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and VISA INC.

[ADDITIONAL ATTORNEYS ON NEXT PAGE]

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

(Assigned for All Purposes to the Honorable
Andrew Y.S. Cheng, Dept. 613)

**CLASS AND PAGA SETTLEMENT
AGREEMENT AND RELEASE**

Date Action Filed: July 9, 2021
Trial Date: Not Yet Set

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9 CYNTHIA MAYER and CHRISTIAN CALDERON
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1 This Class and PAGA Settlement Agreement and Release (“Agreement”) is entered into
2 by and between plaintiffs Cynthia Mayer (“Mayer”) and Christian Calderon¹ (“Calderon”)
3 (together, “Plaintiffs”), on the one hand, individually and on behalf of all persons who are
4 members of the class to be certified for settlement purposes only as provided for herein, and
5 Mayer on behalf of the PAGA Group and the State of California, and defendants Visa
6 U.S.A. Inc., CyberSource Corporation, and Visa Inc. (“Defendants”), on the other hand, subject
7 to the approval of the Court. In consideration of the promises and mutual covenants and
8 agreements herein contained, Plaintiffs and Defendants (collectively, the “Parties”) hereby
9 covenant and agree as follows:

10 **1. RECITALS**

11 1.1 On July 9, 2021, Mayer filed a putative class action complaint (the “Complaint”)
12 against Defendants in the Superior Court of the State of California, County of San Francisco,
13 entitled *Cynthia Mayer v. Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation*, Case
14 No. CGC-21-593058 (the “Action”). The Complaint alleged two causes of action for (1) failure
15 to reimburse necessary business expenses (Lab. Code, § 2802) and (2) failure to provide accurate
16 itemized wage statements (Lab. Code, § 226, subds. (a)(8), (e)). With respect to (1), the
17 Complaint alleged that employees were not reimbursed for all business expenses they were
18 purportedly required to incur in connection with working from home during the COVID-19
19 pandemic. With respect to (2), the Complaint alleged that Visa Inc. was a joint employer of Visa
20 U.S.A. Inc. and CyberSource Corporation employees but that its name and address did not appear
21 on those employees’ wage statements and that CyberSource Corporation’s P.O. Box address did
22 not meet the requirements of Labor Code section 226.

23 1.2 On September 14, 2021, Mayer filed an amended complaint against Defendants
24 (the “First Amended Complaint”) adding, in addition to the causes of action alleged in the
25 Complaint, a third cause of action for civil penalties pursuant to the Labor Code Private Attorneys
26

27 ¹ Calderon will be added as a named plaintiff in the Fourth Amended Complaint (to be
28 filed pursuant to Section 3.2 of this Agreement, below). Consequently, and for ease of reference,
Calderon will be referred to as a Plaintiff as appropriate in this Agreement.

1 General Act of 2004 (“PAGA”, Lab. Code, § 2698, et seq.) for Defendants’ alleged violation of
2 Labor Code sections 2802 and 226, subd. (a)(8) based on the same theories of liability previously
3 alleged in the Complaint.

4 1.3 On October 26, 2021, Mayer filed a second amended complaint against
5 Defendants (the “Second Amended Complaint”) adding an additional theory of PAGA civil
6 penalty recovery based on Defendants allegedly violating Labor Code section 432.5 by
7 purportedly requiring employees to sign a proprietary information and inventions agreement
8 containing a non-solicitation provision that purportedly violated Business and Professions Code
9 section 16600, in addition to the causes of action and theories of liability alleged in the First
10 Amended Complaint.

11 1.4 On December 10, 2021, Defendants demurred to the wage statement cause of
12 action in the Second Amended Complaint and concurrently moved to strike various allegations in
13 the Second Amended Complaint, including the PAGA allegations premised on purported
14 violation of Labor Code sections 226 and 432.5. On February 4, 2022, the Court sustained
15 Defendants’ demurrer and granted their motion to strike, with leave to amend.

16 1.5 Following the Court’s ruling on Defendants’ demurrer and motion to strike, the
17 Parties decided to explore the possibility of a private mediation, to see if they could reach a
18 reasonable early settlement before they invested significant additional time and expense in
19 litigation. On March 2, 2022, Mayer filed a third amended complaint against Defendants (the
20 “Third Amended Complaint”) reasserting the causes of action and theories of liability alleged in
21 the Second Amended Complaint, except for the wage statement theory regarding CyberSource
22 Corporation’s P.O. Box address. On March 3, 2022, the Parties lodged a stipulation and proposed
23 order, which the Court approved on March 7, 2022, to stay all proceedings in the Action in their
24 entirety pending the planned mediation.

25 1.6 In preparation for the anticipated mediation, Mayer asked for and Defendants
26 provided substantial informal discovery, including production of various policies, employee
27 headcounts and pay period counts relevant to various claims, expense reimbursement and
28 corporate card data, and other information requested by Mayer.

1.7 In these and other ways, the Parties investigated the facts and analyzed the relevant legal issues regarding the claims and defenses in the Action. Based on this investigation and analysis, Plaintiffs believe the Action has merit, while Defendants believe the Action has no merit.

1.8 On August 16, 2022, the Parties participated in a mediation conducted by the Honorable Ronald M. Sabraw (Ret.). The Parties did not reach settlement by the conclusion of the mediation, but with Judge Sabraw's assistance, the Parties continued to engage in extensive, vigorous, arm's-length negotiations in the weeks after the mediation. On September 20, 2022, the Parties agreed in principle to fully settle and resolve the Action.

1.9 During the post-mediation settlement negotiations, Mayer's counsel advised that Mayer intended to seek leave to amend the Third Amended Complaint to add another putative class representative, who was later disclosed to be Calderon. Mayer's counsel is also counsel for Calderon for all purposes with respect to this Action and is authorized to negotiate this Agreement on both Plaintiffs' behalf.

1.10 The Parties have each considered the uncertainties of continued litigation and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of the Action and the likely appeals of any rulings in favor of either Plaintiffs or Defendants. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

1.11 It is the Parties' intention and the objective of this Agreement to avoid the costs of further litigation and trial, and to settle and dispose of, fully and completely and forever, the claims released herein and described below.

2. DEFINITIONS

As used in this Agreement, the terms set forth in this Section 2 shall have the meanings ascribed to them below.

2.1 Action. "Action" means the above-captioned action entitled *Cynthia Mayer v. Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation*, Case No. CGC-21-593058, currently pending in the Superior Court of the State of California, County of San Francisco.

1 2.2 **Agreement.** “Agreement” means this Class and PAGA Settlement Agreement and
2 Release, including all Exhibits referred to herein and attached hereto.

3 2.3 **Allocations.** “Allocations” means the amounts to be paid from the Net Settlement
4 Sum to the Settlement Class Members and from the PAGA Fund to the PAGA Group Members,
5 as provided in Section 4.5 of this Agreement.

6 2.4 **Answer.** “Answer” means Defendants’ answer to the Fourth Amended
7 Complaint. The Answer is attached as **Exhibit F** and is to be filed by Defendants in the Action
8 for settlement purposes only.

9 2.5 **Calderon.** “Calderon” means the individual named Christian Calderon who will
10 be named as a plaintiff and second putative class representative in the Fourth Amended
11 Complaint, to be filed pursuant to Section 3.2, below.

12 2.6 **Class Counsel.** “Class Counsel” means the law firm of HammondLaw, P.C.

13 2.7 **Class Members or Class.** “Class Members” or “Class” means all individuals
14 employed by Visa U.S.A. Inc. or CyberSource Corporation in California at any time during the
15 Settlement Period.

16 2.8 **Class Notice.** “Class Notice” means the Notice of Settlement of Class Action to
17 be mailed to Class Members. The Class Notice shall be substantially in the form of **Exhibit A**
18 hereto.

19 2.9 **Class Settlement Award.** “Class Settlement Award” means the amount that the
20 Settlement Administrator determines is owed to a Settlement Class Member pursuant to the Plan
21 of Allocation described in Section 4.5, below.

22 2.10 **Complaint.** “Complaint” means the complaint filed by Mayer in the Action on
23 July 9, 2021.

24 2.11 **Complaints.** “Complaints” mean the Complaint, the First Amended Complaint,
25 the Second Amended Complaint, the Third Amended Complaint, and the Fourth Amended
26 Complaint.

27 2.12 **Court.** “Court” means the Superior Court of the State of California, County of
28 San Francisco.

1 2.13 **Defendants.** “Defendants” means defendants Visa U.S.A. Inc., CyberSource
2 Corporation, and Visa Inc.

3 2.14 **Defendants’ Counsel.** “Defendants’ Counsel” means the law firm of Morrison &
4 Foerster LLP.

5 2.15 **Effective Date.** “Effective Date” means either (a) the date sixty (60) calendar
6 days after entry of the Final Judgment and Order Approving Settlement, if no motions for
7 reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the
8 event that a motion for reconsideration, an appeal or other effort to obtain review of the Final
9 Judgment and Order Approving Settlement is filed, the date sixty (60) calendar days after such
10 reconsideration, appeal, or review has been finally concluded and is no longer subject to review,
11 whether by appeal, petition for rehearing, petition for review, or otherwise.

12 2.16 **Expense Reimbursement Claim.** “Expense Reimbursement Claim” means the
13 claim in the Third Amended Complaint, or any of the Complaints, alleging failure to reimburse
14 necessary business expenses.

15 2.17 **Fee and Expense Award.** “Fee and Expense Award” means such award of
16 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the
17 services they have rendered to Plaintiffs, the Settlement Class, and the PAGA Group.

18 2.18 **Fairness Hearing or Final Approval Hearing.** “Fairness Hearing” or “Final
19 Approval Hearing” means the hearing at or after which the Court will make a final decision on
20 whether to grant Final Approval of the Settlement as fair, reasonable, and adequate, implement
21 the terms of the Agreement, and enter Judgment. The Fairness Hearing shall be scheduled for a
22 date approximately ninety (90) calendar days after the Preliminary Approval Date, or as soon as
23 thereafter as the Court is available.

24 2.19 **Final Approval or Judgment.** “Final Approval” or “Judgment” means the Final
25 Judgment and Order Approving Settlement finally certifying the Settlement Class and approving
26 the Settlement and this Agreement, as contemplated in Section 4.7 of this Agreement.

27 2.20 **First Amended Complaint.** “First Amended Complaint” means the amended
28 complaint filed in this Action on September 14, 2021.

1 2.21 **Fourth Amended Complaint.** “Fourth Amended Complaint” means the Fourth
2 Amended Complaint attached as **Exhibit E**, to be filed by Plaintiffs in the Action for settlement
3 purposes only.

4 2.22 **General Release Payments.** “General Release Payments” means the
5 compensation paid to Plaintiffs in consideration for their general release of their individual claims
6 as set forth in Section 5.6, below, and in recognition of their effort and work in prosecuting the
7 Action on behalf of the Class Members and negotiating the Settlement, separate and apart from
8 the Class Settlement Award and PAGA Settlement Award they will receive, to be paid to them
9 from the Gross Settlement Amount.

10 2.23 **Gross Settlement Amount.** “Gross Settlement Amount” means Two Million
11 Seven Hundred Thousand Dollars and No Cents (\$2,700,000.00), which is the maximum total
12 amount that Defendants shall be required to pay for any and all purposes under this Agreement.
13 The following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation
14 set forth in Section 4.5, below: (a) all Class Settlement Awards, (b) the PAGA Settlement
15 Amount, (c) the Fee and Expense Award, (d) the General Release Payments, and (e) the
16 Settlement Administration Costs. Under no other circumstances shall Defendants pay any sum in
17 excess of the Gross Settlement Amount in connection with the Settlement.

18 2.24 **LWDA.** “LWDA” means the California Labor and Workforce Development
19 Agency.

20 2.25 **Mayer.** “Mayer” means plaintiff Cynthia Mayer.

21 2.26 **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount
22 less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the
23 General Release Payments, and (d) the Settlement Administration Costs.

24 2.27 **Non-Solicitation Clause Claim.** “Non-Solicitation Clause Claim” means the
25 claim in the Third Amended Complaint, or any of the Complaints, alleging violations of Labor
26 Code section 432.5 and Business & Professions Code section 16600.

27 2.28 **Notice of Pay Periods.** “Notice of Pay Periods” means the notice to be mailed to
28 Class Members as an enclosure with the Class Notice notifying each Class Member of the number

1 of Pay Periods calculated for the Class Member by the Settlement Administrator. The Notice of
2 Pay Periods shall be substantially in the form of **Exhibit B** hereto.

3 **2.29 Notice Response Deadline.** “Notice Response Deadline” means forty-five (45)
4 calendar days from the date of initial mailing of the Class Notice, or such other date set by the
5 Court in the Preliminary Approval Order.

6 **2.30 PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004
7 (Lab. Code, § 2698, et seq.).

8 **2.31 PAGA Fund.** “PAGA Fund” means 25% of the PAGA Settlement Amount,
9 which is the portion to be paid to PAGA Group Members.

10 **2.32 PAGA Group Members or PAGA Group.** “PAGA Group Members” or “PAGA
11 Group” means all individuals employed by Visa U.S.A. Inc. or CyberSource Corporation in
12 California at any time during the Settlement Period.

13 **2.33 PAGA Notices.** “PAGA Notices” means the PAGA notice filed by Mayer with
14 the LWDA regarding Defendants on or about July 9, 2021, the amended PAGA notice filed by
15 Mayer with the LWDA regarding Defendants on or about August 23, 2021, and the second
16 amended PAGA notice filed by Mayer with the LWDA regarding Defendants on or about
17 October 8, 2021.

18 **2.34 PAGA Settlement Amount.** “PAGA Settlement Amount” means Forty Five
19 Thousand Dollars and Zero Cents (\$45,000) or such other amount approved by the Court, 75% of
20 which (\$33,750) is to be paid to the LWDA and 25% of which (\$11,250) is to form the PAGA
21 Fund to be paid to PAGA Group Members. The PAGA Settlement Amount is to be paid for
22 resolution of the PAGA claims alleged in the Complaints, or any of them, and which are included
23 in the Released PAGA Claims.

24 **2.35 PAGA Settlement Award.** “PAGA Settlement Award” means the amount that
25 the Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan
26 of Allocation described in Section 4.5, below.

27 **2.36 Parties.** “Parties” means plaintiffs Cynthia Mayer and Christian Calderon, on the
28 one hand, individually and on behalf of all Settlement Class Members, and Mayer on behalf of

1 the PAGA Group and the State of California, and defendants Visa U.S.A. Inc., CyberSource
2 Corporation, and Visa Inc., on the other hand.

3 **2.37 Pay Periods.** “Pay Periods” means the number of pay periods in the Settlement
4 Period during which a Class Member was employed by Visa U.S.A. Inc. or CyberSource
5 Corporation in California for at least one day. Pay Periods shall be calculated according to
6 Defendants’ records. Settlement Class Members may dispute the number of Pay Periods they had
7 during the Settlement Period by completing and returning the Notice of Pay Periods included with
8 the Class Notice, which shall be substantially in the form of **Exhibit B** hereto.

9 **2.38 Plaintiffs.** “Plaintiffs” means plaintiffs Cynthia Mayer and Christian Calderon.

10 **2.39 Plan of Allocation.** “Plan of Allocation” means the manner in which the Net
11 Settlement Sum shall be allocated to Settlement Class Members and the PAGA Fund shall be
12 allocated to the LWDA and PAGA Group Members as set forth in Section 4.5, below.

13 **2.40 Preliminary Approval or Preliminary Approval Order.** “Preliminary
14 Approval” or “Preliminary Approval Order” means the order preliminarily approving this
15 Settlement, which shall, among other things, provisionally certify the Settlement Class for
16 purposes of this Settlement only; determine that Plaintiffs adequately represent the Settlement
17 Class and shall be its class representatives; appoint Class Counsel as counsel for the Settlement
18 Class; approve Settlement Services, Inc. as the Settlement Administrator; approve the content and
19 distribution of the Class Notice to the Class Members; set the Request for Exclusion Deadline and
20 the deadline for objecting to the Settlement; and set the date for the Fairness Hearing, all as
21 contemplated in Section 4.1, below.

22 **2.41 Preliminary Approval Date.** “Preliminary Approval Date” means the date upon
23 which the Court enters the Preliminary Approval Order.

24 **2.42 Released Claims.** “Released Claims” means all claims, debts, liabilities,
25 demands, obligations, damages, and actions or causes of action of any kind, including the
26 Expense Reimbursement Claim, the Wage Statement Claim, and the Non-Solicitation Clause
27 Claim, arising before or on November 30, 2022 and that were alleged in any of the Complaints or
28 any of the PAGA Notices or could have reasonably been alleged against any of the Released

1 Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices and
2 including (without limitation) claims under Labor Code sections 226, 226(a), 226(e), 432.5, 2698
3 et seq. (PAGA), and 2802; Business and Professions Code section 16600; and Code of Civil
4 Procedure section 1021.5. Expressly excluded from the Released Claims are claims for wages in
5 Workers' Compensation and Unemployment Insurance benefit cases and claims for benefits
6 under the Employee Retirement Income Security Act of 1974 (ERISA).

7 **2.43 Released PAGA Claims.** "Released PAGA Claims" means all claims that were
8 or could have been asserted pursuant to PAGA arising out of or related to the Released Claims
9 arising before or on November 30, 2022. The Released PAGA Claims are released by both the
10 State of California and the PAGA Group Members as part of this Settlement.

11 **2.44 Released Parties.** "Released Parties" means Visa U.S.A. Inc., CyberSource
12 Corporation, and Visa Inc.; each of their respective present, former, or future parents,
13 subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors and
14 assigns; each of their respective present, past, or future officers, directors, employees, partners
15 (both general and limited), shareholders, agents, attorneys, insurers, and any other successors,
16 assigns, or legal representatives; and any other individual or entity which could be liable for any
17 of the Released Claims or Released PAGA Claims.

18 **2.45 Request for Exclusion.** "Request for Exclusion" means a written request made by
19 a Class Member to the Settlement Administrator seeking to be excluded from the Settlement
20 Class.

21 **2.46 Request for Exclusion Deadline.** "Request for Exclusion Deadline" means
22 forty-five (45) calendar days from the date of initial mailing of the Class Notice, or such other
23 date set by the Court in the Preliminary Approval Order for submitting a Request for Exclusion to
24 the Settlement Administrator.

25 **2.47 Second Amended Complaint.** "Second Amended Complaint" means the
26 amended complaint filed in this Action on October 26, 2021.

27 **2.48 Settlement.** "Settlement" means this Agreement and all actions taken pursuant to
28 and in furtherance of this Agreement.

1 **2.49 Settlement Administration Costs.** “Settlement Administration Costs” means the
2 amount approved by the Court to be paid for the services of the Settlement Administrator to
3 perform the Settlement Administrator Duties, as specified in Section 4.2.2, below, estimated not
4 to exceed \$45,000.

5 **2.50 Settlement Administrator.** “Settlement Administrator” means Settlement
6 Services, Inc. or such professional, third-party administrator as may be approved by the Court,
7 which shall be responsible for administering the Settlement pursuant to the terms of the
8 Agreement, the Class Notice, the Preliminary Approval Order, and the Judgment. The Settlement
9 Administrator shall agree to confidentiality terms as may be required by Defendants regarding
10 personnel, payroll, and any other data provided to the Settlement Administrator and shall work
11 with Class Counsel and Counsel for Defendants to implement and administer appropriate fraud-
12 prevention policies. The Settlement Administration Costs shall be paid out of the Settlement
13 Fund Amount.

14 **2.51 Settlement Class.** “Settlement Class” means Plaintiffs and all Settlement Class
15 Members.

16 **2.52 Settlement Class Members.** “Settlement Class Members” means each Class
17 Member who does not submit a valid and timely Request for Exclusion.

18 **2.53 Settlement Fund.** “Settlement Fund” means the fund established and
19 administered by the Settlement Administrator for the purpose of receiving and disbursing
20 amounts to be paid to Settlement Class Members, PAGA Group Members, the LWDA, Plaintiffs,
21 Class Counsel, and the Settlement Administrator pursuant to this Agreement. The Settlement
22 Fund shall be funded by Defendants following the Effective Date in accordance with
23 Section 4.9.1, below.

24 **2.54 Settlement Fund Amount.** “Settlement Fund Amount” means the total amount
25 that Defendants shall remit to the Settlement Administrator in accordance with Section 4.9.1,
26 below, which shall consist of the following amounts, the aggregate of which shall not exceed the
27 Gross Settlement Amount: (a) the Net Settlement Sum, (b) the Fee and Expense Award, (c) the
28

PAGA Settlement Amount, (d) the General Release Payments, and (e) Settlement Administration Costs.

2.55 Settlement Period. “Settlement Period” means from March 16, 2020 to and including November 30, 2022.

2.56 Third Amended Complaint. “Third Amended Complaint” means the amended complaint filed in this Action on March 2, 2022.

2.57 Wage Statement Claim. “Wage Statement Claim” means the claim in the Third Amended Complaint, or any of the Complaints, alleging failure to provide accurate itemized wage statements.

3. SETTLEMENT TERMS

3.1 Interim Stay of Proceedings. The Parties agree to a further extension of the stay of all proceedings in the Action ordered by the Court on March 7, 2022 and extended on September 26, 2022, except for such proceedings as may be necessary to implement and complete the Settlement, including for the sole and limited purpose of Plaintiffs filing the Fourth Amended Complaint (as set forth in Section 3.2) and the motion for Preliminary Approval (as set forth in Section 4.1) and Defendants filing the Answer (as set forth in Section 3.2).

3.2 Fourth Amended Complaint and Answer Thereto. Plaintiffs shall file the Fourth Amended Complaint attached as **Exhibit E** hereto, for settlement purposes only, and Defendants shall file their Answer thereto attached as **Exhibit F** hereto, also for settlement purposes only. The Fourth Amended Complaint shall add Calderon as a second named plaintiff and putative class representative, but in all other respects, the Fourth Amended Complaint shall be the same as the operative Third Amended Complaint. The Fourth Amended Complaint and the Answer shall both be deemed filed as of the Preliminary Approval Date.

3.3 Fourth Amended Complaint and Answer Withdrawn If Settlement Not Effectuated. The Parties understand and agree that the Fourth Amended Complaint and the Answer are being filed solely for the purpose of facilitating the administration of the Settlement. In the event that the Settlement is not preliminarily or finally approved or is not effectuated for whatever reason, the Fourth Amended Complaint and Answer shall be withdrawn and shall no

1 longer have any force or effect, and the Parties will be returned to their status quo ante positions,
2 meaning without limitation that the Third Amended Complaint will once again be the operative
3 complaint in the Action and Defendants will have the right to respond to it, by way of the
4 responsive pleading of their choosing, upon further order of the Court lifting the stay and setting a
5 responsive pleading deadline.

6 **3.4 Certification of the Settlement Class.** For purposes of settlement and the
7 proceedings contemplated by this Agreement only, the Settlement Class shall be provisionally
8 certified and consist of Plaintiffs and all Settlement Class Members.

9 **3.5 Decertification of the Settlement Class if Settlement Not Approved.**
10 Defendants do not consent to certification of the Settlement Class or any settlement class for any
11 purpose other than to effectuate the Settlement of the Action. If, for any reason, the Settlement
12 does not become final, any certification of any Settlement Class will be vacated and the Parties
13 will be returned to their positions with respect to the Action as if the Agreement had not been
14 entered into. In the event that Final Approval is not achieved: (a) any Court order preliminarily
15 approving the certification of any class contemplated by this Agreement shall be null, void, and
16 vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the
17 Settlement reflected in this Agreement, that Defendants did not oppose the certification of the
18 Settlement Class under this Agreement, or that the Court preliminarily approved the certification
19 of the Settlement Class, shall not be used or cited thereafter by any person or entity in any manner
20 whatsoever, including without limitation any contested proceeding relating to the certification of
21 any class. In the event the terms and conditions of this Agreement are substantially modified by
22 the Court, Defendants and Plaintiffs reserve the right to declare this Agreement null and void, in
23 their sole discretion, within fourteen (14) calendar days after such modification; provided,
24 however, the Party exercising this right shall be solely responsible for the Settlement
25 Administrator's expenses incurred through the date of that Party's exercise, not to exceed the
26 amount approved by the Court in the Preliminary Approval Order.

27 **3.6 Settlement Payment by Defendants.** In full settlement of the Released Claims
28 and Released PAGA Claims and following the Effective Date, Defendants shall deliver the

1 Settlement Fund Amount to the Settlement Administrator for establishment of the Settlement
2 Fund, in accordance with Section 4.9.1, below.

3 **3.7 Attorneys' Fees and Costs.** Defendants agree not to oppose Plaintiffs'
4 application for attorneys' fees up to \$945,000 (35% of the Gross Settlement Amount) and costs
5 up to \$25,000, subject to the Court's approval. Plaintiffs agree not to petition the Court for more
6 than \$945,000 for attorneys' fees or more than \$25,000 for costs, and in no event shall
7 Defendants be liable for any attorneys' fees or costs in excess of these amounts. The Fee and
8 Expense Award shall represent payment for all claims for Class Counsel's attorneys' fees and
9 costs, past and future, incurred in the Action. The Fee and Expense Award shall be paid from the
10 Settlement Fund Amount, and Defendants shall not otherwise be required to pay for any portion
11 of Class Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be paid
12 to Class Counsel following the Effective Date, in accordance with Section 4.9.2, below. An
13 award by the Court of attorneys' fees or costs that is less than the amounts applied for will not be
14 grounds for Plaintiffs or Class Counsel to challenge or withdraw from the Settlement, and any
15 amounts not awarded in costs or fees will be included in the Net Settlement Sum.

16 **3.8 General Release Payments.** In consideration of their general release of their
17 individual claims as set forth in Section 5.6, below and in recognition of their effort and work in
18 prosecuting the Action on behalf of the Class Members and negotiating the Settlement, Mayer
19 shall receive compensation in the sum of Ten Thousand Dollars and Zero Cents (\$10,000), and
20 Calderon shall receive compensation in the sum of Seven Thousand Five Hundred Dollars and
21 Zero Cents (\$7,500). These General Release Payments are to be paid from the Gross Settlement
22 Amount and reported on IRS Form 1099-MISC. The General Release Payments are separate
23 from and in addition to the Class Settlement Awards and PAGA Settlement Awards to be paid to
24 Plaintiffs as Settlement Class Members and PAGA Group Members. It will not be grounds for
25 Plaintiffs or Class Counsel to challenge or withdraw from the Settlement if the Court denies
26 Plaintiffs' application for the General Release Payments or awards a lesser amount than that for
27 which Plaintiffs apply, and any amounts not awarded in the General Release Payments will be
28 included in the Net Settlement Sum.

1 3.9 **PAGA Settlement Amount.** Plaintiffs shall seek approval from the Court for a
2 total payment of Forty Five Thousand Dollars and Zero Cents (\$45,000) for resolution of the
3 PAGA claims alleged in the Complaints, the PAGA Notices, or any of them. 75% of the PAGA
4 Settlement Amount shall be paid to the LWDA, and 25% of the PAGA Settlement Amount shall
5 form the PAGA Fund to be paid to PAGA Group Members in accordance with the Plan of
6 Allocation set forth in Section 4.5, below.

7 **4. CLASS SETTLEMENT PROCEDURES**

8 4.1 **Preliminary Approval.** As soon as practicable, Plaintiffs shall move for
9 Preliminary Approval of the Settlement in the Action. Plaintiffs' motion shall request the Court
10 to:

11 4.1.1 Preliminarily approve this Agreement as fair, reasonable, and adequate;

12 4.1.2 Preliminarily approve the form, manner, and content of the Class Notice
13 described in Section 4.2 and attached as **Exhibit A**, and the form, manner, and content of the
14 Notice of Pay Periods described in Section 2.28 and attached as **Exhibit B**;

15 4.1.3 Set deadlines for the Settlement Administrator to provide the Class Notice,
16 and for Class Members to opt out of or object to the Settlement;

17 4.1.4 Set the date and time for the Fairness Hearing;

18 4.1.5 Provisionally certify the Settlement Class;

19 4.1.6 Maintain the stay of all proceedings except for such proceedings as may be
20 necessary to implement and complete the Settlement, including for the sole and limited purpose
21 of Plaintiffs filing the Fourth Amended Complaint and the motion for Preliminary Approval and
22 Defendants filing the Answer, until Final Approval;

23 4.1.7 Appoint Plaintiffs as class representatives for the Settlement Class for
24 settlement purposes only;

25 4.1.8 Appoint Class Counsel as class counsel for settlement purposes only; and

26 4.1.9 Approve Settlement Services, Inc. as the Settlement Administrator.

27 The Preliminary Approval Order shall be substantially the same as the proposed order
28 attached as **Exhibit C**. Class Counsel shall draft the preliminary approval papers and give

1 Counsel for Defendants a draft of the papers to review at least three (3) court days before they are
2 filed.

3 **4.2 Class Notice.** Subject to Court approval, the Parties agree that as soon as
4 practicable after entry of the Preliminary Approval Order, the Settlement Administrator shall
5 provide notice to the Settlement Class pursuant to the following procedures:

6 **4.2.1 Information Regarding Class Members.** Within fifteen (15) business
7 days following entry of the Preliminary Approval Order, Defendants will provide the Settlement
8 Administrator the following information with respect to each Class Member: (i) name, (ii) last
9 known residence address, (iii) last known telephone number, (iv) Social Security number, and
10 (v) the number of Pay Periods worked during the Settlement Period. The information Defendants
11 provide to the Settlement Administrator, along with any updated contact information identified by
12 the Settlement Administrator as set forth in Sections 4.2.2 and 4.2.3, below, shall be used solely
13 to administer the Class Notice and Plan of Allocation process described herein, shall remain
14 confidential, and shall not be disclosed to anyone, except pursuant to the express written
15 authorization of Defendants or the individual in question, by order of the Court, or to the extent
16 necessary to fulfill the Settlement Administrator's reporting obligations hereunder.

