

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Robert J. Drexler, Jr.(SBN 119119)
Robert.Drexler@capstonelawyers.com
3 Molly Ann DeSario (SBN 230763)
Molly.DeSario@capstonelawyers.com
4 Jonathan Lee (SBN 267146)
Jonathan.Lee @capstonelawyers.com
5 Capstone Law APC
1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Robert Onofre

9 *Additional counsel listed on next page*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF ORANGE

12 ROBERT ONOFRE, as an aggrieved employee
pursuant to the Private Attorneys General Act
13 (“PAGA”),

14 Plaintiffs,

15 vs.

16 ANAHEIM MAJESTIC GARDEN HOTEL, a
California corporation; PHR MANAGEMENT,
17 INC., a California corporation; KEN REAL
ESTATE LEASE LTD., a business entity of
18 unknown form; and DOES 1 through 10,
inclusive,

19 Defendants.

20
21 MIGUEL ZALDIVAR AVILA, individually
and on behalf of all others similarly situated,

22 Plaintiffs,

23 vs.

24 ANAHEIM MAJESTIC GARDEN HOTEL,
business form unknown; TSUBAKI HOTEL
25 COLLECTION, business form unknown, and
DOES 1-50, inclusive,

26 Defendants.
27
28

Case No.: 30-2016-00861544-CU-OE-CXC

**SUPPLEMENTAL DECLARATION OF
RAUL PEREZ IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 23, 2019
Time: 2:00 p.m.
Place: Department CX102

1 James Hawkins (SBN 192925)
James@jameshawkinsaplc.com
2 Gregory Mauro (SBN 222239)
Greg@jameshawkinsaplc.com
3 James Hawkins, APLC
9880 Research Drive, Suite 200
4 Irvine, CA. 92618
Telephone: (949) 387-7200
5 Facsimile: (949) 387-6676

6 Attorneys for Plaintiff Miguel Zaldivar Avila
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

1. I am an attorney licensed to practice before all courts of the State of California. I am a Partner at Capstone Law APC (“Capstone”), counsel of record for Plaintiff Robert Onofre in the above-captioned action. I make this supplemental declaration in support of the Motion for Preliminary Approval of the Class Action Settlement.

2. Based on information provided by Defendants' counsel, Tsubaki Hotel Collection ("THC") was a fictitious business name that is no longer in use and never existed as a separate entity. See Exhibit A (true and correct copy of correspondence from defense counsel regarding THC). THC is not named as a defendant in the *Onofre* Action.

3. The Parties have met and conferred and have prepared an amendment to the Settlement (“Amendment”) to address the Court’s concerns. A true and correct copy of the Amendment is attached as Exhibit B.

4. The Amendment and these supplemental papers have been e-filed with the LWDA. See Exhibit C (true and correct copy of LWDA confirmation of receipt email).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of May, 2019, at Los Angeles, California.


Raul Perez

Exhibit A

[REDACTED]

From: Agnes Sullivan <asullivan@zuberlaw.com>
Sent: Thursday, May 2, 2019 2:49 PM
To: Robert Drexler; Debbie J. Ellis
Cc: Eduardo Santos; Greg Mauro; Molly DeSario; Jonathan Lee
Subject: RE: Anaheim Majestic (Onofre and Avila)

Hi Robert,

I believe that THC was a fictitious business name that is no longer in use and never existed as a separate entity. It was not named as a defendant in *Onofre*. In *Avila*, in the Answer drafted by FMG, Defendant Ken Real Estate Lease Ltd. responded to Plaintiffs' First Amended Complaint "doing business as Anaheim Majestic Garden Hotel and Tsubaki Hotel Collection." The Court may want the parties to revise the Settlement Agreement to contain identical language.

-Agnès

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The logo for Capstone Law, with "Capstone" in orange and "LAW" in black.

[REDACTED]

Exhibit B

1
2
3
4
5
6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE
10

11 ROBERT ONOFRE, as an aggrieved employee
12 pursuant to the Private Attorneys General Act
13 ("PAGA"),

14 Plaintiffs,

15 vs.

