

1 Thomas D. Rutledge (SBN 200497)
2 Attorney-at-Law
3 16956 Via de Santa Fe, Suite 1847
4 Rancho Santa Fe, California 92091-4606
5 Telephone: (619) 886-7224
6 thomasrutledgelaw@gmail.com

7 Attorneys for the Plaintiffs

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO-CENTRAL DIVISION

10 ARMANDO FLORES, individually and
11 on behalf of himself and others similarly
12 situated,

13 Plaintiffs,

14 vs.

15 EVOLUTION HOSPITALITY, LLC, a
16 California limited liability company;
17 AIMBRIDGE HOSPITALITY, LLC, a
18 Delaware limited liability company;
19 EVOLUTION HOSPITALITY
20 EMPLOYEE SERVICES LLC, a
21 Delaware limited liability company;
22 AIMBRIDGE EMPLOYEE SERVICE
23 CORP., a Texas Corporation;
24 AIMBRIDGE PARENT, INC., a
25 Delaware corporation; and DOES 1
26 through 10 inclusive

27 Defendants.
28

) Case No.: 37-2022-00052523-CU-OE-
) CTL

) Judge: Hon. Richard S. Whitney
) Dept.: C-68

) **[PROPOSED] ORDER APPROVING**
) **PAGA SETTLEMENT**

1 **[PROPOSED] ORDER**

2 WHEREAS, Plaintiff Armando Flores, individually and on behalf of himself,
3 the State of California as its designated proxy, and aggrieved employees (collectively,
4 the “Plaintiffs”) and Defendants Evolution Hospitality, LLC, Aimbridge Hospitality,
5 LLC, Evolution Hospitality Employee Services LLC, Aimbridge Employee Service
6 Corp. (collectively the “Defendants”) filed a Joint Stipulation seeking an Order to
7 approve the parties’ Private Attorneys General Act (PAGA) Settlement, a copy of
8 which is attached hereto as **Exhibit 1** and incorporated herein by reference.

9 After considering the Joint Stipulation and the papers filed in support thereof
10 and the Court record as a whole, IT IS HEREBY ORDERED that the Court GRANTS
11 the parties’ Joint Stipulation and hereby approves the parties’ PAGA Settlement.

12 The Court finds the PAGA Settlement is fair, adequate, and reasonable based
13 on the following findings:

- 14 • The settlement was reached through arm’s-length
15 bargaining (not through fraud or collusion);
16 • Plaintiffs’ Counsel’s investigations and discovery were
17 sufficient to allow Plaintiffs’ Counsel and the Court to act
18 intelligently;
19 • Plaintiffs’ Counsel, Thomas D. Rutledge, is well
20 experienced in employee class and representative action
21 litigation;
22 • The case was complex and there was a certain amount of
23 risk of appeals after lengthy litigation if the case did not
24 resolve in the manner in which it resolved; and
25 • The settlement amount represents a fair and reasonable
26 settlement of the claims asserted in relationship to the
27 potential risks of continuing to litigate the matter.

28 The Court further finds that the requested attorneys’ fees, costs, and litigation

1 expenses are reasonable.

2 Accordingly, IT IS FURTHER ORDERED as follows:

3 1. The Court approves the settlement of the above-captioned action as set
4 forth in the Settlement Agreement (**Exhibit 1**) and each of its releases and other
5 terms, as fair, just, reasonable, and adequate.

6 2. The parties shall comply with all aspects of the Settlement Agreement.

7 3. The Court hereby enters a Judgment in this case in accordance with the
8 terms of the Settlement Agreement and this case shall be dismissed with prejudice
9 within 60 days from the date of this order.

10 **IT IS SO ORDERED.**

11
12 Dated: _____

Hon. Richard S. Whitney
Judge of the Superior Court of California
County of San Diego

Exhibit 1

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Agreement” or “Settlement”) is made by and between Plaintiffs ARMANDO FLORES and LLOYD DOZIER (“Plaintiffs”), each individually, and on behalf of all other aggrieved employees (the “Aggrieved Employees” or “PAGA Group” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the California Private Attorneys General Act (“PAGA”) on the one hand, and Defendants EVOLUTION HOSPITALITY, LLC (“Defendant”), on the other hand. Plaintiffs and Defendant are collectively referred to herein as “the Parties.”

This Agreement, and the settlement embodied herein, shall be binding on Plaintiffs, the Aggrieved Employees they represent, and Defendant, subject to the approval of the Court.

WHEREAS, on August 2, 2022 Plaintiff Armando Flores filed an individual complaint and then a first amended complaint for Failure to Provide Access to Employee Personnel Records. On October 14, 2022, Flores then filed a class action complaint for: Failure to Timely Pay Wages in Violation of Labor Code §§ 201 and 202. On December 30, 2022, Flores thereafter filed a PAGA complaint for the following causes of action (SDSC Case No. 37-2022-00052523-CU-OE-CTL): (1) PAGA Claim for Failure to Provide Access to Employee Personnel Records; (2) PAGA Claim for Failure to Pay State Minimum Wage/Regular Wages; (3) PAGA Claim for Failure to Pay State Overtime Wages; (4) PAGA Claim for Failure to Timely Pay Wages; (5) PAGA Claim for Meal and Rest Break Labor Code Violations; (6) PAGA Claim for Inaccurate Wage Statements; (7) PAGA Claim for Failure to Maintain Payroll Records; (8) PAGA Claim for Failure to Reimburse Business Expenses in Violation of Labor Code § 2802; and (9) Miscellaneous claims via PAGA (all of the foregoing is collectively referred to as Plaintiff’s “PAGA Claims”).

On July 21, 2022, Plaintiff Lloyd Dozier filed an individual complaint and on August 1, 2022, he filed a first amended complaint for a single cause of action: Failure to Provide Access to Employee Personnel Records. On November 1, 2022, Plaintiff then filed a second amended complaint for violations of the California Investigative Consumer Reporting Agencies Act (“ICRAA”) (SDSC Case No. 37-2022-00028704-CU-OE-CTL).

Collectively, the complaints filed by the Plaintiffs are hereinafter referred to as the “Lawsuits.”

WHEREAS, during the pendency of the Lawsuits, the Parties conducted significant investigation of the facts and law and engaged in an informal discovery exchange before mediation. In response to Plaintiffs’ Counsel’s informal discovery requests, Defendant provided Plaintiffs’ Counsel with information and documents pertaining to Plaintiffs and the Aggrieved Employees, and the claims in the Lawsuits, including time punch, payroll data, policies, and training materials, to provide Plaintiffs the opportunity to investigate Plaintiffs’ allegations and the PAGA Claims.

WHEREAS, on January 9, 2024, the Parties attended a full day mediation with experienced wage-and-hour mediator Tripper Ortman, Esq. As a result, the Parties agreed to settle Plaintiffs’ representative PAGA Claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiffs’ claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: “All non-exempt employees who are or were employed by Defendant at the San Diego Hard Rock Hotel in California from October 11, 2021 to January 9, 2024.”

WHEREAS, for purposes of this Settlement, the PAGA Period is defined as the period from October 11, 2021 to January 9, 2024 (“PAGA Period”).

WHEREAS, the Parties understand, acknowledge, and agree this PAGA settlement constitutes a compromise of Plaintiffs’ PAGA Claims, and it is the desire and intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiffs and the Aggrieved Employees have or may have against Defendant, and all other named Defendants including Aimbridge Hospitality, LLC, Evolution Hospitality Employee Services LLC, Aimbridge Employee Service Corp., and Aimbridge Parent, Inc. and all of their current and former officers, directors, employees and agents (collectively, the “Released Parties”). The Parties further acknowledge this Agreement is a compromise of disputed claims and nothing in this Agreement shall be construed as an admission by Defendant or the Released Parties of any wrongdoing or liability. Specifically, Defendant and the Released Parties deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuits and PAGA notice. Defendant and

the Released Parties, among other things, contend they have complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, California Labor Code § 2699(1)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiffs, and their respective counsel, are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiffs, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiffs and the Aggrieved Employees, the Law Office of Thomas D. Rutledge, believe the settlement amount is in the best interests of the Aggrieved Employees and the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, (2) have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, and (3) have arrived at the settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

Therefore, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

1. **Effective Date.** The effective date (“Effective Date”) of this Agreement shall mean the date of entry of the order of the Court approving this Agreement and the PAGA Settlement and the completion of the terms agreed upon in Paragraph 6 of this Agreement.

2. **PAGA Released Claims/Effect of Judgment on Aggrieved Employees and LWDA.**

The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the LWDA, including Plaintiffs, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against the Released Parties concerning the Aggrieved Employees’ employment at the San Diego Hard Rock Hotel. It is

expressly understood and agreed this settlement only includes a full release of the PAGA claims that could have been sought by the State of California Labor Commissioner for the violations identified in Plaintiff's pre-filing notice letter filed with the LWDA attached as **Exhibit 1** upon the Effective Date and full funding of the Gross Settlement amount ("Released PAGA Claims") concerning the Aggrieved Employees' employment at the San Diego Hard Rock Hotel. With the exception of Plaintiffs, who will execute individual settlement agreements that include general releases of all claims, this settlement shall not impact aggrieved employees' ability to assert claims (claims for wages and other damages) other than the PAGA claims being released by this Settlement. Plaintiffs do not release any Aggrieved Employee's claim for wages or damages. Defendant agrees to enter into separate individual settlement agreements with Plaintiffs for general releases of each of their claims and for representing all Aggrieved Employees in consideration for general release payments ("General Release Payment"). The Gross Settlement Amount does not include the General Release Payment to Plaintiffs in the amount of Twelve Thousand Five Dollars and Zero Cents (\$12,500.00) per Plaintiff for a total of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(l)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time the Parties submit this Agreement to the Court for approval.

4. **No Right to Opt Out.** The Parties agree there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude themselves from the Settlement.

5. **Gross Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of Three Hundred Thirty-Five Thousand Dollars and Zero Cents (\$335,000.00) as the non-reversionary gross settlement amount (the "Gross Settlement Amount") in full settlement of the Lawsuits. The Gross Settlement Amount, which represents the total amount payable under this Settlement by Defendant (subject to the Escalator Clause described below), will be allocated as follows:

- a. PAGA Counsel's attorneys' fees and costs request of up to 40% of the Gross Settlement Amount or One Hundred Thirty-Four Thousand Dollars and Zero Cents (\$134,000.00) ("PAGA Counsel's Fees") and PAGA Counsel's separate request for actual litigation costs incurred in this matter ("PAGA Counsel's Costs") estimated to be no more than Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). . PAGA Counsel may

elect to have the Settlement Administrator, directly or indirectly, disburse all or part of his Court-approved attorneys' fees award paid to him in periodic payments, through a structured settlement and/or to an assignee. PAGA Counsel will bear any and all costs, fees, and expenses of administration for any periodic payments of such award and shall be fully responsible for any taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments, including without limitation, any such issues, claims, and/or disputes brought by the state or federal government concerning the payment of taxes thereon. PAGA Counsel shall indemnify, defend, and hold Defendants and Defense Counsel harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments. To the extent the Court approves any award for attorneys' fees that does not equal the amount requested, PAGA Counsel retains the right to appeal the Court's award. Should PAGA Counsel appeal the Court's award, the difference between the amount awarded and the amount disputed on appeal shall be retained by the Settlement Administrator pending PAGA Counsel's appeal. After resolution of any appeal, any funds not awarded to PAGA Counsel then in possession of the Settlement Administrator will be added to the Net Settlement Fund for distribution to Aggrieved Employees by the Settlement Administrator on a proportional basis relative to the size of their Settlement Shares, in accordance with other administration and distribution requirements hereunder, and PAGA Counsel shall pay any additional costs incurred by the Settlement Administrator for this purpose. The Parties agree the Court's approval of any request for attorneys' fees and costs is not a condition of the Settlement Agreement and that an award of less than the amounts requested would not give rise to a basis for Plaintiffs or PAGA Counsel to abrogate the Settlement Agreement.

- b. Administration costs are estimated not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) to be paid to the Settlement Administrator ("Administration Costs"), which is a

good faith estimate. If the Parties' estimated administration fees are too little, it can be adjusted and shall be paid from the Gross Settlement. If the actual administration fee is less than the Parties' estimated administration fees, the difference between the actual and estimated administration fees will revert to the PAGA Fund; and

- c. The remainder of the Gross Settlement Amount (the "PAGA Fund") after deducting items (a) and (b) shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% paid to the LWDA (the "LWDA PAGA Portion") and 25% paid to the Aggrieved Employees (the "Aggrieved Employees' PAGA Portion") on a pro-rata basis as set forth in Paragraph 7 below.

6. Funding the Settlement. Within thirty (30) calendar days after all of the following: a) execution of this Agreement by the Parties; b) entry of the Order and Judgment approving this PAGA settlement; c) execution of the Plaintiffs' individual settlement agreements; d) the Court's dismissal of Armando Flores' class action complaint for: Failure to Timely Pay Wages in Violation of Labor Code §§ 201 and 202 (SDSC Case No. 37-2022-00042160-CU-OE-CTL); and f) the Court's dismissal of all Plaintiffs' outstanding non-PAGA claims against Released Parties. These terms are conditions precedent to the funding of the settlement.

