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23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

24 **IN AND FOR THE COUNTY OF SAN DIEGO**

25 ALAA GADO KANA, an individual, on behalf
26 of himself and on behalf of all persons similarly
27 situated,

28 Plaintiff,

v.

DAVIDSON HOTEL COMPANY, LLC; a
Delaware limited liability company; DHC SD
HOLDINGS, LLC, a Delaware limited liability
company; and DOES 1 through 50, inclusive,

Defendants.

Case No: 24CU018187C

[Complaint Filed: October 18, 2024]

[First Amended Complaint Filed: September
15, 2025]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between Plaintiff Alaa Gado Kana (hereinafter “Plaintiff”), an individual, on
3 behalf of himself, and on behalf of all persons similarly situated, and Defendant Davidson Hotel
4 Company, LLC, and Defendant DHC SD Holdings, LLC (“Defendants”):

5 **I. DEFINITIONS**

- 6 A. “Action” shall mean the putative class and representative action lawsuit designated
7 *Alaa Gado Kana v. Davidson Hotel Company, LLC, et al.*, San Diego County
8 Superior Court, Case No. 24CU018187C, filed October 18, 2024.
- 9 B. “Aggrieved Employee Payment” shall mean the Aggrieved Employees’ pro-rata share
10 of the portion of the PAGA Payment allocated to the Aggrieved Employees.
- 11 C. “Aggrieved Employees” means all persons who are or previously were employed by
12 Defendant at the Hilton San Diego Gaslamp Quarter location and classified as non-
13 exempt employees at any time during the period from October 18, 2023, through July
14 30, 2025 (“PAGA Period”).
- 15 D. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
16 Class and PAGA Action Claims and Release of Claims.
- 17 E. “Class Counsel Award” means the award of fees and expenses that the Court
18 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff,
19 the Class Members and the Aggrieved Employees in the Action, consisting of
20 attorneys’ fees currently not to exceed one-third of the Gross Settlement Amount
21 currently estimated to be \$171,666.67 out of \$440,000.00 plus costs of up to
22 \$25,000.00 (“Cost Award”). Attorneys’ fees will be divided between Class Counsel
23 in the following percentages (50% to JCL Law Firm, APC, and 50% to Zakay Law
24 Group, APLC). Plaintiff expressly consents to this fee division.
- 25 F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq., and Sydney Castillo-
26 Johnson, Esq. of JCL Law Firm, APC; and Shani O. Zakay, Esq. of Zakay Law Group,
27 APLC.

1 G. "Class Data" means information regarding Class Members that Defendants will in
2 good faith compile from its records and provide to the Settlement Administrator. It
3 shall be formatted as a Microsoft Excel spreadsheet and shall include to the extent
4 practicable: each Class Member's full name; last known address; Social Security
5 Number; telephone number, and number of Class Period Workweeks and PAGA Pay
6 Periods.

7 H. "Class Period" means the period beginning October 18, 2020, through July 30, 2025.

8 I. "Class Representative" shall mean plaintiff Alaa Gado Kana.

9 J. "Class" or the "Class Members" means all persons who are or previously were
10 employed by Defendants at the Hilton San Diego Gaslamp Quarter location and
11 classified as non-exempt employees at any time during the Class Period.

12 K. "Court" means the Superior Court for the State of California, County of San Diego
13 currently presiding over the Action.

14 L. "Defendants" shall mean Davidson Hotel Company, LLC and DHC SD Holdings
15 LLC.

16 M. "Effective Date" means the date of entry by the Court of an order and judgment finally
17 approving this Settlement and either (i) the applicable date for seeking appellate
18 review of the Court's final approval order has passed without a timely appeal or
19 request for review having been made; or (ii) a California Court of Appeal or the
20 California Supreme Court has rendered a final judgment affirming the Court's final
21 approval without material modification, and the time for any further appeal has
22 expired.

23 N. "Funding Date" shall mean the date by which Defendants have paid the entire Gross
24 Settlement Amount to the Settlement Administrator in accord with the terms of this
25 Agreement. Defendants will pay the Gross Settlement Amount to the Settlement
26 Administrator within sixty-five (65) days of the Effective Date.

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- 1 O. “Gross Settlement Amount” means Four Hundred Forty Thousand Dollars and Zero
2 Cents (\$440,000.00) that Defendants must pay into the QSF in connection with this
3 Settlement, inclusive of the sum of Settlement Administration Costs, Class Counsel
4 Award, Service Award, and the PAGA Payment. Defendants’ share of employer
5 payroll taxes on any payments allocated as wages under this Settlement shall be paid
6 by Defendants in addition to the Gross Settlement Amount. No portion of the Gross
7 Settlement Amount will revert to Defendants.
- 8 P. “Individual Settlement Payments” means the amount payable from the Net Settlement
9 Amount to each Settlement Class Member and excludes any amounts distributed to
10 Aggrieved Employees pursuant to PAGA.
- 11 Q. “LWDA Payment” shall mean the sixty-five percent (65%) or Thirteen Thousand
12 Dollars and Zero Cents (\$13,000.00) of the PAGA Payment that shall be paid to the
13 California Labor and Workforce Development Agency (“LWDA”).
- 14 R. “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less Class
15 Counsel Award, Service Award, PAGA Payment, and Settlement Administration
16 Costs.
- 17 S. “Notice Packet” means the Class Notice to be provided to the Class Members by the
18 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
19 than formatting changes to facilitate printing by the Settlement Administrator).
- 20 T. “Operative Complaint” shall mean the First Amended Complaint filed by Plaintiff on
21 September 15, 2025, in the San Diego Superior Court.
- 22 U. “PAGA Action” shall mean the action designated *Alaa Gado Kana v. Davidson Hotel*
23 *Company, LLC, et al.*, San Diego County Superior Court, Case No. 24CU030160C,
24 filed December 23, 2024.
- 25 V. “PAGA Pay Periods” for purposes of calculating the distribution of the Aggrieved
26 Employee Payment, as defined herein, means the number of pay periods of
27 employment during the PAGA Period that each Aggrieved Employee worked in
28 California.