16 ANAHEIM MAJESTIC GARDEN HOTEL, a
17 California corporation; PHR MANAGEMENT,
18 INC., a California corporation; KEN REAL
19 ESTATE LEASE LTD., a business entity of
20 unknown form; and DOES 1 through 10,
21 inclusive,

22 Defendants.

23 MIGUEL ZALDIVAR AVILA, individually
24 and on behalf of all others similarly situated,

25 Plaintiffs,

26 vs.

27 ANAHEIM MAJESTIC GARDEN HOTEL,
28 business form unknown; TSUBAKI HOTEL
COLLECTION, business form unknown, and
DOES 1-50, inclusive,

Defendants.

Case No.: 30-2016-00861544-CU-OE-CXC

**AMENDMENT TO JOINT STIPULATION
OF CLASS ACTION SETTLEMENT AND
RELEASE**

1 **AMENDMENT TO JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

2 This Amendment ("Amendment") to the Joint Stipulation of Class Action Settlement and
3 Release ("Settlement Agreement") is made and entered into by and between Plaintiffs Robert Onofre
4 and Miguel Zaldivar, as individuals and on behalf of the proposed Settlement Class, and Defendants
5 Anaheim Majestic Garden Hotel, PHR Management, Inc., and Ken Real Estate Lease Ltd.
6 ("Defendants") (collectively with Plaintiffs, the "Parties") (collectively with Plaintiff, the "Parties"),
7 pursuant to Paragraph 66 of the Settlement Agreement, which provides: "No amendment, change, or
8 modification to this Settlement Agreement will be valid unless in writing and signed, either by the Parties
9 or their counsel." This Amendment incorporates by reference all terms and conditions of the Settlement
10 Agreement. But for those specific terms and conditions that this Amendment modifies, all Settlement
11 terms and conditions will remain effective and enforceable. Any inconsistencies or differences between
12 this Amendment and the Settlement will be interpreted and construed in favor of this Amendment.

13 **AMENDED TERMS**

14 1. "Amended Notice of Class Action Settlement" means the Notice of Class Action
15 Settlement ("Class Notice"), substantially in the form attached as Exhibit A, that will be mailed to all
16 Class Members.

17 2. "Notice of Objection" means a Class Member's valid and timely written objection to
18 the Settlement Agreement. For the Notice of Objection to be valid, it must include: (i) the objector's full
19 name, signature, address, and telephone number, (ii) a written statement of all grounds for the objection
20 accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other
21 documents upon which the objection is based; and (iv) a statement whether the objector intends to appear
22 at the Fairness Hearing. ~~Any Class Member who does not submit a timely written objection to the~~
23 ~~Settlement, or who fails to otherwise comply with the specific and technical requirements of this section,~~
24 ~~will be foreclosed from objecting to the Settlement and seeking any adjudication or review of the~~
25 ~~Settlement, by appeal or otherwise. Class Members who submit Notices of Objection must make~~
26 ~~themselves available for deposition.~~

27 3. "Request for Exclusion" means the form attached as Exhibit B that Class Members must
28 postmark to the Settlement Administrator on or before the Response Deadline to opt out of the

1 Settlement Class.

2 4. "Response Deadline" means the deadline by which Class Members must postmark or
3 fax to the Settlement Administrator Requests for Exclusion, or postmark Notices of Objection to the
4 Settlement Administrator. The Response Deadline will be forty-five (45) calendar days from the initial
5 mailing of the Class Notice by the Settlement Administrator, unless the forty-fifth (45th) calendar day
6 falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day
7 on which the U.S. Postal Service is open.

8 5. "Settlement Administrator" means ILYM Group, Inc., or any other third-party class
9 action settlement administrator agreed to by the Parties and approved by the Court for the purposes of
10 administering this Settlement. The Parties each represent that they do not have any financial interest in
11 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
12 could create a conflict of interest.

