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Clerk of the Superior Court  
By Georgina Ramirez, Deputy Clerk

Robert Drexler (SBN 119119)  
Robert.Drexler@CapstoneLawyers.com  
Bevin Allen Pike (SBN 221936)  
Bevin.Pike@CapstoneLawyers.com  
Jonathan Lee (SBN 267146)  
Jonathan.Lee@CapstoneLawyers.com  
Capstone Law APC  
1840 Century Park East, Suite 450  
Los Angeles, California 90067  
Telephone: (310) 556-4811  
Facsimile: (310) 943-0396

Attorneys for Plaintiff Robert Onofre

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE

Judge Kim G. Dunning

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

Plaintiff,

vs.

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

Defendants.

Case No.: 30-2016-00861544-CU-OE-CXC  
CX-104

**PAGA ENFORCEMENT ACTION**

(1) Claim for Civil Penalties for Violations  
of California Labor Code, Pursuant to  
PAGA, §§ 2698, *et seq*

**Jury Trial Demanded**

1 Plaintiff Robert Onofre (“Plaintiff”), as an aggrieved employee and on behalf of all  
2 other non-party aggrieved employees as set forth herein, alleges as follows:

### 3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General  
5 Act of 2004, California Labor Code section 2698 *et seq.* (“PAGA”) to recover civil penalties  
6 and any other available relief on behalf of Plaintiff, the State of California, and other current  
7 and former employees who worked for Defendants in California as non-exempt, hourly  
8 employees at a hotel location and against whom one or more violations of any provision in  
9 Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating hours and days of  
10 work in the applicable Industrial Welfare Commission (“IWC”) Wage Order were committed,  
11 as set forth in this complaint, at any time between one year prior to the filing of this complaint  
12 until judgment (“non-party Aggrieved Employees”). Plaintiff’s share of civil penalties sought  
13 in this action does not exceed \$75,000.

14 2. This Court has jurisdiction over this action pursuant to the California  
15 Constitution, Article VI, section 10. The statute under which this action is brought does not  
16 specify any other basis for jurisdiction.

17 3. This Court has jurisdiction over all Defendants because, on information and  
18 belief, Defendants are either citizens of California, have sufficient minimum contacts in  
19 California, or otherwise intentionally avail themselves of the California market so as to render  
20 the exercise of jurisdiction over them by the California courts consistent with traditional  
21 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction  
22 in this action given that the State of California, as the real party in interest in this action, is not  
23 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,  
24 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be  
25 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction  
26 in this action, and that diversity jurisdiction cannot be established when Plaintiffs’ share of the  
27 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

28 4. Venue is proper in this Court, because Defendants employ persons in this

1 county and employed Plaintiff in this county, and thus a substantial portion of the transactions  
2 and occurrences related to this action occurred in this county.

3 5. California Labor Code sections 2698 *et seq.*, the “Labor Code Private Attorneys  
4 General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys  
5 general their current or former employers for various civil penalties for violations of various  
6 provisions in the California Labor Code.

### 7 **THE PARTIES**

8 6. Plaintiff ROBERT ONOFRE is a resident of Orange, in Orange County,  
9 California. Defendants jointly employed Plaintiff as an hourly, non-exempt Maintenance  
10 Person/Engineer from approximately December 2015 to March 2016 at a hotel location in  
11 Anaheim, California. As a Maintenance Person/Engineer, Plaintiff typically worked 8 or  
12 more hours per day, five (5) days per week, and approximately 40 hours per week. At the  
13 time Plaintiff’s employment with Defendants ended, he earned approximately \$13.00 per  
14 hour. Plaintiff’s job duties included, without limitation, fixing broken items in hotel rooms,  
15 shredding paper, doing plumbing work, installing light bulbs, and painting.

16 7. Defendant ANAHEIM MAJESTIC GARDEN HOTEL was and is, upon  
17 information and belief, a California corporation, and at all times hereinafter mentioned, an  
18 employer whose employees are engaged throughout this county, the State of California, or the  
19 various states of the United States of America.

20 8. Defendant PHR MANAGEMENT, INC. was and is, upon information and  
21 belief, a California corporation, and at all times hereinafter mentioned, an employer whose  
22 employees are engaged throughout this county, the State of California, or the various states of  
23 the United States of America.

24 9. Defendant KEN REAL ESTATE LEASE LTD. was and is, upon information  
25 and belief, a business entity of unknown form, and at all times hereinafter mentioned, an  
26 employer whose employees are engaged throughout this county, the State of California, or the  
27 various states of the United States of America.

28 10. Plaintiff is unaware of the true names or capacities of the Defendants sued

1 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to  
2 amend the complaint and serve such fictitiously named Defendants once their names and  
3 capacities become known.

4 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10  
5 are the partners, agents, owners, shareholders, managers, or employees of ANAHEIM  
6 MAJESTIC GARDEN HOTEL, PHR MANAGEMENT, INC., and KEN REAL ESTATE  
7 LEASE, LTD. at all relevant times.

8 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the  
9 acts and omissions alleged herein was performed by, or is attributable to, ANAHEIM  
10 MAJESTIC GARDEN HOTEL, PHR MANAGEMENT, INC., KEN REAL ESTATE LEASE,  
11 LTD., and/or DOES 1 through 10 (collectively “Defendants” or “ANAHEIM MAJESTIC”),  
12 each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert  
13 with, each of the other co-Defendants and was acting within the course and scope of such  
14 agency, employment, joint venture, or concerted activity with legal authority to act on the  
15 others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the  
16 official policy of Defendants.

17 13. At all relevant times, Defendants, and each of them, ratified each and every act  
18 or omission complained of herein. At all relevant times, Defendants, and each of them, aided  
19 and abetted the acts and omissions of each and all the other Defendants in proximately causing  
20 the damages herein alleged.

21 14. Plaintiff is informed and believes, and thereon alleges, that each of said  
22 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,  
23 omissions, occurrences, and transactions alleged herein.

24 15. Under California law, Defendants ANAHEIM MAJESTIC GARDEN HOTEL,  
25 PHR MANAGEMENT, INC., and KEN REAL ESTATE LEASE, LTD. are jointly and  
26 severally liable as employers for the violations alleged herein because they have each  
27 exercised sufficient control over the wages, hours, working conditions, and employment status  
28 of Plaintiff and other non-party Aggrieved Employees. Each Defendant had the power to hire

1 and fire Plaintiff and other non-party Aggrieved Employees, supervised and controlled their  
2 work schedule and/or conditions of employment, determined their rate of pay, and maintained  
3 their employment records. Defendants ANAHEIM MAJESTIC GARDEN HOTEL, PHR  
4 MANAGEMENT, INC., and KEN REAL ESTATE LEASE, LTD. suffered or permitted  
5 Plaintiff and other non-party Aggrieved Employees to work and/or “engaged” Plaintiff and  
6 other non-party Aggrieved Employees so as to create a common law employment relationship.  
7 As joint employers of Plaintiff and other non-party Aggrieved Employees, Defendants are  
8 jointly and severally liable for the civil penalties and all other relief available to Plaintiff and  
9 other non-party Aggrieved Employees under the law.

10 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,  
11 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other  
12 non-party Aggrieved Employees because Defendants have:

- 13 (a) jointly exercised meaningful control over the work performed by Plaintiff and  
14 other non-party Aggrieved Employees;
- 15 (b) jointly exercised meaningful control over Plaintiff and other non-party  
16 Aggrieved Employees’ wages, hours, and working conditions, including the  
17 quantity, quality standards, speed, scheduling, and operative details of the tasks  
18 performed by Plaintiff and other non-party Aggrieved Employees;
- 19 (c) jointly required that Plaintiff and other non-party Aggrieved Employees  
20 perform work which is an integral part of Defendants’ businesses; and
- 21 (d) jointly exercised control over Plaintiff and other non-party Aggrieved  
22 Employees as a matter of economic reality in that Plaintiff and other non-party  
23 Aggrieved Employees were dependent on Defendants, who shared the power to  
24 set the wages of Plaintiff and other non-party Aggrieved Employees and  
25 determine their working conditions, and who jointly reaped the benefits from  
26 the underpayment of their wages and noncompliance with other statutory  
27 provisions governing their employment.

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1 **PAGA REPRESENTATIVE ALLEGATIONS**

2 17. Defendants are a California corporation which owns and operates a castle-  
3 themed hotel situated on 13 acres of gardens, with a pool, bar, and restaurant in Anaheim,  
4 California.

5 18. Upon information and belief, Defendants maintain a single, centralized Human  
6 Resources department at their corporate headquarters in Anaheim, California, which is which  
7 is responsible for conducting Defendants' recruiting and hiring of new employees, collecting  
8 and processing all new hire paperwork, and communicating and implementing Defendants'  
9 company-wide policies, including timekeeping policies and meal and rest break policies, to  
10 employees working for Defendants.

11 19. In particular, Plaintiff and other non-party Aggrieved Employees, on  
12 information and belief, received the same standardized documents and/or written policies.  
13 Upon information and belief, the usage of standardized documents and/or written policies,  
14 including new hire documents, indicate that Defendants dictated policies at the corporate level  
15 and implemented them company-wide, regardless of their employees' assigned locations or  
16 positions. Upon information and belief, Defendants set forth uniform policies and procedures  
17 in several documents provided at an employee's time of hire. At the time Plaintiff was hired,  
18 he received documents including, but not limited to, New Associate Checklist and Associate  
19 Handbook, informing him that he would be subject to the policies and rules set forth in the  
20 documents provided. At the time Plaintiff was hired, he received an acknowledgment page for  
21 his signature, informing him that he would be subject to the policies and rules listed in the  
22 Associate Handbook.

23 20. On information and belief, all transactions regarding hiring, terminations,  
24 promotions, pay increases, and employee transfers, etc., relating to Defendants' California  
25 employees were submitted to and processed by Defendants' HR department in Anaheim,  
26 California. Additionally, on information and belief, Defendants' corporate records, business  
27 records, data, and other information related to ANAHEIM MAJESTIC, including, in  
28 particular, HR records pertaining to Defendants' California employees, are also maintained at

1 ANAHEIM MAJESTIC's corporate headquarters in Anaheim, California.

2 21. Upon information and belief, Defendants require that all new hires and/or  
3 employees that have been hurt on the job undergo mandatory drug as a condition of  
4 employment. Upon information and belief, Defendants' mandatory drug testing is self-  
5 imposed. Defendants provide their newly-hired employees, prospective employees, and/or  
6 current employees with the location of the testing facility, select the time and date of the drug  
7 test, and determine the scope of the testing. Defendants require that these newly-hired  
8 employees, prospective employees, and/or current employees travel using their own vehicles  
9 to the site to undergo the drug test and/or physical examination. Upon information and belief,  
10 Defendants do not compensate newly-hired employees and/or prospective employees for the  
11 time it takes to travel to and from the testing facility or for the time it takes to undergo the  
12 drug testing. Upon information and belief, Defendants do not reimburse employees for the  
13 travel expenses they incur getting to and from the testing facility.

14 22. Upon information and belief, Defendants maintain a centralized Payroll  
15 department at their corporate headquarters in Anaheim, California, which processes payroll  
16 for all non-exempt, hourly-paid employees working for Defendants in California, including  
17 Plaintiff and other non-party Aggrieved Employees. Based upon information and belief,  
18 Defendants issue the same formatted wage statements to all non-exempt, hourly-paid  
19 employees in California, irrespective of their work location. Upon further information and  
20 belief, during the relevant time period, Defendants used third party ADP Payroll Services to  
21 process and issue uniform, standardized wage statements to Plaintiff and other non-party  
22 Aggrieved Employees. Thus, Plaintiff is informed and believes that other non-party  
23 Aggrieved Employees throughout California were also affected by Defendants' alleged  
24 noncompliance with wage statement reporting requirements.

25 23. Upon information and belief, Defendants process payroll for departing  
26 employees in the same manner throughout the State of California, regardless of the manner in  
27 which each employee's employment ends.

28 24. Defendants continue to employ non-exempt, hourly employees at its hotel

1 location(s) in California.

2 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
3 mentioned, Defendants were advised by skilled lawyers and other professionals, employees  
4 and advisors knowledgeable about California labor and wage law, employment and personnel  
5 practices, and about the requirements of California law.

6 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
7 should have known that Defendants were obligated to provide Plaintiff and other non-party  
8 Aggrieved Employees with paid sick leave benefits, but failed to do so.

9 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
10 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
11 receive itemized wage statements or separate written statements showing the amount of paid  
12 sick leave available, or paid time off provided in lieu of sick leave. In violation of the  
13 California Labor Code, Defendants failed to provide Plaintiff and other non-party Aggrieved  
14 Employees with itemized wage statements or separate written statements showing this  
15 information.

16 28. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other  
17 non-party Aggrieved Employees were not paid for all hours worked because all hours worked  
18 were not recorded.

19 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
21 receive certain wages for overtime compensation and that they were not receiving certain  
22 wages for overtime compensation.

23 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
25 receive at least minimum wages for compensation and that they were not receiving at least  
26 minimum wages for work that was required to be done off-the-clock. In violation of the  
27 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at  
28 least minimum wages for work done off-the-clock.

1           31.     Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
2     should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
3     meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay  
4     at their regular rates of pay when they were not provided with timely, uninterrupted, thirty  
5     (30) minute meal periods and that Plaintiff and other non-party Aggrieved Employees were  
6     not provided with all meal periods or payment of one (1) additional hour of pay at their  
7     regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal  
8     period.

9           32.     Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
10    should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
11    rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment  
12    of one (1) additional hour of pay at their regular rates of pay when they were not provided  
13    with a compliant rest period and that Plaintiff and other non-party Aggrieved Employees were  
14    not provided compliant rest periods or payment of one (1) additional hour of pay at their  
15    regular rates of pay when they were not provided a compliant rest period.

16          33.     Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
17    should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
18    receive complete and accurate wage statements in accordance with California law. In  
19    violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees  
20    were not provided complete and accurate wage statements.

21          34.     Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
22    should have known that they had a duty to maintain accurate and complete payroll records in  
23    accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,  
24    and intentionally failed to do so.

25          35.     Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
26    should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
27    timely payment of wages during their employment. In violation of the California Labor Code,  
28    Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,

1 including, but not limited to, overtime wages, minimum wages, and meal and rest period  
2 premiums, within permissible time periods.

3 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
4 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to  
5 timely payment of all wages earned upon termination of employment. In violation of the  
6 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive  
7 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and  
8 meal and rest period premiums, within permissible time periods.

9 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
10 should have known that they were prohibited from requiring Plaintiff and other non-party  
11 Aggrieved Employees to execute a release of their claims as a condition to receiving wages  
12 due to them. In violation of the California Labor Code, Defendants required Plaintiff and  
13 other non-party Aggrieved Employees to execute a release of their claims as a condition to  
14 receiving wages due to them.

15 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
16 mentioned, Defendants knew or should have known that they had a duty to provide Plaintiff  
17 and other non-party Aggrieved Employees with written notice of the material terms of their  
18 employment with Defendants as required by the California Wage Theft Prevention Act, but  
19 willfully, knowingly, and intentionally failed to do so.

20 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
21 mentioned, Defendants knew or should have known that they had a duty to compensate  
22 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants  
23 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally  
24 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees  
25 that they were properly denied wages, all in order to increase Defendants' profits.

26 40. At all times herein set forth, PAGA provides that any provision of law under  
27 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be  
28 assessed and collected by the LWDA for violations of the California Labor Code and

1 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a  
2 civil action brought on behalf of themselves and other current or former employees pursuant  
3 to procedures outlined in California Labor Code section 2699.3.

