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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF ORANGE

12 ROBERT NOVELLO, an individual,

13 Plaintiff,

14 vs.

15 HEG ENTERPRISES, INC., an unknown
16 corporation; HAROLD GRIFFITH, an
17 individual; GREAT WESTERN PACIFIC,
INC., an unknown corporation; and DOES 1
18 to 10, inclusive,

19 Defendants.
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Case Nos.: 30-2024-01391376-CU-OE-CXC

**DECLARATION OF JOSHUA R. MINO IN
SUPPORT OF CONTINUED JOINT
NOTICE OF MOTION AND MOTION FOR
AN ORDER APPROVING SETTLEMENT
OF ACTION BROUGHT PURSUANT TO
THE LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

*[Filed concurrently with Declarations of Robert
Novello, Joseph M. Preis, and Jeremy Guinta, as
well as Defendants' Declarations of Harold
Griffith, Efthalia S. Rofos, Esq., and Matt
Rigling; Amended [Proposed] Order]*

Assigned to Judge William Claster
Dept. CX101

Complaint Filed: April 2, 2024

DECLARATION OF JOSHUA R. MINO

I, Joshua R. Mino, declare that I am an attorney duly licensed to practice law before this Court and all courts of the State of California. I am Partner with the law firm Godes & Preis, LLP, counsel for Plaintiff Robert Novello (“Plaintiff”) in this action. Except matters attested to on information and belief, I have firsthand personal knowledge of the facts set forth below and, if called as a witness, I could and would competently testify thereto under oath.

1. I was admitted to practice law in 2006, and have approximately 20 years general litigation experience. I have over 15 years of wage and hour/PAGA litigation experience, both representing large institutional employers in the defense of such claims, as well as on a couple of occasions prosecuting wage and hour/PAGA class actions on behalf of individual employees, which allows me to have a more robust perspective in analysis the strengths and weaknesses of these types of cases and the valuation of settlement value. I have worked on this case from its inception and I submit this declaration pursuant to the Court’s April 17, 2026, Minute Order (“Minute Order”) seeking additional information in support of Plaintiff and Defendants HEG Enterprises, Inc., Harold Griffith, and Great Western Pacific, Inc.’s (collectively, “Defendants”) (with Plaintiff, the “Parties”) Joint Motion for Order Approving Settlement (“Motion”).

2. In Paragraph 1 of the Court’s Minute Order, the Court states as follows: “The PAGA Period runs through the ‘Effective Date.’ The ‘Effective Date’ is defined as ‘the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.’ Does this mean the Effective Date (unless adjusted by the escalator) is simply the day this Court enters judgment?” In order to address this issue, the Parties modified the settlement agreement to define the Effective Date as running through the date of the original PAGA settlement approval hearing date of April 17, 2026. This allowed the Parties to set an end date of the PAGA period to allow Defendants to obtain a definitive list of all aggrieved employees, not subject to further changes, as there is a lot of turnover in the industry. Changes to the Amended Settlement Agreement were made to correspond with these changes. Based upon the information provided from Defendants’ counsel,

1 the total number of aggrieved employees is 813 and the total number of work weeks has not
2 increased beyond the escalator threshold. (*See* the concurrently filed Declaration of Defendants’
3 counsel Thalia Rofos for additional information to address paragraphs 2-3 of the Court’s Minute
4 Order.) True and correct copies of the Amended Settlement Agreement and tracked change
5 version are attached hereto as **Exhibits 1 and 2**, respectively.

6 3. In Paragraph 4 of the Court’s Minute Order, the Court notes as follows: “Plaintiff’s
7 individual release covers ‘all claims, transactions, or occurrences that occurred during the PAGA
8 Period, *including, but not limited to*: all claims that were, or reasonably could have been, alleged,
9 based on the facts contained in the Operative Complaint and the PAGA Notice.’ (Emphasis
10 added.) **Is this meant to release Plaintiff’s wrongful termination claims in Case No. 24-**
11 **01420818?**” (Emphasis added.) The answer to the Court’s inquiry is no, Plaintiff’s wrongful
12 termination claims are not included in the release applicable to this action because such claims
13 are based on a totally separate series of allegations and were not and could not reasonably have
14 been alleged based on the facts at issue here. The wrongful termination case sounds in FEHA,
15 contractual claims, defamation, and more, but does not include any causes of actions arising from
16 allegations of Labor Code violations.

17 4. In Paragraph 5 of the Court’s Minute Order, the Court notes as follows: “Has
18 Plaintiff separately settled his claims in No. 24-01420818? If so, please provide the Court a copy
19 of the settlement agreement, as all settlements between the parties are relevant to the Court’s
20 fairness review of the PAGA settlement.” The answer to the Court’s inquiry is no, Plaintiff’s
21 separate action has not yet been settled. To be sure, the Parties are in the process of negotiating
22 the terms of a potential settlement, but they have not yet reached a final settlement.

23 5. In Paragraph 6 of the Court’s Minute Order, the Court states: “Please provide a
24 copy of Plaintiff’s pre-filing letter to the LWDA.” A true and correct copy of Plaintiff’s pre-filing
25 letter to the LWDA, along with the filing confirmation, is attached hereto as **Exhibit 3**.

26 6. In Paragraph 7 of the Court’s Minute Order, the Court notes: “Please provide a CV
27 for the expert who valued the case.” (*See* concurrently filed Declaration of Jeremy Guinta.)
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1 7. In Paragraph 8 of the Court’s Minute Order, the Court notes as follows: “Counsel’s
2 valuation of the PAGA claim is inadequate for the Court to discharge its approval duties. ‘[A]
3 trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and
4 adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones,
5 and to maximize enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
6 Cal.App.5th 56, 77.) To that end, foreach and every predicate Labor Code violation that will be
7 released, please provide further information about the strengths and weaknesses of Plaintiffs’
8 claims and Defendant’s expected defenses, including the theories of recovery and defense and the
9 evidence supporting both sides’ cases, such as violation rates based on expert record review.
10 [Citation.] The Court recognizes that dollar figures may be somewhat speculative, but the Court
11 nevertheless needs to understand (1) the rationale for the settlement amount, and (2) the theories
12 of prosecution and defense for each claim and the evidence supporting each.” Pursuant to the
13 Court’s request, rational for the settlement and an analysis of each of Plaintiff’s seven causes of
14 action in this matter are provided below, as follows:

15 a. Rational and Plaintiff’s valuation - Through the course of discovery and efforts
16 by Robert Novello, documents and information were exchanged which
17 initially identified an issue at one of HEG’s locations, which triggered this
18 action. On June 17, 2022, during the time period in which Plaintiff was only
19 working on special projects, Plaintiff notified Mr. Griffith that he had informed
20 Josh Ruiz, a manager, that he “did not see any break sheets for staff to sign on
21 either side,” noting that this issue was “extremely critical.” On December 3,
22 2022, he texted Mr. Griffith, “We found out that La Quinta is manipulating the
23 breaks. Meaning having servers work thru [sic] breaks and then adjusting to
24 show that they went on breaks.” Mr. Griffith responded in part, “It’s hard for
25 me to understand Josh [Ruiz, a manager] didn’t know this was going on.” On
26 January 15, 2023, Mr. Griffith texted Plaintiff that “I’ve been to LaQuinta
27 Enzo’s several times and it appears they don’t take breaks!!! [. . .] You told
28 me a few weeks ago they were manipulating their brakes [sic]. I assumed you

1 straightened that out and made them do it as required by law. Did you correct
2 the issue or what[?] [. . .] We can't afford another law suit [sic] because of
3 management's lack of supervision of company policy and regulations."
4 Plaintiff responded that Mr. Griffith "would have to talk with Mark [Esparza,
5 a manager]. I have mad [sic] him aware of this!" Plaintiff also confirmed that
6 he had raised the issue with another manager, Antonia. As further discussed
7 in the concurrently filed Declaration of Hal Griffith, policies and procedures
8 were subsequently updated to address these issues which remediation efforts
9 potentially impacted the recoverability of penalties as a mitigating factor
10 which was considered in settlement.

11 b. In furtherance of calculating HEG's liability pursuant to its wage and hour
12 violations, Plaintiff retained Ankura, a well-respected national data analytics
13 firm that specializes in analyzing wage and hour data, Ankura, which team was
14 led by expert Jeremy Guinta. After initial meet and confer efforts, HEG
15 produced, subject to a Protective Order, and Ankura analyzed HEG's
16 employee roster, payroll, and timekeeping records for every employee, as well
17 as the employee handbook and other policy and procedure records. After
18 initial review further meet and confer efforts were conducted to obtain
19 additional information to commence the analysis of the data, in advance of
20 mediation. Ankura performed a mapping of all of the data to identify unique
21 employees and match records across all sources. During this process, it
22 identified extensive discrepancies and/or missing data related to employee IDs
23 and/or employee names across the multiple datasets. Several employees were
24 missing either payroll or timekeeping data. To calculate damages for these
25 employees, an extrapolation was performed based on the data.

26 For example, some distinct employees share common ID numbers, some
27 employees are missing employee ID numbers altogether, some are missing
28 timekeeping information, some are missing payroll information, and some are

1 missing both. There are also discrepancies between timekeeping and payroll
2 records regarding overtime. For example, in the pay period from 10/08/2023
3 to 10/21/2023, one employee's timekeeping records show 85.02 total hours,
4 consisting of 40 regular, 20 overtime, and 25.02 doubletime, but his payroll
5 records show only 40 total hours, all regular. Similarly, in the pay period from
6 09/08/2024 to 09/21/2024, another employee's timekeeping records show
7 153.83 total hours, consisting of 72 regular, 36 overtime, and 45.83
8 doubletime, but her payroll records show only 79.32 hours, consisting of 78.8
9 regular and 0.52 overtime. When I raised these discrepancies with HEG's
10 counsel in our continuous informal discovery process, they represented that "it
11 appears that the timekeeping records may have had some entry errors when the
12 company transitioned to Toast [its new system] and imported their time records
13 over. HEG informed me that new Paylocity payroll records appear to reflect
14 accurate hours worked and appropriately paid wages. However, on the Long
15 Beach Toast Punch Data, several of the early entries, for shifts between 9/8/24
16 - 9/21/24, all show a 4:00 am clock out time, which is clearly an entry error
17 considering the restaurant closes around 9:00 to 10:00 pm and all closing shifts
18 generally clock out by 9:00-10:00 pm. This 4:00 am clock out time error
19 appears to affect the first 90~ shifts, but it also incorrectly inflates the hours
20 worked to sometimes 10+ or 15+ when that was clearly not the case." Whether
21 or not this explanation is compelling, HEG's payroll records are inaccurate and
22 unreliable. Many more such examples exist.

