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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

VANESSA CORTES, individually and on
behalf of Aggrieved Employees pursuant to the
California Private Attorneys General Act,

Plaintiff,

vs.

GITI TIRE (USA) LTD; and DOES 1 through
25, inclusive,

Defendants.

Case No. CIVSB2332578

Honorable Wilfred J. Schneider
Department S32

**DECLARATION OF JONATHAN M.
GENISH IN SUPPORT OF PLAINTIFF'S
MOTION FOR APPROVAL OF PAGA
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS,
SERVICE AWARD, AND SETTLEMENT
ADMINISTRATION COSTS**

Date: February 13, 2025
Time: 8:30 a.m.
Dept.: S32

Complaint Filed: December 18, 2023
Trial Date: None Set

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1. I am a shareholder and the founder of Blackstone Law, APC (“PAGA Counsel”), attorneys of record for Plaintiff Vanessa Cortes (“Plaintiff”). I am an attorney admitted to practice in all Courts of the State of California. I submit this declaration in support of Plaintiff’s Motion for Approval of PAGA Settlement and Award of Attorneys’ Fees and Costs, Service Award, and Settlement Administration Costs (“Motion”). I have personal knowledge of the facts contained herein, and, if called to testify I could and would competently do so.

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3. In August 2015, I left Freedman & Taitelman to join The Kaufman Law Group as a shareholder. In that role, I ran the entire civil litigation department, again solely managing an array of complex multi-million-dollar and highly publicized litigation matters, with a primary focus on employment litigation, both single plaintiff and representative actions.

5. I have considerable experience in handling class and representative action lawsuits throughout my career and have been approved as counsel in a number of cases, including, most

1 recently:

- 2 • *Michael Bravo v. Michels Pacific Energy, Inc.*, Santa Clara County Superior Court,
3 Case No. 22CV403427, approved as class counsel in final settlement of wage and
4 hour class and PAGA action.
- 5 • *Theresa Bendorf, et al. v. Sea World LLC, et al.*, San Diego County Superior Court,
6 Case No. 37-2021-00034922-CU-OE-CTL, approved as class counsel, in association
7 with other counsel, in final settlement of wage and hour class and PAGA action.
- 8 • *Victor De La Cruz v. Northwest Pipe Company*, San Bernardino County Superior
9 Court, Case No. CIVSB2211140, approved as class counsel in final settlement of
10 wage and hour class and PAGA action.
- 11 • *Bobby Birdi v. Lucid USA, Inc.*, Alameda County Superior Court, Case No.
12 21CV003541, approved as class counsel in final settlement of wage and hour class
13 and PAGA action.
- 14 • *Jose Trujillo, et al. v. Producers Dairy Foods, Inc.*, Sacramento County Superior
15 Court, Case No. 34-2022-00313753, approved as counsel in settlement of
16 representative wage and hour action pursuant to PAGA.
- 17 • *David Williams v. Rancho Nicasio, LLC*, Marin County Superior Court, Case No.
18 CIV2203067, approved as class counsel in final settlement of wage and hour class and
19 PAGA action.
- 20 • *Alexander Jackson v. Lifecare Assurance Company*, Los Angeles County Superior
21 Court, Case No. 23STCV26579, approved as counsel in settlement of representative
22 wage and hour action pursuant to PAGA.
- 23 • *Alexis Cardoza v. BHFC Operating LLC*, Los Angeles County Superior Court, Case
24 No. 21STCV34040, approved as counsel in settlement of representative wage and
25 hour action pursuant to PAGA.
- 26 • *Maria Ayala, et al. v. SDH Services West, LLC*, Kern County Superior Court, Case
27 No. BCV-21-101933, approved as class counsel in final settlement of wage and hour
28 class action.

- 1 • *Alfredo Sanchez v. Greenworld, Inc.*, Riverside County Superior Court, Case No.
2 CVRI2105756, approved as class counsel in final settlement of wage and hour class
3 and PAGA action.
- 4 • *Oscar Bryant v. Midwest Construction Services, Inc. dba Trillium*, San Bernardino
5 County Superior Court, Case No. CIVSB2121529, approved as class counsel in final
6 settlement of wage and hour class action.
- 7 • *Matthew Savattieri v. AMI Expeditionary Healthcare, LLC, et al.*, Los Angeles
8 County Superior Court, Case No. 21STCV33372, approved as class counsel in final
9 settlement of wage and hour class and PAGA action.
- 10 • *Lexy Barajas, et al. v. H. W. Hunter, Inc.*, Los Angeles County Superior Court, Case
11 No. 22STCV01892, approved as counsel in settlement of representative wage and
12 hour action pursuant to PAGA.
- 13 • *Alejandro Valdez v. C.H.I. Automart, Inc.*, Los Angeles County Superior Court, Case
14 No. 21STCV40168, approved as class counsel in final settlement of wage and hour
15 class and PAGA action.
- 16 • *Sheizan Bawa v. Meathead Movers, Inc.*, Orange County Superior Court, Case No.
17 30-2021-01211895-CU-OE-CXC, approved as counsel in settlement of representative
18 wage and hour action pursuant to PAGA.
- 19 • *Tanisha Lopez, et al. v. Restorix Health, Inc.*, Los Angeles County Superior Court,
20 Case No. 21STCV33067, approved as class counsel, in association with other counsel,
21 in final settlement of wage and hour class and PAGA action.
- 22 • *Perla Soto, et al. v. Nippon Express U.S.A., Inc.*, Los Angeles County Superior Court,
23 Case No. 21STCV24902, approved as class counsel in final settlement of wage and
24 hour class and PAGA action.
- 25 • *Angel Garcia, et al. v. J&B Investments, Inc., et al.*, San Bernardino County Superior
26 Court, Case No. CIVSB2208601, approved as class counsel, in association with other
27 counsel, in final settlement of wage and hour class and PAGA action.
- 28 • *Sindy Aviles, et al. v. Freeway Insurance Services America, LLC*, Los Angeles County

1 Superior Court, Case No. 21STCV34864, approved as counsel, in association with
2 other counsel, in settlement of representative wage and hour action pursuant to PAGA.

- 3 • *Alexander Gnaedig, et al. v. Favorite Healthcare Staffing, Inc.*, Los Angeles County
4 Superior Court, Case No. 21STCV20904, approved as class counsel, in association
5 with other counsel, in final settlement of wage and hour class and PAGA action.
- 6 • *Richard Evans v. My Paint Stop, LLC, et al.*, Contra Costa County Superior Court,
7 Case No. MSC21-01812, approved as class counsel in final settlement of wage and
8 hour class and PAGA action.
- 9 • *Jose Luis Parada George v. Main Electric Supply Company, LLC, et al.*, Orange
10 County Superior Court, Case No. 30-2021-01220136-CU-OE-CXC, approved as
11 counsel in settlement of representative wage and hour action pursuant to PAGA.
- 12 • *Samia Salazar Yunis v. Sharif Jewelers*, Sacramento County Superior Court, Case No.
13 34-2020-00290080, approved as class counsel in final settlement of wage and hour
14 class and PAGA action.
- 15 • *Daniel Analco v. Felix Chevrolet, LP, et al.*, Los Angeles County Superior Court,
16 Case No. 21STCV36654, approved as class counsel in final settlement of wage and
17 hour class and PAGA action.
- 18 • *Sasha Aiono v. Benefit Cosmetics*, Los Angeles County Superior Court, Case No.
19 21STCV33719, approved as counsel in settlement of representative wage and hour
20 action pursuant to PAGA.

21 6. I am currently the managing partner overseeing approximately 500 labor and
22 employment cases, approximately 80% of which include a wage and hour component. The majority
23 of those cases are wage-and-hour putative class actions and/or representative PAGA actions seeking
24 relief on behalf of thousands of California employees. My billable rate is \$1,200 per hour.

