

1 AARON C. GUNDZIK (State Bar No. 132137)
Aaron.gundzik@gghllp.com
2 REBECCA G. GUNDZIK (State Bar No. 138446)
Rebecca.gundzik@gghllp.com
3 GUNDZIK GUNDZIK HEEGER LLP
14011 Ventura Blvd., Suite 206E
4 Sherman Oaks, CA 91423
Telephone: (818) 290-7461
5 Facsimile: (818) 918-2316

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 30 2020

Sherri K. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

6 MARSHALL A. CASKEY (State Bar No. 65410)
7 DANIEL M. HOLZMAN (State Bar No. 176663)
N. CORY BARARI (State Bar No. 295306)
8 CASKEY & HOLZMAN
24025 Park Sorrento, Ste. 400
9 Calabasas, CA 91302
Telephone: (818) 657-1070
10 Facsimile: (818) 297-1775

11 Attorneys for Plaintiff Joshua Arguelles, on behalf of himself
12 and other aggrieved employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF LOS ANGELES**

20STCV41704

15 JOSHUA ARGUELLES, on behalf of himself
and other aggrieved employees,

Case No.:

~~20STCV41707~~ 59

16 Plaintiff,

**COMPLAINT FOR RECOVERY OF
CIVIL PENALTIES UNDER
PRIVATE ATTORNEYS GENERAL
ACT ("PAGA")**

17 vs.

Jury Trial Demanded

18 TESLA ENERGY OPERATIONS, INC., a
19 Delaware corporation; and DOES 1 through
25,

20 Defendants.

21 **PARTIES, JURISDICTION AND VENUE**

22 1. Plaintiff Joshua Arguelles is an individual and resident of Santa Clarita,
23 California. Plaintiff worked for Defendants as a solar panel installer and glass installer.

24 2. Plaintiff is informed and believes and based upon such information and belief
25 alleges that Defendant Tesla Energy Operations, Inc. is a corporation company organized
26 under the laws of the state of Delaware and is registered to do and does conduct business
27 within California and within this County.
28

1 3. Plaintiff does not know the true names or capacities of the Defendants sued
2 herein as Does 1 through 25, inclusive, and, for that reason, said Defendants are sued under
3 such fictitious names. Plaintiff is informed and believes, and based thereon, alleges that each
4 of said fictitious Defendants are and were responsible in some manner for the injuries
5 complained of herein. Plaintiff will amend this Complaint to identify such fictitiously named
6 Defendants pursuant to Code of Civil Procedure Section 474 once their identities become
7 known.

8 4. The relief sought by Plaintiff on behalf of himself and other aggrieved
9 employees exceeds the minimal jurisdictional limits of the Superior Court and will be
10 established according to proof at trial. The Court has personal jurisdiction over each of the
11 parties because they are citizens of California and are doing business in California.

12 5. Venue is proper in this County, as Plaintiff worked for Defendants in this
13 County.

14 6. Plaintiff is informed and believes and, based thereon, alleges that the
15 Defendants were at all times relevant hereto members of, and engaged in, a joint venture,
16 partnership, association or common enterprise, and acting within the course and scope of,
17 and in pursuance of, said joint venture, partnership, association or common enterprise.
18 Furthermore, Plaintiff is informed and believes and, based thereon, alleges that at all times
19 relevant hereto Defendants conspired together in, aided and abetted, contributed to, and/or
20 acted as agents or employees of each other with respect to, the commission of the acts
21 complained of herein. Defendants are therefore jointly and severally liable for the injuries
22 complained of herein.

23 7. Plaintiff brings this lawsuit as a representative action on behalf of the LWDA
24 under the Private Attorneys General Act of 2004 ("PAGA"), California Labor Code §§
25 2698-2699.5. In pursuing his PAGA claim, Plaintiff represents the same legal right and
26 interest as state labor law enforcement agencies. PAGA permits Plaintiff to recover civil
27 penalties that otherwise would have been assessed and collected by the LWDA.
28

1 8. Plaintiff brings his PAGA claim to recover penalties on behalf of all other
2 non-exempt employees of Defendants within the state of California.

3 9. Plaintiff has complied with the notice requirements of Labor Code section
4 2699.3. On August 20, 2020, Plaintiff's representative notified the LWDA and Defendant in
5 writing of the Labor Code violations set forth herein. Sixty-five days later, the LWDA had
6 not responded to Plaintiff's initial notice. Pursuant to section 2699.3(a)(2)(A), Plaintiff was
7 entitled to commence this action.

8 **Unlawful Failure to Pay all Hours Worked**

9 10. At all times relevant hereto, Labor Code Sections 1194 and 1997 and the
10 applicable IWC Wage Order applied to Defendant's employment of Plaintiff and the rest of
11 the aggrieved employees. At all times relevant hereto, Labor Code Sections 1194 and 1997
12 and the applicable IWC Wage Order required Defendants to compensate Plaintiff and the
13 aggrieved employees at a minimum wage and provided that a payment of a lesser wage than
14 the minimum is unlawful.

15 11. At all relevant times, Defendants knowingly failed to pay Plaintiff and other
16 aggrieved employees the minimum wage for all work performed as required under Labor
17 Code Sections 1194 and 1197.

18 12. Due to the forgoing violations, Plaintiff is entitled to recover civil penalties
19 pursuant to Labor Code section 2699.

20 **Unlawful Failure to Pay Overtime Wages**

21 13. At all relevant time, Labor Code section 510 required employers like
22 Defendants to pay employees premium wages when they work more than eight hours in a
23 day and/or more than 40 hours in a week.

24 14. Aggrieved employees have worked more than eight hours in a day and/or
25 more than 40 hours in a week. Yet Defendants have not always paid these employees the
26 overtime premium wages required by section 510.

27 15. Due to the forgoing violations, Plaintiff is entitled to recover civil penalties
28 pursuant to Labor Code section 2699.

1 **Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods**

2 16. At all times relevant hereto, the applicable IWC Wage Order and Labor Code
3 Section 512 applied to Defendant's employment of Plaintiff and the rest of the aggrieved
4 employees. At all times relevant hereto, the applicable IWC Wage Order and Labor Code
5 Section 512 required that an employer may not require, cause or permit an employee to
6 work for a work period of more than five (5) hours per day without providing the employee
7 with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total
8 work period per day of the employee is no more than six (6) hours, the meal period may be
9 waived by mutual consent of both the employer and employee.

10 17. At all times relevant hereto, the applicable IWC Wage Order and Labor Code
11 Section 512 further required that an employer may not require, cause or permit an employee
12 to work for a work period of more than ten (10) hours per day without providing the
13 employee with a second uninterrupted meal period of not less than thirty (30) minutes,
14 except that if the total work period per day of the employee is no more than twelve (12)
15 hours, the meal period may be waived by mutual consent of both the employer and
16 employee if the first meal period was not waived.

17 18. Defendants have required, permitted, or otherwise suffered Plaintiff and other
18 aggrieved employees to take less than the required 30-minute meal periods, or to work
19 through them, and have failed to otherwise provide the required meal periods to Plaintiff and
20 other aggrieved employees pursuant to Labor Code Sections 226.7 and 512.

21 19. Defendants further violated Labor Code Section 226.7 and the applicable
22 IWC Wage Order by failing to pay Plaintiff and other aggrieved employees who were not
23 provided with a compliant meal period one additional hour of compensation at each
24 employee's regular rate of pay for each workday that a meal period was not properly
25 provided.

26 20. Defendants have violated Labor Code Sections 226.7, 510, 1194 and 1197 by
27 failing to compensate Plaintiff and other aggrieved employees for all hours worked during
28 their meal periods.

1 21. Due to the forgoing violations, Plaintiff is entitled to recover civil penalties
2 pursuant to Labor Code section 2699.

3 **Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods**

4 22. At all times relevant hereto, the applicable IWC Wage Order applied to
5 Defendant's employment of Plaintiff and the rest of the aggrieved employees. At all times
6 relevant hereto, the applicable IWC Wage Order required that non-exempt employees be
7 authorized and permitted to take rest breaks of 10 uninterrupted minutes for every four hours
8 of work or major fraction thereof.

9 23. Defendants have required, permitted, or otherwise suffered, Plaintiff and
10 other aggrieved employees to take less than the required 10-minute rest periods, or to work
11 through them, and have failed to otherwise authorize and permit required rest periods by
12 Plaintiff and other aggrieved employees pursuant to Labor Code Sections 226.7.

13 24. Defendants further violated Labor Code Section 226.7 and the applicable
14 IWC Wage Order by failing to pay Plaintiff and other aggrieved employees who were not
15 authorized and permitted to take required rest periods one additional hour of compensation
16 at each employee's regular rate of pay for each workday that a rest period was not properly
17 authorized and permitted.

18 25. Due to the forgoing violations, Plaintiff is entitled to recover penalties
19 pursuant to Labor Code section 2699.

20 **Unlawful Failure to Furnish Accurate Wage Statements**

21 26. At all times relevant hereto, Labor Code Section 226(a) applied to
22 Defendants' employment of Plaintiff and the rest of the aggrieved employees and required
23 that employers such as Defendants furnish to their employees, semi-monthly or at the time
24 of each payment of wages, an accurate itemized statement in writing showing such matters
25 as "(1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of
26 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
27 basis, (4) all deductions, provided that all deductions made on written orders of the
28 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive

1 dates of the period for which the employee is paid, (7) the name of the employee and only
2 the last four digits of his or her social security number or an employee identification number
3 other than a social security number, (8) the name and address of the legal entity that is the
4 employer . . . and (9) all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate by the employee.”

6 27. The wage statements that Defendants provided to Plaintiff and the aggrieved
7 employees did not include all of the information required by sections 226(a) and 226.2.

8 28. Therefore, Defendants violated Labor Code Sections 226(a) and 226.2 and
9 Plaintiff is entitled to recover civil penalties pursuant to Labor Code section 2699.

10 **Unlawful Failure to Pay Wages Due Upon Separation**

11 29. At all times relevant hereto, Labor Code Sections 201, 202, and 203 applied
12 to Defendant’s employment of Plaintiff and the rest of the aggrieved employees. At all times
13 relevant hereto, Labor Code Section 201 provided that, if an employer such as Defendants
14 discharged an employee, the wages earned and unpaid at the time of discharge were due and
15 payable immediately. Furthermore, at all relevant times Labor Code Section 202 provided
16 and provides that, if an employee voluntarily leaves his or her employment, the wages
17 earned and unpaid must be paid by the employer within seventy-two (72) hours thereafter,
18 unless the employee has given seventy-two (72) hours previous notice of his or her intention
19 to leave, in which case the employee is entitled to receive his or her wages immediately at
20 the time of quitting.

21 30. During the relevant period, Plaintiff and aggrieved employees separated from
22 employment with Defendants, but Defendants did not pay them all of the wages that were
23 due to them within the time required by sections 201 and 202.

24 31. Due to the forgoing violations, Plaintiff is entitled to recover civil penalties
25 pursuant to Labor Code section 2699.

26 **Unlawful Failure to Reimburse Necessary Expenses**

27 32. At all relevant times, Labor Code Section 2802 applied to the employment of
28 Plaintiff and the aggrieved employees and required Defendants to reimburse employees for

1 all necessary expenditures and losses incurred in order to discharge their duties for
2 Defendants.

3 33. During the relevant time period, Plaintiff and the other aggrieved employees
4 were required to drive their own vehicles from Defendants' warehouses to job sites, but
5 Defendants failed and refused to reimburse Plaintiff and the aggrieved employees for these
6 expenses. Moreover, Defendants required Plaintiff and the aggrieved employees to
7 download applications onto their mobile phones and use these applications and their own
8 mobile phones to perform such functions as clocking in and out, requesting paid time off
9 and reviewing wage statements. Defendants did not compensate or reimburse Plaintiff and
10 the aggrieved employees for the use of their own mobile phones.

11 34. Due to the foregoing violations, Plaintiff is entitled to recover civil penalties
12 pursuant to Labor Code section 2699.

13 **PRAYER**

14 WHEREFORE, Plaintiff prays for judgment on behalf of himself and the other
15 aggrieved employees and against Defendants as follows:

- 16 1. For civil penalties;
17 2. For prejudgment interest;
18 3. For reasonable attorney's fees and costs pursuant to California Labor Code
19 section 2699(g); and
20 4. For such further relief as the Court may deem appropriate.
21

22 DATED: October 30, 2020

GUNDZIK GUNDZIK HEEGER LLP

23
24 By: 

Aaron Gundzik

25 Attorneys for Plaintiff Joshua Arguelles, on
26 behalf of himself and all other aggrieved
27 employees
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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims so triable.

DATED: October 30, 2020

GUNDZIK GUNDZIK HEEGER LLP



By: _____

Aaron Gundzik
Attorneys for Plaintiff Joshua Arguelles, on
behalf of himself and all other aggrieved
employees