23 Setting aside the record discrepancies, the data demonstrate a violation rate,
24 including a 71.44% meal period violation rate in HEG's data, where at least
25 one meal period violation occurred in each pay period for each of the aggrieved
26 employees. Conversely, HEG's expert performed a per shift analysis and
27 found that pre-implementation of its policy changes discussed above there was
28 a meal break violation rate of approximately 24% and post implementation of

the policy and procedure changes, the rate dropped to approximately 8%, which marked a significant improvement demonstrating it remediated its Labor Code violations, establishing that this lawsuit deterred future Labor Code violations.

Ankura applied the following penalties to the identified violations as follows:

- Meal Breaks (Labor Code 226.7): \$100 for the first violation & \$200 for each subsequent violation per pay period
- Rest Breaks (Labor Code 226.7): \$100 for the first violation & \$200 for each subsequent violation per pay period
- Minimum Wage (Labor Code 1197): \$100 for the first violation & \$250 for each subsequent violation per pay period
- Overtime (Labor Code 510): \$100 for the first violation & \$200 for each subsequent violation per pay period
- Incorrect Wage Statements (Labor Code 226): \$100 for the first violation & \$200 for each subsequent violation per pay period
- Waiting Time Penalties (Labor Code 203): For any employee who was terminated and full wages were not paid: \$100 for each violation.

c. Based upon Ankura's analysis of HEG's records, it calculated the following maximum PAGA violations: (1) meal break violations: \$2,472,500; (2) rest break violations: \$3,431,900; (3) minimum wage violations: \$109,450; (4) overtime violations: \$1,312,900; (5) incorrect wage statements: \$3,061,300; and (6) waiting time penalties: \$7,300. Ankura calculated HEG's total maximum PAGA exposure as \$10,395,350. However, as a further mitigating factor HEG raised issues that a significant portion of Plaintiff's alleged PAGA violations constitute derivative penalties, like recordkeeping, failure to pay wages at separation, and vacation pay claims, which are dependent upon the underlying violation. Although the 2024 PAGA reform prohibiting penalties

1 for derivative violations, caused by the same underlying conduct, is not
2 directly applicable to this matter, the Courts may still exercise its broad
3 discretion to reduce unjust, arbitrary or disproportionate penalties under §
4 2699(e)(2), particularly where HEG's conduct is not willful or intentional.
5 California courts have likewise held that derivative violation claims lack
6 independent merit. (*Zuniga v. Alexandria Care Ctr., LLC* (2021) 67
7 Cal.App.5th 871, 880 [claims for failure to maintain records and provide
8 accurate wage statements were derivative of meal/rest period and overtime
9 claims and therefore lacked independent merit].) Thus, HEG intended to argue
10 that Plaintiff cannot simply rely on duplicative penalties to overvalue the
11 PAGA settlement valuations. The analysis as to each individual cause of action
12 is further set forth below:

- 13 d. First Cause of Action: Failure to Pay Wages – Plaintiff's claims arise from his
14 and other employees' work at the Fisherman¹ and HEG's failure to provide
15 meal and rest periods at the proper intervals, to pay all wages owed including
16 overtime, to provide accurate wage statements, to pay all wages owed to
17 terminated or separated employees in a timely manner, to pay all vacation pay
18 owed to terminated or separated employees, and to reimburse employee
19 business expenses. The continued litigation of these matters would require
20 Plaintiff to prove, among many other things, that Defendants failed to provide
21 HEG employees—at multiple business locations—with proper meal and rest
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23 ¹ The terms "Fisherman" and "HEG" are defined consistent with my March 20, 2026,
24 Declaration, with context, as follows: Plaintiff was employed as the General Manager of the
25 Fisherman's Restaurant in San Clemente, California ("Fisherman") and then as the Vice President
26 of Operations running the entire California portfolio of businesses, and additionally performing
27 all the purchasing for Defendant Great Western Pacific (from his home base at the Fisherman) by
28 Defendant HEG Enterprises, Inc., and/or its alter egos Defendant Harold Griffith the owner ("Mr.
Griffith"), non-parties Joan Griffith, Kyle Griffith, and Troy Griffith (wife and sons who were the
secretary, president, and vice president, respectively) and/or Defendant Great Western Pacific,
Inc., non-party Hall Griffith & Associates, and non-party Griffith Entertainment (collectively
"HEG").

1 breaks, make such breaks available, properly train its employees as to how and
2 when to conduct such breaks, or pay required premiums for missed or
3 interrupted breaks with potential variations at each location on how HEG's
4 policies and procedures were implemented and followed. Evidence in support
5 of such matters would require numerous witnesses to be deposed and be
6 available for trial, and would require extensive analysis as to HEG's records.²
7 To be sure, the presentation of HEG's business records at trial would require
8 expert testimony, creating additional costs and fees. Plaintiff would also have
9 to prove the required level of intent as to each respective claim, which would
10 be even more challenging than normal based on the amount of witnesses who
11 would have to be questioned. Similarly, if litigation continued, HEG would
12 have to more fully investigate and support its affirmative defenses, and it
13 would have to prepare to defend itself against Plaintiff's claims by, *inter alia*,
14 interviewing witnesses and analyzing thousands of pages of documents. One
15 of HEG's positions included that at some point during the relevant time period,
16 HEG transitioned its timekeeping records onto a new system, which may have
17 created some transfer-related errors that inadvertently altered HEG's
18 timekeeping information, potentially reducing the number of PAGA violations
19 at issue. For example, HEG argued that one set of records on one system
20 reflected accurate hours worked and appropriately paid wages, but that records
21 on another system showed erroneous clock-in and clock-out times for the same
22 shifts, incorrectly inflating HEG employees' hours and causing the system to
23 reflect nonexistent PAGA violations. To overcome this theory, Plaintiff would
24 have been required to examine two sets of timekeeping records with disparate
25 information, depose employees about the discrepancies, and hope that such
26 employees would be able to resolve such discrepancies through documents or

27 _____
28 ² The Court's concern about why so many depositions would be necessary is addressed in
paragraph 5, *infra*.

1 simply their own memory. The Parties also would have been forced to rely
2 heavily on expert witnesses in both the discovery and trial phases to analyze
3 any timekeeping discrepancies and purported PAGA violations, and it was
4 clear at the time of this tentative settlement that the Parties' respective experts
5 did not agree on the number of potential violations at issue. Moreover, another
6 issue requiring depositions and risk to all Parties is, even if HEG employees
7 were not taking proper breaks, whether they did so voluntarily. For example,
8 Plaintiff anticipated that Defendants would argue that HEG made breaks
9 available to employees, but that HEG was not required to "police" such breaks
10 to ensure full, compliant breaks were actually taken, pursuant to *Donohue v.*
11 *AMN Services, LLC* (2021) 11 Cal.5th 58, 67. The strength of each Parties'
12 position would change depending on the testimony given at deposition,
13 perhaps back and forth, with every witness, including employees for various
14 branches of HEG. Accordingly, the Parties' positions as to this cause of action
15 were heavily dependent on discovery, both expert and lay, and would have
16 taken extensive testimony and analysis to paint a full picture. Accordingly,
17 there was significant risk and uncertainty for all Parties' as to their respective
18 chances for success at trial.

19 e. Second Cause of Action: Failure to Pay Timely Wages at
20 Termination/Separation – Many of the issues underlying this cause of action
21 were addressed *supra*. In particular, a proper analysis of this claim would
22 require all Parties to engage in individualized discovery of numerous
23 employees at various HEG branches. Moreover, the discrepancies in
24 Defendants' multiple timekeeping and payroll systems would be a significant
25 issue, creating uncertainty, requiring more detailed investigation and
26 discovery, and forcing the Parties into a credibility contest. Ultimately, of
27 course, the wages at issue by way of this cause of action are the overtime,
28 premiums, and other pay discrepancies at issue by way of the previous cause

of action. Accordingly, the Parties' positions and respective risk are largely identical in this cause of action as to that one, as set forth more fully *supra*.

f. Third Cause of Action: Failure to Pay Vacation Wages Due at Termination –

Many of the issues underlying this cause of action were addressed *supra*. Moreover, this cause of action arises from the issue of vested vacation time for terminated employees. Proper analysis of such wages would require thorough investigation, discovery, depositions, etc., of various aggrieved former employees (and the necessary time, expense, and effort of locating all such former employees). Again, discrepancies in Defendants' timekeeping and payroll records would create more work for all Parties, including their experts, to unravel and determine the truth. Accordingly, this cause of action, like those above, became increasingly complex and uncertain as to all Parties as discovery progressed.

g. Fourth Cause of Action: Failure to Provide Accurate Wage Statements – To

an extent, this cause of action is more straightforward and could largely be resolved by a straightforward analysis of HEG's paystubs, albeit across various branches of the HEG enterprise. However, the discrepancies in Defendants' timekeeping and payroll records would potentially reach the issues underlying this cause of action, and, more critically, this cause of action also arises in part from the allegation that Defendants' wage statements were not "accurate," (Complaint, ¶ 42) thus requiring the resolution of, for example, the First Cause of Action and all issues arising thereunder to determine what precisely the wage statements failed to include.

h. Fifth Cause of Action: Failure to Reimburse All Business Expenses – Like

those above, this cause of action would require extensive deposition testimony and reliance on individual witnesses to establish or refute. Given the undisputed discrepancy in Defendants' timekeeping and payroll records, this is a situation in which the presence or lack of documents would not have much

1 if any bearing on proving the claims. For example, if Defendants had record
2 of business expense reimbursement requests but no record of actually paying
3 such reimbursements, Defendants would argue that the reimbursements were
4 paid but potentially lost in the timekeeping system transition. If the
5 reimbursement requests and payments aligned, Plaintiff would argue that there
6 were more unpaid requests missing from Defendants' system following the
7 transition, or that were never entered into Defendants' system at all because
8 Defendants never intended to pay them. Again, deposition testimony of
9 various HEG employees across numerous branches would have significantly
10 impacted each Parties' position, depending on the testimony, creating an
11 uncertain and risky prospect of such detailed discovery for all.

- 12 i. Sixth Cause of Action: Violation of Unfair Business Practices Act – This cause
13 of action arises entirely under the same grounds (and would be subject to the
14 same arguments and defenses) as those analyzed above.
- 15 j. Seventh Cause of Action: Penalties Pursuant to Private Attorneys General Act
16 – This cause of action largely arises under the same grounds (and would be
17 subject to the same arguments and defenses) as those analyzed above, but it
18 would also require the additional step of the calculation of such penalties,
19 which would require extensive expert involvement, and, given the experts'
20 differing views in this matter, would require the Court to assess the strengths
21 and weaknesses of each expert's opinions, creating significant risk and
22 uncertainty for all Parties. Similarly, the Court would have to resolve issues
23 with the discrepancies between Defendants' two timekeeping systems,
24 creating more risk and uncertainty that the Court could side in favor of either
25 Party, or simply rule down the middle. Moreover, as discussed above, the
26 assessment of penalties is largely within the discretion of the Court, and here
27 HEG already made significant remediation efforts to ensure compliance with
28 the Labor Code, there are issues regarding staking of penalties, which, when

1 taken in the totality of the circumstances, a settlement of \$750,000.00 appeared
2 to be “fair, reasonable, and adequate in view of PAGA's purposes to remediate
3 present labor law violations, deter future ones, and to maximize enforcement
4 of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56,
5 77.)

