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MR. C MANAGER, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CRISTINA CATALANO, as an individual on
behalf of herself and on behalf of all others
similarly situated,

Plaintiff,

v.

BEVERLY HILLS HOTEL MANAGEMENT
LLC, a Delaware limited liability company; MR.
C MANAGER, LLC, a New York limited liability
company; BHR TRS BEVERLY HILLS LLC, a
Delaware limited liability company; BRAEMAR
HOTELS & RESORTS, INC., a Maryland
corporation; REMINGTON LODGING &
HOSPITALITY, LLC, a Delaware limited
liability company; ASHFORD TRS BEVERLY
HILLS LLC, a Delaware limited liability
company; and DOES 1-100, inclusive,

Defendants.

Case No. 22STCV18139
(Related to Case No. 22STCV26949)

**JOINT STIPULATION AND
SETTLEMENT AGREEMENT OF
CLASS ACTION AND
REPRESENTATIVE ACTION CLAIMS**

ASSIGNED FOR ALL PURPOSES TO
JUDGE WILLIAM F. HIGHBERGER,
DEPT. 10, SSC

PAGA LWDA-CM-886110-22: June 1,
2022

Class Action Filed: July 1, 2022
PAGA Action Filed: Aug. 18, 2022
Trial Date: None Set

1 This Joint Stipulation and Settlement Agreement of Class Action and Representative Action
2 Claims (“Stipulation of Settlement” or “Settlement” or “Settlement Agreement”) is made and entered
3 into by and between Plaintiff Cristina Catalano (“Plaintiff”) and on behalf of the Class and Aggrieved
4 Employees (as defined below) and Defendant Mr. C Manager, LLC (“Defendant”) (Plaintiff and
5 Defendant are hereinafter collectively referred to as the “Parties”).

6 THE PARTIES STIPULATE AND AGREE as follows:

7 **DEFINITIONS**

8 1. **“Class Action Lawsuit”** shall mean the action entitled *Cristina Catalano, individually,*
9 *and on behalf of all others similarly situated v. Beverly Hills Hotel Management LLC, a Delaware*
10 *limited liability company; Mr. C Manager, LLC, a New York limited liability company; BHR TRS*
11 *Beverly Hills LLC, a Delaware limited liability company; Braemar Hotels & Resorts, Inc., a Maryland*
12 *corporation; Remington Lodging & Hospitality, LLC, a Delaware limited liability company; Ashford*
13 *TRS Beverly Hills LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,*
14 pending in Los Angeles County Superior Court, Case No. 22STCV18139.

15 2. **“Court”** shall mean the Superior Court of the State of California for the County of Los
16 Angeles.

17 3. **“Defendant’s Counsel”** shall mean Elizabeth Staggs-Wilson, Esq., Jyoti Mittal, Esq.,
18 and Lin Zhan, Esq. of Littler Mendelson, P.C.

19 4. **“Effective Date”** shall have the meaning ascribed to it in Paragraph 39, below.

20 5. **“Enhancement Awards”** shall mean the payments made to Named Plaintiff in her
21 capacity as class representative, which sum is over and above her Individual Settlement Payment.

22 6. **“Final Approval Hearing”** shall mean the hearing whereat the Court shall consider,
23 without limitations, any timely objections to the Settlement from Settlement Class Members,
24 testimony from the Parties or their counsel, declarations regarding the claims process from the
25 Settlement Administrator, and otherwise make a final determination regarding the fairness of the
26 Settlement as set forth herein.

27 7. **“Final Order and Judgment”** means the Final Order Approving Class Action and
28 PAGA Settlement and Judgment in a form to be agreed upon by the Parties and approved by the Court.

2.

1 8. **“Gross Settlement Amount”** shall refer to Two Hundred Thousand Dollars and Zero
2 Cents (\$200,000.00), which is the maximum amount that Defendant will pay pursuant to this
3 Settlement, excluding Defendant’s share of payroll taxes, which shall be paid by Defendant separately
4 and in addition to the Gross Settlement Amount.

5 9. **“Harris Class Action Lawsuit”** shall mean the action entitled *Harris v. Mr. C*
6 *Manager, LLC, et al*, which was pending in San Bernardino County Superior Court, Case No.
7 CIVDS172484, and resulted in a settlement (1) covering all of Defendant’s non-exempt employees in
8 California for the period between October 13, 2013, and March 21, 2019, and (2) releasing all claims
9 pertaining to (a) unpaid overtime; (b) unpaid minimum wages; (c) failure to provide meal periods; (d)
10 failure to provide rest periods; (e) non-compliant wage statements and failure to maintain records; (f)
11 wages not paid timely upon termination; (g) unreimbursed business expenses; (h) violation of the
12 PAGA; (i) unlawful business practices; and (10) unfair business practices, and those claims for the
13 period at issue in *Harris* have been carved out of any settlement herein for those who settled their
14 claims in *Harris*.

15 10. **“Individual Settlement Payment”** will be the portion of the Net Settlement Amount
16 payable to a Qualified Class Member.

17 11. **“Lawsuit”** shall mean the Class Action Lawsuit and the PAGA Action Lawsuit,
18 collectively.

19 12. **“Named Plaintiff”** shall mean Plaintiff Cristina Catalano.

20 13. **“Net Settlement Amount”** shall have the meaning ascribed to it in Paragraph 44,
21 below.

22 14. **“Notice”** or **“Class Notice”** means the Notice of Pendency of Class Action in
23 substantially the form attached hereto as **Exhibit B**, and as approved by the Court.

24 15. **“Operative Complaint”** shall mean and refer to the Amended Complaint, attached
25 hereto as **Exhibit A**.

26 16. **“PAGA”** shall mean the California Labor Code Private Attorneys General Act, Labor
27 Code §§ 2698 *et seq.*

28 17. **“PAGA Action Lawsuit”** shall mean the action entitled *Cristina Catalano*,

1 individually, and on behalf of all others similarly situated v. Beverly Hills Hotel Management LLC, a
2 Delaware limited liability company; Mr. C Manager, LLC, a New York limited liability company;
3 BHR TRS Beverly Hills LLC, a Delaware limited liability company; Braemar Hotels & Resorts, Inc.,
4 a Maryland corporation; Remington Lodging & Hospitality, LLC, a Delaware limited liability
5 company; Ashford TRS Beverly Hills LLC, a Delaware limited liability company; and DOES 1 through
6 100, inclusive, pending in Los Angeles County Superior Court, Case No. 22STCV26949.

7 18. **“PAGA Employees”** shall mean all persons who are Settlement Class Members who
8 were employed by Defendant at any time from June 14, 2021, through August 5, 2021.

9 19. **“PAGA Period”** shall mean the time period from June 14, 2021 through August 5,
10 2021.

11 20. **“PAGA Employee Payments”** means the payment issued to each PAGA Employee
12 for his/her/their share of the PAGA Payment.

13 21. **“PAGA Payment”** means the payment to the State of California Labor and Workforce
14 Development Agency (“LWDA”) and the PAGA Employees in settlement of all claims for PAGA
15 penalties.

16 22. **“Qualified Class Members”** means the Settlement Class Members who did not opt
17 out of the Settlement and who will receive a share of the Net Settlement Amount.

18 23. **“Released Claims”** shall have the meaning ascribed to it in Paragraph 64 below.

19 24. **“Released Parties”** collectively shall encompass Defendant and any of its past, present
20 and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, including but
21 not limited to Mr. C Manager, LLC, as well as each of its past, present and future officers, directors,
22 employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any
23 individual or entity which could be jointly liable with Defendant (“Released Parties”). The Released
24 Parties do not include Beverly Hills Hotel Management LLC, BHR TRS Beverly Hills LLC, Braemar
25 Hotels & Resorts, Inc., Remington Lodging & Hospitality, LLC and Ashford TRS Beverly Hills LLC.

26 25. **“Settlement Administrator”** shall mean Phoenix Settlement Administrators.

27 26. **“Settlement Class”** shall mean all current and former non-exempt, California, hourly-
28 paid employees of Defendant Mr. C Manager, LLC at any time from March 22, 2019, through August

1 5, 2021.

2 27. **“Settlement Class Counsel”** shall mean Zachary M. Crosner, Esq., Jamie K. Serb, and
3 Sepideh Ardestani, Esq. of CROSNER LEGAL, PC.

4 28. **Settlement Class Period**” shall mean the time period from March 22, 2019, through
5 August 5, 2021.

6 29. **“Settlement Class Members”** shall mean any individual who is a member of the
7 Settlement Class.

8 **RECITALS**

9 30. On June 1, 2023, following exchange and extensive review of relevant documents and
10 class data, the Parties engaged in a full-day mediation with experienced wage and hour class action
11 mediator T. Warren Jackson, which resulted in a settlement.

12 31. Defendant denies any liability or wrongdoing of any kind whatsoever associated with
13 the claims in the Lawsuit, and further denies that, for any purpose other than settling the Lawsuit, class
14 action or representative treatment is appropriate for the Lawsuit.

15 32. It is the Parties’ desire to fully, finally and forever settle, compromise and discharge all
16 disputes and claims arising from or related to the allegations in the Lawsuit.

17 33. It is the Parties’ intention that this Stipulation of Settlement shall constitute a full and
18 complete settlement and release of all Released Claims (as defined in Paragraphs 64, 65, and 66)
19 against all Released Parties.

20 34. It is the Parties’ intention that this Settlement shall not become effective until the
21 Effective Date, as defined in Paragraph 39, below.

22 35. Settlement Class Counsel have conducted a thorough investigation into the facts of the
23 Lawsuit, including an extensive review of relevant documents and data, and have diligently pursued
24 an investigation of the Settlement Class Members’ claims against Defendant. Based on its and their
25 own independent investigation and evaluation, Settlement Class Counsel are of the opinion that the
26 Settlement with Defendant is fair, reasonable and adequate and is in the best interest of the Settlement
27 Class Members in light of all known facts and circumstances, including the risks of significant delay,
28 the class not being certified, and the defenses asserted by Defendant. Defendant and Defendant’s

1 Counsel also agree that the Settlement is in the best interests of the Settlement Class Members.
2 Counsel for the Parties further agree that the Settlement is fair, reasonable and adequate with respect
3 to civil penalties sought pursuant to PAGA.

4 36. The Parties agree to cooperate and take all steps necessary and appropriate to
5 consummate this settlement in accordance with the terms of this Stipulation of Settlement.

6 **TERMS OF SETTLEMENT**

7 37. In consideration of the mutual covenants, promises and agreements set forth herein, the
8 Parties agree, subject to the Court's approval, to the terms herein.

9 38. It is agreed by and between Plaintiff and Defendant that the Lawsuit and any claims,
10 demands, liabilities, penalties, damages or causes of action of any kind whatsoever claimed by Plaintiff
11 on behalf of herself, the Settlement Class Members, and/or the PAGA Employees arising out of the
12 disputes which are the subject of the Lawsuit, be settled and compromised, subject to the terms and
13 conditions set forth in this Stipulation of Settlement and the Court's approval.

14 39. Effective Date: The Settlement embodied in this Stipulation of Settlement shall
15 become effective when all of the following events have occurred ("Effective Date"): (i) this Stipulation
16 of Settlement has been executed by Plaintiff, Defendant, Settlement Class Counsel, and Defendant's
17 Counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent
18 to the Settlement Class Members, providing them the opportunity to object to the Settlement, and the
19 opportunity to opt out of the Settlement; (iv) the Notice has been sent to the LWDA; (v) the Court has
20 held a formal fairness hearing and entered the Court's Final Order and Judgment; and (vi) the later of
21 the following events: five (5) calendar days after the period for filing any appeal, writ, or other
22 appellate proceeding opposing the Final Order and Judgment has elapsed without any appeal, writ, or
23 other appellate proceeding having been filed, *i.e.*, 65 days from the date the Court grants final approval
24 and enters judgment; or, if any appeal, writ, or other appellate proceeding opposing final approval has
25 been filed within that timeframe; five business days after any appeal, writ, or other appellate
26 proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue
27 further remedies or relief. If the Court declines to approve the Settlement, the entire Stipulation of
28 Settlement is deemed void and unenforceable as if no settlement of any claim was ever reached. All

1 negotiations, statements and proceedings and data relating thereto shall be protected by California
2 Evidence Code §1152 and shall be without prejudice to the rights of any of the Parties.

3 40. As a condition of this Settlement, Plaintiff shall file an Amended Complaint in the
4 Class Action Lawsuit prior to obtaining preliminary approval of the settlement and which shall be the
5 Operative Complaint, a copy of which is attached as **Exhibit A**. Plaintiff will amend the complaint
6 such that the Operative Complaint includes Plaintiff's PAGA Claims as alleged in the PAGA Action
7 Lawsuit for purposes of settlement only. Defendant will be permitted to file an Answer within 30 days
8 after the Operative Complaint is filed, after which the Parties will jointly seek an immediate vacation
9 or stay of pending dates, pending approval by the Court of this Settlement.

10 41. Gross Settlement Amount: To implement the terms of this Settlement, Defendant
11 agrees to pay a maximum total payment of Two Hundred Thousand Dollars and Zero Cents
12 (\$200,000.00), which includes payments to Settlement Class Members (excluding any appropriate and
13 lawfully required employer-side payroll taxes owed by Defendant on such payments which Defendant
14 shall be separately responsible for apart from the Gross Settlement Amount), Enhancement Awards to
15 the Named Plaintiff, the PAGA Payment, the Settlement Administrator's fees and costs, approved
16 attorneys' fees and litigation costs, and any other payments provided by this Settlement. Except as
17 otherwise specified herein, Defendant shall not be required to pay any additional monies beyond the
18 amount of the Gross Settlement Amount plus the employer-side payroll taxes. Further, no portion of
19 the Gross Settlement Amount shall revert to Defendant, and any amount of the Gross Settlement
20 Amount not required to pay the above-referenced amounts shall be paid to the Qualified Class
21 Members on a pro rata basis according to the formula contained herein.

22 42. Tax Treatment of the Gross Settlement Amount: The Parties agree that the Gross
23 Settlement Amount will qualify as a settlement fund pursuant to the requirements of section 468(B)(g)
24 of the Internal Revenue Code of 1986, as amended, and section 1.468B-1 *et seq.* of the income tax
25 regulations. Furthermore, the Settlement Administrator is hereby designated as the "Administrator"
26 of the qualified settlement funds for purposes of section 1.46B-2(k) of the income tax regulations. As
27 such, all taxes imposed on the gross income of the Gross Settlement Amount and any tax-related
28 expenses arising from any income tax return or other reporting document that may be required by the

1 Internal Revenue Service or any state or local taxing body will be paid from the Gross Settlement
2 Amount.

3 43. Funding of Gross Settlement Amount: Within ten (10) calendar days of the Effective
4 Date, Defendant shall transfer to the Settlement Administrator an amount equal to the Gross Settlement
5 Amount plus the employer's share of payroll taxes. The delivery of the Gross Settlement Amount and
6 the employer's share of payroll taxes to the Settlement Administrator shall constitute full and complete
7 discharge of the entire obligation of Defendant under this Settlement. Once Defendant has made such
8 payments, it will be deemed to have satisfied all terms and conditions under this Settlement, shall be
9 entitled to all protections afforded to Defendant under this Settlement, and shall have no further
10 obligations under the terms of the Settlement regardless of what occurs with respect to those sums.

11 44. Allocation of the Gross Settlement Amount: Subject to Court approval and the
12 conditions specified in this Agreement, and in consideration of the mutual covenants and promises set
13 forth herein, the Parties agree the Gross Settlement Amount shall encompass the following: (1)
14 Settlement Class Counsel's fees and expenses approved by the Court; (2) the Named Plaintiff's
15 Enhancement Award; (3) the Settlement Administrator's costs; (4) the PAGA Payment (including
16 both the PAGA payment to the LWDA and the PAGA Employees); and (5) the Net Settlement
17 Amount. After the deduction of the amounts approved for the Enhancement Awards to the Named
18 Plaintiff, the PAGA Payment, the Settlement Administrator's costs, Settlement Class Counsel's fees
19 and expenses, the remainder shall be referred to as the Net Settlement Amount.

20 a. The Net Settlement Amount shall be divided among the Qualified Class
21 Members on a pro-rata basis, based upon the following:

- 22 i. Each Qualified Class Member's workweek count;
23 ii. Divided by the combined sum of all Qualified Class Members' workweek
24 counts; and
25 iii. Multiplied by the value of the Net Settlement Amount.

26 b. The Parties agree that if any Qualified Class Member disputes the basis for
27 determining their share of the Settlement, Defendant's records shall presumptively control unless the
28 Qualified Class Member can produce documentation evidence of other workweeks worked during the

1 relevant time period. The Parties further agree that any dispute that cannot be resolved by Class
2 Counsel and Defendant's Counsel may be brought before the Court before final approval of the Class
3 Settlement.

4 c. To the extent that amounts in Paragraphs 48 and 49 below are not approved by
5 the Court, such amounts will be reallocated to the Net Settlement Amount unless allocated otherwise
6 by agreement of the Parties, with approval of the Court.

7 d. The Parties agree that all of the Net Settlement Amount distributed to each
8 Qualified Class Member will be allocated as follows: twenty percent (20%) as alleged unpaid wages
9 and eighty percent (80%) as alleged penalties and unpaid interest. The Settlement Administrator will
10 issue an IRS W-2 to each Qualified Class Member for the portion of each Individual Settlement
11 Payment allocated as alleged unpaid wages and subject to applicable tax withholdings. The Settlement
12 Administrator shall issue an IRS Form 1099-MISC to each Qualified Class Member for the portion of
13 each Individual Settlement Payment allocated as alleged unpaid non-wage penalties and interest and
14 not subject to payroll tax withholdings. The Parties further agree that the PAGA Payment distributed
15 to each PAGA Employee will be treated entirely as civil penalties and will be reported as such to each
16 PAGA Employee on an IRS Form 1099-MISC, if applicable.

17 e. Within ten (10) calendar days of the transfer of the Gross Settlement Amount
18 to the Settlement Administrator, and only upon the Effective Date being met, the Settlement
19 Administrator shall disburse: (1) the Net Settlement Amount to be paid to Qualified Class Members;
20 (2) the Attorney Fee Award and Cost Award to Settlement Class Counsel for attorneys' fees and costs,
21 as approved by the Court; (3) the Enhancement Awards paid to the Named Plaintiff, as approved by
22 the Court; (4) Administrative Costs, as approved by the Court; and (5) the PAGA Payment to the
23 LWDA and PAGA Employees, as approved by the Court.

24 f. Qualified Class Members and PAGA Employees must cash or deposit their
25 Individual Settlement Payment and PAGA Employee Payment checks within one hundred eighty
26 (180) days from the date of issuance of the check. If any checks are not redeemed or deposited within
27 ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard
28 indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire

1 and become non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks
2 remain uncashed or not deposited by the expiration of the ninety (90) day period after mailing the
3 reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the
4 checks are mailed, cancel the checks. All funds associated with the Individual Settlement Payment
5 checks and PAGA Employee Payment checks returned as undeliverable and funds associated with
6 those Individual Settlement Payment checks and PAGA Employee Payment checks remaining
7 uncashed, shall be delivered to the State of California's State Controller Unclaimed Property Fund
8 with an identification of the amount of unclaimed funds attributable to each Settlement Class Member
9 and PAGA Employee.

10 45. PAGA Payment: Subject to the Court's Approval, up to a maximum of Twenty
11 Thousand Dollars and Zero Cents (\$20,000.00) shall be allocated as the PAGA Payment. Fifteen
12 Thousand Dollars and Zero Cents (\$15,000.00), representing 75% of the PAGA Payment, shall be
13 paid to the LWDA. Five Thousand Dollars and Zero Cents (\$5,000.00), representing 25% of the
14 penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees as PAGA Employee
15 Payments. The PAGA Employees shall release their PAGA claims in their entirety and may not opt
16 out of or object to the PAGA release. To arrive at the PAGA Employee Payments, the portion of the
17 PAGA Payment allocated to the PAGA Employees shall be divided among the PAGA Employees on
18 a pro-rata basis, based upon the following:

19 a. Each PAGA Employee's pay period count, which shall be the sum of the total
20 number of pay periods the PAGA Employee worked during the PAGA Period;
21 b. Divided by the combined sum of all PAGA Employees' pay period counts; and
22 c. Multiplied by the value of the portion of the PAGA Payment allocated to the
23 PAGA Employees.

24 46. Individual Settlement Payments Do Not Trigger Additional Benefits: All Individual
25 Settlement Payments, PAGA Employee Payments, and the Enhancement Award shall not be utilized
26 to calculate any additional benefits under any benefit plans to which any Plaintiff, Settlement Class
27 Members and/or PAGA Employees may be eligible including, but not limited to: retirement plans,
28 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, paid time off,

1 sick leave plans, PTO plans, pension plans, or any other benefit plan. It is the Parties' intention that
2 this Settlement will not affect any rights, contributions, or amounts to which Plaintiff, Settlement Class
3 Members and PAGA Employees may be entitled under any benefit plans.

4 47. Settlement Administrator: The Settlement Administrator shall be Phoenix Settlement
5 Administrators (the "Settlement Administrator"). The Settlement Administrator will maintain
6 acceptable electronic and physical security protocols to adequately protect and safeguard the private
7 employee information it will have access to as a result of the claims process. The fees and expenses
8 of the Settlement Administrator, which is currently estimated at approximately Eight Thousand Seven
9 Hundred Fifty Dollars and Zero Cents (\$8,750.00), shall be paid through the Gross Settlement
10 Amount.

11 48. Attorneys' Fees and Attorneys' Costs: Subject to the Court's approval, Settlement
12 Class Counsel may petition the Court for attorneys' fees, which collectively shall not exceed Sixty Six
13 Thousand Six Hundred Sixty Six Dollars and Sixty Six Cents (\$66,666.66) which equates to thirty
14 three point thirty three percent (33.33%) of the Gross Settlement Amount, plus reasonable
15 costs/expenses not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00), subject to
16 approval by the Court. Defendant will not object to Settlement Class Counsel's application for
17 attorneys' fees and costs in these amounts. The amount set forth above will cover all work performed
18 and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred
19 in the future in connection with the approval by the Court of this Stipulation of Settlement, and the
20 administration of the Settlement. Should Class Counsel collectively request a lesser amount, or should
21 the Court approve a lesser amount of attorneys' fees and/or attorneys' costs, the difference between
22 the lesser amount and the maximum amount set forth above shall be added to the Net Settlement
23 Amount. No Settlement Class Counsel shall be entitled to further fees or costs from Defendant if they
24 elect to appeal any reduction in the requested fee or cost award. Any reduction by the Court of
25 Settlement Class Counsel's claimed attorneys' fees and/or reasonable costs/expenses shall not be
26 sufficient grounds to void the Settlement. Plaintiff and Defendant shall bear their own attorneys' fees
27 and costs, except as provided herein.
28

1 49. Named Plaintiff's Enhancement Awards: Subject to the Court's approval, the Named
2 Plaintiff will be paid an Enhancement Award in an amount up to a maximum of Seven Thousand Five
3 Hundred Dollars and Zero Cents (\$7,500.00) in recognition for her service as class representative,
4 which shall be paid from the Gross Settlement Amount. Defendant will not object to Settlement Class
5 Counsel's application for Court approval of the Enhancement Award in the amount of Seven Thousand
6 Five Hundred Dollars and Zero Cents (\$7,500.00) to Named Plaintiff. It is understood that the
7 Enhancement Award is in addition to any claimed Individual Settlement Payment or PAGA Employee
8 Payment to which Named Plaintiff is entitled. The Enhancement Award shall not be deemed wages
9 and will be reported on an IRS Form 1099-MISC, if applicable.

10 50. Tax Forms: The Settlement Administrator shall be responsible for issuing the payments
11 and withholding all required state and federal taxes in accordance with this Stipulation of Settlement.
12 The Settlement Administrator will issue an IRS W-2 to each Qualified Settlement Class Member for
13 the portion of each Individual Settlement Payment allocated as alleged unpaid wages and subject to
14 applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099-MISC to
15 each Qualified Settlement Class Member for the portion of each Individual Settlement Payment
16 allocated as alleged unpaid non-wage penalties and interest and not subject to payroll tax withholdings.
17 The Settlement Administrator will also issue IRS Forms 1099 to: (1) Plaintiff for the Enhancement
18 Award; (2) the PAGA Employees for their portion of the PAGA Payment; and (3) Class Counsel for
19 the amount paid for approved fees and costs. The Settlement Administrator will be responsible for
20 preparing these forms correctly. The Settlement Administrator shall also be responsible for submitting
21 Defendant's share of payroll taxes to the appropriate government agencies on behalf of Defendant.
22 Plaintiff and Settlement Class Counsel will be responsible for correctly characterizing this
23 compensation for tax purposes and for paying any taxes on the amounts received.

24 51. Indemnification: Plaintiff and Settlement Class Counsel acknowledge and agree that
25 they are and will be responsible for the payment of any and all Federal, State, and Local taxes or
26 penalties associated with their respective allocated portions of the payments described herein, and
27 agree to indemnify, defend, and hold the Released Parties harmless from any and all claims by any
28 Federal, State, or Local taxing authority that Plaintiff or Settlement Class Counsel failed to pay or

1 underpaid their or her or his share of taxes associated with the payments set forth in this Settlement.
2 The Parties acknowledge and agree that Settlement Class Counsel is not responsible for the payment
3 of any Federal, State, and Local taxes or penalties associated with payments to Plaintiff and Settlement
4 Class Members.

5 **NOTICE TO THE SETTLEMENT CLASS**

6 52. Within sixty (60) calendar days of preliminary approval of this Settlement by the Court,
7 Defendant shall provide to the Settlement Administrator a database containing the following
8 information (“Class Member List”):

9 a. The full name, last known address, last known telephone number, and full social
10 security number of all Settlement Class Members; and

11 b. The information necessary to determine the estimated settlement allocation to
12 each Settlement Class Member, including without limitation, the total number of workweeks worked
13 by each Settlement Class Member and the total number of pay periods worked by each PAGA
14 Employee within the relevant Settlement Class Period and PAGA Period.

15 53. The Settlement Administrator (along with any of its agents) shall represent and warrant
16 that it will: (1) provide reasonable and appropriate administrative, physical and technical safeguards,
17 including a reasonable security protocol, for any personally identifiable information (“PII”), which it
18 receives from Defendant’s Counsel and/or Settlement Class Counsel; (2) not disclose the PII to third
19 parties, including agents or subcontractors, without Defendant’s consent; (3) not disclose or otherwise
20 use the PII other than to carry out its duties as set forth herein; and (4) promptly provide Defendant
21 with notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction. The
22 Settlement Administrator may provide notice to all Parties if the PII is subject to unauthorized access,
23 use, disclosure, modification or destruction; however, all additional communications from the
24 Settlement Administrator regarding the scope, circumstances, and substance shall be communicated
25 solely to Defendant.

26 54. The Settlement Administrator shall send a Notice to each Settlement Class Member by
27 first-class mail within fourteen (14) calendar days of receipt of the Class Member List. Prior to mailing
28 the Notice, the Settlement Administrator shall update the addresses of the Class Members by reference

1 to the National Change of Address Database maintained by the United States Postal Service. If a
2 Notice is returned as nondeliverable but with a forwarding address, the Settlement Administrator shall
3 resend the Notice to the forwarding address. If a Notice is returned as nondeliverable with no
4 forwarding address, the Settlement Administrator shall conduct an advanced skip trace to locate the
5 most current address of the person to whom the Notice was addressed, and shall resend the Notice to
6 any updated address within five (5) calendar days. Upon completion of these steps, the Parties shall
7 be deemed to have satisfied their obligations to provide the Notice to the affected Settlement Class
8 Members.

9 55. The Settlement Administrator shall provide to the Court, concurrently with Plaintiff's
10 Motion for Final Approval, a declaration of due diligence and proof of mailing with regard to the
11 mailing of the Notices.

12 56. The Settlement Administrator shall also be responsible for:

- 13 a. Mailing the Notice as directed by the Court;
- 14 b. Consulting with counsel for the Parties concerning any relevant issue, including
15 (without limitation) the estimated amounts of approximate Individual Settlement Payments, PAGA
16 Employee Payments, and the acceptance of any late or deficient disputes;
- 17 c. Keeping track of timely and proper requests for exclusion;
- 18 d. Calculation of the Individual Settlement Payments, PAGA Employee
19 Payments, and the PAGA Payment to the LWDA;
- 20 e. Providing weekly status reports to counsel for the Parties, including: (a) the
21 number of Notices mailed (including information regarding undeliverable and/or emailed Notices);
22 (b) the number of disputes received (and sending copies of said disputes); (c) the number of objections
23 received; and (d) the number of requests for exclusion received;
- 24 f. Notifying Defendant's Counsel of the wiring instructions to fund the Gross
25 Settlement Amount as approved by the Court;
- 26 g. Preparing the checks containing the Individual Settlement Payments;
- 27 h. Distributing and paying the Enhancement Awards, Individual Settlement
28 Payments, PAGA Employee Payments, the PAGA Payment to the LWDA, and fees and costs awarded

1 to Settlement Class Counsel;

2 i. Issuing tax forms and addressing employer and employee-side payroll taxes;
3 and

4 j. Such other tasks as the Parties mutually agree or the Court orders the Settlement
5 Administrator to perform, including responding to questions from Class Members.

6 **REQUESTS FOR EXCLUSION**

7 57. Each Settlement Class Member shall have forty-five (45) calendar days from the
8 mailing of the Notice within which to complete and postmark a written request for exclusion, for return
9 to the Settlement Administrator. The written request for exclusion must: (1) state the Settlement Class
10 Member's name, address, telephone number, and social security number or employee identification
11 number; (2) state the Settlement Class Member's intention to exclude themselves from or opt-out of
12 the Settlement (*e.g.* "I want to exclude myself from this settlement. I also understand that I retain all
13 rights to sue the Defendant for the claims asserted in this lawsuit."); (3) be addressed to the Settlement
14 Administrator; (4) be signed by the Settlement Class Member or their or his or her lawful
15 representative; and (5) be postmarked no later than forty-five (45) calendar days from the mailing of
16 the Notice (or the fifteen (15) day extension referenced below for eligible Settlement Class Members).
17 No requests for exclusion shall be accepted if postmarked after the forty-five (45) calendar day period
18 for the filing of exclusions. Settlement Class Members whose Notices are returned as undeliverable
19 and who are sent a re-mailed Settlement Notice shall be given an extension of fifteen (15) calendar
20 days from their original deadline to postmark a request for exclusion. Settlement Class Members are
21 responsible for maintaining a photocopy of their request for exclusion, reflecting that it was submitted
22 in a timely manner. Any disputes regarding the timeliness of a request for exclusion or whether a
23 written communication constitutes a valid request that cannot be resolved between the Parties shall be
24 determined by the Court, whose determination shall be final.

