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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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19
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21
22

Case No. 34-2021-00310634

CLASS ACTION

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

Date: February 10, 2023

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 February 10, 2023, 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. Certifying the proposed class herein for purposes of settlement;
- 7 2. Appointing Plaintiff Isidro Arroyo as class representative for purposes of settlement;
- 8 3. Appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of settlement;
- 9 4. Approving the proposed class action and Private Attorneys General Act settlement, in the
10 gross amount of \$150,000, which is incorporated herein by reference;
- 11 5. Approving the application for payment to Class Counsel of attorneys' fees of \$52,500 of the
12 Gross Settlement Amount;
- 13 6. Approving the application for payment to Class Counsel of reasonable costs in the amount of
14 \$9,995.91;
- 15 7. Approving the Class Representative Enhancement Payment of \$10,000 to Plaintiff Isidro
16 Arroyo;
- 17 8. Approving the appointment of ILYM Group, Inc. as the Claims Administrator and for
18 payment to ILYM Group, Inc. for administering said class action settlement in the amount of
19 \$8,150;
- 20 9. Approving the settlement of claims under the Private Attorneys General Act for the total
21 amount of \$5,000, 75% of which will be paid to the Labor and Workforce Development
22 Agency and 25% of which will be paid to Aggrieved Employees;
- 23 10. Determining the procedure and process used to notify Class Members complied with their
24 due process rights;
- 25 11. Directing any amount from settlement checks that were not cashed by the check cashing
26 deadline be donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for
27 Workers' Rights under the doctrine of *cy pres*;
- 28

12. Approving and adopting the Proposed Order and its implementation schedule, which is filed herewith and incorporated by reference.

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

Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the 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 receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court day before the hearing, no hearing will be held.

Dated: January 17, 2023

Shimoda & Rodriguez Law, PC

By: _____


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Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff

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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
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: February 10, 2023

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 Final Approval of Class Action and PAGA Settlement.

5 2. I worked for Defendant Epic Home Solar ("Defendant") from approximately June 2021
6 to August 2021 as a non-exempt employee. I was subject to all of Defendant's policies and practices
7 that 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. My attorneys explained to me the risks and benefits of bringing a class action and a
18 claim under the Private Attorneys General Act ("PAGA"). I understood that pursuing the case as a
19 class and PAGA action meant that it would take substantially longer than pursuing my claims
20 individually, whether in Court or with the California Labor Commissioner, and that I risked getting
21 nothing in the end, but I believed it was important to make sure that Defendant followed the law for
22 everyone. I understood that I took on the risk, both professionally and financially, in pursuing the case
23 as a class and PAGA action rather than pursuing my claims individually. As a Class Representative, I
24 also took on the risk of having to pay Defendant's costs if we were unsuccessful in bringing our claims.

25 4. I have actively participated in the litigation of this case. I have given a detailed account
26 of all the facts related to my employment and the claims asserted in the Complaint, including a detailed
27 explanation of Defendant's piece rate compensation system. I provided documentation in support of
28 the claims brought against Defendant including record of payment I received, relevant correspondence

1 between myself and Defendant's management, documents regarding payments owed, and other
2 documents related to my work with Defendant and to the claims brought in the class action. I met with
3 and assisted my attorneys in understanding the documents and providing context for Defendant's
4 employment and payroll policies as they applied to me and how I believed they applied to Defendant's
5 other employees. I also spent time identifying and speaking to potential witnesses who could speak to
6 my attorneys to give their own insights and provide declarations. Since the settlement, I have also
7 fielded questions by Class Members about this case and the process for receiving payment. I also
8 provided contact information to my attorneys for any Class Members I worked with to ensure that they
9 had an opportunity to participate in the settlement. I also participated in the negotiations and settlement
10 discussions in this case, including participating in the mediation by phone, speaking with my attorney
11 to answer questions, providing any additional information needed to assist the negotiations, and
12 discussing the potential terms of the Agreement to evaluate its adequacy. Overall, I have spent
13 numerous hours of my time assisting in the prosecution of this case. I estimate that I spent about 50
14 hours assisting with this case.

15 5. I have not received any benefits as a result of filing this lawsuit. I have, however,
16 experienced substantial burdens as a result of filing the lawsuit that other Class Members were not
17 subject to. For example, in bringing the lawsuit, I assumed the risk of having to pay Defendant's costs
18 if the Court or jury rules against us on the claims. My understanding is that this is a substantial risk
19 because the costs associated with litigation, in general, are very high and this cost is multiplied many
20 times over in complex litigation like class actions. I have spent a substantial amount of time in this
21 case, securing a monetary benefit for many individuals who have not had to do anything whatsoever to
22 have the opportunity to receive it. I have been employed full-time during most of the time this case has
23 been pending. As a result, the time I have spent on this case had to occur during my lunch and/or
24 breaks times, after hours, and on my days off. Rather than spend this time with friends and family, I
25 have spent this time for the benefit of Class Members. Finally, as part of the Settlement, I am the only
26 individual providing a general release of all my individual claims and waiving the protections of
27 California Civil Code section 1542 for unknown claims. No other Class Member is subject to such a
28 broad release.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17 of January 2023 in Sacramento, California.

I, Jennifer Livingston, hereby declare under penalty of perjury that the following is true and correct: I am a Paralegal and fluent in the Spanish and English language. I have worked as a Paralegal with Shimoda & Rodriguez Law, PC, for approximately 15 years and as part of my job duties I regularly work as an interpreter. I translated this declaration word-for-word from English to Spanish, reading it in Spanish to Isidro Arroyo, who in turn confirmed that the information herein is true and correct.

Executed on January 17, 2023, in Elk Grove, California.

Jennifer Livingston

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6 individually and on behalf of similarly situated employees

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

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

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

18 Date: February 10, 2023

19 Time: 9:00 a.m.

20 Dept.: 25

Judge: Hon. Jill H. Talley

21 Filed: November 3, 2021

22 FAC Filed: January 19, 2022

23 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 Final Approval of Class Action and PAGA Settlement ("Motion"). A true and correct copy
6 of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release ("Agreement") in
7 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, time records, and a representative
25 sample of Class Members' payroll data, the scope of the potential damages to Plaintiff and Class
26 Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the
27 negotiations that have taken place, I am convinced that the proposed settlement is in the best interest of
28 the class. The length and risks of trial and other normal perils of litigation that impact the value of the

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

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

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

1 employed Class Members. The requirement that at least fifty percent (50%) of the Net Settlement
2 Amount be paid out ensures Defendant will be required to make a substantial payment regardless of the
3 claims rate.

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

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

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

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

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

1 adopted by any fact finder if this matter went to trial. However, I believe the PAGA penalties in this
2 case may be reduced due to Defendant's financial condition, the fact that the penalties would be in
3 addition to amounts owed for substantive violations and much of the penalties are based on violations
4 due to technical non-compliance with the Labor Code. Furthermore, Defendant produced a substantial
5 number of documents that a Court may find demonstrates a good faith attempt at compliance that merits
6 the reduction of civil penalties. Courts regularly cut civil penalties on PAGA claims where statutory
7 penalties for the same violations are assessed as well. Courts are statutorily authorized to use discretion
8 to reduce penalties and the range of discretion used varies substantially. *See Thurman v. Bayshore*
9 *Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*,
10 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82% reduction). Thus, civil penalties may be cut
11 to approximately \$95,359.25 (82% reduction) or lower given the derivative recovery. Taking this into
12 account, the likely recovery if Plaintiff was successful at trial on proving all the substantive class
13 damages plus civil penalties after a reduction of the PAGA penalties would be approximately
14 \$1,020,676.26. Taking this into account, Plaintiff's \$150,000 gross recovery under the Agreement
15 represents approximately 14.7% of the maximum likely value in this matter. After deducting from the
16 Gross Settlement Amount the proposed allocations for attorneys' fees (\$52,500) and costs (\$9,995.91),
17 any Enhancement Payment to the Class Representative (\$10,000), Claims Administrator Costs (\$8,150),
18 and the PAGA Payment (\$5,000) and taking into account the claim rate and 50% floor, the net recovery
19 under the Agreement \$32,177.05, represents approximately 3.2% of the maximum likely value in this
20 matter. Based on the final numbers from the administrator, the average net recovery is \$1,532.24 and
21 the maximum recovery is \$7,700.49. I believe the Agreement represents a reasonable compromise of
22 claims based on the legal and factual disputes in this case and Defendant's financial condition. The
23 ability to secure a guaranteed settlement now and ensure Class Members receive some compensation,
24 rather than proceed to further litigation and potentially recover nothing, was a motivating factor in
25 reaching this Agreement.

26 13. The Net Settlement Amount claimed is 50%, *i.e.*, \$32,177.05. The rate of return for
27 claim forms was about 20.18%. Class Members who returned claim forms accounted for about 30% of
28 the total Qualifying Workweeks in the Class Period. The percentage of individuals who submit claim

forms varies from case to case because it is a function of the number of individuals who truly feel wronged and want to submit a claim for versus those who do not feel wronged, do not care, or otherwise do not want to receive payment. Based on the final numbers from the administrator, the average net recovery for those individuals who felt truly wronged and returned Claim Forms is \$1,532.24. Accordingly, use of the claims made procedure resulted in a 259% increase to the effective value of the settlement to Class Members (\$1,532.24 /\$590.40 average net recovery without the claims made procedure). To achieve the same result for Class Members (\$1,532.24 average) on a non-claim basis, Defendant would have needed to pay a Gross Settlement Amount over 200% higher than the \$150,000 in this case (approximately \$308,000), which would not have been possible due to Defendant's financial condition. Accordingly, I believe the claims made and reversion procedure struck an appropriate balance between maximizing payouts to Class Members who truly felt wronged by Defendant and wanted to participate in the settlement while avoiding insolvency by Defendant. In addition, I believe the notification procedures used were designed to reach as many Class Members as possible and provided them with the opportunity to receive payment. The Notice Packets were mailed on November 4, 2022, using the National Change of Address database and skip tracing for any returned packets. A reminder postcard was mailed December 7, 2022. The Notice Packet, Complaint, and preliminary approval documents were also made available on ILYM Group's website. Additionally, my office contacted any Class Members Plaintiff had phone numbers for to ensure they were aware of the settlement and received Notice Packets.

14. In agreeing to take on this case, our office agreed to take this case on a contingency basis, meaning that we would take a percentage of any settlement or judgment should we recover a monetary amount. We took a risk that we would not recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case may be subject to an unfavorable summary judgment ruling. However, we believe it is important to make sure employees are able to find affordable representation in order to ensure that employers are complying with all their legal obligations towards employees and paying employees all their hard-earned wages. We rely on attorneys' fee awards in order to continue working to ensure California wage and hour protections are enforced. Recovery of our full lodestar plus an appropriate multiplier is necessary to compensate for

1 the risk undertaken. Otherwise, we could not continue to represent employees who are denied wages,
2 but whose cases may be time-consuming and difficult to prove. There have many class cases we have
3 litigated where ultimately we get zero for our time because we are unable to meet certification
4 requirements or the company becomes financially insolvent. Additionally, there are occasions, where
5 the fee recovered actually results in a negative multiplier of our lodestar.

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

20 16. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda
21 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.
22 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent
23 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have
24 been recognized as a Super Lawyer (Rising Star). In September 2018, I was a panel speaker for the
25 Sacramento County Bar Association Labor and Employment Law Section's presentation of "*Epic*
26 *Systems*, PAGA, and the Future of Employment Arbitration in California." In July 2020, I was a panel
27 speaker for the Association of Defense Counsel of Northern California & Nevada presentation of
28 "Class Actions and PAGA Claims." My practice focuses on complex civil litigation, including wage

1 and hour class actions, PAGA claims, and Fair Labor Standards Act (“FLSA”) claims. I am actively
2 involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have
3 litigated or am currently litigating, including the instant case, includes, but is not limited to, the
4 following:

- 5 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 6 • *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- 7 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 8 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 9 • *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- 10 • *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080
11 (San Joaquin Sup. Ct.);
- 12 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 13 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 14 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
15 Sup. Ct.);
- 16 • *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
17 Ct.);
- 18 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 19 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
20 00271174 (Sac. Sup. Ct.);
- 21 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
22 Ct.);
- 23 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
24 Ct.);
- 25 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
26 Sup. Ct.);
- 27 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 28 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.

- Ct.);
- *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
 - *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
 - *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
 - *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-00222101 (Sac. Sup. Ct.);
 - *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
 - *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
 - *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
 - *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
 - *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
 - *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
 - *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
 - *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
 - *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. Ovarions 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.).

17. 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.

18. 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

1 employment law articles for journals and our firm regularly publishes articles on our firm's website.
2 Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)
3 Employment Review seminars from 2014 to the present. His speaking engagements include the
4 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
5 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
6 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
7 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
8 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
9 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
10 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,
11 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the
12 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
13 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance
14 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
15 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
16 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
17 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
18 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
19 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
20 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
21 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
22 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
23 as a Super Lawyer from 2014 to present.

24 19. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
25 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
26 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
27 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
28 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and

1 Federal Courts, including up to certification, settlement, preliminary and final approval, and
2 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.
3 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
4 include the following:

- 5 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 6 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 7 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 8 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 9 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 10 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 11 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 12 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 13 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
14 Sup. Ct.);
- 15 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 16 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
17 Ct.);
- 18 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
19 Ct.);
- 20 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
21 Sup. Ct.);
- 22 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 23 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
24 Ct.);
- 25 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 26 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
27 00209613 (Sac. Sup. Ct.);
- 28 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);

- *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *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.);
- *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.).

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

21. My senior associate, Brittany V. Berzin, Esq., also worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Ms. Berzin attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Psychology. She received her J.D. from the University of the Pacific McGeorge School of Law. She joined Shimoda & Rodriguez Law, PC as a law clerk in February 2015 where she gained civil litigation experience working on individual, class action and PAGA employment cases throughout law school. She also participated in an employment law clinic in 2015 and 2016 that helped low-income workers by providing free legal consultations, advising employees of their legal remedies on a variety of matters (e.g., wage and hour, discrimination/harassment, California leave laws, unemployment, workers' compensation, retaliation, and wrongful termination, etc.) under the supervision of an attorney, preparing wage claims, and

1 providing representation in wage claims before the California Labor Commissioner. From 2016-2017,
2 She completed an externship at the Federal Public Defenders Office as a Certified Law Student where
3 she obtained discovery, completed legal research, drafted motions, negotiated plea deals, represented
4 clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and
5 defended a client against five misdemeanor charges in a jury trial in the United States District Court for
6 The Eastern District of California. Ms. Berzin was also a member of the nationally recognized
7 McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018 after
8 graduating from law school. In May 2017, she graduated from the University of the Pacific, McGeorge
9 School of Law with Great Distinction and was inducted into the Order of the Coif, graduating in the top
10 10% of her class. Ms. Berzin received the Witkin Award for Academic Excellence in Legal Research
11 and Writing, Civil Procedure, Bankruptcy, and Criminal Procedure. From 2020 to present, she has
12 been recognized as a Super Lawyer (Rising Star). Ms. Berzin has been a member of the executive
13 committee of the Sacramento County Bar Association Labor & Employment Section since January
14 2020, serving as Co-Chair of the committee in 2021. She has over seven years of experience working
15 on civil litigation in employment law matters. Most of that experience has been specific to analyzing
16 and litigating wage and hour claims. As an associate, Ms. Berzin has worked on a variety of individual,
17 class action, and PAGA cases involving wage and hour claims, such as failure to pay overtime, failure
18 to pay minimum wages, failure to provide meal and rest periods, failure to pay reimbursement
19 expenses, unlawful deductions, failure to keep accurate time records, failure to provide paid sick leave,
20 failure to pay all wages upon separation, unfair competition, breach of contract, independent contractor
21 misclassification, and salaried misclassifications. Some of the class action and/or PAGA cases she is
22 litigating and/or have litigated as lead or co-counsel, including this case, are as follows:

- 23 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin
24 Sup. Ct.);
- 25 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- 26 • *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin
27 Sup. Ct.);

- 1 • *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.
- 2 Cal.);
- 3 • *Blair v. Clark Wagaman Designs*, Case No. 34-2021-00313156 (Sac. Sup. Ct.);
- 4 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 5 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 6 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 7 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 8 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 9 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 10 • *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- 11 • *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- 12 • *Gonzalez v. Northcentral Pizza, LLC, et. al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- 13 • *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- 14 • *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- 15 • *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- 16 • *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- 17 • *Insixiengmay v. Hyatt Corporation*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal);
- 18 • *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- 19 • *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- 20 • *Magat v. Medical Care Professionals, Inc., et. al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- 21 • *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup.
- 22 Ct.);
- 23 • *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- 24 • *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- 25 • *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup.
- 26 Ct.);
- 27 • *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac.
- 28 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.).

22. My office is requesting attorneys’ fees pursuant to the common fund doctrine pursuant to *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980). Plaintiff and Plaintiff’s Counsel have been able to secure an identifiable benefit on behalf of the class and equity counsels that the cost of the representation should be born equally amongst all class members receiving these benefits. The settlement recovery provides a good result in light of the risks and Defendant’s financial condition and is the product of substantial time and effort in analyzing the facts and law applicable to this case. There was substantial risk in agreeing to take this case on a contingency basis and as a class action with the possibility that Plaintiff’s Counsel would not receive any compensation their time and efforts due to issues regarding the merits and/or certification and have carried that risk over the course of the case. In my experience, the attorney’s fee request of thirty-five

percent (35%) of the common fund is within ranges typically approved in wage and hour class action litigation.

23. I believe a lodestar cross check supports finding a 35% fee award is appropriate in this case. The total lodestar is approximately \$122,110.00 based on approximately 223.6 hours, which includes approximately 10 hours of time for Ms. Berzin preparing for and attending the final approval hearing, ensuring compliance and the disbursement of funds consistent with a final approval order. I have reviewed our firm's billing records with Mr. Shimoda and Ms. Berzin and have created a summary chart showing the task categories and hours worked by each billing attorney in each category. A true and correct copy of this summary chart is being filed with this Motion as Exhibit F. In reviewing the entries with Mr. Shimoda and Ms. Berzin, I believe the hours reported are accurate. To the extent we believe it appropriate to do so in any given assignment, we attempt to assign tasks to the billing attorney with the lower rate in order to reduce costs that otherwise might inhibit the likelihood a case will resolve. Our firm uses billing software, which tracks the entries by day and time. Our billing software also records time in 1/10 of an hour increments. Our billing software also enables the use of a start/stop timer that can be used to more accurately record how long a particular task takes. A summary of the entries in Exhibit F by timekeeper is as follows:

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Galen T. Shimoda	55.6	\$725	\$40,310.00
Justin P. Rodriguez	52.0	\$625	\$32,500.00
Brittany V. Berzin	116	\$425	\$49,300.00
Total:	223.6		\$122,110.00

24. I believe the requested rates of \$625 per hour for myself, \$425 per hour for Ms. Berzin and \$725 per hour for Mr. Shimoda are within the prevailing market rates for Sacramento County and elsewhere. In November 2022, the Sacramento County Superior Court approved Mr. Shimoda, Ms. Berzin, and myself at these rates in connection with a motion for final approval of a wage and hour class action settlement in *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.). A true and correct copy of the Final Approval Order in *Strawn* is being filed with this

1 Motion as Exhibit G. Awarding fees at the hourly rate in effect at the time of the fee request is an
2 appropriate and judicially approved method. *See Missouri v. Jenkins by Agyei*, 491 U.S. 274, 283
3 (1989). For the foregoing reasons, I believe the request of \$52,500 (approximately 35%) for attorneys'
4 fees is justified given the negative multiplier and results obtained on behalf of the class.

5 25. Although the Agreement set out a maximum of \$10,000.00 for potential attorney's costs,
6 the total costs incurred or that will be incurred through a compliance hearing by Class Counsel is
7 \$9,995.91. A true and correct copy of my firm's itemized costs incurred prior to the filing of this
8 Motion and the expected costs incurred through the final approval and compliance hearings is attached
9 to this declaration as Exhibit D. The difference in the actual costs and the maximum amount allocated
10 under the Agreement will be added to the Net Settlement Amount and disbursed to Class Members.

11 26. At the conclusion of the check cashing period in any class settlement, there is always a
12 potential for uncashed checks and some provision must be made for what to do with those funds.
13 Designating a *cy pres* beneficiary is an authorized means of addressing this and I believe that Capital
14 Pro Bono, Inc., and the Center for Workers Rights are appropriate *cy pres* beneficiaries in this matter
15 because they clearly promote the law consistent with the objectives and purposes underlying the lawsuit.
16 I have volunteered for both organizations numerous times over the past several years, either directly in
17 the advice clinics or by presenting seminars on wage and hour laws for law students seeking to also
18 volunteer at advice clinics. I have also volunteered by sitting on Capital Pro Bono, Inc.'s advisory
19 committee. These organizations are non-profits that assist low-income workers throughout California,
20 giving free legal advice regarding employment law issues and representing employees with wage claims
21 before the California Labor Commissioner. I have witnessed firsthand the quality service and attention
22 these entities provide to individuals in need of employment law advice and representation at the
23 California Labor Commissioner. I do not receive any compensation, whether direct or indirect, for my
24 time spent volunteering for these entities or for designating them as *cy pres* beneficiaries.

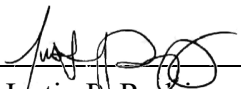
25 27. I have spoken with every other attorney at my firm to determine whether they have any
26 relationship with either of the proposed *cy pres* beneficiaries. Galen T. Shimoda has volunteered for
27 both organizations on and off over the past several years through either presenting wage and hour
28 seminars to law students who staff the free advice clinics or helping at the advice clinics themselves.

1 However, Mr. Shimoda has not performed any volunteer work with either organization since
2 approximately March 2020. Mr. Shimoda has never received payment or compensation of any kind in
3 connection with any work he's done with either of the proposed *cy pres* beneficiaries.

4 28. Brittany V. Berzin has never done any work, volunteer or otherwise with Capital Pro
5 Bono, Inc. During law school, Ms. Berzin was a student volunteer for the Center for Workers Rights for
6 two summers. Since graduating law school, she has volunteered for the Center for Workers Rights
7 approximately one to two times per year, assisting in the advice clinic and currently sits on the Board of
8 Directors. Ms. Berzin has never received payment or compensation of any kind, whether direct or
9 indirect, in connection with any work she's done with the Center for Workers Rights.

10 29. A copy of the proposed Agreement and the entire Motion was submitted to the LWDA
11 for review at the same time the Motion was submitted to the Court pursuant to California Labor Code
12 section 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were
13 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
14 Exhibit E.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed this 17th day of January 2023 in Sacramento, California.

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20 Justin P. Rodriguez
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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 Blvd., Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff ISIDRO ARROYO

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

9
10 ISIDRO ARROYO, individually and on behalf
of all other similarly situated employees,

11 Plaintiff,

12 vs.

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

15 Defendants.
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Case No. 34-2021-00310634

CLASS ACTION

**DECLARATION OF LLUVIA ISLAS OF
ILYM GROUP, INC., IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: February 10, 2023
Time: 9:00 a.m.
Dept.: 25
Judge: Hon. Jill H. Talley

1 I, Lluvia Islas declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am a
3 Case Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the professional
4 settlement services provider who has been retained by the Parties’ Counsel and subsequently
5 appointed by the Court to serve as the Claims Administrator for the above captioned *Arroyo v.*
6 *Epic Home Solar* matter. I am authorized to make this declaration on behalf of ILYM Group and
7 myself. I have personal knowledge of the facts herein, and, if called upon to testify, I could and
8 would testify competently to such facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund
11 distribution services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
12 Members.

13 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
14 appointed by the Court to provide notification services and claims administration, pursuant to the
15 terms of the Settlement, in the above referenced Action. Duties performed to-date and to be
16 performed after Final Approval of the Settlement is granted, include: (a) printing and mailing the
17 *Notice of Proposed Class Action and PAGA Settlement, and Hearing Date for Final Court*
18 *Approval of Settlement and Claim Form* both in English and Spanish (referred to as “Notice
19 Packet”); (b) receiving and processing claim forms and requests for exclusion; (c) resolving
20 Settlement Class Members’ disputes over the number of workweeks Defendant has record of them
21 working during the Class Period, which was pre-printed on their individualized Class Notice; (d)
22 calculating individual settlement award amounts; (e) processing and mailing settlement award
23 checks; (f) handling tax withholdings as required by the Settlement and the law; (g) preparing,
24 issuing and filing tax returns and other applicable tax forms; (h) handling the distribution of any
25 unclaimed funds pursuant to the terms of the Settlement; and (i) performing other tasks as the
26 Parties mutually agree to and/or the Court orders ILYM Group to perform.

27 4. On October 7, 2022, ILYM Group received the Court approved text for the Notice
28 Packet from Counsel for Plaintiff. ILYM Group prepared a draft of the formatted Notice Packet,

1 which was approved by the Parties' Counsel prior to mailing. The Notice Packet included a link
2 to ILYM's website where a copy of the Notice Packet, First Amended Complaint, Plaintiff's
3 Preliminary Approval Motion, and the signed Preliminary Approval Order were available to view.

4 5. On October 21, 2022, ILYM Group received the class data file from Counsel for
5 Defendant, which contained the name, social security number, last known mailing address, and the
6 total number of applicable workweeks worked for each Settlement Class Member. The data file
7 was uploaded to our database and checked for duplicates and other possible discrepancies. The
8 Class List contained 107 individuals.

9 6. As part of the preparation for mailing, all 107 names and addresses contained in the
10 Class List were then processed against the National Change of Address ("NCOA") database,
11 maintained by the United States Postal Service ("USPS"), for purposes of updating and confirming
12 the mailing addresses of the Settlement Class Members before mailing of the Notice Packet. The
13 NCOA contains requested change of addresses filed with the USPS. To the extent that an updated
14 address was found in the NCOA database, the updated address was used for the mailing of the
15 Notice Packet. To the extent that no updated address was found in the NCOA database, the original
16 address provided by Counsel for Defendant was used for the mailing of the Notice Packet.

17 7. On November 4, 2022 the Notice Packet was mailed, via U.S First Class Mail, to
18 all 107 individuals contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct
19 copy of the mailed Notice Packet.

20 8. On November 11, 2022 Plaintiff's Counsel submitted 2 Data Requests for 2
21 individuals not found in the Class List. Defendant confirmed that these individuals should be a
22 part of the Class List. On December 8, 2022, ILYM Group received an additional data request.
23 Defendant confirmed this individual should be a part of the Class List. A Notice Packet was sent
24 to this individual on January 13, 2023. This individual worked approximately 2 weeks. Upon
25 receipt of this individual's Claim Form, they will be considered a Qualified Claimant and receive
26 a share of the settlement.

27 9. Therefore, the new Class List total is 109.

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1 10. On December 7, 2022 ILYM Group sent out a reminder postcard to Class Members
2 who had not opted out or submitted a Claim Form.

3 11. As of the date of this declaration, 15 Notice Packets have been returned to our office
4 as undeliverable. Of the 15 returned Notice Packets, none included a forwarding address. ILYM
5 Group performed a computerized skip trace on the 15 returned Notice Packets that did not have a
6 forwarding address, in an effort to obtain an updated address for purpose of re-mailing the Notice
7 Packet. As a result of this skip trace, 10 updated addresses were obtained and the Notice Packet
8 was promptly re-mailed to those Settlement Class Members, via U.S First Class Mail.

9 12. As of the date of this declaration, a total of 10 Notice Packets have been re-mailed.
10 Specifically, 10 have been re-mailed as a result of ILYM Group's skip tracing efforts.

11 13. As of the date of this declaration, a total of 5 Notice Packets have been deemed
12 undeliverable. Specifically, 5 have been deemed undeliverable as no updated address was found
13 notwithstanding the skip tracing.

14 14. As of the date of this declaration, ILYM Group has not received any requests for
15 exclusion. As of the date of this declaration, ILYM Group has not received any workweek
16 disputes. The deadline to request exclusion from the Settlement or submit a workweek dispute
17 was January 3, 2023.

18 15. As of the date of this declaration, ILYM Group has not received any objections to
19 the Settlement. The deadline to file an objection to the Settlement was January 3, 2023.

20 16. As of the date of this declaration, ILYM Group will report a total of 22 Qualified
21 Claimants, representing 20.18% of the 109 Settlement Class Members. The weeks worked by
22 Qualified Claimants amount to 30% of the total weeks in the class period. These figures do not
23 include the individual who submitted a data request on December 8, 2022 who will be a Qualified
24 Claimant upon receipt of the signed Claim Form.

25 17. Qualified Claimants will receive a proportional share of the Net Settlement Fund
26 through individual settlement payments, based on the number of workweeks worked by Class
27 Members during the Class Period. Payment to Aggrieved Employees did not require submission
28 of a Claim Form. Accordingly, all Aggrieved Employees will receive their share of the PAGA

1 Payment. The Net Settlement Fund is the amount remaining after deduction of the Court-approved
2 payments from the Gross Settlement Fund for Class Counsel's Fees and Litigation Costs, the Class
3 Representative Enhancement Award, Claims Administration Fees to ILYM Group, and the PAGA
4 Payment, e.g.,

5	Gross Settlement Fund	\$150,000.00
6	Class Counsel Fees	\$52,500.00
7	Class Counsel Expenses	\$9,995.91
8	Enhancement Award	\$10,000.00
9	ILYM Group Fees	\$8,150.00
10	PAGA Payment to LWDA	\$3,750.00
11	PAGA Payment to Employees	\$1,250.00
12	Net Settlement Fund	\$64,354.09

13 Based on the claims rate, Defendant shall pay out 50% of the Net Settlement Amount, *i.e.*,
14 \$32,177.05. To determine a Qualified Claimant's individual settlement award payment his or her
15 Qualifying Workweeks were divided by the total Qualifying Workweeks for all Class Members.
16 That fraction was then multiplied by the Net Settlement Amount. Thereafter, Qualified Claimants
17 had each of their individual shares of the settlement increased, pro rata, until 50% of the Net
18 Settlement was distributed. Based on these calculations, the Qualified Claimants will receive an
19 estimated average payment of \$1,532.24, with the estimated highest payment being \$7,700.49.
20 Aggrieved Employees will receive an estimated average payment of \$16.23, with the estimated
21 highest payment being \$64.02.

22 18. ILYM Group's total fees and costs for services in connection with the
23 administration of this Settlement, which includes fees and costs incurred to-date, as well as
24 anticipated fees and costs for completion of the settlement administration, are \$8,150.00. ILYM
25 Group's work in connection with this matter will continue with the calculation of the settlement
26 award payments, issuance and mailing of the settlement award checks, the necessary tax filing and
27 reporting on such payments, and any other tasks that the Parties mutually agree to and/or the Court
28 orders ILYM Group to perform.

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States that the foregoing is true and correct to the best of my knowledge and that this Declaration
3 was executed this 17th day of January 2023, at Tustin, California.

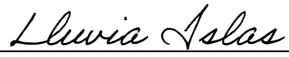
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EXHIBIT “A”

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 June 25, 2022 (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 JANUARY 3, 2023.

Pursuant to an order from the Sacramento County Superior Court (“Court”) granting preliminary approval of this class action settlement, entered on October 31, 2022, 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 «Class_Pay_Periods» weeks during the applicable Class Period (as defined below), which means your share of the settlement proceeds is estimated to be \$«Est_Settlement_». 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 June 25, 2022 (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 June 25, 2022.

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 January 3, 2023. 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 January 3, 2023.. 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 January 3, 2023. The request to opt out must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

ILYM Group, Inc.
P.O. Box 2031 Tustin, CA 92781

The request to opt out must be postmarked no later than January 3, 2023. If you submit a request to opt out which is not postmarked by January 3, 2023, 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 receive 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 January 3, 2023. 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

A copy of this notice and motions for approval of the settlement may be accessed online at www.ilymgroup.com/EpicHomeSolar. The Court will hold a hearing in Department 25, 720 9th Street, Sacramento, California, 95814 on February 10, 2023 at 9:00 a.m., 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 888-250-6810.

BY ORDER OF THE COURT

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 January 3, 2023 to be eligible to receive your Claim Amount under the Agreement. To be considered timely, the Claim Form must be postmarked by January 3, 2023. 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:
ILYM Group, Inc.
P.O. Box 2031 Tustin, CA 92781

INSTRUCTIONS

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

«ILYMID»

«First_Name» «Last_Name»

«Address1»

«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 «Class_Pay_Periods» weeks in California as Class Member during the Class Period. Your Claim Amount is estimated to be approximately \$«Est_Settlement_».
- (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 January 3, 2023. 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

TRIBUNAL SUPERIOR DE CALIFORNIA

PARA EL CONDADO DE SACRAMENTO

ISIDRO ARROYO, individualmente y en nombre de todos los demás empleados en situación similar,

Demandante,

c/

EPIC HOME SOLAR, una corporación de California; y HACE de 1 a 100, inclusive,

Demandados.

Caso No. **34-2021-00310634**

ACCIÓN DE CLASE

AVISO DE ACCIÓN DE CLASE PROPUESTA Y ACUERDO PAGA, Y FECHA DE AUDIENCIA PARA LA APROBACIÓN FINAL DEL ACUERDO POR PARTE DEL TRIBUNAL

ATENCIÓN: todos los empleados no exentos que han trabajado, o continúan trabajando, para Epic Home Solar en California desde el 3 de noviembre de 2017 hasta el 25 de junio de 2022 (los "Miembros de la Clase").

POR FAVOR LEA ESTE AVISO DETENIDAMENTE. ESTE AVISO SE RELACIONA CON UN ACUERDO PROPUESTO DE LITIGIO DE ACCIÓN DE CLASE Y UN POSIBLE DESEMBOLSO DE FONDOS DEL ACUERDO PARA USTED. SI USTED ES UN MIEMBRO DE LA CLASE, ESTE AVISO CONTIENE INFORMACIÓN IMPORTANTE SOBRE SU DERECHO A PARTICIPAR O A OPTAR POR NO PARTICIPAR EN EL ACUERDO DE CONFORMIDAD CON LOS PROCEDIMIENTOS DESCRITOS A CONTINUACIÓN. PARA RECIBIR UNA ADJUDICACIÓN DEL ACUERDO, DEBE COMPLETAR EL FORMULARIO DE RECLAMACIÓN ADJUNTO Y ENVIARLO POR CORREO AL ADMINISTRADOR DEL ACUERDO EL 3 DE ENERO DE 2023 O ANTES.

De conformidad con una orden del Tribunal Superior del Condado de Sacramento ("Tribunal") que otorga la aprobación preliminar de este acuerdo de acción de clase, presentado el 7 de octubre de 2022, usted está recibiendo notificación de una acción de clase propuesta y un acuerdo de la Ley General de Abogados Privados ("PAGA") entre el Demandante Isidro Arroyo ("Demandante" o "Representante de la Clase") y los Demandados Epic Home Solar, Michael Vallar Pacada, Johan Byron Arnegard y Steve Evan Deus ("Demandados") en nombre de los Miembros de la Clase como se definió anteriormente. Usted está recibiendo este aviso porque los registros de los Demandados indican que usted está dentro de la definición de "Miembro de la Clase". Los registros de los Demandados también indican que trabajó «Class_Pay_Periods» semanas durante el Período de Clase aplicable (como se define a continuación), lo que significa que su parte de los ingresos del acuerdo se estima en \$«Est_Settlement_». Su parte real de los ingresos del acuerdo variará dependiendo del número total de Miembros de la Clase que elijan participar, y la resolución de cualquier disputa de la semana laboral como se describe en este aviso.

Los términos del Acuerdo y una descripción del caso se identifican en este aviso. De conformidad con la orden del Tribunal, por LA PRESENTE SE LE NOTIFICA LO SIGUIENTE:

II. ANTECEDENTES

El 3 de noviembre de 2021, el Demandante presentó una Demanda contra los Demandados en el Tribunal Superior del Condado de Sacramento de California en su nombre y en el de los Miembros de la Clase. El término "Acción" significa esta acción de clase putativa pendiente en el Tribunal Superior del Condado de Sacramento, Caso No. 34-2021-00310634. El Período de Clase es del 3 de noviembre de 2017 al 25 de junio de 2022 (el "Período de Clase").

En la Acción, el Demandante buscó obtener salarios no pagados, intereses, sanciones legales, sanciones civiles, honorarios y costos en su nombre y en el de los Miembros de la Clase y en el de los Empleados Agraviados. El Demandante alegó que los Demandados violaron la ley de California al 1) no realizar un seguimiento de las horas trabajadas de los empleados y adoptar una política y práctica para no pagar a los empleados a destajo ninguna hora extra; 2) no proporcionar o comunicar las políticas de los periodos de comida y

descanso, incluida cualquier política para tomar un segundo almuerzo durante los turnos de más de 10 horas; 3) no mantener ningún registro de los períodos de comida para los supuestos miembros de la clase; 4) no pagar a destajo y/o comisionar a los empleados por separado por el tiempo dedicado durante los períodos de descanso y otro tiempo no productivo; 5) no adoptar una política que proporcionara a los miembros de la clase una licencia por enfermedad remunerada de acuerdo con la Ley de Lugares de Trabajo Saludables, Familias Saludables de 2014; 6) no reembolsar a los empleados a destajo por el uso de sus teléfonos celulares y vehículos personales para el trabajo; y 7) no proporcionar declaraciones salariales, o la forma en la que se proporcionaron declaraciones salariales precisas, no proporcionar declaraciones salariales precisas. Los Demandados han negado todas las alegaciones del Demandante. La acción ha sido litigada activamente. Se han llevado a cabo investigaciones y se ha producido un amplio intercambio de documentación e información. Con base en las negociaciones y en todos los hechos y circunstancias conocidos, incluidos los diversos riesgos e incertidumbres relacionados con las acciones legales, las Partes llegaron a un Acuerdo a nivel de toda la clase. Al llegar a un acuerdo, las Partes evitarán los riesgos asociados con un largo proceso de litigio. A pesar de aceptar y apoyar el Acuerdo, los Demandados continúan negando todas las alegaciones y reclamaciones. Los Demandados han celebrado este Acuerdo para resolver por completo, finalmente y para siempre esta Acción, sobre la base de los términos establecidos en el Acuerdo, con el fin de evitar la carga y los gastos asociados con los litigios en curso.

Las Partes han celebrado una Estipulación Conjunta con Respecto al Acuerdo y Liberación PAGA de Acción de Clase ("Arreglo" o "Acuerdo"), que ha sido aprobada preliminarmente por el Tribunal. El Acuerdo se aplica a todos y cada uno de los Miembros de la Clase como se definió anteriormente. "Miembro de la Clase" no incluye a las personas que envían una solicitud válida para optar por no participar (como se explica a continuación). Si usted es un Miembro de la Clase, tiene la oportunidad de participar en el Acuerdo o de excluirse ("Optar por No Participar") del Acuerdo. Este aviso es para informarle sobre cómo puede participar o ser excluido del Acuerdo.

II. RESUMEN DEL ACUERDO PROPUESTO

A. El Importe del Acuerdo

Bajo los términos del Acuerdo, el Demandado ha acordado pagar una suma total de Ciento Cincuenta Mil Dólares y Cero Centavos (\$150,000) ("Monto Bruto del Acuerdo") sobre la base de las reclamaciones realizadas. Deducido de este Monto Bruto del Acuerdo serán las sumas aprobadas por el Tribunal para los honorarios de los abogados que no excedan el 35% del Monto Bruto del Acuerdo, los costos de los abogados que no excedan los \$15,000, los Costos del Administrador de Reclamaciones estimados que no excedan los \$10,000, el Pago de Mejora del Representante de la Clase de \$10,000 y \$5,000 por supuestas multas PAGA (el "Pago PAGA"), que resultarán en un "Monto Neto del Acuerdo" para su distribución a todos los Miembros de la Clase que hayan presentado oportunamente un Formulario de Reclamación, que se adjunta en este correo. Cualquier impuesto del lado del empleador atribuible a los pagos asignados como salarios será pagado por los Demandados además del Monto Bruto del Acuerdo. Como se explica más adelante, el monto de la participación de cada Miembro de la Clase en el Monto Neto del Acuerdo dependerá del número de semanas trabajadas por los Miembros de la Clase participantes durante el Período de la Clase. De los \$5,000 asignados para resolver las reclamaciones PAGA, el 75% del Pago PAGA se pagará a la Agencia de Desarrollo Laboral del Estado de California y el 25% del Pago PAGA se dividirá entre los Empleados Agraviados, que se definen como todos los empleados no exentos que han trabajado, o continúan trabajando, para los Demandados en California desde el 26 de octubre de 2020 hasta el 25 de junio de 2022.

El número de semanas que trabajó durante el Período de la Clase y su participación estimada en el Monto Neto del Acuerdo y el Pago PAGA ("Monto de la Reclamación") se indican en la primera página de este aviso y en el Formulario de Reclamación adjunto. La cantidad real recibida puede ser mayor o menor que la cantidad indicada dependiendo del número real de semanas trabajadas por los Miembros de la Clase participantes, la resolución de cualquier disputa con respecto a las semanas laborales y las distribuciones finalmente aprobadas y asignadas por el Tribunal. Sin embargo, si los Miembros de la Clase optan por no participar no tendrá ningún efecto en las asignaciones de los Empleados Agraviados para las reclamaciones PAGA.

A. Cantidades de Reclamaciones y Asignación entre los Miembros de la Clase y los Empleados Agraviados

Los Demandados pagarán los Montos de Reclamación a través del Administrador de Reclamaciones, como se describe a continuación, a cada Miembro de la Clase que haya presentado oportunamente un Formulario de Reclamación y que no opte por no participar en el acuerdo, así como a los Empleados Agraviados. Todos los Montos de Reclamación estarán sujetos a los impuestos correspondientes. Las Partes han acordado, con base en las alegaciones en la Acción, que todos los Montos de Reclamación pagaderos a los Miembros elegibles de la Clase se asignarán del Monto Neto del Acuerdo y se pagarán como 2/3 por intereses en disputa, multas legales y otros daños no salariales por los cuales los Formularios 1099-MISC y 1099-INT del IRS emitirán y 1/3 por salarios en disputa por los cuales los Formularios W-2 del IRS emitirán. El pago PAGA a los empleados agraviados se pagará como el 100% de las sanciones civiles.

El pago a los Miembros de la Clase que no opten por no participar requerirá la presentación de un Formulario de Reclamación. Los Miembros de la Clase que presenten oportunamente un Formulario de Reclamación y que no opten por no participar se denominan

"Reclamantes Calificados" según los términos del Acuerdo. El pago a los Empleados Agraviados de su parte del Pago PAGA no requerirá la presentación de un Formulario de Reclamación. La participación de cada Demandante Calificado en el Monto Neto del Acuerdo se determinará dividiendo el total de semanas trabajadas dentro del Período de la Clase por el total de semanas trabajadas por todos los Miembros de la Clase dentro del Período de la Clase. Esa fracción se multiplicará por el Monto Neto del Acuerdo para llegar a la participación individual del Miembro de la Clase en el Monto Neto del Acuerdo. Los Demandados pagarán al menos el 50% del Monto Neto del Acuerdo, independientemente de la tasa de reclamaciones. Si los Demandantes Calificados reclaman menos del 50% del Monto Neto del Acuerdo, aumentarán sus acciones individuales del Monto Neto del Acuerdo, a prorrata, hasta que se distribuya el 50% del Monto Neto del Acuerdo. Cualquier parte del Monto Neto del Acuerdo que exceda el umbral mínimo del 50% que no sea reclamada por los Demandantes Calificados seguirá siendo propiedad de los Demandados.

La participación de cada Empleado Agraviado en la porción del 25% del Pago PAGA se determinará dividiendo su total de semanas trabajadas dentro del Período de Reclamación PAGA por el total de semanas trabajadas por todos los Empleados Agraviados dentro del Período de Reclamación PAGA. Esa fracción se multiplicará por la porción del 25% del Pago PAGA para llegar a la participación individual del Empleado Agraviado. La recepción de los Montos de la Reclamación no dará derecho a ningún Miembro de la Clase o Empleado Agraviado a compensación o beneficios adicionales bajo ningún plan o acuerdo de compensación, jubilación o beneficio vigente durante el período cubierto por el Acuerdo.

C. Cálculos que se Basarán en los Registros de los Demandados y la Resolución de Disputas de la Semana Laboral

Para cada Miembro de la Clase, el Administrador de Reclamaciones calculará la cantidad pagadera a partir de los registros de los Demandados. Los registros de los Demandados se presumirán correctos a menos que se proporcione evidencia en contrario al Administrador de Reclamaciones. Los registros de los Demandados y cualquier evidencia adicional serán revisados por el Administrador de Reclamaciones en caso de una disputa sobre la cantidad de semanas laborales trabajadas por un Miembro individual de la Clase. Si un Miembro de la Clase cuestiona la exactitud de los registros de los Demandados, todos los documentos de respaldo que evidencien semanas de trabajo adicionales deben ser presentados por el Miembro de la Clase. La disputa debe (a) identificar la naturaleza de la disputa; (b) proporcionar cualquier información o documentación que respalde la disputa; (c) estar firmada; y (d) tener un matasello a más tardar el 3 de enero de 2023. La disputa será resuelta por el Administrador de Reclamaciones en base a los registros y pruebas proporcionadas. La decisión del Administrador de Reclamaciones sobre todas las disputas será definitiva y vinculante.

D. Liberación de Reclamaciones

Para aquellos Miembros de la Clase que no opten por no participar y Empleados Agraviados, el Acuerdo contiene las siguientes liberaciones:

Se considerará que los miembros de la Clase que no opten por no participar han liberado todas y cada una de las reclamaciones contenidas en la Demanda, y cualquier reclamación adicional de salario y hora que podría haberse presentado en función de los hechos alegados en la Demanda, a través del Período de la Clase.

Se considerará que los Empleados agraviados han liberado todas y cada una de las reclamaciones que se presentaron bajo la Ley General de Abogados Privados, Código Laboral §§ 2698 *et seq.*, contenidas en la Demanda y cualquier reclamación adicional de salario y horas que podría haberse presentado en base a los hechos alegados en la Demanda o la notificación del Demandante del 26 de octubre de 2021 a la LWDA durante el Período de Reclamación PAGA.

Los individuos liberados ("Partes Liberadas") incluyen a los Demandados, así como a los funcionarios, accionistas, directores, agentes, empleados, abogados y aseguradores de los Demandados.

Los Miembros de la Clase pueden hablar con uno de los abogados designados como Abogados de la Clase (enumerados a continuación) de forma gratuita o hablar con su propio abogado si los Miembros de la Clase tienen preguntas sobre los reclamos liberados y lo que significan.

E. Honorarios y Costos de Abogados.

Los Demandados han acordado pagar los honorarios y costos de los abogados de la Clase que serán aprobados por el Tribunal, hasta un máximo del 35% del Monto Bruto del Acuerdo que equivale a \$52,500, y los costos de los abogados que no excedan los \$15,000. Los honorarios y costes de los abogados de la clase se pagarán y deducirán de la Suma del Acuerdo.

F. Razonabilidad del Acuerdo

Las Partes y sus abogados creen que los montos pagaderos a los Miembros de la Clase, los Empleados Agraviados y los montos por los honorarios y costos de los abogados solicitados son justos y razonables. El Representante de la Clase y los Abogados de la Clase también respaldan el Acuerdo. Entre las razones de apoyo se encuentran las defensas a la responsabilidad potencialmente disponibles para los Demandados, el riesgo inherente de juicio sobre los méritos, el riesgo de denegación de certificación de clase y los retrasos

asociados con el litigio.

III. CUÁLES SON SUS DERECHOS COMO MIEMBRO DE LA CLASE

A. Participación en el Acuerdo

Si desea participar en el acuerdo, debe completar y devolver el Formulario de reclamación adjunto marcado a más tardar el 3 de enero de 2023. Si no presenta a tiempo un Formulario de Reclamación para optar por no participar en el Acuerdo, estará obligado por la liberación de las reclamaciones identificadas anteriormente, pero no recibirá ninguna parte del Monto Neto del Acuerdo.

B. Excluirse del Acuerdo

Si no desea participar en el acuerdo, puede ser excluido (*es decir*, "optar por no participar") presentando una solicitud oportuna por escrito al Administrador de Reclamaciones. La solicitud de exclusión voluntaria debe (a) indicar su nombre completo y fecha de nacimiento; (b) una declaración de que no desea ser un Miembro de la Clase, no desea participar en el acuerdo y/o desea ser excluido de este acuerdo; (c) identificar el nombre y número del caso (es decir, Arroyo c/ Epic Home Solar, 34-2021-00310634); (d) estar firmado; y (e) tener un matasello a más tardar el 3 de enero de 2023. La solicitud de exclusión voluntaria debe ser firmada, fechada y enviada por correo postal de primera clase de EE.UU. o su equivalente, a:

ILYM Group, Inc.
Apartado Postal 2031 Tustin, CA 92781

La solicitud de exclusión debe tener matasellos a más tardar el 3 de enero de 2023. Si envía una solicitud de exclusión voluntaria que no tenga matasellos antes del 3 de enero de 2023, su solicitud de exclusión voluntaria será rechazada y estará sujeto a la liberación y a todos los demás términos del Acuerdo. Si la solicitud de exclusión voluntaria se envía desde dentro de los Estados Unidos, debe enviarse a través del Servicio Postal de los Estados Unidos por correo de primera clase, o su equivalente. No utilice un medidor de franqueo, ya que es posible que no aparezca un matasello en el sobre que contiene su solicitud de exclusión voluntaria. Cualquier Miembro de la Clase que presente una solicitud completa y oportuna para optar por no participar, una vez recibida por el Administrador de Reclamaciones, ya no será un Miembro de la Clase y no recibirá su parte del pago del acuerdo de la clase. Los Empleados Agraviados no pueden optar por no participar en este Acuerdo y recibirán su parte del Pago PAGA independientemente de si optan por no ser un Miembro de la Clase.

C. Objeción al Acuerdo

Si no opta por no participar en el acuerdo, puede oponerse a los términos del Acuerdo. No obstante, si el Tribunal rechaza su objeción, seguirá sujeto a los términos del Acuerdo. Puede pedirle al Tribunal que rechace la aprobación del Acuerdo presentando una objeción. No puede pedirle al Tribunal que solicite un acuerdo más extenso; el Tribunal solo puede aprobar o rechazar el Acuerdo. Si el Tribunal no lo aprueba, no se enviarán pagos del Acuerdo y la Demanda continuará. Si eso es lo que desea que ocurra, debe presentar una objeción. La objeción debe (a) indicar su nombre completo y fecha de nacimiento; (b) proporcionar evidencia de que usted es, de hecho, un Miembro de la Clase; (c) indicar las razones de la(s) objeción(es), incluido cualquier análisis legal y/o documentación de respaldo; (d) identificar el nombre y número del caso (es decir, Arroyo c/ Epic Home Solar, 34-2021-00310634) (e) estar firmado; y (f) estar matasellado a más tardar el 3 de enero de 2023. La objeción debe enviarse al Administrador de Reclamaciones en la dirección identificada en la sección III.B y al abogado del Demandante y los Demandados en las direcciones identificadas en la sección VI de este aviso. Si tiene la intención de objetar el acuerdo, pero desea recibir su parte del Monto Neto del Acuerdo, debe presentar oportunamente su Formulario de Reclamación como se indicó anteriormente. Si el Tribunal aprueba el Acuerdo a pesar de cualquier objeción y usted no ha presentado un Formulario de Reclamación, no recibirá su parte del Monto Neto del Acuerdo.

Si ha presentado una objeción por escrito como se describe anteriormente, también puede comparecer en la Audiencia de Aprobación Final, ya sea en persona o a través de su propio abogado, para declarar su objeción. Sin embargo, debe presentar un aviso de intención de comparecer ante el Tribunal y entregar el aviso al abogado del Demandante y los Demandados. Si comparece a través de su propio abogado, usted es responsable de pagarle a ese abogado.

IV. EFFECTO DE LA LIQUIDACIÓN: DERECHOS LIBERADOS Y RECLAMACIONES

Después de que el Tribunal haya otorgado la aprobación final del acuerdo, todos y cada uno de los Miembros de la Clase que no opten por no participar en el acuerdo y Empleados Agraviados, liberarán a los Demandados y las Partes Liberadas de las reclamaciones liberadas descritas anteriormente. En otras palabras, si usted fue empleado como Miembro de la Clase por los Demandados en California durante el Período de la Clase, y no se excluye del acuerdo, se considerará que ha participado en esta liberación y que ha liberado las reclamaciones descritas anteriormente. Además, se le prohibirá demandar a los Demandados y a las Partes Liberadas con respecto a las reclamaciones cubiertas por este acuerdo. Si el acuerdo no es aprobado por el Tribunal o no se convierte en definitivo por alguna otra razón, el litigio continuará.

V. AUDIENCIA DE APROBACION FINAL DEL ACUERDO

El Tribunal celebrará una audiencia en el Departamento 25, 720 9th Street, Sacramento, California 95814 el 10 de febrero de 2022 a las 9:00 a.m., para determinar si el Acuerdo debe aprobarse finalmente como justo, razonable y adecuado. También se le pedirá al Tribunal que apruebe la solicitud de los Abogados de la Clase para los honorarios y costos de los abogados. La audiencia puede continuar sin nuevo aviso a los Miembros de la Clase. No es necesario que comparezca en esta audiencia a menos que desee objetar el acuerdo.

VI. INFORMACIÓN ADICIONAL

Se puede acceder a una copia de esta notificación y de las mociones de aprobación del acuerdo en línea en www.ilymgroup.com/EpicHomeSolar. Si desea información adicional sobre esta demanda y sus procedimientos, puede comunicarse con los Abogados de la Clase o los Abogados de los Demandados de la siguiente manera:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 200
Elk Grove, CA 95624
Teléfono: (916) 525-0716
Fax: (916) 760-3733

En nombre del Demandante

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

En nombre de los Demandados

POR FAVOR, NO LLAME POR TELÉFONO AL TRIBUNAL O A LA OFICINA DEL SECRETARIO DEL TRIBUNAL PARA OBTENER INFORMACIÓN SOBRE ESTE ACUERDO O SOBRE EL PROCESO DE RECLAMACIÓN. SI TIENE ALGUNA PREGUNTA, LLAME AL 888-250-6810.

POR ORDEN DEL TRIBUNAL

FORMULARIO DE RECLAMACIÓN
ARROYO C/ EPIC HOME SOLAR
TRIBUNAL SUPERIOR DE CALIFORNIA
CONDADO DE SACRAMENTO
CASO NO. 34-2021-00310634

Debe completar y devolver este Formulario de Reclamación por correo de primera clase al Administrador de Reclamaciones en la dirección a continuación el 3 de enero de 2023 o antes para ser elegible y recibir su Monto de Reclamación en virtud del Acuerdo. Para ser considerado oportuno, el Formulario de Reclamación debe tener un el 3 de enero de 2023 o antes. Los Formularios de Reclamación incompletos y/o tardíos serán rechazados. Su decisión de enviar o no este Formulario de Reclamación no afectará su empleo de ninguna manera. Su empleador actual o anterior no tomará represalias contra usted de ninguna manera por enviar un Formulario de Reclamación.

ENVIAR A:
ILYM Group, Inc.
Apartado Postal 2031 Tustin, CA 92781

INSTRUCCIONES

(1) Revise la siguiente información de identificación y realice los cambios necesarios en la columna de la derecha:

«ILYMID»
«First_Name» «Last_Name»
«Address1»
«City», «State» «Zip»

Cambios de Nombre/Dirección (si corresponde):

(Opcional): Puedo ser contactado por teléfono al:

(_____) _____

Código de Área Número de Teléfono de Trabajo

(_____) _____

Código de Área Número de Teléfono Residencial

(2) **Semanas Laborales Durante el Período de Clase:** de acuerdo con los registros de los Demandados, usted trabajó «Class_Pay_Periods» semanas en California como Miembro de la Clase durante el Período de la Clase. Se estima que el Monto de su Reclamación es de aproximadamente \$«Est_Settlement_».

(3) Si no está de acuerdo con el número de semanas laborales indicado en el Párrafo (2) anterior, puede enviar una carta al Administrador de Reclamaciones disputando el número de semanas laborales asignadas además del Formulario de Reclamación firmado. La carta debe (a) identificar la naturaleza de la disputa; (b) proporcionar cualquier información o documentación que respalde la disputa; (c) estar firmada; y (d) tener un matasellos a más tardar el 3 de enero de 2023. Deberá enviar cualquier documento u otra información que respalde su creencia de que la información establecida anteriormente es incorrecta. Los registros de los Demandados controlarán a menos que pueda proporcionar documentación con este Formulario de Reclamación que establezca lo contrario. Si hay una disputa sobre si la información de los Demandados o la suya es precisa, y la disputa no se puede resolver informalmente, la disputa será resuelta por el Administrador de Reclamaciones como se describe en el Aviso de Acuerdo que acompaña a este Formulario de Reclamación. Dicha determinación por parte del Administrador de Reclamaciones será definitiva y vinculante sin posibilidad de apelación adicional.

Tenga en Cuenta: una parte de todos los montos de reclamaciones están sujetos a impuestos y se informarán al IRS y a las autoridades fiscales estatales. Recibirá un Formulario 1099-MISC y W-2 del IRS que cubre el Monto de su Reclamación.

Declaro bajo pena de perjurio bajo las leyes del Estado de California y los Estados Unidos que he recibido una copia y he tenido la oportunidad de revisar la Notificación de Acuerdo adjunta, que tengo derecho a un Monto de Reclamación por las Reclamaciones Liberadas, y que la información anterior es voluntaria y verdadera y correcta a mi leal saber y entender.

(Firme su nombre aquí)

Fecha

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

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

12 Plaintiff,
13

14 vs.

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

17 Defendants.
18
19
20
21
22
23

Case No. 34-2021-00310634

CLASS ACTION

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

Date: January 10, 2023

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

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1 **I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT**

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

10 Plaintiff has alleged claims against Defendant for failure to pay overtime wages, failure to pay
11 minimum wages, meal period violations, rest period violations, wage statement violations, waiting time
12 penalties, failure to reimburse expenses, unfair competition, failure to pay nonproductive time, failure
13 to pay contract wages, unlawful deductions, failure to maintain accurate records, failure to provide paid
14 sick leave, and untimely payment of wages. *See generally* Exhibit B. Plaintiff has also alleged
15 Defendant is liable for a civil penalties under the Private Attorneys General Act (“PAGA”) based on
16 these violations. *See id.*; Exhibit C (Plaintiff’s Ltr. to the Labor and Workforce Development Agency
17 [“LWDA”] Regarding PAGA Claims). These violations primarily stem from Plaintiff’s allegations that
18 Defendant violated California law by 1) failing to adequately track all hours worked and whether all
19 meal periods were received; 2) failing to pay all hours worked; 3) failing to pay piece rate workers
20 overtime premiums; 4) failing to pay all piece rate compensation owed; 5) failing to provide all meal
21 periods, including a second meal period for shifts over 10 hours; 6) failing to provide all rest periods,
22 including a third rest period for shifts over 10 hours; 7) failing to compensate for time spent during rest
23 periods and other non-productive time; 8) failing to provide all paid sick leave in accordance with the
24 Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for personal cellphone use
25 and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and 11) failing to provide
26 accurate wage statements. *See* Exhibit B. Plaintiff has contended that this is a meritorious class action
27 lawsuit and that this case is appropriate for class certification for settlement purposes as the requisites
28 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 The reaction of Class Members to the preliminarily approved Agreement has been positive and
15 gives substantial support to the Agreement and all terms and allocations therein being fair, reasonable,
16 and adequate. Zero Class Members opted out of the settlement and there have been zero objections to
17 the Agreement. *See* Declaration of Lluvia Islas ("Decl. Islas"), ¶¶ 14-15. It is well within the
18 discretion of this Court to grant final approval of the proposed settlement, which satisfies all of the
19 criteria for final settlement approval under California law. Accordingly, Plaintiff requests that the
20 Court: (1) certify the settlement class; (2) grant final approval of the Agreement; (3) find that the
21 procedures used to notify Class Members complied with due process; (4) grant Plaintiff's request for
22 attorney's fees and costs, the Enhancement Payment to the Class Representative, and Claims
23 Administrator Costs; and (5) approve and adopt the proposed order granting final approval, which is
24 filed concurrently herewith.

25 **II. PROCEDURAL AND LITIGATION HISTORY**

26 Plaintiff filed a class action complaint on approximately November 3, 2021, in Sacramento
27 County Superior Court against Defendant. Plaintiff exhausted administrative remedies under the
28 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §

2699.3(a), (c); Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on approximately January 19, 2022, to include a PAGA claim. *See id.*; Exhibit B. There is no date set for a motion for certification or trial in this matter. *See* Decl. Rodriguez, ¶ 4.

III. INVESTIGATION AND DISCOVERY CONDUCTED

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

IV. NEGOTIATION AND PROPOSED SETTLEMENT

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

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

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 the Gross Settlement Amount of \$150,000, exclusive of the employer's share of
12 payroll taxes, on a claims made basis to resolve and release the claims alleged in the Complaint. *See id.*
13 at ¶ 5.1. Regardless of the claims rate, Defendant will be obligated to pay out a minimum of 50% of
14 the 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. Plaintiff also agrees to a general release
23 of his claims and waives the protections of California Civil Code section 1542 for unknown claims.
24 *See id.* at ¶¶ 1.12, 6.3; Decl. Arroyo, ¶ 5.

25 4. The parties agree that the cost of administering this class action settlement shall be paid
26 from the settlement proceeds. Subject to Court approval, the parties have selected ILYM Group, Inc. to
27 act as the Claims Administrator, whose final costs are \$8,150. *See* Decl. Islas, ¶ 18. The difference
28 between any actual administration costs and the \$10,000 originally allocated under the Agreement, will
be added to the Net Settlement Amount. *See* Exhibit A, ¶ 5.3.

5. The parties agree that \$5,000 of the Gross Settlement Amount shall be allocated to

1 resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to
2 the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. *See id.* at ¶ 5.5.
3 Given the derivative nature of the penalties, the efforts by Defendant to maintain compliant policies and
4 take corrective action, the presence of what may likely be deemed good faith disputes, and the Court’s
5 discretion to reduce any penalty award, Plaintiff believes the PAGA Payment allocation represents a
6 meaningful settlement aimed at deterring non-compliance given the facts of this case. *See Decl.*
7 *Rodriguez*, ¶ 13; *see also Davis v. Cox Commc’ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1
8 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Jack v.*
9 *Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA
10 allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416,
11 *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v.*
12 *Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA
13 allocation in \$1,026,000 settlement); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052,
14 at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement)

15 6. The parties agree that up to thirty-five percent (35%) of the Gross Settlement Amount
16 (\$52,500) will be paid for Plaintiff’s attorneys’ fees incurred in the litigation of this case. Defendant
17 will not oppose any application for attorneys’ fees so long as it is within this threshold. *See id.* at ¶ 5.2.
18 Additionally, the parties agree that Plaintiff will be entitled to actual litigation costs in the amount of
19 \$9,995.91. *See Exhibit D* (“Plaintiff’s Itemized Costs”). The difference between the actual costs and the
20 \$15,000 originally allocated will be added to the Net Settlement Amount. *See Exhibit A* at ¶ 5.2. The
21 proposed notice to be sent to Class Members stated the maximum cost potential of \$15,000. *See Exh.*
22 *A to Decl. Islas.*

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

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

1 set forth in the Agreement regardless of whether they opt out of being a Class Member. *See id.* at 1.34-
2 1.35.

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

19 **c. Allocation of Settlement Funds**

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

28 ¹ The 180 day check cashing period provided in the Court's October 31, 2022 preliminary approval order governed over the
120 days stated in the Agreement pursuant to Section 8.1

1 Workweeks for the individual Qualified Claimant and dividing that by the Qualifying Workweeks for all
2 Class Members and multiplying that fraction by the Net Settlement Amount. However, regardless of the
3 claims rate, Defendant shall be obligated to pay out a minimum of 50% of the Net Settlement Amount.
4 If less than 50% of the Net Settlement Amount is claimed by Qualified Claimants, the Qualified
5 Claimants will have their individual shares of the Net Settlement Amount increased, pro rata, until 50%
6 of the Net Settlement Amount is distributed. Any portion of the Net Settlement Amount in excess of the
7 minimum 50% threshold that is not claimed by Qualified Claimants shall remain the property of
8 Defendant. *See id.* at ¶¶ 5.8-5.8.1. Each Aggrieved Employee's share of the 25% portion of the PAGA
9 Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the
10 total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then
11 be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's
12 individual share. *See id.* at ¶¶ 5.8, 5.8.2.

13 **V. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND THE**
14 **SUBSEQUENT CLASS ACTION ADMINISTRATION**

15 Plaintiff's motion for preliminary approval of the class action settlement was approved by the
16 Court, in its entirety, on October 31, 2022. To comply with Class Members' due process rights, the
17 parties enlisted an exhaustive method to ensure the best practical means possible was used to provide
18 notice to the class. Defendant provided the class action administrator the names, last known address,
19 and social security numbers for the class. The class action administrator then updated this information
20 by checking the National Change of Address database for each individual. *See Decl. Islas*, ¶¶ 5-6. In
21 addition, Plaintiff provided any available contact information to his attorneys for Class Members to
22 ensure they had an opportunity to participate in the settlement. *See Decl. Arroyo*, ¶ 4; *Decl. Rodriguez*,
23 ¶ 13. After the Notice Packets were mailed on November 4, 2022, for any returned as undeliverable,
24 further investigation was performed and they were re-mailed using updated information obtained
25 through completing skip tracing. *See Decl. Islas*, ¶ 11. Of the 109 Notice Packets mailed, only 5 were
26 undeliverable after use of these methods. *See id.* at ¶¶ 9, 13. The Notice Packets included information
27 regarding the requested attorneys' fees, costs, payment to the LWDA, administration costs, and tax
28 allocations. *See Decl. Islas*, Exh. A. A reminder postcard was also mailed to Class Members on

1 December 7, 2022. *See* Decl. Islas, ¶ 10. ILYM Group maintained a website available the Class
2 Members where the First Amended Complaint, Notice Packet, and a copy of Plaintiff's preliminary
3 approval motion could be viewed. A link to this website was included in the Notice Packet. *See id.* at ¶
4 4. The average distribution to participating class members is approximately \$1,532.24, the maximum
5 distribution is approximately \$7,700.49. *See id.* at ¶ 17. No objections to the preliminarily approved
6 settlement have been made and no Class Members opted out. *See* Decl. Islas, ¶¶ 14-15.

7 It is not required that Class Members be given actual notice of a class settlement; instead, the
8 best practicable notice under the circumstances is all that is required. *See Silber v. Mabon*, 18 F.3d
9 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th Cir. 2017);
10 *Walsh v. CorePower Yoga LLC*, 2017 U.S. Dist. LEXIS 163991, at *12-14 (N.D. Cal. 2017); *Wright v.*
11 *Linkus Enters.*, 259 F.R.D. 468, 474-75 (E.D. Cal. 2009). In *Silber v. Mabon*, 18 F.3d 1449 (9th Cir.
12 1994), the Court rejected a class member's argument that he had not received due process because he
13 did not receive notice until after the opt out period, finding that, so long as the notice process utilized is
14 the best practicable under the circumstances, due process is satisfied even if there is no actual receipt of
15 the notice. *See Silber*, 18 F.3d at 1453-1454. A similar finding was made in *Briseno v. Conagra*
16 *Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017). With regard to any undeliverable Notice in this case, the
17 Court in *Rannis v. Recchia*, 380 F. App'x 646 (9th Cir. 2010) found that class members who did not
18 receive actual notice due to their mailings being deemed undeliverable were still properly held to be
19 part of the class settlement because they received the best notice practicable under the circumstances.
20 *See Rannis v. Recchia*, 380 F. App'x at 650-651. In *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-
21 984 (2019), the California Supreme Court noted that California has adopted a similar approach
22 regarding providing notice to class members.

23 The notice method in *Rannis* is similar to that used in the present case. For example, the Notice
24 contained all information necessary for a Class Member to assess the litigation, the settlement, and
25 whether they wanted to participate, object, or opt-out. *See* Decl. Islas, Exh. A. The Claims
26 Administrator utilized a national change of address database, forwarding notices, and skip tracing in an
27 effort to ensure that all reasonable means were exhausted in attempting to provide Class Members
28 notice of this settlement. *See* Decl. Islas, ¶¶ 6-13. Additionally, the entire motion for preliminary

1 approval, the Notice, and all filings in this matter were available, free of charge, on a web page
2 accessible to all Class Members. *See id.* at ¶ 4. The content of the notice provided and the manner in
3 which it was provided to Class Members was the best practicable notice to satisfy due process.

4 **VI. THE AGREEMENT WARRANTS FINAL APPROVAL AS IT IS FAIR, REASONABLE,**
5 **AND ADEQUATE AS TO ALL CLASS MEMBERS, PROVIDING AN EXCELLENT**
6 **RECOVERY UNDER THE FACTS OF THIS CASE**

7 A class action may not be dismissed, compromised, or settled without Court approval and the
8 decision to approve or reject a settlement is committed to the Court's sound discretion. *See* Cal. Rules
9 of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)²; *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
10 4th 224, 234-35 (2001); *see also* Cal. Lab. Code §§ 2699(1)(2) (requiring Court review of PAGA
11 settlements). However, courts should give "proper deference to the private consensual decision of the
12 parties," since "the court's intrusion upon what is otherwise a private consensual agreement negotiated
13 between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment
14 that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating
15 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned."
16 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Where a settlement is reached on terms
17 agreeable to all parties, a court should disapprove of the settlement "only with considerable
18 circumspection." *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975). The law favors
19 settlement of lawsuits, particularly class actions and other complex cases where substantial resources
20 can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Neary v. Regents of*
Univ. of Cal., 3 Cal. 4th 273, 277-81 (1992).

21 **a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness**

22 The purpose of the Court's final evaluation of a proposed class action settlement is to determine
23 only whether the proposed settlement is within the range of reasonableness. *See Wershba*, 91 Cal. App.
24 4th at 234-35. If the Court finds a proposed settlement falls within "the range of reasonableness," it
25 should grant final approval of the class action settlement. *See, e.g., North County Contr.'s Assn., Inc. v.*
26 *Touchstone Ins. Svcs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168

27
28 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).

Cal. App. 4th 116, 133 (2008). To make the fairness determination, the Court must consider several factors, including:

the strength of the Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery 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.

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

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

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

1 an accurate damages model. *See id.* at ¶ 6-12. Plaintiff was in possession of this information prior to
2 calculating the potential damages in this case. *See id.* As a result, Plaintiff was able to make a
3 reasonable estimation of Defendant’s potential liability. *See id.* For these reasons, the settlement now
4 before the Court was reached at a stage where “the parties certainly have a clear view of the strengths
5 and weaknesses of their cases” sufficient to support the settlement. *Boyd v. Bechtel Corp.*, 485 F.Supp.
6 610, 617 (N.D. Cal. 1979).

7 **iii. Plaintiff’s Counsel Is Experienced in Similar Litigation**

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

15 **iv. No Class Members Objected or Opted Out**

16 The reaction by Class Members to the Agreement and all the terms and allocations stated
17 therein is overwhelmingly positive. Zero Class Members have objected to any aspect of the Agreement
18 and zero have opted out. *See Decl. Islas*, ¶¶ 14-15. This provides strong evidence that the settlement is
19 fair, reasonable, and adequate. *In re Heritage Bond Litig.*, 2005 WL 1594403, at *10 (“It is established
20 that the absence of a large number of objectors to a proposed class action settlement raises a strong
21 presumption that the terms of a proposed class settlement action are favorable to the class members”);
22 *Nat’l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (“That
23 unanimous, positive reaction to the Proposed Settlement is compelling evidence that the Proposed
24 Settlement is fair, just, reasonable, and adequate”).

25 **v. The Settlement is Fair and Reasonable Based on the Strength of Plaintiff’s Case**
26 **and the Risks and Costs of Further Litigation**

27 A review of the Agreement’s terms does not give rise to any doubts about its fairness. Based on
28 the records and facts of this case, Plaintiff has secured a gross recovery of approximately 14.7% and a

1 net recovery of approximately 3.2% of the claims' maximum likely value. *See id.* at ¶¶ 10-12.
2 Additionally, the average net award per class member is approximately \$1,532.24 and the highest net
3 award is approximately \$7,700.49. *See Decl. Islas*, ¶ 17. This settlement is a reasonable compromise
4 of the class and PAGA claims, and is within the percentile ranges of the total available damages that
5 have been approved in other class settlements. *See Wershba*, 91 Cal. App. 4th at 246, 250; *Rebney v.*
6 *Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990); *Officers for Justice v. Civil Serv. Comm'n*, 688
7 F.2d 615, 628 (9th Cir. 1982); *see also In re Omnivision Technologies, Inc.*, 559 F.Supp.2d 1036, 1042
8 (2007) (noting that certainty of recovery in settlement of 6% of maximum potential recovery after
9 reduction for attorney's fees was higher than median percentage for recoveries in shareholder class
10 action settlements, averaging 2.2%-3% from 2000 through 2002); *Bravo v. Gale Triangle, Inc.*, 2017
11 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017) (approving a settlement where the net recovery to class
12 members was approximately 7.5% of the projected maximum recovery amount); *Avila v. Cold Spring*
13 *Granite Co.*, 2017 U.S. Dist. LEXIS 130878 (E.D. Cal. 2017) (approving a settlement with a gross
14 recovery of 11% of the projected maximum damages available and a net recovery of approximately
15 6.7% of the projected maximum recovery); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245 (N.D.
16 Cal 2015) (approving a settlement where the gross recovery was approximately 8.5% of the projected
17 maximum recovery); *Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at *48 (E.D. Cal.
18 2012) ("Class Members will receive an average of approximately \$198.70, with the highest payment to
19 a Class Member being \$695.78 . . . Overall, the Court finds that the results achieved are good, which is
20 highlighted by the fact that there was no objection to the settlement amount or the attorneys' fees
21 requested."); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal. 2012) ("the
22 results achieved in this case were very favorable. Class members are provided with immediate
23 monetary relief, with an average award of around several hundred dollars and a minimum award of
24 \$50").

25 A settlement agreement may also provide for a claims made and reversion procedure so long as
26 the settlement, as a whole, is still fair, reasonable, and adequate. *See In re Microsoft I-V Cases*, 135
27 Cal.App.4th 706, 721 (2006) ("The analysis additionally recognized that a court approved settlement
28 could properly include a 'reversion of ... funds to the defendant'"); *Cundiff v. Verizon California, Inc.*,

1 167 Cal.App.4th 718, 728 (2008) (noting that *In re Microsoft I-V Cases* found that a class settlement
2 may provide for a reversion so long as it does not render the settlement, as a whole, unfair, inadequate,
3 or unreasonable and distinguishing the case before it on the grounds that the class settlement agreement
4 made no provision for unclaimed funds). The claims made and reversion procedure in this case was
5 agreed to as a result of the Defendant’s financial condition. *See* Decl. Rodriguez, ¶ 7. It was only after
6 Plaintiff’s counsel reviewed financial documents to verify Defendant’s financial condition, weighed the
7 relevant interests, and considered potential alternatives that the claims made and reversion procedure
8 was agreed to. *See* Decl. Rodriguez, ¶¶ 7-9. The claims made and reversion procedure appropriately
9 balanced the relevant interests in this case and do not render the settlement unfair, unreasonable, or
10 inadequate.

11 **vi. The Proposed Settlement is a Reasonable Compromise of Claims**

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

28 Plaintiff similarly relied upon payroll data and Class Members’ data to determine the realistic

1 potential damages suffered by the class as a whole. *See* Decl. Rodriguez, ¶¶ 7-10. This analysis
2 allowed Plaintiff to determine the extent and frequency of potential violations on all claims as to all
3 Class Members. *See id.* Ultimately, Plaintiff secured a percentage of the total demand for the putative
4 class that is within the range of what has been found to be sufficient in several other cases. *See, supra*,
5 Section V.c.iv; *see also, e.g., In re Omnivision Technologies, Inc.*, 559 F.Supp.2d at 1042; *Reed v. 1-*
6 *800 Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014) (approving a settlement of \$11.7
7 million where the maximum range of damages was \$5,000 for each of the alleged 300,000 instances of
8 unlawful recording violations (\$1.5 billion), equaling approximately .78% of the total demand and
9 approximately \$800 per class member). This settlement represents a reasonable compromise given the
10 percentage of the total demand that was secured, the average recovery per class member, the Court’s
11 ability and discretion to cut PAGA penalties, the uncertainty of class certification, and Defendant’s
12 financial condition. *See* Decl. Rodriguez, ¶ 10-12.

13 **b. Certification of the Class is Appropriate**

14 Class certification is appropriate when (1) the class is ascertainable and (2) there is “a well-
15 defined community of interest in the questions of law and fact involved affecting the parties to be
16 represented.” *Dunk*, 48 Cal. App. 4th at 1806. The “community of interest” element “embodies three
17 factors: (1) common questions of law or fact predominate; (2) class representatives with claims or
18 defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Id.*
19 Here, the Court conditionally certified the settlement class on September 1, 2022, and nothing has
20 happened in the interim that would warrant changing that decision. *See Garcia v. City of King City*,
21 2017 WL 363257, *4 (N.D. Cal. 2017); *Messineo v. Ocwen Loan Servicing, LLC*, 2017 WL 733219, *4
22 (N.D. Cal. 2017). Here, the parties agree that, for the purposes of settlement, these prerequisites are
23 met. *See* Exhibit A.

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

25 The proposed settlement class is ascertainable because all putative class members can be readily
26 identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7 Cal.5th
27 955, 980 (2019); *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981); *Lee v. Dynamex, Inc.*, 166
28 Cal. App. 4th 1325, 1334 (2008). The numerosity requirement is met because there are 106 individuals

1 who fall within the definition of Class Member, which makes joinder of all members impracticable.
2 *See Gay v. Waiters' & Dairy Lunchmen's Union*, 489 F.Supp. 282 (N.D. Cal. 1980), *aff'd* 694 F.2d 531
3 (9th Cir. 1982); *Hebbard v. Calgrove*, 28 Cal. App. 3d 1017, 1030 (1972) (noting no set minimum to
4 meet the numerosity prerequisite, but a class as few as twenty-eight (28) members is acceptable). Thus,
5 these requirements are satisfied.

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

7 The commonality requirement is met when there are questions of law or fact regarding the class
8 as a whole. *See Hanlon*, 150 F.3d at 1019. Commonality requires only that some common legal or
9 factual questions exist; Plaintiff need not show that all issues in the litigation are identical. *See*
10 *Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v. Superior Court*, 12 Cal.3d
11 447, 460 (1974). Common questions of law or fact must also predominate over individual questions
12 and class-wide treatment of a dispute must be superior to individual litigation.³ *See Richmond*, 29
13 Cal.3d at 469. Predominance requires a putative class be sufficiently cohesive to warrant adjudication
14 by representation. *See Hanlon*, 150 F.3d at 1022. The typicality requirement is met when claims of the
15 named representative are typical of those of the class, though "they need not be substantially identical."
16 *Id.* at 1020; *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983).

17 The common questions of law and fact in this case stem from Plaintiff's contention that
18 Defendant violated California law by 1) failing to adequately track all hours worked and whether all
19 meal periods were received; 2) failing to pay all hours worked; 3) failing to pay piece rate workers
20 overtime premiums; 4) failing to pay all piece rate compensation owed; 5) failing to provide all meal
21 periods, including a second meal period for shifts over 10 hours; 6) failing to provide all rest periods,
22 including a third rest period for shifts over 10 hours; 7) failing to compensate for time spent during rest
23 periods and other non-productive time; 8) failing to provide all paid sick leave in accordance with the
24 Healthy Workplaces Healthy Families Act of 2014; 9) failing to reimburse for personal cellphone use
25 and mileage; 10) failing to timely pay wages pursuant to Labor Code § 204; and 11) failing to provide
26 accurate wage statements. *See Exhibit B.* The waiting time penalties, unfair competition, and PAGA
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).

claims are derivative of these violations. *See id.* Plaintiff and the Class Members seek the same remedies under state law. Under these specific circumstances, the commonality and predominance requirements are satisfied. Regarding the typicality requirement, Plaintiff contends he suffered from the same unlawful policies, treatment, and circumstances as Class Members did, will request the same remedies, and will rely on the same methods of proof to establish liability and damages. *See id.* Thus, the typicality requirement is also satisfied for settlement purposes.

iii. The Adequacy Requirement is Met

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

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

VII. THE AMOUNTS REQUESTED FOR ATTORNEY'S FEES AND COSTS, AN ENHANCEMENT PAYMENT TO THE CLASS REPRESENTATIVE, AND CLAIMS ADMINISTRATOR COSTS ARE REASONABLE AND SHOULD BE APPROVED

The Notice of Settlement sent to Class Members specifically identified the allocations for attorney's fees and costs, the Class Representative Enhancement Payment, and Claims Administrator Costs. *See* Decl. Islas, Exh. A. The reaction of Class Members to these requested amounts provides

1 useful evidence of whether they are reasonable. *See In re Heritage Bond Litig.*, 2005 WL 1594403,
2 *21 (“The absence of objections or disapproval by class members to Class Counsel’s fee request further
3 supports finding the fee request reasonable”). As noted above, there were no objections raised to the
4 Agreement or any term or allocation therein whatsoever. *See Decl. Islas*, ¶¶ 14-15. In addition to Class
5 Members’ reactions supporting the requested amount, the facts and applicable case law also support
6 awarding these amounts in full.

7 An award of attorney’s fees should include compensation for all hours reasonably spent. *See*
8 *Ketchum v. Moses*, 24 Cal.4th 1122, 1133 (2001); *see also Hensley v. Eckerhart*, 461 U.S. 424, 431
9 (1983) (finding hours are reasonably spent if they are the kind normally billed to a fee-paying client).
10 California has not adopted any “benchmark” percentage utilized by several federal courts. *See Emmons*
11 *v. Quest Diagnostics Clinical Lab’s, Inc.*, 2017 WL 749018, at *7 (E.D. Cal. 2017) (“Notably, while
12 the California Supreme Court recognized the Ninth Circuit’s 25 percent benchmark for percentage
13 awards in common fund cases, it did not adopt such a benchmark for California cases”). Instead, “[t]he
14 benchmark in determining attorney fees is reasonableness.” *Karton v. Ari Design & Constr., Inc.*, 61
15 Cal.App.5th 734, 744 (2021).

16 **a. A Fee of Thirty-Five Percent of the Common Fund Is Reasonable Because It Is Within**
17 **the Ranges Historically Approved by Courts in Class Settlements and a Lodestar**
18 **Cross Check Validates the Proposed Fee**

19 An award of attorney’s fees under the common fund doctrine is appropriate in this case as there
20 is a sufficiently identifiable class of beneficiaries (*e.g.* the settlement class), the benefits received can be
21 accurately traced to the settlement Plaintiff and Class Counsel were able to negotiate on behalf of Class
22 Members, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific,
23 lump-sum percentage of the fund. *See Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016);
24 *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van*
25 *Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a common fund for the benefit of
26 persons other than . . . her client is entitled to a reasonable attorney’s fee from the fund as a whole.”).
27 The requested fee, 35% of the common fund, is within ranges awarded in other cases. *See Martin v.*
28 *Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796, *22-23 (S.D. Cal. 2011) (collecting cases); *Birch v.*

1 *Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC) (awarding 40% fee on a
2 \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt. Corp.*, USDC Southern
3 District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75 million wage and hour class
4 action settlement); Decl. Rodriguez, ¶ 22; Exhibit G (Sacramento Superior Court November 2022 Final
5 Approval Order) (awarding 35% of a common fund class action settlement).

6 To the extent there may be some Courts that have granted fees at a percentage less than 35%,
7 that does not justify an arbitrary cap on Class Counsel's fees in this case. First, in many instances, the
8 treatises or cases discussing these percentages are relying on federal decisions guided by a
9 "benchmark" percentage of 25% that has not been adopted by the California Supreme Court. *See*
10 *Emmons*, 2017 WL 749018, at *7. This artificially lowers the average percentage of fees awarded.
11 Second, many of the same decisions and treatises refer to cases that have a substantial gross settlement
12 fund to begin with, which will generally correspond to a lower percentage of fees being deemed
13 reasonable. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1052 (9th Cir. 2002) (compiling an
14 appendix of class settlements with gross settlement funds of \$53 million to \$193 million and a range of
15 2.8% to 40% in awarded attorney's fees, averaging approximately 22%). Rather than acting as a cap on
16 any fee, the percentages applied in cases are a tool to cross check the reasonableness of the fee just as
17 the lodestar method is a tool to cross check the reasonableness of the requested percentage. *See Karton*,
18 61 Cal.App.5th at 744; *Vizcaino*, 290 F.3d at 1048 ("courts cannot rationally apply any particular
19 percentage—whether 13.6 percent, 25 percent or any other number—in the abstract, without reference
20 to all the circumstances of the case").

21 To the extent the Court wishes to exercise its discretion to conduct a lodestar cross check, the
22 cross check only validates the fee request. *See Laffitte*, 1 Cal.5th at 503-506. Again, an award of
23 attorney's fees should include compensation for all hours reasonably spent. *See Ketchum*, 24 Cal.4th at
24 1133; *see also Hensley*, 461 U.S. at 431 (finding hours are reasonably spent if they are the kind
25 normally billed to a fee-paying client). To date, Class Counsel has spent approximately 213.6 hours
26 performing tasks that would normally be billed to any fee playing client in complex litigation and
27 estimate that this number will increase to approximately 223.6 after monitoring the disbursement of all
28 funds and compliance hearing(s). *See Decl. Rodriguez*, ¶ 23; Exhibit F; *Syers Props. III, Inc. v. Rankin*,

226 Cal.App.4th 691, 699 (2014) (“Because time records are not required under California law ... , there is no required level of detail that counsel must achieve.”) (internal quotations omitted). At the prevailing market rates for Class Counsel’s level of experience and this type of complex litigation, this equates to a lodestar of approximately \$122,110.00. *See* Decl. Rodriguez, ¶¶ 23-24; Exhibit G; *Children’s Hosp. and Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 746 (2002) (noting rates were reasonable where they were “within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work”).

The reasonableness of Class Counsel’s fee request is also demonstrated by the fact that the amount requested would not require any multiplier of the lodestar. Multipliers are typically awarded in contingent fee litigation to compensate counsel for the risk of non-payment:

It is an established practice in the private legal market to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases. *See Richard Posner, Economic Analysis of Law* § 21.9, at 534-35 (3d ed. 1986). Contingent fees that may far exceed the market value of the services if rendered on a non-contingent basis are accepted in the legal profession as a legitimate way of assuring competent representation for Plaintiff who could not afford to pay on an hourly basis regardless whether they win or lose.

Chem. Bank v. City of Seattle (In re Wash. Pub. Power Supply Sys. Sec. Litig.), 19 F.3d 1291, 1299 (9th Cir. 1994). Moreover, “in the common fund context, attorneys whose compensation depends on their winning the case, must make up in compensation in the cases they win for the lack of compensation in the cases they lose.” *Id.* at 1300-01; *see also Ketchum*, 24 Cal.4th at 1138 (“The adjustment to the lodestar figure, *e.g.*, to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous”); *Wershba*, 91 Cal.App.4th at 255 (“Multipliers can range from 2 to 4 or even higher”). Yet, Class Counsel’s requested fee of \$52,500 would actually result in a negative multiplier. As a result, a lodestar cross check validates the common fund percentage requested and the Court should grant Plaintiffs’ Counsel’s fee request. *See* Decl. Rodriguez, ¶¶ 22-24.

b. Class Counsel’s Expenses and Costs Were Necessarily Incurred to Achieve the Benefit Obtained

The appropriate analysis in determining whether particular costs are compensable is whether

1 they are of the type typically billed by attorneys to paying clients in the marketplace. *See Harris v.*
2 *Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (“Harris may recover as part of the award of attorney’s fees
3 those out-of pocket expenses that ‘would normally be charged to a fee paying client’”); *Abrams v.*
4 *Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995); *Bratcher v. Bray-Doyle Indep. Sch. Dist. No. 42*, 8
5 F.3d 722, 725-26 (10th Cir. 1993). The categories of expenses for which Class Counsel seek
6 reimbursement here are categories normally charged to hourly clients and, therefore, should be
7 reimbursed out of the common fund. *See* Decl. Rodriguez, ¶ 25; Exhibit D.

8 **c. Class Counsel’s Request for A Class Representative Enhancement Payment Is**
9 **Justified In Light of The Results Achieved for the Class**

10 A service payment to a named plaintiff is intended to recognize their time and effort on behalf
11 of the class. Indeed, courts routinely approve incentive awards to compensate named plaintiffs for the
12 services they provide and the risks they incurred during the course of the class action litigation. *See*
13 *Ingram v. The Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001). In *Ingram*, the Court approved
14 incentive awards of \$300,000.00 to each named Plaintiff in recognition of the services they provided to
15 the class by responding to discovery, participating in the mediation process, and taking the risk of
16 stepping forward on behalf of the class. *See id.* at 694; *see also Van Vranken v. Atlantic Richfield Co.*,
17 901 F.Supp. 294 (N.D. Cal. 1995) (approving a \$50,000.00 participation award); *Cellphone*
18 *Termination Fee Cases*, 186 Cal.App.4th 1380, 1393 (2010) (approving \$10,000 awards to each of the
19 four (4) named plaintiffs); *See* Exhibit G (awarding class representative enhancement payments of
20 \$15,000).

21 In this case Plaintiff provided substantial support in helping to secure payment to Class
22 Members. Plaintiff provided and explained a substantial number of documents critical to helping
23 establish important facts central to this case and participated in substantial amount of informal
24 discovery. *See* Decl. Arroyo, ¶¶ 3-5. Plaintiff is also subject to a much broader release of claims than
25 Class Members, including a Civil Code section 1542 release. *See* Decl. Arroyo, ¶ 5. Payment of
26 \$10,000 to Plaintiff is appropriate given the risk, assistance, time required, and burden experienced in
27 bringing and resolving this case, especially since this amount was identified in the Notice of Settlement
28 and no objections to it have been received. *See West v. Circle K Stores, Inc.*, 2006 U.S. Dist. LEXIS

76558, at *7-*8, *12, *27 (E.D. Cal. 2006) (awarding a \$15,000 representative enhancement where 10,000 class members were to receive a gross award of approximately \$500 each from the \$5,000,000 settlement); *Dent v. ITC Serv. Croup*, 2013 U.S. Dist. LEXIS 139359, at *9-*10, *15-*16 (D. Nev. 2013) (awarding a \$15,000 representative enhancement out of a \$150,000 settlement for approximately 530 class members).

d. The Court Should Approve the Payment of Claims Administrator Costs

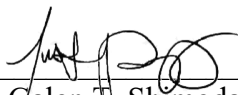
Since being preliminarily approved as the Claims Administrator, ILYM Group, Inc., has carried out its duties as set forth in the Court's order and the Agreement. *See generally* See Decl. Islas. Under the Agreement, a maximum of \$10,000 was set aside for potential Claims Administrator Costs. ILYM Group, Inc.'s final costs are \$8,150, under the potential maximum Class Members were given notice of. Plaintiff requests that the Court approve payment to the Claims Administrator in the amount of \$8,150 to compensate it for the costs of administration as part of the final order approving the Settlement.

VIII. CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court certify the class for settlement purposes; grant final approval of the proposed settlement, including the Plaintiff's Class Representative Enhancement Payment, the payment to the LWDA under PAGA, and Class Counsel's application for reasonable attorneys' fees and costs; find that the Notice of Settlement and administration process satisfied Class Members' due process rights; and approve proposed order submitted concurrently herewith.

Dated: January 17, 2023

Shimoda & Rodriguez Law, PC

By: 
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Justin P. Rodriguez
Brittany V. Berzin
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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.
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Case No. 34-2021-00310634

CLASS ACTION

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

Date: February 10, 2023

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 Final Approval of Class Action and PAGA Settlement (“Motion”) in the above
3 referenced case came before this Court, on February 10, 2023, at 9:00 a.m., in Department 25 before
4 the Honorable Jill H. Talley, presiding. Named Plaintiff Isidro Arroyo (“Plaintiff”) filed this putative
5 class action on November 3, 2021. The operative Complaint alleges that Defendant Epic Home Solar
6 (“Defendant”) is liable for failure to pay overtime wages, failure to pay minimum wages, meal period
7 violations, rest period violations, wage statement violations, waiting time penalties, failure to
8 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. The class settlement
14 was preliminarily approved by this Court on October 31, 2022.

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

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

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

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

1 The Court recognizes that the foregoing definition is for Class Member identification purposes only and
2 is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

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

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

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II. APPROVING CLASS ACTION AND PAGA SETTLEMENT

The Court has again reviewed the preliminarily approved Agreement, which was submitted with Plaintiff's Motion as Exhibit A. The Court finds that final approval is warranted as the Agreement falls within the range of reasonableness and is fair, reasonable, and adequate for the class. 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. Class Members were able to object to the Agreement and its terms through the administration process and at a fairness or opt-out of being bound by the preliminarily approved Agreement. No objections were made by Class Members and no Class Members opted out of the settlement. The Court gives final approval to 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 the \$5,000 PAGA Payment, which shall be paid from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged PAGA claims. Seventy-five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce Development Agency ("LWDA") and twenty-five percent (25%) will be paid to Aggrieved Employees on a pro rata basis as described in the Agreement. The Court also finds that based on the facts of this case and Defendant's financial condition, the Agreement provides a recovery that creates an effective substantial deterrent to any potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

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

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

7 Class Counsel sought an award of attorneys' fees of \$52,500, attorney's costs of \$9,995.91, an
8 Enhancement Payment to the Class Representative in the amount of \$10,000, and for Claims
9 Administrator Costs in the amount of \$8,150. Defendant does not oppose these requests. The Notice of
10 Settlement sent to Class Members included information regarding these amounts and that they would be
11 requested in connection with final approval of the Agreement. No Class Members submitted any
12 objection to these amounts. The Court has reviewed the evidence submitted by Class Counsel regarding
13 their hourly rates, including the prior fee award in Sacramento County Superior Court at the requested
14 rates, and the amount of time expended in the litigation for the benefit of Class Members. The Court
15 finds that the rates requested, and hours expended are reasonable. The Court has also reviewed the
16 updated itemized costs submitted by Class Counsel, the information provided by the Class
17 Representative regarding the efforts and burdens undertaken for the benefit of the class, and the cost
18 information provided by the Claims Administrator. The Court finds that these amounts requested for
19 attorneys' fees and costs, the Enhancement Payment, and the Claims Administrator Costs are fair and
20 reasonable, and awarded as requested and deducted from the Gross Settlement Amount. This finding is
21 further supported by the lack of objection by Class Members to these amounts. The difference between
22 the actual attorneys' costs awarded and the originally allocated \$15,000 will be added to the Net
23 Settlement Amount pursuant to the terms of the Agreement. The difference between the actual Claims
24 Administrator Costs awarded and the originally allocated \$10,000 will be added to the Net Settlement
25 Amount pursuant to the terms of the Agreement.

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

3 The Court finds that the Notice of Settlement and Claim Form, which were submitted with
4 Plaintiff's Motion as Exhibit A to the Declaration of Lluvia Islas, fairly and adequately advised Class
5 Members of the terms of the proposed settlement, the rights being waived, their right to opt out, the
6 ability to dispute the number of workweeks worked during the Class Period, their pro rata share of the
7 Net Settlement Amount, how to participate in the settlement, how to file documentation in opposition to
8 the proposed settlement, and when to appear at the fairness hearing. The Court further finds that the
9 Notice of Settlement and Claim Form and distribution of them by first class mail to each identified Class
10 Member at his or her most recent address based on a National Change of Address database search from
11 the Class Members' last known address and a skip trace on any Class Members who have the Notice of
12 Settlement or Claim Form returned as "undeliverable" or "not at this address" comported with all
13 constitutional requirements, including those of due process.

14 **IMPLEMENTATION SCHEDULE**

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

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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 Defendant's Counsel	Within 7 calendar days after the Effective Date
Last day for Defendant to fund settlement	Within 21 calendar days after the Effective Date but in no event prior to February 15, 2023

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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

IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved Agreement.

IT IS SO ORDERED.

Date: _____

By: _____

Judge of the Superior Court

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)
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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.
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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**

Date: February 10, 2023

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	Plaintiff's Itemized Costs
E	Proof of Submission to LWDA
F	Summary of Plaintiff's Counsel's Hours
G	Sacramento County Superior Court November 2022 Final Approval Order

Dated: January 17, 2023

Shimoda & Rodriguez Law, PC

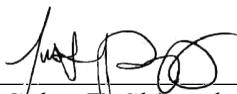
By: 
 Galen T. Shimoda
 Justin P. Rodriguez
 Brittany V. Berzin
 Attorneys for Plaintiff

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
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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.

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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

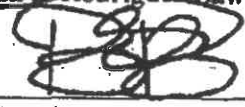
By:
For Johan Byron Arnegard

1 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

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3 Dated: June 23, 2022

By: 

4

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

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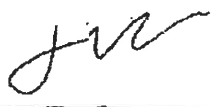
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7 APPROVED AS TO FORM

CDF LABOR LAW LLP

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9 Dated: June 29, 2022

By: 

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

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 Shimoda Law Corp.
5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

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.

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.

29. 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.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

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

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

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

33. 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.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

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

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

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

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

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

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

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

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

18 **FOURTH CAUSE OF ACTION**
19 **REST PERIOD VIOLATIONS**
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.

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
unlawful."

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

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

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

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

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

Plaintiff Isidro Arroyo Costs - Shimoda & Rodriguez Law, PC

Date	Description	Cost
10/27/21	PAGA Filing Fee	\$75.00
10/31/21	Administration/Copy Fee - Class Action - Phone, Fax, Scan, Copying, Non-Certified/Courier Postage, Westlaw Research Fees	\$500.00
11/3/21	Payment to Court - Complaint	\$435.00
11/13/21	Service Fee to Court - Complaint	\$40.00
12/13/21	Complex Fee	\$1,000.00
12/13/21	Service Fee to Court - Complex Fees to Court	\$40.00
12/17/21	Service Fee to Court - POSOS	\$40.00
1/19/22	Service Fee to Court - First Amended Complaint	\$40.00
2/16/22	Mediation Fee	\$6,250.00
4/21/22	Jury Fees	\$150.00
4/21/22	Service Fee to Court - CMC & Jury Fee Payment	\$40.00
5/9/22	Mediation Flight	\$327.20
7/18/22	Payment to Court - Preliminary Approval Motion	\$60.00
7/18/22	Payment to One Legal - Filing Preliminary Approval Motion	\$211.79
9/6/22	Payment to Court - Copy of Minute Order From Public Access Site	\$2.00
9/22/22	Payment to Court - Re-Submission of Preliminary Approval Motion	\$60.00
9/22/22	Payment to One Legal - Re-Submission of Preliminary Approval Motion	\$294.92
Anticipated	Payment to Court - Final Approval Motion	\$60.00
Anticipated	Payment to One Legal - Filing Final Approval Motion	\$300.00
Anticipated	Payment to One Legal - Compliance Declarations	\$70.00
TOTAL:		<u>\$9,995.91</u>

EXHIBIT E

EXHIBIT F

<u>TASK CATEGORY</u>	<u>Galen Shimoda</u>	<u>Justin Rodriguez</u>	<u>Brittany Berzin</u>
Pre-filing investigation, Pleadings, Admin Exhaustion. Includes time spent speaking with potential client. Initial client meeting and review of claims and documents, pre-filing investigation/research. Public record searches and review of public record documents. Drafting pleadings, tolling agreements, stipulations, case management statements, administrative filings and court filings, and communications with opposing counsel regarding same regarding same, internal communications regarding same (email or otherwise), communications with client regarding same.	16.6	5	17.5
Case Review, Management, Strategy Meetings. Includes time spent discussing general plan of action updates and strategies in weekly meetings, research and analysis regarding claims. Communications with client regarding same.	2.4	2.2	4.6
Discovery (Non-Mediation Related). Includes time spent preparing discovery requests, Belaire Notice, Protective Order, and meet and confer efforts. Communicate with client regarding same, communicate with opposing counsel regarding same. Includes legal research regarding same.	-	-	4.6
Discovery/Investigation for Mediation / Mediation / Settlement Conference. Includes time spent reviewing witness information, preparing informal/formal discovery specifically geared towards mediation, reviewing informal mediation productions, including data, analyses, documents, public records, drafting mediation brief and accompanying exhibits, prepare for and attending mediation, drafting damages analysis, drafting notes for mediation, communications with client and mediator, communications with opposing counsel regarding same, solicit bids from settlement administrators, prepare MOU. Includes legal research relating to issues on day of mediation.	30	13.8	39.8
Drafting Settlement Agreements. Includes time spent preparing long form agreements and exhibits, revisions relating thereto, research regarding any approval procedures or issues regarding disputed terms. Communicating with client regarding same, communicating with opposing counsel regarding same.	4.1	3.3	6.2
Settlement Approval and Administration. Includes time spent drafting motion for preliminary approval and supporting declarations and order, supplemental briefing regarding approval, class data review, speaking with Settlement Administrator regarding calculations and distributions, analyze calculations and estimated disbursements, review notice updates and class member responses, drafting motion for final approval and supporting declarations and order, communicate with opposing counsel regarding same, communicate with client regarding same. Includes 10 hours for Brittany Berzin supervising final distributions and compliance with Court final approval order and compliance hearings	2.5	27.7	43.3
Total Per Billing Party:	55.6	52.0	116

EXHIBIT G

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)
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5 Attorneys for Plaintiff BRIAN STRAWN

6 [additional parties continued on next page]

7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

11 BRIAN STRAWN, ESTABAN ESTRADA,
ADRIAN PULIDO, DOMINADOR DUAZ,
12 BRANDON NELSON and MATTHEW
13 FARWELL, on behalf of themselves and all
other similarly situated aggrieved employees,

14 Plaintiffs,

15
16 vs.

17 BRIDGESTONE RETAIL OPERATIONS,
LLC, a Delaware Limited Liability Company;
18 BRIDGESTONE AMERICAS, INC., a
19 Nevada Corporation;
GORDON KNAPP, an individual;
20 CHRISTOPHER NICASTRO, an individual;
21 AMANDA MATHIS, an individual;
MICHELLE ALMANDIGER, an individual;
22 WILLIAM THOMPSON, an individual;
DAMIEN HARMON, an individual;
23 ERIC TURNER, an individual; and
DOES 1 to 100, inclusive,

24
25 Defendants.
26
27
28

Case No. 34-2018-00242049

CLASS ACTION

Assigned to the Honorable Jill H. Talley for all purposes

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: November 15, 2022

Time: 1:30 p.m.

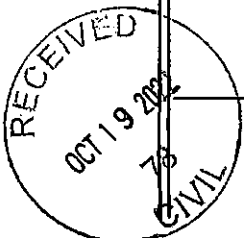
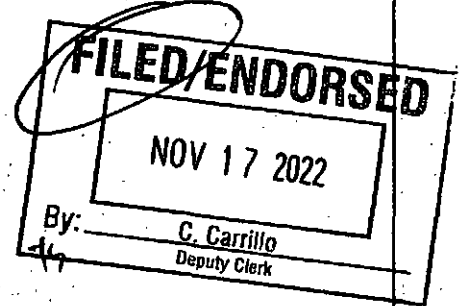
Dept.: 25

Judge: Hon. Jill H. Talley

Filed: October 5, 2018

FAC Filed: April 21, 2022

Trial Date: None Set



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Attorneys for Plaintiffs BRANDON NELSON and MATTHEW FARWELL

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement came on for
3 regularly noticed hearing on November 15, 2022, before the Hon. Jill H. Talley, in Department 25 of
4 the above-entitled Court, as set forth in the Parties' Stipulation of Class Action Settlement and Release
5 ("Settlement Agreement"). Having considered the Parties' Settlement Agreement, Notice of Class
6 Action Settlement, and Memorandum of Points and Authorities filed in Support of the Unopposed
7 Motion for Final Approval of Class Action Settlement, the arguments and discussion of counsel for the
8 respective parties, the documents submitted in support therewith including, without limitation, the
9 Declarations submitted by the Parties and the Claims Administrator, as well as all supporting legal
10 authorities and documents filed herein, and having conducted an inquiry pursuant to California Rules of
11 Court, rule 3.769(g), including an inquiry into the notice to the Class, and good cause appearing therefor,
12 the court now finds and **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS**
13 **FOLLOWS:**

14 1. The Court, for purposes of this Final Judgment and Order ("Judgment"), adopts all
15 defined terms (i.e., terms with initial capitalization) as set forth in the Parties' Settlement Agreement.

16 2. The Court has jurisdiction over the subject matter over this Action, the Class Members,
17 the Named Plaintiffs, and Defendant.

18 3. The Court finds that the distribution of the Notice to Class Members, as provided for in
19 the Order Granting Preliminary Approval for the Settlement and as detailed in the Declaration of Lluvia
20 Islas of ILYM Group, Inc., constituted the best notice practicable under the circumstances to all Class
21 Members and fully met the requirements of California law and due process under the California and
22 United States Constitution. Based on evidence and other material submitted in conjunction with the
23 Preliminary and Final Approval Hearings, the actual notice to the class was adequate in all respects.

24 4. The Court finds that the instant Action presented a good faith dispute over unpaid wage
25 claims and reimbursement of business expenses and other relief, and the Court finds in favor of
26 settlement approval.

27 5. The Court approves the Settlement of the above-captioned action, as set forth in the
28 Settlement Agreement and each of the releases and other terms, as fair, just, reasonable, and adequate.

1 The Parties to the Settlement Agreement are directed to perform in accordance with the terms set forth
2 in the Settlement Agreement.

3 6. The Parties are to bear their own costs, except as otherwise provided in the Settlement
4 Agreement.

5 7. For purposes of effectuating this Judgment, this Court has certified a class of all
6 Settlement Class Members defined as follows: All current and former non-exempt employees who have
7 worked, or continue to work, for defendant Bridgestone Retail Operations, LLC in California from July
8 31, 2017 through July 21, 2022, who did not Opt-Out (collectively referred to as "Settlement Class").
9 The Court deems this definition sufficient for purposes of California Rules of Court, rule 3.765(a). Five
10 (5) Class Members submitted timely Opt-Out Requests to the class action portion of the Settlement
11 Agreement, including Chan Le, Charles Rivera, David Contizano, Ivan Perez, and Miguel A. Martinez.
12 These individuals will remain as PAGA Members under the terms of the Settlement Agreement, will
13 still receive their pro rata share of the PAGA Penalty Payment, and will still be subject to, and bound by,
14 the release of claims brought under the Private Attorneys General Act ("PAGA") in any of the Actions
15 or that could have been brought in any of the Actions based on the facts alleged therein. However, these
16 individuals will not be paid any portion of the Net Settlement Amount outside of their pro rata share of
17 the PAGA Penalty Payment.

18 8. With respect to the Settlement Class and for purposes of approving this Settlement, this
19 Court finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
20 joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement
21 Class Members, and there is a well-defined community of interest among the Settlement Class Members
22 with respect to the subject matter of the Action; (c) the claims of the Named Plaintiffs are typical of the
23 claims of the Class Members; (d) the Named Plaintiffs have fairly and adequately protected the interests
24 of the Class Members; (e) a class action is superior to other available methods for an efficient
25 adjudication of this controversy; and (f) the counsel of record for the Named Plaintiffs, *i.e.*, Class
26 Counsel, are qualified to serve as counsel for the Plaintiffs in their individual and representative
27 capacity, as well as for the Settlement Class.
28

1 9. By this Judgment, each of the Settlement Class Members shall be deemed to have, and by
2 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged
3 all Released Claims, as defined in the Settlement Agreement. Specifically, the Settlement fully releases
4 and discharges Bridgestone Retail Operations, LLC and each of its former and present parents,
5 subsidiaries, affiliates, officers, directors, operators, principals, owners, heirs, representatives,
6 accountants, auditors, consultants, insurers and reinsurers, employees, partners, shareholders, members,
7 divisions, fiduciaries, trustees, agents, attorneys, investors, benefit plans, other successors and
8 predecessors in interest, assigns or legal representatives (including the parties named in the original
9 Complaint filed by Strawn on October 5, 2018: Bridgestone Americas, Inc., Gordon Knapp,
10 Christopher Nicastro, Amanda Mathis, Michelle Almandinger, William Thompson, Damien Harmon,
11 Eric Turner) of any all past, present and future claims, administrative or otherwise, actions, causes of
12 action, rights, or liabilities, up to July 21, 2022, whether known or unknown, whether in law or equity,
13 which were asserted or which could have been asserted based on the factual allegations in this Action,
14 including claims based on or arising out of the following categories of claims and allegations: (1) all
15 claims for unpaid wages, including any type of regular wages, minimum wages, overtime wages or an
16 overtime premium on non-hourly compensation, including bonus, SPIFF or other incentive pay, in
17 accordance with California state or federal law; (2) all claims for liquidated damages; (3) all claims
18 related to the provision or maintenance of tools, including any claim for two times the minimum wage
19 under the wage orders and indemnification under *Labor Code* Section 2802; (4) all claims for failure to
20 indemnify employees for hand tools, equipment (including personal safety equipment such as gloves and
21 glasses), mileage or other expense from personal vehicle usage and personal device usage (data, text or
22 phone); (5) all claims for the failure to provide meal breaks or rest breaks or premium pay in lieu
23 thereof; (6) all claims for the failure to keep accurate records, including records pertaining to hours
24 worked and start and stop time of meal breaks, due to time "edits" or any other reason; (7) all claims that
25 Defendant owed and failed to timely pay all wages due and owing during employment, or within the
26 required time at Class Members' termination, resignation or discharge; (8) all future claims for *Labor*
27 *Code* 203 penalties to the extent premised on a wage claim pled in the First Amended Complaint in this
28 case, with the alleged violation supposedly occurring prior to July 21, 2022; (9) all claims for the failure

1 to issue properly itemized wage statements pursuant to California *Labor Code* Section 226; (10) all
2 interest and statutory penalties based thereon, including those recoverable under the PAGA; (11) all
3 claims for violations of *Labor Code* Sections 201, 201.3, 202, 203, 204, 204b, 204.1, 204.2, 205, 205.5,
4 210, 218.6, 221-223, 226, 226.3, 226.7, 256, 500-508, 510, 512, 515, 516, 558, 558.1, 1174, 1174.5,
5 1182.12, 1194, 1194.2, 1197, 1197.5, 1198, 2698, 2699, 2699.3, 2699.5, 2802, 2810.5; 2926 and 2927;
6 (12) all claims for violations of any Wage Order issued by the Industrial Welfare Commission related to
7 any of the claims set forth herein; and (13) all claims for unfair competition pursuant to California
8 *Business and Professions Code* Section 17200, *et seq.* related to any of the claims set forth herein at any
9 time from July 31, 2017 through July 21, 2022.

10 10. As of the date of this Judgment and the Effective Date as set forth in the Settlement
11 Agreement, Named Plaintiffs Brian Strawn, Esteban Estrada, Adrian Pulido, Dominador Dauz, Brandon
12 Nelson, and Matthew Farwell hereby release and waive any and all claims of any kind whatsoever,
13 known or unknown, against the Released Parties through the execution of the Settlement Agreement.
14 Plaintiffs release the Released Parties from all claims, demands, rights, liabilities and causes of action of
15 every nature and description whatsoever, known or unknown, asserted or that might have been asserted,
16 whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of,
17 relating to, or in connection with any act or omission by or on the part of any of the Released Parties
18 committed or omitted prior to the execution hereof with the sole exception of workers' compensation
19 claims and any claims which cannot be released as a matter of law. The General Release includes any
20 unknown claims Plaintiffs do not know or suspect to exist in their favor at the time of the General
21 Release, which, if known by them, might have affected their settlement with, and release of, the
22 Released Parties or might have affected their decision not to object to this Agreement or the General
23 Release. By operation of the Stipulation and this Judgment, the Court further finds that Named
24 Plaintiffs have expressly waived and relinquished the provisions, rights, and benefits of Section 1542 of
25 the California Civil Code.

26 11. All Settlement Class Members and Named Plaintiffs are hereby permanently enjoined
27 and forever barred from instituting or prosecuting any action against Defendant or any other Released
28 Party for the Released Claims. Named Plaintiffs may take steps in *Bridgestone Retail Operations Wage*

1 and Hour Cases, Judicial Council Coordination Proceeding, Case No. 5054 to seek and effectuate
2 dismissal of the lawsuit with prejudice.

3 12. Neither the Settlement Agreement nor the Settlement contained therein, nor any act
4 performed or document executed pursuant to or in furtherance of the Settlement Agreement or the
5 Settlement (i) is, or may be deemed to be, or may be used as an admission of, or evidence of, the validity
6 of any Released Claim, or of any wrongdoing or liability of Defendant or any Released Party; or (ii) is,
7 or may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of
8 Defendant or any Released Party in any civil, criminal, or administrative proceeding in any court,
9 administrative agency, or other tribunal. Defendant or any of the Released Parties may file the
10 Settlement Agreement and/or the Judgment from this Action in any other action that may be brought
11 against it or them in order to support a defense or counterclaim based on principles of *res judicata*,
12 collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim
13 preclusion or issue preclusion or similar defense or counterclaim.

14 13. The only Class Members entitled to payment pursuant to this Judgment are Settlement
15 Class Members. Neither the Settlement Agreement nor this Judgment will result in the creation of any
16 unpaid residue or residual. Any funds that would have been paid to Settlement Class Members had they
17 cashed the check containing their respective Claim Amount within the Check-Cashing Period will be
18 paid to the State Controller Unclaimed Property Fund in the name of the Settlement Class Member for
19 whom the funds are designated in accordance with the Settlement Agreement. Pursuant to section 1.20
20 of the Settlement Agreement, no part of the Maximum Settlement Amount shall revert to Defendant.

21 14. The Court has reviewed Defendant's Hand Tool Policy attached as Exhibit A to the
22 Declaration of Erika Avila submitted in support of Plaintiff's unopposed Motion for Preliminary
23 Approval of Class Action Settlement, as well as Labor Code § 2802 and the applicable Wage Order
24 requirements concerning the provision of hand tools and finds that Defendant's Hand Tool Policy
25 facially complies with the California Labor Code and applicable Wage Order Requirements since
26 Defendant does not require its employees to provide tools or spend money on tools in order to do their
27 job. The Court makes no finding as to the legality of any acts in the administration of Defendant's Hand
28 Tool Policy. The applicable Tool Policy is attached as Exhibit A to this [Proposed] Judgment.

1 15. Class Counsel sought an award of attorneys' fees of \$805,000.00, litigation expenses of
2 \$61,480.58, Class Representative Service Fees for the Named Plaintiffs in the amount of \$15,000 each,
3 and for Claims Administration Costs in the amount of \$25,000.00. Defendant does not oppose these
4 requests. The Notice sent to Class Members included information regarding these amounts and that they
5 would be requested in connection with final approval of the Settlement Agreement. Class Members
6 have been given the opportunity to object to these amounts and not objections have been submitted in
7 any respect whatsoever. The Court has reviewed the evidence submitted by Class Counsel regarding
8 their hourly rates and the amount of time expended in the Actions for the benefit of Class Members.
9 The Court finds that the rates requested and hours expended are reasonable. This finding is further
10 supported by the lack of objection by Class Members to these amounts. The Court finds that these
11 amounts as set forth in the Settlement Agreement are fair and reasonable, and shall be awarded
12 accordingly as set forth herein.

13 16. The following payments, as required by the Settlement Agreement, are approved:

- 14 A) Payments to the Settlement Class Members for the full value of their Claim
15 Amount from the Net Settlement Amount and/or PAGA Penalty Payment in
16 accordance with the Settlement Agreement and as calculated by the Claims
17 Administrator;
18 B) \$805,000.00 in attorneys' fees awarded to Class Counsel;
19 C) \$61,480.58 for attorney' costs/expenses to be paid to Class Counsel;
20 D) \$25,000.00 to the Settlement Administrator, ILYM Group, Inc.;
21 E) \$15,000.00 each to Named Plaintiffs; and
22 F) \$37,500.00 to the Labor and Workforce Development Agency for PAGA
23 penalties.

24 17. Within one (1) business day after the Effective Date of this settlement (as that term is
25 defined in the Settlement Agreement), the Claims Administrator shall provide the Defendant with wire
26 and account information, and direct Defendant to deposit the amount of money necessary to fund the
27 Maximum Settlement Amount as set forth in the Settlement Agreement. Within nine (9) business days
28 of receiving the post-Effective Date notice from the Claims Administrator, Defendant shall wire the

1 funds requested by the Claims Administrator into a QSF. Within five (5) business days after receiving
2 the wire transfer from Defendant, the Claims Administrator shall prepare and wire the settlement funds
3 payable to Class Counsel for attorneys' fees and litigation costs awarded by the Court and the Named
4 Plaintiffs' Class Representative Service Fees. The Claims Administrator will calculate, withhold, and
5 remit all applicable taxes from the Maximum Settlement Fund, as well as comply with state, federal,
6 local or other tax reporting and tax return filing requirements, pursuant to the Settlement Agreement.
7 The Claims Administrator shall also distribute the funds to the Labor Workforce Development Agency,
8 Class Members, PAGA Members or State Unclaimed Property Fund, in accordance with the Settlement
9 Agreement.

10 18. This document shall constitute a Judgment for purposes of California Rule of
11 Court 3.769(h). Without affecting the finality of this Judgment in any way, the Court reserves exclusive
12 and continuing jurisdiction over the Action, the Named Plaintiffs, the Class Members, and Defendant for
13 the purposes of supervising the implementation, enforcement, construction, administration, and
14 interpretation of the Settlement Agreement and this Judgment.

15 IT IS SO ORDERED.

16 Dated: _____

11/17/22



17 Hon. Jill H. Talley
18 Judge of the Superior Court
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EXHIBIT A

Bridgestone Retail Operations (BSRO)

Tool Use Policy – California Store Teammates



BSRO Tool Use Policy – CA Store Teammates

This policy applies to all Bridgestone Retail Operations, LLC (BSRO) full time and part time employees who are subject to the laws of the State of California.

Introduction

BSRO does not require its employees to provide tools or equipment necessary to perform their job duties. No manager or other BSRO personnel may require an employee to provide tools or other equipment as a condition of employment at BSRO. BSRO will provide and maintain the tools or equipment necessary to perform each employee's job. Where necessary to perform assigned duties, BSRO will also provide at no cost to employees: (1) expendable supplies, such as toolbits, sandpaper, or lubricants; (2) power tools; (3) electronic diagnostic equipment; and (4) required safety equipment or apparel, such as safety glasses and gloves; and (5) specialty tools through various tool loaner or rental programs.

BSRO has three hand tool programs to accommodate the specific needs of its employees. Each employee will make a voluntary election of one of the three programs after reviewing their options described in this policy. The employee's voluntary election is maintained on an acknowledgement form by BSRO. The employee may elect a different program at any time by contacting his or her manager.

Shop Toolbox

For employees in the Maintenance Technician, Technician and similar positions, BSRO will provide a shop toolbox with the necessary hand tools to do the work required to perform his or her job. The tools are provided and maintained by the Company and are under the custody of the Store Manager. All store employees may use the shop toolbox as needed.

Instead of using Company-provided hand tools from the shop toolbox, technicians may instead elect to be issued a BSRO-provided personal toolbox, subject to the requirements outlined below for that program.

BSRO-Provided Personal Tools

BSRO will provide any employee in a technician or vehicle service position, including hybrid positions, with a personal tool box including the hand tools necessary to perform duties in accordance with the employee's specific job specification. The inventory of the toolbox is determined by BSRO, consistent with duties assigned to an employee. The employee may contact their manager to request additional tools not included in the standard toolbox for their job specification. An evaluation will be conducted to determine if the requested tool is necessary to perform the assigned duties. BSRO-provided personal toolboxes and hand tools are property of the Company and must be returned in good condition upon an employee's separation from employment with BSRO.

Cash Bond Requirement

If an employee elects to receive a BSRO- provided personal toolbox, the employee will be required to provide a cash bond. The cash bond will be held in trust by BSRO in an interest-bearing bank savings account as security for return of the items issued to the employee, subject to the requirements of California Labor Code 400 et seq. The amount of the bond is based on the technician's classification and the cost to BSRO of providing the hand tools. Bond amounts will not exceed actual cost or value of tools, whichever is less. The bond must be provided by each



technician electing this option in cash, check, or money order at the time the BSRO tool kit is provided, as part of a written agreement consistent with this policy. The cash bond and accrued interest will be returned, less authorized deductions, if any, at the time the tools are returned to BSRO. The current amount of the required bond for each position level is indicated below:

- Lead and Master Technician (\$14,099)
- Senior Technician (\$8,272)
- Maintenance Technician and Technicians (\$4,583)

Technician-Provided Personal Tools

BSRO does not require its technicians or vehicle service employees to provide tools or equipment necessary to perform their job duties; however, the Company also recognizes that it is the custom and practice in the automotive repair industry for professional technicians to acquire and maintain their own hand tools and toolboxes. BSRO does not prohibit individual technicians from bringing their personally-owned hand tools and toolboxes to work and using them on the job as a matter of personal preference. This option is entirely voluntary on the part of the employee. If the employee elects this option, BSRO will accommodate the technician by allowing personal tools and toolboxes to be kept at the store location.



Preview Questionnaire

California Tool Policy Questionnaire

BSRO does not require its employees to provide tools or equipment necessary to perform their job duties. No manager or other BSRO personnel may require an employee to provide tools or other equipment as a condition of employment at BSRO. BSRO will provide and maintain the tools or equipment necessary to perform each employee's job. Where necessary to perform assigned duties. BSRO will also provide: (1) expendable supplies, such as tool bits, sandpaper, or lubricants; (2) power tools; (3) electronic diagnostic equipment; (4) required safety equipment or apparel such as safety glasses; and (5) specialty tools.

BSRO has three hand tool programs to accommodate the specific needs of its employees. Each affected employee will make a voluntary election of one of the three programs after reviewing their options described in this policy. The employee's voluntary election is maintained on an acknowledgment form by BSRO. The employee may elect a different program at any time by contacting his or her manager.

To view the full policy, click here: [Tool Use Policy – California Teammates](#)

Please select your response. (Required)

- ☐ I already have my own personal tools and prefer to continue to use them. I choose not to receive a BSRO provided toolbox.
- ☐ Please provide me a BSRO provided personal toolbox. I understand the amount of the cash bond that I will need to deposit, will sign a written agreement consistent with the Tool Use Policy – California Teammates and bond requirements, and will provide BSRO the required cash bond.
- ☐ I choose to use the shop toolbox and/or BSRO's various tool loaner and rental programs, at no cost to me, instead of the BSRO provided personal toolbox, which would require me to post a cash bond.