13 6. All Individual Settlement Payments will be allocated as follows: (i) Twenty-Five
14 Percent (25%) of each Individual Settlement Payment will be allocated as wages for which IRS Forms
15 W-2 will be issued; and (ii) Seventy-Five (75%) will be allocated as non-wages for which IRS Forms
16 1099-MISC will be issued.

17 7. Prior to mailing the Class Notices, the Settlement Administrator will perform a search
18 based on the National Change of Address Database for information to update and correct for any known
19 or identifiable address changes. Any Class Notices returned to the Settlement Administrator as non-
20 deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to
21 the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-
22 mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will
23 promptly attempt to determine the correct address using a skip-trace, or other search using the name,
24 address and/or Social Security number of the Class Member involved, and will then perform a single re-
25 mailing. Those Class Members who receive a re-mailed Class Notice will have between the later of (i)
26 an additional fifteen (15) calendar days or (ii) the Response Deadline to submit a Request for Exclusion
27 or an objection to the Settlement.

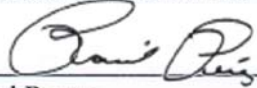
28 8. Funds represented by Individual Settlement Payment checks returned as undeliverable

1 and Individual Settlement Payment checks remaining un-cashed for more than one hundred and twenty
2 (120) calendar days after issuance will be tendered to the State Controller's Office, Unclaimed Property
3 Division.

4 **IT IS SO STIPULATED.**

6 **CAPSTONE LAW APC**

7 Dated: May 13, 2019

By: 

Raul Perez

Attorneys for Plaintiff Robert Onofre

9 **JAMES W. HAWKINS, APLC**

10 Dated: _____

By: _____

James W. Hawkins

Attorneys for Plaintiff Miguel Zaldivar Avila

13 **ZUBER LAWLER & DEL DUCA LLP**

14 Dated: May 13, 2019

By: 

Agnes M. Sullivan

Attorneys for Defendants Anaheim Majestic Garden
Hotel, PHR Management, Inc., and Ken Real Estate
Lease Ltd.

1 and Individual Settlement Payment checks remaining un-cashed for more than one hundred and twenty
2 (120) calendar days after issuance will be tendered to the State Controller's Office, Unclaimed Property
3 Division.

4 **IT IS SO STIPULATED.**

6 **CAPSTONE LAW APC**

7 Dated: _____

By: _____

Raul Perez

Attorneys for Plaintiff Robert Onofre

9 **JAMES W. HAWKINS, APC**

10 Dated: May 13, 2019

By: _____

James W. Hawkins

Attorneys for Plaintiff Miguel Zaldivar Avila

13 **ZUBER LAWLER & DEL DUCA LLP**

14 Dated: _____

By: _____

Agnès M. Sullivan

Attorneys for Defendants Anaheim Majestic Garden
Hotel, PHR Management, Inc., and Ken Real Estate
Lease Ltd.

Exhibit A

Onofre v. Anaheim Majestic Garden Hotel, No. 30-2016-00861544-CU-OE-CXC (Orange County Superior Court)
Avila v. Anaheim Majestic Garden Hotel, No. 30-2016-00871797-CU-OE-CXC (Orange County Superior Court)
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

Si desea una traducción al Español de este Aviso, por favor llame al administrador al *-***-******

To: All persons who were employed by Defendants Anaheim Majestic Garden Hotel, PHR Management, Inc., and Ken Real Estate Lease Ltd. (“Defendants”) in non-exempt positions in the State of California at any time during the period from August 26, 2012 to October 15, 2018 (“Class Members”), and

All persons who were employed by Defendants in non-exempt positions in the State of California at any time during the period from June 30, 2015 to September 30, 2016 (“Wage Statement Class Members”)

On _____, the Honorable Peter Wilson of the Orange County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 __m. on _____, 2019 in Department CX102 of the Orange County Superior Court located at 751 W Santa Ana Blvd, Santa Ana, CA 92701. You are not required to attend the Hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiffs Robert Onofre and Miguel Zaldivar, on their behalf and on behalf of other current and former non-exempt employees, allege that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse for necessary business expenses; and (5) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. The parties participated in a mediation with Jeffrey A. Ross, an experienced and well-respected class action mediator. With Jeffrey A. Ross’s guidance, the parties were able to negotiate a complete settlement of Plaintiffs’ claims.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the class, Capstone Law APC and James W. Hawkins APLC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the law applicable. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiffs’ claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiffs.

Summary of The Proposed Settlement Terms

Plaintiffs and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$1,850,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) Class Representative Enhancement Payments of up to \$7,500, each, to Robert Onofre and Miguel Zaldivar for their services on behalf of the class and general releases of all claims arising out of their employment with Defendants; (3) up to \$616,667 in attorneys' fees and up to \$50,000 in litigation costs and expenses; (4) up to \$37,500 ~~payment~~ to the California Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and (5) reasonable Settlement Administrator's fees and expenses ~~currently estimated at of~~ up to \$15,000. After deducting the Class Representative Enhancement Payments, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$1,115,833 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount").

Individual Settlement Payment Calculations. Each Class Member's settlement payment will be based on the number of Workweeks each Class Member/Wage Statement Class Member worked in a non-exempt position during the applicable Class Period (August 26, 2012 through October 15, 2018) and Wage Statement Class Period (June 30, 2015 to September 30, 2016). Eighty Percent (80%) of the Net Settlement Amount will be allocated to all Class Members (the "Class Member Fund"), and (2) Twenty Percent (20%) of the Net Settlement Amount will be allocated to all Wage Statement Class Members (the "Wage Statement Fund"). Each Class Member's respective shares of the Class Member Fund and Wage Statement Fund will be allocated on a pro-rata basis according to the number of Workweeks worked by each Class Member.

Class Member Fund: The Settlement Administrator will calculate the total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member's share of the Class Member Fund, the Settlement Administrator will use the following formula: $\text{Share of Class Member Fund} = \frac{\text{Weeks Worked by Class Member}}{\text{Weeks Worked by All Class Members}} \times \text{Class Member Fund}$. The entire Class Member Fund will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Class Members Fund to ensure that the entire Class Member Fund is distributing to Participating Class Members.

Wage Statement Fund: The Settlement Administrator will calculate the total number of Workweeks worked by all Wage Statement Class Members during the Wage Statement Class Period. To determine each Wage Statement Class Member's share of the Wage Statement Fund, the Settlement Administrator will use the following formula: $\text{Share of Wage Statement Fund} = \frac{\text{Weeks Worked by Wage Statement Class Member}}{\text{Weeks Worked by All Wage Statement Class Members}} \times \text{Wage Statement Fund}$. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Wage Statement Class Member's share of the Wage Statement Fund to ensure that the entire Wage Statement Fund is distributing to Participating Wage Statement Class Members.

According to Defendants' records, you worked during a total of _____ Workweeks during the Class Period and _____ during the Wage Statement Class Period. Accordingly, your estimated payment is approximately \$ _____ from the Class Fund and \$ _____ from the Wage Statement Fund. If you believe the information provided above is incorrect, please contact the Settlement Administrator at _____. If you dispute the information stated above, Defendants's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, ~~80~~82.5% of each

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 2075% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims (“Released Claims”):

For all Class Members, all claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising from, or related to, the same set of operative facts as those set forth in the operative complaints in the Actions that accrued during the Class Period, including (i) all claims for unpaid overtime; (ii) all claims for meal and rest break violations; (iii) all claims for unpaid minimum wages; (iv) all claims for the failure to timely pay wages upon termination; (v) all claims for the failure to timely pay wages during employment; (vi) all claims for the failure to reimburse for necessary business expenses; and (vii) all claims asserted through California Business & Professions Code §§ 17200, et seq., and California Labor Code §§ 2698, et seq. based on the preceding claims (“Released Class Claims”); and

For all Wage Statement Class Members, all claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising from, or related to, the allegation that Defendant issued non-compliant wage statements during the Wage Statement Class Period, including all claims asserted through California Business & Professions Code §§ 17200, et seq., and California Labor Code §§ 2698, et seq. based on the allegation that Defendant issued non-compliant wage statements (“Released Wage Statement Claims”).

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Attn: Anaheim Majestic Class Action Settlement

Settlement Administrator

_____/c/o _____ ILYM Group, Inc.

P.O. Box 2031 Tustin, CA 92781

The written request to be excluded must be postmarked or faxed not later than _____, 2019. If you submit a request for exclusion which is not postmarked or faxed by _____, 2019, your request for exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number; (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All objections must be received by the administrator by not later than _____ 2019. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Orange and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

ALL PAPERS FILED IN THIS MATTER WILL BE AVAILABLE FOR REVIEW VIA THE COURTHOUSE AND VIA THE CIVIL CASE INFORMATION WEBSITE FOR THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, AVAILABLE ONLINE AT WWW.OCCOURTS.ORG/ONLINE-SERVICES/CASE-ACCESS/.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: (888) 295-8042

James W. Hawkins
James Hawkins APLC
9880 Research Dr. Ste 200
Irvine, CA 92618
Phone: ~~Number~~(949) 387-7200

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Onofre v. Anaheim Majestic Garden Hotel, No. 30-2016-00861544-CU-OE-CXC (Orange County Superior Court)
Avila v. Anaheim Majestic Garden Hotel, No. 30-2016-00871797-CU-OE-CXC (Orange County Superior Court)
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

Si desea una traducción al Español de este Aviso, por favor llame al administrador al ***--*******

To: All persons who were employed by Defendants Anaheim Majestic Garden Hotel, PHR Management, Inc., and Ken Real Estate Lease Ltd. (“Defendants”) in non-exempt positions in the State of California at any time during the period from August 26, 2012 to October 15, 2018 (“Class Members”), and

All persons who were employed by Defendants in non-exempt positions in the State of California at any time during the period from June 30, 2015 to September 30, 2016 (“Wage Statement Class Members”)

On _____, the Honorable Peter Wilson of the Orange County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 __m. on _____, 2019 in Department CX102 of the Orange County Superior Court located at 751 W Santa Ana Blvd, Santa Ana, CA 92701. You are not required to attend the Hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiffs Robert Onofre and Miguel Zaldivar, on their behalf and on behalf of other current and former non-exempt employees, allege that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse for necessary business expenses; and (5) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. The parties participated in a mediation with Jeffrey A. Ross, an experienced and well-respected class action mediator. With Jeffrey A. Ross’s guidance, the parties were able to negotiate a complete settlement of Plaintiffs’ claims.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the class, Capstone Law APC and James W. Hawkins APLC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the law applicable. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiffs’ claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiffs.

Summary of The Proposed Settlement Terms

Plaintiffs and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$1,850,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) Class Representative Enhancement Payments of up to \$7,500, each, to Robert Onofre and Miguel Zaldivar for their services on behalf of the class and general releases of all claims arising out of their employment with Defendants; (3) up to \$616,667 in attorneys' fees and up to \$50,000 in litigation costs and expenses; (4) up to \$37,500 to the California Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and (5) reasonable Settlement Administrator's fees and expenses of up to \$15,000. After deducting the Class Representative Enhancement Payments, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$1,115,833 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount").

Individual Settlement Payment Calculations. Each Class Member's settlement payment will be based on the number of Workweeks each Class Member/Wage Statement Class Member worked in a non-exempt position during the applicable Class Period (August 26, 2012 through October 15, 2018) and Wage Statement Class Period (June 30, 2015 to September 30, 2016). Eighty Percent (80%) of the Net Settlement Amount will be allocated to all Class Members (the "Class Member Fund"), and (2) Twenty Percent (20%) of the Net Settlement Amount will be allocated to all Wage Statement Class Members (the "Wage Statement Fund"). Each Class Member's respective shares of the Class Member Fund and Wage Statement Fund will be allocated on a pro-rata basis according to the number of Workweeks worked by each Class Member.

Class Member Fund: The Settlement Administrator will calculate the total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member's share of the Class Member Fund, the Settlement Administrator will use the following formula: $\text{Share of Class Member Fund} = \frac{\text{Weeks Worked by Class Member}}{\text{Weeks Worked by All Class Members}} \times \text{Class Member Fund}$. The entire Class Member Fund will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Class Members Fund to ensure that the entire Class Member Fund is distributing to Participating Class Members.

Wage Statement Fund: The Settlement Administrator will calculate the total number of Workweeks worked by all Wage Statement Class Members during the Wage Statement Class Period. To determine each Wage Statement Class Member's share of the Wage Statement Fund, the Settlement Administrator will use the following formula: $\text{Share of Wage Statement Fund} = \frac{\text{Weeks Worked by Wage Statement Class Member}}{\text{Weeks Worked by All Wage Statement Class Members}} \times \text{Wage Statement Fund}$. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Wage Statement Class Member's share of the Wage Statement Fund to ensure that the entire Wage Statement Fund is distributing to Participating Wage Statement Class Members.

According to Defendants' records, you worked during a total of _____ Workweeks during the Class Period and _____ during the Wage Statement Class Period. Accordingly, your estimated payment is approximately \$_____ from the Class Fund and \$_____ from the Wage Statement Fund. If you believe the information provided above is incorrect, please contact the Settlement Administrator at _____. If you dispute the information stated above, Defendants's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims (“Released Claims”):

For all Class Members, all claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising from, or related to, the same set of operative facts as those set forth in the operative complaints in the Actions that accrued during the Class Period, including (i) all claims for unpaid overtime; (ii) all claims for meal and rest break violations; (iii) all claims for unpaid minimum wages; (iv) all claims for the failure to timely pay wages upon termination; (v) all claims for the failure to timely pay wages during employment; (vi) all claims for the failure to reimburse for necessary business expenses; and (vii) all claims asserted through California Business & Professions Code §§ 17200, et seq., and California Labor Code §§ 2698, et seq. based on the preceding claims (“Released Class Claims”); and

For all Wage Statement Class Members, all claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising from, or related to, the allegation that Defendant issued non-compliant wage statements during the Wage Statement Class Period, including all claims asserted through California Business & Professions Code §§ 17200, et seq., and California Labor Code §§ 2698, et seq. based on the allegation that Defendant issued non-compliant wage statements (“Released Wage Statement Claims”).

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Attn: *Anaheim Majestic Class Action Settlement*
Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031 Tustin, CA 92781

The written request to be excluded must be postmarked or faxed not later than _____, 2019. If you submit a request for exclusion which is not postmarked or faxed by _____, 2019, your request for exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All objections must be received by the administrator by not later than _____ 2019. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Orange and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

ALL PAPERS FILED IN THIS MATTER WILL BE AVAILABLE FOR REVIEW VIA THE COURTHOUSE AND VIA THE CIVIL CASE INFORMATION WEBSITE FOR THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, AVAILABLE ONLINE AT WWW.OCCOURTS.ORG/ONLINE-SERVICES/CASE-ACCESS/.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: (888) 295-8042

James W. Hawkins
James Hawkins APLC
9880 Research Dr. Ste 200
Irvine, CA 92618
Phone: (949) 387-7200

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Exhibit B

EXCLUSION FORM

MAIL OR FAX TO:

Attn: Anaheim Majestic Class Action Settlement
Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031 Tustin, CA 92781
Fax: (***) ***-****

COMPLETE THIS FORM **ONLY IF** YOU WISH TO EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS. IF YOU EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS, YOU **WILL NOT RECEIVE** YOUR PAYMENT FROM THE SETTLEMENT.

I _____ request to be excluded from the Settlement Class in the matters of *Onofre v. Anaheim Majestic Garden Hotel*, No. 30-2016-00861544-CU-OE-CXC (Orange County Superior Court) and *Avila v. Anaheim Majestic Garden Hotel*, No. 30-2016-00871797-CU-OE-CXC (Orange County Superior Court). I understand that by submitting this Exclusion Form, I will no longer be eligible for a payment from the settlement.

Sign your name here

Print your name here

Address

Telephone

Last Four Digits of Social Security No.

Exhibit C