17 **4.2.2 Settlement Administrator Duties.** The Settlement Administrator's duties
18 shall include, without limitation: (i) printing the Class Notice (including exhibits thereto) and
19 mailing it to the Class Members as directed by the Court; (ii) taking all steps reasonably
20 necessary to ensure Class Members timely receive the Class Notice; (iii) resolving any disputes
21 by Settlement Class Members regarding their number of Pay Periods; (iv) taking receipt of and
22 safeguarding the Settlement Fund Amount; (v) calculating and distributing Class Settlement
23 Awards, PAGA Settlement Awards, the portion of the PAGA Settlement Amount payable to the
24 LWDA, the General Release Payments, and the Fee and Expense Award, provided such amounts
25 are approved by the Court; (vi) issuing IRS Forms 1099-MISC, as applicable; and (viii) filing
26 such other reports with the taxing authorities as required by law, together with such other tasks as
27 the Parties may mutually agree or the Court may order the Settlement Administrator to perform.
28 The Settlement Administrator shall take all reasonable steps to ensure that (a) the highest

1 percentage of Class Members receive the Class Notice; (b) Class Members who wish to
2 participate in the Settlement are permitted to do so consistent with this Agreement; and (c) the
3 Settlement Administrator has the most current and accurate addresses for Class Members,
4 including but not limited to performing an initial National Change of Address database search on
5 all Class Members who are former employees. In addition, the Settlement Administrator shall
6 perform a standard search, also known as “batch,” “skip trace,” or “credit header” searches, on all
7 addresses returned as undeliverable. The Settlement Administrator shall immediately re-mail the
8 Class Notice to all updated addresses obtained through its efforts to locate the most current and
9 accurate addresses for Class Members. The Settlement Administrator shall also provide toll-free
10 telephone support to Class Members; maintain appropriate databases to fulfill its duties; receive,
11 control, and account for all returned Class Notices, disputes, requests for exclusion/opt-outs, and
12 objections; and prepare and deliver reports to Class Counsel and Counsel for Defendants on a
13 weekly basis that communicate the status of the notice process, including the number of Class
14 Notices mailed, returned, searched, and re-mailed as well as disputes, requests for exclusion, and
15 objections. In addition to the duties identified above, the Settlement Administrator shall prepare
16 final declarations, reports, and invoices that accurately describe the notice process, the level of
17 participation, and actions taken to ensure the best possible notice of the Settlement was provided
18 to Class Members.

19 **4.2.3 Mailing of Class Notice to Class Members.** No later than ten (10)
20 business days following receipt of the information to be provided under Section 4.2.1, above, the
21 Settlement Administrator shall mail the Class Notice to all Class Members. The Settlement
22 Administrator shall send a copy of the Class Notice in the form approved by the Court in its
23 Preliminary Approval Order to Class Members, via first class United States mail, using the most
24 current mailing address. Any Class Notices returned to the Settlement Administrator with a
25 forwarding address shall be immediately re-mailed by the Settlement Administrator. The
26 Settlement Administrator shall conduct one address search for any Class Member’s Class Notice
27 that is returned without a forwarding address and shall, upon obtaining a new or different address,
28 immediately re-mail the Class Member’s Class Notice. Plaintiffs, Defendants, and their

1 respective counsel each agree that, other than as provided in this Agreement, they will not
2 distribute or make available any documents, notices, or information regarding this Action or the
3 Settlement to any Class Member, unless a specific request is first made by the Class Member.

4 **4.3 Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded
5 from or opt out of the Settlement must submit a written, signed Request for Exclusion to the
6 Settlement Administrator, within the Request for Exclusion Deadline.

7 **4.3.1 Contents of Request.** The Request for Exclusion must contain (i) the full
8 name, address, telephone number and last four digits of the Social Security number of the person
9 requesting to be excluded; (ii) the words “Request for Exclusion” at the top of the document; and
10 (iii) the following statement:

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

13 **4.3.2 Personal Signatures.** The Request for Exclusion must be personally
14 signed by the Class Member who seeks to opt out. No Class Member may opt out by having a
15 request to opt out submitted by an actual or purported agent or attorney acting on behalf of the
16 Class Member. No opt out request may be made on behalf of a group of Class Members.

17 **4.3.3 Timeliness.** For purposes of determining timeliness, Requests for
18 Exclusion shall be deemed to have been submitted on the date postmarked by the U.S. Postal
19 Service or other delivery service. The Settlement Administrator shall stamp the date received on
20 the original of any Request for Exclusion it receives. Not later than fifteen (15) calendar days
21 after the Request for Exclusion Deadline set by the Court, the Settlement Administrator will
22 inform Class Counsel and Counsel for Defendants of the total number of Settlement Class
23 Members who timely submitted valid Requests for Exclusion. Not later than sixteen (16) court
24 days before the date set for the Fairness Hearing, the Settlement Administrator shall serve copies
25 of all date-stamped Requests for Exclusion on Class Counsel and Counsel for Defendants as well
26 as a declaration describing the Class Notice procedures. The Settlement Administrator shall
27 retain the originals of all Requests for Exclusion in its files. Counsel for the Parties shall not use
28

1 or disclose the information thus received for any purpose other than the effectuation of the
2 Settlement.

3 **4.3.4 Non-Opt Outs Bound.** Each Class Member who does not submit a
4 Request for Exclusion substantially in compliance with this Section 4.3 within the deadline set by
5 the Court shall be bound by the terms of this Agreement and any Court order approving the terms
6 of the Settlement, unless the Court deems such Class Member excluded at the time of the final
7 Fairness Hearing.

8 **4.3.5 Resolution of Disputes.** In the event of any issue over the completeness,
9 accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet and confer in
10 good faith for the purpose of resolving the issue and, if the issue cannot be resolved, shall submit
11 the dispute to the Settlement Administrator for a final and binding determination that shall not be
12 appealable.

13 **4.3.6 Defendants' Right to Rescind.** If more than ten percent (10%) of the
14 Class Members opt out of the Settlement, then Defendants shall have the option, in their sole
15 discretion, to rescind this Agreement, in which case all of Defendants' obligations under this
16 Agreement shall cease to be of any force or effect, and this Agreement shall be null and void. If
17 Defendants exercise this option, they shall provide Plaintiffs with written notice of their election
18 within thirty (30) calendar days of the Request for Exclusion Deadline set by the Court, with a
19 copy to the Settlement Administrator, at which point the Parties shall return to their respective
20 positions that existed before the execution of this Agreement, and no term of this Agreement or
21 any draft thereof, or the negotiation, documentation, or other part or aspect of the Parties'
22 settlement discussions, shall have any effect or be admissible as evidence for any purpose in the
23 Action, or in any other proceeding. Notwithstanding the foregoing, the Parties agree that in the
24 event this Agreement is rescinded by Defendants pursuant to this Section 4.3.6, Defendants shall
25 pay the expenses incurred by the Settlement Administrator through the date of Defendants'
26 election to rescind, not to exceed the amount approved by the Court in the Preliminary Approval
27 Order.
28

1 **4.3.7 No Right to Exclusion by PAGA Group Members.** Because this
2 Settlement resolves claims brought pursuant to PAGA by Mayer acting as a proxy and as a
3 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that
4 no PAGA Group Member has the right to exclude himself or herself from the Settlement. PAGA
5 Group Members shall be bound by the terms of the Settlement, upon its approval by the Court,
6 regardless of whether he or she requested exclusion as a Class Member, and thus is not a
7 Settlement Class Member, and regardless of whether he or she cashes the PAGA Settlement
8 Award issued to him or her.

9 **4.4 Objections.** Only Settlement Class Members (i.e., those Class Members who
10 have not excluded themselves from the Settlement) may object to the Settlement.

11 **4.4.1 Manner of Objecting.** Settlement Class Members who wish to object to
12 the Settlement should submit to the Settlement Administrator a signed, written statement
13 objecting to the Settlement. Such written statement and all supporting briefs or other materials
14 should be submitted to the Settlement Administrator no later than the Notice Response Deadline.
15 Settlement Class Members may but are not required to appear at the Fairness Hearing.

16 **4.4.2 Response to Objections.** At the same time Plaintiffs move for Final
17 Approval pursuant to Section 4.7 of this Agreement, Plaintiffs shall also file a response to any
18 objections submitted by Settlement Class Members. Class Counsel must draft the response to the
19 objections and give Counsel for Defendants a draft of the response to review at least three (3)
20 court days before it is filed or as soon as practical under the circumstances. Defendants shall be
21 permitted, but not required, to file their own response to any objections.

22 **4.4.3 No Right to Objections by PAGA Group Members.** Because this
23 Settlement resolves claims brought pursuant to PAGA by Mayer acting as a proxy and as a
24 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that
25 no PAGA Group Member has the right to object to the Settlement, whether or not he or she has
26 objected thereto as a Settlement Class Member.

27 **4.5 Plan of Allocation: Calculation of All Settlement Awards.** The Settlement
28 Administrator shall be responsible for the Allocations of the Net Settlement Sum to Settlement

1 Class Members and of the PAGA Fund to PAGA Group Members and, thereby, for determining
2 the Class Settlement Awards and the PAGA Settlement Awards, all to be paid on a pro rata basis
3 as follows:

4 4.5.1 Before computing the amounts of any Class Settlement Awards to be paid
5 to Settlement Class Members, the Settlement Administrator shall determine the amount of the Net
6 Settlement Sum by determining and deducting from the Gross Settlement Amount the following:
7 (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the General Release
8 Payments, and (d) the Settlement Administration Costs.

9 4.5.2 The Class Settlement Award for each Settlement Class Member shall be
10 the Settlement Class Member's pro-rata share of the Net Settlement Sum, calculated as follows:
11 The Settlement Administrator shall first calculate the sum total number of Pay Periods for all
12 Settlement Class Members. The Settlement Administrator shall then divide the Net Settlement
13 Sum by this sum total number of Pay Periods for all Settlement Class Members, resulting in a per
14 Pay Period value to be used in calculating Class Settlement Awards. The Settlement
15 Administrator shall then take this per Pay Period value and multiply it by the number of Pay
16 Periods for each Settlement Class Member, resulting in the Class Settlement Award for each
17 Settlement Class Member.

18 4.5.3 The Settlement Administrator shall pay Class Settlement Awards from the
19 Net Settlement Sum and shall pay only those Class Settlement Awards payable to Settlement
20 Class Members.

21 4.5.4 The PAGA Settlement Award for each PAGA Group Member shall be the
22 PAGA Group Member's pro-rata share of the PAGA Fund, calculated as follows: The Settlement
23 Administrator shall first calculate the sum total number of Pay Periods for all PAGA Group
24 Members. The Settlement Administrator shall then divide the PAGA Fund by the sum total
25 number of Pay Periods for all PAGA Group Members, resulting in a per Pay Period value to be
26 used in calculating PAGA Settlement Awards. The Settlement Administrator shall then take this
27 per Pay Period value and multiply it by the number of Pay Periods for each PAGA Group
28 Member, resulting in the PAGA Settlement Award for each PAGA Group Member.

1 4.5.5 The Parties understand and acknowledge that a given person may be both a
2 Settlement Class Member and a PAGA Group Member or may be a PAGA Group Member but
3 not a Settlement Class Member (to the extent such person requested to be excluded from the
4 Settlement pursuant to Section 4.3, above).

5 4.5.6 In order to determine the individual Class Settlement Awards and PAGA
6 Settlement Awards, the Settlement Administrator shall use the information provided by
7 Defendants pursuant to Section 4.2.1, above. In the event that any dispute arises with respect to a
8 Settlement Award amount, the Settlement Administrator shall make the final determination after
9 consultation with Class Counsel and Counsel for Defendants.

10 **4.6 Taxes.**

11 **4.6.1 Settlement Class Member and PAGA Group Member Obligations.**

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

16 **4.6.2 Settlement Administrator Responsibilities Regarding Taxes.** It shall be
17 the responsibility of the Settlement Administrator or its designee to timely and properly prepare
18 and deliver the necessary tax documentation to all necessary parties and to report all necessary
19 information to the applicable government entities as required by law. All payments made
20 pursuant to this Agreement shall be reported on IRS Form 1099-MISC, as required by law.

21 **4.6.3 Tax Expenses Resulting from Settlement Administration.** All
22 reasonable and direct expenses and costs incurred by or at the direction of the Settlement
23 Administrator in connection with the administration of the Settlement (including, without
24 limitation, expenses of tax attorneys and/or accountants incurred in providing advice to the
25 Settlement Administrator, and mailing and distribution costs and expenses relating to the filing, or
26 failure to file, the informational and other tax returns described above) shall be considered a cost
27 of administration of the Settlement and shall be part of the Settlement Administration Costs, to be
28 paid out of the Settlement Fund Amount.

1 4.6.4 **No Claims.** No person shall have any claim against Defendants (or any of
2 them), Counsel for Defendants, Plaintiffs, the Class Members, Class Counsel, or the Settlement
3 Administrator based on mailings, distributions, and payments made in accordance with or
4 pursuant to this Agreement.

5 4.7 **Final Approval and Entry of Judgment in the Action.** Following the Request
6 for Exclusion Deadline and before the Fairness Hearing, on or before the date set by the Court,
7 Plaintiffs shall move for Final Approval of the Settlement in the Action. The Final Judgment and
8 Order Approving Settlement shall be substantially the same as the proposed order attached as
9 **Exhibit D.** Class Counsel shall draft the final approval papers and give Counsel for Defendants a
10 draft of the papers to review at least three (3) court days before they are filed.

11 4.8 **Calculation of Settlement Fund Amount.** Within twenty (20) business days
12 from the date of Final Approval of the Settlement, the Settlement Administrator shall calculate
13 and advise Counsel for Defendants of the Settlement Fund Amount as set forth in Section 2.54,
14 above.

15 4.9 **Distribution of Settlement Payments.** After the Effective Date, the Class
16 Settlement Awards and PAGA Settlement Awards shall be distributed to Settlement Class
17 Members and PAGA Group Members in accordance with the procedures set forth below:

18 4.9.1 **Remittance of Settlement Fund Amount.** Within fifteen (15) business
19 days from the Effective Date, Defendants will remit the Settlement Fund Amount to the
20 Settlement Administrator for the establishment of the Settlement Fund.

21 4.9.2 **Delivery of Payments.** Within ten (10) business days from Defendants'
22 remittance to the Settlement Administrator of the Settlement Fund Amount, the Settlement
23 Administrator shall establish the Settlement Fund and distribute (a) the Fee and Expense Award
24 to Class Counsel, (b) the Class Settlement Award and PAGA Settlement Award checks to
25 Settlement Class Members and PAGA Group Members, (c) the portion of the PAGA Settlement
26 Amount payable to the LWDA, and (d) the General Release Payments to Plaintiffs. Also within
27 ten (10) business days from Defendants' remittance of the Settlement Fund Amount, the
28 Settlement Administrator shall provide Class Counsel and Counsel for Defendants a written

1 report listing each Settlement Class Member and PAGA Group Member and the amount of the
2 Class Settlement Award and PAGA Settlement Award to be paid to each such person. Class
3 Counsel shall hold the information contained in this report in strictest confidence and not use or
4 disclose it for any purpose, except on the written authorization of Counsel for Defendants or by
5 order of the Court. No payments shall be made or distributed unless and until the orders and
6 Judgment described in this Agreement are final (meaning that the right to appeal or otherwise
7 seek review of such orders or the Judgment has expired) and on the condition that no appeals
8 from the orders and the Judgment have been filed. Additionally, by no later than the date set by
9 the Court in its Final Approval order, the Settlement Administrator shall file a report with the
10 Court setting forth (1) the total amount of money paid to the Settlement Class Members as Class
11 Settlement Awards, (2) the total amount of money paid to PAGA Group Members as PAGA
12 Settlement Awards, (3) the portion of the PAGA Settlement Amount paid to the LWDA, and
13 (4) the Fee and Expense Award paid to Class Counsel.

14 **4.9.3 Negotiation of Settlement Checks.** Any checks tendered to Settlement
15 Class Members and PAGA Group Members shall remain valid and negotiable for one hundred
16 and eighty (180) calendar days from the date of their issuance and shall thereafter be
17 automatically cancelled if not cashed by the Settlement Class Member or PAGA Group Member
18 within that time, after which the Settlement Class Member's and/or PAGA Group Member's right
19 to participate in the Settlement shall be extinguished, although the individual shall remain a
20 Settlement Class Member and/or PAGA Group Member bound by the Judgment entered in the
21 Action. After one hundred and eighty (180) calendar days, any amounts from uncashed checks
22 shall be transmitted to Community Education Partnerships ("CEP"), in accordance with Code of
23 Civil Procedure section 384. Administration of the Settlement shall be completed no later than
24 two hundred and seventy (270) calendar days from the Effective Date.

25 **4.9.4 Non-Reversionary Settlement.** No portion of the Gross Settlement
26 Amount will revert to Defendants.

27 **4.9.5 Discharge of Obligations.** Defendants shall fully discharge their
28 obligations to Plaintiffs, the Settlement Class Members, the PAGA Group Members, and the State

1 of California through the remittance of the Settlement Fund Amount to the Settlement
2 Administrator as set forth in Section 4.9.1, above, regardless of whether checks representing
3 individual Class Settlement Awards and/or PAGA Settlement Awards are actually received
4 and/or negotiated by the payee. Once Defendants have complied with their obligation set forth in
5 Section 4.9.1, above, they will be deemed to have satisfied all terms and conditions under this
6 Agreement, shall be entitled to all protections afforded to them under this Agreement, and shall
7 have no further obligations under the terms of the Agreement, regardless of what occurs with
8 respect to the further administration of the Settlement. Without prejudice to any other remedies,
9 the Settlement Administrator shall hold Defendants harmless from and against all liabilities,
10 claims, causes of action, costs, and expenses (including legal fees and expenses) arising out of
11 any failure to timely or properly compensate Class Members and PAGA Group Members as
12 provided for in this Agreement.

13 **4.10 Questions and Disputes.** In the event that questions or disputes arise regarding
14 the entitlement of any Class Member or PAGA Group Member under this Agreement, counsel for
15 each Party shall cooperate to provide to counsel for the other Party and the Settlement
16 Administrator all available information reasonably necessary to resolve them. Such information
17 shall be provided in either electronic form or hard copy, as the Settlement Administrator may
18 reasonably request. If the Parties cannot resolve any dispute concerning the entitlement of any
19 Class Member or PAGA Group Member under this Agreement, the dispute(s) shall be submitted
20 to the Settlement Administrator, who shall resolve the dispute(s) and whose decision shall be final
21 and binding. In such a dispute, the information provided by Defendants will be presumed
22 accurate.

23 **4.11 Notification and Certification by Settlement Administrator.** The Settlement
24 Administrator shall keep Counsel for Defendants and Class Counsel apprised of the status of the
25 claims administration process and its distribution of all sums pursuant to this Agreement. Upon
26 completion of administration of the Settlement, the Settlement Administrator shall provide a
27 detailed, written certification of such completion to the Court and counsel for the Parties.
28

1 **4.12 Nullification of Settlement Agreement if Settlement Not Approved.** In the
2 event (a) the Court does not preliminarily approve the Settlement as provided herein; (b) the
3 Court does not finally approve the Settlement as provided herein; (c) the Court does not enter the
4 Judgment in the action as provided herein; or (d) the Settlement does not become final for any
5 other reason, including the exercise of Defendants' right to rescind the Settlement under
6 Section 4.3.6, above, this Agreement shall be null and void *ab initio* (with the exception of this
7 Section, Section 3.3, Section 3.5, and Section 4.3.6) and any order or Judgment entered by the
8 Court in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of
9 the Parties. In such case, the Parties shall be returned to their respective statuses as of
10 September 20, 2022. In the event an appeal is filed from the Judgment, or any other appellate
11 review is sought before the Effective Date, administration of the Settlement shall be stayed
12 pending final resolution of the appeal or other appellate review.

13 **4.13 Escalator Clause.** It was estimated in connection with the negotiation of this
14 Settlement that approximately 228,740 Pay Periods are at issue during the Settlement Period. The
15 parties agree that if the actual number of Pay Periods exceeds 228,740 by more than 5% (i.e., is
16 more than 240,177 Pay Periods), the Gross Settlement Amount will be increased proportionately,
17 by the same number of percentage points above 5% by which the number of Pay Periods exceeds
18 5% (i.e., if the actual number of Pay Periods is 7% more than 228,740, the Gross Settlement
19 Amount shall increase by 2%).

20 **5. ENTRY OF JUDGMENT AND RELEASES**

21 **5.1 Obtaining Approval.** As soon as practicable after execution of this Agreement,
22 Class Counsel shall, with the cooperation of Counsel for Defendants as reasonably requested by
23 Class Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the
24 Agreement by the Court, including responding to any objectors, intervenors, or other persons or
25 entities seeking to preclude approval of this Agreement.

26 **5.2 Entry of Judgment.** The Final Judgment and Order Approving Settlement in the
27 Action shall include a provision for entry of judgment in accordance with this Agreement, with
28

each Party to bear all of his, her, or its own costs and attorneys' fees, except as expressly set forth herein.

5.3 **Notification to the LWDA.** Mayer shall submit to the LWDA a copy of the Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699, subdivision (l)(3).

5.4 **Settlement Class Release.** Upon the Effective Date, all Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly released, waived, and relinquished the Released Claims. Settlement Class Members shall not sue or otherwise make a claim against any of the Released Parties for any of the Released Claims and shall be barred from filing any actions, claims, complaints, or proceedings regarding the Released Claims with the California Division of Labor Standards Enforcement, or from initiating any other proceedings against any of the Released Parties regarding any of the Released Claims. Settlement Class Members' 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 the Released Claims in any other class, collective, or representative action.

5.5 **PAGA Release.** Upon the Effective Date, all PAGA Group Members and the State of California shall be deemed to have, and by operation of the Judgment shall have, expressly released, waived, and relinquished the Released PAGA Claims. All PAGA Group Members 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.

5.6 **Plaintiffs' General Release.** In addition to their release of the Released Parties from the Released Claims and Released PAGA Claims as set forth in Sections 5.4 and 5.5, above, effective upon the Effective Date, Mayer and Calderon each hereby expressly release and waive any and all claims, demands, rights, liabilities, and causes of action they have or have ever had against any of the Released Parties, whether for economic damages, noneconomic damages,

1 exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys'
2 fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or
3 relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements,
4 omissions, or failures to act from the beginning of time to the date they sign this Agreement,
5 including but not limited to any claims arising from or related to their employment with Visa
6 U.S.A. Inc. or CyberSource Corporation or the termination of that employment. This general
7 release by Mayer and Calderon shall become effective upon the Effective Date and include all
8 statutory claims, common law claims (including but not limited to those sounding in contract,
9 tort, and equity), and claims for compensation to the fullest extent permitted by law. Mayer and
10 Calderon further agree not to sue or otherwise make a claim against any of the Released Parties
11 for any of the claims that are released pursuant to this Section 5.6. Mayer and Calderon further
12 agree that, except to the extent otherwise provided in this Agreement, they will dismiss with
13 prejudice any administrative or judicial proceedings they have brought against any of the
14 Released Parties.

15 **5.7 Waiver of Civil Code Section 1542.** Mayer and Calderon each acknowledge that
16 the general release herein includes potential claims and costs that may not be known or suspected
17 by them to exist, and they each hereby expressly and affirmatively waive and relinquish any and
18 all rights and benefits which may otherwise exist relating to the claims released in Section 5.6,
19 above, pursuant to Civil Code section 1542 and any similar law of any state or territory of the
20 United States. Civil Code section 1542 states as follows:

21 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
22 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
23 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
24 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
25 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
26 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
27 OR RELEASED PARTY.

28 **6. ADDITIONAL PROVISIONS**

29 **6.1 No Admission of Liability.** Defendants contend that Visa Inc. did not employ
30 and has never employed Plaintiffs, any Class Members, or any PAGA Group Members; that all of
31 Visa U.S.A. Inc.'s employment practices comply and have complied with all applicable laws and

1 regulations; that all of CyberSource Corporation's employment practices comply and have
2 complied with all applicable laws and regulations; that all Class Members and all PAGA Group
3 Members were and are reimbursed for all necessary business expenses (when applicable); that all
4 Class Members and all PAGA Group Members were and are furnished accurate itemized wage
5 statements; that none of the Defendants required or require anyone to agree in writing to a term or
6 condition that is known by them, or any of them, to be prohibited by law; and that none of the
7 Defendants have engaged in any unlawful conduct, whether willful or not, and whether knowing
8 and intentional or not, with respect to anything alleged in the Action. Defendants deny any
9 wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action and
10 contend that all of Plaintiffs' claims lack merit and Defendants have valid defenses to each of
11 them. This Agreement reflects the compromise and settlement of disputed claims between the
12 Parties, and its provisions and any and all drafts, communications, or discussions relating thereto
13 do not constitute, are not intended to constitute, and will not under any circumstances be deemed
14 to constitute an admission by Defendants as to the merits, validity, or accuracy of any of the
15 allegations or claims in the Action, nor a waiver of any defense.

16 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
17 been represented in negotiations for and in the preparation of this Agreement by independent
18 counsel of their own choosing, they have read this Agreement and have had it fully explained to
19 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
20 effect.

21 **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without
22 duress or undue influence on the part of or on behalf of any Party, or of any other person, firm, or
23 entity. Each Party has made such investigation of the facts pertaining to this Agreement and of
24 all other matters pertaining hereto as he, she, or it deems necessary.

25 **6.4 Notices.** The Parties, Class Counsel, and Counsel for Defendants acknowledge
26 and agree that for the purposes of any claims, actions, or proceedings arising out of this
27 Agreement, notice provided to Class Counsel shall be deemed notice to Plaintiffs and to Class
28 Members. All notices, requests, demands, and other communications required to be given to

counsel for the Parties under this Agreement shall be in writing and shall be delivered personally, faxed, emailed or mailed, postage prepaid, by first class United States mail, addressed as follows:

To Class Members or to Plaintiffs:

Julian Hammond (jhammond@hammondlawpc.com)
Polina Brandler (pbrandler@hammondlawpc.com)
Ari Cherniak (acherniak@hammondlawpc.com)
HAMMONDLAW, P.C.
1201 Pacific Avenue, 6th Floor
Tacoma, WA 98402
Telephone: (310) 601-6766
Facsimile: (310) 295-2385

To Defendants:

Alexis A. Amezcua (AAmezcua@mofo.com)
Jinny S. Hwang (JHwang@mofo.com)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Tritia M. Murata (TMurata@mofo.com)
David P. Zins (DZins@mofo.com)
Zachary Maldonado (ZMaldonado@mofo.com)
MORRISON & FOERSTER LLP
707 Wilshire Boulevard
Los Angeles, California 90017-3543
Telephone: 213.892.5200
Facsimile: 213.892.5454

6.5 No Press Releases/Public Comment. Unless they first obtain Defendants' express written consent, Class Counsel and Plaintiffs shall not (a) discuss, reveal, disclose, publicize, or promote the terms of this Settlement, or the negotiations leading to this Settlement, to any third party (including but not limited to the media, the legal community, or the public at large) or (b) issue any press releases or initiate any contact with the media regarding the Settlement, or otherwise advertise or publicize the Settlement. Nothing in this Agreement is intended to prevent Plaintiffs or Class Counsel from disclosing or discussing the terms of this Settlement (i) with the Court, (ii) with any Class Member, (iii) with the Settlement Administrator, (iv) with the LWDA, or (v) as otherwise required by law.

1 **6.6 Employment Verification.** Plaintiffs agree to use “The Work Number” for any
2 and all employment verification requests, and the response to such a request will consist of dates
3 of employment, position held, and nothing else. “The Work Number” may be reached by phone
4 at 1-800-367-2884 or 1-900-555-WORK or online at www.theworknumber.com.

5 **6.7 Authorization.** The Parties hereto represent and warrant that each signatory
6 hereto has the full right and authority to enter into this Agreement and bind the Party on whose
7 behalf he, she, or it has executed this Agreement.

8 **6.8 Agreement Binding on Successors in Interest.** This Agreement shall be binding
9 on and inure to the benefit of the respective successors, assigns, heirs, and personal
10 representatives of the Parties.

11 **6.9 Time Periods.** The time periods and dates set forth in this Agreement with respect
12 to the giving of notices and hearings are subject to approval and modification by the Court or the
13 written stipulation of counsel for the Parties.

14 **6.10 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
15 accomplish the terms of this Agreement, including but not limited to execution and delivery of
16 any and all additional papers, documents, and other assurances and taking such other action that
17 may be reasonably necessary to implement the terms of this Agreement. The Parties and their
18 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any
19 other efforts that may become necessary by order of the Court, to effectuate this Agreement and
20 the terms set forth herein.

21 **6.11 Entire Agreement.** The Exhibits to this Agreement are integral parts of this
22 Agreement and are hereby incorporated and made a part of the Agreement. This Agreement
23 contains the entire agreement between the Parties and constitutes the complete, final, and
24 exclusive embodiment of their agreement with respect to the subject matter hereof. This
25 Agreement is executed without reliance upon any promise, representation, or warranty by any
26 Party or representative of any Party, other than those expressly set forth herein. Any
27 inconsistency between this Agreement and the attached Exhibits will be resolved in favor of this
28 Agreement.

1 6.12 **Headings.** The various headings used in this Agreement are solely for the
2 convenience of the Parties and shall not be used to interpret this Agreement.

3 6.13 **No Construction Against Drafter.** This Agreement shall be deemed to have been
4 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter
5 shall not apply to this Agreement.

