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September 18, 2024

VIA ELECTRONIC FILING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

<https://dir.tfaforms.net/266>

VIA FIRST CLASS CERTIFIED MAIL

Agent for Service:

Crestline Hotels & Resorts LLC

1505 Corporation

THE PRENTICE-HALL CORPORATION SYSTEM, INC

Koy Saechao

2710 Gateway Oaks Drive, Suite 150N4

Sacramento, CA 95833

RE: JOSE GUADALUPE HERNANDEZ V. CRESTLINE HOTELS & RESORTS LLC

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SETION
§2698 et seq.**

To the California Labor and Workforce Development Agency and Crestline Hotels & Resorts LLC, JOSE GARAY, APLC represents the interests of JOSE GUADALUPE HERNANDEZ (“Employee” or “Complainant”), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. (“PAGA”) on behalf of himself and other aggrieved employees.

CRESTLINE HOTELS & RESORTS LLC, (“Employer”) is a company that provide hotel services (hospitality) to its customers. It employs no less than 200 employees at its location and it is estimated over 1000 current and former non-exempt employees throughout California.

Mr. Guadalupe and other aggrieved employees perform the job duties of a non-exempt hourly employee in the personnel files Employer maintains. Employer has violated and continues to violate several California Labor Code provisions, which are listed below. Therefore, Employer is liable for civil penalties under PAGA. Moreover, Employer has been previously sued multiple times and willfully continues to violate the laws of California’s PAGA and Wage & Hour laws.

Theories of Labor Code Violations and Remedies

Failure to Pay Wages Pursuant to Labor Code sections 200-204, 510, 1194, 1197, 1198 and the IWC Wage Order

Employer failed to pay Mr. Guadalupe and other aggrieved employees for all hours worked at the legally mandated wage rates. Mr. Guadalupe and similarly aggrieved employees (1) performed work off-the-clock, during overtime periods and during meal periods.; (2) regularly and frequently worked beyond their scheduled eight (8) -hour shift, but Employer only compensated Mr. Guadalupe and other employees for eight (8) hours at the regular pay rate as a result of manipulating the time records; (3) required Mr. Guadalupe and other employees to perform work during their meal and rest periods, when they were ostensibly off-duty; and (4) Employer failed and/or refused to compensate Mr. Guadalupe and other aggrieved employees at a rate of overtime and/or double time for working more than eight (8) or twelve (12) hours in one day.

It was Employer's policy and procedure to only pay Mr. Guadalupe and similarly aggrieved employees for eight (8) hours on days even when the workload required them to work up to fifteen (15) hours for the day to complete. Furthermore, it was Employer's policy and procedure to require Mr. Guadalupe and other similar aggrieved employees to work during their rest breaks and meal breaks in order to complete their required job duties for the day. When Mr. Guadalupe and other similarly aggrieved employees did take a late lunch, the employer would manually manipulate their time-cards. These policies and procedures implemented by Employer, substantially caused Mr. Guadalupe and similarly aggrieved employees to suffer a violation of California Labor Code sections 200-204, 510, 558, 1194, 1197, 1198 and the IWC Wage Order.

Failure to provide meal periods

Employer failed to provide Claimant and other Aggrieved Employees with legally compliant 30-minute meal periods. Employer required Claimant and other Aggrieved Employees to work more than five (5) hours per day but did not provide uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal period after their tenth (10th) hour of work. On the occasions that Claimant and other Aggrieved Employees did take a meal period, their meal periods were frequently interrupted, cut short, and/or were "working meal periods." Moreover, Claimant and Aggrieved Employees were not credited with time on task even though they were required to be on call or on standby during meal periods in violation of Labor Code § 2103.

Employer' excessive productivity demands, policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, among other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer' management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3)

Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included responding to in-person oral interruptions; and, (7) Employer' policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on meeting production demands and/or completing job requirements over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for missed meal periods as required under California law. Accordingly, Employer violated the applicable IWC Wage Order and California Labor Code sections 226.7(a), 512(a), 1198, and 2100 - 2112.

Claimant, for herself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; California Labor Code sections 226.3, 558, 1197.1, and 1199 penalties; and attorneys' fees and costs.

Failure to provide rest periods

Employer failed to authorize and permit Claimant and other Aggrieved Employees from taking legal 10-minute rest periods. Employer required Claimant and other Aggrieved Employees to work through rest periods or to remain on call or to standby to clean rooms and communicated with them verbally or through radios or cell phones. Claimant and other Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were never completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employer' excessive productivity demands, policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete, and duty-free rest periods because, among other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer' management at various levels, affecting all hourly-non-exempt warehouse employees, failed and refused to implement and enforce legally compliant rest period policies and practices and instead aggressively pushed Aggrieved Employees to meet excessive productivity demands; (3) Employer failed to adequately inform and train managers, leads, supervisors and foreman and Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about

their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing (except to utilize staffing agencies to replace employees who failed to meet quota) to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Claimant and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, recovery periods, and meal periods, which included responding to in-person oral interruptions; and, (7) Employer' policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing productivity demands, production demands, and other job requirements over the employees' right to receive legal rest periods. Furthermore, Aggrieved Employees were adversely impacted by Employer' meal and rest period policies which discouraged them from taking legal breaks to meet Employer' productivity demands.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the missed rest periods as required under California law. Accordingly, Employer violated the applicable IWC Wage Order and California Labor Code sections 226.7(a), 1198, and 2100 *et seq.* Claimant, for herself and other Aggrieved Employees, will therefore seek PAGA default penalties pursuant to Labor Code § 2699; penalties pursuant to paragraph (20)(A) of the applicable IWC Wage Order; California Labor Code sections 226.3, 558, 1197.1, and 1199 penalties; and attorneys' fees and costs.

Failure to provide recovery periods

Employer failed to provide recovery periods when requested by Aggrieved Employees or pay premium wages when a recovery period was not provided as required by Labor Code § 226.7. Employer in fact discouraged recovery periods and pressured Aggrieved Employees to utilize meal and rest period time as recovery periods.

When employees required a cooling down period or for any reason related to wellbeing, health and safety, or heat illness prevention, they were discouraged from taking recovery periods. Employer also failed to disclose to Claimant and Aggrieved Employees of their right to recovery periods. If Aggrieved Employees complained or did not accede to Employer' unlawful policies, they were verbally reprimanded, written up negatively for performance, ranked as unproductive or ranked in low quartiles targeted for termination, terminated, and/or adversely impacted by Employer's policies.

Failure to Maintain Accurate Time Records Pursuant to Labor Code section 1174(d)

Employer did not keep accurate time records in violation of the Labor code, the applicable wage order, and actionable under PAGA. Employer failed to keep accurate time records reflecting the time Mr. Guadalupe and similarly aggrieved employees started their shift, the time they began and ended their meal periods, and the time they ended their shifts. It was Employer's policy and procedure to manipulate the time records of Mr. Guadalupe and similarly aggrieved employees to indicate on their time-cards that they were getting a lunch when in fact they were not. Therefore, Employer's policy and procedures have substantially caused Mr. Guadalupe and similarly aggrieved Employees to suffer a violation of the Labor Code sections 1174(d).

Failure to Furnish Itemized Wage Statements Pursuant to Labor Code section 226 and 1174

As a result of Employer's failure to pay all wages owed as described above, Employer further failed to keep accurate payroll records and failed to provide Mr. Guadalupe and other aggrieved employees with complete and accurate wage statements showing the true number of hours worked and accurate overtime/premium wages earned per pay period. It was Employer's policy and practice to manipulate the time records of Mr. Guadalupe and aggrieved employees, which caused their itemized wage statements to not be accurate. As such, Employer's policy and practice to not provide any itemized wage statements substantially caused Mr. Guadalupe and similarly aggrieved Employees to suffer a violation of Labor Code section 226.7, 512, 1174.

Failure to Reimburse Business Expenses Pursuant to Labor Code section 2802

Employer failed to indemnify Mr. Guadalupe and similarly aggrieved employees for all necessary expenditures or losses. Employer maintained a practice and policy to require Mr. Guadalupe and similarly aggrieved employees to use their personal cellphones for purposes of performing their work duties. As a result of Employer's policy and practice to fail to reimburse for business expenses Mr. Guadalupe and similarly aggrieved employees, suffered a violation of Labor Code section 2802.

Employer has violated a number of California wage and hour laws. Mr. Guadalupe will bring her lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,



Jose Garay, Esq
JOSE GARAY, APLC