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HYPERION MOTORS, INC (now known as HYPERION
COMPANIES, INC.), and HYPERION COMPANIES, INC.
(formerly known as HYPERION MOTORS, INC.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

VANESSA PEREZ, an individual; MARIO CAZARES, an individual; ANTHONY HANSELMAN, an individual; SCOTT NASON, an individual; MOHAN RAO, an individual; JANE SANDELMAN, an individual; and SHANNON TABONE, an individual,	)	Case No. 30-2020-01170764-CU-WT-CJC
	)	
	)	Honorable James J. Di Cesare
	)	Department C16 [Complex]
	)	
	)	JOINT STIPULATION REQUESTING
	)	APPROVAL OF REPRESENTATIVE
	)	ACTION SETTLEMENT; PROPOSED
Plaintiff,	)	ORDER
v.	)	
	)	[Filed concurrently with Proposed Final Judgment]
	)	
HYPERION MOTORS, INC., a Delaware corporation; HYPERION COMPANIES, INC., a Delaware corporation; and DOES 1 through 50, inclusive,	)	
	)	
	)	
Defendants.	)	
	)	
	)	
	)	

1 **IT IS HEREBY STIPULATED** by and between Plaintiffs/Cross-Defendants VANESSA
2 PEREZ, MARIO CAZARES, ANTHONY HANSELMAN, SCOTT NASON, MOHAN RAO,
3 JANE SANDELMAN, and SHANNON TABONE (collectively, “Plaintiffs”), on behalf of
4 themselves and the people of the State of California and as allegedly “aggrieved employees”
5 under the Labor Code Private Attorneys General Act of 2004, section 2699, *et seq.* (“PAGA”),
6 and Defendants/Cross-Complainants HYPERION MOTORS, INC (now known as HYPERION
7 COMPANIES, INC.), and HYPERION COMPANIES, INC. (formerly known as HYPERION
8 MOTORS, INC.) (collectively, “Defendants”), through their respective counsel (collectively, the
9 “Parties”), as follows:

10 **WHEREAS**, on October 14, 2020, Plaintiffs sent a letter to the Labor and Workforce
11 Development Agency (“LWDA Letter”) and Defendants giving notice of their intent to pursue a
12 representative action pursuant to the Labor Code Private Attorneys General Act of 2004, codified
13 at Labor Code § 2699 *et seq.* (“PAGA”), on behalf of themselves and the State of California as
14 well as on behalf of a proposed group of aggrieved employees for a violation of Labor Code
15 Sections 98.6, 201, 201.5, 202, 203, 204, 208, 210, 218.5, 226(a), 226.7, 226.8, 256, 510, 512,
16 515, 1182.12, 1182.13, 1194, 1197, 1197.1, 1198, and 2802.

17 **WHEREAS**, on November 18, 2020, after waiting the statutory period, Plaintiffs filed
18 this representative action pursuant to Labor Code § 2699 *et seq.* for alleged violations of the
19 Labor Code, including that Defendants (1) failed to pay overtime compensation; (2) failed to
20 provide meal breaks; (3) failed to provide rest breaks; (4) failed to reimburse business expenses;
21 (5) failed to pay minimum wage compensation; (6) provided improper wage statements; and (7)
22 failed to timely pay wages upon discharge and waiting time penalties, on behalf of themselves
23 and other allegedly aggrieved employees, as well as asserting various individual wage and hour,
24 retaliation, and other claims against Defendant on their behalf alone.

25 **WHEREAS**, Defendants vehemently denied that they ever violated or are liable for any
26 violations of the Labor Code.

27 **WHEREAS**, on September 23, 2021, after several months of settlement discussions and
28 a full-day mediation with experienced wage and hour mediator Hon. Suzanne Segal (ret.), the

1 Parties agreed to settle all of Plaintiff's individual claims as well as all claims asserted under the
2 PAGA.

3 **WHEREAS**, the Parties agreed to settle the PAGA claims for a Gross Settlement
4 Amount of \$20,000.00 (the "PAGA Settlement").

5 **WHEREAS**, the PAGA Settlement includes all PAGA claims which were asserted in the
6 LWDA Letter and Plaintiffs' First Amended Complaint and [Proposed] Second Amended
7 Complaint filed in this action or reasonably could have been asserted in the action based upon the
8 facts alleged in the LWDA Letter and Plaintiffs' First Amended Complaint and [Proposed]
9 Second Amended Complaint, including but not limited to: (1) unpaid overtime compensation; (2)
10 failure to provide meal breaks; (3) failure to provide rest breaks; (4) failure to reimburse business
11 expenses; (5) failure to pay minimum wage compensation; (6) failure to improper wage
12 statements; and (7) failure to timely pay wages upon discharge and waiting time penalties, and
13 claims relating to these allegations (collectively, the "PAGA Released Claims").

14 **WHEREAS**, for purposes of the PAGA Settlement, the aggrieved employees are defined
15 as: "all individuals who were employed by Defendants from November 18, 2019 through
16 September 23, 2021" (the "PAGA Settlement Employees"), and the PAGA Period covers the
17 time period from "November 18, 2019 through September 23, 2021."

18 **WHEREAS**, the PAGA creates a means of "deputizing" citizens as private attorney
19 generals to enforce the Labor Code on behalf of the state of California. *Brown v. Ralphs Grocery*
20 *Co.* (2011) 197 Cal.App.4th 489, 501. "[T]he only effect of the new statute was to allow private
21 parties...to recover penalties that previously could have been recovered only by the state Labor
22 Commissioner" or to the provisions of the Labor Code specifically identified in Labor Code
23 Section 2699. *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1197. In bringing a
24 PAGA action, the aggrieved employee acts as the proxy or agent of the state labor law
25 enforcement agencies, representing the same rights and interest of the state of California who
26 remains the real party in interest. *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th
27 348, 383 (holding "[e]very PAGA action, whether seeking penalties for Labor Code violations as
28 to only one aggrieved employee...or as to other employees as well, is a representative action on

1 behalf of the state.) As explained by the California Supreme Court in *Arias v. Superior Court*
2 (2009) 46 Cal.4th 969, the Parties are not obligated to follow class action procedural rules in
3 PAGA cases and therefore do not need to follow the class action procedures for obtaining an
4 approval of the settlement.

5 **WHEREAS**, pursuant to Labor Code Section 2699(1)(2), the Parties are required to
6 obtain Court approval of the settlement of a PAGA claim and therefore the Parties file the instant
7 the Joint Stipulation.

8 **WHEREAS**, concurrently with the submission of this filing, Plaintiff provided the
9 LWDA with a copy of the proposed settlement as required by PAGA.

10 **WHEREAS**, the Parties seek to obtain the Court's approval of the PAGA settlement in
11 the most efficient manner possible.

12 **WHEREAS**, Plaintiff believes that the Gross Settlement Amount of \$20,000.00 is fair
13 and reasonable in light of Defendants' defenses against liability, the potential value of the case,
14 given the fact that there are only approximately 130 potential "PAGA Settlement Employees,"
15 given the fact that Defendants vigorously dispute liability and based upon the risk factors
16 associated with this case, and given the fact that the Court has discretion under the PAGA statute
17 to award penalties in a lesser amount if it determines the reduction is warranted.

18 **IT IS HEREBY STIPULATED AND PROPOSED BY THE PARTIES HERETO AS**
19 **FOLLOWS:**

20 The Parties stipulate and jointly propose that the Court approve the PAGA Settlement, as
21 memorialized in the Parties' PAGA Settlement Agreement, which contains the following key
22 terms:

- 23 a) A Gross Settlement Amount of \$20,000.00;
- 24 b) Attorney's fees and costs (equal to one-third of the Gross Settlement
25 Amount) in the amount of \$6,666.66;
- 26 c) Settlement Administrator Costs in an amount not to exceed \$1,333.34.
27 Defendant shall pay any costs associated with the administration of the
28 Gross Settlement Amount in excess of \$1,333.34, if any;

- 1 d) After the deduction for the payments in (a) and (b), the amount of
2 \$12,000.00 shall constitute the PAGA Payment in settlement of the PAGA
3 Released Claims during the PAGA Period by the PAGA Settlement
4 Employees;
- 5 e) The PAGA Payment shall be split between the Labor and Workforce
6 Development Agency (“LWDA”) and the PAGA Settlement Employees
7 with \$9,000.00 (75%) of the PAGA Payment to be paid to the LWDA and
8 \$3,000.00 (25%) of the PAGA Payment to be paid to the PAGA
9 Settlement Employees (to be divided on a *pro-rata* basis among the PAGA
10 Settlement Employees based on the number of weeks during which an
11 PAGA Settlement Employees was employed by Defendants during the
12 PAGA Period);
- 13 f) Because all of the PAGA Payment to PAGA Settlement Employees are for
14 penalties under the PAGA, all such payments will be classified as 1099
15 income to PAGA Settlement Employees;
- 16 g) The Settlement Administrator, Simpluris, shall administer the settlement
17 and distribute the PAGA Payments to the PAGA Settlement Employees
18 and the LWDA;
- 19 h) Defendants shall provide Simpluris with a list of PAGA Settlement
20 Employees (including full name, last known address, social security
21 numbers, and the individual PAGA Payment payable to each PAGA
22 Settlement Employee) within 5 days of the Court’s execution of the
23 Proposed Order and Final Judgment filed concurrently herewith;
- 24 i) Defendants shall provide the Gross Settlement Amount to Simpluris within
25 10 days after the Court’s execution of the Proposed Order and Final
26 Judgment filed concurrently herewith;
- 27 j) Simpluris shall have 30 days to mail out checks to the PAGA Settlement
28 Employees and the LWDA;

- 1 k) The Aggrieved Employees shall have 180 days to cash their checks, and
2 after that time period any uncashed checks shall be transmitted as follows:
3 25% to the State Treasury for deposit in the Trial Court Improvement and
4 Modernization Fund, established in Section 77209 of the Government
5 Code, and subject to appropriation in the annual Budget Act for the
6 Judicial Council to provide grants to trial courts for new or expanded
7 collaborative courts or grants for Sargent Shriver Civil Counsel; 25% to
8 the State Treasury for deposit into the Equal Access Fund of the Judicial
9 Brand, to be distributed in accordance with Sections 6216 to 6223,
10 inclusive, of the Business and Professions Code; and 50% to Bet Tzedek
11 Legal Services, a non-profit organization.
- 12 l) The Parties request that the Court enter the concurrently filed Order and
13 Final Judgment, approving the PAGA Settlement, under Labor Code
14 Section 2699(l);
- 15 m) This PAGA Settlement is not an admission by Defendants of any
16 wrongdoing by Defendant; and
- 17 n) Upon the Court's execution of the Proposed Order and Final Judgment,
18 Plaintiffs and PAGA Settlement Employees shall release Defendants and
19 their past, present and/or future, officers, members, board members,
20 directors, employees, agents (including, without limitation, any investment
21 bankers, accountants, insurers, reinsurers, attorneys and any past, present
22 or future officers, directors and employees), representatives, attorneys,
23 insurers, customers, partners, investors, shareholders, members,
24 administrators, parent companies, subsidiaries, affiliates, divisions,
25 predecessors, successors and/or assigns from any and all PAGA Released
26 Claims during the PAGA Period.
- 27
28

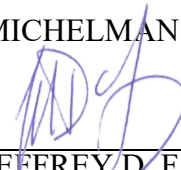
1
2 Dated: September 22, 2021

MERINO YEBRI LLP

3
4 By: Sam Yebri
5 SAM S. YEBRI
6 *Attorneys for Plaintiffs/Cross-Defendants*
7 VANESSA PEREZ, MARIO CAZARES,
8 ANTHONY HANSELMAN, SCOTT
9 NASON, MOHAN RAO, JANE
10 SANDELMAN, and SHANNON TABONE

11
12 Dated: September 22, 2021

MICHELMAN & ROBINSON, LLP

13 By: 
14 JEFFREY D. FARROW
15 *Attorneys for Defendants/Cross-*
16 *Complainants*
17 HYPERION MOTORS, INC (now known as
18 HYPERION COMPANIES, INC.), and
19 HYPERION COMPANIES, INC. (formerly
20 known as HYPERION MOTORS, INC.)
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27
28

[PROPOSED] ORDER

Pursuant to the Joint Stipulation Requesting Approval of Representative Action Settlement (“Joint Stipulation”) submitted by Plaintiffs/Cross-Defendants VANESSA PEREZ, MARIO CAZARES, ANTHONY HANSELMAN, SCOTT NASON, MOHAN RAO, JANE SANDELMAN, and SHANNON TABONE (collectively, “Plaintiffs”), on behalf of themselves and the people of the State of California and as allegedly “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004, section 2699, *et seq.* (“PAGA”), and Defendants/Cross-Complainants HYPERION MOTORS, INC (now known as HYPERION COMPANIES, INC.), and HYPERION COMPANIES, INC. (formerly known as HYPERION MOTORS, INC.) (collectively, “Defendants”), through their respective counsel (collectively, the “Parties”), and good cause appearing:

Having considered the Parties’ Joint Stipulation, and all legal authorities and documents submitted in support thereof, and good cause appearing, IT IS HEREBY ORDERED that the Parties’ request is GRANTED, subject to the following findings and orders:

- a) All terms used herein shall have the same meaning as defined in the Joint Stipulation.
- b) The Court approves the terms of the PAGA Settlement as set forth in the Joint Stipulation.
- c) The PAGA Settlement is not an admission by Defendants, nor is this Order a finding of the validity of any allegations of any wrongdoing by Defendants. Neither this Order, the Joint Stipulation, nor any document referred to therein, nor any action taken to carry out the PAGA Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against Defendants.
- d) The Court approves a PAGA Settlement with a Gross Settlement Amount of \$20,000.00.

- 1 e) The Court approves attorney's fees and costs in the amount of \$6,666.66 to be
2 paid to PAGA Counsel, MERINO YEBRI, LLP.
- 3 f) From the PAGA Settlement, the Court approves PAGA Payment in the total
4 amount of \$12,000.00 in settlement of the PAGA Released Claims during the
5 PAGA Period by the PAGA Settlement Employees.
- 6 g) The Court approves Settlement Administrator Costs in an amount not to exceed
7 \$1,333.34.
- 8 h) The Court approves \$9,000 of the PAGA Payment to be paid to the LWDA.
- 9 i) The Court approves the remaining PAGA Payment, in the amount of \$3,000.00,
10 to be paid to PAGA Settlement Employees on a *pro-rata* basis based on the
11 number of weeks during which an PAGA Settlement Employee was employed
12 by Defendant during the PAGA Period. All such payments shall be classified
13 as 1099 income to PAGA Settlement Employees.
- 14 j) Defendants and Released Parties shall have no further liability for costs,
15 expenses, interest, attorney's fees, or for any other charge, expense, or liability
16 arising from or related to the PAGA Released Claims, except as provided in this
17 Order.
- 18 k) The Court approves Simpluris to administer the settlement in accordance with this
19 Order, and the Court orders Defendant to pay the costs associated with the
20 administration in addition to the Gross Settlement Amount in excess of \$1,333.34,
21 if any.
- 22 l) Within 10 days of the execution of this Order and accompanying Final Judgment,
23 Defendants shall fund the Gross Settlement Amount and provide Simpluris with a
24 list of PAGA Settlement Employees (including full name, last known address,
25 social security numbers, and the individual PAGA Payment payable to each
26 PAGA Settlement Employee).
- 27 m) Within 30 days of receipt of the Gross Settlement Amount and the list provided in
28 section (l) above, Simpluris shall mail out checks to the PAGA Settlement

1 Employees and the LWDA.

- 2 n) The PAGA Settlement Employees shall have 180 days to cash their checks, and
3 after that time period any uncashed checks shall be transmitted: 25% to the State
4 Treasury for deposit in the Trial Court Improvement and Modernization Fund,
5 established in Section 77209 of the Government Code, and subject to
6 appropriation in the annual Budget Act for the Judicial Council to provide grants
7 to trial courts for new or expanded collaborative courts or grants for Sargent
8 Shriver Civil Counsel; 25% to the State Treasury for deposit into the Equal Access
9 Fund of the Judicial Branch, to be distributed in accordance with Sections 6216 to
10 6223, inclusive, of the Business and Professions Code; and 50% to Bet Tzedek
11 Legal Services, a non-profit organization.
- 12 o) The Court further orders, adjudges, and decrees that each PAGA Settlement
13 Employee (defined as “all individuals who were employed by Defendants from
14 November 18, 2019 through September 23, 2021”) shall, for the PAGA Period
15 (defined as “from November 18, 2019 through September 23, 2021”), fully
16 releases and forever discharges Defendants and their past, present and/or future,
17 officers, members, board members, directors, employees, agents (including,
18 without limitation, any investment bankers, accountants, insurers, reinsurers,
19 attorneys and any past, present or future officers, directors and employees),
20 representatives, attorneys, insurers, customers, partners, investors, shareholders,
21 members, administrators, parent companies, subsidiaries, affiliates, divisions,
22 predecessors, successors and/or assigns, from any and all PAGA Released Claims
23 (defined as “All PAGA claims which were asserted in the LWDA Letter and
24 Plaintiffs’ First Amended Complaint or [Proposed] Second Amended Complaint
25 filed in this action or reasonably could have been asserted in the action based upon
26 the facts alleged in the LWDA Letter and Plaintiffs’ First Amended Complaint or
27 [Proposed] Second Amended Complaint, including but not limited to: (1) unpaid
28 overtime compensation; (2) failure to provide meal breaks; (3) failure to provide

1 rest breaks; (4) failure to reimburse business expenses; (5) failure to pay minimum
2 wage compensation; (6) failure to improper wage statements; and (7) failure to
3 timely pay wages upon discharge and waiting time penalties, and claims relating
4 to these allegations, and claims relating to these allegations during the PAGA
5 Period (defined as “November 18, 2019 through September 23, 2021”).

6 p) Pursuant to California Code of Civil Procedure Section 664.6, the Court shall
7 have and retain continuing jurisdiction over this action and the Parties and the
8 PAGA Settlement Employees including after the entry of this Order, to the
9 fullest extent necessary to interpret, enforce and effectuate the terms and intent
10 of the Agreement and this Order.

11
12 **IT IS SO ORDERED.**

13
14 DATED: _____

JUDGE OF THE SUPERIOR COURT