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ORDER

JOSEPH AUBREY JR. et al VS. MARRIOTT INTERNATIONAL, INC. et al

001C01664817

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FILED
San Francisco County Superior Court

JAN 29 2007

GORDON PARK-LI, Clerk
BY: Margaret A. [Signature]
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA,
9 CITY AND COUNTY OF SAN FRANCISCO

11 JOSEPH AUBREY, JR., et al.
12
13 Plaintiffs,
14 v.
15 MARRIOTT INTERNATIONAL, INC., et al
16 Defendants.

Case No. CGC-05-445159

CLASS ACTION
[PROPOSED] ORDER
CERTIFYING CLASS AND
PRELIMINARILY APPROVING
SETTLEMENT

Action Filed: October 6, 2005

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1 WHEREAS, the case of *Aubrey et al. v. Marriott International, Inc. et al.*, Case No. CGC-
2 05-445159 (the "Action"), is pending before this Court;

3 WHEREAS the parties having moved the Court for an order (1) conditionally approving
4 the Stipulation of Settlement, dated December 26, 2006 (the "Stipulation"), (2) certifying a
5 Notice Class for purposes of Settlement, (3) approving the Class Notice, and (4) setting a Final
6 Settlement Approval Hearing, all of which will result in dismissal of the Action in accordance
7 with the terms and conditions of the Stipulation and the Exhibits thereto;

8 WHEREAS, no opposition has been filed;

9 WHEREAS, the Court having reviewed and considered the Memorandum of Points and
10 Authorities in Support of a Joint Motion for a Preliminary Approval Order, the Stipulation and
11 attached Exhibits, and all papers filed and proceedings had herein, and good cause appearing,

12 IT IS HEREBY ORDERED THAT:

13 1. The Court incorporates by reference the definitions set forth in the Stipulation, and
14 all terms used herein shall have the same meanings as in the Stipulation.

15 2. The Court hereby certifies, for purposes of effectuating the Settlement in this
16 Action, a Notice Class defined as all employees of Marriott who performed at least two (2) or
17 more hours of work per week in San Francisco at the Marriott Courtyard, San Francisco Marriott,
18 or Stanford Court on or after February 23, 2004 and on or before October 22, 2005 and who were
19 entitled for such work to a minimum wage under California Labor Code section 1197 and the
20 wage orders published by the California Industrial Welfare Commission. Those members of the
21 Notice Class who submit timely and valid Requests for Exclusion from the Settlement Class
22 pursuant to the Class Notice shall be excluded from the Settlement Class.

23 3. With respect to the Notice Class, the Court finds and concludes that: (1) the
24 members of the Notice Class are so numerous that joinder of all Notice Class members in the
25 Action is impracticable; (2) there are questions of law and fact common to the Notice Class that
26 predominate over any individual questions; (3) the claims of the Representative Plaintiffs are
27 typical of the claims of the Notice Class; (4) the Representative Plaintiffs and their counsel have
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1 fairly and adequately represented and protected the interests of the Notice Class members; and
2 (5) a class action is superior to other available methods for the fair and efficient adjudication of
3 the Action.

4 4. The Court, subject to further consideration at the Final Settlement Approval
5 Hearing described below, hereby preliminarily approves the Stipulation, the releases therein, and
6 the terms of the Settlement set forth in the Stipulation and the Class Notice, and the Plan of
7 Allocation, which are incorporated herein by reference. The Court finds that the Settlement
8 preliminarily appears to be fair and reasonable to all Notice Class members, that the Settlement
9 will avoid the additional expense and burden of proceeding with further litigation of the Action,
10 and that the Settlement has been reached as the result of arm's-length negotiations between
11 experienced counsel representing the interests of the Representative Plaintiffs, the Notice Class
12 members, and Marriott.

13 5. The Court approves, as to form and content, the Class Notice in the form attached
14 hereto as Exhibit A. The Court further finds that mailing and distribution of the Class Notice
15 meets the requirements of California Rule of Court 1856 and due process, and is the best notice
16 practicable under the circumstances and shall constitute due and sufficient notice to all persons
17 entitled thereto.