25 58. Any Settlement Class Member who validly excludes himself/herself/themselves from
26 this Settlement shall not be bound by this Settlement Agreement, except as to the PAGA Employees
27 who shall release their PAGA claims in their entirety and may not opt out of or object to the PAGA
28 release, and any Settlement Class Member who validly excludes himself/herself/themselves shall not

1 be entitled to any portion of the Net Settlement Amount.

2 59. If ten percent (10%) or more of the Settlement Class Members opt out of the Settlement
3 by submitting valid and timely requests for exclusion, Defendant shall have the sole and absolute
4 discretion to rescind/void the Settlement Agreement within fifteen (15) calendar days after receiving
5 from the Settlement Administrator the final list of requests for exclusion. Defendant agrees to meet
6 and confer in good faith with Settlement Class Counsel before rescinding or voiding the Settlement
7 Agreement. In the event that Defendant elects to rescind/void the Settlement Agreement, Defendant
8 shall provide written notice of such rescission to Settlement Class Counsel. Such rescission shall have
9 the same effect as a termination of the Settlement Agreement for failure to satisfy a condition of
10 settlement, and the Settlement Agreement shall become null and void and have no further force or
11 effect. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.
12 In the event Defendant rescinds the settlement, Defendant shall be solely responsible for any fees and
13 costs incurred by the Settlement Administrator.

14 **OBJECTIONS TO THE SETTLEMENT**

15 60. Each Settlement Class Member shall have forty-five (45) calendar days from the
16 mailing of the Notice, or such number of days as the Court shall specify, within which to postmark an
17 objection, for return to the Settlement Administrator. Settlement Class Members whose Notices are
18 returned as undeliverable and who are sent a re-mailed Settlement Notice shall be given an extension
19 of fifteen (15) days from their original deadline to object to postmark an objection. Any Settlement
20 Class Member, who does not affirmatively opt-out of the Settlement by submitting a valid and timely
21 request for exclusion, may object to the approval of class action settlement (“Objecting Class
22 Member”). Any Settlement Class Member who makes a timely request for exclusion has waived their
23 right to object. The Objecting Class Member shall inform the Settlement Administrator in writing and
24 (1) state the Objecting Class Member’s name, address, telephone number, and social security number
25 or employee identification number; (2) describe, in clear and concise terms, the legal and factual
26 arguments supporting the objection; (3) list identifying witness(es) the objector may call to testify at
27 the Final Approval Hearing; (4) provide true and correct copies of any exhibit(s) the objector intends
28 to offer at the Final Approval Hearing; (5) state whether the objection applies only to the objector, to

1 a specific subset of the Class, or to the entire Class; (6) be addressed to the Settlement Administrator;
2 (7) be signed by the Objecting Class Member or their or his or her lawful representative; and (8) be
3 postmarked no later than forty-five (45) calendar days from the mailing of the Notice (or the fifteen
4 (15) day extension referenced above for eligible Settlement Class Members). Regardless of whether
5 a Settlement Class Member timely submitted a written objection, a Settlement Class Member who
6 wishes to appear at the Final Approval Hearing and be heard orally in support of, or in opposition to
7 the class action settlement, may do so. Settlement Class Members shall have no right to object to the
8 PAGA release or PAGA Payment.

9 61. Any Settlement Class Member who fails to timely submit an objection shall be
10 foreclosed from making any objection to this Settlement or from filing an appeal of the Court's Final
11 Order and Judgment unless otherwise ordered by the Court.

12 62. Counsel for the Parties shall file any response to the objections submitted by Objecting
13 Class Members, if any, at least seven (7) calendar days before the date of the Final Approval Hearing.

14 63. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
15 Settlement Class Members to submit written objections to the Settlement or to appeal from the Court's
16 Final Order and Judgment. Settlement Class Counsel shall not represent any Settlement Class
17 Members with respect to any such objections to this Settlement.

18 **RELEASE OF CLAIMS BY NAMED PLAINTIFF, QUALIFIED CLASS MEMBERS, AND**
19 **PAGA EMPLOYEES**

20 64. The "Released Claims". Upon the date the Settlement is funded, the Qualified Class
21 Members and Plaintiff release all claims pleaded in the Operative Complaint, attached hereto as
22 **Exhibit A**, and which could have been alleged based upon the facts, allegations and/or claims pleaded
23 in the Operative Complaint, against the Released Parties (as defined above), for work performed
24 during the Class Period, including the following:

- 25 a. The Claims alleged in the set forth in the Operative Complaint, attached hereto as
26 **Exhibit A**, including, but not limited to: (1) Failure to pay minimum and regular rate
27 wages; (2) failure to pay overtime compensation; (3) Failure to provide meal periods
28 or provide premiums in lieu thereof; (4) Failure to provide rest periods or provide

1 premiums in lieu thereof; (5) Failure to pay timely wages at termination; (6) Failure to
2 provide accurate itemized wage statements; (7) Violation of Business and Professions
3 Code § 17200, *et seq.*; and (8) Failure to reimburse for necessary business expenses; as
4 well as any claims that could have been pled which arise from the same or similar facts
5 pled in the Operative Complaint, attached hereto as **Exhibit A**, or letter to the LWDA
6 concerning the Named Plaintiff or the putative class, and claims for interest, penalties
7 (including but not limited to waiting time penalties), as well as any claims under the
8 California Labor Code for violations of Labor Code sections 201, 201.3, 201.5, 201.6,
9 201.9, 202, 202, 203, 204, 204.1, 204.2, 216, 221, 222, 223, 226, 226.3, 226.7, 245,
10 245.8, 246, 247, 248.5, 351, 352, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1,
11 1024.5, 1174, 1174.5, 1194, 1194.2, 1197 *et seq.*, 1197.1, 1198, 1198.5, 1199, 2802,
12 2810.5, (“Class Released Claims”);

13 b. Any claims for injunctive relief, declaratory relief, restitution, alleged or which could
14 have been alleged under the facts, allegations and/or claims pleaded in the complaints
15 filed as part of the Lawsuit; and

16 c. Any and all other claims under California common law, the federal law, and the
17 California Business and Professions Code alleged in or that could have been alleged
18 under the same or similar facts, allegations and/or claims pleaded in the Lawsuits and
19 based on the alleged Labor Code violations.

20 d. The Released Claims do not include (The Released Claims do not apply to the period
21 between October 13, 2013 and March 21, 2019 that were already released by the
22 members of the *Harris* Class Action Lawsuit.¹

23 65. Release of PAGA Claims. Upon the date the Settlement is funded, Plaintiff and the
24 PAGA Employees hereby do and shall be deemed to have fully, finally, and forever released, settled,
25

26 ¹ The claims of the members of the class in the *Harris* Class Action Lawsuit pertaining to (a) unpaid
27 overtime; (b) unpaid minimum wages; (c) failure to provide meal periods; (d) failure to provide rest
28 periods; (e) non-compliant wage statements and failure to maintain records; (f) wages not paid timely
upon termination; (g) unreimbursed business expenses; (h) violation of the PAGA; (i) unlawful
business practices; and (10) unfair business practices for the period between October 13, 2013 and
March 21, 2019 are not included in the Released Claims.

1 compromised, relinquished and discharged any and all of the Released Parties of and from any and all
2 claims for violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698 *et*
3 *seq.*), (“PAGA claims”) as alleged in the Operative Complaint, attached hereto as **Exhibit A**, which
4 includes those alleged in the PAGA letter sent to the LWDA by Named Plaintiff that arose at any time
5 during the PAGA Period, including, but not limited to, the following:

6 a. Violation of the California Private Attorneys General Act of 2004 (Labor Code §§
7 2698, *et seq.*), and those claims predicated on the same or similar facts and/or claims
8 alleged in the Operative Complaint, attached hereto as **Exhibit A**, and/or any PAGA
9 letter sent to the LWDA by Plaintiff in or prior to the Lawsuits, as well as any claims
10 that could have been pled which arise from the same or similar facts concerning the
11 Named Plaintiff or the putative class, and claims for interest, penalties (including but
12 not limited to waiting time penalties), as well as any claims predicated on the California
13 Labor Code and California Industrial Welfare Commission Wage Orders for violations
14 of Labor Code sections 201, 201.3, 201.5, 201.6, 201.9, 202, 202, 203, 204, 204.1,
15 204.2, 216, 221, 222, 223, 226, 226.3, 226.7, 245, 245.8, 246, 247, 248.5, 351, 352,
16 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197
17 *et seq.*, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and applicable IWC Wage Orders,
18 and California Code of Regulations, Title 8, section 11000 *et seq* (“PAGA
19 Released Claims”).

20 b. The PAGA Employees will be issued a check for their share of the PAGA Payment and
21 will not have the opportunity to opt out of, or object to, the PAGA Payment and release
22 of the PAGA Claims set forth in this Paragraph. The PAGA Employees are bound by
23 the release of the PAGA Claims regardless of whether they cash or deposit their PAGA
24 Employee Payment

25 66. Release of Named Plaintiff’s Claims. In addition, as to the claims of Named Plaintiff,
26 the Released Claims further include, without limitation, any and all claims whatsoever regarding
27 Named Plaintiff’s respective employment and/or the termination of employment including, but not
28 limited to, any claims for wages, bonuses, severance pay, vacation pay, penalties, employment

1 benefits, stock options, violation of any personnel policy, any claims based on discrimination,
2 harassment, unlawful retaliation, violation of public policy, or damages of any kind whatsoever,
3 arising out of any common law torts, contracts, express or implied, any covenant of good faith and fair
4 dealing, any theory of wrongful discharge, any theory of negligence, any theory of retaliation, any
5 legal restriction on any Defendant's right to terminate the employment relationship, or any federal,
6 state, or other governmental statute, executive order, regulation or ordinance, or common law, or any
7 other basis whatsoever, to the fullest extent provided by law. Named Plaintiff shall be deemed to have,
8 and by operation of the Judgment shall have, expressly waived and relinquished to the fullest extent
9 permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil Code, or
10 any other similar provision under federal or state law that purports to limit the scope of a general
11 release. Named Plaintiff, for herself, have read Section 1542 of the Civil Code of the State of
12 California, which provides as follows:

13
14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
15 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
16 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

17 Named Plaintiff understands that Section 1542 gives the right not to release existing claims of which
18 they are not now aware, unless Named Plaintiff voluntarily chooses to waive this right. Having been
19 so apprised, Named Plaintiff nevertheless voluntarily waives the rights described in Section 1542, and
20 elects to assume all risks for claims that now exist in her favor, known or unknown. The release of the
21 claims of Named Plaintiff as set forth in this Paragraph is a condition precedent to enforcement of this
22 Settlement Agreement.

23 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL/CLASS CERTIFICATION**

24 67. For settlement purposes only, the Parties agree that the Settlement Class as defined in
25 Paragraph 26 above, and which will run through the date of preliminary approval, may be certified in
26 the Action. The Parties are not certifying any PAGA claims. In support of this Agreement, Named
27 Plaintiff will request that the Court certify for settlement purposes the Settlement Class as to all non-
28 PAGA claims that have been asserted, which Defendant shall not oppose or object to.

68. Settlement Class Counsel shall promptly submit this Stipulation of Settlement to the Court in support of Named Plaintiff's Motion for Preliminary Approval and for determination by the Court as to whether the proposed Settlement is within the range of possible judicial approval. Promptly upon execution of this Stipulation of Settlement, Class Counsel shall apply to the Court for the entry of an order substantially in the following form:

- a. Scheduling of the Final Approval Hearing on the question of whether the proposed Settlement, including payment of attorneys' fees and costs and the Enhancement Awards should be finally approved as fair, reasonable and adequate as to the Settlement Class Members and for approval of the PAGA Settlement;
- b. Certifying the Settlement Class;
- c. Approving the Class Notice attached hereto as **Exhibit B**;
- d. Directing the mailing of the Notice by first-class mail to the Settlement Class Members and PAGA Employees; and
- e. Preliminarily approving the Settlement subject only to the objections of the Settlement Class Members and final review by the Court.

69. The Parties will work cooperatively to mutually agree upon the form and content of the Notice, as well as the Proposed Order Granting Preliminary Approval.

70. Named Plaintiff and Settlement Class Counsel will not make any public disclosure of the Settlement until after the filing of the motion for preliminary approval of the Settlement. Named Plaintiff and her counsel represent that they have not made any such disclosure. Named Plaintiff, Defendant, Defendant's Counsel and Settlement Class Counsel shall not encourage members of the Settlement Class to opt-out. Settlement Class Counsel will take all steps necessary to ensure that Named Plaintiff is aware of, and will encourage them to adhere to, the restriction against any public disclosure of the Settlement until after the Settlement is preliminarily approved by the Court. Thereafter, Settlement Class Counsel and Plaintiff agrees not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website and/or online reporter of settlements or on any website.

DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL

71. Following final approval by the Court of the Settlement provided for in this Stipulation of Settlement, Settlement Class Counsel shall submit a proposed Final Order and Judgment in approximately the following form and with input from Defendant's Counsel: Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions including the approval of Class Counsel's application for an award of attorneys' fees and costs and the Enhancement Awards to the Named Plaintiff. The Parties will work cooperatively to mutually agree upon the form and content of the Proposed Order Granting Final Approval of the Class Settlement and Approval of the PAGA Settlement and Judgment.

VOIDING OF AGREEMENT IF SETTLEMENT NOT FINALIZED

72. Subject to the obligations of mutual full cooperation set forth herein, either Named Plaintiff or Defendant may terminate this Settlement if after submitting the settlement for approval to the Court, the Court declines to enter the preliminary approval order, the final approval order, or judgment in substantially the form submitted by the Parties, or if the Stipulation of Settlement as agreed does not become final because of appellate court action. The terminating Party shall give to the other Party (through counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

a. The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms.

b. In the event the Settlement Agreement is terminated, Defendant shall have no obligation to make any payments to any party, Settlement Class Member, PAGA Employee or attorney. If there are any fees incurred by the Settlement Administrator and the settlement is terminated by Defendant, Defendant shall solely be responsible for any costs and fees incurred by the Settlement Administrator.

c. The preliminary approval order, final approval order and judgment shall be vacated.

d. The Stipulation of Settlement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be

1 restored to their respective positions prior to the Settlement.

2 e. Except as otherwise discoverable, neither this Settlement Agreement nor any
3 ancillary documents, actions, statements or filings in furtherance of settlement (including all matters
4 associated with the mediation) shall be admissible or offered into evidence in the Lawsuits or any
5 other action for any purpose whatsoever, except that Plaintiff may reveal information that Defendant
6 may have marked as confidential under the mediation privilege including the data, documents, and
7 sampling exchanged for mediation purposes for the purpose of presenting the Court with information
8 supporting the fairness, reasonableness or adequacy of the Settlement.

9 **PARTIES' AUTHORITY**

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

12 **MUTUAL FULL COOPERATION**

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

21 75. The Parties and their respective counsel agree that they will not attempt to encourage
22 or discourage Settlement Class Members from filing requests for exclusion.

23 **NO PRIOR ASSIGNMENTS**

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

28 **NO ADMISSION**

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

5 **BREACH AND ENFORCEMENT ACTIONS**

6 78. The Parties will jointly request that the Court retain jurisdiction pursuant to California
7 Code of Civil Procedure § 664.6 to oversee and enforce the terms of this Settlement. In the event of
8 a breach of this Settlement, the nonbreaching Party shall provide notice to the breaching party and
9 request that the breaching party cure any alleged breach. If the breach is not cured within thirty (30)
10 days of said notice, the nonbreaching party may pursue legal action or other proceeding against any
11 other breaching party or parties to enforce the provisions of this Stipulation of Settlement or to declare
12 rights or obligations under this Stipulation of Settlement. In the event of such enforcement actions,
13 the successful party or parties shall be entitled to recover from the unsuccessful party or parties
14 reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any
15 enforcement actions. All such disputes shall be resolved by the Court.

