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7 Attorneys for Plaintiff Devendra Prasad
8 and Proposed Class Counsel

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA CLARA**
11

12 DEVENDRA PRASAD, on behalf of
13 himself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*,

14 Plaintiffs,

15 v.

16 CYXTERA TECHNOLOGIES, INC., a
17 Delaware corporation, and DOES 1
through 10, inclusive,

18 Defendants.
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Case No.: 20CV373926

Assigned to The Honorable Sunil R. Kulkarni, Dept.
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CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: TBD

TIME: TBD

DEPT.: 1

Action Filed: November 23, 2020

1 Plaintiff Devendra Prasad's ("Prasad" or "Plaintiff") unopposed motion for preliminary
2 approval of class action settlement came on for hearing before this Court in Department 1, Judge
3 Sunil R. Kulkarni presiding, on _____. The Court, having considered the
4 papers submitted in support of the motion and having heard oral argument of the parties, **HEREBY**
5 **ORDERS THE FOLLOWING:**

6 1. The Court grants preliminary approval of the settlement based upon the terms set
7 forth in the Class Action Settlement Agreement ("Stipulation") filed with the Court. The settlement
8 appears to be fair, adequate, and reasonable to the class;

9 2. The Court finds that the settlement falls within the range of reasonableness and
10 appears to be presumptively valid, subject only to any objections that may be raised at the final
11 hearing;

12 3. The Court approves, as to form and content, the Notice of Proposed Class Action
13 Settlement and Final Approval Hearing ("Notice"), and also approves the procedure for members
14 of the Class to opt out from or object to the settlement, as set forth in the Notice;

15 4. The Court directs the mailing of the Notice form by first class mail to the Settlement
16 Class Members in accordance with the schedule set forth below. The Court finds that the dates
17 selected for the mailing and distribution of the Notice, as set forth herein, meet the requirements of
18 due process and provide the best notice practicable under the circumstances and shall constitute
19 due and sufficient notice to all persons entitled thereto;

20 5. It is ordered that the Settlement Class is preliminarily certified for settlement
21 purposes only. The Settlement Class is defined as follows: All non-exempt California employees
22 who worked for Cyxtera Technologies, Inc. from July 1, 2017 through June 1, 2021;

23 6. The Court approves and appoints, for settlement purposes only, Daniel F. Gaines,
24 Esq. and Alex P. Katofsky, Esq. of Gaines & Gaines, APLC as Class Counsel, and grants
25 preliminary approval of an award of attorneys' fees of up to one-third of the Gross Settlement
26 Amount (\$98,333.33) and documented litigation costs of up to \$15,000 to Class Counsel, subject
27 to final approval by the Court following a further motion by Class Counsel;

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7. The Court approves and appoints, for settlement purposes only, Devendra Prasad as the Class Representative and grants preliminary approval to a proposed service payment in an amount not to exceed \$10,000;

8. The Court grants preliminary approval of the allocation of \$20,000 to penalties under the Private Attorneys General Act (Lab. Code §§ 2698 et seq.), of which seventy-five percent (75%) shall be paid to the Labor and Workforce Development Agency and twenty-five (25%) shall be distributed to PAGA Group, as set forth in the Stipulation;

9. The Court hereby approves and appoints ILYM Group, Inc. as the Settlement Administrator and grants preliminary approval of the payment of fees and other charges of the Settlement Administrator in an amount not to exceed \$5,000;

10. The Court orders the following schedule of dates for the specified actions/further proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including the names, last known addresses, social security numbers and Qualifying Workweeks for Class Members ("Class Data")	20 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Notice to Class Members	35 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Class Members to submit a written request for exclusion to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Members to submit an Objection to the Settlement Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date

<u>EVENT</u>	<u>TIMING</u>
Final settlement approval hearing	_____ 202____, at _____.m. (approximately 100 days after entry of this Order)

12. If, for any reason, the Court does not execute and file an Order of Final Approval and Judgment, or if the Effective Date, as defined in the Stipulation, does not occur for any reason, the proposed settlement that is the subject of this Order, and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the parties to the litigation, as more specifically set forth in the Stipulation.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT