Reviewed By: C. Roman
on 4/16/2026 1:58 PM **Envelope: 23388774**

EFS-020

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: SCOTT ERNEST WHEELER (SBN 187998) FIRM NAME: THE WHEELER LAW FIRM, APC STREET ADDRESS: 250 WEST FIRST STREET, SUITE 216 CITY: CLAREMONT STATE: CA ZIP CODE: 91711 TELEPHONE NO.: (909) 621-4988 FAX NO.: (909) 621-4622 E-MAIL ADDRESS: SEW@SCOTTWHEELERLAWOFFICE.COM ATTORNEY FOR *(name)*: PLAINTIFF, DIANA C. MERINO	***FOR COURT USE ONLY***
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 NORTH FIRST STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN JOSE, CALIFORNIA 95113 BRANCH NAME: DOWNTOWN SUPERIOR COURTHOUSE	
PLAINTIFF/PETITIONER: DIANA C. MERINO DEFENDANT/RESPONDENT: HINES SERVICES INC. OTHER:	CASE NUMBER: 24CV448784 JUDICIAL OFFICER: Hon. Theodore C. Zayner
PROPOSED ORDER (COVER SHEET)	DEPT.: 19

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
   PLAINTIFF, DIANA C. MERINO

2. Title of the proposed order:
   [PROPOSED AMENDED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

3. The proceeding to which the proposed order relates is:
   a. Description of proceeding: Motion for Preliminary Approval
   b. Date and time: April 15, 2026 1:30 p.m.
   c. Place: Santa Clara Superior Court - Downtown Superior Courthouse Dept 19

4. The proposed order was served on the other parties in the case.

SCOTT ERNEST WHEELER ▶ _____
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Form Adopted for Mandatory Use
Judicial Council of California
EFS-020 [Rev. February 1, 2017]

PROPOSED ORDER (COVER SHEET)
(Electronic Filing)

Cal. Rules of Court, rules 2.252, 3.1312
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CASE NAME:	CASE NUMBER:
DIANA C. MERINO v. HINES SERVICES INC.	24CV448784

PROOF OF ELECTRONIC SERVICE

PROPOSED ORDER

1. I am at least 18 years old and **not a party to this action.**

   a. My residence or business address is *(specify):*
   THE WHEELER LAW FIRM, APC
   Scott Ernest Wheeler, Esq.
   Justin A. Wheeler, Esq.
   250 West First Street, Suite 216
   Claremont, California 91711

   b. My electronic service address is *(specify):*
   sew@scottwheelerlawoffice.com
   jaw@scottwheelerlawoffice.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

   a. On *(name of person served) (If the person served is an attorney, the party or parties represented should also be stated.):*
   MCPHARLIN SPRINKLES & THOMAS LLP
   Jeanine DeBacker, Esq.
   720 University Avenue, Suite 250B, Los Gatos, California 95032
   Attorney for Defendant, HINES SERVICES, INC.

   b. To *(electronic service address of person served):* jdebacker@mstpartners.com

   c. On *(date):* APRIL 16, 2026

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: APRIL 16, 2026



SCOTT ERNEST WHEELER
(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

THE WHEELER LAW FIRM, APC
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Attorneys for Plaintiff and the Putative Class

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County of Santa Clara
24CV448784
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

DIANA C. MERINO, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

HINES SERVICES INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 24CV448784

[*Assigned for all purposes to the Hon. Theodore C. Zayner, Dept. 19*]

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on April 15, 2025, at 1:30 p.m. in Department 19. No party contested the tentative ruling; therefore; the Court orders that the tentative ruling be adopted as the order of the court, as follows:

I. Introduction

This is a putative class and representative action arising from alleged wage and hour violations. Plaintiff alleges failures to pay wages, provide meal and rest breaks, reimburse expenses, provide accurate wage statements, pay final wages, and Plaintiff also seeks related penalties under the Private Attorney General Act ("PAGA").

The parties have reached a settlement, and Plaintiffs now move for preliminary approval of the settlement. The motion is unopposed.

II. Legal Standard

"In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.) The most important factor is the strength of the plaintiffs' case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.)

Similar to its review of class action settlements, a trial court must "review and approve" any settlement of an action filed under PAGA. Where, as here, a PAGA notice is filed after June 19, 2024, 65 percent of any penalties recovered go to the Labor and Workforce Development Agency ("LWDA"), leaving the remaining 35 percent for the employees. The trial court must "determine independently whether a PAGA settlement is fair and reasonable," to protect "the interests of the public and the LWDA in the enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77.) A PAGA settlement may be below the statutory maximum. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213.)

III. Discussion

A. Provisions of the Settlement

This case has been settled on behalf of the following class: All non-exempt employees

who were employed by Defendant, in the State of California, at any time from October 4, 2020, through September 15, 2025. (Declaration of Scott Ernest Wheeler ("Wheeler Decl."), Ex. B ("Agreement"), ¶ 2.) The settlement includes a subset group of "PAGA Members," defined as, "any non-exempt employee who was employed or has been employed by Defendant at any time during the time period of July 26, 2023, through September 15, 2025." (Id. at ¶ 21).)