25 **Procedural History of the Action**

26 7. Defendant Giti Tire (USA) Ltd. (“Defendant”) operates manufacturing plants and
27 produces a broad range of tire or automotive products, serving major original equipment vehicle
28 manufacturers, auto service outlets, and tire dealers in California. Defendant employed Plaintiff as an

1 hourly-paid, non-exempt ‘import traffic coordinator’ beginning in or around April 2022 through
2 approximately April 2024.

3 8. On October 12, 2023, Plaintiff provided written notice by electronic submission to the
4 Labor and Workforce Development Agency (“LWDA”) and by Certified U.S. Mail to Defendant,
5 pursuant to California Labor Code § 2699.3, providing notice of the specific provisions of the
6 California Labor Code which Plaintiff alleged Defendant violated, including the facts and theories to
7 support the allegations (“PAGA Notice”). A true and correct copy of the PAGA Notice is attached
8 hereto as **Exhibit 1**.

9 9. On December 18, 2023, Plaintiff filed a Complaint for Enforcement Action under the
10 Private Attorneys General Act alleging a single cause of action for civil penalties premised on
11 Defendant’s alleged violations of the Labor Code: (1) violation of Labor Code sections 1194, 1197,
12 and 1197.1 (unpaid minimum wages); (2) violation of Labor Code sections 510 and 1198 (unpaid
13 overtime wages); (3) violation of Labor Code sections 226.7 and 512 (unpaid meal period premiums);
14 (4) violation of Labor Code section 226.7 (unpaid rest period premiums); (5) violation of Labor Code
15 section 204 (failure to timely pay wages during employment); (6) violation of Labor Code sections
16 201, 202, and 203 (failure to timely pay wages upon discharge from employment); (7) violation of
17 Labor Code section 226(a) (failure to provide accurate wage statements); (8) violation of Labor Code
18 section 1174(d) (failure to keep complete and accurate payroll records; and (9) violation of Labor
19 Code sections 2800 and 2802 (failure to reimburse necessary business-related expenses), in the action
20 entitled *Cortes v. Giti Tire (USA) Ltd.*, San Bernardino Superior Court Case No. CIVSB2332578
21 (“Action”). This complaint remains the operative complaint in the Action (“Operative Complaint”).

22 10. On September 23, 2024, Defendant filed its Answer to the Operative Complaint,
23 asserting twenty-two (22) affirmative defenses.

24 11. On March 29, 2024, Plaintiff and Defendant (collectively, the “Parties”) attended a
25 formal mediation conducted by Monique Ngo-Bonnici, a neutral and respected mediator with
26 extensive experience in complex wage and hour matters. The Parties reached an agreement in
27 principle at the mediation and fully executed a final memorandum of understanding within days of
28 the mediation.

1 12. During the course of informal discovery in the Action, PAGA Counsel conducted an
2 intensive investigation into the facts of the Action. This included obtaining data, information, and
3 documents relating to the underlying alleged violations, including, but not limited to, Plaintiff's
4 personnel file, a sampling of Aggrieved Employees' timecards and earnings statements, Defendant's
5 Giti USA Handbook, Defendant's arbitration agreement, and Aggrieved Employees' data points so
6 that Plaintiff could assess the number of alleged potential violations and value of the recoverable
7 penalties, as well as evaluate the strengths and weaknesses of her claim.

8 13. Based on the data, information, and documents received, as well as thorough
9 discussions with Defendant's counsel, Plaintiff's Counsel was able to: (i) determine the total number
10 of distinct individuals falling within the definition of "Aggrieved Employees" for the relevant
11 statutory period; (ii) determine the number of affected pay periods at issue among them; and (iii)
12 construct a damages model that calculated the maximum realistic amount of PAGA penalties that
13 could be levied against Defendant within the relevant statutory period. Defendant, however, disputed
14 Plaintiff's claims and disputed both the existence of and extent of liability as alleged by Plaintiff,
15 which allowed Plaintiff's Counsel to further assess the strength of Plaintiff's claim. Plaintiff's
16 Counsel's experience in litigating similar representative wage and hour claims, the degree of
17 investigation that was conducted here, and the amount of data, information, and documents that were
18 obtained, was sufficient to determine the potential value of the PAGA claim, and to evaluate the
19 strength of this claim for purposes of settlement.

20 14. Ultimately, the Parties were able to reach an agreement to resolve the Action in its
21 entirety. The Parties have agreed to enter into a settlement as to the PAGA claim. Attached hereto as
22 **Exhibit 3** is a true and correct copy of the PAGA Settlement Agreement ("Settlement" or "Settlement
23 Agreement") entered into between the Parties. Attached as **Exhibit 2** is the proposed Cover Letter to
24 be included with the Individual PAGA Payment checks.

25 15. The Parties believe the Settlement is fair, reasonable, and adequate. The Parties
26 understand, acknowledge, and agree that the Settlement Agreement constitutes a compromise of
27 Plaintiff's PAGA claim, and that it is the desire and intention of the Parties to effect a final and
28 complete resolution of the Released Claims.

16. Defendant denies all of the claims in the Action, and does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all legal, procedural, and factual grounds, should the Settlement not be approved by the Court. The Settlement Agreement reflects a compromise reached to end litigation in the Action. Following significant investigation and extensive settlement negotiations, Plaintiff now seeks approval of the proposed Settlement, which will resolve all representative claims alleged in the Operative Complaint.

Notice to the LWDA

17. In accordance with California Labor Code sections 2699 *et. seq.*, a copy of the proposed Settlement, as well as information regarding the approval hearing in this matter, were submitted to the LWDA via online submission concurrently with the filing of the Motion on December 27, 2024.

Summary of the Terms of the Settlement Agreement

18. For purposes of settlement only, the Parties have agreed that the “Aggrieved Employees” shall be defined as as “all current and former non-exempt employees of Defendant within the State of California at any time during the PAGA Period.” The “PAGA Period” is the period from October 12, 2022, through March 29, 2024. Based on its records, Defendant represented that there are 37 Aggrieved Employees who worked 952 Pay Periods during the PAGA Period.

19. The Parties have agreed to settle the PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of One Hundred Thousand Dollars and Zero Cents (\$100,000.00). The Gross Settlement Amount is a common fund and therefore, includes all requested costs, fees, and other allocations. The Gross Settlement Amount includes: (1) Plaintiff's Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, equaling Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00); (2) Plaintiff's Counsel's actual litigation costs and expenses of Eighteen Thousand Seven Hundred Ninety-Five Dollars and Nineteen Cents (\$18,795.19); (3) Settlement Administration Costs, not to exceed Four Thousand Dollars and Zero Cents (\$4,000.00); and (4) Service Award in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff.

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1 20. After the above-estimated amounts are deducted from the Gross Settlement Amount,
2 the PAGA Penalties will amount to approximately Thirty-Seven Thousand Two Hundred and Four
3 Dollars and Eighty-One Cents (\$37,204.81), of which seventy-five percent (75%), or Twenty-Seven
4 Thousand Nine Hundred and Three Dollars and Sixty-One Cents (\$27,903.61), will be paid to the
5 LWDA (“LWDA Payment”), and twenty-five percent (25%), or Nine Thousand Three Hundred and
6 One Dollars and Twenty Cents (\$9,301.20), will be distributed and paid to Aggrieved Employees on
7 a *pro-rata* basis based on their number of pay periods worked for Defendant as a non-exempt
8 employee during the PAGA Period (“Pay Periods”).

9 21. Within seven (7) calendar days of the Court’s entry of an order approving the PAGA
10 Settlement, Defendant will deliver Aggrieved Employee identifying information in Defendant’s
11 possession, including each Aggrieved Employee’s first and last name, last-known address, last known
12 telephone number, Social Security number, start and end dates of employment, and number of Pay
13 Periods during the PAGA Period, (collectively, “Aggrieved Employee List”) to the Administrator in
14 the form of a Microsoft Excel spreadsheet, or a comparable format.