18 6. Any member of the Notice Class may seek to be excluded from the Settlement
19 Class by submitting a timely, truthful, and complete written Request for Exclusion postmarked or
20 delivered to the Court on or before March 30, 2007. The written Request for Exclusion must be
21 signed and include: (1) the name, address, and social security number of the person seeking
22 exclusion from the Settlement Class; and (2) a clear statement that exclusion from the Settlement
23 is sought. Those who submit a Request for Exclusion from the Settlement Class will not
24 participate in the distribution of the Settlement proceeds, will not be bound by the Stipulation or
25 Judgment, and will not be subject to the releases contained therein.

26 7. The Court approves and adopts the payment procedures set forth in the Stipulation
27 and Plan of Allocation filed in this matter as fair, reasonable, and adequate.
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1 8. The Final Settlement Approval Hearing shall be held in this Court on April 30,
2 2007 at 9:30 am, in Department 301, Civic Center Courthouse, 400 McAllister Street San
3 Francisco, CA to determine whether the proposed Settlement on the terms and conditions
4 provided for in the Stipulation are fair, just, reasonable, and adequate to the Notice Class and
5 should be approved by the Court and Judgment entered herein. At the Final Settlement Approval
6 Hearing, the Court will also consider whether to approve any application for the award of Fees,
7 Litigation Costs, and Enhancements. The Court may continue the Final Settlement Approval
8 Hearing without further notice to members of the Notice Class.

9 9. The Court reserves the right to enter Judgment approving the Settlement and
10 dismissing the Action on the merits and with prejudice, regardless of whether it has approved
11 Class Counsel's application for Fees, Litigation Costs, and Enhancements. Neither Marriott, nor
12 its Related Parties, nor Counsel for Marriott shall have any responsibility for any application for
13 Fees, Litigation Costs, and Enhancements submitted by Class Counsel, and such application will
14 be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

15 10. Any member of the Settlement Class who objects to any aspect of the Settlement
16 has the right to appear and be heard at the Final Settlement Approval Hearing, provided that such
17 person files with the Court and delivers to Class Counsel and Counsel for Marriott a written
18 notice of objection or intention to appear no later than March 30, 2007. Objections must state the
19 objector's name, address, social security number; state in detail the factual basis and legal
20 grounds for the objection(s); and state whether the objector (or someone on his or her behalf)
21 intends to appear at the Final Settlement Approval Hearing. In addition, any person objecting to
22 this Settlement who is an attorney or who has retained counsel must file a memorandum of law
23 and fact supporting such objection(s) with the Court and deliver same to Class Counsel and
24 Counsel for Marriott no later than March 30, 2007. Persons who are not attorneys or not
25 represented by counsel are not required to, but may, file a memorandum of law and fact
26 supporting such objection(s) with the Court and deliver same to Class Counsel and Counsel for
27 Marriott no later than March 30, 2007. Memoranda of law and fact supporting objections,
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1 whether or not prepared by an attorney, shall be no more than fifteen (15) pages in length. Any
2 Settlement Class member who does not make an objection in the manner and by the deadline
3 provided herein shall be deemed to have waived such objection and shall forever be foreclosed
4 from making any objection to the Settlement.

5 11. Any members of the Settlement Class who would like to appear and be heard at
6 the Final Settlement Approval Hearing, but who do not plan to object, may file with the Court and
7 deliver to Class Counsel and Counsel for Marriott no later than March 30, 2007, a written notice
8 of their intention to appear in person or through an attorney retained at their own expense. Those
9 who do not enter an appearance will be represented by Class Counsel.

10 12. The Court approves the following dates and deadlines with respect to the
11 Settlement of this Action:

12 Class Notice Mailed to Notice Class	Within 15 days of Preliminary Approval Date
13 Request for Exclusion Deadline	45 days after Preliminary Approval Date
14 Objection Deadline	60 days after Preliminary Approval Date
15 Final Settlement Approval Hearing	April 30, 2007 [not sooner than 90 days after 16 Preliminary Approval Date]

17 13. Class Counsel are hereby authorized to act on behalf of the Notice Class with
18 respect to all acts required by, or performed pursuant to, the Stipulation, or any other acts
19 reasonably necessary to consummate the proposed Settlement set forth in the Stipulation.

20 14. All members of the Settlement Class shall be bound by all determinations and
21 judgments in the Action concerning the Settlement.

22 15. Pending the Effective Date, neither the Representative Plaintiffs nor any member
23 of the Notice Class, either directly, through a representative, or in any capacity, shall commence
24 or prosecute against Marriott or its Related Parties, any action or proceeding in any court or
25 tribunal asserting any of the Released Claims.

26 16. In accordance with provision VI.E. of the Stipulation, Marriott may exercise its
27 right to reject the Settlement by providing written notice to the Court and Class Counsel not later
28 than fifteen (15) days before the Final Settlement Approval Hearing. Should Marriott exercise

1 the right to reject the Settlement, the Stipulation and this Preliminary Approval Order shall be
2 vacated.

3 17. If, for any reason, the Stipulation is terminated, or the Effective Date does not
4 occur, the certification of the Notice Class shall be vacated, the Action shall proceed as though
5 the Notice Class had never been certified, and Marriott may assert any and all objections to class
6 certification.


7 18. Neither the Stipulation, nor any of its terms or provisions, nor any of the
8 negotiations or proceedings connected with it, shall be construed as an admission or concession
9 by Marriott of the truth of any allegation in the Action, or of any liability, fault, or wrongdoing of
10 any kind.

11 19. All discovery and all proceedings in the Action with respect to Marriott are stayed
12 until further order of the Court, except as may be necessary to implement the Settlement or
13 comply with the terms of the Stipulation.

14 20. The Court retains jurisdiction to consider all further applications arising out of or
15 connected with the proposed Settlement. The Court may approve the Settlement, with such
16 modifications as may be agreed to by the Parties, if appropriate, without further notice to the
17 Notice Class.

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19 BY ORDER OF THE SUPERIOR COURT

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21 Dated: January 29, 2007



Hon. Peter J. Busch
San Francisco Superior Court

EXHIBIT A

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IMPORTANT LEGAL NOTICE
SUPERIOR COURT OF THE STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO

JOSEPH AUBREY, JR., et al.

Plaintiffs,

v.
MARRIOTT INTERNATIONAL, INC., et al

Defendants.

Case No. CGC-05-445159

CLASS ACTION

NOTICE OF CLASS ACTION AND SETTLEMENT HEARING

1 PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO SHARE IN
2 THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. YOUR
3 RIGHTS ARE AFFECTED BY THE LEGAL PROCEEDINGS IN THIS ACTION.

4 SUMMARY OF NOTICE¹

5 THIS NOTICE IS TO ADVISE YOU OF A PROPOSED SETTLEMENT OF A CLASS
6 ACTION LAWSUIT FILED ON BEHALF OF ALL EMPLOYEES OF MARRIOTT WHO
7 PERFORMED AT LEAST TWO (2) OR MORE HOURS OF WORK PER WEEK IN SAN
8 FRANCISCO AT THE MARRIOTT COURTYARD, SAN FRANCISCO MARRIOTT, OR
9 STANFORD COURT AT ANY TIME ON OR AFTER FEBRUARY 23, 2004 AND ON OR
10 BEFORE OCTOBER 22, 2005 AND WHO WERE ENTITLED FOR SUCH WORK TO A
11 MINIMUM WAGE UNDER CALIFORNIA LAW.

12 IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOU DO NOT NEED TO DO
13 ANYTHING TO RECEIVE SETTLEMENT PROCEEDS.

14 IF YOU WISH TO EXCLUDE YOURSELF FROM THE CLASS, YOU MUST ACT TO DO
15 SO BY MARCH 15, 2007. IF YOU EXCLUDE YOURSELF, YOU WILL NOT RECEIVE ANY
16 BENEFITS FROM THE SETTLEMENT.

17 WHY SHOULD I READ THIS NOTICE?

18 1. You should read this Notice because you may be entitled to money under the
19 Settlement. You received this Notice because it is believed that you worked for Marriott in San
20 Francisco, California in an hourly job during the time period covered by the Settlement. If that is
21 correct, then the information contained in this Notice may affect your legal rights.

22 SUMMARY OF THE LITIGATION

23 2. The Action is a class action lawsuit in which the claims and rights of many people are
24 decided in a single court proceeding. On October 6, 2005, four current and former Marriott
25 employees filed this Action on behalf of two classes of Marriott Employees working in San
26 Francisco: one comprised of those who were allegedly paid less than required by the San Francisco
27 Minimum Wage Ordinance and the other consisting of those who worked in a facility that allegedly
28 did not post notices required by the Ordinance, regardless of their pay. Plaintiffs assert claims under

¹ Capitalized terms are defined at the end of this Notice in the section entitled "Definitions Used in this Notice."

1 the San Francisco Minimum Wage Ordinance and California Business and Professions Code section
2 17200. They seek back pay, liquidated damages, attorneys' fees, costs of suit, restitution, and
3 injunctive relief.

4 3. Marriott denies all allegations of wrongdoing or liability asserted in the Action.
5 Marriott contends that Local 2, UNITE! HERE, the union representing its employees for purposes of
6 collective bargaining at the Marriott Courtyard, the San Francisco Marriott, and the Stanford Court
7 granted Marriott a waiver from the provisions of the Ordinance in accordance with the terms of the
8 Ordinance, and that no one was harmed or damaged in any way by any of the conduct alleged in the
9 Action.

10 WHO IS IN THE CLASS

11 4. Effective December 26, 2006, the Parties entered into an agreement in principle to
12 settle the Action on the terms and conditions set forth in the Stipulation. On January 29, 2007, for
13 purposes of this Settlement only, the Court certified a Notice Class consisting of all employees of
14 Marriott who performed at least two (2) or more hours of work per week in San Francisco at the
15 Marriott Courtyard, San Francisco Marriott, or Stanford Court at any time on or after February 23,
16 2004 and on or before October 22, 2005 and who were entitled for such work to a minimum wage
17 under California law. If you do not submit a Request for Exclusion from the Notice Class (as
18 described below), you will be a member of the Settlement Class. The Settlement Class consists of
19 two subclasses:

- 20 ▪ Wage Subclass: Those members of the Settlement Class who at any time between
21 February 23, 2004 and December 31, 2004, inclusive of both dates were paid by Marriott
22 less than \$8.50 per hour; and/or at any time between January 1, 2005 and October 22,
23 2005 inclusive of both dates were paid by Marriott less than \$8.62 per hour.
- 24 ▪ Posting Subclass: Those members of the Settlement Class who do not belong to the Wage
25 Subclass.

26 You are receiving this Notice because, based on Marriott's records, it is believed that you are a
27 member of the Notice Class.

1 equal the fraction 400/1350 times the Net Settlement Sum. Each member of the Posting Subclass
2 shall receive an amount equal to the Posting Subclass Payments divided by the number of Posting
3 Subclass members.

4 **Enhancements to Representative Plaintiffs**

5 9. Class Counsel will ask the Court to approve the payment of \$10,000 to Joseph Aubrey
6 Jr., and \$2,500 to each of the other three Representative Plaintiffs for services provided in the Action.
7 These payments will be in addition to any payments made to them under the Plan of Allocation.

8 **Attorneys' Fees and Litigation Costs**

9 10. Class Counsel has been prosecuting this Action on a contingency fee basis (that is,
10 without being paid to date) while advancing Litigation Costs. Class Counsel will be entitled to
11 request from the Court reimbursement for Fees and Litigation Costs. Settlement Class members are
12 not personally responsible for any attorneys' fees or litigation costs. With respect to their
13 representation of the Settlement Class, Class Counsel may submit an application for Fees and
14 Litigation Costs of up to \$405,000 to be paid from the Settlement Sum. The Court at the Final
15 Settlement Approval Hearing will consider Class Counsel's application for Fees, Litigation Costs,
16 and Enhancements.

17 11. On January 29, 2007, the Court appointed the following Class Counsel to represent the
18 Settlement Class in this Action:

19 GONZALEZ & LEIGH LLP
20 Two Shaw Alley, Third Floor
San Francisco, CA 94105
21 Telephone: (415) 512-2000

HERSH & HERSH
601 Van Ness, Suite 2080
San Francisco, CA 94102
Telephone: (800) 441-5545

22 **YOUR OPTIONS**

23 **Participation in Settlement**

24 12. If you are a member of the Notice Class and you want to be eligible to receive money
25 under the Settlement, you do not to do anything to participate in the Settlement. If you do not submit
26 a Request for Exclusion by the Request for Exclusion Deadline, as described below, you will
27 automatically become a member of the Settlement Class.

1 13. If you are a member of the Settlement Class, your interests will be represented by
2 Class Counsel. You will not be responsible for the payment of attorneys' fees or reimbursement of
3 costs unless you retain your own counsel. You will be bound by any Order of the Court approving
4 the Settlement unless you submit a valid and timely Request for Exclusion as described in the next
5 paragraph.

6 **Request for Exclusion**

7 14. Members of the Notice Class who wish to exclude themselves from the Settlement
8 Class should submit a Request for Exclusion. If you submit a complete and timely Request for
9 Exclusion, you will not participate in the distribution of the Settlement proceeds, you will not be
10 bound by further Orders of the Court in this Action, and you will preserve the right separately to
11 assert any claims that would otherwise be released as part of this Settlement.

12 15. If you want to be excluded from the Settlement Class, you must send a Request for
13 Exclusion postmarked or delivered to the Court on or before March 15, 2007 at the following
14 address:

15 Clerk, Superior Court for the City and County of San Francisco
16 Civic Center Courthouse
17 400 McAllister Street
18 San Francisco, CA 94102-4514

19 16. The written Request for Exclusion must be signed by you and include: (1) your name
20 (and former names, if any), current address, telephone number, and social security number and (2) a
21 clear statement that you wish to be excluded from the Settlement, such as, **"I want to be excluded
22 from the Settlement Class in *Aubrey v. Marriott International, Inc.*"** Requests for Exclusion that
23 do not include all required information, or that are not submitted on a timely basis, will be
24 ineffective. Persons who submit valid and timely Requests for Exclusion will not receive
25 compensation pursuant to this Settlement.

26 **Submission of Objections**

27 17. If you are satisfied with the proposed Settlement, you do not need to do anything. If
28 you object to the terms of the Settlement or believe that the Court for any reason should not finally
approve it, you may file a written notice of objection with the Court (so long as you have not

1 submitted a Request for Exclusion). Copies of any written objections must also be sent to Class
2 Counsel at the addresses indicated in paragraph 11, above, and to Counsel for Marriott, Morrison &
3 Foerster LLP 425 Market Street, San Francisco, California 94105-2482, attention Natalie Leonard.
4 The deadline for filing and serving written objections is March 30, 2007.

5 18. An objection must state (a) the name and number of the case (*Aubrey, et al. v.*
6 *Marriott International, Inc.*, Case No. CGC-05-445159); (b) your name, address, and social security
7 number; (c) the basis for your objection(s); and (d) whether you (or someone on your behalf) intend
8 to appear at the Final Settlement Approval Hearing. In addition, anyone objecting to this Settlement
9 who is an attorney or who has retained counsel must file with the Court (and other persons may, but
10 are not required to file) a legal brief supporting such objection(s) no later than March 30, 2007, with
11 copies to Class Counsel and Counsel for Marriott. Legal briefs supporting objections shall be no
12 more than fifteen (15) pages in length.

13 19. Any member of the Settlement Class who submits a timely written objection may
14 appear at the Final Settlement Approval Hearing, scheduled for April 30, 2007, in Department 301 of
15 the Superior Court of the City and County of San Francisco, located at Civic Center Courthouse, 400
16 McAllister Street San Francisco, CA 94102-4514, to have his or her objection heard by the Court.
17 Any attorney who will represent an individual objecting to the Settlement must file a notice of
18 appearance with the Court and serve counsel for all Parties on or before March 30, 2007. You do not
19 need to file objections and or appear at the Final Settlement Approval Hearing if you are satisfied
20 with the proposed Settlement.

