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Superior Court Of California
County Of Los Angeles

APR 30 2021

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and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RAFAEL PRIETO, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

SUNRUN INSTALLATION SERVICES,
INC.; and DOES 1 through 20, inclusive,

Defendants.

Case No. 20STCV41605

[Amended as a matter of right, pursuant to
Labor Code section 2699.3(a)(2)(C)]

**FIRST AMENDED COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LAB. CODE
§§ 2698, *ET SEQ.*)**

1 Plaintiff Rafael Prieto, on behalf of aggrieved employees, alleges as follows:

2 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

3 1. Pursuant to the Private Attorneys General Act of 2004, Labor Code §§2698, *et*
4 *seq.* (“PAGA”), Plaintiff Rafael Prieto (“Plaintiff”) brings this representative action against
5 defendants Sunrun Installation Services, Inc., and DOES 1 through 20, inclusive (collectively,
6 “Defendants”), on behalf of himself and all other aggrieved employees employed by
7 Defendants throughout California.

8 2. Defendants are in the business of providing solar panels.

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code and Industrial
11 Welfare Commission (“IWC”) Wage Orders.

12 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
13 increased their profits by violating state wage and hour laws by, among other things:

14 (a) failing to pay all wages (including minimum wages and overtime
15 wages);

16 (b) failing to provide lawful meal periods or compensation in lieu thereof;

17 (c) failing to authorize or permit lawful rest breaks or provide compensation
18 in lieu thereof;

19 (d) failing to provide accurate itemized wage statements;

20 (e) failing to pay all wages due upon separation of employment.

21 5. Plaintiff seeks monetary relief against Defendants on behalf of aggrieved
22 employees statewide to recover, among other things, attorneys’ fees, costs and expenses, and
23 penalties pursuant to Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174,
24 1174.5, 1182.12, 1194, 1194.2, 1197, 1197, 1197.1, 1198, and 2698, *et seq.*, and Code of
25 California Civil Procedure § 1021.5.

26 ///

27 ///

28 ///

JURISDICTION AND VENUE

6. This is a representative action brought under PAGA, codified at Cal. Lab. Code §§2698, *et seq.* The civil penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

8. This Court has jurisdiction over all Defendants because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

9. Venue is proper in this Court because, upon information and belief, Defendants reside, transact business, or have offices in this county, and the acts and omissions alleged herein took place in this county.

THE PARTIES

10. Plaintiff is a resident of California and worked for Defendants in California during the relevant time periods as alleged herein.

11. Plaintiff is informed and believes, and thereon alleges that at all times hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as employers, whose employees were and are engaged throughout this county and the State of California.

12. Plaintiff is unaware of the true names or capacities of the defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all relevant times.

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the employer and/or joint employer of Plaintiff and the class members.

15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

16. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

18. At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as non-exempt employees.

19. Defendants employed Plaintiff as a non-exempt employee at Defendants' California business location.

20. Defendants continue to employ non-exempt employees within California.

21. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers, employees, and other professionals

1 who were knowledgeable about California's wage and hour laws, employment and personnel
2 practices, and the requirements of California law.

3 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and Aggrieved employees were entitled to receive wages for
5 all time worked (including minimum wages and overtime wages) and that they were not
6 receiving all wages earned for work that was required to be performed. In violation of the
7 Labor Code and IWC Wage Orders, Plaintiff and Aggrieved employees were not paid all wages
8 (including minimum wages and overtime wages) for all hours worked at the correct rate due to
9 requiring off-the-clock work and failing to include incentive pay in the overtime rate, among
10 other issues.

11 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and Aggrieved employees were entitled to receive all required
13 meal periods or payment of one (1) additional hour of pay at Plaintiff's and Class Members'
14 regular rate of pay when they did not receive a timely, uninterrupted meal period. In violation
15 of the Labor Code and IWC Wage Orders, Plaintiff and Aggrieved employees did not receive
16 all meal periods or payment of one (1) additional hour of pay at Plaintiff's and Class Members'
17 regular rate of pay when they did not receive a timely, uninterrupted meal period.

18 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and Aggrieved employees were entitled to receive all rest
20 breaks or payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular
21 rate of pay when a rest break was missed. In violation of the Labor Code and IWC Wage
22 Orders, Plaintiff and Aggrieved employees did not receive all rest breaks or payment of one (1)
23 additional hour of pay at Plaintiff's and Class Members' regular rate of pay when a rest break
24 was missed.

25 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Aggrieved employees were entitled to receive itemized
27 wage statements that accurately showed the following information pursuant to the Labor Code:
28 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate

1 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
2 deductions, provided that all deductions made on written orders of the employee may be
3 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period
4 for which the employee is paid; (7) the name of the employee and only the last four digits of his
5 or her social security number or an employee identification number other than a social security
6 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
7 hourly rates in effect during the pay period and the corresponding number of hours worked at
8 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and Aggrieved
9 employees were not provided with accurate itemized wage statements.

10 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that the Waiting Time Subclass was entitled to timely payment of wages
12 due upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass
13 did not receive payment of all wages within permissible time periods.

14 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known they had a duty to compensate Plaintiff and Class Members, and
16 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
17 intentionally failed to do so in order to increase Defendants' profits.

18 **FIRST CAUSE OF ACTION**

19 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

20 28. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
21 though fully set forth herein.

22 29. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
23 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
24 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
25 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
26 an aggrieved employee on behalf of himself or herself and other current or former employees
27 pursuant to the procedures specified in Labor Code § 2699.3.
28

1 30. For all provisions of the Labor Code except those for which a civil penalty is
2 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
3 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
4 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
5 period in which Defendants violated these provisions of the Labor Code.

6 31. Defendants' conduct violates numerous Wage Order and Labor Code sections,
7 including, but not limited to, the following:

- 8 a. violation of Labor Code §§ 201-203, 204, 210, 510, 558, 1182.12, 1194,
9 1194.2, 1197, and 1198 for failure to timely pay all earned wages
10 (including minimum wage and overtime wages) owed to Plaintiff and
11 other aggrieved employees during employment and upon separation of
12 employment as herein alleged;
- 13 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
14 periods to Plaintiff and other aggrieved employees and failure to pay
15 premium wages for missed meal periods as herein alleged;
- 16 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
17 Plaintiff and other aggrieved employees and failure to pay premium wages
18 for missed rest periods as herein alleged;
- 19 d. violation of Labor Code § 226 and 226.3 for failure to provide accurate
20 itemized wage statements to Plaintiff and other aggrieved employees as
21 herein alleged; and
- 22 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
23 accurate and complete records showing, among other things, the hours
24 worked daily by and the wages paid to aggrieved employees.

25 32. Plaintiff is an "aggrieved employee" because he was employed by the alleged
26 violator and had one or more of the violations committed against him, and therefore is properly
27 suited to represent the interests of all other aggrieved employees.
28

33. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

35. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

On Plaintiff's own behalf, and on behalf of all other aggrieved employees, Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties against Defendants on behalf of all aggrieved employees pursuant to Labor Code §§ 2698, *et seq.*;

2. For reasonable attorney's fees and costs of suit to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, *et seq.*; and

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

Dated: April 30, 2021

AEGIS LAW FIRM, PC

By:

Fawn F. Bekam

Attorneys for Plaintiff Rafael Prieto

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over the age
3 of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my business
address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On April 30, 2021, I served the foregoing document entitled:

- 5 • **FIRST AMENDED COMPLAINT FOR VIOLATION OF THE CALIFORNIA LABOR
6 CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE §§ 2698, ET
7 SEQ.)**

8 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true copy
9 thereof on the party(ies) addressed below as follows:

10 Kristen J. Nesbit

11 Shaun J. Voigt

12 FISHER & PHILLIPS, LLP

13 444 South Flower Street, Suite 1500

14 Los Angeles, CA 90071

15 Telephone: 213.330.4486

16 Facsimile: 213.330.4501

17 svoigt@fisherphillips.com

18 knesbit@fisherphillips.com

19 *Attorneys for Defendant:*

20 SUNRUN INSTALLATION SERVICES, INC.

21 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
22 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
23 Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary
24 course of business. I am aware that on motion of the party served, service is presumed invalid if
25 postage cancellation date or postage meter date is more than one day after date of deposit for
26 mailing this affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed. R. Civ. Proc. 5(a); Fed. R. Civ. Proc.*
27 *5(c).*)

28 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of
Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I
caused such document(s) described herein to be deposited for delivery to a facility regularly
maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc. § 1013(c); Fed. R. Civ.*
Proc. 5(c).)

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via electronic
transmission via Case Anywhere to the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).)

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to the
addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc. 5(b)(2)(A).*)

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

Executed on April 30, 2021, at Irvine, California.


Andrea Drocco