

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Aaron A. Buckley SBN: 202081 Paul, Plevin, Sullivan & Connaughton LLP 101 West Broadway, Ninth Floor, San Diego, CA 92101 TELEPHONE NO.: 619-237-5200 FAX NO.: 619-615-0700 ATTORNEY FOR (Name): Independent Electric Supply, Inc.		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Alameda County Courthouse		
CASE NAME: MENDOZA v. INDEPENDENT ELECTRIC SUPPLY, INC.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	CASE NUMBER: RG18916575 JUDGE: Brad Seligman DEPT: 23
Complex Case Designation <input type="checkbox"/> Counter <input checked="" type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

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 <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (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. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> 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):
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: September 14, 2018

Aaron A. Buckley

(TYPE OR PRINT NAME)

Aaron A. Buckley
 (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.

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6 Attorneys for Defendant
INDEPENDENT ELECTRIC SUPPLY, INC.

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA, RENE C. DAVIDSON COURTHOUSE**
10

11 CESAR MENDOZA on behalf of himself, all
others similarly situated, and on behalf of the
12 general public,

13 Plaintiffs,

14 v.

15 INDEPENDENT ELECTRIC SUPPLY, INC.
and DOES 1-100,

16 Defendants.
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Case No. RG18916575

**DEFENDANT INDEPENDENT
ELECTRIC SUPPLY'S ANSWER TO
PLAINTIFF'S CLASS ACTION
COMPLAINT**

Judge: Hon. Brad Seligman
Dept.: 23
Action Filed: August 14, 2018
Trial Date: Not Set

1 Defendant Independent Electric Supply (“IES”) answers plaintiff’s unverified class action
2 complaint (“Complaint”) as follows:

3 **GENERAL DENIAL**

4 As provided by California Code of Civil Procedure section 431.30, IES denies each and
5 every material allegation of the Complaint, and each cause of action thereof, and further denies
6 that plaintiff has been damaged in any manner or amount, or at all, as a result of any act or
7 omission by IES.

8 **AFFIRMATIVE DEFENSES**

9 For a further and separate answer to the allegations contained in plaintiff’s Complaint, and
10 without assuming the burden of proof as to matters for which plaintiff bears the burden, IES
11 asserts the following as affirmative defenses:

12 **FIRST AFFIRMATIVE DEFENSE**

13 **(All Causes of Action)**

14 **(Failure to State a Cause of Action)**

15 Each cause of action in plaintiff’s Complaint fails to state facts sufficient to constitute a
16 cause of action against IES.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(All Causes of Action)**

19 **(Statute of Limitations)**

20 All plaintiff’s causes of action are barred, in whole or in part, by the applicable statutes of
21 limitations, including, without limitation, California Code of Civil Procedure sections 337, 338(a),
22 339, 340(a), and 343; California Labor Code section 203; and California Business and Professions
23 Code section 17208.

24 **THIRD AFFIRMATIVE DEFENSE**

25 **(Third and Fourth Causes of Action)**

26 **(Waiver)**

27 The third and fourth causes of action premised upon failure to provide timely, duty-free
28 meal and rest periods are barred by the doctrine of waiver because IES has lawful policies and

1 procedures for meal and rest periods. As such, any failure by plaintiff or any employee to take a
2 meal or rest period as provided by company policy was caused by the employee's decision about
3 when to take the meal or rest period or how long of a meal or rest period to take.

4 **FOURTH AFFIRMATIVE DEFENSE**

5 **(Third and Fourth Causes of Action)**

6 **(Estoppel)**

7 The third and fourth causes of action premised upon failure to provide timely, duty-free
8 meal and rest periods are barred by the doctrine of estoppel, as IES has lawful policies and
9 procedures for meal and rest periods. As such, any failure by plaintiff or any employee to take a
10 meal or rest period as provided by company policy was caused by the employee's decision about
11 when to take the meal period or how long of a meal period to take, and the employee is estopped
12 from now seeking damages or penalties based on his or her own decision.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 **(Eighth Cause of Action)**

15 **(Failure to Exhaust)**

16 Plaintiff's eighth cause of action is barred because plaintiff did not comply with all the
17 statutory requirements for bringing such claims, as he did not provide sufficient written notice by
18 certified mail to the Labor and Workforce Development Agency and IES describing the facts and
19 theories to support the alleged violations, as required. *See* Cal. Lab. Code §§ 2698, et seq.

20 **RESERVATION OF RIGHTS**

21 IES presently has insufficient knowledge or information upon which to form a belief as to
22 whether it has additional, as yet unknown, affirmative defenses. IES reserves the right to assert
23 additional affirmative defenses in the event discovery indicates it would be appropriate.

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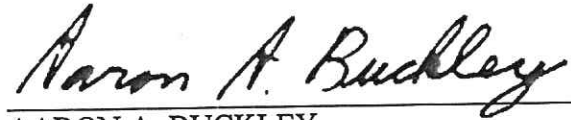
WHEREFORE, IES prays:

1. That plaintiff be denied relief by way of his Complaint;
2. That plaintiff's Complaint be dismissed;
3. That IES be dismissed with its costs of suit and attorneys' fees; and
4. For such and other relief as the Court deems proper.

Dated: September 14, 2018

PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP

By:



AARON A. BUCKLEY

KARA SIEGEL

Attorneys for Defendant

INDEPENDENT ELECTRIC SUPPLY, INC.

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PROOF OF SERVICE

**Cesar Mendoza v. Independent Electric Supply, Inc.
Alameda Superior Court Case No. RG18916575**

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Diego, State of California. My business address is 101 West Broadway, Ninth Floor, San Diego, CA 92101-8285.


On September 14, 2018, I served true copies of the following document(s) described as **INDEPENDENT ELECTRIC SUPPLY, INC.'S ANSWER TO PLAINTIFF'S CLASS ACTION COMPLAINT; JOINDER CIVIL CASE COVER SHEET** on the interested parties in this action as follows:

William Turley
David Mara
Jill Vecchi
Matthew Crawford
THE TURLEY & MARA LAW FIRM,
APLC
7428 Trade Street
San Diego CA 92121
Telephone: (619) 234-2833
Facsimile: (619) 234-4048
Email: bturley@turleylawfirm.com
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jvecchi@turleylawfirm.com
mcrawford@turleylawfirm.com

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List, with postage thereon fully prepaid. I placed each such envelope or package for deposit with United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 14, 2018, at San Diego, California.



Debbie A. Cushman