21 **Release of Claims**

22 20. The Settlement provides that, once it becomes final, the Representative Plaintiffs and
23 the members of the Settlement Class fully and without limitation shall release Chuck Paccioni,
24 Marriott, and their Related Parties, both individually and collectively, from all Released Claims. The
25 Stipulation defines Released Claims as “any and all claims of any nature whatsoever, known or
26 unknown, fixed or contingent, suspected or unsuspected, that the Representative Plaintiffs or
27 members of the Settlement Class now have, or at any time may have ever had, against Chuck
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1 Paccioni, Marriott or his or its Related Parties based on or in any way related to (1) the San Francisco
2 Minimum Wage Ordinance or (2) the factual and other allegations in the Complaint, including but
3 not limited all claims for relief under the California Business and Professions Code section 17200 and
4 the California Labor Code. Released Claims shall include, but not be limited to, all claims that were
5 asserted in or could have been asserted in the Action, and shall further include, without limitation, all
6 claims for failure to accrue, credit, or pay minimum wages, waiting time penalties, failure to comply
7 with provisions of the San Francisco Minimum Wage Ordinance or the California Labor Code, and
8 prejudgment interest, attorneys fees, or costs in connection with such claims or otherwise. Released
9 Claims shall not include any claims unrelated to the allegations of the Complaint.”

10 HEARING ON PROPOSED SETTLEMENT

11 21. The Settlement is conditioned upon the Court entering an order at or following the
12 Final Settlement Approval Hearing approving the Settlement as fair, reasonable, adequate, and in the
13 best interests of the Settlement Class. A Final Settlement Approval Hearing has been scheduled for
14 April 30, 2007, at 9:30 am, in the Courtroom of Department 301 Superior Court of the City and
15 County of San Francisco, located at Civic Center Courthouse, 400 McAllister Street San Francisco,
16 CA 94102-4514. At that time, the Court will also consider whether the application of Class Counsel
17 for an award of Fees, Litigation Costs, and Enhancements should be approved. The hearing may be
18 continued without further notice.

19 22. You are not required to attend the Final Settlement Approval Hearing or file an
20 objection, although you may do either or both (unless you have submitted a Request for Exclusion).

21 23. If you file a timely written objection and have not submitted a Request for Exclusion,
22 you may appear at the Final Settlement Approval Hearing, in person or through an attorney retained
23 at your own expense. Settlement Class members who would like to appear and be heard at the Final
24 Settlement Approval Hearing, but who do not plan to object, may file with the Court and deliver to
25 Class Counsel and Counsel for Marriott no later than March 30, 2007, a written notice of their
26 intention to appear.

1 **CHANGE OF ADDRESS**

2 24. If you move after receiving this Notice, if it was misaddressed, or if for any reason
3 you want future correspondence or any payment to which you may be entitled to be sent to a different
4 address, you must provide Class Counsel with your preferred address.

5 **ADDITIONAL INFORMATION**

6 25. This Notice is only a summary of some of the key provisions of the Stipulation. It
7 should not be construed to change, broaden, or limit in any way the provisions of the Stipulation or
8 any Orders of the Court. You may inspect the Stipulation, Plan of Allocation, pleadings, and other
9 papers filed in the Action during regular business hours at the Superior Court of the City and County
10 of San Francisco, located at Civic Center Courthouse, 400 McAllister Street San Francisco, CA
11 94102-4514.

12 26. All inquiries regarding this Notice and/or Settlement should be directed to Class
13 Counsel using the contact information in paragraph 11. Do not contact the Court.

14 **DEFINITIONS USED IN THIS NOTICE**

15 **Action.** "Action" means *Aubrey et al. v. Marriott International, Inc. et al.*, Case No. CGC-
16 05-445159, currently pending in the Superior Court of the State of California, City and County of San
Francisco.

17 **Class Counsel.** "Class Counsel" means Gonzalez & Leigh LLP and Hersh & Hersh.

18 **Class Notice.** "Class Notice" means the Notice of Class Action and Settlement Hearing to be
19 mailed to members of the Notice Class.

20 **Counsel for Marriott.** "Counsel for Marriott" means Morrison & Foerster LLP.

21 **Court.** "Court" means the Superior Court of the State of California, City and County of San
Francisco.

22 **Effective Date.** "Effective Date" means the first date by which each and every one of the
23 following events has occurred and the conditions specified have been met: 1) The Parties, Class
24 Counsel, and Counsel for Marriott have executed this Stipulation; 2) the Court has entered the
25 Preliminary Approval Order; 3) the Court has conducted the Final Settlement Approval Hearing and
26 has entered the Judgment; 4) the time for Marriott to exercise its right to reject the Settlement has
expired without Marriott having exercised that right; and 5) either the time for appeal, petition, or
writ from the Judgment has expired or, if appeals or requests for review have been taken, final orders
have been entered on appeal affirming the Judgment or denying review after exhaustion of all
appellate remedies.

