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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

**PLAINTIFF'S NOTICE OF MOTION AND
 MOTION FOR PRELIMINARY APPROVAL
 OF CLASS ACTION AND PAGA
 SETTLEMENT**

Reservation No.: 2658496

Date: October 7, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: November 3, 2021

FAC Filed: January 19, 2022

Trial Date: None Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on October 7, 2022, at 9:00 a.m., or as soon thereafter as the
3 matter may be heard in Department 25 of the above-entitled Court, Plaintiff Isidro Arroyo, individually
4 and on behalf of all other similarly situated individuals, hereby moves for entry of an Order for the
5 following:

- 6 1. Preliminarily certifying the proposed class herein for purposes of settlement;
- 7 2. Preliminarily appointing Plaintiff Isidro Arroyo as class representative for purposes of
8 settlement;
- 9 3. Preliminarily appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of
10 settlement;
- 11 4. Preliminarily approving the proposed class action and Private Attorneys General Act
12 settlement, in the amount of \$150,000, which is incorporated herein by reference;
- 13 5. Preliminarily approving the application for payment to Class Counsel of attorneys' fees of
14 35% of the Gross Settlement Amount;
- 15 6. Preliminarily approving the application for payment to Class Counsel of reasonable costs not
16 to exceed \$15,000;
- 17 7. Preliminarily and conditionally approving the Class Representative Enhancement Payment of
18 \$10,000 to Plaintiff Isidro Arroyo;
- 19 8. Preliminarily approving the appointment of ILYM Group, Inc. as the Claims Administrator
20 and for payment to ILYM Group, Inc. for administering said class action settlement in an
21 amount not to exceed \$10,000;
- 22 9. Preliminarily approving the settlement of claims under the Private Attorneys General Act for
23 the total amount of \$5,000, 75% of which will be paid to the Labor and Workforce
24 Development Agency and 25% of which will be paid to Aggrieved Employees;
- 25 10. Approving as to form and content the Notice of Settlement and Claim Form, which provide
26 Class Members information regarding the settlement, their ability to opt out of, or object to
27 the settlement, and which provides instructions on how to dispute an individual's settlement
28

1 allocation under the proposed settlement and/or submit a Claim Form to participate in the
2 settlement;

3 11. Approving the proposed procedures to notify the class and determining that the proposed
4 notification procedure and process comply with Class Members' due process rights and
5 directing the Notice of Settlement and Claim Form to be sent by first class mail to Class
6 Members;

7 12. Directing Defendant to report employment information, including social security numbers, to
8 the Claims Administrator to administer the settlement proceeds;

9 13. Scheduling a fairness hearing on the question of whether the proposed settlement should be
10 finally approved as fair, reasonable, and adequate;

11 14. Directing that any amount from settlement checks that were not cashed by the check cashing
12 deadline be donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for
13 Workers' Rights under the doctrine of *cy pres*;

14 15. Preliminarily and conditionally approving and adopting the Proposed Order and its
15 implementation schedule, which is filed herewith and incorporated by reference.

16 This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
17 2699(l), and California Rules of Court 3.769 and 3.764, on the grounds that the proposed class action
18 and Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class Members
19 and should be approved by the Court. This motion will be based on the notice of motion, memorandum
20 of points and authorities, the Declaration of Justin P. Rodriguez, the Declaration of Isidro Arroyo,
21 exhibits, the record and files of this case, and any further oral or documentary evidence introduced at the
22 hearing of this motion.

23
24
25
26 **Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter**
27 **by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the**
28 **department may be downloaded off the court's website. If the party does not have online access,**
they may call the dedicated phone number for the department as referenced in the local telephone
directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and

1 receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the
2 court day before the hearing, no hearing will be held.

3 Dated: September 21, 2022

Shimoda & Rodriguez Law, PC

4
5 By: 

6 Galen T. Shimoda
7 Justin P. Rodriguez
8 Brittany V. Berzin
9 Attorneys for Plaintiff
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EPIC HOME SOLAR, a California
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Defendants.

Case No. 34-2021-00310634

CLASS ACTION

**MEMORANDUM OF POINTS &
 AUTHORITIES IN SUPPORT OF
 PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF CLASS
 ACTION AND PAGA SETTLEMENT**

Reservation No.: 2658496

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I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT

This Motion is brought seeking preliminary approval of a wage and hour class action settlement in the gross amount of \$150,000. *See generally* Exhibit A (Joint Stipulation Regarding Class Action and PAGA Settlement and Release). Plaintiff Isidro Arroyo (“Plaintiff”) brought this class action individually and on behalf of other similarly situated employees employed by Defendant Epic Home Solar (“Defendant”). Plaintiff worked for Defendant in California from approximately June 2021 to July 2021 and was subject to all the same policies and practices that are alleged to be unlawful in this litigation. *See generally* Exhibit B (Plaintiff’s Operative Complaint); Declaration of Isidro Arroyo (“Decl. Arroyo”) ¶ 2.

Plaintiff has alleged claims against Defendant for failure to pay overtime wages, failure to pay minimum wages, meal period violations, rest period violations, wage statement violations, waiting time penalties, failure to reimburse expenses, unfair competition, failure to pay nonproductive time, failure to pay contract wages, unlawful deductions, failure to maintain accurate records, failure to provide paid sick leave, and untimely payment of wages. *See generally* Exhibit B. Plaintiff has also alleged Defendant is liable for a civil penalties under the Private Attorneys General Act (“PAGA”) based on these violations. *See id.*; Exhibit C (Plaintiff’s Ltr. to the Labor and Workforce Development Agency [“LWDA”] Regarding PAGA Claims). These violations primarily stem from Plaintiff’s allegations that Defendant violated California law by 1) failing to adequately track all hours worked and whether all meal periods were received; 2) failing to pay all hours worked; 3) failing to pay piece rate workers overtime premiums; 4) failing to pay all piece rate compensation owed; 5) failing to provide all meal periods, including a second meal period for shifts over 10 hours; 6) failing to provide all rest periods, including a third rest period for shifts over 10 hours; 7) failing to compensate for time spent during rest periods and other non-productive time; 8) failing to provide all paid sick leave in accordance with the Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for personal cellphone use and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and 11) failing to provide accurate wage statements. *See* Exhibit B. Plaintiff has contended that this is a meritorious class action lawsuit and that this case is appropriate for class certification for settlement purposes as the requisites for class certification in this case can be satisfied. *See* Exhibit B.

1 Defendant has denied all of Plaintiff's allegations in their entirety and any liability or
2 wrongdoing of any kind. *See* Declaration of Justin P. Rodriguez ("Decl. Rodriguez"), ¶ 5. Defendant
3 has denied that this case is appropriate for class certification other than for purposes of settlement and
4 that Plaintiff would have difficulty proving class certification is proper here. *See id.* However, subject
5 to approval by the Court, the parties have been able to compromise and settle all asserted claims for
6 monetary compensation as a result of extensive investigations, informal document and data exchanges,
7 and extended negotiations relating to all aspects of the asserted claims. *See* Exhibit A. Plaintiff's
8 counsel is convinced that the proposed settlement is in the best interest of the putative class based on
9 the discovery, investigations, negotiations, Defendant's financial condition, and a detailed knowledge
10 of the issues in this case. *See* Decl. Rodriguez, ¶¶ 2, 6-13. The prospect of potential class certification
11 issues and the uncertainty of class certification, difficulties of complex litigation, Defendant's ability to
12 pay, the lengthy process of establishing specific damages and various possible delays and appeals were
13 carefully considered by Plaintiff and Plaintiff's counsel in agreeing to the proposed settlement. *See id.*

14 It is well within the discretion of this Court to grant preliminary and conditional approval of the
15 Agreement, which satisfies all of the criteria for preliminary settlement approval under California law.
16 Accordingly, Plaintiff requests that the Court: (1) provisionally and conditionally certify the proposed
17 settlement class; (2) grant preliminary and conditional approval of the proposed Agreement (Exhibit
18 A); (3) set dates for and direct distribution to the class of (a) the Notice of Settlement (Exhibit F),
19 which provides Class Members information regarding the settlement, including information regarding
20 the opportunity to opt-out of, or object to, the settlement and how to participate in the settlement, and
21 (b) the Claim Form (Exhibit G) notifying each class member of their expected pro rata share of the
22 settlement; and (4) adopt the implementation schedule contained in the proposed order and schedule a
23 final approval hearing.

24 II. PROCEDURAL AND LITIGATION HISTORY

25 Plaintiff filed a class action complaint on approximately November 3, 2021, in Sacramento
26 County Superior Court against Defendant. Plaintiff exhausted administrative remedies under the
27 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §
28 2699.3(a), (c); Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on

1 approximately January 19, 2022, to include a PAGA claim. *See id.*; Exhibit B. There is no date set for
2 a motion for certification or trial in this matter. *See* Decl. Rodriguez, ¶ 4.

3 **III. INVESTIGATION AND DISCOVERY CONDUCTED**

4 Plaintiff thoroughly investigated issues affecting certification, the merits of the class claims, and
5 potential damages for such claims. *See id.* Plaintiff worked during the time all of Defendant's policies
6 and practices at issue in the Complaint were in effect and provided information regarding these policies
7 and practices, enabling pre-filing investigations to take place. *See* Decl. Arroyo ¶¶3, 5. The parties
8 engaged in informal discovery and an exchange of documents, including a representative sampling of
9 employee data, such as time records, payroll records, payroll data, relevant policies for the entirety of
10 the statute of limitations applicable to the alleged claims, and financial documents for Defendant and
11 Defendant's individual owners. The discovery covered all aspects of the asserted claims, including
12 certification issues, merits issues, damages, the scope and configuration of Class Members, the content
13 and implementation of the wage and hour policies at issue, issues relating to manageability concerns at
14 trial, among other relevant areas. *See* Decl. Rodriguez, ¶ 10. The information allowed Plaintiff to
15 determine the extent and frequency of any violations in accordance with Plaintiff's contentions and
16 create an accurate damages model to assess the reasonableness of any settlement. *See id.*

17 **IV. NEGOTIATION AND PROPOSED SETTLEMENT**

18 **a. Plaintiff and Defendant Engaged in Extensive Arm's Length Negotiations**

19 The final settlement occurred only after extended, and sometimes contentious, arm's length
20 negotiations. Over the course of approximately six months, Plaintiff has been investigating the claims
21 and discussing with Defendant's counsel the merits of the claims and certification issues present in this
22 case. *See id.* at ¶¶ 6-13. The parties exchanged substantial amounts of information and legal analysis
23 regarding the asserted claims. *See id.* Then, only after nearly six months of litigation and negotiation,
24 which included a full day mediation with Brandon R. McKelvey, Esq., the parties able to reach a
25 mutually agreeable settlement. *See id.* at ¶ 11. In light of the claims and defenses at issue and
26 Defendant's financial condition, the parties agreed to a Gross Settlement Amount of \$150,000. *See*
27 Exhibit A.

28 //

1 **b. The Terms of the Settlement**

2 Under the Agreement, Defendant has agreed to the following:

3 1. The following groups of individuals are covered by the Settlement (*See* Exhibit A, ¶¶
4 1.2, 1.9, 1.10, 1.27):

5 Aggrieved Employees: All non-exempt employees who have worked, or
6 continue to work, for Epic Home Solar in California during the PAGA
7 Claim Period (*i.e.*, October 26, 2020 up to June 25, 2022).

8 Class Members: All non-exempt employees who have worked, or continue
9 to work, for Epic Home Solar in California during the Class Period (*i.e.*,
10 November 3, 2017 up to June 25, 2022).

11 2. Pay Gross Settlement Amount of \$150,000, exclusive of the employer's share of payroll
12 taxes, on a claims made basis to resolve and release the claims alleged in the Complaint. *See id.* at ¶
13 5.1. Regardless of the claims rate, Defendant will be obligated to pay out a minimum of 50% of the
14 Net Settlement Amount. *See id.* at ¶ 5.8.1. In the event that less than 50% of the Net Settlement
15 Amount is claimed by Class Members who submit valid Claim Forms, the Qualified Claimants, *i.e.*,
16 Class Members who have submitted valid Claim Forms, will have their individual claim amounts
17 increased pro rata until 50% of the Net Settlement Amount is distributed. *See id.* Aggrieved
18 Employees will still be paid their share of the PAGA Payment regardless of whether they opt out of
19 being Class Members or submit Claim Forms. *See id.* at ¶ 7.5.1.

20 3. The parties agree that up to \$10,000 for Plaintiff Isidro Arroyo will be paid as a Class
21 Representative Enhancement Payment. This amount will be in addition to any amount Plaintiff may be
22 entitled to under the terms of the Agreement. *See id.* at ¶ 5.4.

23 4. The parties agree that the cost of administering this class action settlement shall be paid
24 from the settlement proceeds. Subject to Court approval, the parties have selected ILYM Group, Inc. to
25 act as the Claims Administrator, who has provided a maximum cost estimate of \$8,150 to administer
26 the class settlement. *See* Exhibit D (ILYM Group, Inc. Quote). The difference between any actual
27 administration costs and the \$10,000 allocated under the Agreement, if any, will be added to the Net
28 Settlement Amount. *See* Exhibit A, ¶ 5.3.

 5. The parties agree that \$5,000 of the Gross Settlement Amount shall be allocated to
 resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to

1 the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. *See id.* at ¶ 5.5.
2 Given the derivative nature of the penalties, the efforts by Defendant to maintain compliant policies and
3 take corrective action, the presence of what may likely be deemed good faith disputes, and the Court's
4 discretion to reduce any penalty award, Plaintiff believes the PAGA Payment allocation represents a
5 meaningful settlement aimed at deterring non-compliance given the facts of this case. *See Decl.*
6 Rodriguez, ¶ 13; *see also Davis v. Cox Comme'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1
7 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Jack v.*
8 *Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA
9 allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416,
10 *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v.*
11 *Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA
12 allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052,
13 at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement)

14 6. The parties agree that up to thirty-five percent (35%) of the Gross Settlement Amount
15 (\$52,500) will be paid for Plaintiff's attorneys' fees incurred in the litigation of this case. Defendant
16 will not oppose any application for attorneys' fees so long as it is within this threshold. *See id.* at ¶ 5.2.
17 Additionally, the parties agree that Plaintiff will be entitled to the actual litigation costs as approved by
18 the Court in an amount not to exceed \$15,000. *See id.* The difference between any actual costs and the
19 \$15,000 allocated will be added to the Net Settlement Amount. *See id.* The proposed notice to be sent
20 to Class Members will state this information. *See Exhibit F.*

21 7. Any Claims Administrator Costs, any amounts paid for attorneys' fees and costs, the
22 Class Representative Enhancement Payment, and PAGA Payment will be paid out from the Gross
23 Settlement Amount, not in addition to the Gross Settlement Amount. *See Exhibit A*, ¶ 1.22.

24 8. In consideration for the value received in the Agreement, Class Members who fail to
25 timely opt-out of this settlement will waive all Qualified Claimant's Released Claims as set forth in the
26 Agreement. *See id.* at ¶¶ 1.32, 1.35. Aggrieved Employees will waive all Released PAGA Claims as
27 set forth in the Agreement regardless of whether they opt out of being a Class Member. *See id.* at 1.34-
28 1.35.

1 9. For any portion of the Net Settlement Amount or PAGA Payment allocated to Qualified
2 Claimants and/or Aggrieved Employees that is not claimed by them by cashing their respective
3 settlement checks within 180 calendar days of issuance, that remaining amount shall be donated
4 equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine of
5 *cy pres*. See Exhibit A, at ¶ 5.6.¹ Because the Agreement provides for all funds such that there is no
6 residue, the provisions of California Civil Procedure Code section 384 are inapplicable. See *In re*
7 *Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). Notwithstanding this fact, the designated
8 beneficiaries clearly promote the law consistent with the objectives and purposes underlying the
9 lawsuit. See *id.* at 723-724 ("The court's proper focus in this context is not so much whether another
10 type of distribution might be better, but the extent to which the distribution, as proposed, is
11 appropriately useful in fulfilling the purposes of the underlying cause of action"). These organizations
12 are non-profits aimed at assisting employees with wage and hour claims who cannot afford legal
13 representation, including providing representation for employees in wage claims before the California
14 Labor Commissioner. See Decl. Rodriguez, ¶¶ 25-27. Plaintiff's counsel regularly volunteer for these
15 organizations and, as such, can attest that they organizations fulfill the purposes underlying the claims
16 alleged in this lawsuit. See *id.* For these reasons, the proposed *cy pres* distribution is appropriate.

17 **c. Allocation of Settlement Funds**

18 Payment to Qualified Claimants of their share of the Net Settlement Amount will require the
19 submission of a Claim Form. Payment to Aggrieved Employees of their share of the PAGA Payment
20 will not require the submission of a Claim Form. Payment of Claim Amounts to Qualified Claimants
21 shall be as follows: A Net Settlement Amount will be determined by subtracting from the Gross
22 Settlement Amount any amounts for approved attorneys' fees and costs, any Enhancement Payment to
23 the Class Representative, the Claims Administrator Costs, and the PAGA Payment. Each Qualified
24 Claimant's share of the Net Settlement Amount shall be determined by taking the Qualifying
25 Workweeks for the individual Qualified Claimant and dividing that by the Qualifying Workweeks for all
26 Class Members and multiplying that fraction by the Net Settlement Amount. However, regardless of the
27

28 ¹ Pursuant to the Court's prior tentative ruling, the proposed order reflects the 180 days for the check cashing period, which
will govern over the 120 days stated in the Agreement pursuant to Section 8.1

claims rate, Defendant shall be obligated to pay out a minimum of 50% of the Net Settlement Amount. If less than 50% of the Net Settlement Amount is claimed by Qualified Claimants, the Qualified Claimants will have their individual shares of the Net Settlement Amount increased, pro rata, until 50% of the Net Settlement Amount is distributed. Any portion of the Net Settlement Amount in excess of the minimum 50% threshold that is not claimed by Qualified Claimants shall remain the property of Defendant. *See id.* at ¶¶ 5.8-5.8.1. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. *See id.* at ¶¶ 5.8, 5.8.2.

V. ARGUMENT

a. Class Action Settlements are Subject to Court Review and Approval Under the California Rules of Court

A class action may not be dismissed, compromised, or settled without Court approval and the decision to approve or reject a settlement is committed to the Court's sound discretion. *See* Cal. Rules of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)²; *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001); *see also* Cal. Lab. Code §§ 2699(1)(2) (requiring Court review of PAGA settlements). However, courts should give "proper deference to the private consensual decision of the parties," since "the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Where a settlement is reached on terms agreeable to all parties, a court should disapprove of the settlement "only with considerable circumspection." *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975). The law favors settlement of lawsuits, particularly class actions and other complex cases where substantial resources

²The California Supreme Court has authorized California's trial courts to rely on these federal resources to decide class certification issues. *See Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

1 can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Neary v. Regents of*
2 *Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992).

3 **b. The Terms of The Settlement Are Fair and Within the Range of Reasonableness**

4 The purpose of the Court's preliminary evaluation of a proposed class action settlement is to
5 determine only whether the proposed settlement is within the range of possible approval and whether
6 notice to the class of its terms and conditions and the scheduling of a formal fairness hearing is
7 warranted. *See Wershba*, 91 Cal. App. 4th at 234-35. If the Court finds a proposed settlement falls
8 within "the range of reasonableness," it should grant preliminary approval of the class action settlement.
9 *See, e.g., North County Contr. 's Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal. App. 4th 1085, 1089-90
10 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 133 (2008). To make the fairness
11 determination, the Court must consider several factors, including:

12 the strength of the Plaintiff's case, the risk, expense, complexity and likely
13 duration of further litigation, the risk of maintaining class action status
14 through trial, the amount offered in settlement, the extent of discovery
15 completed and the stage of the proceedings, the experience and views of
counsel, the presence of a governmental participant, and the reaction of the
class members to the proposed settlement.