7. Allocation Adjustment. The Parties agree that should the Court deny approval of the Gross Settlement Amount and/or the Net Settlement Amount, the Parties agree to renegotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

8. Allocation and Calculation of the PAGA Penalties. Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, Defendant will use the following formula: Settlement Payment = Aggrieved Employees' PAGA Portion × [Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period ÷ Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period].

9. Escalator Clause & Warranties and Representations: Defendant's best estimate for the number of pay periods at issue for the PAGA Group for the period of October 11, 2021, to January 9, 2024, is approximately 17,986 pay periods. Should the number of pay periods during the PAGA Period increase by more than 10%, the Gross Settlement Amount will increase proportionately over the 10% grace (i.e., meaning if the pay periods increase by 11% the settlement will increase by 1%). However, if the escalator clause is triggered, Defendant may alternatively choose to end the PAGA Period on the date the increase would otherwise be triggered. Defendant further warrants and represents that the sampling, data, and documents Defendant provided to Plaintiff's Counsel before mediation are true and correct records they purport to resemble and that during the claim period all Aggrieved Employees were required to sign arbitration agreements in connection with their employment with the Defendant.

10. Tax Treatment of Settlement Amounts. With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, its counsel and Plaintiffs and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments.

11. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION

WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

12. PAGA Settlement Payment Procedures.

- a. Within thirty (30) calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount or \$335,000.00 with the Settlement Administrator, also pursuant to the contingent terms outlined in Paragraph 6 of this Agreement. Within thirty (30) calendar days of the Effective Date, Defendant shall also provide the Settlement Administrator with a list of all Aggrieved Employees with each listed employee's full name, last known mailing address, last known telephone number, social security number, and the actual number of compensable pay periods worked by them during the PAGA Period. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information and shall skip trace and re-mail all returned, undelivered mail within ten (10) calendar days of receiving notice that a notice was undeliverable.
- b. Within fifteen (15) calendar days from the date the Gross Settlement Amount has been deposited with the Settlement Administrator as well as the information provided in Paragraph 11 (a), the Settlement Administrator shall:
 - i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit 2**). Aggrieved Employees

shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) calendar days of the original mailing. All uncashed settlement checks shall be redistributed to the Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties calculated in accordance with Paragraph 7.

- ii. Distribute a total of Seventy-Five percent (75%) of the PAGA Fund to the LWDA.
 - iii. Distribute PAGA counsel's fees and costs, as approved by the Court.
 - iv. Distribute payment to itself for services as Settlement Administrator, as approved by the Court.
 - v. Distribute General Release Payments to the Plaintiffs.
- c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) calendar days from the date they are mailed by the Settlement Administrator. All money represented by uncashed settlement checks shall be redistributed to the Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties calculated in accordance with Paragraph 7. The Settlement Administrator shall deduct costs of redistribution of those checks before calculating the pro rata share of the LWDA and the Aggrieved Employees receiving the second check.
- d. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

13. **Settlement Administrator.** The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use Phoenix Settlement Administrators as the Settlement Administrator.

14. **Duties of the Parties Related to Approval.** Promptly upon execution of this Agreement, Plaintiff Flores shall file the motion for approval of the proposed Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(l) in the Flores matter, SDSC Case No. 37-2022-00052523-CU-OE-CTL). The approval motion will request Court approval of the following: (1) the terms of this Agreement, (2) PAGA Counsel's Fees and PAGA Counsel's Costs, (3) payments to Aggrieved Employees and the LWDA, (4) payment to the Settlement Administrator, and (5) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court in addition to all requests for dismissal of any and all remaining claims in all applicable tribunals.

15. **Interim Stay of Proceedings.** The Parties agree to refrain from further litigation of these matters, except such proceedings necessary to implement and obtain Final Judgment and/or dismissals as applicable.

16. **Invalid without Court Approval.** In the event this Agreement is not approved by the Court, it shall be deemed null and void, of no force and effect, and of no probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any purpose whatsoever. In the event the Agreement does not become final for any reason, this Agreement shall be null and void and any order entered by the Court in furtherance thereof shall be treated as void *ab initio*. In such a case, the Parties shall return to the status quo as if they had not entered into this Agreement. The Settlement Administrator will be paid by Defendant for its costs through the date it is notified the Settlement will not proceed.

17. **Non-Admission of Wrongdoing.** The Parties agree this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the Lawsuits or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any

proceeding as evidence of liability or wrongdoing by Plaintiffs, Defendant or the Released Parties. Defendant, however, agrees to revisit its employment practices in light of this litigation and take corrective measures where reasonable.

18. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

19. **Covenants and Representations.** Plaintiffs represent and warrant they have not assigned or transferred or purported to assign or transfer, to any person or entity, any claim, right, liability, demand, obligation, expense, action, or causes, or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiffs acknowledge they have read this Settlement, fully understand their rights, privileges, and duties under the Settlement, and enter into this Settlement freely and voluntarily, and without duress. Plaintiffs further acknowledge they had the opportunity to consult with their attorney to explain the terms of this Settlement and the consequences of signing this Settlement.

20. **Termination of Settlement.** If the Court does not approve the Settlement or does not enter judgment as provided for in this Settlement or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) calendar days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately before the execution of this Settlement.

21. **Enforcement.** The Parties agree that following entry of the Final Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over all Parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the

unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

22. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Lawsuits and Plaintiffs' claims, except as otherwise set forth specifically herein.

23. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings before the date hereof relating to the subject matters hereof. Any representation, promise or agreement not specifically included in this Agreement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

24. **Severability.** If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

25. **Confidentiality.** Plaintiffs and Plaintiffs' counsel agree they have not and will not publish the Settlement. In response to any inquiries, Plaintiffs will state that "the case was resolved, and it was resolved confidentially." Plaintiffs' counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiffs or the PAGA Group or the Settlement on its website, and shall not contact any reporters or media regarding the Settlement. Despite this provision, Plaintiffs' counsel can discuss the Settlement with Plaintiffs, the PAGA Group, and in any filings with the Court.

26. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

27. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations

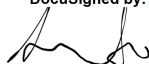
of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

28. **Counterparts.** This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

29. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

30. **Electronic Signature.** Each Party specifically agrees that an electronic signature shall have the same force and effect as a signed original of the Agreement, and the Parties may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7.

Dated: 5/20/2024

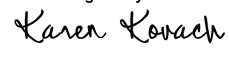
DocuSigned by:

1F36B799B65E4FC...
Plaintiff ARMANDO FLORES

Dated: 5/20/2024

DocuSigned by:

D0A88C80BC76466...
Plaintiff LLOYD DOZIER

Dated: _____

DocuSigned by:

A3D6301CB08B48A...
Defendant Evolution Hospitality, LLC
By: _____
vice President

Its: 5/22/2024

EXHIBIT 1

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone (619) 886-7224
thomasrutledgelaw@gmail.com

October 11, 2022

File No. 731.01

VIA INTERNET UPLOAD

Director
California Labor & Workforce Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, California 95814

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70210350000188018303)

President/HR
Evolution Hospitality, LLC
1211 Puerto Del Sol, Suite 170
San Clemente, California 92673

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70210350000188018310)

Aimbridge Hospitality, LLC
5301 Headquarters Drive
Plano, Texas 75024

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70210350000188018327)

Evolution Hospitality Employee Services LLC
5501 Headquarters Drive
Plano, Texas 75024

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70210350000188018334)

Aimbridge Employee Service Corp.
5851 Legacy Circle, Suite 400
Plano, Texas 75024

VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)(70210350000188018341)

Aimbridge Parent, Inc.
5851 Legacy Circle, Suite 400
Plano, Texas 75024

Re: Flores, et al. v. Evolution Hospitality, et al.

Dear Sir or Madam:

This office represents Armando Flores (Plaintiff). Accordingly, we are informing you of our representation and ask that all further communication regarding this matter be directed to my attention at the address located on this letterhead and that no contact be made directly with our client. This letter is sent pursuant to the Private Attorneys General Act (PAGA) pursuant to Labor Code §§ 2698, 2699, *et seq.*

I. FACTS & NATURE OF THE DISPUTE

This is a representative action seeking penalties for Defendants' violations of various California Labor Code provisions. The details of our client's claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference as though set forth herein.

II. § 2699, et seq., LABOR CODE VIOLATIONS

Our client has numerous legal claims against the abovementioned parties. In summary, Defendants wantonly, intentionally, and willfully refused to provide Plaintiff's personnel file and payroll records despite multiple written attempts to obtain them. Further, Defendants issued confusing wage and earning statements to the Plaintiff. Moreover, Defendants unlawfully underpaid paid Plaintiff overtime compensation, committed meal and rest break violations, failed to reimburse its employees for work-related expenses, among other things.

The details of our client's Labor Code § 2699 claims are discussed in the enclosed draft Complaint, which allegations are incorporated by reference and incorporated herein as though set forth herein. These violations include all California Labor Code provisions including but not limited to violations of Labor Code subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and

1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7.

III. CONCLUSION

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within the time required by statute regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(B).) If the LWDA advises it will not investigate, or if no notice is provided within the time required by statute, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. (Labor Code § 2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 seeking the remedies for the Labor Code violations referenced in this letter and its enclosure should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Enclosure

Cc: Armando Flores (via e-mail)
James J. McDonald, Esquire (via e-mail)

ENCLOSURE 1

Thomas D. Rutledge (SBN 200497)
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO-CENTRAL DIVISION

ARMANDO FLORES, individually and
on behalf of himself and others
similarly situated and the State of
California pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiffs,
an individual,
Plaintiff,

vs.

EVOLUTION HOSPITALITY, LLC, a
California limited liability company;
AIMBRIDGE HOSPITALITY, LLC, a
Delaware limited liability company;
EVOLUTION HOSPITALITY
EMPLOYEE SERVICES LLC, a
Delaware
limited liability company; AIMBRIDGE
EMPLOYEE SERVICE CORP., a Texas
Corporation; AIMBRIDGE PARENT,
INC., a Delaware corporation;
and DOES 1 through 10 inclusive

Defendants.

Case No.: 37-2022-00028728-CU-OE-
CTL

Dept.: C-687
Judge: Hon. Richard S. Whitney
Eddie C. Sturgeon

PLAINTIFF'S FIRSTSECOND
AMENDED COMPLAINT FOR:

1. Failure to Provide Access to
Employee Personnel Records (Cal.
Labor Code §§ 226, 432, and
1198.5);
2. PAGA Claim for Failure to Pay
State Minimum/Regular Wages;
3. PAGA Claim for Failure to Pay
State Overtime Wages;
4. PAGA Claim for Failure to Timely
Pay Wages;
5. PAGA Claim for Meal and Rest
Break Labor Code Violations;
6. PAGA Claim for Inaccurate Wage
Statements;
7. PAGA Claim for Failure to
Maintain Payroll Records;
8. PAGA Claim for Failure to
Reimburse Business Expenses in
Violation of California Labor
Code § 2802; and

FIRSTSECOND AMENDED COMPLAINT-Flores, et al. v. Evolution Hospitality, LLC, et al.

Formatted: Indent: Left: 0"

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Formatted: Indent: Left: -0.08"

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

9. Miscellaneous PAGA Claims,

1.

Formatted: Indent: Left: 0.01", Numbered + Level: 1 +
 Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left +
 Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font:

Formatted: Indent: Left: 0.26", No bullets or numbering

Complaint Filed: July 21, 2022

Trial Date: None

Plaintiff ARMANDO FLORES on behalf of himself and acting for the interests
of other current and former employees (cumulatively "Plaintiffs" or "Aggrieved
Employees") ("Plaintiff") alleges the following:

Formatted: Font: (Default) Times New Roman

NATURE OF THE ACTION

1. Plaintiff seeks, among other things, penalties, injunctive, and declaratory relief for Defendants' failure to timely provide his personnel file and payroll records.

2. Pursuant to Labor Code Private Attorney General Act ("PAGA"), §§
2698, 2699 of the California Labor Code, Plaintiffs also bring this representative
action against Defendants for violations of the California Labor Code and the
Industrial Welfare Commission Wage Orders (the "IWC Wage Orders"). Despite
Plaintiff's written request for access to his records, Plaintiff's employer knowingly,
willfully, and intentionally violated Plaintiff's rights by failing to send his records in a
timely manner.

3. With the exception only of the first cause of action, Plaintiffs bring this
action seeking only civil penalties (no wages and no individualized relief) via the
PAGA, reasonable attorneys' fees, and costs within the meaning of *Esparza v. KS*
Indus., L.P. (2017) 13 Cal.App.5th 1228. By this action, Plaintiff seeks penalties,

- 2 -

FIRST~~SECOND~~ AMENDED COMPLAINT-Flores, et al. v. Evolution Hospitality, LLC, et al.

~~damages, declaratory, and injunctive relief requiring Defendants to provide Plaintiff with full access to records Defendants must provide per the Labor Code.~~

THE PARTIES

4. Plaintiff ARMANDO FLORES is an individual residing in California.

~~5. Defendant EVOLUTION HOSPITALITY, LLC is a California limited liability corporation doing business in San Diego County, California.~~

~~6. Defendant EVOLUTION HOSPITALITY, LLC is a California limited liability corporation doing business in San Diego County, California.~~

~~7. Defendant AIMBRIDGE HOSPITALITY, LLC is a Delaware limited liability corporation doing business in San Diego County, California.~~

~~8. Defendant EVOLUTION HOSPITALITY SERVICES, LLC is a Delaware limited liability corporation doing business in San Diego County, California.~~

~~9. Defendant AIMBRIDGE EMPLOYEE SERVICE CORP. is a Texas corporation doing business in San Diego County, California.~~

~~5.10. Defendant AIMBRIDGE PARENT INC. is a Texas corporation doing business in San Diego County, California.~~

~~6.11.~~ The true names and capacities, whether individual, corporate, associate, or otherwise of the Defendants named herein as DOES 1 through 10, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to § 474 of the California Code of Civil Procedure. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of DOES 1 through 10 when their names are ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

~~7.12.~~ Unless otherwise specified by name, the named Defendants and DOES 1 through 50 are collectively referred to as "DEFENDANT EMPLOYER."

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

1 13. All named Defendants and DOES 1 through 10 are collectively referred
 2 to as “Defendants.”

3 14. Plaintiffs are informed and believe, and based thereon allege, that each
 4 Defendant was acting as an agent, joint venturer, an integrated enterprise and/or alter
 5 ego for each of the other Defendants and each were co-conspirators with respect to the
 6 acts and the wrongful conduct alleged herein so that each is responsible for the acts of
 7 the other pursuant to the conspiracy and in proximate connection with the other
 8 Defendant(s).

9 15. Plaintiffs are informed and believe, and based thereon allege, that each
 10 Defendant was acting partly within and partly without the scope and course of their
 11 employment, and was acting with the knowledge, permission, consent, and ratification
 12 of every other Defendant.

13 16. Plaintiffs are informed and believe, and based thereon allege that each of
 14 the Defendants was an agent, managing general partner, managing member, owner, co-
 15 owner, partner, employee, and/or representative of each of the Defendants and was at
 16 all times material hereto, acting within the purpose and scope of such agency,
 17 employment, contract and/or representation, and that each of them is jointly and
 18 severally liable to Plaintiffs.

19 17. Plaintiffs are informed and believe, and based thereon allege that each of
 20 the Defendants is liable to Plaintiffs under legal theories and doctrines including but
 21 not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter
 22 ego, based in part, on the facts set forth below.

23 18. By way of example, according to EVOLUTION HOSPITALITY, LLC’s
 24 and AIMBRIDGE HOSPITALITY, LLC’s respective websites, Evolution Hospitality
 25 Evolution Hospitality became a wholly-owned subsidiary of Aimbridge Hospitality in
 26 2015. See “About Us | Evolution Hospitality,” available at
 27 <http://www.evolutionhospitality.com/about.php> and “History & Milestones –
 28 Aimbridge Hospitality | Aimbridge Hospitality”

Formatted: Font: (Default) Times New Roman, 14 pt

1 <https://www.aimbridgehospitality.com/history-and-milestones/> (last visited May 13,
 2 2021).

3 19. According to Defendants' most recent "Statement of Information" forms
 4 filed with the California Secretary of State, EVOLUTION HOSPITALITY, LLC;
 5 AIMBRIDGE HOSPITALITY, LLC; EVOLUTION HOSPITALITY EMPLOYEE
 6 SERVICES, LLC; and AIMBRIDGE EMPLOYEE SERVICE CORP. share the same
 7 managers, members, and/or officers including, but not limited to: Gregory Moundas,
 8 who serves as a manager and/or member of EVOLUTION HOSPITALITY, LLC and
 9 EVOLUTION HOSPITALITY EMPLOYEE SERVICES, LLC, and as Secretary for
 10 AIMBRIDGE EMPLOYEE SERVICE CORP.; and Elle Khoury, who serves as a
 11 manager and/or member of EVOLUTION HOSPITALITY, LLC, and as Chief
 12 Executive Officer for AIMBRIDGE EMPLOYEE SERVICE CORP.

13 20. On the California Secretary of State's website
 14 (<https://businesssearch.sos.ca.gov/>), AIMBRIDGE HOSPITALITY, LLC and
 15 AIMBRIDGE EMPLOYEE SERVICE CORP. share the same entity and mailing
 16 address, "5851 Legacy Circle, Suite 400, Plano, TX 75024.

17 21. The named Defendants share the same agent for service of process, C T
 18 CORPORATION SYSTEM (C0168406).

19 22. The named Defendants utilize the same standardized employment forms
 20 and issue the same employment policies.

21 23. Plaintiffs are informed and believe, and based thereon allege, that each
 22 of the named Defendants are part of an integrated enterprise and have acted or
 23 currently act as the employer and/or joint employer of the Plaintiffs/Class Members
 24 making each of them liable for the wage and hour violations alleged herein.

25 ~~8-24.~~ Plaintiffs are informed and believe, and therefore allege, that one, more
 26 than one, or each of the named Defendants are liable to the Plaintiffs under legal
 27 theories and doctrines including but not limited to (1) the common law joint employer
 28 doctrine and/or (2) Labor Code § 2810.3 because at least one of these named

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Formatted: Normal, Indent: Left: 0", Right: -0.03", No widow/orphan control, Tab stops: -0.06", List tab

1 Defendants worked as the central hub to an overall business operation by which the
2 interrelationship between these Defendants makes each of the Defendants liable for
3 the wage and hour violations alleged herein.

4 **JURISDICTION & VENUE**

5 9-25. Pursuant to Article VI, § 10 of the California Constitution, subject matter
6 jurisdiction is proper in the Superior Court of California, County of San Diego, State
7 of California because Plaintiff alleges claims arising under California law.

8 10-26. This Court has jurisdiction over the Defendants because each is an
9 association, corporation, business entity, or individual that conducts substantial
10 business in the State of California, County of San Diego.

11 27. Pursuant to § 395 of the California Code of Civil Procedure, venue is
12 proper in the Superior Court of California for the County of San Diego because this is
13 where the misconduct alleged in this Complaint occurred.

14 44-28. There is no basis for federal diversity jurisdiction in this action given
15 that the State of California, as the real party in interest in this action, is not a “citizen”
16 for purposes of satisfying diversity jurisdiction. (Urbino v. Orkin Servs. of Cal. (9th
17 Cir. Cal. 2013) 726 F.3d 1118, 1123.)

Formatted: Font: (Default) Times New Roman, 14 pt

18 **GENERAL ALLEGATIONS**

19 29. Defendants provide hotel and resort management services in major
20 metropolitan markets in the U.S.

21 30. Upon information and belief, Defendants maintain a single, centralized
22 Human Resources (“HR”) department at their company headquarters in San
23 Clemente, California, or Plano, Texas, which is responsible for the recruiting and
24 hiring of new employees, and communicating and implementing Defendants’
25 company-wide policies, including timekeeping policies and meal and rest period
26 policies, to employees throughout California.

Formatted: Font: 14 pt

27 31. In particular, Plaintiff and other Aggrieved Employees, on information
28 and belief, received the same standardized documents and/or written policies.

Formatted: Font: (Default) Times New Roman, 14 pt

32. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' assigned locations or positions.

Formatted: Font: (Default) Times New Roman, 14 pt, Not Expanded by / Condensed by

33. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

34. Upon information and belief, Defendants maintain a centralized payroll department at their company headquarters in San Clemente, California, or Plano, Texas, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and other Aggrieved Employees.

Formatted: Font: (Default) Times New Roman, 14 pt

35. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt, Not Expanded by / Condensed by

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

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0", List tab

12-37. From about October 25, 2021, to about April 14, 2022, Defendants employed Plaintiff in San Diego County, California as a nonexempt employee and paid Plaintiff on an hourly basis in San Diego County.

38. On April 14, 2022, Defendants terminated Plaintiff's employment, but waited to April 19, 2022 tell him he was terminated on April 19, 2022.

13. Failure to Provide Records Claim.

Formatted: Font: Bold

Formatted: No bullets or numbering, Tab stops: Not at 1"

14-39. On or about June 14, 2022, Plaintiff, via counsel, sent correspondence to DEFENDANT EMPLOYER requesting to obtain access to Plaintiff's payroll records and employee personnel file to which Plaintiff received no response. A true and correct copy of the foregoing correspondence is attached hereto and marked as Exhibit 1.

Formatted: Font: Bold

Thomas D. Rutledge
 Attorney-at-Law
 16956 Via de Santa Fe, Suite 1847
 Rancho Santa Fe, California 92091
 Telephone: (919) 886-7224

1 15-40. On or about July 12, 2022, Plaintiff, via counsel, sent a second letter to
 2 DEFENDANT EMPLOYER requesting to obtain access to Plaintiff's payroll records
 3 and employee personnel file. A true and correct copy of the foregoing correspondence
 4 is attached hereto and marked as Exhibit 2.

5 16-41. On July 12, 2022, Leticia Marquez, Human Resources Coordinator for
 6 Aimbridge Hospitality sent an email to Plaintiff's Counsel that said, "Good afternoon
 7 Mr. Rutledge, The Evolution corporate office in San Clemente did forward the
 8 request for our former associate Lloyd Dozier last Friday, July 8 but not the request
 9 for Armando Flores. I will work on gathering the information for both former
 10 associates and have it to you by Monday, July 18; I hope that is acceptable. Thank
 11 you."

12 17-42. On July 18, 2022, at the close of business at 5:15 p.m. Pacific Standard
 13 Time, Plaintiff's Counsel sent an email to Ms. Marquez to ascertain the status of
 14 Plaintiff's records.

15 18-43. Before the filing of this action, DEFENDANT EMPLOYER failed to
 16 respond to Plaintiff's Counsel's email of July 18, 2022

17 44. On July 25, 2022, DEFENDANT EMPLOYER via counsel untimely
 18 produced portions of the requested records.

19 19. — On October 3, 2022, DEFENDANT EMPLOYER via counsel untimely
 20 produced more portions of the requested records, yet s

21 20. till Missing from DEFENDANT EMPLOYER's records production;
 22 however, are copies a copy of the background report DEFENDANT
 23 EMPLOYER procured on the Plaintiff's employee handbook, background
 24 consent and authorization form(s), Form 2810.5, among other things.

25 45. Based on the foregoing, Plaintiff seeks the remedies set forth in this
 26 Complaint.

27 Unpaid Overtime Wages,

28 46. Plaintiffs are informed and believe and based thereon allege that within

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 0.5", No bullets or numbering,
 Tab stops: Not at 1"

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold, Underline

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 the last year before the filing of this action and continuing to the present, and pursuant
2 to company policy and/or practice and/or direction, based on the policies
3 implemented and enforced by Defendants, Defendants regularly and systematically,
4 as a policy and practice, underpaid Plaintiffs and similarly situated employees’
5 overtime.

6 47. Plaintiffs are informed and believe and based thereon allege that not all
7 Aggrieved Employees were paid for all hours worked because all hours worked were
8 unrecorded.

9 48. This claim is premised, in part, on Defendants’ written policies, one of
10 which concerned COVID prescreening checks Defendants’ employees were required
11 to conduct “Before coming into work each day,” making compliance with such a
12 policy off-the-clock unrecorded work. A true and correct copy of this written policy is
13 attached hereto and marked as **Exhibit 3** and incorporated herein by reference.

14 49. Plaintiffs are informed and believe and based thereon allege that
15 Plaintiffs’ unpaid overtime claim is premised, in part, on Defendants’ policy of failing
16 to pay Aggrieved Employees at a regular rate of pay, and corresponding overtime
17 rates of pay, that included as eligible income all income derived from incentive pay,
18 nondiscretionary bonuses, and/or other forms of compensation.

19 50. Plaintiffs are informed and believe and based thereon allege that
20 Defendants overtime payments to Aggrieved Employees did not include all forms of
21 remuneration to which they had a right to receive from the Defendants. (See § 49.1.1
22 of the California Division of Labor Standards and Enforcement Policies and
23 Interpretations Manual.).

24 51. Plaintiffs are informed and believe and based thereon allege that some
25 Aggrieved Employees earned such remuneration, including the various
26 nondiscretionary bonuses, but upon information and belief such remuneration was not
27 included in their regular rate of pay for purposes of overtime compensation during the
28 relevant pay periods.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: Bold

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

52. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Unpaid Minimum/Regular Wages,

53. Plaintiffs are informed and believe and based thereon allege that within the last year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Defendants, based on the policies implemented and enforced by Defendants, failed to pay Plaintiffs and Aggrieved Employees all their regular/minimum wages, in an amount to be proven at trial.

54. This claim is premised, in part, on Defendants' policy stated in **Exhibit 3** above and Defendants' corresponding failure to compensate Aggrieved Employees for this off the worksite labor.

55. This claim is also premised, in part, on Defendants' habit of contacting Aggrieved Employees after they had clocked out and went home due to unforeseen problems in the workplace where management contacted Aggrieved Employees off the clock to ask them questions about things that were occurring in the workplace in real time.

56. Plaintiffs are informed and believe and based thereon allege that Defendants knew or should have known that Aggrieved Employees had the right to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for work that was required to be done off-the-clock.

57. In violation of the California Labor Code, Plaintiffs are informed and believe and based thereon allege that Defendants failed to pay non-party Aggrieved Employees minimum wages for work performed off-the-clock.

58. This claim is also premised, in part, on Plaintiff's right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Meal and Rests Break Claims,

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt, Bold

Formatted: Normal, No bullets or numbering

Formatted: Font: Bold

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Formatted: Font: 14 pt, Bold

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold

59. Plaintiffs are informed and believe and based thereon allege that within the last year before the filing of this action, and pursuant to company policy and/or practice and/or direction, Defendants failed to permit Aggrieved Employees to take all their compliant off-duty meal and rest breaks during the required timeframe as required by law and failed to pay them premium pay in lieu thereof, in an amount to be proven at trial.⁴

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

60. Plaintiffs are informed and believe and based thereon allege that Defendants had a habit of understaffing their hotel locations, which, coupled with hotel guest demands and heavy workloads, resulted in a failure to provide Aggrieved Employees with adequate meal period coverage.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

61. Plaintiffs are informed and believe and based thereon allege that Defendants had a practice of failing to schedule meal periods, which further caused Aggrieved Employees to not be relieved of their duties for compliant meal periods.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt, Not Expanded by / Condensed by

62. Plaintiffs are informed and believe and based thereon allege that Aggrieved Employees worked through meal periods or had their meal periods

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

interrupted because there were not enough employees on duty to handle the workload and attend to hotel guests, especially during peak hotel seasons.

Formatted: Font: (Default) Times New Roman, 14 pt

63. Moreover, Defendants required Aggrieved Employees (such as, for example, Lloyd Dozier) to respond to calls on their personal cellular phones from Defendants' management, including during unpaid meal periods, but did not compensate them for this time,

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0", List tab

Formatted: Font: (Default) Times New Roman, 14 pt

64. Many times, in an amount to be proven at trial, Plaintiffs are informed and believe and therefore allege that in cases where Plaintiffs and Aggrieved Employees worked more than five and/or ten hours in a workday, they were deprived their right to take an uninterrupted meal break and Defendants failed to pay them premium pay for their missed or noncompliant meal breaks,

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

65. Plaintiffs' rest break claim is premised on Defendants' policy that required Aggrieved Employees to work alone or under circumstances where taking a

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

meal and rest break was impracticable because of Defendants' policies that required their workers to never leave Defendants company-owned trucks.

Formatted: Font: (Default) Times New Roman

66. As to the named Plaintiff specifically, he and his coworkers were required to keep a working radio Defendants provided with him on at all times in case something surfaced during the workday, which messages Plaintiff received sometimes interrupted his paid breaks.

Formatted: Font: (Default) Times New Roman

67. Because of Defendants' policy, Defendants prevented Aggrieved Employees from taking all their uninterrupted rest breaks to which they had the right to enjoy in an amount to be proven at trial, and Defendants failed to pay them premium pay as required under California law. (See *Augustus v. ABM Security Services* (2016) 2 Cal.5th 257.)

Formatted: Font: (Default) Times New Roman, 14 pt

68. This claim is also premised, in part, on Plaintiff's right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Unreimbursed Work-Related Expense Claims.

Formatted: Font: 14 pt, Bold

69. Plaintiffs are informed and believe and based thereon allege that during all times relevant, and pursuant to company policy and/or practice and/or direction, Defendants required Aggrieved Employees (such as, for example, Lloyd Dozier) to use their cell phones and incur various other expenses associated with their work for Defendants.

Formatted: Normal, No bullets or numbering, Tab stops: Not at 1"

Formatted: Font: 14 pt, Bold

Formatted: Font: Bold

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

70. Plaintiffs allege that Defendants, via its managers, typically called, texted, and emailed many Aggrieved Employees' personal cell phones during working hours.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

71. Defendants issued the named Plaintiff's supervisor Lloyd Dozier, for example, a business card listing Mr. Dozier's personal cell phone as his contact number. A true and correct copy of Mr. Dozier's business card is attached hereto as Exhibit 4.

Formatted: Font: (Default) Times New Roman, Bold

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

72. Plaintiffs are informed and believe, and thereupon allege, that

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 Defendants' requirement for employees to use their supplies and equipment to
2 perform their work duties without reimbursement was an attempt to defray the costs
3 onto its employees.

Formatted: Font: (Default) Times New Roman

4 73. Defendants passed the cost of doing business onto its employees by
5 requiring, without reimbursement, their employees to purchase equipment, tools, and
6 services necessary to perform work for Defendants.

Formatted: Font: (Default) Times New Roman, 14 pt

7 74. This claim is also premised, in part, on Plaintiff's right to pursue all
8 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
9 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

10 **Erroneous Wage Statements in Violation of Labor Code § 226.**

Formatted: Font: 14 pt, Bold

Formatted: Normal, No bullets or numbering, Tab stops:
Not at 1"

11 75. Plaintiffs are informed and believe and based thereon allege that during
12 all times relevant, and pursuant to company policy and/or practice and/or direction
13 and continuing to the present, and pursuant to company policy and/or practice and/or
14 direction, Defendants issued confusing and inaccurate wage and earning statements to
15 Plaintiffs, which wage and earning statements failed to identify their correct rates of
16 pay and/or correct gross and net earnings during the applicable pay period.

Formatted: Font: 14 pt, Bold

Formatted: Font: Bold

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

17 76. By way of example, attached hereto as **Exhibits 5 and 6** are confusing
18 paystubs Defendants issued to the named Plaintiff covering the same pay period, but
19 each reporting completely different gross and net pay amounts, and showing different
20 pay dates.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

21 77. In addition to the foregoing stand-alone claim under Labor Code § 226,
22 Plaintiffs' paystubs and those of similarly situated employees of Defendants were
23 inaccurate because Defendants failed to pay them all wages, as alleged above,
24 supporting a derivative claim under Labor Code § 226.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

25 78. This claim is also premised, in part, on Plaintiff's right to pursue all
26 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
27 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

Derivative PAGA Claims.

79. Plaintiffs are informed and believe and based thereon allege that during all times relevant, and pursuant to company policy and/or practice and/or direction, Aggrieved Employees did not receive their final paychecks immediately upon involuntary termination or within 72 hours of voluntary separation, Defendants did not pay all final wages at the location of employment, and said final paychecks did not include all wages due to the employee.

80. In the case of the named Plaintiff specifically, Defendants decided to terminate him on April 14, 2022, but waited five days before informing him on or about April 19, 2022 that his employment was terminated and issuing him his last and final paycheck more than eight days late on April 22, 2022. See true and correct copies of Plaintiff’s final paystub and Notice to Employee of Change in Relationship attached hereto as Exhibits 6 and 7 and incorporated herein by reference.

81. Based on the foregoing misconduct, Defendants paid Plaintiffs and Aggrieved Employees late in violation of Labor Code § 203.

REPRESENTATIVE ACTION (i.e., PAGA) CLAIMS

82. The duties and business activities of the Aggrieved Employees were essentially the same as the duties and activities of the Plaintiff described above.

83. This is a wage and hour representative action filed pursuant to PAGA, §§ 2698, 2699 generally consists of the following group:

All current or former nonexempt employees who worked for the Defendants in the state of California from October 11, 2021 to the present.

84. All members of the represented group will be referred to as the “Aggrieved Employees.”

85. The “Representative Period” means from October 11, 2021 to the present.

86. Plaintiff further alleges, on information and belief, that Aggrieved

Formatted: Font: 14 pt, Bold
Formatted: Font: Bold
Formatted: Normal, No bullets or numbering, Tab stops: Not at 1"
Formatted: Font: 14 pt, Bold
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Font: 14 pt, Bold, Underline
Formatted: Normal, No bullets or numbering
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Indent: Left: 0.75", No bullets or numbering

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: Bold
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt
Formatted: Font: (Default) Times New Roman
Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 Employees, did not receive all wages due at the time their employment ended with
2 Defendants.

Formatted: Font: (Default) Times New Roman

3 87. On information and belief, Defendants' current and former employees
4 were subject to wage and hour violations by Defendants, including failing to be paid
5 for all wages due.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

6 88. California law provides that an employee may file an action against an
7 employer for penalties in connection with violations of the Labor Code and Wage
8 Orders provided the aggrieved employee file an action on behalf of him or herself and
9 similarly situated current and former employees.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

10 89. At all material times, Defendants and DOES 1 through 50 were and/or
11 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
12 Employees' employer, within the meaning of California Labor Code § 558, who
13 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
14 Labor Code or any provision regulating hours and days of work in any Order of the
15 Industrial Welfare Commission and, as such, are subject to penalties for each
16 underpaid employee as set for in Labor Code § 558.

Formatted: Font: (Default) Times New Roman, 14 pt

17 90. As set forth in further detail below, because of the analysis and
18 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent letters to the
19 California Labor and Workforce Development Agency (hereinafter referred to as
20 "LWDA") and to Defendants informing Defendants of these claims and Plaintiffs'
21 intent to pursue litigation.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

Formatted: Font: 14 pt, Bold, Underline

23 91. As to penalty claims under the Labor Code Private Attorney General
24 Act, on October 11, 2022, Plaintiffs, et al., via counsel, sent correspondence to the
25 LWDA and Defendants via certified U.S. Mail indicating that Plaintiffs are pursuing
26 the claims alleged in this Complaint.

Formatted: Normal, Centered, No bullets or numbering, Tab stops: Not at 1"

Formatted: Font: 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

27 92. By the time an amended Complaint is filed, the statutory period for
28 Plaintiffs will have expired for the letter alleged above and the LWDA will not have

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

1 served Plaintiffs with notice of intent to assume jurisdiction over the applicable
 2 penalty claims and did not provide notice as set forth in Labor Code § 2699.3
 3 (a)(2)(A) within the statutory period.

Formatted: Font: (Default) Times New Roman

4 93. Therefore, Plaintiffs will have exhausted Plaintiffs' administrative
 5 remedies to pursue claims and remedies as authorized by PAGA.

Formatted: Font: (Default) Times New Roman, 14 pt

6 94. The Causes of Action alleged herein are appropriately suited for a
 7 Representative Action under PAGA (Labor Code § 2698, *et seq.*) because:

Formatted: Font: (Default) Times New Roman, Font color: Auto

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: exactly12-signature, Indent: Left: 0", First line: 0.5", Tab stops: 0", List tab

8 a. This action involves allegations of violations of provisions
 9 of the California Labor Code that provide for a civil penalty to
 10 be assessed and collected by the LWDA or any departments,
 11 divisions, commissions, boards, agencies, or employees;

12 b. Plaintiffs are "aggrieved employees" because Plaintiffs were
 13 employed by the alleged violator and had one or more of the
 14 Labor Code violations alleged on this Complaint committed
 15 against them; and

16 c. Plaintiffs have satisfied the procedural requirements of
 17 Labor Code § 2699.3, as set forth above.

18 22.95.

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0", List tab

19 **FIRST CAUSE OF ACTION**

20 **Failure to Provide Access to Employee Personnel File** 21 **and Payroll Records in Violation of**

22 **California Labor Code §§ 226, 432, and 1198.5**

23 (Against all Defendants)

24 22.96. Plaintiff re-alleges and incorporates by reference the foregoing
 25 allegations, as though set forth herein.

26 23.97. California Labor Code § 226, subdivision (b), requires employers doing
 27 business in the State of California to "afford current and former employees the right
 28 to inspect or copy records pertaining to their employment, upon a reasonable request

1 to the employer...” and subdivision (c), requires employers to produce such records
2 within “21 calendar days from the date of the request.”

3 ~~24.98.~~ Plaintiff maintains the records requested fall within the meaning of
4 Labor Code § 226 because, among other reasons, the requested documents are
5 “records pertaining to [his] employment.”

6 ~~25.99.~~ California Labor Code § 432, subdivision (b), requires employers doing
7 business in the State of California to provide current, former employees, and
8 applicants copies of all written instruments they sign upon request.

9 ~~26.100.~~ Plaintiff maintains the records requested fall within the meaning of
10 Labor Code § 432 because some of the records requested constitute written
11 instruments the Plaintiff signed.

12 ~~27.101.~~ California Labor Code § 1198.5, *et seq.*, similarly provides current and
13 former employees the right to inspect their employee personnel records and requires
14 the employer to provide the employee access to such records no later than 30 calendar
15 days from the date the employer receives a written request.

16 ~~28.102.~~ Plaintiff maintains the records requested fall within the meaning of
17 Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiff’s
18 personnel file within the meaning of Labor Code § 1198.5.

19 ~~29.103.~~ As alleged above, Defendants did not provide Plaintiff timely access to
20 Plaintiff’s employee personnel file and/or the records to which Plaintiff has the right
21 to obtain within the meaning of the foregoing statutes in violation of the above
22 described statutes and Defendants still refuse to produce all portions of the requested
23 records.

