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**FILED**  
Superior Court of California  
County of Los Angeles

AUG 11 2017

Sherri R. Carter, Executive Officer/Clerk  
By Jenny D. Truong Deputy

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Attorneys for Plaintiff IRMA REYES,  
individually and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

IRMA REYES, individually and on behalf of  
all others similarly situated,

Plaintiff,

vs.

B.W. HOTEL, LLC, d/b/a Beverly Wilshire,  
a Four Seasons Hotel, a Delaware limited  
liability company; ACE SPECIALTY  
MAINTENANCE, INC., d/b/a GNS Costal  
Services, Inc., a California corporation; and  
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **BC 671842**

[CLASS ACTION]

COMPLAINT FOR:

1. UNPAID WAGES (LABOR CODE §§ 216 and 1194);
2. FAILURE TO PAY MINIMUM WAGE (LABOR CODE §1194 et seq.);
3. FAILURE TO PAY OVERTIME COMPENSATION (LABOR CODE §510)
4. FAILURE TO FURNISH ACCURATE WAGE AND HOUR STATEMENTS (LABOR CODE § 226);
5. WAITING TIME PENALTIES (LABOR CODE §§ 201-203);
6. FAILURE TO PROVIDE MEAL & REST PERIODS (LABOR CODE 226.7 and 512);
7. INDEMNIFICATION (LABOR CODE §§ 2800 and 2802); and
8. UNFAIR COMPETITION (BUSINESS AND PROFESSIONS CODE § 17200, et seq.)

**JURY TRIAL DEMANDED**

RECEIVED  
DATE PAID: 08/14/17  
AMOUNT: \$1,425.00  
CIT. CASE: BC671842  
LH/DFM:1

16:15:54 2017-08-11  
CLASS ACTION COMPLAINT

1 Plaintiff IRMA REYES (“Plaintiff”), individually and on behalf of all similarly situated  
2 individuals, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 1. This is a proposed class action brought against Defendants B.W. HOTEL, LLC,  
5 d/b/a Beverly Wilshire, a Four Seasons Hotel, a Delaware limited liability company; ACE  
6 SPECIALTY MAINTENANCE, INC., d/b/a GNS Costal Services, Inc., and DOES 1 through  
7 100, inclusive (collectively, “Defendants” or “Company”), on behalf of Plaintiff and all other  
8 individuals who were classified as independent contractors and worked as janitors at the Beverly  
9 Wilshire Hotel, regardless of their formal title (collectively, “Hotel Janitors”), at any time during  
10 the four years preceding the filing of this action, and continuing while this action is pending  
11 (“Class Period”), and who were denied the benefits and protections required under the Labor  
12 Code and other statutes and regulations applicable to employees in the State of California.

13 2. During the Class Period, Defendants:

- 14 a. failed to pay wages for all hours worked, including for hours worked in  
15 excess of eight hours a day or forty hours a week, by the Hotel Janitors;  
16 b. failed to pay minimum wages due to the Hotel Janitors;  
17 c. failed to pay overtime compensation due to the Hotel Janitors who worked  
18 on the seventh consecutive day;  
19 d. failed to provide the Hotel Janitors with timely and accurate wage  
20 and hour statements;  
21 e. failed to pay the Hotel Janitors compensation in a timely manner  
22 upon their termination or resignation;  
23 f. failed to maintain complete and accurate payroll records for the Hotel  
24 Janitors;  
25 g. failed to indemnify the Hotel Janitors for all necessary expenditures or  
26 losses;  
27 h. wrongfully withheld wages and compensation due to the Hotel Janitors;  
28 and

1 i. committed unfair business practices in an effort to increase profits and to  
2 gain an unfair business advantage at the expense of the Hotel Janitors and  
3 the public;

4 3. The foregoing acts and other acts by Defendants - committed throughout  
5 California and Los Angeles County - violated numerous provisions of California law, including  
6 Labor Code §§ 201, 202, 203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174,  
7 1174.5, 1194, 1194.2, 1197, 1197.1, 1199, 2802, and 2810.3, and the applicable Wage Orders  
8 issued by the Industrial Welfare Commission (collectively, "Employment Laws and  
9 Regulations"), Business & Professions Code §§ 17200 *et seq.*, and violated Plaintiff's rights and  
10 the rights of the Hotel Janitors.

#### 11 **JURISDICTION AND VENUE**

12 4. This Court has jurisdiction over all causes of action herein pursuant to the  
13 California Constitution, Article VI, § 10, Code of Civil Procedure § 410.10 and Business and  
14 Professions Code § 17203.

15 5. Venue is proper in this Court under Code of Civil Procedure §§ 395 and 395.5  
16 because Defendants operate in this County, Plaintiff Irma Reyes resides in and/or worked in this  
17 county and the injuries that are the subject of this lawsuit arose in this county.

#### 18 **THE PARTIES**

19 6. Plaintiff IRMA REYES was employed by Defendant ACE SPECIALTY  
20 MAINTENANCE, INC. as a janitor at the Beverly Wilshire Hotel located at 9500 Wilshire Blvd,  
21 Beverly Hills, California 90212. Plaintiff REYES provided janitorial services to the hotel and  
22 was responsible for maintaining and cleaning the common areas of the facility. Plaintiff resided  
23 in and performed duties in the County of Los Angeles during the last year preceding the filing of  
24 this action.

25 7. Defendant ACE SPECIALTY MAINTENANCE, INC. is a corporation  
26 conducting business in the State of California, including the County of Los Angeles, under its  
27 own name and as GNS Costal Services, Inc. ("ACE"). Defendant ACE provided janitorial  
28 services to Defendant B.W. HOTEL, LLC. Plaintiff REYES was an employee of Defendant

1 ACE assigned to work at the Beverly Wilshire Hotel, operated by B.W. HOTEL, LLC.

2 8. Defendant B.W. HOTEL, LLC manages the Beverly Wilshire Hotel, which is  
3 located at 9500 Wilshire Blvd, Beverly Hills, California 90212. Defendant B.W. HOTEL, LLC  
4 contracted with Defendant ACE SPECIALTY MAINTENANCE, INC. in order for the latter to  
5 provide janitorial services at the Beverly Wilshire Hotel. While formally in a non-employee,  
6 contractual relationship with Defendant ACE, Defendant B.W. HOTEL, LLC nevertheless  
7 worked in tandem with Defendant ACE to controlled the work of Plaintiff REYES and the other  
8 janitorial staff provided by Defendant ACE.

9 9. Defendant B.W. HOTEL, LLC manages the Beverly Wilshire Hotel, which is  
10 located at 9500 Wilshire Blvd, Beverly Hills, California 90212. Defendant B.W. HOTEL, LLC  
11 contracted with Defendant ACE SPECIALTY MAINTENANCE, INC. in order for the latter to  
12 provide janitorial services at the Beverly Wilshire Hotel. While formally in a non-employee,  
13 contractual relationship with Defendant ACE, Defendant B.W. HOTEL, LLC nevertheless  
14 worked in tandem with Defendant ACE to controlled the work of Plaintiff REYES and the other  
15 janitorial staff provided by Defendant ACE.

16 10. Defendants ACE SPECIALTY MAINTENANCE, INC. and B.W. HOTEL, LLC,  
17 are, and at all relevant times were, entities conducting business in the State of California,  
18 including the County of Los Angeles. Plaintiff is informed and believes, and based upon such  
19 information and belief, alleges that B.W. HOTEL, LLC exercised control and directed the work  
20 of Plaintiff and the other Janitors made available for work by ACE SPECIALTY  
21 MAINTENANCE, INC. at the Beverly Wilshire Hotel.

