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December 21, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Bernita De La O v. Hospitality Team Members, Inc., et al.*

Dear PAGA Administrator:

This office represents Bernita De La O in connection with her claims under the California Labor Code. Ms. De La O was an employee of HOSPITALITY TEAM MEMBERS, INC.; MARRIOTT OWNERSHIP RESORTS, INC.; MARRIOTT RESORTS HOSPITALITY CORPORATION; and/or MARRIOTT VACATIONS WORLDWIDE CORPORATION. For the purposes of this letter, Ms. De La O collectively refers to these entities as ("MVW").

The employers may be contacted directly at the addresses below:

HOSPITALITY TEAM MEMBERS, INC.
7812 PALM PARKWAY
ORLANDO, FL 32836

MARRIOTT OWNERSHIP RESORTS, INC.
7812 PALM PARKWAY
ORLANDO, FL 32836

MARRIOTT RESORTS HOSPITALITY
CORPORATION
7812 PALM PARKWAY
ORLANDO, FL 32836

MARRIOTT VACATIONS WORLDWIDE
CORPORATION
9002 SAN MARCO COURT
ORLANDO, FL 32819

Ms. De La O intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. De La O seeks relief on behalf of herself, the State of California, and other persons who are or were employed by MVW as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

MVW employed Ms. De La O as an hourly paid, non-exempt employee from approximately May 2023 to September 2023. Ms. De La O worked for MVW as a Food & Beverage Attendant at its

Hyatt Vacation Club at Desert Oasis location in Cathedral City, California. During her employment, Ms. De La O typically worked seven (7) or more hours per day and five (5) or more days per week. Ms. De La O was compensated approximately \$16.50 per hour at the time her employment ended with MVW. Her job duties included, without limitation, taking customer orders, conducting inventory, preparing food, and serving drinks.

MVW committed one or more of the following Labor Code violations against Ms. De La O the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

MVW’s Company-Wide and Uniform Payroll and HR Practices

HOSPITALITY TEAM MEMBERS, INC. is a California corporation. MARRIOTT OWNERSHIP RESORTS, INC. and MARRIOTT VACATIONS WORLDWIDE CORPORATION are Delaware corporations. MARRIOTT RESORTS HOSPITALITY CORPORATION is a South Carolina corporation. Together they operate a global vacation company that offers vacation ownership, exchange, rental and resort property management, along with related businesses, products, and services. Upon information and belief, MVW maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Orlando, Florida, for all non-exempt, hourly paid employees working for MVW in California, including Ms. De La O and other aggrieved employees. At all relevant times, MVW issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. De La O and other aggrieved employees, regardless of their location or position.

Upon information and belief, MVW maintains a centralized Payroll department at its corporate headquarters in Orlando, Florida, which processes payroll for all non-exempt, hourly paid employees working for MVW in California, including Ms. De La O and other aggrieved employees. Further, MVW issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. De La O and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, MVW utilized the same methods and formulas when calculating wages due to Ms. De La O and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of

¹ These facts, theories, and claims are based on Ms. De La O’s experience and counsel’s review of those records currently available relating to Ms. De La O’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. De La O reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

MVW willfully failed to pay all overtime wages owed to Ms. De La O and other aggrieved employees. During the relevant time period, Ms. De La O and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, MVW had a company-wide policy and/or practice of requiring Ms. De La O and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts. For example, prior to starting her shift, MVW required Ms. De La O to assist with work assignments, such as replenishing inventory and assisting with customer orders. Additionally, four (4) times per week, after Ms. De La O clocked out from her shifts, she was required to unload deliveries, which could take up to one (1) hour off-the-clock. Thus, MVW failed to track the time Ms. De La O and other aggrieved employees spent working before or after their scheduled shifts, and Ms. De La O and other aggrieved employees received no compensation for this time.

Second, MVW had, and continues to have, a company-wide policy and/or practice of understaffing its locations, including adopting a single-staffing model for some of its positions, resulting in a failure to provide adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to guests. Because MVW did not employ or staff a sufficient number of employees to meet guest demand, there was no one available to relieve employees needing meal period coverage, and Ms. De La O and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. MVW also had a practice of failing to adhere to a schedule for meal periods, which further caused Ms. De La O and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. De La O and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads, time for which they were not paid.

Third, on information and belief, because MVW frowned upon employees accruing meal period penalties, MVW's management adjusted Ms. De La O's and other aggrieved employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that MVW would otherwise owe. In addition, MVW's company-wide timekeeping system prevented Ms. De La O and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. De La O and other aggrieved employees once they clocked out for a meal period, and did not permit them to clock back in from a meal period before 30 minutes elapsed. Thus, MVW did not record all hours worked during meal periods and Ms. De La O and other aggrieved employees performed work during meal periods for which they were not paid.

Fourth, during the relevant time period, MVW maintained and implemented a company-wide on-premises meal period policy, which required that Ms. De La O and other aggrieved employees remain on MVW's premises during their meal periods. Because Ms. De La O and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands.

Thus, MVW effectively maintained control over Ms. De La O and other aggrieved employees during meal periods.

MVW knew or should have known that as a result of these company-wide practices and/or policies, Ms. De La O and other aggrieved employees were performing assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. De La O and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. De La O and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, MVW did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, MVW paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MVW failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, MVW failed to pay all overtime wages by paying a lower overtime rate than required.

MVW's failure to pay Ms. De La O and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated, MVW had a company-wide policy and/or practice requiring Ms. De La O and other aggrieved employees to perform work-related tasks while off-the-clock prior to the start of their shifts and after their shifts, including replenishing inventory, assisting with customer orders, and unloading deliveries. MVW failed to track this time Ms. De La O and other aggrieved employees spent working off-the-clock, and Ms. De La O and other aggrieved employees received no compensation for this time.

Furthermore, as stated, due to MVW's policies and/or practices of understaffing and/or single-staffing, assigning heavy workloads, failing to adhere to a schedule for meal periods, requiring employees to stay on the work premises during meal periods, and subsequent lack of meal coverage, Ms. De La O and other aggrieved employees were forced to work through meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Moreover, as stated above, in order to prevent employees from accruing meal period penalties, upon

information and belief, MVW's management adjusted employee time records to reflect compliant meal periods, but required them to continue working, time for which they were not paid. In addition, as stated, MVW's company-wide timekeeping system prevented Ms. De La O and other aggrieved employees from entering time worked during meal periods because the system locked out Ms. De La O and other aggrieved employees for a full 30 minutes. Thus, MVW systematically failed to pay Ms. De La O and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, MVW did not pay at least minimum wages for all hours worked by Ms. De La O and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, MVW did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, MVW regularly failed to pay at least minimum wages to Ms. De La O and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, as stated, MVW had, and continues to have, company-wide policies and/or practices of understaffing and/or single-staffing its locations, which combined with heavy workloads and failure to adhere to a schedule for meal periods, has resulted in a lack of adequate meal period coverage and prevented Ms. De La O and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Ms. De La O and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, on several occasions, Ms. De La O was the only employee scheduled to work in the snack bar and had her meal periods interrupted and/or cut short in order to assist with customer orders or retrieve inventory.

Second, as stated, on information and belief, because MVW frowned upon employees accruing meal period penalties, MVW's management adjusted employee time records, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by MVW. For example, MVW's management changed Ms. De La O's time sheets to record that she had received compliant meal periods on shifts when she had not, in fact, received these timely meal periods.

Third, as stated, MVW's company-wide timekeeping system prevented Ms. De La O and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. De La O and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, Ms. De La O was unable to record when her meal periods were interrupted or cut short to assist with customer orders.

Fourth, as stated, MVW maintained and implemented a company-wide on- premises meal period policy, which required that Ms. De La O and other aggrieved employees remain on MVW's premises during their meal periods. Because Ms. De La O and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, MVW effectively maintained control over Ms. De La O and other aggrieved employees during meal periods.

Fifth, MVW did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. De La O and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, MVW knew or should have known that as a result of its company-wide policies and/or practices, Ms. De La O and other aggrieved employees were prevented from being relieved of all duties and were required to perform some of their assigned duties during meal periods. MVW further knew or should have known that it did not pay Ms. De La O and other aggrieved employees all meal period premiums when meal periods were missed, late, interrupted, and/or shortened.

Furthermore, MVW engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Ms. De La O and other aggrieved employees have not received all premium pay for missed, interrupted, late and/or shortened meal periods. Alternatively, to the extent that MVW did pay other aggrieved employees premium pay for missed, late, interrupted, and/or shortened meal periods, MVW did not pay other aggrieved employees at the correct rate of pay for premiums because MVW systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, MVW failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. De La O and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, MVW regularly failed to authorize and permit Ms. De La O and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, MVW's company-wide practices, including understaffing and/or single-staffing while assigning heavy workloads, prevented Ms. De La O and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. MVW also failed to adhere to a schedule for rest periods, which, coupled with MVW's failure to provide adequate rest period coverage, further led to Ms. De La O and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, during the relevant time period, MVW maintained a company-wide on-premises rest period policy, which mandated that Ms. De La O and other aggrieved employees remain on MVW's premises during their rest periods. Because Ms. De La O and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, MVW effectively maintained control over Ms. De La O and other aggrieved employees during rest periods.

As a result of MVW's practices and policies, Ms. De La O and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. De La O missed her rest periods three (3) times per week due to the lack of coverage. When Ms. De La O was able to take her rest periods, they were interrupted by her manager requesting that she assist with customer orders.

MVW also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. De La O and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that MVW did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, MVW did not pay other aggrieved

employees at the correct rate of pay for premiums because MVW failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, MVW failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. De La O and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. MVW has not provided Ms. De La O and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, MVW has knowingly and intentionally provided Ms. De La O and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, MVW issued uniform wage statements to Ms. De La O and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, MVW violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because MVW did not record the time Ms. De La O and other aggrieved employees spent working off-the-clock and/or deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), MVW did not list the correct amount of gross wages and net wages earned by Ms. De La O and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, MVW failed to accurately list the total number of hours worked by Ms. De La O and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

In addition, because MVW did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, MVW did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). MVW also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

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

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, MVW engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. De La O and other aggrieved employees in violation of section 1198. Furthermore, in light of MVW’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, MVW kept no records of meal start and end times for second meal periods.

Because MVW failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. De La O and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. De La O and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon

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

During the relevant time period, MVW failed to pay Ms. De La O and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

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

During the relevant time period, MVW willfully failed to pay Ms. De La O and other aggrieved employees who are no longer employed by MVW all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, vested vacation wages, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving MVW's employ.

Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 227.3 – Failure to Pay Vested Vacation Wages

California Labor Code section 227.3 provides that if a contract of employment or employer policy provides for paid vacations and an employer terminates an employee, all vested vacation shall be paid to the employee at the employee's final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled to a pro rata share of vested vacation pay. An employer may not require an employee to forfeit earned but unused vacation pay.

MVW had a company-wide policy and practice of failing to pay Ms. De La O and other aggrieved employees all vested vacation wages that were owed to them at the end of their employment, in violation of California Labor Code section 227.3. Specifically, MVW failed to properly calculate

and pay all earned vested vacation time due to the hours Ms. De La O and other aggrieved employees worked off-the-clock pursuant to its company-wide policies and/or practices.

MVW's failure to pay Ms. De La O and other aggrieved employees all vested vacation wages at the end of their employment has caused a forfeiture of vested vacation wages in violation of California Labor Code section 227.3. Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 15 – Failure to Maintain Work Temperature Providing Reasonable Comfort

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, sections 11050(15)(A) and (B) provide that “[t]he temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.” California law requires an employer to endeavor to provide a safe and healthy workplace (Cal. Code Regs. tit. 8, § 3203). Moreover, California Labor Code section 6720 required the California Division of Occupational Safety and Health (“OSHA”) to propose an indoor heat illness standard by January 1, 2019; OSHA's draft standard, as of April 22, 2019, applies its proposed regulations to “all indoor work areas where the temperature equals or exceeds 82 degrees Fahrenheit when employees are present.”

Upon information and belief, MVW violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(15), because MVW failed to maintain a temperature in work areas that provided reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed and failed to take all feasible means to reduce excessive heat or humidity to a degree providing reasonable comfort.

During the relevant time period, Ms. De La O and other aggrieved employees were subjected to excessive heat resulting in temperatures equaling or exceeding 82 degrees Fahrenheit. MVW failed to provide Ms. De La O and other aggrieved employees with reasonable comfort by maintaining the indoor temperature within the range of industry standards by providing adequate air conditioning, in violation of California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 15. For example, Ms. De La O and other aggrieved employees who worked in MVW's snack bars were not provided with consistent air conditioning or fans, as the snack bar's air conditioner frequently broke down, and would be required to work indoors at 90 degrees Fahrenheit or more. Accordingly, MVW failed to maintain, in its work areas, a temperature providing reasonable comfort for its employees, including Ms. De La O and other aggrieved employees, in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(15).

Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, MVW violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because MVW failed to pay Ms. De La O and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

MVW had a company-wide practice of sending Ms. De La O and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Ms. De La O and other aggrieved employees for half of their usual or scheduled shift. For example, approximately twice during her employment, MVW’s managers sent Ms. De La O home before she had an opportunity to work at least half of her scheduled eight (8) hour shift, but on information and belief, Ms. De La O was only paid for the time she had worked. Although Ms. De La O and other aggrieved employees would report to work based on the schedule that MVW provided to them, MVW would send them home before they had worked at least half of their usual or scheduled shifts without giving them reporting time pay.

