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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

STEPHEN JARAMILLO, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

USS-UPI, LLC, a Delaware limited
liability company formerly known as
USS POSCO Industries; and DOES 1
through 50, inclusive,

Defendants.

Case No.: C22-00641

**SECOND AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR DAMAGES FOR:**

**(1) VIOLATION OF LABOR CODE § 2698, *ET*
SEQ. (PRIVATE ATTORNEYS GENERAL
ACT)**

1 Plaintiff Stephen Jaramillo (“Jaramillo” or “Plaintiff”) hereby submits this second amended
2 complaint (“Complaint”) against Defendant USS-UPI, LLC, a Delaware limited liability company
3 formerly known as USS POSCO Industries; and DOES 1-50 (hereinafter collectively referred to as
4 “Defendants”), on behalf of himself and other similarly situated current and former employees of
5 Defendants for penalties for violations of the California Labor Code, including without limitation,
6 failure to timely pay employees all wages, as follows:

7 **INTRODUCTION**

8 1. This class action is within the Court’s jurisdiction under California Labor Code §§
9 204, 2698, *et seq.*

10 2. This complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, Defendants, jointly and
13 severally, have acted intentionally and with deliberate indifference and conscious disregard to the
14 rights of all employees by failing to timely pay all wages.

15 4. Plaintiff is informed and believes, and based thereon alleges, Defendants have
16 engaged in, among other things a system of willful violations of the California Labor Code and
17 applicable IWC wage orders by creating and maintaining policies, practices, and customs that
18 knowingly deny employees the above stated rights and benefits.

19 **JURISDICTION AND VENUE**

20 5. The Court has jurisdiction over the violations of California Labor Code §§ 204.

21 6. Venue is proper because the Defendants do business in Contra Costa County, and
22 Plaintiff performed his work in Contra Costa County.

23 **PARTIES**

24 7. Plaintiff was employed by Defendants as an Operation Technician, from about 2006
25 until on or about February 24, 2022. Plaintiff was subsequently rehired.

26 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendants
27 complained of in this action in ways that have deprived him of the rights guaranteed to him by
28 California Labor Code § 204.

1 9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
2 mentioned Defendant USS-UI, LLC was and is a limited liability company under the laws of the
3 State of Delaware and doing business in the State of California.

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

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

13 12. At all times herein mentioned, each of said Defendants participated in the doing of
14 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 acting
17 within the course and scope of said agency and employment.

18 13. 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 within
21 the course and scope of such agency, employment, joint venture, or concerted activity. To the
22 extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
23 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
24 Defendants.

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

28 15. 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, the 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 **FIRST CAUSE OF ACTION**

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

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

10 16. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
11 fully set forth herein.

12 17. Plaintiff brings this cause of action as a proxy for the State of California, and in this
13 capacity, seeks penalties on behalf of all current and former employees of Defendants who were
14 paid wages in the State of California from March 2, 2021, through the present (“Aggrieved
15 Employees”), for Defendants’ violation of Labor Code § 204.

16 18. Defendants failed in their affirmative obligation to timely pay wages to Aggrieved
17 Employees. For example, the wages earned during the pay period of August 29, 2021, through
18 September 11, 2021, were not paid until September 21, 2021, which is ten days after the end of the
19 pay period.

20 19. On or about March 2, 2022, Plaintiff sent written notice to the California Labor &
21 Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code § 204,
22 pursuant to Labor Code § 2698, *et seq.* To date, the LWDA has not responded to Plaintiff’s written
23 notice. As such, Plaintiff has therefore complied with all notice and exhaustion requirements
24 pursuant to PAGA.

25 20. Pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable
26 civil penalties for Defendants’ violation of Labor Code § 204, for the time period described above,
27 on behalf of himself and other Aggrieved Employees.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this
3 suit is brought against Defendants, jointly and severally, as follows:

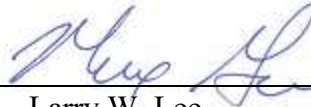
4 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
5 Labor Code § 2698, et seq., and for costs and attorneys' fees;

6 2. For attorneys' fees and costs as provided by California Labor Code § 204 and Code
7 of Civil Procedure § 1021.5; and

8 3. For such other and further relief the Court may deem just and proper.
9

10 DATED: June 30, 2022

DIVERSITY LAW GROUP, P.C.

11
12 By: 

Larry W. Lee

Max W. Gavron

Kwanporn "Mai" Tulyathan

13 Attorneys for Plaintiff Stephen Jaramillo and the
14 Class
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,
9 Los Angeles, California 90071.

10 On July 20, 2022, I served the following document(s) described as: **SECOND**
11 **AMENDED REPRESENTATIVE ACTION COMPLAINT FOR DAMAGES** on the
12 interested parties in this action as follows:

13 Benjamin J. Schnayerson
14 Jackson Lewis P.C.
15 50 California Street, 9th Floor
16 San Francisco, CA 94111
17 *Attorney for Defendant USS-UPI, LLC*

18 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
19 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website
20 www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for
21 the above-entitled case. The service transmission was reported as complete and a copy of the
22 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)
23 in this office.

24 I declare under penalty of perjury under the laws of the State of California that the above
25 is true and correct. Executed on July 20, 2022, at Los Angeles, California.

26
27
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Erika Mejia