agreement. The pleadings and other records in this litigation may also be examined at the Office of the Clerk of the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, CA 94903. You must make an appointment to view documents at the Office of the Clerk. Additional information is also available through the Court's online system at <https://www.lacourt.org/>.

Please do not telephone the Court, the Office of the Clerk, or Defendants for information regarding this proposed Settlement.

EXHIBIT C

LAW OFFICES
MAYALL HURLEY
A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253
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NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

June 9, 2020

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

TRG CA Employment, Inc.
812 Gravier # 200
New Orleans, LA 70112

Tiburon Lodge CA Hotel Manager, LLC
1140 Reservoir Ave.
Cranston, RI 02920

Re: Juan Caamal

To whom it may concern:

This firm represents Juan Caamal ("Caamal") in relation to his former, joint employment with TRG CA Employment, Inc. and Tiburon Lodge CA Hotel Manager, LLC ("Employers"). In accordance with California Labor Code section 2699.3, this letter shall serve as Mr. Caamal's written notice to the Labor and Workforce Development Agency ("LWDA") and Employers regarding the following violations, and facts and theories supporting those violations, on Mr. Caamal's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Employers.

Caamal was hired by TRG CA Employment, Inc. in or around 2010 to work at the Lodge at Tiburon (in Tiburon, California) as a Banquet Server. On information and belief, on or around January 1, 2020 TRG CA Employment, Inc. ceased to be Caamal's employer, and Tiburon Lodge CA Hotel Manager, LLC became his employer. Throughout the relevant time period, Employers regularly hosted weddings, banquets, and other catered events at the hotel known as the Lodge at Tiburon, where Caamal and other nonexempt employees, including but not limited to Banquet Servers, worked.

Employers employed a uniform policy and practice of charging a mandatory 21 percent "Banquet Service Charge" to customers for food, beverage, and rental items on top of the base charges incurred for each such event. (See, e.g., **Exhibit A.**) A portion, but not all of this charge is

Labor and Workforce Development Agency
TRG CA Employment, Inc.
Tiburon Lodge CA Hotel Manager, LLC
Re: Juan Caamal
June 9, 2020
Page 2 of 5

subsequently distributed to Banquet Servers and other nonexempt employees of Employers. Caamal was told by General Manager of the Lodge at Tiburon, Sietse Nabben (“Nabben”) that Employers retained 20 percent of the Banquet Service Charges and distributed the remainder among the Banquet Servers, including Caamal.

At some point in his employment but believed to be in 2011, Caamal was called to the General Manager’s office. Present was Nabben, and also Henry Cornejo and Gerson Pineda (both Banquet Servers). Nabben told the men that a new Banquet Manager had been hired, and that the distribution of the Banquet Service Charges was going to change: Going forward, 11 percent would go to the Banquet Manager, 69 percent would go to the Banquet Servers, and Employers would continue to receive 20 percent.

Caamal and the other Banquet Servers did not receive any cash or charged tips or gratuities from customers. Furthermore, customers at the Lodge at Tiburon were told by Employers not to pay any additional gratuities to Caamal and the other Banquet Servers. The Food and Beverage Director at the Lodge at Tiburon, Sauline Gulbinene (“Gulbinene”), so instructed the customers, telling them that these employees were already receiving the Banquet Service Charges and that “they get enough”. Similarly, Caamal and other Banquet Servers were instructed that the Banquet Service Charges were their only “gratuities” and that they were not to accept any additional payments from customers. They were told this by Jim Gerney (Hotel Regional General Manager), Gulbinene, and other managers. Caamal is informed and believes and thereon alleges that the customers at the Lodge at Tiburon intended that the Banquet Service Charges go in full to Caamal and the other nonexempt employees as tips or gratuities.

While the aforementioned charges to customers were described in the Banquet Event Orders as “Banquet Service Charges,” they were referenced in Caamal’s wage statements as gratuities or tips. (See, e.g., **Exhibit B**.) If these Banquet Service Charges were not truly service charges, but were mandated tips or gratuities, then Employers violated Labor Code section 351 because they kept a portion of these payments and did not distribute 100 percent of them to Caamal and the other nonexempt employees. (See *O’Grady v. Merchant Exchange Products, Inc.* (2019) 41 Cal.App.5th 771.)