16 **NOTICES**

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

21 To Plaintiff, the Settlement Class, and Settlement Class Counsel:

22 Zachary M. Crosner
23 zach@crosnerlegal.com
24 Jamie K. Serb
25 jamie@crosnerlegal.com
26 Sepideh Ardestani
27 sepideh@crosnerlegal.com
28 CROSNER LEGAL, PC
 9440 Santa Monica Blvd., Ste. 301
 Beverly Hills, California 90210
 Telephone: (310) 496-5818
 Facsimile: (310) 510-6429

To Defendant and Defendant's Counsel:

24.

1 Elizabeth Staggs Wilson
2 estaggs-wilson@littler.com
3 Jyoti Mittal
4 jmittal@littler.com
5 LITTLER MENDELSON, P.C.
6 633 West Fifth Street, 63rd Floor
7 Los Angeles, California 90071
8 Telephone: (213) 443-4300
9 Facsimile: (213) 443-4299

CONSTRUCTION

10 80. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement
11 are the result of lengthy, intensive arms-length negotiations between the Parties, and this Stipulation
12 of Settlement shall not be construed in favor of or against any party by reason of the extent to which
13 any Party or their counsel participated in the drafting of this Stipulation of Settlement.

CAPTIONS AND INTERPRETATIONS

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

MODIFICATION

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

INTEGRATION CLAUSE

22 83. This Stipulation of Settlement, and the Exhibits attached hereto and incorporated herein
23 by reference, contain the entire agreement between the Parties relating to the settlement and transaction
24 contemplated hereby, and all prior or contemporaneous agreements, understandings, representations
25 and statements, whether oral or written and whether by a Party or such Party's legal counsel, are
26 merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

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

CLASS MEMBER SIGNATORIES

85. It is agreed that because the Class Members are so numerous, it is impossible or impractical to have each member execute this Stipulation of Settlement. The Class Notice, **Exhibit B** hereto, will advise the 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.

COUNTERPARTS

86. 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 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 HEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

Dated: July 17, 2023


Cristina Catalano
Plaintiff and Class Representative

Dated: _____, 2023

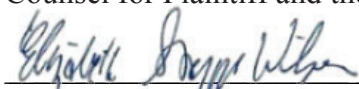
Ignazio Cipriani
President
Defendant Mr. C Manager, LLC

APPROVED AS TO FORM AND CONTENT:

Dated: July 17, 2023


Sepideh Ardestani
Counsel for Plaintiff and the Putative Class

Dated: July 17, 2023


Elizabeth Staggs Wilson
Counsel for Defendant

4874-1601-2401.1 / 101808-1002

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

CLASS MEMBER SIGNATORIES

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COUNTERPARTS

86. 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 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 HEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

Dated: _____, 2023

Cristina Catalano
Plaintiff and Class Representative



Dated: July 17, _____, 2023

Ignazio Cipriani
President
Defendant Mr. C Manager, LLC

APPROVED AS TO FORM AND CONTENT:

Dated: _____, 2023

Sepideh Ardestani
Counsel for Plaintiff and the Putative Class

Dated: _____, 2023

Elizabeth Staggs Wilson
Counsel for Defendant

4874-1601-2401.1 / 101808-1002

Exhibit A

1 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
2 JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
3 SEPIDEH ARDESTANI, ESQ. (SBN 274259)
sepideh@crosnerlegal.com
4 **CROSNER LEGAL, PC**
5 9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
6 Tel: (866) 276-7637
Fax: (310) 510-6429
7

8 Attorneys for Plaintiff CRISTINA CATALANO,
As an individual on behalf of herself and
9 on behalf of all others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 CRISTINA CATALANO, as an individual
13 on behalf of herself and on behalf of all
others similarly situated,

14
15 Plaintiff,

16 v.

17 BEVERLY HILLS HOTEL
18 MANAGEMENT LLC, a Delaware limited
liability company; MR. C MANAGER,
19 LLC, a New York limited liability
company; BHR TRS BEVERLY HILLS
20 LLC, a Delaware limited liability company;
BRAEMAR HOTELS & RESORTS, INC.,
21 a Maryland corporation; REMINGTON
LODGING & HOSPITALITY, LLC, a
22 Delaware limited liability company;
ASHFORD TRS BEVERLY HILLS LLC,
23 a Delaware limited liability company; and
DOES 1-100, inclusive,

24
25 Defendants.
26
27
28

Case No.: 22STCV18139

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
7. **Failure to Reimburse Business Expenses**
8. **Unfair Competition and**
9. **Violation of Private Attorneys General Act (PAGA)**

DEMAND FOR JURY TRIAL

1 Plaintiff, CRISTINA CATALANO (“PLAINTIFF”), as an individual on behalf of herself,
2 the state of California, Aggrieved Employees (defined below) and on behalf of all other similarly
3 situated Class Members (defined below) hereby files this First Amended Complaint against
4 Defendants BEVERLY HILLS HOTEL MANAGEMENT LLC, a Delaware limited liability
5 company; MR. C MANAGER, LLC, a New York limited liability company; BHR TRS BEVERLY
6 HILLS LLC, a Delaware limited liability company; BRAEMAR HOTELS & RESORTS, INC., a
7 Maryland corporation; REMINGTON LODGING & HOSPITALITY, LLC, a Delaware limited
8 liability company; ASHFORD TRS BEVERLY HILLS LLC, a Delaware limited liability company;
9 and DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is
10 informed and believes and thereon alleges as follows:

11 **JURISDICTION AND VENUE**

12 1. This court possesses original subject matter jurisdiction over this matter. Venue is
13 proper in the County of Los Angeles pursuant to California Code of Civil Procedure section 395.5
14 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
15 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
16 PLAINTIFF herein occurred in this this judicial district. *See also Crestwood Behavioral Health,*
17 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county
18 where the defendants committed Labor Code violations against some of its employees).

19 **THE PARTIES**

20 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
21 California and a citizen of the State of California who worked as a non-exempt employee for
22 DEFENDANTS in the State of California.

23 3. PLAINTIFF was employed by DEFENDANTS as a non-exempt server (and/or
24 similar position/title) at DEFENDANTS’ restaurant located in the Mr. C Beverly Hills hotel in Los
25 Angeles, California. PLAINTIFF was employed by DEFENDANTS from in or around April 2019
26 through in or around December 2021.

27 4. Defendant, BEVERLY HILLS HOTEL MANAGEMENT LLC, is a Delaware
28 limited liability company that, at all relevant times, was authorized to do business within the State

1 of California and is doing business in the State of California.

2 5. Defendant, MR. C MANAGER, LLC, is a New York limited liability company that,
3 at all relevant times, was authorized to do business within the State of California and is doing
4 business in the State of California.

5 6. Defendant BHR TRS BEVERLY HILLS LLC, is a Delaware limited liability
6 company that, at all relevant times, was authorized to do business within the State of California and
7 is doing business in the State of California.

8 7. Defendant BRAEMAR HOTELS & RESORTS, INC., is a Maryland corporation
9 that, at all relevant times, was authorized to do business within the State of California and is doing
10 business in the State of California.

11 8. Defendant REMINGTON LODGING & HOSPITALITY, LLC, is a Delaware
12 limited liability company that, at all relevant times, was authorized to do business within the State
13 of California and is doing business in the State of California.

14 9. Defendant ASHFORD TRS BEVERLY HILLS LLC, is a Delaware limited liability
15 company that, at all relevant times, was authorized to do business within the State of California and
16 is doing business in the State of California.

17 10. DEFENDANTS own, operate, or otherwise manage hotels in California including but
18 not limited to Mr. C Beverly Hills hotel.¹

19 11. The true names and capacities of the DOE Defendants sued herein as DOES 1
20 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
21 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
22 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
23 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
24 become known.

25 12. PLAINTIFF is further informed and believes that, at all relevant times, each
26 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
27 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or

28 ¹ See <https://www.mrchotels.com/mrcbeverlyhills/>. Last visited on May 26, 2022.

1 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
2 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
3 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
4 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
5 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
6 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
7 controlled, aided and abetted the conduct of all other Defendants.

8 JOINT LIABILITY

9 13. Under California law, the definition of the terms “to employ” are broadly construed
10 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
11 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
12 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
13 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
14 was to reach situations in which multiple entities control different aspects of the employment
15 relationship. Supervision of the work, in the specific sense of exercising control over how services
16 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
17 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
18 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
19 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
20 California, applying a less stringent standard to what constitutes sufficient control by a business
21 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
22 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
23 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
24 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
25 employment,” *Id.* at 875 [emphasis added].

26 14. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF, Aggrieved
27 Employees and Class Members were jointly employed by DEFENDANTS for purposes of the Wage
28 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court

1 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
2 hours and working conditions of PLAINTIFF, Aggrieved Employees and Class Members; (2)
3 suffered or permitted PLAINTIFF, Aggrieved Employees, and Class Members to work for them;
4 and (3) engaged PLAINTIFF, Aggrieved Employees and Class Members to work for them.

5 15. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
6 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
7 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
8 across all of their locations/facilities and subjected Class Members to these same policies and
9 practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
10 informed and believes that: (1) there is common ownership in, and financial control, in
11 DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
12 over the day-to-day operations and employment matters, including the power to hire and fire, set
13 schedules, issue employee policies, and determine rates of compensation across its locations in
14 California; (3) DEFENDANTS utilize the same policies and procedures for all California
15 employees, including issuing the same employee handbooks and other form agreements; (4)
16 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
17 employment matters; and, (6) DEFENDANTS share employees.

18 16. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
19 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF, Aggrieved Employees,
20 and the Class Members upon whose behalf PLAINTIFF brings these allegations and causes of
21 action, in that DEFENDANTS, exercised sufficient control over their wages, hours and working
22 conditions, and/or suffered or permitted them to work so as to be considered their joint employers.
23 For example, during the relevant period, PLAINTIFF received wage statements identifying
24 Defendant BEVERLY HILLS HOTEL MANAGEMENT LLC as the employer, and other wage
25 statements identifying Defendant BHR TRS BEVERLY HILLS LLC as the employer. During the
26 relevant period, PLAINTIFF also received wage statements that stated the following: "Employing
27 Entity: Beverly Hills Marriott 150 South Beverly Drive, Los Angeles, CA 90035." Based on
28 information and belief, the Beverly Hills Marriott is owned, managed, and/or operated by Defendant

1 REMINGTON LODGING & HOSPITALITY, LLC,² and/or ASHFORD TRS BEVERLY HILLS
2 LLC.³ Moreover, documents in PLAINTIFF's personnel file identify Defendant MR. C
3 MANAGER, LLC as the employer. Based on information and belief, at times during the relevant
4 period, Mr. C Beverly Hills hotel was owned, managed and/or operated by Defendant
5 REMINGTON LODGING & HOSPITALITY, LLC.⁴ Furthermore, documents in PLAINTIFF's
6 personnel file, including but not limited to an employee handbook identify "Remington" as the
7 employer. Upon information and belief, Defendant BRAEMAR HOTELS & RESORTS, INC.,
8 acquired the Mr. C Beverly Hills hotel at some time during the relevant period.⁵

9 17. As such, PLAINTIFF alleges upon information and belief, that DEFENDANTS
10 created a uniform set of policies, practices and/or procedures concerning, inter alia, hourly and
11 overtime pay, time-keeping practices, meal and rest periods, reimbursement of business expenses
12 and other working conditions that were distributed to, and/or applied to PLAINTIFF, Aggrieved
13 Employees and Class Members and further that DEFENDANTS uniformly compensated and
14 controlled their wages in a uniform manner. DEFENDANTS collectively represented to
15 PLAINTIFF, Aggrieved Employees and Class Members that each was an "at-will" employee of
16 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate their
17 employment with or without cause. Upon information and belief, DEFENDANTS further
18 collectively represented to PLAINTIFF, Aggrieved Employees and Class Members in writing the
19 details of their compensation, and the manner in which they were to take meal and rest periods, the
20 procedures required by DEFENDANTS collectively for recordation of hours worked and the
21 policies applicable to PLAINTIFF, Aggrieved Employees and Class Members by which
22 DEFENDANTS collectively would evaluate their wage rates.

23 18. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
24 and working conditions of PLAINTIFF, Aggrieved Employees and Class Members. As such,
25 DEFENDANTS collectively held the right to control virtually every aspect their employment,

26 ² See <https://www.remingtonhotels.com/portfolio>. Last visited on June 1, 2022.

27 ³ See <https://www.ahltreit.com/portfolio.htm>. Last visited on June 1, 2022.

28 ⁴ See <https://www.remingtonhotels.com/portfolio>. Last visited on June 1, 2022.

⁵ See <https://www.bhrreit.com/>. Last visited on May 27, 2022.

1 including the instrumentality that resulted in the illegal conduct for which PLAINTIFF seeks relief
2 in this Complaint.

3 19. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
4 control over, applied the same policies and practices, and engaged in the same acts and omissions
5 with regard to Aggrieved Employees and Class Members.

6 **CLASS ALLEGATIONS**

7 20. PLAINTIFF brings this action on behalf of herself, and all others similarly situated
8 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to
9 represent is defined and referred to as follows:

10 “**Class**” or “**Class Members**”: All current and former non-exempt
11 employees that worked either directly or via a staffing agency for
12 DEFENDANTS at any location in California at any time within the
13 four years and 178 days prior to the filing of the initial Complaint
14 (“Class Period”).⁶

- 15 a. Numerosity. While the exact number of Class Members is unknown to
16 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
17 all members is impractical under the circumstances of this case. PLAINTIFF is
18 informed and believes the Class consist of at least 100 individuals.
- 19 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
20 because common questions of law and fact predominate over individual issues.
21 Common questions include, but are not limited to, the following: (1) whether
22 DEFENDANTS understated hours worked and failed to pay all amounts due to
23 PLAINTIFF and the Class Members for wages earned, including minimum and
24 overtime wages, under California law; (2) whether DEFENDANTS provided
25 PLAINTIFF and the Class Members with all meal periods or premium payments

26 _____
27 ⁶ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a)
28 (California Rules of Court), whereby “statutes of limitations and repose for civil causes of action that
exceed 180 days are tolled from April 6, 2020 to October 1, 2020.”

1 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
2 provided PLAINTIFF and the Class Members with all rest periods or premium
3 payments in lieu thereof, in compliance with California law; (4) whether
4 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
5 itemized wage statements in compliance with California law, displaying,
6 including but not limited to, the total hours worked during the pay period and
7 the correct name and/or address of the legal entity that is the employer; (5)
8 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
9 wages due upon separation of employment; (6) whether DEFENDANTS failed
10 to reimburse PLAINTIFF and the Class Members for all business expenses; and
11 (7) whether DEFENDANTS violated California Business and Professions Code
12 sections 17200, *et seq.*

- 13 c. Ascertainable Class. The proposed Class is ascertainable as members can be
14 identified and located using information in DEFENDANTS' business, payroll
15 and personnel records.
- 16 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
17 PLAINTIFF suffered a similar injury as Class Members as a result of
18 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
19 and pay all owed minimum and overtime wages, failure to provide proper meal
20 periods and rest periods or premium compensation in lieu thereof, failure to
21 provide accurate wage statements, failure to reimburse business expenses, and
22 failure to timely pay all wages due upon separation of employment.
- 23 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
24 Class Members. PLAINTIFF has no interests adverse to the interests of the other
25 Class Members. Counsel who represent PLAINTIFF are competent and
26 experienced in litigating similar class action cases and are California lawyers in
27 good standing. Counsel for PLAINTIFF have the experience and resources to
28 vigorously prosecute this case.

1 f. Superiority. A class action is superior to other available means for the fair and
2 efficient adjudication of this controversy since individual joinder of all members
3 of the class is impractical. Class action treatment will permit a large number of
4 similarly situated persons to prosecute their common claims in a single forum
5 simultaneously, efficiently, and without the unnecessary duplication of effort
6 and expense that numerous individual actions would engender. Furthermore, as
7 the damages suffered by each individual Class Member may be relatively small,
8 the expenses and burden of individual litigation would make it difficult or
9 impossible for individual Class Members to redress the wrongs done to them,
10 while an important public interest will be served by addressing the matter as a
11 class action. The cost to the court system of adjudication of such individualized
12 litigation would be substantial. Individualized litigation would also present the
13 potential for inconsistent or contradictory judgments. Finally, the alternative of
14 filing a claim with the California Labor Commissioner is not superior, given the
15 lack of discovery in such proceedings, the fact that there are fewer available
16 remedies, and the losing party has the right to a trial de novo in the Superior
17 Court.

18 **FACTUAL AND LEGAL ALLEGATIONS**

19 21. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
20 Class Members worked for DEFENDANTS in the State of California. At all times referenced herein,
21 DEFENDANTS exercised control over PLAINTIFF, Aggrieved Employees, and Class Members
22 and suffered and/or permitted them to work.

23 22. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
24 PLAINTIFF worked for DEFENDANTS as a server (and/or similar position/title) at the restaurant
25 located in DEFENDANTS' Mr. C Beverly Hills hotel in Los Angeles, California. PLAINTIFF
26 worked for DEFENDANTS from in or about April 2019 through in or around December 2021.

27 23. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
28 hourly basis for time counted by DEFENDANTS as hours worked.

1 24. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
2 PLAINTIFF, Aggrieved Employees and Class Members for all hours worked, resulting in the
3 underpayment of minimum and overtime wages. DEFENDANTS failed to compensate
4 PLAINTIFF, Aggrieved Employees and Class Members for all hours worked by virtue of, including
5 but not limited to, DEFENDANTS' time rounding policies and practices, automatic deduction for
6 purported meal periods (and/or failure to relieve employees of all duties/employer control during
7 unpaid meal periods, short meal periods, or otherwise unlawful meal period practices). Based on
8 information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal
9 period start and end times and/or automatically deducting at least thirty minutes per shift for meal
10 periods, despite having actual and/or constructive knowledge that PLAINTIFF, Aggrieved
11 Employees and other Class Members were not afforded lawful meal periods, depriving PLAINTIFF,
12 Aggrieved Employees and Class Members of all wages owed.

13 25. Based on information and belief, PLAINTIFF and Class Members were not paid for
14 all hours worked due to DEFENDANTS' mandated off-the-clock work policies and practices,
15 including but not limited to pre-shift and post-shift off-the-clock work. For example, prior to
16 clocking in for a scheduled shift, PLAINTIFF, Aggrieved Employees and other Class Members
17 were required to undergo pre-shift temperature screenings that took at least two to three minutes to
18 complete. This work time was off-the-clock and uncompensated.

19 26. DEFENDANTS also required PLAINTIFF, Aggrieved Employees and other Class
20 Members to don and doff their work uniform prior to clocking in to work. Upon arriving at the hotel
21 (and after completing the pre-shift temperature screening), PLAINTIFF was required to go to the
22 locker room and pick up her uniform. PLAINTIFF then walked to the nearest restroom to change
23 into her uniform (DEFENDANTS' locker room did not have changing rooms). After changing into
24 her uniform, PLAINTIFF returned to the locker room to place her belongings in her locker. This
25 process, which took at least twenty (20) minutes to complete, was off-the-clock and uncompensated.

26 27. Similarly, after completing a scheduled shift, PLAINTIFF was required to clock out
27 first, then go to the locker room to retrieve her belongings. She then walked to the nearest restroom
28 to change out of her uniform. After changing, PLAINTIFF either returned her uniform to her locker,

1 or left her uniform in the laundry department. If and when PLAINTIFF left her uniform in the
2 laundry department, PLAINTIFF was required to fill out paperwork in the laundry department. This
3 process, which took at least twenty (20) minutes to complete, was off-the-clock and uncompensated.

4 28. Additionally, PLAINTIFF was occasionally required to attend meetings with
5 DEFENDANTS' human resources department after clocking out of a scheduled shift. For example,
6 if a customer or guest complained at the restaurant, and/or there was a disciplinary matter or policy
7 that needed to be addressed, human resources asked to speak to PLAINTIFF, Aggrieved Employees
8 and other Class Members after clocking out of a scheduled shift. As a result, meetings with human
9 resources were off-the-clock and uncompensated. PLAINTIFF recalls attending a post-shift off-the-
10 clock meeting with human resources that lasted approximately one hour.

11 29. Moreover, based on information and belief, PLAINTIFF completed off-the-clock
12 work due to DEFENDANTS' policy and/or practice of paying for scheduled hours worked rather
13 than actual hours worked. For example, in addition to using a time clock, PLAINTIFF was required
14 to fill out a daily time sheet at the restaurant. PLAINTIFF's manager required that Aggrieved
15 Employees and Class Members write down their scheduled shift start time, and shift end time as
16 opposed to their actual start and end time. As a result, PLAINTIFF regularly wrote down her
17 scheduled shift end time even though her actual shift end time was much later (due to her need to
18 assist customers, clean up after customers and/or complete other work tasks). Based on information
19 and belief, PLAINTIFF was paid for the hours notated on the daily time sheet as opposed to the
20 hours recorded by the time clock machine, further resulting in unpaid hours worked.

21 30. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding
22 policies and practices, auto-deduction policies and practices for purported meal periods, failure to
23 provide lawful meal periods, and/or other off-the-clock work practices and policies/failure to pay
24 for all hours worked resulted in the underpayment of minimum wages as well as unpaid overtime
25 wages owed to PLAINTIFF, Aggrieved Employees and Class Members that worked more than eight
26 (8) hours in a day and/or more than forty (40) hours in a week.

27 31. Based on information and belief, DEFENDANTS failed and continue to fail to pay
28 premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours

1 in a week.

2 32. Based on information and belief, DEFENDANTS failed and continue to fail to pay
3 twice Aggrieved Employees' and Class Members' regular rate(s) of pay for time worked beyond
4 twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh
5 consecutive day of work in a work week, in violation of California's overtime laws.

6 33. Moreover, based on information and belief, DEFENDANTS failed to incorporate all
7 non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay,
8 and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime
9 rate(s), resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF,
10 Aggrieved Employees and other Class Members.

11 34. Based on information and belief, DEFENDANTS had actual and/or constructive
12 knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure
13 to provide lawful meal periods and/or other off-the-clock work policies and practices resulted in the
14 underpayment of minimum wages and overtime wages owed to PLAINTIFF, Aggrieved Employees
15 and other Class Members.

16 35. **Meal Period Violations.** PLAINTIFF, Aggrieved Employees and Class Members
17 consistently worked shifts of at least five and one-half hours or more, entitling them to at least one
18 meal period. However, PLAINTIFF, Aggrieved Employees and Class Members were consistently
19 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take
20 late meal periods, interrupted meal periods, and/or work through part or all their meal periods due
21 to understaffing, the nature and constraints of their job duties and/or commentary from supervisors
22 pressuring them to take non-compliant meal periods or skip meal periods completely. Based on
23 information and belief, PLAINTIFF was unable to take a timely 30-minute meal period due to
24 understaffing and the nature and constraints of her job duties, including but not limited to the need
25 to assist/serve customers. Moreover, at times, PLAINTIFF continued working after beginning a
26 purported meal period due to her need to clean up after customers left the restaurant and/or complete
27 other work tasks, thereby depriving PLAINTIFF of a full 30-minute, off-duty meal period.
28 Furthermore, during most of her employment, PLAINTIFF was required to use a time clock machine

1 that was located on a different floor within the hotel. Based on information and belief, PLAINTIFF's
2 meal periods were short, in part due to her need to allow sufficient time to go to and from the
3 different floors in order to punch in and out for meal periods and return to her workstation.

4 36. As described above, PLAINTIFF, Aggrieved Employees and other Class Members
5 often completed off-the-clock work prior to their scheduled shift time (including but not limited to
6 donning/doffing uniforms and undergoing pre-shift temperature checks) which DEFENDANTS
7 failed to consider when scheduling meal periods for PLAINTIFF, Aggrieved Employees and other
8 Class Members. Based on information and belief, meal periods were late, in part due to unaccounted
9 pre-shift off-the-clock work.

10 37. Based on information and belief, other Aggrieved Employees and Class Members
11 were suffered and permitted to take meal periods past the fifth hour of work and/or had their meal
12 periods interrupted, cut short, and/or otherwise on duty due to commentary from supervisors,
13 understaffing, and/or the nature and constraints of their job duties.

14 38. Based on information and belief, DEFENDANTS implemented policies and/or
15 practices that failed to relieve Aggrieved Employees and Class Members of all duties and
16 DEFENDANTS' control during unpaid meal periods.

17 39. Based on information and belief, DEFENDANTS failed to instruct Aggrieved
18 Employees and Class Members as to the timing and duty-free nature of meal periods. Based on
19 further information and belief, DEFENDANTS did not have a compliant written meal period policy,
20 nor did DEFENDANTS have a compliant policy in practice.

21 40. Moreover, based on information and belief, Aggrieved Employees and Class
22 Members who worked shifts of more than ten hours did not receive a second legally compliant thirty
23 (30) minute meal period.

24 41. Based on information and belief, despite DEFENDANTS' failure to provide lawful
25 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
26 times of Aggrieved Employees' and Class Members' meal periods and/or automatically deducting
27 at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal periods despite
28 having actual and/or constructive knowledge that they did not receive lawful meal periods. Based

1 on information and belief, this time rounding policy resulted in PLAINTIFF, Aggrieved Employees
2 and other Class Members not being paid for all time worked as well as late and/or shortened meal
3 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

4 42. PLAINTIFF is further informed and believes and thereon alleges that
5 DEFENDANTS had actual and/or constructive knowledge that its policies and practices resulted in
6 the denial of lawful meal periods owed to PLAINTIFF, Aggrieved Employees and other Class
7 Members, in violation of California's meal period laws.

8 43. Moreover, based on information and belief, DEFENDANTS failed to pay
9 PLAINTIFF, Aggrieved Employees and Class Members an additional hour of wages at their
10 respective regular rates of compensation for each workday a proper meal period was not provided.
11 DEFENDANTS either failed to pay a meal period premium at all for each workday a proper meal
12 period was not provided or failed to pay the proper meal period premium for failure to incorporate
13 all non-discretionary remuneration, including but not limited to, non-discretionary bonus pay, shift
14 differential pay, and/or other non-discretionary compensation into the regular rate of compensation
15 for purposes of calculating the owed meal period premium.

16 44. **Rest Periods Violations.** DEFENDANTS did not properly authorize or permit
17 PLAINTIFF, Aggrieved Employees and Class Members to take compliant rest periods at a rate of
18 every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in
19 the middle of the work period, as required by law.

20 45. PLAINTIFF, Aggrieved Employees and Class Members were not adequately
21 informed, authorized, instructed about, nor permitted an opportunity to take lawful rest periods per
22 California law.

23 46. Based on information and belief, DEFENDANTS had no policy in place nor
24 instruction as to the taking, timing, or duty-free nature of rest periods.

25 47. Based on information and belief, DEFENDANTS did not have a have a compliant
26 written rest period policy, nor did DEFENDANTS have a compliant rest period policy in practice.
27 Based on information and belief, any purported rest periods were interrupted, cut short, on duty,
28 restricted to premises, and/or late due to the nature and constraints of Aggrieved Employees' and

1 Class Members' job duties, need to assist customers (and/or complete other work tasks),
2 understaffing, and/or commentary from supervisors pressuring them to skip rest periods completely
3 and/or take non-compliant rest periods. For example, PLAINTIFF was consistently unable to take
4 a timely off-duty rest period (or any rest period at all) due to understaffing, and the nature and
5 constrains of her job duties, including but not limited to the need to assist/serve customers (and/or
6 complete other assigned work tasks).

7 48. Based on information and belief, DEFENDANTS implemented policies and/or
8 practices that failed to relieve PLAINTIFF, Aggrieved Employees and other Class Members of all
9 duties and employer's control during rest periods.

10 49. Based on information and belief, Class Members and Aggrieved Employees were
11 pressured to complete their work duties according to a designated schedule such that rest periods
12 were only taken once tasks were completed, and/or as time permitted.

13 50. Furthermore, DEFENDANTS failed to pay PLAINTIFF, Aggrieved Employees and
14 Class Members an additional hour of wages at the regular rate of pay for each workday they were
15 denied a compliant rest period in violation of Labor Code section 226.7. DEFENDANTS either
16 failed to pay a rest period premium at all for each workday a proper rest period was not provided or
17 failed to pay the proper rest period premium for failure to incorporate all non-discretionary
18 remuneration, including but not limited to, shift differential pay, bonus pay and/or other non-
19 discretionary compensation into the regular rate of compensation for purposes of calculating the
20 owed rest period premium.

21 51. **Inaccurate Wage Statements.** DEFENDANTS failed to provide PLAINTIFF,
22 Aggrieved Employees, and Class Members with accurate itemized wage statements that complied
23 with Labor Code section 226. DEFENDANTS issued wage statements that failed to among other
24 things, indicate the gross and net wages earned during the pay period, the correct applicable rates of
25 pay for all hours worked, and the "total hours worked" by PLAINTIFF, Aggrieved Employees, and
26 other Class Members (by virtue of rounded time entries, automatic deduction for meal
27 periods/failure to relieve them of all duties and employer control during unpaid meal periods, and/or
28 other off-the-clock work policies and practices described above) which results in a violation of

1 Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an
2 inference of injury under Labor Code Section 226 (*Maldonado v Epsilon Plastics, Inc.*, (2018) 22
3 Cal.App.5th 1308, 1337).

4 52. In addition, because of the violations detailed above, including but not limited to, not
5 paying regular and overtime wages for all hours worked and failing to provide meal and rest break
6 premiums, and not paying sick leave wages at the proper rates, DEFENDANTS violated California
7 Labor Code section 226 by willfully failing to furnish PLAINTIFF, Aggrieved Employees, and
8 Class Members with accurate, itemized wage statements. As described herein, based on information
9 and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation
10 earned during the pay period into the regular rate of pay for purposes of calculating the owed
11 overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of overtime
12 worked by PLAINTIFF, Aggrieved Employees and other Class Members. Accordingly,
13 DEFENDANTS violated Labor Code section 226.

14 53. Based on further information and belief, DEFENDANTS issued wage statements to
15 that failed to list the accurate total hours worked whenever shift differential wages were paid in
16 violation of Labor Code section 226.

17 54. Separately, and independent from the above allegations, DEFENDANTS issued
18 wage statements to PLAINTIFF, Aggrieved Employees, and Class Members that further violate
19 Labor Code section 226(a), by among other things, failing to list the correct name and/or address of
20 the legal entity that is the employer.

21 55. As a result, DEFENDANTS issued wage statements that were not accurate and did
22 not include all of the statutorily required information.

