

**THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MIGUEL ANGEL SERRANO
CASTILLO, an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

SHERATON OPERATING
CORPORATION, a Delaware
Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. **2:17-cv-07091-FMO-AS**

**AMENDED JOINT
STIPULATION AND CLASS
ACTION SETTLEMENT
AGREEMENT AND RELEASE**

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This Joint Stipulation and Class Action Settlement Agreement and Release (“Settlement Agreement”) is made and entered into between Plaintiff Miguel Angel Serrano Castillo (“Plaintiff” or “Class Representative”) on the one hand, individually and on behalf of the Class (as defined below), by and through his counsel of record, Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law (“Class Counsel”), and Defendant Sheraton Operating Corporation (“Defendant” or “Sheraton”) on the other hand, by and through their counsel of record, Seyfarth Shaw LLP, subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendant to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. Definitions.

As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

- 1.1 “Action” refers to the civil action entitled: Miguel Angel Serrano Castillo, *and individual and on behalf of other similarly situated v. Sheraton Operating Corporation, a Delaware Corporation, and Does 1 through 100, inclusive*, Case No. 2:17-cv-07091-FMO-AS in The United States District Court for the Central District of California.
- 1.2 “Class” refers to all persons who are employed or have been employed by Defendant as a non-exempt employee in California from September 26, 2016, to July 16, 2018, who based on Defendant’s available records received a paper pay summary that reflected either overtime or shift differential pay.
- 1.3 “Class Counsel” refers to the attorneys of record for the Class Representative, Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law.
- 1.4 “Class Counsel Award” refers to costs incurred and attorneys’ fees sought by Class Counsel and agreed upon

by the Parties for Class Counsel's litigation and resolution of this Action, subject to Court approval.

- 1.5 "Class Members" shall mean all individuals identified in Paragraph 1.2.
- 1.6 "Class Settlement Notice" refers to the form of direct-mail notice to Class Members substantially in the form attached hereto as **Exhibit A**, as may be modified by the Court.
- 1.7 "Class Member Payment" shall refer to the amount paid to a Settlement Class Member who does not timely submit a Request for Exclusion as set forth in Paragraph 1.27 below.
- 1.8 "Class Period" refers to September 26, 2016, through July 16, 2018.
- 1.9 "Class Representative" refers to Miguel Angel Serrano Castillo.
- 1.10 "Complaint" refers to any of the complaints filed by Plaintiff in the Action which includes the original complaint, the First Amended Complaint, and the Second Amended Complaint.
- 1.11 "Exclusion Deadline" refers to a date that is forty-five (45) calendar days after the date that the Notice Packet is initially mailed to Class Members and is the deadline by which Class Members' Requests for Exclusion must be postmarked in order to be timely.
- 1.12 "Fairness Hearing" refers to the hearing at which the Court will consider whether the terms of the Settlement Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.
- 1.13 "Final Approval Order" refers to the final order by the Court approving the Settlement following the Fairness Hearing.

- 1.14 “Final Effective Date” refers to the first day after the date by which the last of the following has occurred: (a) all conditions of settlement that can be accomplished prior to the Final Effective Date becomes in existence; (b) the Court, or other court assuming jurisdiction of this matter, has entered the Final Approval Order and Judgment; and (c) the Court’s Judgment approving the Settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari, or, (ii) if a petition for a writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.
- 1.15 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum settlement payment Defendant may be obligated to make: One Million Five Hundred Thirty-Five Thousand One Hundred Twenty-Nine Dollars and Zero Cents (**\$1,535,129.00**). This sum shall include all payments made to Settlement Class Members, the Court-approved Service Award to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel Award, and the Labor and Workforce Development Agency Payment for a release of all Private Attorneys’ General Act claims as set forth below. The GSA is non-reversionary.
- 1.16 “Judgment” refers to the final judgment by the Court approving the Settlement.
- 1.17 “Labor and Workforce Development Agency Payment” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698,

et seq., “PAGA”). The Parties have agreed that Thirty-Two Thousand Dollars (**\$32,000**) of the Gross Settlement Amount will be allocated to the resolution of any Class Members’ claims arising under PAGA. Pursuant to PAGA, 75%, or Twenty-Four Thousand Dollars (**\$24,000**), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and 25%, or Eight Thousand Dollars (**\$8,000**), of the PAGA Settlement Amount will be part of the Net Settlement Amount to be available for distribution to Settlement Class Members.

- 1.18 “Net Settlement Amount” (also referred to herein as “NSA”) shall be defined as the GSA minus the Court-approved Service Award to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel Award, and the Labor and Workforce Development Agency Payment. The NSA is the maximum amount that shall be available for distribution to and on behalf of Class Members for Class Member Payments.
- 1.19 “Notice Packet” refers to the Class Settlement Notice and Request for Exclusion Form to be sent by U.S. Mail to each Class Member by the Settlement Administrator as set forth herein in the form substantially similar attached as **Exhibits “A,” and “B,”** and subject to approval by the Court.
- 1.20 “Objection Deadline” refers to a date that is forty-five (45) calendar days after the date that the Notice Packet is initially mailed to Class Members, and is the deadline by which any objections must be filed with the Court in order to be timely.
- 1.21 “Parties” refers to Plaintiff, Miguel Castillo and Defendant Sheraton Operating Corporation collectively.
- 1.22 “Plaintiff’s Released Claims” are those claims defined in Paragraph 13.1 that are released solely by Plaintiff against Defendant and all of its former, present, or future

parents, subsidiaries, affiliates, partners, officers, governors, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals.

- 1.23 “Preliminary Approval” refers to the date the Court grants preliminary approval of the Settlement.
- 1.24 “Preliminary Approval Order” refers to the Court's Order granting Preliminary Approval of the Settlement.
- 1.25 “Released Claims” are those claims defined in Paragraph 13.3 that are released by Settlement Class Members.
- 1.26 “Released Parties” as used herein means Defendant Sheraton Operating Corporation, its parents, subsidiaries and affiliates, and all of their officers, governors, employees, owners and agents including but not limited to the affiliated company of Marriott International, Inc., and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans’ respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals.
- 1.27 “Request for Exclusion Form” refers to a written, signed request by someone who otherwise would be a member of the Class to be excluded from the Class in the form of or substantially in the form of the Request for Exclusion Form attached hereto as **Exhibit B**, as may be modified by the Court.
- 1.28 “Service Award” refers to the Court’s award of a monetary payment to the Plaintiff for his services as Class Representative as described in Paragraph 7, to be paid for from the Gross Settlement Amount, and in return for executing Plaintiff’s Released Claims as set forth in Paragraph 13.1

- 1.29 “Settlement” refers to the settlement of the Action on behalf of the Settlement Class under the terms and conditions set forth in this Settlement Agreement.
- 1.30 “Settlement Administration Costs” refers to the costs that the Parties agree to pay the Settlement Administrator, subject to Court approval, for its fees and costs to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement. The Parties anticipate that the Settlement Administration Costs will not exceed \$30,000.
- 1.31 “Settlement Administrator” refers to the third party administrator mutually selected by the parties, subject to Court approval, to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement. The Parties agree to use Phoenix Settlement Administrators subject to Court approval.
- 1.32 “Settlement Class” or “Settlement Class Member” refers to all Class Members, or individual Class Members as defined in Paragraph 1.2 who do not request exclusion from the Settlement pursuant to Paragraph 16 of this Settlement Agreement.