- 1 W. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
2 for each Aggrieved Employee divided by the total Pay Periods for all Aggrieved
3 Employees during the PAGA Period.
- 4 X. "PAGA Payment" shall mean Twenty Thousand Dollars and Zero Cents (\$20,000.00)
5 to be allocated from the Gross Settlement Amount, with 35% of the payment going
6 to the Aggrieved Employees ("Aggrieved Employee Payment") and 65% of the
7 payment going to the Labor and Workforce Development Agency ("LWDA
8 Payment"). The amount of the PAGA Payment is subject to Court approval pursuant
9 to California Labor Code section 2699(m). Any reallocation of the Gross Settlement
10 Amount to increase the PAGA Payment will not constitute grounds by either party to
11 void this Agreement, so long as the Gross Settlement Amount remains the same.
- 12 Y. "PAGA Period" means the period beginning October 18, 2023, through July 30, 2025.
- 13 Z. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
14 Labor Code § 2698 *et seq.*
- 15 AA. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
16 Plaintiff or Defendants, individually.
- 17 BB. "Payment Ratio" means the respective Workweeks for each Class Member divided
18 by the total Workweeks for all Class Members.
- 19 CC. "Plaintiff" shall mean Alaa Gado Kana.
- 20 DD. "QSF" means the Qualified Settlement Fund established, designated, and maintained
21 by the Settlement Administrator to fund the Gross Settlement Amount.
- 22 EE. "Released Class Claims" shall mean all class claims alleged, or reasonably could have
23 been alleged based on the facts alleged, in the Operative Complaint in the Action
24 which occurred during the Class Period, and expressly excluding all other claims,
25 including claims for vested benefits, wrongful termination, unemployment insurance,
26 disability, social security, workers' compensation, and class claims outside of the
27 Class Period.
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- 1 FF. “Released PAGA Claims” shall mean all PAGA claims alleged in the Operative
2 Complaint in the Action and Plaintiff’s PAGA notice to the LWDA which occurred
3 during the PAGA Period, and expressly excluding all other claims, including claims
4 for vested benefits, wrongful termination, unemployment insurance, disability, social
5 security, workers’ compensation, and PAGA claims outside of the PAGA Period.
- 6 GG. “Released Parties” shall mean Defendants and any of their former and present parents,
7 subsidiaries, divisions, corporate members, and affiliated companies, and their
8 respective officers, directors, employees, partners, shareholders, agents, successors,
9 assigns, insurers, and legal representatives.
- 10 HH. “Response Deadline” means the date sixty (60) calendar days after the Settlement
11 Administrator mails Notice Packets to Class Members and the last date on which
12 Class Members may submit requests for exclusion or objections to the Settlement.
13 Neither side shall encourage any Class Member to opt out.
- 14 II. “Service Award” means an award in the amount of \$10,000, or in an amount that the
15 Court authorizes to be paid to the Class Representative, in addition to his Individual
16 Settlement Payment, and his individual Aggrieved Employee Payment, in recognition
17 of his efforts and risks in assisting with the prosecution of the Action and in exchange
18 for executing a General Release of claims including a Civil Code 1542 waiver.
- 19 JJ. “Settlement Administration Costs” shall mean the amount paid to the Settlement
20 Administrator from the Gross Settlement Amount for administering the Settlement
21 pursuant to this Agreement currently estimated not to exceed \$6,900.00.
- 22 KK. “Settlement Administrator” means Apex Class Action LLC, located at Apex Class
23 Action, LLC, P.O. Box 54668, Irvine, CA 92619; Tel: (800) 355-0700. The
24 Settlement Administrator establishes, designates, and maintains, as a QSF under
25 Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into
26 which the amount of the Gross Settlement Amount is deposited for the purpose of
27 resolving the claims of Settlement Class Members. The Settlement Administrator
28 shall maintain the funds until distribution in an account(s) segregated from the assets

1 of the Parties and any person related to the Parties. Any interest accrued will be added
2 to the NSA and distributed to the Settlement Class Members except that if final
3 approval is reversed on appeal, then Defendants are entitled to prompt return of the
4 principal and all interest accrued.

5 LL. "Settlement Class Members" or "Settlement Class" means all Class Members who
6 have not submitted a timely and valid request for exclusion as provided in this
7 Agreement.

8 MM. "Settlement" means the disposition of the Action pursuant to this Agreement.

9 NN. "Workweeks," shall mean any seven (7) consecutive days beginning on Sunday and
10 ending on Saturday, in which a Class Member was employed by Defendants during
11 the Class Period in California. The Settlement Administrator will calculate the
12 Workweeks based on the Class Data and will be presumed to be correct unless a
13 particular Class Member proves otherwise to the Settlement Administrator by
14 credible written evidence. All Workweek disputes will be resolved and decided by
15 the Settlement Administrator, and the Settlement Administrator's decision on all
16 Workweek disputes will be final and non-appealable.

17 **II. RECITALS**

18 A. On October 18, 2024, Plaintiff filed a Notice of Violations with the Labor and
19 Workforce Development Agency (LWDA) and served the same on Defendants.
20 Additionally, Plaintiff filed the Action, alleging claims for:

- 21 1. Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 *et seq*;
- 22 2. Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197
23 & 1197.1;
- 24 3. Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, *et seq*;
- 25 4. Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§
26 226.7 & 512 and the Applicable IWC Wage Order;
- 27 5. Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§
28 226.7 & 512 and the Applicable IWC Wage Order;

1 6. Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab.
2 Code § 226;

3 7. Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201,
4 202 and 203; and

5 8. Failure to Reimburse Employees for Required Expenses in Violation of Cal.
6 Lab. Code § 2802.

7 B. On December 23, 2024, Plaintiff filed the PAGA Action alleging a single cause of
8 action for violations of the Private Attorneys General Act in Violation of Cal. Lab
9 Code §§ 2698 *et seq.*

10 C. On July 30, 2025, the Parties participated in a full day mediation with mediator
11 Tripper Ortman, Esq., an experienced mediator of wage and hour class and PAGA
12 actions. The mediation concluded with a settlement after both sides agreed to a
13 Mediator’s proposal, which was subsequently memorialized in the form of a
14 Memorandum of Understanding (“MOU”).

15 D. On September 12, 2025, Plaintiff filed the Operative Complaint to add an additional
16 cause of action for violations of PAGA.

17 E. The Class Representative believes he has claims based on alleged violations of the
18 California Labor Code, and the Industrial Welfare Commission Wage Orders. The
19 Class Representative believes that class certification is appropriate because the
20 prerequisites for class certification can be satisfied in the Action and this action is
21 manageable as a PAGA representative action.

22 F. Defendants deny any liability or wrongdoing of any kind associated with the claims
23 alleged in the Action, disputes any wages, damages, and penalties claimed by the
24 Class Representative alleged in the Action, and/or alleged in the Class
25 Representative’s Notice of Violations to the LWDA are owed, and further contends
26 that, for any purpose other than settlement, the Action is not appropriate for class or
27 representative action treatment. Defendants contend, among other things, that at all
28

1 times they complied with the California Labor Code and the Industrial Welfare
2 Commission Wage Orders.

3 G. The Class Representative is represented by Class Counsel. Class Counsel investigated
4 the facts relevant to the Action, including conducting an independent investigation as
5 to the allegations and reviewing documents and information exchanged through
6 formal discovery, and reviewing documents and information provided by Defendants
7 informally to prepare for mediation. Defendants produced for the purpose of
8 settlement negotiations certain employment data concerning the Class, which Class
9 Counsel reviewed and analyzed with the assistance of an expert. Based on their own
10 independent investigation and evaluation, Class Counsel are of the opinion that the
11 Settlement with Defendants is fair, reasonable, and adequate, and is in the best interest
12 of the Class considering all known facts and circumstances, including the risks of
13 significant delay, defenses asserted by Defendants, uncertainties regarding class
14 certification, and numerous potential appellate issues. Although they deny any
15 liability, Defendants agree to this Settlement solely to avoid the inconveniences and
16 cost of further litigation. The Parties and their counsel have agreed to settle the claims
17 on the terms set forth in this Agreement.

18 H. This Agreement replaces and supersedes the MOU and any other agreements,
19 understandings, or representations between the Parties. This Agreement represents a
20 compromise and settlement of highly disputed claims. Nothing in this Agreement is
21 intended or will be construed as an admission by Defendants that the claims in the
22 Action of Plaintiff or the Class Members have merit or that Defendants bear any
23 liability to Plaintiff or the Class or the State of California (including the LWDA) or
24 the Aggrieved Employees on those claims or any other claims, or as an admission by
25 Plaintiff that Defendants' defenses in the Action have merit.

26 I. The Parties believe that the Settlement is fair, reasonable, and adequate. The
27 Settlement was arrived at through arm's-length negotiations, considering all relevant
28 factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to

1 continuing the Action through trial and any appeal. Accordingly, the Parties desire to
2 settle, compromise and discharge all disputes and claims arising from or relating to
3 the Action fully, finally, and forever.

- 4 J. The Parties agree to certification of the Class for purposes of this Settlement only. If
5 for any reason the settlement does not become effective, Defendants reserves the right
6 to contest certification of any class for any reason and reserve all available defenses
7 to the claims in the Action. The Settlement, this Agreement, and the Parties'
8 willingness to settle the Action will have no bearing on and will not be admissible in
9 connection with any litigation.

10 Based on these Recitals, the Parties agree as follows:

11 **III. TERMS OF AGREEMENT**

12 A. Settlement Consideration and Settlement Payments by Defendants.

13 1. Settlement Consideration. In full and complete settlement of the Action, and
14 in exchange for the releases set forth below, Defendants will pay the sum of
15 Four Hundred Forty Thousand Dollars Zero Cents (\$440,000.00). The Gross
16 Settlement Amount will be used to pay the Individual Settlement Payments,
17 the Service Award, the Class Counsel Award, PAGA Payment, and the
18 Settlement Administration Costs, as specified in this Agreement. The Parties
19 agree that this is a non-reversionary Settlement and that no portion of the
20 Gross Settlement Amount shall revert to Defendants. Other than the
21 Defendants' share of employer payroll taxes and as provided in Section III.A.2
22 below, Defendants shall not be required to pay more than the Gross Settlement
23 Amount.

24 2. Class Size and Escalator Clause. The Parties negotiated the Settlement based
25 on data provided by Defendants showing that the Class was comprised of
26 approximately 219 individuals who collectively worked approximately 17,337
27 Workweeks during the Class Period. In regard hereto, no later than seven (7) days
28 before Plaintiff's deadline to file their motion for Preliminary Approval of the

1 Settlement, Defendants will provide the Settlement Administrator with the Class Data
2 in order to administer the Settlement, which Defendants will in good faith compile
3 from their records. If the actual number of Workweeks worked during the Class
4 Period exceeds the above number by more than 10%, the settlement amount will be
5 increased by the percentage over 110% of the increased workweeks. For example, if
6 the total Workweeks in the Class Period are 115% of 17,337, the Gross Settlement
7 will increase by 5%. Alternatively, should the number of Workweeks exceed 110%
8 of 17,337, Defendants can cut the Class Period back to the date on which the number
9 of Workweeks reached 17,337.

10 3. Settlement Payment. Defendants shall deposit the Gross Settlement Amount
11 into the QSF, through the Settlement Administrator on the Funding Date.
12 Within fifteen (15) days after the Funding Date, the Settlement Administrator
13 will mail checks for all Individual Settlement Payments and all Aggrieved
14 Employees Payments, the LWDA Payment, the Class Counsel Award, the
15 Settlement Administration Costs, the Service Award. However, Disbursement
16 of the Class Counsel Award and the Settlement Administration Costs shall not
17 precede disbursement of Individual Settlement Payments and Individual
18 Aggrieved Employee Payments. Any interest accrued will be added to the
19 NSA and distributed to the Settlement Class Members except that if final
20 approval is reversed on appeal, then Defendants are entitled to prompt return
21 of the principal and all interest accrued.

22 4. Defendants' Share of Payroll Taxes. Defendants' share of employer-side
23 payroll taxes is due separately and in addition to the Gross Settlement Amount
24 and shall be paid together with the Gross Settlement Amount on the Funding
25 Date.

26 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
27 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
28 release the Released Parties from the Released Class Claims.

1 C. Release by the Plaintiff, the LWDA, the State of California, and Aggrieved
2 Employees. As of the Funding Date, in exchange for the consideration set forth in this
3 Agreement, the Plaintiff as agent and proxy of the State of California (including the
4 LWDA), the Plaintiff, the LWDA, and the State of California shall be deemed to
5 release the Released Parties from the Released PAGA Claims. As a result of this
6 release, the Aggrieved Employees shall be precluded from bringing future claims
7 against Defendants for the Released PAGA Claims.

8 D. General Release by Plaintiff. As of the Effective Date for the consideration set forth
9 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
10 Released Parties from any and all claims, whether known or unknown, which exist or
11 may exist on her behalf as of the date of this Agreement, including but not limited to
12 any and all tort claims, contract claims, wage claims, wrongful termination claims,
13 disability claims, benefit claims, public policy claims, retaliation claims, statutory
14 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
15 defamation claims, fraud claims, quantum meruit claims, and any and all claims
16 arising under any federal, state or other governmental statute, law, regulation or
17 ordinance, including, but not limited to claims for violation of the Fair Labor
18 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
19 Welfare Commission, other state wage and hour laws, the Americans with
20 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
21 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
22 California Fair Employment and Housing Act, the California Family Rights Act, the
23 Family Medical Leave Act, California's Whistleblower Protection Act, California
24 Business & Professions Code Section 17200 et seq., and any and all claims arising
25 under any federal, state or other governmental statute, law, regulation or ordinance.
26 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
27 may have under California Civil Code § 1542, which provides as follows:
28

1 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
2 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
3 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
4 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
5 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
6 ***OR RELEASED PARTY.***

7 Thus, notwithstanding the provisions of section 1542, and to implement a full and
8 complete release and discharge of the Released Parties, Plaintiff expressly
9 acknowledges this Settlement Agreement is intended to include in its effect, without
10 limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at
11 the time of signing this Settlement Agreement, and that this Settlement Agreement
12 contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff
13 has read this Settlement Agreement, including this waiver of California Civil Code
14 section 1542, and that Plaintiff has consulted with or had the opportunity to consult
15 with counsel of Plaintiff's choosing about this Settlement Agreement and specifically
16 about the waiver of section 1542, and that Plaintiff understands this Settlement
17 Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters
18 into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may
19 discover facts different from or in addition to those Plaintiff now knows or believes to
20 be true regarding the matters released or described in this Settlement Agreement, and
21 even so Plaintiff agrees that the releases and agreements contained in this Settlement
22 Agreement shall remain effective in all respects notwithstanding any later discovery of
23 any different or additional facts. Plaintiff expressly assumes any and all risk of any
24 mistake in connection with the true facts involved in the matters, disputes, or
25 controversies released or described in this Settlement Agreement or with regard to any
26 facts now unknown to Plaintiff relating thereto.