4 41. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any  
5 person who was employed by the alleged violator and against whom one or more of the  
6 alleged violations was committed.”

7 42. Plaintiff and other current and former employees of Defendants are “aggrieved  
8 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current  
9 or former employees and one or more of the alleged violations were committed against them.

10 43. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved  
11 employee, including Plaintiff, may pursue a civil action arising under PAGA after the  
12 following requirements have been met:

- 13 (a) The aggrieved employee shall give written notice by certified mail  
14 (hereinafter “Employee’s Notice”) to the LWDA and the employer of  
15 the specific provisions of the California Labor Code alleged to have  
16 been violated, including the facts and theories to support the alleged  
17 violations.
- 18 (b) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the  
19 employer and the aggrieved employee by certified mail that it does not  
20 intend to investigate the alleged violation within thirty (30) calendar  
21 days of the postmark date of the Employee’s Notice. Upon receipt of  
22 the LWDA Notice, or if the LWDA Notice is not provided within thirty-  
23 three (33) calendar days of the postmark date of the Employee’s Notice,  
24 the aggrieved employee may commence a civil action pursuant to  
25 California Labor Code section 2699 to recover civil penalties in addition  
26 to any other penalties to which the employee may be entitled.

27 44. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,  
28 through Plaintiff, may pursue a civil action arising under PAGA for violations of any

1 provision other than those listed in Section 2699.5 after the following requirements have been  
2 met:

- 3 (a) The aggrieved employee or representative shall give written notice by  
4 certified mail to the LWDA and the employer of the specific provisions  
5 of the California Labor Code alleged to have been violated (other than  
6 those listed in Section 2699.5), including the facts and theories to  
7 support the alleged violation.
- 8 (b) The employer may cure the alleged violation within 33 calendar days of  
9 the postmark date of the notice. The employer shall give written notice  
10 by certified mail within that period of time to the aggrieved employee or  
11 representative and the agency if the alleged violation is cured, including  
12 a description of actions taken, and no civil action pursuant to Section  
13 2699 may commence. If the alleged violation is not cured within the  
14 33-day period, the employee may commence a civil action pursuant to  
15 Section 2699.

16 45. On May 27, 2016 Plaintiff provided written notice by certified mail to the  
17 LWDA and Defendants of the specific provisions of the California Labor Code alleged to  
18 have been violated, including facts and theories to support the alleged violations, in  
19 accordance with California Labor Code section 2699.3. True and correct copies of Plaintiff's  
20 written notices to the LWDA and Defendants dated May 27, 2016 are attached hereto as  
21 "Exhibit 1."

22 46. As of the filing date of this complaint, over 33 days have passed since Plaintiff  
23 sent the first LWDA Notice described above, and the LWDA has not responded that it intends  
24 to investigate Plaintiff's claims and Defendants have not cured the violations.

25 47. Thus, Plaintiff has satisfied the administrative prerequisites under California  
26 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants, in  
27 addition to other remedies, for violations of California Labor Code sections 201, 202, 203,  
28 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and

1 2810.5.

2 48. Labor Code section 558 (a) provides “[a]ny employer or other person acting on  
3 behalf of an employer who violates, or causes to be violated, a section of this chapter or any  
4 provision regulating hours and days of work in any order of the Industrial Welfare  
5 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty  
6 dollars (\$50) for each underpaid employee for each pay period for which the employee was  
7 underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each  
8 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay  
9 period for which the employee was underpaid in addition to an amount sufficient to recover  
10 underpaid wages.” Labor Code section 558(c) provides “[t]he civil penalties provided for in  
11 this section are in addition to any other civil or criminal penalty provided by law.”

12 49. Defendants, at all times relevant to this complaint, were employers or persons  
13 acting on behalf of an employer(s) who violated Plaintiff and other non-party Aggrieved  
14 Employees’ rights by violating various sections of the California Labor Code as set forth  
15 above.

16 50. As set forth below, Defendants have violated numerous provisions of both the  
17 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage  
18 Order.

19 51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),  
20 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a  
21 private attorney general, seeks assessment and collection of civil penalties for himself, all  
22 other non-party Aggrieved Employees, and the State of California against Defendants, in  
23 addition to other remedies, for violations of California Labor Code sections 201, 202, 203,  
24 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and  
25 2810.5.

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1 **FIRST CAUSE OF ACTION**

2 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

3 **(Against all Defendants)**

4 52. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
5 and every allegation set forth above.

6 53. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover  
7 various civil penalties for the violation(s) of the Labor Code sections enumerated in Labor  
8 Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204,  
9 206.5, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198. Labor Code section  
10 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for  
11 violations of those Labor Code sections 246, 1182.12, and 2810.5.

12 54. Defendants’ conduct, as alleged herein, violates numerous sections of the  
13 California Labor Code, including, but not limited to, the following:

- 14 (a) Violations of Labor Code section 246 for failure to provide paid sick  
15 leave benefits and failure to provide written notice of paid sick leave  
16 available, or paid time off, as set forth below;
- 17 (b) Violation of Labor Code sections 510, 1198, and the applicable IWC  
18 wage order for Defendants’ failure to compensate Plaintiff and other  
19 non-party Aggrieved Employees with all required overtime pay as set  
20 forth below;
- 21 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,  
22 and the applicable IWC wage order for Defendants’ failure to  
23 compensate Plaintiff and other non-party Aggrieved Employees with at  
24 least minimum wages for all hours worked as set forth below;
- 25 (d) Violation of Labor Code sections 226.7, 512(a), 1198, and the  
26 applicable IWC wage order for Defendants’ failure to provide Plaintiff  
27 and other non-party Aggrieved Employees with meal and/or rest  
28 periods, as set forth below;

- 1 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC  
2 wage order for failure to provide accurate and complete wage statements  
3 to Plaintiff and other non-party Aggrieved Employees, as set forth  
4 below;
- 5 (f) Violations of Labor Code sections 1174(d), 1198, and the applicable  
6 IWC wage order for failure to maintain accurate payroll records as set  
7 forth below;
- 8 (g) Violation of Labor Code section 204 for failure to pay all earned wages  
9 during employment as set forth below;
- 10 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all  
11 earned wages upon termination as set forth below;
- 12 (i) Violation of Labor Code section 206.5 for requiring Plaintiff and other  
13 non-party Aggrieved Employees to execute a release of claims as a  
14 condition to receiving wages due to them; and
- 15 (j) Violations of Labor Code section 2810.5(a)(1)(A)-(C) for failure to  
16 provide written notice of information material to Plaintiff and other non-  
17 party Aggrieved Employees' employment with Defendants, as set forth  
18 below.

19 **FAILURE TO PROVIDE PAID SICK LEAVE BENEFITS AND WRITTEN NOTICE**  
20 **OF PAID SICK LEAVE OR PAID TIME OFF AVAILABLE**  
21 **VIOLATION OF LABOR CODE SECTION 246**

22 55. At all relevant times herein, Labor Code sections 245.5, 246, 246.5, 247, 248.5,  
23 and 249 provide employees who have worked in California for 30 or more days from the  
24 commencement of employment with paid sick days, to be accrued at least one hour for every  
25 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must  
26 provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or  
27 paid time off) in each year of the employee's employment. Further, Labor Code section  
28 246(h) provides that an employer must provide an employee with written notice that sets forth

1 the amount of paid sick leave available, or paid time off that an employer provides in lieu of  
2 sick leave, for use on either the employee's itemized wage statement or in a separate written  
3 statement provided on the designated pay date with the employee's wages. The penalties  
4 described in this article for a violation of this subdivision shall be in lieu of the penalties for a  
5 violation of Section 226.

6 56. During the relevant time period, Defendants systematically failed to provide  
7 Plaintiff and other non-party Aggrieved Employees paid sick leave of no less than 24 hours or  
8 three (3) days. Specifically, Plaintiff has worked in excess of 30 days for Defendants in  
9 California and is therefore eligible to receive paid sick leave. However, to date, Defendants have  
10 not provided Plaintiff with any sick leave benefits, in violation of section 246(b)(4). On  
11 information and belief, Defendants failure to provide sick leave benefits is company-wide and  
12 other non-party Aggrieved Employees similarly have not received these benefits in accordance  
13 with California law.

14 57. Additionally, Defendants willfully failed to provide Plaintiff and other non-  
15 party Aggrieved Employees with written notice on wage statements and/or other separate  
16 written statements that listed the requisite information set forth in Labor Code section 246(h).  
17 Specifically, as a result of failing to provide paid sick leave benefits, Defendants' paystubs  
18 fail to state Plaintiff's and other non-party Aggrieved Employees' accrued paid sick leave or  
19 paid time off balance, in violation of Labor Code section 246(h).

20 58. Defendants' failure to provide Plaintiff and other non-party Aggrieved  
21 Employees with paid sick leave benefits and written notice of paid sick leave available, or paid  
22 time off that an employer provided in lieu of sick leave, is in violation of Labor Code section  
23 246(h). Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover  
24 penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a),  
25 (f)-(g).

#### 26 **FAILURE TO PAY OVERTIME**

#### 27 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

28 59. Labor Code section 1198 makes it illegal to employ an employee under

1 conditions of labor that are prohibited by the applicable wage order. California Labor Code  
2 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall  
3 be the . . . standard conditions of labor for employees. The employment of any employee . . .  
4 under conditions of labor prohibited by the order is unlawful.”

5 60. California Labor Code section 1198 and the applicable IWC Wage Order  
6 provide that it is unlawful to employ persons without compensating them at a rate of pay  
7 either time-and-one-half or two-times that person’s regular rate of pay, depending on the  
8 number of hours worked by the person on a daily or weekly basis.

9 61. Specifically, the applicable IWC Wage Order provides that Defendants are and  
10 were required to pay Plaintiff and other non-party Aggrieved Employees working more than  
11 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and  
12 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)  
13 hours in a workweek.

14 62. The applicable IWC Wage Order further provides that Defendants are and were  
15 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve  
16 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.  
17 An employee’s regular rate of pay includes all remuneration for employment paid to, or on  
18 behalf of, the employee, including non-discretionary bonuses and incentive pay.

19 63. California Labor Code section 510 codifies the right to overtime compensation  
20 at one-and-one-half times the regular rate of pay for hours worked in excess of eight (8) hours  
21 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day  
22 of work, and to overtime compensation at twice the employee’s regular rate of pay for hours  
23 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the  
24 seventh day of work.

25 64. During the relevant time period, Defendants failed to pay all overtime wages  
26 owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time period,  
27 Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums for all  
28 of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours

1 in a day, in excess of eight (8) hours on the seventh (7th) consecutive day of a work in a  
2 workweek, and/or in excess of forty (40) hours in a week, because all hours worked were not  
3 recorded.

4 65. During the relevant time period, Defendants had a company-wide policy and/or  
5 practice of staffing their locations strictly based on the labor hours allotted by each location's  
6 weekly labor or payroll budget, which has resulted in and continues to result in understaffing  
7 and a lack of break and shift coverage because there were too few employees on duty to  
8 handle the workload and attend to guests and other maintenance issues.

9 66. Defendants' company-wide policy and/or practice of understaffing its locations  
10 prevented Plaintiff and other non-party Aggrieved Employees from taking all timely,  
11 uninterrupted thirty (30) minute meal periods and led to them working off-the-clock during  
12 meal periods to complete their assigned tasks, such as completing maintenance work and/or  
13 cleaning rooms. In addition, Defendants' supervisors regularly interrupted Plaintiff and other  
14 non-party Aggrieved Employees' meal periods and used that time to distribute work  
15 assignments to them. For example, Plaintiff's Engineering supervisor routinely held meetings  
16 and gave instructions to Plaintiff and other non-party Aggrieved Employees regarding their  
17 assignments during their meal periods.

18 67. Further, Defendants did not provide Plaintiff and other non-party Aggrieved  
19 Employees with compliant second 30 minute meal periods on days that they worked in excess  
20 of 10 hours in one day. Nor did Defendants schedule second meal periods for Plaintiff and  
21 other non-party Aggrieved Employees. Instead, Plaintiff and other non-party Aggrieved  
22 Employees had to continue working. Plaintiff and other non-party Aggrieved Employees did  
23 not sign valid meal break waivers on days that they were entitled to meal periods but were not  
24 relieved of all duties.

25 68. Defendants knew or should have known that, as a result of its policies, Plaintiff  
26 and other non-party Aggrieved Employees were performing their assigned duties off-the-clock  
27 and/or during meal periods and were suffered or permitted to perform work for which they  
28 were not paid. Defendants also knew, or should have known, that they did not compensate

1 Plaintiff and other non-party Aggrieved Employees for this off-the-clock work.

2 69. Because Plaintiff and other non-party Aggrieved Employees regularly worked  
3 shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-  
4 the-clock work qualified for overtime premium pay. Therefore, Plaintiff and other non-party  
5 Aggrieved Employees were not paid overtime wages for all of the overtime hours they  
6 worked. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees the  
7 balance of overtime compensation, as required by California law, therefore violates the  
8 provisions of California Labor Code sections 510 and 1198. Plaintiff and other non-party  
9 Aggrieved Employees are entitled to recover civil penalties pursuant to Labor Code sections  
10 558 and/or 2699(a), (f)-(g).

11 **FAILURE TO PAY MINIMUM WAGES**

12 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, 1197.1 AND 1198**

13 70. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,  
14 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the  
15 minimum wage to be paid to employees, and the payment of a wage less than the minimum so  
16 fixed is unlawful. Compensable work time is defined in Wage Order No. 1 as "the time  
17 during which an employee is subject to the control of an employer, and includes all the time  
18 the employee is suffered or permitted to work, whether or not required to do so." Cal. Code.  
19 Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

20 71. As described above, due to Defendants' company-wide practices and policies,  
21 Plaintiff and other non-party Aggrieved Employees were forced to have their meal periods  
22 interrupted by work and were not relieved of all duties for unpaid meal periods, in order to  
23 complete their assigned workload. Moreover, Plaintiff and other non-party Aggrieved  
24 Employees were not relieved of all duties such that they could take second 30-minute meal  
25 periods on days that they worked in excess of 10 hours in a day.

26 72. Further, Defendants maintained and implemented a company-wide policy of  
27 requiring all newly-hired employees and/or prospective employees to undergo mandatory drug  
28 testing. At all times, Defendants were in control of scheduling the date and time for the drug

1 testing, selecting the provider/facility where the drug testing was to take place, and  
2 determining the scope of the drug test. Defendants gave Plaintiff and other non-party  
3 Aggrieved Employees strict instructions to obtain a drug test as a condition of their  
4 employment and Plaintiff and other non-party Aggrieved Employees underwent drug testing  
5 for the sole benefit of Defendants. However, Defendants did not compensate Plaintiff and  
6 other non-party Aggrieved Employees for the time they spent traveling to and from drug  
7 testing or for the time they spent undergoing drug testing. For example, Plaintiff was  
8 instructed by Defendants to travel to a clinic located at 1717 E. Lincoln Ave., Anaheim,  
9 California and obtain a drug test and physical examination. Plaintiff followed Defendants'  
10 instructions, traveled approximately 3 miles from the hotel to the clinic, and underwent the  
11 drug test. Plaintiff spent approximately 1 hour and 45 minutes at the clinic to obtain the  
12 mandatory drug test. Defendants did not compensate Plaintiff for this time or reimburse him  
13 for his travel expenses to and from the clinic.