16 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). However, this Court should begin its
17 analysis with a presumption that the proposed settlement is fair. "A presumption of fairness exists
18 where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery
19 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
20 litigation; and (4) the percentage of objectors is small." *Id.* at 1802.

21 **i. The Settlement is a Result of Extensive, Non-Collusive Arm's Length**
22 **Negotiations Between the Parties**

23 Settlement in this case was reached only after litigation and extensive arm's length negotiations
24 lasting nearly six months, which included a full day mediation with Brandon McKelvey, Esq. *See Decl.*
25 *Rodriguez*, ¶¶ 6-12. At all times, the negotiations were adversarial and contentious, although still
26 professional in nature. *See id.* Further, while Plaintiff contends he would ultimately prevail on the
27 claims and the issue of certification, this is not a certainty and there is substantial risk in proceeding to
28 further litigation. *See id.* at ¶¶ 6-12. The ability to secure a guaranteed settlement now and ensure Class

Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this settlement. *See id.*

ii. The Extent of Investigation and Discovery Completed Provided Ample Information to Enter Into an Informed and Reasonable Settlement

The parties were in possession of all necessary information during the negotiations. The parties engaged in substantial informal discovery and an exchange of documents, including a representative sampling of employee data, such as time records, payroll reports, payroll data and relevant policies for the entirety of the statute of limitations applicable to the alleged claims, which covered all aspects of the class claims and helped thoroughly vet the extent of Plaintiff's claims against Defendant and create an accurate damages model. *See id.* at ¶ 6-12. Plaintiff was in possession of this information prior to calculating the potential damages in this case. *See id.* As a result, Plaintiff was able to make a reasonable estimation of Defendant's potential liability. *See id.* For these reasons, the settlement now before the Court was reached at a stage where "the parties certainly have a clear view of the strengths and weaknesses of their cases" sufficient to support the settlement. *Boyd v. Bechtel Corp.*, 485 F.Supp. 610, 617 (N.D. Cal. 1979).

iii. Plaintiff's Counsel Is Experienced in Similar Litigation

Plaintiff's counsel has considerable experience in class and PAGA actions and wage and hour litigation. Plaintiff's counsel has brought and are currently bringing several wage and hour class and/or PAGA actions. Thus, Plaintiff's counsel are qualified to evaluate the class claims, value of settlement versus moving for certification and going to trial, and the viability of possible affirmative defenses. *See* Decl. Rodriguez, ¶¶ 13-18. Plaintiff's counsel believes that the settlement is fair and reasonable in light of the complexities of the case, the uncertainties of class certification and litigation, Defendant's financial condition, and the secured benefit to the class. *See id.* at ¶¶ 10-12.

iv. The Settlement is Fair and Reasonable Based on the Strength of Plaintiff's Case and the Risks and Costs of Further Litigation

A review of the Agreement's terms does not give rise to any doubts about its fairness. Based on the records and facts of this case, Plaintiff has secured a gross recovery of approximately 14.7% and a net recovery of approximately 5.6% of the claims' maximum likely value. *See id.* at ¶¶ 10-12.

1 Additionally, the average net award per class member is approximately \$542.45. *See id.* This
2 settlement is a reasonable compromise of the class and PAGA claims, and is within the percentile
3 ranges of the total available damages that have been approved in other class settlements. *See Wershba,*
4 *91 Cal. App. 4th at 246, 250; Rebney v. Wells Fargo Bank, 220 Cal.App.3d 1117, 1139 (1990); Officers*
5 *for Justice v. Civil Serv. Comm'n, 688 F.2d 615, 628 (9th Cir. 1982); see also In re Omnivision*
6 *Technologies, Inc., 559 F.Supp.2d 1036, 1042 (2007)* (noting that certainty of recovery in settlement of
7 6% of maximum potential recovery after reduction for attorney's fees was higher than median
8 percentage for recoveries in shareholder class action settlements, averaging 2.2%-3% from 2000
9 through 2002); *Bravo v. Gale Triangle, Inc., 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017)* (approving
10 a settlement where the net recovery to class members was approximately 7.5% of the projected
11 maximum recovery amount); *Avila v. Cold Spring Granite Co., 2017 U.S. Dist. LEXIS 130878 (E.D.*
12 *Cal. 2017)* (approving a settlement with a gross recovery of 11% of the projected maximum damages
13 available and a net recovery of approximately 6.7% of the projected maximum recovery);
14 *Bellinghausen v. Tractor Supply Co., 306 F.R.D. 245 (N.D. Cal 2015)* (approving a settlement where
15 the gross recovery was approximately 8.5% of the projected maximum recovery).

16 A settlement agreement may also provide for a claims made and reversion procedure so long as
17 the settlement, as a whole, is still fair, reasonable, and adequate. *See In re Microsoft I-V Cases, 135*
18 *Cal.App.4th 706, 721 (2006)* ("The analysis additionally recognized that a court approved settlement
19 could properly include a 'reversion of ... funds to the defendant'"); *Cundiff v. Verizon California, Inc.,*
20 *167 Cal.App.4th 718, 728 (2008)* (noting that *In re Microsoft I-V Cases* found that a class settlement
21 may provide for a reversion so long as it does not render the settlement, as a whole, unfair, inadequate,
22 or unreasonable and distinguishing the case before it on the grounds that the class settlement agreement
23 made no provision for unclaimed funds). The claims made and reversion procedure in this case was
24 agreed to as a result of the Defendant's financial condition. *See Decl. Rodriguez, ¶ 7.* It was only after
25 Plaintiff's counsel reviewed financial documents to verify Defendant's financial condition, weighed the
26 relevant interests, and considered potential alternatives that the claims made and reversion procedure
27 was agreed to. *See Decl. Rodriguez, ¶¶ 7-9.* The claims made and reversion procedure appropriately
28

1 balance the relevant interest in this case and do not render the settlement unfair, unreasonable, or
2 inadequate.

3 **v. The Proposed Settlement is a Reasonable Compromise of Claims**

4 The case of *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008) requires additional
5 information be presented to the Court, acting as a fiduciary for the absent class members “to ensure that
6 the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims
7 being released, discounted by the risks and expenses of attempting to establish and collect on those
8 claims by pursuing the litigation” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los*
9 *Angeles*, 186 Cal. App. 4th 399 (2010), clarified that a *Kullar* showing does not require the parties to
10 submit an illusory prediction of the outer reaches of exposure without taking into account the actual
11 risks of certification, decertification, dispositive motions, and trial. *Kullar* also does not require an
12 explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its
13 claims provided there is a record that allows “an understanding of the amount that is in controversy and
14 the realistic range of outcomes of the litigation.” *Id.* at 409. The *Munoz* Court found that the record
15 before the trial court was sufficient, having included the number of class members, payroll data,
16 declarations describing hours and overtime worked, as well as variances in duties and rest and meal
17 period experience, and a companion action alleging less than \$5,000,000 in damages. This information
18 constituted “an adequate basis from which to garner a reasonably adequate understanding of the amount
19 that is in controversy within the meaning of *Kullar*.” *Id.*

20 Plaintiff similarly relied upon payroll data and Class Members’ data to determine the realistic
21 potential damages suffered by the class as a whole. *See* Decl. Rodriguez, ¶¶ 7-10. This analysis
22 allowed Plaintiff to determine the extent and frequency of potential violations on all claims as to all
23 Class Members. *See id.* Ultimately, Plaintiff secured a percentage of the total demand for the putative
24 class that is within the range of what has been found to be sufficient in several other cases. *See, supra*,
25 Section V.c.iv; *see also, e.g., In re Omnivision Technologies, Inc.*, 559 F.Supp.2d at 1042; *Reed v. 1-*
26 *800 Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014) (approving a settlement of \$11.7
27 million where the maximum range of damages was \$5,000 for each of the alleged 300,000 instances of
28 unlawful recording violations (\$1.5 billion), equaling approximately .78% of the total demand and

1 approximately \$800 per class member). This settlement represents a reasonable compromise given the
2 percentage of the total demand that was secured, the average recovery per class member, the Court's
3 ability and discretion to cut PAGA penalties, the uncertainty of class certification, and Defendant's
4 financial condition. *See* Decl. Rodriguez, ¶ 10-12.

5 **vi. Attorneys' Fees and Costs, Enhancement Payment, and Claims Administrator**
6 **Costs To Be Requested In Connection With Final Approval**

7 Should the Court grant preliminary approval of the Agreement, Plaintiff will make a request in
8 connection with the final approval briefing for attorney's fees in the amount of \$52,500 (35% of the
9 Gross Settlement Amount), costs in an amount not to exceed \$15,000, Settlement Administrator Costs
10 in an amount not to exceed \$10,000, and an Enhancement Payment for the Class Representative in the
11 amount of \$10,000. Plaintiff believes an award of attorney's fees under the common fund doctrine is
12 appropriate in this case. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) ("A lawyer who
13 recovers a common fund for the benefit of persons other than . . . her client is entitled to a reasonable
14 attorney's fee from the fund as a whole."); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506
15 (2016). Similarly, Plaintiff believes the amounts to be requested for attorney's fees and costs are within
16 accepted ranges. Historically, attorneys' fee awards in common fund cases in general range from 20%
17 to 50% of the fund, depending on the circumstances of the case. *See Newberg on Class Actions*, (3rd
18 Ed. 1992), §14.03 (finding 50% to be the upper limit). Awards ranging between 30% and 40% of the
19 fund are generally approved as reasonable in representative litigation settlements below \$10 million.
20 *See Martin v. Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796, *22-23 (S.D. Cal. 2011) (collecting
21 cases); *Birch v. Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC)
22 (awarding 40% fee on a \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt.*
23 *Corp.*, USDC Southern District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75
24 million wage and hour class action settlement). Similarly, the amounts to be requested for Claims
25 Administrator Costs and an Enhancement Payment to the Class Representative are within accepted
26 ranges. *See West v. Circle K Stores, Inc.*, 2006 U.S. Dist. LEXIS 76558, at *7-*8, *12, *27 (E.D. Cal.
27 Oct. 19, 2006) (awarding a \$15,000 representative enhancement where 10,000 class members were to
28 receive a gross award of approximately \$500 each from the \$5,000,000 settlement); *see Dent v. ITC*

1 *Serv. Croup*, 2013 U.S. Dist. LEXIS 139359, at *9-*10, *15-*16 (D. Nev. Aug. 6, 2013) (awarding a
2 \$15,000 representative enhancement out of a \$150,000 settlement for approximately 530 class
3 members); *See Patel v. Nike Retail Services, Inc.*, 2019 WL 2029061 at *2 (N.D. Cal. 2019) (\$5,261 for
4 settlement administrator's fees was not excessive where PAGA group consisted of 40 employees).

5 The Notice of Settlement will state the amounts to be requested to provide Class Members the
6 ability to comment thereon, which will provide evidence of whether the requested amounts are
7 reasonable. *See* Exhibit F at pg. 2, § II.A; *see also In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS
8 13555, 71 (C.D. Cal. 2005) ("the absence of objections or disapproval by class members to class
9 counsel's fee request further supports finding the fee request reasonable"). In connection with the final
10 approval briefing, Plaintiff will provide information to enable a lodestar cross check of the requested
11 fee, a detailed declaration from Plaintiff regarding their time spent on the case as well as any risks and
12 burdens incurred as the Class Representative, an updated itemized costs spreadsheet, and a declaration
13 from the Claims Administrator detailing the work performed and Claims Administrator Costs incurred.
14 *See* Decl. Rodriguez, ¶ 23. Any allocated amounts not ultimately awarded by the Court will be
15 distributed to Class Members pro rata. *See* Exhibit A, ¶¶ 5.2-5.4, 5.8-5.8.1..

16 **c. The Proposed Notice Procedures Comply With Class Members' Due Process Rights**

17 It is not required that Class Members be given actual notice of class settlement; instead, "the
18 best practicable notice under the circumstances, including individual notice to all members who can be
19 identified through reasonable effort" is all that is required. *See* Fed. R. Civ. Proc. 23(c)(2)(b); *Silber v.*
20 *Mabon*, 18 F.3d 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th
21 Cir. 2017); *Walsh v. CorePower Yoga LLC*, 2017 U.S. Dist. LEXIS 163991, at *12-14 (N.D. Cal.
22 2017); *Wright v. Linkus Enters.*, 259 F.R.D. 468, 474-75 (E.D. Cal. 2009). In *Silber v. Mabon*, 18 F.3d
23 1449 (9th Cir. 1994), the Court rejected a class member's argument that he had not received due
24 process because he did not receive notice until after the opt out period, finding that, so long as the
25 notice process utilized is the best practicable under the circumstances, due process is satisfied even if
26 there is no actual receipt of the notice. *See Silber*, 18 F.3d at 1453-1454. A similar finding was made
27 in *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017), which further noted that those class
28 members who did not receive actual notice may still receive benefits from the settlement through a cy

1 *pres* distribution. *See Briseno*, 844 F.3d at 1129. With regard to any potential undeliverable Notice of
2 Settlement in this case, the Court in *Rannis v. Recchia*, 380 F. App'x 646 (9th Cir. 2010) found that
3 class members who did not receive actual notice due to their mailings being deemed undeliverable were
4 still properly held to be part of the class settlement because they received the best notice practicable
5 under the circumstances. *See Rannis v. Recchia*, 380 F. App'x at 650-651. In *Noel v. Thrifty Payless,*
6 *Inc.*, 7 Cal. 5th 955, 980-984 (2019), the California Supreme Court noted that California has adopted a
7 similar approach regarding providing notice to class members.

8 The notice method in *Rannis* is similar to that used in the present case. For example, the Notice
9 of Settlement contains all information necessary for a Class Member to assess the litigation, the
10 settlement, and whether they wanted to participate, object, or opt-out. *See* Exhibit F. The Claims
11 Administrator will utilize a national change of address database, forwarding notices, and skip tracing in
12 an effort to ensure that all reasonable means were exhausted in attempting to provide Class Members
13 notice of this settlement. *See* Exhibit A, ¶¶ 7.1-7.4. To the extent that these efforts do not result in an
14 updated address for any mailing returned as undeliverable, the Claims Administrator and Defendant,
15 will work to obtain an updated address directly from any Class Member who is actively employed by
16 Defendant at the time. *See* Exhibit A, ¶ 7.4. No later than thirty-five days after the initial notice
17 mailing, a reminder post card will be mailed to Class Members who have not yet submitted a Claim
18 Form and who have not opted out. *See id.* The content of the notice provided and the manner in which
19 it will be provided to Class Members is the best practicable notice to satisfy due process. In a case
20 utilizing similar claim and notice procedures, approximately 78% of the net settlement amount was
21 claims. *See* Decl. Rodriguez, ¶ 14. As noted in *Briseno*, Class Members, including any whose Notice
22 of Settlement is deemed undeliverable, will receive indirect benefit through a *cy pres* distribution in this
23 case. *See* Exhibit A, ¶ 5.6.

24 **d. Provisional Certification of the Class is Appropriate**

25 Class certification is appropriate when (1) the class is ascertainable and (2) there is “a well-
26 defined community of interest in the questions of law and fact involved affecting the parties to be
27 represented.” *Dunk*, 48 Cal. App. 4th at 1806. The “community of interest” element “embodies three
28 factors: (1) common questions of law or fact predominate; (2) class representatives with claims or

1 defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Id.*
2 Here, the parties agree that, for the purposes of settlement, these prerequisites are met. *See* Exhibit A.

3 **i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous**

4 The proposed settlement class is ascertainable because all putative class members can be readily
5 identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7 Cal.5th
6 955, 980 (2019); *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981); *Lee v. Dynamex, Inc.*, 166
7 Cal. App. 4th 1325, 1334 (2008). The numerosity requirement is met because there are 106 individuals
8 who fall within the definition of Class Member, which makes joinder of all members impracticable.
9 *See Gay v. Waiters’ & Dairy Lunchmen’s Union*, 489 F.Supp. 282 (N.D. Cal. 1980), *aff’d* 694 F.2d 531
10 (9th Cir. 1982); *Hebbard v. Calgrove*, 28 Cal. App. 3d 1017, 1030 (1972) (noting no set minimum to
11 meet the numerosity prerequisite, but a class as few as twenty-eight (28) members is acceptable). Thus,
12 these requirements are satisfied.

13 **ii. The Commonality, Predominance, and Typicality Requirements are Met**

14 The commonality requirement is met when there are questions of law or fact regarding the class
15 as a whole. *See Hanlon*, 150 F.3d at 1019. Commonality requires only that some common legal or
16 factual questions exist; Plaintiff need not show that all issues in the litigation are identical. *See*
17 *Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v. Superior Court*, 12 Cal.3d
18 447, 460 (1974). Common questions of law or fact must also predominate over individual questions
19 and class-wide treatment of a dispute must be superior to individual litigation.³ *See Richmond*, 29
20 Cal.3d at 469. Predominance requires a putative class be sufficiently cohesive to warrant adjudication
21 by representation. *See Hanlon*, 150 F.3d at 1022. The typicality requirement is met when claims of the
22 named representative are typical of those of the class, though “they need not be substantially identical.”
23 *Id.* at 1020; *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983).

24 The common questions of law and fact in this case stem from Plaintiff’s contention that
25 Defendant violated California law by 1) failing to adequately track all hours worked and whether all
26 meal periods were received; 2) failing to pay all hours worked; 3) failing to pay piece rate workers
27

28 ³When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only and that manageability of trial is therefore irrelevant. *See Amchem Products v. Windsor*, 521 U.S. 591 (1997).

1 overtime premiums; 4) failing to pay all piece rate compensation owed; 5) failing to provide all meal
2 periods, including a second meal period for shifts over 10 hours; 6) failing to provide all rest periods,
3 including a third rest period for shifts over 10 hours; 7) failing to compensate for time spent during rest
4 periods and other non-productive time; 8) failing to provide all paid sick leave in accordance with the
5 Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for personal cellphone use
6 and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and 11) failing to provide
7 accurate wage statements. *See* Exhibit B. The waiting time penalties, unfair competition, and PAGA
8 claims are derivative of these violations. *See id.* Plaintiff and the Class Members seek the same
9 remedies under state law. Under these specific circumstances, the commonality and predominance
10 requirements are satisfied. Regarding the typicality requirement, Plaintiff contends he suffered from
11 the same unlawful policies, treatment, and circumstances as Class Members did, will request the same
12 remedies, and will rely on the same methods of proof to establish liability and damages. *See id.* Thus,
13 the typicality requirement is also satisfied for settlement purposes.

14 **iii. The Adequacy Requirement is Met**

15 The adequacy of representation requirement is met if the named representative and counsel have
16 no interests adverse to those of the putative class members and are committed to vigorously prosecuting
17 the case on behalf of the class. *See Hanlon*, 150 F.3d at 1020; *McGhee v. Bank of America*, 60
18 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Under the proposed settlement,
19 Plaintiff and the putative Class Members will receive a pro rata share of the settlement based on the
20 number of workweeks they worked for Defendant. *See* Exhibit A. Finally, any settlement class
21 member who wishes to opt-out of the settlement may do so, and he or she may also dispute the number
22 of workweeks stated in the Notice of Settlement (Exhibit F).

23 There is no conflict of interest between Plaintiff and Class Members. Plaintiff and Plaintiff's
24 counsel have pursued the claims made in the operative Complaint vigorously on behalf of the class.
25 Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by
26 speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter
27 engaged Defendant's counsel in settlement discussions over the course of approximately six months.
28 Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims. Because

1 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Under the proposed settlement,
2 Plaintiff and the putative Class Members will receive a pro rata share of the settlement based on the
3 number of workweeks they worked for Defendant. *See* Exhibit A. Finally, any settlement class
4 member who wishes to opt-out of the settlement may do so, and he or she may also dispute the number
5 of workweeks stated in the Notice of Settlement (Exhibit F).

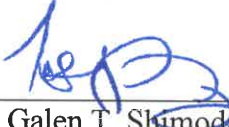
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7 counsel have pursued the claims made in the operative Complaint vigorously on behalf of the class.
8 Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by
9 speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter
10 engaged Defendant's counsel in settlement discussions over the course of approximately six months.
11 Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims. Because
12 Plaintiff's counsel has vigorously pursued Plaintiff's and the Class Members' claims, the adequacy
13 requirement is met. *See generally* Decl. Berzin.

14 VI. CONCLUSION

15 For all of the foregoing reasons, Plaintiff respectfully requests that this Court preliminarily and
16 conditionally certify the class for settlement purposes; grant preliminary and conditional approval to the
17 proposed settlement, including the Plaintiff's Class Representative Enhancement Payment, the payment
18 to the LWDA under PAGA, and Class Counsel's application for reasonable attorneys' fees and costs;
19 approve the Notice of Settlement and Claim Form, including the proposed deadlines for opting-out of
20 and objecting to the settlement; and schedule the final settlement approval hearing. A copy of
21 Plaintiff's proposed order is being filed concurrently herewith.

22
23 Dated: September 21, 2022

Shimoda & Rodriguez Law, PC

24
25 By: 

26 Galen T. Shimoda
27 Justin P. Rodriguez
28 Brittany V. Berzin
Attorneys for Plaintiff

FILED BY FAX

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Attorneys for Plaintiff ISIDRO ARROYO
individually and on behalf of similarly situated employees

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

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No.: 2658496

Date: October 7, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: November 3, 2021

FAC Filed: January 19, 2022

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Isidro Arroyo ("Plaintiff") herein. I am making this
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff's
5 Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion"). A true and
6 correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 ("Agreement") in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Defendant Epic Home
9 Solar ("Defendant")'s alleged failure to pay overtime wages, failure to pay minimum wages, meal
10 period violations, rest period violations, wage statement violations, waiting time penalties, failure to
11 reimburse expenses, unfair competition, failure to pay nonproductive time, failure to pay contract
12 wages, unlawful deductions, failure to maintain accurate records, failure to provide paid sick leave, and
13 untimely payment of wages. Plaintiff also alleged liability for civil penalties under the Private
14 Attorneys General Act ("PAGA"). These claims were based allegations that Defendant violated
15 California law by 1) failing to adequately track all hours worked and whether all meal periods were
16 received; 2) failing to pay all hours worked; 3) failing to pay piece rate workers overtime premiums; 4)
17 failing to pay all piece rate compensation owed; 5) failing to provide all meal periods, including a
18 second meal period for shifts over 10 hours; 6) failing to provide all rest periods, including a third rest
19 period for shifts over 10 hours; 7) failing to compensate for time spent during rest periods and other
20 non-productive time; 8) failing to provide all paid sick leave in accordance with the Healthy
21 Workplaces Healthy Families Act of 2014; 9) failing to reimburse for personal cellphone use and
22 mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and 11) failing to provide
23 accurate wage statements. The PAGA, waiting time penalty, and unfair competition claims also derive
24 from these violations.

25 3. Plaintiff is the only named representative in this matter. From our initial investigations
26 of Plaintiff's claims and documents, we believed these claims had merit and could be maintained as a
27 class action. We filed the action on or about November 3, 2021. Plaintiff exhausted administrative
28 remedies through the Labor and Workforce Development Agency ("LWDA") prior to amending the

1 Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on October 26, 2021, setting
2 forth the facts and theories of liability. A true and correct copy of the notice filed with the LWDA is
3 being filed with this Motion as Exhibit C. A copy of the notice was also sent to Defendant via certified
4 mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no response by the
5 LWDA regarding its intent to investigate the claims alleged in Plaintiff's notice for more than 65 days.
6 As such, Plaintiff became authorized to commence a civil action under the PAGA and filed a First
7 Amended Complaint on January 19, 2022. A true and correct copy of Plaintiff's operative Complaint is
8 filed with this Motion as Exhibit B. A copy of the Complaint was uploaded to the LWDA on January
9 25, 2022, after we received an endorsed copy back from Court.

10 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

11 5. Defendant is represented in this matter by CDF Labor Law LLP. From the beginning,
12 Defendant has contested the merits of this case, the suitability of the case for class action or
13 representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a
14 violation in each pay period for each employee among other defenses and contentions it made
15 challenging the propriety of this action. Defendant further contended even assuming there was a
16 finding supporting the imposition of PAGA penalties, that the Court would likely exercise its discretion
17 to substantially reduce any such penalties owed based on evidence of good faith attempts to comply
18 with California Labor Code obligations by Defendant. Notwithstanding its agreement to settle this
19 matter, Defendant believes the practices Plaintiff is contending are unlawful either do not exist or, to
20 the extent they do exist, fully comply with all state and federal employment laws with respect to
21 Plaintiff and Class Members.

22 6. Based on the expected testimony from Plaintiff and Class Members, a review of
23 Defendant's policies and procedures and other documents relating to the alleged claims, information on
24 the number of Class Members, Class Members' dates of employment, and a representative sample of
25 Class Members' payroll data, the scope of the potential damages to Plaintiff and Class Members in light
26 of the claims alleged, the uncertainty in the law with regard to certification, and the negotiations that
27 have taken place, I am convinced that the proposed settlement is in the best interest of the class. The
28 length and risks of trial and other normal perils of litigation that impact the value of the claims were also

1 considered and weighed in reaching the Agreement. In addition, I carefully considered the prospect of
2 potential class certification issues as well as the uncertainty of class certification, the difficulties of
3 complex litigation, and the lengthy process of establishing specific damages and various possible delays
4 and appeals in agreeing to the proposed settlement. I further considered the fact that penalties under the
5 PAGA could be substantially cut at the discretion of the Court even if Plaintiff was successful on
6 proving those claims and there was risk that a Court could find no willfulness in the failure to pay wages
7 at separation, which would eliminate the value of the waiting time penalty claim entirely. Overall, I
8 believe it is more beneficial to secure a guaranteed benefit to the class now rather than to proceed with
9 litigation and potentially obtain zero funds to the class due to legal or factual issues in the case.

10 7. A significant consideration in agreeing to the settlement, including the use of a claim
11 form and a reversion of unclaimed funds beyond a minimum threshold, was Defendant's financial
12 condition. During negotiations, Defendant contended significant financial constraints impaired its
13 ability to pay any settlement or judgment in this case. In order to assess these claims of financial
14 hardship and evaluate the potential for any bankruptcy filing, our office reviewed Defendant's tax
15 returns and bank statements, the tax returns of Defendant's owners, and year-to-date financial statements
16 for the company. The documents reviewed allowed us to see the current debts, assets, and liabilities for
17 the company and other potential sources of recovery if Plaintiff was successful in obtaining a judgment
18 in favor of the class. It also allowed us to review the company's historical performance to determine if
19 the condition was likely to improve, get worse, or stay the same.

20 8. After review of these documents, I believe the claim form and reversion process laid out
21 in the Agreement strike an appropriate balance of maximizing payouts to Class Members while avoiding
22 insolvency by Defendant. The agreed upon process puts the decision in the hands of the Class
23 Members. Class Members who truly feel wronged are able to submit a Claim Form and receive
24 payment. Those Class Members who do not feel wronged, do not care, or otherwise do not want to
25 receive payment will either a) have their share redistributed to Class Members who did file a Claim
26 Form, increasing the settlement's effective value as to them, or b) have their share revert to Defendant,
27 decreasing the risk of bankruptcy or other actions that might cause Defendant to layoff currently
28 employed Class Members. The requirement that at least fifty percent (50%) of the Net Settlement

1 Amount be paid out ensures Defendant will be required to make a substantial payment regardless of the
2 claims rate.

3 9. We considered alternatives to using the claims made/reversion process while negotiating
4 the Agreement. While a payment plan may be a helpful tool in some settlements, we did not feel it
5 would be beneficial in this case. Payment plans depend on the continued viability of a company in order
6 for those payments to be made, which is a risky proposition in financial distress settlements.
7 Additionally, receipt of settlement funds sooner rather than later is generally more beneficial to Class
8 Members. *See Holt v. Regents of the University of California*, 73 Cal.App.4th 871, 878 (1999) (“The
9 concept of present value recognizes that money received after a given period is worth less than the same
10 amount received today. This is the case in part because money received today can be used to generate
11 additional value in the interim”). We also considered whether a direct payment settlement (*i.e.* non-
12 claims made and no reversion) was feasible. Although we believe the Gross Settlement Amount will not
13 inevitably lead to Defendant falling into bankruptcy should there be a 100% claims rate, this is not
14 guaranteed. That is an assumed risk that is offset by any amounts not claimed by Class Members who
15 do not feel wronged, do not care, or otherwise do not want to receive payment. Thus, it is not the case
16 that the Parties could have just agreed to the same settlement terms, but exclude the claims
17 made/reversion procedures. Any such settlement would have at a substantially lower amount to avoid
18 any risk of bankruptcy, which would negatively affect those Class Members who do feel wronged and
19 want to submit a Claim Form. Balancing all the competing interests and potential alternatives, I believe
20 the claims made and reversion procedures are appropriate under the facts of this case and do not render
21 the settlement unfair, unreasonable, or inadequate.

22 10. My office, including my partner, Galen T. Shimoda, my associate Brittany V. Berzin, our
23 paralegals, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the claims,
24 potential damages for such claims, and Defendant's claim of financial hardship. The parties engaged in
25 informal discovery and an exchange of documents, including a representative sampling of employee
26 data, such as time records, payroll records, payroll data, and relevant policies for the entirety of the
27 statute of limitations applicable to the alleged claims, and financial documents for Defendant and
28 Defendant's individual owners, such as tax returns, bank statements, and profit and loss statements. The

1 discovery covered all aspects of the asserted claims, including certification issues, merits issues,
2 damages, the scope and configuration of Class Members, the content and implementation of the wage
3 and hour policies at issue, issues relating to manageability concerns at trial, among other relevant areas.
4 From this production we were able to assess Defendant's financial condition and determine information
5 critical to a reliable damages analysis such as the average hourly rate, average daily hours worked,
6 average number of workweeks and pay periods that had potential violations based on the asserted
7 claims, the frequency with which violations occurred in a given week and/or pay period, and the number
8 of former employees. This information allowed my office to assess both liability and damages and
9 create an accurate damages model. Plaintiff assisted in all aspects of this litigation including providing
10 factual information relating to Plaintiff's and Class Members' employment conditions, providing a
11 substantial number of documents, and answering questions regarding Defendant's factual contentions in
12 this matter. This was important because it directly related to our ability to maintain this case as a class
13 action and our ability to obtain a favorable settlement for the class.

14 11. Throughout this litigation our office had numerous communications with Defendant's
15 Counsel discussing our respective positions. The parties engaged in mediation on April 26, 2022, using
16 an experienced mediator, Brandon R. McKelvey, Esq. It was only after approximately six months of
17 extensive, arm's length negotiations that the parties were able to reach a settlement, which only occurred
18 after a full-day mediation. The negotiations were at all times contentious and adversarial, though still
19 professional in nature.

20 12. The parties reviewed and analyzed substantial amounts of data regarding the class
21 claims. Based on our analysis and review of all relevant documents and Class Member information, I
22 have determined that the maximum damages for the asserted class claims is approximately
23 \$1,455,090.60, which includes civil penalties under the PAGA. The likely exposure for PAGA
24 penalties is approximately \$529,773.58 based on the counts alleged to the LWDA and the class data.
25 Based on our research, we did not find any prior labor commissioner or court decisions that stated
26 Defendant's practices and/or policies were improper. As such, a "subsequent violation" may not be
27 found for penalty calculation purposes and the exposure analysis here is based on an "initial violation"
28 valuation being adopted by any fact finder if this matter went to trial.

1 13. However, I believe the PAGA penalties in this case may be reduced due to the fact that
2 the penalties would be in addition to amounts owed for substantive violations and much of the penalties
3 are based on violations due to technical non-compliance with the Labor Code. Furthermore, Defendant
4 produced a substantial number of documents that a Court may find demonstrates a good faith attempt at
5 compliance that merits the reduction of civil penalties. Courts regularly cut civil penalties on PAGA
6 claims where statutory penalties for the same violations are assessed as well. Courts are statutorily
7 authorized to use discretion to reduce penalties and the range of discretion used varies substantially.
8 *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30% reduction);
9 *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82% reduction).
10 Thus, civil penalties may be cut to approximately \$95,359.25 (82% reduction) or lower given the
11 derivative recovery. Taking this into account, the likely recovery if Plaintiff was successful at trial on
12 proving all the substantive class damages plus civil penalties after a reduction of the PAGA penalties
13 would be approximately \$1,020,676.26. Taking this into account, Plaintiff's \$150,000 gross recovery
14 under the Agreement represents approximately 14.7% of the maximum likely value in this matter.
15 After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees and
16 costs, any Enhancement Payment to the Class Representative, Claims Administrator Costs, and the
17 PAGA Payment, the net recovery under the Agreement represents approximately 5.6% of the
18 maximum likely value in this matter. I believe the Agreement represents a reasonable compromise of
19 claims based on the legal and factual disputes in this case and Defendant's financial condition. The
20 ability to secure a guaranteed settlement now and ensure Class Members receive some compensation,
21 rather than proceed to further litigation and potentially recover nothing, was a motivating factor in
22 reaching this Agreement.

23 14. Based on the terms of the Agreement, the range of the Net Settlement Amount that will
24 be claimed will necessarily be between 50% to 100%. In a recent claims made settlement our office
25 was involved in, 78% of the net settlement amount was claimed. The class in that case also included
26 individuals within the construction industry and the notice method was similar to what we have
27 proposed in this case. The exact percentage of individuals who will or will not submit a claim will vary
28 from case to case because it is a function of the number of individuals who truly feel wronged and want

1 to submit a claim for versus those who do not feel wronged, do not care, or otherwise do not want to
2 receive payment. Additionally, even where the percentage of individuals who file a claim form is
3 small, a substantial majority of the Net Settlement Amount may still be paid out because those
4 participating class members comprise a substantial majority of the workweeks, which is how payments
5 are allocated (*e.g.* 25% of class members account for 75% of the total workweeks or Net Settlement
6 Amount allocation). Regardless of what Class Members may ultimately choose to do in submitting or
7 not submitting a Claim Form, I believe the proposed notification procedures are designed to reach as
8 many Class Members as possible and provide them with the opportunity to receive payment.

9 15. In agreeing to represent Plaintiff and take on the case for all Aggrieved Employees, our
10 office agreed to take this case on a contingency basis, meaning that we would take a percentage of any
11 settlement or judgment should we recover a monetary amount. We took a risk that we would not
12 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case
13 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to
14 make sure employees are able to find affordable representation in order to ensure that employers are
15 complying with all their legal obligations towards employees and paying employees all their hard-
16 earned wages.

17 16. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law
18 practice that focuses primarily in employment litigation, emphasizing wage and hour litigation. I
19 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the
20 Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two
21 recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the
22 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris
23 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at
24 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my
25 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the
26 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from
27 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*
28 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar

1 Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society
2 and an officer for the Latino Law Students Association from 2009 to 2010.

3 17. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda
4 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.
5 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent
6 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have
7 been recognized as a Super Lawyer (Rising Star). In September 2018, I was a panel speaker for the
8 Sacramento County Bar Association Labor and Employment Law Section's presentation of "*Epic*
9 *Systems*, PAGA, and the Future of Employment Arbitration in California." In July 2020, I was a panel
10 speaker for the Association of Defense Counsel of Northern California & Nevada presentation of
11 "Class Actions and PAGA Claims." My practice focuses on complex civil litigation, including wage
12 and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. I am actively
13 involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have
14 litigated or am currently litigating, including the instant case, includes, but is not limited to, the
15 following:

- 16 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 17 • *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- 18 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 19 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 20 • *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- 21 • *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080
22 (San Joaquin Sup. Ct.);
- 23 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 24 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 25 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
26 Sup. Ct.);
- 27 • *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
28 Ct.);

- 1 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 2 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
- 3 00271174 (Sac. Sup. Ct.);
- 4 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
- 5 Ct.);
- 6 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
- 7 Ct.);
- 8 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
- 9 Sup. Ct.);
- 10 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 11 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 12 Ct.);
- 13 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 14 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 15 00209613 (Sac. Sup. Ct.);
- 16 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 17 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-
- 18 00222101 (Sac. Sup. Ct.);
- 19 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 20 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 21 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 22 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 23 • *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- 24 • *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup.
- 25 Ct.);
- 26 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 27 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 28 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);

- *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. AI Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovations Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and

- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

18. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

19. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar) Employment Review seminars from 2014 to the present. His speaking engagements include the following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6) CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21, 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section – PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and

1 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
2 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
3 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
4 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
5 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
6 as a Super Lawyer from 2014 to present.

7 20. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
8 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
9 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
10 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
11 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
12 Federal Courts, including up to certification, settlement, preliminary and final approval, and
13 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.
14 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
15 include the following:

- 16 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 17 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 18 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 19 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 20 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 21 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 22 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 23 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 24 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
25 Sup. Ct.);
- 26 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 27 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
28 Ct.);

- 1 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
- 2 Ct.);
- 3 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
- 4 Sup. Ct.);
- 5 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 6 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 7 Ct.);
- 8 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 9 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 10 00209613 (Sac. Sup. Ct.);
- 11 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 12 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 13 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- 14 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
- 15 (San Joaquin Sup. Ct.);
- 16 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- 17 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.
- 18 Sup. Ct.);
- 19 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 20 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 21 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.
- 22 Sup. Ct.);
- 23 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 24 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 25 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 26 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 27 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 28 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);

- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

1 21. The preceding list of cases does not include those where, for a variety of reasons, the
2 case was initially filed as a class and/or PAGA action, but did not maintain that status through the end
3 of the case.