Accordingly, Ms. De La O and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A).

Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools

and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

First, during the relevant time period, MVW required Ms. De La O and other aggrieved employees to purchase supplies necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, Ms. De La O was required to spend approximately \$75 on office supplies throughout her employment, including pens, highlighters, chalkboard markers, and calendars. Although MVW required Ms. De La O and other aggrieved employees to purchase supplies to carry out their work-related responsibilities, MVW failed to reimburse them for their out-of-pocket costs.

Second, during the relevant time period, MVW expected Ms. De La O and other aggrieved employees to report to work in clean and presentable uniforms bearing the company logo and name, including a uniform shirt, but did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, MVW only provided Ms. De La O with one (1) uniform shirt at the time of hire. Because MVW failed to provide its employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, Ms. De La O and other aggrieved employees were forced to wash their uniforms more frequently than they would otherwise do laundry and incur expenses in doing so. Thus, MVW failed to maintain uniforms they required Ms. De La O and other aggrieved employees to wear during their shifts and forced them to incur the costs of maintaining employee uniforms.

MVW could have provided Ms. De La O and other aggrieved employees with the actual equipment for use on the job, such as office supplies and an adequate number of uniform items or access to laundering services. Or MVW could have reimbursed employees for office supplies and laundering expenses or provided a uniform maintenance allowance. Instead, MVW passed these operating costs off onto Ms. De La O and other aggrieved employees. At all relevant times, Ms. De La O did not earn at least two (2) times the minimum wage.

Thus, MVW had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. De La O and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” MVW, at all relevant times, was an employer or person acting on behalf of an employer(s) who

violated Ms. De La O's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. De La O seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. De La O, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against MVW for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. De La O seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. De La O's reasonable attempt to settle her dispute with MVW prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform MVW of Ms. De La O's aforementioned grievances and the proposed remedies as detailed below, while affording MVW a reasonable opportunity to satisfy Ms. De La O's demands.

Demand is hereby made that MVW shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. MVW shall pay Ms. De La O and all other aggrieved employees employed by MVW at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. MVW shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. MVW shall conduct a survey or interview all current and former aggrieved employees in California who worked for MVW in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided, the number of rest periods which were not authorized and permitted, and the number of employees who were required to pay for office supplies, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. MVW shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. MVW also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. MVW shall pay former aggrieved employees their vested vacation wages at their final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served, as required by Labor Code section 227.3.
6. MVW shall pay accrued legal interest to Ms. De La O and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. MVW shall provide Ms. De La O and all aggrieved employees employed by MVW at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. MVW shall pay waiting time penalties, equal to 30 days of pay, to Ms. De La O and each former aggrieved employee who was not paid all wages due as described herein.
9. MVW shall maintain a temperature in work areas that provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed and take all feasible means to reduce excessive heat to a degree providing reasonable comfort, as required by California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(15).
10. MVW shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
11. MVW shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for MVW's benefit, including, but not limited to, costs of office supplies, uniform maintenance, or other expenditures, as required by Labor Code section 2802.
12. MVW shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 5-2001, section 20.

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

Jezzette Ron
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "J. Ron". The signature is stylized with a large, looped "J" and a cursive "Ron".

Jezzette Ron

Copy: HOSPITALITY TEAM MEMBERS, INC. (via U.S. Certified Mail); MARRIOTT OWNERSHIP RESORTS, INC. (via U.S. Certified Mail); MARRIOTT RESORTS HOSPITALITY CORPORATION (via U.S. Certified Mail); MARRIOTT VACATIONS WORLDWIDE CORPORATION (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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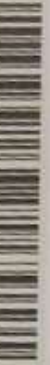
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5. Signature of Addressee (Printed Name)
6. Signature of Addressee (Printed Name)

HOSPITALITY TEAM
MEMBERS, INC.
7812 PALM PARKWAY
ORLANDO, FL 32836

PS Form 3800, April 2015 PSN 7530-02-000-9053

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA 90067



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OWNERSHIP
RESORTS, INC.
7812 PALM PARKWAY
ORLANDO, FL 32836



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PS Form 3811, July 2020 PSN 7530-02-000-9053

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☐ Addressee

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7812 PALM PARKWAY
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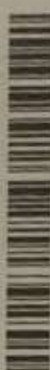
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Capstone Law, APC



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2. Article Number (Transfer from previous issue)

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