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

DON SARUBBI, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

TECH MAHINDRA (AMERICAS) INC.,
a New Jersey corporation; TECH
MAHINDRA NETWORK SERVICES
INTERNATIONAL, INC., a Delaware
corporation; TECH MAHINDRA
TECHNOLOGIES INC., a Delaware
corporation; TECH MAHINDRA
NETWORK SERVICES, a business
organization, form unknown; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 20-CIV-03616

**PAGA REPRESENTATIVE ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §
2698, ET SEQ.**

DEMAND OVER \$25,000.00

Electronically
FILED
by Superior Court of California, County of San Mateo
ON 8/26/2020
By /s/ Wai Shan Lee
Deputy Clerk

1 Plaintiff Don Sarubbi (“Plaintiff”) hereby submits this Private Attorneys General Act
2 (“PAGA”) Representative Action Complaint (“Complaint”) against Defendant Tech Mahindra
3 (Americas) Inc., Defendant Tech Mahindra Network Services International, Inc., Defendant
4 Tech Mahindra Technologies Inc., Defendant Tech Mahindra Network Services, and DOES 1
5 through 50 (collectively, “Defendants”), on behalf of himself and the aggrieved current and
6 former employees of Defendants, for penalties and/or damages for failure to pay wages on a
7 weekly basis and failure to pay wages in a timely manner, in violation of the California Labor
8 Code, as follows:

9 **INTRODUCTION**

10 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
11 201.3, 204, and 2698, *et seq.* and the applicable Wage Orders of the California Industrial Welfare
12 Commission (“IWC”).

13 2. This Complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code against Plaintiff and against other individuals who
15 worked for Defendants.

16 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
17 jointly and severally, have acted intentionally and with deliberate indifference and conscious
18 disregard to the rights of all employees by failing to pay wages on a weekly basis and failing to
19 pay wages in a timely manner to Plaintiff and other employees.

20 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 have engaged in, among other things, a system of willful violations of the California Labor Code
22 and the applicable IWC Wage Orders by creating and maintaining policies, practices, and
23 customs that knowingly deny employees the above stated rights and benefits.

24 **JURISDICTION AND VENUE**

25 5. The Court has jurisdiction over the violations of the California Labor Code §§
26 201.3, 204, 2698, *et seq.*

27 6. Venue is proper in San Mateo County, because Defendants do business in this
28 County and Plaintiff worked for Defendants in this County.

PARTIES

7. Plaintiff was employed by Defendants as a temporary services employee from on or about March 30, 2020, to on or about June 10, 2020. Plaintiff was paid on a semi-monthly basis. During his employment with Defendants, Plaintiff was assigned to work in Menlo Park, California.

8. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code §§ 201.3, 204, and 2698, *et seq.*

9. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra (Americas) Inc. was and is a New Jersey corporation doing business in the State of California, providing information technology and software services.

10. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra Network Services International, Inc. was and is a Delaware corporation doing business in the State of California, providing engineering design consulting services.

11. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra Technologies Inc. was and is a Delaware corporation doing business in the State of California, providing computer services.

12. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra Network Services was and is, at all times herein mentioned, a business organization, form unknown. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra Network Services has been doing and currently does business in the State of California and in the County of San Mateo. Plaintiff is informed and believes, and based thereon alleges, that Defendant Tech Mahindra Network Services was and is a DBA of Defendant Tech Mahindra (Americas) Inc., Defendant Tech Mahindra Network Services International, Inc., and Defendant Tech Mahindra Technologies Inc.

13. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants are and were temporary services employers engaged in the business of providing and supplying workers to perform services for their clients and customers.

1 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
2 herein mentioned Does 1 through 50 are and were corporations, business entities, individuals,
3 and partnerships, licensed to do business and actually doing business in the State of California.

4 15. As such, and based upon all the facts and circumstances incident to Defendants'
5 business, Defendants are subject to California Labor Code §§ 201.3, 204, and 2698, *et seq.*

6 16. Plaintiff does not know the true names or capacities, whether individual, partner
7 or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason,
8 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
9 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
10 based thereon alleges that each of said fictitious defendants were responsible in some way for the
11 matters alleged herein and proximately caused Plaintiff and other employees to be subject to the
12 illegal employment practices, wrongs, and injuries complained of herein.

13 17. At all times herein mentioned, each of said Defendants participated in the doing
14 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
15 Defendants, and each of them, were the agents, servants, and employees of each of the other
16 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
17 acting within the course and scope of said agency and employment.

18 18. Plaintiff is informed and believes, and based thereon alleges, that at all times
19 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
20 joint venturer of, or working in concert with each of the other co-Defendants and was acting
21 within the course and scope of such agency, employment, joint venture, or concerted activity.
22 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
23 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
24 Defendants.

25 19. At all times herein mentioned, Defendants, and each of them, were members of,
26 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
27 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

28 20. At all times herein mentioned, the acts and omissions of various Defendants, and

1 each of them, concurred and contributed to the various acts and omissions of each and all of the
2 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
3 herein mentioned, Defendants, and each of them, ratified each and every act or omission
4 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
5 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
6 damages as herein alleged.

7 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 share a unity of interest and/or ownership, commingle funds and/or other assets among
9 themselves, and share a common brand of “Tech Mahindra.” Plaintiff is informed and believes,
10 and based thereon alleges, that Defendants share a similar equitable ownership in the four named
11 entities—Defendant Tech Mahindra (Americas) Inc., Defendant Tech Mahindra Network
12 Services International, Inc., Defendant Tech Mahindra Technologies Inc., and Defendant Tech
13 Mahindra Network Services; similar use of the same offices, officers, and employees; and use
14 the name “Tech Mahindra” as a mere shell or conduit for the affairs of the Defendants.

15 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 inadequately capitalize one or more of the corporate entities at the expense of employees
17 working for one of the entities, while believing they work for “Tech Mahindra.” Plaintiff alleges
18 that Defendants do not segregate corporate records, and that Defendants share identical directors
19 and executive officers between all four named entities.

20 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 operate under the same brand and corporate structure of “Tech Mahindra.” In this regard,
22 Defendants maintain a website at “techmahindra.com.” Defendants’ website identifies different
23 “Industries” and/or “Services” provided by Defendants. However, none of the various Industries
24 or Services listed on Defendants’ website identifies the separate entities of “Tech Mahindra
25 (Americas) Inc.,” “Tech Mahindra Network Services International, Inc.,” “Tech Mahindra
26 Technologies Inc.,” and/or “Tech Mahindra Network Services.” For example, under the
27 “Network Services” section on Defendants’ website, Defendant specifically states that “Telecom
28 Networks is Tech Mahindra’s forte.” (Emphasis added). Only a reference to the general Tech

1 Mahindra brand is found under Defendants’ various services.

2 24. Furthermore, Defendants’ website identifies itself as a single brand and a single
3 “USD 4.0 billion company,” operating under the name “Tech Mahindra:”

4 **THE BRAND AND OUR PRESENCE**

5
6 Tech Mahindra represents the connected world, offering innovative and customer-centric information technology services and solutions, enabling Enterprises,
7 Associates and the Society to Rise™. We are a USD 4.0 billion company with 107,100+ professionals across 90 countries, helping over 800 global customers
8 including Fortune 500 companies. Our innovation platforms and reusable assets connect across a number of technologies to deliver tangible business value to
9 our stakeholders. Tech Mahindra is also amongst the Fab 50 companies in Asia as per the Forbes 2014 List.

10 We are part of the USD 16.9 billion Mahindra Group that employs more than 200,000 people in over 100 countries. The Group operates in the key industries
11 that drive economic growth, enjoying a leadership position in tractors, utility vehicles, information technology, after-market and vacation ownership.

12 Defendants do not make any reference to any of the separate named entities. Defendants’
13 reference to a single “company” is indicative that Defendants operate as a unified company
14 providing different types of services. On information and belief, each of the named Defendants
15 do not maintain its own website, its own distinct corporate presence in California, such that each
16 defendant is the alter ego of one another.

17 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants do
18 not operate independently of each other. In this regard, Defendant Tech Mahindra (Americas)
19 Inc., Defendant Tech Mahindra Network Services International, Inc., and Defendant Tech
20 Mahindra Technologies Inc. filed corporate documents with the California Secretary of State,
21 including without limitation, Statements of Information and Registration documents. On these
22 corporate filings, said Defendants all share the same “entity address” and “entity mailing
23 address” identified at 4965 Preston Park Boulevard, Suite 500, Plano, TX 75093. Furthermore,
24 said Defendants’ Statements of Information list the same “principal executive office” also
25 identified at 4965 Preston Park Boulevard, Suite 500, Plano, TX 75093.

26 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 share a unity of interest and/or ownership. On information and belief, Manish Vyas operates as
28 an executive officer for the entire brand Tech Mahindra. For example, the corporate documents
filed with the California Secretary of State by both Defendant Tech Mahindra (Americas) Inc.
and Defendant Tech Mahindra Network Services International, Inc. identify the same
individual—Manish Vyas—as the Chief Executive Officer. The address identified for Manish

Vyas on the corporate documents is also 4965 Preston Park Boulevard, Suite 500, Plano, TX 75093—the same address as Defendants’ listed principal executive office. Furthermore, Manish Vyas is identified on Defendants’ website as the “President, Communications, Media and Entertainment Business, and The CEO, Network Services.” There is no identification to the separate entities of Tech Mahindra (Americas) Inc. or Tech Mahindra Network Services International, Inc. in his profile.

27. On or about May 27, 2020, Defendant Tech Mahindra Technologies Inc. filed a Statement of Information with the California Secretary of State identifying an individual named Arvind Malhotra as its Chief Executive Officer. The address identified for Arvind Malhotra on said Statement of Information is also 4965 Preston Park Boulevard, Suite 500, Plano, TX 75093, which is the same address as Defendants’ listed principal executive office and the same address identified for Manish Vyas. Furthermore, Arvind Malhotra is also identified on Defendants’ website – techmahindra.com – as an executive officer of the Tech Mahindra brand.

28. Because Defendants maintain a unity of interests and do not maintain corporate formalities, as alleged above, Defendants are the alter egos of each other, and employed Plaintiff and Aggrieved Employees. Not holding Defendants liable as alter egos will result in injustice because Plaintiff and the Aggrieved Employees will not be able to pursue legal remedies against all Defendants, despite Defendants holding themselves out as a unified entity, as described above. Plaintiff requires discovery to determine further details of Defendants’ corporate relations, including whether the entities are maintain individual corporate records, commingle funds and/or share assets, are undercapitalized, employ the same officers and employees, etc.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(PRIVATE ATTORNEYS GENERAL ACT)

**(BY PLAINTIFF AND THE AGGRIEVED EMPLOYEES AGAINST ALL
DEFENDANTS)**

29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 28 as though fully set forth herein.

1 30. Plaintiff brings this cause of action as a proxy for the State of California and in
2 this capacity, seeks penalties on behalf of all Aggrieved Employees from April 6, 2019, through
3 the present, for Defendants' violations of Labor Code §§ 201.3 and 204, arising from
4 Defendants' policy and practice of: (a) failing to pay wages to temporary services employees on
5 a weekly basis, in violation of Labor Code § 201.3; and (b) failing to timely pay all earned
6 wages, in violation of Labor Code § 204.

7 31. Pursuant to Labor Code § 201.3(a)(1), a temporary services employer means an
8 employer who "contracts with clients or customers to supply workers to perform services for the
9 clients or customers..." Labor Code § 201.3(b)(1)(A) further provides that "if an employee of a
10 temporary services employer is assigned to work for a client, that employee's wages are due no
11 less frequently than weekly, regardless of when the assignment ends..."

12 32. At all times relevant herein, Defendants are and were temporary services
13 employers that contracts with clients and customers to supply workers to perform services for
14 their clients and customers. However, Defendants have violated Labor Code § 201.3 by failing
15 to pay wages to their temporary services employees, including to Plaintiff and Aggrieved
16 Employees, on a weekly basis. Rather, as a matter of Defendants' policy and practice, Plaintiff
17 and Aggrieved Employees were paid wages on a semi-monthly basis, in direct violation of Labor
18 Code § 201.3.

19 33. Additionally, Defendants failed in their affirmative obligation to timely pay
20 wages to its employees in violation of Labor Code § 204. Pursuant to Labor Code § 204, all
21 earned wages must be paid by the time limits as set forth in Labor Code § 204.

22 34. As a pattern and practice, Defendants had a consistent policy of paying the wages
23 of their employees, including to Plaintiff and Aggrieved Employees, beyond the time limits as
24 allowed pursuant to Labor Code § 204. As a matter of policy and practice, Defendants routinely
25 paid Plaintiff and Aggrieved Employees more than ten (10) days after the close of the pay period
26 for which the employee worked. As an example, for the pay period of April 16, 2020 through
27 April 30, 2020, Plaintiff and Aggrieved Employees were not paid wages for said pay period until
28 May 15, 2020, which is over ten (10) days after the close of the pay period.

35. Because of Defendants' above-stated Labor Code violations, Plaintiff is an "aggrieved employee" as defined in Labor Code § 2699(a). As such, Plaintiff brings this cause of action on behalf of the State of California for violations committed against all similarly situated Aggrieved Employees of Defendant.

36. On or about July 1, 2020, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§ 201.3 and 204, pursuant to Labor Code § 2698, *et seq.*, the Private Attorney General Act (“PAGA”). As of the date of the filing of this Complaint, the LWDA has yet to provide notice to Plaintiff as to whether it intends to investigate the Labor Code violations provided for in Plaintiff’s written notice.

37. In addition to the LWDA, Plaintiff also sent his written notice to Defendants via certified mail according to Labor Code § 2699.3.

38. As such, pursuant to Labor Code § 2699(a), Plaintiff and the Aggrieved Employees seek recovery of any and all applicable civil penalties for Defendants' violations of Labor Code § 201.3 and 204.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all aggrieved current and former employees against Defendants, jointly and severally, as follows:

1. Upon the First Cause of Action, for the full amount of civil penalties pursuant to the Labor Code §§ 201.3, 204, and 2698, *et seq.*, and for costs and attorneys' fees; and

2. For such other and further relief the Court may deem just and proper.

DATED: August 26, 2020

DIVERSITY LAW GROUP, P.C.

By:

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff and Aggrieved Employees