2. Procedural History and Recitals.

- 2.1 On or about September 26, 2017, Plaintiff filed his Complaint asserting putative class action claims against Defendant Sheraton Operating Corporation, on behalf all persons who are employed or have been employed by Defendant in the State of California within one year of the filing of the Complaint who worked on an hourly non-exempt basis.
- 2.2 On or about November 30, 2017, Plaintiff filed the operative Second Amended Complaint against Defendant on behalf all persons who are employed or have been employed by Defendant in the State of California within one year of the filing of the Complaint who worked on an

hourly non-exempt basis. The Second Amended Complaint alleges the following causes of action: (1) Violation of Labor Code § 226; and (2) Violation of Labor Code Section 2698, et seq.

- 2.3 On April 17, 2018, the Parties participated in a mediation session before mediator David Rotman, an experienced mediator who has mediated numerous wage-hour class actions. At the mediation session, the Parties reached the basic terms of a settlement, signed a binding Settlement Term Sheet/Memorandum of Understanding and agreed to prepare this formal settlement agreement, subject to Court approval.
- 2.4 Defendant denies that it is liable to Plaintiff or the Class and further denies that, for any purpose other than settling the Action, this Action is appropriate for class treatment.
- 2.5 Class Counsel represent that they have thoroughly investigated the Class Representative's claims against Defendant. Class Counsel represent that they have conducted their own investigation into the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent that they have further undertaken an extensive analysis of the legal principles applicable to the claims asserted against Defendant, and the potential defenses thereto. Both Class Representative and Defendant have had an opportunity to evaluate their respective positions on the merits of the claims asserted.
- 2.6 Class Counsel has also engaged in intensive arms length negotiations with counsel for Defendant with a view toward achieving substantial benefits for the Class while avoiding the cost, delay and uncertainty of further litigation, trial and appellate review.
- 2.7 As a consequence of said negotiations, and of Class Counsel's investigation, analysis and discovery, Plaintiff and Class Counsel determined to enter into this

Settlement Agreement on the terms and conditions hereinafter set forth, believing such Settlement to be fair, reasonable and adequate and in the best interests of Class Members. Plaintiff and Class Counsel have determined to execute this Settlement Agreement and urge approval by the Court of the proposed Settlement after considering (1) the substantial factual and legal defenses asserted by Defendant to the claims asserted in the Action; (2) the potential difficulties Plaintiff and Class Members would encounter in establishing the elements of their claims; (3) the substantial benefits that Class Members shall receive pursuant to the proposed Settlement; (4) the fact that the proposed Settlement ensures that Class Members shall receive relief in the most expeditious and efficient manner practicable, and thus much sooner than would be possible were the claims to be litigated successfully through trial and appeal; and (5) the fact that the proposed Settlement allows persons who would otherwise fall within the definition of the Class, if they so desire, to opt out of the Action and individually pursue the claims alleged in the Action.

- 2.8 As set forth above, without admitting any wrongdoing or liability, Sheraton Operating Corporation is willing to agree to the terms of the proposed Settlement provided that all of the Released Claims (as defined below) are settled and compromised, in order to fully resolve all issues relating to the subject matter of the Action.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release and dismissal of all Released Claims, Plaintiff (on behalf of himself and as the Class Representative on behalf of the Class), Class Counsel, and Defendant agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

3. Stipulation to Certification and Limitation on Effect of Settlement.

- 3.1 The Settlement shall not constitute, in this or any other proceeding, an admission of any kind by Defendant,

including without limitation, that certification of a class is appropriate or proper or that Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action. For purposes of this settlement only, the Parties stipulate to the certification of the Class under Federal Rules of Civil Procedure, Rule 23(e). In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, Defendant expressly reserves all rights to challenge certification of a class on all available grounds.

4. Establishment of the GSA.

- 4.1 This Settlement shall be made on a non-claims-made basis and will be non-reversionary. Defendant shall pay a total of no more than the GSA.
- 4.2 Payment by Defendant pursuant to this Settlement Agreement shall settle for Settlement Class Members, all Released Claims between the Released Parties and Settlement Class Members including all Class Member Payments, the Court-approved Service Awards to the Class Representative, the Court-approved Settlement Administration Costs and the Court-approved Class Counsel Award.

5. Calculation of the NSA and Distribution of Settlement Proceeds.

- 5.1 This settlement shall be a “non-claims-made” settlement. Each Settlement Class Member will be entitled to a share (for the individual Class Member Payments) of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.
 - 5.1.1 Each Settlement Class Member will be paid a portion of the NSA in accordance with the following formula:

5.1.1.1 Each Settlement Class Member's potential share of the NSA will be calculated by dividing the number of pay periods in which a paper pay summary was received by the Settlement Class Member during the Class Period that included a payment for overtime and/or shift differential wages based on Defendant's available records ("Paper Pay Summaries") by all pay periods in which Paper Pay Summaries were received by Class Members during the Class Period, multiplied by the NSA.

5.1.2 The amount distributed to Settlement Class Members in the form of Class Member Payments, plus all required withholdings will not exceed the Net Settlement Amount. If a Class Member timely and validly submits a Request for Exclusion, as set forth herein, his or her portion of the NSA for the individual Class Member's settlement amount including all required withholdings will be included in the NSA for distribution to Participating Settlement Class Members.

5.2 Payments to Class Members pursuant to this Settlement Agreement are not intended by the Parties to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA"). The parties agree that the payments are not intended to represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

6. Attorneys' Fees and Costs.

Class Counsel shall move for attorneys' fees and costs contemporaneous with the motion for the Final Approval Order requesting, and to which Defendant agrees to not oppose, an attorneys' fees award that is equal to or less than Four Hundred Thousand Dollars (**\$400,000.00**) (i.e., approximately 26% of the GSA), plus a cost award not to exceed Twenty-Five Thousand Dollars (**\$25,000.00**). Defendant retains the right to oppose a request for attorneys' fees exceeding one-third of the GSA or a request for costs in excess of \$25,000. If the Court awards a lower amount of attorneys' fees or costs requested by Plaintiff's counsel, the other terms of this Agreement shall apply. The award of attorneys' fees and costs award in the amounts sought is not a material term of this Agreement and the award of any of these items at less than requested by Class Counsel does not give rise to a basis to abrogate this Agreement. However, Class Counsel retains the right to appeal any such reductions, but such appeal will delay Defendant's obligation to make all payments set forth in this Agreement. Any unapproved amount of attorneys' fees and costs shall be allocated to the Net Settlement Amount and be apportioned to the Class Members as described in Paragraph 5 of this Agreement.

7. Service Award.

Class Counsel shall file a motion requesting a Service Award for Plaintiff to which Defendant agrees not to object, of up to Seven Thousand Five Hundred Dollars (**\$7,500.00**) from the GSA in consideration for serving as Class Representative and in exchange for Plaintiff's Released Claims. Defendant retains the right to object to a request for any Service Award in excess of this amount. Should the Court approve a Service Award in an amount less than that set forth herein, the unapproved portion or portions shall revert to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement. The award of a Service Award in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

8. PAGA Settlement Amount.

Subject to Court approval, the Parties agree that the amount of Thirty-Two Thousand Dollars (**\$32,000.00**) of the Gross Settlement Amount will be allocated to the resolution of any claims arising under PAGA. Pursuant to PAGA, 75%, or Twenty-Four Thousand Dollars (**\$24,000.00**), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and 25%, or Eight Thousand Dollars (**\$8,000**), of the PAGA settlement amount will be part of the Net Settlement Amount available for distribution to Settlement Class Members. Defendant retains the right to oppose a request for a Labor and Workforce Development Agency Payment exceeding this amount. If the Labor and Workforce Development Agency Payment approved by the Court is less than the specific amount, it does not give rise to a basis to abrogate this Settlement Agreement. Any unapproved amount of Labor and Workforce Development Agency Payment shall be allocated to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement.

9. Costs of Settlement Administration.

The Parties agree to mutually select Phoenix Settlement Administrators as the Settlement Administrator in this Action. This administration duty shall include without limitation, setting up an escrow account for funding of the Settlement, obtaining tax identification number(s) for Defendant applicable to the Settlement, calculating the Class Member Payments, performing an initial National Change of Address (“NCOA”) search upon receipt of the Class Member mailing addresses, mailing the Notice Packets, performing one skip trace on Notice Packets returned as undeliverable, establishing a hotline telephone number to communicate with Class Members about the Settlement, reviewing and processing requests for exclusion, mailing the Class Members Payments and tax forms to the Settlement Class Members, and making all required distributions. The Settlement Administrator will report payment of the individual Class Member Payments to all required taxing and other authorities, take appropriate withholdings, forward payments for withholdings and requisite reporting documentation to the applicable taxing agencies, and issue Internal Revenue Service Form 1099s. The Settlement Administrator will

establish a Qualified Settlement Fund (“QSF”), pursuant to Section 468B(g) of the Internal Revenue Service, for the purposes of administering the Settlement. Subject to Court approval, all Settlement Administration Costs shall be taken from the GSA. The Parties expect Settlement Administration Costs to not exceed Thirty Thousand Dollars (\$30,000.00). Any unapproved amount of Settlement Administration Costs shall be allocated to the NSA and apportioned to the Class Members as described in Paragraph 5 of this Settlement Agreement. The award of Settlement Administrator Costs in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

10. Payment Procedure.

- 10.1 Funding the Settlement. Within twenty (20) calendar days after the Final Effective Date, Defendant will deposit money into an account, through the Settlement Administrator, in an amount equal to the GSA, including the amounts awarded by the Court for the Class Counsel Award, Settlement Administration Costs, Service Award, the Labor and Workforce Development Agency Payment, and Class Member Payments.
- 10.2 Payments to Class Members, Class Counsel, Class Representatives, and Taxing Authorities. Within thirty (30) business days after the Final Effective Date, the Settlement Administrator will pay: (1) the NSA to the Settlement Class Members per the terms of this Settlement Agreement and the Final Approval Order; (2) the Court approved Class Counsel Award and Costs; (3) the Court approved Settlement Administration Costs; (4) the Court approved Service Award to the Class Representative; and (5) the Court approved Labor and Workforce Development Agency Payment to the proper authority.
- 10.3 Uncashed Class Payments. In the event that a Class Payment check as calculated set forth in Paragraph 5 is not negotiated within 180 calendar days from the date initially mailed by the Settlement Administrator, the

Settlement Administrator will tender those uncashed checks to the State Controller's Office, Unclaimed Property Division. In such event, the affected Class Members will be deemed to have irrevocably waived any right in or claim to an individual settlement payment, but the settlement and their release of Released Claims will remain binding upon them.

11. Tax Treatment.

- 11.1 Tax Treatment of Claimed Portion of Settlement Payments. One hundred percent shall constitute payments for penalties and interest. The payments shall be reported to the IRS pursuant to form 1099 as applicable for penalties, and interest.
- 11.2 Tax Treatment of Class Representative Enhancement Award. Plaintiff will receive an IRS Form 1099 for his individual Service Award and will be responsible for payment of any taxes owing on said amount.
- 11.3 Tax Treatment of Attorneys' Fees and Cost Award. Class Counsel will receive an IRS Form 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be responsible for payment of any taxes owing on said amount.
- 11.4 No Tax Advice. Defendant is not giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement. Each Settlement Class Member agrees to indemnify, and hold harmless Defendant from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her share of taxes, interest, fees, or penalties owed.

12. Resolution of Disputes Relating to Amounts Owed to a Class Member.

If a Class Member timely disputes the number of Paper Pay Summaries listed on the Class Settlement Notice, the Parties' counsel will make a good faith effort to resolve the dispute cooperatively. If

counsel for the Parties cannot agree, the dispute shall be submitted to the Settlement Administrator, who shall examine the records and either verify the calculation or provide a corrected calculation. If a Class Member disputes the number of Paper Pay Summaries, it will be the Class Member's responsibility to supply information confirming the error in the calculation or Defendant's records. In any event, the Settlement Administrator will make every effort to resolve any such disputes prior to final approval of this Settlement Agreement. The Settlement Administrator's determination of disputes under this Paragraph will be final.

13. Release.

In exchange for the consideration set forth in this Settlement Agreement, Plaintiff and the Class Members agree to release all claims as set forth herein as applicable.