24 ~~30.104.~~ Because of the statutory violations, Plaintiff suffered damages, in an
25 amount to be determined according to proof at trial, but in no event less than \$750.

26 ~~31.105.~~ Further, Plaintiff is informed and believes and based thereon alleges
27 that Defendants continues to withhold records required to be provided under the
28 foregoing statutes (such as the background report Defendants procured on him) and

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 asserts Plaintiff has been left without an adequate remedy at law, and has the right to
2 obtain injunctive and/or declaratory relief from this Court including, but not limited
3 to, an order by the Court requiring Defendants to turn over copies of Plaintiff's
4 complete employee personnel file.

5 32.106. Plaintiff seeks the recovery of costs and attorney's fees as provided by
6 applicable law, including but not limited to California Labor Code § 226, subdivision
7 (h) and § 1198.5, subdivision (l).

8 107. Plaintiff seeks the recovery of penalties as provided by applicable law,
9 including but not limited to California Labor Code §§ 226, subdivision (f) and 1198.5,
10 subdivision (k).

11 **SECOND CAUSE OF ACTION**

12 **Representative Claim for PAGA Penalties**

13 **Via California Labor Code §§ 2698, 2699, et seq. for**

14 **Failure to Pay Local/State Minimum/Regular Wages**

15 **in Violation of California Labor Code § 1194, 1197, 1811, 1815, 1198, and the**

16 **applicable Industrial Welfare Commission ("IWC")**

17 **Wage Order, and Where applicable the Local Min. Wage Ordinance**

18 **(Against all Defendants)**

19 108. Plaintiffs re-allege and incorporate by reference the foregoing
20 allegations, as though set forth herein.

21 109. Pursuant to Labor Code §§ 1194, 1197, 1197.1, 1811, 1815, and 1198,
22 it is unlawful for a California employer to suffer or permit an employee to work
23 without paying wages for all hours worked, as required by the applicable Industrial
24 Welfare Commission ("IWC") Wage Order.

25 110. During all times relevant, the law required Defendants to pay Plaintiffs
26 and other members of the Aggrieved Employees their respective hourly rate for all
27 hours worked and/or minimum wages per state law or applicable local law.

28 111. During all times relevant, at least one of the IWC Wage Orders

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 applied to Plaintiffs’ employment with Defendants.

Formatted: Font: (Default) Times New Roman

2 112. Pursuant to the applicable Wage Order, “hours worked” include the
3 time during which an employee is “suffered or permitted to work, whether or not
4 required to do so.”

Formatted: Font: (Default) Times New Roman, 14 pt

5 113. Under state and, where appropriate, local law, every employer must
6 pay each nonexempt employee minimum wages. (See, e.g., San Diego Mun. Code,
7 Ch. 3, Art. 9, Div. 1; Los Angeles County Minimum Wage Ordinance (Chap. No.
8 8.100.010, et seq.); Sacramento Minimum Wage Ordinance, etc.)

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

9 114. Plaintiffs are informed and believe, and based thereon allege, that
10 during the relevant period Defendants did not pay Aggrieved Employees
11 minimum/regular wages for all hours suffered or permitted to work in violation of
12 state and/or local law and/or prevailing wage law.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

13 115. Labor Code § 1194 subdivision (a) permits an action to recover wages
14 because of the payment of a wage less than the minimum wage “applicable to the
15 employee” including attorneys’ fees, costs, and interest.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

16 116. At all material times, Defendants were and/or are Aggrieved
17 Employees’ employers or persons acting on behalf of Aggrieved Employees’
18 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
19 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
20 Labor Code or any provision regulating hours and days of work in any Order of the
21 Industrial Welfare Commission and, as such, are subject to civil penalties for each
22 underpaid employee as set for in Labor Code § 558.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

23 117. In committing the violations of state law as herein alleged, Plaintiffs
24 are informed and believe based there upon allege that Defendants have knowingly and
25 willfully refused to perform their obligations to compensate Aggrieved Employees for
26 all wages earned and all hours worked.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

27 118. As a direct result, Plaintiffs are informed and believe, and based
28 thereon allege, that Aggrieved Employees have suffered and continue to suffer,

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such monies and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state and/or local law.

Formatted: Font: (Default) Times New Roman

119. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which Defendants violated the minimum wage and/or regular wage provisions of the Labor Code, including but not limited to §§ 216, 218, 218.5, 558, 1194, 1197, 1197.1, 1771, 1774, 1776, 1811, 1815, 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

Formatted: Font: (Default) Times New Roman, 14 pt

120. Based on the foregoing, Plaintiffs seek all remedies pursuant to the PAGA in an amount to be proven at trial.

Formatted: Font: (Default) Times New Roman

Formatted: List Paragraph, Indent: Left: 0", Tab stops: Not at 0" + 1" + 1.19"

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

THIRD CAUSE OF ACTION

Representative Claim for PAGA Penalties

Formatted: Font: 14 pt, Bold

Via California Labor Code §§ 2698, 2699, *et seq.* for

Failure to Pay State Overtime and/or Double-Time Compensation

in Violation of California Labor Code §§ 216, 218, 218.5, 225.5,

1182.12, 1194, 1194.2, 1197, 1197.1, 1811, 1815,

and the Applicable IWC Wage Order

Formatted: Font: 14 pt, Bold

Formatted: Normal, No bullets or numbering

(Against all Defendants)

Formatted: Font: 14 pt

121. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

122. California law requires an employer to pay each employee for the actual hours worked. (See Cal. Labor Code §§ 200, 226.)

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

123. During all times relevant, one or more of the IWC Wage Orders applied to Plaintiffs' employment with Defendants.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

124. Pursuant to § 2(K) of the applicable Wage Order(s), including Wage

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 Order 15, “hours worked” include the time during which an employee is “suffered or
2 permitted to work, whether or not required to do so.”*

Formatted: Font: (Default) Times New Roman

3 125. Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the
4 applicable Wage Order(s), for each hour (or fraction thereof) an employee works up
5 to forty (40) hours in a week and eight (8) hours in a day, the employer must pay the
6 employee’s regular hourly wage. For each hour (or fraction thereof) an employee
7 works over forty (40) hours in a week or more than eight (8) hours in a workday the
8 employer must pay the rate of one and a half times the employee’s regular hourly
9 wage.

Formatted: Font: (Default) Times New Roman, 14 pt

10 126. For each hour (or fraction thereof) an employee works more than
11 twelve (12) hours in one day or more than eight (8) hours a day on the seventh
12 consecutive day of work, the employer must compensate the employee at the rate of
13 no less than twice the regular rate of pay for that employee.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

14 127. During all times relevant, and pursuant to company policy and/or
15 practice and/or direction, Defendants required Plaintiffs and the Aggrieved
16 Employees to work more than 40 hours per week and/or eight hours in a workday and
17 Defendants did not pay Aggrieved Employees all overtime compensation to which
18 they should have received.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

19 128. According to § 49.1.1 of the California Division of Labor Standards
20 and Enforcement Policies and Interpretations Manual, “In California, as with the
21 federal FLSA, overtime is computed based on the regular rate of pay. The regular rate
22 of pay includes many different kinds of remuneration, for example: hourly earnings,
23 salary, piecework earnings, commissions, certain bonuses, and the value of meals and
24 lodging.” (Emphasis added.)

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

25 129. As alleged herein, Plaintiffs are informed and believe, and based
26 thereon allege, that Defendants failed to pay Aggrieved Employees all overtime to
27 which they had a right to receive.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

28 130. In committing the violations of state law as herein alleged, Plaintiffs

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

are informed and believe, and based thereon allege, that Defendants have knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.⁴

Formatted: Font: (Default) Times New Roman, 14 pt

131. At all material times, Defendants were and/or are Aggrieved Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any Order of the Industrial Welfare Commission and, as such, are subject to penalties for each underpaid employee as set for in Labor Code § 558.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

132. In committing the violations of state law as herein alleged, Plaintiffs are informed and believe, and based thereon allege, that Defendants have knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

133. Labor Code § 2699, et seq. imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which Defendants violated the overtime provisions of the Labor Code, including but not limited to §§ 510, 558 and 1194, the exact amount of the penalties sought is in an amount to be shown according to proof at trial.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman

134. Based on the foregoing, Plaintiffs seek all remedies pursuant to the PAGA in an amount to be proven at trial.

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: Not at 1"

Formatted: Font: (Default) Times New Roman, 14 pt

FOURTH CAUSE OF ACTION

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold, Underline

Representative Claim for PAGA Penalties

Via California Labor Code §§ 2698, 2699, et seq. for

Formatted: Font: 14 pt, Bold

Failure to Timely Pay Earned Wages Upon Separation of Employment in

Violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 204b,

218.5, 218.6, 256, 1198, and the applicable Wage Order

(Against all Defendants)

135. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

136. Pursuant to Labor Code § 201, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

137. Pursuant to Labor Code § 202, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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."

138. Labor Code § 203 provides, in pertinent part: "If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ..."

139. Pursuant to Labor Code § 204, "all wages ... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays."

140. Pursuant to Labor Code § 204b, "Labor performed by a weekly-paid employee during any calendar week and prior to or on the regular payday shall be paid for not later than the regular payday of the employer for such weekly-paid employee falling during the following calendar week."

141. Based on the misconduct alleged above, Defendants did not properly pay Plaintiff and Aggrieved Employees pursuant to the requirements of Labor Code §§ 201, 202, 204 and/or 204b.

142. To date, Plaintiffs are informed and believe, and based thereon allege,

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: Not at 1"

1 that Defendants have not paid terminated all Aggrieved Employees all earned wages
 2 as required by law.

3 143. At all material times, Defendants and DOES 1 through 50 were and/or
 4 are Aggrieved Employees' employers or persons acting on behalf of Aggrieved
 5 Employees' employer, within the meaning of California Labor Code § 558, who
 6 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
 7 Labor Code or any provision regulating hours and days of work in any Order of the
 8 Industrial Welfare Commission and, as such, are subject to penalties for each
 9 underpaid employee as set for in Labor Code § 558.

10 144. In committing the violations of state law as herein alleged, Plaintiffs are
 11 informed and believe, and based thereon allege, that Defendants have knowingly and
 12 willfully refused to perform their obligations to compensate Aggrieved Employees for
 13 all wages earned and all hours worked.

14 145. Labor Code § 2699, et seq. imposes upon Defendants, and each of them,
 15 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
 16 period for the initial violation and two hundred (\$200.00) for each aggrieved
 17 employee per pay period for each subsequent violation in which Defendants violated
 18 Labor Code §§ 201, 202, 203, 204, 204b, and 256.

19 146. Based on the foregoing, Plaintiffs seek all remedies pursuant to the
 20 PAGA in an amount to be proven at trial.

21 **FOURTH CAUSE OF ACTION**

22 **Representative Claim for PAGA Penalties**

23 **Via California Labor Code §§ 2698, 2699, et seq. for**

24 **Failure to Comply with the Meal and Rest Break Requirements Under Labor** 25 **Code §§ 226.7, 512, 516, 1198, and the applicable IWC Wage Order**

26 **(Against all Defendants)**

27 147. Plaintiffs re-allege and incorporate by reference the foregoing
 28 allegations, as though set forth herein.

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: Normal, Centered, Right: -0.09", No bullets or numbering

Formatted: Font: 14 pt, Bold, Underline

1 148. At all relevant times herein set forth, the applicable IWC Wage Order
 2 and California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to
 3 Plaintiff's and 'Aggrieved Employees' employment by Defendants.

Formatted: Font: (Default) Times New Roman, 14 pt

4 149. At all relevant times herein set forth, California Labor Code section
 5 512(a) provides that an employer may not require, cause, or permit an employee to
 6 work for a period of more than five (5) hours per day without providing the
 7 employee with a meal period of not less than thirty (30) minutes, except that if the
 8 total work period per day of the employee is not more than six (6) hours, the meal
 9 period may be waived by mutual consent of both the employer and the employee.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0",
List tab + Not at 1"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 14 pt

10 150. Under California law, first meal periods must start after no more than
 11 five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042
 12 (2012).

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt

13 151. At all relevant times herein set forth, California Labor Code sections
 14 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to
 15 work during any meal period mandated by an applicable order of the IWC.

Formatted: Font: (Default) Times New Roman, 14 pt

16 152. At all relevant times herein set forth, Labor Code sections 226.7,
 17 512(a), 1198, and the applicable IWC Wage Order also require employers to provide
 18 a second meal period of not less than thirty (30) minutes if an employee works over
 19 ten (10) hours per day or to pay an employee one (1) additional hour of pay at the
 20 employee's regular rate, except that if the total hours worked is no more than twelve
 21 (12) hours, the second meal period may be waived by mutual consent of the
 22 employer and the employee only if the first meal period was not waived.

Formatted: Font: (Default) Times New Roman, 14 pt

23 153. Under California law, an employer cannot evade meal period
 24 requirements via the use of "on-duty" meal agreements because it understaffs its
 25 locations. (*Abdullah v. U.S. Sec. Assocs.* (C.D. Cal. Jan. 11, 2011) 2011 U.S. Dist.
 26 LEXIS 156685.)

Formatted: Font: (Default) Times New Roman, 14 pt, Not
Expanded by / Condensed by

27 154. At all relevant times, the applicable IWC Wage Order provides that
 28 "[e]very employer shall authorize and permit all employees to take rest periods,

Formatted: Font: (Default) Times New Roman, 14 pt

1 which insofar as practicable shall be in the middle of each work period” and that the
 2 “rest period time shall be based on the total hours worked daily at the rate of ten (10)
 3 minutes net rest time per four (4) hours or major fraction thereof” unless the total
 4 daily work time is less than three and one-half hours.

Formatted: Font: (Default) Times New Roman, 14 pt

5 155. At all relevant times, California Labor Code section 226.7 provides
 6 that no employer shall require an employee to work during any rest period mandated
 7 by an applicable order of the California IWC. To comply with its obligation to
 8 authorize and permit rest periods under California Labor Code section 226.7 and the
 9 applicable IWC Wage Order, an employer must “relinquish any control over how
 10 employees spend their break time, and relieve their employees of all duties—
 11 including the obligation that an employee remain on call. A rest period, in short,
 12 must be a period of rest.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th
 13 257, 269-270.)

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0",
 List tab + Not at 1"

14 156. Based on the misconduct alleged in this Complaint, Plaintiffs are
 15 informed and believe, and based thereon allege, that Defendants failed to pay
 16 Aggrieved Employees premium pay for all their missed meal and rest breaks and
 17 failed to comply with Labor Code §§ 226.7, 512, 516, and 1198.

18 157. Because of Defendants’ illegal pay practices, Plaintiffs are informed and
 19 believe, and based thereon allege, that said Defendants failed to pay Aggrieved
 20 Employees for all meal and rest breaks despite their requirement under California law
 21 and, as such, all culpable Defendants are required to pay Aggrieved Employees for
 22 rest break and/or meal break premium wages.

23 158. Plaintiffs are informed and believe, and based thereon allege, that
 24 Defendants also failed to provide all Aggrieved Employees, legally-compliant meal
 25 and rest periods, or compensation in lieu thereof, during their employment by said
 26 Defendants.

27 159. Cal. Labor Code § 2699, et seq. imposes upon all culpable Defendants a
 28 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period

1 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
 2 pay period for each subsequent violation in which all culpable Defendants violated
 3 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in
 4 an amount to be shown according to proof at trial.

5 160. Alternatively, to the extent that Defendants did pay other non-party
 6 Aggrieved Employees one (1) additional hour of premium pay for missed rest
 7 periods, Plaintiffs are informed and believe, and based thereon allege, that Defendants
 8 did not pay other all Aggrieved Employees at the correct rate of pay for premiums
 9 because Defendants failed to include all forms of compensation, such as incentive
 10 pay, and/or nondiscretionary bonuses, and/or other forms of remuneration, in the
 11 regular rate of pay.

12 161. Based on the foregoing, Plaintiffs seek all remedies pursuant to the
 13 PAGA in an amount to be proven at trial.

14 SIXTH CAUSE OF ACTION

15 Representative Claim for PAGA Penalties

16 Via California Labor Code §§ 2698, 2699, et seq. for

17 Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,

18 and the applicable IWC Wage Order

19 (Against all Defendants)

20 162. Plaintiffs re-allege and incorporate by reference the foregoing
 21 allegations, as though set forth herein.

22 163. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
 23 pertinent part, that every employer shall, "semimonthly or at the time of each
 24 payment of wages, shall furnish to his or her employees, either as a detachable part of
 25 the check, draft, or voucher paying the employee's wages, or separately if wages are
 26 paid by personal check or cash, an accurate itemized statement in writing showing (1)
 27 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
 28 piece-rate units earned and any applicable piece rate if the employee is paid on a

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.75", List tab + Not at 1"

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold, Underline

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: Normal, Centered, No bullets or numbering

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.81", List tab + Not at 1"

1 piece-rate basis, (4) all deductions, provided that all deductions made on written
 2 orders of the employee may be aggregated and shown as one item, (5) net wages
 3 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
 4 name of the employee and only the last four digits of his or her social security
 5 number..., (8) the name and address of the legal entity that is the employer. . . , and
 6 (9) all applicable hourly rates in effect during the pay period and the corresponding
 7 number of hours worked at each hourly rate by the employee and, beginning July 1,
 8 2013, if the employer is a temporary services employer as defined in Section 201.3,
 9 the rate of pay and the total hours worked for each temporary services assignment. . .”
 10 (Labor Code § 226 subdivision (a).)

11 164. Upon information and belief, during all times relevant to this action,
 12 Defendants did not provide accurate wage statements throughout the Aggrieved
 13 Employees Period and, thus, Plaintiffs assert this claim both as a stand-alone claim
 14 and derivative of their unpaid wage claims.

15 165. On numerous occasions, an exact amount by which will be proven at
 16 trial, Defendants violated various provisions of § 226, including but not limited to
 17 subdivisions (a)(1), (a)(2), (a)(4), (a)(5), and (a)(9) by failing to provide Plaintiffs and
 18 the Aggrieved Employees accurate itemized statement in writing accurately showing
 19 gross wages earned, total hours worked by the employee, net wages earned, rates of
 20 pay, among other things.

21 166. Cal. Labor Code § 2699, et seq. imposes upon all culpable Defendants a
 22 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
 23 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
 24 pay period for each subsequent violation in which all culpable Defendants violated
 25 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
 26 of the applicable penalty is all in an amount to be shown according to proof at trial.

27 167. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
 28 seek to recover from Defendants, and each of them, penalties, attorneys’ fees, and

1 costs incurred herein under §§ 226, 226.3, and 226.6 in an amount to be proven at
 2 trial.

3 **SEVENTH CAUSE OF ACTION**

4 **Representative Claim for PAGA Penalties**

5 **Via California Labor Code §§ 2698, 2699, *et seq.* for**

6 **For Failure to Maintain Required Records in Violation of California**
 7 **Labor Code §§ 1174 and the Applicable Wage Order and/or § 1198**

8 **(Against All Defendants)**

9 168. Plaintiffs re-allege and incorporate by reference the foregoing
 10 allegations, as though set forth herein.

11 169. As a separate and distinct cause of action, Plaintiff re-alleges and
 12 incorporates by reference, as though fully set forth herein, all the allegations
 13 contained in this Complaint, excepting those allegations that are inconsistent with this
 14 cause of action.

15 170. Section 7 of the typical Wage Order requires every employer to maintain
 16 time and payroll records.

17 171. Plaintiffs are informed and believe and based thereon alleges that during
 18 all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders
 19 and with Labor Code § 1174 by failing to maintain certain records which employers
 20 are required to maintain, including but not limited to, an accurate record indicating
 21 the number hours worked by the Plaintiffs.

22 172. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
 23 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
 24 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
 25 pay period for each subsequent violation in which all culpable Defendants violated
 26 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
 27 of the applicable penalty is all in an amount to be shown according to proof at trial.

28 173. For the reasons alleged herein, Plaintiffs seek all available remedies

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold, Underline

Formatted: No bullets or numbering

Formatted: exactly 12-signature, Centered, No bullets or numbering, Widow/Orphan control

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.88", List tab + Not at 1"

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

pursuant to PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

Formatted: Font:

EIGHTH CAUSE OF ACTION

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Representative Claim for PAGA Penalties

Via California Labor Code §§ 2698, 2699, et seq. for

Formatted: Font: 14 pt, Bold

Failure to Failure to Indemnify/Reimburse Business Expenses in Violation of California Labor Code §§ 2802, 1198, and the Applicable Wage Order

(Against all Defendants)

Formatted: Font: 14 pt

Formatted: Normal, Centered, No bullets or numbering

174. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

175. California Labor Code § 2802 requires employers to indemnify their employees for expenses and losses incurred while discharging their duties or obedience to the directions of their employer.

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.88", List tab + Not at 1"

176. California Labor Code § 2804 mandates that this statutory right cannot be waived.

177. The Aggrieved Employees incurred losses in obedience to the directions of Defendants including but not limited to cell phone expenses.

178. Upon information and belief, Defendants maintained no policy of reimbursement of such expenses, and refused to reimburse said expenses.

179. Plaintiffs are informed and believe, and based thereon allege, that Defendants required some Aggrieved Employees to purchase and provide their own equipment, services, and supplies to work for Defendants.

180. Plaintiffs are informed and believe and based thereon allege that during the relevant timeframe, Defendants had a company-wide policy of requiring other Aggrieved Employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage.

Formatted: Font: (Default) Times New Roman, 14 pt

181. Plaintiffs are informed and believe and based thereon alleges that

Formatted: Font: (Default) Times New Roman, 14 pt, Not Expanded by / Condensed by

Formatted: Font: (Default) Times New Roman, 14 pt

Defendants were in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations.

182. Plaintiffs are informed and believe and based thereon alleges that Defendants gave other Aggrieved Employees strict instructions to obtain drug testing and/or physical examinations, and other Aggrieved Employees underwent the testing and/or physical examinations for the sole benefit of Defendants.

183. Plaintiffs are informed and believe and based thereon alleges that although Defendants required other Aggrieved Employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, Defendants never reimbursed them for their travel expenses.

184. As a direct result of Defendants' violations of California Labor Code § 2802, many Aggrieved Employees suffered and continue to suffer substantial losses related to unpaid expenses, the use and enjoyment of monies owed, lost interest on monies owed, and attorneys' fees in an amount to be proven at the time of trial.

185. Defendants derived an unjust and inequitable economic benefit in failing to comply with the law regarding indemnification and reimbursement of employees.

186. Cal. Labor Code § 2699, et seq. imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

187. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font: (Default) Times New Roman, 14 pt, Not Expanded by / Condensed by

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.88", List tab + Not at 1"

NINTH CAUSE OF ACTION

Individual and Representative Claim for PAGA Penalties

Under California Labor Code §§ 2698, 2699, et seq. for

Individual and Representative Claim for PAGA Penalties and Wage
Under California Labor Code §§ 2698, 2699, et seq. for Violations of California
Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,
203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)
of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,
230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)
of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of
Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,
603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,
1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage
Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293,
1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,
1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section
1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6,
1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651,
and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2806,
and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and
6399.7 and the Applicable Wage Order

(Against all Defendants)

188. Plaintiffs re-allege and incorporate by reference the foregoing allegations,
as though set forth herein.

189. This claim is also premised on Plaintiffs' right to pursue all Labor Code
claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
***USA, Inc.* (2018) 23 Cal.App.5th 745.**

190. Pursuant to Labor Code § 2699, any provision of the Labor Code that

Formatted: Font: 14 pt, Bold, Underline

Formatted: Normal, No bullets or numbering

Formatted: Font: 14 pt, Bold

Formatted: Font: 14 pt

Formatted: Normal, Centered, No bullets or numbering, Tab stops: Not at 1"

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.88", List tab + Not at 1"

Formatted: Font: (Default) Times New Roman, 14 pt

1 provides for a civil penalty to be assessed and collected by the LWDA or any of its
 2 departments, divisions, commissions, boards, agencies or employees for violation of
 3 the code may, as an alternative, be recovered through a civil action brought by an
 4 aggrieved employee on behalf of himself or herself and other current or former
 5 employees pursuant to the procedures specified in Labor Code § 2699.3.

6 191. Plaintiffs are informed and believe, and based thereon allege, that
 7 because of the acts alleged above and Defendants' violations of the Labor Code
 8 provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§
 9 2698 and 2699.

10 192. Labor Code § 2699, et seq. imposes upon Defendants, and each of them,
 11 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
 12 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
 13 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
 14 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
 15 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
 16 subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551,
 17 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970,
 18 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the
 19 applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290,
 20 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1,
 21 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of
 22 Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5,
 23 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5,
 24 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801,
 25 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,
 26 and 6399.7.

27 193. Labor Code § 558 establishes a civil penalty as follows: Any employer
 28 or other person acting on behalf of an employer who violates, or causes to be violated,

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091
Telephone: (919) 886-7224

1 a section of this chapter or any provision regulating hours and days of work in any
2 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
3 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
4 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
5 which the employee was underpaid in addition to an amount sufficient to recover
6 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
7 each underpaid employee for each pay period for which the employee was underpaid
8 in addition to an amount sufficient to recover underpaid wages; and (3) wages
9 recovered pursuant to this section shall be paid to the affected employee.

10 194. Plaintiffs seek penalties for Defendants’ conduct as alleged herein as
11 permitted by law.

12 195. Plaintiffs are informed and believe, and based thereon allege, that as to
13 the sick pay provisions under the Labor Code, to the extent that Defendants did pay
14 Aggrieved Employees sick pay, Defendants did not pay other all Aggrieved
15 Employees at the correct rate of pay for sick pay because Defendants failed to
16 include all forms of compensation, such as incentive pay, and/or nondiscretionary
17 bonuses, and/or other forms of remuneration, in the regular rate of pay.

18 196. As to Labor Code 432, 226, and 1198.5 claims asserted herein, Plaintiffs
19 seeks to recover penalties via the PAGA for Defendants’ failure to provide personnel
20 files and payroll records in the timely manner as described in detail above.

21 ~~33.197.~~ Pursuant to Labor Code § 2698, et seq., Plaintiffs seek to recover
22 attorney’s fees, costs, civil penalties, and wages on behalf of Plaintiff and other
23 current and former Represented Employees as alleged herein in an amount to be
24 shown according to proof at trial and within the jurisdictional limits of this Court.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs prays for judgment against Defendants as follows:

- 27 1. That the Court find that Defendants’ violations as described above were
28 willful;

Formatted: Font:

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Font:

Formatted: Indent: Left: 0", First line: 0.5", Tab stops: 0.75", List tab + Not at 1"

Formatted: Font: (Default) Times New Roman, 14 pt

Thomas D. Rutledge
 Attorney-at-Law
 16956 Via de Santa Fe, Suite 1847
 Rancho Santa Fe, California 92091
 Telephone: (919) 886-7224

2. For all remedies available to Plaintiffs via Labor Code via § 2698, et seq. including an award of attorneys' fees, costs, interest, liquidated damages, damages, and penalties according to proof to the extent permitted by law;

4.3. For an order by the Court requiring Defendants, and each of them, to show cause, if any they have, why they should not be ordered to provide the named Plaintiff access to Plaintiff's complete employee personnel file ~~and payroll records~~;

2.4. For penalties and damages in an amount to be proven at trial, but in no event less than \$750;

~~3. For reasonable attorney's fees;~~

4.5. For costs of suit incurred herein and prejudgment interest;

5.6. For injunctive relief requiring Defendants to comply with the foregoing statutes;

6.7. For declaratory relief seeking an adjudication that Defendants violated the foregoing statutes; ~~and~~

7.8. For such other and further relief as the court deems just and proper.

Dated: October 11, 2022

Law Office of Thomas D.
 Rutledge

By: Thomas D. Rutledge
 /s/Thomas D. Rutledge
 Attorney for Plaintiffs

Formatted: Underline

Exhibit 1

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Tel.: 619-886-7224
thomasrutledgelaw@gmail.com

June 14, 2022

File No. 741

VIA U.S. MAIL AND EMAIL
(development@evolutionhospitality.com)

President/HR
EVOLUTION HOSPITALITY, LLC
1211 Puerto Del Sol, Suite 170
San Clemente, California 92673

Re: Personnel File and Payroll Records

Dear Sir/Madame:

California law provides the recovery of attorneys' fees to former employees who are required to obtain a court order to access to their personnel records. Please do not disregard this letter.

This office has been asked by **Armando Flores** to obtain records on this person's behalf. This person was employed at your business in California.

Pursuant to the applicable provisions of the California Labor Code, we demand you immediately furnish me with copies of this person's personnel file and payroll records including, but not limited to, this person's wage and earning statements for each pay period for the last four years, time cards, time sheets and any other documents evidencing the hours this person worked with your company. We also demand you provide us this person's employment application, W-4s, W-2s, evidence of his/her accrued vacation time, earned commission, accrued sick leave, and pension benefits.

Please also provide me with a copy of your company's employee handbook, commission policy, bona fide commission plan, and policies regarding overtime compensation, meal and rest periods. Please leave nothing out even if this person never signed for this information.

Please also provide us with all information secured from this person or with authorization or permission granted by this person, including statements, photographs, investigative reports, bills, and so forth concerning anything in connection with his/her employment with your company. Please leave nothing out even if this person never signed for this information.

If there is an enforceable arbitration agreement this person signed, please provide us a copy. Otherwise, we will presume there is no requirement to arbitrate disputes with your company. If we commence litigation against you, we will oppose any motion to compel arbitration on grounds that you waived such a requirement because you ignored this request.

Please also provide us copies of each time sheet, time clock records, and all similar records evidencing each hour this person worked for your company. If you provide no such records, we will presume none exist.

The law requires you to provide the above requested information no more than 21 days from your notice of such a request. We expect to receive the requested information within **21 days** from the date of this letter.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Enclosures: Authorizations to Disclose Employee File

Cc: Armando Flores (via email)

FILE NO:

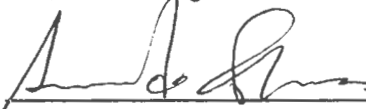
EMPLOYEE PERSONNEL RECORD RELEASE FORM

PERSONNEL DIRECTOR

To Whom It May Concern:

The undersigned hereby authorizes you to release to THOMAS D. RUTLEDGE, ESQUIRE, or any authorized representative thereof any information requested regarding my employment record including, but not limited to my pay records, employment application, personnel record, counseling record, and any other information relating to my employment.

DATE: 6/10/22

Signature: 

Print Name: Armando flores

Last Four Digits of SSN: 9751

Exhibit 2

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Tel.: 619-886-7224
thomasrutledgelaw@gmail.com

July 12, 2022

File No. 741

VIA U.S. MAIL AND EMAIL
(development@evolutionhospitality.com)

President/HR
EVOLUTION HOSPITALITY, LLC
1211 Puerto Del Sol, Suite 170
San Clemente, California 92673

VIA U.S. MAIL AND EMAIL
(privacy@aimhosp.com)

President/HR
Aimbridge Hospitality LLC
5301 Headquarters Drive
Plano, Texas 75024

Re: Personnel File and Payroll Records

Dear Sir/Madame:

Warning: you are in violation of California law. This is our third request for records. California law provides the recovery of attorneys' fees to former employees who are required to obtain a court order to access to their personnel records. Please do not disregard this letter.

This office has been asked by **Armando Flores** to obtain records on this person's behalf. This person was employed at your business in California.

Pursuant to the applicable provisions of the California Labor Code, we demand you immediately furnish me with copies of this person's personnel file and payroll records including, but not limited to, this person's wage and earning statements for each pay period for the last four years, time cards, time sheets and any other documents evidencing the hours this person worked with your company. We also demand you provide us this person's employment application, W-4s, W-2s, evidence of his/her accrued vacation time, earned commission, accrued sick leave, and pension benefits.

Please also provide me with a copy of your company's employee handbook, commission policy, bona fide commission plan, and policies regarding overtime compensation, meal and rest periods. Please leave nothing out even if this person never signed for this information.

Please also provide us with all information secured from this person or with authorization or permission granted by this person, including statements, photographs, investigative reports, bills, and so forth concerning anything in connection with his/her employment with your company. Please leave nothing out even if this person never signed for this information.

If there is an enforceable arbitration agreement this person signed, please provide us a copy. Otherwise, we will presume there is no requirement to arbitrate disputes with your company. If we commence litigation against you, we will oppose any motion to compel arbitration on grounds that you waived such a requirement because you ignored this request.

Please also provide us copies of each time sheet, time clock records, and all similar records evidencing each hour this person worked for your company. If you provide no such records, we will presume none exist.

Because the law requires you to provide the above requested information no more than 21 days from your notice of such a request and this is our second request, we expect to receive the requested information within **seven days** from the date of this letter. Otherwise, our client will explore all legal remedies available to them.

Very truly yours,

Thomas D. Rutledge
/s/Thomas D. Rutledge

Enclosures: Authorizations to Disclose Employee File

Cc: Armando Flores (via email)

ENCLOSURE 1

FILE NO:

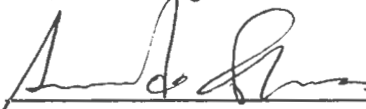
EMPLOYEE PERSONNEL RECORD RELEASE FORM

PERSONNEL DIRECTOR

To Whom It May Concern:

The undersigned hereby authorizes you to release to THOMAS D. RUTLEDGE, ESQUIRE, or any authorized representative thereof any information requested regarding my employment record including, but not limited to my pay records, employment application, personnel record, counseling record, and any other information relating to my employment.

DATE: 6/10/22

Signature: 

Print Name: Armando flores

Last Four Digits of SSN: 9751

Exhibit 3



COVID-19: Screening & Temperature Check Procedures

To reduce the risk of spreading the COVID-19 virus in and through the workplace and protect our employees and guests, the Company is implementing procedures for screening associates, including measuring the temperature of our associates and inquiring and observing whether our associates attempting to enter the Hotel have any symptoms of COVID-19 or related illness. These procedures are subject to change and modification based on updated CDC, state, and local requirements. By reporting to work and clocking in for each shift, each associate agrees to adhere to the below screening procedures.

PRESCREEN

Before coming into work each day, each associate will conduct a self-screening process, by asking themselves the following questions.

- Have I been in close contact with a confirmed case of COVID-19?
- Am I experiencing a cough, shortness of breath or sore throat?
- Do I have or have I had a fever (temperature over 100.4 F) in the last 48 hours?
- Have I developed a new loss of taste or smell?
- Have I experienced vomiting or diarrhea in the last 24 hours?

If the answer to any of these questions is "yes", the associate will not report to work and will call off in accordance with the applicable Attendance Policy, as soon as possible prior to their shift.

TEMPERATURE CHECKS

Before coming into work each day, associates should check their temperature at home to ensure they do not have a temperature over the CDC recommended 100.4 F. Temperatures can also be taken before the start of every associate's shift (both hourly and manager).

- For managers, temperature checks should be taken when the manager arrives at the hotel.
- For hourly associates, temperature checks should occur after the associate has clocked in for his/her shift or while the associate is "on-the-clock."

Applicable state and local temperature check requirements must be followed if they differ from this standard process.

Where temperature checks are done onsite before the start of the associate's shift, they will be taken in a private area, maintaining social distancing guidelines. Non-Contact Forehead digital thermometers will be used whenever possible. Each associate should wear gloves and a face covering to handle the thermometer and it should be wiped down after each use.

Associate temperatures should not be recorded or logged anywhere, unless required by state or local law, and all information reported will be treated as confidential.



TEMPERATURE CHECK PROCESS

Each associate will be permitted to read their own temperature, and must let the manager overseeing the temperature check process know if their temperature is over the CDC recommended 100.4 F. If temperature checks are required by state or local law, associates may be required to monitor temperatures at a lower reading and should follow the specific requirements.

- If the associate's temperature is below 100.4, the associate should be permitted to start their shift.
- If an associate has a temperature over 100.4 F, but has no other symptoms, the associate will be permitted to take a second temperature reading.
- If the associate has a temperature over 100.4 F in both readings, the associate will be sent home from work.
- If the associate's second temperature reading is under 100.4 F, the associate will be permitted to take a third temperature reading.
- If the third reading is under 100.4 F, the associate should be permitted to start their shift if they are not experiencing any other symptoms. If the associate is experiencing symptoms or is otherwise not feeling well, the associate will be sent home from work.
- If the third reading is over 100.4 F, the associate will be sent home from work.

If an associate is sent home, they will be paid in accordance with applicable reporting pay policies/state laws. An associate can use any available sick, vacation time, or other applicable paid time off to cover any days they are unable to work.

REGULAR MONITORING

Associates should self-monitor for development of any Covid-19 symptoms, including fatigue, cough, sneezing, aches and pains, runny or stuffy nose, sore throat, diarrhea, headaches, or shortness of breath. If an associate develops symptoms, they should be directed to self-report to their manager.

WEAR A FACE COVERING

The CDC recommends that all associates wear a cloth face covering while at work. By reporting to work, associates agree to adhere to CDC recommendations, as well as any state or local requirements.

SOCIAL DISTANCE

Maintaining 6-feet social distancing remains the number one method to slow the spread of the virus. It is our responsibility to practice social distancing at all times, including stepping aside if a guest is approaching in a hallway, waiting for an empty elevator etc.



DISINFECT AND CLEAN HANDS

Associates agree to wash or sanitize their hands often throughout the day. Associates also agree to avoid touching their face with their hands.

REPORTING PROCEDURE

All associates are required to report confirmation of Covid-19, exposure to Covid-19, or any COVID-19 positive case in the associate's household to their manager. Any associate with a suspected or confirmed case of COVID-19 or direct exposure to Covid-19 will be sent home or told to stay home and instructed to follow CDC recommendations.

It is also recommended that associates report any illness with symptoms similar to COVID-19, including:

- Fever or chills
- Cough
- Shortness of breath or difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

This list is not all inclusive and is subject to change based on updated CDC guidance. Associates should consult a medical provider for any other symptoms that are severe or concerning. Remember, symptoms may appear 2-14 days after exposure.



NOTICE OF SCREENING AND TEMPERATURE CHECK PROCEDURES AND ACKNOWLEDGMENT

To reduce the risk of spreading the COVID-19 virus in and through the workplace and protect our employees and guests, the hotel is implementing procedures for screening associates, including measuring the temperature of our associates and inquiring and observing whether our associates attempting to enter the Hotel have any symptoms of COVID-19 or related illness. These procedures are subject to change based on updated CDC, state, and local requirements.

