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Electronically Filed
Superior Court of California
County of San Joaquin
2023-01-03 16:49:56
Clerk: Bernique Mimmitt

Case Management Conference
2023-07-03 8:45AM in 10B

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CURTIS WHITE on behalf of himself and all similarly aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

CURTIS WHITE on behalf of himself and
all similarly aggrieved employees,

Plaintiff,

v.

CORTECH WEST STAFFING, LLC;
THYSSENKRUPP MATERIALS NA, INC.;
THYSSENKRUPP SUPPLY CHAIN
SERVICES NA INC.; TESLA, INC. dba
TESLA MOTORS, INC.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-0000029

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

Plaintiff Curtis White ("Plaintiff") hereby submits this Representative Action Complaint ("Complaint") against Defendants Cortech West Staffing, LLC ("CorTech"), Thyssenkrupp Materials NA, INC. ("TK-M"), Thyssenkrupp Supply Chain Services NA INC. ("TK-SCS") (collectively, both ThyssenKrupp entities shall be referred to as "ThyssenKrupp"), Telsa, Inc. dba Tesla Motors, Inc. ("Tesla"), and Does 1 through 50 (collectively, "Defendants"),

1 individually, and on behalf of himself and all aggrieved employees of Defendant, for penalties
2 for violations of the California Labor Code as follows:

3 **INTRODUCTION**

4 1. This representative action is within the Court’s jurisdiction under California
5 Labor Code sections 201-203, 226, 226.7, 1174, 1175, 1194, 1198, 2802, 2698, *et seq.*, and the
6 applicable Wage Orders of the Industrial Welfare Commission (“IWC”).

7 2. This Complaint challenges systemic illegal employment practices resulting in
8 violations of the California Labor Code against individuals who worked for Defendants.

9 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
10 jointly and severally, have acted intentionally and with deliberate indifference and conscious
11 disregard to the rights of all employees.

12 **JURISDICTION AND VENUE**

13 4. The Court has jurisdiction over the violations of the California Labor Code
14 sections 201-203, 226, 226.7, 1174, 1175, 1194, 1198, 2802, 2698, *et seq.*, and the applicable
15 IWC Wage Orders.

16 5. Venue is proper in San Joaquin County because Plaintiff worked for Defendants
17 in San Joaquin County, California.

18 **PARTIES**

19 6. In or around August 2021, Plaintiff was hired by Defendants. Throughout
20 Plaintiff’s employment, he has been an hourly, non-exempt employee.

21 7. Plaintiff was and is the victims of the policies, practices, and customs of
22 Defendant complained of in this action in ways that have deprived him of the rights guaranteed
23 by California Labor Code sections 201-203, 226, 226.7, 1174, 1175, 1194, 1198, 2802, 2698, *et*
24 *seq.*, and the applicable IWC Wage Orders.

25 8. Defendant CorTech is a temporary staffing and direct hire service company. At all
26 times mentioned herein, Defendant CorTech was and still is a legal business entity, operating in
27 the State of California and employs 10 or more employees.

28 9. Defendant ThyssenKrupp Materials NA, Inc. (“TK-M”) and Defendant

1 ThyssenKrup Supply Chain Services NA Inc. (“TK-SCS”) (collectively referred to herein as
2 “ThyssenKrupp”) are involved in the industrial engineering and steel production industry and
3 provide warehousing and distribution services to the automotive industry nationwide, including
4 to Defendant Tesla. At all times mentioned herein, Defendants TK-M and TK-SCS were and
5 still are legal business entities, operating in the State of California, and each employ 10 or more
6 employees.

7 10. Defendant Tesla Motors, Inc. is an electric vehicle company that designs and
8 manufactures electric cars and related products and services. At all times mentioned herein,
9 Defendant Tesla was and still is a legal business entity, operating in the State of California and
10 employs 10 or more employees.

11 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
12 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
13 and partnerships, licensed to do business and actually doing business in the State of California.
14 As such, and based upon all the facts and circumstances incident to Defendants’ business,
15 Defendants are subject to the California Labor Code and the applicable IWC Wage Orders.

16 12. Plaintiff does not know the true names or capacities, whether individual, partner
17 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
18 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
19 complaint when the true names and capacities are known. Plaintiff is informed and believes and
20 based thereon alleges that each of said fictitious defendants was responsible in some way for the
21 matters alleged herein and proximately caused Plaintiff and members of the general public and
22 aggrieved employees to be subject to the illegal employment practices, wrongs and injuries
23 complained of herein.

24 13. At all times herein mentioned, each defendant participated in the doing of the acts
25 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
26 and each of them, were the agents, servants and employees of each of the other defendants, as
27 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
28 course and scope of said agency and employment.

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

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

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

FIRST CAUSE OF ACTION

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

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

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

18. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees who worked for Defendants in California at the Livermore and Lathrop production facilities from October 25, 2021, through the present, for Defendants' violations of Labor Code sections 201-203, 226, 226.7, 1174, 1175, 1194, 1198, 2802, 2698, *et seq.*, as identified above.

19. On or about October 25, 2022, Plaintiff sent written notice to the California Labor

1 & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code sections
2 201-203, 226, 226.7, 1174, 1175, 1194, 1198, 2802, pursuant to Labor Code section 2698, *et*
3 *seq.*, the Private Attorneys General Act (“PAGA”). Plaintiff also sent written notice of said
4 Labor Code violations to Defendant via certified mail pursuant to Labor Code section 2699.3.
5 As of the date of the filing of this Complaint, the LWDA has not provided written notice
6 regarding whether it intends to investigate the Labor Code violations set forth in Plaintiff’s
7 written notice.

8 20. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
9 and all applicable civil penalties for Defendants’ violation of Labor Code sections 201-203, 226,
10 226.7, 1174, 1175, 1194, 1198, 2802, and 2698 for the time period described above, on behalf of
11 himself and other Aggrieved Employees.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
14 this suit is brought against Defendants, jointly and severally, as follows:

15 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
16 the PAGA, Labor Code section 226.3, and for costs and attorneys’ fees;

17 2. On all causes of action for attorneys’ fees and costs as provided by Labor Code
18 section 2699 and California Code of Civil Procedure section 1021.5; and
19

20 3. For such other and further relief as the Court may deem just and proper.

21 DATED: January 3, 2023

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

22
23 By: 
24 B. James Fitzpatrick
25 Larry W. Lee
26 Howard L. Magee
27 Shalom “Christine” Choo
28 Attorneys for Plaintiff,
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