23 56. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
24 information and belief, DEFENDANTS failed to timely pay PLAINTIFF, Aggrieved Employees
25 and Class Members all wages that were due and owing upon termination (including but not limited
26 to layoffs) or resignation. Based on information and belief, DEFENDANTS untimely provide final
27 wages to Aggrieved Employees and Class Members without regard to the timing requirements of
28 Labor Code section 201-202. For example, PLAINTIFF last worked for DEFENDANTS on or about

1 December 1, 2021, yet DEFENDANTS issued PLAINTIFF's last paycheck on or around December
2 10, 2021.

3 57. Based on information and belief, upon separation of employment, other Aggrieved
4 Employees' and Class Members' final paychecks were not timely provided and/or were not timely
5 provided with all owed vacation pay and/or paid time off. Moreover, final paychecks, once provided,
6 did not include all owed wages as they were devoid of, including but not limited to, all owed
7 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
8 paid time off wages at the properly accrued rates.

9 58. **Unreimbursed Business Expenses.** DEFENDANTS required that PLAINTIFF,
10 Aggrieved Employees and Class Members incur business expenses as a direct consequence of the
11 performance of their job duties without providing reimbursement, in violation of Labor Code section
12 2802. Based on information and belief, PLAINTIFF, Aggrieved Employees and Class Members
13 were improperly required to provide and maintain work tools that are supposed to be the
14 responsibility of the employer, including but not limited to the use of a personal cell phone.

15 59. Based on information and belief, DEFENDANTS shifted the costs of doing business
16 onto PLAINTIFF, Aggrieved Employees and Class Members by requiring them to pay for business
17 expenses, including but not limited to, use of a personal mobile phone and data usage for work
18 related purposes including but not limited to making and receiving work-related calls and/or
19 messages from co-workers and/or managers/supervisors.

20 60. As a pattern and practice, DEFENDANTS regularly failed to reimburse and
21 indemnify PLAINTIFF, Aggrieved Employees and other Class Members for this business expense.
22 Pursuant to California Labor Code section 2802, PLAINTIFF, Aggrieved Employees and other
23 Class Members were entitled to be reimbursed for all reasonable expenses associated with carrying
24 out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

25 61. DEFENDANTS' failure to provide PLAINTIFF, Aggrieved Employees and Class
26 Members with full reimbursement for all reasonable expenses associated with carrying out their
27 duties required that Aggrieved Employees and Class Members subsidize and/or carry the burden of
28 business expenses in violation of Labor Code section 2802.

1 62. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
2 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
3 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

4 **FIRST CAUSE OF ACTION**

5 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
6 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 63. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 64. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
8 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
9 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
10 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
11 period is unlawful.

12 65. DEFENDANTS violated California’s minimum wage laws by failing to compensate
13 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
14 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
15 completed during meal periods, other pre-shift and post-shift off-the-clock work (described above),
16 and/or payment according to scheduled hours worked rather than actual hours worked resulted in
17 the failure to account for all hours worked and thus the denial of minimum wages.

18 66. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
19 Class Members for all hours worked.

20 67. Based on information and belief, DEFENDANTS had and continue to have a policy
21 of paying PLAINTIFF and Class Members for scheduled hours, rather than actual hours worked.

22 68. Based on information and belief, DEFENDANTS had and continue to have a policy
23 of requiring PLAINTIFF and the Class Members to perform off-the-clock work including but not
24 limited to pre-shift temperature checks, pre-shift and post-shift donning and doffing, and attending
25 post-shift meetings.

26 69. Based on information and belief, DEFENDANTS had actual or constructive
27 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
28 meal periods, failure to relieve employees of all duties and employer control during unpaid meal

1 periods, policy and practice of payment according to scheduled work time rather than actual work
2 time, and other mandated off-the-clock work resulted in the underpayment of minimum wages owed
3 to PLAINTIFF and other Class Members.

4 70. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
5 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
6 attorney's fees and costs, in an amount to be proved at trial.

7 **SECOND CAUSE OF ACTION**
8 **Recovery of Unpaid Overtime Wages**
9 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

10 71. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 72. Employees in California must be paid overtime, equal to one and one-half times the
12 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
13 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
14 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
15 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
16 consecutive day of work in a workweek, unless they are exempt.

17 73. PLAINTIFF and the Class Members worked overtime hours for which they were not
18 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
19 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
20 other pre-shift and post-shift off-the-clock work (described above), and/or payment according to
21 scheduled hours worked rather than actual hours worked resulted in the failure to account for all
22 hours worked and thus the denial of all owed overtime wages.

23 74. Based on information and belief, DEFENDANTS failed to pay twice Class
24 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
25 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
26 violation of California's overtime laws.

27 75. Based on information and belief, DEFENDANTS further violated California's
28 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary

1 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
2 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
3 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
4 other Class Members.

5 76. DEFENDANTS' conduct described above is in violation of California Labor Code
6 sections 510 and 1194 and all applicable Wage Orders.

7 77. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
8 wages, plus attorney's fees and costs, in an amount to be proved.

9 **THIRD CAUSE OF ACTION**

10 **Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 78. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 79. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
13 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
14 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
15 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
16 waived, but only under the following circumstances: (1) if an employee's total work period in a day
17 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
18 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
19 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
20 waived by mutual consent of the employer and employee, but only if the first meal period was not
21 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
22 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
23 done so.

24 80. Employers must pay employees an additional hour of wages at the employees'
25 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
26 meal period, first meal period provided after five (5) hours, second meal period provided after 10
27 hours). Lab. Code § 226.7.

28 81. PLAINTIFF and the Class Members were consistently unable to take timely, off

1 duty, thirty-minute, uninterrupted first and second meal periods, often being forced to take late meal
2 periods, interrupted meal periods and/or work through part or all of their meal periods due to
3 understaffing, the nature and constraints of their job duties, and/or commentary from supervisors
4 pressuring them to take non-compliant meal periods or skip meal periods completely.

5 82. Based on information and belief, DEFENDANTS had and continue to have a policy
6 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
7 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
8 Members did not receive compliant meal periods.

9 83. Moreover, based on information and belief, Class Members did not receive a timely,
10 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

11 84. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
12 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
13 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
14 violation of California's meal period laws.

15 85. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
16 periods in violation of California law and/or failed to pay the proper meal period premium for failure
17 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
18 differential pay and/or other non-discretionary compensation into the regular rate or compensation
19 for purposes of calculating the owed meal period premium.

20 86. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
21 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
22 a meal period was missed, late, interrupted, or otherwise unlawful, all in an amount to be proved at
23 trial.

24 **FOURTH CAUSE OF ACTION**
25 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
26 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

27 87. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28 88. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours

1 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
2 “insofar as practicable.” In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
3 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
4 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
5 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).
6 The rest period requirement obligates employers to permit and authorize employees to take off-duty
7 rest periods, meaning employers must relieve employees of all duties and relinquish control over
8 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

9 89. If the employer fails to provide any required rest period, the employer must pay the
10 employee one hour of pay at the employee’s regular rate of compensation for each workday the
11 employer did not provide at least one legally required rest period, pursuant to Labor Code section
12 226.7.

13 90. PLAINTIFF and the Class Members did not receive compliant, timely 10-minute rest
14 periods for every four (4) hours worked or major fraction thereof. Any purported rest periods were
15 interrupted, cut short, on duty, restricted to premises, and/or late due to the nature and constraints
16 of Class Members’ job duties, need to assist customers (and/or complete other work tasks),
17 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
18 skip rest periods completely or otherwise take non-compliant rest periods.

19 91. Based on information and belief, DEFENDANTS implemented policies and/or
20 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
21 control during rest periods. Based on further information and belief, Class Members were pressured
22 to complete their work duties according to a designated schedule such that rest periods were only
23 taken once tasks were completed, and/or as time permitted.

24 92. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
25 second, or third rest periods as required by California law.

26 93. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
27 period premium to PLAINTIFF and other Class Members for each workday in which there was a
28 missed or otherwise unlawful rest period. Based on further information and belief, when a rest

1 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
2 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
3 regular rate of compensation for purposes of determining the owed rest period premium.

4 94. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
5 hour of additional pay at the regular rate of compensation for each workday that a required rest
6 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
7 Order, plus pre-judgment interest.

8 **FIFTH CAUSE OF ACTION**

9 **Failure to Furnish Accurate Itemized Wage Statements (By PLAINTIFF and Class Members Against all DEFENDANTS)**

10 95. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 96. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
12 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
13 wage statement accurately stating the following:

14 (1) gross wages earned, (2) total hours worked by the employee,
15 except for any employee whose compensation is solely based on a
16 salary and who is exempt from payment of overtime under
17 subdivision (a) of Section 515 or any applicable order of the Industrial
18 Welfare Commission, (3) the number of piece-rate units earned and
19 any applicable piece rate if the employee is paid on a piece-rate basis,
20 (4) all deductions, provided that all deductions made on written orders
21 of the employee may be aggregated and shown as one item, (5) net
22 wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

23 97. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
24 meal and rest periods that complied with Labor Code section 226.7, the wage statements
25 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
26 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
27 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
28 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect

1 during the pay period and the corresponding number of hours worked at each hourly rate by the
2 employee, in violation of Labor Code section 226(a)(9).

3 98. Moreover, due to violations detailed above, including but not limited to,
4 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
5 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
6 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
7 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross
8 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
9 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
10 compensation earned during the pay period into the regular rate of pay for purposes of calculating
11 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
12 overtime worked by PLAINTIFF and other Class Members. Moreover, wage statements issued by
13 DEFENDANTS failed to list the "total hours worked" by PLAINTIFF and Class Members (by
14 virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class
15 Members of all duties and employer control during unpaid meal periods, and/or other off-the-clock
16 work policies and practices all described in greater detail *supra*), which results in a violation of
17 Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an
18 inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22
19 Cal.App.5th 1308, 1337).

20 99. Based on further information and belief, DEFENDANTS issued wage statements to
21 PLAINTIFF and Class Members that failed to list the accurate total hours worked whenever shift
22 differential wages were paid in violation of Labor Code section 226.

23 100. Separately, and independent from the above allegations, DEFENDANTS issued
24 wage statements to PLAINTIFF, and Class Members that violate Labor Code section 226(a)(8), by
25 failing to list the correct name and/or address of the legal entity that is the employer.

26 101. DEFENDANTS' failure to accurately list all hours worked on all wage statements
27 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
28 Members over whether they received all wages owed to them.

1 102. As a result, PLAINTIFF and other Class Members have suffered injury as they could
2 not easily determine whether they received all wages owed to them and whether they were paid for
3 all hours worked. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
4 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered injury
5 as they could not contact their employer regarding any question(s) they had about wages paid.

6 103. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
7 Class Members with accurate, itemized wage statements.

8 104. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
9 have suffered injury. The absence of accurate information on their wage statements has prevented
10 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
11 mathematical computations to determine the amount of wages owed, and will cause difficulty and
12 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
13 submission of inaccurate information about wages and amounts deducted from wages to state and
14 federal government agencies. As a result, PLAINTIFF and Class Members are required to
15 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
16 and pay records than if DEFENDANT had complied with its legal obligations.

17 105. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
18 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
19 violation occurred and one hundred dollars per employee per violation for each subsequent pay
20 period, not to exceed an aggregate penalty of four thousand dollars per employee.

21 106. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
22 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
23 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
24 provide currently employed Class Members with inaccurate wage statements in violation of
25 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
26 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
27 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
28 with California Labor Code § 226(a).

1 107. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
2 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
3 attorneys' fees, and costs of suit.

4 **SIXTH CAUSE OF ACTION**

5 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
6 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

7 108. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

8 109. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
9 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
payable immediately."

10 110. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
11 employee not having a written contract for a definite period quits his or her employment, his or her
12 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
13 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
14 to his or her wages at the time of quitting."

15 111. Based in information and belief, DEFENDANTS failed and continue to fail to timely
16 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of
17 Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class
18 Members do not include all wages owed as they are devoid of, including but not limited to, all owed
19 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
20 paid time off wages at the properly accrued rates.

21 112. Under Labor Code section 203, PLAINTIFF and the Class Members who are no
22 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'
23 pay, plus attorney's fees and costs, in an amount to be proved at trial.

24 **SEVENTH CAUSE OF ACTION**

25 **Failure to Reimburse Business Expenses**
26 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

27 113. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28 114. California law requires employers to indemnify their employees for all necessary
expenditures incurred by the employee in direct consequence of the discharge of their duties or of

1 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
2 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
3 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
4 incurred by the employee enforcing the rights granted by this section.”

5 115. Among other things, under California law, when employees must use their personal
6 cellphones for work-related purposes, the employer must reimburse them for a reasonable
7 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
8 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
9 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
10 *Id.* 1144-1145.

11 116. As described above, PLAINTIFF and the Class Members were improperly required
12 to pay for business expenses that are legally the responsibility of the employer, including but not
13 limited to, personal cell phone/data plan usage and charges.

14 117. DEFENDANTS’ failure to provide PLAINTIFF and the Class Members with full
15 reimbursement for all reasonable expenses associated with carrying out their duties required that
16 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
17 violation of Labor Code section 2802.

18 118. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
19 Members have suffered injury in that they were not completely reimbursed as mandated by
20 California law.

21 119. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
22 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
23 attorneys’ fees, and costs of suit.

24 **EIGHTH CAUSE OF ACTION**

Unfair Competition

(By PLAINTIFF and Class Members Against all DEFENDANTS)

25 120. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

26 121. The unlawful conduct of DEFENDANTS alleged herein constitutes unfair
27 competition within the meaning of California Business and Professions Code section 17200 *et seq.*
28

1 This unfair conduct includes all unlawful conduct alleged herein, including but not limited to:
2 DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and
3 practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest
4 periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and
5 accurate itemized wage statements; DEFENDANTS' failure to reimburse business expenses;
6 DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and
7 DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly
8 accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-
9 discretionary compensation into the sick pay calculation and failure to base the accrued sick leave
10 on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction
11 policies and practices, payment according to scheduled hours worked and/or other off-the-clock
12 work policies and practices).

13 122. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
14 California Labor Code, DEFENDANTS have gained a competitive advantage over other
15 comparable companies doing business in the State of California that comply with their obligations
16 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
17 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
18 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
19 minimum and overtime wages and to pay all wages due upon separation of employment of their
20 employees.

21 123. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF,
22 and Class Members have suffered injury in fact and lost money or property, as described in more
23 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
24 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
25 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of its
26 unlawful and unfair business practices.

27 124. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
28 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from

1 engaging in each of the unlawful practices and policies set forth herein.

2 **NINTH CAUSE OF ACTION**

3 **Violation of the Private Attorneys General Act of 2004**

4 **(By PLAINTIFF, Aggrieved Employees, and the State of California Against All**
5 **DEFENDANTS)**

6 125. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

7 126. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,
8 Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of the State of
9 California and all Aggrieved Employees, regarding violations of the California Labor Code as set
10 forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

11 All current and former non-exempt employees that worked either
12 directly or via a staffing agency for DEFENDANTS at any location
13 in California at any time from one year and sixty-five days prior to
14 the filing of the initial complaint through the present ("PAGA
15 Period").

16 127. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
17 section 2699(c), as she was employed by DEFENDANTS during the applicable statutory limitations
18 period and suffered one or more of the Labor Code violations set forth herein. Accordingly,
19 PLAINTIFF seeks to recover on behalf of herself, the State of California, and all other Aggrieved
20 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
21 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
22 Employees, as she was jointly employed by DEFENDANTS and is thereby affected by one or more
23 of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th
24 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by
25 the employer – regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761.

26 128. On May 27, 2022, PLAINTIFF, through her counsel, gave written notice by online
27 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
28 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
in this Complaint ("PAGA Letter"). On June 1, 2022, PLAINTIFF, through her counsel, gave

1 written amended notice by online filing with the LWDA (“Amended PAGA Letter”), naming
2 additional entities that employed PLAINTIFF. The PAGA Letter and Amended PAGA Letter were
3 sent to DEFENDANTS via certified mail.

