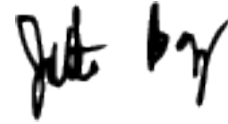


08/16/2022

By: J. Berg, Deputy Clerk



**HAINES LAW GROUP, APC**

Paul K. Haines (SBN 248226)

phaines@haineslawgroup.com

Neil M. Larsen (SBN 276490)

nlarsen@haineslawgroup.com

2155 Campus Drive, Suite 180

El Segundo, California 90245

Tel: (424) 292-2350

Fax: (424) 292-2355

*Attorneys for Plaintiff*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF MARIN**

TIMOTHY ISAAC, as an individual and on  
behalf of all others similarly situated,

Plaintiff,

vs.

CENTRAL PAYMENT CO., LLC, a Delaware  
limited liability company; TSYS MERCHANT  
SOLUTIONS, LLC, a Delaware limited liability  
company; and DOES 1 through 100,

Defendants.

Case No. CIV2002734

**CLASS ACTION**

*[Assigned for all purposes to the Hon.  
Stephen P. Freccero, Courtroom A]*

**DECLARATION OF PAUL K. HAINES  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: 10/11/2022

Time: 1:30 PM

Courtroom: A

Action Filed: September 18, 2020

Trial Date: None set

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the  
3 named Plaintiff Timothy Isaac (“Plaintiff”) and the proposed Settlement Class in the above-  
4 captioned matter against Defendants Central Payment Co., LLC and TSYS Merchant Solutions,  
5 LLC (together, “Defendants” or “CPAY”). I am a member in good standing of the bar of the State  
6 of California and am admitted to practice in this Court. I have personal knowledge of the facts  
7 stated in this declaration and could testify competently to them if called upon to do so.

8 2. I am a 2006 graduate of Pepperdine University School of Law, where I graduated  
9 cum laude. During law school, I worked as a law clerk for the appellate firm of Horvitz & Levy,  
10 located in Encino, California. I also spent a semester in law school working as an extern for the  
11 Honorable Edward Rafeedie, District Judge for the United States District Court for the Central  
12 District of California.

13 3. Since graduating from law school, my practice has focused almost exclusively on  
14 employment litigation. In September 2007, I began working as an associate attorney at the  
15 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its  
16 website is the “largest U.S.-based law firm exclusively devoted to representing management in  
17 every aspect of labor and employment law.” While at Littler Mendelson, I was primarily staffed  
18 on wage and hour class actions venued in both state and federal courts, and I also worked on a  
19 number of single and multi-plaintiff wage and hour matters as well.

20 4. During my employment at Littler Mendelson, I played a significant role in the  
21 class actions that I was staffed on, as I was often the only associate staffed on such cases. In  
22 particular, I received a wide-array of wage and hour class action experience performing the  
23 following types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions  
24 from state court to federal court; drafting and responding to written discovery; drafting and  
25 opposing discovery related motions; arguing discovery related motions; drafting motions to  
26 consolidate related matters; interviewing putative class members and obtaining declarations in  
27 connection with class certification; drafting oppositions to motions for class certification; drafting  
28 motions for decertification following class certification; conducting exposure analyses to assess

1 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification  
2 and potential damages resulting from such claims; drafting mediation briefs; serving as the  
3 primary contact to in-house counsel; deposing named plaintiffs and putative class members;  
4 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In  
5 short, I played an integral role in all aspects of litigation from the inception of a matter through  
6 and beyond class certification. I also supervised the work of several junior attorneys who were  
7 staffed on the same wage and hour class actions.

8 5. In June 2011, I voluntarily resigned from Littler Mendelson in order to accept an  
9 associate attorney position with the international law firm of Morgan, Lewis & Bockius LLP, at  
10 its Los Angeles office, where I began working in July 2011. During my employment at Morgan,  
11 Lewis & Bockius LLP, I worked exclusively on the defense of wage and hour class and collective  
12 actions. For the vast majority of these cases, I was the only associate staffed on the matter, and I  
13 performed the same job duties as described in the immediately preceding paragraph. In addition  
14 to working on wage and hour class actions, at Morgan, Lewis & Bockius I also worked on a  
15 number of “hybrid” actions asserting nationwide wage and hour claims under the Fair Labor  
16 Standards Act (“FLSA”), as well as California-specific claims under Fed. R. Civ. Proc. Rule 23.

17 6. In July 2012, I transitioned into litigating wage and hour class actions from the  
18 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since  
19 February 2016 as a Shareholder of Haines Law Group, APC. Currently, over ninety percent  
20 (90%) of my practice is dedicated exclusively to the prosecution of wage and hour class actions,  
21 and my law firm is currently responsible for prosecuting over fifty (50) wage and hour class  
22 actions filed in both State and Federal courts throughout California. I have been appointed as  
23 Class Counsel in hundreds of wage and hour class action settlements in state and federal courts  
24 within California. A few examples of the matters in which I have been appointed as Class  
25 Counsel, all of which have been granted final approval, include the following: *Shaw v. Conant*  
26 *Auto Retail, San Diego*, Case No. 37-2014-00044052-CU-OE-CTL, California Superior Court,  
27 County of San Diego, Hon. Judge Joan M. Lewis, presiding; *Tirado v. Ricon Corp.*, Case No.  
28 BC537042, California Superior Court, County of Los Angeles, Hon. John S. Wiley, presiding;

1 *Horta v. Searles Valley Minerals, Inc.*, Case No. CIVDS 1507615, California Superior Court,  
2 County of San Bernardino, Hon. Donald Alvarez presiding; *Rodriguez v. Spartan, Inc.*, Case No.  
3 BCV-15-100007-DRL, California Superior Court, County of Kern, Hon. David R. Lampe  
4 presiding; *Kostyuk, et al. v. Golden State Overnight Delivery Service, Inc.*, Case No.  
5 RG14727191, California Superior Court, Alameda County, Hon. Winifred Y. Smith presiding;  
6 *Leverage, et al v. Traeger Pellet Grills, LLC, et al*, Case No. 16-cv-00784-KAW, United States  
7 District Court for the Northern district of California, Hon. Kandis A. Westmore presiding; *Nunez*  
8 *v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los  
9 Angeles, Hon. John Shepard Wiley, Jr., presiding; *Morales v. Caremeridian, LLC, et al.*, Case  
10 No. BC593191, California Superior Court, County of Los Angeles, Hon. William F. Highberger  
11 presiding; *Rodrigues v. CP Kelco U.S., Inc.*, Case No. 37-2017-00004339-CU-OE-CTL,  
12 California Superior Court, County of San Diego, Hon. Joel R. Wohlfeil, presiding; *Beach-*  
13 *Barrow, et al v. The Hertz Corp.*, Case No. RG17848833, California Superior Court, County of  
14 Alameda, Hon. Ioana Petrou presiding; *Gooding v. Vita-Mix Corp., et al*, Case No. 2:16-cv-  
15 03898-ODW (JEMx), United States District Court for the Central District of California, Hon. Otis  
16 D. Wright II presiding; *Afa, et al v. Alliance Ground Int’l, LLC*, Case No. BC661449, California  
17 Superior Court, County of Los Angeles, Hon. William F. Highberger presiding; *De Leon, et al v.*  
18 *PDQ Enterprises, Inc.*, Case No. 19STCV0107, California Superior Court, County of Los  
19 Angeles, Hon. Amy D. Hogue presiding.

