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10
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13

14 CYNTHIA MAYER, individually and on behalf
of all others similarly situated,

15 Plaintiff,

16 vs.

17 VISA INC., a Delaware Corporation, VISA
18 U.S.A. INC., a Delaware Corporation, and
19 CYBERSOURCE CORPORATION, a Delaware
Corporation,

20 Defendants.

Case No.: CGC-21-593058

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

(1) Failure to Reimburse Business Expenses
(Labor Code § 2802);
(2) Failure to Issue Accurate Wage Statements
(Labor Code §§ 226(a)(8), (e)); and
(3) Civil Penalties Pursuant to Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

DEMAND FOR JURY TRIAL

1 Plaintiff Cynthia Mayer (“Plaintiff”), on behalf of herself and all others similarly situated
2 individuals, and complains and alleges as follows:

3 **OVERVIEW OF CLAIMS**

4 1. This is a class action, under California Code of Civil Procedure § 382, seeking
5 reimbursement for business expenses, interest thereon, statutory penalties, and reasonable attorneys’ fees
6 and costs, under California Labor Code §§ 2802 and 226(a), (e).

7 2. Plaintiff brings this action on behalf of herself and all other individuals employed by Visa
8 Inc., Visa U.S.A. Inc. and/ or CyberSource Corporation (Visa Inc., Visa U.S.A. Inc., and CyberSource
9 Corporation are collectively referred to as “Defendants”) in California who worked from home and
10 incurred business expenses as a result (“Class Members”) from March 4, 2020 to the earlier of the trial
11 date or as soon as Defendants permit Class Members to return to work from the office (“Class Period”).
12 Plaintiff and Class Members paid business expenses incurred by them in the course of their work for
13 Defendants as Class Members, for which they have not received full reimbursement from Defendant in
14 violation of Labor Code § 2802.

15 3. Plaintiff also brings this action on behalf of herself and all other individuals employed by
16 Defendants in California (“Wage Statement Class Members”) during the one year prior to the filing of
17 this action through to the trial date (“Wage Statement Class Period”). During the Wage Statement Class
18 Period, Visa Inc. and CyberSource Corporation issued wage statements that violated Labor Code §
19 226(a)(8) because the wage statements did not include the name and address of the legal entity that was
20 the employer. Such violation was knowing and intentional, as it was not a result of a clerical error, and
21 caused injury to the Wage Statement Class Members.

22 4. Plaintiff also brings this action as a representative action under the Labor Code Private
23 Attorneys General Act (“PAGA”), Labor Code §§ 2698 *et seq.*, for civil penalties on behalf of herself
24 and all other individuals employed by Defendants in California and who were expected and/or required
25 to work from home (“Aggrieved Employees”) from March 4, 2020 through to the trial date (“PAGA
26 Period”) for Defendants’ alleged violation of Labor Code § 2802; on behalf of herself and all individuals
27 employed by the Defendants Visa Inc. and CyberSource Corporation from January 9, 2020 to the trial
28 date (“Wage Statement PAGA Period”) for Defendants’ alleged violation of Labor Code § 226(a)(8)

1 (“Wage Statement Aggrieved Employees”); and on behalf of herself and all employees of Defendants in
2 California from January 9, 2020 to the trial date (“432.5 PAGA Period”) for Defendants’ alleged
3 violation of Labor Code § 432.5 (“432.5 Aggrieved Employees”).

4 **JURISDICTION**

5 5. This Court has jurisdiction over the Plaintiff’s claims for reimbursement of business
6 expenses and reasonable attorney’s fees and costs pursuant to Labor Code § 2802.

7 6. This Court has jurisdiction over Plaintiff’s claims for statutory penalties Labor Code §
8 226(a)(8), (e).

9 7. This Court has jurisdiction over Plaintiff’s claims for civil penalties under Labor Code
10 § 2699. On July 9, 2021, Plaintiff provided Notice pursuant to Labor Code § 2699.3 to the California
11 Labor & Workforce Development Agency (“LWDA”) and to the Defendants. On August 23, 2021
12 Plaintiff provided her amended Notice to the LWDA and to the Defendants. On October 8, 2021,
13 Plaintiff provided her Second Amended PAGA Notice to the LWDA and to the Defendants. The LWDA
14 has provided no notice to Plaintiff within the period specified in Labor Code § 2699.3 regarding its
15 intention to investigate or not investigate any other claims alleged in the PAGA Notice. Plaintiff has
16 therefore fully complied with the PAGA procedural requirements and may commence this representative
17 action pursuant to Labor Code § 2699.