6 8. In Paragraph 9 of the Court’s Minute Order, the Court notes as follows: “Counsel’s
7 claim valuation stresses the alleged necessity of proving predicate Labor Code violations on an
8 individual basis, with discovery from hundreds of employees potentially needed. Is this accurate?
9 Plaintiff worked for HEG for 38 years, concluding as Vice President of Operations. Per the
10 declaration of Defendant Mr. Griffith, Plaintiff was responsible for approving and enforcing
11 company-wide wage-and-hour policies and had direct oversight and control of each restaurant’s
12 general manager. (See ROA 30, ¶ 6.) If there were ever a PAGA plaintiff with foundation to
13 testify to an entire company’s wage-and-hour policies and the implementation thereof, it is
14 Plaintiff. For example, suppose he were to testify that as a matter of practice, HEG discouraged
15 employees from taking legally required rest breaks. Would individualized employee testimony
16 really be necessary to prove the rest break claims in aggregate?” The answer to the Court’s
17 inquiry is yes, individualized discovery would be necessary, for at least four reasons. First,
18 Plaintiff was not the Vice President of Operations at any time within the PAGA period as he was
19 only performing special projects, those responsibilities transferred to other managers. Instead, he
20 worked on a special projects basis and had no authority over the matters at issue by way of his
21 PAGA claims, no control over HEG’s policies, nor any direct involvement with HEG’s “wage-
22 and-hour policies and the implementation thereof.” He could only point out the purported
23 violations that he became aware of. For example, to the Court’s suggestion that Plaintiff could
24 simply testify that “as a matter of practice, HEG discouraged employees from taking legally
25 required rest breaks,” that testimony would likely not be ironclad, if Plaintiff could truthfully give
26 it based on his own personal knowledge at all. He was simply not in the same position of authority
27 during the PAGA period that he was prior. Second, the Court’s suggestions that Plaintiff could
28 simply testify himself and establish various issues beyond dispute assumes that Plaintiff’s

1 credibility would never be challenged, let alone impeached, which is never a certainty at trial as
2 HEG intended to blame Plaintiff. All Parties would do everything in their power to convince the
3 Court that the other side is untrustworthy, that the witnesses' testimony is based on unsupported
4 assumptions, and that more evidence is required than simply one man's testimony. Plaintiff
5 would never go to trial on such shaky ground, no matter how much he believed in his own case.
6 Witnesses are required. Third, even if Plaintiff testified that he knew HEG employees were not
7 taking breaks, he would have to go even further and prove that such employees did not skip their
8 breaks voluntarily, pursuant to *Donahue*, and that any alterations made to time records at the La
9 Quinta location (as discussed above) did not represent the respective employees' accurate time
10 records. Defendants, of course, would argue the opposite. This would require extensive
11 depositions, which each side presenting as many witnesses in favor of their position as possible
12 to either establish or refute Plaintiff's allegations of widespread misconduct. Fourth, Defendants
13 would likely point to purported efforts to change HEG's wage-and-hour practices, which Plaintiff
14 would not be able to refute without witnesses, whom they would effectively have to randomly
15 choose from among HEG's current and former employees, many of whom might not cooperate.
16 To the extent that any HEG employees would be scared to testify against Defendants, Plaintiff
17 would likely not identify cooperative witnesses at random and would instead have to sweep a
18 large sample size. Defendants would likely have to do the same to identify sufficient witnesses
19 willing to testify in their favor.

20 9. In Paragraph 12 of the Court's Minute Order, the Court notes as follows: "This is
21 a lightly litigated case (just over 75 docket entries), but the expert has charged over \$36,000 in
22 fees across five timekeepers. What required such a large fee? Even in cases where 100% of time
23 and pay records are produced, the Court usually sees much smaller expert fees." In response to
24 the Court's inquiry, the Parties position is that this action was not "lightly litigated," even if it did
25 not frequently involve running into Court. And, the motion to bifurcate the proceedings required
26 extensive work. As for discovery, the Parties engaged in formal discovery that resulted in
27 numerous informal discovery disputes which the Parties were able to work through on their own
28 without Court involvement (other than the ultimate issues such as the entry of a Protective Order),

1 prepared expert witnesses, analyzed numerous documents, and more in furtherance of their
2 respective claims and defenses. To be sure, and respectfully, the Parties feel that the Court should
3 not assume the case was “lightly litigated” just because the Parties went out of their way not to
4 run to Court over every dispute, but rather engaged in numerous informal efforts, including
5 discovery, mediation, and more, all based upon each side’s respective counsel being experienced
6 in wage and hour litigation matters.

7 10. Pursuant to Paragraphs 14 and 15 of the Court’s Minute Order, the Parties met and
8 conferred and determined that some of HEG’s aggrieved employees speak only Spanish, and that
9 Spanish is the only language other than English that will be required for the notice of PAGA
10 settlement. Attached as **Exhibit 4** is a true and correct copy of the updated notice of PAGA
11 settlement (*i.e.*, which now contains the additional language requested by the Court), which has
12 also be translated into Spanish.

13 11. As a result of added Aggrieved Employees and the Spanish translation of the
14 notice, the third party claims administrator has prepared a revised quote for the services it has
15 performed (translation of the notice) and will perform, which totals \$7,250. A true and correct
16 copy of the revised Quote is attached hereto as **Exhibit 5** (and modification was added to the
17 Amended Settlement Agreement attached as Exhibits 1-2).

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed this 19th day of May, 2026, at Irvine, CA.

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22 Joshua R. Mino
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EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between: (1) Plaintiff Robert Novello (“Plaintiff”), individually and in his representative capacity as a private attorney general on behalf of the State of California; and (2) Defendant H.E.G. Enterprises, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”¹

1. DEFINITIONS

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Robert Novello v. HEG Enterprises, Inc. et al.*, case number 30-2024-01391376-CU-OE-CXC, initiated on April 2, 2024, and pending in the Superior Court of the State of California for the County of Orange.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means all individuals who are or were employed by Defendants as non-exempt and/or exempt employees in California during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of the State of California for the County of Orange.
- 1.8. “Defense Counsel” means the attorneys representing Defendant, Efthalia Rofos of O’Hagan Meyer LLP.

¹ This Agreement is based on the Los Angeles County Superior Court’s [Model] PAGA Settlement Agreement (LASC CIV 298) (“Model Agreement”), with minor modifications to reflect the agreement by the Parties and the facts of the case.

- 1.9. “Effective Date” means April 17, 2026.
- 1.10. “Gross Settlement Amount” means **\$750,000.00**, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the PAGA Representative Service Payment, and the Administrator’s Expenses Payment.
- 1.11. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.13. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. “PAGA Counsel” means Joseph Preis, Joshua Mino and Richard Angel of Godes & Preis, LLP, the attorneys representing the Plaintiff in the Action.
- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from January 23, 2023, through the Effective Date (April 17, 2026).
- 1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. “PAGA Notice” means Plaintiff’s letter(s) to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

- 1.22. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (at least \$430,500.00), allocated 25% to the Aggrieved Employees (at least \$107,625.00) and the 75% to LWDA (at least \$322,875.00) in settlement of PAGA claims.
- 1.23. “PAGA Representative Service Payment” means the payment to Plaintiff for initiating the Action and providing services in support of the Action.
- 1.24. “Plaintiff” means Robert Novello, the named plaintiff in the Action.
- 1.25. “Approval Order” means the proposed Order Granting Approval of PAGA Settlement.
- 1.26. “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates, including, but not limited to, Harold Griffith and Great Western Pacific, Inc.
- 1.28. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29. “Defendant” means named Defendant H.E.G. Enterprises, Inc.

2. RECITALS

- 2.1. On April 2, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for **(1)** Failure to pay wages; **(2)** Failure to pay timely wages at termination/separation; **(3)** Failure to pay vacation wages due at termination; **(4)** Failure to provide accurate wage statements; **(5)** Failure to reimburse all business expenses; **(6)** Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and **(7)** Penalties pursuant to Private Attorneys General Act (“PAGA”). The April 2, 2024, Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On December 9, 2025, the Parties participated in an all-day mediation presided over by Michael Young, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through formal discovery and executed stipulated protective orders, various documents and information that allowed both

sides to evaluate the potential exposure and potential risk, such as the operative employee handbook, policies and procedures related to the claims alleged in the Operative Complaint, Plaintiffs' personnel files, payroll and time records, and the production of all time and pay records for the Aggrieved Employees.

- 2.5. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

3. **MONETARY TERMS**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay **\$750,000.00** and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:
- 3.2.1. To Plaintiff: PAGA Representative Service Payment to the Plaintiff of not more than \$15,000.00 for Robert Novello (in addition to any Individual PAGA Payment the Plaintiff is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for a PAGA Representative Service Payment that does not exceed this amount. As part of the application or motion for the approval of the Settlement or as a separate application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment, Plaintiff will seek Court approval for any PAGA Representative Service Payment. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed as PAGA Penalties. The Administrator will pay the PAGA Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA Representative Service Payment.
- 3.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$250,000.00 and a PAGA Counsel Litigation Expenses Payment of not more than \$48,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. As part of the motion for approval of the Settlement or as a separate application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment, Plaintiff and/or PAGA Counsel will seek Court approval for any

PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount to be distributed as PAGA Penalties. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$7,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of at least \$430,500 to be paid from the Gross Settlement Amount, with 75% (\$322,875.00) allocated to the LWDA PAGA Payment and 25% (\$107,625.00) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$107,625 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Aggrieved Employee Pay Periods. Based on a review of its records as of the date of the mediation, Defendant estimated there were 676 Aggrieved Employees who worked a total 34,751 of PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within fifteen (15) days of the Approval Order, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect the

Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Court's entry of Order Approving PAGA Settlement.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (180) days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

- 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiff's Release. Plaintiff and Plaintiff's respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.
- 5.2. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
- 5.3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1. Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including **(i)** a draft proposed Order Granting Approval of PAGA Settlement; **(ii)** a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; **(iii)** a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and **(iv)** all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.
- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

- 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified

in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of the mediation, there were approximately 676 Aggrieved Employees who worked approximately 34,751 Pay Periods during the PAGA Period. Should the qualifying Pay Periods worked by the PAGA Members during the PAGA Period ultimately increase by more than 10% (i.e., by more than 3,475 Pay Periods), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Pay Periods worked by the PAGA Members above 10%. For example, if the number of Pay Periods increases by 11% to 38,574 Pay Periods, the Gross Settlement Amount will increase by 1%. Alternatively, Defendant may choose to have the PAGA release period end on the date when the 10% is reached. If this provision is triggered so as to increase the Gross Settlement Amount, the Parties agree that the Class Counsel Fees Payment will increase proportionally such that the total amount of attorneys' fees remains one-third of the Gross Settlement Amount after the upward adjustment required by this provision is implemented.

9. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is

finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. **ADDITIONAL PROVISIONS**

- 10.1. **No Admission of Liability or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2. **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3. **Attorney Authorization.** PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4. **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5. **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the Administrator discharges its obligation to pay out all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly

given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Godes & Preis, LLP

Joseph Preis

jpreis@gaplegal.com

Joshua Mino

jmino@gaplegal.com

Richard Angel

rangel@gaplegal.com

300 Spectrum Center, Drive, Suite 1420

Irvine, CA 92618

To Defendant:

O'Hagan Meyer LLP

Efthalia Rofos

trofos@ohaganmeyer.com

4695 Macarthur Court, Suite 900

Newport Beach, California 92660

- 10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

APPROVAL AND EXECUTION BY PARTIES

PLAINTIFF:

Dated: 5/19/26


Robert Novello

Plaintiff and Private Attorney General

DEFENDANT:

Dated: 5/19/2026

H.E.G. Enterprises, Inc.



By: Hal Griffith

Title: Owner

EXHIBIT 2

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between: (1) Plaintiff Robert Novello (“Plaintiff”), individually and in his representative capacity as a private attorney general on behalf of the State of California; and (2) Defendant H.E.G. Enterprises, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”¹

1. DEFINITIONS

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Robert Novello v. HEG Enterprises, Inc. et al.*, case number 30-2024-01391376-CU-OE-CXC, initiated on April 2, 2024, and pending in the Superior Court of the State of California for the County of Orange.
- 1.2. “Administrator” means Phoenix.Class Action Administration Solutions (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means all individuals who are or were employed by Defendants as non-exempt and/or exempt employees in California during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of the State of California for the County of Orange.
- 1.8. “Defense Counsel” means the attorneys representing Defendant, Efthalia Rofos of O’Hagan Meyer LLP.

¹ This Agreement is based on the Los Angeles County Superior Court’s [Model] PAGA Settlement Agreement (LASC CIV 298) (“Model Agreement”), with minor modifications to reflect the agreement by the Parties and the facts of the case.

- 1.9. “Effective Date” means ~~the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment~~ April 17, 2026.
- 1.10. “Gross Settlement Amount” means **\$750,000.00**, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the PAGA Representative Service Payment, and the Administrator’s Expenses Payment.
- 1.11. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.13. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. “PAGA Counsel” means Joseph Preis, Joshua Mino and Richard Angel of Godes & Preis, LLP, the attorneys representing the Plaintiff in the Action.
- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from January 23, 2023, through the Effective Date (April 17, 2026).
- 1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.21. "PAGA Notice" means Plaintiff's letter(s) to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (at least \$430,500.00), allocated 25% to the Aggrieved Employees (at least \$107,625.00) and the 75% to LWDA (at least \$322,875.00) in settlement of PAGA claims.
- 1.23. "PAGA Representative Service Payment" means the payment to Plaintiff for initiating the Action and providing services in support of the Action.
- 1.24. "Plaintiff" means Robert Novello, the named plaintiff in the Action.
- 1.25. "Approval Order" means the proposed Order Granting Approval of PAGA Settlement.
- 1.26. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates, including, but not limited to, Harold Griffith and Great Western Pacific, Inc.
- 1.28. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29. "Defendant" means named Defendant H.E.G. Enterprises, Inc.

2. RECITALS

- 2.1. On April 2, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for **(1)** Failure to pay wages; **(2)** Failure to pay timely wages at termination/separation; **(3)** Failure to pay vacation wages due at termination; **(4)** Failure to provide accurate wage statements; **(5)** Failure to reimburse all business expenses; **(6)** Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and **(7)** Penalties pursuant to Private Attorneys General Act ("PAGA"). The April 2, 2024, Complaint is the operative complaint in the Action (the "Operative Complaint"). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On December 9, 2025, the Parties participated in an all-day mediation presided over by Michael Young, Esq. which led to this Agreement to settle the Action.

- 2.4. Prior to mediation, Plaintiff obtained, through formal discovery and executed stipulated protective orders, various documents and information that allowed both sides to evaluate the potential exposure and potential risk, such as the operative employee handbook, policies and procedures related to the claims alleged in the Operative Complaint, Plaintiffs' personnel files, payroll and time records, and the production of all time and pay records for the Aggrieved Employees.
- 2.5. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

3. **MONETARY TERMS**

- 3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, Defendant promises to pay **\$750,000.00** and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:
 - 3.2.1. **To Plaintiff:** PAGA Representative Service Payment to the Plaintiff of not more than \$15,000.00 for Robert Novello (in addition to any Individual PAGA Payment the Plaintiff is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for a PAGA Representative Service Payment that does not exceed this amount. As part of the application or motion for the approval of the Settlement or as a separate application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment, Plaintiff will seek Court approval for any PAGA Representative Service Payment. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed as PAGA Penalties. The Administrator will pay the PAGA Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA Representative Service Payment.
 - 3.2.2. **To PAGA Counsel:** A PAGA Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$250,000.00 and a PAGA Counsel Litigation Expenses Payment of not more than \$48,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. As part of the motion for approval of the Settlement or as a separate application or

motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment, Plaintiff and/or PAGA Counsel will seek Court approval for any PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount to be distributed as PAGA Penalties. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$76,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$76,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of at least \$430,500 to be paid from the Gross Settlement Amount, with 75% (\$322,875.00) allocated to the LWDA PAGA Payment and 25% (\$107,625.00) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$107,625 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. **SETTLEMENT FUNDING AND PAYMENTS**

4.1. Aggrieved Employee Pay Periods. Based on a review of its records ~~to dates of the date of the mediation~~, Defendant estimatesd there ~~are were~~ 676 Aggrieved Employees who worked a total 34,751 of PAGA Pay Periods.

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- 4.2. Aggrieved Employee Data. Within fifteen (15) days of the Approval Order, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect the Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Court's entry of Order Approving PAGA Settlement.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment shall not precede disbursement of Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (180) days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check

was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

- 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiff's Release. Plaintiff and Plaintiff's respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.
- 5.2. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
- 5.3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1. Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including **(i)** a draft proposed Order Granting Approval of PAGA Settlement; **(ii)** a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; **(iii)** a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and **(iv)** all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.
- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

- 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified

in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of the ~~mediationis Settlement Agreement~~, there ~~are were~~ approximately 676 Aggrieved Employees who worked approximately 34,751 Pay Periods during the PAGA Period. Should the qualifying Pay Periods worked by the PAGA Members during the PAGA Period ultimately increase by more than 10% (i.e., by more than 3,475 Pay Periods), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Pay Periods worked by the PAGA Members above 10%. For example, if the number of Pay Periods increases by 11% to 38,574 Pay Periods, the Gross Settlement Amount will increase by 1%. Alternatively, Defendant may choose to have the PAGA release period end on the date when the 10% is reached. If this provision is triggered so as to increase the Gross Settlement Amount, the Parties agree that the Class Counsel Fees Payment will increase proportionally such that the total amount of attorneys' fees remains one-third of the Gross Settlement Amount after the upward adjustment required by this provision is implemented.

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9. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to

perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS

- 10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the Administrator discharges its obligation to pay out all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly

given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Godes & Preis, LLP

Joseph Preis

jpreis@gaplegal.com

Joshua Mino

jmino@gaplegal.com

Richard Angel

rangel@gaplegal.com

300 Spectrum Center, Drive, Suite 1420

Irvine, CA 92618

To Defendant:

O'Hagan Meyer LLP

Efthalia Rofos

trofos@ohaganmeyer.com

4695 Macarthur Court, Suite 900

Newport Beach, California 92660

- 10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

APPROVAL AND EXECUTION BY PARTIES

PLAINTIFF:

Dated: _____

Robert Novello
Plaintiff and Private Attorney General

DEFENDANT:

Dated: _____

H.E.G. Enterprises, Inc.

By: _____

Title: _____

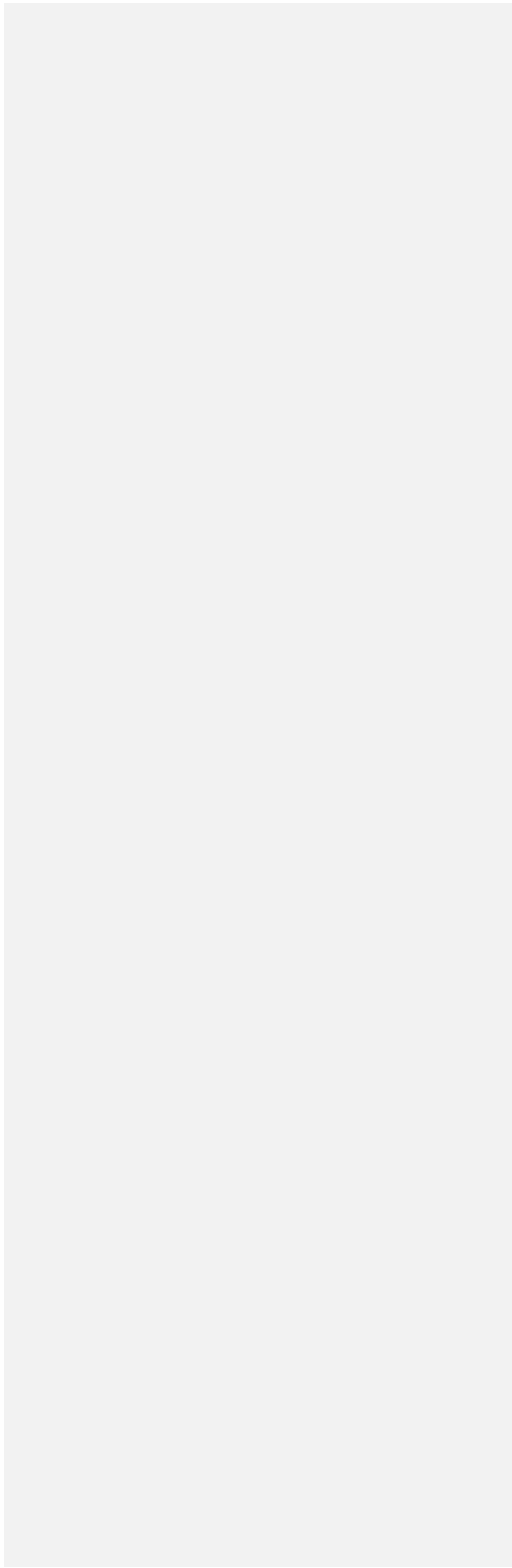


EXHIBIT 3



Godes & Preis LLP

Joshua R. Mino
jmino@gaplegal.com
Tel: 949.468.0051
Fax: 949.872.2281

January 23, 2024

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Attn: PAGA Administrator

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

CT Corporation System
Agent for Service of Process for:
H. E. G. Enterprises, Inc.
330 North Brand Blvd., Ste 700
Glendale, CA 91203

H. E. G. Enterprises, Inc.
611 Avenida Victoria
San Clemente, CA 92672-5301

H. E. G. Enterprises, Inc.
1301 Alaskan Way
Seattle, WA 98101-2013

Re: Robert Novello v. HEG Enterprises, Inc., et al.