14 73. Thus, Defendants did not pay at least minimum wages for off-the-clock hours  
15 that qualified for overtime premium payment. Also, to the extent that these off-the-clock  
16 hours did not qualify for overtime premium payment, Defendants did not pay at least  
17 minimum wages for those hours worked off-the-clock.

18 74. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees  
19 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and  
20 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover  
21 civil penalties pursuant to sections 1197.1, 1194, and/or 2699(a), (f), and (g).

#### 22 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

#### 23 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198**

24 75. At all relevant times herein set forth, the applicable IWC Wage Order(s) and  
25 California Labor Code sections 226.7, 512(a) and 1198 were applicable to Plaintiff and non-  
26 party Aggrieved Employees' employment by Defendants.

27 76. At all relevant times herein set forth, California Labor Code section 512(a)  
28 provides that an employer may not require, cause, or permit an employee to work for a period

1 of more than five (5) hours per day without providing the employee with a meal period of not  
2 less than thirty (30) minutes, except that if the total work period per day of the employee is  
3 not more than six (6) hours, the meal period may be waived by mutual consent of both the  
4 employer and the employee. Under California law, first meal periods must start after no more  
5 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.  
6 2012).

7 77. At all relevant times herein set forth, California Labor Code section 226.7 and  
8 512(a) provide that no employer shall require an employee to work during any meal period  
9 mandated by an applicable order of the IWC.

10 78. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and  
11 the applicable IWC Wage Order also require employers to provide a second meal break of not  
12 less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an  
13 employee one (1) additional hour of pay at the employee's regular rate, except that if the total  
14 hours worked is no more than twelve (12) hours, the second meal period may be waived by  
15 mutual consent of the employer and the employee only if the first meal period was not waived.

16 79. During the relevant time period, Defendants maintained a company-wide,  
17 uniform unlawful written meal break policy insofar as it incorrectly states the timing of when  
18 a first meal break must occur and fails to provide that an employee is entitled to a second meal  
19 period for work over ten (10) hours. Under California law, first meal periods must start after  
20 no more than five hours of work. *Brinker*, 53 Cal. 4th at 1041-1042. However, Defendants'  
21 written break policy states: "It is the policy of the company to provide a 30 minute  
22 uninterrupted (unpaid) meal period for the associates working at least a 5 hour shift or greater,  
23 or as mandated by State law . . . ." Because Defendants' written meal break policy fails to  
24 state the timing of when the first meal break must take place (i.e. within the first five (5) hours  
25 of work), it is facially non-compliant with California law.

26 80. Further, Defendants' written meal break policy fails to provide that employees,  
27 including Plaintiff and other non-party Aggrieved Employees, are entitled to second 30 minute  
28 meal breaks for shifts in excess of ten (10) hours. Instead, Defendants' written meal break

1 policy is silent on the provision of second meal periods for work in excess of ten (10) hours in  
2 one day. Therefore, Defendants’ written meal break policy is facially non-compliant and in  
3 violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order. As a  
4 result of Defendants’ company-wide, non-compliant written meal period policy, Plaintiff and  
5 other non-party Aggrieved Employees were denied timely meal periods within the first five  
6 hours of work and/or denied second meal periods for work in excess of ten (10) hours. For  
7 example, when Mr. Onofre worked in excess of ten (10) hours in a day, Defendants did not  
8 schedule him to take a meal period and did not provide him with the opportunity to take a  
9 second meal period. Instead, Mr. Onofre continued to work until he clocked out for the day.

10 81. As a result of Defendants’ non-compliant written meal break policy, Plaintiff  
11 and/or other non-party Aggrieved Employees had to wait extended periods of time before  
12 taking meal periods.

13 82. Defendants also engaged in a systemic scheme to falsify timekeeping records in  
14 order to hide the meal period violations that were regularly occurring. On a company-wide  
15 basis, Defendants implemented a practice and/or policy of requiring that employees initial and  
16 sign off that they actually received a compliant meal period, when they did not. For example,  
17 Defendants’ supervisors would instruct employees to sign a “Payroll Sign-Off” sheet  
18 confirming that “. . . I have taken my meal periods, and rest periods according to policy as  
19 stated in the PHR Management handbook, **regardless of uncorrected missed punches.**”  
20 (Emphasis added.) Defendants’ employees, including Plaintiff and other non-party Aggrieved  
21 Employees, were essentially coerced by Defendants into signing off that they took timely and  
22 complete meal periods when, in reality, they were working during meal periods and taking  
23 late meal periods to meet customer and supervisor demands. Defendants’ company-wide  
24 scheme of creating false records indicating compliant meal breaks were taken also included  
25 requiring that Plaintiff and other non-party Aggrieved Employees sign statements attesting  
26 that proper meal periods were taken before Defendants would release paychecks to them.

27 83. During the relevant period, Plaintiff routinely affixed his signature to these  
28 “Payroll Sign-Off” sheets under duress to receive his paycheck.

1           84. Defendants knew or should have known that as a result of its understaffing,  
2 non-compliant written meal break policy, failure to schedule second meal periods, compulsion  
3 of break “waivers,” and falsification of time records, that Plaintiff and other non-party  
4 Aggrieved Employees were not actually relieved of all duties to take timely, uninterrupted  
5 meal periods. As an example, the engineering department would often take meal breaks at the  
6 same time. During these meal breaks, the chief engineer would distribute and discuss work  
7 assignments, thus cutting short the meal break for all employees that were present. Plaintiff  
8 had his meal periods interrupted and cut short for this reason.

9           85. Defendants did not pay Plaintiff and other non-party Aggrieved Employees  
10 meal period premium wages when they were interrupted.

11           86. Furthermore, as mentioned, Defendants had no policy for scheduling second  
12 meal periods and had no policy for permitting and authorizing Plaintiff and/or other non-party  
13 Aggrieved Employees to take second 30-minute meal periods on days that they worked in  
14 excess of 10 hours in one day.

15           87. At all relevant times, Defendants knew or should have known that as a result of  
16 these company-wide policies and/or practices that Plaintiff and other non-party Aggrieved  
17 Employees were performing some of their assigned duties during unpaid meal periods and/or  
18 taking untimely meal periods, in violation of the applicable IWC Wage Order and Labor Code  
19 sections 226.7 and 512(a).

20           88. Moreover, Defendants also engaged in a systematic, company-wide policy to  
21 not pay meal period premiums. As a result, Defendants failed to provide Plaintiff and other  
22 non-party Aggrieved Employees compliant meal periods and failed to pay the full meal period  
23 premiums due in violation of California Labor Code sections 226.7 and 512.

24           89. Defendants’ conduct violates the applicable IWC Wage Order, and California  
25 Labor Code sections 226.7, 512(a), and 1198. Plaintiff and other non-party Aggrieved  
26 Employees are entitled to recover civil penalties pursuant to sections 558 and/or 2699(a), (f),  
27 and (g).

28 //

1 **FAILURE TO PROVIDE REST PERIODS**

2 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198**

3 90. At all relevant times herein set forth, the applicable IWC Wage Order and  
4 California Labor Code sections 226.7 and 1198 were applicable to Plaintiff and other non-  
5 party Aggrieved Employees' employment by Defendants.

6 91. At all relevant times, the applicable IWC Wage Order provides that "[e]very  
7 employer shall authorize and permit all employees to take rest periods, which insofar as  
8 practicable shall be in the middle of each work period" and that the "rest period time shall be  
9 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)  
10 hours or major fraction thereof" unless the total daily work time is less than three and one-half  
11 (3½) hours.

12 92. At all relevant times, California Labor Code section 226.7 provides that no  
13 employer shall require an employee to work during any rest period mandated by an applicable  
14 order of the California IWC. Pursuant to the applicable IWC Wage Order and California  
15 Labor Code section 226.7(b), Plaintiff and other non-party Aggrieved Employees were  
16 entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay  
17 for each work day that a required rest period was not provided.

18 93. During the relevant time period, Defendants maintained a company-wide,  
19 uniform unlawful written rest break policy insofar as it incorrectly states the timing of when  
20 rest breaks must occur and fails to authorize and permit additional rest breaks for shifts of 6  
21 hours or more. Defendants' written rest period policy provides that employees "scheduled  
22 over 3 ½ hours or more, or as mandated by State laws[,] are to receive a paid rest period."  
23 However, under California law, an employee is entitled to rest breaks for every 3.5 hours  
24 worked or greater fraction thereof. Thus, Defendants' written rest period policy is non-  
25 compliant on its face because it fails to provide that employees are entitled to a second rest  
26 period for shifts between 6 and 10 hours, are entitled to a third rest break for shifts between 10  
27 and 14 hours, and so on. Defendants' written rest period policy is also unlawful because it  
28 fails to state the timing of when rest breaks are to take place.

1           94.     During the relevant time period, Defendants regularly failed to authorize and  
2 permit Plaintiff and other non-party Aggrieved Employees to take ten (10) minute rest period  
3 per each four (4) hour period worked or major fraction thereof. As with meal periods,  
4 Defendants' scheduling policies and practices, or lack thereof, prevented Plaintiff and other  
5 non-party Aggrieved Employees from being relieved of all duty in order to take compliant rest  
6 periods. As a result, Plaintiff and other non-party Aggrieved Employees would sometimes  
7 work shifts in excess of 6 hours and in excess of 10 hours without receiving all uninterrupted  
8 10 minute rest periods to which they were entitled.

9           95.     For example, Plaintiff typically worked 8 hour shifts, but he only received one  
10 rest period per day at the beginning of his shift, when he was entitled to receive at least two  
11 rest periods. Instead, Plaintiff and other non-party Aggrieved Employees were forced to  
12 forego and work through rest breaks and continue to perform their duties.

13           96.     At the same time, Defendants implemented a systematic, company-wide policy  
14 to not pay rest periods premiums. Alternatively, to the extent that Defendants did pay  
15 Plaintiff and/or other non-party Aggrieved Employees one (1) additional hour of premium pay  
16 for missed rest periods, Defendants did not pay other non-party Aggrieved Employees at the  
17 correct rate of pay for premium wages because Defendants failed to include all forms of  
18 compensation, such as incentive pay and/or nondiscretionary bonuses, in the regular rate of  
19 pay. As a result, to the extent Defendants paid other non-party Aggrieved Employees  
20 premium pay for missed rest periods, it did so at a lower rate than required by law. As a  
21 result, Plaintiff and/or other non-party Aggrieved Employees were denied rest periods and  
22 failed to pay the full rest period premiums due, in violation of Labor Code section 226.7 and  
23 the applicable IWC Wage Order.

24           97.     Defendants' conduct violates the applicable IWC Wage Order and California  
25 Labor Code sections 226.7 and 1198. Plaintiff and other non-party Aggrieved Employees are  
26 therefore entitled to recover civil penalties pursuant to section 2699(a), (f), and (g).

27 //

28 //

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS AND  
MAINTAIN ACCURATE PAYROLL RECORDS  
VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

98. At all relevant times herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

99. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. Specifically, Defendants violated section 226(a)(8). Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list the correct name for Defendants in violation of Labor Code section 226(a)(8). According to Plaintiff's wage statements, Defendants' legal name as the employing entity is "ANAHEIM MAJESTIC GARDEN HOTEL" but, according to the California Secretary of State's website and Plaintiff's final pay check, the correct legal name is either PHR MANAGEMENT, INC. ("PHR") or "KEN REAL ESTATE LEASE LTD." ("KEN REAL ESTATE"); "ANAHEIM MAJESTIC GARDEN HOTEL" is merely a "doing business as" name for PHR and/or KEN REAL ESTATE, in violation of Labor Code section 226(a)(8). Furthermore, Defendants have knowingly provided Plaintiff and other non-party Aggrieved Employees with uniform, standardized wage statements that list the incorrect address for Defendant in violation of Labor Code section 226(a)(8). Specifically, according to Plaintiff's wage statements, the address for ANAHEIM MAJESTIC GARDEN HOTEL is listed as "900 S Disneyland Drive, Anaheim, CA 92802." However, according to the California Secretary of State's website, the correct address for the KEN REAL ESTATE LEASE LTD. entity is 1-2-7 Nishi-Azabu, Tokyo, Japan 106-0031.

100. The wage statement deficiencies also include, among other things, failing to list gross wages earned; failing to list total hours worked by employees; failing to list all

1 applicable hourly rates in effect during the pay period, including overtime rates of pay, and  
2 the corresponding number of hours worked at each hourly rate; failing to list the number of  
3 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate  
4 basis; failing to list all deductions; failing to list net wages earned; failing to list the name of  
5 the employee and only the last four digits of his or her social security number or an employee  
6 identification number other than a social security number; failing to list the inclusive dates of  
7 the period for which aggrieved employees were paid; and/or failing to state all hours worked  
8 as a result of not recording or stating the hours they worked off-the-clock.

9 101. California Labor Code section 1174(d) provides that “[e]very person employing  
10 labor in this state shall ... [k]eep a record showing the names and addresses of all employees  
11 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the  
12 plants or establishments at which employees are employed, payroll records showing the hours  
13 worked daily by and the wages paid to, and the number of piece-rate units earned by and any  
14 applicable piece rate paid to, employees employed at the respective plants or  
15 establishments...” During the relevant time period, and in violation of Labor Code section  
16 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and  
17 other non-party Aggrieved Employees showing the daily hours they worked and the wages  
18 paid thereto as a result of failing to record the off-the-clock hours that they worked.

19 102. California Labor Code section 1198 provides that the maximum hours of work  
20 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as  
21 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he  
22 employment of any employees for longer hours than those fixed by the order or under  
23 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC  
24 Wage Order, employers are required to keep accurate time records showing when the  
25 employee begins and ends each work period and meal period. During the relevant time  
26 period, Defendants failed, on a company-wide basis, to keep records of meal period start and  
27 stop times for Plaintiff and other non-party Aggrieved Employees in violation of section 1198.  
28 In light of Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees

1 with second 30-minute meal periods to which they were entitled, Defendants kept no records  
2 of meal start and end times for second meal periods.

3 103. Because Defendants failed to provide the accurate number of total hours  
4 worked on wage statements, Plaintiff and other non-party Aggrieved Employees have been  
5 prevented from verifying, solely from information on the wage statements themselves, that  
6 they were paid correctly and in full. Instead, Plaintiff and other non-party Aggrieved  
7 Employees have had to look to sources outside of the wage statements themselves and  
8 reconstruct time records to determine whether in fact they were paid correctly and the extent  
9 of underpayment, thereby causing them injury.

10 104. Because Defendants' violations of 226(a), 1174(d), and 1198 were committed  
11 against Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party  
12 Aggrieved Employees are entitled to recover civil penalties pursuant to sections 226(e), 226.3,  
13 1174.5, and/or 2699(a), (f), and (g).

#### 14 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

##### 15 **VIOLATION OF LABOR CODE SECTION 204**

16 105. At all relevant times herein set forth, California Labor Code section 204  
17 requires that all wages earned by any person in any employment between the 1st and the 15th  
18 days, inclusive, of any calendar month, other than those wages due upon termination of an  
19 employee, are due and payable between the 16th and the 26th day of the month during which  
20 the labor was performed. Labor Code section 204 further provides that all wages earned by  
21 any person in any employment between the 16th and the last day, inclusive, of any calendar  
22 month, other than those wages due upon termination of an employee, are due and payable  
23 between the 1st and the 10th day of the following month.

24 106. At all relevant times herein, California Labor Code section 204 also requires  
25 that all wages earned for labor in excess of the normal work period shall be paid no later than  
26 the payday for the next regular payroll period. Alternatively, at all relevant times herein,  
27 Labor Code section 204 provides that the requirements of this section are deemed satisfied by  
28 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not

1 more than seven (7) calendar days following the close of the payroll period.