22 11. The degree of control exercised by B.W. HOTEL, LLC over Plaintiff and the  
23 Janitors provided by ACE is enough to reasonably deem ACE as agents of B.W. HOTEL, LLC  
24 under traditional agency principles. ACE SPECIALTY MAINTENANCE, INC. can legitimately  
25 be described as only a means through which B.W. HOTEL, LLC procures janitorial staff that are  
26 treated like employees with regards to direction, instruction, and control, but are provided with  
27 none of the wage and hour protections enacted by the Legislature for the welfare of employees.  
28 Defendants ACE SPECIALTY MAINTENANCE, INC. and B.W. HOTEL, LLC have exerted

1 such control over the work of Plaintiff and the Janitors that together they must be deemed to be a  
2 joint employer. Plaintiff therefore is informed and believes and thereupon alleges ACE and B.W.  
3 HOTEL, LLC, and each of them, were her employer under California law, and that Defendants  
4 herein did acts consistent with the existence of an employer-employee relationship with Plaintiff  
5 and the other Janitors.

6 12. In addition, B.W. HOTEL, LLC is properly characterized as a Client Employer  
7 under Labor Code § 2810.3(a)(1)(A), and ACE SPECIALTY MAINTENANCE, INC. must be  
8 deemed to be a Labor Contractor pursuant to Labor Code § 2810.3(a)(3). As a Labor Contractor,  
9 ACE supplied, through contract, Plaintiff and other Janitors to Client Employer B.W. HOTEL,  
10 LLC for purposes of labor within B.W. HOTEL, LLC's usual course of business. As the  
11 operator of a hotel, B.W. HOTEL, LLC's usual business includes maintaining the common areas  
12 of the grounds in a clean and presentable manner for the guests of the Beverly Wilshire Hotel.  
13 Common areas must be cleaned and made presentable on a daily basis. The availability of a  
14 clean and sanitary facility for the use and enjoyment by hotel guests is a core part of the regular  
15 business of B.W. HOTEL, LLC.

16 13. Plaintiff is currently unaware of the true names and capacities of the defendants  
17 sued in this action by the fictitious names DOES 1 through 100, inclusive, and therefore sue  
18 those defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true  
19 names and capacities of such fictitiously named defendants when they are ascertained. Plaintiff  
20 is informed and believe and based thereon state that the persons sued herein as DOES are in  
21 some manner responsible for the conduct, injuries and damages herein alleged.

22 14. Plaintiff is informed and believe and based thereon allege that each defendant  
23 sued in this action, including each defendant sued by the fictitious names DOES 1 through 100,  
24 inclusive, is responsible in some manner for the occurrences, controversies and damages alleged  
25 below.

26 15. Plaintiff is informed and believe and based thereon allege that DOES 1 through  
27 100, inclusive, were the agents, servants and/or employees of Defendants and, in doing the things  
28 hereinafter alleged and at all times, were acting within the scope of their authority as such agents,

1 servants and employees, and with the permission and consent of Defendants.

2 16. Plaintiff is informed and believes and based thereon alleges that Defendants  
3 ratified, authorized, and consented to each and all of the acts and conduct of each other as alleged  
4 herein. Each of the defendants was the agent and/or employee of the others, and the conduct of  
5 each defendant herein alleged was authorized and/or ratified by the others. The conduct of the  
6 Company was carried on by and through its authorized agents, including owners, officers,  
7 directors, managers and supervisors.

8 **FACTS**

9 17. Plaintiff is an individual who was a resident of the County of Los Angeles during  
10 the four years preceding the filing of this action. Plaintiff was formally an employee of  
11 Defendant ACE SPECIALTY MAINTENANCE, INC., working as a janitor at the Beverly  
12 Wilshire Hotel in Beverly Hills, California. The Beverly Wilshire Hotel is operated by  
13 Defendant B.W. HOTEL, LLC. Defendant ACE had a contract with B.W. HOTEL, LLC  
14 whereby the former would provide janitorial services to the latter. Specifically, ACE would  
15 provide the janitors that would clean the common areas of the Beverly Wilshire Hotel. Plaintiff  
16 was one such janitor, and worked at the Beverly Wilshire Hotel for ACE and B.W. HOTEL, LLC  
17 for about a year and half from approximately 2014 to 2015.

18 18. While B.W. HOTEL, LLC did not formally classify Plaintiff and the other  
19 Janitors as employees, B.W. HOTEL, LLC nevertheless exerted comprehensive control over the  
20 work done by Plaintiff and the other Janitors. B.W. HOTEL, LLC and ACE worked in tandem in  
21 order to direct and provide instructions to Plaintiff and the other Janitors. Indeed, Plaintiff and  
22 the Janitors took instructions and assignments as readily from B.W. HOTEL, LLC management  
23 as they did from the representatives of ACE.

24 19. During Plaintiff's employment with Defendants, neither provided Janitors,  
25 including Plaintiff, with legally compliant meal periods and rest breaks. In regards to meal  
26 breaks, Plaintiff REYES and other similarly situated Janitors were prevented from leaving the  
27 Beverly Wilshire Hotel. They were instructed by Defendants to remain on the premises, and  
28 were not free to use their meal breaks in a manner in which they chose. With respect to rest

1 breaks, Plaintiff REYES and other similarly situated Janitors were not provided any training  
2 about statutory breaks under California law, are not scheduled to take rest breaks, and in fact, rest  
3 breaks are not made available to them. Indeed, if Plaintiff REYES and other similarly situated  
4 Janitors requested to take a rest break, Defendants would refuse, informing them that their single  
5 meal break was the only type of break they would receive on any given shift.

6 20. Throughout her employment, Defendants forced Plaintiff to clock out at the end of  
7 her shift but instructed her to continue working off the clock until all the areas she was  
8 responsible for were cleaned. Defendants would only pay Plaintiff based upon her scheduled  
9 shift, and no more. Depending on the length of her shift and how much time she spent working  
10 off-the-clock, Plaintiff regularly worked more than 8 hours per day. This practice by Defendants  
11 is illegal and is in violation of the Employment Laws and Regulations.

12 21. Janitors, like Plaintiff, were also instructed by Defendants to not leave the Beverly  
13 Wilshire Hotel during their meal breaks. They were not free to leave the premises and could not,  
14 for example, run a quick errand or go get fast food from somewhere. Instead, Plaintiff and the  
15 other Janitors were required by Defendants to stay at the hotel so that if and when the need arose,  
16 a manager could interrupt their meal break in order to service an area that required immediate  
17 attention.

18 22. Janitors, like Plaintiff, on occasion work seven consecutive days in a workweek  
19 without receiving the required overtime premium pay for all hours worked on the seventh day as  
20 mandated by the applicable wage order. In other words, when made to work more than six  
21 consecutive days in a row in a workweek without a day's rest, Plaintiff like other similarly  
22 situated Janitors, was not paid premium pay. Upon information and belief, Defendants had in  
23 place a "pay period" which did not coincide with the schedules its Janitors actually worked.  
24 Defendants' scheduling and payment practices are unequivocally unlawful as they were designed  
25 to evade the payment of overtime. Accordingly, Defendants failed to pay Plaintiff and Janitors  
26 for all hours worked.