18 8. This Court has jurisdiction over Plaintiff’s claims for reasonable attorneys’ fees and costs
19 pursuant to Labor Code §§ 2802(c), 226(e), and 2699(g)(1).

20 **VENUE**

21 9. Venue as to Defendants is proper in the County of San Francisco, pursuant to Code of
22 Civil Procedure §§ 395(a) and 395.5. All three Defendants are Delaware corporations with their
23 principal place of businesses located in Foster City, California. The unlawful acts alleged herein have a
24 direct effect on Plaintiff and other Class Members within the State of California, some of whom are
25 employed while conducting Defendants’ business within San Francisco County.

26 **PARTIES**

27 10. Plaintiff resides in San Francisco. Plaintiff was employed by Visa Inc. and CyberSource
28 Corporation from June 2019 until April 2021, and has been employed by Visa Inc. and Visa U.S.A. Inc.

1 since April 2021. During both her employment with Visa Inc. and CyberSource Corporation and Visa
2 Inc. and Visa U.S.A. Inc., Plaintiff worked from home and was subject to Defendants' unlawful business
3 expense reimbursement policies as set forth herein, and incurred unreimbursed business expenses in the
4 course of carrying out her job duties. Plaintiff was also subject to Defendants' unlawful wage statement
5 policies and/or practices and was issued noncompliant wage statements.

6 11. Defendant Visa Inc. is a multinational financial services Delaware corporation with its
7 principal place of business located at 900 Metro Center Boulevard Foster City, California 94404. The
8 policies and practices complained of herein were formulated, implemented, and maintained, in whole or
9 in substantial part, at its Foster City address.

10 12. Defendant Visa U.S.A. Inc. is a Delaware corporation with its principal place of business
11 located at 900 Metro Center Boulevard Foster City, California 94404. Visa U.S.A Inc. is a wholly owned
12 consolidated subsidiary of Visa Inc. and is the U.S. arm of Visa Inc. The policies and practices
13 complained of herein were formulated, implemented, and maintained, in whole or in substantial part, at
14 its Foster City address.

15 13. Defendant CyberSource Corporation is a Delaware corporation with its principal place of
16 business located at 900 Metro Center Boulevard Foster City, California 94404. CyberSource is a wholly
17 owned consolidated subsidiary of Visa Inc. The policies and practices complained of herein were
18 formulated, implemented, and maintained, in whole or in substantial part, at its Foster City address.

19 14. All of Plaintiff's claims stated herein are asserted against Defendants and any of their
20 predecessors, successors, and/or assigns that do, or have done, business, and that employ, or have
21 employed, Class Members in California during the Class Period and/or Wage Statement Class Period.

22 **FACTUAL BACKGROUND**

23 15. Defendants operate and, at all times during the Class Period and Wage Statement Class
24 Period, have done business throughout California. Defendants, in the course of operating their business
25 in California during the Class Period and Wage Statement Class Period, employ or have employed Class
26 Members in various capacities.

1 **A. Evidence of Joint Employer Status**

2 16. All three Defendants, Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation share a
3 corporate address, as alleged above, in Foster City, California.

4 17. CyberSource Corporation and Visa U.S.A. Inc. both operate as wholly-owned
5 consolidated subsidiaries of Visa Inc.

6 **i. CyberSource Corporation and Visa Inc. are Joint Employers**

7 18. CyberSource Corporation's acquisition by Visa Inc. was completed on or about July 21,
8 2010. At the time, CyberSource corporation was an established industry leader in e Commerce payments
9 and played a role in processing approximately 25% of all eCommerce dollars transacted in the United
10 States. Acquisition of CyberSource allowed Visa Inc., *inter alia*, accelerate Visa's growth in the
11 eCommerce category, drive international expansion of CyberSource's products and services, build on
12 CyberSource's relationships with merchants.¹

13 19. Job openings with CyberSource Corporation are advertised by Visa.