- 13.1 Upon final approval of this Settlement Agreement, Plaintiff Miguel Angel Serrano Castillo agrees to generally release Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, governors, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals ("Released Parties") from any and from all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses and issues of any kind or nature whatsoever that Plaintiff has or may have had against any of the Released Parties through the date of execution of this Settlement Agreement ("Plaintiff's Released Claims"). Plaintiff acknowledges that he may have claims that are presently unknown and that the release of Plaintiff's Released Claims contained in this Settlement Agreement is intended to and will fully, finally, and forever discharge all claims against the Released Parties, whether now asserted or un-asserted, known or unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist, which if known, might have affected his decision to enter into this release. In making this waiver, Plaintiff agrees that, although he may discover

facts in addition to or different from those that are currently known or believed to be true with respect to Plaintiff's Released Claims, it is his intention to fully, finally, and forever settle and release any and all Plaintiff's Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such additional or different facts. The foregoing waiver includes, without limitation, an express waiver, as to Plaintiff's Released Claims, to the fullest extent permitted by law, by Plaintiff of any and all rights under California Civil Code section 1542, which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

In addition, Plaintiff expressly agrees as a condition of this Settlement that (a) he will not apply for or otherwise seek employment with Defendant or any Marriott or Starwood affiliated property; and (b) Defendant as well as any Marriott or Starwood affiliated property have no obligation to employ, hire, reinstate or otherwise engage Plaintiff in the future. Plaintiff further agrees and recognizes that if he applies for a position or is hired by Defendant or any Marriott or Starwood affiliated property in the future, this Agreement is sufficient and appropriate legal grounds for denying employment or terminating his employment and there shall be no liability for taking such action.

It is expressly understood and agreed to that Plaintiff's Released Claims relate only to Plaintiff as an individual and do not extend to any claims of any person other than Plaintiff.

13.2 Plaintiff warrants and represents that he has not assigned or, transferred, to any person or entity any of Plaintiff's Released Claims or any rights, claims, or causes of action arising out of Plaintiff's Released Claims. In addition, Plaintiff shall defend, hold harmless, and indemnify the Released Parties, or any of them, from and against any claims, damages, litigation, causes of action, and expenses, including reasonable attorneys' fees, resulting from any breach by Plaintiff of this warranty and representation, or any breach by Plaintiff of his release of Plaintiff's Released Claims.

13.3 Upon final approval of this Settlement Agreement, all Class Members who did not opt out of this Action by filing a timely, valid Request for Exclusion (i.e. Settlement Class Members) hereby release and discharge, for the time period from September 26, 2016, through the date of preliminary approval or July 16, 2018 whichever is earlier, Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals, and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals (collectively, the "Released Parties) from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, that were or could have been brought based on the facts or claims alleged or litigated in the Second Amended Complaint filed in this Action. The claims released by the Settlement Class Members include, but are not limited to, statutory, constitutional, contractual or common law claims for damages, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, arising

out of or based upon the following categories of allegations regardless of the forum in which they may be brought, to the fullest extent such claims are releasable by law: (a) any and all claims for failure to provide accurate wage statements pursuant to Labor Code § 226, and (b) all other civil and statutory penalties, including those recoverable under the Private Attorneys General Act, Labor Code Section 2698 et seq. based on the facts or claims alleged in the Second Amended Complaint (“Released Claims”). The Released Claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation any provision of the California Labor Code based on the facts or claims alleged in the Second Amended Complaint in the action; and any provision of the applicable California Industrial Welfare Commission Wage Orders based on the facts or claims alleged or litigated in the Second Amended Complaint in the Action.

- 13.4 Prohibition on Subsequent Assertion of Released Claims. Plaintiff, to the fullest extent allowed by law, is prohibited from asserting a Plaintiff’s Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on Plaintiff’s Released Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process. Settlement Class Members, to the fullest extent allowed by law, are prohibited from asserting a Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on Released Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process.

14. Class Settlement Notice and Claims Administration.

- 14.1 Engagement of Settlement Administrator. The Parties agree to Phoenix Settlement Administrators as the

Settlement Administrator to perform the notice and other settlement claims administration functions set forth below.

14.1.1 The Settlement Administrator shall provide Defendant's counsel and Class Counsel with weekly summary reports, including the total number of Class Settlement Notices that were returned as undeliverable, the total number of objections and Requests for Exclusion, if any. The Settlement Administrator shall maintain records of its work, which shall be available for inspection upon request by Defendant's counsel or Class Counsel.

14.2 Identification of Class Members.

14.2.1 Within **Five (5) calendar days** of the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the following information:

- (1) the names, employment identification number, last known addresses, last known telephone numbers, and social security numbers of each Class Member; and
- (2) data showing the number of Paper Pay Summaries each Settlement Class member Received During the Class Period.

14.2.2 Upon its receipt of the list of names and last known addresses of each Class Member, the Settlement Administrator shall access the NCOA Database, and update the addresses maintained by Defendant.

14.2.3 The Settlement Administrator shall provide the Notice Packet by first class mail, forwarding requested, to the Class Members at the addresses identified through the process described above. This mailing shall occur no later than twenty-five

(25) calendar days after the entry of the Preliminary Approval Order.

14.2.4 As to any Notice Packets that are returned as undeliverable within twenty (20) calendar days after the date of the initial mailing or where the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the Settlement Administrator shall perform one skip-trace procedure. Such skip-trace procedure shall be performed within two (2) business days of the date on which the Settlement Administrator is informed that a Notice Packet is undeliverable. If this procedure reveals a new address, the Settlement Administrator shall within five (5) business days thereafter re-mail the Notice Packet to the new address.

14.2.5 If Defendant and the Settlement Administrator determine, based upon further review of available data, that a person previously identified as being a Class Member should not be so included or identify a person who should have been included as a Class Member but was not so included, Defendant and the Settlement Administrator shall promptly delete or add such person as appropriate and immediately notify Class Counsel prior to such deletions or additions (and the reasons therefore).

14.2.6 Other than the obligations set forth in this Settlement Agreement, Defendant shall have no additional obligation to identify or locate any Class Member or have any liability in connection with the provision of information to the Settlement Administrator or otherwise.

14.3 Class Settlement Notice and Notification of Number of Paper Pay Summaries.

14.3.1 Class Settlement Notice for Persons Identified as Class Members. The Class Settlement Notice shall be a pre-printed notice, in substantially the form attached hereto as Exhibit A and to be approved by the Court. In addition to other information contained on the Class Settlement Notice, the Class Settlement Notice shall state the number of Paper Pay Summaries that the Class Member received during the Class Period, according to available Defendant's records and each Class Member's estimated settlement payment. The Class Settlement Notice also shall include an explanation of the pro rata distribution formula.

14.3.1.1 The Class Settlement Notice shall state that, if the Class Member disagrees with the number of Paper Pay Summaries, the Class Member must set forth the information that he or she believes is correct, explain the basis for such belief, and submit written documentation to support his or her claim. Failure to submit written documentation to support such dispute will mean that Defendant's numbers from its records will be controlling.

15. **Objections to the Settlement.**

Any Class Member who does not submit a valid and timely Request for Exclusion (i.e. a Settlement Class Member) may object to the proposed Settlement Agreement. The Class Notice will provide that Class Members who wish to object to the Settlement must file with the Court not later than **forty five (45) calendar days** after the date the Settlement Administrator initially mails the Notice Packet to the Class Members ("Objection Deadline"), an objection and any supporting papers objecting to the Settlement. The statement will indicate whether the Class Member intends to appear and object to the Settlement at the hearing for the Final Approval Order; the failure to

so indicate will constitute a waiver of the right to appear at the hearing. A Class Member who does not file and serve an objection in the manner and by the deadline specified in the Class Settlement Notice will be deemed to have waived all objections and will be foreclosed from making any objections to the Settlement, whether by appeal or otherwise.

16. Right to Request Exclusion.

- 16.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request for Exclusion from the Settlement to the Settlement Administrator that is signed and completed and is substantially in the form attached hereto as Exhibit B and to be approved by the Court. To be timely, all such Requests for Exclusion must be postmarked no later than **forty five (45) calendar days** after the date the Settlement Administrator initially mails the Notice Packet to the Class Members. Class Members requesting exclusion must ensure their Request for Exclusion contains their full and correct name and current address. The Settlement Administrator shall send all Requests for Exclusion to Defendant's counsel and Class Counsel not later than one (1) business day after receipt of said Request for Exclusion. A Class Member who fails to comply with the opt-out procedure set forth in the Class Settlement Notice and on the Request for Exclusion Form on or before the Exclusion Deadline, as set by the Court, shall not be excluded and shall instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.
- 16.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and Request for Exclusion Form: (1) shall not have any rights under the Settlement Agreement; (2) shall not be entitled to receive any compensation under the Settlement Agreement; (3) shall not have standing to submit any objection to the Settlement Agreement; and (4) shall not be bound by the Settlement Agreement.

16.3 Except for persons who elect to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and request for Exclusion Form, all Class Members, shall be deemed to be within the Class for all purposes under this Settlement Agreement, shall be bound by the terms and conditions of this Settlement Agreement (including the release provisions in Paragraph 13.3), including all orders issued pursuant thereto, and shall be deemed to have waived all unstated objections and unstated opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.

16.4 If the Settlement Agreement is given final approval and the Final Effective Date occurs, it shall operate as a full, complete, and final release of all Plaintiff's Released Claims, and all Released Claims of Settlement Class Members and as an effective covenant not to sue.

17. Payment of Settlement Proceeds.

17.1 Payments to the Settlement Class Members. As provided in Paragraph 5, payments to Settlement Class Members shall commence thirty business days after the Final Effective Date. However, the deadlines for the provision of Class Member Payments to particular Settlement Class Members may be extended to provide for the resolution of any disputes regarding the validity or amount of any claims.

18. Application for Preliminary Approval Order.

After the Parties' execution of this Agreement, Plaintiff shall file for preliminary approval of the proposed Settlement, requesting a Preliminary Approval Order that contains the following provisions:

- (1) preliminarily approving the Settlement Agreement and its terms;
- (2) approving the form of the Class Settlement Notice, and Request for Exclusion Form, and finding that the proposed method of disseminating the Class Settlement

Notice meets the requirements of due process and is the best notice practicable under the circumstances;

- (3) establishing the procedures and the deadline by which Class Members may assert objections to the certification of the Class and/or to the Settlement;
- (4) establishing a deadline to submit papers/briefing in response to any objections and for Plaintiff to submit papers/briefing in support of final approval of the Settlement Agreement including the Service Award for the Class Representative and the Class Counsel Award;
- (5) establishing procedures and the deadline by which individuals may exclude themselves from the Action;
- (6) appointing Class Counsel, the Settlement Administrator, and the Class Representative; and
- (7) setting a date for the Fairness Hearing.

The Settlement Agreement will be submitted to the California Labor & Workforce Development Agency at the same time that it is submitted to the Court for preliminary approval. Counsel for Defendant will be given an opportunity to comment on said motion prior to filing, and such comments shall be implemented to the extent they are deemed reasonable by Plaintiff and Class Counsel.

19. Final Approval Order and Judgment.

If the Settlement shall be finally approved by the Court following the Fairness Hearing, the Parties hereto shall jointly request that the Court enter a Final Approval Order and Judgment, which includes the following provisions:

- (1) confirming certification of the Settlement Class for settlement purposes;
- (2) finding that the dissemination of the Class Notice, Request for Exclusion Form, in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process; and

- (3) finally approving the Settlement Agreement and the Settlement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

The Judgment shall include the following provisions:

- (1) directing the Parties to implement the terms of the Settlement Agreement;
- (2) releasing and discharging the Released Parties from any and all liability with respect to the Plaintiff's Released Claims as hereinabove provided;
- (3) releasing and discharging the Released Parties from any and all liability with respect to the Released Claims as hereinabove provided;
- (4) resolving and settling all of Plaintiff's Released Claims as hereinabove provided, with the release precluding them from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of themselves, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Parties that asserts any claims that are Plaintiff's Released Claims under the terms of the Settlement;
- (5) resolving and settling all the Released Claims by all Settlement Class Members as hereinabove provided, with the release precluding them from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Party that asserts any claims that are Released Claims under the terms of the

Settlement; and providing that any person who violates the terms of the release by further asserting any of the Released Claims against any of the Released Parties shall pay the costs and attorneys' fees incurred by any Released Party as a result of the violation if Defendant has provided written notification to that person or their designated representative of the bar against asserting any of the Released Claims and the Released Party is the prevailing party in an action brought by the person for the asserted barred Released Claim;

- (6) awarding the Service Award to the Class Representative as determined by the Court;
- (7) approving payments to the LWDA; and
- (8) reserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement and enforcement of the Judgment.

20. Effect of Settlement Not Being Final.

In the event that the Settlement does not become Final then the Settlement Agreement shall become null and void, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all Parties hereto, and all Parties and their respective predecessors and successors shall be deemed to have reverted to their respective positions in the Action as of the date and time immediately prior to the execution of this Settlement Agreement, and except as otherwise expressly provided herein. If the Court does not approve either preliminarily or finally any material term or condition of the Settlement Agreement, or if the Court effects a material change to the Parties' settlement, then this entire Settlement Agreement will be, at the Parties' discretion, voidable and unenforceable.

21. Tolerance of Requests for Exclusion And Scope Of Class.

Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement within fifteen (15) calendar days

after expiration of the Exclusion Deadline, if more than 5% of Class Members or Class Members whose collective shares of the NSA exceed 5% of the NSA choose to validly and timely Request Exclusion from this Settlement. In addition, based on current data available to Defendant, the number of Class Members is estimated at approximately 4,651 individuals. It is also estimated that Class Members received approximately 87,678 Paper Pay Summaries during the Class Period. The parties agree to cap the number of Class Members and Paper Pay Summaries at the numbers set forth in this paragraph. Should either Party withdraw, the withdrawing party shall be responsible for all Settlement Administration Costs incurred.

22. No Admissions.

The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement or any conduct or written or oral statements made in connection with this Settlement and this Settlement Agreement, whether or not the Settlement is finally approved and/or consummated, may be offered as or construed to be an admission or concession of any kind by Defendant, or any of the Class Members, Released Parties, or Plaintiff.

23. Avoidance of Undue Publicity.

The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the settlement. If counsel for either party receives an inquiry about the settlement from the media, counsel may respond only after the motion for preliminary approval has been filed and only by confirming the accurate terms of the settlement. Class Counsel agrees not to publicize this settlement in its website and any social media outlets. Nothing in this provision shall prevent Defendant from making any required disclosure or Class Counsel from referencing the Settlement in adequacy filings.

24. Extensions of Time.

Without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

25. Construction.

This Settlement Agreement was entered into after substantial good faith, arms-length negotiations between the Parties' counsel. This Settlement Agreement has been entered into without any coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it shall not be deemed to have been prepared or drafted by one party or another.

26. Due Authority of Attorneys.

Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto warrants and represents that he or she has been duly authorized and empowered to execute this Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof.

27. Entire Agreement.

This Settlement Agreement (including all Exhibits hereto) sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties which are not embodied or incorporated by reference herein.

28. Modification or Amendment.

This Settlement Agreement may not be modified or amended except in a writing signed by all signatories hereto or their successors in interest.

29. Successors.

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine or consolidate.

30. Counterparts.

This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

31. Waivers.

The waiver by any Party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

32. Governing Law.

This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California.

33. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and shall not be given weight in its construction.

34. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than notice to the Class or Class Members, shall be in writing and mailed as follows: (1) to Class Representatives, the Class, and Class Counsel to the attention of Larry W. Lee, Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 488-6555; and (2) to Defendant and counsel for Defendant, to the attention of Brian P. Long, Seyfarth Shaw LLP, 601


S. Figueroa St., Suite 3300, Los Angeles, California 90017, (213) 270-9675.

35. Dispute Resolution.


Any disputes arising out of or relating to the Settlement Agreement or the Settlement Term Sheet executed on April 17, 2018 will be submitted to David Rotman, Esq. for mediation. The Parties will split the costs of the mediator and all Parties will bear their own attorneys' fees and other costs incurred.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:


Dated: April 4, 2019

By: 
Miguel Angel Serrano Castillo
On behalf of himself, and the Class


DIVERSITY LAW GROUP, P.C.

Dated: April 5, 2019 By: 
Larry W. Lee
Attorneys for Plaintiff and the Class


LAW OFFICES OF CHOI & ASSOCIATES

Dated: April 5, 2019 By: 
Edward W. Choi
Attorneys for Plaintiff and the Class

DAVID LEE LAW

Dated: April 5, 2019 By: 
David Lee
Attorneys for Plaintiff and the Class

SHERATON OPERATING CORPORATION

Dated: April 5, 2019 By: 
Its Vice President & General Counsel

SEYFARTH SHAW LLP


Dated: April 5, 2019 By: 
William Dritsas Brian Long
Attorneys for Defendant

EXHIBIT A

NOTICE OF SETTLEMENT OF CLASS ACTION AND SETTLEMENT HEARING

Miguel Angel Serrano v. Sheraton Operating Corporation
United States District Court for the Central District of California
Case No. 2:17-cv-07091-FMO-AS

To: All persons who were employed within the State of California by Sheraton Operating Corporation (“Sheraton” or “Defendant”) as an hourly non-exempt employee during all or part of the time between September 27, 2016 and **INSERT DATE** who received a paper pay summary that reflected either overtime or shift differential pay (the “Class”):

THIS NOTICE is of a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on **INSERT DATE** to address whether the proposed settlement should be approved (“Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

[IDENTIFYING INFORMATION]

You have been identified as a Class member in the above lawsuit. Under the terms of the proposed settlement you are eligible to receive a share of the Net Settlement Amount should the Court grant the settlement in full. Your share of the Net Settlement Amount is based on Sheraton's records that show you were employed by Sheraton in the State of California as a non-exempt employee between September 26, 2016 and **INSERT DATE**, 2018, and received **_____** paper pay summaries that reflected either overtime wages or shift differential wages. Based thereon, your estimated share of the settlement is approximately \$ **_____**.

If you dispute the total number of paper pay summaries you received during this period that contained either overtime or shift differential wages, set forth above, you must set forth the information that you believe is correct, and submit written documentation to [Settlement Administrator] not later than **INSERT DEADLINE**. Your eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE SECTION VIII FOR MORE DETAILS)	
DO NOTHING	Receive a settlement payment and give up your right to sue on the Released Claims described in Section IV. This settlement does not require a claims process to receive a payment. Therefore, there is <u>no</u> claim form for you to complete should you wish to receive payment.
EXCLUDE YOURSELF	You may “opt-out” of any connection with this case including any right to a settlement payment. If you choose to opt-out, you must complete and return the enclosed Request for Exclusion Form by INSERT DEADLINE . All persons who validly and timely opt-out of the Settlement will not receive any settlement payment and will preserve Released Claims described in Section IV subject to applicable statute of limitations.
OBJECT	Write to the Court about why you do not like the Settlement by submitting an objection by INSERT DEADLINE .
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.

I. Why should I read this Notice?

The parties have proposed to settle this class action lawsuit. You are a member of the Class. If the Court approves the proposed Settlement, your legal rights may be affected. This Notice, which has been approved by the Court, is only a summary. A more detailed Settlement Agreement contains the complete terms of the Settlement, and is on file with the Court, where it is available for your review. See Section X for further information.