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1           23.     During Plaintiff's employment with Defendants, Defendants failed and refused to  
2 provide Plaintiff with timely and accurate wage and hour statements in violation of the  
3 Employment Laws and Regulations. Indeed, neither Defendant ACE nor Defendant B.W.  
4 HOTEL, LLC provided Plaintiff and the other Janitors with any type of wage and hour statement.

5           24.     During Plaintiff's employment with Defendants, Plaintiff and the other Janitors  
6 were required to purchase their own headlamp flashlights or use their cell phones' flashlight, to  
7 use while cleaning the hotel at night or while working in dark spaces. Plaintiff and the other  
8 Janitors also had to purchase their own non-slip shoes, which they were told by management was  
9 a requirement of their job at the Beverly Wilshire Hotel.

10          25.     During Plaintiff's employment with Defendants, Defendants wrongfully withheld  
11 from Plaintiff and failed to pay wages and other compensation due for all hours worked, and as  
12 otherwise required per Employment Laws and Regulations.

13          26.     To the extent that any Janitor, including Plaintiff, entered into any arbitration  
14 agreement with any Defendant, such agreement is void and unenforceable. Any such agreement  
15 was one of adhesion, executed under duress, lacked consideration and mutuality, and is otherwise  
16 void under both Labor Code § 229 and the California Supreme Court case of *Armendariz v.*  
17 *Foundation Health Psychare Services, Inc.*, 24 Cal.4th 83 (2000).

18                                   **FULFILLMENT OF NOTICE REQUIREMENTS**

19          27.     Plaintiff has complied with the procedures for bringing suit specified in Labor  
20 Code § 2810.3(d). By letter dated May 9, 2017, and amended on May 23, 2017, Plaintiff, on  
21 behalf of herself and all other similarly situated employees, gave written notice by certified mail  
22 to Defendants of the nature of Plaintiff's claims under Labor Code § 2810.3 and the facts and  
23 theories in support of the alleged violations. More than 30 days has elapsed since Plaintiff  
24 provided Defendants with this notice and therefore may now properly bring this action. Attached  
25 hereto as Exhibits "1" and "2", respectively, are the letters dated May 9, 2017 and May 23, 2017  
26 sent by Plaintiff to Defendants.

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**CLASS ACTION ALLEGATIONS**

1  
2           28.     All current and former Janitors who worked for Defendants in California at the  
3 Beverly Wilshire Hotel, under a contract(s) between ACE SPECIALTY MAINTENANCE, INC.  
4 and B.W. HOTEL, LLC, or any related entity of either during the Class Period, including  
5 Plaintiff, are proposed class members (henceforth, “Class Members”).

6           29.     The Janitors’ duties and activities during their respective working hours and each  
7 shift are known to and directed by Defendants, and are set and controlled by Defendants.

8           30.     During the Class Period, Defendants have routinely failed to provide Janitors with  
9 legally compliant and mandated meal and rest breaks.

10          31.     During the Class Period, Defendants refused to compensate Janitors for all wages  
11 earned (“off-the-clock” work) and for all hours worked including time during which Janitors  
12 were subject to Defendants’ control and were suffered or permitted to work for Defendants.  
13 Defendants failed and refused to pay Janitors for all hours worked, including but not limited to  
14 time worked after the official end times of their shifts.

15          32.     During the Class Period, Defendants have failed and refused to provide Janitors  
16 with timely and accurate wage and hour statements, indeed any wage and hour statements of any  
17 kind.

18          33.     During the Class Period, Defendants have failed and refused to pay accrued wages  
19 and other compensation earned and due immediately to Janitors who were terminated, and  
20 Defendants have failed and refused to pay accrued wages and other compensation earned and due  
21 within seventy-two hours to Janitors who ended their employment voluntarily.

22          34.     During the Class Period, Defendants have failed and refused to maintain complete  
23 and accurate payroll records for Defendants showing gross hours earned, total hours worked, all  
24 deductions made, net wages earned, and all applicable hourly rates in effect during each pay  
25 period and the corresponding number of hours worked at each hourly rate.

26          35.     During the Class Period, Defendants have failed and refused to indemnify the  
27 Janitors for all necessary expenditures or losses incurred by them in direct consequence of the  
28 discharge of their duties, or of their obedience to the directions of Defendants.

1           36.     During the Class Period, Defendants have wrongfully withheld and failed to pay  
2 Janitors wages and other compensation earned and due them for all hours worked and as  
3 otherwise required pursuant to the Employment Laws and Regulations.

4           37.     Defendants' conduct violated the Employment Laws and Regulations.  
5 Defendants' systematic acts and practices also violated, *inter alia*, Business & Professions Code  
6 §§ 17200, *et seq.*

7           38.     Plaintiff also seeks of all other compensation and all benefits required pursuant to  
8 the Employment Laws and Regulations, plus penalties and interest, owed to Janitors.

9           39.     The duties and business activities of the Class Members were essentially the same  
10 as the duties and activities of the Plaintiff described above. At all times during the Class Period,  
11 all of the Class Members were employed in the same or similar job as Plaintiff (as a janitor) and  
12 were paid in the same manner and under the same standard employment procedures and practices  
13 as Plaintiff.

14           40.     During the Class Period, Defendants were fully aware that Plaintiff and the Class  
15 Members were performing "off-the-clock" unpaid work and not being paid for all hours worked  
16 in violation of the provisions of the Labor Code.

17           41.     Defendants' violations of the Employment Laws and Regulations were repeated,  
18 willful and intentional.

19           42.     Plaintiff and the Class Members have been damaged by Defendants' conduct.

20           43.     While the exact number of Class Members is unknown to Plaintiff at the present  
21 time, based on information and belief, there are more than 40 such persons. A class action is the  
22 most efficient mechanism for resolution of the claims of the Class Members.

23           44.     In addition, a class action is superior to other available methods for the fair and  
24 efficient adjudication of this controversy because the damages suffered by individual Class  
25 Members may be relatively small, and the expense and burden of individual litigation would  
26 make it impossible for such Class Members individually to redress the wrongs done to them.  
27 Moreover, because of the similarity of the Class Members' claims, individual actions would  
28 present the risk of inconsistent adjudications subjecting the Defendants to incompatible standards

1 of conduct.

2 45. Plaintiff is currently unaware of the identities of all the Class Members.  
3 Accordingly, Defendants should be required to provide to Plaintiff a list of all persons employed  
4 as Janitors who currently or previously worked for Defendants in the State of California at the  
5 Beverly Wilshire Hotel under a contract(s) between ACE SPECIALTY MAINTENANCE, INC.  
6 and B.W. HOTEL, LLC, or any related entity of either, beginning four years prior to the filing of  
7 this Complaint until the present, stating their last known addresses and telephone numbers, so  
8 that Plaintiff may give such Class Members notice of the pendency of this action and an  
9 opportunity to make an informed decision about whether to participate in it.

10 46. The proposed Class that Plaintiff seeks to represent is defined as follows:

11 All Janitors who currently or previously worked for Defendants in the State of California  
12 at the Beverly Wilshire Hotel under a contract(s) between Ace Speciality Maintenance,  
13 Inc. and B.W. Hotel, LLC, or any related entity of either, at any time during the four years  
14 prior to the commencement of this suit and continuing while this Action is pending.

