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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—STANLEY MOSK COURTHOUSE**

MARCIO RIBEIRO individually, and on behalf
of other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

B.W. HOTEL, LLC, an unknown business entity;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21STCV01299

Honorable Daniel S. Murphy
Department 32

**[PROPOSED] ORDER AND JUDGMENT
GRANTING APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL. LAB.
CODE § 2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS, SERVICE
AWARD, AND SETTLEMENT
ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor Code §
2698, *Et Seq.*) Settlement Agreement and Award of
Attorneys' Fees and Costs, Service Award, and
Settlement Administration Costs; Declaration of
Plaintiff's Counsel (Edwin Aiwazian); and
Declaration of Plaintiff (Marcio Ribeiro) filed
concurrently herewith]

Reservation ID: 582948867182
Date: October 3, 2022
Time: 8:30 a.m.
Department: 32

Complaint Filed: January 12, 2021
Trial Date: None Set

1 This matter has come before the Honorable Daniel S. Murphy in Department 32 of the Superior
2 Court of the State of California, for the County of Los Angeles – Stanley Mosk Courthouse, on October 3,
3 2022 at 8:30 a.m., on Plaintiff Marcio Ribeiro’s (“Plaintiff”) Motion for Approval of Private Attorneys
4 General Act (Cal. Labor Code § 2698, *Et Seq.*) Settlement Agreement and Award of Attorneys’ Fees and
5 Costs, Service Award, and Settlement Administration Costs (“Motion for Approval of Settlement”).
6 Lawyers *for* Justice, PC appeared for Plaintiff and Fox Rothschild LLP appeared for Defendant B.W. Hotel,
7 LLC (“Defendant”).

8 On June 6, 2022, Plaintiff and Defendant (together, the “Parties”) executed the Private Attorney
9 General Act Settlement Agreement and Release (“Settlement,” “Settlement Agreement,” or “Agreement”).

10 The Court has reviewed and considered (1) the Motion for Approval of Settlement, (2) the
11 Declarations of Plaintiff’s Counsel Edwin Aiwazian and Plaintiff Marcio Ribeiro, and (3) the Settlement
12 Agreement.

13 Having duly considered the Parties’ papers and oral argument, and good cause appearing,

14 **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

- 15 1. The Motion for Approval of Settlement is granted.
- 16 2. All terms used herein shall have the same meaning defined in the Settlement Agreement.
- 17 3. The Court finds that Plaintiff has satisfied the prerequisites under the California Private
18 Attorneys General Act (Cal. Labor Code § 2698, *et seq.*) (“PAGA”), including, and not limited to, providing
19 the California Labor and Workforce Development Agency (“LWDA”) and Defendant with notice of the
20 specific provisions of the California Labor Code alleged to have been violated, including, and not limited
21 to, the facts and theories to support the alleged violations, in conformity with California Labor Code §
22 2699.3(a).
- 23 4. The Court also finds that the Settlement Agreement has been submitted to the LWDA in
24 conformity with California Labor Code § 2699(l)(2) and that the LWDA has not sought to intervene or
25 appear in the above-captioned action (“Action”).
- 26 5. The aggrieved employees covered under the Settlement consist of the following individuals:
27 All current and former hourly-paid or non-exempt employees who have worked for Defendant
28 at the Beverly Wilshire Hotel in California during the PAGA Period (“Aggrieved Employees”).

1 6. The Court finds that the Parties reached the Settlement as a result of arm's-length
2 negotiations.

3 7. Pursuant to California Labor Code § 2699(l)(2), the Court has reviewed the sum allocated
4 for payment of penalties under PAGA ("Net Settlement Amount"), and determines that it is fair, just,
5 reasonable, and adequate. The Court hereby approves the Net Settlement Amount. The Net Settlement
6 Amount shall be the Gross Settlement Amount (\$470,000.00) less the approved Attorneys' Fees and Costs
7 to Lawyers *for* Justice, PC ("Plaintiff's Counsel"), Service Award to Plaintiff, and Settlement
8 Administration Costs to Phoenix Settlement Administrators (the "PAGA Settlement Administrator").
9 Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA ("LWDA
10 Payment") and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the
11 Aggrieved Employees ("Employees' Portion") in accordance with this Order and Judgment and the
12 Settlement Agreement.