15 22. Within twenty-one (21) calendar days of the Court’s entry of an order approving the
16 PAGA Settlement, Defendant will fund the Gross Settlement Amount by transmitting the funds to
17 the Administrator.

18 23. Within seven (7) calendar days after the Settlement Administrator receives the
19 Aggrieved Employees List and the Gross Settlement Amount, the Administrator will mail checks for
20 all Individual PAGA Payments, the LWDA Payment, the Settlement Administration Costs, the
21 Service Award, and the Attorneys’ Fees and Costs. Disbursement of the Attorneys’ Fees and Costs
22 shall not precede disbursement of Individual PAGA Payments.

23 24. Prior to mailing the Individual PAGA Payment checks, the Administrator will update
24 the Aggrieved Employees’ mailing addresses using the National Change of Address Database.
25 Additionally, for all Individual PAGA Payment checks that are returned as undeliverable without a
26 USPS forwarding address, the Administrator will conduct an investigation and search for current
27 Aggrieved Employee mailing addresses using all reasonably available sources, methods, and means
28 including, but not limited to, the National Change of Address database, skip traces, and direct

1 contact by the Administrator with the Aggrieved Employees. The Administrator will re-mail the
2 check to the USPS forwarding address provided or to an address ascertained through the Aggrieved
3 Employee address search.

4 25. Individual PAGA Payment checks that are issued to Aggrieved Employees will be
5 valid and negotiable for up to one hundred and eighty (180) calendar days after the checks are
6 initially mailed to the Aggrieved Employees, and thereafter, will be canceled. Any funds associated
7 with such canceled checks will be distributed to the State of California's Unclaimed Property Fund
8 in the name of the Aggrieved Employee whose check was cancelled.

9 26. If the actual number of Pay Periods during the PAGA Period exceeds 952 by more
10 than ten percent (10%), then the Gross Settlement Amount will increase proportionally by the actual
11 percentage over the 10% threshold.

12 **The Settlement is Fair and Reasonable and Took Into Consideration the Strengths and**
13 **Weaknesses of Plaintiff's Claims and the Defenses thereto, as well as the Risks and Benefits**
14 **of the Settlement**

15 27. Here, the Settlement is presumptively fair because: (1) it occurred after counsel for
16 the Parties engaged in significant investigation to evaluate the strength and potential value of the
17 PAGA claim, and the risks of litigating this claim through trial; and (2) it was negotiated at great
18 length and effort by counsel with significant experience in similar complex labor and employment
19 matters.

20 28. This case and settlement address important employee protections embodied in the
21 California Labor Code. Plaintiff's core allegations are that Defendant systematically violated the
22 California Labor Code by, *inter alia*, failing to properly pay wages for all hours worked, failure to
23 properly pay overtime and to pay overtime at the correct rate, failing to provide compliant meal and
24 rest periods, failing to timely pay wages during employment and upon termination, failing to provide
25 accurate wage statements, and failing to reimburse necessary business expenses.

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1 29. Defendant maintained several defenses to Plaintiff's theories of liability, which, if
2 successfully argued and proven, had the potential to eliminate or substantially reduce recovery.
3 Throughout this litigation, Defendant maintained, and continues to maintain, that it had, and
4 continues to have, compliant employment policies and practices throughout the time period at issue.
5 Defendant denies that it ever violated any provision of the California Labor Code, including, but not
6 limited to, those sections for which Plaintiff seeks penalties under PAGA. Defendant further denied,
7 and continues to deny, that the lawsuit is appropriate for representative treatment for any purpose
8 other than settlement. Defendant also challenged Plaintiff's standing as an aggrieved employee and
9 denied that any of Defendant's other employees whom Plaintiff seeks to represent are aggrieved.
10 Defendant also argued that an important feature of PAGA is that the Court retains discretion to
11 lower the penalties if, based on the facts and circumstances of the particular case, to do otherwise
12 would result in an award that is "unjust, arbitrary and oppressive, or confiscatory."

13 30. Even if violations of the California Labor Code occurred, which Defendant denies,
14 Defendant contended that said violations would only be considered "initial violations" and thus
15 heightened "subsequent violation" penalties were not warranted.

16 31. Defendant also contended that, with respect to PAGA claims, the Court was unlikely
17 to assess cumulative penalties for the maximum number of possible, separate California Labor Code
18 violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where
19 certain conduct may be regulated by multiple provisions of the California Labor Code that are
20 interrelated and work in tandem. As such, Defendant contended that cumulative penalties and
21 heightened penalties would be unjust, arbitrary, oppressive, and confiscatory.

22 32. While Plaintiff maintains that her PAGA claim has merit, in reaching the Settlement,
23 Plaintiff and her counsel took into account the strengths and weaknesses of each side's position,
24 Defendant's arguments regarding the enforceability of its arbitration agreement, and the uncertainty
25 of how the case might have concluded, as litigation continued, at trial, and/or upon appeal.
26 Notwithstanding the existence of these issues, the Settlement achieves a sizeable benefit obtained.

27 33. Defendant has represented that approximately 37 Aggrieved Employees worked a
28 total of approximately 952 pay periods during the PAGA Period.

1 34. As set forth in the Motion, the California Labor Code does not set forth the criteria
2 by which a PAGA settlement is to be evaluated; it is presumed that a reviewing court may take into
3 consideration some of the factors that courts use when reviewing a class action settlement.¹ “[A]
4 PAGA claim asserted on a non-class representative basis...is not considered a class action but a law
5 enforcement action, and therefore does not have to meet the requirements of [a class action].”
6 *Casida v. Sears Holdings Corp.*, 2012 U.S. Dist. LEXIS 9302 at *8 (E.D. Cal. Jan. 25, 2012).
7 However, a discussion of the strengths and weaknesses of each claim, along with an estimate of the
8 total potential recovery is as follows:

9 *i. Unpaid Wages*

10 35. Plaintiff alleged that Defendant failed to compensate Plaintiff and the Aggrieved
11 Employees at their applicable minimum, regular, and overtime rates for their work, and failed to
12 compensate them for all hours that they worked. Plaintiff further alleged that Defendant required
13 Plaintiff and the other Aggrieved Employees to perform work off-the-clock by requiring them to to
14 complete standard job duties such booting up computers, performing menial work-related tasks, or
15 receiving and responding to work communications, particularly from superiors (e.g. in-person, or
16 via phone, text, or social media system) after clocking out for meal periods, and/or after clocking
17 out at the ends of shifts. Additionally, Plaintiff alleged that Defendant failed to pay overtime
18 compensation because the uncompensated work described herein was often performed when
19 Plaintiff and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty
20 (40) hours in week, and overtime compensation was not provided. And finally, Plaintiff alleged
21 that Defendant improperly failed to reimburse Plaintiff and the Aggrieved Employees for necessary
22 business-related expenses, such as cell phones which were used for work purposes.

23 36. Defendant denied these claims, arguing that its overtime policies and practices
24 comply with California law. Defendant further contended that its non-exempt employees were
25 responsible for accurately recording their own hours and that it was not aware that any work had
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28 ¹ As this is not a class action, the *Kullar* factors pertaining to the risk of maintaining class action status through trial
and the reaction of class members to the proposed settlement are inapplicable.

1 been performed off-the-clock.

2 37. If a violation was found to have occurred in every one of the aggregate pay periods
3 within the relevant time period, the potential maximum exposure for this claim would be \$95,200.²

4 *ii. Meal Periods*

5 38. Plaintiff asserted that Defendant failed to provide employees with lawful meal
6 periods. For example, Plaintiff reported that her meal breaks were often short, late, interrupted, or
7 were never provided at all. Additionally, Plaintiff alleged that throughout the relevant time period,
8 Defendant's managers would frequently interrupt Plaintiff's and Aggrieved Employees' meal
9 periods by walking into the break room and discussing work topics or holding a work-related
10 meeting after employees had clocked out for meal periods. Moreover, Plaintiff and other Aggrieved
11 Employees were often required to remain on-site for meal periods, and were not provided duty-
12 free, off-site meal breaks.