20 7. I have also moved to certify and have received an order certifying a class action  
21 and/or conditionally certifying a collective action in the following cases:

- 22 • *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-  
23 CXC, California Superior Court, County of Orange, Hon. Gail A. Andler presiding  
24 (certifying a class of employees misclassified as independent contractors);
- 25 • *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), U.S.  
26 District Court, Central District of California, Hon. Beverly Reid O’Connell, presiding  
27 (conditionally certifying an unpaid FLSA overtime wage class);

28 ///

- 1 • *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), U.S. District  
2 Court, Central District of California, Hon. John F. Walter presiding (certifying a rest  
3 period violation class and conditionally certifying a FLSA unpaid overtime wage class);
- 4 • *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, U.S. District Court, Northern  
5 District of California, Hon. Haywood S. Gilliam, Jr. presiding (conditionally certifying an  
6 unpaid FLSA overtime wage class);
- 7 • *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, U.S. District  
8 Court, Eastern District of California, Hon. Jennifer L. Thurston presiding (conditionally  
9 certifying an unpaid FLSA overtime wage class);
- 10 • *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC,  
11 California Superior Court, County of Orange, Hon. William Claster presiding (certifying  
12 unpaid overtime wage class and waiting time penalty class);
- 13 • *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-775372-CU-OE-CXC,  
14 California Superior Court, County of Orange, Hon. Glenda Sanders presiding (certifying  
15 piece rate pay plan classes, expense reimbursement class, wage statement class, and  
16 waiting time penalties class);
- 17 • *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), U.S.  
18 District Court, Central District of California, Hon. Dolly M. Gee presiding (certifying six  
19 classes of employees for rest period violations, wage statement violations, meal period  
20 violations, and overtime and double-time violations);
- 21 • *Vazquez, et al v. Kraft Heinz Foods Company*, Case No. 16-cv-2749-WQH-BLM, U.S.  
22 District Court, Southern District of California, Hon. William Q. Hayes presiding  
23 (certifying six classes of employees for unpaid wages, meal period violations, wage  
24 statement violations, and waiting time penalties);
- 25 • *Caudle, et al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA,  
26 U.S. District Court, Northern District of California, Hon. William H. Alsup presiding  
27 (certifying three classes of employees for alleged unlawful wage deductions, wage  
28 statement violations, and waiting time violations);

- *Staublein v. Wells Fargo Bank, N.A.*, Case No. CIV DS1712267, California Superior Court, County of San Bernardino, Hon. David S. Cohn presiding (certifying class of employees for wage statement violations);
- *Perez v. Sunbelt Rentals, Inc.*, Case No. 37-2018-00026405-CU-OE-CTL, California Superior Court, County of San Diego, Hon. Eddie C. Sturgeon presiding (certifying class of employees for wage statement violations); and
- *Bowlin-Burdick et al v. Life Care Centers of America*, Case No. BC657139, Los Angeles County Superior Court, Hon. Maren E. Nelson presiding (certifying four classes for meal and rest period violations, wage statement violations, and waiting time penalties).

8. In 2015, 2016, and 2017, Thomson Reuters recognized me as a Top Young Attorney in Southern California in the annual Rising Stars Edition of Super Lawyer. This is an honor awarded to no more than two-and-a-half percent of attorneys under the age of forty in Southern California each year. In 2018, 2019, 2020, 2021, and 2022, Thomson Reuters recognized me as a “Super Lawyer” in the annual Super Lawyer magazine, an honor awarded to no more than five percent of all attorneys in Southern California each year.

9. As counsel for Plaintiff and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is an excellent result for the Settlement Class.

10. CPAY provides credit processing services to small- to medium-sized businesses across the country. Plaintiff and Settlement Class members are Sales Representatives who performed services for CPAY during the Class Period and either worked in California, serviced merchants in California, and/or attended training in CPAY’s former San Rafael, California, location, and whose agreement with CPAY provided that California law applied to the agreement. According to CPAY, the Settlement Class consists of approximately 1,205 individuals.

11. On September 18, 2020, Plaintiff, through my office, filed the instant action, alleging class claims for failure to pay minimum and overtime wages, rest period violations, failure to reimburse expenses, unlawful deductions, wage statement penalties, waiting time penalties, and unfair competition.

1           12.     On November 30, 2020, Plaintiff, through my office, submitted a First Amended  
2 Complaint adding a claim for civil penalties under the Labor Code Private Attorneys General Act  
3 (“PAGA”), Labor Code § 2698 *et seq.* On August 11, 2022, pursuant to the Settlement and the  
4 parties’ stipulation, Plaintiff filed the operative Second Amended Complaint adding a claim for  
5 meal period violations.

6           13.     The parties agreed to attend a mediation with Francis “Tripper” Ortman, Esq., an  
7 experienced and well-respected wage and hour class action mediator, in an attempt to resolve  
8 Plaintiff’s claims on a classwide basis. In connection with mediation, CPAY provided my office  
9 with extensive informal discovery, including relevant records for a vast majority of putative class  
10 members for the putative class period, including records indicating the number of merchants  
11 serviced each month by each class member and the amounts paid to each putative class member;  
12 CPAY’s relevant written documents applicable to Sales Representatives; and other relevant data  
13 and information. My office performed a detailed review of the records and other documents and  
14 data produced by CPAY, and we drew on our extensive experience in similar cases to assess the  
15 strengths and weaknesses of Plaintiff’s case and to calculate CPAY’s potential exposure. This  
16 discovery allowed the parties to assess the merits and potential value of Plaintiff’s claims, the  
17 chances of certification of Plaintiff’s claims, and CPAY’s defenses thereto.

18           14.     The parties attended mediation with Mr. Ortman on September 13, 2021. During  
19 mediation, the parties vigorously debated their opposing legal positions, the likelihood of  
20 certification of Plaintiff’s claims, and the legal bases for Plaintiff’s claims and CPAY’s defenses.  
21 The parties did not reach a resolution at the mediation. However, over the following months, the  
22 parties continued their negotiations with Mr. Ortman’s assistance, and eventually reached a  
23 settlement in principle. Over the next several months, the parties negotiated the finer terms of the  
24 settlement and finalized the long-form settlement agreement now before this Court. A true and  
25 correct copy of the Stipulation of Settlement (“Settlement”) is attached hereto as **Exhibit 1**. The  
26 proposed Notice of Class Action Settlement and Notice of Estimated Individual Settlement Award  
27 are attached as **Exhibits A and B**, respectively, to the Settlement.

28 ///

1 15. The monetary terms of the Settlement are set forth below:

|    |                                                           |                     |
|----|-----------------------------------------------------------|---------------------|
| 2  | • Gross Settlement Amount (“GSA”):                        | \$1,475,000.00      |
| 3  | • Minus Court-approved attorneys’ fees (one-third):       | \$491,666.67        |
| 4  | • Minus Court-approved, verified costs (up to):           | \$25,000.00         |
| 5  | • Minus Court-approved enhancement payment:               | \$7,500.00          |
| 6  | • Minus Amount Set Aside as PAGA Penalties:               | \$75,000.00         |
| 7  | • <u>Minus estimated settlement administration costs:</u> | <u>\$12,000.00</u>  |
| 8  | Net Settlement Amount (“NSA”):                            | \$863,833.33        |
| 9  | • PLUS 25% “PAGA Amount” to Settlement Class:             | \$18,750.00         |
| 10 | <b>Total Amount Paid to Settlement Class:</b>             | <b>\$882,583.33</b> |

11 16. As noted, according to CPAY there are approximately 1,205 total Settlement Class  
12 members. Thus, Settlement Class members are projected to receive average individual payments  
13 of \$732.43 as a direct result of this Settlement.

14 17. Plaintiff’s primary allegation in this case is that CPAY misclassified Plaintiff and  
15 other Sales Representatives as independent contractors. Plaintiff contends that because CPAY’s  
16 core function is providing credit processing services to merchants, and Sales Representatives sell  
17 these services to merchants, they do not “perform work that is outside the usual course” of  
18 CPAY’s business. Thus, Plaintiff alleges they do not meet the “ABC test” for independent  
19 contractor status adopted by the California Supreme Court in the *Dynamex* case and codified by  
20 AB 5, and should have been classified as employees. CPAY counters that it would be able to meet  
21 the *Dynamex* factors since, among other things, Sales Representatives set their own hours; they  
22 do not report to a CPAY office and instead work “in the field” directly selling to merchants and/or  
23 maintain their own business locations; they decide which merchants to solicit and service; they  
24 are not directly supervised by CPAY; they understand they are independent contractors per their  
25 agreement with CPAY; and because CPAY provides credit card processing services and is *not* in  
26 the business of direct-selling to merchants. CPAY also argues that some of Plaintiff’s claims,  
27 including the reimbursement claim, stem from the Labor Code and not the Wage Orders and  
28 therefore *Dynamex* does not apply to those claims. CPAY further argues that even assuming it  
could not meet the ABC test as laid out in *Dynamex*/AB 5, Sales Representatives fall under one  
or more of the exceptions codified in AB 5, and which apply retroactively. Specifically, CPAY  
asserts that Sales Representatives, who sell directly to merchants, qualify as “direct sales

salespersons” under Labor Code § 2783(e), and/or qualify for the “professional services” exemption under Labor Code § 2778, since, among other things, Sales Representatives maintain their own business locations, set their own hours, use their own discretion in performing their duties, and are able to do sales work for other entities. Finally, CPAY contends this claim would require an individualized inquiry as to whether each Sales Representative was properly classified, as well as individualized damages questions, precluding class certification.

18. CPAY further argues that even if Sales Representatives should have been classified as employees, many of Plaintiff’s claims, including claims for unpaid overtime and minimum wages, meal and rest periods, and claims derivative of those claims, would fail because Plaintiff and other Sales Representatives would have qualified as outside sales representatives. Specifically, CPAY argues, Sales Representatives are expected to, and indeed do, spend a majority of their time selling to and/or obtaining orders from merchants away from CPAY’s place of business, and therefore qualify for the outside sales exemption.

