

Sent via email: DOSHLA@dir.ca.gov

July 18, 2024

Victor Copelan
Los Angeles District Manager
California Division of Occupational Safety and Health
320 West 4th Street, Suite 820
Los Angeles, CA 90013

Re: Employee Health Complaint - Vermin and Unsanitary Conditions at Westin Long Beach Hotel

Dear Mr. Copelan:

This complaint is submitted on behalf of UNITE HERE Local 11 (“Union”) and its members, who work at The Westin Long Beach (“Company,” or “Westin”), including Wendy Bonilla, Bertha Garcia de Martinez, Francisco Abdul Estin and Custodio Vacillo. Complainants work as cooks, dishwashers, and banquet servers.

Complainants request that the California Division of Occupational Safety and Health (“Cal/OSHA”) conduct an on-site inspection of the workplace on an expedited basis to investigate the allegations of this complaint, namely that the Company (1) failed to maintain premises to prevent the entrance or harborage of vermin, (2) failed to institute a continuous and effective extermination program, (3) failed to remove putrescible waste in such a manner as to avoid creating a menace to health through the development of unsanitary conditions, and (4) failed to maintain work areas in a clean, orderly, and sanitary condition.

Allegations of Cal/OSHA Violations re: Vermin and Other Unsanitary Conditions

Relevant Cal/OSHA Standards

Cal/OSHA has promulgated standards concerning sanitation in workplaces. Section 3362(f) requires that:

Every enclosed workplace and personal service room shall be equipped and maintained, in so far as is practicable, as to prevent the entrance or harborage of insects, rodents, and other vermin. An effective program of extermination shall be instituted whenever their presence is detected.

//
//

Section 3362(e) requires that:

All sweepings, putrescible wastes, refuse and garbage shall be removed in such a manner as to avoid creating a nuisance and shall be removed as often as necessary to avoid creating a menace to health through the development of unsanitary conditions.

Section 3362(a) requires that:

To the extent that the nature of the work allows, workplaces, storerooms, personal service rooms and passageways shall be kept clean, orderly and in a sanitary condition. The interiors, exteriors and environs of buildings that contribute to a hazard to which these orders apply shall be cleaned and maintained in such conditions as will not give rise to harmful exposure, as defined in Section 5140.

Worker Allegations

On or about 12:30 p.m. on June 29, 2024, Francisco Abdul Estin, a banquet server, was serving guests in the Westin's Ocean Room when he encountered what appeared to be a cockroach. The apparent cockroach first appeared in the Ocean Room and then exited into the hallway where other banquet workers were keeping food. A coworker killed the insect by stepping on it, keeping his foot over the apparent cockroach to conceal it from a guest who asked the workers where to find the restrooms on the floor.

Around the middle of June 2024, Bertha Garcia de Martinez was working on the third floor of the Company's banquet area, removing plates from a large dishwashing machine, when several small, brown insects she believed to be cockroaches ran out of the machine.

On or about June 13, 2024 dishwasher Wendy Bonilla encountered what appeared to be cockroaches in the third floor banquet room used for utensil storage and washing dishes. She reported seeing the apparent cockroaches to a supervisor, Banquet Chef Abel. In response he asked if the apparent cockroaches were big or small, noting if they were small they could potentially carry disease. Bonilla is unaware of any remedial action that Chef Abel took in response.

Around the middle of June 2024, on a Monday or Tuesday around 6:30 p.m., Custodio Vacillo, a line cook, took his break inside the food storage room. He saw what he believed to be a rat in the food storage room, noting its gray color, visible ears and tail, and large eyes. The food storage room holds canned food and containers of sauce, as well as dry food such as beans, pasta, and sugar. Vacillo scared the apparent rat and it hid under a table, not coming out for the rest of his break. Vacillo made a report to two supervisors, sous chefs Mike and Marco; both acknowledged having put out traps. Vacillo is not aware of any other action that management took in response.

On or about the beginning of May 2024, Vacillo encountered what appeared to be a rat in the Company's banquet kitchen. He reported seeing what he believed to be a rat to two supervisors, sous chefs Mike and Collin; they told him they had put out traps, but he is not aware of any other steps they took in response to his report.

On or about April of 2024, at around 8:30 p.m. on a Monday, Wendy Bonilla encountered what appeared to be two cockroaches between a coffee maker and the cereal area when she was cleaning the employee cafeteria.

On or about March 29, 2024, Bonilla encountered several dead cockroaches in the banquet dishwashing area. She took a photo of the apparent cockroaches. That photo is below:



Photo of apparent dead cockroaches in banquet area. Taken by Wendy Bonilla on 3/29/2024

On or about the middle of February 2024, around 5:30 p.m., Bonilla saw what appeared to be a rat in the Company's trash area, located outside of the building near the kitchen. The apparent rat was inside the machine that is used to compress trash. The apparent rat appeared large, gray and black, with a big pink tail and visible ears. Bonilla reported the incident to her supervisor, Banquet Chef Javier Leon. He said he would inform the hotel to put out traps.

On another day on or about the middle of February, 2024, around 9 p.m., Bonilla saw what appeared to be a rat in the banquet kitchen area. As she headed to the food storage room,

the apparent rat emerged from under the oven. She believed it to be a rat because it was black and white, had a pink tail, visible ears, and was large. The apparent rat went towards the storage room, prompting Bonilla to return to the kitchen and not go to the storage room.

On or about January 23, 2024, Bonilla encountered what appeared to be a dead cockroach on a “clean” plate in the banquet dishwashing area. She took a photo of the apparent cockroach. The photo is below:

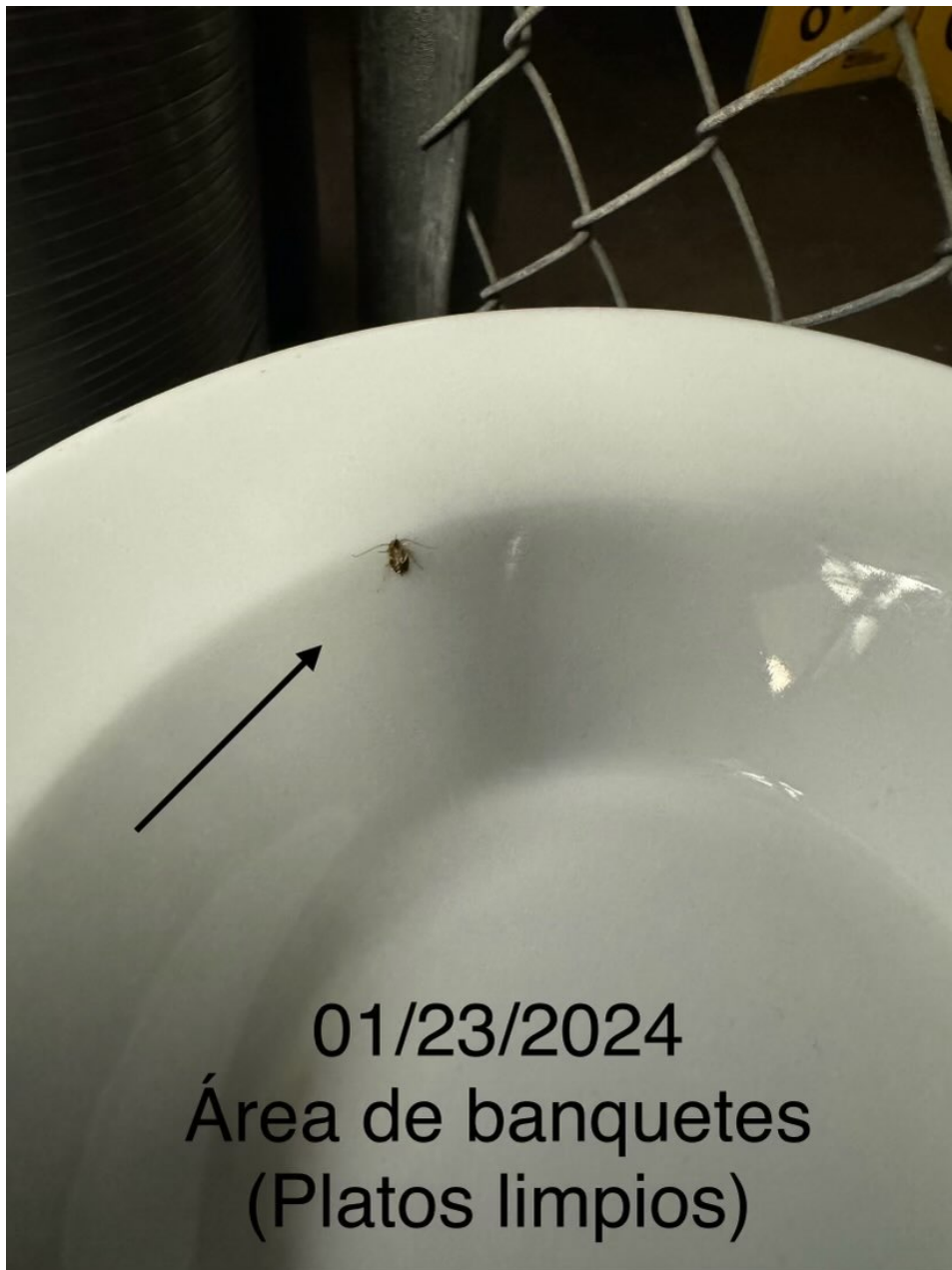


Photo of apparent cockroach in banquet area. Taken January 23, 2024 by Wendy Bonilla.

On or about November 3, 2023, Bonilla encountered what appeared to be cockroaches in the third floor banquet area. Bonilla took photos of the apparent cockroaches. Two of these photos are below:

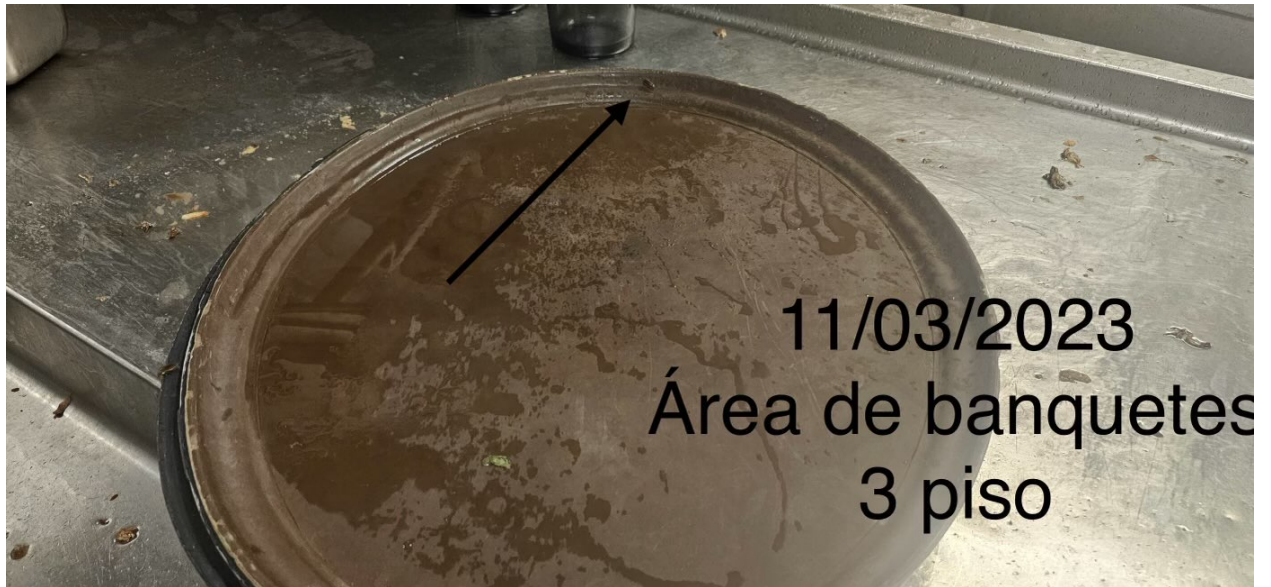


Photo of apparent cockroach in third floor of hotel banquet area, taken November 3, 2023 by Wendy Bonilla.



Photo of apparent cockroach in third floor of hotel banquet area, taken November 3, 2023 by Wendy Bonilla.

Several weeks earlier, in approximately October 2023, Bonilla had seen a large number of small white maggots in a metal pot in the dishwashing area next to the restaurant kitchen.

On or about the morning of July 8, 2023, Garcia de Martinez and a coworker went upstairs to the third floor of the banquets area to search for soap. Getting out of the elevators, they encountered a foul smell in the hallway leading to the third floor banquet area. They then encountered plates of food that appeared to have been abandoned for some time. The food appeared to be rotting and the food, plates, and metal covers used to keep plates warm were covered in small, white maggots. Garcia de Martinez reported the incident to her supervisor, Chef Javier Leon; he refused her request that he visit the third floor to observe the situation. Garcia de Martinez and her coworker cleaned the area, throwing away the food and using clorox to clean surfaces. Garcia de Martinez used so much Clorox bleach to clean that she later had a headache. Garcia de Martinez took videos of the apparent maggots, which are attached as **Exhibit A** and **Exhibit B**. Garcia de Martinez showed the videos to her supervisor, Chef Leon; he only responded with words to the effect that “I can’t believe that.” Garcia de Martinez is not aware of any other actions Chef Leon took in response to her report.. A photo of the apparent worms is shown below:



Photo of apparent maggots on metal plate cover. Taken July 8, 2023 by Berta Garcia de Martinez

On or about the evening of May 30, 2023, Garcia de Martinez was in the pots and pans area of the first floor kitchen, washing a stack of sheet pans used for cooking. She noticed that

the pans at the bottom of the stack exhibited what appeared to be mold. She took a video of the pans, which is attached as **Exhibit C**. She showed the video to her supervisor, Chef Javier Leon – he said words to the effect of “that’s gross,” but Garcia de Martinez is not aware of any further steps he took in response.

On or about July 27, 2022, Bonilla encountered what appeared to be a large cockroach in the third floor banquet area. Bonilla took a photo of the apparent cockroach, which is below:



Photo of apparent cockroach in 3rd floor banquet area room, taken July 27, 2022.

Investigation Procedures

As noted above, Complainants request that a thorough site inspection of the facility be conducted. Given the health hazards posed to employees by vermin, we ask that this inspection be conducted on an expedited basis. Additionally, we are aware that some of the matters raised here may not be effectively investigated by simply requesting copies of paperwork from the Respondent. Accordingly, Complainants are willing to provide Cal/OSHA with additional information to assist with its investigation, including supplying video recordings and photographs, and arranging for Cal/OSHA to meet privately with the Complainants and additional employees.

As the designated employee representative for the Complainants, we request to be notified of and included in the Opening and Closing Conferences, as well as any post-citation Informal Conference, with Cal/OSHA and affected employees if the employer insists on separate conferences. As the designated employee representative, we also request “walkaround” rights to accompany an inspector on the tour of inspection pursuant to Labor Code § 6314(d).

Please contact me with regard to the substance of this complaint, including interviews with the complaining employees, and any resulting citation. I can be reached at jluna@unitehere11.org or (210) 439-7039. Thank you for your attention to this important matter.

Sincerely,

/s/ Juan Fernando Luna

Juan Fernando Luna
Staff Attorney, UNITE HERE Local 11

Henry Green
Law Clerk, UNITE HERE Local 11