6 6.14 **Amendment and Modification.** Except as expressly provided in Section 6.9,
7 above, with respect to time periods and dates set forth herein, this Agreement may not be
8 amended, altered, or modified except in writing and signed by the Parties hereto, their successors
9 in interest, or their duly authorized representatives, and approved by the Court.

10 6.15 **Governing Law.** This Agreement is entered into in accordance with the laws of
11 the State of California and shall be governed by and interpreted in accordance with those laws.

12 6.16 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
13 otherwise arising out of this Agreement, or relating to the Action, the Released Claims, or the
14 Released PAGA Claims, shall be subject to the exclusive jurisdiction of the Court, and the
15 Plaintiffs, Class Members, and Defendants agree to submit to the personal and exclusive
16 jurisdiction of the Court for the purpose of resolving any such dispute. Following the Effective
17 Date, the Court shall retain jurisdiction solely with respect to the interpretation, implementation,
18 and enforcement of the terms of this Agreement and all orders and judgments entered in
19 connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for
20 purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement
21 and all orders and judgments entered in connection therewith.

22 6.17 **Agreement Constitutes a Complete Defense.** To the extent permitted by law,
23 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
24 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this
25 Agreement.

26 6.18 **Signatures.** Signatures by facsimile or in Portable Document Format (PDF), such
27 as through DocuSign, shall have the same force and effect as original signatures.
28

6.19 **Execution Date and Execution in Counterparts.** This Agreement shall be deemed executed upon the last date of signature of all of the undersigned. The Parties may execute this Agreement in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument having the same force and effect as if all Parties had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: 27th March 2023 _____

CYNTHIA MAYER



On behalf of herself, the Settlement Class, the State of California, and all PAGA Group Members

Dated: 03/24/2023 _____

CHRISTIAN CALDERON



On behalf of himself and the Settlement Class

Dated: _____

VISA U.S.A. INC.

By: _____
Julie B. Rottenberg

Dated: _____

CYBERSOURCE CORPORATION

By: _____
Julie B. Rottenberg

Dated: _____

VISA INC.

By: _____
Julie B. Rottenberg

6.19 Execution Date and Execution in Counterparts. This Agreement shall be deemed executed upon the last date of signature of all of the undersigned. The Parties may execute this Agreement in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument having the same force and effect as if all Parties had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have so agreed.

Dated: _____

CYNTHIA MAYER

On behalf of herself, the Settlement Class, the State of California, and all PAGA Group Members

Dated: _____

CHRISTIAN CALDERON

On behalf of himself and the Settlement Class

Dated: 3/24/2023

VISA U.S.A. INC.

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Julie B. Rottenberg
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By: Julie B. Rottenberg

Dated: 3/24/2023

CYBERSOURCE CORPORATION

DocuSigned by:
Julie B. Rottenberg
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By: Julie B. Rottenberg

Dated: 3/24/2023

VISA INC.

DocuSigned by:
Julie B. Rottenberg
By: Julie B. Rottenberg
15DC662CEFF4F4...

1 APPROVED AS TO FORM:

2 Dated: 3/27/2023 _____

HAMMONDLAW, P.C.

3
4 By: Julian Hammond

5 Attorneys for Plaintiffs
6 CYNTHIA MAYER and CHRISTIAN
7 CALDERON

8 Dated: _____

MORRISON & FOERSTER LLP

9
10 By: _____
11 David P. Zins

12 Attorneys for Defendants
13 VISA U.S.A. INC., CYBERSOURCE
14 CORPORATION, and VISA INC.
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APPROVED AS TO FORM:

Dated: _____

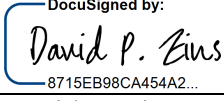
HAMMONDLAW, P.C.

By: _____

Attorneys for Plaintiffs
CYNTHIA MAYER and CHRISTIAN
CALDERON

Dated: 3/24/2023

MORRISON & FOERSTER LLP

By: 
8715EB98CA454A2...
David P. Zins

Attorneys for Defendants
VISA U.S.A. INC., CYBERSOURCE
CORPORATION, and VISA INC.

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?

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. Your Request for Exclusion must contain (i) your full name, address, telephone number and last four digits of the Social Security 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.

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

1. **You can object to the Class Settlement:** You can object to the Settlement before the Court's final approval of the Settlement. To object, you should submit a signed, written objection to the Settlement Administrator by [DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline]. You may 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 92102-4514. 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 may object to the Settlement only if you do NOT submit a Request for Exclusion.

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

2. **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].

3. **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 92102-4514, 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 [REDACTED], 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 Class and PAGA Settlement Agreement and Release (“Agreement”), filed with the Court on [DATE] as an attachment to Plaintiffs’ 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] - [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**

Exhibit B

NOTICE OF PAY PERIODS

Cynthia Mayer v. Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation
San Francisco Superior Court, Case No. CGC-21-593058

To: [Class Member Name]

Your potential individual Class Settlement Award in the Settlement of the class action lawsuit listed above is based on the number of pay periods during which you were employed by Visa U.S.A. Inc. or CyberSource Corporation in California for at least one day from March 16, 2020 to and including November 30, 2022 ("Pay Periods"). According to Defendants' records, you had a total of [] Pay Periods.

If you wish to participate in the Class Settlement and you agree with the number of your Pay Periods shown above, then you do not need to take any further action. You will receive your Class Settlement Award once the Settlement becomes final.

If you **do not agree** with the number of your Pay Periods shown above, please insert in the space below the number of pay periods during which you believe you were employed by Visa U.S.A. Inc. or CyberSource Corporation in California for at least one day from March 16, 2020 to November 30, 2022.

The number of Pay Periods you believe is correct for you: _____

- ☐ I am enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendants' records, as shown above.
- ☐ I am *not* enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendants' records, as shown above.

Dated: _____ (signature)

If you wish to dispute the number of your Pay Periods shown above, you must complete, sign, and date this Notice of Pay Periods form and mail it with any supporting documentation to the Settlement Administrator, Settlement Services, Inc., at [ADDRESS], postmarked no later than _____, 2023 [45 calendar days after mailing of Class Notice/Notice Response Deadline].

If you dispute the number of your Pay Periods, the Settlement Administrator will resolve the dispute, and its decision will be final and binding. In resolving the dispute, the information provided by Defendants will be presumed accurate.

Form A

EXHIBIT B

Exhibit C

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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

(Assigned for All Purposes to the Honorable
Andrew Y.S. Cheng, Dept. 613)

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

Date Action Filed: July 9, 2021
Trial Date: Not Yet Set

1 This matter has come before the Honorable Andrew Y.S. Cheng in Department 613 of the
2 Superior Court of the State of California, for the County of San Francisco, on an unopposed
3 Motion for Preliminary Approval of Class Action Settlement of the above-captioned Action
4 (“Motion”). The Court, having duly considered the Motion, good cause appearing, hereby orders
5 as follows:

6 1. Capitalized terms in this Order shall have the same meaning they are given in the
7 Class Action and PAGA Settlement Agreement and Release (“Agreement”) filed with the motion.

8 2. The Court preliminarily approves the Settlement based on the terms set forth in the
9 Agreement. The Settlement appears to be fair, reasonable, and adequate to the Class and
10 presumptively valid, subject only to any objections that may be raised at or before the Final
11 Approval Hearing.

12 3. A Final Approval Hearing on the question of whether the proposed Settlement, Fee
13 and Expense Award, General Release Payments, PAGA Settlement Amount, Settlement
14 Administration Costs, and Class Settlement Awards to the Settlement Class Members should
15 finally be approved as fair, reasonable, and adequate as to the Settlement Class Members is
16 scheduled for _____, 2023, at __:__.m. in Department 613 of this Court.

17 4. The Court approves as to form and content the Class Notice attached hereto as
18 Exhibit 1. The Court approves the procedure for Class Members to request exclusion from or to
19 object to the Settlement as set forth in the Class Notice. The Court approves as to form and content
20 the Notice of Pay Periods attached to the Class Notice, which shall be mailed to Class Members
21 with the Class Notice.

22 5. The Court directs the mailing of the Class Notice in accordance with the
23 Implementation Schedule set forth below. The Court finds that the manner and mode of giving
24 notice to Class Members meet the requirements of due process and provide the best notice
25 practicable under the circumstances, and shall constitute due and sufficient notice to all persons
26 entitled thereto.

27 6. The Fourth Amended Complaint in this Action, attached as Exhibit E to the
28 Agreement, and the Answer thereto, attached as Exhibit F to the Agreement, are hereby deemed

filed as of this date, for settlement purposes only. In the event that the Settlement is not finally approved or is not effectuated for whatever reason, the Fourth Amended Complaint and the Answer thereto shall both be withdrawn and shall no longer have any force or effect, and the Parties will be returned to their status quo ante positions, meaning without limitation that the Third Amended Complaint will once again be the operative complaint in the Action and Defendants will have the right to respond to it, by way of the responsive pleading of their choosing, upon further order of the Court lifting the stay and setting a responsive pleading deadline.

7. The Class is preliminarily certified for settlement purposes only.

8. The Court preliminarily approves HammondLaw, P.C. as Class Counsel.

9. The Court provisionally appoints Settlement Services, Inc. as the Settlement Administrator.

10. The Court orders the following Implementation Schedule for further proceedings:

Deadline for Defendants to submit Class Member information to Settlement Administrator.	_____, 202____ (15 business days from entry of this Order.)
Settlement Administrator mails Class Notice to Class Members.	_____, 202____ (10 business days from receipt of Class Member information from Defendants.)
Notice Response Deadline for Class Members to mail Requests for Exclusion.	_____, 202____ (45 calendar days from initial mailing of Class Notice)
Notice Response Deadline for submitting to the Settlement Administrator any objections to Settlement.	_____, 202____ (45 calendar days from initial mailing of Class Notice)
Deadline for Class Counsel to file Motion for Final Approval of Settlement and Fee and Expense Award.	_____, 202____
Fairness Hearing and Final Approval. <i>[at least ninety (90) calendar days after the Preliminary Approval Date, or as soon thereafter as the Court is available]</i>	_____, 202____ at __:___.m.

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IT IS SO ORDERED.

Dated: _____

By: The Honorable ANDREW Y.S. CHENG
Judge of the Superior Court

Exhibit D

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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

(Assigned for All Purposes to the Honorable
Andrew Y.S. Cheng, Dept. 613)

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Date Action Filed: July 9, 2021
Trial Date: Not Yet Set

1 This matter has come before the Court on an unopposed Motion for Final Approval of
2 Class Action Settlement (“Motion”). A Fairness Hearing was held on [Fairness Hearing Date],
3 following the Court’s order preliminarily approving the Settlement and notice of the Settlement
4 to the Class with an opportunity for Class Members to request exclusion or object to the
5 Settlement. The Court, having duly considered the Motion, good cause appearing, hereby orders,
6 adjudges, and decrees as follows:

7 1. Capitalized terms in this Order and Judgment have the same meaning they are
8 given in the Class Action and PAGA Settlement Agreement and Release (“Agreement”) attached
9 as Exhibit [X] to the Declaration of [NAME] in support of the Motion for Preliminary Approval
10 of Class Action Settlement, filed [FILING DATE].

11 2. This Court has jurisdiction over the subject matter of this Action, all claims
12 alleged herein, and all Parties hereto, including Plaintiffs Cynthia Mayer and Christian Calderon
13 (“Plaintiffs”), all Class Members, and Defendants Visa U.S.A. Inc., CyberSource Corporation,
14 and Visa Inc. (“Defendants”).

15 3. The Court finds that the Class Members have been provided proper and adequate
16 notice, meeting the requirements of due process. The Court finds, based on the evidence
17 submitted, that the Class Notice and related documents, as well as the methodology used to
18 implement the Settlement, including providing notice to Class Members, (a) complied with this
19 Court’s Preliminary Approval Order, (b) constituted the best practicable notice under the
20 circumstances, (c) constituted notice that was reasonably calculated, under the circumstances, to
21 apprise Class Members of the pendency of the Action and the proposed Settlement and of their
22 right to participate in the Settlement, to opt out of the Settlement, to object to the Settlement, and
23 to appear at the Fairness Hearing, and (d) met all applicable requirements of due process, the
24 Code of Civil Procedure and other applicable authorities.

25 4. The Court finds that adequate time has been provided for Class Members to
26 respond to the Class Notice, including by opting out of the Settlement or objecting to the
27 Settlement or to Plaintiff’s Motion for Approval of Fee and Expense Award.
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1 5. The Court finds that the Settlement, the terms of which are set forth in the
2 Agreement, is fair, reasonable, and adequate as to the settling Parties, including the Settlement
3 Class Members, and is in the best interests of all those affected by the Settlement. The Court
4 finds that the Settlement was the result of vigorously contested litigation and good-faith arm's-
5 length negotiations, and is reasonable based on the risks, expense, and complexity of the Action
6 and the likelihood of success in it. The Court hereby grants final approval of the Parties'
7 Settlement, as set forth in the Agreement, and enters Judgment accordingly. The Parties are
8 directed to perform the terms of the Agreement and to report to the Court when that performance
9 has been completed.

10 6. The Court has already determined solely for purposes of this Settlement, by way
11 of its Preliminary Approval Order, that the Settlement Class satisfies the applicable standards for
12 certification under the Code of Civil Procedure. The Settlement Class, which will be bound by
13 this Final Approval Order and Judgment, include all Class Members who did not submit a timely
14 and valid Request for Exclusion. The Class Members who have opted out of the Settlement by
15 submitting a timely and valid Request for Exclusion are listed on Exhibit 1 hereto. For purposes
16 of the Settlement and this Final Approval Order and Judgment, the Settlement Class shall be
17 represented by Plaintiffs and shall include Plaintiffs and all individuals employed by Visa
18 U.S.A. Inc. or CyberSource Corporation in California at any time during March 16, 2020 to and
19 including November 30, 2022, excluding only those persons listed in **Exhibit 1**.

20 7. The Court appoints Plaintiffs as class representatives for the Settlement Class.

21 8. The Court appoints Class Counsel identified in the Agreement as class counsel for
22 the Settlement Class, finding that Class Counsel is adequate and qualified, and has, and can
23 continue, to fully and faithfully represent the interests of Plaintiffs and the Settlement Class
24 Members.

25 9. Settlement Class Members shall be paid their respective shares of the Net
26 Settlement Sum, as provided in the Agreement.

27 10. The portion of the PAGA Settlement Amount to be paid to the California Labor &
28 Workforce Development Agency ("LWDA") and the portion of the PAGA Settlement Amount

1 to be paid to PAGA Group Members shall be paid as provided in the Agreement. The LWDA
2 and all PAGA Group Members shall be and hereby are bound by this Final Approval Order and
3 Judgment.

4 11. The Settlement Administrator shall timely and properly prepare and deliver
5 necessary tax documentation to all necessary parties and to report all necessary information to
6 the applicable government entities as required by law.

7 12. The unopposed application of Class Counsel's Fee and Expense Award is hereby
8 granted. The sum of \$_____ as attorneys' fees, and costs not to exceed the sum of
9 \$_____, shall be paid to Class Counsel, with payment to be made as provided for in the
10 Agreement. A General Release Payment in the amount of \$_____ shall be paid to Plaintiff
11 Cynthia Mayer, and a General Release Payment in the amount of \$_____ shall be paid to
12 Plaintiff Christian Calderon, with the payments to be made as provided for in the Agreement.
13 Settlement Services, Inc. shall be paid Settlement Administration Costs of \$_____, in
14 accordance with the terms of the Agreement. Except as expressly set forth in this Final Approval
15 Order and Judgment, the Parties shall bear their own attorneys' fees and costs.

16 13. Any portion of the Settlement Fund remaining after administration of the
17 Settlement has been completed shall be transmitted to Community Education Partnerships, as
18 provided in the Agreement.

19 14. The Settlement Administrator is hereby directed to make the payments set forth
20 herein, in accordance with the terms and conditions of the Agreement.

21 15. By no later than _____, the Settlement Administrator shall file
22 a report setting forth (1) the total amount of money paid to the Settlement Class Members as
23 Class Settlement Awards, (2) the total amount of money paid to PAGA Group Members as
24 PAGA Settlement Awards, (3) the portion of the PAGA Settlement Amount paid to the LWDA,
25 and (4) the Fee and Expense Award paid to Class Counsel. (Code Civ. Proc., § 384, subd. (b).)

26 16. All Class Members, except those who timely opted out of the Settlement (listed in
27 Exhibit 1 hereto), are bound by this Final Approval Order and Judgment, and by the previously
28 approved Agreement. Each Settlement Class Member is hereby deemed to have fully, finally,

1 and forever released, relinquished, and discharged each of the Defendants and all Released
2 Parties, as defined in the Agreement, from the Released Claims described in the Agreement.

3 17. All PAGA Group Members and the LWDA are bound by this Final Approval
4 Order and Judgment, and by the previously approved Agreement. Each PAGA Group Member
5 and the State of California are hereby deemed to have expressly released, waived, and
6 relinquished the Released PAGA Claims. All PAGA Group Members are hereby barred from
7 bringing, joining, or otherwise participating in a PAGA representative action or otherwise
8 making, joining, or otherwise participating in a claim against any of the Released Parties for any
9 of the Released PAGA Claims. The State of California shall be barred from pursuing recovery
10 of any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

11 18. This Final Approval Order and Judgment, the Agreement, the Settlement it
12 reflects, and any and all acts, statements, documents, or proceedings relating to the Settlement
13 are not, and shall not be construed as, or used as an admission by Defendants, or any of them, or
14 a finding by this Court of any fault, wrongdoing, or liability on the part of Defendants, or any of
15 them, or of the validity of any of the Released Claims or the Released PAGA Claims or of the
16 existence or amount of any damages.

17 19. In the event the Effective Date does not occur, this Final Approval Order and
18 Judgment shall be null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly
19 provided to the contrary in the Agreement, and without prejudice to the status quo ante rights of
20 Plaintiffs, Settlement Class Members, and Defendants.

21 20. Judgment is hereby entered in accordance with the Agreement and the Settlement.
22 Without affecting the finality of this Final Approval Order and Judgment in any way, the Court
23 shall retain jurisdiction over the implementation of the Settlement, including enforcement and
24 administration of the Agreement and the releases given in connection therewith, and any other
25 matters related or ancillary to the foregoing.
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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: _____

HONORABLE ANDREW Y.S. CHENG
JUDGE OF THE SUPERIOR COURT

Exhibit E

1 JULIAN HAMMOND (SBN 268489)
jhammond@hammondlawpc.com
2 POLINA BRANDLER (SBN 269086)
pbrandler@hammondlawpc.com
3 ARI CHERNIAK (SBN 290071)
acherniak@hammondlawpc.com
4 HAMMONDLAW, P.C.
5 11780 W Sample Rd Suite 103
6 Coral Springs, FL 33065
7 (310) 601-6766
(310) 295-2385 (Fax)

8 Attorneys for Plaintiffs and Putative Classes

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

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

16 Plaintiffs,

17 vs.

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

20 Defendants.
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Case No.: CGC-21-593058

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

15 3. Plaintiffs also bring this action on behalf of themselves and all other individuals employed
16 by Defendants in California (“Wage Statement Class Members”) during the one year prior to the filing
17 of this action through to the trial date (“Wage Statement Class Period”). During the Wage Statement
18 Class Period, Visa Inc. issued wage statements that violated Labor Code § 226(a)(8) because the wage
19 statements did not include the name and address of the legal entity that was the employer. Such violation
20 was knowing and intentional, as it was not a result of a clerical error, and caused injury to the Wage
21 Statement Class Members. Plaintiffs also bring this action as a representative action under the Labor
22 Code Private Attorneys General Act (“PAGA”), Labor Code §§ 2698 *et seq.*, for civil penalties on behalf
23 of themselves and all other individuals employed by Defendants in California and who were expected
24 and/or required to work from home (“Aggrieved Employees”) from March 4, 2020 through to the trial
25 date (“PAGA Period”) for Defendants’ alleged violation of Labor Code § 2802; on behalf of herself and
26 all individuals employed by the Defendants Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation
27 from January 9, 2020 to the trial date (“Wage Statement PAGA Period”) for Defendant Visa Inc.’s
28 alleged violation of Labor Code § 226(a)(8) (“Wage Statement Aggrieved Employees”); and on behalf

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

4 **JURISDICTION**

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

7 5. This Court has jurisdiction over Plaintiffs’ claims for statutory penalties pursuant to
8 Labor Code § 226(a)(8), (e).

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

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

20 **VENUE**

21 8. 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 places of business located in Foster City, California. The unlawful acts alleged herein have a
24 direct effect on Plaintiffs 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 9. Plaintiff Mayer was employed by Visa Inc. and CyberSource Corporation from June 2019
28 until April 2021, and has been employed by Visa Inc. and Visa U.S.A. Inc. since April 2021. During

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

6 10. Plaintiff Calderon was employed by Visa Inc., Visa U.S.A., Inc., and CyberSource
7 Corporation from 2019 through to June 2022. During both his employment with Visa Inc. and
8 CyberSource Corporation and Visa Inc. and Visa U.S.A. Inc., Plaintiff worked from home and was
9 subject to Defendants' unlawful business expense reimbursement policies as set forth herein, and
10 incurred unreimbursed business expenses in the course of carrying out her job duties. Plaintiff was also
11 subject to Defendants' unlawful wage statement policies and/or practices and was issued noncompliant
12 wage statements.

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

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

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

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

FACTUAL BACKGROUND

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

A. Evidence of Joint Employer Status

16. All three Defendants, Visa Inc., Visa U.S.A. Inc., and CyberSource Corporation share a corporate address, as alleged above, at 900 Metro Center Boulevard, Foster City, California 94404.

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

i. CyberSource Corporation and Visa Inc. are Joint Employers

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

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

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

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.

VIP program tied to Visa's performance and based on Visa's fiscal year. The letter also provided that Plaintiff was eligible to participate in benefits provided by Visa.

21. In or about July 2019, Plaintiff Calderon received an offer letter of employment from Visa Global Talent Acquisition Team to join CyberSource in the role of Associate Technical Support Analyst. As Plaintiff's Mayer's offer letter, Plaintiff Calderon's offer letter set out his compensation, including regular hourly rate, annual salary, and payroll schedule and included identical provisions to those included in Plaintiff Mayer's offer letter with respect to Plaintiff Calderon's wages being subject to Visa's regular payroll practices, eligibility to participate in the VIP, and benefits provided by Visa.

22. The offer letters also provided that in accepting employment with Visa, Plaintiffs "agree to be bound by and to comply fully with all Visa policies and procedures for employees." Moreover, the offer letters expressly stated throughout that Plaintiffs were being offered employment with Visa Inc.: "effective upon your commencement of your employment with Visa", "upon accepting employment with Visa...", "[i]n accepting employment with Visa, you represent..." In the offer letters, Visa also retained the right to terminate each Plaintiff's employment: "[y]our employment at Visa is on an at will basis, meaning that Visa will be free to terminate your employment at any time," And provided that the offer of employment and continued employment was subject to passing Visa's background checks.

23. Attached to Plaintiff Mayer's offer letter were: (1) Relocation Expense Agreement, (2) Notice to Employee pursuant to Labor Code § 2810.5, and (3) a summary of Visa's 2019 U.S. Benefits Program. Attached to Plaintiff Calderon's offer letter was the Notice to Employee pursuant to Labor Code § 2810.5. All documents, including the offer letters, bore the stylized "VISA" logo.

24. The Section 2810.5 Notices included with the offer letters identified "Visa Inc." as the employer, and, as required by section 2810.5, provided wage information. The Notices were signed by Anupama Rao, Sr. Director, HR Shared Services & Global Operations at Visa.

25. The Relocation Expense Agreement provided that "Visa, as part of its offer of employment/transfer, has agreed to pay reasonable travel and relocation expenses subject to the conditions set forth in Visa's relocation policy."

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

1 27. Plaintiffs’ wage statements during the time they were employed by CyberSource
2 Corporation and Visa Inc. listed CyberSource Corporation and a P.O. box address and immediately to
3 the left, a stylized “VISA” logo. A true and correct copy of a wage statement received by Plaintiff Mayer
4 during the time she was jointly-employed by Visa Inc. and CyberSource Corporation, with Plaintiff’s
5 address, checking account number, and earnings information redacted, is attached hereto as **Exhibit A**.
6 A true and correct copy of a wage statement received by Plaintiff Calderon during the time he was
7 jointly-employed by Visa Inc. and CyberSource Corporation, with Plaintiff’s address, checking account
8 number, and earnings information redacted is attached hereto as **Exhibit B**.

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

10 28. Visa U.S.A. Inc. is Visa Inc.’s U.S. arm.

11 29. In or about March 2021, Plaintiff Mayer was offered a new position as a Technical
12 Product Manager Buyer Digital enablement with Visa U.S.A. Inc. In or about November 2021, Plaintiff
13 Calderon was also offered a new position as an Implementation Specialist with Visa, U.S.A., Inc. Visa.
14 Their offer letters bore a stylized “VISA” logo and were signed by the Visa Global Talent Acquisition
15 Team. The offer letters set out Plaintiffs’ annualized compensation and stated that compensation would
16 be payable “in line with Visa’s regular payroll practices.” Plaintiff Mayer’s offer letter also provided
17 that she was eligible for the Visa Incentive Plan (VIP) bonus program and Plaintiff Calderon’s offer
18 letter provided that he was eligible for the Long Term Incentive Plan, with the payout under each
19 program based on Plaintiffs’ respective performances and Visa’s performance. Further, the offer letters
20 stated that Plaintiffs were each being offered “an exempt position at Visa.”

21 30. During the time Plaintiffs were employed by Visa U.S.A. Inc. and Visa Inc. their wage
22 statements listed Visa USA Inc. and an Austin, Texas address and immediately to the left had a stylized
23 “VISA” logo. A true and correct copy of a wage statement received by Plaintiff Mayer during the time
24 she was jointly-employed by Visa Inc. and Visa USA Inc, with Plaintiff’s address, checking account
25 number, and earnings information redacted, is attached hereto as **Exhibit C**. A true and correct copy of
26 a wage statement received by Plaintiff Calderon during the time he was jointly-employed by Visa Inc.
27 and Visa USA Inc, with Plaintiff’s address, checking account number, and earnings information
28 redacted, is attached hereto as **Exhibit D**.

1 **B. Expense Reimbursement Claim**

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

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

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

18 34. Defendants have maintained policies of denying reimbursement in full of Plaintiffs’ and
19 Class Members’ necessarily incurred business expenses, or substantially similar policies, throughout
20 California and throughout the Class Period.

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

25 **C. Wage Statement Claim**

26 36. During the Wage Statement Class Period, Defendants were required under Labor Code §
27 226(a)(8) to furnish Wage Statement Class Members with wage statements, semimonthly or at the time
28 of each payment of wages, containing “the name and address of the legal entity that is the employer.”

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

8 38. Instead of listing Visa Inc.’s name and address, Visa Inc. included on the wage statements
9 issued to its employees a stylized “VISA” logo. It is not apparent, from the wage statements alone, that
10 the stylized “VISA” logo is intended to refer to Visa Inc., rather than another entity whose name includes
11 the word Visa.

12 39. The lack of a complete legal name is confusing because there are thirteen business entities
13 that have names beginning with the word “Visa,” which are registered with the California Secretary of
14 State and currently active – including Visa Commerce Solutions Inc., Visa Global Services Inc., Visa
15 Inc., and Visa U.S.A. Inc. There are also approximately fifty business entities that have the word “Visa”
16 in their name and are registered with the California Secretary of State and currently active.

17 40. It is not apparent, from the wage statements alone, that the stylized “VISA” logo even
18 refers to an employer because it is set to the side of either Visa USA Inc.’s or CyberSource Corporation’s
19 name and address.

20 41. On wage statements issued to Class Members jointly employed by Visa Inc. and
21 CyberSource Corporation, CyberSource’s full name was written directly above CyberSource’s address
22 in the same font and font size as the address. A stylized Visa logo was set above and to the side of
23 CyberSource’s name and address, and in a different font and font size from CyberSource’s name and
24 address. No address was provided on these wage statements for Visa Inc. Two sections of a wage
25 statement received by Plaintiff Mayer during the Wage Statement Class Period, when she was jointly-
26 employed by Visa Inc. and CyberSource Corporation, are reproduced below (a true and correct copy of
27 the full wage statement, with Plaintiff Mayer’s address, checking account number, and earnings
28 information redacted, is attached hereto as **Exhibit A**):



PCSJGL 511034

CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Page 001 of 001
Period Beg/End: 01/02/2021 - 01/15/2021
Advice Date: 01/15/2021
Advice Number: 0042487471
Batch Number: 000000001519



CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Advice Number: 0042487471

Advice Date: 01/15/2021

42. On wage statements issued to Class Members jointly employed by Visa Inc. and Visa USA Inc., Visa USA Inc.'s full name was written directly above Visa USA Inc.'s address in the same font and font size as the address. A stylized Visa logo was set above and to the side of Visa USA Inc.'s name and address, and in a different font and font size from Visa USA Inc.'s name and address. No address was provided on these wage statements for Visa Inc. Two sections of a wage statement received by Plaintiff Mayer during the Wage Statement Class Period, when she was jointly-employed by Visa Inc. and Visa USA Inc, are reproduced below (a true and correct copy of the full wage statement, with Plaintiff Mayer's address, checking account number, and earnings information redacted, is attached hereto as **Exhibit C**):



PCSJCG 511034

Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Earnings Statement

Page 001 of 001
Period Beg/End: 06/18/2021 - 06/18/2021
Advice Date: 06/18/2021
Advice Number: 0051536940
Batch Number: 000000001781



Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Advice Number: 0051536940

Advice Date: 06/18/2021

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

44. As a result of the above, during the Wage Statement Class Period, Wage Statement Class Members employed by Visa Inc. and Visa U.S.A. Inc., could not promptly and easily determine from their wage statements alone, without reference to other documents or information, their employer Visa

1 Inc.'s name and address. Equally, Wage Statement Class Members employed by Visa Inc. and
2 CyberSource Corporation, could not promptly and easily determine from their wage statements alone,
3 without reference to other documents or information, Visa Inc.'s name and address. As a result, Wage
4 Statement Class Members suffered injury for the purposes of Labor Code § 226(e).

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

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

12 46. Defendants' non-solicitation clause violates Business & Professions Code § 16600,
13 which provides that "every contract by which anyone is restrained from engaging in a lawful profession,
14 trade, or business of any kind is to that extent void." This rule prohibits a former employer from
15 including a non-solicitation clause that restrains a former employee from engaging in his or her lawful
16 profession.

17 47. Defendants knew or should have known that their non-solicitation clause violates
18 Business & Professions Code § 16600. In *Edwards v. Arthur Andersen LLP*, 44 Cal. 4th 937 (2008), the
19 California Supreme Court found § 16600 to be "unambiguous," and noted that "if the Legislature
20 intended the statute to apply only to restraints that were unreasonable or overbroad, it could have
21 included language to that effect." *Id.* at 950. Thus, "California law is properly interpreted post-*Edwards*
22 to invalidate [all] employee nonsolicitation provisions." *Barker v. Insight Global, LLC*, 2019 U.S. Dist.
23 LEXIS 6523, *8 (N.D. Cal., Jan. 11, 2019).

24 48. As a result of requiring Class Members to sign the non-solicitation clause, which
25 Defendants knew or should have known violated Business & Professions Code § 16600, Defendants
26 violated Labor Code § 432.5, which prohibits an employer from "requir[ing] any employee or applicant
27 for employment to agree, in writing, to any term or condition which is known by such employer, or
28 agent, manager, superintendent, or officer thereof to be prohibited by law."

CLASS ACTION ALLEGATIONS

49. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to Code of Civil Procedure § 382. The Classes that Plaintiffs seeks to represent are composed of and defined as (1) all persons who have been employed by Defendants in California at any time during the Class Period who worked from home and incurred business expenses as a result, and (2) all persons employed by any of the Defendants in California during the Wage Statement Class Period. All such Class Members and Wage Statement Class Members were subject to Defendants' policy(ies) and/or practice(s) of failing to fully reimburse employees' business expenses during the Class Period or failing to issue compliant wage statements during the Wage Statement Class Period.

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

a. Numerosity: The potential members of each Class as defined are so numerous and so diversely located throughout California, that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that Defendants have at all times during the Class Period and the Wage Statement Class Period employed more than 1,000 individuals in California subject to Defendants' business expense reimbursement policies and/or wage statement policies. The Class Members are dispersed throughout California. Joinder of all members of each proposed class is therefore not practicable.

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

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

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

5 iv. Whether Defendants knew or should have known that Plaintiffs and the
6 Class were routinely incurring business-related expenses;

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

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

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

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

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

20 x. Whether Defendant Visa Inc.'s failure to issue compliant wage statements
21 was knowing and intentional;

22 xi. Whether Plaintiffs and Wage Statement Class Members suffered injury for
23 the purposes of Labor Code § 226(e);

24 xii. The proper formula(s) for calculating damages, interest, penalties, and
25 restitution owed to Plaintiffs and the Class Members.

26 c. Typicality: Plaintiffs' claims are typical of the claims of each Class. Both
27 Plaintiffs, Class Members, and Wage Statement Class Members sustained injuries and damages, and/or
28 were deprived of property rightly belonging to them, arising out of and caused by Defendants' common

1 course of conduct in violation of law as alleged herein, in similar ways and for the same types of expenses
2 and injury.

3 d. Adequacy of Representation: Plaintiffs are members of each Class and will fairly
4 and adequately represent and protect the interests of each Class. Plaintiffs' interests do not conflict with
5 those of Class Members. Counsel who represent Plaintiffs are competent and experienced in litigating
6 large wage and hour class actions, including expense reimbursement and wage statement class actions,
7 and will devote sufficient time and resources to the case and otherwise adequately represent the Class.

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

24 **FIRST CAUSE OF ACTION**
25 **Failure to Reimburse for Business Expenses**
26 **[Labor Code § 2802]**

27 51. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
28 preceding paragraphs.

1 52. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee for
2 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
3 his or her duties.”

4 53. In order to discharge their job duties for Defendants while working remotely, Plaintiffs
5 and Class Members employed in various positions were required and expected by Defendants to use
6 their own home internet, phone service, printing supplies, office equipment, and electrical services, as
7 described above. However, Defendants did not pay fully, or at all, for business expenses incurred by
8 Plaintiffs and Class Members as described above.

9 54. Defendants’ failure to pay for or reimburse the home office expenses incurred by
10 Plaintiffs and other Class Members violated non-waivable rights secured to Plaintiffs and Class Members
11 by Labor Code § 2802. Plaintiffs and Class Members are entitled to reimbursement for these necessary
12 expenditures, plus interest and attorneys’ fees and costs, under Labor Code § 2802.

13 55. As a result of Defendants’ violations of Labor Code § 2802, Defendants are also liable
14 for attorneys’ fees and costs under Labor Code § 2802(c).

15 56. Plaintiffs, on behalf of themselves and Class Members, request relief as described below.

16
17 **SECOND CAUSE OF ACTION**
18 **Failure to Issue Accurate Wage Statements**
19 **[Labor Code §§ 226(a)(8), (e)]**

20 57. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
21 preceding paragraphs.

22 58. During the Wage Statement Class Period, Defendant Visa Inc. failed to furnish Plaintiffs
23 and Wage Statement Class Members jointly-employed by it with accurate wage statements containing
24 the name and address of each employer, in violation of Labor Code § 226(a)(8).

25 59. Defendant Visa Inc.’s failure to furnish accurate wage statements containing its name and
26 address to Plaintiffs and Wage Statement Class Members was knowing and intentional.

27 60. Plaintiffs and Wage Statement Class Members suffered injury as a result of Defendant’s
28 knowing and intentional failure to comply with Labor Code § 226(a)(8) for purposes of Labor Code §
226(e). As a result, Wage Statement Class Members are entitled to recover \$50 for each initial pay
period with a violation, and \$100 for each subsequent pay period with a violation, up to an amount not

1 exceeding an aggregate penalty of \$4,000 for each Wage Statement Class Member, pursuant to Labor
2 Code § 226(e).

3 61. Plaintiffs, on behalf of themselves and all other Wage Statement Class Members, request
4 relief as described below.

5 **THIRD CAUSE OF ACTION**

6 **Civil Penalties**

7 **[Labor Code §§ 2698 *et seq.*]**

8 62. Plaintiff Mayer re-alleges and incorporates by reference each and every allegation set
9 forth in the preceding paragraphs.

10 63. Plaintiff seeks PAGA penalties, and attorneys' fees and costs, on behalf of herself,
11 Aggrieved Employees, Wage Statement Aggrieved Employees, and 432.5 Aggrieved Employees for the
12 following violations:

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

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

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

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

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

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

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

8 ***Violation of Labor Code § 432.5 on behalf of 432.5 Aggrieved Employees***

9 69. During the 432.5 PAGA period, and continuing to the present, Defendants required 432.5
10 Aggrieved Employees to enter into a non-solicitation clause which Defendants knew or should have
11 known violated Business & Professions Code § 16600. In so doing, Defendants violated Labor Code §
12 432.5 which prohibits an employer from “requir[ing] any employee or applicant for employment to
13 agree, in writing, to any term or condition which is known by such employer, or agent, manager,
14 superintendent, or officer thereof to be prohibited by law.”

15 70. Pursuant to Labor Code § 2699(f)(2), Plaintiff and 432.5 Aggrieved Employees are
16 entitled to one hundred dollars (\$100) for each pay period in which there was an initial violation, and
17 two hundred dollars (\$200) for each pay period in which there was a subsequent violation.

18 **Attorneys’ Fees and Costs**

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

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs request the following relief:

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

24 B. That the Court find and declare that Defendants’ business expense policies and/or
25 practices violate California law, including Labor Code § 2802, by refusing and/or failing to reimburse
26 all business expenses incurred by Plaintiffs and Class Members in the discharge of their duties as
27 employees of Defendants;
28

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

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

7 E. That the Court find and declare that Defendant Visa Inc. violated §§ 226(a)(8) and (e) of
8 the California Labor Code; award Plaintiffs and Wage Statement Class Members statutory penalties
9 under Labor Code § 226(e); enjoin Defendant Visa Inc. under Labor Code § 226(h) from continuing to
10 issue unlawful wage statements; and award reasonable attorneys' fees and costs.

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

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

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs, on behalf of themselves, Class Members, and Wage Statement Class Members, hereby
16 demand a jury trial on all causes of action and claims with respect to which they have a right to jury trial.

17
18 Dated: March 24, 2023

Respectfully submitted,
HAMMONDLAW, P.C.

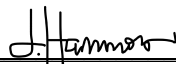
19
20
21 
22 _____
Julian Hammond
Attorneys for Plaintiffs

EXHIBIT A



CO EMPLOYEE ID
PCSNJGL 511034

CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Earnings Statement

Page 001 of 001
Period Beg/End: 01/02/2021 - 01/15/2021
Advice Date: 01/15/2021
Advice Number: 0042487471
Batch Number: 000000001519

CYNTHIA MAYER

Earnings	Rate	Hours/Units	Amount	Year-To-Date
Regular Pay				
STD Leave 10				
STD Leave 10				
STD Leave 100%				
Reg-LOA Neg Prev				
Disability 0				
Disability Offset				
Gross Pay				

Tax Deductions: Federal

Withholding Tax

Tax Deductions: California

Withholding Tax

EE Disability Tax

Additional Deductions

*Dental - Cigna DHMO

*401k Pre-Tax

*HSA-Employee Deduction

Optional AD&D - Employee

ESPP After-tax

Total Net Pay

Retro Corrections/Adjustments by Pay Period

STD Leave 100% 12/16/20 12/31/20

STD Leave 100% 01/01/21 01/01/21

Reg-LOA Neg Prev Y 12/16/20 12/31/20

Disability Offset 01/01/21 01/01/21

Total Work Hours For Pay Period

Other Benefits and Information

This Period Year-to-Date

LT Disability

Payment Method

Direct Deposit

Your federal taxable wage

*Excluded from Federal

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CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Advice Number: 0042487471

Advice Date: 01/15/2021

Deposited to the account of

CYNTHIA MAYER

Account Number

Transit ABA

Amount

THIS IS NOT A CHECK

V_00059

EXHIBIT B



CO EMPLOYEE ID
PCSJGL 511926

CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Earnings Statement

Page 001 of 002
Period Beg/End: 12/04/2021 - 12/17/2021
Advice Date: 12/17/2021
Advice Number: 0064752217
Batch Number: 000000002144

CHRISTIAN CALDERON

Earnings

	Rate	Hours/Units	Amount	Year-To-Date
Overtime Pay				
Regular Pay				
Additional Regul				
VIP Incentive				
Dividend Payment				
Stock Vest				
Gross up tax				
Paid Time Off				
Holiday Pay				
Floating Holiday				
Gross Pay				

Tax Deductions: Federal

Withholding Tax
EE Social Security Tax
EE Medicare Tax

Tax Deductions: California

Withholding Tax
EE Disability Tax

Additional Deductions

Stock Offset Memo
*Dental - Cigna DPPO
*Medical - Kaiser Plan
*Vision - Buy-up Plan
*401k Pre-Tax
Opt. Employee Life Ins.
Optional AD&D - Family
401k Loan 1 Ded
401k Loan 2 Ded
ESPP After-tax

Other Benefits and Information

This Period Year-to-Date

Med Domestic Ptr
Group Term Life
Dntl Domestic Ptr
Visn Domestic Ptr
LT Disability
Gross up suppl
ESPP Disq Disp

Quota Summary

PTO
COVID-19 SPSL
Payment Method
Direct Deposit

Your federal taxable wages

*Excluded from Federal Taxable Wages

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CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Advice Number: 0064752217

Advice Date: 12/17/2021

Deposited to the account of
CHRISTIAN CALDERON

Account Number Transit ABA Amount

CC_00082



CO EMPLOYEE ID
PCSJGL 511926

CyberSource Corporation
P. O. Box 8999
San Francisco CA 94128

Earnings Statement

Page 002 of 002
Period Beg/End: 12/04/2021 - 12/17/2021
Advice Date: 12/17/2021
Advice Number: 0064752217
Batch Number: 000000002144

CHRISTIAN CALDERON

Total Net Pay
Total Work Hours for Pay Period



THIS IS NOT A CHECK

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EXHIBIT C



CO EMPLOYEE ID 000000-000000
PCSEJCG 511034

Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Earnings Statement

Page 001 of 001
Period Beg/End: 06/18/2021 - 06/18/2021
Advice Date: 06/18/2021
Advice Number: 0051536940
Batch Number: 000000001781

CYNTHIA MAYER

Earnings

Rate	Hours/Units	Amount	Year-To-Date
Regular Pay			
Additional Regul			
Dividend Payment			
Holiday Pay			
STD Leave 100%			
Reg-LOA Neg Prev			
Disability Offee			
Gross Pay			
Tax Deductions: Federal			
Withholding Tax			
Tax Deductions: California			
Withholding Tax			
EE Disability Tax			
Additional Deductions			
*Dental - Cigna DHMO			
*401k Pre-Tax			
*HSA-Employee Deduction			
*Commuter Asst Pre-tax			
Optional AD&D - Employee			
ESPP After-tax			
Total Net Pay			

Other Benefits and Information

This Period Year-to-Date
LT Disability
Payment Method
Direct Deposit

Your federal taxable wages
*Excluded from Federal Taxable Wages

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Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Advice Number: 0051536940

Advice Date: 06/18/2021

Deposited to the account of

CYNTHIA MAYER

Account Number Transit ABA Amount

CHECKING

THIS IS NOT A CHECK

V_00071

EXHIBIT D



CO EMPLOYEE ID 000000-000000
PCSJCG 511926

Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Earnings Statement

Page 001 of 002
Period Beg/End: 12/31/2021 - 12/31/2021
Advice Date: 12/31/2021
Advice Number: 0065750734
Batch Number: 000000002171

CHRISTIAN CALDERON

Earnings

	Rate	Hours/Units	Amount	Year-To-Date
Overtime Pay				
Regular Pay				
Additional Regul				
VIP Incentive				
Stock Vest				
Gross up tax				
Paid Time Off				
Holiday Pay				
Floating Holiday				
Gross Pay				
Tax Deductions: Federal				
Withholding Tax				
EE Social Security Tax				
EE Medicare Tax				
Tax Deductions: California				
Withholding Tax				
EE Disability Tax				
Additional Deductions				
Stock Offset Memo				
*Dental - Cigna DPPO				
*Medical - Kaiser Plan				
*Vision - Buy-up Plan				
*401k Pre-Tax				
Opt. Employee Life Ins.				
Optional AD&D - Family				
401k Loan 1 Ded				
401k Loan 2 Ded				
ESPP After-tax				

Other Benefits and Information

	This Period	Year-to-Date
Med Domest Ptr		
Group Term Life		
Dntl Domest Ptr		
Visn Domest Ptr		
LT Disability		
Gross up suppl		
ESPP Disq Disp		
Quota Summary	Earned	Used
COVID-19 SPSL		
Payment Method		
Direct Deposit		
Your federal taxable wages		
*Excluded from Federal Taxable Wages		

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Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Advice Number: 0065750734

Advice Date: 12/31/2021

Deposited to the account of Account Number Transit ABA Amount
CHRISTIAN CALDERON

THIS IS NOT A CHECK

CC_00084



CO EMPLOYEE ID
PCSJCG 511926

Visa USA INC.
12401 Research Blvd, Building II
Austin TX 78759

Earnings Statement

Page 002 of 002
Period Beg/End: 12/31/2021 - 12/31/2021
Advice Date: 12/31/2021
Advice Number: 0065750734
Batch Number: 000000002171

CHRISTIAN CALDERON

Total Net Pay

© 2002 AutomaticData Processing (PCSDNO)



THIS IS NOT A CHECK

Exhibit F

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Attorneys for Defendants
VISA U.S.A. INC., CYBERSOURCE CORPORATION,
and VISA INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CYNTHIA MAYER, individually and on
behalf of all other 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

(Assigned for All Purposes to the Honorable
Andrew Y.S. Cheng, Dept. 613)

**DEFENDANTS' ANSWER TO
PLAINTIFFS' UNVERIFIED FOURTH
AMENDED COMPLAINT**

Date Action Filed: July 9, 2021
Trial Date: Not Yet Set

Defendants Visa U.S.A. Inc., CyberSource Corporation, and Visa Inc. (together,
Defendants) hereby answer the unverified Fourth Amended Complaint (4AC) of plaintiffs
Cynthia Mayer and Christian Calderon (Plaintiffs) as follows:

1. Pursuant to section 431.30, subdivision (d) of the Code of Civil Procedure,
Defendants generally deny each and every allegation contained in the 4AC, and specifically deny

1 that Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
2 have been damaged as alleged in the 4AC or at all.

3 WHEREFORE, Defendants pray for judgment as hereinafter set forth.

4 **FIRST SEPARATE AND ADDITIONAL DEFENSE**

5 (Failure to State a Cause of Action)

6 2. The 4AC and each purported cause of action alleged therein fail to state facts
7 sufficient to constitute a cause of action.

8 **SECOND SEPARATE AND ADDITIONAL DEFENSE**

9 (Lack of Standing)

10 3. The 4AC and each purported cause of action alleged therein are barred to the
11 extent Plaintiffs lack standing to assert these matters, either individually or as a class,
12 representative, or other group-wide action, against Defendants, or any of them.

13 **THIRD SEPARATE AND ADDITIONAL DEFENSE**

14 (Statute of Limitations)

15 4. The 4AC and each purported cause of action alleged therein are barred to the
16 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
17 seek relief for conduct occurring outside the applicable statutes of limitation, as set forth in Code
18 of Civil Procedure section 338, subdivision (a), and section 340, subdivision (a), among others.

19 **FOURTH SEPARATE AND ADDITIONAL DEFENSE**

20 (Failure to Exhaust PAGA Prerequisites)

21 5. The 4AC and each purported cause of action alleged therein are barred to the
22 extent Plaintiffs failed to exhaust administrative remedies under the Labor Code Private Attorneys
23 General Act of 2004 (PAGA) as a prerequisite to filing suit.

24 **FIFTH SEPARATE AND ADDITIONAL DEFENSE**

25 (Not Employer)

26 6. The 4AC and each purported cause of action alleged therein are barred as to
27 defendant Visa Inc. because it has never employed Plaintiffs, any members of the putative class,
28 or any of the alleged “aggrieved employees.”

1 **SIXTH SEPARATE AND ADDITIONAL DEFENSE**

2 (Improperly Named Defendant)

3 7. The 4AC and each purported cause of action alleged therein are barred against
4 defendant Visa Inc. because it was improperly named in the 4AC and none of the matters alleged
5 therein pertain to it.

6 **SEVENTH SEPARATE AND ADDITIONAL DEFENSE**

7 (Violation of Due Process)

8 8. The 4AC and each purported cause of action alleged therein are barred to the
9 extent they violate Defendants' right to due process under the United States Constitution, the
10 California Constitution, or other applicable law, or otherwise violate any of Defendants'
11 constitutionally protected rights.

12 **EIGHTH SEPARATE AND ADDITIONAL DEFENSE**

13 (Excessive Fines)

14 9. The 4AC and each purported cause of action alleged therein are barred to the
15 extent Plaintiffs, any members of the putative class, or any of the alleged "aggrieved employees"
16 seek to recover civil penalties that are disproportionate to the actual harm suffered (which
17 Defendants allege there was none) because an award of penalties under such circumstances would
18 constitute an excessive fine and otherwise would violate Defendants' due process and other rights
19 under the United States Constitution, the California Constitution, or other applicable law.

20 **NINTH SEPARATE AND ADDITIONAL DEFENSE**

21 (No PAGA Penalties)

22 10. No civil penalties under PAGA should be awarded because such an award would
23 be unjust, arbitrary and oppressive, or confiscatory based on the facts and circumstances of this
24 case, and no other penalties or sums are recoverable.

25 **TENTH SEPARATE AND ADDITIONAL DEFENSE**

26 (Unmanageability)

27 11. The 4AC and each purported cause of action alleged therein are barred to the
28 extent litigating this action on a class, representative, or other group-wide basis would be

1 unmanageable and would violate the due process rights of Defendants and persons who are not
2 parties to this action.

3 **ELEVENTH SEPARATE AND ADDITIONAL DEFENSE**

4 (Res Judicata and Claim Preclusion)

5 12. The 4AC and each purported cause of action alleged therein are barred to the
6 extent the doctrine of res judicata or claim preclusion applies.

7 **TWELFTH SEPARATE AND ADDITIONAL DEFENSE**

8 (Failure to Exhaust Internal Remedies)

9 13. The 4AC and each purported cause of action alleged therein are barred to the
10 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
11 failed to exhaust available internal remedies.

12 **THIRTEENTH SEPARATE AND ADDITIONAL DEFENSE**

13 (Good Faith)

14 14. Plaintiffs, the members of the putative class, and the alleged “aggrieved
15 employees” are not entitled to any penalty award or other relief for any alleged violation of any
16 Labor Code, Business & Professions Code, or other statutory provision because at all times
17 relevant and material herein, Defendants acted in good faith and had reasonable grounds for
18 believing that they did not violate any provision of the Labor Code, Business & Professions
19 Code, or other statutory provision.

20 **FOURTEENTH SEPARATE AND ADDITIONAL DEFENSE**

21 (Business Judgment)

22 15. The 4AC and each purported cause of action alleged therein are barred because
23 Defendants reasonably and lawfully exercised their business judgment in connection with their
24 dealings with their employees, and the reasonable and lawful exercise of their business judgment
25 should not be second-guessed by the Court.

1 **FIFTEENTH SEPARATE AND ADDITIONAL DEFENSE**

2 (No Knowing, Intentional, or Willful Failure)

3 16. The 4AC and each purported cause of action alleged therein are barred because
4 Defendants did not knowingly, intentionally, or willfully fail to comply with any provision of the
5 Labor Code, Business & Professions Code, or other statutory provision.

6 **SIXTEENTH SEPARATE AND ADDITIONAL DEFENSE**

7 (Waiver)

8 17. The 4AC and each purported cause of action alleged therein are barred to the
9 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees,”
10 by their actions, have waived any claim they had against Defendants, to the extent they had any
11 such claim (which Defendants deny).

12 **SEVENTEENTH SEPARATE AND ADDITIONAL DEFENSE**

13 (Release)

14 18. The 4AC and each purported cause of action alleged therein are barred to the
15 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
16 have released the matters alleged therein.

17 **EIGHTEENTH SEPARATE AND ADDITIONAL DEFENSE**

18 (Estoppel)

19 19. The 4AC and each purported cause of action alleged therein are barred to the
20 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees,”
21 by their actions, are estopped to assert any claim they had against Defendants, to the extent they
22 had any such claim (which Defendants deny).

23 **NINETEENTH SEPARATE AND ADDITIONAL DEFENSE**

24 (Laches)

25 20. The 4AC and each purported cause of action alleged therein are barred to the
26 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
27 inexcusably and unreasonably delayed filing and prosecuting this action, causing prejudice to
28 Defendants.

1 **TWENTIETH SEPARATE AND ADDITIONAL DEFENSE**

2 (Unclean Hands)

3 21. The 4AC and each purported cause of action alleged therein are barred to the
4 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
5 have been guilty of improper conduct connected to the matters alleged therein.

6 **TWENTY-FIRST SEPARATE AND ADDITIONAL DEFENSE**

7 (Paid All Sums)

8 22. The 4AC and each purported cause of action alleged therein are barred because
9 Plaintiffs, the members of the putative class, and the alleged “aggrieved employees” have been
10 paid all sums due to them.

11 **TWENTY-SECOND SEPARATE AND ADDITIONAL DEFENSE**

12 (Accord and Satisfaction)

13 23. The 4AC and each purported cause of action alleged therein are barred to the
14 extent that Plaintiffs, any members of the putative class, or any alleged “aggrieved employees”
15 entered into an accord extinguishing any of the alleged obligations that form the basis of the 4AC,
16 thereby satisfying them.

17 **TWENTY-THIRD SEPARATE AND ADDITIONAL DEFENSE**

18 (Novation)

19 24. The 4AC and each purported cause of action alleged therein are barred to the
20 extent that Plaintiffs, any members of the putative class, or any alleged “aggrieved employees”
21 entered into a novation extinguishing any of the alleged obligations that form the basis of the
22 4AC.

23 **TWENTY-FOURTH SEPARATE AND ADDITIONAL DEFENSE**

24 (Justification)

25 25. The 4AC and each purported cause of action alleged therein are barred because
26 Defendants’ alleged actions were justified and in good faith.
27
28

1 **TWENTY-FIFTH SEPARATE AND ADDITIONAL DEFENSE**

2 (Expenses Not Necessary or Reasonable)

3 26. The 4AC and the First and Third Causes of Action alleged therein are barred
4 because, to the extent Plaintiffs, any members of the putative class, or any of the alleged
5 “aggrieved employees” incurred any expenditures or losses in the discharge of their duties for any
6 of the Defendants that were not reimbursed, those expenditures or losses were not necessary or
7 reasonable and are therefore not reimbursable.

8 **TWENTY-SIXTH SEPARATE AND ADDITIONAL DEFENSE**

9 (De Minimis Matters/Trifling Expenses)

10 27. The 4AC and the First and Third Causes of Action alleged therein are barred to the
11 extent recovery is sought for de minimis matters and/or for trifling expenses or for matters that
12 are so small, irregular of occurrence, or difficult to adequately measure or estimate that it would
13 be neither reasonable to require Defendants (or any of them) to account for them nor sensible to
14 devote judicial resources to litigating over them.

15 **TWENTY-SEVENTH SEPARATE AND ADDITIONAL DEFENSE**

16 (Consent)

17 28. The 4AC and each purported cause of action alleged therein are barred to the
18 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
19 consented to the alleged conduct of Defendants.

20 **TWENTY-EIGHTH SEPARATE AND ADDITIONAL DEFENSE**

21 (Offset)

22 29. Any penalties or other relief claimed by Plaintiffs, any members of the putative
23 class, or any of the alleged “aggrieved employees” should be reduced to the extent they are
24 subject to an offset, representing amounts improperly obtained from Defendants or which would
25 constitute unjust enrichment of Plaintiffs, any members of the putative class, or any of the alleged
26 “aggrieved employees.”
27
28

1 **TWENTY-NINTH SEPARATE AND ADDITIONAL DEFENSE**

2 (Failure to Comply with Policies)

3 30. The 4AC and each purported cause of action alleged therein are barred to the
4 extent Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees”
5 did not comply with the policies of their employer, defendants Visa U.S.A. Inc. and/or
6 CyberSource Corporation (as applicable).

7 **THIRTIETH SEPARATE AND ADDITIONAL DEFENSE**

8 (Failure to Mitigate)

9 31. Any damages, penalties, or other relief claimed by Plaintiffs, any members of the
10 putative class, or any of the alleged “aggrieved employees” should be reduced to the extent that
11 Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees” failed
12 to mitigate their alleged harm (which Defendants allege there was none).

13 **THIRTY-FIRST SEPARATE AND ADDITIONAL DEFENSE**

14 (Plaintiffs’ Other Conduct)

15 32. The 4AC and each purported cause of action alleged therein are barred to the
16 extent any alleged damages were caused by the negligence, failure to perform, or other conduct of
17 Plaintiffs, any members of the putative class, or any of the alleged “aggrieved employees.”

18 **THIRTY-SECOND SEPARATE AND ADDITIONAL DEFENSE**

19 (No Right to Jury Trial)

20 33. To the extent Plaintiffs demand a jury trial as to their Third Cause of Action for
21 civil penalties under PAGA, such demand is barred because there is no right to a jury trial in civil
22 proceedings under PAGA, which are equitable actions triable only to the Court.

23 **THIRTY-THIRD SEPARATE AND ADDITIONAL DEFENSE**

24 (No Basis for Injunctive Relief)

25 34. Plaintiffs cannot obtain injunctive relief because, among other reasons, Plaintiffs
26 are former employees who lack standing to seek injunctive relief as to the employment practices
27 of their former employers, defendants Visa U.S.A. Inc. and CyberSource Corporation; there is no
28

1 ongoing wrongful conduct to enjoin; and Plaintiffs cannot show the possibility of irreparable
2 harm as a result of any acts or omissions by Defendants (or any of them).

3 35. Defendants reserve the right to amend their Answer to allege any additional
4 defenses as may later become available or apparent. Further, Defendants reserve the right to
5 withdraw any defenses that they subsequently determine to be inapplicable. Nothing stated in the
6 foregoing defenses constitutes a concession that Defendants bear any burden of proof on any
7 issue on which they would not otherwise bear such burden.

8 **WHEREFORE**, Defendants pray for judgment as follows:

9 1. That Plaintiffs, the members of the putative class, the alleged “aggrieved
10 employees,” and the State of California take nothing by virtue of this action;

11 2. That judgment be entered in favor of Defendants and against Plaintiffs, the
12 members of the putative class, the alleged “aggrieved employees,” and the State of California and
13 the action be dismissed with prejudice;

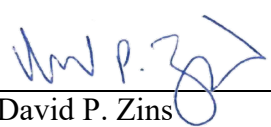
14 3. That Defendants be awarded their attorneys’ fees and costs of suit incurred herein;
15 and

16 4. For such other and further relief as the Court deems just and proper.

17 Dated: March 27, 2023

MORRISON & FOERSTER LLP

18
19 By:


David P. Zins

20
21 Attorneys for Defendants
22 VISA U.S.A. INC., CYBERSOURCE
23 CORPORATION, and VISA INC.
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