15 47. There is a well-defined community of interest in the litigation and the proposed  
16 Class is easily ascertainable:

17 a. Numerosity: While the precise number of Class Members has not been  
18 determined at this time, Plaintiff is informed and believes that Defendants have jointly employed  
19 in excess of 40 persons as Janitors in California at the Beverly Wilshire Hotel during the  
20 proposed Class Period.

21 b. Commonality: There are questions of law and fact common to Plaintiff  
22 and the Class that predominate over any questions affecting only individual Class Members.

23 These common questions of law and fact include, without limitation:

24 i. Whether Defendants failed to compensate Plaintiff and the Class  
25 Members for all hours worked by requiring Class Members to  
26 clock out, but keep working, at the end of their scheduled shifts;

27 ii. Whether Defendants had a policy or practice of forbidding Plaintiff  
28 and the Class Members from leaving the Beverly Wilshire Hotel  
during meal breaks;

- 1                   iii.    Whether Defendants had a policy or practice of requiring Plaintiff  
2                   and the Class Members from remaining at the Beverly Wilshire  
3                   Hotel during meal breaks in order to be able to call upon them if an  
4                   area of the hotel required immediate attention;
- 5                   iv.    Whether Defendants had a policy or practice of disallowing any  
6                   rest breaks for Plaintiff and the Class Members;
- 7                   v.     Whether Defendants failed to pay Plaintiff and the Class Members  
8                   overtime premium pay by designating a workweek which was out  
9                   of sync with Class Members' work schedules in an effort to evade  
10                  overtime pay.
- 11                  vi.    Whether Defendants failed to pay Plaintiff and the Class Members  
12                  the required minimum wage for every hour where work was  
13                  performed;
- 14                  vii.   Whether Defendants failed to reimburse Plaintiff and the Class  
15                  Members for the non-slip shoes and flashlights they purchased  
16                  with their own funds for their work at the Beverly Wilshire Hotel;
- 17                  viii.   Whether Defendants failed to provide Plaintiff and the Class  
18                  Members with accurate itemized statements;
- 19                  ix.    Whether Defendants failed to provide legally adequate meal and  
20                  rest breaks for Plaintiff and the Class Members;
- 21                  x.     Whether Defendants owe Plaintiff and the Class Members waiting  
22                  time penalties pursuant to Labor Code § 203;
- 23                  xi.    Whether Defendants engaged in unfair business practices under  
24                  Business and Professions Code §17200;
- 25                  xii.   Whether Plaintiff and the Class Members were made available for  
26                  work as janitors at the Beverly Wilshire Hotel under a contract  
27                  between Defendants;

28    ///

1                   xiii. Whether ACE must be deemed a Labor Contractor and B.W.  
2 HOTEL, LLC an Employer Contractor as to Plaintiff and the  
3 Class Members under Labor Code § 2810.3;

4                   xiv. The effect upon and the extent of damages suffered by Plaintiff and  
5 the Class Members and the appropriate amount of compensation.

6                   c.     Typicality: Plaintiff's claims are typical of the claims of the proposed  
7 Class. Plaintiff and all Class Members sustained injuries and damages arising out of and caused  
8 by Defendants' common course of conduct in violation of law as alleged herein.

9                   d.     Adequacy of Representation: Plaintiff are members of the proposed Class  
10 and will fairly and adequately represent and protect the interests of the Class Members. Counsel  
11 who represent Plaintiff are competent and experienced in litigating large wage and hour and other  
12 employment class actions.

13                   e.     Superiority of Class Action: A class action is superior to other available  
14 means for the fair and efficient adjudication of this controversy. Questions of law and fact  
15 common to the proposed Class predominate over any questions affecting only individual Class  
16 Members. Each proposed Class Member has been damaged and is entitled to recovery by reason  
17 of Defendants' illegal policies and/or practices of failing to pay full and correct wages, including  
18 the minimum wage and overtime premium wages, as required by law. A class action will allow  
19 those similarly situated persons to litigate their claims in the manner that is most efficient and  
20 economical for the parties and the judicial system.

21   **FIRST CAUSE OF ACTION**

22                   **(Failure to Pay Compensation For All Hours Worked - Labor Code §§ 216 and 1194**

23   **By Plaintiff Individually and on Behalf of All Class Members)**

24                   48. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
25 the allegations contained in this complaint, and incorporates them by reference into this cause of  
26 action as though fully set forth herein, excepting those allegations which are inconsistent with  
27 this cause of action.

28     ///

1           49. Plaintiff brings this action to recover unpaid compensation for all hours worked,  
2 including for work over eight hours in a day and over forty hours in a workweek.

3           50. Defendants' conduct described in this Complaint violates, among other things,  
4 Labor Code §§ 204, 216, 218, 218.5, 218.6, 510, 1194, and 1198 and the IWC Wage Orders.

5           51. Defendants failed to pay Plaintiff and the Class Members for all of the actual  
6 hours worked, including for work over eight hours in a day and over forty hours in a workweek.  
7 Defendants knew or should have known that Plaintiff and the Class Members were working these  
8 hours.

9           52. Defendants also failed to pay Plaintiff and the Class Members for all of the actual  
10 time worked during meal breaks when Plaintiff and Class Members were off the clock, separate  
11 and apart from any penalties Defendants may owe to Plaintiff and Class Members for meal break  
12 violations. Similarly, Defendants also failed to pay Plaintiff and the Class Members for each of  
13 the 10 minute rest breaks that they were entitled to but not provided with, separate and apart from  
14 any penalties Defendants may owe to Plaintiff and Class Members for rest break violations.  
15 Defendants knew or should have known that Plaintiff and the Class Members were working  
16 during meal breaks when they were off the clock, and were not provided with the two paid 10  
17 minute rest breaks that they were owed each and every 8 hour shift.

18           53. Plaintiff and the Class Members are also entitled to penalties pursuant to  
19 Paragraph No. 20 of the applicable IWC Wage Order which provides, in addition to any other  
20 civil penalties provided by law, any employer or any other person acting on behalf of the  
21 employer who violates, or causes *to be* violated, the provisions of the IWC Wage Order, shall be  
22 subject to a civil penalty of \$50.00 (for initial violations) or \$100.00 (for subsequent violations)  
23 for each underpaid employee for each pay period during which the employee was underpaid in  
24 addition to the amount which is sufficient to recover unpaid wages.

25           54. As a result of Defendants' unlawful acts, Plaintiff and the Class Members have  
26 been deprived of compensation in an amount according to proof at the time of trial, and are  
27 entitled to recovery of such amounts, plus interest thereon, liquidated damages pursuant to Labor  
28 Code § 1194.2, and attorneys' fees and costs, pursuant to Labor Code §§ 1194, in an amount

1 according to proof at the time of trial. Plaintiff and the Class Members are also entitled to  
2 additional penalties and/or liquidated damages pursuant to statute. Plaintiff and Class Members  
3 may recover all of these amounts from Defendants as joint employers, and also from Defendant  
4 B.W. HOTEL, LLC as a Client Employer under Labor Code § 2810.3(b)(1).

5 **SECOND CAUSE OF ACTION**

6 **(Failure to Pay Minimum Wages - Labor Code § 1194**

7 **By Plaintiff Individually and on Behalf of All Class Members)**

8 55. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
9 the allegations contained in this complaint, and incorporate them by reference into this cause of  
10 action as though fully set forth herein, excepting those allegations which are inconsistent with  
11 this cause of action.