4 129. The PAGA Letter and Amended PAGA Letter outlined PLAINTIFF’s claims for
5 violations of the California Labor Code and the applicable wage orders on behalf of herself, the
6 State of California and other Aggrieved Employees.

7 130. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
8 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
9 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
10 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code
11 section 2699.3. Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

12 131. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
13 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
14 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

15 132. From one year prior to PLAINTIFF’s filing of the required PAGA notice with the
16 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California the
17 Labor Code and California Industrial Welfare Commission Wage Orders for violations of Labor
18 Code sections 201, 201.3, 201.5, 201.6, 201.9, 202, 202, 203, 204, 204.1, 204.2, 216, 221, 222, 223,
19 226, 226.3, 226.7, 245, 245.8, 246, 247, 248.5, 351, 352, 353, 432, 432.5, 432.7, 510, 512, 558,
20 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197 *et seq.*, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5,
21 and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et*
22 *seq* (“PAGA”) as to PLAINTIFF and Aggrieved Employees. These violations subject
23 DEFENDANTS to civil penalties as set forth in the foregoing statutes as well as other
24 provisions of the Labor Code, including without limitation, Labor Code sections 203, 210,
25 225.5, 226, 226.3, 256, 558, 558.1, 1174.5, 1197.1 and 2699.

26 133. As set forth above, DEFENDANTS have committed numerous violations of the
27 California Labor Code due to including but not limited to their failure to pay all owed minimum
28 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation

1 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,
2 and failure to timely pay all wages owed upon separation of employment as alleged above. PAGA
3 penalties are in addition to any other relief available under the Labor Code.

4 134. Additionally, DEFENDANTS have violated the following Labor Code sections and
5 provisions of the applicable Wage Order as to PLAINTIFF and Aggrieved Employees.

6 135. **Record Keeping Violations.** California Labor Code § 1174 requires employers to
7 keep “accurate and complete” payroll records showing, among other things, the hours worked daily
8 by all non-exempt employees. All applicable Wage Orders § 7 similarly requires employers to keep
9 time records reflecting the times during which all owed meal periods were provided each day.

10 136. Due to DEFENDANTS’ automatic meal break deductions, failure to relieve
11 employees of all duties and employer control during meal periods, time rounding, and other off-the-
12 clock work policies and practices described above, DEFENDANTS failed, and continue to fail, to
13 keep accurate and complete records as required by law, including but not limited to the following
14 records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF
15 and other Aggrieved Employees began and ended each work period, time records of meal periods,
16 shift start times and end times, and accurate itemized wage statements.

17 137. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
18 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
19 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
20 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
21 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
22 period during which the referenced statutes and Wage Order provisions were violated.⁷

23 138. **Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432: Time and Pay**
24 **Records.** Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that

25 ⁷ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
26 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the
27 employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid”) (emphasis added).

1 employers keep the following information on file for each employee for a minimum of three years:
2 The employee's dates of employment; the employee's hourly rates and the corresponding number
3 of hours worked by the employee at each hourly rate, when the employee begins and ends each work
4 period (including meal periods) and split intervals; total hours worked by the employee; all
5 deductions; gross wages earned; and net wages earned.

6 139. Section (b) of Labor Code section 226 further requires employers to "afford current
7 and former employees the right to inspect or receive a copy of records pertaining to their
8 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
9 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
10 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
11 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
12 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
13 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
14 the employer. Lab. Code section 226(f).

15 140. Personnel Records. In addition to their right to time and pay records, employees, and
16 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
17 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
18 section 432 further specifies that employers must furnish copies of all employment records bearing
19 the employee's signature.

20 141. Labor Code section 1198.5 also requires that the file be made available for inspection
21 or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date
22 the employer receives a written request." An employer's failure to comply within this timeframe
23 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty
24 from the employer. Lab. Code section 1198.5(k).

25 142. Based on information and belief, DEFENDANTS fail to timely produce or make
26 available a current or former employee's personnel records and/or payroll records when requested
27 pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example,
28 PLAINTIFF sent a request for payroll and personnel records to DEFENDANTS. Yet,

1 DEFENDANTS failed to timely produce complete records within the time periods delineated by
2 California labor law. Based on information and belief, DEFENDANTS failed and continue to fail
3 to timely produce complete payroll and personnel records when requested by other Aggrieved
4 Employees.

5 143. These violations subject DEFENDANTS to penalties under Labor Code sections
6 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for
7 each Aggrieved Employee, results in a separate civil penalty.

8 144. **Refusal to Make Payment.** Labor Code section 216 declares unlawful an
9 employer's refusal to pay wages due and payable and/or the denial of the validity of any claim to
10 wages due. DEFENDANTS violated and continue to violate this section by failing to pay
11 PLAINTIFF and other Aggrieved Employees for all hours worked at the proper wage rate and by
12 failing to pay an additional hour of pay for each meal/rest period not provided or that was otherwise
13 unlawful. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These
14 violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation
15 results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period during which
16 the statute provisions were violated.⁸

17 145. **Statutory Wage Violations.** California Labor Code section 223 makes it unlawful
18 for an employer to secretly pay wages lower than required by statute while purporting to pay legal
19 wages. As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and
20 other Aggrieved Employees of all earned minimum and overtime compensation for all hours worked
21 which resulted in the payment of less than statutorily required wages. DEFENDANTS acted with
22 the intent to deprive them of statutory wages, including, but not limited to, overtime wages and
23 minimum wages, to which they were entitled to under California law. Thus, DEFENDANTS paid
24 PLAINTIFF and other Aggrieved Employees lower wages than those they were entitled to while
25 purporting that PLAINTIFF and other Aggrieved Employees were properly paid. As a result,

26
27 ⁸ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 PLAINTIFF and other Aggrieved Employees are entitled to recover penalties, attorney's fees, costs,
2 and interest thereon, pursuant to Labor Code § 2699(f)-(g).

3 146. **Standard Conditions of Labor Violations.** Together, Labor Code sections 1198
4 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by
5 the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4,
6 Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the
7 commission. Therefore, DEFENDANTS' violations with respect to meal periods, rest periods,
8 record keeping provisions, minimum and overtime wages, and business expenses result in separate
9 violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor
10 Code sections 1197.1 and 2699.

11 147. **Unlawful Deductions:** Labor Code section 221 prohibits an employer from
12 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
13 to said employee." PLAINTIFF alleges on information and belief that DEFENDANTS made
14 unlawful deductions from Aggrieved Employees paychecks during the relevant period, including
15 but not limited to \$10 that were deducted every pay period as part of DEFENDANTS' subsidized
16 meal plan. Based on information and belief, these deductions are unlawful and in violation of
17 including but not limited to, Labor Code Sections 221-222 which subject DEFENDANTS to civil
18 penalties under Labor Code Section 2699.

19 148. Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for
20 each pay period during which the statute provisions were violated.[1] [1] See Lab. Code §225.5
21 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
22 provided in this article, every person who unlawfully withholds wages due any employee in
23 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
24 to pay each employee").

25 149. **Violation of Labor Code section 351 and 353:** Labor Code Section 351 prohibits
26 employers and their agents from sharing in or keeping any portion of a gratuity left for or given to
27 one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions
28 from gratuities, or from using gratuities as direct or indirect credits against an employee's

1 wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities
2 received.

3 150. Based on information and belief, DEFENDANTS failed to ensure that Aggrieved
4 Employees fully received the gratuities left for them by patrons, in that DEFENDANTS and its
5 agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor
6 Code Section 351. Based on further information and belief, DEFENDANTS also failed/fails to keep
7 accurate records of all tips received, in violation of Labor Code Section 353. Based on information
8 and belief, DEFENDANTS failed to pay gratuities paid by customers using credit cards to
9 Aggrieved Employees by the next regular payday following the credit card payment, in violation of
10 Labor Code section 351.

11 151. Based on information and belief, DEFENDANTS charge an additional service
12 charge to its customers/patrons. Customers are led to believe that the service charge will be paid to
13 DEFENDANTS' Aggrieved Employees. Instead, DEFENDANTS keep a majority (if not the
14 entirety) of the service charge, thereby depriving Aggrieved Employees of the service
15 charge/gratuity that is left by the patron/customer for the Aggrieved Employees. *See O'Grady v*
16 *Merchant Exchanges Production, Inc.*, 41 Cal.App.5th 771, 790 (a mandatory service charge can
17 constitute a gratuity that is intended to the employees providing the service).

18 152. Pursuant to PAGA, DEFENDANTS are liable for penalties of \$100 per pay period
19 payable to each Aggrieved Employee for the first violation of Labor Code Sections 351 and 353
20 they experienced within the statutory period, and \$200 per pay period for each additional violation.

21 153. **Unlawful Agreements/ Unlawful Criminal History Inquiries:** Unlawful
22 Agreements. Labor Code section 432.5 provides that "no employer...shall require any employee or
23 applicant for employment to agree, in writing, to any term or condition which is known by such
24 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
25 PLAINTIFF and other Aggrieved Employees to agree in writing to unlawful conditions of
26 employment including but not limited to unlawful criminal and/or financial checks as a condition
27 of obtaining and/or continuing employment in violation of Labor Code section 432.5.

28 154. The California Labor Code places certain procedural and substantive limits on

1 employers' ability to conduct employee background checks and on how employers can use the
2 information they obtain through those background checks. Labor Code section 1024.5 states that
3 employers, except for financial institutions, may order a credit check only if the individual works
4 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
5 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
6 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
7 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
8 background check, including but not limited to identifying an appropriate reason for the background
9 check, a separate consent form with required disclosures and certain formatting requirements,
10 additional forms such as a summary of rights, a way by which to request a copy of the report, as
11 well as proper notice of adverse actions taken, among other statutory requirements.

12 155. Based on information and belief, DEFENDANTS ordered unlawful financial credit
13 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
14 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
15 employment, in violation of California and Federal law, which results in a further violation of Labor
16 Code section 432.5.

17 156. Based on information and belief, DEFENDANTS also required PLAINTIFF and
18 Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background
19 checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the
20 FCRA. For example, based on information and belief, DEFENDANTS conducted a background
21 check on PLAINTIFF as a condition of obtaining employment. Based on information and belief,
22 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
23 FCRA when conducting background screenings for applicants, including but not limited to
24 Aggrieved Employees that were subject to a background check (as a condition of employment)
25 during the application phase.

26 157. Based on information and belief, DEFENDANTS required PLAINTIFF and other
27 Aggrieved Employees to agree in writing to a background check which failed to abide by the
28 requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*,

1 including but not limited to by failing to provide a clear and conspicuous disclosure, failing to
2 provide disclosures free of extraneous information, failing to provide a lawful purpose for the
3 background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
4 failing to provide a way by which the individual could request a copy of the report, failing to disclose
5 the name, address, and telephone number of the third party preparing the report, and failing to
6 properly obtain authorization or consent to such a background check, and thus was an unlawful
7 background check.

8 158. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
9 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
10 section 432.5.

11 159. Based on information and belief, DEFENDANTS also required Aggrieved
12 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
13 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
14 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
15 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

16 160. Based on further information and belief, DEFENDANTS knew that requiring
17 PLAINTIFF and Aggrieved Employees to agree to unlawful criminal and/or financial background
18 checks as a condition of obtaining and/or holding employment was unlawful.

19 161. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
20 condition of employment, DEFENDANTS violated Labor Code section 432.5.

21 162. Unlawful Inquires into Criminal History. Labor Code section 432.7 prohibits an
22 employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even
23 then, certain limitations apply. Based on information and belief, DEFENDANTS asked Aggrieved
24 Employees about arrests not resulting in convictions on its employment application, in violation of
25 California law. For example, in DEFENDANTS' application for employment, PLAINTIFF was
26 required to answer the following question in writing:

27 -"Have you ever been arrested or charged with a crime for which trial is currently pending?"

28 163. Upon information and belief, DEFENDANTS, in violation of California law,

1 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
2 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
3 employment and/or otherwise impermissibly inquired into criminal history on its employment
4 application in violation of California law. For example, in DEFENDANTS’ application for
5 employment (and prior to extending an offer of employment), PLAINTIFF was required to answer
6 the following questions in writing:

7 -“Have you ever been convicted of a felony, including a guilty plea or plea of nolo
8 contendere?”

9 -“Have you ever been convicted of a misdemeanor which resulted in imprisonment,
10 including a guilty or plea or plea of nolo contendere?”

11 164. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
12 Code section 432.7. By asking about convictions at the application phase or prior to extending an
13 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
14 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
15 disclose arrests and/or convictions as a condition of employment.

16 165. As such, PLAINTIFF and Aggrieved Employees continue to be subject to various
17 unlawful provisions as a condition of employment.

18 166. **Sick Leave Violations.** DEFENDANTS violated California’s paid sick leave laws
19 including, Labor Code section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick
20 leave pay to PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick
21 leave due to DEFENDANTS’ failure to account for actual hours worked (as a result of
22 DEFENDANTS’ time rounding policy and practice, automatic deduction policies and practices for
23 meal periods, and/or other off-the-clock work described above) and by failing to incorporate
24 multiple rates of pay and/or failure to incorporate all forms of non-discretionary remuneration into
25 the sick pay calculation.

26 167. DEFENDANTS failed to give PLAINTIFF and other Aggrieved Employees notice
27 of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor Code
28 section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick

1 leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
2 Aggrieved Employees' intelligent exercise of their paid sick leave.

3 168. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
4 their paid sick leave at least prior to their respective separations, for as on several occasions
5 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
6 compensation.

7 169. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
8 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
9 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
10 were entitled to the maximum number of hours accruable.

11 170. Upon information and belief, DEFENDANTS failed and continue to fail to comply
12 with Labor Code section 246, by failing to provide PLAINTIFF and Aggrieved Employees with a
13 Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
14 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
15 wages.

16 171. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

17 172. On information and belief, PLAINTIFF alleges that all of these practices were
18 experienced and continue to be experienced by other Aggrieved Employees.

19 173. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, including but
20 not limited to injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

21 174. **Failure To Provide Supplemental Paid Sick Leave:** Labor Code section 248.2
22 provides that all employers with 26 or more employees are required to provide up to 80 hours for
23 covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves,
24 to care for a family member or if it is vaccine-related. Based on information and belief,
25 DEFENDANTS violated Labor Code section 248.2 by not providing Aggrieved Employees with
26 required 2021 COVID-19 Supplemental Paid Sick Leave.

27 175. Based on information and belief, DEFENDANTS failed to provide Supplemental
28 Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

176. As forth herein DEFENDANTS violated the California Labor Code and California Industrial Welfare Commission Wage Orders for violations of Labor Code sections 201, 201.3, 201.5, 201.6, 201.9, 202, 202, 203, 204, 204.1, 204.2, 216, 221, 222, 223, 226, 226.3, 226.7, 245, 245.8, 246, 247, 248.5, 351, 352, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197 *et seq.*, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq* (“PAGA”).

177. Under the provisions of PAGA and the following Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 233, 234, 245-248.6, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all relevant sections of the applicable Wage Orders, as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- a. All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and
- b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).
- c. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against PLAINTIFF or any Aggrieved Employee, whether a party to this action or not.

178. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, PLAINTIFF is entitled to recover civil penalties, costs, and attorney’s fees.

PRAYER FOR RELIEF

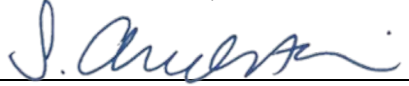
WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of herself, Aggrieved Employees, and Class Members as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;

3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred;
12. For civil penalties according to proof, including PAGA penalties (75% payable to the LWDA and 25% payable to Aggrieved Employees); and
13. For such other and further relief that the Court deems just and proper.

