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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ROSS FELIX, as an individual, and on
behalf of other aggrieved employees and
the State of California (LC §2699 et. seq.)

Plaintiff,

v.

MEDVERSANT TECHNOLOGIES,
LLC, a California limited liability
company; MATTHEW HADDAD, an
individual, and; DOES 1-10 inclusive,

Defendants.

Case No: 21GDCV00283

FIRST AMENDED COMPLAINT FOR DAMAGES

- 1. RETALIATION**
- 2. WRONGFUL DISCHARGE**
- 3. FAILURE TO PAY WAGES**
- 4. FAILURE TO PAY OVERTIME**
- 5. RECORD VIOLATIONS**
- 6. PAY-STUB VIOLATIONS**
- 7. WAITING TIME PENALTIES**
- 8. UNFAIR BUSINESS PRACTICES**
- 9. FAILURE TO PRODUCE**
- 10. FAILURE TO INDEMNIFY**
- 11. LC § 2699 PAGA CLAIMS**

Filing Date: March 2, 2021

Judge: Hon. Ralph C. Hofer

Dept: D - Glendale Courthouse

Trial: TBD

Plaintiff, ROSS FELIX (hereinafter also referred to as "Plaintiff", or "FELIX"), by and through his attorneys of record, brings this action individually, and on behalf of other aggrieved employees and the state of California, pursuant to Labor Code section 2699, et. seq., which together are referred to as "Plaintiffs" and/or "Plaintiff and other aggrieved employees" and alleges, based upon information and belief, as follows:

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1. This action arises out of acts, representations, and events occurring within the

2. Defendant, MEDVERSANT TECHNOLOGIES, LLC (hereinafter, also referred MEDVERSANT”) is a California limited liability company with its headquarters located N. Brand Blvd., Suite 370, Glendale, CA 91203 (with an entity file number of 0610103). Established in January of 2004, this LLC has had only one manager and CEO, HEW HADDAD (hereinafter also referred to as “HADDAD”).

3. During the relevant times at issue, MEDVERSANT employed FELIX and other employees. HADDAD was the sole and/or primary “owner, director, officer, or managing agent of” MEDVERSANT. HADDAD and MEDVERSANT may also hereinafter be referred to as “Defendants”.

4. The job duties and responsibilities of FELIX and other aggrieved employees were carried out through the Glendale office described above and downtown Los Angeles during the relevant time period at issue. Therefore, jurisdiction and venue are properly with this Court.

5. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of their officers, directors, agents, employees, or representatives, who were engaged in the management, direction, control, or transaction of the ordinary business affairs of Defendants.

6. The true names and capacities of Defendants sued under California Code of Civil Procedure section 474 as DOES 1 through 10, inclusive, and each of them, are unknown to Plaintiff who therefore sues these Defendants by fictitious names. Plaintiff will seek to amend the Complaint to set forth the true names and capacities of the fictitiously named Defendants. The true names and capacities of these fictitiously named Defendants have been fully researched. Plaintiff is informed and believes, that the fictitiously named Defendants are responsible in some manner for the events and occurrences alleged and that the damages claimed are directly and proximately caused by the conduct, acts and omissions of these Defendants.

1 aggrieved employees were inaccurate in several aspects, including but not necessarily limited to
2 the following categories (with numeric reference to corresponding Labor Code section 226 (a)
3 requirements): (1) gross wages earned; (2) total hours worked by the employee; (4) all
4 deductions, provided that all deductions made on written orders of the employee may be
5 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
6 which the employee is paid; (8) the address of the legal entity; and (9) all applicable hourly rates
7 in effect during the pay period and the corresponding number of hours worked at each hourly rate
8 by the employee hours worked, wages owed, and deductions made. Defendants made deductions
9 from aggrieved employees' pay, including but not limited to state taxes and health care premiums
10 which were not, in fact, paid by MEDVERSANT.

11 11. On February 18, 2020, FELIX wrote and sent an over 2-page letter HADDAD as
12 the CEO of MEDVERSANT, regarding the details of the various wage/pay issues as also
13 described in this pleading, among other issues.

14 12. On March 10, 2020, FELIX advised MEDVERSANT (including HADDAD) that
15 records from the federal Social Security Administration ("SSA") indicated that MEDVERSANT
16 had reported wages paid to FELIX of only a third of what he was actually paid. Past tax refunds
17 were delayed because MEDVERSANT had apparently been delinquent in pay taxes it had
18 withheld from FELIX's pay. Apparently, MEDVERSANT was not paying governmental entities
19 for the deductions it had been making from FELIX's pay (as indicated in the pay stub).
20 Eventually, MEDVERSANT provided new information to the SSA. However, that information
21 was also inaccurate: instead of reporting an annual income of a third of his actual income, it now
22 showed an income of 33% of actual income for 2019. Defendants have refused to correct this
23 inaccurate information it provided the SSA and other governmental agencies (i.e., the EDD).
24 MEDVERSANT also reported a small fraction of what MEDVERSANT paid FELIX IN 2019.
25 FELIX's past tax refunds were delayed because MEDVERSANT had apparently been delinquent
26 in pay taxes it had withheld from FELIX's pay. Based on such available information and belief,
27 MEDVERSANT was not paying governmental entities for the deductions is had been making
28 from FELIX's pay (as indicated in the pay stub) as well as that of other aggrieved employees.

13. Instead of remediating these illegal pay practices and paying the wages legally owed to FELIX and other aggrieved employees, Defendants created pre-textual reasons for terminating FELIX and has continued its illegal pay practices.

14. The above-described practices subject Defendants to liability pursuant to Labor Code § 2699, et. seq. On March 4, 2021, Plaintiff filed and served the required PAGA notice letter on Defendants. On March 12, 2021, Plaintiff filed and served an amendment (correction) to the March 4, 2021, PAGA notice letter. See attached Exhibits 1 and 2 respectively.

FIRST CAUSE OF ACTION

(Retaliation - Against All Defendants)

15. Plaintiff alleges and incorporates herein by reference all paragraphs outside this section as though fully set forth herein.

16. California Labor Code § 1102.5 (entitled “Whistleblower Protection”) prohibits an employer, or any person acting on behalf of the employer from retaliating against an employee “because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, ...if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.”

17. In addition, Labor Code section 98.6 (a), states in pertinent part as follows:

A person shall not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against any employee or applicant for employment because the employee or applicant engaged in any conduct delineated in this chapter... made a written or oral complaint that he or she is owed unpaid wages,... or because of the exercise by the employee or applicant for employment on behalf of himself, herself, or others of any rights afforded him or her.

18. During the relevant time period, Defendants were not paying Plaintiff for all commissions and vacation pay to which he was entitled. In addition, Defendants often paid Plaintiff and other aggrieved employees late in violation of Labor Code section 204, and at times, provided pay checks to FELIX and other aggrieved employees which they could not negotiate

1 because there where insufficient funds, and thus, “bounced”. After FELIX complained to
2 Defendants about these pay deficiencies and delinquencies, no corrective action was taken but
3 instead, Defendants terminated FELIX’s employment. These illegal practices included violation
4 of Labor Code sections 203.1, 221, 223, 227, 227.3, 226.6, 2751,

5 19. Plaintiff’s inquiries as described above and throughout this Complaint, were
6 motivating factors for MEDVERSANT’s retaliation against FELIX by withholding earned
7 wages owed to him, and also by abruptly terminating his employment without warning and
8 without legal cause, providing only pre-textual reasons.

9 20. Defendants’ above described retaliatory actions were each a substantial factor in
10 causing Plaintiff’s harm which included both economic and non-economic losses. Specifically,
11 such damages include Plaintiff’s loss of past and future wages/benefits, humiliation, mental
12 anguish, and emotional and physical distress, injury in mind and body in an amount to be
13 determined at trial and according to proof. Plaintiff is also entitled to recover interest, attorneys’
14 fees and costs pursuant to California Labor Code §§98.6 and 1102.5 (j).

15 21. Pursuant to California Labor Code § 98.6 (b) (1), “any employee who is . . .
16 retaliated against . . . shall be entitled to reinstatement and reimbursement for lost wages and
17 work benefits caused by those acts of the employer.”

18 22. Pursuant to California Labor Code § 1102.5(f), “in addition to other penalties, an
19 employer that is a corporation or limited liability company is liable for a civil penalty, not
20 exceeding ten thousand dollars (\$10,000) for each violation of this section.”

21 23. The above-recited actions of Defendants were also done with malice, fraud,
22 oppression, and reckless disregard of the Plaintiff’s rights and within the meaning of California
23 Civil Code § 3294 entitling Plaintiff to recover punitive damages.

24 **SECOND CAUSE OF ACTION**

25 **(Wrongful Discharge Against Public Policy - Against MEDVERSANT Only)**

26 24. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
27 section as though fully set forth herein.

28 25. An employer is prohibited from discriminating against an employee who engages

1 in a statutorily protected activity and opposes unlawful conduct by the employer. In addition, the
2 California State Legislature has recognized that pursuant to many Labor Code sections (including
3 but not necessarily limited to those listed in this section) and pursuant to Code of Civil Procedure
4 § 487.020, there is a fundamental and substantial public policy protecting an Employee's wages.
5 This legislative support of employees emanates from California Labor Code § 98.6 which
6 establishes that "[n]o person shall discharge or in any manner discriminate against any employee
7 ... because the employee ... has filed a bona fide complaint or claim relating to any rights under
8 the jurisdiction of the Labor Commissioner", otherwise the employee "shall be entitled to...
9 reimbursement for lost wages and work benefits caused by those acts of the employer." Such
10 wrongful discharge is also prohibited according to *Tameny v. Atlantic Richfield Co.* (1980) 27
11 Cal.3d 167. Furthermore, Labor Code § 216 establishes it a misdemeanor for an employer to
12 willfully fail to pay wages that are due if the employer has the ability to pay and a demand for
13 the wages has been made.

14 26. The Legislature's decision to criminalize certain employer conduct reflects a
15 determination that the conduct affects a broad public interest. *Gould v. Maryland Sound*
16 *Industries, Inc.* (1995) 31 Cal. App. 4th 1137.

17 27. In addition, there were a number of provisions of the Labor Code intended to
18 protect an employee's right to prompt and unconditional payment of wages violated by
19 Defendants, including but not limited to Labor Code, §§ 201, 201.5, 201.7, 202, 203, 203.1, 204,
20 206, 206.5, 209, 212, 218, 221-224, 226, 226.6, 227, 227.3, 500, 510, 1198 and 2751.

21 28. FELIX asserted his statutory rights, which concern matters of public importance
22 including but not necessarily limited to those listed above and for reasons stated throughout this
23 complaint. The statutes were written for the purpose of satisfying fundamental and substantial
24 public policies of benefitting the general public by protecting the public from harm through
25 prevention of repeated and knowing compliance violations.

26 29. MEDVERSANT terminated FELIX because he raised issues of illegal pay
27 practices including knowing violation of the California Labor Code as described throughout this
28 Complaint. Seeking to invoke the protections of that California Labor Code should not subject an

1 employee to adverse employment action. Yet here, it did.

2 30. FELIX was harmed as a direct result of MEDVERSANT's demotion and
3 wrongful termination of him. FELIX has sustained economic and non-economic damages as a
4 result of MEDVERSANT's above described wrongful actions. Specifically, such damages
5 include Plaintiff's loss of past and future wages/benefits, humiliation, mental anguish, and
6 emotional and physical distress, and injury to mind and body in an amount to be determined at
7 trial and according to proof.

8 31. The above-recited actions of Defendants were done with malice, fraud,
9 oppression, and reckless disregard of the Plaintiff's rights and within the meaning of California
10 Civil Code § 3294 entitling Plaintiff to recover punitive damages from MEDVERSANT.

11 **THIRD CAUSE OF ACTION**

12 **(Failure to Pay Wages - Against All Defendants)**

13 32. FELIX re-alleges and incorporates herein by reference all paragraphs outside this
14 section as though fully set forth herein.

15 33. Pursuant to Labor Code § 200, "wages" includes all amounts for labor performed
16 by employees of every description, whether the amount is fixed or ascertained by the standard of
17 time, task, piece, commission basis, or other method of calculation. Under California state law
18 through the Minimum Wage Order MW-2007, Labor Code section 1182.12 and local ordinances,
19 every employer shall pay to each employee wages.

20 34. In addition, Labor Code § 223 states that "[w]here any statute or contract requires
21 an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower
22 wage while purporting to pay the wage designated by statute or by contract."

23 35. Labor Code section 226.6 imposes personal liability on "any person, or an agent,
24 manager, superintendent, or officer... who...[h]aving the ability to pay, willfully refuses to pay
25 wages due and payable after demand has been made."

26 36. "It shall be unlawful for any employer to collect or receive from an employee any
27 part of wages theretofore paid by said employer to said employee." Labor Code § 221.

28 37. Labor Code section 227, states in pertinent part as follows:

1 If an employer has made withholdings from an employee's wages
2 pursuant to state, local, or federal law, or has agreed with any
3 employee to make payments to a health or welfare fund, pension
4 fund, or vacation plan, or other similar plan for the benefit of the
5 employees, or a negotiated industrial promotion fund, or has
6 entered into a collective bargaining agreement providing for these
7 payments, it shall be unlawful for that employer willfully or with
8 intent to defraud to fail to remit the withholdings to the proper
9 agency or to fail to make the payments required by the terms of that
10 agreement. A violation of any provision of this section when the
11 amount the employer failed to pay into the fund or funds exceeds
12 five hundred dollars (\$500) shall be punishable by imprisonment
13 pursuant to subdivision (h) of Section 1170 of the Penal Code, or
14 in a county jail for a period of not more than one year, by a fine of
15 not more than one thousand dollars (\$1,000), or by both that
16 imprisonment and fine...
17 termination as a wage and cannot be forfeited once earned.