2 107. During the relevant time period, Defendants willfully failed to pay Plaintiff and  
3 other non-party Aggrieved Employees all wages due to them within any time period specified  
4 by California Labor Code section 204 including, but not limited to, overtime wages, minimum  
5 wages, and meal and/or rest period premium wages. Plaintiff and other non-party Aggrieved  
6 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections  
7 210 and/or 2699(a), (f), and (g).

8 **FAILURE TO PAY WAGES UPON TERMINATION**

9 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

10 108. At all times relevant herein, Labor Code sections 201 and 202 provide that if an  
11 employer discharges an employee, the wages earned and unpaid at the time of discharge are  
12 due and payable immediately, and that if an employee voluntarily leaves his or her  
13 employment, his or her wages shall become due and payable not later than seventy-two (72)  
14 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his  
15 or her intention to quit, in which case the employee is entitled to his or her wages at the time  
16 of quitting.

17 109. During the relevant time period, Defendants willfully failed to pay Plaintiff and  
18 other non-party Aggrieved Employees who are no longer employed by Defendants the earned  
19 and unpaid wages set forth above, including but not limited to, overtime wages, minimum  
20 wages, meal and/or rest period premium wages, and accrued personal time off, either at the  
21 time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ. For  
22 example, Plaintiff was terminated by Defendants on March 16, 2016, and to date, Defendants  
23 have not paid Plaintiff all accrued, unused paid time off he is owed in violation of the  
24 statutory time limits set by Labor Code section 203.

25 110. Defendants' failure to pay Plaintiff and those Aggrieved Employees who are no  
26 longer employed by Defendants their wages earned and unpaid at the time of discharge, or  
27 within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code  
28 sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore

1 entitled to recover civil penalties pursuant to Labor Code section 2699(a), (f), and (g).

2 **UNLAWFUL REQUIREMENT FOR RELEASE OF CLAIMS AS A CONDITION TO**  
3 **RECEIVING WAGES**

4 **VIOLATION OF LABOR CODE SECTION 206.5**

5 111. California Labor Code section 206.5 prohibits employers from requiring  
6 employees to execute releases of a claim or right “on account of wages due, or to become due,  
7 or made as an advance on wages to be earned, unless payment of those wages has been made.  
8 A release required or executed in violation of the provisions of this section shall be null and  
9 void as between the employer and the employee.”

10 112. During the relevant time period, Defendants required Plaintiff and other non-  
11 party Aggrieved Employees to release their claims for meal and rest break violations as a  
12 condition to receiving their pay checks. For example, before Plaintiff and other non-party  
13 Aggrieved Employees received their paychecks, Defendants required them to complete  
14 “Payroll Sign-Off” sheets and verify therein that they were provided the required meal and  
15 rest breaks when, in fact, they were not provided all meal and rest breaks during the workday.  
16 During the relevant time period, Plaintiff regularly signed the “Payroll Sign-Off” sheets  
17 because he believed he had to in order to receive his paycheck from Defendants.

18 113. Defendants’ policy and practice of requiring Plaintiff and other non-party  
19 Aggrieved Employees to release their claims for meal and rest break violations as a condition  
20 to receiving their wages are in violation of California Labor Code section 206.5. Plaintiff and  
21 other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant  
22 to section 2699(a), (f), and (g).

23 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**  
24 **EMPLOYMENT - VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

25 114. California’s Wage Theft Prevention Act was enacted to ensure that employers  
26 provide employees with basic information material to their employment relationship at the  
27 time of hiring, and to ensure that employees are given written and timely notice of any  
28 changes to basic information material to their employment. Codified at California Labor

Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code section 2810.5(a)(1)(A)-(C).

115. During the relevant time period, Defendants failed to provide written notice to Plaintiff and other non-party Aggrieved Employees that lists the requisite payroll information set forth in Labor Code section 2810.5(a)(1)(A), (B), and (C) on a company-wide basis, including a statement that the employee may accrue and use sick leave.

116. Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5(a)(1)(A)-(C). Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

### **REQUEST FOR JURY TRIAL**

Plaintiff requests a trial by jury.

### **PRAYER FOR RELIEF**

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars (\$25,000).

### **As to the First Cause of Action**

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 246 (by failing to provide paid sick leave benefits and failing to provide written notice of paid sick leave available, or paid time off that an employer provided in lieu of sick

1 leave); 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,  
2 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512  
3 and 1198 (by failing to provide all meal and rest periods); 206.5 (by requiring a release of  
4 claims as a condition to receiving wages); 226(a) and 1198 (by failing to provide accurate and  
5 complete wage statements); 1174(d) and 1198 (by failing to maintain accurate and complete  
6 payroll records); 204 (by failing timely to pay all earned wages during employment); 201,  
7 202, 203 (by failing timely to pay all earned wages upon termination); and 2810.5 (by failing  
8 to provide written notice of material terms of employment);

9 3. For civil penalties pursuant to California Labor Code sections 210, 226.3, 558,  
10 1174.5, 1197.1, 2699(a) and/or 2699(f) and (g), for violations of California Labor Code  
11 sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194,  
12 1197, 1197.1, 1198, and 2810.5;

13 4. For attorneys' fees and costs pursuant to California Labor Code section  
14 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California  
15 Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d),  
16 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5;

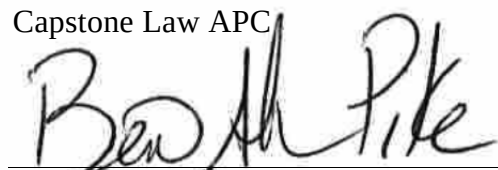
17 5. For pre-judgment and post-judgment interest as provided by law; and

18 6. For such other and further relief as the Court may deem equitable and  
19 appropriate.

20 Dated: June 30, 2016

Respectfully submitted,

Capstone Law APC

21  
22  
23 By: 

24 Robert Drexler  
Bevin Allen Pike  
Jonathan Lee

25 Attorneys for Plaintiff Robert Onofre  
26  
27  
28

# Exhibit 1



1840 Century Park East, Suite 450  
Los Angeles, California 90067  
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO  
310.712.8169 Direct  
Anthony.Castillo@capstonelawyers.com

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May 27, 2016

VIA U.S. CERTIFIED MAIL

California Labor & Workforce Development Agency  
ATTN: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94162

Subject: *Robert Onofre v. Ken Real Estate Lease Ltd.*

Dear PAGA Administrator:

This office represents Robert Onofre in connection with his claims under the California Labor Code. Mr. Onofre was an employee of KEN REAL ESTATE LEASE LTD. ("KEN REAL ESTATE").

The employer may be contacted directly:

KEN REAL ESTATE LEASE LTD.  
1-2-7 NISHI-AZABU  
TOKYO JAPAN 106-0031

Mr. Onofre intends to seek civil penalties, attorney's fees, costs and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Onofre seeks relief on behalf of himself, the State of California, and other persons who were employed by KEN REAL ESTATE as a non-exempt, hourly-paid employee in California at Anaheim Majestic Garden Hotel ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

KEN REAL ESTATE employed Mr. Onofre as an hourly, non-exempt Maintenance Person/Engineer from approximately December 2015 to March 2016. Mr. Onofre worked for KEN REAL ESTATE at their Anaheim Majestic Garden Hotel in Anaheim, California. During his employment, Mr. Onofre typically worked approximately 8 hours or more per day, 5 days per week, and approximately 40 hours per week. At the time Mr. Onofre's employment with KEN REAL ESTATE ended, he earned approximately \$13.00 per hour. His job duties as a Maintenance Person/Engineer included fixing broken items in hotel rooms, shredding paper, doing plumbing work, installing light bulbs, and painting. Mr. Onofre's relevant claims are as follows:

### **KEN REAL ESTATE's Company-Wide and Uniform Payroll and HR Practices**

KEN REAL ESTATE is a California corporation which owns and operates a castle-themed hotel situated on 13 acres of gardens, with a pool, bar, and restaurant in Anaheim, California. Upon information and belief, KEN REAL ESTATE maintains a centralized Human Resources (HR) department in Anaheim, California, for all non-exempt, hourly-paid employees working for KEN REAL ESTATE, including Mr. Onofre and other aggrieved employees. At all relevant times, KEN REAL ESTATE issued and maintained uniform, standardized practices and procedures for all non-exempt, hourly-paid employees in California, including Mr. Onofre and other aggrieved employees, regardless of their location or position.

Upon information and belief, KEN REAL ESTATE maintains a centralized Payroll department in Anaheim, California, which processes payroll for all non-exempt, hourly paid employees working for KEN REAL ESTATE. At all relevant times, KEN REAL ESTATE has processed payroll and issued the same formatted wage statements in the same manner for all non-exempt, hourly-paid employees working in California, including Mr. Onofre and other aggrieved employees, regardless of their location, position, or manner in which each employee's employment ended. KEN REAL ESTATE has utilized third party ADP Payroll Services to process its uniform, standardized wage statements to Mr. Onofre and other aggrieved employees during the relevant time period.

### **Violation of California Labor Code § 246**

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(h) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, KEN REAL ESTATE systematically failed to provide Mr. Onofre and other aggrieved employees paid sick leave of no less than 24 hours or three (3) days. Specifically, Mr. Onofre has worked in excess of 30 days for KEN REAL ESTATE in California and is therefore eligible to receive paid sick leave. However, to date, KEN REAL ESTATE has not provided Mr. Onofre with any sick leave benefits, in violation of section 246(b)(4). Additionally, KEN REAL ESTATE failed to provide Mr. Onofre and other aggrieved employees written notice on wage statements and/or other separate written statements that correctly listed the balance of paid sick leave they should have been accruing as set forth in Labor Code section 246(h). KEN REAL ESTATE's ongoing and systematic failure to provide sick leave benefits to Mr. Onofre and other aggrieved employees violates California Labor Code section 246.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

### **Violation of California Labor Code §§ 510 and 1198**

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

During the relevant time period, KEN REAL ESTATE willfully failed to pay all overtime wages owed to Mr. Onofre and other aggrieved employees. During the relevant time period, Mr. Onofre and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded. KEN REAL ESTATE has a company-wide policy of staffing its hotel strictly based on the labor hours allotted by the company's labor or payroll budget, which has resulted in and continues to result in understaffing of the hotel and a lack of break coverage because there were insufficient employees on duty to handle the workload and attend to guests and other maintenance issues.

KEN REAL ESTATE's company-wide policy and/or practice of understaffing its hotel location prevented Mr. Onofre and other aggrieved employees from taking all timely, uninterrupted thirty (30) minute meal periods and led to them working off-the-clock during meal periods. Due to KEN REAL ESTATE's understaffing of the hotel, Mr. Onofre and other aggrieved employees were required to continue to tend to their assignments during unpaid meal periods, such as completing maintenance work and/or cleaning rooms. In addition, KEN REAL ESTATE's supervisors regularly interrupted Mr. Onofre and other aggrieved employees' meal periods and used that time to distribute work assignments to them. For example, Mr. Onofre's Engineering supervisor Bruno routinely held meetings and gave instructions to Mr. Onofre and other aggrieved employees regarding their assignments during their meal periods. As a result, Mr. Onofre and other aggrieved employees were not relieved of their duties during all meal periods and had their meal periods interrupted.

Further, on information and belief, KEN REAL ESTATE has systematically, and on a company-wide basis, failed to schedule second meal periods and had no policy for permitting and authorizing other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. In the last year when Mr. Onofre worked over 10 hours in a day, KEN REAL ESTATE did not provide him with a second 30-minute meal period. Further, Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers or valid "on-duty" meal period agreements on days that they were entitled to meal periods but were not relieved of all duties.

KEN REAL ESTATE knew or should have known that as a result of its policies, that Mr. Onofre and other aggrieved employees were performing some of their assigned duties off-the-clock and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. KEN REAL ESTATE also knew, or should have known, that it did not compensate Mr. Onofre and other aggrieved employees for this off-the-clock work. Because Mr. Onofre and/or other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work performed during unpaid meal periods qualified for overtime premium

pay. Therefore, Mr. Onofre and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. KEN REAL ESTATE's failure to pay Mr. Onofre and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Mr. Onofre and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198**

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 16 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As described above, due to KEN REAL ESTATE's limitation on labor hours and resultant understaffing, and due to its failure to schedule second meal periods, Mr. Onofre and other aggrieved employees were forced to forego meal breaks altogether and/or have their meal breaks interrupted or delayed by work.

Further, KEN REAL ESTATE maintained and implemented a company-wide policy of requiring all newly hired employees and/or prospective employees to undergo mandatory drug testing. At all times, KEN REAL ESTATE was in control of scheduling the date and time for the drug testing, selecting the provider/facility where the drug testing was to take place, and determining the scope of the drug test. KEN REAL ESTATE gave Mr. Onofre and other aggrieved employees strict instructions to obtain a drug test as a condition of their employment and Mr. Onofre and other aggrieved employees underwent drug testing for the sole benefit of KEN REAL ESTATE. However, KEN REAL ESTATE did not compensate Mr. Onofre and other aggrieved employees for the time they spent traveling to and from drug testing or for the time they spent undergoing drug testing. For example, Mr. Onofre was instructed by KEN REAL ESTATE to travel to a clinic located at 1717 E. Lincoln Ave., Anaheim, California and obtain a drug test. Mr. Onofre followed KEN REAL ESTATE's instructions, traveled 3 miles from the hotel to the clinic, and underwent the drug test. Mr. Onofre spent approximately 1 hour and 45 minutes at the clinic to obtain the mandatory drug test. KEN REAL ESTATE did not compensate Mr. Onofre for this time or reimburse him for his travel expenses to and from the clinic.

KEN REAL ESTATE did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, KEN REAL ESTATE did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, KEN REAL ESTATE regularly failed to pay at least minimum wages to Mr. Onofre and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(f)-(g).

### Violation of California Labor Code §§ 226.7, 512(a), and 1198

California Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

KEN REAL ESTATE maintained a company-wide, unlawful written meal break policy insofar as it fails to state the timing of when meal breaks must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). However, KEN REAL ESTATE's written break policy states, "It is the policy of the company to provide a 30 minute uninterrupted (unpaid) meal period for the associates working at least a 5 hour shift or greater, or as mandated by State law . . . ." KEN REAL ESTATE's written policies fail to state the correct timing of when the first meal break must take place (i.e. within the first five (5) hours of work) under California law and are therefore facially invalid. Further, KEN REAL ESTATE's written policy fails to provide that employees, including Mr. Onofre and other aggrieved employees, are entitled to second 30 minute meal breaks for shifts in excess of ten (10) hours. Thus, KEN REAL ESTATE's written meal break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order. As a result of KEN REAL ESTATE's company-wide non-compliant meal period policy, Mr. Onofre and other aggrieved employees were denied timely meal periods within the first five hours of work and/or timely second meal periods within the first ten hours of work.

KEN REAL ESTATE also engaged in a systemic scheme to falsify timekeeping records in order to hide the meal and/or rest period violations that were regularly occurring. On a company-wide basis, KEN REAL ESTATE implemented a practice and/or policy of requiring that employees initial and sign off that they actually received a compliant meal period, when they did not. For example, KEN REAL ESTATE's supervisors would instruct employees to sign a "payroll sign-off" sheet confirming that ". . . I have taken my meal periods, and rest periods according to policy as stated in the PHR Management handbook, **regardless of uncorrected missed punches.**" KEN REAL ESTATE's

employees, including Mr. Onofre and/or other aggrieved employees, were essentially coerced by KEN REAL ESTATE into signing off that they took timely and complete meal periods when, in reality, their meal periods were interrupted in order to meet customer and supervisor demands. KEN REAL ESTATE's company-wide scheme of creating false records indicating compliant meal breaks were taken also included requiring that Mr. Onofre and other aggrieved employees sign statements attesting that proper meal and/or rest periods were taken before KEN REAL ESTATE would release paychecks to them.