13 39. Defendant argued that the Aggrieved Employees were permitted, if not encouraged,
14 to take their meal breaks. Defendant also argued that its written meal break policy was lawful and
15 employees' time records reflected that they took lawful meal periods, and that they received
16 premiums when a meal period was non-compliant. Moreover, litigating the meal period claims
17 would be inherently difficult as it would need to be proven that compliant meal periods were not
18 provided, but time records would not indicate whether or not a meal period was interrupted.

19 40. If a violation was found to have occurred in every one of the aggregate pay periods
20 within the relevant time period, the potential maximum exposure for this claim would be \$95,200.

21 *iii. Rest Periods*

22 41. Plaintiff argued that Defendant failed to schedule, permit, or authorize compliant
23 rest periods. Plaintiff alleged that Plaintiff and other Aggrieved Employees were unable to take
24 their rest breaks because of the need to respond to time sensitive tasks and work-related duties.

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26 ² While the California Labor Code provides for \$100 for the first violation and up to \$250 for each
27 subsequent violation (depending on the underlying violation), Plaintiffs used this simple computation of the
28 total number of aggregate pay periods time a \$100 penalty for analysis purposes only to account for the
argument that imposition of PAGA penalties is discretionary and courts have the power to reduce or assess
penalties based on the specifics of each case.

1 Plaintiff reported that if she was able to take a rest break, she was frequently interrupted by
2 supervisors and/or coworkers with work-related questions. The sampling of data provided reflected
3 zero payment of rest period premiums.

4 42. In response, Defendant pointed to their written rest break policies as being compliant
5 with California law, and argued that without the requirement of recording rest breaks, it would be
6 impossible to substantiate the rate of violation. Here, Plaintiff faced the challenge of having to
7 prove each alleged rest period violation with only testimony from Aggrieved Employees.

8 43. If a violation was found to have occurred in every one of the aggregate pay periods
9 within the relevant time period, the potential maximum exposure for this claim would be \$95,200.

10 *iv. Unreimbursed Business Expenses*

11 44. Plaintiff alleged that Aggrieved Employees received work-related phone calls and
12 text messages on their personal cell phones from their supervisors and coworkers and were not
13 compensated by Defendant.

14 45. Defendant contended that it had a policy and practice of reimbursing employees for
15 necessary business related expenses. Defendant further contended that, with respect to the alleged
16 expenses for which Plaintiff and the Aggrieved Employees never requested reimbursement from
17 Defendant, it did not know and had no reason to know that alleged business-related expenses had
18 been incurred.

19 46. If a violation was found to have occurred in every one of the aggregate pay periods
20 within the relevant time period, the potential maximum exposure for this claim would be \$95,200.

21 *v. Derivative Claims*

22 47. As with all derivative claims, success depends on the success of the underlying
23 claims. Here, Plaintiff's claims for inaccurate wage statements, failure to pay all wages due during
24 employment and upon termination, and failure to maintain accurate payroll records would only
25 succeed if the underlying claims for failure to pay wages for off-the-clock work, failure to pay
26 overtime, and failure to pay premiums for all meal and rest periods not lawfully provided were
27 successful. Therefore, these claims were subject to the same risks of failure as discussed above.

28 48. Again, if a violation was found to have occurred in every one of the aggregate pay

1 periods within the relevant time period, the potential maximum exposure for this claim would be
2 \$95,200.

3 *vi. Total PAGA Penalties*

4 49. Plaintiff's Counsel considered information obtained through investigations and
5 obtained from Plaintiff and Aggrieved Employees, as well as data provided by Defendant, and
6 created valuation models. Based thereon and assuming that the Court would be satisfied that the
7 PAGA claims were susceptible to being efficiently tried and adjudicated on a representative basis,
8 and that it could be shown that civil penalties under the California Labor Code are owed of one
9 penalty per pay period during the relevant time period, Defendant's estimated total exposure was
10 \$462,500.00. However, Plaintiff's Counsel considered the defenses asserted, information and
11 evidence obtained, and circumstances in these cases, which posed risks to representative
12 adjudication and monetary recovery. Plaintiff's Counsel also considered the fact that, by law, the
13 Court has the discretion to reduce and/or assess lower penalties, that it was not clear that heightened
14 penalties would apply, and that stacking and/or cumulative penalties may not be allowed.
15 Accordingly, a discount of 50% was applied to account for the risks associated with proving the
16 underlying violations and the cost and delay in recovering the alleged potential penalties (bringing
17 the value of this claim closer to \$231,250.00), and a discount of 45% was applied to account for the
18 risks associated with succeeding on the merits and establishing liability (bringing the value of this
19 claim closer to \$127,187.50). In light thereof, the Gross Settlement Amount of \$100,000.00 is a
20 significant settlement.

21 **The Amount Offered in Settlement**

22 50. The PAGA Penalties are currently estimated to be \$37,204.81. After all deductions
23 from the Gross Settlement Amount are made for the Attorneys' Fees and Costs, Plaintiff's Service
24 Award, and Settlement Administration Costs, \$27,903.61 (i.e. 75% of the PAGA Penalties) will go
25 to the LWDA, and \$9,301.20 (i.e. 25% of the PAGA Penalties) will go to the Aggrieved Employees.
26 Note that the Action was filed on December 18, 2023, and, at that time, the California Labor Code
27 § 2699(i) (2004) specified that "civil penalties recovered by aggrieved employees shall be
28 distributed as follows: 75 percent to the Labor and Workforce Development Agency . . . and 25

1 percent to the aggrieved employees.” There is no reason to doubt the fairness of the proposed plan
2 of allocation of the PAGA Penalties as it fully complies with California Labor Code section 2699(i),
3 as it was applied at the time of the initiation of the Action.

4 51. The Settlement is a compromise of highly disputed claims. Plaintiff and Plaintiff’s
5 counsel recognize the expense and length of continued proceedings necessary to litigate the matter
6 through trial and any possible appeals. Plaintiff and Plaintiff’s counsel have also taken into account
7 the uncertainty and risk of the outcome of further litigation, the difficulties and delays inherent in
8 such litigation, and Defendant’s defenses. Plaintiff and Plaintiff’s counsel are also aware of the
9 burdens of proof necessary to establish liability, both generally and in response to Defendant’s
10 defenses thereto, and the difficulties in establishing Defendant’s liability for, and the right to
11 recover, penalties on behalf of Plaintiff, the State of California, and other Aggrieved Employees.
12 Plaintiff and Plaintiff’s counsel have also taken into account Defendant’s agreement to enter into a
13 settlement that confers significant relief upon the Aggrieved Employees and the State of California.
14 Considering all of the facts in this case, Plaintiff and Plaintiff’s counsel have determined that the
15 Settlement represents a fair, adequate, and reasonable resolution of the PAGA claim, and that it is
16 in the best interests of the Aggrieved Employees and the State of California.

17 52. The result achieved in this case is well within the range of what is considered an
18 acceptable settlement under the circumstances, especially when compared to the settlement of
19 PAGA claims in other cases.

20 **The Settlement was Negotiated by Experienced Counsel**

21 53. Plaintiff’s Counsel is experienced in complex representative and class action wage-
22 and-hour litigation. In the view of Plaintiff’s Counsel, the benefits conferred by the Settlement are
23 eminently fair and reasonable, and in the best interests of the State of California and the Aggrieved
24 Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial
25 monetary benefits provided for by the Settlement.

