

Mario Cordero v. Spire Hospitality, LLC, No. 20STCV49475
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All current and former California non-exempt hourly employees of Defendants Spire Hospitality, LLC and AWH Burbank Hotel, LLC (“Defendants”) who worked at any time from December 28, 2016 through December 2, 2021 (“Class Members”).

All current and former California non-exempt hourly employees of Defendants who worked at any time from December 28, 2019 through December 2, 2021 (“PAGA Members”).

On December 2, 2021, the Honorable Carolyn B. Kuhl of the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement. All checks will be negotiable for 180 days, after which funds represented by uncashed checks will be tendered to California Rural Legal Assistance.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 11:30 a.m. on April 7, 2022 in Department 12 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, California 90012. Please note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit www.cptgroupcaseinfo.com/spirehospitalitysettlement for any scheduling changes.

You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through LA Court Connect (www.lacourt.org/lacc/). A prescheduled appointment is currently necessary to review any documents in the clerk’s office.

If you move from your residence, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiff Mario Cordero, on his behalf and on behalf of other current and former non-exempt employees, alleges that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) reimburse employees for all necessary business expenses; (4) provide one day of rest in seven; (5) timely pay all wages owed to employees during each pay period and upon termination of their employment; and (6) provide employees with accurate, itemized wage statements.

Questions? Contact the Settlement Administrator toll free at 1-888-431-2312

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiff’s claims. By agreeing to settle, Defendants are not admitting liability on any of the allegations or claims in the case or that the case can or should proceed as a class or representative action. Defendants have agreed to settle the case as part of a compromise with Plaintiff.

Summary of the Proposed Settlement Terms

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$500,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000 to Mario Cordero for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendants; (3) \$166,666.67 in attorneys’ fees and up to \$20,000 in litigation costs and expenses; (4) a \$10,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$7,500 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$2,500 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$15,000. After deducting the above payments, a total of approximately \$278,333.33 will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$2,500 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. The individual Settlement Share payment to a Settlement Class Member will be calculated based on Workweeks worked by each Settlement Class Member during the time period of December 28, 2016 through December 2, 2021. Individual Settlement Shares for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the Settlement Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (individual’s Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) × Net Settlement Amount. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendants’ records, you worked during the Class Period in a non-exempt position for a total of «Workweeks» Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately «estAmount».

Payments from PAGA Fund. The individual Settlement Share payment to a Settlement Class Member from the PAGA Fund will be calculated based on Workweeks worked by each Settlement Class Member during the time period of December 28, 2019 through December 2, 2021. Individual Settlement Shares for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the Settlement Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the PAGA Fund Amount. Otherwise stated, the formula for a Class Member is: (individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) × PAGA Fund Amount. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendants' records, you worked during the PAGA Period in a non-exempt position for a total of **«PAGA Workweeks»** Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately **«PAGA Amount»**.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately **«TotalAmount»**. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before February 14, 2022 and must be sent to:

Cordero v. Spire Hospitality, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax No. 1-949-419-3446

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released claims as follows:

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By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Plaintiff and each Settlement Class Member who does not opt out of the Settlement shall release Defendants and their predecessors, successors, subsidiaries, parent companies, other corporate affiliates, and assigns, including but limited to AWH Burbank Hotel II, LLC, and AWH Partners, LLC, and each and all of their current or former subsidiaries, parents, affiliates, members, managers, owners, predecessors, insurers, agents, servants, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, registered representatives, lenders, franchisors, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents, employees, and fiduciaries, and any other persons acting by, through, under or in concert with any of them ("Releasees"), from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, interest, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action.

The released claims include, but are not limited to, any and all claims, debts, liabilities, demands, obligations, guarantees, penalties, costs, expenses, attorney's fees, damages, action or causes of action, contingent or accrued, which relate to the allegations and claims asserted in the complaints filed in the Action, including without limitation claims for: (1) unpaid overtime (Cal Lab. Code §§ 510 and 1198); (2) unpaid minimum wage (Cal Lab. Code §§ 1182.12, 1194, 1197, 1197.1, and 1198); (3) failure to provide meal periods (Cal Lab. Code §§ 226.7, 512(a), 516, and 1198); (4) failure to authorize and permit rest breaks (Cal Lab. Code §§ 226.7, 516, and 1198); (5) non-compliant wage statements and failure to maintain payroll records (Cal Lab. Code §§ 226(a), 1174(d), and 1198); (6) failure to pay wages timely upon termination (Cal Lab. Code §§ 201 and 202); (7) failure to timely pay wages during employment (Cal Lab. Code § 204); (8) failure to provide one day of rest in seven (Cal Lab. Code §§ 551, 552, and 558); (9) failure to provide reporting time pay (Cal Lab. Code §§ 1198 and Cal. Code Regs. Title 8, Section 11050 Subdivision 5(A)); (10) unreimbursed business expenses (Cal Lab. Code § 2802); (11) seeking civil penalties pursuant to the Private Attorneys General Act ("PAGA") (Cal. Lab. Code § 2698, *et seq.*); (12) unlawful business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); and (13) unfair business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); claims for any alleged failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours worked, including off-the clock work, pre- and post-shift work (such as donning and doffing), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or underpayment of meal and rest break premiums, auto-deduction of meal periods, failure to timely pay wages and final wages, failure to properly calculate or compensate at the regular rate of pay, failure to keep accurate records, failure to furnish accurate wage statements, failure to provide one day of rest in seven, failure to pay reporting time pay, failure to pay split shift premiums, failure to compensate for time spent on mandatory drug testing or reimburse costs associated with mandatory drug testing, failure to compensate for on-call or standby time, failure to provide notice under Labor Code section 2810.5, failure to provide suitable seating, liquidated damages, conversion of wages, pre and post-shift work, record-keeping violations, and claims regarding failure to reimburse business expenses, up to and including the date of preliminary approval by the Court. The released claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation any provision of the California Labor Code; Private Attorneys General Act (California Labor Code §§ 2698, *et seq.*); California Business & Professions Code §§ 17200 *et seq.*; any provision of the applicable

California Industrial Welfare Commission Wage Orders based on the facts or claims alleged in any version of the Complaints of letters to the Labor and Workforce Development Agency in the Action.

As to the Released Claims only, each Settlement Class Member waives all rights provided by California Civil Code section 1542, which states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The release shall extend through December 2, 2021.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Cordero v. Spire Hospitality, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

The Request for Exclusion must be postmarked or faxed not later than February 14, 2022. If you submit a Request for Exclusion which is not postmarked or faxed by February 14, 2022, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- You will, however, release claims for PAGA civil penalties predicated on the Released Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Your objection must provide: (1) the name and case number of this Actions (or reasonable portion thereof), (2) your full name, last four digits of their social security number, and current address, (3) the specific reason(s) for the objection, and (4) all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider. The written objection must be mailed

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to the administrator at Cordero v. Spire Hospitality, LLC Settlement Administrator c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.

All objections must be received by the administrator by not later than February 14, 2022. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for April 7, 2022 at 11:30 a.m. in the Superior Court of the State of California, for the County of Los Angeles and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will remain bound by this Settlement and release of claims if it is approved by the Court and will receive your individual Settlement Share.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 1-888-237-3969

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS' ATTORNEYS WITH INQUIRIES.