Although KEN REAL ESTATE was fully aware that Mr. Onofre and other aggrieved employees were working during meal periods such that meal periods were shortened to less than 30 minutes, KEN REAL ESTATE failed to pay Mr. Onofre and other aggrieved employees meal period premium wages. KEN REAL ESTATE knew or should have known that as a result of its understaffing, non-compliant meal break policy, compulsion of break "waivers," and falsification of time records, that Mr. Onofre and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. KEN REAL ESTATE did not pay other aggrieved employees meal period premium wages when they were interrupted. As a result, Mr. Onofre and other aggrieved employees had to work through some or all of their meal periods, have their meal periods interrupted to return to work, and/or wait extended periods of time before taking meal periods. Further, KEN REAL ESTATE systematically, and on a company-wide basis, prevented employees from taking full 30-minute uninterrupted meal period. Mr. Onofre's meal periods have been interrupted and cut short. For example, the usual practice for the engineering department was that all but one employee would take meal and rest breaks at the same time. On some days, the chief engineer would give work assignments during the meal break, thus cutting short the meal break for all employees that were present. Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers on days that they were entitled to meal periods and were not relieved of all duties.

KEN REAL ESTATE also had no policy for scheduling second meal periods and had no policy for permitting and authorizing Mr. Onofre and other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. KEN REAL ESTATE's failure to schedule second meal periods, and failure to provide meal and rest break coverage, impeded and prevented Mr. Onofre and other aggrieved employees from taking timely, uninterrupted meal and/or rest periods. Instead, Mr. Onofre and other aggrieved employees were made to work through some or all of their meal and/or rest periods, have their meal and/or rest periods interrupted to return to work, and/or wait extended periods of time before taking meal periods and rest periods.

To the extent KEN REAL ESTATE required aggrieved employees to sign written "on-duty" meal period agreements, such agreements were invalid as the nature of the work performed by Mr. Onofre and other aggrieved employees did not necessitate an "on-duty" meal period under California law. Fixing plumbing problems and broken hotel room items does not constitute the kind of work that calls for "on-duty" meal periods.

As with meal periods, KEN REAL ESTATE's company-wide policies and practices prevented Mr. Onofre and other aggrieved employees from being relieved of all duty to take compliant rest periods. Specifically, KEN REAL ESTATE's written rest period policy provides that employees "scheduled over 3 ½ hours or more, or as mandated by State laws[,] are to receive a paid rest period." However, under California law, an employee is entitled to rest breaks **for every 3.5 hours worked or greater fraction thereof**. Thus, KEN REAL ESTATE's written rest period policy is non-compliant on its face because it fails to provide that employees are entitled to a second rest period for shifts between 6 and 10 hours, are entitled to a third rest break for shifts between 10 and 14 hours, and so on. KEN

REAL ESTATE's written rest period policy is also unlawful because it fails to state the timing of when rest breaks are to take place.

In addition, KEN REAL ESTATE systematically failed to adopt any procedures to permit and authorize Mr. Onofre and other aggrieved employees to take all rest periods. Specifically, KEN REAL ESTATE did not schedule rest periods for its employees. As a result, Mr. Onofre and other aggrieved employees are prevented from being relieved of all duty in order to take compliant rest periods. For example, Mr. Onofre typically worked 8 hour shifts, but he only received one rest period per day at the beginning of his shift, when he was entitled to receive at least two rest periods. Instead, Mr. Onofre and other aggrieved employees were forced to forego and work through rest breaks and continue to perform their maintenance duties. Thus, KEN REAL ESTATE failed to provide Mr. Onofre and other aggrieved employees with all rest periods to which they were entitled.

KEN REAL ESTATE also engaged in a systematic, company-wide policy of not paying meal and rest period premiums owed when compliant meal and rest periods were not provided. Because of this practice and/or policy, Mr. Onofre and other aggrieved employees did not receive premium pay for missed meal and/or rest periods. To the extent that KEN REAL ESTATE did pay Mr. Onofre and other aggrieved employees premium pay for missed meal and/or rest periods, KEN REAL ESTATE did not pay Mr. Onofre and/or other aggrieved employees at the correct rate of pay for premium wages. Specifically, KEN REAL ESTATE systematically failed to properly calculate other aggrieved employees' regular rates of pay for purposes of paying premium wages by failing to include all forms of compensation, such as incentive pay, in the regular rate of pay. As a result, to the extent KEN REAL ESTATE paid Mr. Onofre and/or other aggrieved employees premium pay for missed meal or rest periods, it did so at a lower rate than required by law. Accordingly, KEN REAL ESTATE failed to provide all meal and rest periods in violation of California Labor Code sections 226.7, 512, 1198, and failed to provide the statutory relief provided for by section 226.7 and the applicable IWC Wage Order.

Mr. Onofre and other aggrieved employees are entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(f)-(g).

#### **Violation of California Labor Code § 206.5**

California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee." During the relevant time period, KEN REAL ESTATE required Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their pay checks. For example, before employees received their paychecks, KEN REAL ESTATE required Mr. Onofre and other aggrieved employees to complete payroll sign-off sheets and verify therein that they were provided the required meal and rest breaks when, in fact, they were not provided all meal and rest breaks during the workday. KEN REAL ESTATE's policy and practice of requiring Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their wages are in violation of California Labor Code section 206.5. *See example of a payroll sign-off sheet below.*

**PHR Management****Payroll Sign-Off**Employee**Pay Period: 2/6/16-2/14/16****13 Checks****Pay Day: February 19, 2016**

I acknowledge that I have received my pay check and have reviewed it for the hours worked and recorded for this pay period. I further acknowledge that I have taken my meal periods, and rest periods according to policy as stated in the PHR Management handbook, regardless of uncorrected missed punches.

| Associate Name | Associate Signature | I have taken all<br>Meal/Rest periods | Date Check<br>Received |
|----------------|---------------------|---------------------------------------|------------------------|
|----------------|---------------------|---------------------------------------|------------------------|

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

**Violation of California Labor Code §§ 226(a), 1174(d), and 1198**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. KEN REAL ESTATE has not provided Mr. Onofre and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violations occurs and \$100 per employee for each violation in an subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, KEN REAL ESTATE has knowingly and intentionally provided Mr. Onofre and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. Specifically, KEN REAL ESTATE violated section 226(a)(8). According to Mr. Onofre's paystubs, "Anaheim Majestic Garden Hotel" is the legal name of the employer. However, on information and belief, "Anaheim Majestic Garden Hotel" is merely a "doing business as" name for KEN REAL ESTATE. Therefore, KEN REAL ESTATE failed to list the correct legal name of the employer on wage statements issued to Mr. Onofre and other aggrieved employees, in violation of Labor Code section 226(a)(8). *See example of violating paystub below.*

|                                                                                                                 |                |                |                |                         |          |
|-----------------------------------------------------------------------------------------------------------------|----------------|----------------|----------------|-------------------------|----------|
| CO.<br>BKG                                                                                                      | FILE<br>310759 | DEPT<br>544011 | CLOCK<br>XN50X | VCHR. NO.<br>0000110095 | 1        |
|                                                                                                                 |                |                |                |                         | 152-0001 |
| <b>ANAHEIM MAJESTIC GARDEN HOTEL</b><br>900 S DISNEYLAND DRIVE<br>ANAHEIM CA 92802<br>COMPANY PH#: 714-778-1700 |                |                |                |                         |          |

Taxable Marital Status: Single  
 Exemptions/Allowances:  
 Federal: 1  
 CA: 1

## Earnings Statement



Period Beginning: 02/29/2016  
 Period Ending: 03/13/2016  
 Pay Date: 03/18/2016

00000000095

ROBERT T ONOFRE

The wage statement deficiencies also include, among other things, failing to list gross wages earned; failing to list total hours worked by employees; failing to list all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate; failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list net wages earned; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), KEN REAL ESTATE willfully failed to maintain accurate payroll records for Mr. Onofre and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the shortened meal breaks.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, KEN REAL ESTATE failed, on a company-wide basis, to keep records of meal period start and stop times for Mr. Onofre and/or other aggrieved employees in violation of section 1198. In light of KEN REAL ESTATE’s failure to provide Mr. Onofre and other aggrieved employees with second 30-minute meal periods to which they were entitled, KEN REAL ESTATE kept no records of meal start and end times for second meal periods.

Because KEN REAL ESTATE failed to provide the accurate number of total hours worked, Mr. Onofre and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Onofre and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Onofre and/or other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a),(f)-(g).

#### **Violation of California Labor Code § 204**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, KEN REAL ESTATE failed to pay Mr. Onofre and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 210 and/or 2699(f)-(g).

#### **Violation of California Labor Code §§ 201, 202, and 203**

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to KEN REAL ESTATE willfully failed to pay other aggrieved employees who are no longer employed by KEN REAL ESTATE all their earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages either at the time of discharge, or within seventy-two (72) hours of their leaving KEN REAL ESTATE's employ in violation of Labor Code sections 201, 202, and 203.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code section 2699(f)-(g).

### **Violation of California Labor Code § 2810.5(a)(1)(A)-(C)**

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

KEN REAL ESTATE failed to provide Mr. Onofre and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). KEN REAL ESTATE's failure to provide Mr. Onofre and other aggrieved employees with written notice of basic information regarding their employment with KEN REAL ESTATE is in violation of Labor Code section 2810.5. Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

### **California Labor Code § 558(a)**

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." KEN REAL ESTATE, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Onofre and other aggrieved employees' rights by violating various sections of the California Labor Code and provisions regulating hours and days of work of the applicable IWC Wage Order.

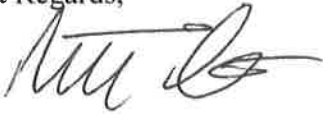
Accordingly, Mr. Onofre seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), and 2699.5, Mr. Onofre, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against KEN REAL ESTATE, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Onofre seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo  
Capstone Law APC  
1840 Century Park East, Suite 450  
Los Angeles, CA 90067  
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Anthony Castillo', with a stylized flourish at the end.

Anthony Castillo

Copy: KEN REAL ESTATE LEASE LTD. (via Registered First-Class Mail International)

STONE LAW APC  
Century Park East, Suite 450  
Angeles, CA 90067

KEN REAL ESTATE LEASE LTD.  
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PS Form 2865, March 2007 (Reverse) PSN 7530-01-000-9775

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Entesar Mohammed

CAPSTONE LAW APC

1840 Century Park East, Suite 450

Los Angeles, CA 90067

KEN REAL ESTATE LEASE LTD.

1-2-7 NISHI-AZABU

TOKYO JAPAN 106-0031

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| SENDER: COMPLETE THIS SECTION                                                                                                                                                                                                                                                                                                                                                              |  | COMPLETE THIS SECTION ON DELIVERY                                                                                                                                                                                                                                                                                                                                   |  |
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| <ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>                                                                                                                         |  | <p>A. Signature<br/> <b>X</b></p> <p><input type="checkbox"/> Agent<br/> <input type="checkbox"/> Addressee</p>                                                                                                                                                                                                                                                     |  |
| <p>1. Article Addressed to:</p> <p>California Labor &amp; Workforce<br/>                 Development Agency<br/>                 Attn: PAGA Administrator<br/>                 1515 Clay Street, Ste. 801<br/>                 Oakland, CA 94162</p>                                                                                                                                       |  | <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>                                                                                                                                                                                                                                                                                                     |  |
| <p>2. Article Number (Transfer from service label)</p> <p>7010 2780 0003 1943 6414</p>                                                                                                                                                                                                                                                                                                     |  | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br/>                 If YES, enter delivery address below: <input type="checkbox"/> No</p>                                                                                                                                                                                            |  |
| <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature<br/> <input type="checkbox"/> Adult Signature Restricted Delivery<br/> <input checked="" type="checkbox"/> Certified Mail®<br/> <input type="checkbox"/> Certified Mail Restricted Delivery<br/> <input type="checkbox"/> Collect on Delivery<br/> <input type="checkbox"/> Collect on Delivery Restricted Delivery</p> |  | <p><input type="checkbox"/> Priority Mail Express®<br/> <input type="checkbox"/> Registered Mail™<br/> <input type="checkbox"/> Registered Mail Restricted Delivery<br/> <input type="checkbox"/> Return Receipt for Merchandise<br/> <input type="checkbox"/> Signature Confirmation™<br/> <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> |  |
| <p>PS Form 3811, April 2015 PSN 7530-02-000-9053</p>                                                                                                                                                                                                                                                                                                                                       |  | <p>Domestic Return Receipt</p>                                                                                                                                                                                                                                                                                                                                      |  |

CALIFORNIA LABOR & WORKFORCE  
 DEVELOPMENT AGENCY  
 ATTN: PAGA ADMINISTRATOR  
 1515 CLAY STREET, STE. 801  
 OAKLAND, CA 94162

7010 2780 0003 1943 6414

| U.S. Postal Service™<br>CERTIFIED MAIL™ RECEIPT<br>(Domestic Mail Only; No Insurance Coverage Provided)                                                                                       |         |
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| OFFICIAL USE                                                                                                                                                                                  |         |
| Postage                                                                                                                                                                                       | \$ 1.15 |
| Certified Fee                                                                                                                                                                                 | 3.30    |
| Return Receipt Fee (Endorsement Required)                                                                                                                                                     | 2.70    |
| Restricted Delivery Fee (Endorsement Required)                                                                                                                                                |         |
| Total Postage & Fees                                                                                                                                                                          | \$ 7.15 |
| Postmark Here<br>Onofre v. Ken Real Estate Lease                                                                                                                                              |         |
| Sent To: California Labor & Workforce<br>Development Agency<br>Attn: PAGA Administrator<br>Street, Apt. No., or PO Box No. 1515 Clay Street, Ste. 801<br>City, State, ZIP+4 Oakland, CA 94162 |         |
| PS Form 3800, August 2006 See Reverse for Instructions                                                                                                                                        |         |

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

California Labor & Workforce  
Development Agency  
Attn: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94162



9590 9403 0424 5163 3649 86

## 2. Article Number (Transfer from service label)

7010 2780 0003 1943 6414

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

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## B. Received by (Printed Name)

## C. Date of Delivery

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1840 Century Park East, Suite 450  
Los Angeles, California 90067  
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO  
310.712.8169 Direct  
Anthony.Castillo@capstonelawyers.com

May 27, 2016

VIA U.S. CERTIFIED MAIL

California Labor & Workforce Development Agency  
ATTN: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94162

Subject: *Robert Onofre v. PHR Management, Inc.*

Dear PAGA Administrator:

This office represents Robert Onofre in connection with his claims under the California Labor Code. Mr. Onofre was an employee of PHR MANAGEMENT, INC. ("PHR MANAGEMENT").

The employer may be contacted directly:

PHR MANAGEMENT, INC  
900 S DISNEYLAND DRIVE  
ANAHEIM, CA 92802

Mr. Onofre intends to seek civil penalties, attorney's fees, costs and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Onofre seeks relief on behalf of himself, the State of California, and other persons who were employed by PHR MANAGEMENT as a non-exempt, hourly-paid employee in California at Anaheim Majestic Garden Hotel ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PHR MANAGEMENT employed Mr. Onofre as an hourly, non-exempt Maintenance Person/Engineer from approximately December 2015 to March 2016. Mr. Onofre worked for PHR MANAGEMENT at their Anaheim Majestic Garden Hotel in Anaheim, California. During his employment, Mr. Onofre typically worked approximately 8 hours or more per day, 5 days per week, and approximately 40 hours per week. At the time Mr. Onofre's employment with PHR MANAGEMENT ended, he earned approximately \$13.00 per hour. His job duties as a Maintenance Person/Engineer included fixing broken items in hotel rooms, shredding paper, doing plumbing work, installing light bulbs, and painting. Mr. Onofre's relevant claims are as follows:

### **PHR MANAGEMENT's Company-Wide and Uniform Payroll and HR Practices**

PHR MANAGEMENT is a California corporation which owns and operates a castle-themed hotel situated on 13 acres of gardens, with a pool, bar, and restaurant in Anaheim, California. Upon information and belief, PHR MANAGEMENT maintains a centralized Human Resources (HR) department at their corporate headquarters in Anaheim, California, for all non-exempt, hourly-paid employees working for PHR MANAGEMENT, including Mr. Onofre and other aggrieved employees. At all relevant times, PHR MANAGEMENT issued and maintained uniform, standardized practices and procedures for all non-exempt, hourly-paid employees in California, including Mr. Onofre and other aggrieved employees, regardless of their location or position.

Upon information and belief, PHR MANAGEMENT maintains a centralized Payroll department at their corporate headquarters in Anaheim, California, which processes payroll for all non-exempt, hourly paid employees working for PHR MANAGEMENT. At all relevant times, PHR MANAGEMENT has processed payroll and issued the same formatted wage statements in the same manner for all non-exempt, hourly-paid employees working in California, including Mr. Onofre and other aggrieved employees, regardless of their location, position, or manner in which each employee's employment ended. PHR MANAGEMENT has utilized third party ADP Payroll Services to process its uniform, standardized wage statements to Mr. Onofre and other aggrieved employees during the relevant time period.

### **Violation of California Labor Code § 246**

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(h) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, PHR MANAGEMENT systematically failed to provide Mr. Onofre and other aggrieved employees paid sick leave of no less than 24 hours or three (3) days. Specifically, Mr. Onofre has worked in excess of 30 days for PHR MANAGEMENT in California and is therefore eligible to receive paid sick leave. However, to date, PHR MANAGEMENT has not provided Mr. Onofre with any sick leave benefits, in violation of section 246(b)(4). Additionally, PHR MANAGEMENT failed to provide Mr. Onofre and other aggrieved employees written notice on wage statements and/or other separate written statements that correctly listed the balance of paid sick leave they should have been accruing as set forth in Labor Code section 246(h). PHR MANAGEMENT's ongoing and systematic failure to provide sick leave benefits to Mr. Onofre and other aggrieved employees violates California Labor Code section 246.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

### **Violation of California Labor Code §§ 510 and 1198**

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

During the relevant time period, PHR MANAGEMENT willfully failed to pay all overtime wages owed to Mr. Onofre and other aggrieved employees. During the relevant time period, Mr. Onofre and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded. PHR MANAGEMENT has a company-wide policy of staffing its hotel strictly based on the labor hours allotted by the company's labor or payroll budget, which has resulted in and continues to result in understaffing of the hotel and a lack of break coverage because there were insufficient employees on duty to handle the workload and attend to guests and other maintenance issues.

PHR MANAGEMENT's company-wide policy and/or practice of understaffing its hotel location prevented Mr. Onofre and other aggrieved employees from taking all timely, uninterrupted thirty (30) minute meal periods and led to them working off-the-clock during meal periods. Due to PHR MANAGEMENT's understaffing of the hotel, Mr. Onofre and other aggrieved employees were required to continue to tend to their assignments during unpaid meal periods, such as completing maintenance work and/or cleaning rooms. In addition, PHR MANAGEMENT's supervisors regularly interrupted Mr. Onofre and other aggrieved employees' meal periods and used that time to distribute work assignments to them. For example, Mr. Onofre's Engineering supervisor Bruno routinely held meetings and gave instructions to Mr. Onofre and other aggrieved employees regarding their assignments during their meal periods. As a result, Mr. Onofre and other aggrieved employees were not relieved of their duties during all meal periods and had their meal periods interrupted.

Further, on information and belief, PHR MANAGEMENT has systematically, and on a company-wide basis, failed to schedule second meal periods and had no policy for permitting and authorizing other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. In the last year when Mr. Onofre worked over 10 hours in a day, PHR MANAGEMENT did not provide him with a second 30-minute meal period. Further, Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers or valid "on-duty" meal period agreements on days that they were entitled to meal periods but were not relieved of all duties.

PHR MANAGEMENT knew or should have known that as a result of its policies, that Mr. Onofre and other aggrieved employees were performing some of their assigned duties off-the-clock and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. PHR MANAGEMENT also knew, or should have known, that it did not compensate Mr. Onofre and other aggrieved employees for this off-the-clock work. Because Mr. Onofre and/or other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some

of this off-the-clock work performed during unpaid meal periods qualified for overtime premium pay. Therefore, Mr. Onofre and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. PHR MANAGEMENT's failure to pay Mr. Onofre and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Mr. Onofre and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198**

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 16 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As described above, due to PHR MANAGEMENT's limitation on labor hours and resultant understaffing, and due to its failure to schedule second meal periods, Mr. Onofre and other aggrieved employees were forced to forego meal breaks altogether and/or have their meal breaks interrupted or delayed by work.

Further, PHR MANAGEMENT maintained and implemented a company-wide policy of requiring all newly hired employees and/or prospective employees to undergo mandatory drug testing. At all times, PHR MANAGEMENT was in control of scheduling the date and time for the drug testing, selecting the provider/facility where the drug testing was to take place, and determining the scope of the drug test. PHR MANAGEMENT gave Mr. Onofre and other aggrieved employees strict instructions to obtain a drug test as a condition of their employment and Mr. Onofre and other aggrieved employees underwent drug testing for the sole benefit of PHR MANAGEMENT. However, PHR MANAGEMENT did not compensate Mr. Onofre and other aggrieved employees for the time they spent traveling to and from drug testing or for the time they spent undergoing drug testing. For example, Mr. Onofre was instructed by PHR MANAGEMENT to travel to a clinic located at 1717 E. Lincoln Ave., Anaheim, California and obtain a drug test. Mr. Onofre followed PHR MANAGEMENT's instructions, traveled 3 miles from the hotel to the clinic, and underwent the drug test. Mr. Onofre spent approximately 1 hour and 45 minutes at the clinic to obtain the mandatory drug test. PHR MANAGEMENT did not compensate Mr. Onofre for this time or reimburse him for his travel expenses to and from the clinic.

PHR MANAGEMENT did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, PHR MANAGEMENT did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, PHR MANAGEMENT regularly failed to pay at least minimum wages to Mr. Onofre and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(f)-(g).

### Violation of California Labor Code §§ 226.7, 512(a), and 1198

California Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

PHR MANAGEMENT maintained a company-wide, unlawful written meal break policy insofar as it fails to state the timing of when meal breaks must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). However, PHR MANAGEMENT's written break policy states, "It is the policy of the company to provide a 30 minute uninterrupted (unpaid) meal period for the associates working at least a 5 hour shift or greater, or as mandated by State law . . . ." PHR MANAGEMENT's written policies fail to state the correct timing of when the first meal break must take place (i.e. within the first five (5) hours of work) under California law and are therefore facially invalid. Further, PHR MANAGEMENT's written policy fails to provide that employees, including Mr. Onofre and other aggrieved employees, are entitled to second 30 minute meal breaks for shifts in excess of ten (10) hours. Thus, PHR MANAGEMENT's written meal break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order. As a result of PHR MANAGEMENT's company-wide non-compliant meal period policy, Mr. Onofre and other aggrieved employees were denied timely meal periods within the first five hours of work and/or timely second meal periods within the first ten hours of work.

PHR MANAGEMENT also engaged in a systemic scheme to falsify timekeeping records in order to hide the meal and/or rest period violations that were regularly occurring. On a company-wide basis, PHR MANAGEMENT implemented a practice and/or policy of requiring that employees initial and sign off that they actually received a compliant meal period, when they did not. For example, PHR MANAGEMENT's supervisors would instruct employees to sign a "payroll sign-off" sheet confirming that ". . . I have taken my meal periods, and rest periods according to policy as stated in

the PHR Management handbook, **regardless of uncorrected missed punches.**" PHR MANAGEMENT's employees, including Mr. Onofre and/or other aggrieved employees, were essentially coerced by PHR MANAGEMENT into signing off that they took timely and complete meal periods when, in reality, their meal periods were interrupted in order to meet customer and supervisor demands. PHR MANAGEMENT's company-wide scheme of creating false records indicating compliant meal breaks were taken also included requiring that Mr. Onofre and other aggrieved employees sign statements attesting that proper meal and/or rest periods were taken before PHR MANAGEMENT would release paychecks to them.

Although PHR MANAGEMENT was fully aware that Mr. Onofre and other aggrieved employees were working during meal periods such that meal periods were shortened to less than 30 minutes, PHR MANAGEMENT failed to pay Mr. Onofre and other aggrieved employees meal period premium wages. PHR MANAGEMENT knew or should have known that as a result of its understaffing, non-compliant meal break policy, compulsion of break "waivers," and falsification of time records, that Mr. Onofre and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. PHR MANAGEMENT did not pay other aggrieved employees meal period premium wages when they were interrupted. As a result, Mr. Onofre and other aggrieved employees had to work through some or all of their meal periods, have their meal periods interrupted to return to work, and/or wait extended periods of time before taking meal periods. Further, PHR MANAGEMENT systematically, and on a company-wide basis, prevented employees from taking full 30-minute uninterrupted meal period. Mr. Onofre's meal periods have been interrupted and cut short. For example, the usual practice for the engineering department was that all but one employee would take meal and rest breaks at the same time. On some days, the chief engineer would give work assignments during the meal break, thus cutting short the meal break for all employees that were present. Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers on days that they were entitled to meal periods and were not relieved of all duties.

PHR MANAGEMENT also had no policy for scheduling second meal periods and had no policy for permitting and authorizing Mr. Onofre and other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. PHR MANAGEMENT's failure to schedule second meal periods, and failure to provide meal and rest break coverage, impeded and prevented Mr. Onofre and other aggrieved employees from taking timely, uninterrupted meal and/or rest periods. Instead, Mr. Onofre and other aggrieved employees were made to work through some or all of their meal and/or rest periods, have their meal and/or rest periods interrupted to return to work, and/or wait extended periods of time before taking meal periods and rest periods.

To the extent PHR MANAGEMENT required aggrieved employees to sign written "on-duty" meal period agreements, such agreements were invalid as the nature of the work performed by Mr. Onofre and other aggrieved employees did not necessitate an "on-duty" meal period under California law. Fixing plumbing problems and broken hotel room items does not constitute the kind of work that calls for "on-duty" meal periods.

As with meal periods, PHR MANAGEMENT's company-wide policies and practices prevented Mr. Onofre and other aggrieved employees from being relieved of all duty to take compliant rest periods. Specifically, PHR MANAGEMENT's written rest period policy provides that employees "scheduled over 3 ½ hours or more, or as mandated by State laws[,] are to receive a paid rest period." However, under California law, an employee is entitled to rest breaks **for every 3.5 hours worked or greater fraction thereof**. Thus, PHR MANAGEMENT's written rest period policy is non-compliant on its

face because it fails to provide that employees are entitled to a second rest period for shifts between 6 and 10 hours, are entitled to a third rest break for shifts between 10 and 14 hours, and so on. PHR MANAGEMENT's written rest period policy is also unlawful because it fails to state the timing of when rest breaks are to take place.

In addition, PHR MANAGEMENT systematically failed to adopt any procedures to permit and authorize Mr. Onofre and other aggrieved employees to take all rest periods. Specifically, PHR MANAGEMENT did not schedule rest periods for its employees. As a result, Mr. Onofre and other aggrieved employees are prevented from being relieved of all duty in order to take compliant rest periods. For example, Mr. Onofre typically worked 8 hour shifts, but he only received one rest period per day at the beginning of his shift, when he was entitled to receive at least two rest periods. Instead, Mr. Onofre and other aggrieved employees were forced to forego and work through rest breaks and continue to perform their maintenance duties. Thus, PHR MANAGEMENT failed to provide Mr. Onofre and other aggrieved employees with all rest periods to which they were entitled.

PHR MANAGEMENT also engaged in a systematic, company-wide policy of not paying meal and rest period premiums owed when compliant meal and rest periods were not provided. Because of this practice and/or policy, Mr. Onofre and other aggrieved employees did not receive premium pay for missed meal and/or rest periods. To the extent that PHR MANAGEMENT did pay Mr. Onofre and other aggrieved employees premium pay for missed meal and/or rest periods, PHR MANAGEMENT did not pay Mr. Onofre and/or other aggrieved employees at the correct rate of pay for premium wages. Specifically, PHR MANAGEMENT systematically failed to properly calculate other aggrieved employees' regular rates of pay for purposes of paying premium wages by failing to include all forms of compensation, such as incentive pay, in the regular rate of pay. As a result, to the extent PHR MANAGEMENT paid Mr. Onofre and/or other aggrieved employees premium pay for missed meal or rest periods, it did so at a lower rate than required by law. Accordingly, PHR MANAGEMENT failed to provide all meal and rest periods in violation of California Labor Code sections 226.7, 512, 1198, and failed to provide the statutory relief provided for by section 226.7 and the applicable IWC Wage Order.

Mr. Onofre and other aggrieved employees are entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(f)-(g).

#### **Violation of California Labor Code § 206.5**

California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee." During the relevant time period, PHR MANAGEMENT required Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their pay checks. For example, before employees received their paychecks, PHR MANAGEMENT required Mr. Onofre and other aggrieved employees to complete payroll sign-off sheets and verify therein that they were provided the required meal and rest breaks when, in fact, they were not provided all meal and rest breaks during the workday. PHR MANAGEMENT's policy and practice of requiring Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their wages are in violation of California Labor Code section 206.5. *See example of a payroll sign-off sheet below.*

**PHR Management****Payroll Sign-Off****Pay Period: 2/6/16-2/14/16****13 Checks****Pay Day: February 19, 2016**

I acknowledge that I have received my pay check and have reviewed it for the hours worked and recorded for this pay period. I further acknowledge that I have taken my meal periods, and rest periods according to policy as stated in the PHR Management handbook, regardless of uncorrected missed punches.

| Associate Name | Associate Signature | I have taken all<br>Meal/Rest periods | Date Check<br>Received |
|----------------|---------------------|---------------------------------------|------------------------|
|----------------|---------------------|---------------------------------------|------------------------|

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

**Violation of California Labor Code §§ 226(a), 1174(d), and 1198**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PHR MANAGEMENT has not provided Mr. Onofre and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violations occurs and \$100 per employee for each violation in an subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PHR MANAGEMENT has knowingly and intentionally provided Mr. Onofre and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. Specifically, PHR MANAGEMENT violated section 226(a)(8). According to Mr. Onofre's paystubs, "Anaheim Majestic Garden Hotel" is the legal name of the employer. However, on information and belief, "Anaheim Majestic Garden Hotel" is merely a "doing business as" name for PHR MANAGEMENT. Therefore, PHR MANAGEMENT failed to list the correct legal name of the employer on wage statements issued to Mr. Onofre and other aggrieved employees, in violation of Labor Code section 226(a)(8). *See example of violating paystub below.*

00. FILE DEPT CLOCK VCHR NO.  
8KG 310759 544011 XNSOX 0000110095 1

152-0001  
ANAHEIM MAJESTIC GARDEN HOTEL  
900 S DISNEYLAND DRIVE  
ANAHEIM CA 92802  
COMPANY PH#: 714-778-1700

Taxable Marital Status: Single  
Exemptions/Allowances:  
Federal: 1  
CA: 1

## Earnings Statement



Period Beginning: 02/29/2016  
Period Ending: 03/13/2016  
Pay Date: 03/18/2016

00000000095

ROBERT T ONOFRE

The wage statement deficiencies also include, among other things, failing to list gross wages earned; failing to list total hours worked by employees; failing to list all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate; failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list net wages earned; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PHR MANAGEMENT willfully failed to maintain accurate payroll records for Mr. Onofre and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the shortened meal breaks.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, PHR MANAGEMENT failed, on a company-wide basis, to keep records of meal period start and stop times for Mr. Onofre and/or other aggrieved employees in violation of section 1198. In light of PHR MANAGEMENT’s failure to provide Mr. Onofre and other aggrieved employees with second 30-minute meal periods to which they were entitled, PHR MANAGEMENT kept no records of meal start and end times for second meal periods.