12 56. At all relevant times, the IWC Wage Orders contained in Title 8 of the Code of  
13 Regulations (“Wage Orders”) applied to Plaintiff in Plaintiff’s capacity as employees of  
14 Defendants. The Wage Orders and California law provided, among other things, that Plaintiff  
15 must receive minimum wage earnings for all hours worked.

16 57. During the Class Period, Defendants have routinely failed to pay Class Members,  
17 including Plaintiff, the minimum wage required by the Employment Laws and Regulations for all  
18 hours worked.

19 58. The Class Members, including Plaintiff, have been deprived of their rightfully  
20 earned minimum wages as a direct and proximate result of Defendants’ policies and practices  
21 and Defendants’ failure and refusal to pay said wages for all hours worked. The Class Members,  
22 including Plaintiff, are entitled to recover the past wages owed to them, under the minimum wage  
23 laws, plus an additional equal amount as liquidated damages as permitted under the Wage Orders  
24 and California law, plus interest thereon and attorneys’ fees and costs pursuant to Labor Code §§  
25 1194, in an amount according to proof at the time of trial. Plaintiff and Class Members may  
26 recover all of these amounts from Defendants as joint employers, and also from Defendant B.W.  
27 HOTEL, LLC as a Client Employer under Labor Code § 2810.3(b)(1).

28 ///

1 **THIRD CAUSE OF ACTION**

2 **(Failure to Pay Overtime Compensation - By Plaintiff Individually and on Behalf of All**  
3 **Janitors: California Labor Code §§ 510 and 1194)**

4 59. As a separate and distinct cause of action, Plaintiff complains and realleges all the  
5 allegations contained in this complaint, and incorporate them by reference into this cause of  
6 action as though fully set forth herein, excepting those allegations which are inconsistent with  
7 this cause of action.

8 60. During the Class Period, Defendants have routinely required Janitors, including  
9 Plaintiff, to work over eight hours in a day and over forty hours in a workweek. However,  
10 Defendants have failed and refused to pay the Janitors, including Plaintiff, the overtime  
11 compensation required by the Employment Laws and Regulations.

12 61. The Janitors, including Plaintiff, have been deprived of their rightfully earned  
13 overtime compensation as a direct and proximate result of Defendants' policies and practices and  
14 Defendants' failure and refusal to pay that compensation. The Janitors, including Plaintiff, are  
15 entitled to recover such amounts, plus interest, attorney's fees and costs. Plaintiff and Class  
16 Members may recover all of these amounts from Defendants as joint employers, and also from  
17 Defendant B.W. HOTEL, LLC as a Client Employer under Labor Code § 2810.3(b)(1).

18 **FOURTH CAUSE OF ACTION**

19 **(Failure to Furnish Accurate Wage and Hour Statements - Labor Code § 226**  
20 **By Plaintiff Individually and on Behalf of All Class Members)**

21 62. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
22 the allegations contained in this complaint, and incorporate them by reference into this cause of  
23 action as though fully set forth herein, excepting those allegations which are inconsistent with  
24 this cause of action.

25 63. During the Class Period, Defendants have routinely failed to provide Class  
26 Members, including Plaintiff, with timely and accurate wage and hour statements showing gross  
27 hours earned, total hours worked, all deductions made, net wages earned, and all applicable  
28 hourly rates in effect during each pay period and the corresponding number of hours worked at



1 each hourly rate.

2 64. As a consequence of Defendants' actions, Class Members are entitled to all  
3 available statutory penalties, costs and reasonable attorneys' fees, including those provided in  
4 Labor Code § 226(e), as well as all other available remedies. Plaintiff and Class Members may  
5 recover all of these amounts from Defendants as joint employers, and also from Defendant B.W.  
6 HOTEL, LLC as a Client Employer under Labor Code § 2810.3(b)(1).

7 **FIFTH CAUSE OF ACTION**

8 **(For Waiting Time Penalties - Labor Code §§ 201-203**

9 **By Plaintiff Individually and on Behalf of All Class Members)**

10 65. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
11 the allegations contained in this complaint, and incorporates them by reference into this cause of  
12 action as though fully set forth herein, excepting those allegations which are inconsistent with  
13 this cause of action.

14 66. During the Class Period, Defendants failed to pay accrued wages and other  
15 compensation due immediately to each Class Member who was terminated, and failed to pay  
16 accrued wages and other compensation due within seventy-two hours to each Class Member,  
17 including Plaintiff, who ended their employment.

18 67. Labor Code § 201 requires an employer who discharges an employee to pay  
19 compensation due and owing to said employee immediately upon discharge. Labor Code § 203  
20 provides that if an employer willfully fails to pay compensation promptly upon discharge, as  
21 required by § 201, the employer is liable for waiting time penalties in the form of continued  
22 compensation for up to 30 work days.

23 68. Defendants, and each of them, willfully failed and refused, and continue to  
24 willfully fail and refuse, to timely pay compensation due to Class Members upon termination or  
25 resignation, as required by Labor Code § 201. As a result, Defendants, and each of them, are  
26 liable to Plaintiff and all Class Members similarly situated for waiting time penalties, together  
27 with interest thereon, pursuant to Labor Code § 203, as well as all other available remedies, in an  
28 amount according to proof at the time of trial. Plaintiff and Class Members may recover all of

1 these amounts from Defendants as joint employers, and also from Defendant B.W. HOTEL, LLC  
2 as a Client Employer under Labor Code § 2810.3(b)(1).

3 **SIXTH CAUSE OF ACTION**

4 **(Failure to Provide Meal and Rest Periods - Labor Code §§ 226.7 and 512**

5 **By Plaintiff Individually and on Behalf of All Class Members)**

6 69. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
7 the allegations contained in this complaint, and incorporates them by reference into this cause of  
8 action as though fully set forth herein, excepting those allegations which are inconsistent with  
9 this cause of action.

10 70. During the Class Period, Defendants have failed to provide Janitors, including  
11 Plaintiff, legally compliant meal and rest periods during their work shifts, and have failed to  
12 compensate Janitors, including Plaintiff, for those meal and rest periods, as required by Labor  
13 Code § 226.7 and the other applicable sections of the Employment Laws and Regulations.

14 71. The Janitors, including Plaintiff, have been deprived of their rightfully earned  
15 compensation for meal and rest periods as a direct and proximate result of Defendants' policies  
16 and practices and Defendants' failure and refusal to pay that compensation. The Janitors,  
17 including Plaintiff, are entitled to recover such amounts pursuant to Labor Code § 226.7(b), plus  
18 interest. Plaintiff and Class Members may recover all of these amounts from Defendants as joint  
19 employers, and also from Defendant B.W. HOTEL, LLC as a Client Employer under Labor Code  
20 § 2810.3(b)(1).

21 **SEVENTH CAUSE OF ACTION**

22 **(For Indemnification - Labor Code § 2802**

23 **By Plaintiff Individually and on Behalf of All Class Members)**

24 72. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
25 the allegations contained in this complaint, and incorporates them by reference into this cause of  
26 action as though fully set forth herein, excepting those allegations which are inconsistent with  
27 this cause of action.

28 ///

1 73. Pursuant to Labor Code § 2802(a), an employer shall indemnify its employees for  
2 all necessary expenditures or losses incurred by the employees in direct consequence of the  
3 discharge of their duties, or of their obedience to the directions of the employer, even though  
4 unlawful, unless the employee, at the time of obeying the directions, believed them to be  
5 unlawful.