14 20. In or about May 2019, Plaintiff received an offer letter of employment from Visa Global
15 Talent Acquisition Team to join CyberSource in the role of Technical Product Analyst. The offer letter
16 set out Plaintiff's compensation, including regular hourly rate, annual salary, and payroll schedule. The
17 letter also provided that Plaintiff's wages would be subject to payroll withholdings, taxes, and benefits
18 in accordance with "Visa's regular payroll practices." The offer letter also provided that Plaintiff would
19 be eligible to participate in "the Visa Inc. Incentive Plan (VIP)" with the bonus under the VIP program
20 tied to Visa's performance and based on Visa's fiscal year. The letter also provided that Plaintiff was
21 eligible to participate in benefits provided by Visa.

22 21. The offer letter also provided that in accepting employment with Visa Plaintiff "agree to
23 be bound by and to comply fully with all Visa policies and procedures for employees." Moreover, the
24 offer letter expressly stated throughout that Plaintiff was being offered employment with Visa Inc.:
25

26 ¹http://s1.q4cdn.com/050606653/files/doc_downloads/acquisitions%20and%20agreements/VISAFinal%20CYBS%20FAQ%207-21-10III.pdf#:~:text=CyberSource%20will%20operate%20as%20a%20wholly-owned%20subsidiary%20of,to%20invest%20in%20CyberSource%E2%80%99s%20business%20and%20its%20employees.
27
28

1 “effective upon your commencement of your employment with Visa”, “upon accepting employment
2 with Visa...”, “[i]n accepting employment with Visa, you represent...” In the offer letter, Visa also
3 retained the right to terminate Plaintiff’s employment: “[y]our employment at Visa is on an at will basis,
4 meaning that Visa will be free to terminate your employment at any time,” and provided that the
5 offer of employment and continued employment was subject to passing Visa’s background checks.

6 22. Attached to the offer letter were: (1) Relocation Expense Agreement, (2) Notice of
7 Employee pursuant to Labor Code § 2810.5, and (3) a summary of Visa’s 2019 U.S. Benefits Program.
8 All documents, including the offer letter, bore the stylized “VISA” logo.

9 23. The Section 2810.5 Notice included with the offer letter identified “Visa Inc.” as the
10 employer, and, as required by section 2810.5, provided wage information. The Notice was signed by
11 Anupama Rao, Sr. Directors, HR Shared Services & Global Operations at Visa.

12 24. The Relocation Expense Agreement provided that “Visa, as part of its offer of
13 employment/transfer, has agreed to pay reasonable travel and relocation expenses subject to the
14 conditions set forth in Visa’s relocation policy.”

15 25. The Benefits Program summary included description of Visa’s medical, dental, and vision
16 coverage, 401K, HAS, Flex Spending Accounts, Disability, Time Off, and other benefits.

17 26. Plaintiff’s wage statements, during the time she was employed by CyberSource
18 Corporation and Visa Inc. listed CyberSource Corporation and a P.O. box address and immediately to
19 the left, a stylized “VISA” logo.

20 **ii. Visa Inc. and Visa U.S.A. Inc. are Joint Employers**

21 27. Visa U.S.A. Inc. is Visa Inc.’s U.S. arm.

22 28. In or about March 2021, Plaintiff was offered a new position as a Technical Product
23 Manager Buyer Digital enablement with Visa U.S.A. Inc. Her offer letter bore a stylized “VISA” logo
24 and was signed by the Visa Global Talent Acquisition Team. The offer letter set out Plaintiff’s
25 annualized compensation and stated that it would be payable “in line with Visa’s regular payroll
26 practices.” The offer letter also provided that Plaintiff was eligible for the Visa Incentive Plan (VIP)
27 bonus program, with the payout based on Plaintiff’s and Visa’s performance. Further, the offer letter
28 stated that Plaintiff was being offered “an exempt position at Visa.”

1 29. During the time Plaintiff was employed by Visa U.S.A. Inc. and Visa Inc. her wage
2 statement listed Visa USA Inc. and an Austin, Texas address and immediately to the left had a stylized
3 “VISA” logo.

4 **B. Expense Reimbursement Claim**

5 30. On or about March 4, 2020, as a result of the COVID-19 pandemic and the state of
6 emergency declared in California on that date due to the pandemic, Defendants directed and required
7 majority of their California workforce, including Class Members, to work from home. Class Members
8 incurred expenses as a result of working from home, including but not limited to the expense of home
9 internet, phone service, printing supplies, office equipment, and electrical services (hereinafter “home
10 office expenses”). However, Defendants did not reimburse them for these expenses fully or at all.

11 31. Defendants’ expense-related policies and/or practices require, and/or with Defendants’
12 knowledge thereof permit, Class Members who are or were working from home to pay out of pocket for
13 business expenses incurred in direct consequence of discharging their job duties on behalf of Defendants,
14 without any or full reimbursement for such expenses.

15 32. Defendants are aware or should have been aware that Class Members regularly incurred
16 and continue to incur business expenses in the discharge of their duties, as employees, without any
17 reimbursement or reimbursement in full. Defendants are aware that Class Members on a regular basis
18 incur home offices expenses described above. Defendants nevertheless have, throughout the Class
19 Period, failed and refused to reimburse Plaintiff and Class Members for such business expenses incurred
20 by them in carrying out their job duties for Defendants.

21 33. Defendants have maintained policies of denying reimbursement in full of Plaintiff’s and
22 Class Members’ necessarily incurred business expenses, or substantially similar policies, throughout
23 California and throughout the Class Period.

24 34. Plaintiff and Class Members have been harmed by Defendants’ unlawful business
25 expense policies and/or practices in that they have not been paid for certain business expenses incurred
26 while employed by Defendants, thereby diminishing their agreed-upon compensation, in substantial
27 amounts to be proved at trial.
28

1 **C. Wage Statement Claim**

2 35. During the Wage Statement Class Period, Defendants were required under Labor Code §
3 226(a)(8) to furnish Wage Statement Class Members with wage statements, semimonthly or at the time
4 of each payment of wages, containing “the name and address of the legal entity that is the employer.”

5 36. However, Defendants failed to comply with Labor Code § 226(a)(8) by failing to include
6 on the wage statements issued to the Wage Statement Class Members the complete legal name of Visa
7 Inc. and the address of Visa Inc. As explained above, Class Members and Wage Statement Class
8 Members were jointly employed by Visa Inc. and Visa U.S.A. Inc. and/or by Visa Inc. and CyberSource
9 Corporation. Labor Code § 226 was amended in 2012 to impose an obligation on “every employer” to
10 provide wage statements with all of the information required by § 226(a). Accordingly, Visa Inc.’s legal
11 name and address should have been listed on Wage Statement Class Members’ wage statements.

12 37. Instead of listing Visa Inc.’s legal name and address, Visa Inc. included on the wage
13 statements issued to its employee a stylized “VISA” logo. The lack of a complete legal name is confusing
14 because there are dozens of entities that begin with the word “Visa” registered with the California
15 Secretary of State.

16 38. Additionally, Visa Inc. and CyberSource Corporation failed to list on the wage statements
17 of Wage Statement Class Members whom they jointly employed CyberSource Corporation’s physical
18 address, and instead, they listed a P.O. Box address in violation of Labor Code § 226(a)(8).

19 39. Defendants’ failure to list on the wage statements the name and address for every
20 employer was knowing and intentional and a result of its uniform practices, and not a result of a clerical
21 error.

22 40. As a result of the above, during the Wage Statement Class Period, Wage Statement Class
23 Members employed by Visa Inc. and Visa U.S.A. Inc., could not promptly and easily determine from
24 the wage statements alone, without reference to other documents or information, including wage
25 statements from previous pay periods, their employer Visa Inc.’s name and address. Wage Statement
26 Class Members employed by Visa Inc. and CyberSource Corporation, could not promptly and easily
27 determine from the wage statements alone, Visa Inc.’s name and address or CyberSource Corporation’s
28

1 address. As a result, Wage Statement Class Members suffered injury for the purposes of Labor Code §
2 226(e).

3 **D. Non-Solicitation Clause Claim**

4 41. During the Class Period, Defendants required Class Members to enter into, as a condition
5 of employment, a “Proprietary Information and Inventions Agreement.” The Agreement contained a
6 Non-Solicitation clause providing that “during my employment and for a period of eighteen (18) months
7 following termination of my employment with the Company, I agree not to directly or indirectly solicit
8 Company employees or consultants for employment by me or any third-party; nor urge them or cause
9 them to be solicited to leave the Company.”

10 42. Defendants’ Non-Solicitation clause violates Business & Professions Code § 16600,
11 which provides that “every contract by which anyone is restrained from engaging in a lawful profession,
12 trade, or business of any kind is to that extent void.” This rule prohibits a former employer from including
13 a Non-solicitation clause that restrains a former employee from engaging in his or her lawful profession.

14 43. As result of violating Business & Professions Code § 16600, the Non-Solicitation clause
15 violates Labor Code § 432.5, which prohibits an employer from “requir[ing] any employee or applicant
16 for employment to agree, in writing, to any term or condition which is known by such employer, or
17 agent, manager, superintendent, or officer thereof to be prohibited by law.”