Because PHR MANAGEMENT failed to provide the accurate number of total hours worked, Mr. Onofre and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Onofre and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Onofre and/or other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a),(f)-(g).

#### **Violation of California Labor Code § 204**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PHR MANAGEMENT failed to pay Mr. Onofre and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 210 and/or 2699(f)-(g).

#### **Violation of California Labor Code §§ 201, 202, and 203**

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to PHR MANAGEMENT willfully failed to pay other aggrieved employees who are no longer employed by PHR MANAGEMENT all their earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages either at the time of discharge, or within seventy-two (72) hours of their leaving PHR MANAGEMENT's employ in violation of Labor Code sections 201, 202, and 203.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code section 2699(f)-(g).

### **Violation of California Labor Code § 2810.5(a)(1)(A)-(C)**

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

PHR MANAGEMENT failed to provide Mr. Onofre and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). PHR MANAGEMENT's failure to provide Mr. Onofre and other aggrieved employees with written notice of basic information regarding their employment with PHR MANAGEMENT is in violation of Labor Code section 2810.5. Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

### **California Labor Code § 558(a)**

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PHR MANAGEMENT, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Onofre and other aggrieved employees' rights by violating various sections of the California Labor Code and provisions regulating hours and days of work of the applicable IWC Wage Order.

Accordingly, Mr. Onofre seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), and 2699.5, Mr. Onofre, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against PHR MANAGEMENT, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Onofre seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo  
Capstone Law APC  
1840 Century Park East, Suite 450  
Los Angeles, CA 90067  
(310) 556-4811

Best Regards,

A handwritten signature in dark ink, appearing to read 'Anthony Castillo', with a long horizontal flourish extending to the right.

Anthony Castillo

Copy: PHR MANAGEMENT, INC. (via Certified Mail)

STONE LAW APC  
Century Park East, Suite 450  
Angeles, CA 90067



7010 2780 0003 1943 6407



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PHR MANAGEMENT, INC.  
900 S. DISNEYLAND DRIVE  
ANAHEIM CA 92802



9590 9403 0424 5163 3650 06

2. Article Number (Transfer from service label)

7010 2780 0003 1943 6407

PS Form 3811, April 2015 PSN 7530-02-000-9053

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☐ Agent

☐ Addressee

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- ☐ Certified Mail Restricted Delivery
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- ☐ Collect on Delivery Restricted Delivery
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Domestic Return Receipt

PHR MANAGEMENT, INC.  
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ANAHEIM CA 92802

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Onofre v.  
PHR management

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Street, Apt. No.,  
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900 S DISNEYLAND DRIVE

7010 2780 0003 1943 6407

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7010 2780 0003 1943 5431

STONE LAW APC  
 ury Park East, Suite 450  
 angeles, CA 90067



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| 1. Article Addressed to:<br>California Labor & Workforce Development Agency<br>Attn: PAGA Administrator<br>1515 Clay Street, Ste. 801<br>Oakland, CA 94162                                                                                                                                                                 |  | B. Received by (Printed Name)<br><div></div>                                                                                                    |  |
| 2. Article Number:<br>(Transfer from) <b>7010 2780 0003 1943 5431</b>                                                                                                                                                                                                                                                      |  | C. Date of Delivery<br><div></div>                                                                                                              |  |
| 3. Service Type<br><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail<br><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise<br><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.                                        |  | D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br>If YES, enter delivery address below: <input type="checkbox"/> No |  |
| 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes                                                                                                                                                                                                                                                           |  |                                                                                                                                                 |  |
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CALIFORNIA LABOR & WORKFORCE  
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| Certified Fee                                                                                                                               | 3.30    |                                              |
| Return Receipt Fee (Endorsement Required)                                                                                                   | 2.70    |                                              |
| Restricted Delivery Fee (Endorsement Required)                                                                                              |         |                                              |
| Total Postage & Fees                                                                                                                        | \$ 7.15 |                                              |
| Sent To<br>California Labor and Workforce Development Agency<br>Attn: PAGA Administrator<br>1515 Clay Street, Ste. 801<br>Oakland, CA 94162 |         |                                              |

7010 2780 0003 1943 5431

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PHR MANAGEMENT, INC.  
900 S. DISNEYLAND DRIVE  
ANAHEIM CA 92802



9590 9403 0424 5163 3650 06

2. Article Number (Transfer from service label)

7010 2780 0003 1943 6407

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

5/31/16

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

## 3. Service Type

- ☐ Adult Signature
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- ☒ Certified Mail®
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C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes☐ NoMISSOURI DEPARTMENT OF REVENUE  
OAKLAND DISTRICT OFFICE

## 3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

## 2. Article Number

(Transfer from)

7010 2780 0003 1943 5431



1840 Century Park East, Suite 450  
Los Angeles, California 90067  
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO  
310.712.8169 Direct  
Anthony.Castillo@capstonelawyers.com

May 27, 2016

VIA U.S. CERTIFIED MAIL

California Labor & Workforce Development Agency  
ATTN: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94162

Subject: *Robert Onofre v. Anaheim Majestic Garden Hotel*

Dear PAGA Administrator:

This office represents Robert Onofre in connection with his claims under the California Labor Code. Mr. Onofre was an employee of ANAHEIM MAJESTIC GARDEN HOTEL ("ANAHEIM MAJESTIC").

The employer may be contacted directly:

ANAHEIM MAJESTIC GARDEN HOTEL  
900 S DISNEYLAND DRIVE  
ANAHEIM, CA 92802

Mr. Onofre intends to seek civil penalties, attorney's fees, costs and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Onofre seeks relief on behalf of himself, the State of California, and other persons who were employed by ANAHEIM MAJESTIC as a non-exempt, hourly-paid employee in California at a hotel location ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

ANAHEIM MAJESTIC employed Mr. Onofre as an hourly, non-exempt Maintenance Person/Engineer from approximately December 2015 to March 2016. Mr. Onofre worked for ANAHEIM MAJESTIC at their hotel location in Anaheim, California. During his employment, Mr. Onofre typically worked approximately 8 hours or more per day, 5 days per week, and approximately 40 hours per week. At the time Mr. Onofre's employment with ANAHEIM MAJESTIC ended, he earned approximately \$13.00 per hour. His job duties as a Maintenance Person/Engineer included fixing broken items in hotel rooms, shredding paper, doing plumbing work, installing light bulbs, and painting. Mr. Onofre's relevant claims are as follows:

### **ANAHEIM MAJESTIC's Company-Wide and Uniform Payroll and HR Practices**

ANAHEIM MAJESTIC is a California corporation which is a castle-themed hotel situated on 13 acres of gardens, with a pool, bar, and restaurant in Anaheim, California. Upon information and belief, ANAHEIM MAJESTIC maintains a centralized Human Resources (HR) department at their corporate headquarters in Anaheim, California, for all non-exempt, hourly-paid employees working for ANAHEIM MAJESTIC, including Mr. Onofre and other aggrieved employees. At all relevant times, ANAHEIM MAJESTIC issued and maintained uniform, standardized practices and procedures for all non-exempt, hourly-paid employees in California, including Mr. Onofre and other aggrieved employees, regardless of their location or position.

Upon information and belief, ANAHEIM MAJESTIC maintains a centralized Payroll department at their corporate headquarters in Anaheim, California, which processes payroll for all non-exempt, hourly paid employees working for ANAHEIM MAJESTIC. At all relevant times, ANAHEIM MAJESTIC has processed payroll and issued the same formatted wage statements in the same manner for all non-exempt, hourly-paid employees working in California, including Mr. Onofre and other aggrieved employees, regardless of their location, position, or manner in which each employee's employment ended. ANAHEIM MAJESTIC has utilized third party ADP Payroll Services to process its uniform, standardized wage statements to Mr. Onofre and other aggrieved employees during the relevant time period.

### **Violation of California Labor Code § 246**

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(h) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, ANAHEIM MAJESTIC systematically failed to provide Mr. Onofre and other aggrieved employees paid sick leave of no less than 24 hours or three (3) days. Specifically, Mr. Onofre has worked in excess of 30 days for ANAHEIM MAJESTIC in California and is therefore eligible to receive paid sick leave. However, to date, ANAHEIM MAJESTIC has not provided Mr. Onofre with any sick leave benefits, in violation of section 246(b)(4). Additionally, ANAHEIM MAJESTIC failed to provide Mr. Onofre and other aggrieved employees written notice on wage statements and/or other separate written statements that correctly listed the balance of paid sick leave they should have been accruing as set forth in Labor Code section 246(h). ANAHEIM MAJESTIC's ongoing and systematic failure to provide sick leave benefits to Mr. Onofre and other aggrieved employees violates California Labor Code section 246.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

### **Violation of California Labor Code §§ 510 and 1198**

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

During the relevant time period, ANAHEIM MAJESTIC willfully failed to pay all overtime wages owed to Mr. Onofre and other aggrieved employees. During the relevant time period, Mr. Onofre and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded. ANAHEIM MAJESTIC has a company-wide policy of staffing its hotel strictly based on the labor hours allotted by the company's labor or payroll budget, which has resulted in and continues to result in understaffing of the hotel and a lack of break coverage because there were insufficient employees on duty to handle the workload and attend to guests and other maintenance issues.

ANAHEIM MAJESTIC's company-wide policy and/or practice of understaffing its hotel location prevented Mr. Onofre and other aggrieved employees from taking all timely, uninterrupted thirty (30) minute meal periods and led to them working off-the-clock during meal periods. Due to ANAHEIM MAJESTIC's understaffing of the hotel, Mr. Onofre and other aggrieved employees were required to continue to tend to their assignments during unpaid meal periods, such as completing maintenance work and/or cleaning rooms. In addition, ANAHEIM MAJESTIC's supervisors regularly interrupted Mr. Onofre and other aggrieved employees' meal periods and used that time to distribute work assignments to them. For example, Mr. Onofre's Engineering supervisor Bruno routinely held meetings and gave instructions to Mr. Onofre and other aggrieved employees regarding their assignments during their meal periods. As a result, Mr. Onofre and other aggrieved employees were not relieved of their duties during all meal periods and had their meal periods interrupted.

Further, on information and belief, ANAHEIM MAJESTIC has systematically, and on a company-wide basis, failed to schedule second meal periods and had no policy for permitting and authorizing other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. In the last year when Mr. Onofre worked over 10 hours in a day, ANAHEIM MAJESTIC did not provide him with a second 30-minute meal period. Further, Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers or valid "on-duty" meal period agreements on days that they were entitled to meal periods but were not relieved of all duties.

ANAHEIM MAJESTIC knew or should have known that as a result of its policies, that Mr. Onofre and other aggrieved employees were performing some of their assigned duties off-the-clock and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. ANAHEIM MAJESTIC also knew, or should have known, that it did not compensate Mr. Onofre and other aggrieved employees for this off-the-clock work. Because Mr. Onofre and/or other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work performed during unpaid meal periods qualified for overtime

premium pay. Therefore, Mr. Onofre and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. ANAHEIM MAJESTIC's failure to pay Mr. Onofre and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Mr. Onofre and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198**

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 16 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As described above, due to ANAHEIM MAJESTIC's limitation on labor hours and resultant understaffing, and due to its failure to schedule second meal periods, Mr. Onofre and other aggrieved employees were forced to forego meal breaks altogether and/or have their meal breaks interrupted or delayed by work.

Further, ANAHEIM MAJESTIC maintained and implemented a company-wide policy of requiring all newly hired employees and/or prospective employees to undergo mandatory drug testing. At all times, ANAHEIM MAJESTIC was in control of scheduling the date and time for the drug testing, selecting the provider/facility where the drug testing was to take place, and determining the scope of the drug test. ANAHEIM MAJESTIC gave Mr. Onofre and other aggrieved employees strict instructions to obtain a drug test as a condition of their employment and Mr. Onofre and other aggrieved employees underwent drug testing for the sole benefit of ANAHEIM MAJESTIC. However, ANAHEIM MAJESTIC did not compensate Mr. Onofre and other aggrieved employees for the time they spent traveling to and from drug testing or for the time they spent undergoing drug testing. For example, Mr. Onofre was instructed by ANAHEIM MAJESTIC to travel to a clinic located at 1717 E. Lincoln Ave., Anaheim, California and obtain a drug test. Mr. Onofre followed ANAHEIM MAJESTIC's instructions, traveled 3 miles from the hotel to the clinic, and underwent the drug test. Mr. Onofre spent approximately 1 hour and 45 minutes at the clinic to obtain the mandatory drug test. ANAHEIM MAJESTIC did not compensate Mr. Onofre for this time or reimburse him for his travel expenses to and from the clinic.

ANAHEIM MAJESTIC did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, ANAHEIM MAJESTIC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, ANAHEIM MAJESTIC regularly failed to pay at least minimum wages to Mr. Onofre and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(f)-(g).

### Violation of California Labor Code §§ 226.7, 512(a), and 1198

California Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

ANAHEIM MAJESTIC maintained a company-wide, unlawful written meal break policy insofar as it fails to state the timing of when meal breaks must occur. Under California law, first meal periods must start after no more than five hours of work. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). However, ANAHEIM MAJESTIC's written break policy states, "It is the policy of the company to provide a 30 minute uninterrupted (unpaid) meal period for the associates working at least a 5 hour shift or greater, or as mandated by State law . . . ." ANAHEIM MAJESTIC's written policies fail to state the correct timing of when the first meal break must take place (i.e. within the first five (5) hours of work) under California law and are therefore facially invalid. Further, ANAHEIM MAJESTIC's written policy fails to provide that employees, including Mr. Onofre and other aggrieved employees, are entitled to second 30 minute meal breaks for shifts in excess of ten (10) hours. Thus, ANAHEIM MAJESTIC's written meal break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order. As a result of ANAHEIM MAJESTIC's company-wide non-compliant meal period policy, Mr. Onofre and other aggrieved employees were denied timely meal periods within the first five hours of work and/or timely second meal periods within the first ten hours of work.

