

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alexandra K. Piazza (SBA 341678) Berger Montague PC 401 B Street, Suite 2000 San Diego, CA 92101 TELEPHONE NO.: (619) 489-0300 FAX NO.: (215) 875-4620 ATTORNEY FOR (Name): Plaintiff Anthony Lack	FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 3/2/2022 3:17 PM Reviewed By: R. Walker Case #22CV394850 Envelope: 8414798	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: 191 N. First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME:		
CASE NAME: Anthony Lack v. Tesla Energy Operations, Inc. et al.		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)	Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 22CV394850 JUDGE: DEPT:

Items 1–6 below must be completed (see instructions on page 2).

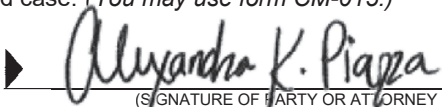
1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (<i>not specified above</i>) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (<i>not specified above</i>) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☒ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|---|
3. Remedies sought (*check all that apply*): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (*specify*): 2 (two) Penalties Pursuant to § 2699(a) and § 2699(f) of PAGA
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: March 2, 2022
 Alexandra K. Piazza

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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[additional counsel listed on signature page]

*Attorneys for Plaintiff ANTHONY LACK
and Aggrieved Employees*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ANTHONY LACK, on behalf of himself and :	Case No.:	22CV394850
all other similarly situated aggrieved :		
employees in the State of California,	:	REPRESENTATIVE ACTION
	:	COMPLAINT FOR:
Plaintiff,	:	
	:	1. Violations of the Private Attorney
v.	:	General Act (Cal. Labor Code § 2698,
	:	et seq.)
TESLA ENERGY OPERATIONS, INC., and :		
TESLA, INC.,	:	
	:	DEMAND FOR JURY TRIAL
Defendants.	:	

1 Plaintiff Anthony Lack (“Plaintiff”), through his undersigned counsel, individually, and on
2 behalf of all other similarly situated aggrieved employees, brings this Representative Action
3 Complaint (“Complaint”) against Defendants Tesla Energy Operations, Inc. and Tesla, Inc.
4 (collectively, “Tesla” or “Defendants”), pursuant to the Private Attorneys General Act of 2004,
5 California Labor Code section 2698, *et seq.* (“PAGA”). The following allegations are based on
6 personal knowledge as to Plaintiff’s own conduct and are made on information and belief as to the
7 acts of others.

8 **INTRODUCTION**

9 1. Defendants Tesla, Inc., and its subsidiary, Tesla Energy Operations, Inc. (together,
10 “Tesla” or “Defendants”), are in the business of developing, manufacturing, and selling clean
11 energy solutions, such as electric cars and solar energy panels and powerwalls. Tesla relies on
12 hundreds of workers employed across the state of California and throughout the United States to
13 execute the vital function of installing solar energy systems onto the homes of Tesla’s clients. These
14 employees’ duties include, without limitation: installing Tesla’s solar roof products onto clients’
15 homes; commuting to and between clients’ homes; transporting equipment and material for roofing
16 projects in their personal vehicles; pulling inventory; safely handling power tools and ladders;
17 attending weekly team meetings; and completing mandatory training sessions on Tesla’s products
18 and installation best practices.

19 2. This case is about Tesla’s failure to comply with applicable wage and hour laws and
20 to provide non-exempt employees with proper compensation for all hours worked, including
21 overtime. As described in further detail below, Tesla and its representatives unlawfully instructed
22 and encouraged non-exempt employees to refrain from recording all the time they spent working
23 including, without limitation, time spent completing mandatory trainings and time spent performing
24 pre-shift work. The time that Plaintiff and other aggrieved employees spent completing these work-
25 related duties was compensable. By failing to pay for this time worked, Tesla has violated
26 applicable state law.

27 3. More specifically, these non-exempt employees were not: 1) paid for all hours
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1 actually worked; 2) paid for all overtime hours actually worked; and 3) provided with accurate wage
2 statements, including all hours actually worked.