18 **CLASS ACTION ALLEGATIONS**

19 44. Plaintiff brings this action on behalf of herself and all others similarly situated as a class
20 action pursuant to Code of Civil Procedure § 382. The Classes that Plaintiff seeks to represent are
21 composed of and defined as (1) all persons who have been employed by Defendants in California at any
22 time during the Class Period who worked from home and incurred business expenses as a result, and (2)
23 all persons employed by any of the Defendants in California during the Wage Statement Class Period.
24 All such Class Members and Wage Statement Class Members were subject to Defendants’ policy(ies)
25 and/or practice(s) of failing to fully reimburse employees’ business expenses during the Class Period or
26 failing to issue compliant wage statements during the Wage Statement Class Period.
27
28

1 45. This action has been brought and may properly be maintained as a class action under
2 Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation,
3 the proposed class is easily ascertainable, and Plaintiff is a proper representative of each Class:

4 a. Numerosity: The potential members of each Class as defined are so numerous
5 and so diversely located throughout California, that joinder of all the members of the Class is
6 impracticable. While the precise number of Class Members has not been determined at this time,
7 Plaintiff is informed and believes that Defendants have at all times during the Class Period and the Wage
8 Statement Class Period employed more than 100 individuals in California subject to Defendants'
9 business expense reimbursement policies and/or wage statement policies. Due to employee turnover,
10 the number of Class Members is much larger than the number of individuals employed at any one time.
11 The Class Members are dispersed throughout California. Joinder of all members of each proposed class
12 is therefore not practicable.

13 b. Commonality: There are questions of law and fact common to the Plaintiff and
14 the Classes that predominate over any questions affecting only individual members of each Class. These
15 common questions of law and fact include, without limitation:

16 i. Whether Defendants jointly employed Plaintiff and Class Members;
17 ii. Whether Plaintiff and Class Members incurred unreimbursed business
18 expenses in the discharge of their duties as employees, included but not limited to expenses for home
19 internet, phone service, printing supplies, office equipment and electrical services.

20 iii. Whether Defendants adopted a uniform policy and/or practice of not
21 reimbursing Class Members for any of their necessarily incurred business expenses fully or at all, while
22 at the same time having actual and/or constructive knowledge that the members of the Class were
23 routinely incurring such business-related expenses;

24 iv. Whether Defendants knew or should have known that Plaintiff and the
25 Class were routinely incurring business-related expenses;

26 v. Whether Defendants' actual and/or constructive knowledge that Plaintiff
27 and the Class were routinely incurring business-related expenses triggered an affirmative obligation by
28 Defendants under § 2802 of the Labor Code to reimburse Plaintiff and the Class for such expenses;

vi. Whether Defendants failed and/or refused to fully reimburse business expenses incurred by Plaintiff and Class Members in the discharge of their duties.

vii. Whether Defendants' failure to reimburse business expenses incurred by Plaintiff and Class Members, fully or at all, was the result of, and/or pursuant to, a business policy or regular practice of Defendants.

viii. Whether Defendants violated Labor Code § 2802 by denying Plaintiff and similarly situated Class Members reimbursement for their business expenses.

ix. Whether Defendant Visa Inc. violated Labor Code § 226(a)(8) by failing to issue compliant wage statements to Plaintiff and Wage Statement Class Members that included the complete name and address of Visa Inc.;

x. Whether Defendants Visa Inc. and CyberSource Corporation violated Labor Code § 226(a)(8) by failing to issue compliant wage statements to Plaintiff and Wage Statement Class Members that included the physical address of CyberSource Corporation;

xi. Whether Defendants' failure to issue compliant wage statements was knowing and intentional;

xii. Whether Plaintiff and Wage Statement Class Members suffered injury for the purposes of Labor Code § 226(e);

xiii. The proper formula(s) for calculating damages, interest, penalties, and restitution owed to Plaintiff and the Class Members.

c. Typicality: Plaintiff's claims are typical of the claims of each Class. Both Plaintiff, and Wage Statement Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of and caused by Defendants' common course of conduct in violation of law as alleged herein, in similar ways and for the same types of expenses and injury.

d. Adequacy of Representation: Plaintiff is a member of each Class and will fairly and adequately represent and protect the interests of each Class. Plaintiff's interests do not conflict with those of Class Members. Counsel who represent Plaintiff are competent and experienced in litigating large wage and hour class actions, including expense reimbursement and wage statement class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class.

