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**DISTRICT COURT
CLARK COUNTY, NEVADA**

ELIAHKIM MABUTE and JEDDY ANNE
DELGADO on behalf of themselves, those
similarly situated, and the Proposed Rule 23
Class,

Plaintiffs,

vs.

MEDLIANT INC., and MEDLIANT,
Defendants.

Case No.: A-23-881156-C

Dept. No.: 29

**FIRST AMENDED CLASS AND
COLLECTIVE ACTION COMPLAINT**

**Arbitration Exemption Claimed: Class
Action**

- 1) Violations of the Trafficking Victims
Protection Act, 18 U.S.C. §§ 1589, 1590,
and 1594; and
- 2) Violations of the Fair Labor Standards
Act, 29 U.S.C. §§ 201 et seq.

JURY TRIAL DEMANDED

COMES NOW Plaintiffs ELIAHKIM MABUTE and JEDDY ANNE DELGADO, on behalf of themselves and all other similarly situated and typical persons and allege the following:

All allegations in the Complaint are based upon information and belief except for those allegations that pertain to the Plaintiffs named herein and their Counsel. Each allegation in the Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

INTRODUCTION

1. This case is about labor trafficking and its impact on an essential workforce, including failure to pay minimum wages, suppression of wages, and unfair competition.

2. Medliant Inc., is a recruitment and staffing company that hires healthcare workers from other countries to work at various healthcare facilities around the United States.

3. Medliant (together with Medliant, Inc., “Medliant,” “Defendant,” or “the company”) is a domestic corporation registered with the Nevada Secretary of State.

4. Plaintiffs Eliahkim Mabute and Jeddy Anne Delgado (collectively, “Plaintiffs”) are two such healthcare workers.

5. Medliant led Plaintiffs and its other foreign-recruited healthcare workers to believe that they would come to the United States to practice nursing in a safe environment with a good employer who would treat them fairly.

6. But working for Medliant was nothing like that. Rather, Medliant’s “employment” is essentially indentured servitude.

7. Medliant requires healthcare workers to pay liquidated damages of up to approximately \$80,000 if they leave Medliant within approximately three years of starting to work for the company, along with an unspecified additional amount in reimbursement for

1 immigration expenses. And Medliant has a practice of threatening workers who try to resign
2 with immigration consequences, even though Medliant nurses' immigration status is not tied to
3 a specific employer.

4 8. This lawsuit seeks to end Medliant's illegal practices and to compensate the
5 healthcare workers through two categories of claims.

6 9. First, Plaintiffs assert forced labor claims under federal law. Employers cannot
7 use or attempt to use the threat of substantial harm, including financial harm or immigration
8 consequences, to keep people trapped in their jobs. Medliant's threats of extraordinary financial
9 penalties and immigration consequences if employees try to leave their jobs violate federal
10 forced labor laws and contravene the spirit of a competitive labor market to the detriment of
11 Medliant's healthcare workers and its competitors who play by the rules.

12 10. Second, Plaintiffs assert a claim under the Fair Labor Standards Act for failure
13 to pay wages "free and clear" because Medliant's policy of charging workers so-called
14 "liquidated damages" and other damages if they try to leave their jobs prevented their earned
15 wages from being "paid finally and unconditionally." And when Medliant recovers so-called
16 "damages" in its lawsuits or through payment of those sums, it receives a "kick-back" of wages
17 that is impermissible under the FLSA. The kickbacks reduce workers' wages in their final
18 workweek of employment to substantially less than the federal minimum wage—indeed, well
19 into the negative numbers.
20

21 **JURISDICTION AND VENUE**

22 11. This Court has jurisdiction over the claims alleged herein because it is a court of
23 general jurisdiction, in accordance with the Agreement for Employment with Plaintiffs and
24 members of the proposed Class and Collective that contains a Nevada choice of law and venue
25 provision, and because the amount in controversy exceeds \$15,000.

26 12. This Court has personal jurisdiction over Defendant, and venue is proper in this
27 Court, because Defendant is incorporated in Nevada and because its Agreement for
28

1 Employment with Plaintiffs and members of the proposed Class and Collective contains a
2 Nevada choice of law and venue provision.

3 **PARTIES**

4 13. Plaintiff ELIAHKIM MABUTE is a natural person and registered nurse who
5 was employed by Defendant until November 8, 2023. He is a citizen of the Philippines and a
6 legal permanent resident of the United States. He lives in Beaumont, Texas.

7 14. Plaintiff JEDDY ANNE DELGADO is a natural person and registered nurse
8 who is currently employed by Defendant. She is a citizen of the Philippines and a legal
9 permanent resident. She lives in Beaumont, Texas.

10 15. Defendant MEDLIANT INC. is a Domestic Corporation incorporated in Nevada
11 and with its principal place of business in Nashville, Tennessee.

12 16. Defendant MEDLIANT is a Domestic Corporation incorporated in Nevada.

13 17. Defendant is an employer under the FLSA, 29 U.S.C. § 201 *et. seq.*

14 **FACTUAL ALLEGATIONS**

15 **I. DEFENDANT’S BUSINESS**

16 18. Medliant recruits trained nurses from other countries, brings them to the United
17 States, and sells their labor to healthcare facilities. These healthcare facilities often lack
18 sufficient staff to serve the healthcare needs of their communities, so they turn to Medliant.

19 19. Medliant sells nurses the idea of the American Dream, promising on its website
20 that it will enable nurses to “fulfill your dreams of working and living in the U.S.” It tells
21 nurses that this process comes with “[n]o risk and no upfront costs.”

22 20. Medliant’s clients receive a different promise: That hiring a Medliant nurse will
23 reduce costs, “increase[e] tenure[,] and decreas[e] staff turnover.”

24 21. Medliant profits off the labor of the healthcare workers it recruits. Specifically,
25 Medliant profits by charging its clients (i.e., the healthcare facilities) fees for its healthcare
26 workers’ labor. Therefore, the longer Medliant can make healthcare workers continue to work
27
28

1 for it, the more it can profit from their labor. The healthcare facilities benefit from the
2 arrangement through, among other things, the labor of expert healthcare workers.

3 22. Medliant makes the nurses it employs sign form contracts, each with
4 substantially the same terms. A true and correct copy of one of these contracts is attached
5 hereto as Exhibit A.

6 23. These contracts provide the means by which Medliant can keep its promises to
7 its clients, by punishing workers who attempt to leave their jobs before a specified time period
8 is up.

9 **II. DEFENDANT'S THREATENED FINANCIAL PENALTY**

10 24. To compel workers to keep working for Medliant, its form contract requires
11 them to work for a "term" of a minimum of 5,200 straight-time hours (i.e., excluding overtime).

12 25. The contract threatens that workers who resign before this term is up will owe
13 Medliant "liquidated damages" for Medliant's "lost profits."

14 26. Specifically, the contract provides, in relevant part:

15
16 Employee and Employer agree that a fair compromise for liquidated damages is
17 the sum of \$2,500 for each month (156 hours represents one month) remaining of
18 the minimum five thousand two hundred (5,200) straight-time hours' commitment
19 at the time of the termination. This amount is reasonable as it is considerably less
20 than the profit Employer would make if the Agreement were not terminated
21 prematurely. ***This liquidated damage clause applies ONLY to the lost profits of***
22 ***Employer.*** The liquidated damages are separate, and are in addition to, any costs
23 of immigration owed to Medliant pursuant to the terms of the Offer Letter. Said
24 liquidated damages sum shall be due in full on the date of Employee's
25 termination. Should it become necessary to pursue an action or proceeding to
26 enforce the obligations set forth in this Agreement, along with the costs of
27 immigration and liquidated damages, Medliant shall also be entitled to an award
28 of reasonable attorneys' fees and costs incurred in attempting to enforce these
terms.

27 27. The contract provides that "[w]here Employee leaves voluntarily prior to the
28 contract term expiring, Medliant may use Employee's breach of this Agreement as grounds to
file suit for breach of contract, amongst other claims, which Medliant has done previously upon
prior Employees breaching the herein Agreement."

1 28. The offer letter that Medliant provides to nurses, attached hereto as Exhibit B,
2 states that:

3 [i]f, after arrival in the U.S., you fail to meet contractual obligations to Medliant, or you
4 terminate the Agreement prior to completing five thousand two hundred (5,200)
5 straight-time hours of service, you agree to reimburse Medliant for all costs incurred
6 including associated administrative, licensing, and legal expenses for R.N.'s relocation
and immigration.

7 29. Under 20 C.F.R. § 656.12, employers may not "seek or receive payment of any
8 kind for any activity related to obtaining permanent labor certification."

9 30. The contract does not allow nurses to leave employment before the 5,200 hours
10 have been completed even if changed circumstances or other issues make it impossible or
11 extremely difficult for them to fulfill their contracts.

12 31. Medliant routinely threatens nurses that if they resign early, Medliant will file a
13 lawsuit against them, and tell nurses that Medliant has never lost a lawsuit against a former
14 employee.

15 **III. DEFENDANT'S IMMIGRATION THREATS**

16 32. Medliant's healthcare workers are in the United States on EB-3 visas. EB-3
17 visas are available for skilled or professional workers, including nurses, and are not tied to a
18 specific employer. Holders of EB-3 visas receive green cards allowing them to legally live and
19 work in the United States.

20 33. The offer letter Medliant requires all nurses to sign states:

21
22 Medliant will notify USCIS of your termination as Medliant sponsored your
23 immigration. USCIS has the power to determine that you intended to defraud the
24 government because you did not fulfill your five thousand two hundred (5,200) straight-
time hours' commitment.

25 34. This is highly misleading and threatening. Medliant's 5,200-hour work
26 requirement is specific to Medliant and is not required or enforced by USCIS.
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1 35. Medliant’s offer letter also attaches a document called “IMPORTANT NOTICE
2 REGARDING EMPLOYMENT-BASED GREEN CARDS.” An example of this document is
3 attached hereto as Exhibit C.

4 36. This document purports to “educate [nurses] on some of the most important U.S.
5 immigration laws regarding your employment-based Green Card.” It states:

6
7 Please note that for an employment-based Green Card to be considered valid, the
8 foreign national (employee) must work for the sponsoring employer. Not only must the
9 foreign national work for the sponsoring employer, but he/she must also perform the job
10 originally proposed on the I-140 petition, which is specific to the sponsoring employer. .
11 . If an employee leaves too soon, the United States Citizenship and Immigration
12 Services (USCIS) may determine that the employee did not intend to take the job on a
13 “permanent” basis. If the employee leaves his/her employment before their obligation is
14 complete, the employer will notify USCIS that the employee has left the sponsor’s
15 employment, and USCIS may take action against the employee, including possible
16 deportation. This could also affect the foreign national’s ability to obtain citizenship or
17 a petition for his/her relatives in the future. If the USCIS finds out that the employee
18 was just waiting for his/her immigration to be complete before switching employers,
19 then the USCIS may charge the employee with fraud.

20 Remember, Medliant has sponsored your Green Card and invested a large amount of
21 time and money in your immigration and employment process. You have accepted and
22 made a written commitment to Medliant that you will be employed with Medliant for a
23 minimum of five thousand two hundred (5,200) straight-time hours. If you fail to meet
24 your contractual obligation with Medliant or decide to terminate the Agreement prior to
25 completing your five thousand two hundred (5,200) straight-time hours’ commitment,
26 Medliant will notify the USCIS, and USCIS may take action against you. In addition,
27 Medliant will also have the right to recover from you all costs, fees, damages, and
28 attorneys’ fees as stated in the Offer Letter and Employment Agreement.

37. The information contained in this notice is untrue and/or highly misleading. The
USCIS does not require or enforce Medliant’s 5,200-hour work requirement, and there is no
requirement that nurses work for their sponsoring employer or else face deportation.

38. When Medliant healthcare workers give notice that they intend to leave their
jobs before the expiration of their commitment period, Medliant routinely tells them that
Medliant will be forced to report their resignation to the United States Customs and

1 Immigration Services and that they will get deported as a result. Medliant tells nurses who have
2 immigrated to the United States with their families that their families will be deported as well.

3 39. These threats are a powerful tool for Medliant in its efforts to prevent employees
4 from making a free and informed decision to find new employment.

5 **IV. DEFENDANT'S FAILURE TO PROVIDE SAFE AND DECENT WORK**
6 **ENVIRONMENTS WITH FAIR CONDITIONS AND PAY**

7 40. Medliant recruits nurses that already have significant experience in nursing.
8 Medliant nurses have often worked for many years in hospitals all over the world before
9 coming to the United States to work for Medliant.

10 41. Despite this, Medliant frequently places nurses in positions that are well below
11 their level of experience or outside their area of expertise, and provides them with hourly pay
12 that is much lower than the pay received by American nurses with comparable levels of
13 experience.

14 42. Medliant nurses are generally ineligible for the bonuses and incentives that are
15 paid to their colleagues at the hospitals where they work.

16 43. Medliant controls where nurses are placed. If the hospital they are placed at has
17 difficult or dangerous working conditions, such as high patient-to-nurse ratios or other limited
18 resources, nurses may find themselves unable to leave for a better job because of Medliant's
19 threats of financial harm and immigration consequences.

20 **V. PLAINTIFF ELIAKHIM MABUTE'S FORCED LABOR EXPERIENCE WITH**
21 **MEDLIANT**

22 44. Plaintiff Eliakhim Mabute is a registered nurse.

23 45. Mabute is from the Philippines and is a legal permanent resident of the United
24 States.

25 46. He has worked as a nurse since 2010, when he graduated from university in the
26 Philippines with his bachelor's degree in nursing. He also received a master's of science in
27 nursing in 2013.
28

- 1 47. Mabute worked as a nurse in the Philippines until 2015.
- 2 48. In 2015, Mabute moved to Saudi Arabia to work as a nurse there. He worked in
3 Saudi Arabia until January 2019. From January 2019 to April 2022, he worked as a nurse in
4 Abu Dhabi.
- 5 49. In September 2019, while working as a nurse in Abu Dhabi, Mabute took and
6 passed the National Council Licensure Examination (“NCLEX”), which is the nurse licensing
7 exam for nurses working in the United States.
- 8 50. Mabute wanted to work as a nurse in the United States because he believed that
9 living and working in the United States was a great opportunity.
- 10 51. He learned about Medliant from the processing agency in the Philippines that
11 processed his NCLEX exam.
- 12 52. After he submitted an application to Medliant, Mabute received a phone call
13 from Lilian Castro, Medliant’s Vice President of International Operations, who interviewed
14 him and offered him a job with Medliant.
- 15 53. Mabute accepted, and in October 2019 signed an offer letter and employment
16 agreement with Medliant.
- 17 54. In late 2021, Mabute received offers to work for Medliant from hospitals in
18 three states. He chose the hospital in Texas because he had family there. He was not told the
19 name of the hospital until after he had accepted the offer.
- 20 55. He later learned that he had been placed at Baptist Hospitals of Southern Texas
21 in Beaumont, Texas.
- 22 56. Mabute’s visa was approved in January 2022.
- 23 57. Mabute arrived in the United States on April 10, 2022, along with several other
24 new Medliant employees. They were greeted at the airport by Alicia Nelson, Medliant’s
25 Director of International Logistics and Client Services, who took them to a hotel where they
26 lived for approximately four days.
- 27
- 28

1 58. Nelson helped the new Medliant employees perform various administrative
2 tasks, including getting a social security card, opening a bank account, and shopping for
3 groceries.

4 59. Medliant did not pay the nurses during this time.

5 60. Mabute's first day of work at Baptist Hospitals was April 18, 2022.

6 61. Mabute was originally hired as a registered nurse at a rate of approximately
7 \$29.50 an hour. In approximately August 2022, he was promoted to charge nurse, a supervisory
8 position that involves coordinating patient care. The promotion to charge nurse came with a
9 raise of approximately \$1 an hour.

10 62. Mabute's current hourly rate is approximately \$37 an hour. This is much less
11 than the American nurses at the hospital.

12 63. Shortly after beginning work at the hospital, Mabute realized that the hospital
13 was significantly understaffed, and the work was draining and sometimes dangerous. During
14 the first year, there were no nurse's aides at all on the night shift, which is when Mabute
15 generally worked. The hospital did eventually hire a single aide to assist with up to 22 patients,
16 which still left nurses performing much of the work traditionally performed by an aide
17 themselves.

18 64. There were also no cleaning services on the night shift, and no phlebotomist,
19 meaning that nurses had to take on all of this work themselves, including everything from
20 drawing blood to removing trash and dirty linens from patient rooms.

21 65. When Mabute was promoted to charge nurse, bedside care was no longer part of
22 his job description. Charge nurses are in charge of the nursing unit, where they coordinate the
23 care provided to the patients and serve as the primary resource for bedside nurses.

24 66. However, due to understaffing, he still had to perform significant amounts of
25 direct patient care. This made his work physically and mentally challenging, requiring him to
26 for example push heavy patients between units, lift patients, and act as a runner between the
27 unit and other departments.
28

1 67. In fall 2022, a Medliant nurse quit his job at Baptist Hospitals before the
2 expiration of his contract. In response to the nurse's departure, Baptist Hospitals and Medliant
3 staff called a joint meeting to discuss issues that Medliant employees were having on the job.

4 68. Approximately 30 Medliant nurses employed at Baptist Hospitals attended.

5 69. At that meeting, Mabute raised his concerns about staffing, including the lack of
6 nurses' aides. In response, a Baptist Hospitals employee told him to "speak up" about his
7 concerns.

8 70. Nelson and Castro also spoke separately to the Medliant nurses while the Baptist
9 Hospitals employees were not present. In response to nurse concerns about staffing, Castro said
10 that understaffing is normal in the United States, and that being a nurse is hard work. Nelson
11 told nurses that there was no way to get out of their contracts, and that the nurse who had left
12 before the expiration of his contract would face serious consequences including deportation and
13 being banned from the United States.

14 71. Mabute has psoriatic arthritis, which was exacerbated by the intense work that
15 he was required to perform. As a result, he had a severe flare-up of pain in February 2023.

16 72. Mabute's rheumatologist told him he could not lift heavy objects and needed to
17 go on light duty.

18 73. Medliant CEO Allen Miller informed Mabute that there were no light duty
19 positions available. As a result, Mabute took unpaid leave for two weeks to recover.

20 74. On March 2, 2023, Mabute received a call from Nelson, who said the purpose of
21 her call was to address rumors that had been circulating in light of the departure of another
22 Medliant employee. Nelson said that Mabute could not buy out his contract, and had no choice
23 but to complete the full hours requirement. She also told him that if he did not do so, Medliant
24 would report him to USCIS as a fraud, which would result in him being deported and banned
25 from the United States, and that another employee who had left Medliant before their contract
26 was up owed the company \$100,000.
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1 75. On the call with Nelson, Mabute expressed that he was struggling with the
2 demands of the job, including that his time off requests were frequently denied, and that he
3 needed light duty pursuant to his doctor's orders. Nelson responded that light duty was not
4 available but that Medliant would look into the possibility of getting Mabute assigned to a
5 dialysis clinic. He did not receive any follow-up on this offer.

6 76. The medications that Mabute was required to take as a result of his psoriatic
7 arthritis suppressed his immune system.

8 77. On March 29, 2023, Mabute sent Nelson, Castro, and Miller a note from his
9 doctor that said he was immunosuppressed due to his medication and needed a lifting weight
10 limit due to his back pain.

11 78. He did not receive a response.

12 79. Over the next several months, Mabute did his best to avoid lifting due to his
13 back pain, and to avoid exposure to highly contagious patients due to the immunosuppression.
14 However, Mabute grew concerned that the nurses he supervised would begin to complain to the
15 hospital that he was not providing them with enough help.
16

17 80. As a result, Mabute returned to his doctor and got a second note that repeated
18 that he was immunocompromised and could lift no more than 25 pounds. He sent this note to
19 Nelson, Castro, and Miller on September 29, 2023.

20 81. On October 3, 2023, Nelson responded requesting that Mabute submit a formal
21 request for accommodation, which he did.

22 82. He did not receive a response from Medliant to this formal request for
23 accommodation.

24 83. Due to his low pay, difficulty receiving reasonable accommodations, and
25 general working conditions, Mabute is resigning from his job with Medliant on November 8,
26 2023.

27 84. On or around October 20, 2023, Mabute received an email from the Medliant
28 Payroll Department that said that "a recent internal audit of employee files revealed lacking

required documents,” and informing Mabute that the documents would be sent shortly for his signature. The email also said that the documents were “required for both immigration services (USCIS), and employer services (OSHA/Dept. of Labor).”

85. On or around October 24, 2023, Mabute received an email from Medliant CEO Allen Miller attaching the documents and requesting a signature. The email stated that “several of the documents are required by law to be in your personnel file.”

86. The attached documents included a revised employment agreement. The terms that had been changed in the employment agreement included that Medliant had added an arbitration provision and changed the choice of law and venue in the contract to Tennessee from Nevada.

87. Mabute did not sign these documents.

88. On or around October 31, 2023, Miller followed up with a second email that read:

Not sure why you decided not to sign, as some of these documents are required by law to have in your Personnel file. These documents are normally sent to you before you start your assignment. During our audit, it appears that the documents were never sent for your review, which I take responsibility for, but we need signed copies to put in your personnel folder. Signing these documents will not change anything you are currently receiving; the documents were in effect at the time of your assignment start date.

89. Miller re-sent the documents, but Mabute still did not sign them.

90. This process of attempting to leave his employment has been very frightening for Mabute, and Medliant’s threats have resulted in his working longer for the company than he otherwise would have.

VI. JEDDY ANNE DELGADO’S FORCED LABOR EXPERIENCE WITH MEDLIANT

91. Plaintiff Jeddy Anne Delgado is a registered nurse.

92. Delgado is from the Philippines and is a legal permanent resident of the United States.

1 93. She graduated from university in the Philippines with a bachelor's degree in
2 nursing and began working as a registered nurse there in October 2011.

3 94. She worked in the Philippines until March 2015, at which point she moved to
4 Abu Dhabi. She worked as a nurse in Abu Dhabi for seven years, until 2022.

5 95. While Delgado was working in Abu Dhabi, a colleague at the hospital where she
6 worked referred her to Medliant.

7 96. Delgado wanted to work in the United States because of the opportunities
8 available to nurses, including good retirement benefits, a high quality of life, and a pathway
9 towards citizenship.

10 97. Delgado applied for a job with Medliant in September 2019.

11 98. In October 2019, recruiter Lilian Castro reached out to Delgado to schedule a
12 Skype interview. Shortly afterwards, Delgado received an offer.

13 99. She signed a contract with Medliant on October 8, 2019.

14 100. When she applied for a job with Medliant, Delgado was told that she would
15 have at least three interviews with different hospitals as a part of the hiring process. However,
16 in the end she interviewed only with Baptist Hospitals of Southern Texas in Beaumont, Texas,
17 where she currently works.

18 101. Delgado's visa application process was delayed due to the COVID-19
19 pandemic, but she was approved for a visa in January 2022.

20 102. Delgado arrived in the United States on April 10, 2022, in the same cohort as
21 Mabute. Nelson greeted them at the airport and took them to a hotel.

22 103. For the next four days, Nelson helped the new Medliant employees perform
23 various administrative tasks, including getting a social security card, opening a bank account,
24 setting up internet and shopping for groceries.

25 104. Medliant did not pay the nurses during this time period.

26 105. Delgado's first day of work at Baptist Hospitals was April 18, 2022.
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1 106. Delgado is employed as a registered nurse in Baptist Hospitals' telemetry
2 department. Her primary job duties include carrying out doctors' orders, administering
3 medication, performing assessments of patients on admission and discharge, performing blood
4 transfusions, and placing IVs.

5 107. These job duties are exhausting and sometimes overwhelming due to staffing
6 shortages. Nurse-patient ratios are high, and many patients are bed-bound, meaning that they
7 cannot perform basic tasks for themselves. There are few aides and no regular cleaners on the
8 night shift, which Delgado works. As a result, in addition to patient care, nurses have to
9 perform tasks like changing bed linens and taking out trash. The demands of the job are so
10 harsh that Delgado is concerned that she might lose her license due to the difficulty of meeting
11 the needs of all of her patients.

12 108. Relative to her American counterparts, Delgado is underpaid for her work.
13 Medliant pays her only \$33 per hour, excluding any pay differentials, which is much less than
14 the American nurses at the hospital, who make a minimum of \$55 an hour. As a result of her
15 low salary, Delgado is being forced to live paycheck-to-paycheck and dip into her savings to
16 cover her basic needs.

17 109. Delgado also attended the October 2022 meeting with Baptist Hospitals staff,
18 Medliant staff, and Medliant nurses. The Baptist Hospitals staff said that they knew that issues
19 spread quickly among Filipinos, and asked nurses for their feedback on working conditions.
20 Nurses reported that there was severe understaffing, no phlebotomists, and few aides.

21 110. When the Baptist Hospitals staff were not present, Nelson told Medliant
22 employees that the employee who had recently left Medliant before his contract term was up
23 would be deported and banned in the United States, and had wasted the opportunity Medliant
24 provided him.

25 111. Nothing changed regarding nurse working conditions after that meeting.

26 112. On or around October 20, 2023, Delgado received an email from the Medliant
27 Payroll Department that said that "a recent internal audit of employee files revealed lacking
28

1 [sic] required documents,” and informing Delgado that the documents would be sent shortly for
2 her signature. The email also said that the documents were “required for both immigration
3 services (USCIS), and employer services (OSHA/Dept. of Labor).”

4 113. On or around October 24, 2023, Delgado received an email from Medliant CEO
5 Allen Miller attaching the documents and requesting a signature. The email stated that “several
6 of the documents are required by law to be in your personnel file.”

7 114. The attached documents included a revised employment agreement. The terms
8 that had been changed in the employment agreement included that Medliant had added an
9 arbitration provision and changed the choice of law and venue in the contract to Tennessee
10 from Nevada.

11 115. Delgado did not sign these documents.

12 116. On or around October 31, 2023, Miller followed up with a second email that
13 read:

14 Note sure why you decided not to sign, as some of these documents are required by law
15 to have in your Personnel file. These documents are normally sent to you before you
16 start your assignment. During our audit, it appears that the documents were never sent
17 for your review, which I take responsibility for, but we need signed copies to put in
18 your personnel folder. Signing these documents will not change anything you are
currently receiving; the documents were in effect at the time of your assignment start
date.

