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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MICHAEL MAKANEOLE,

Plaintiff,

v.

SOLARWORLD INDUSTRIES
AMERICA, INC.; SOLARWORLD
INDUSTRIES AMERICA, LP;
SOLARWORLD INDUSTRIES
SERVICES, LLC; SOLARWORLD
POWER PROJECTS, INC., RANDSTAD
PROFESSIONALS US, LP, and KELLY
SERVICES, INC.,

Defendant.

Case No.: 3:14-cv-1528

SOLARWORLD DEFENDANTS'
ANSWER AND AFFIRMATIVE
DEFENSES TO AMENDED
COMPLAINT

In response to Plaintiff's Amended Complaint, defendants SolarWorld Industries
America, Inc., SolarWorld Industries America, LP, SolarWorld Industries Services, LLC,

SolarWorld Power Projects, Inc. (“SolarWorld” or “SolarWorld defendants”) admit, deny and allege as follows:

1. In response to paragraphs 3-7, 15-17 and 58 of Plaintiff’s Amended Complaint, SolarWorld admits that SolarWorld Industries America, Inc. is a domestic corporation; that SolarWorld Industries America LP is a foreign limited partnership; that SolarWorld Industries Services LLC is a foreign limited liability company; that SolarWorld Power Projects, Inc. is a foreign corporation; and that the Oregon Secretary of State lists 25300 NE Evergreen Road, Hillsboro, Oregon, 97124 as an address of record for each entity. SolarWorld further admits that the Court has personal jurisdiction over it for purposes of this case. Except as expressly admitted, SolarWorld defendants deny the allegations contained in these paragraphs.

2. SolarWorld denies the allegations in paragraphs 18, 24, 69, 77, 79-84, 86, and 125 of Plaintiff’s Amended Complaint.

3. Paragraphs 1, 14, 19-22, 25-27, 30-31, 33, 55-57, 68, 71-72, 85, 87-88, 90-97, 99-114, 116-119, 126-132 and 139-147 of Plaintiff’s Amended Complaint state legal conclusions or descriptions of the action to which no response is required. To the extent these paragraphs raise factual allegations, SolarWorld denies them.

4. Paragraphs 8-13, 60-62, 64-65, and 121-122 relate to parties other than SolarWorld. SolarWorld lacks sufficient information to form a belief as to these allegations and therefore denies them.

5. In response to paragraphs 2, 28, 59, 63, 73, 120, 123-124, and 133-34, SolarWorld admits that SolarWorld Industries America, Inc. employed plaintiff from February 2, 2012 through January 23, 2013, as an at-will, non-exempt employee at its facility in Hillsboro, Oregon. Except as expressly admitted, SolarWorld denies the allegations in these paragraphs.

6. In response to paragraphs 29, 32-33, 74-76, 78, 89, and 135-138, SolarWorld admits that SolarWorld Industries America, Inc. used an electronic timekeeping system at its Hillsboro, Oregon facility to record its hourly employees' working time during a portion of the period alleged to be relevant in Plaintiff's Amended Complaint. Except as expressly admitted, SolarWorld denies the allegations in these paragraphs.

7. In response to paragraphs 34-54 and 66-67 of Plaintiff's Amended Complaint, SolarWorld denies that this action is appropriate for class certification, and further denies any factual allegations that relate to "class members." Although SolarWorld admits that plaintiff's counsel sent various letters purporting to be ORCP 32 H notices, those letters did not comply with ORCP 32H ORS 652.150, 652.200 and/or 653.055. SolarWorld expressly reserves the right to contend such letters constituted inadequate and improper notice. Except as expressly admitted, SolarWorld denies the allegations in these paragraphs.

8. Except as expressly admitted, SolarWorld defendants deny all factual allegations contained in Plaintiff's Amended Complaint.

AFFIRMATIVE DEFENSES

Without assuming plaintiff's burden of proof as to any claim or issue, SolarWorld defendants assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Claim)

9. Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted.

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SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

10. One or more of the claims in Plaintiff's Amended Complaint is outside the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

(De Minimis)

11. Plaintiff seeks compensation for time that is properly excluded from the hours-worked calculation under the de minimis doctrine.

FOURTH AFFIRMATIVE DEFENSE

(All Wages Paid)

12. SolarWorld defendants timely paid plaintiff all wages due and owing.

FIFTH AFFIRMATIVE DEFENSE

(Failure To Provide Written Notice-ORS 652.150, 652.200, 653.055, ORCP 32 H)

13. Plaintiff failed to provide SolarWorld defendants with adequate written notice of his claims prior to filing suit.

SIXTH AFFIRMATIVE DEFENSE

(Claim/Issue Preclusion)

14. Plaintiff's claims are barred in whole or part under the doctrines of issue and/or claim preclusion based on the conduct of a prior filed action.

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SEVENTH AFFIRMATIVE DEFENSE

(Failure to Report)

15. Plaintiff failed to report to SolarWorld defendants that he performed work and was not paid.

EIGHTH AFFIRMATIVE DEFENSE

(Good Faith)

16. Any actions taken by SolarWorld defendants with respect to Plaintiff were taken in good faith with reasonable grounds to believe such conduct comported with permissible interpretations of applicable laws.

NINTH AFFIRMATIVE DEFENSE

(Not Willful)

17. Any alleged statutory violations were not willful.

TENTH AFFIRMATIVE DEFENSE

(No Class or Collective Action)

18. Plaintiff's claims are not entitled to any class or collective treatment and cannot be certified as a class or collective action.

ELEVENTH AFFIRMATIVE DEFENSE

(No Employment Relationship)

19. Plaintiff's claims fail as to each SolarWorld defendant who did not employ Plaintiff.

ADDITIONAL DEFENSES

20. SolarWorld defendants reserve the right to amend this Answer to assert any additional defenses or affirmative defenses as may become available or apparent at any future date.

WHEREFORE, SolarWorld defendants pray for judgment as follows:

1. Dismissing all of plaintiff's claims with prejudice;
2. Awarding SolarWorld defendants their costs, disbursements, and attorneys' fees incurred in defending this action; and
3. For such other relief as deemed just and equitable.

DATED: April 23, 2015.

STOEL RIVES LLP

s/ John B. Dudrey

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Industries America, Inc., SolarWorld
Industries America, LP, SolarWorld
Industries Services, LLC, and SolarWorld
Power Projects, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **SOLARWORLD DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT** on the following named person(s) on the date indicated below by

- mailing with postage prepaid
- Email
- ECF

to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at his last-known address(es) indicated below.

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DATED: April 23, 2015.

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