4 22. My associate, Brittany V. Berzin, Esq., also worked with me on this matter and was
5 critical in assisting with all aspects of the litigation of this case. Ms. Berzin attended and graduated
6 college from U.C. Davis, receiving a Bachelor of Arts in Psychology. She received her J.D. from the
7 University of the Pacific McGeorge School of Law. She joined Shimoda & Rodriguez Law, PC as a
8 law clerk in February 2015 where she gained civil litigation experience working on individual, class
9 action and PAGA employment cases throughout law school. She also participated in an employment
10 law clinic in 2015 and 2016 that helped low-income workers by providing free legal consultations,
11 advising employees of their legal remedies on a variety of matters (*e.g.*, wage and hour,
12 discrimination/harassment, California leave laws, unemployment, workers' compensation, retaliation,
13 and wrongful termination, etc.) under the supervision of an attorney, preparing wage claims, and
14 providing representation in wage claims before the California Labor Commissioner. From 2016-2017,
15 She completed an externship at the Federal Public Defenders Office as a Certified Law Student where
16 she obtained discovery, completed legal research, drafted motions, negotiated plea deals, represented
17 clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and
18 defended a client against five misdemeanor charges in a jury trial in the United States District Court for
19 The Eastern District of California. Ms. Berzin was also a member of the nationally recognized
20 McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018 after
21 graduating from law school. In May 2017, she graduated from the University of the Pacific, McGeorge
22 School of Law with Great Distinction and was inducted into the Order of the Coif, graduating in the top
23 10% of her class. Ms. Berzin received the Witkin Award for Academic Excellence in Legal Research
24 and Writing, Civil Procedure, Bankruptcy, and Criminal Procedure. From 2020 to present, she has
25 been recognized as a Super Lawyer (Rising Star). Ms. Berzin has been a member of the executive
26 committee of the Sacramento County Bar Association Labor & Employment Section since January
27 2020, serving as Co-Chair of the committee in 2021. She has over seven years of experience working
28 on civil litigation in employment law matters. Most of that experience has been specific to analyzing

1 and litigating wage and hour claims. As an associate, Ms. Berzin has worked on a variety of individual,
2 class action, and PAGA cases involving wage and hour claims, such as failure to pay overtime, failure
3 to pay minimum wages, failure to provide meal and rest periods, failure to pay reimbursement
4 expenses, unlawful deductions, failure to keep accurate time records, failure to provide paid sick leave,
5 failure to pay all wages upon separation, unfair competition, breach of contract, independent contractor
6 misclassification, and salaried misclassifications. Some of the class action and/or PAGA cases she is
7 litigating and/or have litigated as lead or co-counsel, including this case, are as follows:

- 8 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin
9 Sup. Ct.);
- 10 • *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- 11 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- 12 • *Barkhausen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin
13 Sup. Ct.);
- 14 • *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.
15 Cal.);
- 16 • *Blair v. Clark Wagaman Designs*, Case No. 34-2021-00313156 (Sac. Sup. Ct.);
- 17 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 18 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 19 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 20 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 21 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 22 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 23 • *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- 24 • *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- 25 • *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 26 • *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 27 • *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- 28 • *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);

- *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- *Insixiengmay v. Hyatt Corporation*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal);
- *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- *Magat v. Medical Care Professionals, Inc., et. al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup. Ct.);
- *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup. Ct.);
- *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac. Sup. Ct.);
- *Neufield v. Professional Transportation, Inc.*, Case No. 34-2021-00309849 (Sac. Sup. Ct.);
- *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup. Ct.);
- *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);
- *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup. Ct.);
- *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac. Sup. Ct.);
- *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and

- *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

23. In connection with any final approval hearing, I will be seeking attorneys' fees and costs, an Enhancement Payment to the Class Representative, and Claims Administrator Costs as set forth in the Agreement. I will be requesting attorneys' fees and costs pursuant to the common fund doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989). The facts and case law supporting the requested amounts will be set forth in the final approval motion, including information for the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount of time spent by Plaintiff on this case and any further risks and/or burdens incurred as a result of acting as Class Representative, and an updated declaration in support of actual litigation costs. The expected costs through final approval are not expected to exceed \$15,000. Attached as Exhibit D is a true and correct copy of the costs incurred prior to the filing of this Motion and the expected costs incurred through the final approval and fairness hearing. Any difference in the awarded fees and costs, Class Representative Enhancement Payment, and Claims Administrator Costs and the amounts allocated therefor under the Agreement will be added back to the Net Settlement Amount and distributed pro rata to Class Members.

24. I have used several class action administrator companies in the wage and hour class actions I have resolved in the past and believe ILYM Group, Inc. will provide the best service to administer the proposed class settlement. ILYM Group, Inc. has provided a quote for the estimated maximum cost of administering the class settlement of approximately \$8,150. A true and correct copy of a cost estimate provided by ILYM Group, Inc. is filed with this Motion as Exhibit D. This is only an estimate, and final pricing may vary depending on the issues, if any, that arise during the administration of the settlement. However, the difference between the actual, lesser costs and \$10,000, if any, will be paid to the participating Class Members on a pro rata basis.

25. At the conclusion of the check cashing period in any class settlement, there is always a potential for uncashed checks and some provision must be made for what to do with those funds. Designating a *cy pres* beneficiary is an authorized means of addressing this and I believe that Capital Pro Bono, Inc., and the Center for Workers Rights are appropriate *cy pres* beneficiaries in this matter

1 because they clearly promote the law consistent with the objectives and purposes underlying the lawsuit.
2 I have volunteered for both organizations numerous times over the past several years, either directly in
3 the advice clinics or by presenting seminars on wage and hour laws for law students seeking to also
4 volunteer at advice clinics. I have also volunteered by sitting on Capital Pro Bono, Inc.'s advisory
5 committee. These organizations are non-profits that assist low-income workers throughout California,
6 giving free legal advice regarding employment law issues and representing employees with wage claims
7 before the California Labor Commissioner. I have witnessed firsthand the quality service and attention
8 these entities provide to individuals in need of employment law advice and representation at the
9 California Labor Commissioner. I do not receive any compensation, whether direct or indirect, for my
10 time spent volunteering for these entities or for designating them as *cy pres* beneficiaries.

11 26. I have spoken with every other attorney at my firm to determine whether they have any
12 relationship with either of the proposed *cy pres* beneficiaries. Galen T. Shimoda has volunteered for
13 both organizations on and off over the past several years through either presenting wage and hour
14 seminars to law students who staff the free advice clinics or helping at the advice clinics themselves.
15 However, Mr. Shimoda has not performed any volunteer work with either organization since
16 approximately March 2020. Mr. Shimoda has never received payment or compensation of any kind in
17 connection with any work he's done with either of the proposed *cy pres* beneficiaries.

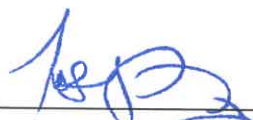
18 27. Brittany V. Berzin has never done any work, volunteer or otherwise with Capital Pro
19 Bono, Inc. During law school, Ms. Berzin was a student volunteer for the Center for Workers Rights for
20 two summers. Since graduating law school, she has volunteered for the Center for Workers Rights
21 approximately one to two times per year, assisting in the advice clinic and currently sits on the Board of
22 Directors. Ms. Berzin has never received payment or compensation of any kind in connection with any
23 work she's done with the Center for Workers Rights.

24 28. A copy of the proposed Agreement and the entire Motion was submitted to the LWDA
25 for review at the same time the Motion was submitted to the Court pursuant to California Labor Code
26 section 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were
27 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
28 Exhibit H.

1 29. A true and correct copy of the proposed Notice of Settlement is being filed with this
2 Motion as Exhibit F.

3 30. A true and correct copy of the proposed Claim Form is being filed with this Motion as
4 Exhibit G.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed this 21st day of September 2022 in Sacramento, California.

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10 Justin P. Rodriguez
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FILED BY FAX

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Attorneys for Plaintiff ISIDRO ARROYO

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

**DECLARATION OF PLAINTIFF ISIDRO
ARROYO IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No.: 2658496

Date: October 7, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: November 3, 2021

FAC Filed: January 19, 2022

Trial Date: None Set

1 I, Isidro Arroyo, declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this
3 declaration, and I am making this declaration on behalf of myself, as a named plaintiff, and in support
4 of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement.

5 2. I worked for Defendant Epic Home Solar ("Defendant") from approximately June 2021
6 to July 2021 as a non-exempt employee. I was subject to all of Defendant's policies and practices that
7 have been alleged as unlawful in the operative Complaint and the notice sent to the Labor and
8 Workforce Development Agency, including the following: 1) failing to adequately track all hours
9 worked and whether all meal periods were received; 2) failing to pay all hours worked; 3) failing to pay
10 piece rate workers overtime premiums; 4) failing to pay all piece rate compensation owed; 5) failing to
11 provide all meal periods, including a second meal period for shifts over 10 hours; 6) failing to provide
12 all rest periods, including a third rest period for shifts over 10 hours; 7) failing to compensate for time
13 spent during rest periods and other non-productive time; 8) failing to provide all paid sick leave in
14 accordance with the Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for
15 personal cellphone use and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; 11)
16 failing to provide accurate wage statements; 12) failing to pay final wages; and 13) unfair competition.

17 3. I have actively participated in the litigation of this case. I have given a detailed account
18 of all the facts related to my employment and the claims asserted in the Complaint. I provided
19 documentation in support of the claims brought against Defendant including record of payment I
20 received, relevant correspondence, documents regarding payments owed, and other documents related
21 to my work with Defendant and to the claims brought in the class action. I met with and assisted my
22 attorneys in understanding the documents and providing context for Defendant's employment and
23 payroll policies as they applied to me and how I believed they applied to Defendant's other employees.

24 4. My attorneys explained to me the risks and benefits of bringing a class action and a
25 claim under the Private Attorneys General Act. I understood that I took on the risk, both professionally
26 and financially, in pursuing the case as a class and representative action rather than pursuing my claims
27 individually. I understood that pursuing the case as a class action meant that it would take substantially
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1 longer than pursuing a claim with the California Labor Commissioner and that I risked getting nothing
2 in the end, but I believed it was important to make sure that Defendant followed the law for everyone.

3 5. I maintained communication with my attorneys throughout the litigation, discussing the
4 facts and policies at issue in the case with Shimoda & Rodriguez Law, PC. I asked questions when I
5 needed clarification about various aspects of this case to make sure there were continually steps taken
6 to advance the interests of the class. I also understood that the recovery in this case was for the benefit
7 of my fellow coworkers, not just for me. When my attorneys contacted me asking for more
8 information or documents related to the case, I made myself available and tried to give or obtain any
9 additional information I could. I participated in the negotiations and settlement discussions in this case,
10 including participating in mediation by phone, speaking with my attorney to answer questions,
11 providing any additional information needed to assist the negotiations, and discussing the potential
12 terms of the Agreement to evaluate its adequacy.

13 6. I have reviewed the final Joint Stipulation of Class Action and PAGA Settlement and
14 Release, discussed the terms with my attorneys, and asked my attorney any questions I had. I believe
15 the settlement terms and allocations are fair and reasonable given the facts of the case.

16 7. As a Class Representative, I took on the risk of having to pay Defendant's costs if we
17 were unsuccessful in bringing our claims.

18 8. I understand that any Class Representative Enhancement Payment I may receive is for
19 my participation as a Class Representative and it is not contingent on my support or approval of the
20 Agreement. I do not believe I have any conflicts with any Class Members.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct. Executed this 20 of September 2022 in Sacramento, California.

23 DocuSigned by:

24 Isidro Arroyo

25 Isidro Arroyo

26 I, Jennifer Livingston, hereby declare under penalty of perjury that the following is true and
27 correct: I am a Paralegal and fluent in the Spanish and English language. I have worked as a Paralegal
28 with Shimoda & Rodriguez Law, PC, for approximately 15 years and as part of my job duties I regularly

1 work as an interpreter. I translated this declaration word-for-word from English to Spanish, reading it in
2 Spanish to Isidro Arroyo, who in turn confirmed that the information herein is true and correct.
3 Executed on September 20, 2022, in Elk Grove, California.

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5 DocuSigned by:
6 *Jennifer Livingston*
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8 Jennifer Livingston
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FILED BY FAX

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Facsimile: (916) 760-3733

5 Attorneys for Plaintiff ISIDRO ARROYO

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

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

13 Plaintiff,

14 vs.

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

17 Defendants.
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Case No. 34-2021-00310634

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No.: 2658496

Date: August 11, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: November 3, 2021

FAC Filed: January 19, 2022

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the
3 above referenced case came before this Court, on October 7, 2022, at 9:00 a.m., in Department 25
4 before the Honorable Jill H. Talley, presiding. Named Plaintiff Isidro Arroyo ("Plaintiff") filed this
5 putative class action on November 3, 2021. The operative Complaint alleges that Defendant Epic
6 Home Solar ("Defendant") is liable for failure to pay overtime wages, failure to pay minimum wages,
7 meal period violations, rest period violations, wage statement violations, waiting time penalties, failure
8 to reimburse expenses, unfair competition, failure to pay nonproductive time, failure to pay contract
9 wages, unlawful deductions, failure to maintain accurate records, failure to provide paid sick leave,
10 and untimely payment of wages. Plaintiff has also alleged Defendant is liable for a civil penalties
11 under the Private Attorneys General Act ("PAGA") based on these violations. Plaintiff sought
12 attorneys' fees and costs as part of this Action. Defendant denied all of Plaintiff's claims and denied
13 that this case was appropriate for class treatment. No class has been certified.

14 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
15 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
16 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
17 ("Agreement" or "Settlement"). Any capitalized terms herein shall have the same meaning as set forth
18 in the Agreement. The Court, having received and considered Plaintiff's Motion for Preliminary
19 Approval of Class Action and PAGA Settlement, the declarations in support, the Agreement, the
20 proposed Notice of Settlement, the proposed Claim Form, and other evidence, HEREBY ORDERS
21 AND MAKES DETERMINATIONS AS FOLLOWS:

22 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
23 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

24 The Court finds that certification of the following class for settlement purposes only is
25 appropriate under the California Code of Civil Procedure and related case law:

26 All non-exempt employees who have worked, or continue to work, for Epic
27 Home Solar in California from November 3, 2017 up to June 25, 2022.

28 The Court recognizes that the foregoing definition is for Class Member identification purposes only and

1 is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

2 The Court finds that Class Members meet the ascertainability and numerosity requirements since
3 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
4 the definition and the number of Class Members would make joinder impractical. The commonality and
5 predominance requirements are met for settlement purposes since there are questions of law and fact
6 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
7 contentions that Defendant caused the violations outlined above by 1) failing to adequately track all
8 hours worked and whether all meal periods were received; 2) failing to pay all hours worked; 3) failing
9 to pay piece rate workers overtime premiums; 4) failing to pay all piece rate compensation owed; 5)
10 failing to provide all meal periods, including a second meal period for shifts over 10 hours; 6) failing to
11 provide all rest periods, including a third rest period for shifts over 10 hours; 7) failing to compensate
12 for time spent during rest periods and other non-productive time; 8) failing to provide all paid sick leave
13 in accordance with the Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for
14 personal cellphone use and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and
15 11) failing to provide accurate wage statements. The PAGA, waiting time penalty, wage statement
16 violation, and unfair competition claims also derive from these violations. Additionally, Class Members
17 seek the same remedies under state law. The typicality requirement for settlement purposes is also
18 satisfied since the claims of the Class Representative is based on the same facts and legal theories as
19 those applicable to the class members.

20 The Court also finds that preliminarily and conditionally certifying the settlement class is
21 required to avoid each Class Member from litigating similar claims individually. This settlement will
22 achieve economies of scale for Class Members with relatively small individual claims and conserve the
23 resources of the judicial system.

24 The Court finds that Plaintiff Isidro Arroyo and Plaintiff's counsel, Galen T. Shimoda,
25 Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC, to be adequate
26 representatives of the settlement class. The Court appoints them as Class Representative and Class
27 Counsel, respectively.

28 //

II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT

The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and adequate and falls within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court finds the Settlement was agreed upon only after extensive investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who took reasonable steps and measures to weigh the potential value of the disputed claims against the risks of continued litigation. The Court also acknowledges that Class Members may present any objections to the Settlement at a fairness hearing approved by this Court or opt-out of being bound by the preliminarily approved Agreement. The Court preliminarily approves the Agreement and all terms therein as if stated here in full, including the \$150,000 Gross Settlement Amount, which will be paid on a claims made basis as set forth in the Agreement. Plaintiff has provided adequate reasoning and explanation as to why a claims made settlement with a reversion of unclaimed funds to Defendant is appropriate under the circumstances of this case. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 721 (2006) ("The analysis additionally recognized that a court approved settlement could properly include a 'reversion of ... funds to the defendant'"); *Cundiff v. Verizon California, Inc.*, 167 Cal.App.4th 718, 728 (2008) (noting that *In re Microsoft I-V Cases* found that a class settlement may provide for a reversion so long as it does not render the settlement, as a whole, unfair, inadequate, or unreasonable and distinguishing the case before it on the grounds that the class settlement agreement made no provision for unclaimed funds).

The Court approves of ILYM Group, Inc., acting as the Claims Administrator in this case and hereby appoints them to fulfill those duties in this case as outlined in the Agreement.

On a preliminary and conditional basis, the Court approves of the amounts allocated under the Agreement for attorney's fees and costs (35% of the Gross Settlement Amount), for an Enhancement Payment to the Enhancement Payment (\$10,000), and for Claims Administrator Costs (\$10,000). The Court finds that an award of fees under the common fund doctrine is appropriate in this case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits that Plaintiff and Class Counsel were able to negotiate on behalf of Class Members can be accurately traced as set

1 forth in the Agreement, and the fee can be shifted with exactitude to those benefiting as the fee request is
2 a specific, lump-sum percentage of the Gross Settlement Amount. *See Boeing Co. v. Van Gemert*, 444
3 U.S. 472, 477-481 (1980); *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989);
4 *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506
5 (2016). The attorneys' fee request as a percentage of the Gross Settlement Amount is within the range
6 of percentages that have been approved by other Courts in similar cases. The Court will again review
7 these amounts and allocations in connection with the final approval hearing. Plaintiff and Class Counsel
8 are directed to provide additional information in connection with the motion for final approval that will
9 enable the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount
10 of time spent by Plaintiff on this case and any further risks and/or burdens incurred as a result of acting
11 as Class Representative, and an updated declaration in support of actual litigation costs.

12 The amounts allocated under the Agreement for attorney's fees and costs, for an Enhancement
13 Payment to the Class Representative, and for Claims Administrator Costs shall be included in the Notice
14 of Settlement to enable Class Members to review and comment thereon. The Court will consider the
15 reaction of Class Members when evaluating the reasonableness of the requested amounts at final
16 approval. *See In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, 71 (C.D. Cal. 2005) ("the
17 absence of objections or disapproval by class members to class counsel's fee request further supports
18 finding the fee request reasonable"). To the extent the Court ultimately awards less than the amounts
19 allocated under the Agreement for attorney's fees and costs, for an Enhancement Payment to the Class
20 Representative, and Claims Administrator Costs, the difference between the amounts awarded and the
21 amounts requested shall be added to the Net Settlement Amount for distribution to Qualified Claimants
22 pro rata as set forth in the Agreement.

23 The Court approves of the five thousand dollars (\$5,000) PAGA Payment, which shall be paid
24 from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the
25 alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
26 Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved
27 Employees on a pro rata basis as described in the Agreement. The Court also finds that the Agreement
28

1 provides a recovery that creates an effective substantial deterrent to any potential future non-compliance,
2 furthering the purpose of the Labor Code and LWDA.

3 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
4 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
5 donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights.

6 The releases and waivers for Class Members who do not opt out of being bound by the
7 Agreement (*i.e.*, Qualified Claimants), Aggrieved Employees, and the Class Representative are also
8 approved by the Court as set forth in the Agreement.

9 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
10 **INCLUDING THE NOTICE OF SETTLEMENT AND CLAIM FORM**

11 The Court finds that the proposed Notice of Settlement and Claim Form, which were submitted
12 with Plaintiff's Motion as Exhibit F and G respectively, fairly and adequately advises Class Members of
13 the terms of the proposed settlement, the rights being waived, their right to opt out, the ability to dispute
14 the number of workweeks worked during the Class Period, their pro rata share of the Net Settlement
15 Amount, how to participate in the settlement, how to file documentation in opposition to the proposed
16 settlement, and when to appear at the fairness hearing to be conducted on the date set forth below. The
17 Court further finds that the Notice of Settlement and Claim Form and proposed distribution of them by
18 first class mail to each identified Class Member at his or her most recent address based on a National
19 Change of Address database search from the Class Members' last known address and a skip trace on any
20 Class Members who have the Notice of Settlement or Claim Form returned as "undeliverable" or "not at
21 this address" comports with all constitutional requirements, including those of due process.

22 The Court also finds that because there is a strong interest in providing Class Members the
23 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
24 privacy rights, the sharing of employment information, including social security numbers, is not a
25 serious intrusion on their privacy rights. Hence, the Court orders Defendant to provide first and last
26 name, last known mailing address, social security number, and hire and termination dates, total number
27 of workweeks during which the Class Member performed any actual work to the Claims Administrator
28 only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the

Agreement and approved by this Order. The Claims Administrator shall only use this information for settlement purposes identified herein, and this information shall be kept confidential, not be shared with any third-party, and used only to administer the settlement.

IV. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Defendants to provide Claims Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Claims Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement and Claim Form	Within 14 calendar days after the Claims Administrators' receipt of Class Members' and Aggrieved Employees' information from Defendants
Last day for Claims Administrator to mail reminder post card to Class Members who have not opted out and have not submitted Claim Forms	35 calendar days after mailing of Notice of Settlement and Claim Form
Last day for Class Members to opt-out, submit disputes, submit objections, submit data requests, and submit Claim Form	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Claims Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date

Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date but in no event prior to February 15, 2023
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after funds are deposited with the Claims Administrator
Last day for Qualified Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Qualified Members and Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and directs the parties to contact the Clerk for Department 25 to schedule a final approval hearing to take place in this Department on a Friday at 9:00 a.m. consistent with the administration timelines set forth in the Agreement. Briefs and supporting documentation relating to the final approval hearing are to be submitted according to the California Code of Civil Procedure. Class Members who object in a timely manner, and in the manner set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any

1 purpose other than approving a settlement class. The parties will revert to their respective positions as if
2 no settlement had been reached at all.

3 **IT IS SO ORDERED.**

4
5 Date: _____

By: _____
Judge of the Superior Court

FILED BY FAX

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Justin P. Rodriguez (Cal. State Bar No. 278275)
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5 Attorneys for Plaintiff ISIDRO ARROYO

6
7
8 **SUPERIOR COURT OF CALIFORNIA**

9 **FOR THE COUNTY OF SACRAMENTO**

10
11 ISIDRO ARROYO, individually and on behalf
12 of all other similarly situated employees,

13 Plaintiff,

14 vs.

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

17 Defendants.

Case No. 34-2021-00310634

CLASS ACTION

**EXHIBIT LIST AND EXHIBITS IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No.: 2658496

Date: October 7, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: November 3, 2021

FAC Filed: January 19, 2022

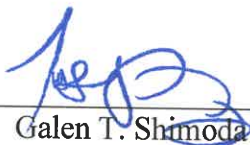
Trial Date: None Set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Joint Stipulation Regarding Class Action and PAGA Settlement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letter to the LWDA Regarding PAGA Claims
D	ILYM Group, Inc. Quote
E	Plaintiff's Itemized Costs
F	Proposed Notice of Settlement
G	Proposed Claim Form
H	Proof of Submission of Proposed Settlement Agreement to LWDA

Dated: September 21, 2022

Shimoda & Rodriguez Law, PC

By: _____



Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff

EXHIBIT A

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10 Attorneys for Defendants EPIC HOME SOLAR, MICHAEL VALLAR PACADA,
JOHAN BYRON ARNEGARD, and STEVE EVAN DEUS

11
12 **SUPERIOR COURT OF CALIFORNIA**
13 **FOR THE COUNTY OF SACRAMENTO**

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

16 **Plaintiff,**

17 **vs.**

18 EPIC HOME SOLAR, a California
19 Corporation; and DOES 1 to 100, inclusive,
20 **Defendants.**

Case No.: 34-2021-00310634

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: November 3, 2021
FAC Filed: January 19, 2022
Trial Date: None Set

1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release is made and
2 entered into between the Plaintiff Isidro Arroyo ("Plaintiff"), on behalf of himself, the Labor and
3 Workforce Development Agency, Class Members, and Aggrieved Employees, and Defendants Epic Home
4 Solar, Michael Vallar Pacada, Johan Byron Arnegard, and Steve Evan Deus ("Defendants"). This
5 Agreement is subject to the terms and conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 "Action" means the above stated lawsuit, *Arroyo v. Epic Home Solar*, Sacramento County
9 Superior Court, Case No. 34-2021-00310634, filed November 3, 2021.

10 1.2 "Aggrieved Employee(s)" means all non-exempt employees who have worked, or continue
11 to work, for Epic Home Solar in California during the PAGA Claim Period.

12 1.3 "Agreement" or "Settlement" or "Settlement Agreement" means this Joint Stipulation
13 Regarding Class Action and PAGA Settlement and Release.

14 1.4 "Claim Amount" means an individual Qualified Claimant's and Aggrieved Employee's
15 allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in Sections 1.22,
16 1.26, 5.5, and 5.8-5.8.2.

17 1.5 "Claims Administrator" means and refers to ILYM Group, Inc., the third-party entity that
18 will administer the Agreement as outlined in Sections 4 and 7, or any other third-party class action
19 settlement claims administrator agreed to by the Parties and approved by the Court for the purposes of
20 administering this Agreement. The Parties each represent that they do not have any financial interest in
21 the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create
22 a conflict of interest.

23 1.6 "Claims Administrator Costs" means the fees and expenses reasonably incurred by the
24 Claims Administrator as a result of the procedures and processes expressly required by this Agreement,
25 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
26 preparation, custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees
27 associated with preparing, issuing and mailing any and all notices and other correspondence to Class
28 Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class

Members and/or Aggrieved Employees, Class Counsel, and Defendants' Counsel; all costs and fees associated with computing, processing, reviewing, and paying the Claim Amounts, and resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any, and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering Claim Amounts; and any other costs and fees incurred and/or charged by the Claims Administrator in connection with the execution of its duties under this Agreement

1.7 "Class Counsel" means Galen T. Shimoda, Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC.

1.8 "Claim Form" means the document substantially in the form attached hereto as Exhibit 2.

1.9 "Class Member(s)" means all non-exempt employees who have worked, or continue to work, for Epic Home Solar in California during the Class Period.

1.10 "Class Period" means from November 3, 2017 up to either (1) the Preliminary Approval Date, or (2) June 25, 2022, whichever is earlier.

1.11 "Class Representative" means Plaintiff Isidro Arroyo.

1.12 "Class Representative's Released Claims" means all claims arising from, could have been asserted, or related in any way to the Class Representative's employment with Defendants, under federal, state, or local laws, and/or ordinances, or tort or contract theories, whether known or unknown, and whether anticipated or unanticipated, including without limitation statutory, constitutional, contractual or common law claims for lost wages, unpaid wages, emotional distress, punitive damages, special damages, damages, unpaid costs, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, equitable relief or other similar relief or claims. The Class Representative's Released Claims exclude claims for workers' compensation, unemployment insurance benefits, or other claims that cannot be released as a matter of law. The Class Representative's Released Claims include a waiver of any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code. Section 1542 of the California Civil Code provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

1.13 "Complaint" means the operative Complaint on file in the Action with the Court.

1.14 "Court" means the Sacramento County Superior Court.

1.15 "Defendants" means Epic Home Solar, Michael Vallar Pacada, Johan Byron Arnegard, and Steve Evan Deus.

1.16 "Defendants' Counsel" means CDF Labor Law LLP.

1.17 "Enhancement Payment" means the amount approved by the Court to be paid to the Class Representative in recognition of the time and effort expended on behalf of Class Members for the benefit of Class Members, which is in addition to any Claim Amount paid to the Class Representative as a Qualified Claimant.

1.18 "Effective Date" means the Final Approval Date unless there is a timely objection lodged that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day after a signed order approving this settlement has been filed provided no appellate proceeding having been filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been finally dismissed with no material change to the terms of this settlement and there is no right to pursue further remedies or relief, whichever is later.

1.19 "Final Approval Date" means the date a signed order granting final approval of this Agreement is filed with the Court.

1.20 "Gross Settlement Amount" is the sum of One Hundred Fifty Thousand Dollars and No Cents (\$150,000).

1.21 "LWDA" means the California Labor and Workforce Development Agency.

1.22 "Net Settlement Amount" is the portion of the Gross Settlement Amount available for distribution to Qualified Claimants, as described in this Agreement, after deduction of Class Counsel's

attorneys' fees and litigation costs, Claims Administrator Costs, the PAGA Payment, and Enhancement Payment to the Class Representative.

1.23 "Notice of Settlement" means the document substantially in the form attached hereto as Exhibit 1.

1.24 "Notice Period" means sixty (60) calendar days from the initial mailing of the Notice of Settlement and Claim Form to Class Members and Aggrieved Employees.

1.25 "PAGA" means Private Attorneys General Act.

1.26 "PAGA Payment" means the amount allocated from the Gross Settlement Amount towards resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

1.27 "PAGA Claim Period" means October 26, 2020 up to either (1) to the Preliminary Approval Date or (2) June 25, 2022, whichever is earlier.

1.28 "Parties" mean Defendants and Plaintiff.

1.29 "Preliminary Approval Date" means the date a signed order granting preliminary approval of this Agreement is filed with the Court.

1.30 "QSF" means a Qualified Settlement Fund set up by the Claims Administrator for the benefit of the Qualified Claimants and/or Aggrieved Employees and from which the payments under this Agreement shall be made. Any amounts Defendant has agreed to pay under this Agreement shall remain the property of Defendants until the payments required under the Agreement are made.

1.31 "Qualified Claimant" means any and all Class Members who have timely submitted a valid and complete Claim Form and have not made any timely request to opt-out of the Agreement.

1.32 "Qualified Claimant's Released Claims" means any and all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Qualified Claimant's Released Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt-out regardless of whether they have submitted a Claim Form.

1.33 "Qualifying Workweeks" are weeks worked by Class Members and/or Aggrieved Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class

Members, workweeks shall be defined as the total length of service (in days) in California during the Class Period divided by seven. For Aggrieved Employees workweeks shall be defined as the total length of service (in days) in California during the PAGA Claim Period divided by seven. The calculation of a Class Member's and/or Aggrieved Employee's workweeks and a determination as to whether a Class Member and/or Aggrieved Employee was actively employed in California in a particular workweek shall be construed from Defendants' records.

1.34 "Released PAGA Claims" means any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint or Plaintiff's October 26, 2021, notice to the LWDA during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

1.35 "Released Parties" means Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

2. DESCRIPTION OF THE LITIGATION

2.1 On or about October 26, 2021, Plaintiff sent notice to the LWDA to exhaust administrative remedies under the PAGA for failure to pay overtime, failure to pay minimum wages, meal period violations, rest period violations, wage statement violations, failure to pay final wages, failure to pay reimbursements for expenses, violation of Labor Code section 558, failure to pay contract wages and unlawful deductions, failure to maintain accurate records, failure to provide paid sick time, untimely payment of wages, and failure to pay non-productive time. The LWDA did not respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged PAGA claims.

2.2 On or about November 3, 2021, Plaintiff filed a class action Complaint in the Sacramento County Superior Court on behalf of himself and Class Members alleging claims for failure to pay overtime, failure to pay minimum wages, meal period violations, rest period violations, wage statement violations, waiting time penalties, failure to reimburse expenses, unfair competition, and failure to pay nonproductive time. Plaintiff filed a First Amended Complaint on approximately January 19, 2022 to add

1 a PAGA cause of action based on the violations alleged in the October 26, 2021 notice to the LWDA on
2 behalf of himself and Aggrieved Employees.

3 2.3 Through informal discovery, Defendants and Defendants' Counsel provided Class
4 Counsel with copies of applicable versions of its policies and procedures, information on Class Members
5 including, but not limited to, Class Members' workweeks and pay periods, total number of Class
6 Members, as well as timecard data and payroll reports for a randomly selected sample of Class Members.

7 2.4 On April 26, 2022, the Parties participated in a lengthy mediation with private mediator
8 Brandon McKelvey, Esq. At the conclusion of the mediation, the Parties were able to come to a resolution.
9 At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

10 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties,
11 document productions, extensive legal analysis, the provision of information by Defendants to Plaintiff
12 and the detailed analysis of the records, including expert analysis, have permitted each side to assess the
13 relative merits of the claims and the defenses to those claims.

14 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to
15 keep track of employees' hours worked and adopting a policy and practice to not pay piece rate employees
16 any overtime; 2) failing to provide or communicate meal and rest period policies, including any policy to
17 take a second lunch during shifts over 10 hours; 3) failing to keep any record of meal periods for putative
18 class members; 4) failing to pay piece rate and/or commission employees separately for time spent during
19 rest periods and other non-productive time; 5) failing to adopt a policy that provided class members with
20 paid sick leave in accordance with the Healthy Workplaces Healthy Families Act of 2014; 6) failing to
21 reimburse piece rate employees for the use of their cellphones and personal vehicles for work; and 7)
22 failing to provide wage statements, or to the extent wage statements were provided, failing to provide
23 accurate wage statements. Defendants have denied each of Plaintiff's claims and Defendants have denied
24 that this Action is appropriate for class certification for anything other than settlement purposes. The
25 agreed upon Gross Settlement Amount was reached after evaluating the Parties' theories of potential
26 exposure for the underlying claims and the class data supporting these claims. The Parties, with the
27
28

1 assistance of the mediator, also assessed appropriate discounts to the potential liability based on
2 Defendants' factual and legal contentions and defenses.

3 2.7 The Parties agree that the above-described investigation and evaluation, as well as
4 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
5 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class
6 Counsel, Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be settled
7 in a manner and upon such terms and conditions set forth herein in order to avoid further expense,
8 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
9 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.
10 Plaintiff, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement for
11 the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts
12 and circumstances.

13 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

14 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose
15 of settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed
16 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final
17 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a
18 conditional basis. If the Court does not enter an order granting final approval of the Agreement, or if the
19 Court's approval of the settlement is reversed or materially modified on appellate review, this Agreement
20 shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or
21 utilized for any purpose whatsoever; and the negotiation, terms and entry of the Agreement shall remain
22 subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence
23 408, and any other analogous rules of evidence that may be applicable.

24 3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,
25 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants
26 have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or
27 the Final Approval Date does not occur, Defendants do not waive, but rather expressly reserve, all rights
28 to challenge all such claims and allegations in the Action upon all procedural and factual grounds,

1 including, without limitation, the ability to challenge class or collective treatment on any grounds, as well
2 as to assert any and all other potential defenses or privileges.

3 **4. SCOPE OF THE CLASS**

4 4.1 The scope of the class of individuals encompassed under the Agreement, who are entitled
5 to all benefits as authorized under the Agreement and subject to all obligations and duties required under
6 the Agreement, shall include all Class Members as defined in Section 1.9 and all Aggrieved Employees
7 as defined in Section 1.2. However, it shall not include any Class Members who submit valid and timely
8 requests to opt-out of the Agreement and settlement, as set forth in Section 7.5.1.

9 4.2 Individuals entitled to recover under this Agreement will include only those individuals
10 who are identified as being within the scope of this Agreement under Section 4.1 provided that the Class
11 Member has also submitted a timely and valid Claim Form.

12 4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and
13 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name
14 did not appear on the class list provided to the Claims Administrator prior to mailing, may submit a data
15 request to the Claims Administrator. The data request must contain all of the following information: (a)
16 the full name and, if applicable, Social Security Number of the individual making the request; (b) the
17 name used by such employee as of the time his or her employment with Defendants ended; (c) the years
18 during which such employee was employed with Defendants; and (d) a return address to which a response
19 may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or
20 otherwise submitted to the Claims Administrator such that it is received before the conclusion of the
21 Notice Period. Upon receipt of any data requests, the Claims Administrator shall promptly (in no event
22 more than two business days) transmit the data requests to Defendants' Counsel and request that
23 Defendants review their records.

24 4.4 If Defendants do agree that the person listed in a data request is a Class Member and/or
25 Aggrieved Employee, the Claims Administrator shall promptly mail a Notice of Settlement to the person
26 who submitted the data request, at the address designated for that purpose in the data request. All
27 provisions of this Agreement relating to the Notice of Settlements shall apply to Notice of Settlements
28 sent in response to data requests, and any person who submits a data request and is sent a Notice of

Settlement in response shall be treated by the Claims Administrator as a Class Member and/or Aggrieved Employee for all other purposes.

4.5 If Defendants do disagree that the person listed in a data request is a Class Member and/or Aggrieved Employee, Defendants' Counsel and Class Counsel shall attempt to resolve any such dispute in good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request dispute. Defendants' records shall control unless the individual submitting the data request provides persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Claims Administrator. The Claims Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve the dispute. The Claims Administrator must resolve any dispute submitted to it within seven (7) calendar days after Defendants' Counsel and Class Counsel submit the dispute to the Claims Administrator. The decision by the Claims Administrator shall be final and there shall be no right of appeal.

5. TERMS OF THE SETTLEMENT

The Parties agree as follows:

5.1 Gross Settlement Amount: In consideration and exchange for the releases described in Section 6, Defendants shall pay the Gross Settlement Amount (\$150,000) on a claims made basis. Funding of the Gross Settlement Amount shall occur within twenty-one (21) calendar days after the Effective Date to be held in trust in a QSF by the Claims Administrator, but in no event prior to February 15, 2023. The Gross Settlement Amount includes payments to Qualified Claimants, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Claims Administrator Costs), and obtaining final approval of the Agreement, the Enhancement Payment to the Class Representative and the PAGA Payment. Any monies necessary to satisfy Defendants' tax obligations (e.g. employer FICA, FUTA and SDI contributions on wage payments) on any monies distributed to Qualified Claimants will be paid in addition to the Gross Settlement Amount.

5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35% of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not oppose Class Counsel's application for attorneys' fees so long as it does not exceed the

35% threshold. Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to exceed \$15,000, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not oppose Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not exceed the \$15,000 threshold. The Claims Administrator will issue Class Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than the requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class Counsel shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.3 Claims Administrator Costs: The Claims Administrator Costs shall be paid from the Gross Settlement Amount and shall not exceed \$10,000. The difference between any actual costs and the allocated \$10,000 shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for an Enhancement Payment to the Class Representative in an amount not to exceed Ten Thousand Dollars and No Cents (\$10,000) to compensate for the risks, time, and expense of his involvement in the Action and securing the benefits of this Agreement for Class Members. The Enhancement Payment is in addition to the Claim Amount Plaintiff would otherwise be due under the Agreement as a Qualified Claimant. Defendant has agreed to not oppose Class Counsel's request for an Enhancement Payment to Plaintiff so long as it does not exceed the amount stated herein. The Enhancement Payment will be designated as a non-wage payment and reported on an IRS Form 1099-MISC. In the event that the Court awards less than the Enhancement Payment amount requested, then any portion of the requested amount not awarded to the Class Representative shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.5 PAGA Payment: Five Thousand Dollars and No Cents (\$5,000) of the Gross Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees on a pro rata basis as described below in Sections 5.8-5.8.2. Any amount not approved by the Court for

the allocated PAGA Payment shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA Payment allocated to Qualified Claimants and/or Aggrieved Employees that were not claimed by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights.

5.7 No Additional Benefits Contributions: All Claim Amounts paid to Qualified Claimants and Aggrieved Employees shall be deemed to be income solely in the year in which such amounts were actually received. It is expressly understood and agreed that the receipt of such Claim Amounts will not entitle any Qualified Claimant or Aggrieved Employee to any new or additional compensation or benefits under any company bonus or other compensation or benefit plan or agreement in place during the period covered by the Agreement, nor will it entitle any Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Claim Amounts provided for in this Agreement are the sole payments to be made by Defendants to the Qualified Claimants and Aggrieved Employees in connection with this Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Agreement).

5.8 Pro Rata Distribution Formula: Payment to Qualified Claimants of their share of the Net Settlement Amount will require the submission of a Claim Form. Payment to Aggrieved Employees of their share of the PAGA Payment will not require the submission of a Claim Form. Payment of Claim Amounts to Qualified Claimants shall be as follows:

5.8.1 A Net Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Claims Administrator Costs, and the PAGA Payment. Each Class Member's share of the Net Settlement Amount shall be determined by dividing their total Qualifying Workweeks within the Class Period by the total Qualifying workweeks by all Class Member and multiplying that fraction by the Net Settlement Amount. However, regardless of the claims rate, Defendants shall be obligated to pay out a minimum of 50% of the Net Settlement Amount. If less than

1 50% of the Net Settlement Amount is claimed by Qualified Claimants, Qualified Claimants will have
2 each of their individual shares of the Net Settlement Amount increased, pro rata, until 50% of the Net
3 Settlement Amount is distributed to Qualified Claimants. Any portion of the Net Settlement Amount in
4 excess of the minimum 50% threshold that is not claimed by Qualified Claimants shall remain the
5 property of Defendants.

