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David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff LUIS BORQUEZ

[Additional counsel on next page.]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LUIS BORQUEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

OXFORD HOTELS AND RESORTS, LLC, a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 22STCV35743

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) FAILURE TO PAY ALL OVERTIME
WAGES OWED (LABOR CODE §§ 204,
510, 558, 1194, 1198);**
- (2) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) FAILURE TO PROVIDE MEAL
PERIODS (LABOR CODE §§ 226.7,
512, 558);**
- (4) FAILURE TO AUTHORIZE AND
PERMIT REST PERIODS (LABOR
CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS
(LABOR CODE § 226 *et seq.*);**
- (6) FAILURE TO PROVIDE REPORTING
TIME PAY (LABOR CODE §§ 204,
1198);**
- (7) FAILURE TO REIMBURSE ALL
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE §§
2802);**
- (8) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*; and**

**(9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff LUIS BORQUEZ

1 Plaintiff Luis Borquez (“Plaintiff”), on behalf of himself and all others similarly situated, hereby
2 brings this First Amended Class and Representative Action Complaint (“FAC”) against Oxford Hotels
3 and Resorts, LLC, a Delaware limited liability company; and DOES 1 to 100, inclusive (collectively
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this FAC
7 for recovery of unpaid wages and penalties under California Business and Professions Code § 17200 *et*.
8 *seq.*, Labor Code §§ 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,
9 2802, 2698 *et seq.*, and Industrial Welfare Commission Wage Order 5 (“Wage Order 5”), in addition to
10 seeking declaratory relief and restitution. This FAC is brought pursuant to California Code of Civil
11 Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code
12 because the amount in controversy exceeds this Court's jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§ 395(a) and
15 395.5, as at least some of the acts and omissions complained of herein occurred in the County of Los
16 Angeles. Defendants transact business in Southern California, including Los Angeles County and
17 Defendants are within the jurisdiction of this Court for purposes of service of process.

18 **PARTIES**

19 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
20 Plaintiff was and currently is, a California resident. During the four years immediately preceding the
21 filing of the lawsuit in this action and within the statute of limitations periods applicable to each cause
22 of action pled herein, Plaintiff was employed by Defendants as an hourly, non-exempt employee.
23 Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
24 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 204, 226 *et seq.*,
25 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*, and California
26 Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”); and Wage Order 5, which
27 sets employment standards for the public housekeeping industry, which includes the industry in which
28 Plaintiff worked for Defendants.

1 4. Plaintiff is informed and believes, and based thereon alleges, that during the four years
2 preceding the filing of the Lawsuit in this action and continuing to the present, Defendants did (and
3 continue to do) business by being providing international hospitality services. Defendants employed
4 Plaintiff and other, similarly-situated non-exempt, hourly employees within, among other counties, Los
5 Angeles County and the state of California and, therefore, were (and are) doing business in Los
6 Angeles County and the State of California.

7 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
8 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
9 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend
10 this FAC when such true names and capacities are discovered. Plaintiff is informed, and believes, and
11 based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate,
12 were responsible in some manner for the acts and omissions alleged herein, and proximately caused
13 Plaintiff and the Classes (as defined in Paragraph 19) to be subject to the unlawful employment
14 practices, wrongs, injuries and damages complained of herein.

15 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
16 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

17 7. At all times herein mentioned, each of said Defendants participated in the doing of the
18 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
19 and each of them, were the agents, servants, and employees of each and every one of the other
20 Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting
21 within the course and scope of said agency and employment. Defendants, and each of them, approved
22 of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
23 herein.

24 8. At all times mentioned herein, Defendants, and each of them, were members of and
25 engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope
26 of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges
27 that all Defendants were joint employers for all purposes of Plaintiff and all members of the Classes.

28 //

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff, a current employee, has been employed by Defendants since approximately August 2021 through the present. From August 2021 to around May 2022, Plaintiff held a security guard position. From June 2022 to the present, Plaintiff has held the position of bellman. Plaintiff's job duties include, but are not limited to, carrying luggage for guests as they come to or leave the hotel, attending the main entrance door and greeting guests, arranging and managing transfers, and helping guests with directions.

10. Throughout Plaintiff's employment with Defendants, Plaintiff was generally scheduled to work Thursday through Sunday from approximately 7:00 a.m. to approximately 3:30 p.m. At times, Plaintiff was scheduled to work split shifts two to three times a week. The schedule for the split shift was 7:00 a.m. to 3:30 p.m. and then 7:00 p.m. to 1:00 a.m. or 2:00 a.m. the following day. Throughout Plaintiff's employment with Defendants, Plaintiff would regularly work in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, and in excess of 12.0 hours per day. Although Plaintiff regularly worked in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, Plaintiff did not receive legally required overtime compensation for these hours. Due to Defendants' unlawful compensation practices, Defendants failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Plaintiff of earned overtime wages. Defendants also failed to pay Plaintiff any double-time wages for hours worked in excess of 12.0 in a day.

11. During Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees often worked split shifts, but did not receive all split shift premiums equal to one hour at the rate of the minimum wage. As a result, Plaintiff and other non-exempt employees were not compensated for all wages due, including all required minimum and overtime wages.

12. During his employment with Defendants, Plaintiff was not provided all legally required meal periods due to Defendants' unlawful meal period policies and practices. Throughout his employment with Defendants, Plaintiff was not provided all required meal periods due to Defendants' meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to Plaintiff's job duties

1 and Defendants' practices of understaffing, Plaintiff was often prevented from taking meal periods that
2 commenced before the end of the 5th hour of work. Defendants' policies and practices also required
3 Plaintiff and other non-exempt employees to carry a radio/walkie talkie and respond at all times during
4 their shifts, including meal breaks and rest breaks, resulting in interrupted and/or short meal breaks. As
5 a result of Defendants' unlawful meal period policies and practices, Plaintiff meal periods were often
6 late or otherwise unlawful. Additionally, during times when Plaintiff worked in excess of 10.0 hours
7 per shift, Defendants failed to provide Plaintiff with a second, timely meal period of at least 30 minutes
8 in length.

9 13. Although Plaintiff was not provided with all legally-compliant meal periods to which he
10 was entitled, Defendants failed to compensate Plaintiff with the required meal period premium of one
11 hour of wages at the employee's regular rate of pay for each workday in which he experienced a meal
12 period violation as mandated by Labor Code § 226.7.

13 14. Plaintiff was also not authorized and permitted to take all legally required paid rest
14 periods due to Defendants' unlawful rest period policies and practices. Specifically, Plaintiff worked
15 shifts in excess of 3.5 hours, but was not authorized or permitted to take a ten-minute paid rest period
16 for every four (4) hour period worked, or *major fraction thereof*. As a result of the work demands
17 imposed by Defendants and Defendants' practices of understaffing, Defendants failed to authorize and
18 permit duty-free rest periods for every four hours worked, or *major fraction thereof*. Defendants'
19 policies and practices also required Plaintiff and other non-exempt employees to carry a radio/walkie
20 talkie and respond at all times during their shifts, including meal breaks and rest breaks, resulting in
21 interrupted and/or short rest breaks.

22 15. On those occasions when Plaintiff was not authorized and permitted to take all legally-
23 compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff with the
24 required rest period premium of one hour of wages at the employee's regular rate of pay for each
25 workday in which he experienced a rest period violation as mandated by Labor Code § 226.7.

26 16. Upon information and belief, Defendants have also failed to compensate Plaintiff and
27 other non-exempt employees for all required reporting time pay. Plaintiff was regularly scheduled to
28 work an 8-hour shift but was not always put to work and/or was sent home after as little as two hours.

1 When this happened, upon information and belief, Defendants did not compensate Plaintiff for at least
2 two hours of work and/or half of his usually scheduled hours at his regular rate of pay. Plaintiff alleges
3 that this policy and practice is in violation of the reporting time pay requirements under California law,
4 including Wage Order 5, § 5, and as a result, Defendants have failed to pay Plaintiff and other non-
5 exempt employees for all required reporting time pay.

6 17. Defendants also failed to adequately reimburse Plaintiff and other non-exempt
7 employees for all reasonable and necessary work expenditures, including, but not limited to, use of
8 personal cellular phones to communicate with management. Despite requiring Plaintiff and other non-
9 exempt employees to use their personal cell phones for work-related purposes, Defendants did not
10 reimburse Plaintiff and other employees for their cellular phone expenses.

11 18. As a result of Defendants' failure to pay all overtime wages, failure to pay all split shift
12 premiums, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll
13 records and issued inaccurate wage statements to Plaintiff.

14 **CLASS ACTION ALLEGATIONS**

15 19. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following
16 Classes pursuant to § 382 of the Code of Civil Procedure:

- 17 a. The Overtime Class consists of all of Defendants' current and former hourly, non-
18 exempt employees in California who worked more than eight hours per day and/or forty
19 hours per week, and were subject to Defendants' timekeeping policies and practices,
20 during the four years immediately preceding the filing of this lawsuit through the
21 present.
- 22 b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt
23 employees in California who: (i) were subjected to Defendants' timekeeping
24 policies/practices; and/or (ii) worked an employer-established shift interrupted by an
25 unpaid nonworking period, other than a rest or meal period, during the four years
26 immediately preceding the filing of the lawsuit through the present.
- 27 c. The Meal Period Class consists of all of Defendants' current and former hourly, non-
28 exempt employees in California who worked at least one shift in excess of 5.0 hours

during the four years immediately preceding the filing of this lawsuit through the present.

d. The Rest Period Class consists of all of Defendants' current and former hourly, non-exempt employees in California who worked at least one shift of 3.5 hours or more, during the four years immediately preceding the filing of this lawsuit through the present.

e. The Wage Statement Class consists of all of Defendants' current and former hourly, non-exempt employees in California, as well as all members of the: (i) Overtime Class; (ii) Minimum Wage Class; (iii) Meal Period Class; (iv) Rest Period Class; (v) Reporting Time Class; and/or (vi) Employee Expense Class during the one year immediately preceding the filing of this lawsuit through the present.

f. The Reporting Time Class consists of all of Defendants' current and former non-exempt employees in California who reported to work and were provided less than two hours of work and/or less than half their regularly scheduled hours worked, on at least one occasion during the four years immediately preceding the filing of this action to the present.

g. The Employee Expense Class consists of all of Defendants' current and former employees who used their personal cellular phones for work purposes, during the four years immediately preceding the filing of the lawsuit through the present.

h. The UCL Class consists of members of the: (i) Overtime Class; (ii) Minimum Wage Class; (iii); Meal Period Class; (iv) Rest Period Class; (v) Wage Statement Class, (vi) Reporting Time Class; and/or (vii) Employee Expense Class during the four years immediately preceding the filing of this lawsuit through the present.

20. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court, to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to

Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

22. Common Questions of Law and Fact Predominate/Well Defined Community of Interest: There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants properly paid all overtime wages for all hours worked pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- ii. Whether Plaintiff and members of the Minimum Wage Class were compensated for all hours actually worked;
- iii. Whether Plaintiff and members of the Minimum Wage Class were properly compensated when they worked an employer-established shift interrupted by an unpaid nonworking period;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vii. Whether Defendants provided all reporting time pay to members of the Reporting Time Class pursuant to Wage Order 5 § 5, Labor Code §§ 204 and 1198;
- viii. Whether Defendants' policies and/or practices regarding business expenditures resulted in the failure to properly reimburse members of the Employee Expense Class;
- ix. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

23. Predominance of Common Questions: Common questions of law and fact

1 predominate over questions that affect only individual members of the Classes. The common questions
2 of law set forth above are numerous and substantial and stem from Defendants' policies and/or
3 practices applicable to each individual class member, such as Defendants' uniform timekeeping,
4 minimum and overtime wage payment, expense reimbursement, and meal and/or rest period
5 policies/practices. As such, the common questions predominate over individual questions concerning
6 each individual class member's showing as to their eligibility for recovery or as to the amount of their
7 damages.

8 **24. Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as an hourly, non-exempt employee in California during the
10 statute(s) of limitations period applicable to each cause of action pled in the FAC. As alleged herein,
11 Plaintiff, like the members of the Classes, was not provided all legally required overtime and minimum
12 wages, was not provided with all required meal periods, was not authorized and permitted to take all
13 required rest periods, did not receive all meal and rest period premium wages when he was not
14 provided compliant meal and rest periods, was not paid all split shift premiums, was not provided
15 required reporting time pay, was not reimbursed for necessary expenditures, and was not provided with
16 accurate, itemized wage statements.

17 **25. Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
18 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
19 attorneys are ready, willing and able to fully and adequately represent the members of the Classes and
20 Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in
21 state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of
22 the members of the Classes.

23 **26. Superiority:** The California Labor Code is broadly remedial in nature and serves an
24 important public interest in establishing minimum working conditions and standards in California.
25 These laws and labor standards protect the average working employee from exploitation by employers
26 who have the responsibility to follow the laws and who may seek to take advantage of superior
27 economic and bargaining power in setting onerous terms and conditions of employment. The nature of
28 this action and the format of laws available to Plaintiff and members of the Classes make the class

1 action format a particularly efficient and appropriate procedure to redress the violations alleged herein.
2 If each employee were required to file an individual lawsuit, Defendants would necessarily gain an
3 unconscionable advantage since they would be able to exploit and overwhelm the limited resources of
4 each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring
5 each member of the Classes to pursue an individual remedy would also discourage the assertion of
6 lawful claims by employees who would be disinclined to file an action against their former and/or
7 current employer for real and justifiable fear of retaliation and permanent damages to their careers at
8 subsequent employment. Further, the prosecution of separate actions by the individual class members,
9 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
10 respect to the individual class members against Defendants herein; and which would establish
11 potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect
12 to individual class members which would, as a practical matter, be dispositive of the interest of the
13 other class members not parties to adjudications or which would substantially impair or impede the
14 ability of the class members to protect their interests. Further, the claims of the individual members of
15 the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the
16 concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 19 are
17 maintainable as a Class under § 382 of the Code of Civil Procedure.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY ALL OVERTIME WAGES OWED**

20 **(AGAINST ALL DEFENDANTS)**

21 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198
23 which provide that all non-exempt employees are entitled to all overtime wages for all overtime worked
24 (hours in excess of 8 in one day and/or 40 in one week), and provide a private right of action for the
25 failure to pay all overtime compensation for overtime work performed.

26 29. At all times relevant herein Defendants were required to properly compensate Plaintiff
27 and the members of the Overtime Class for all overtime hours worked pursuant to California Labor
28 Code §§ 510 and 1194, and Wage Order 5. Labor Code § 510 and Wage Order 5, Section 3 require an

1 employer to pay an employee “one and one-half (1½) times the regular rate of pay” for work in excess
2 of 8 hours per workday and/or in excess of 40 hours per workweek. Labor Code § 510 and Wage Order
3 5, Section 3 also require an employer to pay an employee double the employee’s regular rate for work
4 in excess of 12 hours each workday and/or in excess of 8 hours on the seventh consecutive day of work
5 in the workweek. Defendants caused Plaintiff and the members of the Overtime Class to work in
6 excess of 8 hours in a workday and/or 40 hours in a workweek but did not properly compensate
7 Plaintiff and the members of the Overtime Class at one and one-half their regular rate of pay for such
8 hours.

9 30. The foregoing practices and policies are unlawful and create entitlement to recovery by
10 Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime
11 premium owing, including interest thereon, as well as statutory penalties, civil penalties, and attorneys’
12 fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 510, 558, 1194 and 1198, Wage
13 Order 5, California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

14 **SECOND CAUSE OF ACTION**

15 **MINIMUM WAGE VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 32. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of
19 employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§
20 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as
21 required by Labor Code § 1197 may recover the unpaid balance together with attorney’s fees and costs
22 of suit, as well as liquidated damages in an amount equal to the unpaid wages and interests accrued
23 thereon.

24 33. Defendants’ policy and practice of not paying all minimum wages violates California
25 Labor Code §§ 204, 210, 216, 558, 1182.12, 1197.1, 1198, and the applicable IWC Wage Order.

26 34. Such a practice and uniform administration of corporate policy regarding illegal
27 employee compensation is unlawful and creates an entitlement to recovery by Plaintiffs and members
28 of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated

1 damages, including interests thereon, statutory penalties, civil penalties, attorneys' fees, and costs of
2 suit according to California Labor Code §§ 204, 210, 216, 558, 1194, 1198, and Code of Civil
3 Procedure § 1021.5.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PROVIDE MEAL PERIODS**

6 **(AGAINST ALL DEFENDANTS)**

7 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

8 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in
9 their affirmative obligation to provide all of their non-exempt employees in California, including
10 Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance
11 with the mandates of the California Labor Code and Wage Order 5, § 11. Despite Defendants'
12 violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal
13 Period Class at their respective regular rates of compensation, in accordance with California Labor
14 Code §§ 226.7, and 512.

15 37. As a result, Defendants are responsible for paying premium compensation for meal
16 period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of
17 suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, California Code of Civil Procedure
18 § 1021.5 and Civil Code §§ 3287(b) and 3289.

19 **FOURTH CAUSE OF ACTION**

20 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

21 **(AGAINST ALL DEFENDANTS)**

22 38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 39. Wage Order 5, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right
24 of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net
25 rest time for each four (4) hour period worked, or *major fraction thereof*.

26 40. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of
27 the Rest Period Class to take all required rest periods.

28 41. The foregoing violations create an entitlement to recovery by Plaintiff and members of

1 the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including
2 interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code
3 §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

6 **(AGAINST ALL DEFENDANTS)**

7 42. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

8 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly
9 and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of
10 the Wage Statement Class with complete and accurate wage statements with respect to their actual
11 regular and overtime hours worked, total gross wages earned, total deductions, employer address, and
12 total net wages earned, all in violation of Labor Code § 226 *et seq.*

13 44. Defendants' failures in furnishing Plaintiff and members of the Wage Statement Class
14 with complete and accurate itemized wage statements resulted in actual injury, as said failures led to,
15 among other things, unpaid wages and unpaid rest period premium wages, and deprived them of the
16 information necessary to identify the discrepancies in Defendants' reported data.

17 45. Defendants' failures create an entitlement to recovery by Plaintiff and members of the
18 Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226
19 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit
20 according to California Labor Code § 226 *et seq.*

21 **SIXTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE REPORTING TIME WAGES**

23 **(AGAINST ALL DEFENDANTS)**

24 46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 47. Wage Order 5, § 5 provides that "[e]ach workday an employee is required to report for
26 work and does report, but is not put to work or is furnished less than half said employee's usual or
27 scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the
28 employees regular rate of pay, which shall not be less than the minimum wage. Wage Order 5, § 5

1 establishes a guarantee of at least partial compensation for employees who report to work expecting to
2 work a specified number of hours, and who are deprived of that amount because of inadequate
3 scheduling or lack of proper notice by the employer.

4 48. As alleged herein, Defendants have failed to pay Plaintiff and the Reporting Time Class
5 required reporting time pay, when Plaintiff and Reporting Time Class members were called into work
6 for an 8-hour shift but were not put to work and/or were sent home after less than half their usual or
7 schedule day's work, in violation of Wage Order 5, § 5 and Labor Code §§ 204 and 1198.

8 49. The foregoing violations create an entitlement to recovery by Plaintiff and members of
9 the Reporting Time Class in a civil action for the unpaid amount of reporting time pay, including
10 interest thereon, attorney's fees and costs of suit according to California Labor Code §§ 204, 218.5,
11 218.6, and 1198, Civil Code §§ 3287 and 3289, and Code of Civil Procedure § 1021.5.

12 **SEVENTH CAUSE OF ACTION**

13 **FAILURE TO REIMBURSE BUSINESS EXPENDITURES**

14 **(AGAINST ALL DEFENDANTS)**

15 50. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 51. Based on information and belief, Defendants required Plaintiff and members of the
17 Employee Expense Class to use their personal cellular phones for business purposes but failed to
18 provide adequate reimbursement.

19 52. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
20 states that, "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses
21 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or
22 obedience to the directions of the employer."

23 53. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
24 states that, "[a]ny contract or agreement, express or implied, made by any employee to waive the
25 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
26 employee or his personal representative of any right or remedy to which he is entitled under the laws of
27 this State."

28 54. As a proximate result of Defendants' policies and/or practices in violation of Labor

Code §§ 2802 and 2804, and Wage Order 5, § 9, Plaintiff and members of the Employee Expense Class were damaged in sums, which will be shown according to proof.

55. Plaintiff and members of the Employee Expense Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

56. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue from the date on which they incurred the necessary expenditure.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

58. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to authorize and permit all required rest periods, or pay premium payments in lieu thereof.

59. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

60. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

61. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is

entitled to recover under Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

62. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

63. Defendants have committed several Labor Code violations against Plaintiff and other Aggrieved Employees. Plaintiff, an “Aggrieved Employee” within the meaning of Labor Code § 2698 et seq., acting on behalf of himself and other Aggrieved Employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to: (1) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (2) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiff and other Aggrieved Employees all overtime compensation earned;
- b) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiff and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other Aggrieved Employees;
- d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiff and other Aggrieved Employees;
- e) Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and the Aggrieved Employees for all necessary expenditures incurred;
- f) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other Aggrieved Employees with accurate and compliant itemized wage statements;

- 1 g) Defendants violated Labor Code § 204 by failing to pay Plaintiff and other Aggrieved
2 Employees all earned wages at least twice during each calendar month; and
3 h) Defendants violated Labor Code § 1174 by failing to maintain accurate records on
4 behalf of Plaintiff and other Aggrieved Employees.

5 64. On November 10, 2022, Plaintiff notified Defendants via certified mail, and the
6 California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’
7 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under
8 California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified
9 in Paragraph 63 (a)-(h). Attached hereto as **Exhibit 1** is a true and correct copy of the November 10,
10 2022 correspondence. Now that sixty-five days have passed from Plaintiff notifying Defendants of
11 these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the
12 Labor Code Private Attorneys General Act with respect to these violations.

13 65. Plaintiff was compelled to retain the services of counsel to file this court action to
14 protect his interests and the interests of other aggrieved employees, and to assess and collect the civil
15 penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is
16 entitled to recover under California Labor Code § 2699(g).

17 **PRAYER**

18 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this
19 suit is brought against Defendants, as follows:

- 20 1. For an order certifying the proposed Classes;
21 2. For an order appointing Plaintiff as representative of the Classes;
22 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
23 4. Upon the First Cause of Action, for compensatory, consequential, general and special
24 damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
25 5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages,
26 and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
27 6. Upon the Third Cause of Action, for compensatory, consequential, general and special
28 damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

1 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special
2 damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

3 8. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant to
4 Labor Code § 226 *et seq.*;

5 9. Upon the Sixth Cause of Action, for payment of reporting time pay according to proof,
6 pursuant to Labor Code §§ 204 and 1198 and Wage Order 5, § 5;

7 10. Upon the Seventh Cause of Action, for compensatory, consequential, general, and
8 special damages according to proof pursuant to Labor Code § 2802;

9 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the Classes
10 of all money and/or property unlawfully acquired by Defendants by means of any acts or practices
11 declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

12 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
13 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a)
14 and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
15 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to
16 Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld;
17 (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor
18 Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each
19 subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for
20 each initial violation and \$200.00 for each subsequent violation per employee per pay period for those
21 violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor
22 Code violations cited in Paragraph 63 (a)-(h) above.

23 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code §
24 218.6 and Civil Code §§ 3287 and 3289;

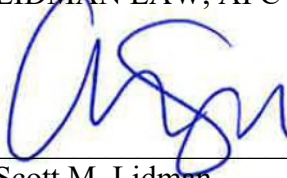
25 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5
26 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

27 15. For such other and further relief the Court may deem just and proper.
28

1 Dated: February 10, 2023

Respectfully submitted,
LIDMAN LAW, APC

2
3
4 By:



5 Scott M. Lidman
6 Elizabeth Nguyen
7 Milan Moore
8 Attorneys for Plaintiff
9 LUIS BORQUEZ

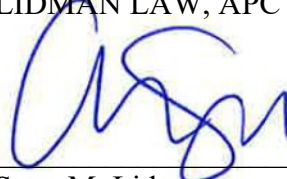
DEMAND FOR JURY TRIAL

10 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

11 Dated: February 10, 2023

Respectfully submitted,
LIDMAN LAW, APC

12
13
14 By:



15 Scott M. Lidman
16 Elizabeth Nguyen
17 Milan Moore
18 Attorneys for Plaintiff
19 LUIS BORQUEZ
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EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

November 10, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Oxford Hotels and Resorts, LLC
c/o C T Corporation System, Registered Agent
330 N. Brand Blvd., Ste. 700
Glendale, CA 91203

Re: *Luis Borquez v. Oxford Hotels and Resorts, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Luis Borquez in claims arising from his employment with Oxford Hotels and Resorts, LLC, a Delaware limited liability company, (“Defendant”). Mr. Borquez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Borquez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Borquez, a current employee, has been employed by Defendant since approximately August 2021 through the present. From August 2021 to around May 2022, Mr. Borquez held a security guard position. From June 2022 to the present, Mr. Borquez has held the position of bellman. Mr. Borquez’s job duties include, but are not limited to, carrying luggage for guests as they come to or leave the hotel, attending the main entrance door and greeting guests, arranging and managing transfers, and helping guests with directions.

Throughout Mr. Borquez’s employment with Defendant, Mr. Borquez was generally scheduled to work Thursday through Sunday from approximately 7:00 a.m. to approximately 3:30 p.m. At times, Mr. Borquez was scheduled to work split shifts two to three times a week. The schedule for the split shift was 7:00 a.m. to 3:30 p.m. and then 7:00 p.m. to 1:00 a.m. or 2:00 a.m. the following day. Throughout Mr. Borquez’s employment with Defendant, Mr. Borquez would regularly work in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, and in excess of 12.0 hours per day.

Although Mr. Borquez regularly worked in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, Mr. Borquez did not receive legally required overtime compensation for these hours. Due to Defendant's unlawful compensation practices, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Mr. Borquez of earned overtime wages. Defendant also failed to pay Mr. Borquez any double-time wages for hours worked in excess of 12.0 in a day.

During Mr. Borquez's employment with Defendant, Mr. Borquez and other non-exempt employees often worked split shifts, but did not receive all split shift premiums equal to one hour at the rate of the minimum wage. As a result, Mr. Borquez and other non-exempt employees were not compensated for all wages due, including all required minimum and overtime wages.

During his employment with Defendant, Mr. Borquez was not provided all legally required meal periods due to Defendant's unlawful meal period policies and practices. Throughout his employment with Defendant, Mr. Borquez was not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to Mr. Borquez's job duties and Defendant's practices of understaffing, Mr. Borquez was often prevented from taking meal periods that commenced before the end of the 5th hour of work. Defendant's policies and practices also required Mr. Borquez and other non-exempt employees to carry a radio/walkie talkie and respond at all times during their shifts, including meal breaks and rest breaks, resulting in interrupted and/or short meal breaks. As a result of Defendant's unlawful meal period policies and practices, Mr. Borquez meal periods were often late or otherwise unlawful. Additionally, during times when Mr. Borquez worked in excess of 10.0 hours per shift, Defendant failed to provide Mr. Borquez with a second, timely meal period of at least 30 minutes in length.

Although Mr. Borquez was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Borquez with the required meal period premium of one hour of wages at the employee's regular rate of pay for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Borquez was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Mr. Borquez worked shifts in excess of 3.5 hours, but was not authorized or permitted to take a ten-minute paid rest period for every four (4) hour period worked, or *major fraction thereof*. As a result of the work demands imposed by Defendant and Defendant's practices of understaffing, Defendant failed to authorize and permit duty-free rest periods for every four hours worked, or *major fraction thereof*. Defendant's policies and practices also required Mr. Borquez and other non-exempt employees to carry a radio/walkie talkie and respond at all times during their shifts, including meal breaks and rest breaks, resulting in interrupted and/or short rest breaks.

On those occasions when Mr. Borquez was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Borquez with the required rest period premium of one hour of wages at the employee's regular rate of pay for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7.

Upon information and belief, Defendant have also failed to compensate Mr. Borquez and other non-exempt employees for all required reporting time pay. Mr. Borquez was regularly scheduled to

work an 8-hour shift but was not always put to work and/or was sent home after as little as two hours. When this happened, upon information and belief, Defendant did not compensate Mr. Borquez for at least two hours of work and/or half of his usually scheduled hours at his regular rate of pay. Mr. Borquez alleges that this policy and practice is in violation of the reporting time pay requirements under California law, including Wage Order 5, § 5, and as a result, Defendant have failed to pay Mr. Borquez and other non-exempt employees for all required reporting time pay.

Defendant also failed to adequately reimburse Mr. Borquez and other non-exempt employees for all reasonable and necessary work expenditures, including, but not limited to, use of personal cellular phones to communicate with management. Despite requiring Mr. Borquez and other non-exempt employees to use their personal cell phones for work-related purposes, Defendant did not reimburse Mr. Borquez and other employees for their cellular phone expenses.

As a result of Defendant's failure to pay all overtime wages, failure to pay all split shift premiums, as well as meal and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Borquez.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Minimum Wage Violations

Defendant was required to pay Mr. Borquez and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 5, § 4. As described above, During Mr. Borquez's employment with Defendant, Mr. Borquez and other Aggrieved Employees often worked split shifts, but did not receive all split shift premiums equal to one hour at the rate of the minimum wage. As a result, Defendant failed to pay Mr. Borquez and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Borquez and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee."

As explained above, Mr. Borquez was scheduled to work split shifts two to three times a week. The schedule for the split shift was 7:00 a.m. to 3:30 p.m. and then 7:00 p.m. to 1:00 a.m. or 2:00 a.m. the following day. Throughout Mr. Borquez's employment with Defendant, Mr. Borquez would regularly work in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, and in excess of 12.0 hours per day. Although Mr. Borquez regularly worked in excess of 8.0 hours in a workday and/or 40.0 hours in a workweek, Mr. Borquez did not receive legally required overtime compensation for these hours. As a result, Defendant failed to pay Mr. Borquez and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Mr. Borquez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As a result, Mr. Borquez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). As described above, throughout his employment with Defendant, Mr. Borquez was not provided all required meal periods due to Defendant’s meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to Mr. Borquez’s job duties and Defendant’s practices of understaffing, Mr. Borquez and other Aggrieved Employees were often prevented from taking meal periods that commenced before the end of the 5th hour of work. Defendant’s policies and practices also required Mr. Borquez and other non-exempt employees to carry a radio/walkie talkie and respond at all times during their shifts, including meal breaks and rest breaks, resulting in interrupted and/or short meal breaks. Although Mr. Borquez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Borquez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Borquez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. Specifically, due to Defendant’s practices of understaffing and the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. Defendant’s policies and practices also required Mr. Borquez and other Aggrieved Employees to carry a radio/walkie talkie and respond at all times during their shifts, including meal breaks and rest breaks, resulting in interrupted and/or short rest breaks. As a result, Mr. Borquez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”) On those occasions when Mr. Borquez and other Aggrieved Employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Mr. Borquez and other Aggrieved Employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Failure to Reimburse Business Expenses

During Mr. Borquez’s employment with Defendant, Mr. Borquez and other Aggrieved Employees were required to use their personal cellular phone to discharge their duties. Defendant failed to reimburse Mr. Borquez and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal cell phones. Defendant’s policy of not providing

reimbursement for necessary work-related expenses is in violation of Wage Order 5 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Borquez the Aggrieved Employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Borquez and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant’s failure to furnish Mr. Borquez and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data.

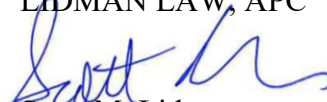
As an “aggrieved employee,” Mr. Borquez will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Borquez’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Borquez and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Borquez and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Borquez and other Aggrieved Employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Borquez and other Aggrieved Employees;
- e) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Borquez and the Aggrieved Employees for all necessary expenditures incurred;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Borquez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Borquez and other Aggrieved Employees all earned wages at least twice during each calendar month; and

- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Borquez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On February 10, 2023, I served the document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested party(ies) in this action as follows:

LEWIS BRISBOIS BISGAARD & SMITH LLP

Natasha Covarrubias

E-Mail: Natasha.Covarrubias@lewisbrisbois.com

John Haubrich, Jr.

E-Mail: John.Haubrich@lewisbrisbois.com

Anna Rozman

E-Mail: Anna.Rozman@lewisbrisbois.com

633 West 5th Street, Suite 4000

Los Angeles, CA 90071

Telephone: (213) 250-1800

Facsimile: (213) 250-7900

Attorneys for Defendant

OXFORD HOTELS AND RESORTS, LLC

[X] (BY ELECTRONIC SERVICE) I caused a true and correct copy of the document(s) described above to be electronically served via Case Anywhere on counsel of record at the electronic service addresses listed above.

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

Executed on February 10, 2023, at El Segundo, California.



Dana Joudi