

FILE
Superior Court of California
County of San Francisco



JUN 30 2023

CLERK OF THE COURT

BY: Chloe Berny
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 613

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

Plaintiff,

v.

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

Defendants.

Case No. CGC-21-593058

ORDER GRANTING PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

Plaintiffs Cynthia Mayer and Christian Calderon ("Plaintiffs") and Defendants Visa U.S.A. Inc., CyberSource Corporation, and Visa, Inc. ("Defendants") have entered into Amended Class and PAGA Settlement Agreement and Release ("Settlement Agreement")¹ attached as Exhibit 1 to Plaintiffs' Supplemental Memorandum in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, dated May 2, 2023, which, if approved, would resolve the putative class and PAGA action. Plaintiffs filed a motion for preliminary approval of class action and PAGA settlement. Upon review and consideration of the motion papers and supplemental documents submitted by the parties as requested by

¹ This Order hereby incorporates by reference the definitions of the Settlement Agreement as though fully set forth herein, and all terms used herein shall have the same meaning as set forth in the Settlement.

1 the Court, including the Settlement Agreement and all exhibits thereto, the Court determines and orders as
2 follows:

3 1. The Court has jurisdiction over this matter and venue is proper.

4 2. This action is provisionally certified as a class action, for settlement purposes only,
5 pursuant to California Code of Civil Procedure section 382 and California Rules of Court rule 3.763. The
6 Plaintiff Class is defined as follows: all individuals employed by Visa U.S.A. Inc. or CyberSource
7 Corporation in California from March 16, 2020 to and including November 30, 2022. The PAGA Group
8 Members are all individuals employed by Visa U.S.A. Inc. or CyberSource Corporation in California
9 from March 16, 2020 to and including November 30, 2022.

10 3. The Court conditionally approves the proposed settlement as within the range of possible
11 final approval.

12 4. The Court conditionally appoints HammondLaw, P.C. as Class Counsel for the Plaintiff
13 Class.

14 5. The Court preliminarily appoints plaintiffs Cynthia Mayer and Christian Calderon as Class
15 Representatives for the Plaintiff Class.

16 6. The Court preliminarily finds, for purposes of this Settlement only, that the Class
17 Representatives and Class Counsel fairly and adequately represent and protect the interests of the absent
18 Plaintiff Class.

19 7. The Court approves and appoints Settlement Services, Inc. to serve as the Settlement
20 Administrator and directs Settlement Services, Inc. to carry out all duties and responsibilities of the
21 Settlement Administrator specified in the Settlement Agreement.

22 8. Pursuant to California Rules of Court rule 3.769(f), the Court approves the manner of class
23 notice set forth in the Settlement Agreement. The Court approves the form and content of the Notice of
24 Settlement of Class Action attached as **Exhibit A**. The Court finds that the Notice constitutes the best
25 notice practicable under the circumstances and is valid, due and sufficient notice to the Settlement Class
26 of the pendency of the action, preliminary certification of the Settlement Class, the terms of the
27 Settlement, procedures for objecting to the settlement, and time and place of the Final Approval Hearing.
28 The proposed manner of class notice satisfies the requirements of due process, and complies with

1 applicable law, including California Code of Civil Procedure Section 382 and California Rules of Court
2 rule 3.769. Class Counsel shall proofread the Notice for typos and fill in all blanks, including all
3 highlighted dates and addresses prior to sending the Notice.

4 9. No later than **July 24, 2023 (fifteen (15) business days after entry of this order)**,
5 Defendants shall provide to the Settlement Administrator the following information with respect to each
6 Class Member: (i) name, (ii) last known residence address, (iii) last known telephone number, (iv) Social
7 Security number, and (v) the number of Pay Periods worked during the Settlement Period.

8 10. No later than **August 7, 2023 (ten (10) business days after receipt of the class data)**, the
9 Settlement Administrator shall mail the Class Notice to all Class Members, using the most current mailing
10 address available via first-class United States mail. With respect to any returned Class Notices, the
11 Settlement Administrator shall re-mail any Notices returned with a forwarding address immediately. For
12 any Notices returned without a forwarding address, the Settlement Administrator shall conduct a National
13 Change of Address search, followed by a computer/SSN and "skip trace" search to obtain an updated
14 address, and shall promptly re-mail the Notices to any newly found address or addresses.

15 11. The deadline by which the Plaintiff class may opt out or object shall be **forty-five (45)**
16 **calendar days** after the Notice is sent. This is a postmark deadline.

17 12. If a Class Member submits both a request for exclusion and an objection, the request for
18 exclusion will be treated as effective and the objection will be disregarded.

19 13. **Requests for Exclusion:** A Class Member requesting to be excluded must mail the
20 Settlement Administrator a written, signed Request for Exclusion. Additionally, the request must contain
21 (i) the full name, address, and telephone number of the Class Member requesting exclusion, (ii) the words
22 "Request for Exclusion" at the top of the document, (iii) the following statement: "I wish to be excluded
23 from the Settlement of this case, *Cynthia Mayer v. Visa, Inc., et al.*, San Francisco Superior Court Case
24 No. CGC-21-593058," and (iv) the Class Member's signature.

25 14. **Objections:** A Class Member objecting to the Settlement may submit a written statement
26 to the Settlement Administrator objecting to the Settlement on or before the deadline. The written
27 objection should include a signed, written statement objecting to the Settlement. However, a Class
28 Member does not have to make a written objection in order to appear at the Final Approval Hearing.

1 15. Plaintiff Class Members will have one hundred and eighty (180) calendar days from the
2 date of issuance of the check to cash their check. In the event a check has not been cashed within one
3 hundred and eighty (180) days, the check shall be cancelled. Any unclaimed funds shall be transmitted to
4 Bet Tzedek Employment Rights Project as the *cy pres* recipient.

5 16. All papers filed in support of Plaintiff's motion for attorneys' fees and costs, and a service
6 award, shall be filed by **August 17, 2023**. This date is at least thirty (30) days prior to the deadline for
7 submitting requests for exclusion and objections.

8 17. Class Counsel shall file their motion for final approval of the Class Action Settlement and
9 entry of a Final Approval Order and Judgment no later than **September 29, 2023**.

10 18. A final approval hearing shall be held on **October 25, 2023, at 2:00 p.m.** in Department
11 613, San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102, at which the Court
12 will determine whether the settlement should be finally approved as fair, reasonable and adequate to the
13 Settlement Class; whether the Final Approval Order and Judgment should be entered; whether Class
14 Counsel's Application for Attorneys' Fees and Costs should be approved; and whether any request for a
15 service award should be approved.

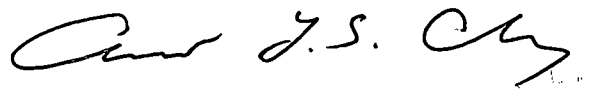
16 19. The Court reserves the right to modify the date of the Final Approval Hearing and related
17 deadlines set forth herein. The Final Approval Hearing may be postponed, adjourned or continued by
18 Order of the Court without further notice to the Class Members.

19 20. If for any reason the Court does not approve the Settlement, it will be of no force or effect,
20 and the Parties shall be returned to their original respective positions.

21 21. Pending the final determination of whether the settlement should be approved, all
22 proceedings in this Action, except as may be necessary to implement the settlement or comply with the
23 terms of the settlement, are hereby stayed.

24 IT IS SO ORDERED.

25
26 Dated: June 30, 2023



ANDREW Y.S. CHENG
Judge of the Superior Court

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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

Plaintiff

v.

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

Defendants

Case No. CGC-21-593058

**NOTICE OF SETTLEMENT OF
CLASS ACTION**

ATTENTION: If you were employed by Visa U.S.A. Inc. or CyberSource Corporation in California at any time during the period from March 16, 2020 to November 30, 2022 (the "Settlement Period"), you may be a Class Member eligible to receive money from a proposed Settlement in the above-captioned class action lawsuit.

PLEASE READ THIS NOTICE CAREFULLY. This Notice relates to the proposed Settlement. If you are a Class Member, it contains important information affecting your rights to participate in the Settlement as further described below. This Notice advises you of the terms of the Settlement and your rights and options under it.

To be eligible for your share of the Settlement, you are not required to make a claim. However, to ensure receipt of your share, you must update the Settlement Administrator, Settlement Services, Inc., with any change of address.

What is this proposed Settlement about?

This action was filed against Defendants Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation (collectively, "Defendants") on July 9, 2021 (the "Action"). The operative fourth amended complaint (the "Complaint"), deemed filed for settlement purposes only on [Preliminary Approval Date], names Plaintiffs Cynthia Mayer and Christian Calderon (collectively, "Plaintiffs") and asserts claims against Defendants for alleged (1) failure to reimburse necessary business expenses (the "Expense Reimbursement Claim"), (2) failure to provide accurate itemized wage statements (the "Wage Statement Claim"), and (3) civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"). In the Expense Reimbursement Claim, the Complaint alleges that employees were not reimbursed for all business expenses they were purportedly required to incur in connection with working from home during the COVID-19 pandemic. In the Wage Statement Claim, the Complaint alleges that Visa Inc. is a joint employer of Visa U.S.A. Inc. and CyberSource Corporation employees but that its name and address do not appear on those employees' wage statements. The civil

Page 1

If you have questions, contact the Settlement Administrator at ____ - ____ - ____

EXHIBIT A

penalties sought under PAGA are based on these same theories of liability as well as the additional theory that Defendants allegedly required employees to sign a proprietary information and inventions agreement containing a non-solicitation provision that was purportedly known by Defendants to be prohibited by law (the "Non-Solicitation Claim"). The Complaint and all the other complaints in the Action are referred to collectively as the "Complaints," and all of the PAGA notices filed by Plaintiff Mayer with the California Labor and Workforce Development Agency ("LWDA") are referred to collectively as the "PAGA Notices."

Under the proposed Class Settlement, Defendants agree to make payments ("Class Settlement Awards") to Class Members who do not opt out of the Settlement ("Settlement Class Members"). These Class Settlement Awards will be based on the number of pay periods during the Settlement Period that each Settlement Class Member was employed by Visa U.S.A. Inc. or CyberSource Corporation in California for at least one day ("Pay Periods") compared to the total number of Pay Periods for all Settlement Class Members, as more fully described below.

Defendants also agree to pay the Settlement Administration Costs, General Release Payments to both of the Plaintiffs, a PAGA Settlement Amount to be paid to the LWDA and PAGA Group Members in settlement of the PAGA claims, and a Fee and Expense Award to Plaintiffs' counsel ("Class Counsel"), all subject to the Court's approval. Defendants' maximum total obligation under the proposed Settlement is \$2,700,000, subject to escalation only to the extent described below.

The proposed Settlement is not an admission of liability by Defendants. Throughout the course of litigation in the Action, Defendants have denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action. Defendants contend that they have complied with all applicable laws and regulations regarding all of those matters.

Class Counsel believes that the proposed Settlement is in the best interests of the Class Members. Further proceedings would be very expensive and take a long time. Moreover, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate for the Class Members.

The Court has preliminarily approved the proposed Settlement as fair, reasonable, and adequate. The final determination of those issues will be made at the Final Approval Hearing to be held on [Final Approval Hearing Date] at [Final Approval Hearing Time] ("Final Approval Hearing").

Summary of the proposed Settlement

Defendants have agreed to pay \$2,700,000 ("Gross Settlement Amount") to resolve all claims that were alleged in any of the Complaints or any of the PAGA Notices or that could have been alleged based on the facts alleged in any of the Complaints or any of the PAGA Notices, for Settlement Class Members' release of claims described below, and for the release of PAGA claims by the State of California and PAGA Group Members. This amount is subject to escalation if the number of Pay Periods at issue during the Settlement Period exceeds 228,740 by more than 5%. If finally approved by the Court, the proposed Settlement will distribute money as follows:

Class Settlement Awards to Settlement Class Members: Settlement Class Members (Class Members who do not exclude themselves from the Settlement) will each be paid a Class Settlement Award, which is their pro-rata share of the Net Settlement Sum, calculated as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods for all Settlement Class Members. The Settlement Administrator shall then divide the Net Settlement Sum by this sum total number of Pay Periods for all Settlement Class Members, resulting in a per Pay Period value to be used in calculating Class Settlement Awards. The Settlement Administrator shall then take this per Pay Period value and multiply it by the number of Pay Periods for each Settlement Class Member, resulting in the Class Settlement Award for each Settlement Class Member.

“Pay Periods” means the number of pay periods in the Settlement Period during which a Class Member was employed by Visa U.S.A. Inc. or CyberSource Corporation in California for at least one day. Pay Periods shall be calculated according to Defendants’ records.

“Net Settlement Sum” means the Gross Settlement Amount minus the payment of (a) the Fee and Expense Award, (b) the PAGA Settlement Amount, (c) the General Release Payments, and (d) the Settlement Administration Costs, all of which are described below.

Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement Award and/or PAGA Settlement Award shall be responsible for paying applicable federal, state, and local income taxes, if any, on all amounts such person receives pursuant to this Agreement, and Defendants shall have no liability therefor.

Fee and Expense Award to Class Counsel: Upon approval by the Court, Defendants will pay attorneys’ fees and reimburse litigation costs and expenses to Class Counsel (HammondLaw, P.C.). The proposed Settlement permits Class Counsel to request up to 35% of the Gross Settlement Amount (\$945,000 if the Gross Settlement Amount remains at \$2,700,000) as their fees for prosecuting this case and up to \$25,000 for reimbursement of their costs and expenses incurred in the Action. You are not personally responsible for any of Class Counsel’s attorneys’ fees, costs, or expenses.

PAGA Settlement Amount: The proposed Settlement provides for a payment of \$45,000 for resolution of the PAGA claims alleged in the Complaints, the PAGA Notices, or any of them. Of that amount, 75% (or \$33,750) of the PAGA Settlement Amount shall be paid to the LWDA and 25% (or \$11,250) of the PAGA Settlement Amount shall form the PAGA Fund to be paid to PAGA Group Members pro rata, based on the number of Pay Periods worked.

Other Payments: The proposed Settlement provides for a General Release Payment of \$10,000 to Plaintiff Mayer and a General Release Payment of \$7,500 to Plaintiff Calderon. The proposed Settlement further provides for payment estimated not to exceed \$45,000 to the Settlement Administrator, Settlement Services, Inc., for its services in mailing the Class Notice and administering the Settlement.

What are my rights and options?

1. **You can exclude yourself from the Class Settlement:** If you do not want a Class Settlement Award and do not want to be bound by any of the proposed Class Settlement's terms, including the release of the Released Claims discussed below, you must make a timely written Request for Exclusion. If you exclude yourself from the Settlement, you cannot object to the Settlement.

Your Request for Exclusion must contain (i) your full name, address, and telephone number; (ii) the words "Request for Exclusion" at the top of the document; and (iii) the following statement:

"I wish to be excluded from the Settlement of this case, *Cynthia Mayer v. Visa Inc., et al.*, San Francisco Superior Court Case No. CGC-21-593058."

Your Request for Exclusion must be personally signed by you. Any Request for Exclusion submitted by someone else on your behalf will not be valid. Your Request for Exclusion must be mailed to the Settlement Administrator and must be postmarked by **[DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline]**. You should not request exclusion if you wish to receive money from the Class Settlement.

If you do not submit a Request for Exclusion in accordance with these instructions, you will be included in the Settlement as a Settlement Class Member, unless the Court determines otherwise.

You do not have the right to be excluded from the PAGA Settlement, whether or not you exclude yourself from the Class Settlement.

2. **You can object to the Class Settlement:** You can object to the Settlement before the Court's final approval of the Settlement. You do not need to submit your objection in writing for your objection to be considered.

If you wish to submit your objection in writing, you may submit a signed, written objection to the Settlement Administrator by **[DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline]**. You may also submit a supporting brief or other materials to the Settlement Administrator with your signed, written objection, no later than **[DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline]**. You may also appear, even if you do not submit a written objection, and object to the Settlement at the Final Approval Hearing currently set for [Final Approval Hearing Time] on [Final Approval Hearing Date], in Department 613 of the Superior Court of California, County of San Francisco, located at the Civic Center Courthouse, 400 McAllister Street, San Francisco, California 94102-4514. If you wish to appear to object to the Settlement at the Final Approval Hearing, you do not have to provide any prior notice to the Parties, their counsel, the Settlement Administrator, or the Court. If you submit a written objection, you are not required to appear, either personally or through counsel, at the Final Approval Hearing in order for your written objection to be considered.

You do not have the right to object to the PAGA Settlement, whether or not you object to the Class Settlement.

You may object to the Settlement only if you do NOT submit a Request for Exclusion. If you submit both a valid Request for Exclusion as well as an objection to the Settlement, your objection will not be considered because you will be excluded from the Settlement and unable to object to it.

3. **You can dispute the number of your Pay Periods:** A Notice of Pay Periods form is attached as Form A to this Notice. It provides your number of Pay Periods during the Settlement Period according to Defendants' records. If you do not agree with the number of your Pay Periods shown on the form, you may dispute the number by completing the Notice of Pay Periods form and mailing it to the Settlement Administrator by **[DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline]**.

4. **You can do nothing:** You can do nothing. If you do nothing, you will be bound by the proposed Settlement terms and you will be entitled to receive a Class Settlement Award as described above.

You will receive a PAGA Settlement Award, regardless of whether you exclude yourself from the Class Settlement, object to the Class Settlement, dispute the number of your Pay Periods, or do nothing.

What claims am I releasing by participating in the Class Settlement?

In exchange for the consideration given by Defendants in the proposed Settlement, all Class Members who do not opt out of the Class Settlement (the Settlement Class Members) will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released Claims against all Released Parties. All PAGA Group Members (whether they are a Settlement Class Member or not) and the State of California will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released PAGA Claims against all Released Parties.

“Released Claims” means all claims, debts, liabilities, demands, obligations, damages, and actions or causes of action of any kind, including the Expense Reimbursement Claim, the Wage Statement Claim, and the Non-Solicitation Clause Claim, arising before or on November 30, 2022 and that were alleged in any of the Complaints or any of the PAGA Notices or could have reasonably been alleged against any of the Released Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices and including (without limitation) claims under Labor Code sections 226, 226(a), 226(e), 432.5, 2698 et seq. (PAGA), and 2802; Business and Professions Code section 16600; and Code of Civil Procedure section 1021.5. Expressly excluded from the Released Claims are claims for wages in Workers' Compensation and Unemployment Insurance benefit cases and claims for benefits under the Employee Retirement Income Security Act of 1974 (ERISA).

“Released PAGA Claims” means all claims that were or could have been asserted pursuant to PAGA arising out of or related to the Released Claims arising before or on November 30, 2022. The Released PAGA Claims are released by both the State of California and the PAGA Group Members as part of this Settlement.

“Released Parties” means Visa U.S.A. Inc., CyberSource Corporation, and Visa Inc.; each of their respective present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors and assigns; each of their respective present, past, or future officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys, insurers, and any other successors, assigns, or legal representatives; and any other individual or entity which could be liable for any of the Released Claims or Released PAGA Claims.

All Settlement Class Members intend and are deemed to intend that this Settlement shall be effective as a bar to any and all Released Claims against any and all Released Parties.

The Settlement Class Members further agree not to sue or otherwise make a claim against any of the Released Parties arising out of or related to any of the Released Claims. The Settlement Class Members further agree that their release, waiver, and relinquishment of the Released Claims shall preclude them from participating in any judgment or settlement of claims that are the subject of any of the Released Claims in any other class, collective, or representative action.

All PAGA Group Members (whether a Settlement Class Member or not) shall be barred from bringing, joining, or otherwise participating in a PAGA representative action or otherwise making, joining, or otherwise participating in a claim against any of the Released Parties for any of the Released PAGA Claims. The State of California shall be barred from pursuing recovery of any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

When is the next Court hearing?

A Final Approval Hearing will be held before the Honorable Andrew Y.S. Cheng in Department 613 of the Superior Court of California, County of San Francisco, located at the Civic Center Courthouse, 400 McAllister Street, San Francisco, California 94102-4514, on [FA hearing date] at [FA hearing time] to determine whether the Settlement is fair, reasonable, and adequate. Judge Cheng will be asked to approve the plan for distributing the Class Settlement Awards, the Fee and Expense Award to Class Counsel, the General Release Payments to the Plaintiffs, the PAGA Settlement Amount, and payment to the Settlement Administrator for its services. A motion for final approval of these items should be on file with the Court no later than _____, 2023 and will be available for review after that date. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing.

What if I need more information?

Capitalized terms in this Notice have the same meaning they are given in the Amended Class and PAGA Settlement Agreement and Release (“Agreement”), filed with the Court on [DATE] as an

attachment to Plaintiffs' supplemental briefing in support of their Motion for Preliminary Approval of Class Action Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. You may access documents filed in this case free of charge by visiting <https://www.sfsuperiorcourt.org/online-services>. To navigate to the filed documents, you will need to click on "Access Now" to the right of "Case Query." You may then search for filings by entering located at the top of this Notice. If you have any questions, you can contact the Settlement Administrator at [REDACTED]. You can also contact Class Counsel at HammondLaw, P.C., (310) 601-6766.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION
ABOUT THIS SETTLEMENT**

Page 7

If you have questions, contact the Settlement Administrator at [REDACTED]

EXHIBIT A

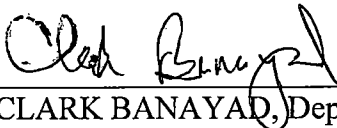
CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, CLARK BANAYAD, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On June 30, 2023, I electronically served the ATTACHED DOCUMENT(S) via File&ServeXpress on the recipients designated on the Transaction Receipt located on the File&ServeXpress website.

Dated: June 30, 2023

Brandon E. Riley, Clerk

By: 
CLARK BANAYAD, Deputy Clerk