26 54. Here, the extent of informal discovery conducted was sufficient to enable Plaintiff’s
27 Counsel to evaluate the strength and value of the PAGA claim for purposes of settlement. The
28 settlement negotiations were conducted by highly capable and experienced counsel. Plaintiff’s

1 Counsel are respected members of the bar with strong records of vigorous and effective advocacy,
2 and are experienced in handling complex wage and hour class action and representative action
3 litigation. Accordingly, Plaintiff's Counsel had sufficient information and experience to act
4 intelligently in negotiating the Settlement.

5 **The Requested Plaintiff's Counsel's Fees are Fair and Reasonable**

6 55. Plaintiff's Counsel's application for attorneys' fees in light of the facts and
7 circumstances surrounding the case is well-within the range of reasonableness. Plaintiff's Counsel
8 has vigorously litigated this case since it was commenced, with the very real possibility of an
9 unsuccessful outcome and no fee recovery of any kind.

10 56. In the present case, Plaintiff's Counsel has borne all of the risks and costs of litigation
11 and will not receive any compensation until recovery is obtained. Plaintiff's Counsel is experienced
12 in complex wage-and-hour litigation and used that experience to obtain a favorable result for
13 Plaintiff, the Aggrieved Employees, and the State of California. Considering the amount of fees
14 requested, work performed, risks incurred, and experience of Plaintiff's Counsel in handling similar
15 matters, Plaintiff maintains that the requested attorneys' fees of thirty-five percent (35%) of the
16 Gross Settlement Amount (i.e., \$35,000.00) are reasonable and should be awarded.

17 57. The effectiveness of Blackstone Law, APC's prosecution of this matter has translated
18 into tangible monetary benefits for the Aggrieved Employees as follows: (1) Aggrieved Employees
19 will obtain monetary recovery over a relatively short period of time, as opposed to waiting additional
20 years for the same, or potentially worse, result; (2) a guaranteed result that compares favorably with
21 other representative PAGA actions of this type, given the strengths and weaknesses of the case; and
22 (3) significant savings in Plaintiff's Counsel's fees and/or costs that would have only increased had
23 the case progressed through trial and/or appeals. The attorneys who worked on this case are all
24 experienced in litigating wage and hour matters as follows:

25 a. Barbara DuVan-Clarke is a 16-year litigator who joined Blackstone in September
26 2022 as a Senior Trial Attorney and Team Lead, building on her entire career of litigating single-
27 plaintiff employment, catastrophic injury, and class/PAGA matters with well-known plaintiff-side
28 wage and hour law firms in Los Angeles. She earned her Bachelor of Arts degree from the University

1 of California at Los Angeles in 2003, and then obtained her Juris Doctorate from Case Western
2 Reserve University in Cleveland, OH in 2007. Her billable rate is \$1,050 per hour, which is well
3 within the prevailing rate for attorneys with her experience in this area of practice in Southern
4 California. She has been approved at that rate most recently in *Sanchez v Greenworld* earlier in
5 2024. I am personally familiar with Blackstone's roster of hourly clients, and Ms. DuVan-Clarke
6 currently has hourly clients at her \$1,050 rate. Ms. DuVan-Clarke also maintains leadership roles in
7 the California Employment Lawyers' Association ("CELA") and other organizations.

8 b. Alexander K. Spellman is a senior associate attorney who worked on this matter
9 when he worked at Blackstone. He graduated from University of California at Los Angeles in 2001,
10 with a Bachelor of Arts degree in American Literature and Culture. He then obtained his Juris
11 Doctorate from Loyola Law School, graduating in 2006, and was admitted to the California State
12 Bar in July 2007. He practiced exclusively plaintiff's side labor and employment law from 2016
13 through 2024. His hourly rate of \$950 is reasonable based on his education and experience and is in
14 line with the market rate.

15 c. P.J. Van Ert is an accomplished attorney who joined Blackstone in 2023, after having
16 worked at an employment litigation firm for 2 years, and prior to that, having served as a District
17 Attorney for over 13 years. In that role, she was a prolific trial attorney, and it is my understanding
18 that she tried over 50 jury trials to verdict. She graduated from University of California at Davis in
19 2000, with a Bachelor of Arts degree, and from University of California at Los Angeles School of
20 Law with a Juris Doctorate in 2004. She was admitted to the State Bar of California in December
21 2004. Her hourly rate of \$750 is reasonable based on her education and experience and is in line
22 with the market rate.

23 d. Annabel Blanchard is an experienced attorney who joined Blackstone in 2024, from
24 a highly reputable plaintiff's side employment law firm, and prior to that, provided legal support
25 and advocacy for families and adults with special needs. She graduated from University of
26 California at Berkeley with a Bachelor of Arts degree in 2001, and from Southwestern University
27 School of Law with a Juris Doctorate in 2008. She was admitted to the State Bar of California in
28 December 2008. Her hourly rate of \$750 is reasonable based on her education and experience and

is in line with the market rate.

58. Plaintiff's Counsel has spent approximately 173.6 total hours litigating this matter. To date, our total fees incurred amount to \$163,110.00. Each attorney who worked on this matter engaged in a multitude of tasks, including communicating with the client, aggrieved employees, and defense counsel; investigating the facts and researching applicable legal issues; drafting pleadings, informal discovery requests, and joint statements; reviewing documents; preparing for and attending mediation; and facilitating the settlement by drafting the settlement documents and motion papers for obtaining settlement approval. A summary of Plaintiff's Counsel's lodestar for each attorney who worked on this case is as follows:

<u>Attorney</u>	<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Jonathan M. Genish	Managing Partner	15.40	\$1,200	\$18,480.00
Barbara DuVan-Clarke	Senior Trial Attorney/Team Lead	56.80	\$1,050	\$59,640.00
Alexander K. Spellman	Senior Associate	44.70	\$950	\$42,465.00
P.J. Van Ert	Associate	32.40	\$750	\$24,300.00
Annabel Blanchard	Associate	24.30	\$750	\$18,255.00

59. We expect to spend an additional 7 hours (\$5,550) in connection with finalizing the Motion, preparing for the approval hearing, and managing the Settlement through its conclusion, including anticipated communications with defense counsel, the Administrator, and our client. Based thereon, the total amount of Blackstone's fees through closure of this case are estimated to be approximately \$168,660.00. However, Blackstone is only requesting fees of \$35,000.00 (35% of the Gross Settlement Amount).

The Requested PAGA Counsel's Costs are Fair and Reasonable

60. The Settlement provides for reimbursement of litigation costs and expenses of up to \$25,000.00. PAGA Counsel only seeks reimbursement of a total of \$18,795.19 in litigation costs and expenses. A true and correct itemized list of my firm's litigation costs and expenses is attached hereto as **Exhibit 4**. This amount was reasonable and necessary in the prosecution of this matter,

1 and is less than the maximum amount allocated under the Settlement.

2 **The Settlement Administration Costs are Fair and Reasonable**

3 61. As set forth in the Settlement Agreement, the Parties have agreed to retain, subject
4 to approval by the Court, Apex Class Action Administration (“Apex” or “Administrator”) to handle
5 the administration of the Settlement. The fees and expenses of the Administrator are estimated not
6 to exceed \$4,000.00. These costs include, but are not limited to, expenses for preparing, printing,
7 and mailing the Cover Letter and Individual PAGA Payment checks to the Aggrieved Employees,
8 re-mailing the returned Individual PAGA Payment checks to any new addresses obtained, and
9 handling inquiries from Aggrieved Employees regarding the Settlement, among other things.
10 Accordingly, the Court should grant approval of the Cost of Administration in the amount of up to
11 \$4,000.00 to Apex, a necessary third-party for handling the settlement process.