Defendant will pay a gross settlement amount of $435,000. The gross settlement amount includes attorney fees of up to one-third of the total ($144,855); litigation costs of up to $17,000; a PAGA allocation of $30,000 (65 percent of which will be paid to the LWDA and 35 percent of which will be paid to PAGA Employees as individual PAGA payments); a class representative service award of up to $7,000; and settlement administration costs estimated at $10,000.

The Agreement provides that Phoenix Settlement Administrators ("Phoenix") will serve as the neutral entity that will administer the settlement. The Court appoints Phoenix as the settlement administrator. Funds from checks remaining uncashed after the void date will be remitted to the Legal Aid at Work's Wage Protection Clinic as the *cy pres* recipient under Code of Civil Procedure section 384. The Court approves the *cy pres* designation.

In exchange for the settlement, the class members agree to release Defendant and related entities and persons from "any and all claims … or causes of action for [various Labor Code violations and related violations] … as alleged in the Operative Complaint and the LWDA Notice dated July 26, 2024 … arising at any point during the Class Period." (Agreement, ¶ 30.) PAGA Members will be deemed to release Defendant and related entities and persons from "all claims for civil penalties only under PAGA that Plaintiff, on behalf of the State of California, predicated on the facts alleged in Plaintiff's Operative Complaint filed October 4, 2024 and PAGA Notice dated July 26, 2024, during the period from July 26, 2023, through September 15, 2025. (Id. at ¶ 33.) The release provisions are appropriately tailored to the factual allegations of the operative pleading and PAGA Notice. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538.)

B. Fairness of the Settlement

Plaintiff contends the settlement is fair, adequate, and reasonable. (Motion, pp. 12:15 – 16:19.) Plaintiff's counsel explains that the parties participated in mediation with Doug Leach, Esq., on August 14, 2025. (Wheeler Decl., ¶ 9.) Prior to mediation, the parties engaged in informal discovery, and Defendant provided payroll information, sample wage statements and

time records, and policies and procedures regarding class members. (Id. at ¶ 6.) Plaintiff's counsel provides an analysis of the total maximum value of the pertinent claims. (Id. at ¶¶ 22 – 33.) According to this analysis, Defendant's estimated total maximum exposure for all claims is approximately $2,528,454.96. (Id. at ¶ 38.) The gross settlement amount of $435,000 represents approximately 17.2 percent of Defendant's estimated total maximum exposure, which is within the general range of percentage recoveries that California courts have found to be reasonable. The Court has reviewed Plaintiff's written submissions and is satisfied that the settlement is fair and may be approved.

C. Service Award, Fees and Costs

Plaintiff seeks a service award of $7,000 and has provided a declaration describing her participation in this action. The Court is inclined to approve the service award in the amount requested and will issue its determination at the final approval hearing. Class counsel will seek attorney fees of up to one-third of the gross settlement amount. Prior to the final approval hearing, class counsel shall submit lodestar information (including hourly rate and hours worked) as well as evidence of actual litigation costs incurred and settlement administration costs.

D. Conditional Certification of Class

Plaintiff requests the class be conditionally certified for purposes of the settlement. California Code of Civil Procedure section 382 authorizes certification of a class "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court …"

Plaintiff states there are approximately 415 class members who can be identified from a review of Defendant's records. The Court finds that there are common questions regarding whether class members were subjected to unlawful conduct and that proposed class may be conditionally certified for settlement purposes.

E. Class Notice

California Rules of Court, rule 3.769, subdivision (f), provides, "If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in

arranging to appear at the settlement hearing and state any objections to the proposed settlement." Here, the form of the notice is generally adequate subject to the modifications set forth below. It describes the lawsuit, explains the settlement, and states the settlement amounts, including attorney fees and payment to the named plaintiff. The notice informs class members that they may appear at the final fairness hearing to make an oral objection without filing a written objection. Department 19 no longer uses the Microsoft Teams platform for remote appearances, and the notice must be modified to remove any reference to Microsoft Teams. The following language regarding the final approval hearing shall be added to the notice:

> Class members may appear at the final approval hearing in person or remotely, using the link for Department 19 (Afternoon Session), and should review the remote appearance instructions beforehand: https://santaclara.courts.ca.gov/online-services/remote-hearings
>
> Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing, if possible, so that potential technology or audibility issues can be avoided or minimized.

On the condition that the parties make the above changes to the notice prior to its mailing, the notice is approved.

IV. Conclusion

The Court GRANTS the motion for preliminary approval, VACATES the Case Management Conference set for 2:30 p.m. on April 15, 2026, and sets a final approval hearing for December 16, 2026, at 1:30 p.m. in Department 19.

IT IS SO ORDERED.

Dated: April 27 , 2026

HONORABLE THEODORE C. ZAYNER
JUDGE OF THE SUPERIOR COURT