19 117. Miller then re-sent the documents, which Delgado still did not sign.

20 118. This process of attempting to leave her employment has been very frightening
21 for Delgado, and Medliant’s threats have resulted in her working longer for the company than
22 she otherwise would have.

23 **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

24 119. Plaintiffs reallege and incorporate by this reference all the paragraphs above in
25 this Complaint as though fully set forth herein.
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1 120. Plaintiffs bring this action on behalf of themselves and all other similarly
2 situated and typical employees as both a collective action pursuant to the FLSA and a true class
3 action under Nevada law.

4 121. The **FLSA Class** is defined as follows: **All nurses who entered the United**
5 **States to perform work for Defendant and Defendant's clients within the statute of**
6 **limitations and are or were subject to Medliant's Employment Agreement requiring the**
7 **payment of liquidated and other damages for failure to meet a specified hours**
8 **commitment.**

9 122. With regard to the conditional certification mechanism under the FLSA,
10 Plaintiffs are similarly situated to those he seeks to represent and for the following reasons,
11 among others:

12 A. Defendant employed Plaintiffs as non-exempt hourly paid employees
13 whose wages were not paid free and clear and/or whose wages were subject to an
14 unlawful kickback.

15 B. Plaintiffs' situation are similar to those they seek to represent because
16 Defendant failed to pay Plaintiffs and all other FLSA Class Members free and clear
17 and/or collected or attempted to collect unlawful kickbacks on their wages.

18 C. Common questions of fact and/or law exist whether Defendant's failure
19 to pay Plaintiffs and all other FLSA Class Members free and clear and/or their
20 collections or attempts to collect unlawful kickbacks on wages violated the FLSA.

21 D. Upon information and belief, Defendant employs, and has employed, in
22 excess of 100 Class Members within the applicable statute of limitations.

23 E. Plaintiffs have signed a Consent to Sue form which are attached as
24 Exhibit D and E, hereto. Consent to Sue forms are not required for state law claims
25 under Rule 23 of the Nevada Rules of Civil Procedure.

26 F. Defendant has known or should have known its policies alleged herein
27 were unlawful and that they have willfully failed to pay their employees properly.
28

1 Defendant's actions or omissions giving rise to this complaint were not in good faith
2 and/or were not based upon an informed, reasonable belief that Defendant's behavior
3 was lawful.

4 123. The **NEVADA CLASS** is defined as follows: **All nurses who entered the**
5 **United States to perform work for Defendant and Defendant's clients within the statute of**
6 **limitations and are or were subject to Medliant's Employment Agreement requiring the**
7 **payment of liquidated and other damages for failure to meet a specified hours**
8 **commitment.**

9 124. Pursuant to the decision of the Ninth Circuit Court of Appeals in *Busk v.*
10 *Integrity Staffing Solutions, Inc.*, 2013 U.S. App. LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013),
11 both opt-in collective or representative treatment of claims under the federal FLSA and Rule 23
12 Class treatment may be maintained in the same action. Therefore, NRCP Rule 23(b)(3) Class
13 treatment for all non-FLSA claims alleged in this complaint is appropriate in this case for the
14 following reasons:

15 A. The Class is Sufficiently Numerous: Upon information and belief,
16 Defendant employs, and has employed, in excess of 100 Class Members within the
17 applicable statute of limitations.

18 B. Plaintiffs' Claims are Typical to Those of Fellow Class Members: Each
19 Class Member is and was subject to the same practices, plans, or policies as Plaintiffs.
20 Defendant uses a uniform contract and uniform policies and practices, resulting in
21 common violations of law.

22 C. Common Questions of Law and Fact Exist: Common questions of law
23 and fact exist and predominate as to Plaintiffs and the Class, including, without
24 limitation: a) Whether Defendant obtains the labor of foreign healthcare workers by
25 using serious harm or threats of serious harm in violation of the TVPA; b) Whether
26 Defendant's uniform practices surrounding the commitment period, monetary penalty,
27 immigration threats, and conditions of work constitute attempted labor trafficking in
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1 violation of the TVPA; c) Whether Defendant knowingly recruits healthcare workers
2 and knowingly benefits by its violations of the TVPA; d) Whether Defendant's policy of
3 charging its workers massive liquidated damages violates the FLSA's "free and clear"
4 requirement and/or its prohibition on kickbacks; e) The proper measure of damages; and
5 f) The proper measure of punitive damages. These common questions arise, in part,
6 because of the uniform circumstances under which Plaintiffs and the Class worked.
7 These include the form contracts and workplace policies that resulted in a standard
8 environment and set of employer-mandated conditions that employees were forced to
9 abide by under the same threat of being sued, suffering adverse immigration
10 consequences, and facing financial harm.

11 D. Plaintiffs Are Adequate Representatives of the Class: Plaintiffs will fairly
12 and adequately represent the interests of the Class because Plaintiffs are members of the
13 Class, they have issues of law and fact in common with all members of the Class, and
14 they do not have interests that are antagonistic to Class members.

15 E. A Class Action is Superior/Common Claims Predominate: A class action
16 is superior to other available means for the fair and efficient adjudication of this
17 controversy, since individual joinder of all members of the Class is impractical, and
18 common claims of whether Plaintiffs and Class Members are entitled to relief
19 predominate over individual issues. Defendant attempted to keep every healthcare
20 worker in its employ through the threats of severe penalties and immigration
21 consequences, as well as through conditions of employment. That attempt—regardless
22 of whether an employee could eventually pay the severe monetary penalty or the degree
23 to which they were misled and forced to work against their will—was the same and
24 uniformly made as to each and every employee. Class action treatment will permit a
25 large number of similarly situated persons to prosecute their common claims in a single
26 forum simultaneously, efficiently, and without unnecessary duplication of effort and
27 expense. Furthermore, the expenses and burden of individualized litigation would make
28 it difficult or impossible for individual members of the Class to redress the wrongs done

1 to them, while an important public interest will be served by addressing the matter as a
2 class action. Individualized litigation would also present the potential for inconsistent or
3 contradictory judgments.

4 125. Plaintiffs reserve the right to amend and refine the class definitions above or add
5 classes and/or subclasses as litigation progresses.

6 **FIRST CAUSE OF ACTION**

7 **Violations of the Trafficking Victims Protection Act, 18 U.S.C. § 1589(a)**

8 *on behalf of* Plaintiffs and all members of the Class

9 126. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
10 Complaint as though fully set forth herein.

11 127. It is a violation of the TVPA to “knowingly provide[] or obtain[] the labor or
12 services of a person . . . (2) by means of serious harm or threats of serious harm . . . ; (3) by
13 means of the abuse or threatened abuse of law or legal process; or (4) by means of any scheme,
14 plan, or pattern intended to cause the person to believe that, if that person did not perform such
15 labor or services, that person or another person would suffer serious harm” 18 U.S.C. §
16 1589(a).

17 128. The TVPA defines “serious harm” to include nonphysical harm, “including
18 psychological, financial, or reputational harm, that is sufficiently serious . . . to compel a
19 reasonable person of the same background and in the same circumstances to perform or to
20 continue performing labor or services to avoid incurring that harm.” *Id.* § 1589(c)(2).

21 129. Defendant obtained the labor of Plaintiffs and the Class members through
22 threats of serious harm, through a scheme to make Plaintiffs and members of the Class believe
23 they would suffer serious harm, and through threatened abuse of legal process, including
24 immigration processes and through the terms and administration of its contract with employees.

25 130. Defendant kept Plaintiffs and the Class working for it against their will with the
26 contract’s term of indentured servitude, with contractual provisions that led employees to fear
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1 financial ruin, with threats of immigration consequences, and with other isolating and
2 draconian employment terms, as described herein.

3 131. Defendant's use of such means to obtain the labor of Plaintiffs and the Class was
4 knowing and intentional.

5 132. Plaintiffs and the Class suffered damages because of Defendant's conduct.
6 Those damages include the penalty some members of the Class paid to Defendant, as well as
7 emotional distress and other damages.

8 133. Plaintiffs and the Class are entitled to compensatory and punitive damages and
9 restitution in amounts to be determined at trial, together with reasonable attorneys' fees and the
10 costs of this action.

11 **SECOND CAUSE OF ACTION**

12 **Violations of the Trafficking Victims Protection Act, 18 U.S.C. § 1589(b)**

13 *on behalf of* Plaintiffs and all members of the Class

14 134. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
15 Complaint as though fully set forth herein.

16 135. It is a violation of the TVPA to "knowingly benefit" from participation in a
17 venture which obtains labor in violation of the TVPA, while "knowing or in reckless disregard
18 of the fact" that the venture has obtained labor through such means. 18 U.S.C. § 1589(b).

19 136. Defendant has knowingly benefited from its participation in the forced labor
20 venture described herein by earning substantial profits from the venture.

21 137. Defendant knew or recklessly disregarded the fact that the venture described
22 herein engaged in obtaining forced labor.

23 138. Plaintiffs and the Class suffered damages as a result of Defendant's conduct.
24 Those damages include the penalty some members of the Class paid to Defendant, as well as
25 emotional distress and other damages.
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1 139. Plaintiffs and the Class are entitled to compensatory and punitive damages and
2 restitution in amounts to be determined at trial, together with reasonable attorneys' fees and the
3 costs of this action.

4 **THIRD CAUSE OF ACTION**

5 **Violations of the Trafficking Victims Protection Act, 18 U.S.C. § 1590(a)**

6 *on behalf of* Plaintiffs and all members of the Class
7

8 140. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
9 Complaint as though fully set forth herein.

10 141. It is a violation of the TVPA to "knowingly recruit[], . . . or obtain[] by any
11 means, any person for labor or services in violation of" the TVPA.

12 142. Defendant knowingly and purposefully recruited Plaintiffs and Class members,
13 as described herein, in violation of the TVPA.

14 143. Plaintiffs and the Class suffered damages as a result of Defendant's conduct.
15 Those damages include the penalty Plaintiffs and the Class paid to Defendant, as well as
16 emotional distress and other damages.

17 144. Plaintiffs and the Class are entitled to compensatory and punitive damages and
18 restitution in amounts to be determined at trial, together with reasonable attorneys' fees and the
19 costs of this action.
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21 **FOURTH CAUSE OF ACTION**

22 **Violations of the Trafficking Victims Protection Act, 18 U.S.C. § 1594(a)**

23 *on behalf of* Plaintiffs and all members of the Class
24

25 145. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
26 Complaint as though fully set forth herein.

27 146. Attempts to violate the TVPA are themselves violations of the TVPA. 18 U.S.C.
28 § 1594(a).

147. Defendant attempted to violate 18 U.S.C. §§ 1589 and 1590, as described herein.

148. Plaintiffs and the Class suffered damages as a result of Defendant's conduct. Those damages include any penalty Plaintiffs and the Class paid to Defendant, as well as emotional distress and other damages. The penalty amount is determinable from Defendant's records.

149. Plaintiffs and the Class are entitled to compensatory and punitive damages and restitution in amounts to be determined at trial, together with reasonable attorneys' fees and the costs of this action.

FIFTH CAUSE OF ACTION

Violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (Illegal Kickback)

on behalf of Plaintiffs and all members of the Class and/or Collective

150. Plaintiffs reallege and incorporate by reference all the paragraphs above in the Complaint as though fully set forth herein.

151. Pursuant to 29 U.S.C. § 216(b), Plaintiffs have consented in writing to be join this Fair Labor Standards Act action as a plaintiff. Their written consents are attached to this complaint as Exhibits D and E.

152. During the relevant period, Defendant was Plaintiffs' employer pursuant to the Fair Labor Standards Act.

153. During the relevant period, Plaintiffs were employees pursuant to the Fair Labor Standards Act.

154. Repayment of “damages” as defined by the contract between Defendant and Plaintiffs and other similarly situated upon termination is an illegal kickback of wages to Defendant because the purported damages are expenses incurred primarily for Defendant’s benefit.

155. Kicking back these expenses to Defendant takes employees' wages below the applicable minimum wage during the last work week employed by Defendant.

156. Plaintiffs and others similarly situated were not paid at least minimum wage for all hours worked in their final week of work because they were required to kick back their wages to Defendant.

157. Defendant's payment demands to Plaintiffs and others similarly situated were willful violations of the FLSA within the meaning of 29 U.S.C. § 255(a).

158. Plaintiffs and others similarly situated are entitled to recover their unpaid wages plus an additional equal amount in liquidated damages, costs of suit, declaratory relief, and reasonable attorneys' fees pursuant to 29 U.S.C. § 216(b).

SIXTH CAUSE OF ACTION

Violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (Failure to Pay Wages Free and Clear)

on behalf of Plaintiffs and all members of the Class and/or Collective

159. Plaintiffs reallege and incorporate by reference all the paragraphs above in the Complaint as though fully set forth herein..

160. During the relevant period, Defendant was Plaintiffs' employer pursuant to the Fair Labor Standards Act.

161. During the relevant period, Plaintiffs were employees pursuant to the Fair Labor Standards Act.

162. Defendant violated 29 U.S.C. § 206 by unlawfully requiring Plaintiff and others similarly situated to repay so-called “damages” that amount to tens of thousands of dollars of their earned and taxed wages to Defendants once their employment with Defendants ended.

163. Rather than paying Plaintiffs and other similarly situated employees their wages “free and clear,” Defendant maintained and enforced a policy under which the wages paid to employees during every pay period were paid conditionally, subject to the requirement that

1 they not leave their jobs. If they did leave their jobs, they would have to repay all of the wages
2 earned during the pending pay period, plus tens of thousands of additional dollars.

3 164. By requiring Plaintiffs and other similarly situated employees to return their
4 wages to Defendant, Defendant failed to pay wages “finally and unconditionally,” as required
5 by the FLSA.

6 165. Because Defendant failed to pay wages “finally and unconditionally,” Defendant
7 cannot be deemed to have met the wage requirements of the FLSA, which includes the
8 requirement to pay no less than the federal minimum wage for each hour worked.

9 166. Defendant’s actions constitute willful violations of the FLSA within the
10 meaning of 29 U.S.C. § 255(a).

11 167. Plaintiffs and others similarly situated are entitled to recover all unpaid
12 minimum wages plus an additional equal amount in liquidated damages, costs of suit, and
13 reasonable attorneys’ fees pursuant to 29 U.S.C. § 216(b).

14
15 **JURY TRIAL DEMANDED**

16 Plaintiffs hereby demand a jury trial pursuant to Nevada Rule of Civil Procedure 38.

17 **PRAYER FOR RELIEF**

18 168. Plaintiffs on behalf of themselves and the Class and Collective respectfully
19 request that the Court:

- 20 a. Certify the case as a class action on behalf of the proposed class;
21 b. Designate Plaintiffs as a class representatives;
22 c. Designate Plaintiffs’ counsel of record as class counsel;
23 d. Certify the case as a collective action on behalf of the proposed collective;
24 e. Declare that Defendant’s conduct is illegal under the various statutes cited here;
25 f. Preliminarily and permanently enjoin Defendant and its officers, agents, successors,
26 employees, representatives, and any and all persons acting in concert with them from engaging
27 in the unlawful practices set forth in this Complaint;
28

1 g. Award Plaintiffs damages, including treble damages, and equitable relief, including
2 restitution and disgorgement, in an amount subject to proof at trial;

3 h. Award Plaintiffs' counsel costs incurred herein, including reasonable attorneys' fees
4 to the extent allowable by law;

5 j. Order pre-judgment and post-judgment interest as provided by law; and

6 k. Provide such other and further legal and equitable relief as this Court deems
7 necessary, just, and proper.
8
9

10 Dated: November 8, 2023

Signed: _____

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