12 **The Service Award is Fair and Reasonable**

13 62. As part of the Settlement Agreement, Plaintiff respectfully requests a reasonable
14 Service Award of Five Thousand Dollars and Zero Cents (\$5,000.00). This Service Award is
15 eminently reasonable given the time and effort Plaintiff spent on the Action, and the benefit to the
16 other Aggrieved Employees and the State of California as a result of Plaintiff’s actions. By initiating
17 and pursuing the Action, Plaintiff stepped into the shoes of the State of California and undertook
18 the responsibilities of serving in a representative capacity. Plaintiff was available whenever
19 Plaintiff’s counsel needed them and actively tried to obtain information that would benefit the
20 prosecution of the Action. Accordingly, Plaintiff respectfully submits that it is appropriate and just
21 for Plaintiff to receive a Service Award in addition to the Individual PAGA Payment she will receive
22 as an Aggrieved Employee, for her services on behalf of the State of California and the other
23 Aggrieved Employees.

24 ///

25 ///

26 ///

27 ///

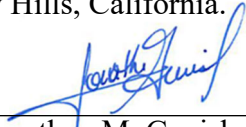
28 ///

Pending Actions

63. Neither I nor Plaintiff are aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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

Executed on December 27, 2024, at Beverly Hills, California.



Jonathan M. Genish

EXHIBIT 1

October 12, 2023

PAGA Claim Notice Via Online Electronic Submission

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: *Vanessa Cortes v. Giti Tire (USA) LTD.*

Dear Representative:

This office represents Vanessa Cortes (“Claimant”) with respect to Claimant’s claims under the California Labor Code against Giti Tire (USA) LTD (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employer”). This letter is being sent simultaneously to Employer by certified mail.

Employer employed Claimant from approximately April 2022 through the present as a non-exempt, hourly-paid employee. Claimant is employed as an import traffic coordinator at Employer’s location at 10404 6th Street, Rancho Cucamonga, California, 91730. Claimant performed various duties for Employer such as handling deliveries to east coast locations and importing containers. Employer operates manufacturing plants and produces a broad range of tire or automotive products, serving major original equipment vehicle manufacturers, auto service outlets, tire dealers, etc. Employer maintains employees throughout California.

Claimant intends to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimant is seeking penalties on behalf of Claimant and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employer in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3 and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employer violated several of California’s wage and hour laws during Claimant’s employment, including but not limited to California Labor Code sections 201, 202, 203,

204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders (“IWC Wage Orders”). The claims made on behalf of Claimant and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer engaged in numerous unlawful practices which resulted in the failure to pay Claimant and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time/regular rate wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and IWC Wage Orders require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and IWC Wage Orders further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employer regularly required Claimant and other Aggrieved Employees to perform work off-the-clock *inter alia*: (1) responding to emails and Microsoft teams messages prior to clocking in; (2) attending meetings and performing usual job duties during meal periods; and (3) responding to emails, Microsoft teams messages, and in person work-related communications from superiors and other employees after clocking out and between shifts. Employer failed to compensate Claimant and other Aggrieved Employees for any of this off-the-clock work, in violation of California law. In addition, Employer utilized time rounding practices that resulted in the systematic underpayment of wages (including minimum wages, straight time/regular rate wages and overtime wages) to Claimant and Aggrieved Employees.

Employer also failed to accurately record the actual time worked by Claimant and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimant and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in a week, resulting in a failure to pay overtime compensation. Finally, Employer failed to pay overtime to Claimant and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employer failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time/regular rate wages, and overtime compensation. Accordingly, Employer violated IWC Wage Orders and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to penalties paragraph of the applicable IWC Wage Orders; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employer failed to provide Claimant and other Aggrieved Employees with legally compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by Employer to work more than five (5) hours per day but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Claimant and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law. Accordingly, Employer violated the applicable IWC Wage Orders and California Labor Code sections 226.7, 512(a) and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to penalties paragraph of the applicable IWC Wage Orders; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes rest for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employer failed to authorize and permit Claimant and other Aggrieved Employees to take legally compliant 10-minute rest periods. Employer required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Claimant and other Aggrieved Employees to respond to work-related requests at all times,

including during rest periods; and (7) Employer's policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law. Accordingly, Employer violated the applicable IWC Wage Orders and California Labor Code sections 226.7, and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph of the applicable IWC Wage Orders; Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employer failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, straight time/regular rate wages, minimum wages, overtime compensation, meal and rest period premiums, or any other compensation as it became due (e.g., gratuities, bonuses, commissions, etc.). Accordingly, Employer violated California Labor Code section 204(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (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, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (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, and (8) the name and

address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimant and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimant and the Aggrieved Employees. Accordingly, Employer violated California Labor Code section 226(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employer failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated the applicable IWC Wage Orders and California Labor Code sections 1198.5 and 1174(d).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph of the applicable IWC Wage Orders; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. The IWC Wage Orders require employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimant and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employer. These costs include but are not limited to the usage of personal cell phones and related internet usage for work-related purposes.

Accordingly, Employer violated the IWC Orders and California Labor Code sections 2800 and 2802. Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant

to California Labor Code section 2699; penalties pursuant to penalties paragraph of the applicable IWC Wage Orders; and attorneys' fees and costs.

8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employer failed to pay Aggrieved Employees for all straight time/regular rate wages, minimum wages and overtime compensation owed to them upon termination of their employment. Employer also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages (e.g., gratuities, bonuses, commissions, etc.). Accordingly, Employer violated California Labor Code sections 201 and 202.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

9. EMPLOYER'S OTHER VIOLATIONS OF THE CALIFORNIA LABOR CODE

Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 ("*Huff*"), as an Aggrieved Employee, Claimant has standing, and intends, on behalf of LWDA, to pursue civil penalties against Employer for any and all other Labor Code violations committed by Employer. In *Huff*, the California Court of Appeals held that an employee alleging a single violation of the Labor Code under PAGA may also bring PAGA claims against Employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Claimant, as an "aggrieved" employee affected by at least one Labor Code violation may, and hereby does, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employer.

Employer is in direct violation of numerous California wage and hour laws including but

not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*, and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employer for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, *et seq.*, by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employer's alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

BLACKSTONE LAW

Barbara DuVan-Clarke

Barbara DuVan-Clarke, Esq.

cc: By U.S. Certified Mail, Return Receipt Requested

Giti Tire (USA) LTD
10404 Sixth Street
Rancho Cucamonga, CA 91730

Giti Tire (USA) LTD
Agent for Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

EXHIBIT 2

Exhibit A

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>><<State>><<Zip>>

Re: Settlement Payment from *Vanessa Cortes v. Giti Tire (USA) Ltd.*, San Bernardino County
Superior Court Case No. CIVSB2332578

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual PAGA Payment”). This check is your payment from the settlement in the lawsuit entitled *Vanessa Cortes v. Giti Tire (USA) Ltd.*, San Bernardino County Superior Court Case No. CIVSB2332578 (“Action”).

The lawsuit was filed on November 30, 2023 by Vanessa Cortes (“Plaintiff”) against her former employer Giti Tire (USA) Ltd. (“Defendant”), on behalf of the State of California, with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to initiating the lawsuit, on October 12, 2023, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of her intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders, thereby initiating LWDA Case Number LWDA-CM-987413-23 (“PAGA Notice”).

Defendant denies all of Plaintiff’s allegations and denies any wrongdoing of any kind associated with Plaintiff’s allegations. A settlement was reached between Plaintiff and Defendant.

On <<Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former non-exempt employees of Defendant within the State of California at any time during the PAGA Period (“Aggrieved Employees”). The period October 12, 2022 to March 29, 2024 is the “PAGA Period.”

You are receiving a portion of the settlement (the enclosed Individual PAGA Payment) because you have been identified as an Aggrieved Employee. Your Individual PAGA Payment is based on the total number of pay periods that you worked for Defendant in California during the PAGA Period. The Individual PAGA Payment is considered to be 100% penalties, which will be reported on an IRS Form 1099 (if applicable). You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of full funding of the Gross Settlement Amount>>, the Released Parties were fully, finally, and forever released, settled, compromised, relinquished, and discharged from the Released Claims.