27 E. Conditions Precedent: This Settlement will become final and effective only upon the
28 occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and
4. Defendants fully fund the Gross Settlement Amount.

F. Nullification of Settlement Agreement. If the Court does not preliminarily or finally approve this Settlement Agreement, fails to become effective, or is reversed, withdrawn, or materially modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Class Claims and Released PAGA Claims, or if Defendants fail to fully fund the Gross Settlement Amount:

1. This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural, except as necessary to approve, interpret or enforce this Settlement Agreement;
2. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses, or arguments in the Action, including with respect to the issue of class certification.

1 G. In the event that Defendants fail to fully fund the Gross Settlement Amount,
2 Defendants shall bear the sole responsibility for any cost to issue or reissue any
3 curative notice to the Settlement Class Members and all Settlement Administration
4 Costs incurred to the date of nullification.

5 H. Certification of the Class. The Parties stipulate to conditional class certification of the
6 Class for the Class Period for purposes of settlement only. In the event that this
7 Settlement is not approved by the Court, fails to become effective, or is reversed,
8 withdrawn or modified by the Court, or in any way prevents or prohibits Defendants
9 from obtaining a complete resolution of the Released Class Claims and Released
10 PAGA Claims, the conditional class certification (obtained for any purpose) shall be
11 void *ab initio* and of no force or effect, and shall not be admissible in any judicial,
12 administrative or arbitral proceeding for any purpose or with respect to any issue,
13 substantive or procedural. Defendants expressly reserve their rights to oppose class
14 certification in the Action or any other action should this Settlement not become
15 effective.

16 I. Tax Liability. The Parties make no representations as to the tax treatment or legal
17 effect of the payments called for, and Plaintiff, the Class Members and/or Aggrieved
18 Employees are not relying on any statement or representation by the Parties in this
19 regard. Plaintiff, Class Members, and/or Aggrieved Employees understand and agree
20 that they will be responsible for the payment of any taxes and penalties assessed on
21 any Service Award, the Individual Settlement Payments and/or Aggrieved Employee
22 Payment described and will be solely responsible for any penalties or other obligations
23 resulting from their personal tax reporting of the Service Award, Individual Settlement
24 Payments and/or Aggrieved Employee Payment.

25 J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
26 the “acknowledging party” and each Party to this Agreement other than the
27 acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision
28 of this Agreement, and no written communication or disclosure between or among the

1 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
2 such communication or disclosure constitute or be construed or be relied upon as, tax
3 advice within the meaning of United States Treasury Department circular 230 (31 CFR
4 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
5 her or its own, independent legal and tax counsel for advice (including tax advice) in
6 connection with this Agreement, (b) has not entered into this Agreement based upon
7 the recommendation of any other Party or any attorney or advisor to any other Party,
8 and (c) is not entitled to rely upon any communication or disclosure by any attorney
9 or adviser to any other party to avoid any tax penalty that may be imposed on the
10 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
11 any limitation that protects the confidentiality of any such attorney's or adviser's tax
12 strategies (regardless of whether such limitation is legally binding) upon disclosure by
13 the acknowledging party of the tax treatment or tax structure of any transaction,
14 including any transaction contemplated by this Agreement.

15 K. Preliminary Approval Motion. As soon thereafter as practicable after the execution of
16 this Agreement, Plaintiff shall file with the Court a Motion for Order Granting
17 Preliminary Approval and supporting papers, which shall include this Settlement
18 Agreement. Plaintiff will provide Defendants with a draft of the Motion at least five
19 (5) business days prior to the filing of the Motion to give Defendants an opportunity
20 to review and comment upon the Motion.

21 L. Settlement Administrator. The Settlement Administrator shall be responsible for:
22 establishing and administering the QSF; calculating, processing and mailing payments
23 to the Class Representative, Class Counsel, LWDA, Aggrieved Employees, and Class
24 Members; printing and mailing the Notice Packets to the Class Members as directed
25 by the Court; receiving and reporting the objections and requests for exclusion;
26 calculating, deducting and remitting all legally required taxes from Individual
27 Settlement Payments and distributing tax forms for the Wage Portion, the Penalties
28 Portion and the Interest Portion of the Individual Settlement Payments and/or

1 Aggrieved Employee Payment; processing and mailing tax payments to the
2 appropriate state and federal taxing authorities; providing declaration(s) as necessary
3 in support of preliminary and/or final approval of this Settlement; and other tasks as
4 the Parties mutually agree or the Court orders the Settlement Administrator to perform.
5 The Settlement Administrator shall keep the Parties timely apprised of the performance
6 of all Settlement Administrator responsibilities by among other things, sending a
7 weekly status report to the Parties' counsel stating the date of the mailing, the of
8 number of opt outs from the Settlement it receives (including the numbers of valid and
9 deficient), and number of objections received.

10 M. Notice Procedure.

11 1. Notice Packets.

- 12 a) The Notice Packet shall contain the Notice of Class and PAGA
13 Representative Action Settlement ("Class Notice") in a form
14 substantially similar to the form attached as **Exhibit A**. The Class
15 Notice shall inform Class Members and Aggrieved Employees that
16 they need not do anything in order to receive an Individual Settlement
17 Payment and/or Aggrieved Employee Payment and to keep the
18 Settlement Administrator apprised of their current mailing address, to
19 which the Individual Settlement Payments and/or Aggrieved
20 Employee Payment will be mailed following the Funding Date. The
21 Class Notice shall set forth the release to be given by all members of
22 the Class who do not request to be excluded from the Settlement Class
23 and/or Aggrieved Employees in exchange for an Individual Settlement
24 Payment and/or Aggrieved Employee Payment, the number of
25 Workweeks worked by each Class Member during the Class Period,
26 and number of PAGA Periods worked by each Aggrieved Employee
27 during the PAGA Period, if any, and the estimated amount of their
28 Individual Settlement Payment if they do not request to be excluded

1 from the Settlement and Aggrieved Employee Payment, if any. The
2 Settlement Administrator shall use the Class Data to determine Class
3 Members' Workweeks and PAGA Pay Periods. The Class Notice will
4 also advise the Aggrieved Employees that they will be deemed to
5 release the Released PAGA Claims and will receive their share of the
6 Aggrieved Employee Payment regardless of whether they request to
7 be excluded from the Settlement.

8 b) The Notice Packet's mailing envelope shall include the following
9 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
10 ENTITLED TO PARTICIPATE IN A CLASS AND PAGA ACTION
11 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
12 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
13 NOTICE."

14 2. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
15 Settlement Administrator will perform a search based on the National Change
16 of Address Database to update and correct any known or identifiable address
17 changes. No later than fourteen (14) calendar days after preliminary approval
18 of the Settlement, the Settlement Administrator shall mail copies of the Notice
19 Packet to all Class Members via regular First-Class U.S. Mail. The Settlement
20 Administrator shall exercise its best judgment to determine the current mailing
21 address for each Class Member. The address identified by the Settlement
22 Administrator as the current mailing address shall be presumed to be the best
23 mailing address for each Class Member.

24 3. Undeliverable Notices. Any Notice Packets returned to the Settlement
25 Administrator as non-delivered on or before the Response Deadline shall be
26 re-mailed to any forwarding address provided within seven (7) days of
27 receiving the returned notice. If no forwarding address is provided, the
28 Settlement Administrator shall promptly attempt to determine a correct

1 address by lawful use of skip-tracing, or other search using the name, address
2 and/or Social Security number of the Class Member involved, and shall then
3 perform a re-mailing, if the Settlement Administrator identifies another
4 mailing address. In addition, if any Class Member who is currently employed
5 by Defendants, is returned to the Settlement Administrator, as non-delivered
6 and no forwarding address is provided, the Settlement Administrator shall
7 notify Defendants. Defendants will request that the currently employed Class
8 Member provide a corrected address and transmit to the Settlement
9 Administrator any corrected address provided by the Class Member. Class
10 Members who receive a re-mailed Notice Packet shall have their Response
11 Deadline extended fifteen (15) days from the original Response Deadline.

12 4. Disputes Regarding Individual Settlement Payments. Class Members will
13 have the opportunity, should they disagree with Defendants' records regarding
14 the start and end dates of employment, to provide documentation and/or an
15 explanation to show contrary dates. If there is a dispute, the Settlement
16 Administrator will consult with the Parties to determine whether an
17 adjustment is warranted. The Settlement Administrator shall determine the
18 eligibility for, and the amounts of, any Individual Settlement Payments under
19 the terms of this Agreement. The Settlement Administrator's determination
20 of the eligibility for and amount of any Individual Settlement Payment shall
21 be binding upon the Class Member and the Parties.

22 5. Disputes Regarding Administration of Settlement. Any disputes not resolved
23 by the Settlement Administrator concerning the administration of the
24 Settlement will be resolved by the Court under the laws of the State of
25 California. Before any such involvement of the Court, counsel for the Parties
26 will confer in good faith to resolve the disputes without the necessity of
27 involving the Court.
28

1 6. Exclusions. The Class Notice contained in the Notice Packet shall state that
2 Class Members who wish to exclude themselves from the Settlement must
3 submit a written request for exclusion by the Response Deadline. The written
4 request for exclusion must state that the Class Member wishes to exclude
5 himself or herself from the Settlement and (1) must contain the name, address,
6 and the last four digits of the Social Security number of the person requesting
7 exclusion; (2) must be signed by the Class Member; (3) must be postmarked
8 or fax stamped by the Response Deadline and returned to the Settlement
9 Administrator at the specified address or fax telephone number; and (4)
10 contain a typewritten or handwritten notice stating in substance: “I wish to
11 opt out of the settlement of the class action lawsuit entitled *Alaa Gado Kana*
12 *v. Davidson Hotel Company, LLC, et al.*, currently pending in the San Diego
13 Superior Court, Case No. 24CU018187C. I understand that by requesting to
14 be excluded from the settlement, I will receive no money from the Settlement
15 described in this Notice.” The request for exclusion will not be valid if it is
16 not timely submitted, if the Class Member does not sign it, or if it does not
17 contain the name and address and last four digits of the Social Security number
18 of the Class Member. The date of the postmark on the mailing envelope or
19 fax stamp on the request for exclusion shall be the exclusive means used to
20 determine whether the request for exclusion was timely submitted. Any Class
21 Member who requests to be excluded from the Settlement Class will not be
22 entitled to an Individual Settlement Payment and will not be otherwise bound
23 by the terms of the Settlement or have any right to object, appeal or comment
24 thereon. However, any Class Member that submits a timely request for
25 exclusion that is also an Aggrieved Employee will still receive his/her pro rata
26 share of the PAGA Payment, as specified below, and in consideration, will be
27 bound by the Release by the Aggrieved Employees as set forth herein.
28 Aggrieved Employees are not permitted to exclude themselves from the

1 PAGA portion of the Settlement. Settlement Class Members shall be bound
2 by all terms of the Settlement and any final judgment entered in this Action if
3 the Court approves the Settlement. No later than fourteen (14) calendar days
4 after the Response Deadline, the Settlement Administrator shall provide
5 counsel for the Defendants only with a final list of the Settlement Class
6 Members. At no time shall any of the Parties or their counsel seek to solicit
7 or otherwise encourage members of the Class to submit requests for exclusion
8 from the Settlement.

9 7. Objections. The Class Notice contained in the Notice Packet shall state that
10 Class Members who wish to object to the Settlement may submit to the
11 Settlement Administrator a written statement of objection (“Notice of
12 Objection”) by the Response Deadline. The postmark date of mailing shall be
13 deemed the exclusive means for determining that a Notice of Objection was
14 served timely. The Notice of Objection, if in writing, must be signed by the
15 Settlement Class Member and state: (1) the case name and number; (2) the
16 name of the Settlement Class Member; (3) the address of the Settlement Class
17 Member; (4) the last four digits of the Settlement Class Member’s Social
18 Security number; (5) the basis for the objection; and (6) if the Settlement Class
19 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
20 Settlement Class Members who fail to make objections in writing in the
21 manner specified above may still make their objections orally at the Final
22 Approval/Settlement Fairness Hearing with the Court’s permission.
23 Settlement Class Members will have a right to appear at the Final
24 Approval/Settlement Fairness Hearing to have their objections heard by the
25 Court regardless of whether they submitted a written objection. At no time
26 shall any of the Parties or their counsel seek to solicit or otherwise encourage
27 Settlement Class Members to file or serve written objections to the Settlement
28 or appeal from the Order and Final Judgment. Class Members who submit a

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written request for exclusion may not object to the Settlement. Class Members may not object to the PAGA Payment.

N. Funding and Allocation of the Gross Settlement Amount. Defendants are required to pay the Gross Settlement Amount plus any employer’s share of payroll taxes as mandated by law within the time specified hereinabove on the Funding Date.

1. Calculation of Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. Each Class Member’s Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member’s estimated Individual Settlement Payment. Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all Aggrieved Employees during the PAGA Period. The respective PAGA Pay Periods for each Aggrieved Employees will be divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting in the “PAGA Payment Ratio” for each Aggrieved Employee. Each Aggrieved Employee’s PAGA Payment Ratio will then be multiplied by the

1 Aggrieved Employee Payment to calculate the estimated payment due to each
2 Aggrieved Employee.

3 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
4 Settlement Payments shall be allocated and treated as 20% wages (“Wage
5 Portion”) and 80% penalties (“Penalties and Interest Portion”). The Wage
6 Portion shall be reported on IRS Form W-2 and the Penalty and Interest
7 Portion shall be reported on IRS Form 1099.

8 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
9 Employee Settlement Payments shall be allocated and treated as 100%
10 penalties and shall be reported on IRS Form 1099.

11 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
12 Aggrieved Employee Payments made to Settlement Class Members and/or
13 Aggrieved Employees under this Settlement Agreement, as well as any other
14 payments made pursuant to this Settlement Agreement, will not be utilized to
15 calculate any additional benefits under any benefit plans to which any Class
16 Members may be eligible, including, but not limited to profit-sharing plans,
17 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
18 plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention
19 that this Settlement Agreement will not affect any rights, contributions, or
20 amounts to which any Class Members and/or Aggrieved Employees may be
21 entitled under any benefit plans.

22 6. All monies received by Plaintiff and the Settlement Class Members under the
23 Settlement which are attributable to wages shall constitute income to Plaintiff
24 and such Settlement Class Members solely in the year in which Plaintiff and the
25 Settlement Class Members receive such monies. It is the intent of the Parties
26 that Individual Settlement Payments and Aggrieved Employee Payments
27 provided for in this Settlement agreement are the sole payments to be made by
28 Defendants to Plaintiff, the Settlement Class Members and/or Aggrieved

1 Employees in connection with this Settlement Agreement and that Plaintiff, the
2 Settlement Class Members and/or Aggrieved Employees are not entitled to any
3 new or additional compensation or benefits as a result of having received the
4 Individual Settlement Payments and/or their shares of the Aggrieved Employee
5 Payment.

6 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
7 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
8 and/or Aggrieved Employees' last known mailing address no later than fifteen
9 (15) days after the Funding Date.

10 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
11 Employees shall remain valid and negotiable for one hundred and eighty (180)
12 days from the date of their issuance. If a Settlement Class Member and/or
13 Aggrieved Employee does not cash his or her settlement check within ninety
14 (90) days, the Settlement Administrator will send a letter to such persons,
15 advising that the check will expire after the 180th day, and invite that
16 Settlement Class Member and/or Aggrieved Employees to request reissuance
17 in the event the check was destroyed, lost, or misplaced. In the event an
18 Individual Settlement Payment and/or Aggrieved Employee's Aggrieved
19 Employee Payment check has not been cashed within one hundred and eighty
20 (180) days, all funds represented by such uncashed checks, plus any interest
21 accrued thereon, shall be paid to the State Controller's Unclaimed Property
22 Fund in the name of the Class Member who did not claim the funds, in
23 accordance with California Code of Civil Procedure section 384. The Parties
24 agreed that under this procedure, there is no residue as the entire Gross
25 Settlement Amount will be distributed.

26 9. Service Award. In addition to the Individual Settlement Payment as a
27 Settlement Class Member and his Aggrieved Employee Payment, Plaintiff
28 will apply to the Court for an award of up to \$10,000.00, as the Service Award.

1 Defendants will not oppose a Service Award up to \$10,000.00 for Plaintiff.
2 The Settlement Administrator shall pay the Service Award, either in the
3 amount stated herein if approved by the Court or some other amount as
4 approved by the Court, to Plaintiff from the Gross Settlement Amount no later
5 than fifteen (15) days after the Funding Date. Any portion of the requested
6 Service Award that is not awarded to the Class Representative shall be part of
7 the Net Settlement Amount and shall be distributed to Settlement Class
8 Members as provided in this Agreement. The Settlement Administrator shall
9 issue an IRS Form 1099 — MISC to Plaintiff for his Service Award. Plaintiff
10 shall be solely and legally responsible to pay any and all applicable taxes on
11 his Service Award and shall hold harmless the Released Parties from any
12 claim or liability for taxes, penalties, or interest arising as a result of the
13 Service Award. Approval of this Settlement shall not be conditioned on Court
14 approval of the requested amount of the Service Award. If the Court reduces
15 or does not approve the requested Service Award, Plaintiff shall not have the
16 right to revoke the Settlement, and it will remain binding.

17 10. Class Counsel Award. Defendants understand, and will not oppose, a motion
18 for attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement
19 Amount currently estimated to be One Hundred Forty-Six Thousand Six
20 Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$146,666.67) **and**
21 attorneys’ expenses supported by declaration not to exceed Twenty-Five
22 Thousand Dollars and Zero Cents (\$25,000.00). Any awarded Class Counsel
23 Award shall be paid from the Gross Settlement Amount. Any portion of the
24 requested attorneys’ fees and/or attorneys’ expenses that are not awarded to
25 Class Counsel shall be part of the Net Settlement Amount and shall be
26 distributed to Settlement Class Members as provided in this Agreement. The
27 Settlement Administrator shall allocate and pay the attorneys’ fees to Class
28 Counsel from the Gross Settlement Amount no later than fifteen (15) days

1 after the Funding Date. Class Counsel shall be solely and legally responsible
2 to pay all applicable taxes on the payment made pursuant to this paragraph.
3 The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class
4 Counsel for the payments made pursuant to this paragraph. If the Court
5 reduces or does not approve the requested attorneys’ fees, Plaintiff and Class
6 Counsel shall not have the right to revoke the Settlement, or to appeal such
7 order, and the Settlement will remain binding.

8 11. PAGA Payment. Twenty Thousand Dollars and Zero Cents (\$20,000.00)
9 shall be allocated from the Gross Settlement Amount for settlement of claims
10 for civil penalties under the Private Attorneys General Act of 2004 (“PAGA
11 Payment”). The Settlement Administrator shall pay sixty-five percent (65%)
12 of the PAGA Payment (\$13,000.00) to the California Labor and Workforce
13 Development Agency (hereinafter “LWDA Payment”) no later than fifteen
14 (15) days after the Funding Date. Thirty-five percent (35%) of the PAGA
15 Payment (\$7,000.00) will be distributed to the Aggrieved Employees as
16 described in this Agreement (hereinafter “Aggrieved Employee Payment”).
17 For purposes of distributing the PAGA Payment to the Aggrieved Employees,
18 each Aggrieved Employee shall receive their pro-rata share of the Aggrieved
19 Employee Payment using the PAGA Payment Ratio as defined above.

20 12. Settlement Administration Costs. The Settlement Administrator shall be paid
21 for the costs of administration of the Settlement from the Gross Settlement
22 Amount. The estimate of the Settlement Administration Costs is \$6,900.00.
23 The Settlement Administrator shall be paid the Settlement Administration
24 Costs no later than fifteen (15) days after the Funding Date.

25 O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
26 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
27 twenty-eight (28) days following the expiration of the Response Deadline, which
28 motion shall request final approval of the Settlement and a determination of the

1 amounts payable for the Service Award, the Class Counsel Award, the PAGA
2 Payment, and the Settlement Administration Costs. Plaintiff will provide Defendants
3 with a draft of the Motion at least five (5) business days prior to the filing of the
4 Motion to give Defendants an opportunity to propose changes or additions to the
5 Motion.

6 1. Declaration by Settlement Administrator. No later than five (5) days after the
7 Response Deadline, the Settlement Administrator shall submit a declaration
8 in support of Plaintiff's motion for final approval of this Settlement detailing
9 the number of Notice Packets mailed and re-mailed to Class Members, the
10 number of undeliverable Notice Packets, the number of timely requests for
11 exclusion, the full names of any Class Members who opt out of the Settlement,
12 the number of objections received, the amount of the average, lowest, and
13 highest Individual Settlement Payments, the amount of the average, lowest,
14 and highest Aggrieved Employee Payments, the Settlement Administration
15 Costs, and any other information as the Parties mutually agree or the Court
16 orders the Settlement Administrator to provide.

17 2. Final Approval Order and Judgment. Class Counsel shall present an Order
18 Granting Final Approval of Class Action Settlement to the Court for its
19 approval, and Judgment thereon, at the time Class Counsel files the Motion
20 for Final Approval.

21 O. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
22 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
23 Final Approval, including the Order Granting Final Approval of Class Action
24 Settlement, and Judgment at least five (5) business days in advance of filing with the
25 Court. The Parties and their counsel will cooperate with each other and use their best
26 efforts to affect the Court's approval of the Motions for Preliminary and Final
27 Approval of the Settlement, and entry of Judgment.

- 1 P. Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts to implement the Settlement.
- 3 Q. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
4 except such proceedings necessary to implement and complete the Settlement, pending
5 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.
- 6 R. Amendment or Modification. This Agreement may be amended or modified only by
7 a written instrument signed by counsel for all Parties or their successors-in-interest.
- 8 S. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
9 Agreement among these Parties, and no oral or written representations, warranties or
10 inducements have been made to any Party concerning this Agreement or its Exhibit
11 other than the representations, warranties and covenants contained and memorialized
12 in this Agreement and its Exhibit.
- 13 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
14 represent they are expressly authorized by the Parties whom they represent to negotiate
15 this Agreement and to take all appropriate actions required or permitted to be taken by
16 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
17 documents required to effectuate the terms of this Agreement. The persons signing
18 this Agreement on behalf of Defendants represents and warrants that he/she is
19 authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and
20 warrants that he is authorized to sign this Agreement and that he has not assigned any
21 claim, or part of a claim, covered by this Settlement to a third-party.
- 22 U. No Public Comment: The Parties and their counsel agree that they will not issue any
23 press releases, initiate any contact with the press, respond to any press inquiry, or have
24 any communication with the press about the fact, amount, or terms of the Settlement
25 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
26 of its terms for any marketing or promotional purposes. Nothing herein will restrict
27 Class Counsel from including publicly available information regarding this settlement
28 in future judicial submissions regarding Class Counsel's qualifications and experience.

1 Further, Class Counsel will not include, reference, or use the Settlement Agreement
2 for any marketing or promotional purposes, either before or after the Motion for
3 Preliminary Approval is filed.

4 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
5 to the benefit of, the successors or assigns of the Parties, as previously defined.

6 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
7 shall be governed by and interpreted according to the laws of the State of California.

8 X. Counterparts. This Agreement may be executed in one or more counterparts. All
9 executed counterparts and each of them shall be deemed to be one and the same
10 instrument provided that counsel for the Parties to this Agreement shall exchange
11 among themselves copies or originals of the signed counterparts.

12 Y. This Settlement Is Fair, Adequate, and Reasonable. The Parties believe this Settlement
13 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
14 Settlement after extensive arms-length negotiations, considering all relevant factors,
15 present and potential.

16 Z. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
17 respect to the interpretation, implementation, and enforcement of the terms of this
18 Agreement and all orders and judgments entered in connection therewith, and the
19 Parties and their counsel submit to the jurisdiction of the Court for purposes of
20 interpreting, implementing and enforcing the settlement and all orders and judgments
21 entered in connection with this Agreement.

22 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
23 the Court shall first attempt to construe the provisions valid to the fullest extent
24 possible consistent with applicable precedents so as to define all provisions of this
25 Agreement valid and enforceable.

26 BB. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
27 intend to pursue any claims against the Released Parties, including, but not limited to,
28 any and all claims relating to or arising from Plaintiff's employment with Defendants,

1 regardless of whether Class Counsel is currently aware of any facts or legal theories
2 upon which any claims or causes of action could be brought against Released Parties,
3 including those facts or legal theories alleged in the Operative Complaint in this
4 Action. The Parties further acknowledge, understand, and agree that this representation
5 is essential to the Agreement and that this Agreement would not have been entered
6 into were it not for this representation.


7 CC. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
8 certification for purposes of this settlement only.

9 DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
10 Released Class Claims and Released PAGA Claims have merit and give rise to liability
11 on the part of Defendants. Defendants claim that the Released Class Claims and
12 Released PAGA Claims have no merit and do not give rise to liability. This Agreement
13 is a compromise of disputed claims. Nothing contained in this Agreement and no
14 documents referred to and no action taken to carry out this Agreement may be
15 construed or used as an admission by or against the Defendants or Plaintiff or Class
16 Counsel as to the merits or lack thereof of the claims asserted. Other than as may be
17 specifically set forth herein, each Party shall be responsible for and shall bear their
18 own attorney's fees and costs.

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1 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

2 DATED: 12/01/2025



Alaa Gado Kana (Dec 1, 2025 13:53:02 PST)

4 ALAA GADO KANA

5 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

8 DATED: December 10, 2025




Defendant Davidson Hotel Company, LLC

10 Gene Hayes

11 Printed Name
12 Vice President, Labor Counsel

13 Title

14 DATED: December 10, 2025



Defendant DHC SD Holdings, LLC

16 Gene Hayes


17 Printed Name
18 Labor Counsel, Authorized Agent

19 Title

20 IT IS SO AGREED AS TO FORM BY COUNSEL:

22 DATED: December 2, 2025

JCL LAW FIRM, A.P.C.

By: 

Jean-Claude Lapuyade, Esq.
Sydney Castillo-Johnson, Esq.
John L. Nitti, Esq.
Attorneys for Plaintiff and the Settlement Class
Members

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DATED: December 10, 2025

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay, Esq.
Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

JACKSON LEWIS, P.C.

By: _____

Adam Y. Siegel, Esq.
Lara P. Besser, Esq.
Annalyse E. Butler, Esq.
Attorneys for Defendants

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DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Shani O. Zakay, Esq.
Attorneys for Plaintiff and the Settlement Class
Members

DATED: December 15, 2025

JACKSON LEWIS, P.C.

By: A. Butler

Adam Y. Siegel, Esq.
Lara P. Besser, Esq.
Annalyse E. Butler, Esq.
Attorneys for Defendants

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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Alaa Gado Kana v. Davidson Hotel Company, LLC, et al., San Diego County Superior Court Case No. 24CU018187C)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	<p>To receive a cash payment from the Settlement, you do not have to do anything. You will receive compensation but lose rights to sue separately.</p> <p>If you do nothing, you will be considered a Settlement Class Member and will receive a proportionate share of the Settlement. You will be bound by the terms of the Settlement and also give up any rights to pursue a separate legal action against Defendants and/or any of the Released Parties, as defined below, for the same or similar legal claims as those alleged in this lawsuit, as detailed in the Released Class Claims and Released PAGA Claims in Section 4 below.</p>
Exclude Yourself	<p>If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below.</p> <p>If you request exclusion from the Class and Settlement, you will not be a member of the Settlement Class, you will receive no money from the Settlement, and you will not be able to make an objection to the Settlement, whether in writing, orally, by appeal or otherwise. However, you will retain the right to file a separate legal action. Please be aware that there are time limits for you to file a separate legal action.</p> <p>As discussed in Section 7, below, please also be aware that one of the claims in the Action is a claim for civil penalties under the Private Attorneys General Act (“PAGA”). If the Court approves this Settlement and you are an Aggrieved Employee, as defined below, you may not opt out of the PAGA portion of the Settlement. If you are an Aggrieved Employee, you will still receive your Aggrieved Employee Payment, and you will not be permitted to assert PAGA claims as an agent and proxy of the State of California against Defendants and the Released Parties based on the facts alleged in this Action, even if you ask to be excluded from the Settlement.</p>
Object	<p>You may write to the Court about why you believe the settlement should not be approved.</p> <p>If you believe the Settlement is unfair or you do not agree with the Settlement in any respect, you may object to the Settlement by submitting a written objection to the Settlement Administrator as explained below. You must remain a member of the Settlement Class to object to the Settlement. This means you cannot object to the Settlement if you also are asking to opt-out of the Settlement. You are not permitted to object from the PAGA portion of the Settlement.</p>

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit (the “Action”) pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Alaa Gado Kana (“Plaintiff”) and Defendants Davidson Hotel Company, LLC and DHC SD Holdings LLC (“Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All persons who are or previously were employed by Defendant at the Hilton San Diego Gaslamp Quarter location and classified as non-exempt employees at any time during the period beginning October 18, 2020, and July 30, 2025 (“Class Period”).

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On October 18, 2024, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendants. Plaintiff’s PAGA Notice set forth the facts and theories supporting Defendants’ alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 *et seq.* (“PAGA”). On the same day, Plaintiff filed a Class Action complaint in the San Diego Superior Court, Case No. 24CU018187C (“Action”), alleging claims for: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 *et seq.*; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, *et seq.*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (8) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802

On December 23, 2024, Plaintiff filed a representative action complaint in San Diego Superior Court, Case No. 24CU030160C (“PAGA Action”), asserting a single cause of action for violations of the PAGA.

On July 30, 2025, the Parties participated in a full day of mediation with mediator Tripper Ortman, Esq. At the conclusion of the full-day mediation, the Parties were able to reach an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC, and Zakay Law Group, APLC, to serve as Class Counsel

On September 12, 2025, Plaintiff filed the Operative Complaint to amend and assert an additional cause of action for Violations of the PAGA.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contends that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the law, including

the California Unfair Competition law, the California Labor Code and the Industrial Welfare Commission Wage Orders.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of Four Hundred Forty Thousand Dollars and Zero Cents (\$440,000.00) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Settlement Administration Costs, Class Counsel Award, Service Award, and the PAGA Payment.

No later than sixty-five (65) days after Judgment becomes Final, Defendants will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed. Payments to Class Members and Aggrieved Employees will not be distributed until the Gross Settlement Amount is fully funded.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before Individual Settlement Payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$6,900.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing Individual Settlement Payments.
- Class Counsel Award. Payment to Class Counsel of an award of attorneys’ fees of no more than one-third (1/3) of the Gross Settlement Amount (currently \$146,666.67) and actually incurred litigation expenses of up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) for all expenses incurred as documented in Class Counsel’s billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been advancing all litigation costs and expenses.
- Service Award. A Service Award of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate his for services on behalf of the Class in initiating and prosecuting the Action, for the risks he undertook, and in exchange for executing a General Release of claims including a Civil Code 1542 waiver.
- PAGA Payment. A payment of \$20,000.00 relating to Plaintiff’s claim under the Private Attorneys General Act (“PAGA”), \$13,000.00 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA”) and the remaining \$7,000.00 will be distributed to Aggrieved Employees as the Aggrieved Employee Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Service Award, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the “Net Settlement Amount,” shall be distributed to class members who do **not** request exclusion (“Settlement Class Members”). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member’s workweeks that occurred during the Class Period. A “workweek”

is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.

- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means all persons who are or previously were employed by Defendant at the Hilton San Diego Gaslamp Quarter location and classified as non-exempt employees at any time during the period beginning October 18, 2023, through July 30, 2025 ("PAGA Period").

If the Court approves the Settlement, unless you opt out, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty percent (80%) of each Individual Settlement Payment is allocated to penalties and pre-judgment interest ("Penalty and Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Payment paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. As of the Effective Date and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the Operative Complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

Released PAGA Claims. As of the Effective Date and upon funding of the Gross Settlement Amount by Defendants, Defendants shall be entitled to a release from Plaintiff and the State of California for all PAGA claims alleged in the Operative Complaint in the Action and Plaintiff's PAGA notice to the LWDA which

occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have << ____ >> Workweeks worked during the Class Period (October 18, 2020, through July 30, 2025).

Based on this information, your estimated Individual Settlement Payment is << _____ >>.

Defendants' records reflect that you have << ____ >> Pay Periods worked during the PAGA Period (October 18, 2023, through July 30, 2025).

Based on this information, your estimated Aggrieved Employee Payment is << _____ >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [sixty (60) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Please be aware that there will be a time limit to bring your claims in a separate action, which may expire if the action is not filed within that time limit. Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Payment as you are not permitted to exclude yourself from the PAGA portion of the Settlement.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is Apex Class Action, LLC, P.O. Box 54668, Irvine, CA 92619; Tel: (800) 355-0700. The request for exclusion

must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Alaa Gado Kana v. Davidson Hotel Company, LLC, et al.*, currently pending in Superior Court of San Diego, Case No. 24CU018187C. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Alaa Gado Kana v. Davidson Hotel Company, LLC, et al., San Diego County Superior Court, Case No. 24CU018187C*. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below. You are not permitted to object to the PAGA portion of the Settlement.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is Apex Class Action, LLC, P.O. Box 54668, Irvine, CA 92619; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
Sydney Castillo-Johnson, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
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Class Counsel:

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Counsel for Defendants:

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Jackson Lewis P.C
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Los Angeles, CA 90017
Tel: (213) 689-0404
Email: adam.siegel@jacksonlewis.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **00:00 AM/PM on _____**, at the San Diego County Superior Court, Department C-70, located at 330 West Broadway, San Diego, CA 92101 before Judge Carolyn Caietti. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-800-355-0700 or write to *Alaa Gado Kana v. Davidson Hotel Company, LLC, et al., San Diego County Superior Court, Case No. 24CU018187C*, Settlement Administrator, Apex Class Action, LLC, P.O. Box 54668, Irvine, CA 92619 c/o Apex Class Action LLC.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the administrator's website at www._____.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks will be paid to the State Controller's Unclaimed Property Fund in the name of the Class Member who did not claim the funds, in accordance with California Code of Civil Procedure section 384. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.