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Attorneys for Plaintiffs ALEJANDRO LOPEZ

14 and NOELIA LEYVA**15****SUPERIOR COURT OF THE STATE OF CALIFORNIA****16****FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE****17****18 ALEJANDRO LOPEZ and NOELIA LEYVA,**
on behalf of themselves and all others
19 similarly situated,**20**

Plaintiffs,

21**22**

v.

23**24 WALDORF ASTORIA MANAGEMENT**
LLC, a Delaware limited liability company;
25 WALDORF=ASTORIA EMPLOYER LLC, a
Delaware limited liability company; and
26 DOES 1 through 100, inclusive,**27**

Defendants.

28

Case No.: 20STCV17212

CLASS ACTION[Assigned for all purposes to the Honorable
Maren E. Nelson, Dept. 17]**SECOND AMENDED COMPLAINT**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Failure to Provide Meal Periods
4. Failure to Provide Rest Periods
5. Failure to Pay Due Wages at Termination
6. Wage Statement Violations
7. Violations of Labor Code § 2802
8. Violation of Business and Professions Code § 17200, *et seq.*
9. Violation of the Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiffs ALEJANDRO LOPEZ (hereinafter “Plaintiff Lopez” or “Lopez”) and
2 NOELIA LEYVA (hereinafter “Plaintiff Leyva” or “Leyva”) (collectively hereinafter the
3 “Plaintiffs”), on behalf of themselves and all other similarly situated current and former
4 employees, allege on information and belief, except for their own acts and experiences,
5 which are based on personal knowledge, the following:

6 **GENERAL ALLEGATIONS**

7 **INTRODUCTION**

8 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, on behalf of
9 Plaintiffs and all other current and former similarly situated employees employed by or formerly
10 employed by WALDORF ASTORIA MANAGEMENT LLC., a Delaware limited liability
11 company, and any of its respective subsidiaries or affiliated companies within the State of California
12 (“WA MANAGEMENT”), and WALDORF= ASTORIA EMPLOYER LLC, a Delaware limited
13 liability company, and any of its respective subsidiaries or affiliated companies within the State of
14 California, (“WA EMPLOYER” and collectively with WA MANAGEMENT, and DOES 1 through
15 100, as further defined below, “Defendants”), as a proxy of the Labor and Workforce Development
16 Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former
17 non-exempt employees of Defendants working within the Civil Penalty Period, as further defined
18 herein, (collectively, the “Aggrieved Employees”).

19 2. This Class Action is brought by Plaintiffs against Defendants on behalf of all its
20 current and former non-exempt, hourly-paid employees who worked for Defendants at the La Quinta
21 Resort & Club located at 49499 Eisenhower Drive, La Quinta, California 92253 (“La Quinta”) at
22 any time from March 2, 2018 through December 8, 2021 (collectively referred to as “Class
23 Members”).

24 3. From March 2, 2018 and continuing to the present, Defendants have, at times, failed
25 to pay overtime wages to Plaintiffs and other non-exempt employees in the State of California in
26 violation of California state wage and hour laws as a result of, without limitation, Plaintiffs and
27 similarly situated employees, at times, working over eight (8) hours per day, twelve (12) hours per
28 day, forty (40) hours per week, and seven consecutive work days in a work week without being

1 properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40)
2 hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work
3 week by, among other things, Defendants, at times, failing to accurately track and/or pay for all
4 minutes actually engaged, suffered, or permitted to work, including at the proper overtime rate of
5 pay, to the detriment of Plaintiffs and other similarly situated employees.

6 4. From March 2, 2018 and continuing to the present, Defendants have, at times, failed
7 to pay minimum wages to Plaintiffs and other non-exempt employees in the State of California in
8 violation of California state wage and hour laws as a result of, among other things, Defendants,
9 occasionally, failing to accurately track and/or pay for all minutes actually engaged, suffered, or
10 permitted to work and at times failing to pay shift premiums on the uncommon occasions employees
11 worked split shifts, to the detriment of Plaintiffs and other similarly situated employees.

12 5. From March 2, 2018 and continuing to the present, Defendants have, on occasion,
13 failed to provide Plaintiffs and other similarly situated employees or former employees within the
14 State of California a thirty (30) minute uninterrupted meal period for days on which the employees
15 worked more than five (5) hours in a work day and a second thirty (30) minute uninterrupted meal
16 period for days on which employees worked in excess of ten (10) hours in a work day, and failed,
17 at times, to provide compensation for such unprovided meal periods as required by California wage
18 and hour laws.

19 6. From March 2, 2018 and continuing to the present, Defendants have, on occasion,
20 failed to provide Plaintiffs and similarly situated employees or former employees within the State
21 of California rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
22 thereof and failed, at times, to provide compensation for such unprovided rest periods as required
23 by California wage and hour laws.

24 7. From March 2, 2018 and continuing to the present, Defendants have failed, on
25 occasion, to pay Plaintiffs and other similarly situated employees the full amount of their wages
26 owed to them upon termination and/or resignation as required by Labor Code sections 201 and 202
27 as a result of their occasional failure to pay wages as herein mentioned.
28

1 8. From March 2, 2019 and continuing to the present, Defendants have, at times, failed
2 to furnish Plaintiffs and similarly situated employees within the State of California with itemized
3 wage statements that accurately reflect gross wages earned; total hours worked; net wages earned;
4 all applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate; and other such information as required by Labor Code section 226,
6 subdivision (a). As a result thereof, Defendants have, at times as herein mentioned, further failed
7 to furnish employees with an accurate calculation of gross and gross wages earned, as well as gross
8 and net wages paid.

9 9. From March 2, 2018 and continuing to the present, Defendants have, at times, failed
10 to indemnify Plaintiffs and other similarly situated employees or former employees within the State
11 of California for expenses incurred from occasional cellular telephone usage and laundering of
12 uniforms, in furtherance of their work duties, in violation of, among other authorities, Labor Code
13 section 2802.

14 10. Plaintiffs, on behalf of themselves and all other similarly situated employees, bring
15 this action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204,
16 210, 218, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 432, 510, 512, 558, 1174, 1194, 1194.2, 1197,
17 1197.1, 1198.5, 2802, 2810.5, *et al.*, and California Code of Regulations, Title 8, section 11070
18 (Wage Order No. 5-2001), seeking overtime wages, minimum wages, payment of premium wages
19 for missed meal and rest periods, penalties, reimbursement for expenses incurred in furtherance of
20 work duties, other such provisions of California law, and reasonable attorneys' fees and costs.

21 11. Plaintiffs, on behalf of themselves and all other similarly situated employees,
22 pursuant to California Business and Professions Code sections 17200 through 17208, also seek (an)
23 injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the
24 establishment of appropriate and effective means to prevent further violations, as well as all monies
25 owed but withheld and retained by Defendants to which Plaintiffs and Class Members are entitled,
26 as well as restitution of amounts owed.

27 12. Plaintiffs, on behalf of themselves and all other similarly situated aggrieved
28 employees, also bring this action pursuant to California Labor Code section 2699, *et seq.* for civil

penalties pursuant to the procedures specified in Labor Code section 2699.3.

PARTIES

A. Plaintiffs

13. Plaintiff Lopez is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff Lopez as an hourly, non-exempt employee, with duties that included, but were not limited to, serving food and beverages for guests at the La Quinta Resort & Club. Plaintiff Lopez began working for Defendants in approximately November of 2016 and worked through approximately January of 2020.

14. Plaintiff Leyva is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendant WA MANAGEMENT employed Plaintiff Leyva as an hourly, non-exempt employee, with duties that included, but were not limited to, housekeeping supervisor at the La Quinta Resort & Club. Plaintiff Leyva began working for Defendant WA MANAGEMENT from approximately October 25, 2019 through December 16, 2019.

B. Defendants

15. Plaintiffs are informed and believe and based thereon allege that defendant WA MANAGEMENT is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State of California.

16. Plaintiffs are informed and believe and based thereon allege that defendant WA EMPLOYER is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State of California.

17. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiffs, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiffs is informed and believes and based thereon alleges that each of the defendants designated

1 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
2 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities
3 of the defendants designated hereinafter as DOES when such identities become known. Plaintiffs
4 are informed and believe, and based thereon allege, that each defendant acted in all respects pertinent
5 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
6 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
7 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
8 include WA MANAGEMENT and WA EMPLOYER, and any of their parent, subsidiary, or
9 affiliated companies within the State of California, as well DOES 1 through 100 identified herein.

10 **JURISDICTION**

11 18. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
12 of Civil Procedure section 410.10.

13 19. Venue is proper in Los Angeles County, California pursuant to Code of Civil
14 Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where
15 Defendants, or some of them reside.

16 **FACTUAL BACKGROUND**

17 20. Plaintiffs and other similarly situated employees have not been paid, during the
18 relevant liability periods, wages for all time worked, including overtime wages, as a result of,
19 including but not limited to, Defendants at times failing to pay overtime wages to Plaintiffs and
20 other non-exempt employees in the State of California in violation of California state wage and hour
21 laws as a result of, without limitation, Plaintiffs and similarly situated employees occasionally
22 working over eight (8) hours per day, twelve (12) hours per day, forty (40) hours per week or seven
23 (7) consecutive work days in a work week without being properly compensated for the hours worked
24 in excess of (8) hours per day, forty (40) hours per week, or seven (7) consecutive work days in a
25 workweek at the proper overtime rate of pay. Specifically, among other things, Defendants, at times,
26 failed to accurately track and/or pay for all minutes actually engaged, suffered, or permitted to work,
27 including at the proper overtime rate of pay.

1 21. Plaintiffs and other similarly situated employees, on occasion, have not been paid
2 during the relevant liability periods, minimum wages for all regular hours worked, as a result of,
3 among other things, Defendants, occasionally, failing to accurately track and/or pay for all minutes
4 actually engaged, suffered, or permitted to work and at times failing to pay shift premiums.

5 22. Defendants failed, at times, during the relevant liability periods, to provide Plaintiffs
6 and similarly situated employees or former employees within the State of California a thirty (30)
7 minute, uninterrupted, and timely meal period for days on which the employees worked more than
8 five (5) hours in a workday; a second thirty (30) minute, uninterrupted, and timely meal period for
9 days on which employees worked in excess of ten (10) hours in a workday; and/or compensation
10 for such unprovided meal periods as required by California wage and hour laws.

11 23. Defendants failed, at times, to provide Plaintiffs and similarly situated employees or
12 former employees within the State of California rest periods of at least ten (10) minutes per four (4)
13 hours worked or major fraction thereof and failed, at times, to provide compensation for such
14 unprovided rest periods as required by California wage and hour laws.

15 24. At the time Plaintiffs employment and the employment of other former employees
16 of Defendants ended, Defendants willfully failed, at times, to pay overtime and minimum wages at
17 the proper rate and failed, at times, to pay one hour of wages in lieu of each non-compliant meal
18 and/or rest period, among other things.

19 25. Defendants have failed, at times, to comply with Labor Code section 226,
20 subdivision (a) by not providing itemized wage statements accurately showing, including but not
21 limited to, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in
22 effect during the pay period and the corresponding number of hours worked at each hourly rate; and
23 other such information as required by Labor Code section 226, subdivision (a).

24 26. Defendants have failed, at times, to reimburse Plaintiffs and similarly situated
25 employees, during the relevant liability periods, as required under Labor Code section 2802 for the
26 costs incurred for occasional cellular telephone usage and laundering of uniforms, in furtherance of
27 their work duties, in violation of, among other authorities, Labor Code section 2802.

28

27. Defendants have failed, at times, to provide Plaintiffs and similarly situated employees, during the relevant liability periods, with the amount of paid sick leave required to be provided pursuant to California law (including, without limitation Labor Code section 246, *et seq.*), and also failed to permit its use upon request by Plaintiffs and similarly situated employees.

28. Defendants have failed, at times, to pay Plaintiff and similarly situated employees their wages in accordance with Labor Code section 204.

29. Defendants have failed, at times, to comply with the notice requirements of Labor Code section 2810.5 by, among other things, failing to provide Plaintiffs and Class Members with the rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part of the minimum wage; the regular pay day designated by Defendants; the name, address, and telephone number of workers' compensation insurance carrier; information regarding paid sick leave; and other pertinent information required to be disclosed.

30. Defendants failed to comply with Labor Code section 226(a) by intentionally failing, at times, to furnish Plaintiff and Class Members with documents signed to obtain or hold employment under Labor Code section 4321, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174.

31. Plaintiffs and other similarly situated employees or former employees at all times pertinent hereto were not exempt from the payment of overtime wages, minimum wages, payment of premium wages for missed rest periods, waiting time penalties, wage statement penalties, reimbursement for expenses incurred in furtherance of work duties, and other such provisions of California law, and the implementing rules and regulations of the IWC California Wage Orders.

CLASS ACTION ALLEGATIONS

32. Plaintiffs bring this action on behalf of themselves and all others similarly situated, as a class action pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent a class of all its current and former non-exempt, hourly-paid employees who worked for Defendants at the La Quinta Resort & Club located at 49499 Eisenhower Drive, La Quinta, California 92253 at any time from March 2, 2018 *through* December 8, 2021 (collectively referred to as “Class Members”).

1 33. Plaintiffs reserve the right under California Rule of Court (“CRC”), Rule 3.765,
2 subdivision (b) to amend or modify the class description with greater specificity or further division
3 into subclasses or limitation to particular issues.

4 34. This action has been brought and may properly be maintained as a class action under
5 the provisions of Code of Civil Procedure (“CCP”) section 382 because there is a well-defined
6 community of interest in the litigation and the proposed Class is easily ascertainable.

7 **A. Numerosity**

8 35. The potential Class Members as defined are so numerous that joinder of all the
9 members of the Class is impracticable. While the precise number of Class Members has not been
10 determined yet, Plaintiffs is informed and believes that there are at least eighteen hundred (1,800)
11 Class Members employed by Defendants within the State of California. Plaintiffs allege
12 Defendants’ employment records would provide information as to the number and location of all
13 Class Members. Joinder of all members of the proposed Class is not practicable.

14 **B. Commonality**

15 36. There are questions of law and fact common to Class Members. These common
16 questions include, but are not limited to:

- 17 (a) Did Defendants violate Labor Code sections 510, 1194, and 1197 by their
18 occasional failure to adequately track, and therefore adequately pay, for all
19 minutes Class Members were suffered, engaged, or permitted to work?
- 20 (b) Did Defendants violate Labor Code sections 510 and 1194 by at times failing
21 to pay overtime at the proper rate of pay?
- 22 (c) Are Class Members entitled to liquidated damages under Labor Code section
23 1194.2 for Defendants’ occasional failure to pay minimum wages for all
24 hours worked?
- 25 (d) Did Defendants violate Labor Code section 512 by occasionally not
26 providing Class Members with compliant meal periods?
- 27 (e) Did Defendants violate Labor Code section 226.7 by occasionally failing to
28 provide Class Members with premium wages for non-compliant meal

- 1 periods?
- 2 (f) Did Defendants violate applicable Wage Orders by occasionally not
- 3 providing Class Members with compliant rest periods?
- 4 (g) Did Defendants violate Labor Code section 226.7 by occasionally failing to
- 5 provide Class Members with premium wages for non-compliant rest periods?
- 6 (h) Did Defendants violate Labor Code sections 201 and 202 by occasionally
- 7 failing to pay Class Members upon termination or resignation all wages
- 8 earned?
- 9 (i) Are Defendants liable to Class Members for waiting time penalties under
- 10 Labor Code section 203?
- 11 (j) Did Defendants violate Labor Code section 226, subdivision (a) by not
- 12 furnishing Class Members on occasion with accurate wage statements?
- 13 (k) Did Defendants violate Labor Code section 2802 by requiring employees to,
- 14 on occasion, incur expenses for cellular telephone usage and uniform
- 15 laundering in furtherance of work duties?
- 16 (l) Did Defendants fail to provide Plaintiffs and Class Members with the amount
- 17 of paid sick leave required to be provided pursuant to California law
- 18 (including, without limitation Labor Code section 246, *et seq.*), and also fail
- 19 to permit its use upon request by Plaintiffs and Class Members?
- 20 (m) Did Defendants fail to pay Plaintiff and Class Members their wages in
- 21 accordance with Labor Code section 204?
- 22 (n) Did Defendants fail to comply with the notice requirements of Labor Code
- 23 section 2810.5 by, among other things, failing to provide Plaintiffs and Class
- 24 Members with the rates of pay and overtime rates of pay applicable to their
- 25 employment; allowances claimed as part of the minimum wage; the regular
- 26 pay day designated by Employers; the name, address, and telephone number
- 27 of workers' compensation insurance carrier; information regarding paid sick
- 28 leave; and other pertinent information required to be disclosed?

1 (o) Did Defendants fail to comply with Labor Code section 226(a) by
2 intentionally failing to furnish Plaintiff and Class Members with documents
3 signed to obtain or hold employment under Labor Code section 4321,
4 personnel records under Labor Code section 1198.5, and time records under
5 Labor Code section 1174?

6 (p) Did Defendants violate the Unfair Competition Law, Business and
7 Professions Code section 17200, *et seq.*, by their unlawful practices as alleged
8 herein?

9 (q) Are Class Members entitled to restitution of wages under Business and
10 Professions Code section 17203?

11 (r) Are Class Members entitled to costs and attorneys' fees?

12 (s) Are Class Members entitled to interest?

13 **C. Typicality**

14 37. The claims of Plaintiffs herein alleged are typical of those claims which could be
15 alleged by any Class members, and the relief sought is typical of the relief which would be sought
16 by each Class Member in separate actions. Plaintiffs and Class Members sustained injuries and
17 damages arising out of and caused by Defendants' common course of conduct in violation of laws
18 and regulations that have the force and effect of law and statutes as alleged herein.

19 **D. Adequacy of Representation**

20 38. Plaintiffs will fairly and adequately represent and protect the interest of Class
21 Members. Counsel who represents Plaintiffs are competent and experienced in litigating wage and
22 hour class actions.

23 **E. Superiority of Class Action**

24 39. A class action is superior to other available means for the fair and efficient
25 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
26 questions of law and fact common to Class Members predominate over any questions affecting only
27 individual Class Members. Class Members, as further described therein, have been damaged and
28 are entitled to recovery by reason of Defendants' illegal policy and/or practices, including, without

1 limitation, occasionally failing to pay overtime wages and minimum wages; at times failing to
2 provide meal and rest breaks or compensation in lieu thereof; at times failing to provide accurate
3 wage statements; occasionally failing to pay all wages due upon termination and/or resignation; and
4 at times failing to reimburse expenses incurred in furtherance of work duties.

5 40. Class action treatment will allow those similarly situated to litigate their claims in a
6 manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are
7 unaware of any difficulties that are likely to be encountered in the management of this action that
8 would preclude its maintenance as a class action.

9 **FIRST CAUSE OF ACTION**

10 **(Failure to Pay Overtime Wages – Against All Defendants)**

11 41. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
12 preceding paragraphs of this Complaint as though fully set forth herein.

13 42. At all times relevant to this Complaint, Labor Code section 510 was in effect and
14 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
15 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
16 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

17 43. At all times relevant to this Complaint, Labor Code section 510 further provided that
18 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
19 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
20 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
21 pay.”

22 44. At all times mentioned, Plaintiffs and Class Members, on occasion, worked for
23 Defendants during shifts that consisted of more than eight (8) hours in a workday, more than twelve
24 (12) hours in a workday, and/or more than forty hours in a workweek, and/or seven (7) consecutive
25 workdays in a workweek, without being paid overtime wages for all hours worked as a result of,
26 including but not limited to, Defendants, occasionally, failing to accurately track and/or pay for all
27 minutes actually engaged, suffered, or permitted to work, including at the proper overtime rate of
28 pay, by Plaintiffs and other similarly situated employees in the State of California.

45. Accordingly, by occasionally requiring Plaintiffs and Class Members to work greater than eight (8) hours per workday, twelve (12) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants on occasion willfully violated the provisions of the Labor Code, among others, sections 510, 1194, 1997 and applicable IWC Wage Orders, and California law.

46. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have, at times been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus liquidated damages, interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194, 1194.2, 1194.3 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

47. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

48. At all relevant times, Plaintiffs and Class Members were employees of Defendants covered by Labor Code section 1197 and applicable Wage Orders.

49. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiffs and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

50. Defendants, at times, failed to pay Plaintiffs and Class Members minimum wages for all minutes worked as a result of, including but not limited to, Defendants, occasionally, failing to accurately track and/or pay for all minutes actually engaged, suffered, or permitted to work; and, at times, failed to pay shift premiums on occasions employees worked split shifts.

51. As a result of Defendants' occasional unlawful conduct, Plaintiffs and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all minutes worked or otherwise due.

52. Pursuant to Labor Code sections 218.6, 1194, 1194.2, 1194.3, 1197, CCP sections 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover

1 the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages,
2 reasonable attorneys' fees and costs of suit.

3 **THIRD CAUSE OF ACTION**

4 **(Failure to Provide Meal Periods – Against All Defendants)**

5 53. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
6 preceding paragraphs of this Complaint as though fully set forth herein.

7 54. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
8 employ an employee for a work period of more than five (5) hours without a timely meal break of
9 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
10 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
11 per day without providing the employee with a second timely meal period of not less than thirty (30)
12 minutes in which the employee is relieved of all of his or her duties.

13 55. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
14 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
15 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
16 of compensation for each workday that the compliant meal period is not provided.

17 56. Plaintiffs and Class Members were, at times, during the relevant time period, not
18 provided with compliant meal periods as contemplated under the law.

19 57. By their occasional failure to provide Plaintiffs and Class Members with the
20 compliant meal periods contemplated by Labor Code section 512, among other California
21 authorities, and occasional failure to provide required compensation for such unprovided meal
22 periods, as alleged above, Defendants willfully violated the provisions of Labor Code sections
23 226.7, 512 and applicable Wage Orders.

24 58. As a result of Defendants' occasional unlawful conduct, Plaintiffs and Class
25 Members have at times suffered damages in an amount, subject to proof, to the extent they were not
26 paid additional pay owed for missed, untimely, interrupted and/or incomplete meal periods.

27 59. Plaintiffs and Class Members are entitled to recover the full amount of their unpaid
28 additional pay for missed and non-compliant meal periods, in amounts to be determined at trial, and

1 are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and
2 costs, under Labor Code sections 218, 218.5, 218.6, 226 and 226.7, CCP sections 1021.5 and 1032,
3 and Civil Code section 3287.

4 **FOURTH CAUSE OF ACTION**

5 **(Failure to Provide Rest Periods – Against All Defendants)**

6 60. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
7 preceding paragraphs of this Complaint as though fully set forth herein.

8 61. California law and applicable Wage Orders require that employers “authorize and
9 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
10 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
11 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
12 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
13 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
14 thirty (30) minutes of paid rest period.

15 62. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
16 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
17 Commission, the employer shall pay the employee one additional hour of pay at the employee's
18 regular rate of compensation for each work day that the compliant rest period is not provided.

19 63. By their occasional failure to provide Plaintiffs and Class Members with the rest
20 periods contemplated by California law, and occasional failure to provide required compensation
21 for such unprovided and non-compliant rest periods, as alleged above, Defendants at times willfully
22 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

23 64. As a result of Defendants' occasional unlawful conduct, Plaintiffs and Class
24 Members have at times suffered damages in an amount, subject to proof, to the extent they were not
25 paid additional pay owed for missed rest periods.

26 65. Pursuant to Labor Code section 218.5, 218.6, 226.7, Code of Civil Procedure section
27 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover the full
28 amount of their premium pay for unprovided/non-compliant rest periods, interest and penalties

thereon, attorneys' fees and costs of suit.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

66. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

67. At all relevant times, Plaintiffs and Class Members were employees of Defendants covered by Labor Code sections 201 and 202.

68. Pursuant to Labor Code sections 201 and 202, Plaintiffs and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours' previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

69. Plaintiffs are informed and believe, and based thereon allege, that Defendants, due to the occasional failure to provide wages as mentioned above, at times failed to pay Plaintiffs and Class Members all wages earned and unpaid, including overtime wages and minimum wages, prior to resignation or termination in accordance with Labor Code sections 201 or 202.

70. Defendants' occasional failure to pay Plaintiffs and Class Members all wages earned prior to termination in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiffs and Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202.

71. Pursuant to Labor Code section 203, Plaintiffs and Class Members are entitled to waiting time penalties from the date their earned and unpaid wages were due, upon termination, until paid, up to a maximum of thirty (30) days.

72. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have at times suffered damages in an amount subject to proof, to the extent they were not paid for all wages

1 earned prior to termination.

2 73. As a result of Defendants' occasional unlawful conduct, Plaintiffs and Class
3 Members have suffered damages in an amount subject to proof, to the extent they were not paid all
4 waiting time penalties owed under Labor Code section 203.

5 74. Pursuant to Labor Code sections 203, 218, 218.5, 218.6, Code of Civil Procedure
6 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled
7 to recover waiting time penalties under Labor Code section 203, reasonable attorneys' fees on their
8 unpaid wages, and costs of suit.

9 75. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
10 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
11 waiting time penalties, interest, and other costs of suit on the waiting time penalties, as well.

12 **SIXTH CAUSE OF ACTION**

13 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

14 76. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
15 preceding paragraphs of this Complaint as though fully set forth herein.

16 77. At all relevant times, Plaintiffs and Class Members were employees of Defendants
17 covered by Labor Code section 226.

18 78. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and Class Members
19 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
20 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
21 wages earned; and all applicable hourly rates in effect during the pay period and the corresponding
22 number of hours worked at each hourly rate.

23 79. Plaintiffs are informed and believe, and based thereon allege, that at all relevant
24 times, Defendants failed, at times, to issue wage statements in compliance with Labor Code section
25 226, including, but not limited to, failing to, at times, accurately set out amounts due to, among other
26 things, gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in
27 effect during the pay period and the corresponding number of hours worked at each hourly rate.

80. Thus, Defendants occasionally failed to provide Plaintiffs and Class Members accurate itemized wage statements in accordance with Labor Code section 226, subdivision (a) and 226.2.

81. Defendants' occasional failure to provide Plaintiffs and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiffs and Class Members with accurate wage statements, but willfully provided wage statements that Defendants knew were not accurate.

82. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have suffered injury. The absence of accurate information on their wage statements has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and mathematical computations to determine the amount of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and led to submission of inaccurate information about wages and amounts deducted from wages to state and federal governmental agencies.

83. Pursuant to Labor Code section 226, subdivision (e), Plaintiffs and Class Members are entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

84. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure section 1032, Civil Code section 3287, Plaintiffs and Class Members are entitled to recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

(Violation of Labor Code § 2802 – Against All Defendants)

85. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though full set forth herein.

86. At all relevant times, Plaintiffs and Class Members were employees of Defendants covered by Labor Code section 2802.

1 87. California Labor Code section 2802, subdivision (a) provides that “an employer shall
2 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
3 direct consequence of the discharge of his or her duties . . .”

4 88. At all relevant times, Defendants, at times, failed and refused, and still fail and refuse,
5 to reimburse Plaintiffs and Class Members for the costs incurred in occasional cellular phone use
6 and laundering of uniforms for work purposes.

7 89. As a result of Defendants’ occasional unlawful conduct, Plaintiffs and Class
8 Members have suffered damages in an amount subject to proof, to the extent they were not
9 reimbursed for costs incurred in, including without limitation, costs incurred from occasional
10 cellular phone use for work purposes and laundering of uniforms, in furtherance of their work duties
11 for Defendants.

12 90. Pursuant to Labor Code section 2802, Code of Civil Procedure section 1032, and
13 Civil Code section 3287, Plaintiffs and Class Members are entitled to recover actual costs incurred
14 for their costs incurred purchasing tools, laundering uniform and for personal cellular use for work
15 purposes, reasonable attorney’s fees and costs of suit.

16 **EIGHTH CAUSE OF ACTION**

17 **(Unfair Competition – Against All Defendants)**

18 91. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
19 preceding paragraphs of this Complaint as though fully set forth herein.

20 92. The unlawful conduct of Defendants alleged herein constitutes unfair competition
21 within the meaning of Business and Professions Code section 17200, *et seq.* Due to their unlawful
22 business practices in violation of the Labor Code, Defendants have gained a competitive advantage
23 over other comparable companies doing business in the State of California that comply with their
24 obligations to compensate employees in accordance with the Labor Code.

25 93. As a result of Defendants’ unfair competition as alleged herein, Plaintiffs and Class
26 Members have suffered injury in fact and lost money or property. Plaintiffs and Class Members
27 have been, on occasion, deprived of overtime compensation; minimum wage compensation;
28 provision of compliant meal breaks or compensation in lieu thereof; provision of compliant rest

breaks or compensation in lieu thereof; provision of all wages upon termination or resignation; accurate wage statements; and reimbursements for costs incurred in furtherance of job duties, among other things.

94. Pursuant to Business and Professions Code section 17203, Plaintiffs and Class Members are entitled to restitution of all wages and other monies owed to them under the Labor Code, including interest thereon, in which they had a property interest and which Defendants nevertheless failed to pay them and instead withheld and retained for themselves. Restitution of the money owed to Plaintiffs and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code.

95. Plaintiffs and Class Members are entitled to costs of suit under Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

NINTH CAUSE OF ACTION

(Violation of the Private Attorneys General Act of 2004 – Against All Defendants)

96. Plaintiffs re-allege each and every allegation set forth in the preceding paragraphs and incorporate each by reference as though fully set forth herein.

97. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such as Plaintiffs, on behalf of Plaintiffs and all other aggrieved current and former employees within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

98. On or around May 4, 2020, Plaintiff Lopez provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them. (see **Exhibit 1**).

99. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the May 4, 2020 postmarked date of the herein-described notice sent by Plaintiff Lopez to the LWDA and Defendants.

1 100. On March 2, 2020, Plaintiff Leyva provided written notice pursuant to Labor Code
2 section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation
3 of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as
4 by certified mail, with return receipt requested to Defendants, and each of them. (*see Exhibit 2*).

5 101. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
6 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
7 calendar days of the March 2, 2020 postmarked date of the herein-described notice sent by Plaintiff
8 Leyva to the LWDA and Defendants.

9 102. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
10 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
11 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
12 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
13 action brought by an aggrieved employee on behalf of themselves or herself and other current or
14 former employees pursuant to the procedures specified in Labor Code section 2699.3.

15 103. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
16 Code except those for which a civil penalty is specifically provided, the established civil penalty for
17 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
18 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
19 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
20 employee per pay period for each subsequent violation.

21 104. Plaintiffs are informed and believe and based thereon allege that Defendants, and
22 each of them, violated the Labor Code sections described herein, including, without limitation, for
23 the failure to: pay overtime wages and minimum wages; provide compliant meal and rest periods or
24 required compensation in lieu thereof; provide accurate, itemized wage statements; pay timely
25 wages during employment and after employment separation; provide employees the opportunity to
26 inspect employment records; reimburse Aggrieved Employees for costs incurred in furtherance of
27 their work duties; provide notice as required under Labor Code section 2810.5; and provide the
28 proper accrual and use of paid sick leave, entitling Plaintiffs and other Aggrieved Employees to civil

penalties for each of these Labor Code violations in the amounts set forth in Labor Code section 2699, subdivision (f), including but not limited to Labor Code sections 210, 558 and 1197.1.

105. Moreover, Plaintiffs and other Aggrieved Employees within the State of California whom they seek to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, on behalf of themselves and all others similarly situated, Plaintiffs pray for judgment against Defendants as follows:

- A. An order certifying this case as a Class Action;
- B. An Order appointing Plaintiffs Alejandro Lopez and Noelia Leyva as Class Representatives and appointing Plaintiffs' Counsel as Class Counsel;
- C. Damages for all wages earned and owed, including minimum and overtime wages under Labor Code sections 510, 1194, 1197 and 1199;
- D. Liquidated damages pursuant to Labor Code sections 1194.2;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512 and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code section 226, subdivision (e);
- G. Damages for unpaid penalty wages under Labor Code section 203;
- H. Waiting time penalties under Labor Code section 203;
- I. Reimbursement for costs incurred in furtherance of work duties under Labor Code section 2802;
- J. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1197.1, and 2699;
- K. An award of penalties, attorneys' fees, and costs of suit pursuant to Labor Code § 2699(g);
- L. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate

and effective means to prevent future violations;

M. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;

N. Prejudgment and post-judgment interest at the maximum rate allowed by law;

O. For attorneys' fees in prosecuting this action;

P. For costs of suit incurred herein; and

Q. For such other and further relief as the Court deems just and proper.

Dated: June 13, 2022

BIBIYAN LAW GROUP, P.C.
DYCHTER LAW OFFICES, APC
United Employees Law Group, PC

By: David D. Bibiyan
David D. Bibiyan
Attorneys for Plaintiffs Lopez and Leyva

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury for themselves and the Class on all claims so triable.

Dated: June 13, 2022

BIBIYAN LAW GROUP, P.C.
DYCHTER LAW OFFICES, APC
United Employees Law Group, PC

By: David D. Bibiyan
David D. Bibiyan
Attorneys for Plaintiffs Lopez and Leyva

EXHIBIT 1



BIBIYAN LAW GROUP, P.C.

David D. Bibiyan
Attorney at Law

8484 Wilshire Blvd., Suite 500
Beverly Hills, California, 90211

310.438.5555 T

310.300.1705 F

david@tomorrowlaw.com

www.employmentlawyerla.com

May 4, 2020

PAGA NOTICE FILED ELECTRONICALLY
PAGA FILING FEE BY U.S. MAIL

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102
<https://dir.tfaforms.net/128>

Re: *Notice Letter of Alejandro Lopez on Behalf of Himself and Aggrieved Employees Under California Labor section 2699.3*

Employers: Waldorf Astoria Management LLC
49499 Eisenhower Drive
La Quinta, California 92253

Waldorf=Astoria Employer LLC
49499 Eisenhower Drive
La Quinta, California 92253

Beatrice Vattima
49499 Eisenhower Drive
La Quinta, California 92253

Houssem Tasco
9850 Wilshire Blvd.
Beverly Hills, California 90210

To Whom It May Concern:

This letter shall constitute notice under Labor Code section 2699.3 (hereinafter “PAGA Notice”). The \$75 filing fee made payable to the California Labor and Workforce Development Agency for the PAGA Notice was mailed along with a copy of this PAGA Notice to the Department of Industrial Relations at the above-listed mailing address.

This PAGA Notice concerns Alejandro Lopez’s (“Mr. Lopez”) employment with his former employers Waldorf Astoria Management LLC (“WA Management”), Waldorf=Astoria Employer LLC (“WA Employer”), their Director of Human Resources Beatrice Vattima (“Vattima”) and their Director of Hotel Operations Houssem Tasco (“Tasco” and collectively with WA Management, WA Employer and Vattima, “Employers”). Mr. Lopez was employed as a non-exempt employee of Employers, with duties that included, but were not limited to, serving food and beverages for guests, from approximately November of 2016 through approximately January of 2020. Other aggrieved employees that Mr. Lopez seeks to represent are all other non-exempt employees of Employers. In return, Employers paid (or purported to pay) Mr. Lopez and other aggrieved employees an hourly wage for their services.

Mr. Lopez and other aggrieved employees are covered by Labor Code section 510 and applicable Wage Orders. Mr. Lopez is informed and believes, and based thereon alleges, that Employers had and have a policy or practice of requiring their employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked by, including but not limited to, detrimentally rounding, manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period; failing to pay split shift premiums; failing to include all forms of remuneration, including non-discretionary bonuses and/or incentive pay, into the regular rate of pay for the pay periods where overtime was worked and a non-discretionary bonus and/or incentive pay was earned, for the purpose of calculating the overtime rate of pay; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to begin work duties before clocking in and continue working after clocking out and/or by requiring them to carry cellular telephones during meal breaks and other off-duty times; requiring employees to wait in line for minutes at a time to clock in and clock out; and requiring employees to park their cars offsite, wait in line to board a shuttle, and travel to the hotel, to the detriment of Mr. Lopez and other aggrieved employees. Consequently, Mr. Lopez is informed and believes, and based thereon alleges, that Employers violated Labor Code sections 510, 1194, and applicable Wage Orders based on their practice of providing total compensation that is less than the required legal overtime compensation for the overtime worked, entitling Mr. Lopez and other aggrieved employees to damages. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Lopez is informed and believes, and based thereon alleges, that Employers had and have a practice or policy of failing to compensate Mr. Lopez and other aggrieved employees with minimum wages for all hours worked or otherwise under Employers' control as a result of, without limitation, failing to accurately failing to accurately track and/or pay for all minutes actually worked by including, but not limited to, detrimentally rounding, manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period; failing to pay split shift premiums; and engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to begin work duties before clocking in and continue working after clocking out and/or requiring them to carry cellular telephones during meal periods and/or other off-duty times; requiring employees to wait in line for minutes at a time to clock in and clock out; and requiring employees to park their cars offsite, wait in line to board a shuttle and travel to the hotel, to the detriment of Plaintiff and other aggrieved employees. As such, Mr. Lopez is informed and believes, and based thereon alleges, that Employers violated, without limitation, Labor Code section 1197 and applicable Wage Orders based on their continued failure to pay minimum wages for all hours worked, entitling Mr. Lopez and other aggrieved employees to actual and liquidated damages under, without limitation, Labor Code sections 1194 and 1194.2. Employers would also be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Mr. Lopez is informed and believes, and based thereon alleges, that Employers had and have a policy or practice of compelling their employees to work in excess of five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof including, without limitation, by interrupting meal periods, not providing timely meal periods, and/or failing to provide first and second meal periods all together, providing short meal periods and/or requiring that employees carry cellular telephones or walkie-talkies during meal periods (*i.e.*, on-duty/on-call meal periods). Consequently, Mr. Lopez is informed and believes, and based thereon alleges, that Employers violated Labor Code section 512, entitling Mr. Lopez and other aggrieved employees to premium payments under Labor Code section 226.7. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Lopez is informed and believes, and based thereon alleges, that Employers maintain policies or practices of compelling their non-exempt employees, including, without limitation, Mr. Lopez, to work over four-hour periods (or major fractions thereof) without authorizing and permitting their employees to take uninterrupted, timely, and complete ten-minute rest periods in which the employees are completely relieved of all of their duties, including, without limitation, by failing to provide rest periods all together, interrupting them and/or requiring that employees carry cellular telephones or walkie-talkies during rest periods (*i.e.*, on-duty/on-call rest periods). As such, Mr. Lopez is informed and believes, and based thereon alleges, that he and other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

In addition to the above, Mr. Lopez is informed and believes, and based thereon alleges that Employers failed and continue to fail to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174, making it difficult for Mr. Lopez and other aggrieved employees to calculate their unpaid wages and/or premium payments. This would entitle Mr. Lopez and other aggrieved employees to penalties prescribed by Labor Code sections 226 and 1198.5. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

As a result of, among other things, Employers' herein-described policy or practice of failing to: accurately record time; failing to pay overtime and minimum wages; provide meal periods or compensation in lieu thereof; and provide rest periods or compensation in lieu thereof, as described above, Mr. Lopez is informed and believes, and based thereon alleges, that Employers also intentionally failed and continue to fail to furnish employees, including, without limitation, Mr. Lopez, with itemized wage statements that accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; and other such information as required by Labor Code section 226, subdivision (a). Specifically, Employers intentionally failed to furnish employees with itemized wage statements

that accurately reflect the hours worked by Mr. Lopez and other aggrieved employees and the rates of pay at which they were or should have been paid, thus resulting in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, since Employers would have failed to comply with Labor Code section 226, subdivision (a), Mr. Lopez and other aggrieved employees would be entitled to recover penalties under, without limitation, Labor Code section 226, subdivision (e). Employers would also be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699.

Mr. Lopez is informed and believes, and based thereon alleges, that Employers also failed and refused, and continue to fail and refuse, to timely pay compensation to Mr. Lopez and other terminated or resigned employees, including but not limited to, all wages owed at the proper rate(s) of pay as a result of Employers' practice or policy of failing to pay, among other wages, overtime wages, minimum wages, and premium wages. Consequently, Employers would be liable for waiting time penalties for having violated California Labor Code sections 201, 202, and 203. Employers would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Lopez is further informed and believes, and based thereon alleges that Employers failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Mr. Lopez and other aggrieved employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any "doing business as" names used, the name, address and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Mr. Lopez is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Among other relief, employees may collect from Employers in connection with these violations' civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Lopez is informed and believes, and based thereon alleges that Employers also failed and refused, and continue to fail and refuse, to reimburse employees, including, without limitation, Mr. Lopez and other aggrieved employees, with their costs incurred in separately laundering mandatory uniforms and using cellular phones for work purposes, in direct consequence of the discharge of their duties, or of their obedience to the directions of Employers, as required by Labor Code section 2802, and other statutory and common law offenses. As a result, Employers are liable to reimburse Mr. Lopez and other aggrieved employees for the cost incurred in separately laundering mandatory uniforms and cellular phone use in furtherance of work duties. In addition, Employers would be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Mr. Lopez is further informed and believes, and based thereon alleges, that Employers have or had a policy or practice of failing to provide Mr. Lopez and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California law (including, without limitation, Labor Code section 246 and, when applicable, Los Angeles Municipal Code section 187.01 *et seq.*) and also did not permit its use upon request as contemplated under California law. As such, Employers would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code sections 558 and 2699.

Mr. Lopez is informed and believes, and based thereon alleges that Employers had and have a policy or practice of failing to pay employees their wages in accordance with Labor Code Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Mr. Lopez is informed and believes and based thereon alleges that Employers did not and do not pay their employees in accordance with Labor Code Section 204. As such, Mr. Lopez is informed and believes, and based thereon alleges that Employers violated Labor Code section 204. Employers would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), please advise within sixty-five (65) calendar days of the postmarked date of this notice whether the LWDA intends to investigate the violations alleged above. Our office understands that if we do not receive a response within sixty-five (65) calendar days of the postmark date of this PAGA Notice that the LWDA intends to investigate these allegations, Mr. Lopez may immediately thereafter file a civil complaint against Employers to allege causes of action for civil penalties under the Private Attorney General Act for the herein-described alleged violations of the Labor Code.

Very truly yours,

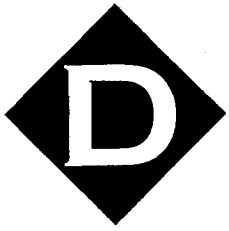
BIBIYAN LAW GROUP, P.C.