“Released Parties” means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns.

“Released Claims” means any and all claims arising from any of the factual allegations in the Operative Complaint and PAGA Notice, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, for Defendant’s alleged failure to pay

overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses in violation of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders.

The enclosed check is valid for 180 calendar days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 180-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller's Office Unclaimed Property Division in your name and in the amount of your Individual PAGA Payment.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [Settlement Administrator] at [toll-free phone number].

EXHIBIT 3

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“the Settlement Agreement” or “the Settlement”) is entered into by and between Vanessa Cortes (“Plaintiff”), individually and as a representative of the State of California and the Aggrieved Employees (as defined in Section 3(a)(5), *infra*) and Giti Tire (USA), Ltd. (“Defendant”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** The Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from approximately April 2022 until April 2024;

(b) On October 12, 2023, Blackstone Law, APC (“Plaintiff’s Counsel”), submitted a letter on behalf of Plaintiff to the California Labor and Workforce Development Agency (“LWDA”) and Defendant to notify the LWDA and Defendant, pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, *et seq.* (“PAGA”), of Plaintiff’s intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2699, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders, thereby initiating LWDA Case Number LWDA-CM-987413-23 (“the PAGA Notice”);

(c) On December 18, 2023, Plaintiff filed a Complaint for Enforcement Action Under the Private Attorneys General Act, Cal. Labor Code §§ 2698 *Et Seq.* (“the Operative Complaint”), commencing a representative action under PAGA against Defendant, entitled *Vanessa Cortes v. GITI Tire (USA) Ltd., et al.*, in the San Bernardino County Superior Court, bearing Case No. CIVSB2332578 (“the Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA for violations of multiple provisions of the California Labor Code and the applicable Industrial Welfare Commission Wage Orders;

(d) On March 29, 2024, the Parties mediated the Action with mediator Monique Ngo-Bonnici, and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety; and

(e) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Action and Released Claims (as defined in Section 6(a), *infra*).

2. **No Admission of Wrongdoing.** The Parties agree that neither the Settlement Agreement nor the furnishing of the consideration for the Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing the Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) (“the Gross Settlement Amount”) to resolve the Action and Released Claims (as defined in Section 6(a), *infra*), which shall be paid as follows:

(1) Attorneys' fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, which is Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00), and reimbursement of litigation costs and expenses in the amount of up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) (collectively, "the Attorneys' Fees and Costs") to Plaintiff's Counsel, which Defendant shall not contest;

(2) A service award of up to the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) ("the Service Award") to Plaintiff, which Defendant shall not contest;

(3) Costs and expenses of administration of the Settlement up to the amount of Four Thousand Dollars and Zero Cents (\$4,000.00) ("the Settlement Administration Costs") to Apex Class Action Administration ("the Settlement Administrator");

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3), *supra*, once approved by the Court, shall be paid from the Gross Settlement Amount. The balance remaining after these deductions shall be referred to herein as the "Net Settlement Amount;" and

(5) Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA ("the LWDA Payment"), and the remaining twenty-five percent (25%) shall be distributed to all current and former non-exempt employees who worked for Defendant within the State of California at any time during the PAGA Period ("the Aggrieved Employees"). The period of October 12, 2022, to March 29, 2024, shall be referred to herein as the "PAGA Period." The twenty-five percent (25%) portion of the Net Settlement Amount payable to the Aggrieved Employees shall be referred to herein as "the Employees' Portion."

(6) The Aggrieved Employees are estimated to consist of approximately 37 individuals who worked approximately 952 pay periods during the PAGA period. If the actual number of Pay Periods (as defined in Section 5(b), *infra*) during the PAGA Period is greater than ten percent (10%) more than the approximation of 952 pay periods, the Gross Settlement Amount shall be increased proportionally for each additional pay period beyond the 10% buffer.

(b) Because it constitutes a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One hundred percent (100%) of the payments for the Attorneys' Fees and Costs, the Service Award, and the Net Settlement Amount to be paid to the LWDA and the Aggrieved Employees shall be treated and reported for tax purposes as non-wage payments and the Settlement Administrator shall be responsible for issuing IRS Forms 1099, as required.

4. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court to effectuate the Settlement and terminate the Action pursuant to the Settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval of and effectuate the Settlement Agreement, and the payments described in Section 3(a), *supra*.

(c) The Parties shall seek to obtain Court approval of the Settlement Agreement by way of an unopposed motion for approval or, in the alternative, a stipulation and proposed order to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion for approval or, in the alternative, a stipulation and proposed order to Landon R. Schwob of Fisher & Phillips LLP ("Defendant's Counsel") for review. Defendant's Counsel shall be given an opportunity to comment on the foregoing prior to being filed with the Court, and such comments shall be implemented to the extent reasonable.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to the payments described in Section 3(a), *supra*. Therefore, the Parties further acknowledge that, should the Court not grant approval of the Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of the Settlement Agreement shall be null and void.

5. Payment of the Gross Settlement Amount / Notice to Recipients.

(a) Subject to Court approval of the Settlement Agreement, the payments described in Section 3(a), *supra*, shall be made by Defendant by transmitting the Gross Settlement Amount to a qualified settlement account established by the Settlement Administrator for administration of the Settlement, within twenty-one (21) calendar days of the Court's order granting approval of the Settlement Agreement. If the date by which any payment by Defendant is due falls on a Saturday, Sunday, or legal holiday in the State of California, then the due date shall be extended to the next day which is not a Saturday, Sunday, or legal holiday in the State of California.

(b) Each of the Aggrieved Employees shall be entitled to a *pro rata* share of the Employees' Portion, based upon the number of pay periods each worked during the PAGA Period ("Pay Periods"), based on Defendant's payroll records. Specifically, to calculate each of the Aggrieved Employees' share of the Employees' Portion ("Individual PAGA Payment"), the Settlement Administrator shall, for each of the Aggrieved Employees: (i) divide the number of Pay Periods the Aggrieved Employee worked by the total aggregate number of Pay Periods worked by all of the Aggrieved Employees, and then (ii) multiply this fraction by the Employees' Portion to arrive at each of the Aggrieved Employees' Individual PAGA Payments. One hundred percent (100%) of the Individual PAGA Payments are to be considered penalties, and the Settlement Administrator shall not undertake any deductions, withholding, or remittances for local, state, or federal taxes. The Aggrieved Employees' Individual PAGA Payments shall be reported on an IRS Form 1099, as required.

(c) The Settlement Administrator shall distribute the Individual PAGA Payments by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties and approved by the Court, in substantially the form attached hereto as "**Exhibit A**," in the following manner:

(1) No later than seven (7) calendar days after the Court's order granting approval of the Settlement, Defendant shall provide the Settlement Administrator with a list of all of the Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) last known telephone number; (iv) Social Security number; (v) start and end dates of employment; and (vi) number of Pay Periods;

(2) The Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List;

(3) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall mail the Cover

Letter and Individual PAGA Payment checks (collectively, “the PAGA Settlement Package”) to all of the Aggrieved Employees by First-Class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the Settlement Administrator shall promptly attempt to locate an alternative, updated address for the Aggrieved Employee at issue, by using a skip-trace search, and shall attempt one (1) re-mailing of the PAGA Settlement Package;

(4) The Individual PAGA Payment checks issued to the Aggrieved Employees shall remain valid for one hundred eighty (180) calendar days and, thereafter, shall be canceled. Funds associated with such canceled checks shall be transmitted to the State Controller’s Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of their respective Individual PAGA Payment(s);

(5) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the LWDA Payment to the LWDA;

(6) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the Service Award to Plaintiff;

(7) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the Attorneys’ Fees and Costs to Plaintiff’s Counsel; and

(8) No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved Employees List and Gross Settlement Amount, the Settlement Administrator shall transmit the Settlement Administration Costs to itself.