By reporting to work and clocking in for my shift, I agree to the following:

- ✓ I have not had a fever in the past 48 hours
- ✓ I do not currently have a temperature above 100.4 F
- ✓ I do not currently have any symptoms of Covid-19, including fatigue, cough, sneezing, aches and pains, runny or stuffy nose, sore throat, diarrhea, headaches, or shortness of breath,
- ✓ I will wear the PPE provided for me at all times
- ✓ I will practice and adhere to social distancing guidelines
- ✓ I will wash or sanitize my hands often throughout the day

By signing below, I acknowledge and confirm that I have received and read the Covid-19 Screening and Temperature check Procedures, and understand this disclosure.

Signature

Date

Print Your Full Name

Exhibit 4

PLEASE ALLOW ME TO INTRODUCE MYSELF

LLOYD DOZIER
ENGINEERING MANAGER

T: 619.764.6499

C: 619.735.1997

HARD ROCK HOTEL SAN DIEGO
AVENUE
SAN DIEGO, CA 92101

LLOYD.DOZIER@HARDROCKHOTELSD.COM
HARDROCKHOTELSD.COM

Exhibit 5



Evolution Hospitality, LLC
1211 Puerta Del Sol Suite 170
San Clemente, CA 92673
972-952-0200

Pay Statement

Period Start Date 04/03/2022
Period End Date 04/16/2022
Pay Date 04/15/2022
Document 10484107
Net Pay \$943.21

Pay Details

Armando Flores	Employee Number	000518581	Pay Group	B1EVO Evolution Hosp
4091 Beta St	SSN	XXX-XX-XXXX	Location	Hard Rock Hotel San Diego
Apt A	Job	Engineer (HOA)	Property	2008 - Hard Rock Hotel San Diego
San Diego, CA 92113	Pay Rate	\$19.0000	Department	63NM - HOA-Salaries-Non-MgmI
USA	Pay Frequency	Biweekly		

Earnings

Pay Type	Week	Job	Hours	Pay Rate	Current	YTD
Meal Penalty	2	Engineer (HOA)	1.0000	\$19.0000	\$19.00	\$55.00
Overtime Base	2	Engineer (HOA)	0.2600	\$19.0000	\$4.94	\$451.88
Overtime Prem	2	Engineer (HOA)	0.2600	\$9.5000	\$2.47	\$225.94
Regular-Hourly	2	Engineer (HOA)	56.0100	\$19.0000	\$1,064.19	\$9,998.31
Report in Pay	2	Engineer (HOA)	2.0000	\$19.0000	\$38.00	\$38.00
Total Hours Worked	56.2700	Total Hours	57.2700			

Deductions

Deduction	Based On	Pre-Tax	Employee Current	Employee YTD	Employer Current	Employer YTD
No records found						

Taxes

Tax	Based On	Current	YTD
Federal Income Tax	\$1,128.60	\$67.76	\$750.92
Employee Medicare	\$1,128.60	\$16.36	\$156.15
Social Security Employee Tax	\$1,128.60	\$69.98	\$667.69
CA State Income Tax	\$1,128.60	\$18.88	\$234.72
CA Disability Employee	\$1,128.60	\$12.41	\$118.44

Paid Time Off**Net Pay Distribution**

Plan	Taken	Current	Balance	Account Number	Account Type	Amount
CA COVID SPSL	0.0000	0.0000	40.0000	Check amount		\$943.21
Sick pay	0.0000	1.8755	30.3193	Total		\$943.21

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	\$1,128.60	\$1,128.60	\$185.39	\$0.00	\$943.21
YTD	\$10,769.13	\$10,769.13	\$1,927.92	\$0.00	\$8,841.21

EVO-AF-000088

Exhibit 6



Evolution Hospitality, LLC
1211 Puerta Del Sol Suite 170
San Clemente, CA 92673
972-952-0200

Pay Statement

Period Start Date 04/03/2022
Period End Date 04/16/2022
Pay Date 04/22/2022
Document 2192417
Net Pay \$924.73

Pay Details

Armando Flores	Employee Number	000518581	Pay Group	B1EVO Evolution Hosp
4091 Beta St	SSN	XXX-XX-XXXX	Location	Hard Rock Hotel San Diego
Apt A	Job	Engineer (HOA)	Property	2008 - Hard Rock Hotel San Diego
San Diego, CA 92113	Pay Rate	\$19.0000	Department	63NM - HOA-Salaries-Non-Mgmt
USA	Pay Frequency	Biweekly		

Earnings

Pay Type	Week	Job	Hours	Pay Rate	Current	YTD
Meal Penalty	1	Engineer (HOA)	1.0000	\$19.0000	\$19.00	\$74.00
Overtime Base	1	Engineer (HOA)	0.7200	\$19.0000	\$13.68	\$465.56
Overtime Prem	1	Engineer (HOA)	0.7200	\$9.5000	\$6.84	\$232.78
Regular-Hourly	1	Engineer (HOA)	33.7500	\$19.0000	\$641.25	
Regular-Hourly	2	Engineer (HOA)	22.2700	\$19.0000	\$423.13	\$11,062.69
Report in Pay			0.0000	\$0.0000	\$0.00	\$38.00
Total Hours Worked	56.7400	Total Hours	57.7400			

Deductions

Deduction	Based On	Pre-Tax	Employee Current	Employee YTD	Employer Current	Employer YTD
No records found						

Taxes

Tax	Based On	Current	YTD
Federal Income Tax	\$1,103.90	\$64.79	\$815.71
Employee Medicare	\$1,103.90	\$16.01	\$172.16
Social Security Employee Tax	\$1,103.90	\$68.44	\$736.13
CA State Income Tax	\$1,103.90	\$17.79	\$252.51
CA Disability Employee	\$1,103.90	\$12.14	\$130.58

Paid Time Off**Net Pay Distribution**

Plan	Taken	Current	Balance	Account Number	Account Type	Amount
CA COVID SPSL	0.0000	0.0000	40.0000	xxxxxxxxxx	Debit Card	\$924.73
Sick pay	0.0000	1.8911	32.2104	Total		\$924.73

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	\$1,103.90	\$1,103.90	\$179.17	\$0.00	\$924.73
YTD	\$11,873.03	\$11,873.03	\$2,107.09	\$0.00	\$9,765.94

EVO-AF-000089

Exhibit 7

NOTICE TO EMPLOYEE OF CHANGE IN RELATIONSHIP

FOR USE WHEN ASSOCIATE IS NOT PRESENT FOR SEPARATION

Associate Name: Armando Flores Hotel Name/Location: Hard Rock Hotel San Diego

Date: 4/19/2022

Your employment status with Aimbridge Hospitality has changed for the reason checked below:

☐ Voluntary separation - Effective 4 / 18 / 22
(Date)

☒ Involuntary separation - Effective / /
(Date)

☐ Other - Effective / /
(Date)

Reasons/Comments:

Your last day of employment with Aimbridge Hospitality was 4/14/22. You will receive your final paycheck on 4/19/2022. Your final paycheck will contain wages from the dates of 4/3/2022-4/16/2022 and any paid time off owed, if applicable. Please contact your General Manager or Human Resources if you have any questions about your final paycheck. If you have an expense check that is due, a separate check will be provided.

Signature of HR Manager:



Date:

4/19/22

EMPLOYEE NOT PRESENT -

EXHIBIT 2

NOTICE OF PAGA ACTION SETTLEMENT

*Armando Flores v. Evolutional Hospitality, LLC et al., San Diego County Superior Court
Case No. 37-2022-00052523-CU-OE-CTL*

This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED AS A NON-EXEMPT EMPLOYEE IN CALIFORNIA AT THE SAN DIEGO HARD ROCK HOTEL BY DEFENDANT EVOLUTION HOSPITALITY, LLC (“DEFENDANT”) DURING THE PAGA PERIOD (OCTOBER 11, 2021 through JANUARY 9, 2024), THIS PAGA SETTLEMENT AFFECTS YOUR RIGHTS.

A settlement (the “Settlement”) has been reached in the lawsuit entitled *Armando Flores v. Evolution Hospitality, LLC et al., San Diego County Superior Court*, Case No. 37-2022-00052523-CU-OE-CTL (the “Action”), asserting claims under the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”). The purpose of this Notice is to advise you as to why you have received a portion of the Settlement proceeds. The Settlement resolves the Action.

Who is affected by this proposed Settlement?

The Court has designated, for settlement purposes only, the following persons as “Aggrieved Employees” or “PAGA Group Members”:

All non-exempt employees employed by Defendant at the San Diego Hard Rock Hotel in California at any time during the PAGA Period (the “PAGA Period” refers to the period of October 11, 2021 to January 9, 2024).

According to Defendant’s records, you are one of the Aggrieved Employees or PAGA Group members.

What is this case about?

In the Action, Plaintiff Armando Flores asserted claims that Defendant violated provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) [Lab. Code § 2699, *et seq.*].

Defendant denied all liability and was confident that it had strong legal and factual defenses to these claims, but Defendant recognized the risks, distractions, and costs associated with continued litigation.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses but did approve the Settlement. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or PAGA Group Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests PAGA Group Members. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable.

What are the Settlement terms?

Defendant will pay **\$335,000.00** (the “Gross Settlement Amount”) for: (a) payment of \$----- to the Labor and Workforce Development Agency (“LWDA”) as its 75% share of PAGA penalties;

(b) payment of \$----- to Aggrieved Employees as their 25% share of PAGA penalties, (c) payment of attorney's fees of \$--- and litigation costs of \$---; and, (d) payment of administration costs of \$----- to the Settlement Administrator. Plaintiff as a PAGA Group representative will receive a **\$12,500.00** general release payment for representing PAGA Group Members and for general release of all claims against Defendant which is not included in the Gross Settlement Amount.

By operation of the Settlement's terms, upon the approval of this Settlement by the Court and full funding of the Gross Settlement Amount, all Aggrieved Employees will release Defendant, and all other named Defendants including Aimbridge Hospitality, LLC, Evolution Hospitality Employee Services LLC, Aimbridge Employee Service Corp., and Aimbridge Parent, Inc. and all of their current and former officers, directors, employees and agents (collectively, the "Released Parties") from the PAGA claims for civil penalties based on alleged violations of California Labor Code violations of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2698, 2802, 6409.6 concerning their employment of Aggrieved Employees at the San Diego Hard Rock Hotel. The Settlement includes a release of PAGA claims that could have been sought by the State of California Labor Commissioner for the violations identified in Plaintiff's pre-filing notice letter filed with the LWDA (the "Released Claims").

All settlement checks mailed to Aggrieved Employees will remain valid and negotiable for one hundred eighty (180) calendar days from the date of the checks' issuance and shall thereafter automatically be void if not cashed within that time. After 180 calendar days, all uncashed checks shall be redistributed to those Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement. If the Court grants final approval of the Settlement, Individual PAGA Payments will be mailed to PAGA Group Members at the address that is on file with the Settlement Administrator. If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement. See below for the Settlement Administrator's contact information.

What is the Settlement Formula and My Estimated Settlement Share?

You shall receive a portion of the PAGA Penalties on a pro-rata basis. Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, Defendants will use the following formula: Settlement Payment = Aggrieved Employees' PAGA Portion × [Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period ÷ Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period].

The estimated average Individual PAGA Payment is approximately: **\$[estimated average Individual Payment]**

The estimated highest Individual PAGA Payment is approximately: **\$[estimated average Individual Payment]**

The estimated lowest Individual PAGA Payment is approximately: \$[estimated average Individual Payment]

The Settlement Payments to Aggrieved Employees are classified as other miscellaneous income and will be allocated as 100% penalties, which will be reported on IRS Form 1099-MISC, if required¹. Your share was calculated based on the number of pay periods you worked for Defendants during the PAGA Period.

According to Defendants' records from October 11, 2021 to January 9, 2024 (i.e., the PAGA Period), your estimated number of pay periods worked is [] pay periods.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [].

If you dispute the accuracy of Defendants' records as to the number of weeks you worked during the PAGA Period, you must contact the Settlement Administrator (see below) by before [] 2024. All workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all disputes will be final and binding.

There is no statutory right for PAGA Group Members to object, opt out or otherwise exclude themselves from this Settlement.

If you have questions about this notice you can contact the Settlement Administrator at:

Phoenix Settlement Administrators
1411 N. Batavia St., Suite 105
Orange, CA 92867
P.O. Box 3982
Tustin, CA 92781
www.phoenixclassaction.com
Ofc. Tel: 800-523-5773/888-613-5553/800-784-2174
Email: info@phoenixclassaction.com

If you have questions about this settlement, you may contact the lawyers in this case at:

Thomas D. Rutledge
Attorney-at-Law
16956 Via de Santa Fe, Suite 1847
Rancho Santa Fe, California 92091-4606
Telephone: (619) 886-7224
thomasrutledgelaw@gmail.com
Counsel for the Plaintiffs

¹ One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your Individual PAGA payment. Neither Plaintiff nor Defendant have made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

Boris Sorsher
Lauren Roseman
Fisher & Phillips LLP
2050 Main Street, Suite 1000
Irvine, CA 92614-8240
bsorsher@fisherphillips.com
lroseman@fisherphillips.com
Telephone: (949) 851-2424
Counsel for the Defendants

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS
SETTLEMENT.**