Dear Labor and Workforce Development; HEG Enterprises, Inc.:

Our office represents Robert Novello (“Claimant”), who worked for HEG (defined, *infra*) for approximately thirty-eight years. In our capacity as his legal counsel, this correspondence serves as written notice as required under California Labor Code section 2699.3 (a) (l) (A)¹ of the specific provisions of the Labor Code alleged to have been violated by H. E. G. Enterprises, Inc. and/or its alter egos Harold Griffith, Great Western Pacific, Inc., Hall Griffith & Associates, and Griffith Entertainment (collectively “HEG”), and the facts and theories in support thereof (“Notice”).

¹ All references herein are to the California Labor Code unless otherwise specified.



Claimant intends to bring these claims on behalf of himself and all current and former non-exempt employees employed by HEG in California (“Non-Exempt Aggrieved Employees”), and on behalf of all current and former exempt employees employed by HEG in California (“Exempt Aggrieved Employees”), within the applicable PAGA statute of limitations period as modified by way of the Parties’ tolling agreement.

This Notice also serves to demonstrate Claimant’s reasonable attempt at settlement with HEG, in compliance with relevant California law. (*Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.) If HEG is interested in settling this matter before a lawsuit is filed, HEG may contact Godes & Preis, LLP, at 300 Spectrum Center Drive, Ste 1420, Irvine, CA 92618.

Specific Provisions of the California Labor Code Violated by HEG

The specific provisions of the Labor Code violated by HEG and the provisions under which Claimant submits this correspondence include the following sections: 201, 202, 203, 204, 210, 216, 221-223, 226, 226.3, 226.7, 245-248.5, 227.3, 432.5, 432.7, 510, 511, 512, 558, 558.1, 1024.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197 .1, 1198, 2800, 2802, 2810.5 and all applicable Wage Orders.

General Information

HEG owns, operates or otherwise manages four restaurants in California and more throughout the Northwest. Although HEG may operate a successful business, HEG violates numerous provisions of California's Labor Code.

Claimant was employed by HEG as an exempt employee. First, he was the General Manager of the Fisherman Restaurant, then he became the VP of Operations before being demoted to work on specially assigned projects for HEG. He was terminated on February 17, 2023, but was only paid through February 15, 2023. The date of termination is in dispute. While HEG FedEx’d Plaintiff a letter dated February 15, 2023, claiming that was the date of his termination, nobody notified him prior to the receipt of the letter on February 17, 2023. Accordingly, Plaintiff continued working through February 17, 2023, without ever being paid for those days. During his 38-year tenure at HEG, he became aware of dubious employment practices of HEG, which violated various Labor Codes. When he reported his concerns about these issues, he was told it was none of his business and to stay out of it. Other times, he was told only Mr. Griffith could set or change corporate policy. These illegal practices include modifying employment time records to show that they took breaks that were never actually taken, altering timecards so that employees’ timecards showed they worked fewer hours to avoid providing a meal period when such employees actually worked more than six hours and were not provided the requisite meal period or meal period premium thereby not fully paying employees for all hours worked. HEG only paid the Aggrieved Non-Exempt Employees their hourly rate for time counted by HEG as hours worked. Based on information and belief, the Non-Exempt and Exempt Aggrieved Employees were also compensated with non-discretionary remuneration, including but not limited to, non-discretionary bonus/incentive pay, and/or other non-discretionary compensation.



Among other things, HEG (1) failed and continues to fail to keep accurate and complete time records for Non-Exempt Aggrieved Employees; (2) failed and continues to fail to pay Non-Exempt Aggrieved Employees for all hours worked; (3) failed and continues to fail to pay Non-Exempt Aggrieved Employees at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide Non-Exempt Aggrieved Employees with proper meal and/or rest breaks, and/or compensate Non-Exempt Aggrieved Employees an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees, including but not limited to, owed sick and vacation pay; (7) failed and continues to fail to place Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees on proper notice of their workplace rights, including but not limited to owed sick and vacation pay; (8) failed and continues to fail to provide legally compliant wage statements to Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees; (9) made unlawful deductions from Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees' paychecks; (10) failed and continues to fail to timely pay wages to Claimant and Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse Claimant and Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees for business expenses incurred on behalf of HEG; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees' hire and continued employment; (13) required and continues to require Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees' criminal history on their employment applications and sign off on same as a condition of employment; (14) required and continues to require Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees to disclose their salary history; (15) failed and continues to fail to provide suitable seating; and (16) required and continues to require Claimant, Exempt Aggrieved Employees, and Non-Exempt Aggrieved Employees to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations:

Section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Non-Exempt Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.



Based on information and belief, HEG failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Non-Exempt Aggrieved Employees began and ended each work period, accurate time records of meal periods, and accurate itemized wage statements.

Based on information and belief, HEG failed and continues to fail to keep accurate and complete records showing total hours worked by Non-Exempt Aggrieved Employees by virtue of HEG's time rounding and/or deduction policies and practices, including its manual manipulation of time records, and/or other off-the-clock work policies and practices.

HEG failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of HEG's failure to relieve Non-Exempt Aggrieved Employees of all duties and HEG's control for unpaid meal periods, resulting in unpaid hours worked. Based on information and belief, HEG further failed, and continues to fail, to record the true start and end times of Non-Exempt Aggrieved Employees' meal periods.

Based on further information and belief, HEG further failed and continues to fail, to record the true start and end times of Non-Exempt Aggrieved Employees' work shifts.

Additionally, HEG failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Claimant and Non-Exempt Aggrieved Employees. HEG's failure to keep "accurate and complete" payroll records for Non-Exempt Aggrieved Employees violates sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject HEG to civil penalties under sections 558.1, 226.6, 1174.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for Claimant as well as each Non-Exempt Aggrieved Employees, and Exempt Aggrieved Employees results in a separate civil penalty.²

Meal Period Violations:

California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. (Lab. Code § 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004.) Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. (*Id.*) Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer

² See, Lab. Code § 2699(t)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").



and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. (*Id.*) Upon information and belief, Non-Exempt Aggrieved Employees did not sign valid meal period waivers with HEG.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. (All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods ... shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").)

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (*e.g.*, less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). (Lab. Code § 226.7; all applicable IWC Wage Orders, § 11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.)

Non-Exempt Aggrieved Employees consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

Non-Exempt Aggrieved Employees would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, Nonexempt Aggrieved Employees were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take noncompliant meal breaks or skip meal breaks completely. Other times managers would manipulate time records so that the hours worked would be less than six hours so an employee who actually worked six or more hours would look like they were not entitled to their meal period. For example, the servers' meal periods were interrupted, cut short and/or worked through completely on average at least five shifts per week due to lack of coverage/lack of relief workers available and/or the need to attend to customers. On information and belief, other Non-Exempt Aggrieved Employees were also unable to take timely thirty-minute meal periods due to the nature of their jobs, workload, and/or lack of relief workers.

Based on information and belief, other Non-Exempt Aggrieved Employees were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to HEG's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet HEG's goals and expectations. Based on information and belief, Non-Exempt Aggrieved Employees were



instructed by their supervisors to clock out for meal periods but to continue working during the purported meal periods due to understaffing, lack of coverage, and/or the nature of their jobs/workload. Other times when they did not clock out, HEG would manually insert break times when breaks were never taken. Based on information and belief, Non-Exempt Aggrieved Employees were from time to time interrupted by work assignments while clocked out for what should have been off-duty meal periods. Based on information and belief, HEG implemented policies and/or practices that failed to relieve Non-Exempt Aggrieved Employees of all duties and HEG's control during unpaid meal periods.

Based on information and belief, HEG required Non-Exempt Aggrieved Employees to complete off-the-clock work prior to or after their scheduled shift time which HEG failed to take into account. Based on information and belief, meal periods were late, in part due to unaccounted for pre- and post-shift off-the-clock work.

Based on information and belief, HEG had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of HEG's control owed to Non-Exempt Aggrieved Employees, in violation of California's meal period laws.

Based on information and belief, per HEG's uniform policy and practice, Non-Exempt Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break. For example, when Non-Exempt Aggrieved Employees worked more than ten hours in a shift, they were not provided with a second meal period.

Based on information and belief, despite HEG's failure to provide lawful meal periods, HEG implemented a policy and/or practice of rounding the start and end times of Non-Exempt Aggrieved Employees' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to HEG's premises), despite having actual and/or constructive knowledge that Non-Exempt Aggrieved Employees did not receive lawful meal periods.

Moreover, based on information and belief, HEG failed to keep accurate records of the true start and end times of Non-Exempt Aggrieved Employees' meal periods. Based on information and belief, to the extent meal period were recorded, HEG illegally rounded the start and end times of purported meal periods resulting in Non-Exempt Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal periods. (*See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.)

Based on information and belief, HEG failed to instruct Non-Exempt Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further information and belief, HEG did not have a compliant written meal break policy, nor did HEG have any sort of compliant policy in practice. Liability for the Non-Exempt Aggrieved Employees can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and



the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. (*Brinker, supra*, 53 Cal.4th 1004.)

Claimant is further informed and believes and thereon alleges that HEG had actual and/or constructive knowledge that its time-rounding and/or deduction policies and practices resulted in the denial of lawful meal periods owed to Nonexempt Aggrieved Employees, in violation of California's meal period laws.

HEG failed to pay Non-Exempt Aggrieved Employees, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. HEG either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium due to its failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11 (A) and (C) along with all applicable IWC Wage Orders. These violations subject HEG to civil penalties under sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Nonexempt Aggrieved Employee for each pay period during which the referenced statutes and Wage Order provisions were violated.³ HEG's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations:

California law requires employers to provide non-exempt employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. (*See* applicable IWC Wage Order, § 12(A).) In *Brinker v. Restaurant Corp.*, *v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts

³ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, § 20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty ... for each underpaid employee for each pay period during which the employee was underpaid").



from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Brinker, supra*, 53 Cal.4th at 1029.) The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. (*Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269.) Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). (Lab. Code §226.7; applicable IWC Wage Order, § 12(B) (“If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided”).)

HEG did not properly authorize and provide Non-Exempt Aggrieved Employees with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

Non-Exempt Aggrieved Employees were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, HEG had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, HEG did not have a compliant written rest period policy, nor did HEG have any sort of compliant rest period policy in practice. For example, on information and belief, HEG failed to authorize and permit rest periods that were a “net” ten minutes in a suitable rest area; instead, to the extent rest periods were provided, HEG limited Non-Exempt Aggrieved Employees to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving, in violation of California rest period law.

Based on information and belief, Non-Exempt Aggrieved Employees’ rest periods were not provided, interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring Non-Exempt Aggrieved Employees to skip rest periods completely or otherwise take non-compliant rest periods. For example, Nonexempt Aggrieved Employees were often never informed of their right to take a rest break and therefore would work through them completely due to understaffing/lack of relief workers, pressure to meet work deadlines and/or the need to complete work tasks.

Moreover, based on information and belief, HEG failed to provide any form of a third rest period on shifts lasting longer than ten hours. For example, when Non-Exempt Aggrieved Employees worked more than ten hours in a shift, they were not provided with any form of a third rest period. Based on information and belief, HEG implemented policies and/or practices that failed to relieve Non-Exempt Aggrieved Employees of all duties and HEG's control during rest periods.



Based on information and belief, Non-Exempt Aggrieved Employees were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed and/or as time permitted, if at all.

Furthermore, HEG failed to pay a rest period premium for each day in which Non-Exempt Aggrieved Employees experienced a missed or otherwise unlawful rest period in violation of California law. (*Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872.) HEG failed to pay Non-Exempt Aggrieved Employees, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. HEG either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium. The aforementioned conduct results in violations of sections 226, 7, and 1198-1199, and all applicable IWC Wage Orders, section 12(A). These violations subject HEG to civil penalties under sections 558, 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employees for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Minimum Wage Violations:

“Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.” (Labor Code § 1194.)

Section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period ...” The applicable Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” (*See* § 2 of all applicable Wage Orders.) Therefore, employers are

⁴ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty ... for each underpaid employee for each pay period during which the employee was underpaid”).



required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.) Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon ..." (Cal. Lab. Code § 1194.2.)

HEG failed to compensate Non-Exempt Aggrieved Employees for all hours worked by virtue of HEG's automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, HEG implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting time per shift for meal periods, despite having actual and/or constructive knowledge that Non-Exempt Aggrieved Employees were subject to HEG's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving Non-Exempt Aggrieved Employees of all wages owed. Other times, managers would manually edit time records of Non-Exempt Employees by deducting actual time worked to put them under the six-hour limit so that they could avoid giving them a lunch break and paying meal break premiums.

Based on information and belief, Non-Exempt Aggrieved Employees were not paid for all hours worked due to HEG's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the-clock work policies and/or practices. For example, prior to clocking in or after clocking out for their shifts each day, Non-Exempt Aggrieved Employees were often required to stand in lines to enter the facility and as well had to undergo bag checks, tip out other employees, and other off-the-clock work but this time spent under employer control was not recorded and not compensated, resulting in at least five (5) minutes of off-the-clock work each work day and unpaid minimum and overtime wages to Non-Exempt Aggrieved Employees.

Moreover, Non-Exempt Aggrieved Employees were required to perform additional off-the-clock work that was neither recorded nor compensated. For example, servers were required to arrive prior to the start of their scheduled shift time to get updates so that they could be ready to assist customers at the scheduled start time.

Moreover, Non-Exempt Aggrieved Employees were required to perform other off-the-clock work for which they were not compensated. For example Non-Exempt Aggrieved Employees were required to start and/or boot HEG's computer system so as to have the system running at the start of the scheduled shift. It was only after this daily off-the-clock boot/start-up time that Non-Exempt Aggrieved Employees could then access the software application required to clock in for the start of their shifts. As such, Non-Exempt Aggrieved Employees spent at least several minutes before each



scheduled shift starting and/or booting HEG's computer system in order to clock in and begin their shift. This pre-shift work was off-the-clock and uncompensated resulting in unpaid minimum and overtime wages. Based on information and belief, Non-Exempt Aggrieved Employees experienced the same issues when clocking back in for meal periods, resulting in additional off-the-clock work.

This time spent under HEG's control was not recorded and not compensated and resulted in unpaid minimum wages.

Based on information and belief, Non-Exempt Aggrieved Employees were also pressured to complete at least some of their work tasks off-the-clock in order to meet HEG's goals and expectations. For example, at times, Non-Exempt Aggrieved Employees performed off-the-clock work in the form of completing other work tasks to meet HEG's demands.

Based on information and belief, HEG failed to pay Non-Exempt Aggrieved Employees for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by HEG. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, HEG implemented a time-rounding system that, as applied, systematically deprived Non-Exempt Aggrieved Employees of compensable time because the time-rounding system implemented by HEG would almost always if not always, result in understating actual compensable work time. HEG's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to Non-Exempt Aggrieved Employees as well as unpaid overtime wages for those Non-Exempt Aggrieved Employees who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

HEG's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to Non-Exempt Aggrieved Employees as well as unpaid overtime wages for those Non-Exempt Aggrieved Employees who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, HEG had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to Non-Exempt Aggrieved Employees, in violation of California's minimum wage laws.

These violations subject HEG to civil penalties under sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order



provision results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Overtime Violations:

California law requires employers to pay overtime equal to one and one half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. (Lab. Code § 510; IWC Wage Order All applicable IWC Wage Orders § 3.) Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. (*Id.*)

Based on information and belief, HEG violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by Non-Exempt Aggrieved Employees and not paying proper overtime rates for overtime worked by virtue of same.

Namely, HEG's deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the clock/unpaid work completed during meal periods and/or time spent restricted to HEG's premises and/or subject to HEG's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to Non-Exempt Aggrieved Employees who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, HEG failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, HEG failed and continues to fail to pay twice Nonexempt Aggrieved Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

⁵ See Lab. Code § 1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, § 20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty ... for each underpaid employee for each pay period during which the employee was underpaid").



Based on information and belief, HEG failed to incorporate all non-discretionary remuneration, including but not limited to, bonus pay, and/or other nondiscretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to Claimant and other Non-Exempt Aggrieved Employees.

This conduct results in violations of sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, section 12(A). These violations subject HEG to civil penalties under Sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

Violation of California Labor Code sections 245-248.5:

Throughout the relevant time period, HEG failed to provide proper paid sick leave to Non-Exempt Aggrieved Employees. HEG either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Non-Exempt Aggrieved Employees by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/ deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods) and by failing to incorporate all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, and/or other non-discretionary compensation into the sick leave pay rate calculation. Additionally, Non-Exempt Aggrieved Employees were discouraged from taking and using their sick time.

Based on information and belief, HEG further failed to provide notice of the correct sick leave amount balance available to Non-Exempt Aggrieved Employees on their wage statements or other written statement.

Based on information and belief, HEG failed to put Non-Exempt Aggrieved on notice of their paid sick leave rights or thereby putting their entitlement to sick leave in a section 2810.5 notice. In addition, HEG failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the Non-Exempt Aggrieved Employee throughout the relevant time period.

⁶ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, § 20, establishing that "(i)n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty . . . for each underpaid employee for each pay period during which the employee was underpaid."



Based on information and belief, throughout the relevant period, HEG failed to provide notice of sick leave amount balance left for Non-Exempt Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Non-Exempt Aggrieved Employees would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and Claimant seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of all Non-Exempt Aggrieved Employees.

In violation of section 247.5, HEG failed to maintain records documenting the hours worked and paid sick days accrued and used by all Nonexempt Aggrieved Employees, permitting the presumption that Claimant and all Non-Exempt Aggrieved Employees were entitled to the maximum number of hours accruable under this article.

Upon information and belief, HEG further failed and continues to fail to comply with section 246, by failing to provide all Non-Exempt Aggrieved Employees with a section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

HEG unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of HEG's failure to properly institute a valid paid sick leave program.

On information and belief, Claimant alleges that all of these practices were experienced and continue to be experienced by Non-Exempt Aggrieved Employees. Claimant requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to HEG's sole failure to institute such a proper paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Claimant and other Non-Exempt Aggrieved Employees are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. Claimant requests all relief pursuant to the aforementioned code provisions, including but not limited to sections 233 and 234, which incorporates the paid sick leave requirements.

Refusal to Make Payment:

Section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

HEG violated and continues to violate section 216 by failing to pay all Non-Exempt Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay all Non-Exempt



Aggrieved Employees an additional hour of pay for each meal and/or rest period not provided or that was invalid. (*Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.)

These violations subject HEG to civil penalties under section 225.5. Each violation results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employee, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations:

California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (Cal. Lab. Code. § 226(a).)

As HEG failed to provide Non-Exempt Aggrieved Employees with meal and rest periods that complied with section 226.7, the wage statements HEG issued to Non-Exempt Aggrieved Employees failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of section 226(a)(1); (b) the total hours worked by the employee in violation of section 226(a)(2); (c) the net wages earned, in violation of section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of section 226(a)(9).

HEG's wage statements that it provided to all Non-Exempt Aggrieved Employees also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by all Non-Exempt Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Non-Exempt Aggrieved Employees of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off the-clock work policies and practices described above), which results in a violation of section 226(a). Failure to list

⁷ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty ... for each failure to pay each employee") (emphasis added).



all hours worked on a wage statement, gives rise to an inference of injury under section 226. (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337.)

HEG's failure to accurately list all hours worked on all wage statements caused confusion to the Non-Exempt Aggrieved Employees over whether they received all wages owed to them. Non-Exempt Aggrieved Employees were injured by HEG's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, HEG has violated section 226 by willfully failing to furnish all Non-Exempt Aggrieved Employees with accurate, itemized wage statements. As described herein, based on information and belief, HEG also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by Non-Exempt Aggrieved Employees.

Moreover, based on information and belief, HEG issued wage statements to Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees that further violate section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees were not accurate and did not include all of the statutorily required information.

These violations subject HEG to civil penalties under section 226. Each violation results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employee and each Exempt Aggrieved Employee, for each pay period during which the statute provisions were violated.⁸

Semimonthly Payment Violations:

Section 204 requires that all earned wages must be paid to employees twice during each calendar month. HEG violated this section by, including but not limited to, failing to pay Non-Exempt Aggrieved Employees an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject HEG to civil penalties under section 210. Each violation results in a *separate* civil penalty, for each Non-Exempt Aggrieved Employee for each pay period during which the statute's provisions were violated.

⁸ See Lab. Code § 226.3 (establishing that the civil penalty is “per employee per violation”).



Seating Violations:

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

- (A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
- (B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).)

Based on information and belief, HEG failed to provide Non-Exempt Aggrieved Employees with suitable seating, and when such employees were not engaged in duties that required them to stand, no seating was placed in reasonable proximity to their work area.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Non-Exempt Aggrieved Employees were working. Lastly, based on information and belief, there were periods of time when Non-Exempt Aggrieved Employees were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

HEG's Non-Exempt Aggrieved Employees worked in various positions. The nature of some of the Non-Exempt Aggrieved Employees' work reasonably permitted the use of seats. However, HEG failed to provide suitable seating in reasonable proximity to Non-Exempt Aggrieved Employees' work areas in violation of section 14(A-B) of all applicable Wage Orders, and sections 1198 and 1199, subjecting HEG to civil penalties under sections 1199 and 2699. Each violation of each Labor Code section and



IWC Wage Order provision, for each Non-Exempt Aggrieved Employee, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations:

Together, sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, HEG's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable seating, and business expenses, result in separate violations of sections 1198 and 1199, which subject HEG to civil penalties under sections 1197.1 and 2699.

Statutory Wage Violations:

Section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages. As described above, HEG willfully and systematically denied Non-Exempt Aggrieved Employees of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. HEG acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, HEG paid Non-Exempt Aggrieved Employees lower wages than those they were entitled to while purporting that Non-Exempt Aggrieved Employees were properly paid. As such, all Non-Exempt Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to section 2699(f)(g).

Failure to Pay Vested Vacation/Paid Time Off:

Section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, HEG had and continues to have a uniform policy and practice of failing to allow Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to

⁹ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").



Non-Exempt Aggrieved Employees and/or Exempt Aggrieved Employees upon separation of employment, in violation of California law, including but not limited to, section 227.3.

Final Pay Violations:

Section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. Section 201 (a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under PAGA via section 256. (See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).)

HEG failed to timely pay Claimant all wages due upon his termination. On information and belief HEG also fails to pay Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees all wages that were due and owing upon termination or resignation. Based on information and belief, HEG untimely provides final wages to Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees without regard to the timing requirements of sections 201-202.

Upon separation of employment, Claimant's, Non-Exempt Aggrieved Employees' and Exempt Aggrieved Employees' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, Non-Exempt Aggrieved Employees' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject HEG to civil penalties under sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each Exempt Aggrieved Employee and each Non-Exempt Aggrieved Employee for each pay period during which the statute provisions were violated.¹⁰

Business Expense Violations:

¹⁰ Establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty ... for each failure to pay each employee”.



California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. (*See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b).) Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. (*See* applicable IWC Wage Order, § 9 (b).)

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. (*See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140.) To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. (*Id.* 1144-1145.) California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. (*See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.) Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” (*See* Cal. Lab. Code § 2804.)

Based on information and belief, Claimant and Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, HEG shifted its costs of doing business onto Nonexempt Aggrieved Employees and Exempt Aggrieved Employees by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of Non-Exempt Aggrieved Employees' and Exempt Aggrieved Employees' personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work-related messages and/or phone calls. For example, workers were required to put a deposit down for their uniforms, but when an employee was terminated and/or left their employment that “deposit” was never returned. Additionally, employees were consistently required to use their personal cell phone/mobile device to respond to work-related messages and/or phone calls from supervisors and/or providers regarding scheduling issues. Based on information and belief, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees were not reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing, and/or the use of their personal vehicles.



Based on information and belief, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees were improperly required to pay for business expenses that are supposed to be the responsibility of HEG.

Based on information and belief, HEG failed and continues to fail to reimburse Claimant, Non-Exempt Aggrieved Employees and/or Exempt Aggrieved Employees for the use of a personal cell phone, mileage, and/or the use of his or her personal vehicle. For example, HEG required Claimant and other Non-Exempt Aggrieved Employees and/or Exempt Aggrieved Employees to use their personal vehicles for work, including but not limited to, for traveling between HEG's facilities for work without reimbursing them for the personal vehicle expenses they incurred in connection therewith. As such, HEG failed and continues to fail to compensate for vehicle-related expenses at the Internal Revenue Service (IRS) mandated per mile compensation for the relevant time period.

Claimant and other Non-Exempt Aggrieved Employees and/or Exempt Aggrieved Employees were improperly required to pay for business expenses that are supposed to be the responsibility of HEG, including but not limited to, cell phone/data plan charges incurred as a result of being required to use their personal cell phones/other mobile communication devices for work related purposes, vehicle use and mileage, and/or costs associated with using a personal computer for work-related purposes, and uniform expenses.

Based on information and belief, HEG required Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to pay for the purchase and/or maintenance of uniforms/work clothing, personal protective equipment/safety equipment.

As a pattern and practice, HEG regularly failed to reimburse and indemnify Nonexempt Aggrieved Employees and Exempt Aggrieved Employees for business expenses. Pursuant to section 2802, Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees were entitled to be reimbursed for all reasonable expenses associated with carrying out HEG's orders and/or carrying out the duties assigned by HEG.

As described herein, HEG regularly failed to reimburse and indemnify Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees for all reasonable expenses associated with carrying out their job duties. HEG's failure to provide Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees with full reimbursement for all reasonable expenses associated with carrying out their duties required that Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees subsidize and/or carry the burden of business expenses in violation of section 2802.

Unlawful Inquiries into Salary History:

Section 432.3 provides in part “(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an



applicant for employment.” Based on information and belief, HEG has a policy and/or practice of unlawfully asking Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to reveal their salary history when applying for employment with HEG.

Moreover, by requiring Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to disclose prior salary information in a written application for employment, HEG violated section 432.5 by requiring Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to disclose their salary history as a condition of obtaining employment with HEG, in violation of California law.

Unlawful Agreements:

Section 432.5 provides that “no employer... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer... to be prohibited by law.” Based on information and belief, HEG required Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of section 432.5, and non-compete agreements.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act, Civil Code section 1786, *et seq.* (“ICRAA”) and the Fair Credit Reporting Act, 15 U.S.C. section 1681, *et seq.* (“FCRA”) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, HEG ordered unlawful financial credit checks on Nonexempt Aggrieved Employees and Exempt Aggrieved Employees, in violation of section 1024.5, and required Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of section 432.5.

Based on information and belief, HEG also required Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.



Based on information and belief, HEG required Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful criminal and/or financial checks, not in conformance with the applicable laws, HEG violated section 432.5.

Based on information and belief, HEG also required Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to provide ongoing consent to HEG to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, HEG knew that requiring Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring Non-Exempt Aggrieved Employees, and Exempt Aggrieved Employees agree in writing to unlawful provisions as a condition of employment, HEG violated section 432.5.

Unlawful Criminal History Inquiries:

Section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, HEG asked Non-Exempt Aggrieved Employees, and Exempt Aggrieved Employees about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, HEG, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, HEG violated section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, HEG violated



California's Fair Chance Act, and thereby violated section 432.5 by unlawfully requiring Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

As such, Claimant, Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

HEG has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties Claimant and other Nonexempt Aggrieved Employees and Exempt Aggrieved Employees seek to recover include, but are not limited to, the statutory and civil penalties specified above.

If the LWDA elects not to take any action with respect to any of the foregoing claims, Claimant intends to seek these penalties in a civil action, on behalf of Claimant and all Non-Exempt Aggrieved Employees and Exempt Aggrieved Employees of HEG within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this Notice to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Joshua R. Mino
Godes & Preis, LLP
300 Spectrum Center Drive, Suite 1420
Irvine, CA 92618
Tel: 949-468-0051
Fax: 949-872-2281
Email: jmino@gaplegal.com

Thank you for your attention to this matter.

Sincerely,



Joshua R. Mino

Cc: Thalia Rofos, trofos@ohaganmeyer.com.

From: [Joshua R. Mino](#)
To: [Joseph M. Preis](#); [Danielle Frederick](#)
Subject: FW: Thank you for submission of your PAGA Case.
Date: Tuesday, January 23, 2024 3:42:00 PM

PAGA letter submitted.

Joshua R. Mino
Attorney at Law
Godes & Preis, LLP
300 Spectrum Center Drive, Suite 1420
Irvine, California 92618

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Thank you

-----Original Message-----

From: noreply@salesforce.com <noreply@salesforce.com> On Behalf Of LWDA DO NOT REPLY
Sent: Tuesday, January 23, 2024 3:42 PM
To: Joshua R. Mino <jmino@gaplegal.com>
Subject: Thank you for submission of your PAGA Case.

*** [EXTERNAL EMAIL - Be extra cautious with links and attachments] ***

1/23/2024

LWDA Case No. LWDA-CM-1006851-24
Law Firm : Godes & Preis, LLP
Plaintiff Name : Robert Novello
Employer: HEG Enterprises, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://url.emailprotection.link/?bPirUle7uNuXAnYhVQk_W1a76p8BO-W5c0H8Cfop9uUuGTxQgWDtnlCc-jJ2q0Yk42oalowMwm1BlCTiYxsoXus5Uf7JCAJovSTag_-wylzAynq51jVw_HRoQwNL9ENCU

EXHIBIT 4

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Robert Novello v. HEG Enterprises, Inc., et al.
Orange County Superior Court
Case No. 30-2024-01391376-CU-OE-CXC

[NAME]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]
XXX-XX-[LAST 4 SSN]

I. NOTICE OF PAGA SETTLEMENT

The Orange County Superior Court (the “Court”) has approved the PAGA Settlement Agreement (“Settlement”) in the above-captioned lawsuit filed by Robert Novello (“Plaintiff”) on behalf of himself and all other aggrieved employees of Defendant HEG Enterprises, Inc. (“Defendant”), including you. Plaintiff and Defendant will be collectively referred to as the “Parties.”

In this lawsuit, Plaintiff sought to recover civil penalties for alleged violations of a California law known as the Private Attorneys General Act (“PAGA”). Plaintiff is acting as a “private attorney general” on behalf of the California Labor and Workforce Development Agency (“LWDA”), the State of California, and other employees of Defendant. Plaintiff alleges that Defendant is liable for civil penalties under PAGA because of Defendant’s alleged failure to provide meal and rest periods at the proper intervals, to pay proper premiums for missed meal and rest periods, to pay all wages owed including overtime, to provide accurate wage statements, to pay all wages owed to terminated or separated employees in a timely manner, to pay all vacation pay owed to terminated or separated employees, and to reimburse employee business expenses.

The Court has ***not*** ruled on Plaintiff’s claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff’s claims. Defendant maintains that Plaintiff’s allegations are without merit, and entered into this Settlement without admitting liability.

You are receiving this Notice because you are in the group of employees referred to as the PAGA “Aggrieved Employees,” which is defined as: “all individuals who are or were employed by Defendant[] as non-exempt and/or exempt employees in California during the PAGA Period,” which itself is defined as January 23, 2023, through **[PAGA APPROVAL DATE]**.

II. CALCULATION OF INDIVIDUAL SETTLEMENT PAYMENT

The Net Settlement Amount shall be distributed 75% to the LWDA and 25% to the Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% share for Aggrieved Employees shall be distributed on a proportional basis, based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period.

Based on Defendant's records, you worked a total of **[THIS EMPLOYEE'S PAY PERIODS]** pay periods during the PAGA Period. The total number of pay periods worked by all PAGA Aggrieved Employees during the PAGA Period is **[TOTAL PAY PERIODS]**. Based on these figures, your Individual PAGA Payment has been calculated at **[\$[AMOUNT PAID TO THIS EMPLOYEE]]**. Your payment is enclosed with this Notice. The average PAGA Payment is **[\$[AVERAGE PAGA PAYMENT]]**.

For tax purposes, your payment is classified as a civil penalty. **It is not wages and will not be reported on a W-2.** Instead, the Settlement Administrator will issue you an IRS Form 1099 for the amount of your payment. Neither Plaintiff, Defendant, nor their attorneys can provide tax advice. If you have questions about your personal tax obligations, you should consult a tax advisor.

III. RELEASE

On **[PAGA APPROVAL DATE]**, the Court approved the Parties' Settlement Agreement. By operation of the Settlement's terms, the PAGA Aggrieved Employees will release and discharge, on behalf of themselves and their respective former and present representatives, Defendant's agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, pursuant to all PAGA claims based on the Labor Code violations pled in the Operative Complaint or described in Plaintiff's LWDA letter dated January 23, 2024, or which could have been pled or described based on the factual allegations therein, arising during the PAGA Period (the "Released Claims"). This release covers only PAGA claims. Aggrieved Employees will not be releasing any underlying individual wage and hour claims through the Settlement. Aggrieved employees do not have the opportunity to opt out of the PAGA Release.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE.

You may contact the Court-approved Settlement Administrator, Phoenix Settlement Administrators, at **[ADMINISTRATOR INFO]** with any questions.

Settlement checks expire one hundred eighty (180) days after issuance if not deposited or cashed. Any check not deposited or cashed within one hundred eighty (180) days of mailing will be transferred to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee. **If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.**

YOU WILL NOT BE RETALIATED AGAINST FOR CASHING THE SETTLEMENT CHECK.

AVISO DE ACUERDO DE PAGA Y EXENCIÓN DE RECLAMOS

Robert Novello v. HEG Enterprises, Inc., et al.
Tribunal Superior del Condado de Orange
Caso No. 30-2024-01391376-CU-OE-CXC

[NAME]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]
XXX-XX-[LAST 4 SSN]

I. AVISO DE ACUERDO DE PAGA

El Tribunal Superior del Condado de Orange (el “Tribunal”) ha aprobado el Convenio de Acuerdo de PAGA (el “Acuerdo”) en la demanda con la denominación arriba indicada, presentada por Robert Novello (el “Demandante”) en nombre propio y en representación de todos los demás empleados agraviados del Demandado HEG Enterprises, Inc. (el “Demandado”), incluido usted. Al Demandante y al Demandado se les denominará colectivamente las “Partes.”

En esta demanda, el Demandante intentó recuperar sanciones civiles por presuntas infracciones de una ley de California conocida como la Ley General de Procuradores Privados (“PAGA”, por sus siglas en inglés). El Demandante actúa como “procurador general privado” en representación de la Agencia de Desarrollo Laboral y de la Fuerza de Trabajo de California (“LWDA”, por sus siglas en inglés), el Estado de California y otros empleados del Demandado. El Demandante alega que el Demandado es responsable de sanciones civiles conforme a la PAGA debido a la presunta falta del Demandado de otorgar los períodos de comida y descanso en los intervalos correspondientes, de pagar las primas correspondientes por los períodos de comida y descanso no otorgados, de pagar todos los salarios adeudados incluidas las horas extras, de proporcionar declaraciones salariales precisas, de pagar oportunamente todos los salarios adeudados a los empleados despedidos o separados, de pagar todas las vacaciones adeudadas a los empleados despedidos o separados, y de reembolsar los gastos comerciales de los empleados.

El Tribunal **no** ha resuelto los reclamos del Demandante. Este Aviso no debe entenderse como una expresión de opinión alguna del Tribunal sobre el fondo de los reclamos del Demandante. El Demandado sostiene que los señalamientos del Demandante carecen de fundamento y celebró este Acuerdo sin admitir responsabilidad alguna.

Usted está recibiendo este Aviso porque pertenece al grupo de empleados denominados como los “Empleados Agraviados” de PAGA, que se define como: “todas las personas que son o fueron empleadas por el Demandado como empleados no exentos y/o exentos en California durante el Período de PAGA”, el cual a su vez se define como el período del 23 de enero de 2023 hasta el **[PAGA APPROVAL DATE]**.

II. CÁLCULO DEL PAGO INDIVIDUAL DEL ACUERDO

El Monto Neto del Acuerdo se distribuirá en un 75% a la LWDA y en un 25% a los Empleados Agraviados, conforme al artículo 2699(i) del Código Laboral. La porción del 25% destinada a los Empleados Agraviados se distribuirá de forma proporcional, con base en el número de períodos de pago trabajados por cada Empleado Agraviado durante el Período de PAGA.

Conforme a los registros del Demandado, usted trabajó un total de **[THIS EMPLOYEE'S PAY PERIODS]** períodos de pago durante el Período de PAGA. El total de períodos de pago trabajados por todos los Empleados Agraviados de PAGA durante el Período de PAGA es **[TOTAL PAY PERIODS]**. Con base en estas cifras, su Pago Individual de PAGA ha sido calculado en **[\$[AMOUNT PAID TO THIS EMPLOYEE]]**. Su pago se adjunta con este Aviso. El Pago promedio de PAGA es de **[\$[AVERAGE PAGA PAYMENT]]**.

Para fines fiscales, su pago se clasifica como una sanción civil. **No constituye salarios y no se reportará en un Formulario W-2.** En su lugar, el Administrador del Acuerdo le emitirá un Formulario 1099 del IRS por el monto de su pago. Ni el Demandante, ni el Demandado, ni sus abogados pueden brindar asesoría fiscal. Si tiene preguntas sobre sus obligaciones fiscales personales, debe consultar a un asesor fiscal.

III. EXENCIÓN

El **[PAGA APPROVAL DATE]**, el Tribunal aprobó el Convenio de Acuerdo de las Partes. Por aplicación de los términos del Acuerdo, los Empleados Agraviados de PAGA liberarán y exonerarán, en nombre propio y en el de sus respectivos representantes anteriores y actuales, agentes, abogados, herederos, administradores, sucesores y cesionarios del Demandado, a las Partes Liberadas de todos los reclamos por sanciones de PAGA que fueron alegados, o que razonablemente pudieron haberse alegado, con base en los hechos del Período de PAGA expuestos en la Demanda Operativa y en el Aviso de PAGA, conforme a todos los reclamos de PAGA basados en las infracciones del Código Laboral alegadas en la Demanda Operativa o descritas en la carta del Demandante a la LWDA con fecha del 23 de enero de 2024, o que pudieron haber sido alegadas o descritas con base en los señalamientos fácticos contenidos en ella, surgidos durante el Período de PAGA (los "Reclamos Liberados"). Esta exención abarca únicamente los reclamos de PAGA. Los Empleados Agraviados no liberarán mediante el Acuerdo ningún reclamo individual subyacente por salarios y horas trabajadas. Los empleados agraviados no tienen la oportunidad de excluirse de la Exención de PAGA.

IV. ADMINISTRADOR DEL ACUERDO

POR FAVOR, NO SE COMUNIQUE CON EL TRIBUNAL EN RELACIÓN CON ESTE AVISO.

Puede comunicarse con el Administrador del Acuerdo aprobado por el Tribunal, Phoenix Settlement Administrators, en **[ADMINISTRATOR INFO]** para cualquier pregunta.

Los cheques del Acuerdo vencen ciento ochenta (180) días después de su emisión si no se depositan o cobran. Todo cheque que no sea depositado o cobrado dentro de los ciento ochenta (180) días posteriores a su envío por correo será transferido a la División de Bienes No Reclamados de la Oficina del Contralor del Estado a nombre del Empleado Agraviado. **Si su cheque se pierde o se extravía, deberá comunicarse de inmediato con el Administrador del Acuerdo para solicitar un reemplazo.**

USTED NO SUFRIRÁ REPRESALIAS POR COBRAR EL CHEQUE DEL ACUERDO.

EXHIBIT 5



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Aggrieved Members	801
Opt Out Rate	N/A
Opt Outs Received	
Total Aggrieved Claimants	801
Subtotal Admin Only	\$7,250.00

Invoice Total **\$7,250.00**

For 801 Aggrieved Members

Pricing Good for Scope of Estimate Only

May 18, 2026

Case: Novello PAGA Administration wTranslation

Phoenix Contact: Jodey Lawrence

Contact Number: 949.566.1455

Email: Jodey@phoenixclassaction.com

Requesting Attorney: Joshua Mino

Firm: Godes & Preis

Contact Number: 949-954-6878

Email: jmino@gaplegal.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.

Estimate is based on **807** Aggrieved Members. Class data **Must** be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 days.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$125.00	2	\$250.00
Programming Database & Setup	\$125.00	2	\$250.00
Toll Free Setup*	\$40.47	1	\$40.47
Call Center & Long Distance	\$1.95	13	\$25.35
NCOA (USPS)	\$250.00	1	\$250.00
Language Translation	\$250.00	1	\$250.00
Total			\$1,065.82

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Check & Postage

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$125.00	2	\$250.00
Data Merge & Duplication Scrub	\$0.25	801	\$200.25
Notice and Check Packet	\$1.25	801	\$1,001.25
Estimated Postage (up to 1 oz.)*	\$0.74	801	\$592.74
Total			\$2,044.24

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$50.00	2	\$100.00
Skip Tracing Undeliverables	\$2.00	40	\$80.10
Remail Notice Packets	\$2.00	40	\$80.10
Estimated Postage	\$0.74	40	\$29.64
Programming Undeliverables	\$50.00	2	\$100.00
Total			\$389.84

Database Programming

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$125.00	2	\$250.00
Case Manager	\$85.00	2	\$170.00
Total			\$420.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$125.00	2	\$250.00
Disbursement Review	\$125.00	2	\$250.00
Programming Manager	\$95.00	2	\$190.00
QSF Bank Account & EIN	\$75.00	1	\$75.00
Check Run Setup & Printing	\$125.00	4	\$500.00
Total			\$1,265.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$125.00	3	\$375.00
Remail Undeliverable Checks (Postage Included)	\$2.00	40	\$80.10
Case Associate	\$55.00	5	\$275.00
Reconcile Uncashed Checks	\$75.00	5	\$375.00
Conclusion Reports	\$125.00	1	\$125.00
Case Manager Conclusion	\$85.00	1	\$85.00
Final Reporting & Declarations	\$100.00	1	\$100.00
QSF Annual Tax Reporting *	\$650.00	1	\$650.00
Total			\$2,065.10

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Invoice Total: \$7,250.00



TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality.

Payment Terms: 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 data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

[illegible]

On the date set forth below, I served [] the original [x] a true copy of the foregoing documents described as **DECLARATION OF JOSHUA R. MINO IN SUPPORT OF CONTINUED JOINT NOTICE OF MOTION AND MOTION FOR AN ORDER APPROVING SETTLEMENT OF ACTION BROUGHT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on all interested parties in this action as follows:

Attorneys for Defendants
HEG Enterprises, Inc., Harold Griffith and Great Western Pacific, Inc.

[x] *(State)* I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


DANIELLE FREDERICK