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Attorneys for Plaintiff Cesar Flores

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

CESAR FLORES, as the State of California's
designated proxy under the Private Attorneys
General Act,

Plaintiffs,

vs.

NEXTERA ENERGY OPERATING
SERVICES, LLC; NEXTERA ENERGY, INC.;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2023-00034497-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT**

1. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff CESAR FLORES, individually and on behalf of all others similarly situated and the
2 State of California under the Private Attorneys General Act (“Plaintiff”) brings this
3 REPRESENTATIVE ACTION COMPLAINT against Defendants NEXTERA ENERGY
4 OPERATING SERVICES, LLC; NEXTERA ENERGY, INC.; and DOES 1 through 50, inclusive
5 (collectively “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. The aggrieved employees in this PAGA action worked for Defendants Nextera Energy
8 Operating Services, LLC and Nextera Energy Inc. Defendants underpaid aggrieved employees’ wages
9 by failing to include all forms of remuneration, including bonuses, in their hourly overtime, sick pay,
10 and premium rates, resulting in underpayment of wages.

11 2. Additionally, Defendants failed to provide timely, uninterrupted, 30-minute meal
12 periods and 10-minute rest periods, resulting in a subsequent failure to pay wages and premiums.

13 3. Defendants also failed to provide sick leave, requiring Plaintiff and aggrieved
14 employees to utilize their PTO or floating holidays to take sick leave from work, or otherwise Plaintiff
15 and aggrieved employees would take the leave unpaid.

16 4. Plaintiff seeks to recover civil penalties and other recoverable amounts for these Labor
17 Code violations on behalf of the State of California and the aggrieved employees.

18 **JURISDICTION & VENUE**

19 5. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
20 California Constitution as the causes of action are premised upon violations of California law.

21 6. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
22 the Superior Court.

23 7. This Court has jurisdiction over Defendants because, upon information and belief,
24 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
25 themselves to the California economy so as to render the exercise of jurisdiction over them by the
26 California courts consistent with traditional notions of fair play and substantial justice.

8. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conduct business and committed some of the alleged violations in this county.

PARTIES

A. Plaintiff Cesar Flores

9. Plaintiff Flores is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about January 2021 to February 2022. Plaintiff worked as a Solar Field Tech 2.

10. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

B. Defendants

11. Defendant Nextera Energy Operating Services, LLC is a corporation that maintains operations and conducts business throughout the State of California, including in this county.

12. Defendant Nextera Energy, Inc. is a corporation that maintains operations and conducts business throughout the State of California, including in this county.

13. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

14. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

15. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

16. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

GENERAL ALLEGATIONS

17. Defendants failed to pay Plaintiff and other aggrieved employees overtime at the lawful regular rate of pay, based on the common payroll practice of not including all forms of remuneration in the “regular rate” at which overtime must be calculated and paid.

18. Plaintiff and other aggrieved employees earned non-excludable forms of remuneration, such as an annual bonus, based upon non-discretionary metrics. These sums were required to be included in the overtime hourly rate for the pay period or periods in which such forms of remuneration were earned. However, Defendants failed to accurately calculate and pay overtime at the lawful rate in those pay periods, resulting in underpaid overtime wages in those specific pay periods which are apparent based on records Defendants maintain.

19. Based on the same practice, Plaintiff alleges on information and belief that Defendants equally failed to pay meal and/or rest period premiums at the lawful “regular rate of compensation,” as required by California law.

20. Plaintiff alleges that he and other aggrieved employees experienced late, short and missed meal periods, which appear on time records Defendants are required to maintain. In those pay periods, Plaintiff alleges Defendants failed to pay a meal period premium payment. The time records will reveal the extent of the unpaid premium wages.

21. For these reasons, Defendants failed to pay all wages owed each regularly scheduled payday. Additionally, Plaintiff did not receive his final paycheck on his last day of employment or within 72 hours thereof. Plaintiff alleges, on information and belief, Defendants maintain a policy and

1 practice of failing to pay all wages owed upon separation of employment, due to the ongoing
2 underpayments alleged above and due to the practice of not having the final check or direct deposit
3 available for timely payment, as was the case for Plaintiff.

4 22. Defendants further engaged in a policy and practice of issuing non-compliant wage
5 statements based on these wage deficiencies, in those affected pay periods.

6 23. Additionally, on some wage statements, like the one issued to Plaintiff for the period
7 of March 3, 2022, Defendants failed to list all hourly rates in effect and the corresponding number of
8 hours paid at such rate, in violation of Labor Code § 226(a)(9).

9 **FIRST CAUSE OF ACTION**

10 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

11 **Violation of Labor Code §§ 2698 *et seq.***

12 **(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)**

13 24. All outside paragraphs of this Complaint are incorporated into this section.

14 25. Plaintiff brings this cause of action as a proxy for the State of California on behalf of
15 the following “aggrieved employees” pursuant to the Private Attorneys General Act (“PAGA”),
16 codified as Labor Code section 2698 *et seq.*:

17 a. All current and former non-exempt employees who worked for Defendants in
18 California at any time from one year prior to the postmark date of the initial
19 PAGA notice through date of trial.

20 26. Plaintiff reserves the right to amend, supplement, or add to this description of the
21 aggrieved employees, according to proof.

22 27. The State of California, via the Labor and Workforce Development Agency
23 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
24 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
25 files suit is always the real party in interest.”])

26 28. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
27 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
28 and Workforce Development Agency or any of its departments, divisions, commissions, boards,

1 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil
2 action brought by an aggrieved employee on behalf of himself or herself and other current or former
3 employees pursuant to the procedures specified in Section 2699.3. “

4 29. Labor Code section 2699(f) provides: “For all provisions of this code except those for
5 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
6 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
7 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
8 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
9 each subsequent violation.”

10 30. Any allegations regarding violations of the IWC Wage Orders are enforceable as
11 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
12 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

13 31. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
14 penalties under the PAGA.

15 32. On or about June 6, 2023, Plaintiff paid the requisite PAGA filing fee and provided
16 written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of
17 Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged
18 violations.

19 33. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor
20 Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though fully set
21 forth herein (the “PAGA notice”).

22 34. To date, neither Plaintiff nor Plaintiff’s counsel has received a response to Plaintiff’s
23 written PAGA notice from the LWDA.

24 35. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither
25 Plaintiff nor Plaintiff’s counsel has received written notice by certified mail from any defendant
26 providing a description of any actions taken to cure the alleged violations.

27 36. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
28 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate

the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

37. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

- a. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- b. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- c. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- d. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- e. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- f. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- g. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- h. ***Failure to Provide Employee Records.*** Violation of Labor Code §§ 226, 432, 1174, 1198.5; IWC Wage Orders.
- i. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

38. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER

Plaintiff prays for judgment as follows:

- a. For recovery of damages in amount according to proof;

- 1 b. For all recoverable pre- and post-judgment interest;
- 2 c. For recovery of all civil and statutory penalties and liquidated damages;
- 3 d. For this action to be maintained as a representative action under the PAGA;
- 4 e. For Plaintiff and counsel of record to be provided with all enforcement capability as if
- 5 the action were brought by the State of California or the California Division of Labor
- 6 Enforcement;
- 7 f. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- 8 g. For restitution and injunctive relief;
- 9 h. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
- 10 permitted by law, including (without limitation) under Labor Code § 2699, and Code
- 11 of Civil Procedure section 1021.5; and
- 12 i. For such other relief the Court deems just and proper.

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14 Dated: August 11, 2023

Ferraro Vega Employment Lawyers, Inc.

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17 Nicholas J. Ferraro
18 Attorneys for Plaintiff Cesar Flores

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EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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June 6, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Nextera Energy Operating Services, LLC
700 Universe Blvd.
Juno Beach, FL 33408

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Nextera Energy, Inc.
700 Universe Blvd.
Juno Beach, FL 33408

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **CESAR FLORES** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

NEXTERA ENERGY OPERATING SERVICES, LLC
NEXTERA ENERGY, INC.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v.*

Reins International California, Inc. (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Solar Field Tech 2 from about January 2021 to February 2022. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Overtime

Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

Specifically, Plaintiff and the aggrieved employees earned an annual non-discretionary bonus each year, including Plaintiff’s bonus of \$4,000. However, this bonus was not factored into any of Plaintiff’s regular rate of pay calculations throughout the year. It was neither retroactively included in his wages for the prior pay periods in which it was earned, nor included in on his 2022 paystub with an overtime true up payment in that pay period, accounting for the difference in the overtime rate attributable to the \$4,000 incentive earned for those pay periods. The bonus is not subject to a statutory exclusion from the regular rate of pay overtime calculation requirement. Additionally, this policy and practice extended to other forms of non-excludable remuneration, such as incentives, bonuses, differentials, and other earnings paid to Plaintiff and/or other aggrieved employees.

As such, Plaintiff and the aggrieved employees were not properly paid all overtime wages earned, as Defendants failed to properly calculate overtime using the regular rate of pay including the non-discretionary bonuses and other forms of remuneration. These earnings were not included in such calculations.

An illustrative example of regular rate of pay violation is found on Plaintiff's wage statement below:

Cesar L Flores					NextEra Energy Operating Services, LLC 700 Universe Boulevard Juno Beach, FL 33408 Ph:1-844-694-4748		
Earnings	Pretax	Deductions	Taxes	Net Pay	Pay Period	Pay Date	Pay Period Dates
9,046.40	-	624.15	2,892.47	3,069.76	=	03/03/2022	02/12/2022-02/25/2022
CURRENT PERIOD EARNINGS					DEDUCTIONS	CURRENT	Y-T-D
Regular Hours	33.2000	40.00	1,328.00		Pay Adv One Time	2,892.47	2,892.47
Regular Hours	33.2000	32.00	1,062.40		TOTAL DEDUCTIONS:	2,892.47	2,892.47
Final Vacation Payout			2,124.80				
Final Floating Holiday			531.20				
Incentive			4,000.00				
TOTAL EARNINGS:					**Tax Withholdings**		
			9,046.40		FED Withholding	1,595.72	3,060.50
Pretax Items					FED Social Secur	553.52	1,333.69
Pretax Medical		108.00	505.00		FED Medicare Tax	129.45	311.91
Pretax Dental		8.61	42.71		CA Withholding	722.09	1,346.55
Pretax Vision		2.90	14.50		CA TX EE Disabi	68.98	207.37
Pretax 401(k)		504.64	1,526.08		TOTAL TAXES:	3,069.76	6,260.02
TOTAL PRE-TAXES:					TOTAL NET PAY:		
		624.15	2,088.29				2,460.02
Imputed Income					**Net Pay Distribution**		
Emp-Group Term Life		0.80	3.52		Direct Dep		2,460.02
Additional Information					Taxable Base:		
Company Match 401(k)		239.71	724.87		FED Withholding	8,423.05	19,984.99
YEAR TO DATE EARNINGS					FED Social Secur	8,927.69	21,511.07
			Y-T-D		FED Medicare Tax	8,927.69	21,511.07
Regular Pay			12,604.80		CA Withholding	8,423.05	19,984.99
Time and Half OT			2,585.52		ALLOWANCES:		
Final Vacation Payout			2,124.80		Vacation	128.00	0.00
Final Floating Holiday			531.20		Floating Holiday	32.00	16.00
Unused Vacation Pay			223.44				0.00
Incentive			4,000.00		**Allowed hours may not reflect earned hours.		
TOTAL EARNINGS:					Please refer to your company payout policy.		
			22,069.76				

Excerpt from Plaintiff's wage statement dated March 03, 2022 for the pay period of February 12, 2022 to February 25, 2022 with the annual bonus of \$4,000.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees.

Defendants failed to provide Plaintiff and the aggrieved employees with any type of written notice of the amount of paid sick leave available to them. This information is not on Plaintiff’s wage statements nor was it provided to him in a separate writing.

Additionally, Defendants have a policy and practice of not providing paid sick leave. If Plaintiff or any other employees needed to take a sick day, they had to use their vacation time, one of their floating holidays, or take the day off unpaid.

An illustrative example is found on Plaintiff’s wage statement below:



Cesar L. Flores						NextEra Energy Operating Services, LLC 700 Universe Boulevard Juno Beach, FL 33408 Ph:1-844-694-4748 Pay Period.....05 Pay Date.....03/03/2022 Pay Period Dates.....02/13/2022-02/25/2022					
Earnings	9,046.40	Pretax	624.15	Deductions	2,892.47	Taxes	3,069.76	=	Net Pay	2,460.02	
CURRENT PERIOD EARNINGS						DEDUCTIONS					
Regular Hours	33.2000	RATE	40.00	HOURS	CURRENT	Y-T-D					
Regular Hours	33.2000		32.00		1,328.00	2,892.47	2,892.47				
Regular Hours	33.2000		32.00		1,062.40						
Final Vacation Payout					2,124.80						
Final Floating Holiday					531.20						
Incentive					4,000.00						
TOTAL EARNINGS:						9,046.40					
Pretax Items						CURRENT Y-T-D					
Pretax Medical	108.00		8.61		505.00	42.77					
Pretax Dental	8.61		14.50		47.77	14.50					
Pretax Vision	14.50		504.64		1,526.08	504.64					
Pretax 401(k)	504.64		TOTAL PRE-TAXES:				624.15 2,088.29				
Imputed Income						TOTAL NET PAY:					
Emp-Group Term Life	0.80		3.52		2,460.02						
Additional Information						**Net Pay Distribution**					
Company Match 401(k)	239.71		724.87		Direct Dep 2,460.02						
YEAR TO DATE EARNINGS						TAXABLE BASE:					
Regular Pay	12,604.80	Y-T-D			Current	Y-T-D					
Time and Half OT	2,585.52				FED Withholding	8,423.05	19,984.99				
Final Vacation Payout	2,124.80				FED Social Secur	8,927.69	21,511.07				
Final Floating Holiday	531.20				FED Medicare Tax	8,927.69	21,511.07				
Unused Vacation Pay	223.44				CA Withholding	8,423.05	19,984.99				
Incentive	4,000.00		ALLOWANCES:								
TOTAL EARNINGS:	22,069.76				Vacation	Allowed	Taken	Remaining			
					Floating Holiday	128.00	0.00	0.00			
						32.00	16.00	0.00			
**Allowed hours may not reflect earned hours. Please refer to your company payout policy.											

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal period. On days where Plaintiff took his meal periods on site, he would be interrupted by managers and supervisors during his meal period to ask about the status of certain solar units or to update him about additional work that needs to be done to certain units. Plaintiff also experienced shortened meal periods due to pressure to return to work to fix or update certain units in a timely manner. On those occasions, Plaintiff and other aggrieved employees did not receive a meal period premium.

Additionally, Defendants had the practice and policy of requiring employees to fill out a timesheet two weeks in advance. Meal periods were not recorded nor provided.

When Plaintiff and the aggrieved employee experienced these missed, shortened, or interrupted meal periods, Defendants failed to pay meal period premiums at the regular rate as required by Labor Code section 226.7.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Plaintiff and the other employees experienced missed, shortened, or interrupted rest periods as they did know of their right to rest periods. Defendants did not provide rest periods nor did they inform Plaintiff and the aggrieved employees of their rights to rest periods.

When Plaintiff and other aggrieved employees experienced these missed, shortened, or interrupted rest periods, Defendants failed to pay rest period premiums at the regular rate as required by Labor Code section 226.7.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699

(\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Plaintiff was laid off by the Defendants in February 2022. However, Plaintiff did not receive his final paycheck until March 3, 2022.

Additionally, throughout Plaintiff and the aggrieved employee's employment, Defendants failed to properly pay overtime, sick leave, and meal and rest premiums, including Defendants' failure to properly calculate those earnings using the regular rate of pay to include the non-discretionary bonuses and other forms of remuneration.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Additionally, on Plaintiff's final wage dated March 03, 2022, Defendant failed to detail out all of Plaintiff's applicable hourly rates and the number of hours for each rate. This format of wage statements was issued to aggrieved employees and demonstrates non-compliance in each of those respective pay periods.

Plaintiff's final wage statement is below:

Cesar L Flores					NextEra Energy Operating Services, LLC 700 Universe Boulevard Juno Beach, FL 33408 Ph:1-844-694-4748 Pay Period.....05 Pay Date.....03/03/2022 Pay Period Dates...02/12/2022-02/25/2022			
Earnings	Pretax	Deductions	Taxes	Net Pay				
9,046.40	- 624.15-	2,892.47-	3,069.76 =	2,460.02				
CURRENT PERIOD EARNINGS					DEDUCTIONS	CURRENT	Y-T-D	
Regular Hours	33.2000	40.00	1,328.00	Pay Adv One Time	2,892.47	2,892.47		
Regular Hours	33.2000	32.00	1,062.40	TOTAL DEDUCTIONS:	2,892.47	2,892.47		
Final Vacation Payout			2,124.80					
Final Floating Holiday			531.20					
Incentive			4,000.00					
TOTAL EARNINGS:				9,046.40				
				CURRENT	Y-T-D			
Pretax Items								
Pretax Medical	108.00-	505.00		**Tax Withholdings**				
Pretax Dental	8.61-	42.71-		FED Withholding	1,595.72	3,060.50		
Pretax Vision	2.90-	14.50-		FED Social Secur	553.52	1,333.69		
Pretax 401(k)	504.64-	1,526.08-		FED Medicare Tax	129.45	311.91		
TOTAL PRE-TAXES:				624.15-	2,088.29-	CA Withholding	722.09	1,346.55
						CA TX EE Disabi	68.98	207.37
						TOTAL TAXES:	3,069.76	6,260.02
						TOTAL NET PAY:	2,460.02	

Failure to Provide Employee Records
Violation of Labor Code §§ 226, 432, 1174, 1198.5; IWC Wage Orders

Defendants violated Labor Code sections 226, 432, 1198.5, and 1174 with respect to the aggrieved employees.

Labor Code section 226(b) requires employers to “afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer.” Labor Code section 432 states that “[i]f an employee ... signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” Labor Code section 1198.5 grants “[e]very current and former employee, or his or her representative, ... the right to inspect and receive a copy of the personnel files that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Section 7(A) (Records) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates that employers maintain and make available “time records showing when the employee begins and ends each work period” as well as time records showing “[m]eal periods, split shift intervals, and daily hours worked[.]” Labor Code section 1174(d) requires these and other records be maintained for at least three years.

Defendants failed to provide all records upon Plaintiff’s request. On March 6, 2023, Plaintiff, through counsel, requested Plaintiff’s payroll and personnel records on his behalf. However, the records received were incomplete and did not contain Plaintiff’s timecards.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000), 1174.5 (\$500), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys' Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

Cc Plaintiff Cesar Flores

Stephanie Aranyos

Stephanie.aranyos@nexteraenergy.com