

FILED
Superior Court Of California,
Sacramento
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reanmiguel
By _____, Deputy
Case Number:
34-2021-00310634

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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ISIDRO ARROYO, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

EPIC HOME SOLAR, a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2021-00310634

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Failure to Pay Nonproductive Time
10. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiff ISIDRO ARROYO ("Plaintiff"), on behalf of himself and all other similarly situated
2 employees, hereby files this Complaint against Defendants EPIC HOME SOLAR, a California
3 Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants").
4 On information and belief, Plaintiff allege the following:

5 INTRODUCTION

6 1. This is a class action and Private Attorneys General Act ("PAGA") lawsuit brought by
7 Plaintiff for failure to pay minimum wages, failure to pay overtime wages, failure to pay nonproductive
8 and recovery time, failure to pay all paid sick time, meal and rest period violations, failure to reimburse
9 expenses, failure to provide wage statements, and unfair competition.

10 JURISDICTION AND VENUE

11 2.. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Order No. 16.

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
15 the wrongful acts and violations of law asserted herein occurred within Sacramento County, and
16 Defendants' obligation to pay wages arose in Sacramento County pursuant to *Madera Police Officers*
17 *Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

18 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
19 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself
20 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written
21 notice via online submission to the Labor and Workforce Development Agency ("LWDA") on
22 approximately October 26, 2021. Plaintiff provided facts and legal bases for his claims within the notice
23 to the LWDA on all violations asserted under the Private Attorneys General Act cause of action.
24 Plaintiff submitted the \$75.00 filing fee. The October 26, 2021 notice was also sent via certified mail to
25 Defendants on the same day. Plaintiff is informed and believes, that to date, the LWDA has not
26 provided any response to Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and
27 believes that he has exhausted all administrative remedied pursuant to the Private Attorneys General Act
28 and may bring this action on behalf of himself and all Aggrieved Employees. *See* Cal. Labor Code §

1 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19
2 (2005). Aggrieved Employees includes all non-exempt employees who have, or continue to, perform
3 work for Defendants in California and were paid under a piece rate compensation system from October
4 26, 2020 to the present.

5 PARTIES

6 5. ISIDRO ARROYO is an individual over the age of eighteen (18) and is a resident of
7 the State of California.

8 6. On information and belief, Plaintiff alleges, EPIC HOME SOLAR, is now and/or at
9 all times mentioned in this Complaint was a California Corporation and the owner and operator of an
10 industry, business and/or facility doing business in the State of California.

11 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
12 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
13 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
14 names and capacities of these DOE Defendants when they are ascertained. At all times mentioned
15 herein, each Defendant was the agent or employee of each of the other Defendants and was acting within
16 the course and scope of such agency or employment. The Defendants are jointly and severally liable to
17 Plaintiff.

18 8. At all times mentioned herein, each Defendant was the agent or employee of each of the
19 other Defendants and was acting within the course and scope of such agency or employment. The
20 Defendants are jointly and severally liable to Plaintiff.

21 9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
22 were members of and/or engaged in a joint employment, joint venture, partnership and common
23 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
24 joint venture, partnership and common enterprise.

25 10. Defendants, and each of them, now and/or at all times mentioned in this Complaint
26 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

27 11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
28 wrongs, complaints, injuries and/or damages alleged in this Complaint.

1 **CLASS ALLEGATIONS**

2 12. Plaintiff brings the First through Ninth Causes of Action on behalf of himself and all
3 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
4 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

5 All non-exempt employees who have worked, or continue to work, for
6 Defendants in California and were paid under a piece rate compensation
7 system from November 3, 2017 to the present.

8 13. This action has been brought and may be properly maintained as a class action,
9 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
defined community of interests in the litigation and the proposed class is easily ascertainable.

10 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
11 is impracticable under the circumstances of this case. While the exact number of class
12 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
13 Defendants have employed as many as fifty (50) individuals falling within the above
14 stated class definition throughout the State of California during the applicable statute of
15 limitations, who were subjected to the policies and practices outlined in this Complaint.
16 As such, joinder of all members of the putative class is not practicable.

17 (b) Common Questions Predominate: Common questions of law and fact exist as to all
18 members of the putative class and predominate over questions that affect only individual
19 members of the class. These common questions of law and fact include, without
20 limitation, the following:

- 21 (1) Whether Defendants had a policy or practice to pay Plaintiff and putative class
22 members for nonproductive time and recovery periods;
23 (2) Whether Defendants had a policy or practice to pay Plaintiff and putative class
24 members at least minimum wage for each hour worked;
25 (3) Whether Defendants had a policy or practice to pay Plaintiff and putative class
26 members overtime wages;
27 (4) Whether Defendants paid all piece rate compensation owed to Plaintiff and
28 putative class members;

- (5) Whether Defendants authorized and permitted legally compliant meal periods;
- (6) Whether Defendants authorized and permitted legally compliant rest periods;
- (7) Whether Defendants had a policy or practice to provide putative class members with paid sick time;
- (8) Whether Defendants had a policy or practice to reimburse for personal cellphone and vehicle use for work;
- (9) Whether as a result of Defendants' policies and practices Plaintiff's and putative class members received all wages, due and owing, at the time of their termination or separation; and
- (10) Whether Defendants provided Plaintiff's and putative class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiff and all members of the putative class were non-exempt employees who were paid piece rate compensation but were not paid for nonproductive time, recovery periods, and all piece rate wages owed. Defendants did not ensure Plaintiff and putative class members were paid at least the minimum wage for every hour worked and overtime wages for any overtime hours worked. Defendants did not provide Plaintiff and putative class members with paid sick time. Additionally, Defendants failed to issue Plaintiff and all members of the putative class wage statements that complied Labor Code section 226. Defendants also failed to reimburse Plaintiff and putative class members for necessary expenses incurred for work from the use of their personal cellphones and vehicles. As a result, Plaintiff and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California and worked for Defendants in California. Moreover, Plaintiff is an adequate representative of the

1 putative class as Plaintiff has no interests that are adverse to those of putative class
2 members. Additionally, Plaintiff has retained counsel who has substantial experience in
3 complex civil litigation and wage and hour matters.

4 (e) Superiority: A class action is superior to other available means for the fair and efficient
5 adjudication of the controversy since individual joinder of all members of the putative
6 class is impracticable. Class action treatment will permit a larger number of similarly
7 situated persons to prosecute their common claims in a single forum simultaneously,
8 efficiently, and without the unnecessary duplication of effort and expense that numerous
9 individual actions would engender. Further, as damages suffered by each individual
10 member of the class may be relatively small, the expenses and burden of the individual
11 litigation would make it difficult or impossible for individual members of the class to
12 redress the wrongs done to them, and an important public interest will be served by
13 addressing the matter as a class action. The cost to the court system of adjudication of
14 such individualized litigation would be substantial. Individualized litigation would also
15 present the potential for inconsistent or contradictory judgments.

16 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
17 management of this action that would preclude its maintenance as a class action.

18 GENERAL ALLEGATIONS

19 15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully
20 set forth herein.

21 16. Plaintiff worked for Defendants from approximately June 2021 to July 2021. Plaintiff
22 and similarly situated employees completed roofing projects for Defendants' clients. Plaintiff and
23 similarly situated employees regularly worked over eight (8) hours in a day and/or forty (40) hours in a
24 week. Defendants paid Plaintiff and similarly situated employees under a piece rate compensation
25 system that paid Plaintiff and similarly situated employees an amount per roofing project completed
26 based on the square footage of the project and the type of project (e.g., tear off, install, dry rot, osb),
27 regardless of their hours worked.

28 //

1 17. Defendants did not keep track of Plaintiff's and similarly situated employees' hours
2 worked. Defendants' piece rate compensation system failed to pay Plaintiff and similarly situated
3 employees at least minimum wage for each hour they worked. Defendants also failed to pay Plaintiff
4 and similarly situated employees any overtime wages for work performed over eight (8) hours in a day
5 or forty (40) hours in a week. Additionally, Plaintiff and similarly situated employees completed several
6 projects for Defendants that Defendants failed to pay even the piece rate compensation that was owed.

7 18. Defendants did not separately compensate Plaintiff and similarly situated employees for
8 time spent working under the control of Defendants on tasks that did not earn a piece rate. For example,
9 time spent picking up materials, drive time, completing and submitting paperwork for projects, and time
10 at the jobsite when there was an issue that delayed or prevented installation, among other things.

11 19. Defendants did not have any policy or practice to authorize and permit Plaintiff and
12 similarly situated employees to take a full, uninterrupted thirty (30) minute meal period every five (5)
13 hours and ten (10) minute rest periods every four (4) hours or major fraction thereof. Defendants did not
14 have a policy or practice for meal periods to begin before the end of Plaintiff's and similarly situated
15 employees' fifth hour of work. Defendants did not have a policy authorizing and permitting Plaintiff
16 and similarly situated employees to take a second meal period or third rest period when they work over
17 ten (10) hours in a shift. Defendants also did not have any policy or practice to compensate Plaintiff and
18 similarly situated employees for time spent during rest periods they received.

19 20. Defendants did not timely pay Plaintiff and similarly situated employees all wages owed
20 to them. Defendants failed to pay Plaintiff and similarly situated employees all wages they earned
21 between the 1st and 15th days of the month between the 16th and the 26th day of the month during
22 which the work was performed, and all wages they earned between the 16th and the last day of the
23 month between the 1st and 10th day of the following month. Defendants paid Plaintiff and similarly
24 situated employees a piece rate at the end of projects without regard to the requirements in Labor Code
25 section 204 and wholly failed to pay minimum and overtime wages owed.

26 21. Plaintiff and similarly situated employees should have accrued paid sick time pursuant to
27 Labor Code section 246. However, Defendants failed to keep track of any accrued sick time or provide
28 paid sick time to Plaintiff and similarly situated employees.

22. Defendants should have provided Plaintiff and similarly situated employees with wage statements that complied with Labor Code section 226 and 226.2. However, Defendants failed to provide Plaintiff and similarly situated employees with any wage statements at all.

23. At the time of Plaintiff's and similarly situated employees' termination and/or separation, Plaintiff and similarly situated employees had regular wages, wages for recovery periods and nonproductive time, minimum wages, overtime wages, paid sick time and meal and rest period premiums owed to them. To date, Defendants have not paid Plaintiff and similarly situated employees these unpaid wages.

24. Defendants failed to reimburse Plaintiff and similarly situated employees for all expenses they incurred for work, including the use of their personal cellphones and vehicles. Defendants required Plaintiff and similarly situated employees to use their personal cellphones and vehicles for work but failed to have any policy or practice to reimburse them for such use.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(As to all Defendants)

25. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 24 as though fully set forth herein.

26. During the period Plaintiff was employed by Defendants, Defendants were required to compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 16, section (3)(A); Cal. Lab. Code §§ 510, 1194.*

27. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours worked at their regular rate of pay.

28. Plaintiff and similarly situated employees were not exempt from overtime protections employees under the California Wage Orders and Labor Code.

1 29. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
2 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
3 the extent pertinent as if set forth here in full.

4 **SECOND CAUSE OF ACTION**
5 **FAILURE TO PAY MINIMUM WAGES**
6 **(As to all Defendants)**

7 30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully
8 set forth herein.

9 31. For the period preceding the filing of this Complaint, Defendants were required to
10 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
11 every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 16, section 4(A); Cal. Lab. Code §
12 1194.

13 32. Plaintiff and similarly situated employees were not exempt from the State's Minimum
14 Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour
15 worked but failed to do so.

16 33. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
17 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
18 the extent pertinent as if set forth here in full.

19 **THIRD CAUSE OF ACTION**
20 **MEAL PERIOD VIOLATIONS**
21 **(As to all Defendants)**

22 34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully
23 set forth herein.

24 35. An employer must provide an employee a meal period in accordance with the
25 applicable Wage Order, and California Labor Code sections 226.7 and 512.

26 36. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 16, section
27 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
28 minutes for each work period of more than five (5) hours.

 37. California Labor Code section 512 and Wage Order No. 16 section 11(B) further
provide that employers may not employ employees for a work period for more than ten (10) hours

1 per day without providing the employee with a second meal period of at least thirty (30) minutes.
2 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
3 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
4 (1) hour of pay at their regular rate of compensation for each meal period not provided.

5 38. Defendants employed Plaintiff and similarly situated employees for periods of more
6 than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal
7 period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more
8 than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated
9 employees to take their first meal period before the completion of their fifth hour of work and failed
10 to allow Plaintiff and similarly situated employees to take their second meal period before the
11 completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their
12 rights to all meal periods throughout their employment.

13 39. Defendants further failed to pay Plaintiff and similarly situated employees the
14 applicable meal period premiums for any such missed meal breaks.

15 40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
16 employees have been damaged as stated in the section below entitled "DAMAGES," which is
17 incorporated here to the extent pertinent as if set forth here in full.

18 **FOURTH CAUSE OF ACTION**
19 **REST PERIOD VIOLATIONS**
(As to all Defendants)

20 41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully
21 set forth herein.

22 42. An employer must provide an employee a rest period in accordance with the
23 applicable Wage Order and California Labor Code section 226.7.

24 43. California Labor Code section 226.7 and Wage Order No. 16, section 12(A) require
25 an employer to provide a rest period of not less than ten (10) minutes for each work period of more
26 than four (4) hours or a major fraction thereof.

