

**AMENDED**

State of California  
Department of Industrial Relations  
**Labor Commissioner's Office**

**WAGE CITATION**

Case Number: 35-CM-365823-17

Citation Number: WA 521488

1. Date of Issue <b>07/30/2019</b>	2. Time <b>11:39 AM</b>	3. Day of Week <b>Tuesday</b>	4. License / Registration Number	
5. Legal Entity <b>Tesla Energy Operations, Inc., a Delaware corporation; Leonardo Valencia, an Individual; Orbit USA, LLC, a Delaware limited liability company , each jointly and severally liable</b>				
6. Doing Business As (DBA)				
7. Business Address <b>6800 DUMBARTON CIR</b>		City <b>FREMONT</b>	State <b>CA</b>	Zip <b>94555</b>
8. Business Address <b>303 VINTAGE PARK DR STE 220</b>		City <b>FOSTER CITY</b>	State <b>CA</b>	Zip <b>94404</b>
9. Name of Person Served <b>Amanda Garcia, Vivian Imperial, Gladys Aguilera</b>			10. Title of Person Served <b>Agents For Service of Process For Tesla Energy Operations, Inc.</b>	
11. Place Served, if different from item 7 above <b>818 W 7th St., Ste. 930, Los Angeles, CA 90017</b>				
12. Location of Violation, if different from item 7 above <b>Multiple locations in California, ,</b>				
13. Date/Period of Violation for Civil Penalty Assessment <b>10/1/15 to 9/30/18</b>			14. Date/Period of Wage or Premium Unpaid <b>10/1/15 to 9/30/18</b>	
15. <b>VIOLATION AND CIVIL PENALTY</b> (See attached for details on applicable L.C. and/or IWC Section) The investigation revealed the following violation(s) of California Labor Code Section(s) (L.C.) and/or Industrial Welfare Commission Order (IWC) and Section(s).				
Violation of Labor Code or IWC Order Section(s)	Description	Civil Penalty Section	Total Penalty Assessed	Total Wage/Premium Assessed
<b>A L.C. 1197</b>	<b>Violation of Minimum Wage Provision</b>	<b>L.C. 1197.1</b>	<b>\$0.00</b>	<b>\$5,534.50</b>
Penalty Calculation: Penalty assessment of \$0 X number of pay periods employees were underpaid 78. Number of employees impacted: 9				
<b>B L.C. 1194.2</b>	<b>Liquidated Damages</b>		<b>\$0.00</b>	<b>\$6,740.18</b>
Penalty Calculation: Total Liquidated Damages assessed for 9 employees.				
<b>C L.C. 510 or L.C. 511 or IWC Order, Section 3</b>	<b>Violation of Overtime Provision</b>	<b>L.C. 558(a)</b>	<b>\$0.00</b>	<b>\$393.25</b>
Penalty Calculation: Penalty assessment of \$0 X number of pay periods employees were underpaid 78. Number of employees impacted: 7				
<b>D L.C. 226.7 and IWC Order section for Meal periods</b>	<b>Violation of Meal Period Provision</b>	<b>L.C. 558(a)</b>	<b>\$0.00</b>	<b>\$22.00</b>
Penalty Calculation: Penalty assessment of \$0 X number of pay periods employees were underpaid 1. Number of employees impacted: 1				
<b>E L.C. 226.7 and IWC Order section for Rest Periods</b>	<b>Violation of Rest Period Provision</b>	<b>L.C. 558(a)</b>	<b>\$0.00</b>	<b>\$22.00</b>
Penalty Calculation: Penalty assessment of \$0 X number of pay periods employees were underpaid 1. Number of employees impacted: 1				
<b>F L.C. 203</b>	<b>Waiting Time Penalties</b>		<b>\$0.00</b>	<b>\$11,812.20</b>
Penalty Calculation: Total Waiting Time Penalties assessed for 5 employees.				
<b>G L.C. 226(e)(1)</b>	<b>Failure of employer to comply with itemized statement provision</b>		<b>\$0.00</b>	<b>\$3,200.00</b>
Penalty Calculation: Damage assessment based on 14 number of employees.				
<b>Total Civil Penalty Amount Assessed:</b>			<b>\$0.00</b>	
<b>Total Due to Employees:</b>				<b>\$27,724.13</b>
<b>GRAND TOTAL = \$0.00 + \$27,724.13 = \$27,724.13</b>				
16. You may appeal by requesting in writing a hearing on this Wage and Penalty Assessment within the time limit as shown on the next page.				
17. Issued by (Name)			18. Title	

State of California  
Department of Industrial Relations  
**Labor Commissioner's Office**

<b>Brian Perez</b>	<b>Deputy Labor Commissioner</b> Authorized Delegee of the Director of Industrial Relations
19. District Office Address <b>1515 Clay St, Ste 1902, Oakland, CA 94612</b>	
20. Telephone <b>(510) 622-5036</b>	Fax Number <b>(510) 622-3257</b>
21. Service <b>Personal Service</b>	

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**APPEAL RIGHTS**

If a person desires to contest a citation or proposed assessment of civil penalty in its entirety or any specific part(s), he or she shall **WITHIN 15 BUSINESS DAYS** after service of the citation, notify (in writing) the office of the Labor Commissioner which appears on box 18 of the citation of his or her request for an informal hearing. The request for informal hearing **must be received** at the office of the Labor Commissioner by the appeal deadline indicated on box 15 of the citation. The Labor Commissioner or his or her deputy or agent shall, within **30** days of receipt of the petition objecting to the citation, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed.

The decision of the Labor Commissioner shall consist of a notice of findings, findings and order which shall be served on all parties to the hearing within **15** days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable **45** days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court, as long as the party agrees to pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within **45** days of service of the notice of findings, findings, and order thereon. Failure to file a writ of mandate within the **45** day period will result in the entry of a judgment in the appropriate superior court in the amount shown on the order.

If no petition objecting to the citation is filed with the Labor Commissioner as outlined above, a certified copy of the citation may be filed by the Labor Commissioner in the office of the appropriate superior court and the clerk of that court shall enter judgment against the person assessed in the amount shown on the citation or proposed assessment of civil penalty.

**PAYMENT INSTRUCTION**

A person to whom a citation has been issued shall, in lieu of contesting the citation as outlined above, transmit to the office of the Labor Commissioner as indicated on the right, the amount specified for the violation(s) with a copy of this citation within **15** business days after the issuance of the citation.

**Payment(s) shall be sent to:**

**State of California  
Department of Industrial Relations  
Labor Commissioner's Office  
Bureau of Field Enforcement Cashiering Unit  
2031 Howe Ave., Suite 100  
Sacramento, CA 95825**

**LABOR CODES AND INDUSTRIAL WELFARE COMMISSION ORDERS(S) AND SECTION(S)**

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|--|---|
| <b>L.C. 1197</b>   | Employer is required to pay employee wages for all hours worked at a rate of no less than the California State mandated minimum rate.   |
| <b>L.C. 1194.2</b>                                       | Employee is entitled to recover liquidated damages equal to minimum wages unlawfully unpaid and interest.   |
| <b>L.C. 510 or L.C. 511 or IWC Order, Section 3</b>      | Employer is required to pay employee the proper California State mandated daily or weekly overtime wages.   |
| <b>L.C. 226.7 and IWC Order section for Meal periods</b> | <p>Employer is required to provide employee the required meal or rest period mandated by applicable orders of the Industrial Welfare Commission section for Meal Periods or Rest Periods. Employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.</p> <p>IWC Order 1,2,3, 4,5, 6,7,8,9,10,11,13,15: Section 11(A) and or 11(B): No employee shall work for a work period of more than five (5) hours without a meal period of not less than 30 minutes. 2nd meal period of not less than 30 minutes must be given for a work period of more than ten (10) hours.</p> <p>Section 11 (C) or (D): Employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the required meal period is not provided.</p> <p>IWC Order 14: Section 11; Employer shall provide and permit all employees to take a meal period of not less than 30 minutes for a work period of not more than five (5) hours.</p> <p>IWC Order 16: Section 10 (A) and 10 (B): No employee shall work for a work period of more than five (5) hours without a meal period of not less than 30 minutes. 2nd meal period of not less than 30 minutes must be given for a work period of more than ten (10) hours.</p> <p>Section 10 (F): Employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the required meal period is not provided.</p> |

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**L.C. 226.7 and IWC  
Order section for Rest  
Periods**

L.C. 226.7(a) and (b) : Employer is required to provide employee the required meal or rest period mandated by applicable orders of the Industrial Welfare Commission section for Meal Periods or Rest Periods. Employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

IWC Orders 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15: Section 12(A) and or (B): Employer shall provide and permit all employees to take a net rest period of not less than 10 minutes for every four (4) hours worked; Employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the required rest period is not provided.

IWC Order 14: Section 12: Employer shall authorize and permit all employees to take a rest period of not less than 10 minutes for every four (4) hours worked.

IWC Order 16 Section 11(A) and (D): Employer shall authorize and permit all employees to take a rest period of not less than 10 minutes for every four (4) hours worked; Employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the required rest period is not provided.

**L.C. 203**

Employer is required to pay waiting time penalty for failure to pay an employee's final wages in a timely manner as required by Labor Code section 201 and 202.

**L.C. 226(e)(1)**

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.