19. Sales Representatives are paid on a commission basis, and Plaintiff alleges that CPAY failed to separately compensate Sales Representatives for “non-productive” time, such as time attending telephonic trainings and picking up and delivering equipment for merchants. Based on data provided by CPAY, Plaintiff estimates that Sales Representatives performed services for approximately 140,000 weeks during the Class Period, and Plaintiff further estimates that Sales Representatives spent an average of about one hour performing non-productive tasks per week. The average minimum wage in California during the Class Period is about \$11.75 per hour, and Plaintiff therefore estimated CPAY’s potential exposure for unpaid “non-productive” time as: 140,000 hrs \* \$11.75 min. wage \* 2 (liquidated damages under Labor Code § 1194.2) = \$3,290,000. CPAY argues, first, that Sales Representatives were properly classified as independent contractors, or in the alternative were outside salespersons exempt from minimum wage or overtime requirements and from rest period requirements, as described in detail above. CPAY next argues that its commission pay plans resulted in Sales Representatives being paid at least the minimum wage for all hours worked, and was lawful under the California Supreme Court’s ruling in *Oman v. Delta Air Lines, Inc.*, 9 Cal.5th 762 (2020). Pursuant to *Oman*, CPAY

1 argues, a commission-based pay plan is only unlawful if it “borrow[s] wages contractually owed  
2 for one set of hours or tasks to rectify compensation below the minimum wage for a second set  
3 of hours or tasks.” CPAY asserts that its pay plans did not violate the rule set forth in *Oman*  
4 because CPAY did not contractually promise employees certain compensation for certain hours  
5 or tasks and “borrow” from that compensation to pay for other hours or tasks. Rather, all  
6 compensation paid was meant to pay Sales Representatives for all hours and tasks performed in  
7 any given month. CPAY further contends that Sales Representatives work minimal (if any)  
8 uncompensated “non-productive” time, since, as noted above, all of Sales Representatives’ tasks  
9 were part and parcel of their commission-based work. CPAY further argues that any questions of  
10 non-productive time would be highly individualized, as Sales Representatives worked without  
11 supervision and there are no separate records or other common evidence of time spent on  
12 potentially non-productive tasks necessary to prove class-wide liability and damages, thereby  
13 precluding class certification. Based on these defenses, Plaintiff discounted the maximal value of  
14 this claim by 40% for risk of non-certification, and by an additional 70% for risk of losing on the  
15 merits or failing to recover the full amount sought, to arrive at a realistic exposure of \$592,200.

16         20. Plaintiff also alleges that Pirch failed to separately compensate Settlement Class  
17 members for required rest periods when they were compensated on a commission-only basis, and  
18 therefore failed to authorize and permit paid rest periods, in violation of California law. Based on  
19 Plaintiff’s experience and conversations with other Sales Representatives, Plaintiff estimated that  
20 Sales Representatives who serviced at least 20 merchants in any given month generally worked  
21 over 3.5 hours per day and would therefore be entitled to rest periods on each day worked. Based  
22 on data provided by CPAY, there were approximately 4,429 months worked by Sales  
23 Representatives during the Class Period where they serviced at least 20 merchants, and Plaintiff  
24 therefore estimated 88,580 workdays (approximately 20 workdays per month) in which Sales  
25 Representatives worked over 3.5 hours per day and were therefore entitled to a rest period.  
26 Plaintiff further calculated, based on data provided by CPAY, that Sales Representatives’ average  
27 rate of pay was approximately \$20 per hour. Plaintiff therefore calculated CPAY’s potential  
28 exposure for failure to separately compensate for rest periods as:  $88,580 * \$20 = \$1,771,600$ . But

as noted above, CPAY maintains that Sales Representatives were properly classified as independent contractors or, alternatively, outside salespersons, and therefore would not be entitled to rest periods. Moreover, CPAY argues that even if its pay plan were found to be an unlawful commission-based pay plan, its failure to separately compensate employees for rest periods during shifts would be limited to back-pay for the rest periods themselves (i.e., pay for the 10 minutes per rest period) as opposed to the rest period penalties under Labor Code § 226.7, measured as an hour of pay per workday, sought by Plaintiff. CPAY also points out that many Sales Representatives perform services for CPAY on a very part-time basis, only servicing up to a handful of merchants at any given time, and therefore do not work 3.5 hours per day (or even work every day) for CPAY and thus would not even be entitled to rest periods. CPAY also argues this claim would not be amenable to class certification, as individual inquiries would be required to determine whether each Sales Representative was properly classified, and as to whether and how often they would have been entitled to rest periods on each workday. In light of these defenses, Plaintiff discounted CPAY’s maximum exposure by 40% to account for the risk of non-certification, and an additional 75% for risk of losing on the merits or failure to recover the full amount sought, to arrive at an estimated exposure of approximately \$265,740.

21. Plaintiff alleges CPAY took deductions from his and other Sales Representatives’ commissions for the cost of business cards and other expenses, and that these constitute unlawful deductions from wages under Labor Code §§ 221-223. Based on data provided by CPAY and on Plaintiff’s experience and conversations with other Sales Representatives, Plaintiff estimated CPAY took about \$20 per month in allegedly unlawful deductions, and that Sales Representatives collectively worked approximately 35,182 months during the Class Period, for a total potential exposure of \$703,640. CPAY argues, first, that Sales Representatives are properly classified as independent contractors (as explained above) and thus Sections 221-223 do not apply. CPAY also argues any deductions were specifically agreed to by Sales Representatives in their written agreements, and offset actual expenses incurred by CPAY at the request of Sales Representatives, such as printing business cards, which are not required by CPAY and are done for the convenience of the Sales Representative. CPAY further argues that any deductions were simply one step in

calculating Sales Representatives' commissions and therefore were not deductions from "earned" wages under Section 221. CPAY also argues that not all Sales Representatives experienced deductions, and that differences in the amount (if any) and types of deductions experienced by different Sales Representatives would necessitate an unmanageable series of mini-trials, thus precluding class certification of this claim. Based on these defenses, Plaintiff discounted the maximal exposure by 35% for risk of non-certification, and by an additional 60% for risk of losing on the merits, for an estimated realistic exposure of \$182,946.

22. Plaintiff also alleges that he and other Sales Representatives incurred expenses, including using their personal computers, cell phones, and vehicles in the course of their work for CPAY, but that CPAY failed to reimburse those expenses in violation of Labor Code § 2802. Based data provided by CPAY and on his own experience as a Sales Representative, Plaintiff estimated an average of about \$25 per month for reasonable business-related cell phone and computer use, and about 50 miles per month of business-related vehicle use. Based on an average IRS mileage rate during the Class Period of about \$.56, and 35,182 months worked by Sales Representatives, Plaintiff estimated a total potential exposure as:  $[(50 \text{ miles} * \$0.56/\text{mile}) + \$25/\text{mo.}] * 35,182 \text{ months} = \$1,864,646$ . CPAY counters, first, that Sales Representatives were properly classified as independent contractors as discussed above, and therefore no reimbursement was required. Indeed, CPAY points out, even if the *Dynamex* test otherwise applies to Sales Representatives, the *Dynamex* test does not apply to reimbursement claims since the obligation to reimburse employees is found in the Labor Code and not in the Wage Orders, as has been held by at least one California Court of Appeal. CPAY also argues this claim is not suitable for class treatment, as it would require individualized inquiries as to whether each Sales Representative incurred work-related expenses that were not reimbursed, how much those expenses were, and whether each Sales Representative's expenses were reasonable in his or her individual circumstances. In light of these defenses, Plaintiff discounted this claim by 50% for risk of non-certification, and an additional 70% for risk of losing on the merits or failing to recover the full amount sought, to arrive at an estimated realistic exposure of \$279,697.

///

23. Plaintiff also alleges that, for himself and other Sales Representatives who attended training in San Rafael, California, which took place in 2017, CPAY failed to pay any wages and failed to provide meal and rest periods at the trainings. Based on data provided by CPAY, the Sales Representatives who attended these trainings attended an aggregate total of approximately 15 training days, so Plaintiff estimated 120 hours of unpaid time (15 days \* 8 hrs/day) for the Sales Representatives who attended these trainings. The minimum wage in California in 2017 was \$10.50, and therefore Plaintiff estimated CPAY's potential exposure for unpaid wages for these trainings as: 120 hrs \* \$10.50 \* 2 = \$2,520. Further, based on data produced by CPAY, Plaintiff estimated Sales Representatives' average rate of pay as approximately \$20 per hour, and Plaintiff assumed a meal period violation and rest period violation on each day of training. Thus, Plaintiff assumed meal and rest period damages for these trainings as: 15 days \* \$20 \* 2 violations/day = \$600, for a total of \$3,120 in potential damages for CPAY's failure to pay any wages or provide meal and rest periods for in-person trainings. CPAY argues, first, that Sales Representatives are independent contractors who need not be paid hourly or provided meal or rest periods, as explained above. CPAY further argues that trainings did not need to be compensated, because trainings are outside Sales Representatives' working hours, attendance is voluntary, and Sales Representatives did not perform productive work for CPAY while completing the training. CPAY also asserts that Sales Representatives were free to take off-duty meal and rest periods while visiting CPAY's San Rafael, California location, and that there were ample breaks during the training sessions for them to do so. Lastly, CPAY argues individualized inquiries would be required to determine whether and why individual Sales Representatives received or did not receive meal or rest periods on each day of training, thereby precluding certification of this claim. Although these defenses warranted discounting the maximum exposure, in light of the relatively small amount of underpayment, Plaintiff did not discount this claim for purposes of his damages analysis.

24. As a result of CPAY's alleged failures to pay wages and premium wages, Plaintiff alleges that CPAY failed to issue accurate itemized wage statements under Labor Code § 226. Based on information provided by CPAY, there were approximately 14,449 pay periods worked

1 by Covered Class Members within the one-year liability window under Section 226. In  
2 calculating CPAY's exposure, Plaintiff assumed he could recover the "initial" wage statement  
3 penalty of \$50 for each violation, for a total of \$722,450 (14,449 pay periods \* \$50) in potential  
4 penalties. However, given CPAY's arguments that no violations occurred, that class members  
5 suffered no "injury," that any alleged violations were not "knowing and intentional," and that  
6 Sales Representatives' wage statements always accurately reflected amounts *paid* to them, as well  
7 as risks associated with Plaintiff's underlying claims discussed above, Plaintiff discounted the  
8 maximum exposure by 35% for risk of non-certification, and by an additional 65% for risk of  
9 being unsuccessful on the merits, for an estimated realistic exposure of \$164,357.

10 25. As a further result of the unpaid wages and unpaid meal and rest period premium  
11 wages described above, Plaintiff alleges that CPAY failed to comply with its final payment  
12 obligations and is therefore liable for waiting time penalties under Labor Code § 203. Based on  
13 analysis of data provided by CPAY, there are approximately 347 Covered Class Members who  
14 stopped performing services for CPAY since September 2017. Plaintiff further estimated an  
15 average waiting time penalty of about \$4,800 (\$20 \* 8 hrs \* 30 days), and thus calculated CPAY's  
16 maximum waiting time penalty exposure as approximately \$1,665,600 (347 \* \$4,800). However,  
17 CPAY argues it possesses strong, good-faith defenses to Plaintiff's underlying claims (as  
18 described above), and therefore any failure to pay wages was not "willful" as a "good faith  
19 dispute" exists regarding the unpaid wages at issue, thus precluding any recovery of waiting time  
20 penalties based on the prevailing regulations and case law. CPAY further contends that the same  
21 defenses as to certification and the merits are equally applicable to the derivative waiting time  
22 claim. In light of these risks, Plaintiff discounted the maximum potential recovery by 40% for the  
23 risk of non-certification, and an additional 70% risk of losing on the merits, to arrive at an  
24 estimated exposure of \$299,808.

25 26. Finally, Plaintiff alleges that CPAY is liable for PAGA civil penalties based on  
26 the violations described above. Plaintiff estimated a maximum potential PAGA exposure of  
27 \$1,444,900, based on 14,449 pay periods at the \$100 "initial" violation rate under Lab. Code §  
28 2699(f). However, these penalties derive from Plaintiff's underlying claims, each of which CPAY

1 vigorously disputes. In addition, CPAY argues that even if Plaintiff were to prevail on some of  
2 his underlying claims, he could not show a violation in each pay period. CPAY further argues  
3 that the PAGA grants trial courts discretion to reduce PAGA civil penalties (Lab. Code §  
4 2699(e)(2)), and that the Court would reduce penalties significantly given CPAY's good-faith  
5 defenses, as courts have done in many other cases. Thus, Plaintiff discounted the maximum figure  
6 by 60% for risk of losing on the merits and/or not recovering a PAGA penalty for each pay period,  
7 and by an additional 75% for risk of the Court reducing penalties, to arrive at an estimated  
8 exposure of \$144,490.

9         27. Using these estimated figures for each of the claims described above, Plaintiff  
10 predicted the realistic total recovery for the Settlement Class on Plaintiff's claims would be  
11 approximately \$1,932,358. The proposed settlement of \$1,475,000 therefore represents over  
12 76.3% of Plaintiff's reasonably forecasted recovery.

13         28. Although the parties engaged in a significant amount of informal discovery in  
14 advance of mediation, the parties had not yet completed formal written and deposition discovery,  
15 which would have required expenditure of substantial time and resources by all parties and likely  
16 would have spanned years to complete. Moreover, Plaintiff still had to file for class certification,  
17 and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff  
18 and/or an adverse summary judgment ruling. Even if the classes sought to be certified by Plaintiff  
19 were in fact certified, the parties would incur considerably more attorneys' fees and costs through  
20 a possible decertification motion, trial, and possible appeal. The Settlement avoids those risks  
21 and accompanying expense.

22         29. Plaintiff will apply for an attorneys' fees award of one-third of the Gross  
23 Settlement Amount, as well as up to \$25,000 in litigation costs. As explained in the accompanying  
24 Motion, Plaintiff submits the requested fee is fair compensation for undertaking complex, risky,  
25 expensive, and time-consuming litigation on a purely contingent basis. My office has incurred  
26 substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims,  
27 conducting legal research, reviewing documents and data produced by CPAY and provided to my  
28 office by Plaintiff, preparing for and attending mediation, negotiating and preparing the

1 Settlement, preparing the instant Motion for Preliminary Approval, and otherwise prosecuting  
2 this case. I also anticipate my office incurring significant future attorneys' fees in overseeing the  
3 Notice process, fielding phone calls from Covered Class Members, preparing the Motion for Final  
4 Approval and supporting documents, and appearing at the Final Approval Hearing.

5 30. In addition, at final approval Plaintiff will apply for an enhancement payment in  
6 the amount of up to \$7,500. I believe this amount is reasonable given the result achieved in this  
7 case in light of significant defense challenges, Plaintiff's efforts on behalf of the Settlement Class,  
8 and the risks he has undertaken as class representative. Among other things, Plaintiff provided  
9 substantial factual information and documents to my office, identified potential witnesses, and  
10 spent many hours in telephonic meetings with my office to discuss the claims and theories at issue  
11 in the litigation and to review many of the documents produced by CPAY and provided by  
12 Plaintiff. He also undertook the risk of being liable for CPAY's costs if this case were lost, and  
13 the substantial reputational risk of being the named plaintiff in a class action lawsuit against a  
14 large corporation like CPAY.

15 I declare under penalty of perjury under the laws of the State of California and the United  
16 States that the foregoing is true and correct. Executed on August 15, 2022, at El Segundo,  
17 California.



---

Paul K. Haines

# **EXHIBIT 1**

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement” or “Settlement”) is reached by and between Plaintiff Timothy Isaac (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendants Central Payment Co., LLC (“CPAY”) and TSYS Merchant Solutions, LLC (“TSYS”) (together, “Defendants”), on the other hand. Plaintiff and Defendants are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC (“Class Counsel”). Defendants are represented by George W. Abele and Jennifer Milazzo of Paul Hastings LLP (“Defense Counsel”).

Plaintiff filed a class and representative action complaint against Defendants in Marin County Superior Court, titled *Timothy Isaac v. Central Payment Co. LLC, et al*, Case No. CIV2002734, on September 18, 2020 (the “Lawsuit”). The First Amended Complaint in the Lawsuit, filed on November 30, 2020, alleges claims against Defendants for: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) rest period violations; (iv) failure to reimburse necessary business expenses; (v) unlawful deductions from wages; (vi) wage statement violations; (vii) waiting time penalties; (viii) unfair competition; and (ix) civil penalties under the Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* As part of this Settlement, the Parties have agreed to stipulate to the filing of a Second Amended Complaint (“Complaint”) adding a claim for meal period violations.

Given the uncertainty of litigation, the Parties wish to settle Plaintiff’s claims on a classwide and representative basis. Accordingly, Plaintiff and Defendants agree as follows:

1. **Settlement Class.** For purposes of this Settlement Agreement only, Plaintiff and Defendants stipulate to the certification of a “Settlement Class,” which shall be defined as:

All current and former Sales Representatives that, during the period of September 18, 2016 to the date the Court grants preliminary approval of the Settlement (“Class Period”), either: (i) performed services for Defendants and lived in California; (ii) performed services for Defendants and had an active account in California, but lived elsewhere; and/or (iii) performed services for Defendants and traveled to California for training; and California law applied to the services relationship between the Sales Representatives and Defendants per their written agreement.

Members of the Settlement Class are known as “Covered Class Members.” Defendants represent there are approximately 1,205 Covered Class Members.

The Parties agree that certification for purpose of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure in a non-settlement context. If for any reason this Settlement is not approved or is terminated, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement.

2. **Release by Settlement Class.** Once this Settlement Agreement receives final approval and the Court enters judgment, and upon the Settlement being fully funded, Plaintiff and every Covered Class Member who does not opt out of the class portion of the Settlement (“Participating Class Members”) will release and discharge Defendants, and all of their

current and former parents, subsidiaries, and affiliated entities, and each of their respective officers, directors, employees, partners, shareholders, members, managers, trustees, and agents, and any other predecessors, successors, assigns, or legal representatives (“Released Parties”), from (i) those claims set forth in the Complaint or that could have been alleged based on the facts alleged in the Complaint, including claims under Labor Code §§ 201-204, 221-223, 226, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, Industrial Wage Order No. 7, and Business and Professions Code § 17200, and (ii) claims for wages, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising from or related to any and all claims that were asserted in the Lawsuit or that could have been asserted in the Lawsuit based on the allegations of the Complaint. The claims released by the Participating Class Members shall include, without limitation, any and all claims relating to any alleged failure to pay minimum and overtime wages, failure to provide meal or rest periods, failure to reimburse expenses, failure to maintain required records, failure to timely pay wages when due, unlawful deductions from wages, failure to furnish accurate itemized wage statements, unlawful competition and unlawful business practices based on the above, and any statutory penalty claims that were asserted in the Lawsuit or that could have been asserted in the Lawsuit based on the allegations of the Complaint (“Class Released Claims”). The release of Class Released Claims shall apply, temporally, to the duration of the Class Period. In addition, all Covered Class Members (whether or not they opt out) who performed services as Sales Representatives for Defendants at any point from September 23, 2019 through the end of the Class Period (the “PAGA Period”) shall release any right or claim to civil penalties or other damages pursuant to the PAGA, based on alleged violations of the California Labor Code or Wage Orders set forth above arising during the PAGA Period (“PAGA Released Claims”).

3. **Maximum Settlement Amount.** As consideration, Defendants agree to pay a “Maximum Settlement Amount” or “MSA” of One Million Four Hundred Seventy-Five Thousand Dollars and Zero Cents (\$1,475,000.00) in full and complete settlement of this matter, as follows:
  - A. The Parties have agreed to engage Phoenix Settlement Administrators (“Phoenix”) as the “Settlement Administrator” to administer this Settlement.
  - B. The Maximum Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days after the Effective Date. The “Effective Date” of the settlement agreement shall be the day after final approval of the settlement is granted by the Court, and Judgment approving the settlement becomes Final. “Final” means the latest of the following dates, as applicable: (i) in the event that any party or Covered Class Member has filed an appeal regarding the trial court final approval of the settlement, the date the Court of Appeal or the California Supreme Court has rendered a final ruling affirming the trial court’s final approval of the Settlement without material modification, or (ii) the date that the deadline for seeking appellate review of the trial court’s final approval of the Settlement has passed without the filing of a timely appeal or timely request for review. In the event no objections are filed, the settlement shall be Final on the date that the court enters final approval and final judgment.

///

- C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
  - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than \$12,000.00;
  - (3) Up to \$7,500.00 for Plaintiff's Class Representative Incentive Award, in recognition of his contributions to the Action and his service to the Settlement Class;
  - (4) Class Counsel attorney fees of one-third of the MSA (currently estimated to be \$491,666.67), plus litigation costs and expenses incurred by Class Counsel in relation to the Lawsuit as supported by declaration, which are currently estimated to be no greater than \$25,000.00;
  - (5) The Parties have set aside \$75,000.00 of the MSA as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$56,250.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or \$18,750.00, will be payable to certain Covered Class Members as the "PAGA Amount" as discussed below.
- D. Defendants' share of payroll taxes on any wage portion of the payments to the Settlement Class shall be paid by Defendants separately from, and in addition to, the Maximum Settlement Amount. Defendants' share of payroll taxes shall be deposited by Defendants with the Settlement Administrator at the same time they deposit the Maximum Settlement Amount.
- E. **Escalator Clause.** As noted above, Defendants represent that there are approximately 1,205 Covered Class Members. This is a material term of the settlement. If the number of Covered Class Members is actually more than 5% greater than 1,205 (i.e., if there are 1,266 or more Covered Class Members), then the Maximum Settlement Amount shall increase commensurate with the increase in class size over 1,205. (For example, if the number of Covered Class Members is 10% greater than 1,205, the Maximum Settlement Amount shall increase by 10%.)
- F. **Defendants' Option to Rescind.** If more than 5% of the Covered Class Members opt out, according to the Settlement Administrator's final report, Defendants may rescind the Settlement within seven (7) business days after the Settlement Administrator first informs the Parties that more than 5% of Covered Class Members have opted out. Should Defendants exercise this option, Defendants shall pay all administration costs incurred until that date. Neither Plaintiff, Defendants, Class Counsel, nor Defense Counsel shall solicit, request, or encourage any Covered Class Member to opt out of the Settlement.

///

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment from the Settlement (“Settlement Award”).

Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator will deduct from the Maximum Settlement Amount the Court-approved amounts for Class Counsel’s attorneys’ fees and litigation costs and expenses, Plaintiff’s Class Representative Incentive Award, the Settlement Administrator’s administration costs, and PAGA civil penalties. The remaining amount shall be known as the “Net Settlement Amount” or “NSA.” Settlement Awards will be the total of each Covered Class Member’s (i) payment from the NSA and (ii) payment, if any, from the PAGA Amount, as described below.
- B. Payments from the Net Settlement Amount: All Participating Class Members will receive a payment from the NSA as follows. First, every Participating Class Member will receive a “Guaranteed Minimum Payment” of \$300.00 from the NSA. Next, each Participating Class Member will receive a payment from the remainder of the NSA (“NSA Remainder”) based upon each Participating Class Member’s proportionate number of “merchant-months” during the Class Period. Each Participating Class Member’s “merchant-months” will be calculated by multiplying (i) the number of months the Participating Class Member performed services for Defendants as a Sales Representative during the Class Period, and (ii) the average number of merchant accounts the Participating Class Member serviced each month while he/she performed services for Defendants as a Sales Representative during the Class Period. For example, if a Participating Class Member performed services for Defendants as a Sales Representative for 24 months during the Class Period and serviced an average of 10 merchant accounts during those months, that Participating Class Member would be allocated 240 “merchant-months.” The Settlement Administrator will calculate each Participating Class Member’s payment from the NSA Remainder by multiplying the NSA Remainder by a fraction, the numerator of which is the Participating Class Member’s number of “merchant-months” during the Class Period, and the denominator of which is the total “merchant-months” of all Participating Class Members during the Class Period.
- C. Payments from the PAGA Amount: In addition to the NSA, 25% of the amount set aside as PAGA civil penalties (i.e., \$18,750.00) has been set aside as the “PAGA Amount,” as mentioned above. The PAGA Amount shall be paid to all Covered Class Members (regardless whether they opt out) who were performed services as Sales Representatives for Defendants at any time during the PAGA Period, based on their proportional number of months they performed services as Sales Representatives for Defendants during the PAGA Period (“PAGA Months”). Specifically, each Covered Class Member’s payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Covered Class Member’s number of PAGA Months, and the denominator of which is the total PAGA Months of all Covered Class members.