18 38. Labor Code § 227.3 establishes that vested vacation pay is due and payable upon
19 termination. Labor Code § 2751 provides that commission plans shall be in writing and that the
20 employer shall give a signed copy to every employee who is a party thereto and shall obtain a
21 signed receipt from each employee and, "[i]n the case of a contract that expires and where the
22 parties nevertheless continue to work under the terms of the expired contract, the contract terms
23 are presumed to remain in full force and effect until the contract is superseded or employment is
24 terminated by either party."

25 39. Plaintiff hereby requests damages for Defendants' actions, including payment of
26 wages earned/owed, along with associated allowable premiums, penalties, interests, attorneys'
27 fees and costs. Therefore, Plaintiff is entitled to recover the required minimum wage for the time
28 periods in question, multiplied times two for all hours worked pursuant to Labor Code § 1194.2
as liquidated damages, plus interest pursuant to Labor Code §§ 1194, 1194.2, and Civil Code §
3289, from the date payment was due pursuant to Labor Code § 204, attorney fees, expenses, and
costs of suit pursuant to Labor Code §§ 218.5, 218.6, 1194, 1194.3. Defendants' liability for
penalties pursuant to Labor Code sections 210, 227, 558, 558.1, 1197.1, give rise to a separate
cause of action pursuant to the PAGA as set forth below.

29 **FOURTH CAUSE OF ACTION**

30 **(Failure To Pay Overtime Wages Against MEDVERSANT)**

31 40. FELIX re-alleges and incorporates herein by reference all paragraphs outside this

1 section as though fully set forth herein.

2 41. Pursuant to, to the applicable Industrial Welfare Commission Wage Order and its
3 corresponding sections of the California Code of Regulations, and Labor Code §§ 200, 223,
4 226, 500, 510, and 1198, Defendant was required to compensate FELIX for all overtime, which
5 is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of
6 eight (8) hours in one workday and forty (40) hours in any one workweek, and after the first eight
7 (8) hours on the seventh consecutive workday in any one workweek; with double (2) time after
8 eight (8) hours on the seventh day of any workweek, or after twelve (12) hours in any workday.

9 42. Based on FELIX's daily duties, he was a non-exempt employee entitled to the
10 protections of Industrial Welfare Commission Wage Order and its corresponding sections of the
11 California Code of Regulations and Labor Code §§ 200, 510, and 1198, among others. However,
12 Defendants failed to compensate FELIX for overtime hours worked as required by the
13 aforementioned labor regulations. During FELIX's employment with MEDVERSANT,
14 Defendants failed to compensate FELIX for his hours worked, as required by the aforementioned
15 labor laws and regulations.

16 43. Under the aforementioned wage orders, statutes and regulations, FELIX is entitled
17 to pay for overtime work performed during the course of his/her employment with Defendants.
18 FELIX was not paid by MEDVERSANT for overtime hours worked.

19 44. As a direct result, FELIX has suffered, and continues to suffer, substantial loses
20 related to the use and enjoyment of such wages, lost interest on such wages, expenses and
21 attorneys' fees in seeking to compel Defendants to fully perform their obligation under state law,
22 all to his respective damage in amounts according to proof at the time of trial, but in amounts in
23 excess of the minimal jurisdictional requirements of this Court.

24 45. Defendants' conduct described herein violates the applicable Industrial Welfare
25 Commission Wage Order, Section 3(A), Labor Code §§ 200, 226, 500, 510 and 1198. As a
26 proximate result of the aforementioned violations, FELIX has been damaged in an amount
27 according to proof at the time of trial, but in an amount in excess of the minimal jurisdictional
28 requirements of this Court. Furthermore, FELIX is entitled to recover the unpaid balance of

1 hourly pay owed, overtime compensation, interest, penalties, attorneys' fees, expenses, and costs
2 of suit.

3 46. Furthermore, pursuant to Labor Code section 1199, "[e]very employer or other
4 person acting either individually or as an officer, agent, or employee of another person is guilty
5 of a misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) or by
6 imprisonment for not less than 30 days, or by both, who does any of the following: (a) [r]equires
7 or causes any employee to work for longer hours than those fixed, or under conditions of labor
8 prohibited by an order of the commission...." Defendants can also be held personally liable
9 pursuant to Labor Code sections 558, 558.1, 1197.1 pursuant to the applicable PAGA provisions
10 as wet forth below.

11 47. Therefore, pursuant to Labor Code sections 98.5, 204, 218.5, 218.6, 226, 510, and
12 1194, 1199 and Civil Code section 3289, Plaintiff is entitled to recover the unpaid balance of
13 hourly pay owed, overtime compensation, interest, penalties, attorneys' fees, expenses, and costs
14 of suit.

15 **FIFTH CAUSE OF ACTION**

16 **(Record Violations - Against MEDVERSANT only)**

17 48. FELIX re-alleges and incorporates herein by reference all paragraphs outside this
18 section as though fully set forth herein.

19 49. Pursuant to Labor Code § 1174(d), MEDVERSANT has a legal obligation to
20 "[k]eep, at a central location in the state or at the plants or establishments at which employees are
21 employed, payroll records showing the hours worked daily by and the wages paid to, and the
22 number of piece-rate units earned by and any applicable piece rate paid to, employees employed
23 at the respective plants or establishments."

24 50. MEDVERSANT failed to maintain records of FELIX's hours worked it was
25 required to keep pursuant to Labor Code § 1174(d). Therefore, MEDVERSANT violated Labor
26 Code § 1174(d) by failing to collect and keep records indicating the daily hours worked by
27 FELIX.

28 51. Pursuant to Labor Code § 1174.5, "any person employing labor who willfully fails

1 to maintain...accurate and complete records required by subdivision (d) of Section 1174...shall be
2 subject to a civil penalty of five hundred dollars (\$500).” Accordingly, MEDVERSANT is
3 required pay FELIX an additional \$500 along with consequential damages.

4 **SIXTH CAUSE OF ACTION**

5 **(Failure to Provide Proper Pay Stubs Against MEDVERSANT Only)**

6 52. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
7 section as though fully set forth herein.

8 53. Defendants failed to provide Plaintiff with proper pay-stubs. This failure was in
9 clear violation of California Labor code sections 226 and 226.3.

10 54. Labor Code section 226 (a) states, in part, that, “[e]very employer shall,
11 semimonthly or at the time of each payment of wages, furnish each of his or her employees,
12 either as a detachable part of the check, draft, or voucher paying the employee's wages, or
13 separately when wages are paid by personal check or cash, an accurate itemized statement in
14 writing showing, (1) gross wages earned, (2) total hours worked by the employee...(4) all
15 deductions, provided that all deductions made on written orders of the employee may be
16 aggregated and shown as one item, (5) net wages earned...(7) the name of the employee and only
17 the last four digits of his or his social security number or an employee identification number
18 other than a social security number, (8) the name and address of the legal entity that is the
19 employer..., and (9) all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee...” The itemized
21 statement should also be “properly dated”. Labor Code § 226 (a).

22 55. Labor Code section 226 (e) (1) states that, “[a]n employee suffering injury as a
23 result of a knowing and intentional failure by an employer to comply with subdivision (a) is
24 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
25 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
26 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and
27 is entitled to an award of costs and reasonable attorney's fees.”

28 56. Defendants failed to provide Plaintiff with pay stubs that accurately reflected the

1 hours worked, wages earned, including overtime wages, and the rate of pay for hours worked.
2 Defendants' failure to provide accurate pay stubs violated Labor Code section 226 (a) caused
3 injury to FELIX in multiple ways, including but not limited to the expenses/loses incurred for
4 Defendants failure to accurately report the wages paid to Plaintiff to various governmental
5 entities as articulated throughout this pleading.

6 57. Defendants knowingly and intentionally failed to comply with Labor Code section
7 226(a), as delineated above. Accordingly, MEDVERSANT is liable for damages owed to
8 Plaintiff as specified in Labor Code section 226(e)(1).

9 SEVENTH CAUSE OF ACTION

10 (Waiting Time Penalties - Against MEDVERSANT only)

11 58. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
12 section as though fully set forth herein.

13 59. Pursuant to Labor Code section 201, Plaintiff was entitled to all wages earned at
14 the time of termination, included commissions, vested vacation pay, overtime pay, etc., as set
15 forth above.

16 60. Defendants intentionally failed to pay Plaintiff all wages and sums owed as
17 required by Labor Code § 201.

18 61. Therefore, pursuant to Labor Code § 203, Plaintiff is entitled to receive up to 30
19 days worth of pay calculated at his regular rate of pay which Defendants knowingly and willfully
20 failed to pay after termination of employment.

21 EIGHTH CAUSE OF ACTION

22 (Unfair Business Practices -Against MEDVERSANT Only)

23 62. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
24 section as though fully set forth herein.

25 63. In addition to the statutes cited throughout this Complaint, MEDVERSANT also
26 violated various Labor Code sections, including, but not limited to, Labor Code sections §§ 215,
27 216, 225 and 226.6.

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1 64. Defendant's actions alleged above and throughout this Complaint constitute
2 unfair business practices in violation of California Business and Professions Code sections
3 17200, et seq., because they were done repeatedly over a significant period of time, and in a
4 systemic manner to the detriment of Plaintiff.

5 65. As a result, Plaintiff has suffered damages and requests damages and/or restitution
6 of all monies and further requests that profits be disgorged from Defendant in an amount
7 according to proof at time of trial, but in an amount believed to be in excess of the minimal
8 jurisdictional requirements of this Court.

9 66. Pursuant to California Business & Professions Code section 17203, Plaintiff
10 requests that this Court order Defendant to disgorge all ill-gotten gains and award Plaintiff full
11 restitution of all monies wrongfully acquired by Defendant by such "unfair" business act and
12 practices as outlined herein above, plus interest and attorneys' fees pursuant to California Code of
13 Civil Procedure section 1021.5. Plaintiff additionally requests that such funds be impounded by
14 the Court or that an asset freeze or constructive trust be imposed upon such revenues and profits
15 to avoid dissipation and/or fraudulent transfers or concealment of such monies by Defendant.
16 Plaintiff may be irreparably harmed and/or denied an effective and complete remedy if such an
17 order is not granted.

18 67. Pursuant to California Business & Professions Code section 17203, Plaintiff
19 further seeks an order of this Court for equitable and/or injunctive relief in the form of requiring
20 Defendant to correct the unfair business acts and practices referenced herein.

21 68. Plaintiff reserves the right to allege other violations of law which constitute
22 unlawful acts or practices.

23 **NINTH CAUSE OF ACTION**

24 **(Failure to Produce Records Against MEDVERSANT Only)**

25 69. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
26 section as though fully set forth herein.

27 70. Labor Code section 226(b) provides that employers "shall afford current and
28 former employees the right to inspect or copy records pertaining to their employment, upon

1 reasonable request to the employer.” Per Labor Code section 226(c), “An employer who receives
2 a written or oral request to inspect or copy record...pertaining to a current or former employee
3 shall comply with the request as soon as practicable, but no later than 21 calendar days from the
4 date of the request.”

5 71. “A failure by an employer to permit a current or former employee to inspect or
6 copy records within the time set forth in subdivision (c) entitles the current or former employee
7 or the Labor Commissioner to recover a seven hundred fifty dollar (\$750) penalty from the
8 employer” per Labor Code section 226(f). Further, Labor Code section 226(h) provides that: “An
9 employee may also bring an action for injunctive relief to ensure compliance with this section,
10 and is entitled to an award of costs and reasonable attorney’s fees.”

11 72. On February 22, 2021, Plaintiff, through his counsel of record, sent to Defendants,
12 through certified mail, a request for production of Plaintiff’s personnel file pursuant to Labor
13 Code section 226.

14 73. Defendants failed to produce the records requested within twenty-one (21) days of
15 their receipt of that request.

16 74. Therefore, Defendants’ failure to permit Plaintiff to inspect or copy his records
17 within twenty-one (21) days, is a statutory violation of California Labor Code section 226(c).
18 Consequently, Plaintiff seeks injunctive relief, penalties, attorneys’ fees, and costs to force
19 compliance with the statute, pursuant to Labor Code section 226(h). Additionally, HADDAD
20 was owners, directors, officers, or managing agents of MEDVERSANT and at all times relevant
21 herein was acting on behalf of MEDVERSANT and thus are personally liable for penalties
22 pursuant to Labor Code sections 558 and 558.1 as described further herein.

23 TENTH CAUSE OF ACTION

24 (Failure to Indemnify Employee Expenses Against MEDVERSANT)

25 75. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside
26 this section as though fully set forth herein.

27 76. Defendants failed to indemnify Plaintiff for personal expenditures including, but
28 not limited to, the purchase and use of a hard drive, which benefitted Defendants.

77. Pursuant to California Labor Code section 2802, Plaintiff, and other aggrieved employees, are entitled to indemnification from Entity Defendants for all expenditures incurred by Plaintiff, and other aggrieved employees, in direct consequence of the discharge of their duties, plus attorneys' fees.

ELEVENTH CAUSE OF ACTION

(Labor Code § 2699 Claims Against All Defendants)

78. Plaintiffs re-allege and incorporates herein by reference all paragraphs outside this section as though fully set forth herein.

79. On March 4, 2021, pursuant to Labor Code sections 2699(a) and 2699.3, Plaintiff provided notice, on behalf of other aggrieved employees and the State of California in writing, by electronic submission, to the California Labor Workforce Development Agency ("LWDA") and, by certified mail and regular mail, to Defendants, that Plaintiff intended to assert PAGA claims pursuant to section 2699(a) on his own behalf, and in a representative capacity on behalf of other current or former aggrieved employees, for Defendants' violations of specified provisions of the California Labor Code. A true and correct copy of the notice is attached hereto as Exhibit "1" and thereby incorporated by reference herein.

80. The LWDA failed to respond to Plaintiff's notice within the statutory period of sixty-five (65) days from the electronic submission date of March 4, 2021, and, as a result, Plaintiff has perfected his right to sue Defendants, and each of them, in a civil action, on behalf of other aggrieved employees and the state of California LWDA to collect statutory penalties, pursuant to Labor Code section 2699.3(a)(2)(A)(1).

81. As a result of the acts alleged above, Plaintiff brings this action on his own behalf, and in his representative capacity on behalf of other current or former aggrieved employees, for penalties pursuant to California Labor Code section 2699 for Defendants' violations of the enumerated Labor Code sections alleged in throughout this pleading including, but not limited to sections 201, 202, 203, 203.1, 204, 210, 218.5, 2018.6, 226, 226.3, 226.6, 226.7, 510, 512, 552, 558, 558.1, 1174, 1174.5, 1175, 1194, 1197.1, 1198, 1198.5, 1199 and 2751.

82. Labor Code section 558 states that, "[a]ny employer or other person acting on

1 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
2 provision regulating hours and days of work in any order of the Industrial Welfare Commission
3 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
4 each underpaid employee for each pay period for which the employee was underpaid in addition
5 to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one
6 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
7 was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages
8 recovered pursuant to this section shall be paid to the affected employee." The Section further
9 states that "[t]he civil penalties provided for in this section are in addition to any other civil or
10 criminal penalty provided by law."

11 83. Labor Code section 558.1 (a) also states that, "[a]ny employer or other person
12 acting on behalf of an employer, who violates, or causes to be violated, any provision regulating
13 minimum wages or hours and days of work in any order of the Industrial Welfare Commission,
14 or violates, or causes to be violated, sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held
15 liable as the employer for such violation."

16 84. HADDAD was an employee and/or person acting on behalf of MEDVERSANT.
17 HADDAD violated, or caused to be violated, Labor Code Sections and Wage Orders including,
18 but not limited to, those requiring: timely payment of all wages owed, payment of overtime,
19 payment of wages due at the time of separation, delivery of pay stubs, production of documents
20 requested, maintenance of time records, alleged herein.

21 85. Accordingly, Plaintiff, on his own behalf, other aggrieved employees, and the
22 state of California (specifically, the California Labor & Workforce Development Agency, aka the
23 "LWDA") are entitled to personally recover against Defendants, and all of them, such penalties
24 as set forth in Labor Code section 558, 558.1, as delineated above, and for amounts owed under
25 Labor Code sections 203, 203.1, 226, 226.3, 226.6, 226.7, 1194, and 2802, alleged herein,
26 pursuant to Labor Code section 558.1.

27 86. It should also be noted that Labor Code section 1197.1 specifically states, in part,
28

1 as follows: "Any employer or other person acting either individually or as an officer, agent, or
2 employee of another person, who pays or causes to be paid to any employee a wage less than the
3 minimum fixed by an order of the commission shall be subject to a civil penalty and restitution
4 of wages payable to the employee, as follows: (1) For any initial violation that is intentionally
5 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for
6 which the employee is underpaid. This amount shall be in addition to an amount sufficient to
7 recover underpaid wages. (2) For each subsequent violation for the same specific offense, two
8 hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the
9 employee is underpaid regardless of whether the initial violation is intentionally committed. This
10 amount shall be in addition to an amount sufficient to recover underpaid wages..." HADDAD
11 was a person acting individually or as an officer, agent, or employee of all entity Defendants who
12 caused the Plaintiff and other aggrieved employees to be paid less than the statutorily required
13 minimum wage as described in this First Amended Complaint. Accordingly, he is subject to
14 individual liability pursuant to Labor Code section 1197.1. The same holds true pursuant to
15 Labor Code section 558, as described above.

16 87. Pursuant to California Labor Code section 2699, Plaintiff and other aggrieved
17 employees are entitled to be awarded twenty-five percent (25%) of all penalties referenced herein
18 and due under California law, in addition to interest, attorneys' fees, and costs.

19 88. The Court shall award seventy-five percent (75%) of all penalties referenced
20 herein and due under California law to the State of California.

21 89. Plaintiff therefore seeks to recover from Defendants, and each of them, allowable
22 penalties, interest, costs, and attorneys' fees, in an amount according to proof at time of trial, in
23 accordance with Labor Code sections 2699, et seq.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

26 1. Liquidated damages, economic damages, non-economic damages and premiums
27 according to proof;

28 2. Penalties, liquidated damages and compensation pursuant to Labor Code sections
201, 201.5, 201.7, 202, 203, 204, 206, 206.5, 209, 210, 212, 218, 222-224, 226, 226.3, 227,

227.3, 226.7, 500, 510, 512, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197.1, 1197.5, 1198, 2802,
and 2699, et. seq.;

3. Interest pursuant to all applicable statutes, including, but not limited to, Labor
Code section 218.6 and Civil Code section 3289;

4. All damages available through all applicable sections of the Labor Code;

5. Restitution and/or disgorgement pursuant to Business & Professions Code
sections 17200, et seq. and Labor Code section 1197.1;

6. Reasonable attorneys' fees and costs pursuant to all applicable statutes, including,
but not limited to, Labor Code sections 218.5, 226, 1194, 1102.5, 2802, 2699 et. seq. and Code
of Civil Procedure section 1021.5;

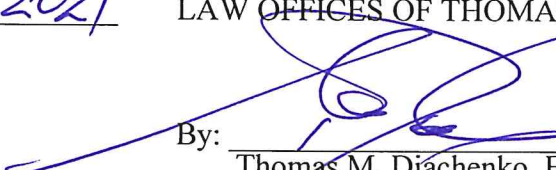
7. Punitive damages, and;

8. Such other and further relief as may be allowed.

Dated: May 12, 2021

Respectfully Submitted By:

LAW OFFICES OF THOMAS M. DIACHENKO, APC

By: 

Thomas M. Diachenko, Esq.
Attorney for Plaintiff, Ross Felix

EXHIBIT 1

LAW OFFICES OF

✧ **THOMAS M. DIACHENKO, APC**

Practice Areas Include:

Wage, Employment, Personal

Injury & Business Litigation

E-mail: Thom@DiachenkoLaw.com

1916 Third Avenue
San Diego, California 92101

Tel: (619) 699-5870

Fax: (619) 699-5871

March 4, 2021

Refer to File No:
04212020-01292021

Sent via electronic mail to:

PAGA Administrator

David M. Lanier

PAGAFilings@dir.ca.gov

Re: *Ross Felix, an individual v. Medversant Technologies, LLC, a California limited liability company; Matthew Haddad, an individuals, and; DOES 1-10 inclusive,*

Dear Mr. Lanier:

I represent Ross Felix ("Plaintiff" or "FELIX"), individually and on behalf of all other aggrieved employees. Plaintiff and the other aggrieved employees as also collectively referred to hereinafter as "PAGA Plaintiffs", "Plaintiffs" or "Plaintiff and other aggrieved employees"). FELIX is a *former* employee of Medversant Technologies, LLC ("MEDVERSANT") but was misclassified as an independent contractor but paid a set monthly salary regardless of the amount of hours suffered or permitted to work, as were other aggrieved employees. Matthew Haddad, in his various executive capacities carried out and/or ratified MEDVERSANT's illegal employment practices. Matthew Haddad ("HADDAD"), and MEDVERSANT are also sometime hereinafter collectively referred to as "Defendants".

Pursuant to Labor Code section 2699.3, this letter constitutes written notice of Defendants' various Labor Code violations and of our intent to recover statutory penalties under the Labor Code's Private Attorney General Act of 2004. Payment will be submitted concurrently with this letter through the LWDA/PAGA portal (<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>).

The following information is based upon best information and belief available at the time of this writing.

INVOLVED ENTITIES AND INDIVIDUALS

Defendant Medversant Technologies, L.L.C., hereinafter referred to as "MEDVERSANT" is a California limited liability company, doing business at 330 N. Brand Boulevard, Suite 370, Glendale, California 91203. HADDAD has been and is believed to be the Sole Managing Member for MEDVERSANT. HADDAD served in various executive and director levels. This individual was responsible for making and/or ratifying all decisions relevant to the below claims. During all times relevant herein, his individual possessed and exerted decision-making power over Plaintiffs' working conditions, failure to pay wages (for overtime hours worked,

commissions earned and vacation time earned), late payment of wages, issuance of non-negotiable pay checks payment of wages, improper wage deductions, false filings regarding wages paid with state agencies, federal agencies and health care insurance providers. After and in response to FELIX's expressed concerns about MEDVERSANT's illegal employment practices, Defendants retaliated against FELIX by demoting him and eventually firing him.

GENERAL ALLEGATIONS

At all times mentioned herein, Plaintiff FELIX was an "employee" (as defined by Labor Code section 350) of MEDVERSANT.

MEDVERSANT is a company which performs outsourced credentialing as an accredited Credentials Verification Organization on behalf of health insurance plans and pharmacies. FELIX was employed by MEDVERSANT from January of 2014, to April 21, 2020, when MEDVERSANT terminated FELIX. MEDVERSANT changed FELIX's job title over that span of time. FELIX was initially hired as a Project Manager but was promoted late that year to a Director. In March of 2017, he was promoted to Vice President and was promised production-based pay (commissions or non-discretionary bonuses) in writing in October of 2017. On April 1, 2019, FELIX requested the commissions he had earned. Instead of paying FELIX what he was owed in commissions, In addition to the wages described above, MEDVERSANT also failed to pay FELIX, as well as other aggrieved employees, their earned vacation time and overtime hours worked as non-exempt employees.

When MEDVERSANT did pay FELIX, and other aggrieved employees, the pay was later than the designated (statutorily mandated) pay date approximately half of the time for FELIX but more frequent and delinquent for some to the other aggrieved employees. The frequency and severity of the delinquencies have fluctuated over time. MEDVERSANT knowingly issued against insufficient bank account funds. A warrant was issued by a MEDVERSANT employee in Texas for the numerous non-negotiable paychecks it knowingly issued. On several occasions, paychecks issued to FELIX "bounced" (could not be negotiated due to "insufficient funds" in MEDVERSANT's bank account).

The wage statements (pay stubs) MEDVERSANT issued to FELIX and other aggrieved employees were inaccurate in several aspects, including but not necessarily limited to the following categories (with numeric reference to corresponding Labor Code section 226 (a) requirements): (1) gross wages earned; (2) total hours worked by the employee; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid; (8) the address of the legal entity, and; (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee hours worked, wages owed, and deductions made. Defendants made deductions from Plaintiffs' pay, including but not limited to state/federal/employer taxes and health care premiums which were not, in fact paid by MEDVERSANT.

On February 18, 2020, FELIX wrote an over 2-page letter HADDAD as the CEO of

MEDVERSANT, regarding the details of the above-described wage issues, among other issues.

On March 10, 2020, advised MEDVERSANT (including HADDAD) that records from the federal Social Security Administration ("SSA") records indicated that MEDVERSANT had reported wages paid to FELIX of only a third of what he was actually paid. Past tax refunds were delayed because Defendants had apparently been delinquent in pay taxes withheld from FELIX's pay. Apparently, Defendants were not paying governmental entities for the deductions is had been making from FELIX's pay (as indicated in the pay stub). Eventually, Defendants provided new information to the SSA. However, that information was also inaccurate: instead of reporting an annual income of a third of his actual income, it now showed an income of 133% of actual income for 2019. Defendants have refused to correct this inaccurate information it provided the SSA. MEDVERSANT also reported a small fraction of what MEDVERSANT paid FELIX IN 2019. FELIX's past tax refunds were delayed because MEDVERSANT had apparently been delinquent in pay taxes it had withheld from FELIX's pay. Based on such available information and belief, Defendants were not paying governmental entities for the deductions is had been making from FELIX's pay (as indicated in the pay stub) as well as that of other aggrieved employees.

Instead of remediating these illegal pay practices and paying the wages legally owed to Plaintiff and other aggrieved employees, Defendants created pre-textual reasons for terminating FELIX and has continued its illegal pay practices.

The above-described practices subject Defendants to liability pursuant to Labor Code section 2699, et. seq., (aka, the "PAGA"). HADDAD is personally liable pursuant the PAGA and the various Labor Code sections listed below (including but not limited to sections 558, 558.1, which can be pursued through the PAGA but only after 65 days have passed after notice, without action by the state.

STATUTORY VIOLATIONS

Retaliation

California Labor Code § 1102.5 (entitled "Whistleblower Protection") prohibits an employer, or any person acting on behalf of the employer from retaliating against an employee "because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, ...if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties." In addition, Labor Code section 98.6 (a), states in pertinent part as follows:

A person shall not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against any employee or applicant for employment because the employee or applicant engaged in any conduct delineated in this chapter... made a written or oral complaint that he or she is owed unpaid wages,... or because of the

exercise by the employee or applicant for employment on behalf of himself, herself, or others of any rights afforded him or her.

Defendants failed and refused to pay Plaintiffs for various types of wages including overtime hours worked, commissions earned and vacation time earned in violation of Labor Code sections 200, 223, 226.6, 227.3, 510 and 2751. When wages owed were paid by Defendants, the pay was often days after the designated pay date and/or in violation of Labor Code section 204. Checks issue by Defendants to Plaintiffs were also knowingly written against insufficient funds. Plaintiffs' pay checks "bounced" as a result, which was in violation of Labor Code sections 203.1 and 204.

After FELIX complained to Defendants about these pay deficiencies and delinquencies, no corrective action was taken but instead, Defendants terminated FELIX's employment. FELIX's assertion of his, and other aggrieved employees' rights under the Labor Code was the reason for FELIX's demotion and termination. As such, Defendants' above described retaliatory actions were each a substantial factor in causing harm. Pursuant to California Labor Code § 98.6 (b) (1), "any employee who is . . . retaliated against . . . shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by those acts of the employer." Pursuant to California Labor Code § 1102.5(f), "in addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty, not exceeding ten thousand dollars (\$10,000) for each violation of this section." Plaintiffs seek said civil penalties via the PAGA carrying statutes as codified in Labor Code sections 2699 et. seq.

Failure to Pay Wages

Defendants are subject to PAGA penalties for the above described failure to pay and failure to timely pay all wages owed in violation of Labor Code sections 200, 201, 203, 203.1, 204, 223, 221, 226.6, 227, 227.3, 500, 510, 1194, 1198 and 2751, subjecting Defendants the civil penalties in the amounts and frequencies as described and pursuant to Labor Code sections 558, 558.1, 226.6, 227, 203.1, 210, 1194.2, 1197.1, 1199 and 2699. HADDAD's personal liability lies in the plan language of these statutory provisions. For example, pursuant to Labor Code section 1199, "[e]very employer or *other person acting either individually or as an officer, agent, or employee* of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less than 30 days, or by both, who does any of the following: (a) [r]equires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission...." (Emphasis added.) Defendants can also be held personally liable pursuant to Labor Code sections 558 and 558.1 (without having to prove alter-ego) pursuant to the applicable PAGA provisions. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809.

Failure to Maintain Records

Pursuant to Labor Code Section 1174(d), Defendants have a legal obligation to "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed,

payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments."

Defendants failed to maintain records of the PAGA Plaintiff's hours worked which Defendants were required to keep pursuant to Labor Code Section 1174(d). Therefore, Defendants violated Labor Code Section 1174(d) by failing to collect and keep records indicating the daily hours worked by Plaintiffs and other aggrieved employees.

Pursuant to Labor Code Section 1174.5, "any person employing labor who willfully fails to maintain . . . accurate and complete records required by subdivision (d) of Section 1174 . . . shall be subject to a civil penalty of five hundred dollars (\$500)." Accordingly, Defendants are required to pay an additional \$500 per PAGA Plaintiff in penalties.

Failure to Provide Proper Pay Stubs (Wage Statements)

Defendants failed to provide the PAGA Plaintiffs with accurate pay stubs, or for that matter, any pay stubs. This failure was in clear dereliction of its duties as set forth in California Labor code sections 226 and 226.3 Labor Code section 226 states in part, that, "[e]very employer shall, semi-monthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an *accurate* itemized statement in writing showing, among other things, "(1) gross wages earned, (2) total hours worked by the employee..." Labor Code § 226 states in part as follows: "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law."

California Labor Code section 226.3, states in pertinent part as follows: "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law."

Defendants failed to comply with Labor Code Sections 226 and 226.3. Accordingly, Defendants are liable pursuant to Labor Code Section 226 which states that "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand

dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

Personal liability for violations of section 226 can be found in Labor code section 226.6 which reads as follows: "Any employer who knowingly and intentionally violates the provisions of Section 226, or any officer, agent, employee, fiduciary, or other person who has the control, receipt, custody, or disposal of, or pays, the wages due any employee, and who knowingly and intentionally participates or aids in the violation of any provision of Section 226 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court. That fine or imprisonment, or both, shall be in addition to any other penalty provided by law."

Waiting Time Penalties

Pursuant to Labor Code sections 201, 202 and 203, the PAGA Plaintiffs were entitled to all wages earned and unpaid at the time of discharge or within the time allotted by Labor Code sections 201 and 202.

Defendants failed to pay the PAGA Plaintiffs, when they terminated them ("their contracts"), all wages and sums owed at time of discharge, or within the time allowed by Labor Code sections 201 and 202, including, but not limited to, minimum wage, overtime, in accordance with Labor Code section 203. Defendants intentionally failed to pay Plaintiffs all wages owed to him at the time of his termination and that Defendants also failed to pay other aggrieved employees the wages owed to them at their time of discharge from employment as well.

As a direct result, the PAGA Plaintiffs have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law. The PAGA Plaintiffs are also entitled to waiting time penalties as provided by Labor Code §§ 201, 202, 203 and civil penalties as described in Labor Code sections 558, 558.1, 226.6, 227, 203.1, 210, 1194.2, 1197.1, 1199 and 2699.

REQUEST FOR RELIEF

Accordingly, Plaintiff respectfully requests that the Labor & Workforce Development Agency ("LWDA") initiate an enforcement action with respect to the aforementioned violations pertaining to all aggrieved employees. If the LWDA declines to pursue enforcement, Plaintiff fully intends to pursue these claims for civil penalties on behalf of themselves and all other current and former aggrieved employees in a Superior Court action. Plaintiffs, through counsel, intend to bring this action as a representative action on behalf of other current or former aggrieved employees, for penalties pursuant to California Labor Code section 2699, et. seq., for Defendants' violations of the various enumerated Labor Code sections set forth throughout this notice letter and the associated sections which provide for civil penalties, including, but not limited to Labor Code sections 98.6, 200-204, 210, 216, 221, 223, 225.5, 226, 226.3, 226.6, 226.7, 227, 227.3, 500, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1175, 1194, 1194.2, 1197.1,

LAW OFFICES OF

✧ **THOMAS M. DIACHENKO, APC**

March 4, 2021

Page 7

1198, 1199, 2699 and 2751.

Should you have any questions or concerns regarding the above, please do not hesitate to contact my office. Thank you for your attention to this matter.

Sincerely,



for Thomas M. Diachenko, Esq.

Enclosure:
Proof of Service

cc:
See service list attached

SERVICE LIST

Sent via certified mail and USPS to:

Matthew Haddad
Agent for Service of Process
Medversant Technologies, LLC
330 N. Brand Boulevard, Suite 370
Glendale, California 91203

Sent via certified mail and USPS to:

Matthew Haddad, Managing Member
Medversant Technologies, LLC
330 N. Brand Boulevard, Suite 370
Glendale, California 91203

1 **ROSS FELIX**

2 **PROOF OF SERVICE**

3 I am employed in the County of San Diego, State of California. I am over eighteen
4 years of age and not a party to this action; my business address is 1916 Third Avenue, San
5 Diego, California, 92101.

6 On March 5, 2021, I served a true copy of the foregoing document(s):

7 **I. CORRESPONDENCE, PAGA LETTER**

8 on all interested parties in this action as follows:

9

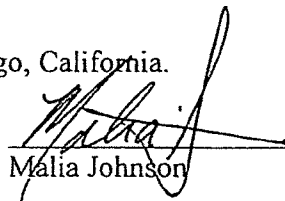
10 Matthew Haddad <i>Defendant</i> Agent for Service of Process Medversant Technologies, LL 330 N. Brand Boulevard, Suite 370 11 Glendale, California 91203	Matthew Haddad, Managing Member <i>Defendant</i> Medversant Technologies, LL 330 N. Brand Boulevard, Suite 370 12 Glendale, California 91203
13 PAGA Administrator (Via Email Only) David M. Lanier 14 PAGAfilings@dir.ca.gov	

15 ☒ **(VIA U.S. MAIL & CERTIFIED U.S. MAIL):** I caused each such
16 envelope to be placed in the U.S. Post Office at San Diego, California. I am
17 readily familiar with the firm's practice of collection and processing of
18 correspondence for overnight delivery. Under that practice it would be
19 deposited directly with the U.S. Postal Service or other facility maintained by
the U.S. Postal Service, in an envelope or package designated for use by U.S.
Postal service and with delivery fees prepaid.

20 ☒ **(VIA ELECTRONIC MEANS):** To the PAGA Administrator ONLY.
21 I caused such document(s) to be sent by electronic means, pursuant to written
22 agreement between the parties.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Executed on March 5, 2021 at San Diego, California.

26 
Malia Johnson

ROSS FELIX

PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over eighteen years of age and not a party to this action; my business address is 1916 Third Avenue, San Diego, California, 92101.

On Ma

going document(s):

Felix PAGA Notice Ltr

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
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For delivery information, visit our website at www.usps.com

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

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☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

Postage

Total Postage and Fees

Matthew Haddad, Managing Member
Medversant Technologies LLC
330 N. Brand Blvd, Ste 370
Glendale, CA 91203

PS Form 3800, April 2015 PSN 7530-02-000-9047

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Matthew Haddad, Managing Member
Medversant Technologies LLC
330 N. Brand Blvd, Ste 370
Glendale, CA 91203



9590 9402 5272 9154 7348 90

7018 1830 0001 8697 5763

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* *3/19* ☐ Agent ☐ Addressee

B. Received by (Printed Name)
Medversant

C. Date of Delivery
3/18

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type

☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☒ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation™
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Insured Mail	
☐ Insured Mail Restricted Delivery (over \$500)	

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Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

Postage

Total Postage and Fees

Matthew Haddad Agent Mer
330 N. Brand Blvd, Ste 370
Glendale, CA 91203

PS Form 3800, April 2015 PSN 7530-02-000-9047

Felix PAGA Notice Ltr

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Matthew Haddad
Agent for Service of Process
Medversant Technologies
330 N. Brand Blvd, Ste 370
Glendale, CA 91203



9590 9402 5272 9154 7349 06

7018 1830 0001 8697 5787

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* *3/19* ☐ Agent ☐ Addressee

B. Received by (Printed Name)
Medversant

C. Date of Delivery
3/18

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type

☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☒ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation™
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Insured Mail	
☐ Insured Mail Restricted Delivery (over \$500)	

EXHIBIT 2

LAW OFFICES OF

✧ **THOMAS M. DIACHENKO, APC**

Practice Areas Include:

Wage, Employment, Personal

Injury & Business Litigation

E-mail: Thom@DiachenkoLaw.com

1916 Third Avenue

San Diego, California 92101

Tel: (619) 699-5870

Fax: (619) 699-5871

March 12, 2021

Refer to File No:

04212020-01292021

Sent via electronic mail to:

PAGA Administrator

David M. Lanier

PAGAfilings@dir.ca.gov

Re: Ross Felix, an individual v. Medversant Technologies, LLC, a California limited liability company; Matthew Haddad, an individuals, and; DOES 1-10 inclusive; LWDA Case No.: LWDA-CM-823763-21

Dear Mr. Lanier:

On March 4, 2021, our office submitted written notice of Defendants' various Labor Code violations and of our intent to recover statutory penalties under the Labor Code's Private Attorney General Act of 2004 on behalf of Ross Felix, individually and on behalf of all other aggrieved employees.

The letter contained, in the first paragraph, an inaccuracy regarding Defendants' classification of Mr. Felix and other aggrieved employees as follows:

FELIX is a *former* employee of Medversant Technologies, LLC ("MEDVERSANT") but was misclassified as an **independent contractor** but paid a set monthly salary regardless of the amount of hours suffered or permitted to work, as were other aggrieved employees.

The paragraph should have identified Mr. Felix as misclassified as an exempt employee as follow:

FELIX is a *former* employee of Medversant Technologies, LLC ("MEDVERSANT") but was misclassified as an **exempt employee** and paid a set monthly salary regardless of the amount of hours suffered or permitted to work, as were other aggrieved employees.

LAW OFFICES OF

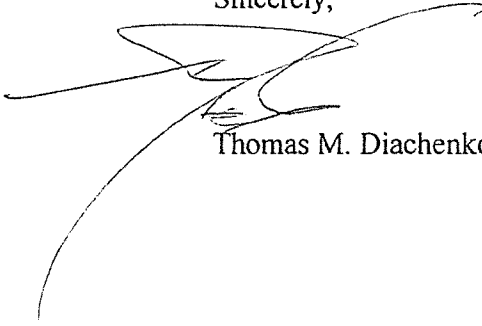
✧ **THOMAS M. DIACHENKO, APC**

March 12, 2021

Page 2

Should you have any questions or concerns regarding the above, please do not hesitate to contact my office. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Thomas M. Diachenko.

Thomas M. Diachenko, Esq.

Enclosure:
Proof of Service

cc:
See service list attached

SERVICE LIST

Sent via e-mail and USPS to:

Joe Desiderio, Esq.

The Law Offices of Thomas F. Nowland

20241 SW Birch Street, Suite 203

Newport Beach, California 92660

JDesiderio@nowlandlaw.com

Counsel for Defendants

1 **ROSS FELIX**

2 **PROOF OF SERVICE**

3 I am employed in the County of San Diego, State of California. I am over eighteen
4 years of age and not a party to this action; my business address is 1916 Third Avenue, San
5 Diego, California, 92101.

6 On March 12, 2021, I served a true copy of the foregoing document(s):

7 **1. CORRESPONDENCE, AMENDED PAGA LETTER**

8 on all interested parties in this action as follows:

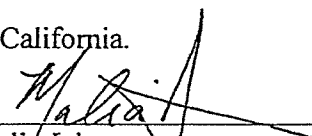
9 10 Joe Desiderio, Esq. The Law Offices of Thomas F. Nowland 20241 SW Birch Street, Suite 203 Newport Beach, California 92660 JDesiderio@nowlandlaw.com	11 12 <i>Counsel for Defendants</i>
13 14 PAGA Administrator (Via Email Only) David M. Lanier PAGAfilings@dir.ca.gov	15 16

17 ☒ **(VIA U.S. MAIL):** I caused each such envelope to be placed in the U.S.
18 Post Office at San Diego, California. I am readily familiar with the firm's
19 practice of collection and processing of correspondence for overnight delivery.
20 Under that practice it would be deposited directly with the U.S. Postal Service
or other facility maintained by the U.S. Postal Service, in an envelope or
package designated for use by U.S. Postal service and with delivery fees prepaid.

21 ☒ **(VIA ELECTRONIC MEANS):** I caused such document(s) to be sent
22 by electronic means pursuant to written agreement between the parties. I caused
23 the documents to be sent to the person(s) at the email address listed above. I did
24 not receive, within a reasonable time after the transmission, any electronic
message or other indication that the transmission was unsuccessful.

25 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

26 Executed on March 12, 2021 at San Diego, California.

27 
28 Malia Johnson