6. Release of Claims by Plaintiff and the State of California with Respect to the Aggrieved Employees.

(a) Upon the full funding of the Gross Settlement Amount, Plaintiff and the State of California, with respect to Aggrieved Employees, including Plaintiff, shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns (collectively, “the Released Parties”) from any and all claims arising from any of the factual allegations in the Operative Complaint and PAGA Notice, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, for Defendant’s alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide compliant wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses in violation of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders (“the Released Claims”).

(b) The Parties have separately entered into a confidential settlement agreement regarding non-PAGA claims by Plaintiff against Defendant. Nothing in the Settlement Agreement shall be construed to limit the Parties’ rights under the separate agreement.

7. **Governing Law and Interpretation.**

(a) The Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California. Should any non-material provision of the Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and said provision cannot be modified to be enforceable, that provision shall immediately become null and void, leaving the remainder of the Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of the Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of the Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of the Settlement Agreement or to seek damages for breach of the Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing Party.

8. **Amendment.** The Settlement Agreement may not be modified, altered, or changed, except in writing and signed by both Parties' counsel, subject to approval by the Court.

9. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) The Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in the Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

(d) The Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Monique Ngo-Bonnici. In the event of vagueness, ambiguity, or uncertainty, the Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(e) If Plaintiff or Defendant fail to enforce the Settlement Agreement or to insist on performance of any term herein, that failure shall not be deemed a waiver of that term or of the Settlement Agreement, and the Settlement Agreement shall remain in full force and effect, notwithstanding.

HAVING ELECTED TO EXECUTE THE SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THE SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed the Settlement Agreement as of the date set forth below:

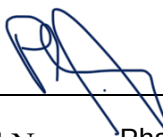
PLAINTIFF VANESSA CORTES

Dated: _____

Vanessa Cortes

DEFENDANT GITI TIRE (USA), LTD.

Dated: 8/12/2024



Full Name: Phang Wai Yeen

Title: CEO
On behalf of Giti Tire (USA), Ltd.

APPROVED AS TO FORM ONLY:

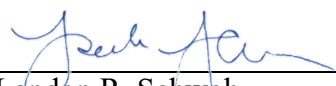
BLACKSTONE LAW, APC

Dated: _____

Jonathan M. Genish
Barbara DuVan-Clarke
Attorneys for Plaintiff Vanessa Cortes

FISHER & PHILLIPS LLP

Dated: 8/12/2024



Landon R. Schwob
Attorneys for Defendant Giti Tire (USA), Ltd.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed the Settlement Agreement as of the date set forth below:

PLAINTIFF VANESSA CORTES

Dated: 7/26/2024

Vanessa Cortes
Vanessa Cortes

DEFENDANT GITI TIRE (USA), LTD.

Dated: _____

Full Name: _____

Title: _____
On behalf of Giti Tire (USA), Ltd.

APPROVED AS TO FORM ONLY:

BLACKSTONE LAW, APC

Dated: 7/26/2024

Jonathan M. Genish
Jonathan M. Genish
Barbara DuVan-Clarke
Attorneys for Plaintiff Vanessa Cortes

FISHER & PHILLIPS LLP

Dated: _____

Landon R. Schwob
Attorneys for Defendant Giti Tire (USA), Ltd.

Exhibit A

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>><<State>><<Zip>>

Re: Settlement Payment from *Vanessa Cortes v. Giti Tire (USA) Ltd.*, San Bernardino County
Superior Court Case No. CIVSB2332578

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual PAGA Payment”). This check is your payment from the settlement in the lawsuit entitled *Vanessa Cortes v. Giti Tire (USA) Ltd.*, San Bernardino County Superior Court Case No. CIVSB2332578 (“Action”).

The lawsuit was filed on November 30, 2023 by Vanessa Cortes (“Plaintiff”) against her former employer Giti Tire (USA) Ltd. (“Defendant”), on behalf of the State of California, with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to initiating the lawsuit, on October 12, 2023, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of her intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders, thereby initiating LWDA Case Number LWDA-CM-987413-23 (“PAGA Notice”).

Defendant denies all of Plaintiff’s allegations and denies any wrongdoing of any kind associated with Plaintiff’s allegations. A settlement was reached between Plaintiff and Defendant.

On <<Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former non-exempt employees of Defendant within the State of California at any time during the PAGA Period (“Aggrieved Employees”). The period October 12, 2022 to March 29, 2024 is the “PAGA Period.”

You are receiving a portion of the settlement (the enclosed Individual PAGA Payment) because you have been identified as an Aggrieved Employee. Your Individual PAGA Payment is based on the total number of pay periods that you worked for Defendant in California during the PAGA Period. The Individual PAGA Payment is considered to be 100% penalties, which will be reported on an IRS Form 1099 (if applicable). You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of full funding of the Gross Settlement Amount>>, the Released Parties were fully, finally, and forever released, settled, compromised, relinquished, and discharged from the Released Claims.

“Released Parties” means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns.

“Released Claims” means any and all claims arising from any of the factual allegations in the Operative Complaint and PAGA Notice, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, for Defendant’s alleged failure to pay

overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses in violation of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Orders.

The enclosed check is valid for 180 calendar days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 180-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller's Office Unclaimed Property Division in your name and in the amount of your Individual PAGA Payment.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [Settlement Administrator] at [toll-free phone number].

EXHIBIT 4

Matter: Cortes vs. Giti Tire (USA) Ltd.

Date	Type of Expense	Description of Expense	Amount
12/10/2023	Other	LWDA: PAGA Notice Submission	\$75.00
10/13/2023	Mailing	Giti Tire (USA) LTD - PAGA Letter	\$8.53
10/13/2023	Mailing	Welcome PKG	\$1.59
10/13/2023	Mailing	Giti Tire (USA) LTD - Agent For Service Of Process	\$8.53
10/23/2023	Mailing	Records Request - CSC- Lawyers Incorporating Service	\$8.53
10/23/2023	Mailing	Records Request - Giti Tire (USA) LTD	\$8.53
10/30/2023	Filing	Steno: Complaint Packet	\$1,997.20
6/11/2023	Service	Steno: Personal Service	\$192.95
02/15/2024	Mediation	Check to Signature Resolution	\$7,950.00
02/15/2024	Mailing	Mailing Cost to Signature Resolution	\$5.04
5/3/2024	Filing	Steno: Complaint Packet (PAGA)	\$647.20
04/18/2024	Other	Check to Berger Consulting Group	\$6,960.00
04/18/2024	Mailing	Mailing Cost to Berger Consulting Group	\$0.64
2/5/2024	Filing	Steno: Case Management Conference Statement	\$59.95
5/6/2024	Filing	Steno: Joint Notice of Settlement	\$59.95
10/6/2024	Filing	Steno: Declaration of P.J. Van Ert	\$59.95
06/13/2024	Filing	Steno: Notice of Remote Appearance	\$59.95
06/17/2024	Filing	Steno: Joint Status Report	\$59.95
06/19/2024	Filing	Steno: Joint Status Report	\$59.95
7/8/2024	Filing	Steno: Joint Status Report	\$59.95
08/13/2024	Filing	Steno: Declaration of P.J. Van Ert	\$59.95
08/14/2024	Service	Steno: Court Service - Lodging: Declaration of P.J.	\$175.00
08/22/2024	Filing	Initial Trial Setting Conference Statement	\$59.95
08/30/2024	Other	CourtCall Appearance	\$72.00
4/9/2024	Filing	Steno: Notice of Remote Appearance	\$59.95
09/18/2024	Filing	Steno: Proof of Service of Summons	\$84.95

Total: \$18,795.19