II. What is this lawsuit about?

A lawsuit entitled *Miguel Angel Serrano v. Sheraton Operating Corporation* is now pending in the United States District Court for the Central District of California, Case No. 2:17-cv-07091-FMO-AS. Plaintiff Miguel Castillo ("Plaintiff" or "Class Representative") has alleged claims against Sheraton under the California Labor Code. Plaintiff brought this Lawsuit as a class action and PAGA enforcement action on behalf of himself and other similarly situated Sheraton employees, and is claiming that Sheraton owes penalties to current and former non-exempt employees in California who received paper pay summaries in addition to electronic wage statements. In summary, Plaintiff alleges that Sheraton did not provide accurate wage statements provided to employees who received paper pay summaries who also received overtime and shift differential wages. Plaintiff's Second Amended Complaint alleges the following causes of action: (1) Violation of Labor Code § 226; and (2) Violation of Labor Code § 2698 et seq. Plaintiff seeks a monetary recovery on behalf of the Class for the alleged violations, along with interest, costs and fees.

Sheraton contends that it has complied with all laws and denies the allegations Plaintiff is asserting in this Lawsuit. The Court has not formed any opinions concerning the merits of the Lawsuit, and the Court has not ruled for or against Plaintiff as to the merits of any of their individual or class or PAGA enforcement claims. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable and that any final determination of those issues will be made at the final fairness hearing. You will not be retaliated against by Sheraton for electing to participate or not participate in the settlement.

III. Who is covered by the class action lawsuit and the proposed Settlement?

A. The Class. On **INSERT DATE**, the Court granted preliminary approval of the Settlement and authorized this notice. The Court defined the "Class" as including all persons who were employed within the State of California by Sheraton as a non-exempt employee during all or part of the time between September 26, 2016 and **INSERT DATE**, and who based on Sheraton's available records received a paper pay summary in addition to an electronic wage statement and who had either overtime or shift differential pay reflected on their paper pay summary.

B. The Effect of Membership in the Class. If you come within the definition of the Class, you are a Settlement Class Member unless you exclude yourself from ("opt out of") the Class by following the procedures for exclusion that are set forth in this Notice. Settlement Class Members are eligible to receive the benefits created by the proposed Settlement including a settlement payment based on their pro-rata share of the Net Settlement Amount and will be bound by the Settlement if it is approved by the Court. Persons who exclude themselves from the Class will not be bound by the Settlement and will not share in the Settlement proceeds but may pursue their own timely individual claims against Sheraton subject to applicable statute of limitations.

IV. What are the terms of the Settlement?

The proposed Settlement was negotiated with Defendant by the attorneys for the Class ("Class Counsel"). Class Counsel believes that this Settlement is in the best interest of the members of the Settlement Class. As part of the proposed Settlement, Defendant and Class Counsel have agreed to the following:

Monetary Amounts Under the Settlement

- Defendant shall provide the members of the Settlement Class, on a non-claims-made basis, monetary compensation in the maximum total amount of \$1,535,129.00 (the "Gross Settlement Amount" or "GSA"), less amounts awarded

by the Court for attorneys' fees and costs, settlement administration costs, service award to the Class Representative, and payments made to the California Labor and Workforce Development Agency("LWDA") for penalties under the PAGA (the "Net Settlement Amount" or "NSA"). Assuming the Court approves the maximum amounts sought to be deducted from the GSA, the NSA is estimated to be \$**INSERT AMOUNT**.

- The Settlement Administrator will calculate individual Class Members' pro-rata share of the NSA for their individual settlement payment. Each Class Member's proportional share will be determined by dividing the number of paper pay summaries received by the Settlement Class Member during the Class Period that included a payment for overtime and/or shift differential wages based on Sheraton's available records ("Paper Pay Summaries") by all Paper Pay Summaries received by Class Members between September 26, 2016 and INSERT DATE, multiplied by the NSA. The number of Paper Pay Summaries that Sheraton's records shows you worked is listed on the first page of this notice.
- Defendant, through the Settlement Administrator, shall pay the amounts awarded by the Court for attorneys' fees and costs, settlement administration expenses, service award to the Class Representative, payment to the California LWDA for PAGA penalties, employer side payroll taxes, and the amounts owed to the Settlement Class Members, within thirty (30) business days after the Final Effective Date of the Settlement Agreement. The Final Effective Date is defined as follows: the first day after the date by which the last of the following has occurred: (a) all conditions of settlement that can be accomplished prior to the Final Effective Date becomes in existence; (b) the Court, or other court assuming jurisdiction of this matter, has entered an Order granting final approval to the Settlement and a Judgment in the action and (b) the Court's Judgment approving the Settlement becomes Final. "Final" shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari, or, (ii) if a petition for a writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

Contemporaneous with requesting the Court approve in final the proposed Settlement, Class Counsel will apply to the Court for approval of all amounts sought in the Settlement as follows: (i) all payments to Settlement Class Members and applicable employer payroll tax payments; (ii) settlement administration costs which are estimated to not exceed \$30,000.00 for services associated with administering the settlement; (iii) a payment of \$24,000.00 to the LWDA for settlement of the PAGA claims brought in this case; (iv) a \$7,500.00 service award to the Class Representative for his service to the Class and his general release of claims; (v) and an award of attorneys' fees in the amount of \$400,000.00 (equivalent to approximately 26% of total Gross Settlement Amount) and an award of costs up to \$25,000.00 for fees and costs that have remained unpaid to date.

Release

- Upon the Court's final approval of the Settlement, a judgment will be entered fully and finally settling the action as to Plaintiff and all Settlement Class Members.
- As a result of the Settlement and Judgment to be entered, all Settlement Class Members hereby release and discharge, for the time period from September 16, 2016 through **July 16, 2018**, Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals, and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals (collectively, the "Released Parties") from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, that were or could have been brought based on the facts or claims alleged or litigated in the Second Amended Complaint filed in this Action. The claims released by the Settlement Class Members include, but are not limited to, statutory, constitutional, contractual or common law claims for damages, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, arising out of or based upon the following categories of allegations regardless of the forum in which they may be brought, to the fullest extent such claims are releasable by law: (a) any and all claims for failure to provide accurate wage statements pursuant to Labor Code § 226, and (b) all other civil and statutory penalties, including those recoverable under the Private Attorneys General Act, Labor Code Section 2698 et seq. based on the facts or claims alleged in the Second Amended Complaint ("Released Claims"). The Released Claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation any provision of the California Labor Code based on the facts or claims alleged in the Second Amended Complaint in the action; and any provision of the applicable California Industrial Welfare Commission Wage Orders based on the facts or claims alleged or litigated in the Second Amended Complaint in the Action. Additionally, the Parties agree that they do not intend payments under this Settlement Agreement to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, and thus the release of those plans under this Settlement Agreement is appropriate.
- **If you do NOT exclude yourself from the Class by following the procedures set forth in this Notice and the Court approves the proposed Settlement, you will be deemed to have entered into the release of Released Claims in the Settlement Agreement.**

V. How do I receive a payment?

Any Class Member who wishes to be considered for any payment under this Settlement does not need to do anything. If you do not elect to exclude yourself from the Settlement and are deemed an eligible Class member, you will receive a payment should the Settlement become Final. If you are a member of the Class and you move or change your address, and you want to receive your settlement benefits at your new address, you must send a notice of your change of address to **INSERT SETTLEMENT ADMINISTRATOR INFORMATION** or contact the Settlement Administrator by phone at _____.

VI. Who represents the Class?

The Court has designated Plaintiff Miguel Castillo to serve as Class Representative in this lawsuit. The law firms that serve as Class Counsel are Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law. Class Counsel can be reached as follows:

Larry W. Lee, Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 488-6555; Edward Choi, Law Offices of Choi & Associates, 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 381-1515; David Lee, David Lee Law, 515 S. Flower Street, Suite 3600, Los Angeles, CA 90071, (213) 236-3536.

VII. What are the reasons for the Settlement?

Class Counsel agreed to enter into this proposed Settlement after weighing the risks and benefits to the Class of this Settlement compared with those of continuing the litigation. The factors that Class Counsel considered included the uncertainty and delay associated with continued litigation, a trial and appeals, and the uncertainty of particular legal issues that have yet to be determined. Class Counsel balanced these and other substantial risks in determining that the proposed Settlement is fair, reasonable, and adequate in light of all circumstances and in the best interests of Class Members.

Defendant agreed to this proposed Settlement in order to avoid the expense and distraction associated with lengthy litigation, and to allow it to focus on continuing to provide quality service to its guests.

VIII. What are my rights and options?

A. First, you may remain a member of the Class, represented by Class Counsel, and take no further action. If you take no further action as a Class Member, you will be represented by Class Counsel but will have the right to receive your share of the Settlement proceeds. If the Settlement is approved by the Court, you will be bound by the terms of the Settlement which will result in a release of the Released Claims.

B. Second, you may remain a member of the Class but elect to hire your own attorney to represent you. If you do not wish to be represented by Class Counsel, you may hire your own attorney. Your attorney must send a Notice of Appearance to the Settlement Administrator at the address listed in Section V, so that it is **postmarked** on or before **INSERT DATE**. Even though your own attorney represents you, you will continue to be a Class Member. You will be responsible for any attorneys' fees and costs charged by your attorney.

C. Third, you may exclude yourself from the Class. If you are a member of the Class but do not want to remain in the Class, you may exclude yourself ("opt out"). If you exclude yourself from the Class, you will lose any right to participate in the Settlement including any right to receive a settlement payment. You will also lose the right to have objections you might have to the Settlement considered by the Court before it rules on the Settlement. You will be free to pursue any claims you may have against Defendant on your own behalf subject to applicable statute of limitations, but Class Counsel will not represent you. In order to exclude yourself from the Class, you must complete and sign the accompanying Request for Exclusion Form. Requests for Exclusion must be sent to the Settlement Administrator at the address listed in Section V, **postmarked** on or before **INSERT DATE**. **If you do not comply with these procedures and the deadline for exclusions, you will lose any opportunity to exclude yourself from the Class, and your rights will be determined in this lawsuit by the Settlement Agreement if it is approved by the Court and you may not recover under any other individual settlement agreement regarding the claims released through the Settlement.**

D. Fourth, you may remain a member of the Class, and on your own behalf, or through your own attorney, object to the certification of the Class, to the Settlement, to the Application for Attorneys' Fees and Costs, and/or to the Application for Service Award. If you do not exclude yourself from the Class, you may object to the certification of the Class, to the terms of the proposed Settlement, and/or to the applications for attorneys' fees, costs, and service award. To do so, you or your own attorney must file a written objection, and include any and all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) that you would like the Court to consider. If you wish to appear at the Final Approval Hearing and be heard orally in support of, or in opposition to the Settlement, you must state so in the objection. The objection and any accompanying evidence and papers must be filed with the Court at **INSERT COURT INFORMATION** not later than **INSERT DATE**. **If you do not comply with these procedures and the deadline for objections, you will lose any opportunity to have your objection considered at the Final Approval Hearing or otherwise to contest the approval of the Settlement or to appeal from any orders or judgments entered by the Court in connection with the proposed Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement.**

IX. When is the court hearing and what is it for?

On **INSERT FINAL APPROVAL HEARING DATE**, the Court will hold a public hearing in Courtroom 6D of the United States District Court for the Central District of California, 350 W. 1st Street, 6th Floor, Los Angeles, CA 90012, for the

purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff's request for service award. This hearing may be continued or rescheduled by the Court without further notice. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing. If you want to be heard orally in support of or in opposition to the Settlement, either personally or through counsel, you must indicate your intention to appear at the Final Approval Hearing in writing as detailed above.

X. Where can I get more information?

If you have questions about this Notice, the enclosed Request for Exclusion Form, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Settlement Administrator (contact information listed in Section V), for more information or to request that a copy of this Notice and Request for Exclusion Form be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them – contact information noted above in Section VI. You may also seek advice and guidance from your own private attorney at your own expense, if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement (attached to the Declaration of _____ in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement filed on **INSERT DATE**), containing the complete terms of the proposed Settlement <http://www.choiandassociates.com/>

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR DEFENDANT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

EXHIBIT B

REQUEST FOR EXCLUSION FORM

Miguel Angel Serrano v. Sheraton Operating Corporation

United States District Court for the Central District of California

Case No. 2:17-cv-07091-FMO-AS

TO EXCLUDE YOURSELF FROM THE SETTLEMENT YOU MUST SIGN AND RETURN THIS FORM, POSTMARKED ON OR BEFORE INSERT DATE, 2018, TO: INSERT SETTLEMENT ADMINISTRATOR INFORMATION.

IDENTIFYING INFORMATION

Please verify and/or complete any missing identifying information:

[NAME] Former Names (if any):

[ADDRESS LINE 1] _____

[ADDRESS LINE 2] _____

THIS FORM IS TO BE USED ONLY IF YOU DO NOT WANT TO PARTICIPATE IN THE PROPOSED SETTLEMENT. IF YOU WANT TO RECEIVE A SETTLEMENT PAYMENT DO NOT SUBMIT THIS FORM.

[] By checking the box to the left, and signing and completing the below, I agree to the following:

I do not want to participate in the settlement in *Miguel Angel Serrano v. Sheraton Operating Corporation*, Case No. 2:17-cv-07091-FMO-AS. I understand by not participating and excluding myself from the settlement, that I will not receive any money from the settlement.

Executed on _____, 2019.

(Signature)

**[Printed name to be inserted prior to mailing by Settlement
Administrator.]**