Dated: July 31, 2023

CROSNER LEGAL, PC

By: 

Zachary M. Crosner, Esq.
Jamie K. Serb, Esq.
Sepideh Ardestani, Esq.
Attorneys for Plaintiff,
CRISTINA CATALANO

DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury on all claims so triable.

Dated: July 31, 2023

CROSNER LEGAL, PC

By: 

Zachary M. Crosner, Esq.
Jamie K. Serb, Esq.
Sepideh Ardestani, Esq.
Attorneys for Plaintiff,
CRISTINA CATALANO

Exhibit B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CRISTINA CATALANO, as an individual on behalf
of herself and on behalf of all others similarly situated,
Plaintiff,

v.

BEVERLY HILLS HOTEL MANAGEMENT LLC, a
Delaware limited liability company; MR. C
MANAGER, LLC, a New York limited liability
company; BHR TRS BEVERLY HILLS LLC, a
Delaware limited liability company; BRAEMAR
HOTELS & RESORTS, INC., a Maryland
corporation; REMINGTON LODGING &
HOSPITALITY, LLC, a Delaware limited liability
company; ASHFORD TRS BEVERLY HILLS LLC, a
Delaware limited liability company; and DOES 1-100,
inclusive,

Defendants.

Case No. 22STCV18139

THIS NOTICE AFFECTS YOUR RIGHTS.

PLEASE READ IT CAREFULLY.

YOU MAY BE ENTITLED TO MONEY UNDER THIS SETTLEMENT.

Notice is hereby given that a proposed settlement (the “Settlement”) of the above-captioned class and representative action lawsuit has been reached by the Named Plaintiff and Class Representative Cristina Catalano (“Plaintiff”) and Defendant Mr. C Manager, LLC (“Defendant” or “Mr. C”). The proposed Settlement has been granted preliminary approval by the Superior Court of California, County of Los Angeles.

The proposed Settlement will resolve all claims against the Defendant in the above-captioned lawsuit (the “Action”). A final fairness hearing addressing the fairness, adequacy, and reasonableness of the Settlement will be held on **[insert date of Final Approval Hearing]** to determine whether the Settlement should receive the Court’s final approval. **Because your rights may be affected, it is extremely important that you read this Notice carefully. You do not need to do anything to participate in the Settlement. If you do not want to participate in the Settlement, you must opt-out of the Settlement by no later than [insert date].**

1. PURPOSE OF THIS NOTICE.

The Superior Court of California, County of Los Angeles has ordered that this Notice be sent to you because you have been identified as a potential member of the Settlement Class. The relevant time period is from March 22, 2019 through August 5, 2021 (“Class Period”).

The Settlement Class is defined as follows: All current and former nonexempt, hourly-paid employees of Defendant employed in California at any time from March 22, 2019, through August 5, 2021. The court granted preliminary approval of the Settlement on [REDACTED].

Receipt of this Notice means that you are in the Settlement Class and that you are entitled to share in the proceeds from the proposed Settlement. The purpose of this Notice is to: (a) provide a brief description of the Action; (b) inform you of the proposed Settlement; and (c) discuss your rights and options with respect to the Action and the Settlement.

2. DESCRIPTION OF THE ACTION.

In the Action, Plaintiff seeks injunctive relief, declaratory relief, restitution, damages, penalties, attorneys' fees, costs and any other further relief deemed appropriate by the Court by alleging that Defendant failed to pay and/or accurately calculate minimum, regular, overtime, and double time wages, and also failed to provide legally-required meal and rest periods, or pay premiums in lieu thereof and/or at a correct rate, failed to provide accurate wage statements, failed to timely pay wages due during employment and at termination, failed to reimburse and indemnify work-related expenses, violated the Private Attorneys General Act of 2004 ("PAGA"), and engaged in unfair competition, all in violation of Labor Code sections 201, 201.3, 201.5, 201.6, 201.9, 202, 202, 203, 204, 204.1, 204.2, 216, 221, 222, 223, 226, 226.3, 226.7, 245, 245.8, 246, 247, 248.5, 351, 352, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197 et seq., 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and the applicable Wage Order.

Defendant denies each and every allegation asserted in the Action and asserts that it has no liability for the claims of Plaintiff or the Class.

The Superior Court of California, County of Los Angeles has made no ruling on the merits of Plaintiff's claims or Defendant's defenses. The Court has preliminarily approved the proposed Settlement of the Action. The Court will decide whether to give final approval to the Settlement at a hearing scheduled for [insert date of Final Approval Hearing].

Attorneys for the Settlement Class ("Class Counsel") in the Action are:

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Attorneys for Defendant in this Action are:

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3. WHAT YOU MAY BE ENTITLED TO UNDER THE SETTLEMENT

Your share of the Settlement will be based on the number of workweeks you worked as a non-exempt, hourly-paid employee of Defendant in California from March 22, 2019, through August 5, 2021 ("Workweeks Worked"). As set forth below, Defendant has agreed to pay a total of \$200,000 to settle this matter. After attorneys' fees, litigation costs, Settlement Administrator's fees, Plaintiff's incentive award and PAGA penalties (*see* section 6 below for more details) are deducted from that payment, it is estimated that approximately \$[REDACTED] will remain for distribution to Settlement Class Members ("Net Settlement Amount"). To calculate your individual settlement payment, first, a workweek value will be determined by dividing the Net Settlement Amount by total workweeks worked by all Settlement Class Members during the Class Period. Then, your Individual Settlement Amount will be determined by multiplying your workweeks worked by the workweek value.

According to Defendant's records, you have worked [REDACTED] workweeks during the Class Period as a non-exempt, hourly-paid employee of Defendant and you have worked [REDACTED] pay periods during the PAGA Period as a non-exempt hourly-paid employee of Defendant. Based on the settlement formula described above, your estimated total distribution (gross) will be approximately \$[REDACTED]. That number may go up or down, depending upon such factors as the total

amount of attorneys' fees and costs awarded to Plaintiff's counsel by the Court, and the total number of Class Members who decide to participate in the Settlement.

4. SETTLEMENT ADMINISTRATOR

Phoenix Settlement Administrators has been appointed as the Settlement Administrator.

5. YOUR OPTIONS

As a Settlement Class Member, you have several options that are explained below. Each option will affect your rights, which you should understand before making your decision.

(a) You Can Do Nothing and Receive Money under the Settlement.

You do not need to do anything if you want to receive money from the Settlement. If you do nothing, and if the Court grants final approval of the Settlement, on or after [REDACTED], 2023, you will receive payment as estimated in Section 3, above. **If you choose to do nothing and accept the Settlement, you will be bound by the terms of the Settlement Agreement, including the release of claims described in section 8, below.**

(b) You Can Dispute the Number of Pay Periods Worked with which You Have Been Credited

If you believe that the number of pay periods worked calculated for you in Section 3, above, is incorrect, you may dispute the calculation. If you dispute the number of pay periods worked, it is your responsibility to supply documentation supporting your position. If you choose to dispute the calculation, you must send a written dispute, along with any evidence you have to support your calculation of pay periods worked, to the Settlement Administrator at the following address:

[NAME]

[address]

In order to be timely, any dispute must be postmarked to the Settlement Administrator on or before [REDACTED], 2023. If you timely dispute the total number of pay periods worked listed in Section 3, above, the dispute shall be submitted to the Settlement Administrator, who shall examine the records and either verify the calculation or provide a corrected calculation. The Settlement Administrator will make every effort to resolve any such disputes prior to final approval of this Settlement Agreement. The Settlement Administrator's determination of disputes will be final.

(c) You Can Opt Out of the Class.

If you do not want to participate in the Settlement, you can request exclusion from the Settlement Class (i.e., opt out). Your request for exclusion must contain your full name, address, birthdate, and a statement that you wish to be excluded. Your request for exclusion must be returned by mail to the Settlement Administrator at the address above and must be postmarked on or before [45 calendar days after notice date]. If you request exclusion, you will not be excluded from the PAGA Employees. If you request exclusion, you will still be entitled to receive your share of the PAGA portion of the Settlement, if any, and will still be bound by the PAGA portion of the Settlement if you are a member of the PAGA Employees.

If you exclude yourself from the class, you will not be considered a member of the Settlement Class, you will not receive any benefits under the Settlement, and you will be barred from objecting to the Settlement. By opting out of the class, you will retain whatever rights or claims you may have, if any, against the Defendant.

(d) You Can Object to the Settlement.

If you are a Settlement Class Member and you do not opt out of the class, you may object to the Settlement, personally or through an attorney, at your own expense, by mailing a written objection, and supporting papers, if any, to Settlement Administrator on or before [REDACTED], 2023 at the following address:

[Administrator's name]

[address]

All objections must include the name and case number of the Action, your full name, your current address and telephone number, and your dates of employment with Defendant. Your written objection must clearly explain why you object to the Settlement. If you have any supporting papers – such as briefs, written evidence or declarations – they must be submitted along with the objection.

However, even if you do not submit a written objection in the manner and by the deadline specified above, you may appear, personally or through an attorney, at your own expense, at the Final Approval Hearing to present your objection directly to the Court. If you object to the Settlement and if the Court approves the Settlement, you will be bound by the terms of the Settlement Agreement in the same way as a Class Member who does not object.

6. SUMMARY OF TERMS OF SETTLEMENT AGREEMENT.

The principal terms of the Settlement Agreement are summarized in this Notice. If you have any questions about the Settlement Agreement, please contact Class Counsel at the address or telephone numbers provided above.

(a) Settlement Amount.

Defendant shall pay a total of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00), plus any employer-side payroll taxes on the wage portion of the settlement awards (“Settlement Amount”). The Settlement Amount shall be used to satisfy (1) the payments to all Settlement Class Members for all Released Claims (defined below), including, but not limited to, unpaid minimum, regular, overtime, and double time compensation, missed meal and rest period penalties, unreimbursed business expenses, liquidated damages, restitution, penalties, interest, attorneys’ fees and costs, at any time between March 22, 2019, through August 5, 2021 (“Release Period”), by all members of the Settlement Class; (2) Plaintiff Counsel Attorneys’ fees and litigation costs; (3) the Plaintiff’s Enhancement Award; (4) penalties under PAGA; and (5) the settlement administration costs. The Settlement Amount will be distributed in accordance with the terms of the Agreement.

(b) Class Representative Enhancement Award.

The Settlement Administrator will distribute out of the Gross Settlement Amount no more than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff Cristina Catalano. This payment constitutes a Class Representative Enhancement Award paid to the Plaintiff in recognition of the role she played in obtaining the Settlement for the Class.

(c) Attorneys’ Fees and Costs.

All attorneys’ fees and costs awarded by the Court to Class Counsel will be paid out of the Gross Settlement Amount. Class Counsel is asking the Court to award no more than Sixty-Six Thousand Six Hundred Sixty Six Dollars and Sixty Six Cents (\$66,666.66) in attorneys’ fees and Class Counsel’s actual litigation expenses of no more than Fourteen Thousand Dollars and Zero Cents (\$14,000.00). Plaintiff and Class Counsel support this amount because of the benefits obtained by Class Counsel for Settlement Class Members.

(d) Payment to the California Labor and Workforce Development Agency.

The Settlement allocates Twenty Thousand Dollars and Zero Cents (\$20,000.00) to the settlement of the Private Attorneys General Act (“PAGA”) claims asserted in the Action. This means that, if the Settlement is approved, Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the Gross Settlement Amount will be paid to the California Labor and Workforce Development Agency. The remaining Five Thousand Dollars and Zero Cents (\$5,000.00) allocated to the PAGA claims will be payable to PAGA Employees, who are defined as all persons who are Settlement Class Members, who were employed at any time from June 14, 2021, through August 5, 2021. Each PAGA Employee’s share will be determined based on the number of pay periods they worked during this period.

(e) Settlement Administrator.

The Settlement will be administered by Phoenix Settlement Administrators. The settlement administration costs, estimated at \$8,750.00 will be deducted from the Settlement Amount.

7. ALLOCATION OF PAYMENTS AND TAX MATTERS.

(a) Allocation of Payments.

The Individual Settlement Payments for Settlement Class Members shall be characterized as twenty percent (20%) wages and eighty percent (80%) penalties and interest. The portion of the Individual Settlement Payments deemed wages shall be subject to the withholding of all applicable local, state, and federal income and employment taxes. The portion of the Settlement Payments deemed interest or penalties will be reported on IRS Form 1099, or similar form, to the appropriate taxing authorities.

(b) Tax Matters.

Settlement Class members should consult with their tax advisors concerning the tax consequences of any payment they receive. No provision of the Settlement, and no written communication or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended). You must rely exclusively upon your own, independent legal and tax advisers for advice (including tax advice) in connection with this Settlement. Your participation in this Settlement is not based upon the recommendation of any other party or any attorney or advisor to any other party. You are not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on you. No attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by you of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement.

8. RELEASES.

Upon entry of the Order Granting Final Approval, each member of the Settlement Class releases Defendant future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, including but not limited to Mr. C Manager, LLC, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant (collectively, the "Released Parties") (the Released Parties do not include Beverly Hills Hotel Management LLC, BHR TRS Beverly Hills LLC, Braemar Hotels & Resorts, Inc., Remington Lodging & Hospitality, LLC and Ashford TRS Beverly Hills LLC) from any and all other claims under California common law, the California Labor Code including but not limited to the Private Attorneys General Act, California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action, including the following:

- a. The Claims set forth in the Action, specifically, (1) Failure to pay minimum and regular rate wages; (2) failure to pay overtime compensation; (3) Failure to provide meal periods or provide premiums in lieu thereof; (4) Failure to provide rest periods or provide premiums in lieu thereof; (5) Failure to pay timely wages at termination; (6) Failure to provide accurate itemized wage statements; (7) Violation of Business and Professions Code § 17200, et seq.; (8) Failure to reimburse for necessary business expenses; and (9) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.);
- b. Any and all other claims under California common law, the federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Lawsuit and based on the alleged Labor Code violations;
- c. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Action.
- d. The Released Claims do not apply to the period between October 13, 2013 and March 21, 2019 that were already released by the members of *Harris v. Mr. C Manager, LLC, et al.*, which was pending in San Bernardino County Superior Court, Case No. CIVDS172484, and resulted in a settlement (1) covering all of Defendant's non-exempt employees in California for the period between October 13, 2013, and March 21, 2019, and (2) releasing all claims pertaining to (a) unpaid overtime; (b) unpaid minimum wages; (c) failure to provide meal periods; (d) failure to provide rest periods; (e) non-compliant wage statements and failure to maintain records; (f) wages not paid timely upon termination; (g) unreimbursed business expenses; (h) violation of the PAGA;

(i) unlawful business practices; and (10) unfair business practices, and those claims for the period at issue in *Harris* have been carved out of any settlement herein for those who settled their claims in *Harris*.

This release shall extend from March 22, 2019 through August 5, 2021.

9. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT.

You are not required to attend the Final Approval Hearing or file an objection, although you may do both. The Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, and Class Counsel's request for attorneys' fees and costs will be held on [insert date/time/location of fairness hearing]. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, you may contact the Settlement Administrator to confirm the date and time.

10. ADDITIONAL INFORMATION.

This Notice only summarizes the Action, the Settlement Agreement and related matters. For more information, and to access other documents related to this Settlement, please visit Settlement Administrator's website at [www.\(list Administrator's website\)](http://www.listAdministrator's website). Any questions regarding this Notice or Action may also be sent to the Settlement Administrator at the above address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address and telephone number set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

PLEASE DIRECT ANY QUESTIONS TO PLAINTIFF'S COUNSEL OR THE SETTLEMENT ADMINISTRATOR. DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.