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12 Attorneys for Plaintiff ABDUL RASHID DESAI,
13 On behalf of the general public as private attorney general

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 ABDUL RASHID DESAI, On behalf of the
17 general public as private attorney general,

18 Plaintiff,

19 v.

20 CYPRESS PRIVATE SECURITY, LP a
21 California Limited Partnership, and DOES 1-
22 50, inclusive,

23 Defendants.

Case No. 20STCV26087
ASSIGNED FOR ALL PURPOSES TO:
JUDGE: Hon. Lia Martin
DEPT: 16

**DECLARATION OF JAMES HAWKINS
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT; MEMORANDUM
OF POINTS AND AUTHORITIES**

Date: June 15, 2023
Time: 9:00 a.m.
Dept: 16

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff ABDUL RASHID DESAI (hereinafter referred to as “Plaintiff” or “Class Representative”), who commenced this class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as **Exhibit A** to the Settlement Agreement is a true and correct copy of the Notice of Proposed Settlement of Class Action and Certification of Settlement Class. (“Notice” or “Class Notice”).

3. On May 4, 2020 Plaintiff filed a putative Class action complaint entitled *Abdul Rashid Desai v. Cypress Private Security, LP, et al.*, Los Angeles County Superior Court No. 20STCV17281 seeking damages for Defendant’s alleged failure to: (1) Failure to Pay Minimum Wages; (2) Failure to Provide Meal Periods; (3) Failure to Provide Rest Periods; (4) Failure to Pay Timely Wages; (5) Failure to Provide Accurate Itemized Wage Statements; and (6) Violation of Unfair Competition Law. On or about October 8, 2020, Plaintiff filed a request for dismissal of the class action, Case No. 20STCV17281 without prejudice due to the existence of an arbitration agreement with a class action waiver.

4. On July 8, 2020, Plaintiff filed a related PAGA Action entitled *Abdul Rashid Desai v. Cypress Private Security, LP, et al.*, Los Angeles County Superior Court No. 20STCV26087 alleging violations of PAGA related (1) Failure to Pay Minimum Wages; (2) Failure to Provide Meal Periods; (3) Failure to Provide Rest Periods; (4) Failure to Pay Timely Wages; and (5) Failure to Provide Accurate Itemized Wage Statements.

5. On or about May 3, 2023 Plaintiff filed a First Amended Complaint which

1 added the class claims to the PAGA complaint, as well as adding claims under Labor Code
2 violations which were negotiated and settled, such as 204, 551, 552, and 2802.

3 6. On August 31, 2022, the Parties engaged in private mediation with a well-
4 respected wage and hour class action mediator, Jeff Ross. Prior to mediation, Plaintiff requested
5 and Defendant produced extensive documentation including time and payroll data records for
6 25% of the Class and Aggrieved Employees, policy documents applicable to the class during the
7 Class Period, collective bargaining agreements, class size information, hire and term dates,
8 information on the number of pay periods and workweeks, and information regarding the hourly
9 rates and workweek. In short, Defendant provided discovery sufficient to enable the Plaintiff
10 and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an
11 analysis of the potential damages arising from the claims made in this case. Although the case
12 did not settle at mediation, the Parties continued to discuss settlement and eventually were able
13 to resolve the matter. At all times, the Parties' negotiations were adversarial and non-collusive.
14 As a result of settlement efforts, and continued settlement discussions, the Parties agreed to
15 settle this matter for the Gross Settlement Amount of \$430,000.00 for approximately 1,210 class
16 members, the terms of which are fully memorialized in the Settlement Agreement.

17 7. "Settlement Class Member" means a member of the class, as either a
18 Participating Class Member or Non-Participating Class Member (including a Non-Participating
19 Class Member who qualifies as an Aggrieved Employee). "Class Period" means the time period
20 from March 16, 2019 through April 1, 2020.

21 8. Plaintiff's Counsel conducted a thorough investigation into the factual and legal
22 issues implicated by Plaintiff's claims and was able to objectively assess the settlement's
23 reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff's Counsel to
24 discuss the factual bases for pursuing their actions against Defendant for Labor Code violations.
25 Plaintiff was intimately familiar with Defendant's labor policies and practices, and over the
26 course of multiple interviews, knowledgeably summarized those policies and practices to
27 Plaintiff's Counsel. During those conversations, Plaintiff's Counsel explained how the policies
28 and practices were instituted and provided valuable insight into how they gave rise to the

1 alleged Labor Code violations. Further, formal business records for Mr. Desai were requested
2 and received and reviewed. Based on these interviews with Plaintiff, Plaintiff's Counsel
3 determined that there were legally sufficient grounds for pursuing the Actions against Defendant
4 and in preparation for drafting the complaints, Plaintiff's Counsel conducted their own
5 independent preliminary investigations into the factual bases for Plaintiff's claims.

6 9. In summary, Plaintiff's Counsel performed a thorough investigation into the
7 claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general
8 and class representative through interviews, background investigations, and analyses of
9 employment files and related records; (2) evaluating all of Plaintiff's potential representative
10 claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of
11 the positions, and the type of employer; (4) analyzing employees' time and wage records; (5)
12 reviewing Defendant's employment policies and practices; (6) researching settlements in similar
13 cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating
14 Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)
15 participating in the mediation.

16 10. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
17 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth
18 in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
19 Members in light of all known facts and circumstances, including the risk of significant delay and
20 uncertainty associated with litigation, and various defenses asserted by Defendant.

21 11. Defendant denies any wrongdoing and denies liability with respect to the
22 matters alleged in the Complaint and believe that they have valid defenses to all of Plaintiff's
23 claims. Defendant further contends that they complied with all wage and hour laws applicable
24 to the employment of Plaintiff and other Class Members. To date, no class has been certified
25 and no court has made any findings that Defendant engaged in any wrongdoing or in any
26 wrongful conduct, or otherwise acted improperly or in violation of any law, rule or regulation
27 with respect to any of the issues presented in this action.