1 **Enhancements.** “Enhancements” means the payment, separate and apart from any Payments
2 that may be owed, to Representative Plaintiffs for services provided in the Action. Enhancements
shall be \$2,500 for each of the Representative Plaintiffs.

3 **Fees.** “Fees” means reasonable attorneys’ fees for Class Counsel’s services on behalf of the
4 Settlement Class, which together with Litigation Costs shall not exceed \$405,000.

5 **Final Settlement Approval Hearing.** “Final Settlement Approval Hearing” means the
6 hearing conducted by the Court in order to make a final determination as to whether to approve the
Settlement, implement the terms of the Stipulation, and enter the Judgment.

7 **Judgment.** “Judgment” means the Final Judgment and Order of Final Approval of Class
Action Settlement to be entered by the Court.

8 **Litigation Costs.** “Litigation Costs” means amounts approved by the Court for
9 reimbursement of Class Counsel’s out of pocket costs incurred in the Action, which together with
Fees shall not exceed \$ 405,000.

10 **Marriott.** “Marriott” means Marriott International, Inc.

11 **Marriott Courtyard.** “Marriott Courtyard” means the San Francisco Marriott Courtyard,
12 located at 299 Second Street, San Francisco, California.

13 **Net Settlement Sum.** “Net Settlement Sum” means the amount of the Settlement Sum that
14 shall be distributed to the Settlement Class pursuant to the Plan of Allocation and shall be net of Fees,
Litigation Costs, and Enhancements.

15 **Notice Class.** “Notice Class” means all employees of Marriott who performed at least two
16 (2) or more hours of work per week in San Francisco at the Marriott Courtyard, San Francisco
Marriott, or Stanford Court at any time on or after February 23, 2004 and on or before October 22,
2005 and who were entitled for such work to a minimum wage under California law.

17 **Parties.** “Parties” collectively refers to the Representative Plaintiffs, Marriott, and Chuck
18 Paccioni.

19 **Plan of Allocation.** “Plan of Allocation” means the plan for distribution of the Wage
20 Subclass Payments to the Wage Subclass and for the distribution of the Posting Subclass Payments to
the Posting Subclass.

21 **Posting Subclass.** “Posting Subclass” means those members of the Settlement Class who do
not belong to the Wage Subclass.

22 **Posting Subclass Payments.** “Posting Subclass Payments” means payments made to the
23 Posting Subclass pursuant to the Plan of Allocation.

24 **Preliminary Approval Date.** “Preliminary Approval Date” means the date upon which the
Court enters the Preliminary Approval Order.

25 **Preliminary Approval Order.** “Preliminary Approval Order” means the Court’s Order
26 Certifying Class and Preliminarily Approving Settlement, which conditionally approves of this
Stipulation; certifies the Notice Class for purposes of Settlement; approves of the content and mailing
27 of the Class Notice; sets the Request for Exclusion deadline and the deadline for objecting to the
Settlement; and sets the Final Settlement Approval Hearing for a date no earlier than ninety (90) days
28 after the Preliminary Approval Date.

1 **Related Parties.** “Related Parties” means Marriott’s, and where applicable Chuck
2 Paccioni’s, past, present, or future parent, subsidiary, or affiliate corporations, and their respective
3 past, present, or future directors, officers, employees, principals, agents, accountants, auditors,
advisors, associates, shareholders, attorneys, insurers, reinsurers, co-insurers, claims administrators,
predecessors, successors, divisions, joint ventures, and assigns.

