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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN FRANCISCO

11 CAMERON YOUNG and KEANA BOLDS,
12 individually, and on behalf of other members of
the general public similarly situated and as
13 aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

14 Plaintiffs,

15 vs.

16 THE GAP, INC., a Delaware Corporation; and
DOES 1 through 10, inclusive,

17 Defendants.
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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

**NOTICE OF MOTION AND MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: February 24, 2021
Time: 10:30 a.m.
Place: Department 613

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on February 24, 2021 at 10:30 a.m., or as soon thereafter as
3 counsel may be heard, in Department 613 of the above-captioned court, located at 400 McAllister Street,
4 San Francisco, California 94102, the Honorable Andrew Y.S. Cheng presiding, Plaintiff Cameron
5 Young will, and hereby does, move this Court for entry of an order and judgment granting final approval
6 of the class action settlement and all agreed-upon terms therein. This Motion, unopposed by Defendant
7 The Gap, Inc., seeks final approval of: (1) the Amended Joint Stipulation of Class Action Settlement and
8 Release and Addendum, (2) settlement payments to Participating Class Members and the LWDA, and
9 (3) costs/expenses to the settlement administrator, CPT Group, Inc.

10 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
11 Points and Authorities in Support of Motion for Final Approval of Class Action Settlement; (3) the
12 separately filed Motion for Attorneys' Fees, Costs and Expenses, and a Class Representative
13 Enhancement Payment; (4) the Declaration of Raul Perez; (5) the Declaration of Bryan Valdez on behalf
14 of CPT Group, Inc., the settlement administrator; (6) the [Proposed] Order Granting Final Approval of
15 Class Action Settlement; (7) the [Proposed] Judgment; (8) the records, pleadings, and papers filed in this
16 action; and (9) upon such other documentary and/or oral evidence as may be presented to the Court at the
17 hearing.

18
19 Dated: February 2, 2021

Respectfully submitted,

CAPSTONE LAW APC

20
21 By: _____

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Trisha K. Monesi

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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: February 24, 2021
Time: 10:30 a.m.
Place: Department 613

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I. INTRODUCTION

On October 27, 2020, this Court granted preliminary approval of the Amended Joint Stipulation of Class Action Settlement and Release and Addendum¹ and approved distribution of the Notice of Class Action Settlement to all Class Members. Class Members were given 60 days to opt out or object to the Settlement (“Response Deadline”). Now that the Response Deadline has passed, Plaintiff Cameron Young is pleased to report that to date: (1) no Class Members have opted out of the Settlement Class; (2) no Class Members have objected to the Settlement; (3) the **entire Net Settlement Amount will be disbursed to all 6,946 Participating Class Members**; (4) the average payment to Participating Class Members from the Net Settlement Amount is approximately \$195 and the highest is approximately \$2,245. (Declaration of Bryan Valdez [“Valdez Decl.”] ¶¶ 6-10.)

Plaintiff now moves for final approval of the class action settlement. This motion is unopposed by Defendant The Gap, Inc. (collectively with Plaintiff, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a Settlement Class defined as: All current and former non-exempt employees who worked for Defendant in its Fresno, California Distribution Center at any time from July 30, 2014 to October 27, 2020 (“Class Members”).
- (2) A **non-reversionary** Class Settlement Amount of \$2,250,000. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which will not be paid from the Class Settlement Amount. The Class Settlement Amount includes:
 - (a) A Net Settlement Amount of \$1,356,645 (the Class Settlement Amount minus the requested Attorneys’ Fees and Costs, Settlement Administration Costs, the payment to the California Labor and Workforce Development Agency [“LWDA”], and the Class Representative Enhancement Payment), which will be allocated to all Class Members on a pro-rata basis according to the number of

¹ Collectively, the “Settlement” or “Settlement Agreement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement.

1 weeks each Class Member worked during the Class Period. **The Entire Net**
2 **Settlement Amount will be paid to all Class Members who do not opt out of**
3 **the Settlement Class, and without the need to submit claims for payment.**

- 4 (b) Attorneys' fees in the amount of one-third of the Class Settlement Amount (or
5 \$750,000), and litigation costs and expenses of \$26,855, to Capstone Law APC
6 ("Plaintiff's Counsel").
- 7 (c) Settlement administration costs of \$31,500, to be paid to the Court-appointed
8 Settlement Administrator, CPT Group Inc. ("CPT").
- 9 (d) A \$75,000 payment to the LWDA pursuant to the Labor Code Private Attorneys
10 General Act of 2004 ("PAGA").
- 11 (e) A Class Representative Enhancement Payment of \$10,000 to Cameron Young
12 for his service on behalf of the Settlement Class.

13 An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement
14 Class' behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm's
15 length with helpful guidance from Mr. Michael Dickstein, an experienced and well-respected class
16 action mediator, and the Settlement confers substantial benefits to Class Members. This relief—
17 averaging approximately \$195 per Class Member—is particularly impressive when viewed against the
18 difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover, by settling now rather
19 than proceeding to trial, Class Members will not have to wait (possibly years) for relief, nor will they
20 have to bear the risk of class certification being denied or of Defendant prevailing at trial.

21 Accordingly, given the Settlement's favorable terms, the Court's previous findings concerning
22 the Settlement's fairness and reasonableness, and the complete absence of objection to the Settlement,
23 Plaintiff respectfully requests that the Court: (1) grant this Motion for Final Approval of the Settlement
24 Agreement; (2) grant final approval of the settlement administration costs/expenses; (3) enter judgment
25 pursuant to the Settlement Agreement; and (4) retain jurisdiction to enforce the Settlement.

26 **II. FACTS AND PROCEDURE**

27 **A. Brief Overview of the Litigation**

28 The Gap, Inc., commonly known as Gap Inc. or Gap is an American worldwide clothing and

1 accessories retailer. GAP employed Plaintiff Young as a non-exempt, hourly-paid Merchandise Handler
2 from approximately July 2016 to April 6, 2018 in its Fresno, California distribution center.

3 Plaintiff Young filed the original class action complaint on July 30, 2018 in San Francisco
4 County Superior Court, and filed a First Amended Complaint on September 14, 2019. Plaintiff Young
5 filed a Second Amended Complaint on November 7, 2018 adding PAGA claims to the existing class
6 action claims. After Defendant filed a demurrer and motion to strike challenging Plaintiff Young's
7 standing to bring claims on behalf of retail employees (because Plaintiff Young worked in the
8 distribution center), the court granted Defendant's demurrer with leave to amend; Plaintiff then filed a
9 Third Amended Complaint on April 15, 2019 adding claims by Plaintiff Bolds (a former retail
10 employee). (Declaration of Raul Perez ["Perez Decl."] ¶ 2.)

11 Plaintiff Bolds has since settled her individual claims with the GAP, and has agreed to no longer
12 serve as a putative class representative. (Perez Decl. ¶ 3.)

13 **B. Plaintiff's Counsel Conducted a Thorough Investigation of the Factual and Legal**
14 **Issues and Were Thus Able to Objectively Assess the Settlement's Reasonableness**

15 Plaintiff's Counsel conducted a thorough investigation into the factual and legal issues implicated by
16 Plaintiff's claims, and were able to objectively assess the settlement's reasonableness. For example, prior to
17 filing the action, Mr. Young contacted Plaintiff's Counsel to discuss the factual bases for pursuing an action
18 against GAP for Labor Code violations. Mr. Young was intimately familiar with GAP's labor policies and
19 practices, and over the course of multiple interviews, knowledgeably summarized those policies and
20 practices to Plaintiff's Counsel. During those conversations, he explained how the policies and practices
21 were instituted, and provided valuable insight into how they gave rise to the alleged Labor Code violations.
22 Based on these interviews with Mr. Young, Plaintiff's Counsel determined that there were legally sufficient
23 grounds for pursuing an action against GAP. (Perez Decl. ¶ 4.)

24 Plaintiff's Counsel also prepared a detailed letter (eleven pages, single-spaced) to notify the
25 California Labor and Workforce Development Agency ("LWDA") of Mr. Young's intent to seek civil
26 penalties and other available relief recoverable under PAGA for Labor Code violations. Significant research
27 and effort were expended to prepare a PAGA notice that was consistent with the developing legal
28 requirements so as to withstand any challenge from GAP regarding the notice's sufficiency. (Perez Decl. ¶

1 5.)

2 Plaintiff's Counsel conducted their own preliminary investigation into the factual bases for
3 Plaintiff's claims, which entailed, *inter alia*, a careful examination of Plaintiff's personnel file and associated
4 records. For example, Plaintiff's Counsel reviewed over 180 pages of Plaintiff's personnel file, which
5 consisted of employment agreements, earnings statements, time records, and correspondence with
6 management. Additionally, Plaintiff's Counsel's investigator interviewed several dozen Class Members
7 about their experiences. (Perez Decl. ¶ 6.)

8 Plaintiff's Counsel also received and reviewed several hundred pages of GAP's written labor
9 policies and procedures manuals, including its "Employee Policy Guide," "U.S. Employee Policy
10 Guide," and "Code of Business Conduct." These policies and procedures manuals covered a broad range
11 of topics including, *inter alia*, the GAP's operational guidelines, timekeeping procedures, employee
12 check-in procedures, attendance policies, meal and rest period policies, overtime & premium pay
13 policies, off-the-clock prohibitions, security policies, etc. Based on their review of GAP's labor policies
14 and procedures, Plaintiff's Counsel determined that GAP's labor policies applied equally to all distribution
15 center employees. (Perez Decl. ¶ 7.)

16 Plaintiff's Counsel separately reviewed a sample of 320 Class Members' time and payroll data,
17 and retained an expert, Dr. Robert Fountain, Ph.D., to analyze the sample so as to assist Plaintiff's Counsel
18 in developing a realistic analysis of GAP's exposure for certain of the claims at issue. The sample contained
19 over 47,200 separate punch entries, with each entry containing (among other items of information)
20 employee numbers, pay period dates, job titles, earning codes, hours worked, and total earnings. (Perez Decl.
21 ¶ 8.)

22 In preparation for mediation, and for purposes of obtaining a better understanding of comparable
23 settlements, Plaintiff's Counsel researched similar wage and hour class settlements as to the claims
24 brought, the nature of the positions, and the type of employer. This review included previous wage and
25 hour settlements involving the GAP, such as *Harmon v. The GAP, Inc.*, No. RIC1206120 (Riverside
26 County Superior Court) and *Best v. The GAP, Inc.*, No. BC717340 (Los Angeles County Superior
27 Court), and comparable wage and hour settlements against similar retail store companies, like *Wells v.*
28 *Old Navy, LLC*, No. BC491953 (Los Angeles County Superior Court). (Perez Decl. ¶ 9.)

1 Based on this investigation, Plaintiff's Counsel believe the settlement to be in the best interests of
2 Class Members considering all known facts and circumstances, including the risk of significant delay, the
3 uncertainty associated with litigation, and the various defenses asserted by GAP. Because the Settlement's
4 terms are fair, reasonable, and adequate, the Court should grant final approval of the Settlement. (Perez Decl.
5 ¶ 10.)

6 **C. The Parties Settled After Mediation**

7 On September 19, 2019, the Parties participated in full-day mediation with Mr. Michael
8 Dickstein, an experienced mediator of wage and hour class actions. Mr. Dickstein helped to manage the
9 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. With
10 Mr. Dickstein's guidance, the Parties were eventually able to negotiate a complete settlement of
11 Plaintiff's claims. The terms of the settlement are now set forth in complete and final form in the
12 Amended Joint Stipulation of Class Action Settlement and Release and Addendum. (Perez Decl. ¶ 10.)
13 At all times, the Parties' negotiations were adversarial and non-collusive. The Settlement therefore
14 constitutes a fair, adequate, and reasonable compromise of the claims at issue.

15 **D. The Proposed Settlement Fully Resolves Plaintiff's Claims**

16 **1. Composition of the Settlement Class**

17 The proposed Settlement Class consists of all current and former non-exempt employees who
18 worked for Defendant in its Fresno, California Distribution Center at any time from July 30, 2014 to
19 October 27, 2020. (Settlement Agreement ¶ 5.)

20 **2. Settlement Consideration**

21 Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for the
22 Class Settlement Amount of \$2,250,000. The Class Settlement Amount includes: (1) automatic
23 payments to all Participating Class Members—meaning, all Class Members except those who submit
24 timely and valid Requests for Exclusion—from the Net Settlement Amount; (2) \$750,000 in attorneys'
25 fees (i.e., one-third of the common fund) and \$26,855 in litigation costs to Plaintiff's Counsel; (3)
26 Settlement Administration Costs of approximately \$31,500; (4) a \$75,000 payment to the LWDA; and
27 (5) a Class Representative Enhancement Payment of \$10,000 for Plaintiff's service on behalf of the
28 Settlement Class, the risks he took in bringing his class claims and for release of all claims arising out of

his employment with Defendant. (Settlement Agreement ¶¶ 2, 7-8, 13, 25.)

Subject to the Court approving Attorneys' Fees and Costs, Settlement Administration Costs, the payment to the LWDA, and the Class Representative Enhancement Payment, the Net Settlement Amount will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 14.)

3. Formula for Calculating Payments from the Net Settlement Amount

Each Class Member's share of the Net Settlement Amount will be proportional to the number of weeks he or she worked during the Class Period. (Settlement Agreement ¶ 34.) The Settlement Administrator will calculate Individual Settlement Payments as follows:

- Defendant will calculate the total number of Workweeks worked by each Class Member during the Class Period and the aggregate total number of Workweeks worked by all Class Members during the Class Period.
- To determine each Class Member's estimated "Individual Settlement Payment," the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Workweeks, resulting in the "Workweek Value." Each Class Member's "Individual Settlement Payment" will be calculated by multiplying each individual Class Member's total number of Workweeks by the Workweek Value.
- The Individual Settlement Payment will be reduced by any required deductions for each Participating Class Members as specifically set forth herein, including employee-side tax withholdings or deductions.
- The entire Net Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Payment for each Participating Class Member according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Amount.

(Settlement Agreement ¶ 34(a)-(d).)

4. Release by the Settlement Class

In exchange for the Class Settlement Amount, Plaintiff and Participating Class Members will

1 agree to release the Released Claims during the Class Period:

2 All claims, demands, rights, liabilities, and causes of action arising out of,
3 relating to, or based on any facts, transactions, events, policies, occurrences, acts,
4 disclosures, statements, omissions, or failures to act that were or could have been
5 pleaded in the operative complaint against The Gap, Inc. through October 27,
6 2020, including but not limited to claims related to unpaid wages and overtime
7 compensation, meal and rest break violations, untimely final paychecks,
8 inaccurate itemized wage statements, failure to maintain payroll records,
9 unreimbursed business expenses, and unfair and unlawful business practices, and
10 for civil penalties under the Private Attorney General Act related to the claims
11 above (“Released Claims”). Specifically excluded from the Released Claims are
12 any claims, rights, demands, or benefits which cannot be released as a matter of
13 law.

14 (Settlement Agreement ¶ 21.)

15 **E. The Notice and Settlement Administration Processes Were Completed Pursuant to**
16 **the Court’s Order**

17 As authorized by the Court’s Order preliminarily approving the Settlement Agreement, the
18 Parties engaged CPT to provide settlement administration services. (Valdez Decl. ¶ 2.) CPT’s duties
19 have, and if the Court enters the final approval order, will include: (1) printing and mailing the Notice of
20 Class Action Settlement (“Notice”); (2) receiving and processing undeliverable Notices and locating
21 updated addresses for Class Members; (3) receiving and validating Requests for Exclusion; (4)
22 calculating and distributing the Class Settlement Amount; (5) tax reporting; (6) providing necessary
23 reports and declarations; and (7) performing such other tasks as set forth in the Settlement Agreement or
24 as the Parties mutually agree or that the Court orders. (*Id.*)

25 On October 27, 2020, CPT received the Class Notice prepared jointly by Plaintiff’s Counsel and
26 counsel for Defendant and approved by the Court. (Valdez Decl. ¶ 3.) The Class Notice summarized the
27 Settlement’s principal terms, provided Class Members with an estimate of how much they would be paid
28 if the Settlement received final approval, and advised Class Members about how to opt out of the
Settlement and how to object. (*Id.*)

Separately, counsel for Defendant provided CPT with a mailing list (the “Class List”), which
included each Class Member’s full name, last known address, Social Security Numbers, and information
necessary to calculate payments. (Valdez Decl. ¶ 3.) The mailing addresses contained in the Class List
were processed and updated using the National Change of Address Database maintained by the U.S.

1 Postal Service. (*Id.* at ¶ 4.) On December 10, 2020, CPT mailed Class Notices to Class Members via
2 First-Class U.S. mail. (*Id.*) Class Members were given 60 days to opt out or object to the Settlement.
3 Plaintiff is pleased to report that, to date, no Class Members have opted out or objected to the Settlement.
4 (*Id.* at ¶¶ 6-7.)

5 **III. ARGUMENT**

6 **A. The Court Should Grant Final Approval of the Proposed Class Action Settlement.**

7 **1. Courts Review Class Action Settlements to Ensure that the Terms Are** 8 **Fair, Adequate, and Reasonable**

9 “Public policy generally favors the compromise of complex class action litigation.” *Cellphone*
10 *Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2009), *see also 7-Eleven Owners for Fair*
11 *Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and
12 settlement are the preferred means of dispute resolution . . . [t]his is especially true in complex class
13 action litigation . . .”).

14 Class action settlement approval occurs in two steps: (1) an early (preliminary) review by the
15 trial court, and (2) a subsequent (final) review after notice has been distributed to Class Members for
16 their comments and/or objections. Cal. R. Ct. 3.769. The Court granted preliminary approval on October
17 27, 2020. Plaintiff now seeks final approval.

18 “[T]he trial court has broad powers to determine whether a proposed settlement in a class action
19 is fair.” *Mallick v. Super. Ct.*, 89 Cal. App. 3d 434, 438 (1979). Fairness is presumed when: (1) the
20 settlement is reached through arm’s-length bargaining, (2) investigation and discovery are sufficient to
21 allow counsel and the court to act intelligently, (3) counsel is experienced in similar litigation, and (4) the
22 percentage of objectors is low. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996); *see also*
23 *Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 581 (2010). “Where the settlement terms are fair and
24 reasonable, the settlement is presumptively valid, subject only to objections that may be raised at a final
25 hearing.” Conte & Newberg, *Newberg on Class Actions* § 11.26 (4th ed. 2002) (Newberg).

26 By granting preliminary approval, this Court has already determined that the Settlement
27 Agreement is fair and reasonable, subject to objections. With no objections to the Settlement, the Court’s
28 preliminary assessment has been separately endorsed by the Settlement Class. Accordingly, this Court

1 should grant final approval.

2 **2. Plaintiff's Counsel Conducted a Thorough Investigation of the Factual and**
3 **Legal Issues and Were Thus Able to Objectively Assess the Settlement's**
4 **Reasonableness**

5 As set forth in greater detail above, based on their analysis of documents and class data produced
6 by Defendant (including a sample of time and pay records and Defendant's written labor policies and
7 procedures), Plaintiff's Counsel were able to realistically assess the value of Plaintiff's claims and
8 intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement
9 now before the Court. (Perez Decl. ¶¶ 4-7.)

10 By engaging in a thorough investigation and evaluation of Plaintiff's claims, Plaintiff's Counsel
11 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
12 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
13 known facts and circumstances, including the risk of significant delay and uncertainty associated with
14 litigation, various defenses asserted by Defendant. (Perez Decl. ¶ 8.)

15 **3. The Settlement Was Reached Through Arm's-Length Bargaining in**
16 **Which All Parties Were Represented by Experienced Counsel**

17 "[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
18 settlement's fairness." *State v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). Courts presume the
19 absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered;
20 thus, there is a presumption that settlement negotiations are conducted in good faith. Newberg, § 11.51.

21 As explained above, the Parties participated in a mediation with Mr. Michael Dickstein, an
22 experienced mediator of wage and hour class actions. Mr. Dickstein helped manage the Parties'
23 expectations and provided a useful, neutral analysis of the issues and risks to both sides. *See In re*
24 *Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence of a neutral
25 mediator is a factor weighing in favor of finding of no collusion); *In re Apple Computer, Inc. Derivative*
26 *Litig.*, No. C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's
27 participation weighs considerably against any inference of a collusive settlement); *D'Amato v. Deutsche*
28 *Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a "mediator's involvement in pre-certification settlement

1 negotiations helps to ensure that the proceedings were free of collusion and undue pressure.”); *Villegas v.*
2 *J.P. Morgan Chase & Co.*, No. 09–00261, 2012 WL 5878390, at *6 (N.D. Cal. Nov.21, 2012)
3 (participation in mediation “tends to support the conclusion that the settlement process was not
4 collusive”); *Ogbuehi v. Comcast of California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D.
5 Cal. 2014) (participation in mediation “tends to support the conclusion that the settlement process was
6 not collusive”). At all times, the Parties’ negotiations were adversarial and non-collusive. (Perez Decl. ¶
7 9.)

8 The Parties were represented by experienced class action counsel throughout the negotiations
9 resulting in this Settlement. Plaintiff is represented by Capstone Law APC. Plaintiff’s Counsel employ
10 seasoned class action attorneys who regularly litigate wage and hour claims through certification and on
11 the merits, and have considerable experience settling wage and hour class actions. (Perez Decl. ¶¶ 12-14,
12 Ex. 1.)

13 Defendant is represented by Orrick, Herrington Sutcliffe LLP, a respected defense firm.

14 **4. The Proposed Settlement Is Reasonable Given the Strengths of Plaintiff’s**
15 **Claims and the Risks and Expense of Continued Litigation**

16 In seeking approval, a settling party must provide sufficient information to “enable the court to
17 make an independent assessment of the adequacy of the settlement terms.” *Kullar v. Foot Locker Retail,*
18 *Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). However, “[i]t is well-settled law that a cash settlement
19 amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or
20 unfair.” *See Officers for Justice v. Civil Serv. Comm’n of City & Cty. of San Francisco*, 688 F.2d 615,
21 628 (9th Cir. 1982). “The proposed settlement is not to be judged against a hypothetical or speculative
22 measure of what might have been achieved by the negotiators.” *Id.* at 625. “Estimates of a fair
23 settlement figure are tempered by factors such as the risk of losing at trial, the expense of litigating the
24 case, and the expected delay in recovery (often measured in years).” *In re Toys R Us-Delaware, Inc.--*
25 *Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In
26 other words, in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should
27 discount the value of the settled claims for risks such as changes in the law, the probability of success,
28

and other factors.²

Settling parties are not, however, required to partake in a hypothetical accounting exercise: “**Kullar does not ... require any such explicit statement of [maximum] value**; it requires a record which allows ‘an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.’” *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, “the most important factor” in determining “whether a settlement is fair and reasonable” is the “strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement.” *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Maximum Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendant’s Exposure for the Class Claims	
Off-the-Clock	\$22,173.00
Overtime	\$3,250,213.00
Meal Period	\$2,565,990.00
Rest Period	\$3,848,985.00
Expense Reimbursement	\$8,596.00
Wage Statement	\$888,000.00
Waiting Time	\$1,151,280.00
Total	\$11,735,237.00

(See Supplemental Memorandum of Points and Authorities in Support of Motion for Preliminary Approval of Class Action Settlement (filed on June 1, 2020) and Supplemental Memorandum of Points

² Federal district courts also recognize that there is an inherent “range of reasonableness” in determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *Id.* at 188, quoting *Newman v. Stein*, 464 F. 2d 689, 693 (2d Cir.). See *In re Omnivision Tech., Inc.*, 559 F. Supp. 2d 1036 (N.D. Cal. 2008); see also *Nat’l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (“well settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 460 (S.D.N.Y. 2004) (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration when assessing settlement’s fairness”); *In re IKON Office Solutions, Inc. Sec. Litig.*, 194 F.R.D. 166, 184 (E.D. Pa. 2000) (“the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for Justice v. Civil Serv. Comm.*, 688 F. 2d 615, 628 (C.A. Cal. 1982) (it is “the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness”).

1 and Authorities in Support of Motion for Preliminary Approval of Class Action Settlement (filed On
2 July 23, 2020, for a more detailed analysis of the value of Plaintiff's claims the claims and Defendant's
3 responses thereto.)

4 This estimate assumes that each and every one of Plaintiff's claims would have been certified for
5 class-wide resolution, that Plaintiff would have prevailed at trial, and that the jury's verdict would have
6 been affirmed on appeal. In other words, this estimate assumes complete and total victory.

7 Understandably, for purposes of evaluating the settlement's reasonable, this estimate must be "tempered
8 by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in
9 recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit*
10 *Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

11 Ultimately, Plaintiff's Counsel determined an appropriate range of recovery for settlement
12 purposes by offsetting Defendants' maximum theoretical liability by: (i) the strength of the defenses to
13 the merits of Plaintiff's claims; (ii) the risk of class certification being denied; (iii) the risk of losing on
14 any of a number of dispositive motions that could have been brought between certification and trial (e.g.,
15 motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have
16 eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv)
17 the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the
18 difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

19 After taking into account the Discount Factors, Plaintiff's Counsel determined that it would be
20 reasonable to settle for a fraction of Defendants' maximum potential exposure for the class claims
21 (PAGA discussed in the following section), or approximately 20%, which is essentially the product of
22 the probability of: (i) certification being granted on **all claims** ($\approx 60\%$); (ii) prevailing on summary
23 judgment/motions in limine/renewed motions to deny certification on **all claims** ($\approx 60\%$); (iii) prevailing
24 at trial on **all of Plaintiff's claims** ($\approx 55\%$); i.e., $60\% \times 60\% \times 55\%$.

25 Such a discount is inherently reasonable given that Plaintiff would have had to overcome
26 **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of
27 the above contingencies is generous to the class' position, since plaintiffs in employment cases rarely
28 prevail on **all of the claims** at any of these dispositive stages. Courts routinely approve settlements that

1 provide a similar discounted range of the maximum potential recovery. *See, e.g., In re Warfarin Sodium*
2 *Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount
3 can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.*, 472 F. Supp.
4 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were
5 approved); *In Re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla. 1972) (approving 8% of
6 damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21,
7 2014) (finding that settlement which amounted to 8% of maximum recovery “[fell] within the range of
8 possible initial approval based on the strength of plaintiff’s case and the risk and expense of continued
9 litigation.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving
10 settlement of 6% to 8% of estimated damages).³

11 5. The Settlement Class Has Responded Positively to the Settlement

12 In evaluating the fairness of a Settlement, the “absence of a large number of objections to a
13 proposed class action settlement raises a strong presumption that the terms of a proposed class settlement
14 action are favorable to the class members.” *National Rural Tele. Coop. v. DIRECTV, Inc.*, 221 F.R.D.
15 523, 529 (C.D. Cal. 2004). Here, no Class Members have opted out or objected to the Settlement to date.
16 (Valdez Decl. ¶¶ 6-7.) The Class’s response is “overwhelmingly positive,” supporting approval of the
17 Settlement. *See 7-Eleven Owners for Fair Franchising*, 85 Cal. App. 4th at 1152-53 (finding support for
18 the settlement where 80 out of 5,454 class members elected to opt out and nine class members objected);
19 *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010) (finding 0 objections and

20 ³ *See also In re Uber FCRA Litig.*, No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at
21 *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross
22 settlement fund, prior to deducting attorneys’ fees and services awards, was valued at 7.5% or less of
23 total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS
24 140759, at *21 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement
25 representing “8.1% of the full verdict value” with net settlement amount representing approximately
26 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL
27 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to
28 Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-
DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross
settlement amount represented 8.6% of the maximum potential recovery from the class claims and
estimated amount distributable to class after accounting for attorneys’ fees and other deductions
represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-
cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where
“[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee
and costs—even before any reduction thereof for attorney’s fees and costs.”).

16 opt-outs out of 329 class members [4.86%] “strongly support[] settlement”); *Garner v. State Farm Mut. Auto. Ins. Co.*, No. CV 08 1365 CW EMC, 2010 WL 1687832, at *15 (N.D. Cal. Apr. 22, 2010) (finding an opt-out rate of 0.4% supported settlement). In other words, “[t]he fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998).

The average settlement payment from the Net Settlement Amount is approximately \$195 and the highest is approximately \$2,245. (Valdez Decl. ¶ 10.) This average net recovery is significantly higher than many wage and hour class action settlements approved by California state and federal courts. *See, e.g., Badami v. Grassroots Campaigns, Inc.*, Case No. C 07-03465 JSW (N.D. Cal. Sept. 15, 2008) (average net recovery of approximately \$195); *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County Super. Ct.) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal.) (average net recovery of approximately \$60); *Lim v. Victoria’s Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately \$35); and *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately \$20).

B. The Court Should Approve the PAGA Settlement

Pursuant to the Settlement Agreement, \$100,000 from the Class Settlement Amount shall be allocated to the resolution of the PAGA claim, of which 75% (\$75,000) will be paid directly to the LWDA, and the remaining 25% (\$25,000) will be paid to Participating Class Members. (Settlement Agreement ¶ 13.)

The PAGA claim was valued as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff determined that aggrieved employees worked a combined total of approximately 90,640 pay periods during the PAGA statute of limitations period (“PAGA Period”).

1 Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged
2 violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for
3 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
4 aggrieved employee per pay period for each subsequent violation.

5 However, some courts have interpreted Labor Code section 2699(f)(2) to impose the enhanced
6 “subsequent violation penalty” or “heightened penalty” only after an employer has been notified that its
7 conduct violates the Labor Code. *See Trang v. Turbine Engine Components Technologies Corp.*, No.
8 CV 12–07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal. Dec. 19, 2012) (“courts have held that
9 employers are not subject to heightened penalties for subsequent violations unless and until a court or
10 commissioner notifies the employer that it is in violation of the Labor Code”); *Amalgamated Transit*
11 *Union Local 1309, AFL-CIO v. Laidlaw Transit Services, Inc.*, No. 05cv1199–IEG–CAB, 2009 WL
12 2448430 (S.D. Cal. 2009) (finding that California law imposes the “subsequent violation penalty” only
13 after an employer has been notified its conduct violates the Labor Code). While Plaintiff regards this
14 interpretation as flawed, he nonetheless recognizes that this interpretation has gained traction with some
15 courts. Thus, if Plaintiff were not awarded “subsequently” penalties and only “initial” penalties for all
16 violations, Defendant's exposure would be approximately \$9 million = 90,640 violative pay periods ×
17 \$100.

18 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
19 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
20 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
21 reducing PAGA penalties, courts have considered issues including whether the employees suffered
22 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
23 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
24 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
25 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPx) (OPX), 2011
26 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

27 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
28 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—

1 **or 0.21% of the maximum**—and stated that this reduction was warranted because imposing the
2 maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith
3 attempts” to comply with meal period obligations and because the court found the violations were
4 minimal. *Carrington*, 30 Cal. App. 5th at 517. The Court of Appeal affirmed the lower court’s reduced
5 award of a \$150,000 penalty under PAGA. *Id.* at 529.

6 Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding
7 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also*
8 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction
9 under specified PAGA claim where the employer produced evidence that it took its obligations
10 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May
11 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,
12 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*
13 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15,
14 2012) (denying PAGA penalties for violation of California Labor Code § 226 as redundant with
15 recovery on a class basis pursuant to California Labor Code § 226, directly); *Aguirre v. Genesis*
16 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013)
17 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000.00, after rejecting numerous
18 other PAGA claims).

19 Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a
20 percentage of the settlement range that was consistent with other hybrid class/PAGA settlements
21 approved by California courts.⁴ Where PAGA penalties are negotiated in good faith and “there is no
22

23 ⁴ *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal.
24 June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties
25 with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012
26 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000
27 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP,
28 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000
PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC
10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement
fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties);
Parra v. Aero Port Services, Inc., No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane
Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated

1 indication that [the] amount was the result of self-interest at the expense of other Class Members,” such
2 amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, Case No. 08-00844, 2009
3 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal.
4 App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which
5 does not allocate any damages to the PAGA claims.”).

6 **C. The Requested Payment to the Settlement Administrator Is Reasonable and**
7 **Should Receive Final Approval**

8 Plaintiff requests final approval of settlement administration costs in the amount of \$31,500.
9 (Valdez Decl. ¶ 11.) CPT has promptly and properly distributed the Class Notice to all Class Members
10 and completed its duties in accordance with the settlement terms and the Court’s preliminary approval
11 Order. (*See generally* Valdez Decl.) Accordingly, the \$31,500 payment is fair and reasonable and
12 should be accorded final approval along with the rest of the Settlement terms.

13 **IV. CONCLUSION**

14 The Parties have negotiated a fair Settlement of the wage and hour claims that likely would not
15 have been brought, let alone successfully resolved, but for the effort and resolve of the Plaintiff and his
16 counsel. The Class Members’ positive response indicates that the Settlement is fair and reasonable.
17 Accordingly, Plaintiff respectfully requests that this Court grant final approval of the Settlement
18 Agreement and enter judgment.

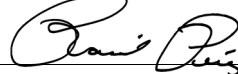
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24 to the settlement of PAGA penalties); *Thompson v. Smart & Final, Inc.*, No. BC497198 (L.A. County
25 Super. Ct. Nov. 18, 2014; Judge William F. Highberger) (gross settlement fund of \$3,095,000, of which
approximately \$13,333 (or 0.4%) was allocated to the settlement of PAGA penalties); *Chavez v. Vallarta*
26 *Food Enterprises, Inc.*, No. BC490630 (L.A. County Super. Ct. Nov. 10, 2014; Judge William F.
Highberger) (gross settlement fund of \$1,545,900, of which \$10,000 (or 0.6%) was allocated to the
27 settlement of PAGA penalties); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County
Super. Ct. Oct. 3, 2013; Judge Kenneth R. Freeman) (gross settlement fund of \$1,535,000, of which
28 \$1,000 (or 0.1%) was allocated to the settlement of PAGA penalties).

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Dated: February 3, 2021

Respectfully submitted,

CAPSTONE LAW APC

By: 

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Bevin Pike
Orlando Villalba
Trisha K. Monesi

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN FRANCISCO

11 CAMERON YOUNG and KEANA BOLDS,
12 individually, and on behalf of other members of
the general public similarly situated and as
13 aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

14 Plaintiffs,

15 vs.

16 THE GAP, INC., a Delaware Corporation; and
DOES 1 through 10, inclusive,

17 Defendants.
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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: February 24, 2021
Time: 10:30 a.m.
Place: Department 613

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1 determined that there were legally sufficient grounds for pursuing an action against GAP.

2 5. Plaintiff's Counsel also prepared a detailed letter (eleven pages, single-spaced) to notify
3 the California Labor and Workforce Development Agency ("LWDA") of Mr. Young's intent to seek
4 civil penalties and other available relief recoverable under PAGA for Labor Code violations. Significant
5 research and effort were expended to prepare a PAGA notice that was consistent with the developing
6 legal requirements so as to withstand any challenge from GAP regarding the notice's sufficiency.

7 6. Plaintiff's Counsel conducted their own preliminary investigation into the factual bases
8 for Plaintiff's claims, which entailed, *inter alia*, a careful examination of Plaintiff's personnel file and
9 associated records. For example, Plaintiff's Counsel reviewed over 180 pages of Plaintiff's personnel
10 file, which consisted of employment agreements, earnings statements, time records, and correspondence
11 with management. Additionally, Plaintiff's Counsel's investigator interviewed several dozen Class
12 Members about their experiences.

13 7. Plaintiff's Counsel also received and reviewed several hundred pages of GAP's written
14 labor policies and procedures manuals, including its "Employee Policy Guide," "U.S. Employee Policy
15 Guide," and "Code of Business Conduct." These policies and procedures manuals covered a broad range
16 of topics including, *inter alia*, the GAP's operational guidelines, timekeeping procedures, employee
17 check-in procedures, attendance policies, meal and rest period policies, overtime & premium pay
18 policies, off-the-clock prohibitions, security policies, etc. Based on their review of GAP's labor policies
19 and procedures, Plaintiff's Counsel determined that GAP's labor policies applied equally to all distribution
20 center employees.

21 8. Plaintiff's Counsel separately reviewed a sample of 320 Class Members' time and
22 payroll data, and retained an expert, Dr. Robert Fountain, Ph.D., to analyze the sample so as to assist
23 Plaintiff's Counsel in developing a realistic analysis of GAP's exposure for certain of the claims at issue.
24 The sample contained over 47,200 separate punch entries, with each entry containing (among other items
25 of information) employee numbers, pay period dates, job titles, earning codes, hours worked, and total
26 earnings.

27 9. In preparation for mediation, and for purposes of obtaining a better understanding of
28 comparable settlements, Plaintiff's Counsel researched similar wage and hour class settlements as to the

1 claims brought, the nature of the positions, and the type of employer. This review included previous
2 wage and hour settlements involving the GAP, such as *Harmon v. The GAP, Inc.*, No. RIC1206120
3 (Riverside County Superior Court) and *Best v. The GAP, Inc.*, No. BC717340 (Los Angeles County
4 Superior Court), and comparable wage and hour settlements against similar retail store companies, like
5 *Wells v. Old Navy, LLC*, No. BC491953 (Los Angeles County Superior Court).

6 10. Based on this investigation, Plaintiff's Counsel believe the settlement to be in the best
7 interests of Class Members considering all known facts and circumstances, including the risk of
8 significant delay, the uncertainty associated with litigation, and the various defenses asserted by GAP.
9 Because the Settlement's terms are fair, reasonable, and adequate, the Court should grant final approval
10 of the Settlement.

11 THE PARTIES SETTLED AFTER MEDIATION

12 11. On September 19, 2019, the Parties participated in full-day mediation with Mr. Michael
13 Dickstein, an experienced mediator of wage and hour class actions. Mr. Dickstein helped to manage the
14 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. With
15 Mr. Dickstein's guidance, the Parties were eventually able to negotiate a complete settlement of
16 Plaintiff's claims. The terms of the settlement are now set forth in complete and final form in the
17 Amended Joint Stipulation of Class Action Settlement and Release and Addendum. At all times, the
18 Parties' negotiations were adversarial and non-collusive. The Settlement therefore constitutes a fair,
19 adequate, and reasonable compromise of the claims at issue.

20 CAPSTONE LAW APC FIRM PROFILE

21 12. Capstone is one of California's largest plaintiff-only labor and consumer law firms.
22 With over twenty-five seasoned attorneys, Capstone has the experience, resources, and expertise to
23 successfully prosecute complex employment and consumer actions.

24 13. Since its founding in 2012, Capstone has emerged as a major force in aggregate
25 litigation, making law on cutting-edge issues and obtaining over \$200 million in recovery for employees
26 and consumers. The firm's accomplishments include:

- 27 a. In February 2015, Ryan H. Wu and I were honored with the prestigious California
28 Lawyer of the Year (CLAY) award in labor and employment for our work in the

1 landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348
2 (2014), which preserved the right of California workers to bring representative
3 actions under the Labor Code Private Attorneys General Act (“PAGA”)
4 notwithstanding a representative action waiver in an arbitration agreement.

- 5 b. Recognized as a leading firm in the prosecution of PAGA enforcement actions,
6 Capstone is responsible for some of the most important decisions in this area. In
7 *Williams v. Superior Court (Marshalls of Calif.)*, 2017 WL 2980258, Capstone
8 attorneys achieved a landmark decision before the California Supreme Court as to
9 the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs.*
10 *Corp*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone
11 attorneys successfully argued that PAGA actions are state enforcement actions not
12 covered by the Class Action Fairness Act.

- 13 14. Attached as Exhibit 1 is a true and correct copy of Capstone’s firm resume.
14

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed this 2nd day of February, 2021, at Los Angeles, California.

17 
18 _____
19 Raul Perez
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Exhibit 1

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. With over twenty-five seasoned attorneys, many formerly with prominent class action or defense firms, Capstone has the experience, resources, and expertise to successfully prosecute complex employment and consumer actions.

Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over a hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshall's of CA LLC)*, 3 Cal.5th 531 (2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims



such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored *Defective Prosthetic Devices: Strict Tort Liability for the Hospital?* 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Robert Friedl. Robert Friedl is a senior counsel at Capstone, where he devotes most of his time to the briefing and litigation strategy of consumer protection cases. Mr. Friedl has over 20 years of experience representing plaintiffs and defendants in consumer class actions, insurance coverage and defense, employment law, and personal injury. His lengthy service as an appellate attorney has yielded several published cases, including successful outcomes in *Goldstein v. Ralphs*, 122 Cal. App. 4th 229 (2004), *Morgan v. AT&T*, 177 Cal. App. 4th 1235 (2009), and *Hecimovich v. Encinal School Parent Teacher Organization*, 203 Cal. App. 4th 450 (2012). At Capstone, Mr. Friedl was responsible for the appellate win in *Grant v. Unifund CCR, LLC*, 577 Fed. Appx. 693 (9th Cir. 2014).

Prior to joining Capstone, Mr. Friedl was a partner at civil litigation boutique, where he handled the firm's most complex briefing. He is a graduate of the University of Connecticut, and received his law degree from Southwestern School of Law, where he earned an American Jurisprudence Book Award.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Mark A. Ozzello. Mark A. Ozzello is a senior counsel with Capstone Law, where he leads the firm's consumer team. He is a nationally recognized and respected consumer and employment attorney who has litigated those issues throughout the country. He has always been at the forefront of consumer rights, sitting on the Board of Governors for the Consumer Attorneys of California and regularly appearing as a featured speaker on consumer rights issues nationwide.

Mr. Ozzello is a former partner of Arias Ozzello & Gignac and, most recently, was Of Counsel to Markun Zusman Freniere & Compton, LLP. In his capacity as a litigator, he has obtained results for his clients in excess of \$200 million dollars. Mark has also achieved consistent success in the California Courts of Appeal, and several judicial opinions regularly cite to his matters as authority for class certification issues. He has also argued appellate issues in several Circuit Courts of Appeals with great success. Mr. Ozzello attended Pepperdine University School of Law where he was an Editor to the Law Review, publishing several articles during his tenure in that capacity. He received his undergraduate degree from Georgetown University.

Mr. Ozzello has always strived to be an integral part of local communities. He has established educational scholarship programs at several charitable organizations, including El Centro De Amistad in Los Angeles and St. Bonaventure Indian Mission and School in Thoreau, New Mexico, and presides over a legal clinic in Los Angeles which provides pro bono legal assistance to non-English speaking individuals.

Bevin Allen Pike. Bevin Allen Pike is a senior counsel with Capstone Law where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Steven Weinmann. Steven Weinmann is a senior counsel with Capstone Law and leads the consumer rights team. His practice encompasses complex and class action litigation, including consumer product and services cases under California's Unfair Competition Law (UCL), data privacy breach cases, and a special emphasis on vehicle defect litigation. He has a background in securities litigation, antitrust, environmental law, and consumer class action cases.

Prior to joining Capstone, Steven's experience included litigating class actions on behalf of employees and consumers, in addition to representing individuals and small and large companies in various types of litigation, from business disputes to personal injury, financial fraud, construction defects, and products liability. Steven has been instrumental in achieving favorable results for numerous certified classes, including cases against Home Depot USA (for wage and hour and UCL claims); LegalZoom.com, Inc. (claims involving illegal practice of law); Wells Fargo Bank, N.A. (UCL, CLRA, federal Truth in Lending Act [TILA] claims). Steven briefed and help bring about numerous reported decisions including *Fraleigh v. Facebook*, 830 F.Supp.2d 785 (N.D. Cal. 2011) (defeating a motion to dismiss on claims involving the right to publicity); *Ceja v. Rudolph & Sletten*, 194 Cal.App.4th 584 (Sixth Appellate Div. 2011), affirmed, California Supreme Court, 56 Cal. 4th 1113 (2013) (confirming the test for determining putative spouse status is a subjective one). He also helped brief and obtained a decision favorable to plaintiffs in a seminal case under California's UCL, *McAdams v. Monier, Inc.*, 182 Cal.App.4th 174 (2010) (deciding only the named class representative needed to satisfy Proposition 64 standing requirements). He received his J.D. with distinction from the Hofstra University School of Law, where he was an associate editor on the Hofstra Law Review, and earned his undergraduate degree in English Literature and Political Science from Rutgers University.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as "Lemon Law." He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Brandon Brouillette. Brandon Brouillette is an associate with Capstone Law, where his practice focuses on representing employees and consumers in complex litigation, primarily wage-and-hour class actions and PAGA representative actions. Mr. Brouillette's entire legal career has been devoted to representing individual and class representative plaintiffs against large corporate entities. Prior to joining Capstone, he served as an associate at Boucher LLP where he managed the firm's wage-and-hour class actions. He earned his Juris Doctor from Loyola Law School, Los Angeles, where he spent a summer interning for the legal clearance and corporate legal departments at Warner Bros. He received his undergraduate degree from the University of Southern California, where he majored in Business Administration and spent a semester abroad in Budapest, Hungary. In 2016, Brandon was selected as one of Super Lawyers' "Rising Stars" in Southern California.

Joseph Hakakian. Joseph Hakakian is an associate with Capstone Law. His practice focuses on prosecuting wage-and-hour class and representative actions in state and federal court. Prior to joining Capstone Law, Mr. Hakakian served as a summer clerk for Mark Ozzello at Markun Zusman Freniere & Compton, LLP, working on various actions including wage-and-hour claims, unpaid overtime, false advertising, and unfair competition. He graduated from UCLA School of Law, with a business law specialization, where he served as a staff editor for the Journal of Environmental Law and Policy and worked as a law clerk with the Consumer Protection Division of the Los Angeles District Attorney's Office. Prior to attending law school, Mr. Hakakian received his undergraduate degree from University of California, Los Angeles, in 2013, where he graduated summa cum laude, Dean's Honor List, and College Honors, and received scholastic achievement awards from Golden Key Honor Society and Phi Alpha Theta Honor Society. Joseph is an active member of the Consumer Attorneys Association of Los Angeles (CAALA), Consumer Attorneys of California (CAOC), and Beverly Hills, Los Angeles County, and Santa Monica Bar Associations.

Michelle Kennedy. Michelle Kennedy is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as a contract attorney in the Utah Attorney General's Civil Litigation Division handling torts, civil rights, and employment law matters. She later founded her own firm handling business and intellectual property matters, where she settled a copyright infringement suit. Prior to moving to Southern California, Ms. Kennedy was recognized by Super Lawyers as a Mountain States Rising Star in 2017 and 2018. She also served as President of the Utah Minority Bar Association and as an Ex-Officio Member of the Utah State Bar Commission. Michelle graduated from the University of Utah S.J. Quinney College of Law in 2013, where she served as President of the Art Law Alliance and Vice President of the Minority Law Caucus. She earned her undergraduate degree from Brigham Young University in 2010, where she majored in Philosophy. Ms. Kennedy is an active member of the Consumer Attorneys Association of Los Angeles (CAALA) and the Los Angeles County Bar Association. Michelle is admitted to practice law in Utah and California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. He graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American

Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Cody Padgett. An associate with Capstone, Cody Padgett's practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. He handles consumer cases at all stages of litigation, and has contributed to major settlements of automobile defect actions valued in the tens of millions. Prior to joining Capstone Law, Mr. Padgett was a certified legal intern with the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*.

Julian Quattlebaum. Julian Quattlebaum is an associate with Capstone. His practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. He began his career at an entertainment law firm, handling intellectual property matters, copyright infringement disputes, and contract litigation. During his time at the firm, he authored an amicus brief that was quoted in oral argument before the Ninth Circuit Court of Appeals during en banc review. Later, he helped author an appellate brief regarding the rights to the storyline of a successful Disney film franchise. Mr. Quattlebaum graduated from Emory University School of Law in 2019. While there, he was a member of the Moot Court Society, representing the school at the NYU Immigration Law competition in his second year, and the National Competition in his third year. He was given the Society's Award for Excellence in Oral Advocacy and was inducted into the Order of Emory Advocates. He earned his undergraduate degree from the University of Colorado Boulder in 2015, where he majored in Evolutionary Biology.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Cameron Young

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN FRANCISCO

11 CAMERON YOUNG and KEANA BOLDS,
12 individually, and on behalf of other members of
the general public similarly situated and as
13 aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

14 Plaintiffs,

15 vs.

16 THE GAP, INC., a Delaware Corporation; and
DOES 1 through 10, inclusive,

17 Defendants.
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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

**DECLARATION OF BRYAN VALDEZ ON
BEHALF OF CPT THE SETTLEMENT
ADMINISTRATOR**

Date: February 24, 2021
Time: 10:30 a.m.
Place: Department 613

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February 2, 2021.

6. CPT has received no valid Requests for Exclusion.

7. CPT has received no objections to the settlement.

8. CPT has received no disputes.

9. A total of 6,946 Class Members will be paid their portion of the Net Settlement Amount.

Each Class Member's share of the Net Settlement Amount will be proportional to the number of Workweeks he or she worked during the Class Period. According to Defendant's records, Class Members in aggregate worked a total of 196,903 Workweeks during the Class Period. Each Workweek is accordingly valued at \$6.89.

10. The average estimated payment is approximately \$195.31, and the highest is approximately \$2,246.10.

11. CPT's costs in connection with the administration of this Settlement are \$31,500.

12. Attached as Exhibit A is a true and correct copy of the Notice of Class Action Settlement template that CPT mailed to all Class Members. Attached as Exhibit B is a true and correct copy of CPT's invoice for settlement administration costs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 3rd day of February, 2021, at Irvine, California.



Bryan Valdez

Exhibit A

Cameron Young v. The Gap, Inc., No. CGC-18-568507
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN FRANCISCO
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All current and former non-exempt employees who worked for The Gap, Inc. (“Defendant”) in its Fresno, California Distribution Center at any time from July 30, 2014 to October 27, 2020.

On October 27, 2020, the Honorable Andrew Y.S. Cheng of the San Francisco County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below under Option Two, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 10:30 a.m. on February 24, 2021 in Department 613 of the San Francisco County Superior Court located at 400 McAllister Street, San Francisco, California 94102. You are not required to attend the Hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiff Cameron Young, on his behalf and on behalf of other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) provide employees with accurate, itemized wage statements; and (5) reimburse for necessary business expenses.

After the exchange of relevant information and evidence, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class for settlement purposes only, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the law applicable. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on this, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff’s claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

**Questions? Contact the Settlement Administrator toll free at 1-888-680-0525 or visit
<https://www.cptgroupcaseinfo.com/YoungGapSettlement>**

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$2,250,000. No portion of the Class Settlement Amount will revert to Defendant. The Class Settlement Amount includes: (1) individual settlement payments to Class Members who do not opt out under Option Two (“Participating Class Members”); (2) \$10,000 to Cameron Young for his services on behalf of the class (“Class Representative Enhancement Payment”); (3) \$750,000 in attorneys’ fees and up to \$35,000 in litigation costs and expenses; (4) a \$100,000 settlement of Plaintiff’s claim under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), of which \$75,000 will be paid to the California Labor and Workforce Development Agency (“LWDA”) pursuant to state law, and \$25,000 will be paid to Participating Class Members; and (5) reasonable Settlement Administrator’s fees and expenses to CPT Group, Inc. (the “Settlement Administrator”), currently estimated to be \$31,500.00. After deducting the Court-approved Class Representative Enhancement Payment, attorneys’ fees and costs, the payment to the LWDA, and the Settlement Administrator’s fees and expenses, a total of approximately \$1,348,500.00 will be allocated to Class Members who do not opt out of the settlement (“Net Settlement Amount”).

Each Class Member’s settlement payment will be based on the number of Workweeks (calculated by taking the number of days each Class Member was employed by Defendant from July 30, 2014 to October 27, 2020. (“Class Period”), subtracting days on leave of absence (if any), dividing by 7, and rounding up to the nearest whole number) each Class Member worked in a non-exempt position in the Fresno, California Distribution Center during the Class Period. The formula for calculating settlement payments is as follows:

- (a) Defendant will calculate the total aggregate number of Workweeks that all Class Members worked during the applicable Class Period (“Total Workweeks”).
- (b) The value of each individual Workweek shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Workweeks amount, resulting in the “Workweek Value”.
- (c) An “Individual Settlement Payment” amount for each Class Member will then be determined by multiplying the individual Class Member’s number of Workweeks by the Workweek Value.
- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion.
- (e) If there are any timely and valid requests for Exclusion, the Settlement Administrator will re-allocate the Net Settlement Amount to each individual Participating Class Members to ensure that 100% of the Net Settlement Amount is paid to the Settlement Class. The Settlement Administrator will use the following formula: Individual Participating Class Member’s Share of Net Settlement Amount = Total Workweeks Worked by Individual Participating Class Member ÷ Total Workweeks Worked by All Participating Class Members × Net Settlement Amount.

According to Defendant’s records, you worked during the Class Period in a non-exempt position for a total of **«WorkweeksRounded»** Workweeks. Accordingly, your estimated payment is approximately **«EstAmount»**. If you believe the information provided above is incorrect, please write to the Settlement Administrator and explain why you disagree with the number of Workweeks stated above. You must attach all supporting documentation (such as check stubs, W2s, or letters from HR). All disputes should be postmarked or faxed on or before **February 8, 2021** to:

**Questions? Contact the Settlement Administrator toll free at 1-888-680-0525 or visit
<https://www.cptgroupcaseinfo.com/YoungGapSettlement>**

Young v. The Gap, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax No. 1-949-419-3446

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 30% of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 70% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. **In addition, you will be bound by the terms of the Settlement Agreement and will have given up your right to pursue Released Claims, which include: All claims, demands, rights, liabilities, and causes of action arising out of, relating to, or based on any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or failures to act that were or could have been pleaded in the operative complaint against The Gap, Inc. through October 27, 2020, including but not limited to claims related to unpaid wages and overtime compensation, meal and rest break violations, untimely final paychecks, inaccurate itemized wage statements, failure to maintain payroll records, unreimbursed business expenses, and unfair and unlawful business practices, and for civil penalties under the Private Attorney General Act related to the claims above (“Released Claims”). Specifically excluded from the Released Claims are any claims, rights, demands, or benefits which cannot be released as a matter of law.**

Settlement checks will remain valid for 120 calendar days after they are issued. After 120 days, the uncashed checks will be sent to the State Controller's Office, Unclaimed Property Division in the name of the Class Member.

Option 2 – Opt Out of the Settlement by February 8, 2021

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that desire to be excluded from the settlement. The written request for exclusion must include the case name and case number (“*Cameron Young v. The Gap, Inc.*, No. CGC-18-568507”), your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail or fax the request for exclusion by First Class U.S. Mail or equivalent, to the address/fax number below.

**Questions? Contact the Settlement Administrator toll free at 1-888-680-0525 or visit
<https://www.cptgroupcaseinfo.com/YoungGapSettlement>**

Young v. The Gap, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax No. 1-949-419-3446

The written request to be excluded must be postmarked or faxed not later than **February 8, 2021**. If you submit a request for exclusion which is not postmarked or faxed by **February 8, 2021**, your request for exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have given up your right to pursue the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Option 3 – Object to the Settlement by February 8, 2021

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) the case name and number; (2) your full name, signature, address, and telephone number, (3) a written statement of all grounds for the objection accompanied by any legal support for such objection; (4) copies of any papers, briefs, or other documents upon which the objection is based; and (5) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed or faxed to the Settlement Administrator at Young v. The Gap, Inc., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606, Fax No. 1-949-419-3446.

All objections must be postmarked or faxed to the Settlement Administrator by not later than **February 8, 2021**. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described under Option 2 above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only. If you both opt-out of and object to the settlement, your objection will be deemed invalid and you will be excluded from participating in the settlement under Option 2.

You may also, if you wish, appear at the Final Approval Hearing set for February 24, 2021 at 10:30 a.m. in the Superior Court of the State of California, for the County of San Francisco and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have given up your right to pursue the Released Claims.

Option 4 – Dispute Your Number of Qualifying Workweeks by February 8, 2021

If you believe that your number of workweeks listed above is incorrect, you may contact the Settlement Administrator at Young v. The Gap, Inc., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606, Fax No. 1-949-419-3446 to dispute your workweek calculation. Defendant's records will be presumed correct, but you may provide evidence to the Settlement Administrator showing that your workweek calculation is inaccurate. The Settlement Administrator will decide the dispute.

If you choose **Option 4**, you will still be entitled to money from the settlement under Option 1 and you will be deemed to have given up your right to pursue the Released Claims.

Address Changes

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator. To update your mailing address, please contact the Settlement Administrator at 1-888-680-0525.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the settlement agreement, the Motion for Preliminary Approval of Class Action Settlement, the Order Granting Preliminary Approval of the Class Action Settlement, and other papers filed in the case at <https://www.cptgroupcaseinfo.com/YoungGapSettlement>. Documents related to this lawsuit and Settlement can also be found by searching the San Francisco County Superior Court's website, <https://www.sfsuperiorcourt.org/online-services>, free of charge. To do so, you must enter the case number, CGC-17-562773, into the case query feature and click on the view button to review documents.

All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 800.930.7309

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.

**Questions? Contact the Settlement Administrator toll free at 1-888-680-0525 or visit
<https://www.cptgroupcaseinfo.com/YoungGapSettlement>**

Exhibit B



Class Action Administrators

www.cptgroup.com

Contact Name: Timothy N. Phillips, Jr.

Henry Arjad

Corporate Headquarters

50 Corporate Park, Irvine CA 92606

Tim@cptgroup.com

Main Number: (800) 542-0900

Direct Number: (818) 415-2703

Fax Number: (949) 428-1074

Case Name: Young v The GAP

Date: December 2, 2020

All-In Settlement

Requesting Attorney: **Eduardo Santos**

* Class Members: **6,946**

Plaintiff or Defense: **Plaintiff**

** Opt-Out Rate: **1%**

Firm Name: **Capstone Law**

Opt-Outs Received: **69**

Telephone: **(310) 556-4811**

Postage Total: **\$7,187.43**

Email: Eduardo.Santos@capstonelawyers.com

Grand Total: **\$43,301.97**

***** DISCOUNTED FLAT FEE: \$31,500.00**

* This number is an estimate provided by counsel. If the actual number is different, our cost estimate will change accordingly.

** For ease of comparison, in the event competing estimates use an alternate filing rate to calculate estimated cost, please advise us so that we may modify the estimate accordingly.

*** This price is valid for administration of a maximum of 69 opt-out's filed. Any additional opt-out's filed above 69 will be billed at the rate of \$8.00 per member.

Case Setup

Case Setup / Data Management / Create a Unified Mailing List / TFN Establish & Setup

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Project Manager	\$125.00	6	\$750.00
System Programming/Data Base Setup	\$140.00	6	\$840.00
Toll-Free Number Establish/Setup*	\$150.00	2	\$300.00
Static Website	\$500.00	1	\$500.00
Total			\$2,390.00

* Up to 120 days after disbursement

Notification Procedures

National Change of Address (NCOA) / Notice & Opt-Out Form / Postage (up to 1 oz.)

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
NCOA	\$225.00	1	\$225.00
Project Manager-Opt-Out/Notice Format	\$75.00	2	\$150.00
Merged Data	\$0.05	6,946	\$347.30
Mailing of Notice Pack	\$0.60	6,946	\$4,167.60
Estimated Postage (up to 1 oz.)*	\$0.45	6,946	\$3,125.70
Total			\$8,015.60

*Additional charges will apply if the postage exceeds 1 oz. The final rate will be determined at the time of mailing.

Returned Mail

Notices Returned as Undeliverable / Skip Traces / Remail Notice Packets / Postage

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Update Undeliverable	\$0.25	1,389	\$347.25
Skip Traces	\$0.75	1,111	\$833.25
Remail Packs	\$0.65	1,389	\$902.85
Estimated Postage	\$0.45	1,389	\$625.05
Clerical Staff	\$50.00	7	\$350.00
Total			\$3,058.40

Opt-Out Processing

Process Opt-Outs, Deficiencies & Other Requests from Class Members / Call Center Support

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Programming of Opt-Out Data Base	\$125.00	4	\$500.00
Opt-Out Processing	\$2.50	69	\$172.50
Clerical Staff	\$50.00	2	\$100.00
Deficiency/Dispute Letters	\$20.00	3	\$60.00
Estimated Postage	\$0.55	3	\$1.65
Project Manager	\$75.00	1	\$75.00
Call Center Support	\$2.00	695	\$1,390.00
Total			\$2,299.15

SSN Verification

Verify SSN for Validity with IRS / Send Deficiency Letters to "No-Match" Class Members

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Programming for SSN Selection	\$125.00	1	\$125.00
Project Manager	\$75.00	3	\$225.00
SSN Verification	\$0.07	6,877	\$481.39
Follow up on Mis-Matches	\$8.50	69	\$586.50
Estimated Postage	\$0.55	69	\$37.95
Total			\$1,455.84

Disbursement

Calculations / Data Management / Create & Manage QSF / Print & Mail Checks, 1099/W-2

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Programming Database-Calculate Totals	\$140.00	3	\$420.00
Project Supervisor Review of Distribution	\$75.00	9	\$675.00
Project Manager-Correspond w/ Attorney	\$75.00	5	\$375.00
Obtain EIN, Setup QSF/Bank Account	\$125.00	3	\$375.00
Programming/Setup & Printing of Checks	\$125.00	6	\$750.00
Print Mail Checks, W-2/1099 (8x10 sheet)	\$1.50	6,877	\$10,315.50
Estimated Postage	\$0.44	6,877	\$3,025.88
Total			\$15,936.38

Post-Disbursement & Tax Reporting

Account Recons / Skip Trace / Reissue Checks / Annual Tax Reporting / Final Reporting & Declaration

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Re-Issue Checks as Required	\$5.00	69	\$345.00
Project Supervisor -Account Recons	\$100.00	12	\$1,200.00
Skip Trace	\$1.00	550	\$550.00
Remail Undeliverable Checks	\$1.50	550	\$825.00
Estimated Postage	\$0.50	550	\$275.00
Project Supervisor-Reconcile Uncashed Chk	\$125.00	1	\$125.00
Programming- Final Reports	\$125.00	2	\$250.00
Project Manager - Acnt Files Sent to Atty	\$125.00	2	\$250.00
Project Supervisor - Final Declaration	\$125.00	2	\$250.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$500.00	1	\$500.00
QSF Annual Tax Reporting	\$500.00	2	\$1,000.00
Total			\$6,170.00

*CPT will file Federal and California taxes in accordance to current state and federal regulations. Additional charges will apply if the Settlement / Order / parties require(s) multiple state tax filings.

Escheat Processing

Escheatment Processing to the State Controller Unclaimed Property Division

Administrative Tasks:	Unit Price	Pieces/Hours	Cost Estimate
Uncashed checks (21%)	\$1.50	1,444	\$2,166.00
UPEnterprise Reporting Services	\$0.10	1,444	\$144.40
Project Manager - Fall Reporting	\$75.00	4	\$300.00
Project Supervisor-Fall Reporting	\$125.00	1	\$125.00
Certified Mail Report to SCO	\$8.50	1	\$8.50
Check Reissues - Winter/Spring QTR	\$5.00	144	\$720.00
1st Class Postage for Reissues	\$0.55	144	\$79.20
Project Manager - June Remittance	\$75.00	4	\$300.00
Project Supervisor- June Remittance	\$125.00	1	\$125.00
Certified Mail Report to SCO	\$8.50	1	\$8.50
Total			\$3,976.60

Grand Total: **\$43,301.97**

TERMS AND CONDITIONS

These Terms and Conditions are made a part of and incorporated by reference into the CPT Group, Inc. Terms and Conditions Agreement by and between Client and CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606 ("CPT").

1. Definitions.

- a) **"Affiliate"** means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with, another party.
- b) **"Approved Bank"** means a financial institution insured by the Federal Deposit Insurance Corporation with capital exceeding \$1 billion.
- c) **"Case"** means the particular judicial matter identified by the name of plaintiff(s) and defendant(s) on the applicable Order.
- d) **"Claims Administrator"** means CPT Group, Inc. a reputable third-party Claims Administrator selected by all the Parties (Plaintiff and Defense Counsel) to administer the Settlement or Notification Mailing.
- e) **"Client"** means collectively Plaintiff Counsel and Defense Counsel.
- f) **"Client Content"** means all Class Member written document communications relating to the Case, including claim forms, opt-out forms, objections, and the like which contain Client Data.
- g) **"Client Data"** means proprietary or personal data regarding Client or any of its Class Members under this Agreement, as provided by Client.
- h) **"Class Member"** means an individual who is eligible under the Settlement Agreement to receive a designated amount of the Settlement, including the named Plaintiff(s) in the Case and all other putative persons so designated or addressed therein.
- i) **"Confidential Information"** means any non-public information of CPT or Client disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which a reasonable person would consider confidential and/or which is marked "confidential" or "proprietary" or some similar designation by the disclosing party. Confidential Information shall also include the terms of this Agreement, except where this Agreement specifically provides for disclosure of certain items. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient's prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
- j) **"Court Order"** means a legal command or direction issued by a court, judicial office, or applicable administrative body requiring one or more parties to the Case to carry out a legal obligation pursuant to the Case.
- k) **"Defendant"** means the named party and/or parties in the Case against whom action is brought.
- l) **"Defense Counsel"** means the attorney of record for the defendant(s) in the Case.
- m) **"Intellectual Property Right"** means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.
- n) **"Order"** means a Product purchase in a schedule, statement of work, addendum, exhibit, or amendment signed by Client and CPT.
- o) **"Parties"** shall mean collectively Defendants, Defense and Plaintiff as defined in the Settlement Agreement or Court Order.
- p) **"Plaintiff"** means the named party and/or parties in the Case who are bringing the action.
- q) **"Plaintiff Counsel"** means the attorney of record for plaintiff Class Members in the Case.
- r) **"Products"** means any and all CPT Services, and work product resulting from Services.
- s) **"Qualified Settlement Fund"** means the entity as defined by Treasury Regulation section 4686-1 under which a bank account is established to receive settlement funds from the Defendant in the Case, which such funds

are then disbursed by CPT according to the Settlement Agreement and pursuant to Court Order.

- t) **"Service"** means any service rendered by CPT specifically to Client, including, but not limited to: (i) notifications to Class Members; (ii) setting up a Qualified Settlement Fund with a financial institution; (iii) management of disbursement of funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement; (iv) provision of customer support relating to the Case; (v) management of Case claim forms and correspondence; and/or (vi) any administrative or consulting service.
- u) **"Software"** means any and all of CPT's proprietary applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto.
- v) **"Settlement"** means the total dollar amount agreed to between parties to the Case, as negotiated by Plaintiff Counsel and Defense Counsel, to resolve the Case to mutual satisfaction.
- w) **"Settlement Agreement"** means the contract between parties to the Case to resolve the same, which specifies amounts to be disbursed from the Qualified Settlement Fund to attorneys, CPT, and individual Class Members.
- x) **"Term"** means the term of the Agreement, as set forth in the Order.
- y) **"Transmission Methods"** means the secure authorized manner to send Client Data and/or Wire Information as specified on a schedule or Order hereto.
- z) **"Wire Information"** means instructions for (i) Defense Counsel to transfer funds from Defendant to the Qualified Settlement Fund or (ii) CPT to transfer funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement.

- 2. **Client Obligations.** Client will ensure that it has obtained all necessary consents and approvals for CPT to access Client Data for the purposes permitted under this Agreement, and shall only transmit Client Data and/or Wire Instructions to CPT via the Transmission Methods. Client shall use and maintain appropriate administrative, technical, and physical safeguards designed to protect Client Data provided under this Agreement. Client shall not send, or attempt to send, Client Data and/or Wire Instructions via email, facsimile, unprotected spreadsheet, USB flash drive or other external or removable storage device, cloud storage provider, or any other method not specified in the Transmission Methods. Notwithstanding the foregoing, Client acknowledges and understands that the electronic transmission of information cannot be guaranteed to be secure or error free, and such information could be intercepted, corrupted, lost, and/or destroyed. Client further warrants that any Client Data and/or Wire Instructions it transmits shall be free of viruses, worms, Trojan horses, or other harmful or disabling codes which could adversely affect the Client Data and/or CPT. If Client is in breach of this section, CPT may suspend Services, in addition to any other rights and remedies CPT may have at law or in equity.

- 3. **Security.** The Parties and CPT shall each use reasonable administrative, technical, and physical safeguards that are reasonably designed to: (a) protect the security and confidentiality of any personally identifiable information provided by Class Members and/or Client under this Agreement; (b) protect against any anticipated threats or hazards to the security or integrity of such personally identifiable information; (c) protect against unauthorized access to or use of such personally identifiable information that could result in substantial harm or inconvenience to any individual; and (d) protect against unauthorized access to or use of such personally identifiable information in connection with its disposal. Each Party will respond promptly to remedy any known security breach involving the personally identifiable information provided by you and/or Client under this Agreement, and shall promptly inform the other Parties of such breaches.

- 4. **CPT Obligations.** Provided that Client complies with all provisions of Section "Client Obligations", CPT will (i) maintain appropriate safeguards for the protection of Client Data, including regular back-ups, security and incident response protocols, and (ii) not access or disclose Client Data except (A) as compelled by law, (B) to prevent or address service or technical issues, (C) in accordance with this Agreement or the provisions of the Settlement Agreement, or (D) if otherwise permitted by Client.

5. **Mutual Obligations.**

- a) **Resources.** Each party agrees to: (i) provide the resources reasonably necessary to enable the performance of the Services; (ii) manage its project staffing, milestones, and attendance at status meetings; and (iii) ensure completion of its project deliverables and active participation during all phases of a Service project. The parties acknowledge that failure to cooperate during a Service project may delay delivery of the Service. If there

is a delay, the party experiencing the delay will notify the other party as soon as reasonably practicable, and representatives of each party will meet to discuss the reason for the delay and applicable consequences. Changes beyond the scope of an Order and/or a party's delay in performing its obligations may require an amended Order.

- b) Incident Notification. Each party will promptly inform the other parties in the event of a breach of Client Data in their possession and shall utilize best efforts to assist the other parties to mitigate the effects of such incident.
 6. Qualified Settlement Fund Account. At Client's request, CPT shall be authorized to establish one or more bank accounts at an Approved Bank. The amounts held at the Approved Bank under this Agreement are at the sole risk of Client. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
 7. Fees and Payment. Pricing stated within the proposal is good for 90 Days. All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the Client data and/or notice documents. Client will be invoiced for any remaining fees according to the applicable Order. Pricing stated within any proposal from CPT to Client is for illustrative purposes only, and is only binding upon an Order executed by CPT and Client. Payment of fees will be due within 30 days after the date of the invoice, except where this Agreement expressly prescribes other payment dates. All fees set forth in an Order are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% (or the highest rate allowable by law, whichever is lower) per month on the outstanding balance from the date due until the date of actual payment. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation.
 8. Term and Termination.
 - a) Term. The Term is set forth in the Order. The Agreement may be renewed by mutual written agreement of the parties.
 - b) Termination for Cause. Either party may immediately terminate this Agreement if the other party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching party's receipt of written notice describing the breach in reasonable detail.
 - c) Bankruptcy Events. A party may immediately terminate this Agreement if the other party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
 - d) Effect of Termination. Immediately following termination of this Agreement, upon Client's written request, Client may retrieve Client Data via Client's secure FTP site in the same format in which the Client Data was originally inputted into the Software, at no additional charge. Alternatively, Client Data can be returned in a mutually agreed format at a scope and price to be agreed. CPT will maintain a copy of Client Data and Client Content for no more than four (4) years following the date of the final check cashing deadline for Class Members under the Settlement Agreement, after which time any Client Data and Client Content not retrieved will be destroyed.
 - e) Final Payment. If Client terminates this Agreement due to Section "Termination", Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.
- Confidentiality. Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. These obligations shall survive termination of this Agreement.
- a. Compelled Disclosure. If receiving party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such party shall (i) promptly notify the

other party, (ii) reasonably cooperate with the other party in such party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each party is advised by its counsel in writing is legally required to be disclosed.

- b. Remedies. If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. Intellectual Property. As between the parties, CPT will and does retain all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. Client retains all ownership rights to Client Data.
11. Indemnification. Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, Covered CPT Parties") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "Damages") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Client Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. Warranties. Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
13. Liability.
 - a. Liability Cap. EXCEPT FOR A PARTY'S WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL CLAIMS ADMINISTRATOR FEES PAID OR PAYABLE BY CLIENT TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
 - b. Exclusion of Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. Communications. CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.
15. Miscellaneous Provisions.
 - a. Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and

the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.

- b. Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c. Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d. Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e. Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by both parties.
- f. Assignment. Neither party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other party's prior written consent; provided, however, either party, without the consent of the other party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such party, where the responsibilities or obligations of the other party are not increased by such assignment and the rights and remedies available to the other party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g. No Third Party Beneficiaries. The representations, warranties and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns, and shall not be construed as conferring any rights on any other persons.
- h. Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("Statistical Data") derived from the operation of the Software, and nothing herein shall be construed as prohibiting CPT

from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.

- i. Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such applicable laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce, and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j. Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k. Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other party first written above or at such other address as may hereafter be furnished in writing by either party hereto to the other party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l. Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither party may make any statement that would contradict anything in this section.
- m. Subcontractors. CPT shall notify Client of its use of any subcontractors to perform Client-specific Services. CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n. Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret or construe its meaning, scope or intent.
- o. Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power or remedy.
- p. Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.

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6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff Cameron Young

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN FRANCISCO

11 CAMERON YOUNG and KEANA BOLDS,
12 individually, and on behalf of other members of
the general public similarly situated and as
13 aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

14 Plaintiffs,

15 vs.

16 THE GAP, INC., a Delaware Corporation; and
DOES 1 through 10, inclusive,

17 Defendants.
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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

**[PROPOSED] ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS AND
EXPENSES, AND A CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

Date: February 24, 2021

Time: 10:30 a.m.

Place: Department 613

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1 the Court finds that the settlement was reached following meaningful discovery and investigation
2 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
3 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
4 adequate, and reasonable.

5 7. In so finding, the Court has considered all evidence presented, including evidence
6 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
7 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
8 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
9 sufficient information about the nature and magnitude of the claims being settled, as well as the
10 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
11 which the Parties have agreed.

12 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
13 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
14 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
15 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
18 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
19 provides Class Members with fair and adequate relief.

20 9. The Settlement Agreement is not an admission by Defendant or by any other released
21 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
22 any other released party. Neither this Order, the Settlement Agreement, nor any document referred to
23 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
24 as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
25 Defendant or any of the other released parties.

26 10. Final approval shall be with respect to: All current and former non-exempt employees
27 who worked for Defendant at its Fresno, California Distribution Center at any time from July 30, 2014 to
28 October 27, 2020.

1 11. Plaintiff Cameron Young is a suitable Class Representative and is hereby appointed the
2 Class Representative for the Settlement Class. The Court finds that Plaintiff's investment and
3 commitment to the litigation and its outcome ensured adequate and zealous advocacy for the Settlement
4 Class, and that his interests are aligned with those of the Settlement Class.

5 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
6 \$10,000 for his service on behalf of the Settlement Class.

7 13. The Court finds that the attorneys at Capstone Law APC have the requisite
8 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
9 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
10 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

11 14. The settlement of civil penalties under PAGA in the amount of \$100,000 is hereby
12 approved. Seventy-Five Percent (75%), or \$75,000, shall be paid to the California Labor and Workforce
13 Development Agency. The remaining Twenty-Five Percent (25%), or \$25,000, will be added to the Net
14 Settlement Amount.

15 15. The Court hereby awards \$750,000 in attorneys' fees and \$26,855 in costs and expenses
16 to Capstone Law APC. The Court finds that the requested award of attorneys' fees is reasonable for a
17 contingency fee in a class action such as this; i.e., one-third of the common fund created by the
18 settlement. Counsel have also established the reasonableness of the requested award of attorneys' fees
19 via their lodestar crosscheck.

20 16. The Court approves settlement administration costs and expenses in the amount of
21 \$31,500 to CPT Group, Inc.

22 17. All Class Members were given a full and fair opportunity to participate in the Approval
23 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
24 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
25 settlement and the class.

26 18. Accordingly, the terms of the Settlement Agreement and of the Court's Order shall be
27 forever binding on all Class Members who did not timely and properly opt out of the settlement.

28 19. These Class Members have released and forever discharged the Defendant for any and

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all Released Claims.

IT IS SO ORDERED.

Dated: _____

Hon. Andrew Y.S. Cheng
San Francisco County Superior Court Judge

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN FRANCISCO

11 CAMERON YOUNG and KEANA BOLDS,
12 individually, and on behalf of other members of
the general public similarly situated and as
13 aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

14 Plaintiffs,

15 vs.

16 THE GAP, INC., a Delaware Corporation; and
17 DOES 1 through 10, inclusive,

18 Defendants.
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Case No.: CGC-18-568507

Assigned to the Hon. Andrew Y.S. Cheng

[PROPOSED] JUDGMENT

Date: February 24, 2021
Time: 10:30 a.m.
Place: Department 613

1 **JUDGMENT**

2 Pursuant to the Order Granting the Motion for Final Approval of the Class Action Settlement
3 and Motion for Attorneys' Fees, Costs and Expenses, and a Class Representative Enhancement Payment
4 ("Order"), it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

5 1. Judgment in this matter is entered in accordance with, and incorporates by reference the
6 findings of, the Court's Order and the Amended Joint Stipulation of Class Action Settlement and Release
7 and Addendum (collectively, "Settlement Agreement"). Unless otherwise provided herein, all
8 capitalized terms used herein shall have the same meaning as defined in the Settlement Agreement.

9 2. As provided by the Order, all Class Members who did not timely and properly opt out
10 from the Settlement are barred from pursuing, or seeking to reopen, any of the Released Claims, as
11 defined by the Settlement Agreement. Consistent with the definitions provided in the Settlement
12 Agreement, the Settlement Class consists of: All current and former non-exempt employees who
13 worked for Defendant at its Fresno, California Distribution Center at any time from July 30, 2014 to
14 October 27, 2020.

15 3. Without affecting the finality of the Judgment, the Court shall retain exclusive and
16 continuing jurisdiction over the above-captioned action and the parties, including all Class Members, for
17 purposes of enforcing the terms of the Judgment entered herein.

18 4. This document shall constitute a judgment (and separate document constituting said
19 judgment) for purposes of California Rules of Court, Rule 3.769(h).

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21 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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23 Dated: _____

24 Hon. Andrew Y.S. Cheng
25 San Francisco County Superior Court Judge
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