13 8. The Court has considered the Settlement, and the monetary allocations provided thereby, and
14 finds that they are fair, just, reasonable, and adequate. The Court hereby directs the PAGA Settlement
15 Administrator to administer the Settlement and to make the payments as provided for by, and consistent
16 with, this Order and Judgment and the Settlement Agreement.

17 9. The Court approves the payment of \$114,000.00 to Lawyers *for* Justice, PC for attorneys'
18 fees. This amount shall be paid from the Gross Settlement Amount and shall be disbursed in accordance
19 with this Order and Judgment and the Settlement Agreement.

20 10. The Court approves the payment of \$15,226.03 to Lawyers *for* Justice, PC for reimbursement
21 of litigation costs and expenses incurred in the Action. This amount shall be paid from the Gross Settlement
22 Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

23 11. The Court approves payment in the amount of \$7,500.00 to Plaintiff Marcio Ribeiro for his
24 Service Award. This amount shall be paid from the Gross Settlement Amount and shall be disbursed in
25 accordance with this Order and Judgment and the Settlement Agreement.

26 12. The Court approves payment up to the amount of \$8,500.00 to Phoenix Settlement
27 Administrators for the Settlement Administration Costs. This amount shall be paid from the Gross
28

Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

13. The Parties are directed to perform in accordance with the terms set forth in this Order and Judgment and the Settlement Agreement.

14. The Court further finds that notice of the Settlement need not be provided to the Aggrieved Employees; however, the Court approves the Cover Letter, attached hereto as “**EXHIBIT 1**,” and the PAGA Settlement Administrator shall distribute the Cover Letter to the Aggrieved Employees at the same time that it distributes their share of the Employees’ Portion (“Individual Settlement Share”).

15. Within fourteen (14) calendar days of the Court’s order granting approval of the Settlement (“Effective Date”), Defendant shall transmit the Gross Settlement Amount into a qualified settlement account established by the PAGA Settlement Administrator for administration of the Settlement.

16. No later than ten (10) calendar days after the Court’s order granting approval of the Settlement, Defendant shall provide the PAGA Settlement Administrator with the Aggrieved Employees List, in accordance with this Order and Judgment and the Settlement Agreement. The PAGA Settlement Administrator shall distribute the Individual Settlement Share checks to Aggrieved Employees, LWDA Payment to the LWDA, Service Award to Plaintiff, and Attorneys’ Fees and Costs to Plaintiff’s Counsel, and payment to itself for the Settlement Administration Costs, as provided for by this Order and Judgment and the Settlement Agreement, no later than fourteen (14) calendar days after the PAGA Settlement Administrator’s receipt of the Gross Settlement Amount.

17. All Individual Settlement Share checks that are issued to Aggrieved Employees shall be valid for ninety (90) calendar days after the checks are initially mailed to the Aggrieved Employees, and thereafter, shall be cancelled. Any funds associated with such cancelled checks shall be transmitted to the State Controller’s Office Unclaimed Property Division in the name of the Aggrieved Employees(s) at issue and in the amount of his or her respective Individual Settlement Share(s).

18. Aggrieved Employees shall not have the right to opt out of or object to the Settlement. Upon the Effective Date, Plaintiff and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged the Released Parties from the Released Claims.

1 19. “Released Parties” means Defendant and its past, present, and future parent corporations,
2 affiliates, predecessors, successors, joint employers, and hotel management consultants (including but not
3 limited to FSR International Hotels Inc.), and each of the foregoing entities’ respective principles, current and
4 former employees, attorneys, officers, directors, shareholders, licensors, insurers, managers, partners,
5 members, agents, and assigns, both individually and in their business capacities, and their employee benefit
6 plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

7 20. “Released Claims” means any and all claims, based on the factual allegations in the Operative
8 Complaint arising from Aggrieved Employees’ work at the Beverly Wilshire Hotel during the period
9 November 6, 2019 up to and including the date of Court Approval, for civil penalties under California Labor
10 Code section 2698, *et seq.* (PAGA) as well as any interest, fees, and costs available under PAGA, including
11 but not limited to, for failure to pay minimum wage, regular wages, and overtime wages at the correct rate,
12 failure to provide compliant meal periods and associated premiums at the correct rate, failure to provide
13 compliant rest periods and associated premiums at the correct rate, failure to timely pay wages during
14 employment, failure to timely pay wages upon termination and/or furlough, failure to provide compliant and
15 accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse
16 necessary business-related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 204,
17 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial
18 Welfare Commission Wage Orders, including *inter alia*, Wage Order 5-2001.

19 21. “PAGA Period” means the period November 6, 2019 through Court approval of the
20 Settlement.

21 22. No individualized notice of this Order and Judgment is required to be provided to the
22 Aggrieved Employees. This Order and Judgment shall be submitted to the LWDA through the online system
23 established for the filing of notices and documents, in conformity with California Labor Code § 2699(1)(3).
24

25 Date: _____

Honorable Daniel S. Murphy
Judge of the Los Angeles Superior Court

EXHIBIT 1

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Ribeiro vs. B.W. Hotel, LLC*, Los Angeles Superior Court Case No. 21STCV01299

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Share”). This check is your payment from the settlement in the lawsuit entitled *Marcio Ribeiro vs. B.W. Hotel, LLC*, Los Angeles Superior Court Case No. 21STCV01299 (“Action”).

The lawsuit was filed by Marcio Ribeiro (“Plaintiff”) against his former employer, on behalf of the State of California, with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Defendant denies these allegations, denies that any of its employees were improperly paid in any way, and denies any wrongdoing of any kind associated with these allegations. Defendant is resolving the Action to avoid the uncertainties and costs of litigation.

A settlement was reached between Plaintiff and Defendant B.W. Hotel, LLC (“Defendant”).

On <<Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California Labor and Workforce Development Agency and a portion to be paid to all current and former hourly-paid or non-exempt employees who have worked for Defendant in California during the period from November 6, 2019 through <<Date>> (“Aggrieved Employees”). The period November 6, 2019 through <<Date>> is the “PAGA Period”.

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods that you were paid by Defendant for working hours at the Beverly Wilshire Hotel in California during the PAGA Period. The Individual Settlement Share is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement, and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<Effective Date, i.e., the date that is fourteen (14) calendar days of the Court’s order granting approval of the Settlement>>, the Released Parties are (or will be) fully released and forever discharged from any and all Released Claims.

“Released Parties” means Defendant and its past, present, and future parent corporations, affiliates, predecessors, successors, joint employers, and hotel management consultants (including but not limited to FSR International Hotels Inc.), and each of the foregoing entities’ respective principals, current and former employees, attorneys, officers, directors, shareholders, licensors, insurers, managers, partners, members, agents, and assigns, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs.

“Released Claims” means all claims, based on the factual allegations in the Operative Complaint arising from Aggrieved Employees’ work at the Beverly Wilshire Hotel during the period November 6, 2019 up to and including the date of Court Approval, for civil penalties under California Labor Code section 2698, *et seq.* (PAGA) as well as any interest, fees, and costs available under PAGA, for failure to pay minimum wage, regular wages, and overtime wages at the correct rate, failure to provide compliant meal periods and associated premiums at the correct rate, failure to provide compliant rest periods and associated premiums at the correct rate, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 5-2001.

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be cancelled, and the funds associated with the cancelled check will be transmitted to the State Controller’s Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant’s counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [PAGA Settlement Administrator] at [toll-free phone number].