Alternatively, if the portion of the Banquet Service Charges that were paid to the other nonexempt employees were not gratuities or tips, then they constituted nondiscretionary bonuses or “other items of compensation” and, accordingly, during the applicable statutory period, Employers failed to properly calculate and pay the overtime wages owed to Caamal and other nonexempt employees. Specifically, and if the Banquet Service Charges were not gratuities or tips, Employers failed to properly calculate their nonexempt California employees’ regular rate of pay for purposes of overtime pay by failing to include the value of the portion of the Banquet Service Charges distributed to Caamal and other nonexempt employees when calculating the regular rate of pay for purposes of overtime pay. Instead, Employers paid Caamal and its other nonexempt employees at a lesser rate. Consequently, and if the Banquet Service Charges were not tips or gratuities, then Caamal and all of

Labor and Workforce Development Agency
TRG CA Employment, Inc.
Tiburon Lodge CA Hotel Manager, LLC
Re: Juan Caamal
June 9, 2020
Page 3 of 5

Employers' other nonexempt employees who worked overtime and received some of the Banquet Service Charges were not adequately paid for all of the overtime they worked.

Caamal is informed and believes and thereon alleges that other nonexempt employees of Employers in California, including but not limited to waiters and bartenders, similarly received nondiscretionary bonuses and other items of compensation, including but not limited to portions of service charges. Caamal is informed and believes, and thereon alleges, that these employees did not receive any cash or charged tips, they were instructed by Employers not to accept any such gratuities or tips, and that customers were advised that they did not need to pay additional tips or gratuities to these other nonexempt employees because they received adequate gratuities through mandated service charges. However, Caamal is informed and believes and thereon alleges that these other nonexempt employees were also not paid earned overtime wages at their "regular rate of pay" since Employers did not factor into that rate the value of earned nondiscretionary bonuses and other items of compensation, including but not limited to portions of service charges.

Alternatively, if service charges paid to other nonexempt employees of Employers in California did not constitute nondiscretionary bonuses or other items of compensation, but were in fact tips or gratuities, then Employers similarly and impermissibly retained portions of those tips or gratuities in violation of Labor Code section 351.

If the service charges, a portion of which were paid to Caamal and other nonexempt employees of Employers in California, were not gratuities but constituted nondiscretionary bonuses or other items of compensation, and as such was not incorporated into the employees' regular rate of pay for overtime purposes, then, as evidenced in the sample of Caamal's wage statement attached hereto as **Exhibit A**, the wage statements furnished by Employers to its nonexempt California employees violate California Labor Code section 226(a) insofar as they fail to accurately show:

- a. The gross wages earned, in violation of section 226(a)(1);
- b. The net wages earned, in violation of section 226(a)(5); and
- c. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of section 226(a)(9).

Irrespective as to whether the service charges were tips or gratuities, the itemized wage statements issued to Caamal and other nonexempt California employees failed to accurately show the information required by Labor Code section 226, subdivisions (a)(1) and (5) because, as set forth below, such persons were not paid premium pay (i.e., wages) for each rest and meal period that was not provided in accordance with Labor Code section 512 and applicable Wage Order(s) of the Industrial Welfare Commission.

Caamal was not provided with all of the rest and meal breaks to which he was entitled. Despite frequently working shifts of eight hours or more, and due to the high volume and intense nature of his work, Caamal was frequently denied the opportunity to take a thirty-minute meal period

Labor and Workforce Development Agency
TRG CA Employment, Inc.
Tiburon Lodge CA Hotel Manager, LLC
Re: Juan Caamal
June 9, 2020
Page 4 of 5

for every five hours worked. Similarly, Caamal was *never* provided with the opportunity to take a ten-minute rest period for every four hours worked. Caamal was not paid an hour's worth of pay at his regular rate of compensation for every rest and meal period that was not provided in accordance with California law.

Furthermore, during the applicable statutory period, Employers failed and continue to fail to pay sick time at employees' regular rate of pay as required by law. When Caamal and other nonexempt employees took paid sick leave, Employers paid this sick leave at exactly that employee's base rate of pay, without accounting for the value of earned nondiscretionary bonuses and other items of compensation. Similarly, Plaintiff and all of Employers' other nonexempt employees who took paid sick leave and/or received non-discretionary bonuses, commissions, and/or other items of compensation aside from their base hourly rate, were not adequately paid for their sick leave.

Because Caamal and other employees were not properly paid their overtime, sick leave, and rest and meal period premiums, *supra*, they were not timely paid all wages due following the close of each pay period.

Caamal's employment with Employers ended on March 20, 2020. To date, he has not been paid all wages due and owing, including but not limited to the full value of rest and meal break premiums and the full value of unpaid overtime. During the relevant time period, other nonexempt California employees left their employ with Employers but were not adequately paid all wages due and owing upon cessation of employment.

As set forth above, Employers committed the following violations of the Labor Code as against their employees in California, and within the last year:

1. Impermissible taking of tips, in violation of Labor Code section 351;
2. Failure to properly calculate and pay overtime wages, in violation of Labor Code section 510;
3. Failure to provide compliant rest and meal periods or pay premiums, in violation of Labor Code sections 226.7 and 512;
4. Failure to issue accurate itemized wage statements, in violation of Labor Code section 226, subdivision (a);
5. Failure to properly calculate and pay sick leave, in violation of Labor Code sections 233 and 246, *et al.*;
6. Failure to pay all wages due and owing upon separation of employment, in violation of Labor Code sections 201 and 202; and
7. Failure to timely pay all wages due and owing per pay period, in violation of Labor Code section 204.

Labor and Workforce Development Agency
TRG CA Employment, Inc.
Tiburon Lodge CA Hotel Manager, LLC
Re: Juan Caamal
June 9, 2020
Page 5 of 5

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Mr. Caamal intends to file a civil complaint against Employers pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE

Enclosures (2)

Exhibit 1

The Lodge at Tiburon

1651 Tiburon Boulevard Tiburon, CA USA 94920
Phone: 415-435-3133 - Fax: 415-435-2451

BEO #: 8395

Page: 1 of 2

Printed: 2/1/2017

Banquet Event Order

Account: [REDACTED]	Event Date: Wednesday, February 1, 2017
Post As: [REDACTED]	Contact: [REDACTED]
Address: [REDACTED]	Phone: [REDACTED]
	Fax: [REDACTED]
	OnSite Contact: [REDACTED]
Deposit: [REDACTED]	Booked By: [REDACTED]
Payment: [REDACTED]	Service Mgr: [REDACTED]

Please confirm your final guaranteed number of attendees at least three (3) business days prior to event. If the final guarantees are not received within the specified time, your expected attendance will serve as the final guarantee.

Time	Room	Function	Setup	AGR	GTD	SET	Rental
7:30 AM - 8:30 AM	Main Sail Ballroom	Breakfast	Classroom	45	45	45	
8:30 AM - 5:00 PM	Main Sail Ballroom	Meeting	Classroom	45	45	45	\$500.00
12:00 PM - 1:00 PM	Main Sail Ballroom	Lunch	Classroom	45	45	45	
3:00 PM - 3:30 PM	Main Sail Ballroom	MuleSoft	Classroom	45	45	45	

FOOD	BEVERAGE
Serve: 7:30 AM to 8:30 AM Continental Breakfast for 45ppl Sliced Seasonal Fresh Fruit Fresh Bagels & Cream Cheese Seasonal Muffins Orange and Grapefruit Juice Fresh Brewed Gourmet Coffee, Decaffeinated Coffee & Assorted Teas \$25.00 Per Person Serve: 12:00 PM to 1:00 PM Boxed Lunch for 45ppl 18 BLT - Nitrate-Free Applewood Smoked Bacon, Tomato, Lettuce, Avocado Aioli on Sourdough 18 Tri-Tip - Tomato, Onion, Watercress, Blue Cheese, Horseradish Aioli on Foccacia Potato Chips One Piece of Whole Fresh Fruit Cookie One Bottle of Water	SET UP Event: 7:30 AM to 8:30 AM Room: Main Sail Ballroom Set Breakfast in the back of the room Event: 8:30 AM to 5:00 PM Room: Main Sail Ballroom Classroom style for 45ppl Notepads, Pens & Glasses Infused Water Pitchers Event: 12:00 PM to 1:00 PM Room: Main Sail Ballroom Set Lunch in the back of the room Event: 3:00 PM to 3:30 PM Room: Main Sail Ballroom Set Break in the back of the room

All charges are subject to a 21% Banquet Service Charge and 8.5% CA tax. If these arrangements meet with your approval, kindly sign and fax to (415) 435-2451 to confirm them.

Any changes requested after the meeting room has been set, in accordance with the Banquet Event Orders, will be subject to a labor fee of \$150.00.

Organization Authorized Signature

Date

Hotel Representative Signature

Date

Exhibit 2

CO	FILE	DEPT	CLOCK	VCHR. NO.	030
NOC	020013	202054		0000060028	1

TRG CA EMPLOYMENT INC
801 BRIDGEWAY
SAUSALITO, CA 94965

Earnings Statement



Period Beginning: 01/21/2019
Period Ending: 02/03/2019
Pay Date: 02/08/2019

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 3
CA: 3

JUAN CAAMAL

Social Security Number: [REDACTED]

Earnings	rate	hours	this period	year to date
Regular	12.0000	60.72	728.64	1,497.26
Overtime	18.0000	8.20	147.60	213.20
Overtime	19.1200	.50	9.56	
Banqt Chg Tip			1,722.77	3,405.81
Gratuity			50.00	50.00
Paid Lunch	12.0000	3.00	36.00	60.00
Ee Referral				500.00
Retro Pay				3.22
Gross Pay			\$2,694.57	5,729.49

Your federal taxable wages this period are
\$2,694.57

Other Benefits and Information	this period	total to date
Pto Bal	97.29	
Sick Bal	48.00	

Deductions	Statutory	
	Federal Income Tax	-294.77
	Social Security Tax	-167.06
	Medicare Tax	-39.07
	CA State Income Tax	-127.15
	CA SUI/SDI Tax	-26.94
	Other	
	Tips	-1,722.77
	Adjustment	
	Banqt Chg Tips	+1,722.77
	Net Pay	\$2,039.58
	Checking	-2,039.58
	Net Check	\$0.00

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TRG CA EMPLOYMENT INC
801 BRIDGEWAY
SAUSALITO, CA 94965

Advice number: 0000060028
Pay date: 02/08/2019

Deposited to the account of	account number	transit ABA	amount
JUAN CAAMAL	[REDACTED]	XXXX XXXX	\$2,039.58

THIS IS NOT A CHECK

NON-NEGOTIABLE

EXHIBIT D

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253
FAX (209) 473-4818
TELEPHONE (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

August 10, 2021

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

TRG CA Employment, Inc.
812 Gravier # 200
New Orleans, LA 70112

Tiburon Lodge CA Hotel Manager, LLC
1140 Reservoir Ave.
Cranston, RI 02920

Re: Juan Caamal
LWDA Case No. LWDA-CM-792874-20
Marin County Superior Court Case No. CIV-2001374

To whom it may concern:

As previously disclosed in my letter of June 9, 2020 (which is incorporated by reference, in full, as though fully set forth herein), this firm represents Juan Caamal ("Caamal") in relation to his former, joint employment with TRG CA Employment, Inc. and Tiburon Lodge CA Hotel Manager, LLC ("Employers"). In accordance with California Labor Code section 2699.3, and in light of new case law governing the payment of premiums for denied meal and rest periods, this letter shall serve as Caamal's *further* written notice to the Labor and Workforce Development Agency ("LWDA") and Employers regarding the following violations, and facts and theories supporting those violations, on Caamal's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Employers.

As set forth in my prior letter, Caamal and other California employees of Employers were routinely paid a portion of "Banquet Service Charges" which were paid by customers for food, beverage, and rental items. Again, and to the extent that these payments to employees did not constitute tips or gratuities, then they constituted nondiscretionary bonuses or other items of compensation.

Labor and Workforce Development Agency
TRG CA Employment, Inc.
Tiburon Lodge CA Hotel Manager, LLC
Re: Juan Caamal
August 10, 2021
Page 2 of 2

As also alleged previously, Caamal was not provided with all of the rest and meal periods to which he was entitled, and he was not paid an hour of pay at his "regular rate of compensation" for every rest and meal period which was not authorized and permitted in accordance with the Labor Code and applicable Wage Orders of the Industrial Welfare Commission. To the extent that Caamal and other employees were paid premiums for missed rest or meal breaks, Employers did not pay those premiums at the employees' "regular rate of compensation", accounting for the value of earned nondiscretionary bonuses and other items of compensation, *supra*. (**Exhibits C and D**; see also *Ferra v. Loews Hollywood Hotel, LLC* (July 15, 2021, S259172) __ Cal.5th __.) Rather, Employers paid rest and meal periods only at the employees' base hourly rate. Accordingly, Employers violated Labor Code sections 226.7 and 512.

In addition to the other reasons as set forth in my prior correspondence, by failing to pay the full value of earned rest and meal period premiums, Employers failed to pay all wages due and owing per pay period (in violation of Labor Code section 204), and also upon cessation of employment (in violation of Labor Code sections 201 and 202).

The foregoing violations of the Labor Code, and each of them, were committed as against other California employees of Employers, current and former, and within the last year and beyond.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Caamal will pursue civil penalties for, *inter alia*, the aforementioned Labor Code violations in his pending civil action against Employers, pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

Enclosures (2)

CC: Mollie M. Burks, Geneva A. Collins, Alicia C. Anderson, Andrea Chavez, Hillary J. Baca
(via email)

Exhibit C

CO	FILE	DEPT	CLOCK	VCHR. NO	030
N0C	020013	202054		0000060028	1

Earnings Statement



TRG CA EMPLOYMENT INC
801 BRIDGEWAY
SAUSALITO, CA 94965

Period Beginning: 01/21/2019
Period Ending: 02/03/2019
Pay Date: 02/08/2019

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 3
CA: 3

JUAN CAAMAL

Social Security Number: XXX-XX-

Earnings	rate	hours	this period	year to date
Regular	12.0000	60.72	728.64	1,497.26
Overtime	18.0000	8.20	147.60	213.20
Overtime	19.1200	.50	9.56	
Banqt Chg Tip			1,722.77	3,405.81
Gratuity			50.00	50.00
Paid Lunch	12.0000	3.00	36.00	60.00
Ee Referral				500.00
Retro Pay				3.22
Gross Pay			\$2,694.57	5,729.49

Your federal taxable wages this period are
\$2,694.57

Other Benefits and Information

	this period	total to date
Pto Bal	97.29	
Sick Bal	48.00	

Deductions	Statutory	
	Federal Income Tax	-294.77 648.13
	Social Security Tax	-167.06 355.23
	Medicare Tax	-39.07 83.08
	CA State Income Tax	-127.15 281.54
	CA SUI/SDI Tax	-26.94 57.29
Other		
	Tips	-1,722.77 3,405.81
Adjustment		
	Banqt Chg Tips	+1,722.77
Net Pay		\$2,039.58
	Checking	-2,039.58
Net Check		\$0.00

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TRG CA EMPLOYMENT INC
801 BRIDGEWAY
SAUSALITO, CA 94965

Advice number: 00000060028
Pay date: 02/08/2019

Deposited to the account of	account number	transit	ABA	amount
JUAN CAAMAL	xxxxxx5675	xxxx	xxxx	\$2,039.58

THIS IS NOT A CHECK

NON-NEGOTIABLE

Exhibit D

Pay Statement

This is a statement of earnings and deductions. This pay statement is non-negotiable.