///

- D. Within seven (7) business days following Defendants' deposit of the Maximum Settlement Amount and the employer's share of payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Awards, and provide the same to Class Counsel and Defense Counsel for review and approval. Within five (5) business days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Covered Class Members, as well as the Plaintiff's Incentive Award to Plaintiff, the LWDA's PAGA payment to the LWDA, and Class Counsel's attorneys' fees and costs to Class Counsel. The Settlement Administrator shall simultaneously pay all applicable withholdings to the applicable authorities with the necessary reports, submitting copies to Defense Counsel.
- E. For purposes of calculating applicable taxes and withholdings for payments, each Settlement Award shall be allocated as follows: for amounts paid from the PAGA Amount, 100% penalties; for amounts paid from the Net Settlement Amount, 35% wages, and 65% as penalties and interest. The Settlement Administrator will be responsible for issuing to Covered Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. As stated above, Defendants are responsible for the employer's share of the payroll taxes on the wage portion of the Settlement Awards, and these taxes will not be deducted from the Maximum Settlement Amount. Notwithstanding the treatment of the payments to each Covered Class member above, none of the payments called for by this Settlement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit, or retirement plan, unless required by such plans.
- F. Each Covered Class Member who is mailed a Settlement Award must cash his/her Settlement Award check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Covered Class Members whose checks are not cashed within 180 days after mailing will be deposited by the Settlement Administrator with *cy pres* recipient, Court Appointed Special Advocates/Guardians ad Litem ("CASA/GAL"), a non-profit organization that supports and promotes court-appointed volunteer advocacy for children who have experienced abuse and neglect.
- G. Neither Plaintiff nor Defendants, nor their respective counsel, shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys' Fees and Costs.** Class Counsel will request a total award of attorneys' fees of one-third of the Maximum Settlement Amount (currently estimated at \$491,666.67), plus actual costs and expenses as supported by declaration in an amount not to exceed \$25,000.00. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement, including any objections raised and any appeals necessitated by those objections. As noted above, the Settlement Administrator will mail Class Counsel the attorneys' fees and cost award when it mails the

Settlement Awards to Covered Class Members. The Settlement Administrator will issue Class Counsel IRS Forms 1099 when the Settlement Administrator pays the fee and cost award allowed by the Court.

6. **Class Representative Incentive Award.** Plaintiff will request a Class Representative Incentive Award of \$7,500.00 from the Maximum Settlement Amount for Plaintiff's time and risks undertaken in prosecuting the Lawsuit, and his service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Covered Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will mail Plaintiff the Class Representative Incentive Award and issue Plaintiff an IRS Form 1099 when it mails the Settlement Awards to Covered Class Members.
7. **Settlement Administrator.** The Parties will request the appointment of Phoenix as Settlement Administrator. Defendants will not object to Plaintiff's seeking permission to pay up to \$12,000.00 from the Maximum Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for administering the Settlement. Among other things, the Settlement Administrator will be responsible for sending notices to Covered Class Members, calculating Settlement Awards and preparing all checks and mailings, posting the Judgment to its website, and other duties as described in this Settlement. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount only after Settlement Awards have been mailed to Settlement Class members.
8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
  - A. Conditionally certifying the Settlement Class for purposes of this Settlement;
  - B. Appointing Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC as Class Counsel;
  - C. Appointing Plaintiff as Class Representative for the Settlement Class;
  - D. Approving Phoenix as Settlement Administrator;
  - E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
  - F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as Exhibits A and B, respectively), and directing the mailing of same; and
  - G. Scheduling a Final Approval hearing.
9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:
  - A. Within fifteen (15) business days after entry of an order preliminarily approving this Agreement, Defendants will provide the Settlement Administrator with the name, last known address, last known phone number, social security number, months of engagement as a Sales Representative during the Class Period, and number of merchants engaged in each month during the Class Period, for each

Covered Class Member (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

- B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Covered Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Covered Class Members; (ii) update the addresses of any Covered Class Member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Covered Class Member, and provide Class Counsel and Defense Counsel with its calculations for their approval; (iv) provide Class Counsel and Defense Counsel with formatted versions of the Notice Packets to be sent to Settlement Class members; and (v) after receiving approval from all counsel, mail a Notice Packet to each Covered Class Member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Covered Class Member who wishes to opt-out of the class portion of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator on or before sixty (60) calendar days after the date of the initial mailing of the Notice Packets (the “Response Deadline”). The Request for Exclusion is a document prepared by the Covered Class Member that must: (1) contain the Covered Class Member’s name, address, telephone number, and last four digits of his/her Social Security number; (2) contain a statement that the Covered Class Member wishes to be excluded from the Settlement; (3) be signed by the Covered Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement, except a Request for Exclusion not containing a Covered Class Member’s last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Covered Class Member who excludes himself or herself from the Settlement Class will not be entitled to any recovery under this Settlement (except for any share from the PAGA Amount, if applicable), will not be bound by the terms of the Settlement (except for release of the PAGA Released Claims, if applicable), and will not have any right to object, appeal, or comment thereon. The Settlement Administrator will provide the Parties with weekly updates regarding the number of Requests for Exclusion received. The Parties and their counsel agree not to take any action to encourage any Covered Class Member to opt out of the settlement.
- D. Objections. Covered Class Members who do not request exclusion may object to the class portion of the Settlement by mailing a written objection to the Settlement Administrator as explained in the Class Notice. The Settlement Administrator shall, within two (2) business days of receipt, serve any written objection(s) as received on Class Counsel and Defense Counsel, and Class Counsel shall then file all such objections with the Court. Defense Counsel and Class Counsel shall file and serve any responses to written objections no later than five (5) calendar days prior to the

Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Covered Class Member's full name, current address, and telephone number, as well as contact information for any attorney representing the objecting Covered Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection; and (4) be postmarked no later than the Response Deadline. A Covered Class Member who wishes to object but who fails to comply with the procedures set forth herein and/or in the Class Notice shall be deemed not to have objected. Any attorney who intends to represent an objecting Covered Class Member at the Final Approval hearing must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. The Parties and their counsel agree not to take any action to encourage any Covered Class Member to object to the Settlement. The Parties agree that there is no right for any Covered Class Member to object to the PAGA portion of the Settlement. The Parties further agree there is no right or opportunity for any Covered Class Member to appeal the approval of the PAGA portion of the Settlement, with the exception of Plaintiff.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to Covered Class Members shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Covered Class Member's estimated Settlement Award as well as all of the information that was gleaned from Defendants' records in order to calculate the Settlement Award, including their number of months they performed services for Defendants as a Sales Representative during the Class Period, average number of merchants serviced during the Class Period, and their number of PAGA Months, if any, during the PAGA Period. Covered Class Members will have the opportunity, should they disagree with Defendants' records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with counsel for the Parties to determine whether an adjustment to the Covered Class Member's Settlement Award is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Award under the terms of this Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Covered Class Member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Covered Class Member within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Covered Class Member. Covered Class

Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, Objection, or dispute, as applicable. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if applicable. If a Covered Class Member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defense Counsel to provide notice of the Settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for submitting Requests for Exclusion, Objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
  - A. Granting final approval of the Settlement and adjudging its terms to be fair, reasonable, and adequate;
  - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees, costs, Class Representative Incentive Award, PAGA civil penalties to the LWDA, and settlement administration costs; and
  - C. Entering judgment pursuant to California Rule of Court 3.769.
11. **Non-Admission of Liability.** Defendants deny liability as to the matters alleged in the Complaint. Nothing in this Settlement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement. If Final Approval does not occur, the Parties agree that this Settlement is void, but remains protected by California Evidence Code § 1152.
12. **Confidentiality.** Plaintiff and Class Counsel agree that, prior to filing a Motion for Preliminary Approval, they will not disclose or publicize the Settlement contemplated herein, the fact of the Settlement, its terms or contents, or the negotiations underlying the Settlement, in any manner or form, to any person or entity, except to Covered Class Members and as shall be contractually required to effectuate the terms of the Settlement as set forth herein, and except to Plaintiff's spouse or to his attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiff.
13. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court shall retain jurisdiction to construe, interpret and enforce this Settlement, to supervise all notices, the administration of the Settlement, and to hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree that the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure, Section 664.6.
14. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement will not constitute a waiver of any other provision.