6 5.8.2 Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will
7 be determined by dividing their total Qualifying Workweeks within the PAGA Claim Period by the total
8 Qualifying Workweeks by all Aggrieved Employees within the PAGA Claim Period. That fraction will
9 then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's
10 individual share.

11 5.9 Tax Allocation: The Parties recognize that the Claim Amounts to be paid to Qualified
12 Claimants and/or Aggrieved Employees reflect a settlement of a dispute over claimed penalties and wages.
13 The Claims Administrator shall calculate the employer's share of payroll taxes on the amounts paid to
14 Qualified Claimants as wages as well as calculating all required withholdings and deductions from said
15 wage payments. The characterization of Claim Amounts to Qualified Claimants and Aggrieved
16 Employees are as follows:

17 5.9.1 One third (1/3) of each Qualified Claimants' Claim Amount shall be allocated for
18 payment of disputed wages and shall be subject to required employer taxes. Qualified Claimants shall
19 receive an IRS Form W-2 for reporting of this portion of their Claim Amount.

20 5.9.2 Two thirds (2/3) of each Qualified Claimants' Claim Amount shall be allocated for
21 disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion of
22 the Claim Amount consists of other income, not wages, for which the Qualified Claimants shall receive
23 an IRS Form 1099-MISC.

24 5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the
25 PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted
26 for any taxes. This portion of the Claim Amount consists of other income, not wages, for which the
27 Aggrieved Employees shall receive an IRS Form 1099-MISC.

1 5.10 Qualified Claimants and Aggrieved Employees shall be solely responsible for the reporting
2 and payment of their share of any federal, state and/or municipal income or other taxes on payments made
3 pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants' Counsel free and
4 harmless from any claims resulting from treatment of such payments as non-taxable, including the
5 treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.
6 No party has made any representation to any of the other Parties as to the taxability of any payments
7 pursuant to this Agreement, including the payments to Qualified Claimants, the payments to Aggrieved
8 Employees, the payments to Class Counsel, the payments to the Class Representative, the payroll tax
9 liability of Defendants, or the allocation of the Net Settlement Amount or PAGA Payment to wage and
10 non-wage income as provided in this Section, or otherwise as to tax implications of any provision of this
11 Agreement.

12 5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this
13 Agreement is limited to the Gross Settlement Amount and any employer side payroll taxes owed on
14 amounts characterized as wages under this Agreement. All other costs and expenses arising out of or in
15 connection with the performance of this Agreement shall be paid from the Gross Settlement Amount,
16 unless expressly provided otherwise herein. However, in the event this agreement is deemed null and
17 void as described in Section 3 because the Court, in its independent determination, finds that the
18 Agreement does not meet the standards for settlement approval, then Defendants and Plaintiff shall be
19 equally responsible for the costs of the Claims Administrator incurred between the date the Agreement
20 was executed and the date of such event.

21 5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement
22 only, certification of the class as defined in Section 1.9 and 4.1 is appropriate and the requisites for
23 establishing class certification have been met and are met.

24 5.13 Adequacy of Class Counsel and Class Representative: The Parties agree that, for
25 purposes of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members
26 and Aggrieved Employees.

27
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1 **6. RELEASE**

2 6.1 Release of Claims by Class Members: Upon the Effective Date, all Class Members who
3 did not opt out will be deemed to fully, finally and forever release Class Member's Released Claims as to
4 all Released Parties. In addition, on the Effective Date, all Class Members who did not opt out and their
5 successors in interest will be permanently enjoined and forever barred from prosecuting any of Class
6 Member's Released Claims against any of the Released Parties.

7 6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved
8 Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all
9 Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in
10 interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA
11 Claims against any of the Released Parties.

12 6.3 Release by Plaintiff: Upon the Effective Date, Plaintiff will be deemed to fully, finally and
13 forever release the Class Member's Released Claims, Released PAGA Claims, and Class Representative's
14 Released Claims as to all Released Parties. In addition, on the Effective Date, Plaintiff and any successors
15 in interest will be permanently enjoined and forever barred from prosecuting any of the Class Member's
16 Released Claims, Released PAGA Claims, and Class Representative's Released Claims against any of the
17 Released Parties.

18 **7. SETTLEMENT ADMINISTRATION**

19 7.1 Duties of Claims Administrator: The Claims Administrator shall be responsible for: 1)
20 receiving Class Member and Aggrieved Employee contact information and confirming addresses are
21 valid; 2) calculating estimated Claim Amounts and any and all taxes associated with the Claim Amounts,
22 including Employer taxes; 3) taking appropriate steps to trace and locate any individual Class Members
23 and Aggrieved Employee whose address or contact information as provided to the Claims Administrator
24 is inaccurate or outdated and mailing the Notice of Settlement and Claim Form to Class members; 4)
25 providing notification to the appropriate state and federal officials of this Agreement as required under the
26 law; 5) receiving, independently reviewing, and resolving any challenges (in consultation with Class
27 Counsel and Defendants' Counsel) from Class Members or Aggrieved Employees, including any
28 associated documentation, regarding their Qualified Workweek calculations; 6) receiving and serving on

1 Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or any opt out
2 statements; 7) establishing a toll free telephone line and responding to inquiries and requests for
3 information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9)
4 determining and paying the final amounts due to be paid under the Agreement after resolution of all
5 challenges, disputes, opt-outs, awarded attorneys' fees and costs, Claims Administrator Costs, PAGA
6 Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability
7 to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late
8 opt-outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual
9 funds from uncashed checks; 12) reporting to Class Counsel and Defendants' Counsel regarding the
10 statistics of the administration, including (a) the number of initial Notice of Settlements and Claim Forms
11 mailed; (b) the number of forwarded Notice of Settlements and Claim Forms; (c) the number of re-mailed
12 Notice of Settlements and Claim Forms; (d) the number of total undeliverable Notice of Settlements and
13 Claim Forms; (e) the number of address traces performed for undeliverable Notice of Settlements and
14 Claim Forms; (f) the number of Notice of Settlements and Claim Forms undeliverable from traced
15 addresses; (g) the number of total objections received; (h) the number of opt-out requests received; (i) the
16 number of disputes received; (j) the number of disputes resolved; 13) providing a declaration to the Court
17 regarding the final statistics of the administration and compliance with all payment obligations under the
18 Agreement; 14) completing all necessary tax reporting on the QSF and payment of the Claim Amounts to
19 Qualified Members and Aggrieved Employees; and 15) carrying out other related tasks as necessary to
20 effectuate the terms of this Agreement and any Order of the Court. All disputes relating to the Claims
21 Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which
22 will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and
23 obligations contemplated by the Agreement have been fully executed.

24 7.2 Notice to Class Members and Aggrieved Employees: The Notice of Settlement and Claim
25 Forms will provide Class Members and Aggrieved Employees with a summary of the terms and conditions
26 of the Agreement, how to participate in the settlement, how to object to the Agreement, how to dispute
27 the individual's Qualifying Workweeks, and how to opt-out from the Agreement. The Notice of
28 Settlement will also inform Class Members and Aggrieved Employees of the Gross Settlement Amount,

1 Net Settlement Amount, proposed attorneys' fees and costs allocations, any proposed Enhancement
2 Payments, proposed Claims Administrator Cost allocations, proposed PAGA Payment allocations, the
3 scope of the class, the nature and extent of the released claims, dates set for a fairness hearing and hearing
4 on Class Counsels' motion for attorneys' fees and costs. The Notice of Settlement shall include
5 information regarding Class Member's and Aggrieved Employee's estimated Claim Amount. The Notice
6 of Settlement will provide information on how to access electronic copies online of the Notice of
7 Settlement, any motions for approval of the Agreement, any motions for approval of attorneys' fees and
8 costs, and any other documents as the Court directs.

9 7.3 Class Member Data and Mailing: No later than fourteen (14) calendar days after the
10 Preliminary Approval Date, Defendants shall provide the Claims Administrator with the name, last known
11 mailing address, last known telephone number, Social Security Number, start and end date of employment
12 (if any) of each Class Member and Aggrieved Employee, and any other information the Claims
13 Administrator needs to effectuate notice to Class Members and Aggrieved Employees as outlined herein.
14 The Claims Administrator shall review the data to determine the number of Qualifying Workweeks for
15 each Class Member and Aggrieved Employee. No later than fourteen (14) calendar days after receipt of
16 such address information, the Claims Administrator will perform a national change of address ("NCOA")
17 search, update the addresses per the results of the NCOA search, and then mail the Notice of Settlement
18 and Claim Form, substantially in the form attached as Exhibit 1 & Exhibit 2, respectively, to each Class
19 Member and Aggrieved Employee by first-class mail, postage prepaid. The Claims Administrator shall
20 maintain all information received from Defendants confidential to itself, and Defendants' Counsel.
21 However, Class Counsel shall be able to review the breakdown of Qualified Workweeks and estimated
22 Claim Amounts for Class Members and Aggrieved Employees prior to mailing for quality assurance
23 provided the personal identifying information is redacted and/or omitted.

24 7.4 Returned and/or Re-mailed Notice of Settlements, and Reminder Mailings: In the event
25 that a Notice of Settlement and Claim Form are returned to the Claims Administrator as undeliverable on
26 or before the conclusion of the Notice Period, the Notice of Settlement and Claim Form shall be sent to
27 the forwarding address affixed thereto within five (5) calendar days. If no forwarding address is provided,
28 then the Claims Administrator shall promptly attempt to determine a correct address using a skip-trace,

computer or other search using the name, address and/or Social Security number of the individual involved, and shall then perform a single re-mailing within five (5) calendar days to any more recent address found as a result of the search. Following each search that does not result in a corrected address, for those Class Members who appear to be current employees of Defendants at the time of the Preliminary Approval Date, the Claims Administrator shall contact Defendants' Counsel for assistance and Defendants shall cooperate in good faith with the Claims Administrator's reasonable efforts to obtain valid mailing addresses for Class Members to the extent they are active employees of Defendants. In the event the Notice of Settlement and Claim Form are forwarded to a new address and/or re-mailed to a Class Member, the deadline for the Class Member to submit any request to opt-out, a dispute, an objection or a Claim Form shall be the end of the Notice Period or 10 days from the date of the re-mailing/forwarding to a new address, whichever is later. No later than thirty-five (35) calendar days after the Notice of Settlement and Claim Form were mailed to Class Members, the Claims Administrator shall send one (1) reminder post card to each Class Member who has not opted out and who has not submitted a Claim Form. The reminder post card shall simply state the name of the case, the fact that the Claims Administrator has not yet received a Claim Form from the Class Member, state the deadline to submit the Claim Form, and state the Claims Administrator's contact information. The reminder post-card shall notify Class Members that if they need a replacement Claim Form, they are to contact the Claims Administrator immediately to secure one. In the event the procedures in this Section are followed and the Class Member does not timely and properly request to opt-out, the Class Member shall be bound by all terms of the Agreement, including the Releases contained in Section 6.

7.5 Responses to Notice of Settlement:

7.5.1 Opt-Outs: The Notice of Settlement shall provide that Class Members who wish to exclude themselves from the Agreement must submit a request to opt-out as provided in this Section. The request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that he or she does not want to be a Class Member, does not want to participate in the settlement, and/or wants to be excluded from the settlement; (c) identify the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634); (d) be signed; and (e) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must personally sign the request

1 to opt-out. No request to opt-out may be made on behalf of a group of Class Members. The date of the
2 postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request
3 to opt-out has been timely submitted. Any Class Member who requests to opt-out of the Agreement will
4 not be entitled to any benefit of the Agreement or any portion of the Net Settlement Amount, will not be
5 bound by the Agreement, nor will they have any right to object, appeal or comment thereon. Class
6 Members who fail to submit a valid and timely request to opt-out shall be bound by all terms of the
7 Agreement and any order or final judgment thereon, regardless of whether they otherwise have requested
8 to opt-out of the Agreement or failed to submit a Claim Form. Aggrieved Employees cannot opt out of
9 this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they
10 opt out of being a Class Member.

11 *7.5.2 Objection Procedures:* Any Class Member who does not opt-out but who wishes
12 to object to this Agreement or otherwise to be heard concerning this Agreement shall send their written
13 objections to the Claims Administrator and also serve copies of the objections on Class Counsel and
14 Defendants' Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny
15 the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's
16 full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state
17 the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify
18 the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634) (e) be signed; and (f) be
19 post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section
20 7.4. The objecting Class Member must also file a notice of intent to appear with the Court and serve the
21 notice on Class Counsel and Defendants' Counsel, if they intend to appear at the final approval hearing.

22 *7.5.3 Dispute Procedures:* Any Class Member who disputes the number of Qualifying
23 Workweeks on the Notice of Settlement shall contact the Claims Administrator. The dispute must (a)
24 identify the nature of the dispute; (b) provide any information or documentation supporting the dispute;
25 (c) be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing
26 timeline stated in Section 7.4. The Claims Administrator shall promptly (in no event more than two
27 business days) forward all such disputes to Defendants' Counsel and request that Defendants review the
28 dispute. Defendants' records shall presumptively control unless the Class Member can produce

1 documentation evidencing other periods of employment worked. If Defendants do agree with submitted
2 information, the Class Member shall be credited or subtracted Qualifying Workweeks in accordance with
3 their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that
4 Class Member's Claim Amount. If Defendants do not agree with the submitted information, Defendants'
5 Counsel will promptly advise Class Counsel of the dispute, which includes turning over any
6 documentation submitted by the Class Member as part of the dispute. Defendants' Counsel and Class
7 Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class
8 Counsel being advised of the dispute. Each dispute that Defendants' Counsel and Class Counsel cannot
9 timely resolve shall be resolved by the Claims Administrator or Court.

10 **7.5.4 Claim Forms:** A Class Member must sign and return a Claim Form, substantially
11 in the form as set forth in Exhibit 2 to this Agreement, that is post marked before the end of the Notice
12 Period, subject to any extensions of time for the reasons set forth in Section 7.4, in order to be considered
13 a Qualified Claimant and receive a portion of the Net Settlement Amount.

14 **7.5.5 Deficient Opt-Outs, Objections, Disputes, or Claim Forms:** In the event that a
15 deficient opt-out, objection, dispute, or Claim Form is received on or before the conclusion of the Notice
16 Period, excluding any extension of time for the reasons set forth in Section 7.4, the Claims Administrator
17 shall mail a letter to the Class Member within five (5) calendar days informing them of the deficiency. If
18 a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure the deficiency
19 shall be the end of the Notice Period or 10 calendar days from the date of the deficiency letter, whichever
20 is later.

21 **7.6 Due Process Acknowledgement:** Compliance with the procedures set forth in Sections 7.1
22 to 7.5.5 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and
23 shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class
24 Counsel or Defendants' Counsel to provide notice of the proposed Agreement.

25 **7.7 Claims Administrator Declaration Regarding Notice Period:** Within fourteen (14) calendar
26 days after the conclusion of the Notice Period, the Claims Administrator shall provide Class Counsel and
27 Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed
28

1 report regarding the statistics and responses of settlement administration to date and all the Claims
2 Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.5.

3 7.8 Claims Administrator Payments to Qualified Claimants, Class Counsel and Plaintiff:

4 Within seven (7) calendar days after the Effective Date and the Court's determination of the amount of
5 attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to Plaintiff, the
6 PAGA Payment, and Claims Administrator Costs, the Claims Administrator shall calculate the final Net
7 Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any
8 applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants'
9 Counsel. Defendants shall wire the Gross Settlement Amount, or a lesser amount based on the final Claim
10 Amounts for Qualified Claimants and/or Aggrieved Employees, and applicable taxes necessary to fund
11 the Settlement as described in Section 5.1 to the Claims Administrator within twenty-one (21) calendar
12 days after the Effective Date to be to be held in trust in a QSF, but in no event shall the payment be made
13 prior to February 15, 2023. Within seven (7) calendar days after Defendants fund the settlement, the
14 Claims Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement
15 Payment payable to Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA, Claims
16 Administrator Costs, and payment to Qualified Claimants and/or Aggrieved Employees as required under
17 this Agreement and approved by Court.

18 7.8.1 The Claims Administrator shall wire the Court-approved attorneys' fees and costs
19 to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide the
20 Claims Administrator with the pertinent taxpayer identification number and payment instructions after the
21 Final Approval Date.

22 7.8.2 The Claims Administrator shall send a check by mail for the Court-approved
23 Enhancement Payment to the Class Representative, care of Class Counsel unless another method is
24 requested by Class Counsel.

25 7.8.3 Only Qualified Claimants and Aggrieved Employees will receive their Claim
26 Amount.

27 7.8.4 The Claims Administrator shall remit and report the applicable portions of the
28 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this

Agreement. Defendants agree to reasonably cooperate with the Claims Administrator to the extent necessary to determine the amount of the payroll tax payment required.

7.9 Settlement Check Expiration and Uncashed Checks: The Claims Administrator shall issue Claim Amounts to Qualified Claimants and Aggrieved Employees in the form of a check, which shall become null and void if not deposited within one hundred twenty (120) calendar days of issuance. After one hundred twenty (120) calendar days of issuance, the checks shall be voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The Claims Administrator shall deliver these funds within fourteen (14) calendar days after the check cashing deadline.

7.10 Claims Administrator Declaration Regarding Compliance and Settlement Administration: Within twenty-one (21) days after the last day for Qualified Claimants and Aggrieved Employees to cash their settlement checks, the Claims Administrator shall provide Class Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the settlement administration documenting that all payments under the Agreement have been made, that the Court's final approval order has been complied with, and that all the obligations of the Claims Administrator have been completed.

8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Class Members and Aggrieved Employees, and sets further hearings. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendants to provide Claims Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Claims Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement and Claim Form	Within 14 calendar days after the Claims Administrators' receipt of Class Members' and Aggrieved Employees' information from Defendants

1 2 3 4	Last day for Claims Administrator to mail reminder post card to Class Members who have not opted out and have not submitted Claim Forms	35 calendar days after mailing of Notice of Settlement and Claim Form
5 6 7	Last day for Class Members to opt-out, submit disputes, submit objections, submit data requests, and submit Claim Form	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
8 9 10	Last day for Claims Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
11 12 13 14	Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
15 16 17	Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date but in no event prior to February 15, 2023
18 19 20 21	Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after funds are deposited with the Claims Administrator
22 23 24	Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 calendar days after issuance of checks to Qualified Members and Aggrieved Employees
25 26 27	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
28	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

1 **9. DUTIES OF THE PARTIES**

2 9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed
3 motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this
4 Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class
5 action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of
6 any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may
7 be requested by the Court relating to, or that are otherwise necessary to the approval and implementation
8 of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement
9 purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to
10 the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final
11 approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the
12 Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments
13 and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from
14 Class Counsel. With regard to the final approval documents, a similar one-week maximum review and
15 response time shall be observed by the Parties. The Parties will request that the Court's preliminary
16 approval of this Agreement be embodied in an Order Granting Preliminary Approval of Class Action and
17 PAGA Settlement.

18 9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2)
19 Approving as to form and content the proposed Notice of Settlement and Claim Form; 3) Directing the
20 mailing of the Notice of Settlement and Claim Form by first class mail to Class Members and Aggrieved
21 Employees; 4) Preliminarily appointing Plaintiff and Class Counsel as representatives of Class Members;
22 5) Preliminarily approving settlement administration services to be provided by the Claims Administrator;
23 6) Preliminarily approving the proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving
24 the application for payment of reasonable attorneys' fees and reimbursement of litigation-related expenses
25 to Class Counsel; and 8) Scheduling a fairness hearing on the question of whether the proposed Agreement
26 should be finally approved as fair, reasonable and adequate as to the Class Members.

27 9.1.2 Defendants shall not oppose Plaintiff's motion for approval of the proposed
28 Agreement.

1 9.1.3 The Parties shall cooperate with each other and the Claims Administrator during
2 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and
3 appropriate to assure effective communication to individual Class Members of information about their
4 rights and obligations under this Agreement.