6 74. During the Class Period, the Class Members, including Plaintiff, incurred  
7 necessary business-related expenses and costs that were not fully reimbursed by Defendants,  
8 including and without limitations, specialized hand tools

9 75. During the Class Period, Defendants failed to reimburse the Class Members,  
10 including Plaintiff, for necessary business-related expenses and costs, including, but not limited  
11 to, the cost of purchasing non-slip shoes, flashlights, and using the light of personal cell phones  
12 as flashlights.

13 76. The Class Members, including Plaintiff, are entitled to recover from Defendants  
14 their business-related expenses and costs incurred during the course and scope of their  
15 employment, plus attorneys' fees, costs and interest accrued from the date on which the employee  
16 incurred the necessary expenditures. Plaintiff and Class Members may recover all of these  
17 amounts from Defendants as joint employers, and also from Defendant B.W. HOTEL, LLC as a  
18 Client Employer under Labor Code § 2810.3(b)(1).

19 **EIGHTH CAUSE OF ACTION**

20 **(For Unfair Competition - Business & Professions Code § 17200, et seq.**

21 **By Plaintiff Individually and on Behalf of All Class Members)**

22 77. As a separate and distinct cause of action, Plaintiff complains and realleges all of  
23 the allegations contained in this complaint, and incorporates them by reference into this cause of  
24 action as though fully set forth herein, excepting those allegations which are inconsistent with  
25 this cause of action.

26 78. As a result of Defendants' unfair business practices, Defendants have reaped  
27 unfair benefits and illegal profits at the expense of Class Members, including Plaintiff, and  
28 members of the public. Defendants should be made to disgorge their ill-gotten gains and to

1 restore them to Class Members, including Plaintiff.

2 79. Defendants' unfair business practices violate the Unfair Competition Laws and  
3 entitle Plaintiff to seek preliminary and permanent injunctive relief including, but not limited to,  
4 orders that Defendants account for, disgorge and restore to the Class Members, including  
5 Plaintiff, the wages and other compensation unlawfully withheld from them.

6 80. In addition to the actual damages caused by the unlawful conversion, the Class  
7 Members, including Plaintiff, are entitled to recover exemplary damages for the sake of example  
8 and by way of punishing Defendants. Plaintiff and Class Members may recover all of these  
9 amounts from Defendants as joint employers, and also from Defendant B.W. HOTEL, LLC as a  
10 Client Employer under Labor Code § 2810.3(b)(1).

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for judgment  
13 against Defendants as follows:

- 14 1. For an Order certifying the First through Eighth Causes of Action as a class  
15 action;
- 16 2. For an Order appointing Plaintiff's counsel as Class counsel;
- 17 3. For compensatory damages in an amount to be ascertained at trial;
- 18 4. For restitution in an amount to be ascertained at trial;
- 19 5. For punitive and exemplary damages in an amount to be ascertained at trial;
- 20 6. For all penalties allowed by law;
- 21 7. For prejudgment interest;
- 22 8. For reasonable attorneys' fees pursuant to Labor Code §§ 1194;
- 23 9. For costs of suit incurred herein;
- 24 10. For disgorgement of profits garnered as a result of Defendants' unlawful failure to  
25 pay wages, including overtime wages, earned; and

26 ///

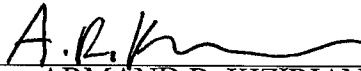
27 ///

28 ///

1 11. For such further relief as the Court may deem appropriate.

2  
3 DATED: August 11, 2017

LAW OFFICES OF THOMAS W. FALVEY  
MANCINI & ASSOCIATES

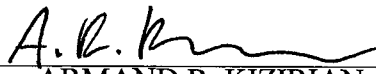
4  
5 By:   
6 ARMAND R. KIZIRIAN  
7 Attorneys for Plaintiff Irma Reyes,  
8 individually and on behalf of all others similarly  
9 situated

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff Irma Reyes, individually and on behalf of all similarly situated individuals,  
12 demands jury trial of this matter.

13 DATED: August 11, 2017

LAW OFFICES OF THOMAS W. FALVEY  
MANCINI & ASSOCIATES

14  
15 By:   
16 ARMAND R. KIZIRIAN  
17 Attorneys for Plaintiff Irma Reyes,  
18 individually and on behalf of all others similarly  
19 situated  
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28

# Exhibit “1”

LAW OFFICES OF  
**THOMAS W. FALVEY**

---

MAIN OFFICE:  
550 NORTH BRAND BOULEVARD, SUITE 1500  
GLENDALE, CALIFORNIA 91203  
(818) 547-5200

PASADENA OFFICE:  
301 NORTH LAKE AVENUE, SUITE 800  
PASADENA, CALIFORNIA 91101  
WWW.FALVEYLAW.COM

May 9, 2017

**SENT VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED**

Ace Specialty Management, Inc.  
Attention: Aimee Kwon  
1740 W. Katella Ave., Suite X  
Orange, CA 92867

Tyche Management  
Attention: General Counsel  
715 S. Hobart Blvd., Suite 102  
Los Angeles, CA 90005

GN Hotel Services  
Attention: Hyun Byung Chae  
744 Paso De Luz, Unit 283  
Chula Vista, CA 91911

B.W. Hotel, LLC  
Attention: General Counsel  
Corporation Service Company  
(Agent for Service of Process)  
1300 19th Street NW, Suite 401  
Washington, DC 20036

Four Seasons Hotels Limited  
Attention: General Counsel  
CT Corporation System  
(Agent for Service of Process)  
818 W 7th Street, Suite 930  
Los Angeles, CA 90017

**Re: *Reyes, Irma v. Ace Specialty Management, Inc., Tyche Management,  
GN Hotel Services, B.W. Hotel, LLC, and Four Seasons Hotels Limited  
Notice of Claims Pursuant to Labor Code § 2810.3***

To Whom It May Concern:

We represent Irma Reyes with respect to claims on behalf of herself and other similarly situated current and former employees of Ace Speciality Management, Inc., Tyche Management, GN Hotel Services, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and other related entities ("Beverly Wilshire Hotel") who were classified as independent contractors and worked as janitors at the Beverly Wilshire Hotel ("Janitorial Staff"). The purpose of this letter is to satisfy the notice requirements of Labor Code § 2810.3 and to also give you an opportunity to discuss with us the resolution of this matter pre-litigation.

Below we set forth the facts and theories which we believe support our contention that the Beverly Wilshire Hotel has violated and continues to violate various provisions of the California Labor Code including, but not limited to, wilful misclassification of employees as independent contractors, failure to pay all wages outstanding including overtime wages, failure to provide meal and rest breaks, and failure to reimburse business expenses.

### **Facts & Theories About the Case**

Our investigation has revealed that Ms. Reyes and her fellow employees routinely performed work without compensation and without adequate meal and rest breaks at the Beverly Wilshire Hotel, working as Janitorial Staff. Moreover, our investigation has also revealed that Ms. Reyes and her fellow employees were misclassified by Ace Specialty Management, Inc., Tyche Management, GN Hotel Services, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and other related entities as independent contractors. In addition, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and their related entities may be held liable for the misclassification by third-parties (including but not limited to Ace Specialty Management, Inc., Tyche Management, and GN Hotel Services) of Ms. Reyes and her fellow employees, because these entities are Client Employers within the meaning of Labor Code § 2810.3(a)(1)(A).

