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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, CENTRAL – COMPLEX

IPAYMENT WAGE AND HOUR CASES

Coordinated actions:

DiStefano v. iPayment of California, LLC, et al.
Los Angeles Superior Court, Case No. BC680362

Denario Busch et al. v. iPayment, Inc., et al.
Ventura Superior Court, Case No. 56-2018-00520668-CU-OE-VTA

JUDICIAL COUNCIL COORDINATION
CASE NO. JCCP 5009

CLASS ACTION

Honorable Yvette M. Palazuelos
Department SSC9

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs Rosina DiStefano, Denario Busch, and Jonathan Brims (together, “Plaintiffs” or “Class Representatives”), on behalf of themselves and all others similarly situated to them and as defined below, on the one hand, and iPayment, Inc. (“iPayment”), Leaders Merchant Services, LLC (“Leaders”) and Paysafe Partners, L.P. (“Paysafe”) (collectively, “Defendants”), on the other hand, as set forth below:

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1 **I. The Conditional Nature of This Stipulation**

2 Defendants and Class Representatives enter into this Joint Stipulation of Class Action and
3 PAGA Settlement and Release (“Stipulation,” “Settlement,” or “Settlement Agreement”), including
4 all associated exhibits or attachments, in compromise of dispute claims for the sole purpose of
5 resolving the matters entitled *Rosina DiStefano v. iPayment of California, LLC, et. al.*, Los Angeles
6 County Superior Court Case No. BC680362 (“*DiStefano* Action”) and *Denario Busch, et al. v.*
7 *iPayment, Inc., et al.*, Ventura County Superior Court Case No. 56-2018-00520668-CU-OE-VTA
8 (“*Denario* Action”) (collectively, the “Actions” or “Litigation”).¹ The Settlement is subject to
9 approval by the Court. In the event that the Court does not execute and file the Final Approval
10 Order and Judgment, or in the event that the associated Judgment does not become final for any
11 reason, this Stipulation will be deemed null and void, it will be of no force or effect whatsoever, it
12 will not be referred to or used for any purpose whatsoever, and the negotiation, terms and entry of it
13 shall remain subject to the provisions of California Evidence Code §§ 1119 and 1152.

14 Defendants deny all of the claims and allegations asserted in the Litigation (as defined
15 herein). Defendants have agreed to resolve this Litigation via this Stipulation, but to the extent this
16 Stipulation is deemed void or does not take effect, Defendants do not waive, but rather expressly
17 reserve, all rights to challenge all such claims and allegations in the Litigation upon all procedural
18 and factual grounds, including without limitation the ability to challenge suitability for class
19 treatment or representative adjudication on any grounds or to assert any and all defenses or
20 privileges. The Class Representatives and their counsel agree that Defendants retain and reserve
21 these rights. In particular, the Class Representatives and their counsel waive and agree not to argue
22 or to present any argument that Defendants would be estopped from contesting class certification
23 because it has entered into this Stipulation.

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26 ¹ On March 5, 2019, Defendant iPayment, Inc. filed a Petition for Coordination with the Judicial
27 Council, seeking coordination of the Actions in Los Angeles County Superior Court. On April 10,
28 2019, the Actions were coordinated in the Los Angeles County Superior Court as the *iPayment*
Wage and Hour Cases, Coordinated Case Number JCCP5009.

1 **II. The Parties to this Stipulation**

2 This Stipulation (with the associated exhibits) is made and entered into by and among
3 Plaintiffs (on behalf of themselves and each of the members of the Class) and Defendants (Plaintiffs
4 and Defendants shall be referred to collectively as “Settling Parties”). The Stipulation is intended by
5 the Settling Parties to result in a Judgment and to fully, finally, and forever resolve, discharge and
6 settle the Released Claims (defined below) upon and subject to the terms and conditions hereof.

7 **III. Procedural Posture**

8 On October 18, 2017, Plaintiff Rosina DiStefano (“Plaintiff DiStefano”) commenced a class
9 action suit against iPayment of California, LLC and iPayment, Inc. (i.e., *DiStefano* Action) by filing
10 her Class Action Complaint for Damages in Los Angeles County Superior Court. On January 12,
11 2018, Plaintiff DiStefano filed a First Amended Class Action Complaint for Damages, and on
12 February 5, 2018, a Second Amended Class Action Complaint for Damages (“SAC”) was filed in
13 the *DiStefano* Action.

14 On January 30, 2018, iPayment of California, LLC was dismissed as a defendant from the
15 *DiStefano* Action without prejudice.

16 On July 20, 2018, the parties in the DiStefano Action participated in mediation before
17 Deborah Crandall Saxe, Esq. of JAMS. The mediation on July 20, 2018 was unsuccessful.

18 On November 26, 2018, Plaintiffs Denario Busch (“Plaintiff Busch”) and Jonathan Brims
19 (“Plaintiff Brims”) commenced a class and representative action against Defendants iPayment, Inc.
20 and Leaders Merchant Services, LLC and Leaders, Inc. (i.e., *Busch* Action) in Ventura County.

21 On March 5, 2019, Defendant iPayment, Inc. filed a Petition for Coordination with the
22 Judicial Council, seeking coordination of the Actions in Los Angeles County Superior Court. On
23 April 10, 2019, the Actions were coordinated in the Los Angeles County Superior Court as the
24 *iPayment Wage and Hour Cases*, Coordinated Case Number JCCP5009 (“Coordinated Actions”),
25 and on August 6, 2019, the Honorable Yvette M. Palazuelos was assigned as Coordination Trial
26 Judge for the Coordinated Actions.

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1 On June 6, 2019, the Settling Parties attended a second mediation with Deborah Crandall
2 Saxe, Esq., during which the Settling Parties engaged in an intensive discussion regarding their
3 evaluation of the matter and the relevant legal arguments, including a discussion of the potential
4 value of the claims. Following the second mediation session, the Settling Parties agreed to settle this
5 matter and enter into this Stipulation.

6 As a condition of settlement, the Settling Parties have agreed that counsel for Plaintiffs will
7 seek dismissal of Leaders, Inc.² as a defendant from the Coordinated Actions, without prejudice, and
8 seek leave to file an amended complaint to add Paysafe Partners, L.P. as a named defendant.
9 Plaintiffs shall file the Amended Consolidated Class Action Complaint for Damages & Enforcement
10 Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative
11 Complaint”), attached hereto as “Exhibit 1.”

12 **IV. Defendants’ Denial of Wrongdoing or Liability**

13 Defendants deny all of the claims and contentions alleged by the Class Representatives in the
14 Litigation, and have asserted multiple defenses to liability, class certification, and damages and do
15 not, by this Settlement Agreement or otherwise, admit any liability of wrongdoing of any kind.
16 Nonetheless, Defendants have taken into account the uncertainty and risks inherent in any litigation,
17 particularly class action litigation, and concluded that to continue the Litigation would be protracted
18 and expensive and that it is desirable that the Litigation be fully and finally settled in the manner and
19 upon the terms and conditions set forth in this Stipulation.

20 In addition, Defendants have taken into account the uncertainty and risks inherent in any
21 litigation, particularly class action litigation, which includes unique and time-consuming procedural
22 requirements, including compliance with Chapter 6 of Title 3 of the California Rules of Court.

23 The Parties understand and acknowledge that this Settlement Agreement constitutes a
24 compromise and settlement of disputed claims. No action taken by the Settling Parties whether
25 previously or in connection with the negotiations or proceedings connected with the Settlement or
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27 ² Defendants represent that Leaders, Inc. is not an entity that is affiliated with iPayment, Inc. or
28 Leaders Merchant Services, LLC in any way.

1 this Agreement shall be deemed or construed to be an admission of the truth or falsity of any
2 allegations, claims, or defenses heretofore made, or an acknowledgment or admission by any party
3 of any fact, fault, liability, or wrongdoing of any kind whatsoever.

4 Neither the Settlement, nor any act performed or document executed pursuant to or in
5 furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or
6 evidence of, the validity of any claim made by the Plaintiffs or Class Members, or of any
7 wrongdoing or liability of the Released Parties (as defined below); or (b) is or may be deemed to be,
8 or may be used as, an admission of, or evidence of, any fault or omission of any of the Released
9 Parties, in the Litigation or in any proceeding in any court, administrative agency or other tribunal;
10 or construed as an admission by Plaintiffs regarding the validity of any allegation or claim asserted
11 in this Action or that Plaintiffs have waived any allegation or claim asserted in the Actions.

12 In addition to any other defenses Defendants may have at law, in equity, or otherwise, to the
13 extent permitted by law, this Settlement Agreement may be pleaded as a full and complete defense
14 to, and may be used as the basis for an injunction against, any action, suit or other proceeding that
15 may be instituted, prosecuted or attempted in breach of this Settlement Agreement or the releases
16 contained herein.

17 In light of the above, Defendants have determined that it is desirable and beneficial to them
18 that the Litigation be settled in the manner and upon the terms and conditions set forth in this
19 Stipulation.

20 **V. Claims of the Class Representatives and Benefits of Settlement**

21 The Class Representatives believe that the claims asserted in the Litigation have merit. The
22 Class Representatives and Class Counsel recognize and acknowledge, however, the expense and
23 time associated with continued litigation against Defendants through class certification, trial, and/or
24 appeals. The Class Representatives and Class Counsel have also taken into account the uncertain
25 outcome and risks of any litigation, and in particular putative class actions such as this Litigation, as
26 well as the difficulties and delays inherent in such litigation. The Class Representatives and Class
27 Counsel are also mindful of the inherent problems of proof in establishing and overcoming potential
28 defenses to the claims asserted in the Litigation. In light of these considerations, the Class

Representatives and Class Counsel believe that the Settlement set forth in the Stipulation confers substantial benefits and is in the best interests of the Class.

VI. Terms of Stipulation and Agreement of Settlement

1. Definitions

As used in all parts of this Stipulation (including the exhibits which are incorporated as part of the Stipulation), the following terms have the meanings specified below:

1.1 “Class” or “Class Members” means any and all current and former hourly-paid or non-exempt employees who worked for Defendants iPayment, Inc. and/or Leaders Merchant Services, LLC within the State of California at any time from October 18, 2013 to the Preliminary Approval Date and/or worked for Defendant Paysafe Partners L.P. within the State of California at any time from June 6, 2015 to the Preliminary Approval Date.

1.2 “Class Counsel” means Edwin Aiwarzian, Esq., Arby Aiwarzian, Esq., and Joanna Ghosh, Esq. of Lawyers *for* Justice, PC, 410 West Arden Avenue, Suite 203, Glendale, California 91203.

1.3 “Class Period” means the time period from October 18, 2013 to the Preliminary Approval Date for Class Members who worked for Defendants iPayment and/or Leaders as hourly-paid or non-exempt employees in California and the time period from June 6, 2015 to the Preliminary Approval Date for Class Members who worked for Defendant Paysafe as hourly-paid or non-exempt employees in California.

1.4 “Court” means the Superior Court of the State of California, for the County of Los Angeles.

1.5 “Effective Date” means the later of: (a) if no objections to the Settlement are submitted, the date on which the Court issues the Final Approval Order and Judgment; (b) if any objections to the Settlement are submitted, the date which is sixty (60) calendar days after notice of entry of the Final Approval Order and Judgment if no notice is filed within that time seeking appeal of the Final Approval Order and Judgment and if no motion for extension to appeal is filed; or (c) if a notice of appeal is filed, the date upon which all appellate and/or other proceedings resulting from the notice of appeal have been terminated in such a manner as to permit the Final Approval Order

and Judgment to take effect in substantially the form described herein

1.6 “Employer Taxes” means Defendants’ share of payroll taxes (e.g. UI, ETT, Social Security, and Medicare taxes) with respect to the wages portion of Individual Settlement Amounts, which will be paid by Defendants separately and in addition to the Gross Settlement Sum.

1.7 “Skip Tracing” means the utilization of Accurant or Experian, after the Reasonable Address Verification, to review the accuracy of and, if possible, to update a mailing address for a Class Member in the event that his or her Class Notice is returned to the Settlement Administrator as undeliverable without a forwarding address.

1.8 “Gross Settlement Sum” means the total amount of \$2,250,000.00 to be paid by Defendants pursuant to the Settlement, which will include: Attorneys’ Fees and Costs, Settlement Administration Costs, Service Payments, LWDA Payment, and the Net Settlement Sum.

1.9 “Individual Settlement Amount” means an individual Participating Class Member’s share of the Net Settlement Sum, which will be allocated as 33.33% wages and 66.67% interest and penalties. Individual Settlement Amounts will be calculated by multiplying the Net Settlement Sum by the Payment Ratio Fraction of each Participating Class Member.

1.10 “Individual Settlement Payment” means the net payment of a Participating Class Member’s Individual Settlement Amount, after reduction for the applicable taxes.

1.11 “Last Known Address” means the most recently recorded mailing address for a Class Member, as such information is contained in employment, payroll, or personnel records maintained by Defendants.

1.12 “Net Settlement Sum” means the amount that will be available for payment to all Participating Class Members (subject to the occurrence of the Effective Date), and is calculated by subtracting all of the following from the Gross Settlement Sum: (1) attorneys’ fees in the amount of up to \$787,500.00 and reimbursement of litigation costs and expenses in the amount of up to \$50,000.00 to Class Counsel (“Attorneys’ Fees and Costs”); (2) service awards to Plaintiffs Rosina DiStefano, Denario Busch and Jonathan Brims in the amount of up to \$7,000.00 to each of them (“Service Payment(s)”; (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount not to exceed \$25,000.00 (“Settlement Administration Costs”); and (4)

1 the seventy-five percent (75%) share of PAGA Penalties (“LWDA Payment”) in the amount of
2 \$30,000.00 to the California Labor and Workforce Development Agency (“LWDA”). The Net
3 Settlement Sum is currently estimated to be approximately \$1,336,500.00, and this figure may
4 change depending on the actual amounts awarded by the Court for the Settlement Administration
5 Costs, Attorneys’ Fees and Costs, and Service Payments, and approved by the Court for PAGA
6 Penalties.

7 1.13 “Notice of Class Action Settlement” or “Class Notice(s)” means a notice titled
8 “Notice of Class Action Settlement” to be approved by the Court, substantially in the form attached
9 hereto as “**Exhibit 2.**” The Notice of Class Action Settlement will constitute the class notice
10 pursuant to California Rule of Court, Rule 3.769(f).

11 1.14 “Opt Out” means a Class Member’s act of excluding him or herself from the
12 Settlement, by way of submitting a timely and valid Request for Exclusion to the Settlement
13 Administrator, in conformity with the requirements set forth herein and in the Class Notice.

14 1.15 “Final Approval Order and Judgment” means the judgment and order to be entered
15 by the Court, substantially in the form that the parties mutually agree to and lodge with the Court,
16 which will be a judgment for purposes of California Rule of Court, Rule 3.771(a) (“Judgment”) and
17 constitute approval pursuant to California Rule of Court, Rule 3.769(a). The Final Approval Order
18 and Judgment will be posted on the Settlement Administrator’s website for a period of sixty (60)
19 calendar days in compliance with California Rule of Court, Rule 3.771(b).

20 1.16 “PAGA Penalties” means the penalties pursuant to California Labor Code §§ 2698, *et*
21 *seq.*, the Private Attorneys General Act of 2004 (“PAGA”) in the amount of \$40,000 to be paid in
22 settlement of the PAGA claims in the Litigation. PAGA Penalties are to be approved by the Court
23 pursuant to California Labor Code § 2699 and are to be distributed as follows: seventy-five percent
24 (75%) to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) to be a part of the
25 Net Settlement Sum that will be distributed to Participating Class Members.

26 1.17 “Participating Class Members” or “Settlement Class” means all Class Members who
27 do not Opt Out pursuant to Paragraph 3.3.4 and, thus, become bound by the Judgment.

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1 1.18 “Payment Ratio Fraction” means a fraction that has as its numerator the Participating
2 Class Member’s individual Workweeks and has as its denominator the total aggregate Workweeks of
3 all Participating Class Members.

4 1.19 “Person” means a natural person, corporation, company, partnership, firm,
5 association, or society.

6 1.20 “Preliminary Approval Date” means the date on which the Court grants preliminary
7 approval of the Settlement.

8 1.21 “Preliminary Approval Order” means an order to be executed and filed by the Court,
9 substantially in the form that the parties mutually agree to and lodge with the Court, which will
10 constitute an order certifying a provisional class for settlement purposes only pursuant to California
11 Rule of Court, Rule 3.769(d) and an order setting a Final Approval Hearing pursuant to California
12 Rule of Court, Rule 3.769(e).

13 1.22 “Reasonable Address Verification” means the utilization of the National Change of
14 Address Database maintained by the United States Postal Service to review the accuracy of and, if
15 possible, update a mailing address.

16 1.23 “Released Claims” means all claims, demands, rights, liabilities and causes of action
17 of every nature and description whatsoever including without limitation statutory, constitutional,
18 contractual or common law claims, against the Released Parties (as defined below), and any of them,
19 for relief and penalties, that accrued during the Class Period, and as a result of Class Members’
20 employment by Defendants in California, that arise under any state or local law or state
21 administrative order that was or could have been pled based on the facts alleged in the Operative
22 Complaint, including claims of failure to pay wages upon termination and/or resignation, failure to
23 pay overtime wages, failure to pay minimum wages, failure to provide compliant meal and rest
24 periods and/or associated premiums, failure to pay wages timely during employment, failure to
25 provide accurate wage statements, failure to reimburse business expenses, unfair competition, and
26 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 551, 552, 558,
27 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, the applicable Wage Order of the Industrial
28 Wage Commission, civil penalties pursuant to § 2698, *et seq.* and other related penalties, and

1 California Business & Professions Code §§ 17200 to 17208, including without limitation all related
2 claims for restitution and other equitable relief arising from California Business and Professions
3 Code §§ 17200, *et seq.*, interest on unpaid wages, unpaid wages, attorneys' fees or litigation costs,
4 and any other related claims and/or penalties, including civil penalties. The release does not extend
5 to any claims not alleged in the Operative Complaint and specifically excludes claims for workers'
6 compensation, personal injuries, unemployment insurance, state disability compensation, claims
7 under the Employment Retirement Income Security Act of 1974, previously vested benefits under
8 any employer sponsored benefits plan, wrongful termination, discrimination, retaliation, and
9 harassment including but not limited to those arising under the Age Discrimination In Employment
10 Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of
11 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California
12 Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or
13 similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with
14 Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning
15 discrimination, retaliation and/or harassment.

16 1.24 "Released Parties" means Defendants iPayment, Inc., Leaders Merchant Services
17 LLC, and Paysafe Partners, L.P., and each of their respective parent companies, subsidiaries,
18 affiliates, current and former management companies, shareholders, members, agents (including any
19 investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future
20 officers, directors and employees) predecessors, successors, and assigns.

21 1.25 "Response Deadline" means the date that is forty-five (45) calendar days after the
22 date on which the Settlement Administrator initially mails the Class Notice to the Class Members,
23 which will be the deadline for a Class Member to Opt Out, dispute the number of Workweeks
24 credited to him or her, and/or object to the Settlement, and which will be indicated on the Class
25 Notice that is mailed to the Class Members.

26 1.26 "Request for Exclusion" means a written request to be excluded from the Settlement,
27 which must be made in writing submitted to the Settlement Administrator by mail, postmarked on or
28 before the Response Deadline, and which must contain the case name and number of the

Coordinated Actions (i.e., *iPayment Wage and Hours Cases*, Los Angeles County Superior Court, Case No. JCCP5009), as well as the Class Member's full name, address, telephone number, last four (4) digits of his or her Social Security number, and signature, and a clear statement indicating that he or she seeks to exclude him or herself from the Settlement.

1.27 "Settlement Administrator" means the third-party settlement administration firm, Simpluris, Inc.

1.28 "Final Approval Hearing" means a hearing set by the Court for the purpose of determining the fairness, adequacy and reasonableness of the Settlement pursuant to class action procedures and requirements and entering Judgment, and required under California Rule of Court, Rule 3.769(a).

1.29 "Unknown Claims" means any Released Claims which the Class Representatives do not know or suspect to exist in their favor at the time of the entry of the Judgment, and which if known might have affected their settlement with and release of Defendants.

1.30 "Updated Address" means a mailing address that was updated via a Reasonable Address Verification, via an updated mailing address provided by the United States Postal Service or a Class Member, via Skip Tracing, or via a Locator Service.

1.31 "Workweeks" means the numbers of workweeks worked by the Class Members as hourly-paid or non-exempt employees for Defendants iPayment, Inc. and/or Leaders Merchant Services, LLC from October 18, 2013 to the Preliminary Approval Date and/or for Defendant Paysafe Partners L.P. from June 6, 2015 to the Preliminary Approval Date, in the State of California.

2. Settlement Amount, Timing of Payments, Tax Reporting Obligations, and Other Obligations of Defendants and the Settlement Administrator

2.1 Defendants will fund the total Gross Settlement Sum, along with the Employer Taxes (which will be paid by Defendants separately and in addition to the Gross Settlement Sum), no later than fourteen (14) calendar days after the Effective Date. All distributions required from the Gross Settlement Sum under the Settlement are to be paid not later than ten (10) calendar days after the Settlement Administrator's receipt of the funds from Defendants.

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1 2.2 The Settlement Administrator will administer the Settlement and perform any
2 function related to settlement administration at the agreed-upon instruction of both Class Counsel
3 and Defendants, including, and not limited to, establishing and maintaining a settlement website and
4 toll-free telephone line for Class Members to call with inquiries regarding the Settlement,
5 distributing the Class Notice, performing skip traces with respect to Class Notices that are returned
6 as undeliverable and without a forwarding address on or before the Response Deadline, receiving
7 and processing Requests for Exclusion and objections to the Settlement, adjudicating Class
8 Members' disputes regarding Workweeks, providing Class Counsel and counsel for Defendants with
9 weekly updates on the status of the settlement administration process (including the names and
10 percentages of Class Members who Opt Out or object), calculating and handling inquiries regarding
11 the calculation of the Individual Settlement Amounts, preparing a declaration to submit to the Court
12 that details the settlement notice administration process and identifies each Class Member who Opts
13 Out, and distributing the Gross Settlement Sum. The actions of the Settlement Administrator will be
14 governed by the terms of this Stipulation. The Settling Parties, through their counsel, may provide
15 written information needed by the Settlement Administrator pursuant to the Stipulation.

16 2.3 The Parties agree to cooperate in good faith and to coordinate with each other and the
17 Settlement Administrator to carry out the terms of the Settlement, including, without limitation, by
18 providing reasonably available information regarding Class Members.

19 2.4 Defendants, through the Settlement Administrator, will distribute payments no later
20 than ten (10) calendar days after the receipt of the funds by the Settlement Administrator from
21 Defendants for: (1) the amount of Attorneys' Fees and Costs approved by the Court and awarded to
22 Class Counsel as described in Paragraph 2.5 below; (2) the Service Payments approved by the Court
23 and awarded to the Class Representatives as set forth in Paragraph 2.6 below; (3) the LWDA
24 Payment approved by the Court to the LWDA as set forth in Paragraph 2.8 below; and (4) the
25 Settlement Administration Costs to the Settlement Administrator as set forth in Paragraph 2.7
26 below.

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1 2.5 Attorneys' Fees and Costs: Plaintiffs will submit an application for an award of
2 Attorneys' Fees and Costs to the Court to be heard at the Final Approval Hearing. Plaintiffs will
3 seek attorneys' fees in the amount of \$787,500.00 and reimbursement for litigation costs and
4 expenses in the amount of up to \$50,000.00 to Class Counsel, and Class Counsel will be required to
5 submit a declaration substantiating costs. Plaintiffs will serve Defendants with copies of all
6 documents in support of their application for an award of Attorneys' Fees and Costs. Defendants
7 agree not to oppose the application for an award of Attorneys' Fees and Costs. Any Attorneys' Fees
8 and Costs not awarded by the Court to Class Counsel will be included in the Net Settlement Sum.
9 The Settlement Administrator will report the Attorneys' Fees and Costs that are awarded to Class
10 Counsel by the Court on a Form 1099, which it will provide to Class Counsel and to the pertinent
11 taxing authorities. With respect to the Attorneys' Fees and Costs to Class Counsel, the Settlement
12 Administrator may, at the request of Lawyers *for* Justice, PC, purchase annuities to utilize United
13 States Treasuries and bonds or other attorney fee deferral vehicles, for said firm's share of the
14 Attorneys' Fees and Costs.

15 2.6 Service Payments: Subject to approval by the Court, the Class Representatives will
16 receive Service Payments in the amount of up to \$7,000.00 to each of them, for a combined amount
17 of \$21,000. Defendants agree not to oppose the amount of the Service Payments. Any portion of the
18 Service Payments that are not awarded will be included in the Net Settlement Sum. Since it is the
19 intent of the Settling Parties that the Service Payments to the Class Representatives are for their
20 services to the Class Members, and not wages, the Settlement Administrator will not withhold any
21 taxes from the Service Payments. The Settlement Administrator will report the Service Payments
22 that are awarded to the Class Representatives by the Court on a Form 1099, which it will provide to
23 the Class Representatives and to the pertinent taxing authorities.

24 2.7 Settlement Administration Costs: Costs associated with notice to the Class and
25 administration of the Settlement will be paid out of the Gross Settlement Sum. Subject to approval
26 by the Court, the Settlement Administrator will be paid an amount which is expected to not exceed
27 \$25,000.00 for all fees and costs relating to the administration of this Settlement, including but not
28 limited to all the duties set forth in Paragraph 2.2, all tax document preparation, custodial fees and

1 accounting fees, all costs and fees associated with preparing, issuing, and mailing the Class Notice,
2 all costs and fees associated with computing, reviewing and paying distributions from the Gross
3 Settlement Sum, all costs and fees associated with preparing any tax returns and any other filings
4 required by any governmental taxing authority or agency, all costs and fees associated with
5 preparing any other notices, reports or filings to be prepared in the course of administering
6 disbursements from the Gross Settlement Sum, and any other costs and fees incurred and/or charged
7 by the Settlement Administrator in connection with the execution of its duties under this Stipulation.
8 Any portion of the Settlement Administration Costs that are not awarded will be included in the Net
9 Settlement Sum.

10 2.8 PAGA Penalties: Subject to approval by the Court, \$40,000.00 of the Gross
11 Settlement Sum will be allocated to penalties pursuant to California Labor Code §§ 2698, *et seq.*, of
12 which \$30,000 will be paid to the LWDA (i.e., the LWDA Payment) for its seventy-five percent
13 (75%) share of the PAGA Penalties, and the remaining twenty-five percent (25%) of the PAGA
14 Penalties (i.e., \$10,000.00) will remain a part of the Net Settlement Sum for distribution to
15 Participating Class Members.

16 2.9 No later than ten (10) calendar days after the receipt of the funds by the Settlement
17 Administrator from Defendants, the Settlement Administrator will distribute payments to each
18 Participating Class Member of their Individual Settlement Amount according to the terms,
19 conditions, and procedures set forth in Paragraph 2.10 of this Stipulation. Each Individual
20 Settlement Amount will be allocated as follows: 33.33% wages (“wages portion”) and 66.67%
21 interest and penalties (“non-wages portion”). The wages portion will be subject to reduction for the
22 employee’s share of taxes and withholdings and will be reported on an IRS Form W-2. The non-
23 wages portion of the Individual Settlement Amounts will be reported on an IRS Form 1099-MISC if
24 applicable and no amount will be deducted for any taxes, withholdings, or contributions on the non-
25 wages portion. The net payment of an Individual Settlement Amount, after reduction for the
26 applicable taxes, is the “Individual Settlement Payment” that will be paid by way of check to
27 Participating Class Members.

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1 2.10 The Settlement Administrator will compute the Individual Settlement Amounts for
2 the Participating Class Members as follows:

3 2.10.1 The Settlement Administrator will calculate the number of Workweeks for
4 each Participating Class Member. Each Participating Class Member's
5 individual Workweeks will be divided by the total aggregate Workweeks of
6 all Participating Class Members to derive his or her Payment Ratio Fraction.
7 Individual Settlement Amounts will be calculated by multiplying the Net
8 Settlement Sum by the Payment Ratio Fraction of each Participating Class
9 Member.

10 2.10.2 The Settling Parties agree that the above-described formula and distribution
11 methods are reasonable and fair in light of the Settling Parties' investigation
12 of the claims of the Class, and the relative degree of uncertainty, risk of
13 outcome of further litigation, and difficulties and delays inherent in the
14 litigation of these claims.

15 2.10.3 Participating Class Members will have one hundred and eighty (180) calendar
16 days from the date of issuance of their Individual Settlement Payment check
17 to cash or negotiate their Individual Settlement Payment check. To the extent
18 that Individual Settlement payment checks have not been cashed or negotiated
19 within the 180-day time period, the checks will be cancelled and the funds
20 associated with such checks will be transmitted in accordance with section
21 384 of the California Code of Civil Procedure, as amended, to Legal Aid
22 Foundation of Los Angeles.

23 **3. Procedure for Approval and Implementation of Settlement**

24 **3.1 Preliminary Approval**

25 3.1.1 The Class Representatives, through their counsel of record, will file an
26 unopposed motion for preliminary approval of Settlement, seeking an order
27 approving the Settlement pursuant to the California Rule of Court, Rule
28 3.769(e), and this Stipulation will be filed with the Court contemporaneously

1 and/or as part of the motion. By way of the motion, the Class Representatives
2 will request that the Court enter a Preliminary Approval Order, approving the
3 distribution of the Class Notice and scheduling the Final Approval Hearing
4 (pursuant to California Rule of Court, Rule 3.769(e)) for the purposes of
5 determining whether to grant final approval of the Settlement and enter
6 Judgment in conformity with California Rule of Court, Rule 3.769(h). The
7 motion for preliminary approval of Settlement will be filed with the Court no
8 later than thirty (30) calendar days after receipt of the fully executed
9 Stipulation by Class Counsel.

10 3.1.2 The Settlement will be void if the Court categorically refuses to enter the
11 Preliminary Approval Order in its entirety or in a substantially similar form;
12 however, the Settling Parties are to take all reasonable steps to cure any non-
13 material issues so as to avoid the Settlement being void. A material
14 deficiency would be any failure by the Court to approve any of the bargained-
15 for terms as set forth in the term sheet signed by the parties on or about June
16 14, 2019.

17 **3.2 Notice to Class Members**

18 3.2.1 No later than thirty (30) calendar days after the Preliminary Approval Date,
19 the Settlement Administrator will mail the Court-approved Class Notice to all
20 Class Members. The Class Notice will be mailed via first class mail through
21 the United States Postal Service. The envelope containing the Class Notice
22 will bear the following phrase in bold type, ¼ inch below the return address
23 or ¼ inch above the addressee's address: RETURN SERVICE REQUESTED.
24 The envelope will also bear the following phrase in the bottom left hand
25 corner: IMPORTANT – IPAYMENT, INC., LEADERS MERCHANT
26 SERVICES, LLC AND PAYSAFE PARTNERS, L.P. CLASS ACTION
27 SETTLEMENT INFORMATION. PLEASE OPEN IMMEDIATELY. The
28 Class Notice and its envelope or covering will be marked to denote the return

1 address of the Settlement Administrator as set forth in the Class Notice.

2 3.2.2 Defendants will prepare a list, in an electronically usable format for the
3 Settlement Administrator, containing for each Class Member, to the extent
4 Defendants have such information, the following: the full name, Last Known
5 Address, Social Security number, dates of employment as a non-exempt or
6 hourly-paid employee of Defendants iPayment, Inc. and/or Leaders Merchant
7 Services, LLC in California from October 18, 2013 to the Preliminary
8 Approval Date, and dates of employment as a non-exempt or hourly-paid
9 employee of Defendant Paysafe Partners L.P. in California from June 6, 2015
10 to the Preliminary Approval Date (“Class List”). By granting preliminary
11 approval of the Settlement, the Court will be deemed to have authorized
12 Defendants to provide the Settlement Administrator with the Class List,
13 including but not limited to, the Social Security numbers of the Class
14 Members. Defendants will provide the Class List to the Settlement
15 Administrator and Class Counsel within fourteen (14) calendar days
16 following the Preliminary Approval Date.

17 3.2.3 For Class Members who were employees of Defendants as of the Preliminary
18 Approval Date, the Settlement Administrator will mail the Class Notice to the
19 Last Known Address provided by Defendants. No Reasonable Address
20 Verification will be conducted for Class Members who were employed by
21 Defendants as of the Preliminary Approval Date.

22 3.2.4 For Class Members who were not employed by Defendants as of the
23 Preliminary Approval Date, prior to mailing the Class Notice, the Settlement
24 Administrator will undertake a Reasonable Address Verification to ascertain
25 the accuracy of the Last Known Address of the Class Member. To the extent
26 this process yields an Updated Address, that Updated Address will be treated
27 as the Last Known Address for purposes of this Stipulation and for Class
28 Notice mailing.

1 3.2.5 If a Class Member is known to be deceased, the Class Notice for that
2 deceased Class Member will be mailed to the Last Known Address (or
3 Updated Address, if applicable) of the legal representative of the deceased
4 Class Member's estate, to the extent known; otherwise, it will be mailed to the
5 Last Known Address (or Updated Address, if applicable) of the deceased
6 Class Member.

7 3.2.6 Unless the Settlement Administrator receives a Class Notice returned from
8 the United States Postal Service for reasons discussed below in this
9 paragraph, on or before the Response Deadline, that Class Notice will be
10 deemed to have been mailed and received by the Class Member to whom it
11 was sent five (5) calendar days after the mailing. In the event that subsequent
12 to the first mailing of a Class Notice and on or before the Response Deadline,
13 the Class Notice is returned to the Settlement Administrator by the United
14 States Postal Service without a forwarding address, the Settlement
15 Administrator will undertake a Skip Tracing on the Class Member to attempt
16 to ascertain the current address of the Class Member, and if such an address is
17 ascertained, the Settlement Administrator will undertake a single re-mailing
18 of the Class Notice to any Updated Address that is located for the Class
19 Member, within three (3) business days of receipt of the returned Class
20 Notice, and the Class Notice will be deemed mailed and received at that
21 point. In the event that subsequent to the initial mailing of a Class Notice and
22 on or before the Response Deadline, the Class Notice is returned to the
23 Settlement Administrator by the United States Postal Service with a
24 forwarding address for the Class Member, the forwarding address will be
25 deemed the Updated Address for the Class Member, the Settlement
26 Administrator will undertake a single re-mailing of the Class Notice to the
27 Updated Address within three (3) business days of receipt of the returned
28 Class Notice, and the Class Notice will be deemed mailed and received at that

1 point. The Settlement Administrator will include a cover letter with any re-
2 mailing to inform the Class Member that the Class Notice was re-mailed and
3 that he or she has the later of the Response Deadline or ten (10) calendar days
4 from the date on which the Class Notice was re-mailed (which shall be the
5 date the re-mailing of the Class Notice is postmarked) to Opt Out, object to
6 the Settlement, and/or dispute the number of Workweeks credited to him or
7 her. Compliance with the procedures described in this paragraph will
8 constitute due and sufficient notice to Class Members of this Settlement and
9 of the Final Approval Hearing, and will satisfy the requirements of due
10 process. Nothing else will be required of or done by the Settling Parties,
11 Class Counsel, counsel for Defendant, or the Settlement Administrator to
12 provide notice of the Settlement and the Final Approval Hearing.

13 3.2.7 No later than seven (7) calendar days after the Response Deadline, the
14 Settlement Administrator will provide Class Counsel and counsel for
15 Defendants with a declaration attesting to completion of the notice process,
16 including any attempts to obtain Updated Addresses for, and the re-sending
17 of, any returned Class Notices, to be filed with the Court by Class Counsel.

18 **3.3 Responses to the Notice of Class Action Settlement**

19 3.3.1 Disputing Workweeks: If a Class Member disagrees with the number of
20 Workweeks credited to him or her as set forth in his or her Class Notice, he or
21 she must submit a written dispute along with documentation that supports his
22 or her belief that he or she should be credited with a different number of
23 Workweeks. The dispute must be submitted to the Settlement Administrator
24 by mail, postmarked on or before the Response Deadline. The dispute must
25 contain the case name and number of the Coordinated Actions (i.e., *iPayment*
26 *Wage and Hour Cases*, Los Angeles County Superior Court, Case No.
27 JCCP5009), as well as the Class Member's name, address, telephone number,
28 last four (4) digits of his or her Social Security number, and signature. The

1 dispute must also contain a clear statement indicating that the Class Member
2 disputes the number of Workweeks credited to him or her. The Settlement
3 Administrator will review the Workweeks dispute and supporting
4 documentation and make a determination based upon the submitted
5 documentation as to the validity of the Class Member's claim. If the
6 Settlement Administrator needs further information from Defendants
7 concerning the Class Member's claim, the Settlement Administrator will
8 notify Defendants and Class Counsel and request the needed information.
9 Defendants' records will be presumed determinative if there is a dispute over
10 the dates of employment that the Class Member worked as a non-exempt or
11 hourly-paid employee in California, unless the Class Member has submitted
12 valid and compelling documentation to support his or her claim to a different
13 number of Workweeks than the number shown on the Class Notice. The
14 Settlement Administrator will resolve all disputes by applying the above
15 standard, and the decision of the Settlement Administrator on any such
16 disputes will be final.

17 3.3.2 Entry of Appearance at Class Members' Own Expense: Pursuant to
18 California Rule of Court, Rule 3.766(d)(5), any Class Member who does not
19 Opt Out may, if the Class Member so desires, enter an appearance through
20 counsel at his or her own expense, and will be advised of this by way of the
21 Class Notice. Class Members who choose to enter such an appearance are
22 responsible for any attorneys' fees or costs incurred as a result thereof.

23 3.3.3 Objections to Settlement: Class Members who do not Opt Out may object to
24 the Settlement by submitting a written objection to the Settlement to the
25 Settlement Administrator, postmarked no later than the Response Deadline.
26 A written objection to the Settlement must be signed by the Class Member
27 and dated, and additionally state the Class Member's name, last four (4) digits
28 of his or her Social Security number, dates of employment as a non-exempt or

1 hourly-paid employee of Defendants in California, the case name and number
2 of the Coordinated Actions (i.e., *iPayment Wage and Hour Cases*, Los
3 Angeles County Superior Court, Case No. JCCP5009), all legal and factual
4 bases for objection to the Settlement, whether the Class Member intends to
5 appear at the Final Approval Hearing, and whether the Class Member is
6 represented by legal counsel (and if so, identifying the legal counsel and
7 providing said legal counsel's mailing address). A Class Member who
8 objects to the Settlement will still be considered a Participating Class Member
9 who is subject to the Settlement.

10 3.3.4 Opting Out of Settlement: Class Members may elect to Opt Out of the
11 Settlement and, thus, exclude themselves from the Settlement. Class
12 Members who wish to exercise this option must submit a timely and valid
13 Request for Exclusion to the Settlement Administrator, postmarked on or
14 before the Response Deadline, in accordance with Paragraph 1.25. If a valid
15 Request for Exclusion is not received by the Settlement Administrator from a
16 Class Member on or before the Response Deadline, then that Class Member
17 will be deemed to have forever waived his or her right to Opt Out. The Class
18 Notice will advise Class Members of their option to Opt Out and will contain
19 instructions on how to do so. Class Members who do not Opt Out by
20 submitting valid and timely Requests for Exclusion will be deemed to be
21 Participating Class Members, will be bound by the Settlement and the
22 Judgment entered based thereon. Class Members who Opt Out by submitting
23 valid and timely Requests for Exclusion will not be bound by the Settlement,
24 will not be entitled to any benefits thereunder, or to make any objection to the
25 Settlement.

26 3.3.5 If a Class Member submits both a Request for Exclusion and an objection to
27 the Settlement, the Request for Exclusion will be accepted and the objection
28 will be disregarded.

1 3.3.6 The Settling Parties agree that the Response Deadline will not be extended,
2 and no untimely submissions will be honored, under any circumstances,
3 unless mutually agreeable by the Settling Parties and/or except to the extent
4 permitted under Paragraph 3.2.6.

5 **3.4 Final Approval Hearing.**

6 3.4.1 After the Response Deadline, a Final Approval Hearing will be held before the
7 Court in order to: (1) determine whether the Court should grant final approval
8 of the Settlement; (2) consider objections to the Settlement; and (3) consider
9 Class Representatives' application for an award of Attorneys' Fees and Costs
10 to Class Counsel and the Service Payments to the Class Representatives. At
11 the Final Approval Hearing, the Settling Parties will request that the Court
12 grant final approval of the Settlement and enter the Final Approval Order and
13 Judgment. The Settling Parties will take all reasonable efforts to secure entry
14 of the Final Approval Order and Judgment. If the Court rejects the
15 Stipulation, fails to enter the Final Approval Order and Judgment, this
16 Stipulation will be void, and Defendants will have no obligation to make any
17 payments under the Settlement, other than the Settlement Administration
18 Costs; however, the Settling Parties and their counsel agree to make all
19 reasonable efforts to fix any issues that the Court cites for its non-approval as
20 set forth in Paragraph 3.1.2.

21 **3.5 Releases**

22 3.5.1 Release by Participating Class Members. Upon the Effective Date, each of
23 the Participating Class Members (including all the Class Representatives) will
24 be deemed to have, and by operation of the Judgment will have fully, finally,
25 and forever released, relinquished and discharged Defendants and the
26 Released Parties from any and all Released Claims.

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28 ///

1 3.5.2 Class Representatives' General Release of Claims

2 i. In addition to those releases set forth in Section 3.5.1 hereof, with
3 respect to any and all Released Claims, upon the Effective Date, the
4 Class Representatives will expressly and will be deemed to have, and
5 by operation of the Judgment will have, waived the provisions, rights
6 and benefits of California Civil Code § 1542 with respect to the
7 Released Claims, which provides as follows:

8 **A general release does not extend to claims that**
9 **the creditor or releasing party does not know or**
10 **suspect to exist in his or her favor at the time of**
11 **executing the release and that, if known by him or**
 her, would have materially affected his or her
 settlement with the debtor or released party.

12 ii. In consideration for the Service Payments and as an inducement for
13 Defendants to enter into this Stipulation, with respect to the Class
14 Representatives only, the Released Claims will additionally include
15 any and all claims including Unknown Claims against Defendants that
16 accrued during the Class Period, but does not include claims for: age
17 discrimination under the Age Discrimination In Employment Act,
18 unemployment insurance, workers' compensation benefits, state
19 disability compensation, previously vested benefits under any
20 Employer-sponsored benefits plan or claims under the Employment
21 Retirement Income Security Act of 1974.

22 iii. Any Class Representative(s) may hereafter discover facts in addition
23 to or different from those which he or she now knows or believes to be
24 true with respect to the subject matter of the Released Claims, but any
25 such Class Representative(s), upon the Effective Date, will be deemed
26 to have, and by operation of the Judgment will have fully, finally, and
27 forever settled and released any and all Released Claims, known or
28 unknown, suspected or unsuspected, contingent or non-contingent,

whether or not concealed or hidden, which then exist, or previously have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Class Representatives acknowledge that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part. Notwithstanding any other provision of this Stipulation, the Settling Parties recognize that because the only Unknown Claims released by this Stipulation are those Unknown Claims that meet the definition of Released Claims, the release effectuated by this Stipulation will not extend to Unknown Claims other than those described in Paragraph 1.29 above.

3.6 Termination of Settlement; Reasonable Steps to Cure.

3.6.1 In the event that the Settlement is not be approved in its entirety by the Court, or in the event that the Effective Date does not occur, Defendants will have the option to void the Settlement, and in such case, no payments will be made by Defendants to anyone, other than the cost of administration, in accordance with the terms of this Stipulation, and this Stipulation will be deemed null and void with no effect on the Litigation whatsoever. Notwithstanding this provision, the Settling Parties agree to take all reasonable steps to cure any issues cited by the Court as reason for non-approval of any matter(s) filed with the Court for preliminary and final approval. In the event that more than five percent (5%) of the Class Members Opt Out by submitting timely and valid Requests for Exclusion to the Settlement Administrator by the Response Deadline, Defendants will have the right to terminate and void this Settlement; however, Defendants must notify Class Counsel, of its intention

1 to nullify the Settlement in writing by certified mail to Edwin Aiwarzian, Esq.
2 at Lawyers for Justice, PC, 410 West Arden Avenue, Suite 203, within three
3 (3) weeks after the expiration of the Response Deadline.

4 3.6.2 The Settlement is based on Defendants' representation that approximately
5 71,230 Workweeks are at issue, based on a calculation using each class
6 member's start and end dates of hourly employment during the Class Period
7 and dividing by 7. If it is determined that the number of Workweeks as of
8 June 6, 2019 exceeds 71,230 by ten percent (10%) or higher, Plaintiffs may
9 request a *pro rata* increase in the Gross Settlement Sum. If Defendants refuse
10 to a *pro rata* increase in the Gross Settlement Sum, Plaintiffs may void the
11 Settlement before final approval of the Settlement.

12 **3.7 Miscellaneous Provisions.**

13 3.7.1 No Person will have any claim against Class Counsel, the Settlement
14 Administrator, or any of the Released Parties based on the payments made or
15 other actions taken substantially in accordance with the Settlement or further
16 orders of the Court.

17 3.7.2 In the event that the Settlement is not substantially approved by the Court,
18 after all reasonable steps to cure have been exhausted, or the Settlement is
19 terminated, cancelled, declared void, or fails to become effective in
20 accordance with its terms, or if the Judgment does not become final, or to the
21 extent cancellation is otherwise provided for in this Stipulation, the Settling
22 Parties will resume the Litigation at that time as if no Stipulation had been
23 entered. In such event, the terms and provisions of the Stipulation will have
24 no further force and effect with respect to the Settling Parties and will not be
25 used in this Litigation or in any other proceeding for any purpose, and any
26 Judgment or order entered by the Court in accordance with the terms of the
27 Stipulation will be treated as vacated. Notwithstanding any other provision of
28 this Stipulation, if the Court should fail to award attorneys' fees to Class

1 Counsel in the full amount provided for in this Stipulation, no order of the
2 Court or modification of any order of the Court concerning the amount of any
3 attorneys' fees to be paid by Defendants to Class Counsel pursuant to this
4 Settlement will constitute grounds for cancellation or termination of the
5 Stipulation or grounds for limiting any other provision of the Judgment. It is
6 agreed that no order of the Court, including any order concerning attorneys'
7 fees, may alter or otherwise increase the Gross Settlement Sum.

8 3.7.3 The Settling Parties (a) acknowledge that it is their intent to consummate this
9 agreement; (b) agree to cooperate to effectuate and implement all terms and
10 conditions of the Stipulation and to exercise their best efforts to accomplish
11 the foregoing terms and conditions of the Stipulation; (c) agree to seek and to
12 attempt to obtain preliminary and final approval by Court of the Settlement;
13 and (d) agree to reasonably work together to seek and attempt to obtain
14 preliminary and final approval of the Stipulation should the Court not grant
15 approval upon the first presentation.

16 3.7.4 The Settling Parties and attorneys agree to keep the Settlement confidential
17 until the motion for preliminary approval of the Settlement is filed.
18 Thereafter, the Settling Parties will agree to make no comments to the media
19 or otherwise publicize the terms of the Settlement.

20 3.7.5 The Settling Parties agree that they will not engage in making or publishing
21 written statements which are disparaging to the reputation of the other or their
22 corporate parents and affiliates.

23 3.7.6 Plaintiffs agree not to make in the future any application for employment at
24 any time in any capacity with Released Parties, and they further agree to
25 waive and release any right to be considered for such employment. In the
26 event that Plaintiffs do seek to obtain or obtain employment in any capacity
27 with Defendants or any of their successors, parents, affiliates or subsidiaries
28 after the date of execution of this Stipulation, it is agreed and understood that

1 this Stipulation will constitute good cause for their refusal to offer any such
2 employment to Plaintiffs or the termination of such employment. However,
3 should Plaintiffs become employed by an entity that is thereafter acquired by
4 Defendants, this Stipulation will not form the basis of termination of
5 Plaintiffs' employment.

6 3.7.7 The Stipulation compromises claims which were contested and the subject of
7 a good faith dispute, and it will not be deemed an admission by any of the
8 Settling Parties as to the merits of any claim or defense. The Settling Parties
9 agree that the amounts paid in settlement of the Litigation and the other terms
10 of the Settlement were negotiated at arms-length and in good faith with
11 sufficient information by the Settling Parties and reflect a settlement that was
12 reached voluntarily after consultation with competent legal counsel.

13 3.7.8 All of the exhibits to the Stipulation and material and integral parts hereof and
14 are fully incorporated herein by this reference.

15 3.7.9 The Stipulation may be amended or modified only by a written instrument
16 signed by or on behalf of all Settling Parties or their respective counsel,
17 subject to approval by the Court.

18 3.7.10 The Stipulation constitutes the entire agreement among the Settling Parties
19 hereto and no representations, warranties or inducements have been made to
20 any party concerning the Stipulation or its exhibits other than the
21 representations, warranties and covenants contained and memorialized in such
22 documents. Except as otherwise provided herein, each party will bear its own
23 costs.

24 3.7.11 The Settling Parties understand and acknowledge that: (a) they have
25 performed an independent investigation of the allegations of fact and law
26 made in connection with this Litigation; and (b) even if they may hereafter
27 discover facts in addition to, or different from, those that they now know or
28 believe to be true with respect to the subject matter of the Litigation as

1 reflected in this Settlement Agreement, that will not affect or in any respect
2 limit the binding nature of this Settlement Agreement. It is the Settling
3 Parties' intention to resolve their disputes in connection with this Litigation
4 pursuant to the terms of this Settlement Agreement and thus, in furtherance of
5 their intentions, the Settlement Agreement will remain in full force and effect
6 notwithstanding the discovery of any additional facts or law, or changes in
7 law, and this Settlement will not be subject to rescission or modification by
8 reason of any changes or differences in facts or law, subsequently occurring
9 or otherwise.

10 3.7.12 Class Counsel, on behalf of the Class Members, is expressly authorized by the
11 Class Representatives to take all appropriate action required or permitted to
12 be taken by the Class pursuant to the Stipulation to effect its terms and also
13 expressly authorized to enter into any modifications or amendments to the
14 Stipulation.

15 3.7.13 Each counsel or other Person executing the Stipulation or any of its exhibits
16 on behalf of any Settling Parties hereby warrants that such Person has full and
17 express authority to do so.

18 3.7.14 The Stipulation may be executed in one or more counterparts. All executed
19 counterparts and each of them will be deemed to be one and the same
20 instrument. A complete set of executed counterparts will be filed with the
21 Court.

22 3.7.15 The Stipulation will be binding upon, and inure to the benefit of, the
23 successors and assigns of the parties hereto; however, this Stipulation is not
24 designed to and does not create any third-party beneficiaries unless otherwise
25 specifically provided herein.

26 3.7.16 The Court will retain jurisdiction with respect to implementation and
27 enforcement of the terms of the Stipulation, and all parties hereto submit to
28 the jurisdiction of the Court for purposes of implementing and enforcing the

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Settlement embodied in the Stipulation, in conformity with California Rules of Court, Rule 3.769 and California Civil Procedure Code section 664.6.

3.7.17 The Stipulation and the exhibits hereto will be considered to have been negotiated, executed and delivered, and to have been wholly performed, in the State of California, and the rights and obligations of the parties to the Stipulation will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California without regard to principles of conflicts of law.

3.7.18 The language of all parts of this Stipulation will in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either party. No party will be deemed the drafter of this Stipulation. The parties acknowledge that the terms of the Stipulation are contractual and are the product of negotiations between the parties and their counsel. Each party and their/its counsel cooperated in the drafting and preparation of the Stipulation. In any construction to be made of the Stipulation, the Stipulation will not be construed against any party and the canon of contract interpretation set forth in California Civil Code § 1654 will not be applied.

3.7.19 Should any deadlines set forth in the Stipulation require any action to be taken on a weekend or a Court holiday, then the action may be taken on the next business day, unless otherwise specified by law or rule of Court, except that should the Response Deadline (or extension(s) thereof specified in the Stipulation relating to a deficiency notice or a re-mailing) fall on a Saturday and regular U.S. Mail service is in operation that day, then no further extension pursuant to this paragraph will apply to these specific deadlines.

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1 READ AND AGREED TO INDIVIDUALLY AND ON BEHALF OF THE PROPOSED CLASS:

2

3 DATED: Dec 10, 2019 By: 
4 Plaintiff Rosina DiStefano

5

6 DATED: _____, 2019 By: _____
7 Plaintiff Denario Busch

8

9 DATED: Dec 4, 2019 By: 
10 Plaintiff Jonathan Brims

11

12 READ TO AND AGREED TO ON BEHALF OF IPAYMENT, INC.

13

14 DATED: _____, 2019 By: _____
15 Philip J. Ragona
16 Senior Vice President and Deputy General Counsel,
17 Paysafe Group

18

19 READ TO AND AGREED TO ON BEHALF OF LEADERS MERCHANT SERVICES, LLC

20

21 DATED: _____, 2019 By: _____
22 Philip J. Ragona
23 Senior Vice President and Deputy General Counsel,
24 Paysafe Group

25 READ TO AND AGREED TO ON BEHALF OF PAYSAFE PARTNERS, L.P.

26

27 DATED: _____, 2019 By: _____
28 Danny Chazonoff
Chief Commerical Officer, Paysafe Group

1 READ AND AGREED TO INDIVIDUALLY AND ON BEHALF OF THE PROPOSED CLASS:

2

3 DATED: _____, 2019 By: _____
4 Plaintiff Rosina DiStefano

5

6 DATED: 12/04/2019, 2019 By: 
7 Denario Busch (Dec 4, 2019)
8 Plaintiff Denario Busch

9

10 DATED: _____, 2019 By: _____
11 Plaintiff Jonathan Brims

12 READ TO AND AGREED TO ON BEHALF OF IPAYMENT, INC.

13

14 DATED: _____, 2019 By: _____
15 Philip J. Ragona
16 Senior Vice President and Deputy General Counsel,
17 Paysafe Group

18

19 READ TO AND AGREED TO ON BEHALF OF LEADERS MERCHANT SERVICES, LLC

20

21 DATED: _____, 2019 By: _____
22 Philip J. Ragona
23 Senior Vice President and Deputy General Counsel,
24 Paysafe Group

25 READ TO AND AGREED TO ON BEHALF OF PAYSAFE PARTNERS, L.P.

26

27 DATED: _____, 2019 By: _____
28 Danny Chazonoff
Chief Commerical Officer, Paysafe Group


1 READ AND AGREED TO INDIVIDUALLY AND ON BEHALF OF THE PROPOSED CLASS:

2
3 DATED: _____, 2019 By: _____
4 Plaintiff Rosina DiStefano


5
6 DATED: _____, 2019 By: _____
7 Plaintiff Denario Busch

8
9 DATED: _____, 2019 By: _____
10 Plaintiff Jonathan Brims


11
12 READ TO AND AGREED TO ON BEHALF OF IPAYMENT, INC.

13
14 DATED: 12-05-2019, 2019 By: 
15 Philip J. Ragona
16 Senior Vice President and Deputy General Counsel,
17 Paysafe Group

18
19 READ TO AND AGREED TO ON BEHALF OF LEADERS MERCHANT SERVICES, LLC

20
21 DATED: 12-05-2019, 2019 By: 
22 Philip J. Ragona
23 Senior Vice President and Deputy General Counsel,
24 Paysafe Group


25
26 READ TO AND AGREED TO ON BEHALF OF PAYSAFE PARTNERS, L.P.

27
28 DATED: 12-05-2019, 2019 By: 
Danny Chazonoff
Chief Commerical Officer, Paysafe Group

1 APPROVED AS TO FORM:
2

3 DATED: December 10, 2019
4

By:



Edwin Aiwanian of
Lawyers for Justice, PC
Attorneys for Plaintiffs

5
6
7 DATED: _____, 2019

By:

Katherine C. Den Bleyker of
Lewis Brisbois Bisgaard & Smith LLP
Attorneys for Defendants

1 APPROVED AS TO FORM:
2
3

4 DATED: _____, 2019

By:

Edwin Aiwarzian of
Lawyers for Justice, PC
Attorneys for Plaintiffs

5
6
7 DATED: December 9, 2019

By:

Katherine C. Den Bleyker
Katherine C. Den Bleyker of
Lewis Brisbois Bisgaard & Smith LLP
Attorneys for Defendants

EXHIBIT 1

Edwin Aiwanian (SBN 232943)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

IPAYMENT WAGE AND HOUR CASES

Coordinated Case No: JCCP5009
DiStefano Case No.: BC680362
Busch Case No.: 56-2018-00520668-CU-OE-VTA

ROSINA DISTEFANO v. IPAYMENT OF
CALIFORNIA, LLC, ET AL.,
Los Angeles Superior Court, Case No.
BC680362

Honorable Yvette M. Palazuelos
Department SSC9

DENARIO BUSCH, ET AL. v.
IPAYMENT, INC., ET AL.,
Ventura Superior Court, Case No. 56-2018-
00520668-CU-OE-VTA

**AMENDED CONSOLIDATED CLASS
ACTION COMPLAINT FOR DAMAGES
& ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE
§ 2698, ET SEQ.**

- (1) Violation of Cal. Lab. Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of Cal. Lab. Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of Cal. Lab. Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of Cal. Lab. Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of Cal. Lab. Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of Cal. Lab. Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of Cal. Lab. Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.;
- (11) Violation of Cal. Lab. Code § 2698, et

seq. (Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COME NOW, Plaintiff ROSINA DISTEFANO (“Plaintiff DISTEFANO” or “DISTEFANO”), individually, and on behalf of other members of the general public similarly situated, and Plaintiffs DENARIO BUSCH (“Plaintiff BUSCH” or “BUSCH”) and JONATHAN BRIMS (“Plaintiff BRIMS” or “BRIMS”), individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorney General Act (together, Plaintiffs DISTEFANO, BUSCH, and BRIMS are referred to as “Plaintiffs”), and allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Los Angeles. The majority of acts and omissions alleged herein relating to Plaintiffs and the other class members took place in the State of California, including the County of Los Angeles. At all relevant times, Defendants IPAYMENT, INC., LEADERS MERCHANT

SERVICES, LLC and PAYSAFE PARTNERS LP maintained its headquarters/“nerve center” within the State of California, County of Los Angeles.

PARTIES

5. Plaintiff ROSINA DISTEFANO is an individual residing in the State of California.

6. Plaintiff DENARIO BUSCH is an individual residing in the State of California.

7. Plaintiff JONATHAN BRIMS is an individual residing in the State of California.

8. Defendant IPAYMENT, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California.

9. Defendant LEADERS MERCHANT SERVICES, LLC, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California.

10. Defendant PAYSAFE PARTNERS, LP, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California.

11. At all relevant times, Defendants IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC OF CALIFORNIA, LLC, and PAYSAFE PARTNERS, LP were the “employer” of Plaintiffs, the other class members, and aggrieved employees, within the meaning of all applicable California laws and statutes.

12. At all times herein relevant, Defendants IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, and PAYSAFE PARTNERS, LP, and DOES 3 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly

1 committed with the ratification, knowledge, permission, encouragement, authorization and/or
2 consent of each defendant designated as a DOE herein.

3 13. The true names and capacities, whether corporate, associate, individual or
4 otherwise, of defendants DOES 3 through 100, inclusive, are unknown to Plaintiffs who sue
5 said defendants by such fictitious names. Plaintiffs are informed and believe, and based on
6 that information and belief allege, that each of the defendants designated as a DOE is legally
7 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
8 the injuries and damages to Plaintiffs, the other class members, and aggrieved employees as
9 alleged in this Complaint. Plaintiffs will seek leave of court to amend this Complaint to show
10 the true names and capacities when the same have been ascertained.

11 14. Defendants IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC,
12 PAYSAFE PARTNERS, LP, and DOES 3 through 100 will hereinafter collectively be referred
13 to as "Defendants."

14 15. Plaintiffs further allege that Defendants directly or indirectly controlled or
15 affected the working conditions, wages, working hours, and conditions of employment of
16 Plaintiffs, the other class members, and aggrieved employees so as to make each of said
17 Defendants employers and employers liable under the statutory provisions set forth herein.

18 **CLASS ACTION ALLEGATIONS**

19 16. Plaintiffs bring this action on their own behalf and on behalf of all other
20 members of the general public similarly situated, and, thus, seeks class certification under
21 California Code of Civil Procedure section 382.

22 17. The proposed class is defined as follows:

23 All current and former hourly-paid or non-exempt employees who worked for
24 any of the Defendants within the State of California at any time during the
25 period from October 18, 2013 to final judgment.

26 18. Plaintiffs reserve the right to establish subclasses as appropriate.

27 19. The class is ascertainable and there is a well-defined community of interest in
28 the litigation:

- 1 a. Numerosity: The class members are so numerous that joinder of all class
2 members is impracticable. The membership of the entire class is
3 unknown to Plaintiffs at this time; however, the class is estimated to be
4 greater than fifty (50) individuals and the identity of such membership is
5 readily ascertainable by inspection of Defendants' employment records.
- 6 b. Typicality: Plaintiffs' claims are typical of all other class members' as
7 demonstrated herein. Plaintiffs will fairly and adequately protect the
8 interests of the other class members with whom they have a well-defined
9 community of interest.
- 10 c. Adequacy: Plaintiffs will fairly and adequately protect the interests of
11 each class member, with whom they have a well-defined community of
12 interest and typicality of claims, as demonstrated herein. Plaintiffs have
13 no interest that is antagonistic to the other class members. Plaintiffs'
14 attorneys, the proposed class counsel, are versed in the rules governing
15 class action discovery, certification, and settlement. Plaintiffs have
16 incurred, and during the pendency of this action will continue to incur,
17 costs and attorneys' fees, that have been, are, and will be necessarily
18 expended for the prosecution of this action for the substantial benefit of
19 each class member.
- 20 d. Superiority: A class action is superior to other available methods for the
21 fair and efficient adjudication of this litigation because individual joinder
22 of all class members is impractical.

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- 1 e. Public Policy Considerations: Certification of this lawsuit as a class
2 action will advance public policy objectives. Employers of this great
3 state violate employment and labor laws every day. Current employees
4 are often afraid to assert their rights out of fear of direct or indirect
5 retaliation. However, class actions provide the class members who are
6 not named in the complaint anonymity that allows for the vindication of
7 their rights.

8 20. There are common questions of law and fact as to the class members that
9 predominate over questions affecting only individual members. The following common
10 questions of law or fact, among others, exist as to the members of the class:

- 11 a. Whether Defendants' failure to pay wages, without abatement or
12 reduction, in accordance with the California Labor Code, was willful;
13 b. Whether Defendants' had a corporate policy and practice of failing to
14 pay their hourly-paid or non-exempt employees within the State of
15 California for all hours worked and missed (short, late, interrupted,
16 and/or missed altogether) meal periods and rest breaks in violation of
17 California law;
18 c. Whether Defendants required Plaintiffs and the other class members to
19 work over eight (8) hours per day, over forty (40) hours per week, and/or
20 over six (6) days per workweek and failed to pay the legally required
21 overtime compensation to Plaintiffs and the other class members;
22 d. Whether Defendants deprived Plaintiffs and the other class members of
23 meal and/or rest periods or required Plaintiffs and the other class
24 members to work during meal and/or rest periods without compensation;
25 e. Whether Defendants failed to pay minimum wages to Plaintiffs and the
26 other class members for all hours worked;

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- f. Whether Defendants failed to pay all wages due to Plaintiffs and the other class members within the required time upon their discharge or resignation;
- g. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other class members during their employment;
- h. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- i. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- j. Whether Defendants failed to reimburse Plaintiffs and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

21. At all times herein set forth, PAGA was applicable to Plaintiffs BUSCH and BRIMS' employment by Defendants.

22. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

23. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

24. Plaintiffs BUSCH and BRIMS were employed by Defendants and the alleged violations were committed against them during their time of employment and they are, therefore, aggrieved employees. Plaintiffs BUSCH and BRIMS and the other employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are current or former employees of Defendants, and one or more of the alleged violations were committed against them.

25. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have been met:

- a. The aggrieved employee shall give written notice by online submission (hereinafter “Employee's Notice”) to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

26. On September 14, 2018, Plaintiffs BUSCH and BRIMS provided written notice by online submission to the LWDA and by certified mail to Defendants IPAYMENT, INC.,

1 and LEADERS MERCHANT SERVICES, LLC of the specific provisions of the California
2 Labor Code alleged to have been violated, including the facts and theories to support the
3 alleged violations. Plaintiffs BUSCH and BRIMS did not receive an LWDA Notice within
4 sixty-five (65) days of the date of the submission of their notices.

5 27. On [REDACTED], Plaintiffs BUSCH and BRIMS provided written notice by online
6 submission to the LWDA and by certified mail to Defendant PAYSAFE PARTNERS, LP of
7 the specific provisions of the California Labor Code alleged to have been violated, including
8 the facts and theories to support the alleged violations. Plaintiffs BUSCH and BRIMS did not
9 receive an LWDA Notice within sixty-five (65) days of the date of the submission of their
10 notices.

11 28. Therefore, the administrative prerequisites under California Labor Code section
12 2699.3(a) to recover civil penalties, including unpaid wages and premium wages per California
13 Labor Code section 558 against Defendants, in addition to other remedies, for violations of
14 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552,
15 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 have been satisfied.

16 **GENERAL ALLEGATIONS**

17 29. At all relevant times set forth herein, Defendants employed Plaintiffs and other
18 persons as hourly-paid or non-exempt employees within the State of California.

19 30. Defendants, jointly and severally, employed Plaintiff DISTEFANO as an
20 hourly-paid, non-exempt employee, from approximately November 2004 to approximately
21 October 2015, in the State of California.

22 31. Defendants, jointly and severally, employed Plaintiff BUSCH as an hourly-paid,
23 non-exempt employee, from approximately February 2018 to approximately March 2018, in
24 the State of California.

25 32. Defendants, jointly and severally, employed Plaintiff BRIMS as an hourly-paid,
26 non-exempt employee, from approximately August 2014 to approximately September 2017, in
27 the State of California.

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33. Defendants hired Plaintiffs and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed, short, late, or interrupted meal periods and/or rest breaks.

34. Defendants had the authority to hire and terminate Plaintiffs and the other class members, to set work rules and conditions governing Plaintiffs' and the other class members' employment, and to supervise their daily employment activities.

35. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs' and the other class members' employment for them to be joint employers of Plaintiffs and the other class members.

36. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class members.

37. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

38. Plaintiffs and the other class members worked over eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) days in a workweek during their employment with Defendants.

39. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, *inter alia*, failing to pay them for all hours worked and for missed, short, late, and/or interrupted meal periods and rest breaks in violation of California law.

40. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked.

41. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to provide Plaintiffs and the other class members all required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage

1 Orders and thus they are entitled to any and all applicable premium wages. Defendants' failure
2 included, *inter alia*, failing to provide uninterrupted ten (10) minute rest periods and timely,
3 uninterrupted thirty (30) minute meal periods to Plaintiffs and the other class members.
4 Plaintiffs and the other class members were required to perform work during meal periods and
5 rest periods, and Defendant incentivized Plaintiffs and the other class members to forego
6 statutorily required meal periods and rest periods.

7 42. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 failed to relieve Plaintiffs and the other class members of all duties, failed to relinquish control
9 over Plaintiffs and the other class members' activities, failed to permit Plaintiffs and the other
10 class members a reasonable opportunity to take, and impeded or discouraged them from taking
11 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work
12 for shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted
13 meal breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.
14 Defendants also utilized a bell system to relieve Plaintiffs and putative class members of their
15 duties and automatically deducted meal periods from Plaintiffs' and putative class members'
16 time records regardless of whether a compliant meal period was taken

17 43. Plaintiffs are informed and believe, and based thereon allege, that Defendants
18 knew or should have known that Plaintiffs and the other class members were entitled to receive
19 all meal periods or payment of one additional hour of pay at Plaintiffs' and the other class
20 member's regular rate of pay when a meal period was missed, short, late and/or interrupted,
21 and they did not receive all meal periods or payment of one additional hour of pay at Plaintiffs'
22 and the other class member's regular rate of pay when a meal period was missed, short, late,
23 and/or interrupted.

24 44. Plaintiffs are informed and believe, and based thereon allege, that Defendants
25 failed to provide, authorize, and permit Plaintiffs and the other class members to take full,
26 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6)
27 hour and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten
28 (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest

breaks in the middle of each work period. Defendant also required Plaintiffs and other putative class members to remain on the premises during rest periods.

45. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs' and the other class member's regular rate of pay when a rest period was missed, short, late, and/or interrupted, and they did not receive all rest periods or payment of one additional hour of pay at Plaintiffs' and the other class members' regular rate of pay when a rest period was missed, short, late, and/or interrupted.

46. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for all hours worked.

47. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive all wages owed to them upon discharge or resignation, including earned but unpaid overtime wages, minimum wages, and meal and rest period premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge or resignation.

48. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive all wages owed to them during their employment. Plaintiffs and the other class members did not receive payment of all wages, including overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

49. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive complete and accurate wage statements in accordance with California law, but, in fact, they did not receive complete and accurate wage statements from Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours worked by Plaintiffs and

1 the other class members.

2 50. Plaintiffs are informed and believe, and based thereon allege, that Defendants
3 knew or should have known that Defendants had to keep complete and accurate payroll records
4 for Plaintiffs and the other class members in accordance with California law, but, in fact, did
5 not keep complete and accurate payroll records.

6 51. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have known that Plaintiffs and the other class members were entitled to
8 reimbursement for necessary business-related expenses. The deficiencies include, *inter alia*,
9 failing to reimburse Plaintiffs and putative class members for the costs of maintaining
10 Defendants' required uniform and the costs of the use of personal cell phones for work
11 purposes.

12 52. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that they had a duty to compensate Plaintiffs and the other class
14 members pursuant to California law, and that Defendants had the financial ability to pay such
15 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
16 represented to Plaintiffs and the other class members that they were properly denied wages, all
17 in order to increase Defendants' profits.

18 53. During the relevant time period, Defendants failed to pay overtime wages to
19 Plaintiffs and the other class members for all overtime hours worked. Plaintiffs and the other
20 class members did not receive overtime compensation at one-and-one-half times the regular
21 rate for all hours spent performing job duties in excess of eight (8) hours per day, forty (40)
22 hours per week, and/or for the first eight (8) hours worked on the seventh day of work in a
23 workweek.

24 54. During the relevant time period, Defendants failed to provide all requisite
25 uninterrupted meal and rest periods to Plaintiffs and the other class members.

26 55. During the relevant time period, Defendants failed to pay Plaintiffs and the other
27 class members at least minimum wages for all hours worked.

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56. During the relevant time period, Defendants failed to pay Plaintiffs and the other class members all wages owed to them upon discharge or resignation.

57. During the relevant time period, Defendants failed to provide complete or accurate wage statements to Plaintiffs and the other class members.

58. During the relevant time period, Defendants failed to keep complete or accurate payroll records for Plaintiffs and the other class members.

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59. During the relevant time period, Defendants failed to reimburse Plaintiffs and the other class members for all necessary business-related expenses and costs.

60. During the relevant time period, Defendants failed to properly compensate Plaintiffs and the other class members pursuant to California law in order to increase Defendants' profits.

61. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE PARTNERS, LP and DOES 3 through 100)

62. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 61, and each and every part thereof with the same force and effect as though fully set forth herein.

63. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

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64. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and the other class members employed by Defendants, and working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day, more than forty (40) hours in a week, or for the first eight (8) hours worked on the seventh day of work in a workweek.

65. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiffs and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day and all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a workweek.

66. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a workweek.

67. During the relevant time period, Plaintiffs and the other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

68. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiffs and the other class members.

69. Defendants' failure to pay Plaintiffs and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

70. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

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SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

**(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE
PARTNERS, LP, and DOES 3 through 100)**

71. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 70, and each and every part thereof with the same force and effect as though fully set forth herein.

72. At all relevant times, the IWC Orders 4-2001, 5-2001, 7-2001, and 9-2001 and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs' and the other class members' employment by Defendants.

73. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

74. At all relevant times, the applicable IWC Wage Orders, 4-2001, 5-2001, 7-2001, and 9-2001, and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

75. At all relevant times, the applicable IWC Wage Orders 4-2001, 5-2001, 7-2001, and 9-2001 and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

76. During the relevant time period, Plaintiffs and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not

1 waive their legally-mandated meal periods by mutual consent, were required to work for
2 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
3 (30) minutes and/or rest period.

4 77. During the relevant time period, Plaintiffs' and other class members' meal
5 periods were missed, shortened, late, and/or were interrupted because Defendants required
6 them to perform and complete work duties, even when it resulted in missed, shortened, late, or
7 interrupted meal periods. Defendants interrupted Plaintiffs and the other class members during
8 purported meal periods with business-related inquiries, instructions for tasks, and/or to require
9 them to return to work before a full thirty (30) minutes elapsed to complete or begin tasks.

10 78. As a result, Defendants failed to relieve Plaintiffs and the other class members
11 of all duties, failed to relinquish control over Plaintiffs' and the other class members' activities,
12 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
13 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no
14 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
15 take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work
16 for shifts lasting more than ten (10) hours.

17 79. During the relevant time period, Plaintiffs and the other class members who
18 were scheduled to work for a period of time in excess of six (6) hours were required to work
19 for periods longer than five (5) hours without an uninterrupted meal period of not less than
20 thirty (30) minutes and/or rest period.

21 80. During the relevant time period, Defendants intentionally and willfully required
22 Plaintiffs and the other class members to work during meal periods and failed to compensate
23 Plaintiffs and the other class members the full meal period premium for work performed during
24 meal periods.

25 81. During the relevant time period, Defendants failed to pay Plaintiffs and the other
26 class members the full meal period premium due pursuant to California Labor Code section
27 226.7.

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82. Defendants' conduct violates applicable IWC Wage Orders 4-2001, 5-2001, 7-2001, and 9-2001 and California Labor Code sections 226.7 and 512(a).

83. Pursuant to applicable IWC Wage Orders 4-2001, 5-2001, 7-2001, and 9-2001 and California Labor Code section 226.7, Plaintiffs and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE PARTNERS, LP and DOES 3 through 100)

84. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 83, and each and every part thereof with the same force and effect as though fully set forth herein.

85. At all times herein set forth, the applicable IWC Wage Orders 4-2001, 5-2001, 7-2001, and 9-2001 and California Labor Code section 226.7 were applicable to Plaintiffs' and the other class members' employment by Defendants.

86. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

87. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

88. During the relevant time period, Defendants required Plaintiffs and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked. Defendants also required Plaintiffs and other

1 class members to remain on the premises during rest periods.

2 89. During the relevant time period, Defendants willfully required Plaintiffs and the
3 other class members to work during rest periods and failed to pay Plaintiffs and the other class
4 members the full rest period premium for work performed during rest periods.

5 90. During the relevant time period, Defendants failed to pay Plaintiffs and the other
6 class members the full rest period premium due pursuant to California Labor Code section
7 226.7

8 91. Defendants' conduct violates applicable IWC Wage Orders and California
9 Labor Code section 226.7.

10 92. Pursuant to the applicable IWC Wage Orders and California Labor Code section
11 226.7, Plaintiffs and the other class members are entitled to recover from Defendants one
12 additional hour of pay at the employees' regular hourly rate of compensation for each work
13 day that the rest period was not provided.

14 **FOURTH CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

16 **(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE**
17 **PARTNERS, LP and DOES 3 through 100)**

18 93. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
19 through 92, and each and every part thereof with the same force and effect as though fully set
20 forth herein.

21 94. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
22 provide that the minimum wage to be paid to employees, and the payment of a lesser wage
23 than the minimum so fixed is unlawful.

24 95. During the relevant time period, Defendants failed to pay minimum wage to
25 Plaintiffs and the other class members as required, pursuant to California Labor Code sections
26 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*,
27 Defendants' effective payment of zero dollars per hour for hours Plaintiffs and the other class
28 members worked off-the-clock performing work duties.

101. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiffs and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ. Plaintiffs and other class members were not paid at the time of their discharge wages earned and unpaid throughout their employment, including but not limited to, minimum wages for time worked off-the-clock to perform work duties and for meal and rest period premium payments.

102. Defendants' failure to pay Plaintiffs and the other class members who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

103. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

104. Plaintiffs and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE PARTNERS, LP and DOES 3 through 100)

105. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 104, and each and every part thereof with the same force and effect as though fully set forth herein.

106. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and

1 payable between the 16th and the 26th day of the month during which the labor was
2 performed.

3 107. At all times herein set forth, California Labor Code section 204 provides that all
4 wages earned by any person in any employment between the 16th and the last day, inclusive,
5 of any calendar month, other than those wages due upon termination of an employee, are due
6 and payable between the 1st and the 10th day of the following month.

7 108. At all times herein set forth, California Labor Code section 204 provides that all
8 wages earned for labor in excess of the normal work period shall be paid no later than the
9 payday for the next regular payroll period

10 109. During the relevant time period, Defendants intentionally and willfully failed to
11 pay Plaintiffs and the other class members all wages due to them, within any time period
12 permissible under California Labor Code section 204.

13 110. Plaintiffs and the other class members are entitled to recover all remedies
14 available for violations of California Labor Code section 204.

15 **SEVENTH CAUSE OF ACTION**

16 **(Violation of California Labor Code § 226(a))**

17 **(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE**
18 **PARTNERS, LP and DOES 3 through 100)**

19 111. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
20 through 110, and each and every part thereof with the same force and effect as though fully set
21 forth herein.

22 112. At all material times set forth herein, California Labor Code section 226(a)
23 provides that every employer shall furnish each of his or her employees an accurate itemized
24 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
25 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
26 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
27 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
28 inclusive dates of the period for which the employee is paid, (7) the name of the employee and

his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

113. Defendants have intentionally and willfully failed to provide Plaintiffs and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiffs and the other class members.

114. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiffs and the other class members have suffered injury and damage to their statutorily-protected rights.

115. More specifically, Plaintiffs and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

116. Plaintiffs and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

117. Plaintiffs and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

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EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

**(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE
PARTNERS, LP and DOES 3 through 100)**

118. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 117, and each and every part thereof with the same force and effect as though fully set forth herein.

119. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

120. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiffs and the other class members.

121. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiffs and the other class members have suffered injury and damage to their statutorily-protected rights.

122. More specifically, Plaintiffs and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to California Labor Code section 1174(d).

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NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

**(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE
PARTNERS, LP and DOES 3 through 100)**

123. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 122, and each and every part thereof with the same force and effect as though fully set forth herein.

124. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

125. Plaintiffs and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, the use of personal vehicles and phones for business-related matters.

126. Defendants have intentionally and willfully failed to reimburse Plaintiffs and the other class members for all necessary business-related expenses and costs.

127. Plaintiffs and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

**(Against IPAYMENT, INC., LEADERS MERCHANT SERVICES, LLC, PAYSAFE
PARTNERS, LP and DOES 3 through 100)**

128. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 127, and each and every part thereof with the same force and effect as though fully set forth herein.

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1 129. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
2 unlawful and harmful to Plaintiffs, other class members, to the general public, and Defendants'
3 competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public
4 interest within the meaning of Code of Civil Procedure section 1021.5.

5 130. Defendants' activities as alleged herein are violations of California law, and
6 constitute unlawful business acts and practices in violation of California Business &
7 Professions Code section 17200, et seq.

8 131. A violation of California Business & Professions Code section 17200, et seq.
9 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
10 policies and practices of requiring employees, including Plaintiff and the other class members,
11 to work overtime without paying them proper compensation violate California Labor Code
12 sections 510 and 1198. Additionally, Defendants' policies and practices of requiring
13 employees, including Plaintiffs and the other class members, to work through their meal and
14 rest periods without paying them proper compensation violate California Labor Code sections
15 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate
16 California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and
17 practices of failing to timely pay wages to Plaintiffs and the other class members violate
18 California Labor Code sections 201-204. Defendants also violated California Labor Code
19 sections 226(a), 551, 552, 1174(d), 2800 and 2802.

20 132. As a result of the herein described violations of California law, Defendants
21 unlawfully gained an unfair advantage over other businesses.

22 133. Plaintiffs and the other class members have been personally injured by
23 Defendants' unlawful business acts and practices as alleged herein, including but not
24 necessarily limited to the loss of money and/or property.

25 134. Pursuant to California Business & Professions Code sections 17200, et seq.,
26 Plaintiffs and the other class members are entitled to restitution of the wages withheld and
27 retained by Defendants during a period that commences from October 18, 2013; an award of
28 attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other

1 applicable laws; and an award of costs.

2 **ELEVENTH CAUSE OF ACTION**

3 **(Violation of California Labor Code §§ 2698, et seq.)**

4 **(Against IPAYMENT, INC.,**

5 **LEADERS MERCHANT SERVICES, LLC, PAYSAFE PARTNERS, LP, and DOES 1**
6 **through 100)**

7 135. Plaintiffs BUSCH and BRIMS incorporate by reference the allegations
8 contained in paragraphs 1 through 134, and each and every part thereof with the same force
9 and effect as though fully set forth herein.

10 136. PAGA expressly establishes that any provision of the California Labor Code
11 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
12 departments, divisions, commissions, boards, agencies or employees for a violation of the
13 California Labor Code, may be recovered through a civil action brought by an aggrieved
14 employee on behalf of himself or herself, and other current or former employees.

15 137. Whenever the LWDA, or any of its departments, divisions, commissions,
16 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action
17 is authorized to exercise the same discretion, subject to the same limitations and conditions, to
18 assess a civil penalty.

19 138. Plaintiffs BUSCH and BRIMS and the other hourly-paid or non-exempt
20 employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in
21 that they are all current or former employees of Defendants, and one or more of the alleged
22 violations was committed against them.

23 **Failure to Pay Overtime**

24 139. Defendants’ failure to pay legally required overtime wages to Plaintiffs BUSCH
25 and BRIMS and the other aggrieved employees is in violation of the Wage Orders and
26 constitutes unlawful or unfair activity prohibited by California Labor Code sections 510 and
27 1198.

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Failure to Provide Meal Periods

140. Defendants' failure to provide legally required meal periods to Plaintiffs BUSCH and BRIMS and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

141. Defendants' failure to provide legally required rest periods to Plaintiffs BUSCH and BRIMS and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

142. Defendants' failure to pay legally required minimum wages to Plaintiffs BUSCH and BRIMS and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

143. Defendants' failure to timely pay wages to Plaintiffs BUSCH and BRIMS and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

144. Defendants' failure to timely pay wages to Plaintiffs BUSCH and BRIMS and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

145. Defendants' failure to provide complete and accurate wage statements to Plaintiffs BUSCH and BRIMS and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

146. Defendants' failure to keep complete and accurate payroll records relating to Plaintiffs BUSCH and BRIMS and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

147. Defendants' failure to reimburse Plaintiffs BUSCH and BRIMS and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

148. Pursuant to California Labor Code section 2699, Plaintiffs BUSCH and BRIMS, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two

1 hundred dollars (\$200) for each aggrieved employee per pay period for
2 each subsequent violation; and

3 d. Any and all additional penalties and sums as provided by the California
4 Labor Code and/or other statutes.

5 149. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
6 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor
7 and Workforce Development Agency for the enforcement of labor laws and education of
8 employers and employees about their rights and responsibilities and twenty-five percent (25%)
9 to the aggrieved employees.

10 150. Further, Plaintiffs are entitled to seek and recover reasonable attorneys' fees and
11 costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable
12 statute.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiffs, individually, and on behalf of other members of the general public similarly
15 situated and on behalf of other aggrieved employees pursuant to the California Private
16 Attorney General Act, request a trial by jury.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff DISTEFANO, individually, and on behalf of other members
19 of the general public similarly situated, and Plaintiffs BUSCH and BRIMS, individually, and
20 on behalf of other members of the general public similarly situated and on behalf of other
21 aggrieved employees pursuant to the California Private Attorney General Act, pray for relief
22 and judgment against Defendants, jointly and severally, as follows:

23 **Class Certification**

24 1. That this action be certified as a class action;
25 2. That Plaintiffs be appointed as the representatives of the Class;
26 3. That counsel for Plaintiffs be appointed as Class Counsel; and
27 4. That Defendants provide to Class Counsel immediately the names and most
28 current/last known contact information (address, e-mail and telephone numbers) of all class

members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiffs and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194;

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiffs and the other class members;

11. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein;

16. For such other and further relief as the Court may deem just and proper.

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As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and the other class members;

18. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due;

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiffs and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiffs and the other class members in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

28. For liquidated damages pursuant to California Labor Code section 1194.2;

29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs and the other class members no longer employed by Defendants;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiffs and the other class members who have left Defendants' employ;

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33. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiffs and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

- 1 41. For statutory penalties pursuant to California Labor Code section 226(e);
2 42. For injunctive relief to ensure compliance with this section, pursuant to
3 California Labor Code section 226(h); and
4 43. For such other and further relief as the Court may deem just and proper.

5 **As to the Eighth Cause of Action**

6 44. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records
8 for Plaintiffs and the other class members as required by California Labor Code section
9 1174(d);

- 10 45. For actual, consequential and incidental losses and damages, according to proof;
11 46. For statutory penalties pursuant to California Labor Code section 1174.5;
12 47. For such other and further relief as the Court may deem just and proper.

13 **As to the Ninth Cause of Action**

14 48. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other
16 class members for all necessary business-related expenses as required by California Labor
17 Code sections 2800 and 2802;

- 18 49. For actual, consequential and incidental losses and damages, according to proof;
19 50. For reasonable attorneys' fees and costs of suit incurred herein;
20 51. For such other and further relief as the Court may deem just and proper.

21 **As to the Tenth Cause of Action**

22 52. That the Court decree, adjudge and decree that Defendants violated California
23 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiffs and the
24 other class members all overtime compensation due to them, failing to provide all meal and
25 rest periods to Plaintiffs and the other class members, failing to pay at least minimum wages to
26 Plaintiffs and the other class members, failing to pay Plaintiffs' and the other class members'
27 wages timely as required by California Labor Code section 201-204 and by violating
28 California Labor Code sections 226(a), 1174(d), 2800 and 2802.

53. For restitution of unpaid wages to Plaintiffs and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

54. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

55. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

56. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

57. For such other and further relief as the Court may deem just and proper.

As to the Eleventh Cause of Action

58. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g) and 558 plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

59. For such other and further relief as the Court may deem equitable and appropriate.

Dated: _____

LAWYERS for JUSTICE, PC

By: _____

Edwin Aiwanian
Attorneys for Plaintiffs

EXHIBIT 2

NOTICE OF CLASS ACTION SETTLEMENT

iPayment Wage and Hour Cases

Los Angeles County Superior Court Case, Judicial Council Coordination Proceeding No. JCCP5009

(Included actions: *Rosina DiStefano v. iPayment of California, LLC, et al.*, Los Angeles Superior Court, Case No. BC680362 and *Denario Busch, et al. v. iPayment, Inc., et al.*, Ventura County Superior Court, Case No. 56-2018-00520668.)

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Los Angeles (the "Court" or "Los Angeles County Superior Court"), you are notified that: preliminary approval of a class action settlement reached between Rosina DiStefano, Denario Busch, and Jonathan Brims ("Plaintiffs") and Defendants iPayment, Inc., Leaders Merchants Services, LLC, and Paysafe Partners, L.P. ("Defendants"), was granted on **[Preliminary Approval Date]**, in the case entitled *iPayment Wage and Hour Cases*, Los Angeles County Superior Court, Judicial Council Coordination Proceeding, Case No. JCCP5009, which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment, but you have the opportunity to request exclusion from the settlement (in which case you will not receive payment under the settlement), object to the settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Section III below.

I. IMPORTANT DEFINITIONS

"**Class**" means any and all current and former hourly-paid or non-exempt employees who worked for Defendants iPayment, Inc. and/or Leaders Merchant Services, LLC within the State of California at any time from October 18, 2013 to **[Preliminary Approval Date]** and/or worked for Defendant Paysafe Partners L.P. within the State of California at any time from June 6, 2015 to **[Preliminary Approval Date]**.

"**Class Member**" means a member of the Class.

"**Class Period**" means the time period from October 18, 2013 to the **[Preliminary Approval Date]** for Class Members who worked for Defendants iPayment and/or Leaders as hourly-paid or non-exempt employees in California and the time period from June 6, 2015 to **[Preliminary Approval Date]** for Class Members who worked for Defendant Paysafe as hourly-paid or non-exempt employees in California.

II. BACKGROUND OF THE ACTION

On October 18, 2017, Plaintiff Rosina DiStefano commenced a class action by filing her Class Action Complaint for Damages in the Los Angeles County Superior Court ("*DiStefano* Action"). On January 12, 2018, Plaintiff DiStefano filed a First Amended Class Action Complaint for Damages. On February 5, 2018, Plaintiff DiStefano filed a Second Amended Class Action Complaint for Damages. On November 26, 2018, Plaintiffs Denario Busch and Jonathan Brims commenced a class and representative action in the Ventura County Superior Court ("*Busch* Action"). On March 5, 2019, Defendant iPayment, Inc. filed a Petition for Coordination with the Judicial Council of California seeking coordination of the *DiStefano* Action and *Busch* Action. On April 10, 2019, the *DiStefano* Action and *Busch* Action were coordinated in the Los Angeles County Superior Court as the *iPayment Wage and Hour Cases*, Coordinated Case Number JCCP5009 (collectively the "Actions"). On **[date]**, Plaintiffs DiStefano, Busch, and Brims ("Plaintiffs") filed an Amended Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.

Plaintiffs alleged that Defendants violated the California Labor Code and California Business and Professions Code with respect to themselves and the Class Members by, *inter alia*, failing to properly pay for all hours worked, including minimum and overtime wages, failing to provide legally-compliant meal and rest periods or premium pay in lieu thereof, failing to properly reimburse business expenses, failing to provide accurate wage statements, failing to maintain accurate payroll records, and failing to timely pay wages upon separation and during employment and associated waiting time penalties thereby engaging in unfair business practices and owing penalties under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”).

Collectively, Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, declaratory relief, penalties, interest, and attorneys’ fees and costs.

Defendants deny all of the allegations in the Actions or that they violated any law, and contend that at all times they have fully complied with all applicable federal, state, and local laws. Defendants further contend that their written meal and rest period policies were lawful, that they paid employees for all time worked, that they paid overtime when required and reimbursed any employees for any business expenses which they paid or incurred. It is Defendants’ position that, if litigation continued, class certification would be denied on all claims and/or the claims would be subject to motions for summary adjudication and/or summary judgment. Defendants contend that the theories put forth by the Plaintiffs in the Actions are contrary to the facts and that the PAGA claim lacks merit. Defendants further contend that the Plaintiffs are not adequate class representatives as, *inter alia*, they have serious credibility issues; their claims are not typical of the Class Members; and individual issues predominate over common ones.

The Parties participated in two full-day mediations session with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”).

On [Preliminary Approval Date], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the settlement (“Settlement Administrator”), Plaintiffs as representatives of the Class (“Class Representatives”), and the following law firms as counsel for the Class (“Class Counsel”):

Edwin Aiwazian
Arby Aiwazian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendants that the claims in the Actions have merit or that Defendants have any liability to Plaintiffs or to Class Members. Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of the Class Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total Gross Settlement Sum is Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) (the “Gross Settlement Sum”). The portion of the Gross Settlement Sum that is available for payment to Class Members who do not timely and validly request exclusion from the settlement (“Participating Class Members”) is referred to as the “Net Settlement Sum.” The Net Settlement Sum will be the Gross Settlement Sum less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount up to \$787,500 and reimbursement of litigation costs and expenses in an amount of up to Fifty Thousand Dollars (\$50,000) to Class Counsel; (2) service awards in an amount not to exceed Seven Thousand Dollars (\$7,000) each to Plaintiffs DiStefano, Busch, and Brims (totaling \$21,000) for their services (“Service Payment”); (3) Settlement Administration Costs in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000) to the Settlement Administrator; and (4) payment to the Labor and Workforce Development Agency of its 75% share of the amount allocated to PAGA Penalties (\$30,000) under the settlement (i.e., a payment in the amount of

\$30,000).

Participating Class Members will be entitled to receive payment under the settlement of their share of the Net Settlement Sum (“Individual Settlement Amount”) based on number of numbers of workweeks worked by the Class Members as hourly-paid or non-exempt employees for Defendants iPayment, Inc. and/or Leaders Merchant Services, LLC from October 18, 2013 to the [Preliminary Approval Date] and/or for Defendant Paysafe Partners L.P. from June 6, 2015 to the [Preliminary Approval Date], in the State of California (“Workweeks”). Workweeks were calculated based on the start and end dates of each Class Member’s employment during the Class Period and dividing by seven.

Individual Settlement Amounts will be calculated using the following formula: each Participating Class Member’s individual Workweeks will be divided by the total aggregate Workweeks of all Participating Class Members to derive his or her Payment Ratio Fraction. Each Participating Class Member’s Payment Ratio Fraction will be multiplied by the Net Settlement Sum to determine the Individual Settlement Amount.

Each Individual Settlement Amount will be allocated as one-third (33.33%) wages (which will be reported on an IRS Form W2), and two-thirds (66.67%) penalties and interest (which will be reported on an IRS Form 1099, if applicable). Each Individual Settlement Amount will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Amount, resulting in a net payment to the Settlement Class Member referred to as the “Individual Settlement Payment.”

If the Court grants final approval of the settlement, Individual Settlement Payments will be mailed to Participating Class Members at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

B. Your Workweeks Based on Defendants’ Records

According to Defendants’ payroll records:

From October 18, 2013 to [Preliminary Approval Date], you worked [] Workweeks at Defendants iPayment, Inc. and/or Leaders Merchant Services, LLC.

From June 6, 2015 to [Preliminary Approval Date], you worked [] Workweeks at Defendant Paysafe Partners L.P.

A description of how Workweeks were calculated and credited to Class Members is described above in Section III.A. If you wish to dispute the Workweeks credited to you, you may submit such dispute (a “Workweeks Dispute”) in writing to the Settlement Administrator. The written dispute must: (a) contain your full name, address, telephone number, the last four digits of your Social Security Number, and signature; (b) contain the case name and number of the coordinated action (*iPayment Wage and Hour Cases*, Los Angeles County Superior Court, Case No. JCCP5009); (c) contain a clear statement indicating that you dispute the number of Workweeks credited to you; (d) documentation that supports your belief that you should be credited with a different number of Workweeks; and (e) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **no later than [Response Deadline]**.

C. Your Estimated Individual Settlement Amount

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you.

Your Individual Settlement Amount is estimated to be \$ [].

The Individual Settlement Amount is subject to reduction for employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Amount and will only be distributed if the Court approves the settlement and after the settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Amount reflected in this Notice is only an estimate. Your actual Individual Settlement Payment may be higher or lower.

D. Released Claims

Upon the Effective Date, each of the Participating Class Members (including all the Class Representatives) will be

deemed to have, and by operation of the Judgment will have fully, finally, and forever released, relinquished and discharged Defendants and the Released Parties from any and all Released Claims.

“Released Claims” means all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever including without limitation statutory, constitutional, contractual or common law claims, against the Released Parties (as defined below), and any of them, for relief and penalties, that accrued during the Class Period, and as a result of Class Members’ employment by Defendants in California, that arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the Operative Complaint, including claims of failure to pay wages upon termination and/or resignation, failure to pay overtime wages, failure to pay minimum wages, failure to provide compliant meal and rest periods and/or associated premiums, failure to pay wages timely during employment, failure to provide accurate wage statements, failure to reimburse business expenses, unfair competition, and violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 551, 552, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, the applicable Wage Order of the Industrial Wage Commission, civil penalties pursuant to § 2698, *et seq.* and other related penalties, and California Business & Professions Code §§ 17200 to 17208, including without limitation all related claims for restitution and other equitable relief arising from California Business and Professions Code §§ 17200, *et seq.*, interest on unpaid wages, unpaid wages, attorneys’ fees or litigation costs, and any other related claims and/or penalties, including civil penalties. The release does not extend to any claims not alleged in the Operative Complaint and specifically excludes claims for workers’ compensation, personal injuries, unemployment insurance, state disability compensation, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any employer sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning discrimination, retaliation and/or harassment.

“Released Parties” means Defendants iPayment, Inc., Leaders Merchant Services LLC, and Paysafe Partners, L.P., and each of their respective parent companies, subsidiaries, affiliates, current and former management companies, shareholders, members, agents (including any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

“Operative Complaints” means the Amended Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. filed in the Coordinated Action.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount of up to thirty-five percent (35%) of the Gross Settlement Sum (i.e., an amount of up to \$787,500) and reimbursement of litigation costs and expenses in an amount of up to Fifty Thousand Dollars (\$50,000), to be paid from the Gross Settlement Sum, subject to approval by the Court. Class Counsel has been prosecuting the Actions on behalf of Plaintiffs and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Service Payments to Plaintiffs

Plaintiffs will seek the amount of Seven Thousand Dollars (\$7,000) as Service Payments each to Plaintiffs Rosina DiStefano, Denario Busch, and Jonathan Brims, in recognition of their services in connection with the Actions and Coordinated Action. The Service Payments will be paid from the Gross Settlement Sum subject to approval by the Court, and if awarded, it will be paid to Plaintiffs in addition to their Individual Settlement Payments that they are entitled to under the settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Twenty-Five Thousand Dollars (\$25,000) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the settlement, processing Requests for Exclusion, Workweeks Disputes, and objections, calculating Individual Settlement Payments, and distributing payments and tax forms under the settlement, and shall be paid from the Gross Settlement Sum subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to receive money from the settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment unless you decide to exclude yourself from the settlement. Unless you elect to exclude yourself from the Settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Claims against the Released Parties as described in Section III.D above. As a Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the settlement, you may seek exclusion from the settlement by submitting a written request to be excluded from the settlement ("Request for Exclusion") to the Settlement Administrator at the following address:

[Settlement Administrator]
[Address]

A request for exclusion must: (a) contain your full name, address, the last 4 digits of Social Security Number, and signature; (b) contain the case name and number of the Coordinated Action (*iPayment Wage and Hour Cases*, Los Angeles County Superior Court, Case No. JCCP5009); (c) contain a statement indicating that you intend to be excluded from the settlement; and (4) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive any payment from the settlement, will not be bound by the settlement (and the release of Released Claims stated in Section III.D above), and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

C. Object to the Settlement

You can object to the terms of the settlement as long as you have not submitted a Request for Exclusion.

To object, you must do so by way of a written objection that: (a) contains your full name, dates of employment as a non-exempt or hourly-paid employee of Defendants in California, the last 4 digits of your Social Security Number, and signature; (b) contains the case name and number of the Coordinated Action (*iPayment Wage and Hour Cases*, Los Angeles County Superior Court, Case No. JCCP5009); (c) all legal and factual bases for the objection to the Settlement; (d) whether you intend to appear at the Final Approval Hearing; (e) whether you are represented by legal counsel, and if so, identify the legal counsel and their address; and (f) is mailed to the Settlement Administrator and postmarked **no later than [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department SSC-9 of the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 N. Spring Street, Los Angeles, California 90012, on **[Final Approval Hearing Date]**, at **[Time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate and whether the

attorneys' fees and costs to Class Counsel, Service Payments to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator should be awarded.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Actions at the Stanley Mosk Courthouse, located at 111 North Hill Street, Los Angeles, California 90012, during business hours

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.