5 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the
6 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if
7 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the
8 Agreement, a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice
9 of Settlement and Claim Form required to be mailed to Class Members by this Agreement, and of the
10 delivery results of the Claim Administrator's mailings including tracing and re-mailing efforts.

11 9.2.1 Class Counsel will submit a proposed order and judgment for final approval, which
12 shall include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair,
13 reasonable and adequate, and directing that its terms and provisions be carried out; 2) Approving the
14 payment of an Enhancement Payment to the Class Representative; 3) Approving Class Counsel's
15 application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4)
16 Approving the Claims Administrator Costs; and 5) Providing that the Court will retain jurisdiction to
17 oversee administration and enforcement of the terms of the Agreement and the Court's orders.

18 9.2.2 Following entry of the Court's Order granting final approval of the Agreement, the
19 Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the
20 following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside
21 the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class
22 Counsel will assist the Claims Administrator as needed or requested in the process of identifying and
23 locating Qualified Claimants and Aggrieved Employees entitled to payments under the Agreement and
24 assuring delivery of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each
25 other and assist the Claims Administrator as needed or requested in completing the distribution of any
26 residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with
27 the Claims Administrator, will certify to the Court completion of all payments required to be made by this
28 Agreement.

1 **9.3 Final Judgment:** If the Court approves this Agreement at the final approval and fairness
2 hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action
3 and PAGA Settlement and Final Judgment.

4 **9.4 Notice to LWDA:** Plaintiff agrees to provide notice to the Labor and Workforce
5 Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

6 **10. MISCELLANEOUS TERMS**

7 **10.1 Defendant's Right to Withdraw Based on Opt-Outs:** If, prior to the Final Approval Date,
8 10% or more of the Class Members have submitted proper and timely requests to opt-out in accordance
9 with the provisions of the Agreement, Defendants may rescind the Agreement and all actions taken in its
10 furtherance will be thereby null and void. Defendants must exercise this right of rescission, in writing, to
11 Class Counsel, within seven (7) calendar days after the Claims Administrator notifies the Parties of the
12 total number of opt-outs. If the option to rescind is exercised, then any Claims Administrator Costs shall
13 be paid by Defendants. Defendant has represented that there are no more than 2,644 workweeks during
14 the Class Period. In the event the number of workweeks during the Class Period is more than 2,909
15 (i.e., greater than 10% more than 2,644), then the Gross Settlement Amount shall be increased
16 proportionally by the workweeks in excess of 2,909, multiplied by the pay period value. For example,
17 if there were 11,900 workweeks represented to exist during the Class Period, but there are actually
18 15,000 workweeks in the Class Period, and the actual workweek value is \$5.00 per workweek,
19 Defendants would have to increase the Gross Settlement Amount by \$15,500.00 (15,000 workweeks –
20 11,900 workweeks = 3,100 workweeks x \$5.00/workweek).

21 **10.2 Circular 230 Disclaimer:** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
22 THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT
23 OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND
24 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
25 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
26 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
27 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
28 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT

1 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
2 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
3 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
4 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
5 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
6 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
7 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
8 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
9 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
10 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
11 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
12 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
13 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
14 BY THIS AGREEMENT.

15 10.3 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
16 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
17 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
18 and discharged in this Agreement.

19 10.4 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
20 signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the
21 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
22 Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise
23 and is deemed to have submitted a valid Claim Form to become a Qualified Claimant.

24 10.5 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
25 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
26 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.
27
28

1 10.6 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment
2 will be entered according to this Agreement. The Parties stipulate and agree that the Sacramento County
3 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
4 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of
5 the Agreement after default by the other party may recover reasonable attorney's fees and costs related
6 thereto.

7 10.7 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
8 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to,
9 execution of such other documents and the taking of such other action as may reasonably be necessary to
10 fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including
11 all efforts contemplated by this Agreement and any other efforts that may become necessary by Court
12 order, or otherwise, to effectuate this Agreement and the terms set forth herein.

13 10.8 No Admission of Liability: Neither the acceptance nor the performance by Defendants of
14 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
15 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the
16 Complaint, the representative character of the Action, the validity of any of the claims that were or could
17 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of
18 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
19 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members,
20 or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or
21 wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered
22 into this Stipulation with the intention to avoid further disputes and litigation.

23 10.9 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
24 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
25 the third business day after mailing by United States certified mail, return receipt requested, addressed as
26 follows:
27
28

To Plaintiff and the Class:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624

To Defendants:

Joel Van Parys
CDF Labor Law LLP
900 University Avenue, Suite 200
Sacramento, CA 95825
Telephone: (916) 361-0991

10.10 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Agreement.

10.11 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except as expressly provided in this Agreement.

10.12 No Modifications: This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be discharged except by performance in accordance with its terms.

10.13 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement.

10.14 Class Member Signatories: Because the Action has not yet been certified, and the Class Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member

1 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
2 may be executed on behalf of all Class Members by the Class Representative.

3 10.15 Counterparts: This Agreement shall become effective upon its execution by all of the
4 undersigned. Plaintiff, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement
5 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
6 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
7 and effect of originals.

8 10.16 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
9 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
10 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance
11 with, and governed by, the substantive laws of the State of California without giving effect to that State's
12 choice of law principles.

13 10.17 Headings and Captions: Section titles or captions contained in the Agreement are inserted
14 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
15 this Agreement, or any provision thereof.

16 10.18 No Retaliation or Discouragement: The Parties agree they will take no action that could
17 be construed as retaliation against any Class Members for participating or seeking to participate in this
18 class action settlement. The Parties will not discourage any class member from participating or seeking
19 to participate in this class action settlement. This is a material term of the Agreement and non-breaching
20 Parties will seek court intervention if this provision is breached. Should non-breaching Party prevail, they
21 shall be entitled to further attorneys' fees and costs.

22 10.19 Integrated Agreement: This Agreement sets forth the entire understanding between the
23 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
24 Each party acknowledges that there is no representation, inducement, promise or agreement which has
25 been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement,
26 which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent
27 that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.
28

10.20 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

10.21 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

10.22 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: 6/23/2022

DocuSigned by:
Isidro Arroyo
Isidro Arroyo
6A2C83970EE0413...

FOR Defendants:

Date: 6/27/22

By:
For Epic Home Solar

Date: 6/27/22

By:
For Michael Vallar Pacada

Date: 6/28/2022

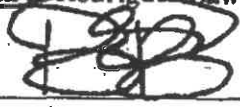
By:
For Johan Byron Arnegard

1 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

2

3 Dated: June 23, 2022

By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorney for Plaintiff and Aggrieved
Employees

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5

6

7 APPROVED AS TO FORM

CDF LABOR LAW LLP

8

9 Dated: June 29, 2022

By: 

Joel Van Parys
Attorney for Defendants

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EXHIBIT 1

CALIFORNIA SUPERIOR COURT
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

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: all non-exempt employees who have worked, or continue to work, for Epic Home Solar in California from November 3, 2017 to _____ (the "Class Members").

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW. TO RECEIVE A SETTLEMENT AWARD, YOU MUST FILL OUT THE ENCLOSED CLAIM FORM AND MAIL IT TO THE SETTLEMENT ADMINISTRATOR ON OR BEFORE [DATE].

Pursuant to an order from the Sacramento County Superior Court ("Court") granting preliminary approval of this class action settlement, entered on _____, you are receiving notice of a proposed class action and Private Attorneys General Act ("PAGA") settlement between Plaintiff Isidro Arroyo ("Plaintiff" or "Class Representative") and Defendants Epic Home Solar, Michael Vallar Pacada, Johan Byron Arnegard and Steve Evan Deus ("Defendants") on behalf of Class Members as defined above. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member." Defendants' records also indicate that you worked _____ weeks during the applicable Class Period (as defined below), which means your share of the settlement proceeds is estimated to be _____. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate, and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On November 3, 2021, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California on behalf of himself and Class Members. The term "Action" means this putative class action pending in Sacramento County Superior Court, Case No. 34-2021-00310634. The Class Period is November 3, 2017 to _____ (the "Class Period").

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of himself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to keep track of employees' hours worked and adopting a policy and practice to not pay piece rate employees any overtime; 2) failing to provide or communicate meal and rest period policies, including any policy to take a second lunch during shifts over 10 hours; 3) failing to keep any record of meal periods for putative class members; 4) failing to pay piece rate and/or commission employees separately for time spent during rest periods and other non-productive time; 5) failing to adopt a policy that provided class members with paid sick leave in accordance with the Healthy Workplaces Healthy Families Act of 2014; 6) failing to reimburse piece rate employees for the use of their cellphones and personal vehicles for work; and 7) failing to provide wage statements, or to the extent wage statements were provided, failing to provide accurate wage statements. Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Based

upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Parties have entered into a Joint Stipulation of Regarding Class Action PAGA Settlement and Release ("Agreement" or "Settlement"), which has been preliminarily approved by the Court. The Agreement applies to any and all Class Members as defined above. "Class Member" does not include persons who submit valid request to opt out (as explained below). If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the settlement. This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendant has agreed to pay a total sum of One Hundred Fifty Thousand Dollars and No Cents (\$150,000) ("Gross Settlement Amount") on a claims made basis. Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed 35% of the Gross Settlement Amount, attorneys' costs not to exceed \$15,000, Claims Administrator Costs estimated not to exceed \$10,000, Class Representative's Enhancement Payment of \$10,000, and \$5,000 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to all Class Members who have timely submitted a Claim Form, which is enclosed in this mailing. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$5,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees, which are defined as all non-exempt employees who have worked, or continue to work, for Defendants in California from October 26, 2020 to

The number of weeks you worked during the Class Period and your estimated share of the Net Settlement Amount and PAGA Payment ("Claim Amount") is stated on the first page of this notice and the enclosed Claim Form. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by participating Class Members, the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims

B. Claim Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Claim Amounts through the Claims Administrator, as described below, to each Class Member who has timely submitted a Claim Form and who does not opt out of the settlement as well as to Aggrieved Employees. All Claim Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Claim Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Class Members who do not opt out will require the submission of a Claim Form. Class Members who timely submit a Claim Form and who do not opt out are referred to as "Qualified Claimants" under the terms of the Agreement. Payment to Aggrieved Employees of their share of the PAGA Payment will not require the submission of a Claim Form. Each Qualified Claimant's share of the Net Settlement Amount shall be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Defendants shall pay out at least 50% of the Net Settlement Amount regardless of the claims rate. If less than 50% of the Net Settlement Amount is claimed by Qualified Claimants, the Qualified Claimants will have their individual shares of the Net Settlement Amount increased, pro rata, until 50% of the Net Settlement Amount is distributed. Any portion of the Net Settlement Amount in excess of the minimum 50% threshold that is not claimed by Qualified Claimants shall remain the property of Defendants.

Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. Receipt of the Claim Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Claims Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Claims Administrator. Defendants' records and any additional evidence will be reviewed by the Claims Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than _____. The dispute will be resolved by the Claims Administrator based on the records and evidence provided. The Claims Administrator's decision on all disputes will be final and binding.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint or Plaintiff's October 26, 2021, notice to the LWDA during the PAGA Claim Period.

The individuals released ("Released Parties") includes Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if Class Members have questions about the released claims and what they mean.

E. Attorneys' Fees and Costs

Defendants have agreed to pay Class Counsel's attorneys' fees and costs to be approved by the Court, up to a maximum of 35% of the Gross Settlement Amount which equals \$52,500, and attorneys' costs not to exceed \$15,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Gross Settlement Amount.

F. Reasonableness of Settlement

The Parties and their counsel believe the amounts payable to Class Members, Aggrieved Employees, and amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement

If you wish to participate in the settlement you must complete and return the enclosed Claim Form post marked no later than [date]. Failure to timely submit a Claim Form without opting out of the settlement will cause you to be bound by release of claims identified above, but you will not receive any share of the Net Settlement Amount.

B. Excluding Yourself from the Settlement

If you do not wish to participate in the settlement, you may be excluded (i.e., "opt out") by submitting a timely written request to the Claims Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the settlement, and/or wants to be excluded from this settlement; (c) identify the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634); (d) be signed; and (e) be post-marked no later than _____. The request to opt out must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

[admin info]

The request to opt out must be postmarked no later than _____. If you submit a request to opt out which is not postmarked by _____, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. If the request to opt out is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Claims Administrator, no longer be a Class Member and not received their share of the class settlement payment. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the settlement, you can object to the terms of the Agreement. However, if the Court rejects your objection, you will still be bound by the terms of the Agreement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634) (e) be signed; and (f) be post-marked no later than _____. The objection must be sent to the Claims Administrator at the address identified in section III.B and to counsel for Plaintiff and Defendants at the addresses identified in section VI of this notice. If you intend to object to the settlement, but wish to receive your share of the Net Settlement Amount, you must timely submit your Claim Form as stated above. If the Court approves the Agreement despite any objections and you have not submitted a Claim Form, you will not receive your share of the Net Settlement Amount.

If you have submitted a written objection as outlined above, you may also appear at the Final Approval Hearing, either in person or through your own attorney, to state your objection. However, you must file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

After final approval of the settlement has been granted by the Court, each and every Class Member who does not opt out of the settlement and Aggrieved Employee, will release Defendants and the Released Parties from the released claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the settlement, you will be deemed to have entered into this release and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this settlement. If the settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department _____, [address] on _____ at _____ to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs. The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing, unless you wish to object to the settlement.

VI. ADDITIONAL INFORMATION

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Joel Van Parys
Dalia Z. Khatib
CDF Labor Law LLP
900 University Avenue, Suite 200
Sacramento, CA 95825
Telephone: (916) 361-0991
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT

EXHIBIT 2

CLAIM FORM
ARROYO V. EPIC HOME SOLAR
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO
CASE NO. 34-2021-00310634

You must complete and return this Claim Form by first-class mail to the Claims Administrator at the address below on or before [DATE] to be eligible to receive your Claim Amount under the Agreement. To be considered timely, the Claim Form must be postmarked by [DATE]. Incomplete and/or late Claim Forms will be rejected. Your decision to submit or not submit this Claim Form will not affect your employment in any way. Your current or former employer will not retaliate against you in any way for submitting a Claim Form.

MAIL TO: [address]

INSTRUCTIONS

- (1) Please review the following identifying information, and make any necessary changes in the right-hand column:

[Admin ID#]

First, Last

Address1

Address2

City, State, Zip,

Name/Address Changes (if any):

(Optional): I can be reached by telephone at:

Area Code	Work Telephone Number	
Area Code	Home Telephone Number	

- (2) **Weeks Worked During Class Period:** According to Defendants' records, you worked _____ weeks in California as Class Member during the Class Period. Your Claim Amount is estimated to be approximately \$_____.
- (3) If you disagree with the number of workweeks stated in Paragraph (2) above, you may send a letter to the Claims Administrator disputing the number of assigned workweeks in addition to the signed Claim Form. The letter must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [date]. You must also send any documents or other information that supports your belief that the information set forth above is incorrect. Defendants' records will control unless you are able to provide documentation with this Claim Form that establishes otherwise. If there is a dispute about whether Defendants' information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Claims Administrator as described in the Notice of Settlement that accompanies this Claim Form. Such a determination by the Claims Administrator will be final and binding with no opportunity for further appeal.

Please Note: A portion of all Claim Amounts are subject to taxation and will be reported to the IRS and state tax authorities. You will receive an IRS Form 1099-MISC and W-2 covering your Claim Amount.

I declare under penalty of perjury under the laws of the State of California and the United States that I received a copy of and have had an opportunity to review the accompanying Notice of Settlement, that I am entitled to a Claim Amount for the Released Claims, and that the foregoing information is voluntary and true and correct to the best of my knowledge.

(Sign your name here)

Date

EXHIBIT B

FILED BY FAX

1 Galen T. Shimoda (Cal. State Bar No. 226752)
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9 Attorneys for Plaintiff ISIDRO ARROYO

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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.

FILED
Superior Court Of California,
Sacramento
01/19/2022
reanmiguel
By _____, Deputy
Case Number:
34-2021-00310634

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 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 (c) 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.

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

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

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

13 **CAUSES OF ACTION**

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

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

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

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

27 28. Plaintiff and similarly situated employees were not exempt from overtime protections
28 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.

29 37. California Labor Code section 512 and Wage Order No. 16 section 11(B) further
30 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**
20 **(As to all Defendants)**

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

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

25 43. California Labor Code section 226.7 and Wage Order No. 16, section 12(A) require
26 an employer to provide a rest period of not less than ten (10) minutes for each work period of more
27 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 Plaintiffs 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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65. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, nonproductive and recovery time and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter.

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

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

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

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

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

70. 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.

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

71. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 70 as though fully 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
3

Shimoda Law Corp.

4 By: 

5 Galen T. Shimoda
6 Justin P. Rodriguez
7 Brittany V. Berzin
8 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: _____.

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

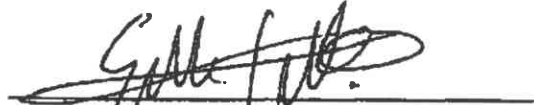
28 
Erika F. Collazo

EXHIBIT C



Shimoda Law Corp.
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

October 26, 2021

For Online Filing:

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

Re: *Arroyo v. Epic Home Solar, et al.*

Dear Labor Commissioner,

As counsel for Isidro Arroyo ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

Epic Home Solar
9083 Foothills Blvd #390
Roseville, CA 95747

Michael Vallar Pacada
9083 Foothills Blvd #390
Roseville, CA 95747

Johan Byron Arnegard
9083 Foothills Blvd #390
Roseville, CA 95747

Steve Evan Deus
9083 Foothills Blvd #390
Roseville, CA 95747

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Epic Home Solar, Michael Vallar Pacada, Johan Byron Arnegard and Steve Evan Deus ("Defendants"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all non-exempt employees who have worked, or continue to work, for Defendants in California and were paid under a piece rate compensation system. Plaintiff is entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals



pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).

A. FACTS

Plaintiff worked for Defendants from approximately June 2021 to July 2021. Plaintiff and Aggrieved Employees completed roofing projects for Defendants' clients. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours in a day and/or forty (40) hours in a week. Defendants paid Plaintiff and Aggrieved Employees under a piece rate compensation system that paid Plaintiff and Aggrieved Employees based on the square footage of the project and the type of project (e.g. tear off, install, dry rot, osb), regardless of their hours worked.

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

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

Defendants did not have any policy or practice to authorize and permit Plaintiff and Aggrieved Employees to take a full, uninterrupted thirty (30) minute meal period every five (5) hours and ten (10) minute rest periods every four (4) hours or major fraction thereof. Defendants did not have a policy or practice for meal periods to begin before the end of Plaintiff's and Aggrieved Employees' fifth hour of work. Defendants did not have a policy authorizing and permitting Plaintiff and Aggrieved Employees to take a second meal period or third rest period when they work over ten (10) hours in a shift. Defendants did not have any policy or practice to pay missed meal and rest period premiums. Defendants also did not have any policy or practice to compensate Plaintiff and Aggrieved Employees for time spent during rest periods they received.

Defendants did not timely pay Plaintiff and Aggrieved Employees all wages owed to them. Defendants failed to pay Plaintiff and Aggrieved Employees all wages they earned between the 1st and 15th days of the month between the 16th and the 26th day of the month during which the work was performed, and all wages they earned between the 16th and the last



day of the month between the 1st and 10th day of the following month. Defendants paid Plaintiff and Aggrieved Employees a piece rate at the end of projects without regard to the requirements in Labor Code section 204 and wholly failed to pay minimum and overtime wages owed.

Plaintiff and Aggrieved Employees should have accrued paid sick time pursuant to Labor Code section 246. However, Defendants failed to keep track of any accrued sick time or provide paid sick time to Plaintiff and Aggrieved Employees.

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

At the time of Plaintiff's and Aggrieved Employees' termination and/or separation, Plaintiff and Aggrieved 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 Aggrieved Employees these unpaid wages.

Defendants failed to reimburse Plaintiff and Aggrieved Employees for all expenses they incurred for work, including the use of their personal cellphones and vehicles. Defendants required Plaintiff and Aggrieved Employees to use their personal cellphones for work but failed to have any policy or practice to reimburse them for such use. Additionally, Defendants agreed to reimburse for mileage and gas expenses but then wholly failed to do so.

Michael Vallar Pacada, Johan Byron Arnegard and Steve Evan Deus are the owners, directors, officers, and/or managing agents of Epic Home Solar and caused each and every one of the aforementioned Labor Code violations.

B. ALLEGATIONS AND CHARGES

Count One – Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week



and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count Two – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 16, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2019; IWC Wage Order No. 16, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count Three - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 16, §§ 10(A) and 10(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 16, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 16, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count Four – Violation of Labor Code § 226.2, 226.7 and Wage Order No. 16, § 11(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 16, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.



Count Five – Violation of Labor Code §§ 226, 226.2, 226.3 (Failure to Provide Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is 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”

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. For the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count Six – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including regular wages, wages for recovery periods and nonproductive time, minimum wages, overtime wages, paid sick time and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count Seven – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements for personal cellphones and vehicles used by Plaintiff and Aggrieved Employees. This was in violation of the law.



Count Eight – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf of an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants' agents, violated Plaintiff and Aggrieved Employees' rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Michael Vallar Pacada, Johan Byron Arnegard and Steve Evan Deus were officers, directors, shareholders, and/or managing agents of Epic Home Solar responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

Count Nine – Violation of Labor Code §§ 221, 223, 225 (Failure to Pay Contract Wages and Unlawful Deductions)

Labor Code section 221 states that "[it] shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Labor Code section 223 prohibits employers from paying an employee less than a contractually obligated amount. As stated above, Defendants failed to pay Plaintiff and Aggrieved Employees their contracted straight time pay for all hours worked. This was against the law.

Count Ten – Violation of Labor Code §§ 226.3, 1174, 1198 and Wage Order No. 16, § 6(A) (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff's and Aggrieved Employees' wage records and hours worked. This was against the law.



Labor Code section 1198 provides the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The records requirement in Wage Order No. 16, § 6(A) is a “standard condition of labor fixed by the commission.” See Cal. Labor Code § 1198. It provides, “Every employer who has control over wages, hours, or working conditions shall keep accurate information with respect to each employee, including ... time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded ... Total hours worked during the payroll period and applicable rates of pay...” See Wage Order No. 16, § 6(A)(1)-(3). Defendants failed to keep accurate records in compliance with Wage Order No. 16, § 6(A) and Labor Code § 1198. This was against the law.

Count Eleven – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”) for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. For the reasons state above, Defendants failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

Count Twelve – Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

Labor Code section 204(a) provides that “all wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. As stated above,



Defendants failed to comply with this provision by paying Plaintiff and Aggrieved Employees for wages earned between the 1st and 15th and between the 16th and last day of the month beyond the maximum time allowed under the statute. This was in violation of the law.

Count Thirteen – Violation of Labor Code § 226.2 (Failure to Pay Non-Productive Time)

Labor Code section 226.2 requires employers to separately compensate piece rate employees for rest and recovery periods as well as any other nonproductive time at rate that is the higher of an average hourly rate or the applicable minimum wage. In this case, Defendants completely failed to pay Plaintiff and Aggrieved Employees any compensation for rest and recovery periods and other non-productive time as outlined above. This was against the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda Law Corp.

By: _____


Justin P. Rodriguez

JPR:bb

cc: Client via e-mail

1 *Arroyo v. Epic Home Solar, et al.*

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

4 I, Erika F. Collazo, declare that:

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

7 On October 26, 2021, I served the following documents on the party below:

- 8 • Private Attorney General Act Letter

9 Epic Home Solar 10 9083 Foothills Blvd #390 11 Roseville, CA 95747	Michael Vallar Pacada 9083 Foothills Blvd #390 Roseville, CA 95747
12 Johan Byron Arnegard 13 9083 Foothills Blvd #390 14 Roseville, CA 95747	Steve Evan Deus 9083 Foothills Blvd #390 Roseville, CA 95747

15 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection
16 and processing of correspondence for mailing with the United States Postal
17 Service and that each day's mail is deposited with the United States Postal
18 Service that same day in the ordinary course of business. On the date set forth
19 above, I served the aforementioned document(s) on the parties in said action by
placing a true copy thereof enclosed in a sealed envelope with postage thereon
fully prepaid, for collection and mailing on this date, following ordinary business
practices, at Elk Grove, California, addressed as set forth above.

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

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

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct, and that this declaration was executed on October 26, 2021, at Elk Grove,
California.

25 
26 Erika F. Collazo
27
28

EXHIBIT D

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Arroyo v. Epic Home Solar

Requesting Attorneys Name:

Brittany Berzin

E-Mail:

bberzin@shimodalaw.com

ILYM Contact:

Jonathan Paul

E-Mail:

Jonathan@ilymgroup.com

Contact Number:

310.948.7117

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	115
Estimated Mail Returned as Undeliverable	20%
Estimated Claims Rate	50%
NCOA	Yes
Certified Spanish Translation	Yes
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$475.00

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	5	\$600.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	3	\$210.00
Staff Hours for Processing Opt-Outs, Disputes & Objections	Hourly	\$70.00	3	\$210.00
Claim Form Processing	Per Piece	\$5.00	58	\$287.50
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Rate	\$50.00	1	\$50.00
Certified Spanish Translation	Flat Rate	\$750.00	1	\$750.00
Reminder Postcard (including postage)	Flat Rate	\$150.00	1	\$150.00
Toll Free Customer Service Representatives	Flat Rate	\$250.00	1	\$250.00

Subtotal \$2,857.50

NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$5.75	115	\$661.25
USPS First Class Postage - 2oz	Per Piece	\$0.71	115	\$81.65
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$8.00	7	\$55.20
Storage, Photocopies, Deliveries	Flat Fee	\$375.77	1	\$375.77

Subtotal \$1,173.87

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	5	\$750.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	5	\$625.00
Check, Stub & Release - Print & Mail (1099)	Per Check	\$5.00	58	\$287.50
USPS First Class Postage	Per Piece	\$0.55	58	\$31.63
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$10.00	3	\$34.50
Preparation of Taxes	Hourly	\$120.00	5	\$600.00
Annual Filing of Tax Return	Per Year	\$750.00	1	\$750.00

*Additional Bank fees may apply

Subtotal \$3,078.63

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	2	\$200.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Declaration	Hourly	\$125.00	1	\$125.00

Subtotal \$565.00

TOTAL CASE ESTIMATE - NOT TO EXCEED: \$8,150.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard form is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT E

Plaintiff Isidro Arroyo Costs - Shimoda & Rodriguez Law, PC

Date	Description	Cost
10/27/2021	PAGA Filing Fee	\$75.00
10/31/2021	Administration/Copy Fee - Class Action - Phone, Fax, Scan, Copying, Non-Certified/Courier Postage, Westlaw Research	\$500.00
11/3/2021	Payment to Court - Complaint	\$435.00
11/13/2021	Service Fee to Court - Complaint	\$40.00
12/13/2021	Complex Fee	\$1,000.00
12/13/2021	Service Fee to Court - Complex Fees to Court	\$40.00
12/17/2021	Service Fee to Court - POSOS	\$40.00
1/19/2022	Service Fee to Court - First Amended Complaint	\$40.00
2/16/2022	Mediation Fee	\$6,250.00
4/21/2022	Jury Fees	\$150.00
4/21/2022	Service Fee to Court - CMC & Jury Fee Payment	\$40.00
5/9/2022	Mediation Flight	\$327.20
7/18/2022	Payment to Court - Preliminary Approval Motion	\$60.00
7/18/2022	Payment to One Legal - Filing Preliminary Approval Motion	\$211.79
9/6/2022	Payment to Court for Copy of Minute Order From Public Access Site	\$2.00
Anticipated	Payment to Court - Re-Submission of Preliminary Approval Motion	\$60.00
Anticipated	Payment to One Legal - Re-Submission of Preliminary Approval Motion	\$211.79
Anticipated	Payment to Court - Final Approval Motion	\$60.00
Anticipated	Payment to One Legal - Filing Final Approval Motion	\$300.00
Anticipated	Service Fee - CMC to Court	\$70.00
Anticipated	Service Fee - Compliance Declarations	\$70.00
		\$9,982.78

EXHIBIT F

CALIFORNIA SUPERIOR COURT
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

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: all non-exempt employees who have worked, or continue to work, for Epic Home Solar in California from November 3, 2017 to _____ (the "Class Members").

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW. TO RECEIVE A SETTLEMENT AWARD, YOU MUST FILL OUT THE ENCLOSED CLAIM FORM AND MAIL IT TO THE SETTLEMENT ADMINISTRATOR ON OR BEFORE [DATE].

Pursuant to an order from the Sacramento County Superior Court ("Court") granting preliminary approval of this class action settlement, entered on _____, you are receiving notice of a proposed class action and Private Attorneys General Act ("PAGA") settlement between Plaintiff Isidro Arroyo ("Plaintiff" or "Class Representative") and Defendants Epic Home Solar, Michael Vallar Pacada, Johan Byron Arnegard and Steve Evan Deus ("Defendants") on behalf of Class Members as defined above. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member." Defendants' records also indicate that you worked _____ weeks during the applicable Class Period (as defined below), which means your share of the settlement proceeds is estimated to be _____. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate, and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On November 3, 2021, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California on behalf of himself and Class Members. The term "Action" means this putative class action pending in Sacramento County Superior Court, Case No. 34-2021-00310634. The Class Period is November 3, 2017 to _____ (the "Class Period").

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of himself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to keep track of employees' hours worked and adopting a policy and practice to not pay piece rate employees any overtime; 2) failing to provide or communicate meal and rest period policies, including any policy to take a second lunch during shifts over 10 hours; 3) failing to keep any record of meal periods for putative class members; 4) failing to pay piece rate and/or commission employees separately for time spent during rest periods and other non-productive time; 5) failing to adopt a policy that provided class members with paid sick leave in accordance with the Healthy Workplaces Healthy Families Act of 2014; 6) failing to reimburse piece rate employees for the use of their cellphones and personal vehicles for work; and 7) failing to provide wage statements, or to the extent wage statements were provided, failing to provide accurate wage statements. Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Based

upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Parties have entered into a Joint Stipulation of Regarding Class Action PAGA Settlement and Release ("Agreement" or "Settlement"), which has been preliminarily approved by the Court. The Agreement applies to any and all Class Members as defined above. "Class Member" does not include persons who submit valid request to opt out (as explained below). If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the settlement. This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendant has agreed to pay a total sum of One Hundred Fifty Thousand Dollars and No Cents (\$150,000) ("Gross Settlement Amount") on a claims made basis. Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed 35% of the Gross Settlement Amount, attorneys' costs not to exceed \$15,000, Claims Administrator Costs estimated not to exceed \$10,000, Class Representative's Enhancement Payment of \$10,000, and \$5,000 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to all Class Members who have timely submitted a Claim Form, which is enclosed in this mailing. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$5,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees, which are defined as all non-exempt employees who have worked, or continue to work, for Defendants in California from October 26, 2020 to _____.

The number of weeks you worked during the Class Period and your estimated share of the Net Settlement Amount and PAGA Payment ("Claim Amount") is stated on the first page of this notice and the enclosed Claim Form. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by participating Class Members, the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims

B. Claim Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Claim Amounts through the Claims Administrator, as described below, to each Class Member who has timely submitted a Claim Form and who does not opt out of the settlement as well as to Aggrieved Employees. All Claim Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Claim Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Class Members who do not opt out will require the submission of a Claim Form. Class Members who timely submit a Claim Form and who do not opt out are referred to as "Qualified Claimants" under the terms of the Agreement. Payment to Aggrieved Employees of their share of the PAGA Payment will not require the submission of a Claim Form. Each Qualified Claimant's share of the Net Settlement Amount shall be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Defendants shall pay out at least 50% of the Net Settlement Amount regardless of the claims rate. If less than 50% of the Net Settlement Amount is claimed by Qualified Claimants, the Qualified Claimants will have their individual shares of the Net Settlement Amount increased, pro rata, until 50% of the Net Settlement Amount is distributed. Any portion of the Net Settlement Amount in excess of the minimum 50% threshold that is not claimed by Qualified Claimants shall remain the property of Defendants.

Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. Receipt of the Claim Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Claims Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Claims Administrator. Defendants' records and any additional evidence will be reviewed by the Claims Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than _____. The dispute will be resolved by the Claims Administrator based on the records and evidence provided. The Claims Administrator's decision on all disputes will be final and binding.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint or Plaintiff's October 26, 2021, notice to the LWDA during the PAGA Claim Period.

The individuals released ("Released Parties") includes Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if Class Members have questions about the released claims and what they mean.

E. Attorneys' Fees and Costs

Defendants have agreed to pay Class Counsel's attorneys' fees and costs to be approved by the Court, up to a maximum of 35% of the Gross Settlement Amount which equals \$52,500, and attorneys' costs not to exceed \$15,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Gross Settlement Amount.

F. Reasonableness of Settlement

The Parties and their counsel believe the amounts payable to Class Members, Aggrieved Employees, and amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement

If you wish to participate in the settlement you must complete and return the enclosed Claim Form post marked no later than [date]. Failure to timely submit a Claim Form without opting out of the settlement will cause you to be bound by release of claims identified above, but you will not receive any share of the Net Settlement Amount.

B. Excluding Yourself from the Settlement

If you do not wish to participate in the settlement, you may be excluded (i.e., "opt out") by submitting a timely written request to the Claims Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the settlement, and/or wants to be excluded from this settlement; (c) identify the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634); (d) be signed; and (e) be post-marked no later than _____. The request to opt out must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

[admin info]

The request to opt out must be postmarked no later than _____. If you submit a request to opt out which is not postmarked by _____, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. If the request to opt out is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Claims Administrator, no longer be a Class Member and not received their share of the class settlement payment. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the settlement, you can object to the terms of the Agreement. However, if the Court rejects your objection, you will still be bound by the terms of the Agreement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify the case name and number (i.e. Arroyo v. Epic Home Solar, 34-2021-00310634) (e) be signed; and (f) be post-marked no later than _____. The objection must be sent to the Claims Administrator at the address identified in section III.B and to counsel for Plaintiff and Defendants at the addresses identified in section VI of this notice. If you intend to object to the settlement, but wish to receive your share of the Net Settlement Amount, you must timely submit your Claim Form as stated above. If the Court approves the Agreement despite any objections and you have not submitted a Claim Form, you will not receive your share of the Net Settlement Amount.

If you have submitted a written objection as outlined above, you may also appear at the Final Approval Hearing, either in person or through your own attorney, to state your objection. However, you must file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

After final approval of the settlement has been granted by the Court, each and every Class Member who does not opt out of the settlement and Aggrieved Employee, will release Defendants and the Released Parties from the released claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the settlement, you will be deemed to have entered into this release and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this settlement. If the settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department ____, [address] on ~~1/20/21~~ at ~~10:00~~ to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs. The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing, unless you wish to object to the settlement.

VI. ADDITIONAL INFORMATION

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Joel Van Parys
Dalia Z. Khatib
CDF Labor Law LLP
900 University Avenue, Suite 200
Sacramento, CA 95825
Telephone: (916) 361-0991
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT

EXHIBIT G

CLAIM FORM
ARROYO V. EPIC HOME SOLAR
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO
CASE NO. 34-2021-00310634

You must complete and return this Claim Form by first-class mail to the Claims Administrator at the address below on or before [DATE] to be eligible to receive your Claim Amount under the Agreement. To be considered timely, the Claim Form must be postmarked by [DATE]. Incomplete and/or late Claim Forms will be rejected. Your decision to submit or not submit this Claim Form will not affect your employment in any way. Your current or former employer will not retaliate against you in any way for submitting a Claim Form.

MAIL TO:
[address]

INSTRUCTIONS

- (1) Please review the following identifying information, and make any necessary changes in the right-hand column:

[Admin ID#]

First, Last

Address1

Address2

City, State, Zip,

Name/Address Changes (if any):

(Optional): I can be reached by telephone at:

()

Area Code

Work Telephone Number

()

Area Code

Home Telephone Number

- (2) **Weeks Worked During Class Period:** According to Defendants' records, you worked _____ weeks in California as Class Member during the Class Period. Your Claim Amount is estimated to be approximately \$ _____.
- (3) If you disagree with the number of workweeks stated in Paragraph (2) above, you may send a letter to the Claims Administrator disputing the number of assigned workweeks in addition to the signed Claim Form. The letter must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [date]. You must also send any documents or other information that supports your belief that the information set forth above is incorrect. Defendants' records will control unless you are able to provide documentation with this Claim Form that establishes otherwise. If there is a dispute about whether Defendants' information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Claims Administrator as described in the Notice of Settlement that accompanies this Claim Form. Such a determination by the Claims Administrator will be final and binding with no opportunity for further appeal.

Please Note: A portion of all Claim Amounts are subject to taxation and will be reported to the IRS and state tax authorities. You will receive an IRS Form 1099-MISC and W-2 covering your Claim Amount.

I declare under penalty of perjury under the laws of the State of California and the United States that I received a copy of and have had an opportunity to review the accompanying Notice of Settlement, that I am entitled to a Claim Amount for the Released Claims, and that the foregoing information is voluntary and true and correct to the best of my knowledge.

(Sign your name here)

Date

EXHIBIT H

FILED BY FAX

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Brittany V. Berzin (Cal. State Bar No. 325121)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff ISIDRO ARROYO
6
7

8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

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

13 Plaintiff,

14 vs.

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

17 Defendants.
18
19
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21
22

Case No. 34-2021-00310634

CLASS ACTION

PROOF OF SERVICE

1 *Arroyo v. Epic Home Solar*
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, Estefania Rodriguez declare that:

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

8 On September 21, 2022, I served the following documents on the party below:

- 9 • Notice of Motion and Motion for Preliminary Approval of Class and PAGA Settlement
- 10 • Memorandum of Points & Authorities In Support of Plaintiff's Motion for Preliminary
- 11 Approval of Class and PAGA Settlement
- 12 • Declaration of Justin P. Rodriguez In Support of Plaintiff's Motion for Preliminary
- 13 Approval of Class and PAGA Settlement
- 14 • Declaration of Plaintiff Isidro Arroyo In Support of Motion for Preliminary Approval of
- 15 Class and PAGA Settlement
- 16 • Exhibit List and Exhibits In Support of Plaintiff's Motion for Preliminary Approval of
- 17 Class and PAGA Settlement
- 18 • [Proposed] Order Granting Plaintiff's Motion for Preliminary Approval of Class and
- 19 PAGA Settlement

20 21 22 23 24 25 26 27 28	Joel Van Parys (SBN 227387) Dalia Z. Khatib (SBN 323712) CDF Labor Law LLP 900 University Ave., Ste. 200 Sacramento, CA 95825 Phone: (916) 361-0991 Email: jvanparys@cdfsaborlaw.com dkhatib@cdfsaborlaw.com ekastern@cdfsaborlaw.com	
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21 [] [By Mail] I am familiar with my employer's practice for the collection and
22 processing of correspondence for mailing with the United States Postal
23 Service and that each day's mail is deposited with the United States Postal
24 Service that same day in the ordinary course of business. On the date set
25 forth above, I served the aforementioned document(s) on the parties in said
26 action by placing a true copy thereof enclosed in a sealed envelope with
27 postage thereon fully prepaid, for collection and mailing on this date,
28 following ordinary business practices, at Elk Grove, California, addressed
as set forth above.

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

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

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

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct, and that this declaration was executed on September 21, 2022, at Elk Grove,
5 California.

6 
7 Estefania Rodriguez
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