Our client seeks damages and restitution. We believe that the Beverly Wilshire Hotel has violated numerous provisions of California law, including without limitation Labor Code §§ 201-203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 226.8, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1199, 2810.3, and 2802, and that Ms. Reyes and all other similarly situated individuals are entitled to all damages, restitution and statutory penalties, including liquidated damages, allowed by law.

**Off-the-Clock Work and Unpaid Overtime:** California law requires that an employer compensate an employee for all hours worked. *See* Industrial Welfare Commission Wage Order 5-2001, § 2(G) (“‘Hours worked’ means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”). Labor Code § 204; *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 584-586 (2000). The Beverly Wilshire Hotel’s refusal to compensate employees for all hours worked, particularly time worked in excess of 8 hours per day or 40 hours per week, establishes a minimum wage and overtime wage violation. *See* Labor Code §§ 510 and 1194.

Specifically, we believe that the Beverly Wilshire Hotel has implemented an unlawful policy whereby Ms. Reyes, and other similarly situated individuals are only paid based upon their scheduled shifts. Once Ms. Reyes and the other Janitorial Staff would reach the endpoint of their scheduled shifts, they were required by the Beverly Wilshire Hotel to clock-out. Nevertheless, the individuals supervising Ms. Reyes and other similarly situated individuals would require them to continue working until their assigned areas were thoroughly cleaned. In other words, if Ms. Reyes and the other Janitorial Staff had not finished cleaning their assigned areas by the end of their scheduled shifts, whether as a result of inadequate scheduling, the original condition the premises were in, or some other reason, Ms. Reyes and the other Janitorial Staff could not simply drop what they were doing and go home - they were required to clock-out but continue working until the area was completely clean.



Because Ms. Reyes and the other Janitorial Staff were sometimes required not just to work off-the-clock, but to work off the clock beyond their eighth hour of work in a day, or fortieth hour of work in a week, they are also owed unpaid overtime by the Beverly Wilshire Hotel. The Beverly Wilshire Hotel's uniform practice of requiring its misclassified Janitorial Staff, including Ms. Reyes, to keep working beyond their scheduled shifts after having clocked-out has resulted in a violation of California's minimum wage and overtime laws.

Meal and Rest Breaks: California law also requires that an employer provide an employee who works more than five hours a meal break that is no less than 30 minutes in duration. 8 CCR 11050(11)(A). Unless an employee is relieved of all duty during the 30-minute meal period, the meal period is considered an on-duty meal period and counted as time worked. *Id.* However, an on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-the-job paid meal period. *Id.* If an employer fails to provide an employee a lawful meal period, the employer must pay the employee one hour of pay for each violation. 8 CCR 11050(11)(B). Additionally, California law mandates that an employer must "authorize and permit" an employee to take a duty-free rest period not less than 10 minutes duration for every four hours of work or major fraction thereof. 8 CCR 11050(12)(A). Violation of the rest break provisions requires the employer pay the employee one hour of pay for each workday a rest period was not provided. 8 CCR 11050(12)(B). Lastly, in California, the employer is required to keep records of all hours worked. Labor Code § 1174(d). Any lack of such records proves a further violation.

Here, the Beverly Wilshire Hotel did not comply with California's meal and rest break laws as it classified Ms. Reyes and the other Janitorial Staff as independent contractors. Specifically, the Beverly Wilshire Hotel would not allow Ms. Reyes and other similarly situated individuals from leaving the hotel grounds for their meal breaks. They were required to stay on the property and explicitly told not to leave by management. In addition, Ms. Reyes and the other Janitorial Staff would have their meal breaks interrupted by their supervisors if an area of the hotel required immediate attention.

Moreover, the Beverly Wilshire Hotel did not provide Ms. Reyes and the other Janitorial Staff with rest breaks whatsoever. Supervisors would tell Ms. Reyes and other similarly situated individuals that their meal break was the only break that they were to take on any given shift. If a supervisor found Ms. Reyes or other members of the Janitorial Staff resting outside of their meal breaks, they were reprimanded and told to get back to work. As such, the Beverly Wilshire Hotel did not provide Ms. Reyes and other members of the Janitorial Staff with legally compliant meal and rest breaks.

Unreimbursed Business Expenses: California law also requires that an employer "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties". Labor Code § 2802(a). In

Beverly Wilshire Hotel  
May 9, 2017  
Page 4 of 4

contravention of this provision of the Labor Code, the Beverly Wilshire Hotel would fail to reimburse Ms. Reyes, and other similarly situated individuals, for all business expenses incurred as part of their jobs. In particular, Ms. Reyes and other similarly situated individuals would have to purchase their own headlamp flashlights or use their cell phones' flashlight, to use while cleaning the hotel at night or while working in dark spaces. Ms. Reyes and other similarly situated individuals also had to purchase their own non-slip shoes, which they were told by management was a requirement for their job at the Beverly Wilshire Hotel.

Derivative Claims: Because Ms. Reyes and other similarly situated Janitorial Staff were not paid all of their regular and overtime wages due and were deprived of uninterrupted, duty-free meal and rest breaks, the Beverly Wilshire Hotel also failed to provide accurate wage statements in violation of Labor Code Section 226. Likewise, the Beverly Wilshire Hotel failed to fully compensate former employees in a timely manner when their employment ended, in violation of Labor Code Section 201 *et seq.*

We respectfully request that you notify this office within thirty (30) days if you wish to discuss the resolution of this matter before the onset of litigation. Should you have any questions or concerns or require additional information, please do not hesitate to contact our offices.

Sincerely,

LAW OFFICES OF THOMAS W. FALVEY  
MANCINI & ASSOCIATES



Armand R. Kizirian, Esq.

Cc: Mancini & Associates (*Sent Via E-Mail*)  
15303 Ventura Blvd., Suite 600  
Sherman Oaks, CA 91403-6606

# Exhibit “2”

LAW OFFICES OF  
**THOMAS W. FALVEY**

---

MAIN OFFICE:  
550 NORTH BRAND BOULEVARD, SUITE 1500  
GLENDALE, CALIFORNIA 91203  
(818) 547-5200

PASADENA OFFICE:  
301 NORTH LAKE AVENUE, SUITE 800  
PASADENA, CALIFORNIA 91101  
WWW.FALVEYLAW.COM

May 23, 2017

**SENT VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED**

Ace Specialty Maintenance, Inc.  
Attention: Aimee Kwon  
20421 Spectrum  
Irvine, CA 92618

Tyche Management  
Attention: General Counsel  
715 S. Hobart Blvd., Suite 102  
Los Angeles, CA 90005

GN Hotel Services  
Attention: Hyun Byung Chae  
744 Paso De Luz, Unit 283  
Chula Vista, CA 91911

B.W. Hotel, LLC  
Attention: General Counsel  
Corporation Service Company  
(Agent for Service of Process)  
1300 19th Street NW, Suite 401  
Washington, DC 20036

Four Seasons Hotels Limited  
Attention: General Counsel  
CT Corporation System  
(Agent for Service of Process)  
818 W 7th Street, Suite 930  
Los Angeles, CA 90017

**Re: *Reyes, Irma v. Ace Specialty Maintenance, Inc., Tyche Management,  
GN Hotel Services, B.W. Hotel, LLC, and Four Seasons Hotels Limited*  
Notice of Claims Pursuant to Labor Code § 2810.3**

To Whom It May Concern:

We represent Irma Reyes with respect to claims on behalf of herself and other similarly situated current and former employees of Ace Speciality Maintenance, Inc., Tyche Management, GN Hotel Services, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and other related entities ("Beverly Wilshire Hotel") who were classified as independent contractors and worked as janitors at the Beverly Wilshire Hotel ("Janitorial Staff"). The purpose of this letter is to satisfy the notice requirements of Labor Code § 2810.3 and to also give you an opportunity to discuss with us the resolution of this matter pre-litigation. Moreover, this correspondence amends our prior letter of May 9, 2017, whereby Ace Speciality Maintenance, Inc. was inadvertently identified as Ace Specialty Management, Inc.

Below we set forth the facts and theories which we believe support our contention that the Beverly Wilshire Hotel has violated and continues to violate various provisions of the California Labor Code including, but not limited to, wilful misclassification of employees as

independent contractors, failure to pay all wages outstanding including overtime wages, failure to provide meal and rest breaks, and failure to reimburse business expenses.

### **Facts & Theories About the Case**

Our investigation has revealed that Ms. Reyes and her fellow employees routinely performed work without compensation and without adequate meal and rest breaks at the Beverly Wilshire Hotel, working as Janitorial Staff. Moreover, our investigation has also revealed that Ms. Reyes and her fellow employees were misclassified by Ace Specialty Maintenance, Inc., Tyche Management, GN Hotel Services, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and other related entities as independent contractors. In addition, B.W. Hotel, L.L.C., Four Seasons Hotels Limited, and their related entities may be held liable for the misclassification by third-parties (including but not limited to Ace Specialty Maintenance, Inc., Tyche Management, and GN Hotel Services) of Ms. Reyes and her fellow employees, because these entities are Client Employers within the meaning of Labor Code § 2810.3(a)(1)(A).

Our client seeks damages and restitution. We believe that the Beverly Wilshire Hotel has violated numerous provisions of California law, including without limitation Labor Code §§ 201-203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 226.8, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1199, 2810.3, and 2802, and that Ms. Reyes and all other similarly situated individuals are entitled to all damages, restitution and statutory penalties, including liquidated damages, allowed by law.

**Off-the-Clock Work and Unpaid Overtime:** California law requires that an employer compensate an employee for all hours worked. *See* Industrial Welfare Commission Wage Order 5-2001, § 2(G) (“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”). Labor Code § 204; *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 584-586 (2000). The Beverly Wilshire Hotel’s refusal to compensate employees for all hours worked, particularly time worked in excess of 8 hours per day or 40 hours per week, establishes a minimum wage and overtime wage violation. *See* Labor Code §§ 510 and 1194.

Specifically, we believe that the Beverly Wilshire Hotel has implemented an unlawful policy whereby Ms. Reyes, and other similarly situated individuals are only paid based upon their scheduled shifts. Once Ms. Reyes and the other Janitorial Staff would reach the endpoint of their scheduled shifts, they were required by the Beverly Wilshire Hotel to clock-out. Nevertheless, the individuals supervising Ms. Reyes and other similarly situated individuals would require them to continue working until their assigned areas were thoroughly cleaned. In other words, if Ms. Reyes and the other Janitorial Staff had not finished cleaning their assigned areas by the end of their scheduled shifts, whether as a result of inadequate scheduling, the original condition the premises were in, or some other reason, Ms. Reyes and the other Janitorial Staff could not simply

drop what they were doing and go home - they were required to clock-out but continue working until the area was completely clean.

Because Ms. Reyes and the other Janitorial Staff were sometimes required not just to work off-the-clock, but to work off the clock beyond their eighth hour of work in a day, or fortieth hour of work in a week, they are also owed unpaid overtime by the Beverly Wilshire Hotel. The Beverly Wilshire Hotel's uniform practice of requiring its misclassified Janitorial Staff, including Ms. Reyes, to keep working beyond their scheduled shifts after having clocked-out has resulted in a violation of California's minimum wage and overtime laws.

Meal and Rest Breaks: California law also requires that an employer provide an employee who works more than five hours a meal break that is no less than 30 minutes in duration. 8 CCR 11050(11)(A). Unless an employee is relieved of all duty during the 30-minute meal period, the meal period is considered an on-duty meal period and counted as time worked. *Id.* However, an on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-the-job paid meal period. *Id.* If an employer fails to provide an employee a lawful meal period, the employer must pay the employee one hour of pay for each violation. 8 CCR 11050(11)(B). Additionally, California law mandates that an employer must "authorize and permit" an employee to take a duty-free rest period not less than 10 minutes duration for every four hours of work or major fraction thereof. 8 CCR 11050(12)(A). Violation of the rest break provisions requires the employer pay the employee one hour of pay for each workday a rest period was not provided. 8 CCR 11050(12)(B). Lastly, in California, the employer is required to keep records of all hours worked. Labor Code § 1174(d). Any lack of such records proves a further violation.

Here, the Beverly Wilshire Hotel did not comply with California's meal and rest break laws as it classified Ms. Reyes and the other Janitorial Staff as independent contractors. Specifically, the Beverly Wilshire Hotel would not allow Ms. Reyes and other similarly situated individuals from leaving the hotel grounds for their meal breaks. They were required to stay on the property and explicitly told not to leave by management. In addition, Ms. Reyes and the other Janitorial Staff would have their meal breaks interrupted by their supervisors if an area of the hotel required immediate attention.

Moreover, the Beverly Wilshire Hotel did not provide Ms. Reyes and the other Janitorial Staff with rest breaks whatsoever. Supervisors would tell Ms. Reyes and other similarly situated individuals that their meal break was the only break that they were to take on any given shift. If a supervisor found Ms. Reyes or other members of the Janitorial Staff resting outside of their meal breaks, they were reprimanded and told to get back to work. As such, the Beverly Wilshire Hotel did not provide Ms. Reyes and other members of the Janitorial Staff with legally compliant meal and rest breaks.

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Unreimbursed Business Expenses: California law also requires that an employer “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties”. Labor Code § 2802(a). In contravention of this provision of the Labor Code, the Beverly Wilshire Hotel would fail to reimburse Ms. Reyes, and other similarly situated individuals, for all business expenses incurred as part of their jobs. In particular, Ms. Reyes and other similarly situated individuals would have to purchase their own headlamp flashlights or use their cell phones’ flashlight, to use while cleaning the hotel at night or while working in dark spaces. Ms. Reyes and other similarly situated individuals also had to purchase their own non-slip shoes, which they were told by management was a requirement for their job at the Beverly Wilshire Hotel.

Derivative Claims: Because Ms. Reyes and other similarly situated Janitorial Staff were not paid all of their regular and overtime wages due and were deprived of uninterrupted, duty-free meal and rest breaks, the Beverly Wilshire Hotel also failed to provide accurate wage statements in violation of Labor Code Section 226. Likewise, the Beverly Wilshire Hotel failed to fully compensate former employees in a timely manner when their employment ended, in violation of Labor Code Section 201 *et seq.*

We respectfully request that you notify this office within thirty (30) days if you wish to discuss the resolution of this matter before the onset of litigation. Should you have any questions or concerns or require additional information, please do not hesitate to contact our offices.

Sincerely,

LAW OFFICES OF THOMAS W. FALVEY  
MANCINI & ASSOCIATES



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