ANAHEIM MAJESTIC also engaged in a systemic scheme to falsify timekeeping records in order to hide the meal and/or rest period violations that were regularly occurring. On a company-wide basis, ANAHEIM MAJESTIC implemented a practice and/or policy of requiring that employees initial and sign off that they actually received a compliant meal period, when they did not. For example, ANAHEIM MAJESTIC's supervisors would instruct employees to sign a "payroll sign-off" sheet confirming that ". . . I have taken my meal periods, and rest periods according to policy as stated in the PHR Management handbook, **regardless of uncorrected missed punches.**" ANAHEIM

MAJESTIC's employees, including Mr. Onofre and/or other aggrieved employees, were essentially coerced by ANAHEIM MAJESTIC into signing off that they took timely and complete meal periods when, in reality, their meal periods were interrupted in order to meet customer and supervisor demands. ANAHEIM MAJESTIC's company-wide scheme of creating false records indicating compliant meal breaks were taken also included requiring that Mr. Onofre and other aggrieved employees sign statements attesting that proper meal and/or rest periods were taken before ANAHEIM MAJESTIC would release paychecks to them.

Although ANAHEIM MAJESTIC was fully aware that Mr. Onofre and other aggrieved employees were working during meal periods such that meal periods were shortened to less than 30 minutes, ANAHEIM MAJESTIC failed to pay Mr. Onofre and other aggrieved employees meal period premium wages. ANAHEIM MAJESTIC knew or should have known that as a result of its understaffing, non-compliant meal break policy, compulsion of break "waivers," and falsification of time records, that Mr. Onofre and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. ANAHEIM MAJESTIC did not pay other aggrieved employees meal period premium wages when they were interrupted. As a result, Mr. Onofre and other aggrieved employees had to work through some or all of their meal periods, have their meal periods interrupted to return to work, and/or wait extended periods of time before taking meal periods. Further, ANAHEIM MAJESTIC systematically, and on a company-wide basis, prevented employees from taking full 30-minute uninterrupted meal period. Mr. Onofre's meal periods have been interrupted and cut short. For example, the usual practice for the engineering department was that all but one employee would take meal and rest breaks at the same time. On some days, the chief engineer would give work assignments during the meal break, thus cutting short the meal break for all employees that were present. Mr. Onofre and/or other aggrieved employees did not sign valid meal break waivers on days that they were entitled to meal periods and were not relieved of all duties.

ANAHEIM MAJESTIC also had no policy for scheduling second meal periods and had no policy for permitting and authorizing Mr. Onofre and other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of 10 hours in one day. ANAHEIM MAJESTIC's failure to schedule second meal periods, and failure to provide meal and rest break coverage, impeded and prevented Mr. Onofre and other aggrieved employees from taking timely, uninterrupted meal and/or rest periods. Instead, Mr. Onofre and other aggrieved employees were made to work through some or all of their meal and/or rest periods, have their meal and/or rest periods interrupted to return to work, and/or wait extended periods of time before taking meal periods and rest periods.

To the extent ANAHEIM MAJESTIC required aggrieved employees to sign written "on-duty" meal period agreements, such agreements were invalid as the nature of the work performed by Mr. Onofre and other aggrieved employees did not necessitate an "on-duty" meal period under California law. Fixing plumbing problems and broken hotel room items does not constitute the kind of work that calls for "on-duty" meal periods.

As with meal periods, ANAHEIM MAJESTIC's company-wide policies and practices prevented Mr. Onofre and other aggrieved employees from being relieved of all duty to take compliant rest periods. Specifically, ANAHEIM MAJESTIC's written rest period policy provides that employees "scheduled over 3 ½ hours or more, or as mandated by State laws[,] are to receive a paid rest period." However, under California law, an employee is entitled to rest breaks **for every 3.5 hours worked or greater fraction thereof**. Thus, ANAHEIM MAJESTIC's written rest period policy is non-compliant on its face because it fails to provide that employees are entitled to a second rest period for shifts between 6

and 10 hours, are entitled to a third rest break for shifts between 10 and 14 hours, and so on. ANAHEIM MAJESTIC's written rest period policy is also unlawful because it fails to state the timing of when rest breaks are to take place.

In addition, ANAHEIM MAJESTIC systematically failed to adopt any procedures to permit and authorize Mr. Onofre and other aggrieved employees to take all rest periods. Specifically, ANAHEIM MAJESTIC did not schedule rest periods for its employees. As a result, Mr. Onofre and other aggrieved employees are prevented from being relieved of all duty in order to take compliant rest periods. For example, Mr. Onofre typically worked 8 hour shifts, but he only received one rest period per day at the beginning of his shift, when he was entitled to receive at least two rest periods. Instead, Mr. Onofre and other aggrieved employees were forced to forego and work through rest breaks and continue to perform their maintenance duties. Thus, ANAHEIM MAJESTIC failed to provide Mr. Onofre and other aggrieved employees with all rest periods to which they were entitled.

ANAHEIM MAJESTIC also engaged in a systematic, company-wide policy of not paying meal and rest period premiums owed when compliant meal and rest periods were not provided. Because of this practice and/or policy, Mr. Onofre and other aggrieved employees did not receive premium pay for missed meal and/or rest periods. To the extent that ANAHEIM MAJESTIC did pay Mr. Onofre and other aggrieved employees premium pay for missed meal and/or rest periods, ANAHEIM MAJESTIC did not pay Mr. Onofre and/or other aggrieved employees at the correct rate of pay for premium wages. Specifically, ANAHEIM MAJESTIC systematically failed to properly calculate other aggrieved employees' regular rates of pay for purposes of paying premium wages by failing to include all forms of compensation, such as incentive pay, in the regular rate of pay. As a result, to the extent ANAHEIM MAJESTIC paid Mr. Onofre and/or other aggrieved employees premium pay for missed meal or rest periods, it did so at a lower rate than required by law. Accordingly, ANAHEIM MAJESTIC failed to provide all meal and rest periods in violation of California Labor Code sections 226.7, 512, 1198, and failed to provide the statutory relief provided for by section 226.7 and the applicable IWC Wage Order.

Mr. Onofre and other aggrieved employees are entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(f)-(g).

#### **Violation of California Labor Code § 206.5**

California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee." During the relevant time period, ANAHEIM MAJESTIC required Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their pay checks. For example, before employees received their paychecks, ANAHEIM MAJESTIC required Mr. Onofre and other aggrieved employees to complete payroll sign-off sheets and verify therein that they were provided the required meal and rest breaks when, in fact, they were not provided all meal and rest breaks during the workday. ANAHEIM MAJESTIC's policy and practice of requiring Mr. Onofre and other aggrieved employees to release their claims for meal and rest break violations as a condition to receiving their wages are in violation of California Labor Code section 206.5. *See example of a payroll sign-off sheet below.*

**PHR Management****Payroll Sign-Off****Pay Period: 2/6/16-2/14/16****13 Checks****Pay Day: February 19, 2016**

I acknowledge that I have received my pay check and have reviewed it for the hours worked and recorded for this pay period. I further acknowledge that I have taken my meal periods, and rest periods according to policy as stated in the PHR Management handbook, regardless of uncorrected missed punches.

| Associate Name | Associate Signature | I have taken all<br>Meal/Rest periods | Date Check<br>Received |
|----------------|---------------------|---------------------------------------|------------------------|
|----------------|---------------------|---------------------------------------|------------------------|

Mr. Onofre and other aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

**Violation of California Labor Code §§ 226(a), 1174(d), and 1198**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. ANAHEIM MAJESTIC has not provided Mr. Onofre and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violations occurs and \$100 per employee for each violation in an subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, ANAHEIM MAJESTIC has knowingly and intentionally provided Mr. Onofre and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. Specifically, ANAHEIM MAJESTIC violated section 226(a)(8). According to Mr. Onofre's paystubs, ANAHEIM MAJESTIC's legal name is "ANAHEIM MAJESTIC GARDEN HOTEL" but, according to the California Secretary of State's website and Mr. Onofre's paystub, the correct legal name is either PHR MANAGEMENT, INC. ("PHR") or "KEN REAL ESTATE LEASE LTD." ("KEN REAL ESTATE"); "ANAHEIM MAJESTIC GARDEN HOTEL" is merely a "doing business as" name for PHR and/or KEN REAL ESTATE, in violation of Labor Code section 226(a)(8). Furthermore, ANAHEIM MAJESTIC has knowingly provided Mr. Onofre and other aggrieved employees with uniform, standardized wage statements that list the incorrect address for ANAHEIM MAJESTIC in violation of Labor Code section 226(a)(8). Specifically, according to Mr. Onofre's wage statements, the address for ANAHEIM MAJESTIC is listed as "900 S Disneyland Drive, Anaheim, CA 92802." However, according to the California Secretary of State's website, the correct address for the KEN REAL ESTATE LEASE LTD. entity is 1-2-7 Nishi-Azabu, Tokyo, Japan 106-0031. *See example of violating paystub below.*

|                                                                                                                                      |                |                |                |                        |   |
|--------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|----------------|------------------------|---|
| CO.<br>BKG                                                                                                                           | FILE<br>310759 | DEPT<br>544011 | CLOCK<br>XN50X | VCHR NO.<br>0000110095 | 1 |
| 152-0001                                                                                                                             |                |                |                |                        |   |
| <b>ANAHEIM MAJESTIC GARDEN HOTEL</b><br><b>900 S DISNEYLAND DRIVE</b><br><b>ANAHEIM CA 92802</b><br><b>COMPANY PH#: 714-778-1700</b> |                |                |                |                        |   |

Taxable Marital Status: Single  
Exemptions/Allowances:  
Federal: 1  
CA: 1

## Earnings Statement



Period Beginning: 02/29/2016  
Period Ending: 03/13/2016  
Pay Date: 03/18/2016

00000000095

ROBERT T ONOFRE

The wage statement deficiencies also include, among other things, failing to list gross wages earned; failing to list total hours worked by employees; failing to list all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate; failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list net wages earned; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), ANAHEIM MAJESTIC willfully failed to maintain accurate payroll records for Mr. Onofre and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the shortened meal breaks.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, ANAHEIM MAJESTIC failed, on a company-wide basis, to keep records of meal period start and stop times for Mr. Onofre and/or other aggrieved employees in violation of section 1198. In light of ANAHEIM MAJESTIC’s failure to provide Mr. Onofre and other aggrieved employees with second 30-minute meal periods to which they were entitled, ANAHEIM MAJESTIC kept no records of meal start and end times for second meal periods.

Because ANAHEIM MAJESTIC failed to provide the accurate number of total hours worked, Mr. Onofre and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Onofre and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Onofre and/or other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a),(f)-(g).

#### **Violation of California Labor Code § 204**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, ANAHEIM MAJESTIC failed to pay Mr. Onofre and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 210 and/or 2699(f)-(g).

#### **Violation of California Labor Code §§ 201, 202, and 203**

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. ANAHEIM MAJESTIC willfully failed to pay other aggrieved employees who are no longer employed by ANAHEIM MAJESTIC all their earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages either at the time of discharge, or within seventy-two (72) hours of their leaving ANAHEIM MAJESTIC's employ in violation of Labor Code sections 201, 202, and 203.

Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code section 2699(f)-(g).

### **Violation of California Labor Code § 2810.5(a)(1)(A)-(C)**

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

ANAHEIM MAJESTIC failed to provide Mr. Onofre and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). ANAHEIM MAJESTIC's failure to provide Mr. Onofre and other aggrieved employees with written notice of basic information regarding their employment with ANAHEIM MAJESTIC is in violation of Labor Code section 2810.5. Mr. Onofre and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

### **California Labor Code § 558(a)**

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." ANAHEIM MAJESTIC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Onofre and other aggrieved employees' rights by violating various sections of the California Labor Code and provisions regulating hours and days of work of the applicable IWC Wage Order.

Accordingly, Mr. Onofre seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), and 2699.5, Mr. Onofre, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against ANAHEIM MAJESTIC, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Onofre seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo  
Capstone Law APC  
1840 Century Park East, Suite 450  
Los Angeles, CA 90067  
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Anthony Castillo', with a long horizontal flourish extending to the right.

Anthony Castillo

Copy: ANAHEIM MAJESTIC GARDEN HOTEL (via Certified Mail)

STONE LAW APC  
Century Park East, Suite 450  
Angeles, CA 90067

CERTIFIED MAIL<sup>TM</sup>



7010 2780 0003 1943 5448



SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
ANAHEIM MAJESTIC GARDEN  
HOTEL  
900 S. DISNEYLAND DRIVE  
ANAHEIM CA 92802

2. Article Number  
(Transfer from <sup>SE</sup>) 7010 2780 0003 1943 5448

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from Item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

Domestic Return Receipt

102595-02-M-1540

ANAHEIM MAJESTIC GARDEN HOTEL  
900 S. DISNEYLAND DRIVE  
ANAHEIM CA 92802

U.S. Postal Service<sup>TM</sup>  
CERTIFIED MAIL<sup>TM</sup> RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

OFFICIAL USE

Postage \$ 1.15

Certified Fee 3.30

Return Receipt Fee  
(Endorsement Required) 2.70

Restricted Delivery Fee  
(Endorsement Required)

Total Postage & Fees \$ 7.15

Postmark  
Here

On file v.  
Anaheim  
majestic  
Garden Hotel

Sent To ANAHEIM MAJESTIC GARDEN  
HOTEL

Street, Apt. No.,  
or PO Box No. 900 S. DISNEYLAND DRIVE

City, State, ZIP+4 ANAHEIM CA 92802

7010 2780 0003 1943 5448

CERTIFIED MAIL<sup>TM</sup>



7010 2780 0003 1943 5424

STONE LAW APC  
 tury Park East, Suite 450  
 Angeles, CA 90067



**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

California Labor & Workforce  
 Development Agency  
 Attn: PAGA Administrator  
 1515 Clay Street, Ste. 801  
 Oakland, CA 94162

2. Article Number

(Transfer from se

7010 2780 0003 1943 5424

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X**

- ☐ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

CALIFORNIA LABOR & WORKFORCE  
 DEVELOPMENT AGENCY  
 ATTN: PAGA ADMINISTRATOR  
 1515 CLAY STREET, STE. 801  
 OAKLAND, CA 94162

U.S. Postal Service<sup>TM</sup>

**CERTIFIED MAIL<sup>TM</sup> RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage \$ 1.15

Certified Fee 3.30

Return Receipt Fee (Endorsement Required) 2.70

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$ 7.15

Postmark Here

anofre v.  
 Anaheim  
 majestic garden  
 Hotel

California Labor & Workforce

Sent To

Development Agency

Street, Apt. No.,  
 or PO Box No.

Attn: PAGA Administrator

City, State, ZIP+4

1515 Clay Street, Ste. 801

Oakland, CA 94162

7010 2780 0003 1943 5424

## SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

ANAHEIM MAJESTIC GARDEN  
HOTEL  
900 S. DISNEYLAND DRIVE  
ANAHEIM CA 92802

2. Article Number  
(Transfer from SE)

7010 2780 0003 1943 5448

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature



- ☐ Agent  
☐ Addressee

## B. Received by (Printed Name)

## C. Date of Delivery

5/31/16

## D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐ Yes  
☐ No

## 3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

- ☐ Yes

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

California Labor & Workforce  
Development Agency  
Attn: PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94162

2. Article Number  
(Transfer from sender's label)

7010 2780 0003 1943 5424

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

RECEIVED

DEPT. OF INDUSTRIAL RELATIONS

☐ Agent☐ Addressee

B. Received by (Printed Name)

JUN 2 2016

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below

☐ NoLABOR STANDARDS ENFORCEMENT  
OAKLAND DISTRICT OFFICE

## 3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes