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12 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SAN DIEGO**

14
15 TRACI POLLINGER in her representative
capacity on behalf of the State of California and
16 fellow Aggrieved Employees,

17 PLAINTIFF,

18 v.

19 HOEHN MOTORS, INC., a California
Corporation, and DOES 1 through 50, Inclusive;

20 DEFENDANT.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/10/2022 at 11:49:00 AM

Clerk of the Superior Court
By Richard Day, Deputy Clerk

CASE NO. 37-2021-00003888-CU-OE-CTL

**AMENDED ~~PROPOSED~~ ORDER
APPROVING PAGA SETTLEMENT AND
JUDGMENT**

[Assigned for all purposes to The Honorable
James A Mangione, Department C-72]

Date: June 3, 2022

Time: 9:00am

Location: Department C-75

Complaint filed: January 27, 2021

1 Plaintiff Traci Pollinger's Motion for Approval of PAGA Settlement ("Motion") was heard on
2 June 3, 2022. Having reviewed Plaintiff's Motion, the Stipulation of Settlement of PAGA Action and
3 Release of PAGA Claims ("Settlement Agreement"), the papers, any arguments of counsel, and all
4 other evidence and matters presented, and good cause appearing,

5 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Approval of PAGA Settlement is
6 **GRANTED** as follows:

7 1. This Order and Judgment incorporates the Settlement Agreement between Plaintiff
8 TRACI POLLINGER ("Plaintiff"), on behalf of herself, other Aggrieved Employees, and the State of
9 California, on the one hand, and HOEHN MOTORS, INC. ("Defendant"), on the other hand. This
10 Court has jurisdiction over the subject matter of this lawsuit and all matters relating thereto, and over
11 all parties to the action.

12 2. Plaintiff exhausted all administrative remedies required to bring the PAGA claims
13 asserted in this action and is authorized to act as private attorney general with respect to the PAGA
14 claims being released under the terms of the Settlement Agreement. The California Labor Workforce
15 Development Agency was provided with notice of the settlement and the motion for approval of the
16 settlement via its online process, and no objection has been received to the settlement or the motion
17 from the Labor Workforce Development Agency.

18 3. The Court has considered the nature of the claims, the amount paid in settlement, which
19 is \$170,000.00 ("Total Settlement Amount"), the allocation of settlement proceeds among the
20 Aggrieved Employees, and the fact that a settlement now will avoid substantial costs and risks if the
21 Parties were to continue to litigate the PAGA claims.

22 4. The Court hereby approves the terms set forth in the Settlement Agreement for
23 settlement of the PAGA claims and finds that the Settlement Agreement is, in all respects, fair,
24 adequate, and reasonable to those affected and is not unjust, arbitrary and oppressive, or confiscatory.
25 The Court also finds that the Settlement Agreement has been reached as a result of extensive, non-
26 collusive, arm's length negotiations. The Court therefore approves the Settlement as set forth in the
27 Settlement Agreement and directs the Parties to effectuate the PAGA settlement according to the terms
28 set forth in the Settlement Agreement.

1 5. Neither the Settlement nor any of the terms set forth in the Settlement Agreement are
2 admissions by the Released Parties of liability on any of the allegations alleged in the Action, nor is
3 this Order a finding of the validity of any allegations or of any wrongdoing by the Released Parties.

4 6. Pursuant to the terms of the Settlement Agreement, Defendant shall pay Plaintiff's
5 Counsel for their reasonable attorney's fees in an amount not to exceed one-third of the Total
6 Settlement Amount, currently estimated to be \$56,666.77, and actually incurred litigation costs not to
7 exceed \$11,794.62 to be paid from the Gross Settlement Amount, as final payment for and complete
8 satisfaction of any and all attorney's fees and costs arising out of the Action. Plaintiff's Counsel's
9 award of attorney's fees shall be divided by Plaintiff's Counsel as follows: 70% to Zakay Law Group,
10 APLC, and 30% to Blumenthal Nordrehaug Bhowmik De Blouw, LLP.

11 7. Pursuant to the terms of the Settlement Agreement, Defendant shall pay ILYM Group,
12 Inc. for Administration Expenses in an amount not to exceed \$7,700.00 as compensation for its fees
13 and costs in administering this Settlement. This amount is to be paid from the Gross Settlement
14 Amount.

15 8. Pursuant to the terms of the Settlement Agreement and the Private Attorneys General
16 Act, Labor Code section 2698, *et seq.*, the remaining sum estimated at ~~\$85,633.33~~ ^{\$93,838.61} shall be allocated
17 seventy-five percent (75%) or ~~\$64,224.75~~ ^{\$70,378.96} to be paid to Labor and Workforce Development Agency,
18 and twenty-five percent (25%) or ~~\$21,408.33~~ ^{\$23,459.65} to be paid to all Aggrieved Employees according to the
19 method set forth in the Settlement Agreement for calculating PAGA Penalty Payments. Individual
20 Aggrieved Employee Payments shall be mailed no later than fifteen (15) calendar days after the
21 Funding Date. The LWDA payment will be issued within five (5) calendar days of the Funding Date.

22 9. Defendant will not be required to pay any additional or lesser amounts in connection
23 with the Settlement other than those amounts specifically set forth in the Settlement Agreement and
24 this Order.

25 10. If any Aggrieved Employee fails to negotiate their Individual Settlement Payment
26 check within one hundred and eighty (180) calendar days after issuance, the Administrator
27 shall forward the sums represented by the uncashed checks to the Controller of the State of
28 California to be held pursuant to the Unclaimed Property Law.

1 11. This Judgement bars in a complete and final fashion all PAGA claims of non-exempt
2 employees who worked at HOEHN MOTORS, INC. at any time from November 10, 2019 to March
3 24, 2022 ("PAGA Period") against the Released Parties (defined as Defendant HOEHN MOTORS,
4 INC. and its past and present officers, directors, shareholders, owners, employees, agents, principals,
5 representatives, accountants, auditors, consultants, affiliates, related companies, parents, subsidiaries,
6 successors in interest, predecessors in interest, and attorneys) from any and all Released PAGA Claims
7 (defined as all PAGA claims which were asserted in Plaintiff's Complaint and Plaintiff's PAGA notice
8 to the LWDA, which include claims for PAGA penalties predicated upon the following: failure to
9 provide compliant meal periods or compensation in lieu thereof in violation of Labor Code sections
10 226.7, and 512; failure to provide compliant rest periods or compensation in lieu thereof in violation
11 of Labor Code sections 226.7, and 512; failure to allow employees to take duty-free, off-the-premises
12 rest periods; failure to pay all minimum, regular, and overtime wages; failure to maintain true and
13 accurate records in violation of Labor Code sections 1174 and 1174.5; failure to pay all reporting time
14 wages; failure to provide accurate itemized wage statements in violation of Labor Code sections 226,
15 226.2, 1174, and 1175; failure to reimburse employees for required business expenses in violation of
16 Labor Code section 2802; failure to timely pay wages due during, and upon termination of
17 employment; claims for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 226, 226.3,
18 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, and 2802; and claims for civil
19 penalties and other relief pursuant to Labor Code section 2699, and the sections preceding and
20 following section 2699).

21 12. The Court orders, adjudges, and decrees that Plaintiff, the Aggrieved Employees, the
22 LWDA, and any employee or other person acting as a private attorney general on the LWDA's behalf,
23 have released and forever discharged the Released Parties from the Released PAGA Claims for the
24 PAGA Period, and shall take nothing from the Released Parties except as expressly set forth in the
25 Settlement Agreement filed in conjunction with Plaintiff's Motion for Approval of PAGA Settlement.

26 13. The releases set forth herein will take effect on the date that Defendant fully funds the
27 settlement.
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1 14. Pursuant to California Code of Civil Procedure § 664.6 and California Rules of Court,
2 Rule 3.769(h), the Court shall retain continuing jurisdiction to construe, interpret, implement, and
3 enforce the Settlement Agreement, to hear and resolve any contested challenge to a claim for
4 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with the
5 distribution of settlement benefits.

6 15. The Court hereby enters judgment of the entire Action, for the reasons set forth above
7 and upon the terms set forth in the Settlement Agreement.

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

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10 Dated: 10 JUNE 2022


11 THE HONORABLE JAMES A MANGIONE
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