15. **Enforcement Action.** In the event either Party brings an action to enforce the terms of this Settlement, the prevailing party in such action shall be entitled to recover his/her/its reasonable attorneys' fees and costs incurred.
16. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:
- if to Defendants: George W. Abele, Paul Hastings LLP, 515 Flower Street, Twenty-Fifth Floor, Los Angeles, CA 90071; georgeabele@paulhastings.com
- if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, CA 90245; phaines@haineslawgroup.com
17. **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.
18. **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.
19. **Entire Agreement.** This Settlement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.
20. **Counterparts.** This Settlement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

///

///

///

21. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

**AGREED TO AND APPROVED BY:**

DATED: \_\_\_\_\_, 2022

**TSYS MERCHANT SOLUTIONS, LLC**

By: \_\_\_\_\_  
David Green, Secretary

DATED: \_\_\_\_\_, 2022

**CENTRAL PAYMENT CO., LLC**

By: \_\_\_\_\_  
David Green, Secretary

DATED: April 19, 2022

**TIMOTHY ISAAC**

Timothy Isaac  
Timothy Isaac (Apr 19, 2022 06:45 EDT)

Plaintiff and Class Representative

**APPROVED AS TO FORM:**

DATED: \_\_\_\_\_, 2022

**PAUL HASTINGS LLP**

By: \_\_\_\_\_  
George W. Abele  
Attorneys for Defendants

DATED: April 19, 2022

**HAINES LAW GROUP, APC**

By:   
Paul K. Haines  
Attorneys for Plaintiff

21. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

**AGREED TO AND APPROVED BY:**

DATED: April 18, 2022

By: TSYS MERCHANT SOLUTIONS, LLC  
David L. Green  
 B858729A465E467...  
 David Green, Secretary LA

DATED: April 18, 2022

By: GENERAL PAYMENT CO., LLC  
David L. Green  
 B858729A465E467...  
 David Green, Secretary LA

DATED: \_\_\_\_\_, 2022

**TIMOTHY ISAAC**

\_\_\_\_\_  
 Plaintiff and Class Representative

**APPROVED AS TO FORM:**

DATED: April 18, 2022

By: PAUL HASTINGS LLP  
George W. Abele  
 George W. Abele  
 Attorneys for Defendants

DATED: \_\_\_\_\_, 2022

**HAINES LAW GROUP, APC**

By: \_\_\_\_\_  
 Paul K. Haines  
 Attorneys for Plaintiff

# **EXHIBIT A**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

TIMOTHY ISAAC,

Plaintiff,

vs.

CENTRAL PAYMENT CO., LLC, ET AL

Defendant.

Case No. CIV2002734

**NOTICE OF PENDENCY OF CLASS ACTION  
AND PROPOSED SETTLEMENT**

To: All current and former Sales Representatives that, during the period of September 18, 2016 to <<PRELIM APPROVAL DATE>> ("Class Period"), either: (i) performed services for Defendants Central Payment Co., LLC ("CPAY") and TSYS Merchant Solutions, LLC ("TSYS") (together, "CPAY/TSYS") and lived in California; (ii) performed services for CPAY/TSYS and had an active account in California, but lived elsewhere; and/or (iii) performed services for CPAY/TSYS and traveled to California for training; and California law applied to the services relationship between the Sales Representatives and CPAY/TSYS per their written agreement.

**PLEASE READ THIS NOTICE CAREFULLY.  
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

***Why should you read this Notice?***

The Marin County Superior Court ("Court") has granted preliminary approval of a proposed class action settlement (the "Settlement") in *Timothy Isaac v. Central Pymment Co., LLC, et al*, Marin County Superior Court Case No. CIV2002734 (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. CPAY/TSYS's records show that you performed services for CPAY/TSYS as a Sales Representative at some point between September 18, 2016 and <<PRELIM APPROVAL DATE>> and either: (i) performed services for CPAY/TSYS and lived in California; (ii) performed services for CPAY/TSYS and had an active account in California, but lived elsewhere; and/or (iii) performed services for CPAY/TSYS and traveled to California for training; and that California law applied to the services relationship between you and CPAY/TSYS per your written agreement. You are therefore a member of the proposed "Settlement Class." The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights. As a member of the proposed Settlement Class, you are a "Covered Class Member" under the terms of the Settlement.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, [www.phoenixclassaction.com](http://www.phoenixclassaction.com).

***What is this case about?***

Plaintiff Timothy Isaac ("Plaintiff") has filed a lawsuit alleging that CPAY/TSYS violated California law by misclassifying Sales Representatives as independent contractors and that as a result, CPAY/TSYS: (i) failed to pay all overtime wages; (ii) failed to pay at least minimum wage for all hours worked; (iii) failed to authorize and permit rest periods; (iv) failed to provide meal periods; (v) failed to reimburse necessary business expenses; (vi) took unlawful deductions from wages; (vii) failed to issue accurate itemized wage statements; (viii) failed to pay all wages owing upon separation of employment; and, as a result of the above, (ix) engaged in unlawful business practices. In addition, Plaintiff seeks recovery of derivative civil penalties under the California Labor Code Private Attorneys General Act ("PAGA"), interest, and attorneys' fees and

costs. Plaintiff's attorneys, who also represent the interests of all Covered Class Members, are known as "Class Counsel."

CPAY/TSYS deny that they have done anything wrong, and believe they have acted in compliance with all applicable laws and that Plaintiff's claims have no merit. CPAY/TSYS also deny that they owe any wages, restitution, penalties, or other damages. By agreeing to settle, CPAY/TSYS are not admitting liability on any of the factual allegations or claims asserted in the Lawsuit or that the Lawsuit can or should proceed as a class action in a non-settlement context.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, CPAY/TSYS have concluded that it is in their best interests to settle the Lawsuit on the terms summarized in this Notice. After CPAY/TSYS provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

Plaintiff and Class Counsel also support the Settlement. Among the reasons for support are the defenses to liability potentially available to CPAY/TSYS, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

**If you still perform services for CPAY/TSYS, your decision about whether to participate in the Settlement will not affect your status with CPAY/TSYS. California law and CPAY/TSYS company policy strictly prohibit unlawful retaliation.** CPAY/TSYS will not take any adverse action against or otherwise target, retaliate, or discriminate against any Covered Class Member because of the Covered Class Member's decision to either participate or not participate in the Settlement.

#### ***Who are the Attorneys?***

|                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Attorneys for Plaintiff / the Settlement Class:<br><b>HAINES LAW GROUP, APC</b><br>Paul K. Haines<br>phaines@haineslawgroup.com<br>Tuvia Korobkin<br>tkorobkin@haineslawgroup.com<br>2155 Campus Drive, Suite 180<br>Neil M. Larsen<br>nlarsen@haineslawgroup.com<br>El Segundo, California 90245<br>Tel: (424) 292-2350<br>Fax: (424) 292-2355<br>www.haineslawgroup.com | Attorneys for CPAY/TSYS:<br><b>PAUL HASTINGS LLP</b><br>George W. Abele<br>georgeabele@paulhastings.com<br>Jennifer Milazzo<br>jennifermilazzo@paulhastings.com<br>515 Flower Street, 25 <sup>th</sup> Floor<br>Los Angeles, CA 90071<br>Tel.: (213) 683-6000<br>Fax: (202) 627-0705<br>www.paulhastings.com |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### ***What are the terms of the Settlement?***

CPAY/TSYS have agreed to pay \$1,475,000.00 (the "Maximum Settlement Amount") to fully resolve all claims in the Lawsuit, including claims by Covered Class Members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representative Incentive Award.

The following deductions from the Maximum Settlement Amount will be requested by the parties:

**Settlement Administration Costs.** The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$12,000 from the Maximum Settlement Amount to pay the Settlement administration costs.

**Attorneys' Fees and Costs/Expenses.** Class Counsel will ask for fees of up to one-third of Maximum Settlement Amount, currently estimated to be \$491,666.67, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$25,000 for reimbursement of verified costs/expenses Class Counsel incurred in connection with the Lawsuit.

Class Representative Incentive Award. Class Counsel will ask the Court to approve an award of \$7,500 to the Plaintiff, also known as the “Class Representative.” This award is to compensate the Class Representative for his service and extra work provided on behalf of the Settlement Class.

PAGA Civil Penalties. The parties have agreed to allocate \$75,000 of the Maximum Settlement Amount as alleged civil penalties for the settlement of Plaintiff’s PAGA claim. Pursuant to the requirements of the PAGA, seventy-five percent (75%) of that amount, or \$56,250, will be paid to the California Labor & Workforce Development Agency (“LWDA”). The remaining \$18,750 has been designated as the “PAGA Amount” and will be paid to certain Covered Class Members as described below.

Calculation of Settlement Class Members’ Settlement Awards. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Covered Class Members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated to be approximately \$863,833.33. Together with the \$18,750 PAGA Amount, the total amount to be distributed to Covered Class Members is estimated to be \$882,583.33. Payments to Covered Class Members, known as “Settlement Awards,” will be calculated as follows:

- (i) *NSA Distribution:* All Participating Class Members (i.e., all Covered Class Members who do not opt out of the Settlement) will receive a payment from the NSA as follows. First, every Participating Class Member will receive a “Guaranteed Minimum Payment” of \$300.00 from the NSA. Next, each Participating Class Member will receive a payment from the remainder of the NSA (“NSA Remainder”) based upon each Participating Class Member’s proportionate number of “merchant-months” during the Class Period. Each Participating Class Member’s “merchant-months” will be calculated by multiplying (i) the number of months the Participating Class Member performed services for CPAY/TSYS as a Sales Representative during the Class Period, and (ii) the average number of merchant accounts the Participating Class Member serviced each month during the Class Period. For example, if you performed services for CPAY/TSYS as a Sales Representative for 24 months during the Class Period and serviced an average of 10 merchant accounts, you would be allocated 240 “merchant-months.” Your share of the NSA Remainder will be calculated by dividing your number of “merchant-months” by the total “merchant-months” of all Participating Class Members.
- (ii) *PAGA Amount Distribution:* In addition to the NSA, \$18,750 of the Maximum Settlement Amount has been designated as the “PAGA Amount” as described above, and will be allocated to all Covered Class Members (whether or not they opt out) who performed services as Sales Representatives for CPAY/TSYS at any time from September 23, 2019 to <<PRELIM APPROVAL DATE>> (the “PAGA Period”), in proportion to the number of months that each Covered Class Member performed services for CPAY/TSYS as a Sales Representative during the PAGA Period.