1 e. Superiority of Class Action: A class action is superior to other available means
2 for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not
3 practicable, and questions of law and fact common to the Class predominate over any questions affecting
4 only individual members of the Class. Each Class Member has been damaged or may be damaged in the
5 future by reason of Defendants' unlawful policies and/or practices of not fully reimbursing business
6 expenses and/or not issuing compliant wage statements. Certification of this case as a class action will
7 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
8 economical for the parties and the judicial system. Certifying this case as a class action is superior
9 because it allows for efficient and full disgorgement of the ill-gotten gains Defendants have enjoyed by
10 maintaining its unlawful business expense reimbursement policy and/or practice and its unlawful wage
11 statement policy and/or practice, and will thereby effectuate California's strong public policy of
12 protecting employees from hardship and deprivation or offsetting of compensation earned in their
13 employment. If this action is not certified as a Class Action, it will be impossible as a practical matter
14 for many or most Class Members to bring individual actions to recover monies unlawfully withheld from
15 their lawful compensation due from Defendants, as well as penalties, due to the relatively small amounts
16 of such individual recoveries relative to the costs and burdens of litigation.

17
18 **FIRST CAUSE OF ACTION**
19 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**
20 **(LABOR CODE § 2802)**

21 46. Plaintiff re-allege and incorporate by reference each and every allegation set forth in the
22 preceding paragraphs.

23 47. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for
24 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
25 his or her duties."

26 48. In order to discharge their job duties for Defendants while working from home, Plaintiff
27 and Class Members employed in various positions were required and expected by Defendants to use
28 their own home internet, phone service, printing supplies, office equipment, and electrical services, as
described above. However, Defendants did not pay fully, or at all, for business expenses incurred by
Plaintiff and Class Members as described above.

1 49. Defendants' failure to pay for or reimburse the home office expenses incurred by Plaintiff
2 and other Class Members violated non-waivable rights secured to Plaintiff and Class Members by Labor
3 Code § 2802. Plaintiff and Class Members are entitled to reimbursement for these necessary
4 expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802.

5 50. As a result of Defendants' violations of Labor Code § 2802, Defendants are also liable
6 for attorneys' fees and costs under Labor Code § 2802(c).

7 51. Plaintiff, on behalf of herself and Class Members, requests relief as described below.

8
9 **SECOND CAUSE OF ACTION**
10 **Failure to Issue Accurate Wage Statements**
11 **[Cal. Labor Code §§ 226(a)(8), (e)]**

12 52. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
13 the preceding paragraphs.

14 53. During the Wage Statement Class Period, Defendants failed to furnish Plaintiff and Wage
15 Statement Class Members employed by them during the Wage Statement Class Period with accurate
16 wage statements containing the name and address of each employer, in violation of Labor Code §
17 226(a)(8).

18 54. Defendant Visa Inc.'s failure to furnish accurate wage statements containing its name and
19 address to Plaintiff and Wage Statement Class Members was knowing and intentional.

20 55. Defendants CyberSource Corporation's and Visa Inc.'s failure to furnish accurate wage
21 statements to Plaintiff and Wage Statement Class Members containing the physical address of
22 CyberSource Corporation was knowing and intentional.

23 56. Plaintiff and Wage Statement Class Members suffered injury as a result of Defendants'
24 knowing and intentional failure to comply with Labor Code § 226(a)(8) for purposes of Labor Code §
25 226(e). As a result, Wage Statement Class Members are entitled to recover \$50 for each initial pay
26 period with a violation, and \$100 for each subsequent pay period with a violation, up to an amount not
27 exceeding an aggregate penalty of \$4,000 for each Wage Statement Class Member, pursuant to Labor
28 Code § 226(e).

 57. Plaintiff, on behalf of herself and all other Wage Statement Class Members, requests
relief as described below.

1 **THIRD CAUSE OF ACTION**

2 **Civil Penalties**

3 **[Labor Code §§ 2698 *et seq.*]**

4 58. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

5 59. Plaintiff seeks PAGA penalties, and attorneys' fees and costs, on behalf of herself, Aggrieved Employees, and Wage Statement Aggrieved Employees, for the following violations:

6 ***Violation of Labor Code § 2802 on behalf of Aggrieved Employees***

7 60. During the PAGA Period, Defendants required all non-essential employees, including Aggrieved Employees, to work from home. Aggrieved Employees all incurred home office expenses, including but not limited to home internet, phone service, printing supplies, office equipment, and electrical service ("home office expenses") in order to carry out their job duties for Defendants from home. Defendants knew that their employees necessarily incurred out of pocket expenses in carrying out their work duties for Defendants. However, Defendants did not reimburse Aggrieved Employees for these expenses fully or at all in violation of § 2802 of the California Labor Code.

15 61. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to one hundred dollars (\$100) per pay period for each initial violation and two hundred dollars (\$200) per pay period for each subsequent violation.

18 ***Violation of Labor Code § 226(a)(8) on behalf of Wage Statement Aggrieved Employees***

19 62. During the Wage Statement PAGA Period, Defendant Visa, Inc., failed to include on the wage statements issued to the Wage Statement Aggrieved Employees its complete legal name and the address. Instead, all that Defendant Visa Inc. included on the wage statements was stylized "VISA" logo.

22 63. During the Wage Statement PAGA Period, Defendants Visa Inc. and CyberSource Corporation failed to list on the wage statements of Wage Statement Aggrieved Employees (whom they jointly employed) CyberSource Corporation's physical address, and instead listed a P.O. Box address in violation of Labor Code § 226(a)(8).

26 64. Pursuant to Labor Code § 226.3, Plaintiff and Wage Statement Aggrieved Employees are entitled to \$250 for each initial pay period with a violation and \$1,000 for each subsequent pay period with a violation

65. Alternatively, under Labor Code § 2699(f)(2), Plaintiff and Wage Statement Aggrieved Employees are entitled to a PAGA penalty equal to one hundred dollars (\$100) per pay period per Wage Statement Aggrieved Employee for each initial violation of Labor Code § 226(a)(8), and two hundred dollars (\$200) per pay period for each subsequent violation.

Violation of Labor Code § 432.5

66. During the 432.5 PAGA Period, and continuing to the present, Defendants required 432.5 Aggrieved Employees to enter into a Non-Solicitation clause, in violation of Business & Professions Code § 16600, and Labor Code § 432.5 prohibiting an employer from “requir[ing] any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

67. Pursuant to Labor Code § 2699(f)(2), Plaintiff and 432.5 Aggrieved Employees are entitled to one hundred dollars (\$100) for each pay period in which there was an initial violation, and two hundred dollars (\$200) for each pay period in which there was a subsequent violation. Plaintiff is also entitled to reasonable attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Attorneys’ Fees and Costs

68. Plaintiff is entitled to recover attorneys’ fees and costs under Labor Code § 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

A. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure § 382, and define each Class as requested herein;

B. That the Court find and declare that Defendants’ business expense policies and/or practices violate California law, including Labor Code § 2802, by refusing and/or failing to reimburse all business expenses incurred by Plaintiff and Class Members in the discharge of their duties as employees of Defendants;

C. That the Court find and declare that Defendants’ business expense policies and/or practices violate California law by causing a denial or forfeiture of compensation including earned wages;

1 D. That the Court award to Plaintiff and Class Members all unreimbursed business expenses,
2 and interest thereon, that they are owed, pursuant to Labor Code § 2802, in an amount to be proved at
3 trial;

4 E. That the Court find and declare that Defendants Visa Inc., Visa USA Inc., and
5 CyberSource Corporation violated §§ 226(a)(8) and (e) of the California Labor Code; award Plaintiff
6 and Wage Statement Class Members statutory penalties under Labor Code § 226(e); enjoin Defendants
7 under Labor Code § 226(h) from continuing to issue unlawful wage statements; and award reasonable
8 attorneys' fees and costs.

9 F. That the Court award PAGA Civil Penalties, and attorneys' fees and costs, as provided
10 under Labor Code § 2699.

11 G. That the Court award such other and further relief as this Court may deem appropriate.

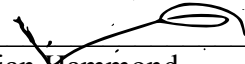
12 **DEMAND FOR JURY TRIAL**

13 Plaintiff, on behalf of herself, Class Members, and Wage Statement Class Members, hereby
14 demands a jury trial on all causes of action and claims with respect to which she has a right to jury trial.

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16 Dated: October 26, 2021

Respectfully submitted,

HAMMONDLAW, P.C.

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20 Julian Hammond

21 Attorneys for Plaintiff
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