4 **Released Claims.** “Released Claims” means any and all claims of any nature whatsoever,
5 known or unknown, fixed or contingent, suspected or unsuspected, that the Representative Plaintiffs
6 or members of the Settlement Class now have, or at any time may have ever had, against Chuck
7 Paccioni, Marriott or his or its Related Parties based on or in any way related to (1) the San Francisco
8 Minimum Wage Ordinance or (2) the factual and other allegations in the Complaint, including but
9 not limited all claims for relief under the California Business and Professions Code section 17200 and
10 the California Labor Code. Released Claims shall include, but not be limited to, all claims that were
11 asserted in or could have been asserted in the Action, and shall further include, without limitation, all
12 claims for failure to accrue, credit, or pay minimum wages, waiting time penalties, failure to comply
13 with provisions of the San Francisco Minimum Wage Ordinance or the California Labor Code, and
14 prejudgment interest, attorneys fees, or costs in connection with such claims or otherwise. Released
15 Claims shall not include any claims unrelated to the allegations of the Complaint.

16 **Relevant Period.** “Relevant Period” means on or after February 23, 2004 and on or before
17 October 22, 2005.

18 **Representative Plaintiffs.** “Representative Plaintiffs” means Joseph Aubrey, Jr., Pamfilo
19 Apostol, Francisco Serrano, and Svetlana Yakushenko.

20 **Request for Exclusion.** “Request for Exclusion” means a written request to the Court from a
21 member of the Notice Class seeking to be excluded from the Settlement Class.

22 **Request for Exclusion Deadline.** “Request for Exclusion Deadline” means the deadline by
23 which a Request for Exclusion must be postmarked and which shall be forty five (45) days after the
24 Preliminary Approval Date, or as otherwise set by the Court, regardless of whether the date falls on a
25 Sunday or a holiday.

26 **San Francisco Marriott.** “San Francisco Marriott” means the San Francisco Marriott Hotel,
27 located at 55 Fourth Street, San Francisco, California.

28 **San Francisco Marriott Employees.** “San Francisco Marriott Employees” means
employees of Marriott who performed at least two (2) or more hours of work per week in San
Francisco at the Marriott Courtyard, San Francisco Marriott, or Stanford Court during the Relevant
Period and who were entitled for such work to a minimum wage under California Labor Code section
1197 and the wage orders published by the California Industrial Welfare Commission.

San Francisco Minimum Wage Ordinance. “San Francisco Minimum Wage Ordinance”
means the Minimum Wage Ordinance, San Francisco Administrative Code Chapter 12R.

Stanford Court. “Stanford Court” means The Stanford Court, A Renaissance Hotel, located
at 905 California Street, San Francisco, California.

Settlement. “Settlement” means the terms and conditions set forth in this Stipulation, the
Class Notice, the Preliminary Approval Order, and the Judgment.

Settlement Administration Costs and Expenses. “Settlement Administration Costs and
Expenses” means the amounts paid for printing and mailing the Class Notice, calculating Payments,
and issuing checks to Settlement Class Members; for any other costs relating to the administration of

1 the Settlement; and for audits if ordered by the Court in response to objections raised by a Settlement
2 Class member at the Final Settlement Approval Hearing. Class Counsel shall not request any such
audit.

3 **Settlement Class.** "Settlement Class" means all members of the Notice Class who do not
4 submit a valid and timely Request for Exclusion. The Settlement Class shall consist of the Wage
Subclass and the Posting Subclass.

5 **Stipulation.** "Stipulation" means the Stipulation of Settlement executed by the Parties that
6 sets forth in detail the terms and provisions of the Settlement.

7 **Settlement Sum.** "Settlement Sum" means \$1,350,000, which shall be paid by Marriott in
8 full settlement of the claims of all members of the Settlement Class. The Settlement Sum includes all
Payments, Fees, Litigation Costs, and Enhancements. The Settlement Sum does not include
Settlement Administration Costs and Expenses.

9 **Wage Subclass.** "Wage Subclass" means those members of the Settlement Class who at any
10 time between February 23, 2004 and December 31, 2004, inclusive of both dates were paid by
Marriott less than \$8.50 per hour; and/or at any time between January 1, 2005 and October 22, 2005
11 inclusive of both dates were paid by Marriott less than \$8.62 per hour.

12 **Wage Subclass Payments.** "Wage Subclass Payments" means payments made to the Wage
Subclass pursuant to the Plan of Allocation.

13 BY ORDER OF THE SUPERIOR COURT.

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15 Dated: January 29, 2007

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Hon. Peter J. Busch
San Francisco Superior Court
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