28 12. Since the filing of the complaint, the Parties have exchanged extensive

1 formal and informal discovery and engaged in numerous discussions regarding the factual and
2 legal issues surrounding this case. Throughout the litigation, Defendant produced thousands of
3 lines of data in electronic and pdf formats, including policies, handbooks, collective bargaining
4 agreements and payroll and time keeping records for approximately 25% of the class. Defendant
5 also provided Plaintiff's personnel file, and information regarding the number of employees
6 holding these positions during the relevant time period. Defendant also provided substantial
7 information concerning the total number of potential class members, the payroll data at issue,
8 and the applicable hourly rates, workweeks and pay periods, and other summary data related to
9 the alleged class. The Parties have conducted themselves in informed, good faith arms-length
10 negotiations after conducting discovery and exchanging extensive evidence and information
11 about the claims and defenses of this lawsuit through discovery, and engaging in pre-mediation
12 discussions, telephone conferences, and correspondence all aimed at settling their dispute.

13 13. In preparation for the mediation, Plaintiff reviewed the entire discovery and
14 information produced. The information had to be extrapolated and processed to figure out the
15 amount of compensation Plaintiff contends are due to the Class. The evidence and information
16 gathered and reviewed by counsel provided a factual framework for a comprehensible and
17 reliable damage model pertaining to all Settlement Class Members. The mediation included
18 discussions and examination of the proposed Classes and the Parties' respective positions on the
19 legal and factual issues raised in the Complaint.

20 14. As a result of the mediation, the Parties agreed to settle this matter for a Gross
21 Settlement Amount ("GSA") of \$430,000.00. Plaintiff's counsel balanced the terms of the
22 proposed Settlement against the risk of litigation and probable outcome at the class certification
23 stage, and if any Class were certified, at trial. Based on their own respective independent
24 investigations and evaluations, and after taking into account the sharply disputed factual and
25 legal issues involved in this matter, the risks attending further prosecution of the case, and the
26 monetary benefits received under the Settlement despite the questionable nature of the claims,
27 Plaintiff's counsel is of the opinion that Settlement for the consideration and on the terms set
28 forth in the Settlement Agreement is fair, reasonable and adequate and is in the best interests of

1 Plaintiff and the Class. Counsel for the Parties investigated the applicable law as applied to the
2 facts discovered regarding the claims of Plaintiff, Defendant's defenses thereto and the damages
3 claimed by Plaintiff on behalf of the Settlement Class.

4 15. I believe that the consideration and terms set forth in the Settlement Agreement
5 are fair, reasonable, and adequate and are in the best interests of the Settlement Classes in light
6 of all known facts and circumstances, including the various defenses asserted by Defendant, and
7 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
8 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
9 litigation, the lengthy process of establishing specific damages and various possible delays and
10 appeals were also carefully considered in agreeing to the proposed Settlement.

11 16. The GSA includes, without limitation, (1) attorneys' fees in the amount of
12 \$143,333.33 and reimbursement of reasonable litigation costs and expenses in the amount of up
13 to \$30,000.00¹ to Class Counsel ("Class Counsel Fees Payment and Class Litigation Expenses
14 Payment"); (2) Class Representative Service Payment to Plaintiff in the amount of up to
15 \$10,000.00 ("Class Representative Service Payment"); (3) fees and expenses of administration
16 of the Settlement to the Settlement Administrator in an amount not to exceed \$17,000.00
17 ("Administrator Expenses Payment"); (4) \$50,000.00 to PAGA with twenty-five percent (25%)
18 share of the PAGA Penalties to be a part of the Net Settlement Sum that will be distributed to
19 Class Members in the PAGA Group in the amount of \$12,500.00; and (5) the seventy-five
20 percent (75%) share of PAGA Penalties ("LWDA PAGA Payment") in the amount of
21 \$37,500.00 to the California Labor and Workforce Development Agency ("LWDA"). **The**
22 **Entire Total Settlement Amount will be paid to all Class Members who do not opt out of**
23 **the Settlement Class, and without the need to submit claims for payment.** After deductions,
24 the Net Settlement Amount ("NSA") is estimated to be approximately **\$193,000**. The Class
25 Members are to be paid based from the NSA on a pro rata basis based upon the weeks each class
26 member worked in comparison to the total work weeks worked by all Class Members. Likewise,
27

28 ¹ Class Counsel's costs to date are approximately \$16,606.53 thus the Net Settlement Amount will likely be increased by approximately \$13,393.47.

1 the aggrieved employees will be paid from the PAGA penalty and the distribution will be based
2 on the a pro rata basis based upon pay periods.

3 17. Fairness of the Settlement is demonstrated by the uncertainty and risks to
4 Plaintiff involved both in not prevailing on one or more of the causes of action or theories
5 alleged in the operative Complaints and in non-certification, and if successful, Defendant
6 disputes the ability of Plaintiff to certify a class in this case. Defendant also argued it
7 maintained lawful written policies that were provided to the class members and enforced those
8 policies. Yet, despite the defenses proffered by Defendant, the proposed Settlement commits
9 Defendant to pay each Class Member a portion of the NSA. The amount to be paid to the
10 Classes is fair, adequate and reasonable given the significant risk to Plaintiff and the Class in
11 continuing with the litigation and not prevailing on their claims at class certification or at trial or
12 not being paid anything even if trial was successful.

13 18. Named Plaintiff alleges overtime and minimum wage violations as well as
14 alleging that Defendant failed to provide meal periods and failed to permit and authorize paid
15 rest periods to employees or to reimburse business expenses. Plaintiff also alleges a variety of
16 additional claims, including derivative claims for failure to pay wages upon separation and
17 inaccurate wage statements. Plaintiff alleges that these practices resulted directly from the
18 implementation and enforcement of Defendant's own policies and practices.

19 19. Defendant's time keeping records, payroll records, and review other relevant data
20 points, were analyzed to come up with a damage model to determine Defendant's exposure for
21 the class.

22 20. Although Plaintiff's Counsel believe the class claims are strong, Plaintiff's Counsel
23 also recognize that if the litigation had continued, they may well have encountered significant
24 legal and factual hurdles that could have prevented the Class from obtaining any recovery. To be
25 sure, a number of cases have found wage and hours actions to be especially amenable to class
26 resolution. However, some courts have gone the other way, finding that some of the very claims
27 at issue here-especially meal period and rest period violations-were not suitable for class
28 adjudication because they raised too many individualized issues. *See Duran v. US. Bank National*

1 Association, 59 Cal. 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab*
2 *Ltd.*, 1 76 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees'
3 declarations attesting to having taken meal and rest periods demonstrated that individualized
4 inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS
5 137792, at *30- 41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of
6 proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Jimenez*
7 *v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to
8 certify meal and rest period classes based on employer's practice of understaffing and
9 overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal.
10 Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008)
11 (denying certification of driver meal and rest period claims based on the predominance of
12 individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying
13 certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.* , 245 F.R.D. 453, 467- 68
14 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when
15 different employee stations provided different practices with respect to meal periods).

16 21. Some courts have denied certification even when an employer's policies are
17 unlawful on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 20 1 3 U.S. Dist. LEXIS
18 7868, *35-4 1 (C.D. Cal. Jan. 17, 201 3), the court denied certification even though the plaintiff
19 submitted evidence of a facially unlawful policy regarding rest breaks. The *Ordonez* court
20 concluded that the predominance and superiority elements were not met based on the employer's
21 presentation of anecdotal evidence of lawful compliance notwithstanding the unlawful policy. *Id.*
22 at *38-40. And it should be underscored that that claims which are amendable to certification can
23 be disposed of by motion for summary judgment. *See Loudv. Eden Med. Ctr.*, 2013 U.S. Dist.
24 LEXIS 122873, **36-53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage
25 statement claim because plaintiff could not show injury due to defects and that incorrect wage
26 information is not willful).

27 22. As the above examples illustrate, the prospect of certifying a wage and hour action
28 is always uncertain, and the risk of being denied class certification militates in favor of

1 settlement. A denial of class certification effectively forecloses continued litigation, as neither the
2 individual nor his or her attorney will have any incentive to proceed with an individual case when
3 such small claims are at stake. *See In re Baycol Cases I & II*, 51 Cal. 4th 751, 758 (2011)
4 (explaining that a dismissal of class claims is effectively the "death knell" of the case, despite
5 survival of individual claims). In other words, for cases where individual damages are relatively
6 small, denial of class certification results in a near-complete loss for Plaintiffs as well as no
7 recovery for the employees, who are shut out of the action. Thus, if the putative Class had not
8 been certified, the value of Plaintiffs' case would have been reduced to a fraction of the value of
9 this Settlement; indeed, Defendant would likely have offered no money to settle the class-wide
10 claims if certification had been denied.

11 23. Early resolution saves time and money that would otherwise go to litigation.
12 Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this
13 action had settled following additional litigation, the settlement amount would likely have taken
14 into account the additional costs incurred, and there may have been less available for Class
15 Members. Cost savings is one reason why California policy strongly favors early settlement. *See*
16 *Nemy v. Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value
17 placed on settlements and observing that "[s]ettlement is perhaps most efficient the earlier the
18 settlement comes in the litigation continuum."). This concern also supports settlement.

19 24. Further, beyond the risk of an adverse ruling on the merits or certification, Class
20 Counsel considered the fact that continued litigation would likely take years and would be
21 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
22 appellate proceedings are likely to occur, which will surely drag the case far into the future even
23 with a positive trial result. When facing a distant and unsure resolution of the allegations in this
24 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such
25 costly litigation in favor of more immediate benefits to the Class was a consideration favoring
26 settlement. Given these realities, it is highly likely that the future expense of this litigation, and
27 its likely duration if the settlement is not approved, would be significant and weigh heavily in
28 favor of approval of this settlement.

1 25. Notwithstanding these hurdles, the GSA is well within the acceptable range of
2 reasonableness for the claims of the Settlement Class Members. After analysis and review of
3 Defendant's time and pay record production and other payroll data, Class counsel estimates the
4 overall value of the claims at approximately **\$6,064,953** should Plaintiff prevail at the class
5 certification stage, trial, and survive any appeals and win on all claims and be awarded
6 maximum penalties and damages for all class members, and that certain assumptions and
7 extrapolations were confirmed with further discovery. This amount was reduced by a
8 reasonable 50% to **\$3,032,476.50** to account for the risks of continued litigation and not
9 prevailing on one or more claims and the Court not awarding penalties based upon Defendant's
10 good faith arguments. Indeed, Defendant's apparent compliant policies could potentially
11 support Defendant's good faith and lack of willfulness arguments, where for example LC 203,
12 226 and PAGA claims could potentially be reduced to zero, which accounts for over
13 approximately 50% of the alleged penalties and damages discussed herein.

14 26. There are an estimated 21,499 workweeks during the class period and
15 approximately 15,629 pay periods during the PAGA Period. The average wage rate was \$15.58.
16 The value of the unpaid off the clock was valued at approximately **\$496,337.00**. Defendant
17 also potentially owes to class members **\$2,991,553 in waiting time**. Defendant also potentially
18 owes to class members **\$1,507,400** in wage statement penalties for approximately 1,110
19 employees in the wage statement period. Defendant also potentially owes to aggrieved
20 employees **\$390,725** assuming a reasonable **\$25 penalty** for 15,629 pay periods in PAGA
21 penalties. The expense reimbursement class was alleged to be owed approximately **\$180,565**
22 assuming \$30 a month of unreimbursed business expenses for cell phone. The rest break
23 violations were given to little value based on the attendant policies and language in the cba.
24 Meal Break Violations were valued at approximately **\$498,373**. Plaintiff's damage confirmed
25 31,988 shifts had an alleged meal period violation.

26 27. As a result, the GSA of \$430,000.00 represents a reasonable recovery and
27 approximately **7%-14%** of the overall potential value. This recovery could easily be much
28 higher if at trial PAGA penalties were reduced or damages for certain pay periods or workweeks

1 could not be proven for certain individuals. The proposed GSA is within the “ballpark of
2 reasonableness” and should be approved. Counsel for Plaintiff believes that this is a fair and
3 reasonable Settlement in light of the complexities of the case, the state of the law and
4 uncertainties of class certification and litigation, the policies and practices Defendant has had in
5 place or implemented during the purported liability period, and the benefit to be recovered for
6 the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable
7 and is in the best interests of the Settlement Class, and should be preliminarily approved.

8 28. Based on the estimated Net Settlement Amount of **\$193,000**, on average each
9 Settlement Class Member will receive approximately **\$159**. The highest amount a Settlement
10 Class Member will receive is approximately **\$475** based upon \$8.97 per workweek multiplied
11 by approximately 53 maximum workweeks a Class Member could work during the Class
12 Period. The lowest payment is estimated to be approximately **\$8.97** for someone who worked
13 only one workweek. To the extent any amount for Attorneys’ Fees, Costs, Claims
14 Administration Costs or Incentives are not awarded, the difference in those amounts will be
15 added to the NSA. This is a guaranteed amount of money paid to Settlement Class Members
16 now, rather than the continued risk of further litigation and receiving no money sometime in the
17 far future and after trial and appeals.

18 29. The PAGA members who worked during the PAGA period will be paid a PAGA
19 Payment based upon a pro rata share of the number of pay periods each PAGA member worked
20 compared to the total pay periods worked by all PAGA group members during the PAGA period
21 of May 4, 2019 to April 1, 2020. As a result, there are approximately 1,100 Aggrieved
22 Employees who will each receive approximately **\$11.26** per Aggrieved Employee.

23 30. Defendant denies and continues to deny any liability. Cypress was a provider of
24 contract security services to a wide variety of clients at hundreds of sites throughout California,
25 including public and private institutions, office and residential complexes, museums, campuses,
26 cultural properties, transportation authorities, water districts, critical infrastructure, corporate
27 campuses, medical facilities, commercial buildings and residential communities.

28 31. Defendant argued that consistent with the diversity of clients serviced by

1 Cypress, so too was the nature of each client account and site. Some Cypress sites only had a
2 single post where one or more security officers worked whereas others had many different posts
3 within a single site. Some posts were manned 24-7, whereas others were unmanned during
4 certain shifts or on certain days of the week. Some posts were manned by just a single security
5 officer and others were manned by several at one time. Defendant's client sites ranged from
6 county agencies, museums, and children's parks to news stations, apartment buildings, shopping
7 centers, transit authorities, and shipping docks. The vast majority of the Cypress sites are no
8 longer accessible or active nearly three years following the acquisition.

9 32. Defendant argued that most of the class members were also union employees
10 covered by one or more of three applicable CBAs in effect during the relevant class period, all of
11 which likewise require individual arbitration of wage and hour disputes and preclude participation
12 in class and representative actions in court.

13 33. Defendant argued that Plaintiff and many of the non-union class members entered
14 into enforceable arbitration agreements requiring binding arbitration of individual wage and hour
15 disputes and precluding participation in class or representative actions. .

16 34. Defendant also produced documents and argued that throughout the relevant time
17 period, it maintained a lawful written meal period policy providing for an unpaid, off-duty meal
18 period of not less than 30 minutes before the end of the fifth hour of work, and a second off-duty
19 meal period before the end of the tenth hour of work. Cypress provided specific training to its
20 California managerial employees regarding these meal period requirements.

21 35. Defendant confirmed that given the nature of Cypress' business, it was not
22 feasible to completely relieve security officers of all duties (allow them to leave the premises
23 and/or relieve them of the need to monitor a radio/communication device) at all client sites and/or
24 posts within a site. However, Defendant argued that in such instances, it was Cypress' policy to
25 provide paid, on-duty meal periods, provided that the security officers at these sites/posts
26 voluntarily agreed to paid, on-duty meal periods by executing an On-Duty Meal Agreement.
27 Consistent with the voluntary nature of Cypress' On-Duty Meal periods, the On-Duty Meal Period
28

1 Agreement form provided employees the option to agree or disagree with the terms of the
2 policy. Officers who disagreed were placed at sites with off-duty meal periods.

3 36. Defendant also argued that governing CBAs also provided for on-duty meal
4 periods when, given the nature of the work, off-duty meal breaks were not feasible at certain union
5 sites. The on-duty meal period agreements signed by putative class members appear to be
6 compliant with California law.

7 37. Defendant also argued it had a policy and practice of paying a missed meal break
8 premium of one additional hour of pay to officers who were unable to take a meal
9 break. Defendant argued it required its officers to record their meal break times on their
10 timesheets and to indicate if they were unable to take a break.

11 38. In addition, the applicable CBAs required security officers who missed a meal
12 period or had a meal period interrupted to indicate such on their timecard/DAR. If a security
13 officer failed to indicate a missed or interrupted break on their timecard, the CBAs permitted
14 Cypress to assume the security officer received all meal periods as required by law. The CBAs
15 further required meal break disputes to be resolved through the CBA's grievance arbitration
16 process.

17 39. Defendant also argued the circumstances of off-duty meal periods varied greatly
18 by site. Some security officers received a 30-minute paid off-duty meal period, while others like
19 Plaintiff, received a 1-hour unpaid meal period. Some had to be relieved to take their meal periods
20 while others did not. Some security officers never missed a meal period, while others missed one
21 on occasion and received an hour of premium pay when reported per Cypress' practice.

22 40. Throughout the relevant time period, Cypress had a lawful written rest break
23 policy that directed security officers to take at least one paid 10-minute (or 15 minutes if union),
24 off-duty rest break for every four hours of work or major fraction thereof. The policy expressly
25 provided that all rest breaks were to be "entirely off duty, uninterrupted, and free of all
26 obligations: a period during which employees are not required to work." Defendant argued its
27 rest break policy permitted officers to leave the premises during breaks and also expressly
28

1 provided for complete relief from duty. The policy confirmed that officers were not required to
2 be on-call or otherwise carry a radio or telephone.

3 41. The applicable CBAs similarly provided for a 15-minute uninterrupted rest break
4 for every four hours of work or major fraction thereof. As with missed or interrupted meal breaks,
5 the CBAs expressly permitted Cypress to assume an employee received all rest breaks as required
6 by law if an employee failed to indicate a missed or interrupted break on their DAR or timesheet.
7 Defendant further argued that at all relevant times, it maintained a written policy requiring its
8 security officers to accurately record all hours worked daily on a weekly timecard including
9 overtime, sick and vacation hours taken. Officers were required to reported recording their start
10 and stop times of meal periods and time worked on paper timesheets while others used site
11 phones to clock in and out.

12 42. As a result of these defenses, the settlement value is reasonable given the risks
13 discussed herein. Further, defendant believed it had limited liability on many of the claims
14 in this matter as demonstrated by its written policies.

15 43. The Class Representative has provided extensive supporting documents and
16 assisted Class Counsel in developing information necessary to litigate and settle this case.
17 Plaintiff also conducted record review and consultation with counsel in preparation for
18 mediation, and to assist in evaluating and proving the claims. The settlement provides for an
19 incentive payment to be paid to the Class Representative in the amount of \$10,000.00 subject to
20 Court approval. The purpose is to compensate the Class Representatives an additional incentive
21 payment, taking into consideration the risks, time, effort and expenses incurred in coming
22 forward to provide invaluable information and negotiate and litigate this matter on behalf of all
23 Settlement Class Members who otherwise, would probably not file their own individual claims
24 to recover what may be relatively low damages. Further, the Payment of \$10,000.00 as a Class
25 Representative Award to the Class Representative is a very fair and justified as part of the
26 Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement
27 Class.

28 44. Class certification, as requested by the Parties for the purposes of the settlement

1 only, should be granted because Plaintiff allege that the proposed Settlement Class Members'
2 claims all stem from the same alleged conduct, i.e., that Defendant violated California law
3 because they: (1) Failure to Pay Overtime and Minimum Wages; (2) Failure to Provide Meal
4 Periods; (3) Failure to Provide Rest Periods; (4) Failure to Pay Timely Wages; (5) Failure to
5 Provide Accurate Itemized Wage Statements; (6) Failure to Indemnify Necessary Business
6 Expenses; (7) failure to provide a days rest in seven; and (8) Violation of Unfair Competition
7 Law. In addition to compensatory damages, Plaintiff and the Settlement Class seek attorneys'
8 fees, costs, and interest. Under these specific circumstances, the commonality requirement for
9 class certification is satisfied. The typicality requirement for certification is also met as it is
10 alleged that the Class Representatives and the proposed Settlement Class were subjected to
11 similar violations based upon similar conduct, policies and practices of the Defendant regardless
12 of their duties.

13 45. The adequacy requirement for certification is also met. The Class Representative
14 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class.
15 The Class Representative will receive a reasonable award for the time and effort spent assisting
16 Class counsel with factual issues surrounding the case. Other than this specific payment to the
17 Class Representative, all of the Settlement Class Members will receive a proportionate share of
18 the NSA, as detailed above provided they do not exclude themselves. Further, all PAGA
19 Members during the PAGA Period will receive their pro rata share of PAGA Penalties. As a
20 result, there is no conflict of interest between the Class Representative and the Settlement Class
21 Members. Further, the NSA will be fairly distributed among Participating Class Members, and
22 no "settlement allocation" questions will be raised.

23 46. Common questions of law and fact predominate over individual questions and
24 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the
25 proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class
26 Members share a common nucleus of facts and potential legal remedies, and since all of the
27 Settlement Class Members and the Class Representative seek compensation for unpaid wages
28 and other civil and statutory penalties from Defendant for the allegations described in the

1 Complaints. Common questions about compensation or lack thereof for work performed by
2 Settlement Class Members and the Settlement Class Members' potential legal remedies are
3 identical. The alternative method of resolution is individual claims for relatively small amounts
4 of damages, but individual cases would be uneconomical for potential plaintiffs because the cost
5 of litigation dwarfs potential recovery. Therefore, a class action is the preferred method of
6 resolution.

7 47. The class notice plan here calls for the settlement administrator, Apex Settlement
8 Administration, to mail the proposed Class Notice to all known and reasonably ascertainable
9 Settlement Class Members based on Defendant's records. Further, the Settlement Administrator
10 will conduct a skip-trace and use all reasonable efforts to locate Settlement Class Members and
11 will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the
12 class certification notices approved by numerous state and federal courts, and is the best notice
13 practicable under circumstances of this case. The proposed Settlement Class Members are
14 ascertainable because all of the Settlement Class Members have worked for Defendant during
15 the Class Periods and can be identified through Defendant's records.

16 48. The Notice also fulfills the neutrality requirement. It summarizes the
17 proceedings to date and the terms and conditions of the Settlement in an informative and
18 coherent manner, and is accurate, objective, and understandable to Settlement Class Members,
19 as is required under prevailing precedent. The Notice clearly states the Settlement does not
20 constitute an admission of liability by Defendant and recognizes the Court has not ruled on the
21 merits. It also states the final settlement approval decision has yet to be made. The Notice also
22 clearly instructs the Settlement Class Members on how to object or exclude themselves from the
23 Settlement. Therefore, Settlement Class Members will have the option to participate or exclude
24 themselves simply by mailing a request to exclude themselves. The Settlement Class consists of
25 non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a
26 manner that is likely to be readily understood by the Settlement Class. Accordingly, the Notice
27 complies with the standards of fairness, completeness and neutrality required of a Notice of
28 Class Action Settlement. The Notice therefore is neutral, objective and understandable.

1 49. I have a great deal of experience in wage and hour class action litigation. I have
2 obtained certification of several classes, I have been approved as class counsel in many other
3 wage/hour class actions, and I am currently litigating numerous others. Although not an all
4 inclusive list, over the years I have prosecuted the following class action matters as lead and/or
5 co-lead counsel, all of which implicated similar law and facts to those associated with this
6 action:

7 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
8 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking
9 premium wages for meal period and rest periods and resultant penalties. Class Notice
10 pending.

11 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT-
12 Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime
13 for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a
14 third party administrator (TPA) in the State of California. Certification granted.
15 Plaintiffs' counsel co-lead counsel. Case settled, Final Approval granted, no
16 objections and funds fully distributed.

17 c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-
18 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
19 overtime and meal and rest break violations for production workers in the State of
20 California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final
21 Approval granted, no objections and funds fully distributed.

22 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
23 Wage and Hour Class Action case seeking past wages for meal and rest period
24 violations for retail employees in the State of California. Plaintiffs' counsel
25 appointed co-lead counsel. Case settled, Final Approval granted, no objections and
26 funds fully distributed.

27 e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.
28 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and

1 rest period violations for retail employees in the State of California. Plaintiffs'
2 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
3 objections and funds fully distributed.

4 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles
5 County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking
6 past wages for overtime, meal and rest break violations for driver employees in the
7 State of California. Settlement for "binding arbitration." Arbitration Award for
8 Plaintiff Class. Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel
9 and class counsel.

10 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
11 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for
12 overtime, meal and rest breaks violations for production employees in the State of
13 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final
14 Approval granted, no objections and funds fully distributed.

15 h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County
16 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
17 wages for overtime, meal and rest break violations for production employees in the
18 State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled,
19 Final Approval granted, no objections and funds fully distributed.

20 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No.
21 05CC00293. Wage and Hour Class Action seeking past wages for unlawful
22 deductions, meal and rest break violations for restaurant employees in the State of
23 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final
24 Approval granted and funds fully distributed.

25 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court,
26 Case No. 05CC00013. Wage and Hour Class Action seeking past wages for
27 overtime, meal and rest break violations for security officers in the State of
28 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final

1 Approval granted, no objections and funds fully distributed.

2 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
3 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
4 seeking past wages for meal and rest break violations for security officers employed
5 by defendant in the State of California. Plaintiffs' counsel and co-counsel. Case
6 settled, Final Approval granted and funds fully distributed.

7 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior
8 Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for
9 overtime, meal and rest break violations for housekeepers employed by defendant in
10 the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled,
11 Final Approval granted, no objections and funds fully distributed.

12 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
13 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal
14 and rest period violations for non-exempt employees employed by defendant in the
15 state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff
16 has petitioned the Court for Lead Counsel.

17 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
18 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past
19 wages for field and branch employees of defendant in the State of California.
20 Plaintiffs' counsel appointed as lead counsel. Case settled and awaiting Final
21 Approval.

22 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case
23 No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
24 employees of defendant in the State of California. Plaintiffs' counsel appointed as
25 lead counsel. Case settled, Final Approval granted, no objections and funds fully
26 distributed.

27 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
28 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest

1 break violations for security guards employed by defendant in the State of California.
2 Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted,
3 no objections and funds fully distributed.

4 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc*, et al., Los Angeles Superior
5 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
6 rest break violations for production employees employed by defendant in the State of
7 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
8 granted, no objections and funds fully distributed.

9 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
10 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
11 break violations for restaurant employees employed by defendant in the State of
12 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
13 Approval granted, no objections and funds fully distributed.

14 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No.
15 BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
16 classification of managers employed by Defendant, DBA Carl's Jrs. in the State of
17 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
18 Approval granted, no objections and funds fully distributed.

19 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case
20 No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and
21 rest break violations for retail employees employed by defendant in the State of
22 California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval
23 granted, no objections and funds fully distributed.

24 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
25 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
26 classification of managers employed by Defendant in the State of California.
27 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
28 objections and funds fully distributed.

1 v. *Davila, et al. v. Beckman Coulter, Inc., et al.*, Orange County Superior Court,
2 Case No. 07CC01347. Wage and Hour Class Action seeking past wages for
3 overtime, meal and rest break violations for production workers employed by
4 defendant in the State of California. Plaintiffs' counsel appointed lead counsel.
5 Cased settled; final approval granted; no objections and funds fully distributed.
6 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
7 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
8 meal and rest period violations for production employees employed by defendant in
9 the State of California. Plaintiff counsel appointed as lead counsel. Case settled,
10 Final Approval granted, no objections and funds fully distributed.

11 50. Here, the Parties' agreement to pay Class Counsel Fees Payment from the GSA
12 is reasonable. My firm and I have been the only counsel to represent Plaintiff and the
13 Settlement Class in this matter, and we have borne the entire risk and cost of this litigation on a
14 pure contingency fee basis. The legal issues raised drew significantly upon my experience and
15 the extensive review and analysis of documents and information by me and others at my firm
16 and our co-counsel. In a complex action such as this, the proposed attorneys' fees are, at the
17 very least, on the low side of the market rate for contingency fees.

18 51. At this juncture, with the addition of more hours due to the administration of the
19 the Settlement by Class Counsel, administration of the Settlement, and preparation for final
20 approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final
21 approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard
22 concurrently with the motion for final approval in accordance with the terms of the settlement
23 agreement.

24 52. Despite the complexity of the case, Class Counsel has, through the investment of
25 substantial effort and the resources of my law firm been able to secure an outstanding settlement
26 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual
27 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have
28 been required to establish a significant amount of witness testimony, pattern and practice

1 evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order
2 to present their case both at the class certification stage and trial. Defendant vigorously
3 contested liability, the amount of claimed damages, and the propriety of class certification, and
4 would have continued to do so through trial. Accordingly, I believe the Settlement to be fair,
5 reasonable, and adequate and in the best interests of the Settlement Class. The fairness and
6 adequacy of the Settlement is confirmed by all known facts and circumstances, including the
7 risk of significant delay and uncertainty associated with litigation, the various defenses asserted
8 by Defendant, and numerous potential appellate issues.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed on
10 May 24, 2023 at Irvine, California.


James R. Hawkins

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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICEⁱ

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Abdul Rashid Desai (“Plaintiff”) and defendant Cypress Security, LP (“Cypress”). The Agreement refers to Plaintiff and Cypress collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Cypress captioned Abdul Rashid Desai v. Cypress Private Security, LP, Case No.20STCV26087 initiated on 07/08/2020 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Settlement Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Cypress in California and classified as a non-exempt employee who worked for Cypress during the PAGA Period.
- 1.5. “Class” means all persons employed by Cypress in California and classified as non-exempt employees who worked for Cypress during the Class Period. -
- 1.6. “Class Counsel” means James Hawkins and Gregory Mauro of James Hawkins, APLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Cypress’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. "Class Period" means the period from 03/16/2019 to 04/01/2020.ⁱⁱ
- 1.13. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. "Court" means the Superior Court of California, County of Los Angeles.
- 1.16. "Cypress" means named Defendant Cypress Private Security, LP.
- 1.17. "Defense Counsel" means Jeremy T. Naftel, Martenson, Hasbrouck & Simon LLP.
- 1.18. "Effective Date" means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.
- 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. "Gross Settlement Amount" means \$ 430,000.00 which is the total amount Cypress agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Cypress for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from 05/04/2019 to 04/01/2020.ⁱⁱⁱ
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. "PAGA Notice" means Plaintiff's 05/04/2020 letter to Cypress and the LWDA-providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,500.00) and the 75% to LWDA (\$37,500.00) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Abdul Rashid Desai, the named plaintiff in the Action.

- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.41. "Released Parties" means: Cypress and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, [subsidiaries], affiliates. -
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means [e.g., 60] days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Cypress for at least one day, during the Class Period.^{iv}

2. RECITALS.

- 2.1. On 07/08/2020, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Cypress for penalties under PAGA. On or before the hearing date on Motion for Preliminary Approval, Plaintiff will file, a First Amended Complaint alleging causes of action against Cypress for claims arising under Labor Code §§ 200-204, 210, 212, 215, 216, 218, 218.5, 218.6, 221, 222, 223, 225, 225.5, 226, 226.2, 226.3, 226.6, 226.7, 227.3, 256, 354, 400-410, 452, 510, 511, 512, 551, 552, 553, 558, 558.1, 1174, 1174.5, 1175, 1182.11, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1199.5, 2800, 2802 and §§ 2698 et seq. (Private Attorneys General Act), Business & Professions Code §§ 17200 et seq., California Code of Regulations Title 8, § 11000 et seq.. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint.") Cypress denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Cypress and the LWDA by sending the PAGA Notice.

2.3. On 08/31/2022 the Parties participated in an all-day mediation presided over by Jeffrey Ross which led to this Agreement to settle the Action. Prior to ☒ mediation ☐ negotiating the Settlement, Plaintiff obtained, through ☐ formal ☒ informal discovery, policy documents, including Defendant's relevant employee handbook, arbitration agreement, and meal period waiver form, among other documents; and factual and numerical data related to the class. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.4. The Court ☐ has ☒ has not granted class certification.

2.5. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Cypress promises to pay \$ 430,000.00 and no more as the Gross Settlement Amount [and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.] Cypress has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement.^v The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Cypress.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Cypress will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full

responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.3%, which is currently estimated to be \$ 143,000 and a Class Counsel Litigation Expenses Payment of not more than \$30,000. Cypress will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Cypress harmless, and indemnifies Cypress, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$17,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$17,000, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion").^{vi} The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$ 37,500.00) allocated to the LWDA PAGA Payment and 25% (\$ 12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$ 12,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Cypress estimates there are 1,210 Class Members who collectively worked a total of 21,499 Workweeks, and 1,110 of Aggrieved Employees who worked a total 15,629 of PAGA Pay Periods.

4.2. Class Data. Not later than 20 days after the Court grants Preliminary Approval of the Settlement, Cypress will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Cypress has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Cypress must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Cypress shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Cypress's share of payroll taxes by transmitting the funds to the Administrator ~~no~~ later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Cypress funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). cy pres recipient to be agreed upon by parties. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Cypress to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

- 5. RELEASES OF CLAIMS.** Effective on the date when Cypress fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

5.2 A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party. Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

- 6.1 Cypress’s Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Cypress will prepare and deliver to Class Counsel a signed Declaration from Cypress and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Cypress shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~30~~ days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

- 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than fourteen (14) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit 1. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than ~~7~~-business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional ~~14~~ days beyond the ~~60~~ days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Cypress or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement ~~not~~ later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~60~~ days after the Administrator mails the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, last four digits of their Social Security Number or Employee ID Number, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity.