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1 44. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
2 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
3 they worked more than four (4) hours or a major fraction thereof.

4 45. Defendants further failed to pay Plaintiff and similarly situated employees the
5 applicable rest period premiums for any such missed rest periods.

6 46. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
7 employees have been damaged as stated in the section below entitled "DAMAGES," which is
8 incorporated here to the extent pertinent as if set forth here in full.

9
10 **FIFTH CAUSE OF ACTION**
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

11 47. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 46 as though fully
12 set forth herein.

13 48. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
14 statement to an employee, semimonthly or at the time of each payment of wages, showing:

15 *(1) gross wages earned, (2) total hours worked by the employee, except for*
16 *any employee whose compensation is solely based on a salary and who is*
17 *exempt from payment of overtime under subdivision (a) of Section 515 or*
18 *any applicable order of the Industrial Welfare Commission, (3) the*
19 *number of piece-rate units earned and any applicable piece rate if the*
20 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
21 *all deductions made on written orders of the employee may be aggregated*
22 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
23 *period for which the employee is paid, (7) the name of the employee and*
24 *the last four digits of his or her social security number or an employee*
25 *identification number other than a social security number, (8) the name*
26 *and address of the legal entity that is the employer and, if the employer is*
27 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
28 *name and address of the legal entity that secured the services of the*
employer, and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate
by the employee. The deductions made from payment of wages shall be
recorded in ink or other indelible form, properly dated, showing the
month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at
the place of employment or at a central location within the State of
California.

49. Additionally, Labor Code section 226.2 requires the wage statement separately state the total hours of compensable rest and recovery periods and other non-productive time, the rate of their compensation, the gross wages paid for these periods.

50. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement showing the requirements set forth in California Labor Code sections 226(a) and 226.2. Plaintiff and similarly situated employees were not able to promptly and easily determine their total hours worked. Additionally, Plaintiff and similarly situated employees suffered confusion over whether they received all wages owed.

51. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

52. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 51 as though fully set forth herein.

53. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Lab. Code § 201.

54. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Lab. Code § 202.

55. Plaintiff and similarly situated employees did not receive all wages, including minimum and overtime wages, nonproductive and recovery time, meal and rest period premiums, or all sick leave pay owed at their termination or within the required time after their separation from employment.

56. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See Cal. Lab. Code § 203.*

57. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees' their final wages when their employment terminated. Indeed, Defendants had no policy or practice to pay minimum wages, overtime wages, and nonproductive time or time spent during recovery periods.

1 Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation,
2 yet Defendants still refused to pay the remaining wages owed.

3 58. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
4 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
5 thirty (30) days for Defendants' failure to pay all wages due.

6 **SEVENTH CAUSE OF ACTION**
7 **FAILURE TO REIMBURSE EXPENSES**
8 **(As to all Defendants)**

9 59. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 58 as though fully
10 set forth herein.

11 60. California Labor Code section 2802(a) states that "An employer shall indemnify his or
12 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
13 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
14 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
15 unlawful."

16 61. Defendants required Plaintiff and similarly situated employees to use their personal
17 cellphones and vehicles but failed to reimburse them for such use.

18 62. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
19 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
20 the extent pertinent as if set forth here in full.

21 **EIGHTH CAUSE OF ACTION**
22 **UNFAIR COMPETITION**
23 **(As to EPIC HOME SOLAR and DOES 1 to 100)**

24 63. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully
25 set forth herein.

26 64. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
27 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
28 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See
California Business and Professions ("B&P") Code § 17200.

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1 65. Plaintiff and similarly situated employees were not paid all wages owed, including
2 minimum and overtime wages, nonproductive and recovery time and meal and rest period premiums,
3 paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter.

4 66. Plaintiff further allege(s) that such actions and/or conduct constitute a violation of the
5 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
6 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

7 67. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
8 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
9 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
10 sections 17203, 17208, violations of California Labor Code sections 226.7, 246, 510, 512, and 1194 all
11 in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this
12 Action.

13 **NINTH CAUSE OF ACTION**
14 **FAILURE TO PAY NON-PRODUCTIVE TIME**
 (As to all Defendants)

15 68. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 67 as though fully
16 set forth herein.

17 69. Labor Code section 226.2 requires employers to separately compensate piece rate
18 employees for rest and recovery periods as well as any other nonproductive time at rate that is the higher
19 of an average hourly rate or the applicable minimum wage. Defendants completely failed to pay
20 Plaintiff and similarly situated employees any compensation for rest and recovery periods and other non-
21 productive time as outlined above.

22 70. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
23 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
24 the extent pertinent as if set forth here in full.

25 **TENTH CAUSE OF ACTION**
26 **PRIVATE ATTORNEYS GENERAL ACT**
 (As to all Defendants)

27 71. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 70 as though fully
28 set forth herein.

1 72. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
2 following provisions of the Labor Code in their dealings with him and other similarly situated current
3 and former employees:

- 4 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay
5 Overtime Wages)
- 6 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 16, § 4 (Failure to Pay
7 Minimum Wages)
- 8 • Violation of Labor Code §§ 226.7, 512; IWC Wage Order 16, §§ 10(A) and 10(B)
9 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 10 • Violation of Labor Code § 226.2, 226.7; IWC Wage Order 16, § 11(A) (Failure to
11 Provide Rest Periods or Pay Premiums in Lieu Thereof)
- 12 • Violation of Labor Code §§ 226, 226.2, 226.3 (Failure to Provide Accurate Wage
13 Statements)
- 14 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 15 • Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of
16 Work in Any Industrial Welfare Commission Order)
- 17 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- 18 • Violation of Labor Code §§ 221, 223, 225 (Failure to Pay Contract Wages and
19 Unlawful Deductions)
- 20 • Violation of Labor Code § 226.3, 1174, 1198; IWC Wage Order 16, § 6(A) (Failure
21 to Maintain Accurate Records)
- 22 • Violation of Labor Code § 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- 23 • Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

24 73. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no
25 civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

26 74. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections
27 2699(a) and 2699.3.

28 //

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);

- b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

7. As to the Seventh Cause of Action:

- a. An amount to be proven at trial;
b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

8. As to the Ninth Cause of Action:

- a. All wages earned and owing;
b. Interest, attorneys' fees, and costs pursuant to Labor Code section 218.5 and 218.6;

9. As to the Tenth Cause of Action:

- a. For civil penalties as provided for in the Labor Code for each enumerated violation in an amount to be proven at trial;
b. For those Labor Code sections, the violation of which there is no civil penalty provided, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;
c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

10. For such other and further relief as this Court may deem just and proper, including, but not limited to:

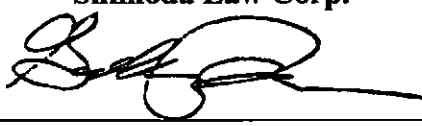
- a. Wages as proved at trial;
b. Injunctive and Declaratory relief;
c. Attorney's fees and costs as provided for by law; and
d. Interest.

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2 Dated: January 18, 2022
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Shimoda Law Corp.

4
5 By: 
6

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff
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1 *Arroyo v. Epic Home Solar, et al.*
2 *Sacramento County Superior Court of California 34-2021-00310634*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Erika F. Collazo, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a
7 party to the within above-entitled action.

8 On January 19, 2022, I served the following documents on the party below:

- 9 • Frist Amended Complaint for Damages

10 Joel Van Parys (SBN 227387) 11 CDF Labor Law LLP 12 900 University Ave, Suite 200 13 Sacramento, CA 95825 14 Phone: (916) 361-0991 15 Email: jvanparys@cdflaborlaw.com	
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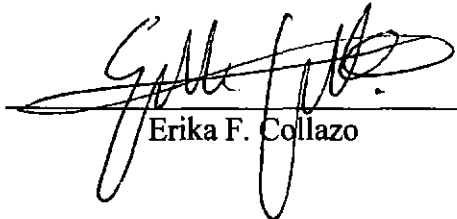
16 [XXX] [By Mail] I am familiar with my employer's practice for the
17 collection and processing of correspondence for mailing with the
18 United States Postal Service and that each day's mail is deposited
19 with the United States Postal Service that same day in the ordinary
20 course of business. On the date set forth above, I served the
21 aforementioned document(s) on the parties in said action by
22 placing a true copy thereof enclosed in a sealed envelope with
23 postage thereon fully prepaid, for collection and mailing on this
24 date, following ordinary business practices, at Elk Grove,
25 California, addressed as set forth above.

26 [] [By Personal Service] By personally delivering a true copy thereof
27 to the office of the addressee above.

28 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s)
shown above. No error was reported by the e-mail service that I
used.

[] [By Overnight Courier] By causing a true copy and/or original
thereof to be personally delivered via the following overnight
courier service: _____.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct, and that this declaration was executed on January 19, 2022, at
Elk Grove, California.


Erika F. Collazo