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Attorneys for Plaintiff George Padilla and Proposed Class Counsel

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

GEORGE PADILLA, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiff,

v.

SMITH CHEVROLET CO., INC. dba
SMITH COLLISION CENTER, a
California corporation, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: CV-20-002683

Assigned to the Hon. Sonny S. Sandhu, Dept. 24

**[PROPOSED] ORDER (1) GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT AND (2) GRANTING
PLAINTIFF LEAVE TO FILE SECOND
AMENDED COMPLAINT**

Date: April 27, 2021

Time: 8:30 a.m.

Dept.: 24

Complaint Filed: June 17, 2020

Plaintiff’s motion for preliminary approval of class action settlement and for leave to file a Second Amended Complaint was scheduled for hearing before this Court in Department 24, Judge Sonny S. Sandhu presiding, initially on April 6, 2021 and then continued to April 27, 2021. The Court, having considered the papers submitted in support of the motion, **HEREBY ORDERS THE FOLLOWING:**

1. The Court grants preliminary approval of the settlement based upon the terms set forth in the Settlement Agreement and Release of Claims (the “Settlement Agreement”) filed with the Court. The settlement appears to be fair, adequate, and reasonable to the class;

1 2. The settlement falls within the range of reasonableness and appears to be
2 presumptively valid, subject only to any objections that may be raised at the final hearing;

3 3. The Court approves, as to form and content, the Notice of Pendency of Class Action
4 Settlement and Final Hearing (“Notice”), attached as Exhibit “1” to the Settlement Agreement; and
5 the Request for Exclusion Form, attached as Exhibit “2” to the Settlement Agreement.

6 4. The Court directs the mailing of the Notice and the Request for Exclusion Form by
7 first class mail to the members of the Settlement Class in accordance with the schedule set forth
8 below. The Court finds that the dates selected for the mailing and distribution of the Notice and
9 the Request for Exclusion Form, as set forth herein, meet the requirements of due process and
10 provide the best notice practicable under the circumstances and shall constitute due and sufficient
11 notice to all persons entitled thereto;

12 5. It is ordered that the settlement class is preliminarily certified for settlement
13 purposes only. The settlement class is defined as follows: All current and former non-exempt
14 California employees of Defendant employed from June 17, 2016 through December 31, 2020.

15 6. The Court confirms Daniel F. Gaines, Esq. and Alex P. Katofsky, Esq. of Gaines &
16 Gaines, APLC as Class Counsel, and grants preliminary approval of an award of attorneys’ fees of
17 up to \$80,000 and documented litigation costs of up to \$3,000 to Class Counsel, subject to final
18 approval by the Court following a further motion by Class Counsel.

19 7. The Court confirms George Padilla as the Class Representative and grants
20 preliminary approval to a proposed service payment in an amount not to exceed \$5,000, subject to
21 final approval by the Court following a further motion by Class Counsel.

22 8. The Court grants preliminary approval of the Private Attorneys General Act
23 payment of \$3,750 to the Labor and Workforce Development Agency;

24 9. The Court hereby approves Phoenix Settlement Administrators as the settlement
25 administrator and grants preliminary approval of the payment of fees and other charges of the
26 settlement administrator in an amount not to exceed \$5,000;

27 10. The Court grants Plaintiff leave to file the Second Amended Complaint attached as
28 **Exhibit 3** to the Settlement Agreement within five (5) court days of the entry of this Order, with

no responsive pleading required by Defendant so long as the settlement approval process is pending; and

11. The Court orders the following schedule of dates for the specified actions/further proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including their last known addresses, telephone numbers, social security numbers, and their dates of employment in a non-exempt position in California during the Class Period ("Settlement Class Information")	May 7, 2021
Last day for Settlement Administrator to mail Notice and Exclusion Form to Settlement Class Members	May 11, 2021
Last day for Exclusion Forms from the settlement by Settlement Class Members to be postmarked to Settlement Administrator	June 25, 2021
Last day for written objections to the settlement by Settlement Class Members to be postmarked to Settlement Administrator	June 25, 2021
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	August 5, 2021
Last day for Class Counsel to file with the Court and serve declaration by settlement administrator specifying the due diligence undertaken with regard to the mailing of the Notice	August 5, 2021
Final settlement approval hearing	August 27, 2021, at 8:30a.m.

Dated: _____, 2021

JUDGE OF THE SUPERIOR COURT

Respectfully submitted,

GAINES & GAINES, APLC

Daniel F. Gaines
Daniel F. Gaines,
Counsel for Plaintiff

FINE, BOGGS & PERKINS, LLP

Kevin Holloway
Kevin Holloway,
Counsel for Defendants

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
3 the within action. My business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301.

4 _____ (For messenger) my business address is:

5 On April 29, 2021, I served the foregoing document described as **[PROPOSED] ORDER (1) GRANTING**
6 **PRELIMINARY APPROVAL OF SETTLEMENT AND (2) GRANTING PLAINTIFF LEAVE TO FILE**
7 **SECOND AMENDED COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed
8 in sealed envelopes addressed as follows:

9 **Kevin Holloway, Esq.**
10 **Fine, Boggs & Perkins LLP**
11 **Landmark Square**
12 **111 West Ocean Blvd., Suite 2400**
13 **Long Beach, California 90802**

14 **Labor & Workforce Development Agency**
15 **(Service via Online Submission to www.dir.ca.gov)**

16 On the above date:

17 _____ (BY ☐ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
18 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing
19 correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of
20 business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage
21 meter date is more that one day after date of deposit for mailing in affidavit.

22 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
23 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized
24 carrier or driver authorized by the express carrier to receive documents.

25 _____ (BY FACSIMILE TRANSMISSION) On April 29, 2021, at _____ a.m./p.m., at Calabasas, California, I
26 served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008
27 of the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-8984 and the
28 telephone number(s) of the receiving facsimile machine was (____) ____-____. A transmission report was properly
issued by the sending facsimile machine, and the transmission was reported as complete and without error. Copies of
the facsimile transmission cover sheet and the transmission report are attached to this proof of service.

_____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-
delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

_____x_____ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic
transmission via email pursuant to an agreement between counsel on the counsel of record listed above.

I certify that the above document was printed on recycled paper.

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

Executed on April 29, 2021, at Calabasas, California.

26 *Amelia Booth*
27 AMELIA BOOTH