The enclosed “Notice of Estimated Settlement Award” contains your estimated payment under the Settlement, as well as the data from CPAY/TSYS’s records that was relied upon in calculating your estimated payment.

Deposit of Maximum Settlement Amount. The Maximum Settlement Amount will be deposited by CPAY/TSYS with the Settlement Administrator within thirty (30) calendar days of the “Effective Date” as defined in the Settlement. If there are no objections to the Settlement and the Court grants final approval of the Settlement, then the Effective Date will be the day after the Court grants final approval.

Payments to Covered Class Members: Approximately twelve (12) business days after CPAY/TSYS’s deposit of the Maximum Settlement Amount, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Covered Class Members.

Allocation and Taxes. For tax purposes, Settlement Awards shall be treated as follows: for payments from the PAGA Amount, 100% penalties; for payments from the NSA, 35% wages, 65% penalties and interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as “wages,” and will issue IRS forms 1099 for all amounts designated as penalties and interest. Covered Class Members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, CPAY/TSYS and their counsel, and Plaintiff and Class Counsel cannot provide tax advice. Accordingly, Covered Class

Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

**Release.** If the Court approves the Settlement and the Settlement becomes final, the Plaintiff and every Participating Class Member will release and discharge CPAY/TSYS, and all of their current and former parents, subsidiaries, and affiliated entities, and each of their respective officers, directors, employees, partners, shareholders, members, managers, trustees, and agents, and any other predecessors, successors, assigns, or legal representatives (“Released Parties”), from (i) those claims set forth in Plaintiff’s Second Amended Complaint (“Complaint”) or that could have been alleged based on the facts alleged in the Complaint, including claims under Labor Code §§ 201-204, 221-223, 226, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, Industrial Wage Order No. 7, and Business and Professions Code § 17200, and (ii) claims for wages, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising from or related to any and all claims that were asserted in the Lawsuit or that could have been asserted in the Lawsuit based on the allegations of the Complaint. The claims released by the Covered Class Members shall include, without limitation, any and all claims relating to any alleged failure to pay minimum and overtime wages, failure to provide meal or rest periods, failure to reimburse expenses, failure to maintain required records, failure to timely pay wages when due, unlawful deductions from wages, failure to furnish accurate itemized wage statements, unlawful competition and unlawful business practices based on the above, and any statutory penalty claims that were asserted in the Lawsuit or that could have been asserted in the Lawsuit based on the allegations of the Complaint. (“Class Released Claims”). The release of Class Released Claims shall apply, temporally, to the duration of the Class Period. In addition, all Covered Class Members (whether or not they opt out) who performed services as Sales Representatives for CPAY/TSYS at any point during the PAGA Period shall release any right or claim to civil penalties or other damages pursuant to the PAGA, based on alleged violations of the California Labor Code or Wage Orders set forth above arising during the PAGA Period (“PAGA Released Claims”).

**Conditions of Settlement.** By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

#### ***How can I claim money from the Settlement?***

**Do Nothing.** You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award based on your number of “merchant-months” as a Sales Representative during the Class Period, and the number of months, if any, you performed services for CPAY/TSYS as a Sales Representative during the PAGA Period. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated herein.

**Check Cashing Deadline and Uncashed Checks.** You must cash or deposit your Settlement Award check within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds from the check will escheat to the *cy pres* recipient, Court Appointed Special Advocates/Guardians ad Litem (“CASA/GAL”) a non-profit organization that supports and promotes court-approved volunteer advocacy for children who have experienced abuse and neglect.

#### ***What other options do I have?***

**Disputing Information in Notice of Estimated Settlement Award.** Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on your number of “merchant-months” while you performed services as a Sales Representative for CPAY/TSYS during the Class Period, and the number of pay periods, if any, you performed services as a Sales Representative for CPAY/TSYS during the PAGA Period. The information contained in CPAY/TSYS’s records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND**

**ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Covered Class Members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Class Portion of the Settlement. If you **do not** wish to take part in the class portion of the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or postcard, postmarked no later than <<RESPONSE DEADLINE>>, with your full name (as well as any former names you used while you performed services for CPAY/TSYS), your current address, telephone number, last 4 digits of your social security number, and your signature. The Request for Exclusion should state that you wish to exclude yourself from the Settlement Class in the *Isaac v. Central Payment Co.* lawsuit.

Send any Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Covered Class Member with respect to the class claims, shall be barred from participating in the class portion of the Settlement, and shall receive no benefits from the class portion of the Settlement. Any person who submits a valid and timely Request for Exclusion will also lack standing to submit any objection to the Settlement. However, all Covered Class Members who performed services as Sales Representatives for CPAY/TSYS during the PAGA Period (even those who submit a valid and timely Request for Exclusion) will be bound by the PAGA portion of the Settlement and will receive a portion of the PAGA Amount.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the class Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the class Settlement, or any portion of it, you must mail a written Objection to the Settlement Administrator. Any Objection must include your full name (as well as any former names used while you performed services for CPAY/TSYS), current address and phone number, last 4 digits of your social security number, the name and contact information of any attorney representing you, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All objections or other written correspondence must state the name and number of the case, which is *Timothy Isaac v. Central Payment Co., LLC, et al*, Marin County Superior Court Case No. CIV2002734. Any Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you submit an objection to the Settlement, you may also appear at the Final Approval Hearing to discuss your objection with the Court. You have the right to appear either in person or through your own attorney. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>.

If you object to the Settlement, you will remain a Covered Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Covered Class Members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

#### ***What is the next step?***

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Courtroom A of the Marin County Superior Court, located at 3501 Civic Center Drive, San Rafael, California 94918. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of costs/expenses, the Class Representative Incentive Award, and the Settlement administration costs. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Covered Class Member is welcome to attend the hearing at their own expense.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, [www.marincourt.org](http://www.marincourt.org), for information regarding court operations during COVID-19 as well as any face covering and social distancing requirements.

***How can I get additional information?***

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Marin County Superior Court, located at 3501 Civic Center Drive, San Rafael, California 94918, during regular Court hours. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.**

***REMINDER AS TO TIME LIMITS***

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

# **EXHIBIT B**

## **NOTICE OF ESTIMATED SETTLEMENT AWARD**

***TIMOTHY ISAAC V. CENTRAL PAYMENT CO., LLC***  
**MARIN COUNTY SUPERIOR COURT CASE NO. CIV2002734**

Please complete, sign, and return this Form to <<ADMINISTRATOR CONTACT INFO>> ONLY IF (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

**(I) Please type or print your name:**

\_\_\_\_\_  
(First, Middle, Last)

**(II) Please type or print the following identifying information if your contact information has changed:**

\_\_\_\_\_  
Former Names (if any)

\_\_\_\_\_  
New Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone number (if you wish to be contacted by phone)

**(III) Information Used to Calculate Your Estimated Settlement Award:**

According to CPAY/TSYS's records:

- (a) you performed services for CPAY/TSYS as a Sales Representative for \_\_\_\_\_ months between September 18, 2016 and <<PRELIM APPROVAL DATE>>;
- (b) you serviced an average of \_\_\_\_\_ merchant accounts between September 18, 2016 and <<PRELIM APPROVAL DATE>>; and
- (c) you performed services for CPAY/TSYS as a Sales Representative for \_\_\_\_\_ months between September 23, 2019 and <<PRELIM APPROVAL DATE>>.

Based on the above, your Settlement Award is estimated at \$\_\_\_\_\_.

**(IV) If you disagree with any of the items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you dispute the above information from CPAY/TSYS's records, CPAY/TSYS's records will control unless you are able to provide documentation that establishes that CPAY/TSYS's records are mistaken. If there is a dispute about whether CPAY/TSYS's information or yours is accurate, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Class Action Settlement" that accompanies this Form. The Settlement Administrator's determination will be final.

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**ANY DISPUTES (INCLUDING SUPPORTING DOCUMENTS) MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.**