3 4. California Labor Code §§ 2698, *et seq.*, grants California employees the right to
4 bring a civil action for violation of any provision of the Labor Code on behalf of themselves and
5 other current or former employees to recover civil penalties. In passing PAGA, the California
6 Legislature “declared that adequate financing of labor law enforcement was necessary to achieve
7 maximum compliance with state labor laws, that staffing levels for labor law enforcement agencies
8 had declined and were unlikely to keep pace with future growth of the labor market, and that it
9 was therefore in the public interest to allow aggrieved employees, acting as private attorneys
10 general, to recover civil penalties for Labor Code violations.” *Arias v. Super. Ct.*, 46 Cal. 4th 969,
11 980 (2009).

12 5. PAGA permits aggrieved employees to collect the civil penalties authorized by law
13 and normally collectible by the Labor and Workforce Development Agency (“LWDA”) or any of
14 its departments or divisions. *See* Cal. Lab. Code § 2699(a). However, because the action is brought
15 on behalf of the state, 75% of the fees collected are distributed to the LWDA for the enforcement
16 of labor laws and for the education of employers and employees. The remaining 25% is shared
17 between the aggrieved employees. *See* Cal. Lab. Code § 2699(i).

18 6. PAGA provides that any civil penalty assessed and collected by the LWDA for
19 violations of applicable provisions of the California Labor Code may, as an alternative, be
20 recovered through a civil action brought by an aggrieved employee on behalf of himself and other
21 current or former employees pursuant to procedures outlined in California Labor Code § 2699.3.

22 7. California Labor Code § 2699.3 governs PAGA actions for civil penalties arising
23 from violations of California Labor Code §§ 201-203, 226, 510, 1174, 1182.11, 1194, 1197, and
24 1198, which provisions require employers to: pay employees for all hours worked; to pay
25 employees no less than one-and-one-half times their regular rate of pay for all hours worked over
26 eight in a work day or over forty in a work week; to provide employees with timely, accurate,
27 itemized wage statements; and to pay all outstanding wages immediately when an employee quits
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1 or is discharged.

2 8. Pursuant to Labor Code § 2699.3(a)(1)(A), before commencing a civil action, an
3 aggrieved employee must first give notice by online filing with the LWDA and by certified mail
4 to the employer of the alleged violations, including the facts and theories supporting the
5 allegations. If the LWDA fails to investigate the alleged violations within sixty-five calendar days
6 of the date of the notice, then the aggrieved employee may file a civil action to seek penalties.

7 9. On November 3, 2021, Plaintiff provided written notice of these alleged violations,
8 including the facts and theories supporting his allegations, to the LWDA via online submission,
9 with a certified copy mailed to Defendants. More than sixty-five (65) calendar days have passed
10 since the date that the notice was provided to the LWDA and Defendants. Accordingly, Plaintiff
11 has satisfied the administrative prerequisites under California Labor Code § 2699.3(a) to recover
12 civil penalties against Defendants for violations of California Labor Code §§ 201-203, 226, 510,
13 1174, 1182.11, 1194, 1197, 1198.

14 **JURISDICTION AND VENUE**

15 10. Venue is proper in the Superior Court of California, County of Santa Clara because
16 Defendants are subject to personal jurisdiction in this District.

17 11. Tesla is subject to personal jurisdiction before this Court because it has purposefully
18 availed itself of the privileges of conducting activities throughout the State of California and
19 established minimum contacts sufficient to confer jurisdiction. Tesla transacts business in
20 California, advertises in California, and markets to California consumers. The violations of the law
21 forming the basis of this lawsuit occurred in California. Further, Tesla employs California residents.
22 Therefore, the assumption of jurisdiction over Tesla will not offend traditional notions of fair play
23 and substantial justice and is consistent with the constitutional requirements of due process. Tesla
24 also had and continues to have continuous and systematic contacts with the State of California
25 sufficient to establish general jurisdiction over it.

PARTIES

12. Plaintiff Anthony Lack is a citizen of California and resides in Rohnert Park, California. Plaintiff has worked for Defendants as a Solar Roofer in Petaluma, California from approximately February 2021 and through the current date. Plaintiff is a non-exempt employee and is compensated on an hourly basis.

13. Plaintiff is an “Aggrieved Employee” within the meaning of Labor Code section 2699(c) because he is employed by Defendants and suffered one or more of the violations committed by Defendants.

14. The Aggrieved Employees are current or former non-exempt employees of Defendant Tesla, including Solar Roofers and other similar roles, who were paid on an hourly basis in California during the applicable limitations period.

15. Defendant Tesla Energy Operations, Inc, is a California corporation and is headquartered at its corporate office at 3500 Deer Creek Road, Palo Alto, California 94304. At all times relevant, Defendant Tesla Energy Operations, Inc, has been engaged in the business of providing solar power energy services, including the installation of solar panels, solar roofs, and solar powerwalls.

16. Defendant Tesla, Inc, is a California corporation and is headquartered at its corporate office at 3500 Deer Creek Road, Palo Alto, California 94304. At all times relevant, Defendant Tesla, Inc, has been engaged in the business of manufacturing and selling electric vehicles, solar energy systems, and energy storage products.

17. The unlawful acts alleged in this Complaint were committed by Defendants and/or Defendants’ officers, agents, employees, or representatives, while actively engaged in the management of Defendants’ businesses or affairs and with the authorization of the Defendants.

18. Defendants’ wrongful conduct, as herein alleged, occurred in the County of Santa Clara and in various counties throughout the State of California.

19. Plaintiff believes, and thereon alleges, that Defendants are, and at all relevant times were, authorized to do business and did business in the State of California, and were Plaintiff’s

1 and aggrieved employees' "employers" as defined in and subject to the California Labor Code and
2 Industrial Welfare Commission Wage Orders.

3 20. Plaintiff and all other aggrieved employees are, and at all relevant times were,
4 employees of each Defendant within the meanings set forth in the California Labor Code and
5 applicable Industrial Welfare Commission Wage Order.

6 **FACTS**

7 21. Plaintiff was hired on or around February 15, 2021, and he has since worked as an
8 hourly-paid, non-exempt Solar Roofer for Tesla out of one of its California warehouses.

9 22. Plaintiff works out of Tesla's warehouse located at 1362 McDowell Blvd.
10 Petaluma, California.

11 23. As an hourly-paid, non-exempt Solar Roofer, Plaintiff's job duties include
12 installing Tesla's solar roof products onto clients' homes, commuting to and between clients'
13 homes, transporting equipment and material for roofing projects in his personal vehicle, pulling
14 inventory, safely handling power tools and ladders, attending weekly team meetings, and
15 completing mandatory trainings on Tesla's products and installation best practices.

16 24. At the start of each workday, Plaintiff and other aggrieved employees regularly
17 commute from their homes to their first assigned jobsite using their personal vehicles.

18 25. During these commutes, Plaintiff and other aggrieved employees would sometimes
19 engage in work-related phone discussions with their supervisors and managers regarding the duties
20 and expectations set forth for the workday ahead.

21 26. Defendant Tesla's policies and practices require that Plaintiff and other aggrieved
22 employees wait to clock-in until the time that they and their crew leader have arrived at the first
23 jobsite; thus, the foregoing pre-shift phone briefings, along with any work performed prior to that
24 time, are held while Plaintiff Lack and other aggrieved employees are off-the-clock.

25 27. The time that Plaintiff and other aggrieved employees are expected to and do spend
26 engaging in work-related phone calls and completing other work-related tasks prior to arriving at
27 their designated jobsites is compensable and should be recorded. However, Defendants' policies
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1 and practices of instructing employees to refrain from clocking-in during their commutes causes
2 this work performed to be unrecorded and uncompensated.

3 28. Plaintiff is regularly scheduled to arrive to his first jobsite on or around 7:30 A.M.
4 or 8:00 A.M. Plaintiff observed that other aggrieved employees are scheduled to and do work
5 similar schedules.

6 29. Despite arriving to his assigned jobsite at his scheduled time, Plaintiff is instructed
7 by his manager, Chris Jordan, to wait to clock-in until the crew leader has arrived onsite. Plaintiff
8 observed that other aggrieved employees are subject to the same policies and practices.

9 30. Upon information and belief, Plaintiff was regularly instructed and encouraged to
10 refrain from clocking-in until the time that his crew leader arrived onsite, regardless of whether he
11 began performing work-related tasks prior to that time.

12 31. Plaintiff observed that other aggrieved employees were also subject to the same
13 policies and practices. Defendants are not only aware of and permit this practice, but the work
14 schedules and conditions imposed by Defendants effectively require this practice.

15 32. Furthermore, Tesla requires that Plaintiff and other aggrieved employees utilize
16 their personal devices to remotely complete virtual trainings that are issued by Tesla on a weekly
17 basis. On average, Plaintiff would sometimes spend around twenty (20) additional minutes per
18 week completing these trainings while off-the-clock.

19 33. Plaintiff was dissuaded from clocking-in to complete these trainings by his
20 manager, Chris Jordan. More specifically, Plaintiff's manager has maintained that recording this
21 time is not relevant nor necessary, so long as the assigned trainings are completed. Plaintiff
22 observed that other aggrieved employees were instructed in a similar manner.

23 34. As a result of these practices, Tesla has failed to maintain accurate and compliant
24 wage records of all hours that Plaintiff and other aggrieved employees have worked, including
25 time spent completing mandatory weekly trainings.

26 35. Upon information and belief, all of the work-related activities that Plaintiff and
27 other aggrieved employees are and/or were required to and do perform often takes eight (8) or
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1 more hours per day to complete.

2 36. Plaintiff is regularly scheduled to work, and indeed does work, forty (40) or more
3 hours per week. Plaintiff observed that other aggrieved employees are scheduled to work, and
4 indeed work, similar schedules.

5 37. Plaintiff is regularly scheduled to work, and indeed does work, five (5) or more
6 days per week. Plaintiff observed that other aggrieved employees are scheduled to work, and
7 indeed work, similar schedules.

8 38. On workdays in which Plaintiff and other aggrieved employees worked over eight
9 (8) hours, the aforementioned off-the-clock work resulted in time which Plaintiff and other
10 aggrieved were not compensated at their overtime rate of pay.

11 39. On workweeks in which Plaintiff and other aggrieved employees worked over forty
12 (40) hours, the aforementioned off-the-clock work resulted in time in which Plaintiff and other
13 aggrieved employees were not compensated at their overtime rate of pay.

14 40. Defendants were aware that Plaintiff and other aggrieved employees worked over
15 eight (8) hours per day and more than forty (40) hours per week.

16 41. Defendants did not compensate Plaintiff and other aggrieved employees for all
17 hours worked, including overtime premiums for hours worked in excess of eight (8) in a day.

18 42. Defendants did not compensate Plaintiff and other aggrieved employees for all
19 hours worked, including overtime premiums for hours worked in excess of forty (40) in a week.

20 43. Defendants did not accurately record and track all of the hours worked by Plaintiff
21 and other aggrieved employees. Therefore, Defendants failed to compensate Plaintiff and other
22 aggrieved employees at one and one-half (1 ½) times the regular rate of pay for hours worked over
23 forty (40) hours in a workweek and over eight (8) in a workday.

24 44. Even though California law requires overtime premium compensation for hours
25 worked over eight (8) in a day and over forty (40) per week, Defendants instructed and encouraged
26 the aggrieved employees to refrain from recording all the hours they spent working and, thus,
27 denied them of compensation for all hours worked, including overtime.

45. Defendants knew, or absent their own recklessness should have known, that all work performed by the aggrieved employees is compensable and should have been recorded.

46. Defendants knew, or absent their own recklessness should have known that the aggrieved employees were entitled to such overtime premiums.

47. Defendants failed to pay Plaintiff and other aggrieved employees for all hours worked, including overtime, as required by law.

48. Defendants have not made good faith efforts to comply with applicable state law.

49. By failing to pay all the compensation owed to Plaintiff and other non-exempt employees, Defendants acted willfully and with reckless disregard of clearly applicable state law.

50. The primary job duties of Plaintiff and the aggrieved employees do not fall under any exemptions under applicable state law.

51. Plaintiff is representative of the aggrieved employees and is acting on behalf of their interests, as well as Plaintiff's own interests, in bringing this action.

52. Plaintiff will fairly and adequately represent and protect the interests of the aggrieved employees. Plaintiff has retained counsel competent and experienced in employment and wage and hour class action and collective action litigation.

53. The similarly situated aggrieved employees are known to Tesla, are readily identifiable, and may be located through Tesla's records.

FIRST CAUSE OF ACTION

Penalties Pursuant to § 2699(a) of the Private Attorneys General Act

(By Plaintiff on Behalf of All Aggrieved Employees Against All Defendants)

54. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

55. California Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions,

commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

56. California Labor Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.

57. California Labor Code § 226(a) provides:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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 his or her 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. The deductions made from payments 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 or a record of the deductions shall be kept on file by the employer for at least four years at the place of employment or at a central location within the State of California.

58. California Labor Code § 558(a) provides:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.

59. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, as alleged above, to timely pay all wages owed to Plaintiff and the Aggrieved Employees in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code § 203. Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code § 203, as prayed for herein.

60. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and the Aggrieved Employees an accurate, itemized wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code § 226(e), as prayed for herein.

61. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and the Aggrieved Employees compliant meal and rest periods in compliance with Labor Code § 512.

62. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation of Labor Code § 510, alleged above, as well as any provision regulating hours and days of work in any order of the IWC.

63. Pursuant to Labor Code § 2699.3(a)(1) and (2), on November 3, 2021, Plaintiff provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

64. Plaintiff seeks the aforementioned penalties on behalf of the State, other aggrieved employees, and himself as set forth in Labor Code § 2699(g)(i).

65. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

66. Wherefore, Plaintiff and the Aggrieved Employees request relief as hereinafter provided.

SECOND CAUSE OF ACTION

Penalties Pursuant to § 2699(f) of the Private Attorneys General Act

(By Plaintiff on Behalf of All Aggrieved Employees Against All Defendants)

67. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set

1 forth herein.

2 68. California Labor Code § 2699(f) provides:

3 For all provisions of this code except those for which a civil penalty is
4 specifically provided, there is established a civil penalty for a violation of
5 these provisions, as follows: . . . (2) If, at the time of the alleged violation,
6 the person employs one or more employees, the civil penalty is one hundred
7 dollars (\$100) for each aggrieved employee per pay period for the initial
8 violation and two hundred dollars (\$200) for each aggrieved employee per
9 pay period for each subsequent violation.

10 69. To the extent than any violation alleged herein does not carry penalties under
11 Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for
12 Plaintiff and the Aggrieved Employees each pay period in which he or she was aggrieved, in the
13 amounts established by Labor Code § 2699(f).

14 70. Pursuant to Labor Code § 2699.3(a)(1) and (2), on November 3, 2021, Plaintiff
15 has provided the LWDA with notice of his intention to file this claim. Sixty-five calendar days
16 have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites
17 to commence this civil action in compliance with § 2699.3(a).

18 71. Plaintiff seeks the aforementioned penalties on behalf of the State, other
19 aggrieved employees, and themselves as set forth in Labor Code § 2699(g)(i).

20 72. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of
21 California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also
22 entitled to an award of attorneys' fees and costs as set forth below.

23 73. Wherefore, Plaintiff and the Aggrieved Employees request relief as hereinafter
24 provided.

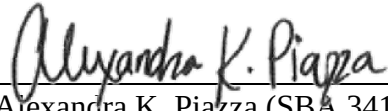
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff seeks the following relief on behalf of himself and all other
27 similarly situated aggrieved employees:

- 1 a. For an award of reasonable attorneys' fees and costs of suit to the extent permitted
2 by law, including pursuant to Labor Code sections 2699, *et seq.*;
3 b. For civil penalties to the extent permitted by law pursuant to the Labor Code
4 under the Private Attorneys General Act;
5 c. For civil penalties for each initial and subsequent violation for each underpaid
6 employee for each pay period for which the employee was underpaid;
7 d. Plaintiff is only seeking such civil penalties that are required to be shared with
8 the LWDA; and
9 e. For such other relief as the Court deems just and proper.

10 Dated: March 2, 2022

Respectfully submitted,

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