The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later

than 30 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

- 7.8.5 Administrator's Declaration. Not later than ~~14~~ 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within ~~10~~ 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least ~~15~~ 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.
8. **CLASS SIZE ESTIMATES** Based on its records, Cypress estimates that, as of the date of this Settlement Agreement, (1) there are 1,210 Class Members and 21,499 Total Workweeks during the Class period and (2) there were 1,110 Aggrieved Employees who worked 15,629 Pay Periods during the PAGA Period.^{vii}
9. **CYPRESS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds % 10 of the total of all Class Members, Cypress may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Cypress withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Cypress will remain responsible for paying all Settlement Administration Expenses incurred to that point. Cypress must notify Class Counsel and the Court of its election to withdraw ~~not later than~~ seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than ~~16~~ 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days ~~prior to~~ filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Cypress that any of the allegations in the Operative Complaint have merit or that Cypress has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Cypress's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Cypress reserves the right to contest certification of any class for any reasons, and Cypress reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Cypress's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Cypress and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Cypress and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Cypress, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Cypress nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Cypress in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Cypress unless, prior to the Court's discharge of the Administrator's obligation, Cypress makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: Greg Mauro
James Hawkins
James Hawkins APLC
9880 Research Dr. Suite 200
Irvine, CA 92618

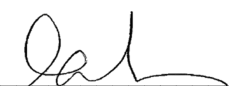
To
Cypress: Jeremy T. Naftel
Martenson, Hasbrouck & Simon LLP
455 Capitol Mall, Suite 40
Sacramento, CA 95819

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will

exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Abdul Rashid Desai, for Plaintiff



Gregory Mauro, Counsel for Plaintiff

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Deborah Pecci For Cypress



Jeremy T. Naftel, Counsel for Cypress

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exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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A.I. Desai
Abdul Rashid Desai, for Plaintiff

For Cypress

Gregory Mauro
Gregory Mauro, Counsel for Plaintiff

Jeremy T. Naftel, Counsel for Cypress

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EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

AbdulRashid Desai v. Cypress Private Security, LP, Case No. 20STCV26087

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Cypress Security, LP- (“Cypress”) for alleged wage and hour violations. The Action was filed by a former Cypress employee Abdul Rashid Desai (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members”) who worked for Cypress during the Class Period (03/16/2019 to 04/01/2020); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all [e.g., hourly] employees who worked for Cypress during the PAGA Period (05/04/2019 to 04/01/2020) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Cypress to fund Individual Class Payments, and (2) a PAGA Settlement requiring Cypress to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Cypress’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Cypress’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Cypress’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Cypress to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Cypress.

If you worked for Cypress during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Cypress.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Cypress, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Cypress will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Cypress that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Cypress must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Cypress's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Cypress employee. The Action accuses Cypress of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action:

Gregory Mauro, James Hawkins, APLC _____ ("Class Counsel.")

Cypress strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Cypress or Plaintiff is correct on the merits. In the meantime, Plaintiff and Cypress hired ✓ an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Cypress have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Cypress does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Cypress has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. **WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Cypress Will Pay \$430,000 as the Gross Settlement Amount (Gross Settlement). Cypress has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Cypress will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$143,333.33(1/3 of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$17,000 to the Administrator for services administering the Settlement.
 - D. Up to \$ 50,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross

Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Cypress are asking the Court to approve an allocation of 33% of each Individual Class Payment to taxable wages (“Wage Portion”) and 67% to interest. (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Cypress will separately pay employer payroll taxes it owes on the Wage Portion.]] The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Cypress have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, last four digits of your Social Security Number or Employee ID Number, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Cypress.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Cypress based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Cypress have agreed that, in either case, the Settlement will be void: Cypress will not pay any money and Class Members will not release any claims against Cypress.

Administrator. The Court has appointed a neutral company, Apex Settlement Administrator (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

8. Participating Class Members’ Release. After the Judgment is final and Cypress has fully funded the Gross Settlement [Option 1: (and separately paid all employer payroll taxes)], Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Cypress or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.^{viii}

9. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Cypress has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Cypress, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Cypress or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$ 12,500 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Cypress's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Cypress's calculation of Workweeks and/or Pay Periods based on Cypress's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Cypress's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. **HOW WILL I GET PAID?**

1. **Participating Class Members.** The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. **Non-Participating Class Members.** The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. **HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Abdul Rashid Desai v. Cypress Security, LP* and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. **HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Cypress are asking the Court to approve. At least _____ days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website

_____ (url) or the Court's website _____ (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is ____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action Abdul Rashid Desai v. Cypress Security, LP and include your name, current and include your

name, current address, AbdulRashid Desai v. Cypress and include your name, current address, telephone number, and approximate dates of employment for Cypress and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at ____ (time) in Department 7 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Cypress and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity)'s website at _____ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 20STCV26087. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney: Gregory Mauro

Email Address:

Name of Firm: James Hawkins, APL

Mailing Address: 9880 Research Dr. Suite 200, Irvine, CA 92618

Telephone: 949-387-7200

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void

☒ you should consult the Unclaimed Property Fund _____ for instructions on how to retrieve the funds

☐ you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

ⁱ This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (Cypress). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.

ⁱⁱ Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)

ⁱⁱⁱ See endnote ii above.

^{iv} The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.

^v The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.

^{vi} Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)

^{vii} Insert negotiated terms, if any, addressing the possibility that Cypress's estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing Cypress's promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds Cypress's estimates.

^{viii} Releases in Notice should track the releases in the Settlement Agreement.