David D. Bibiyan

cc: Waldorf Astoria Management LLC (via U.S. Certified Mail, Return Receipt Requested)
Waldorf=Astoria Employer LLC (via U.S. Certified Mail, Return Receipt Requested)
Beatrice Vattima (via U.S. Certified Mail, Return Receipt Requested)
Housseem Tasco (via U.S. Certified Mail, Return Receipt Requested)

EXHIBIT 2



**DYCHTER
LAW OFFICES**
A PROFESSIONAL CORPORATION

1010 SECOND AVENUE, SUITE 1835, SAN DIEGO, CALIFORNIA 92101
TEL 619.487.0777 | FAX 619.330.1827

March 2, 2020

**VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED**
[7012 2920 0001 1935 8552]

Waldorf Astoria Management LLC
c/o CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

VIA ONLINE FILING ONLY
California Labor & Workforce Development Agency ("LWDA")

Re: Notice of Violation of California Labor Code Sections 201-204, 226, 226.7, 510, 512, 1194, and 1197; Industrial Welfare Commission Wage Order(s), And Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam,

Our office represents Plaintiff Noelia Leyva (the "Plaintiff" or "Leyva"), and other aggrieved employees in a class action lawsuit against Waldorf Astoria Management LLC *dba* La Quinta Resort & Club ("Defendant" or "LQR&C"), a Delaware Corporation. Plaintiff and other employees were employed as hourly, non-exempt employees at the La Quinta Resort & Club located in La Quinta, California. Defendant has failed to pay all owed straight-time and overtime wages for all work performed, failed to provide lawful duty-free meal breaks, failed to provide lawful duty-free rest periods, failed to pay all wages owed every pay period, failed to provide accurate itemized wage statements, and failed to pay all wages owed upon separation of employment in violation of the California Labor Code, and are therefore actionable under California Labor Code Section 2699.3.

A true and correct copy of the Complaint filed by Plaintiff on March 2, 2020 is attached hereto as **Exhibit 1**, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (v) sets forth the illegal practices used by Defendant. This information provides notice to the Labor and Workforce Development Agency ("LWDA") of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint (**Exhibit 1**) into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask. Attachment of **Exhibit 1** herein is **NOT** meant to act as "service" of the Complaint on Defendant Waldorf Astoria Management LLC. Service of the attached **Exhibit 1** will be conducted by Plaintiff on Defendant in the near future.

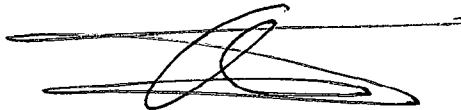
NOTE: The attached Complaint as **Exhibit 1** is **NOT** meant to act as "service" on Defendant.

This notice is provided to enable the Plaintiff to proceed with the Complaint filed in the Superior Court of California – County of Riverside on March 2, 2020, against Waldorf Astoria Management LLC *dba* La Quinta Resort & Club as authorized by California Labor Code Section 2699, *et seq.* The pending class action lawsuit consists of a class of other aggrieved hourly, non-exempt employees who worked at the LQR&C hotel/resort property in La Quinta, California. As class counsel, our intention is to vigorously prosecute the class-wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved Class Members.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully Submitted,

DYCHTER LAW OFFICES, APC
United Employees Law Group, PC

A handwritten signature in black ink, appearing to read 'Alexander I. Dychter', is written over a horizontal line.

Alexander I. Dychter, Esq.
Attorneys for Plaintiff
Noelia Leyva

7012 2920 0001 1935 8552

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SACRAMENTO, CA 95833

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07

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03/02/2020

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WALDORF ASTORIA MANAGEMENT LLC c/o
 Street, Apt. No.,
 or PO Box No. **2710 GATEWAY OAKS DRIVE, STE. 150N**
 City, State, ZIP+4
SACRAMENTO, CA 95833

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.



1. Article Addressed to:

Waldorf Astoria Management, LLC
 c/o CSC - Lawyers Incorporating Service
 2710 Gateway Oaks Drive, Suite 150N
 Sacramento, CA 95833

2. Article Number
 (Transfer from service label)

7012 2920 0001 1935 8552

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☐ Agent ☐ Addressee

B. Received by (Printed Name) **MAJ 08 2020**

Nicole Stauss

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☒ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Sara Trelford

From: Alexander Dychter
Sent: Monday, March 2, 2020 1:20 PM
To: Sara Trelford
Subject: FW: Thank you for submission of your PAGA Case.

-----Original Message-----

From: noreply@salesforce.com <noreply@salesforce.com> On Behalf Of LWDA DO NOT REPLY
Sent: Monday, March 2, 2020 1:19 PM
To: Alexander Dychter <alex@dychterlaw.com>
Subject: Thank you for submission of your PAGA Case.

3/2/2020

LWDA Case No. LWDA-CM-775819-20
Law Firm : Dychter Law Offices
Plaintiff Name : Noelia Leyva
Employer: Waldorf Astoria Management LLC

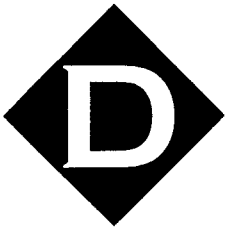
Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



**DYCHTER
LAW OFFICES**
A PROFESSIONAL CORPORATION

1010 SECOND AVENUE, SUITE 1835, SAN DIEGO, CALIFORNIA 92101
TEL 619.487.0777 | FAX 619.330.1827

March 2, 2020

VIA REGULAR U.S. MAIL

Department of Industrial Relations
Attn: Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

**Re: INITIAL PAGA NOTICE FILING FEE
LWDA Case No. LWDA-CM-775819-20**

Dear Sir/Madam,

Our office represents Plaintiff Noelia Leyva (the "Plaintiff"), and other aggrieved hourly non-exempt employees in a class action lawsuit against Defendant Waldorf Astoria Management LLC *dba* La Quinta Resort & Club, a Delaware Corporation that was filed on March 2, 2020, in the Superior Court of California – County of Riverside.

Pursuant to California Labor Code Section 2699.3, enclosed please find check #1836 in the amount of **\$75.00** for the new PAGA claim notice.

If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully Submitted,

**DYCHTER LAW OFFICES, APC
United Employees Law Group, PC**

Alexander I. Dychter, Esq.

Attorneys for Plaintiff
Noelia Leyva

encl: Check #1836 for \$75.00 to LWDA

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 8484 Wilshire Boulevard, Suite 500, Beverly Hills, California 90211.

On July 21, 2022, I served the following document(s) described as **SECOND AMENDED COMPLAINT** to be served by electronic transmission via Case Anywhere to the parties and/or counsel listed below:

Cynthia L. Filla
Connie L. Chen
Paul J. Cohen
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Cynthia.Filla@jacksonlewis.com
Connie.Chen@jacksonlewis.com
Paul.Cohen@jacksonlewis.com

**Attorneys for Defendants WALDORF ASTORIA MANAGEMENT LLC;
WALDORF=ASTORIA EMPLOYER LLC**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2022, at Beverly Hills, California.

/s/ Emanuel Munquia
Emanuel Munquia