Pay Period: 07/01/2020 - 07/15/2020
Pay Date: 07/15/2020
Payroll Period: 07/01/2020 - 07/15/2020

Pay Statement
Payroll Period: 07/01/2020 - 07/15/2020
Pay Date: 07/15/2020
Payroll Period: 07/01/2020 - 07/15/2020
Payroll Period: 07/01/2020 - 07/15/2020

Pay Details

Juan Caamal	Employee Number	00000001	Pay Group	00000001	Payroll Period	07/01/2020 - 07/15/2020
	SSN	000-00-0000	Payroll Period	07/01/2020 - 07/15/2020	CA State Income Tax	0.00
	Job	00000001	Payroll Period	07/01/2020 - 07/15/2020	CA State Income Tax	0.00
	Pay Rate	\$20.00	Payroll Period	07/01/2020 - 07/15/2020	CA State Income Tax	0.00
	Pay Amount	\$400.00	Payroll Period	07/01/2020 - 07/15/2020	CA State Income Tax	0.00

Earnings

Pay Type	Job	Hours	Pay Rate	Current	YTD
Regular Pay	00000001	20.00	\$20.00	\$400.00	\$400.00
Overtime Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00
Travel Pay	00000001	0.00	\$20.00	\$0.00	\$0.00

Deductions

Deduction	Pre-Tax	Employee	Current	YTD
Health Insurance	0.00	0.00	\$0.00	\$0.00
Medical Insurance	0.00	0.00	\$0.00	\$0.00
Dental Insurance	0.00	0.00	\$0.00	\$0.00
Taxes				
CA State Income Tax	0.00	0.00	\$0.00	\$0.00
CA State Income Tax	0.00	0.00	\$0.00	\$0.00
Employer's Share	0.00	0.00	\$0.00	\$0.00
Employer's Share	0.00	0.00	\$0.00	\$0.00
Employer's Share	0.00	0.00	\$0.00	\$0.00

Total Pay: \$400.00

Paid Time Off

Plan	Current	Balance	Account Number	Account Type	Amount
00000001	\$0.00	\$0.00	00000001	00000001	\$0.00

Pay Summary

	Gross	Net Payable	Net Pay	Net Pay	Net Pay
Current	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
YTD	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00

Originally printed in English

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MAYALL, HURLEY
A PROFESSIONAL CORPORATION
2453 GRAND CANAL BOULEVARD
SECOND FLOOR
STOCKTON, CALIFORNIA 95207-8253



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02 4W
0000369527 AUG 10 2021

TRG CA Employment, Inc.
812 Gravier # 200
New Orleans, LA 70112

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MAYALL, HURLEY
A PROFESSIONAL CORPORATION
2453 GRAND CANAL BOULEVARD
SECOND FLOOR
STOCKTON, CALIFORNIA 95207-8253



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Pitney Bowes



U.S. POSTAGE >> PITNEY BOWES



ZIP 95207 \$ 006.06⁰
02 4W
0000369527 AUG 10 2021

Tiburon Lodge CA Hotel Manager, LLC
1140 Reservoir Ave.
Cranston, RI 02920

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 S. Church Street, Lodi, California 95240 that is located in the county where the mailing and/or delivery below took place.

On June 20, 2023, I served the following document:

**DECLARATION OF JOHN P. BRISCOE IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

addressed to:

Hillary J. Baca
Andrea Chavez
Alex Pinto
Nixon Peabody
One Embarcadero Center, 32nd Floor
San Francisco, CA 94111
hbaca@nixonpeaody.com
andrea.chavez@nixonpeabody.com
apinto@nixonpeabody.com
*Attorneys for Defendant Tiburon Lodge CA Hotel
Manager, LLC*

Mollie M. Burks
Sat Sang Khalsa
Gordon Rees Scully Mansukhani, LLP
1111 Broadway, Suite 1700
Oakland, CA 94607
mburks@grsm.com
skhalsa@grsm.com
mJamie Olvera: jolvera@grsm.com
*Attorneys for Defendant TRG CA
Employment, Inc.*

☐ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☒ **BY EMAIL:** In accordance with Code of Civil Procedure, Section 1010.6, on the date specified below, I caused a copy of the document(s) described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is lriley@mayallaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 20, 2023, at Lodi, California.


LINDSAY RILEY SHIELDS