

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
4 **GAINES & GAINES, APLC**
27200 Agoura Rd., Suite 101
5 Calabasas, CA 91301
Telephone: (818) 703-8985
6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff George Padilla and Proposed
Class Counsel

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF STANISLAUS**

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

14 Plaintiff,

15 v.

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

18 Defendants.

CASE NO: CV-20-002683

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

**DECLARATION OF DANIEL F. GAINES IN
SUPPORT OF SUPPLEMENTAL BRIEF FOR
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: April 27, 2021

Time: 8:30 a.m.

Dept.: 24

Complaint Filed: June 17, 2020

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I
3 am a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff George Padilla ("Padilla" or
4 "Plaintiff") and proposed Class Counsel in this action. I have personal knowledge of the facts
5 set forth herein and if called as a witness to testify to them, I could and would do so competently.

6 2. I submit this declaration in support of Plaintiff's Supplemental Brief in Support of
7 Motion for Preliminary Approval of Class Action Settlement and as requested by the Court in its
8 April 6, 2021 Ruling on Plaintiff's Motion for Preliminary Approval of Class Action Settlement
9 and Seeking Leave to File Second Amended Complaint (the "Ruling"). A true and correct copy
10 of the Ruling is attached hereto as Exhibit A.

11 3. To date, my firm has spent approximately 48 hours litigating this case to date.

12 4. We reasonably anticipate working at least 40 more hours on this matter, and
13 perhaps more, to administer the settlement, communicate with class members, defense counsel,
14 and the Administrator to facilitate that process, prepare the final approval paperwork, attend the
15 final approval hearing, and close the file.

16 5. Based thereon, we estimate our total billable hours will approximate \$50,000,
17 which will be presented to the Court in detail by timekeeper at the final approval stage.

18 6. With a \$50,000 lodestar, a 40% fee award of \$80,000 would represent a multiplier
19 of 1.6, which is well within an accepted range for California fee awards.

20 I declare, under penalty of perjury, under the laws of the State of California, that the
21 foregoing is true and correct. Executed this 20th day of April, 2021 at Calabasas, California.

22 *Daniel F. Gaines*
23 DANIEL F. GAINES

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

GEORGE PADILLA

vs.

SMITH CHEVROLET CO. INC.

Plaintiff(s)

Defendant(s)

CASE NO.: CV-20-002683

JUDGE: SONNY S. SANDHU

Date: 04/06/2021

Clerk: A. Segundo

Modesto, California

Ruling on

Plaintiff's Motion for Preliminary Approval

of Class Action Settlement

and

Seeking Leave to File Second Amended Complaint

Plaintiff's Motion for Preliminary Approval of Class Action Settlement and Seeking Leave to File Second Amended Complaint - **CONTINUED, on the Court's own motion, to April 27, 2021 at 8:30 a.m. in Department 24.**

The Court finds that the moving and supporting papers lack a substantive discussion of the factors supporting Class Counsel's request for an award of attorney's fees representing 40% of the gross settlement amount. The Court requires a discussion of this issue in order to reach a preliminary determination of whether such requested fees are reasonable in the context of the described settlement.

While the Court's recognizes that this is a motion for preliminary approval, the Court's independent responsibility regarding the terms of such settlements leads to the conclusion that the motion should include a preliminary justification of the anticipated amount of proposed fees. Therefore, Class Counsel shall submit supplemental briefing on this issue no later than **April 20, 2021.**

PROOF OF SERVICE BY MAIL
[1013a(3) C.C.P.]

STATE OF CALIFORNIA)
) SS
COUNTY OF STANISLAUS)

I am over the age of 18 years and employed by the Superior Court of the State of California, County of Stanislaus, and not a party to the within action. I certify that I served a copy of the attached **RULING DATED 04/06/2021** by placing said copy in an envelope addressed to the following:

Alex Katofsky, Esq.
GAINES N& GAINES, APLC
27200 Agoura Rd., Suite 101
Calabasas, CA 91301

Kevin Holloway, Esq.
FINE, BOGGS & PERKINS LLP
Landmark Square
111 West Ocean Blvd., Suite 2400
Long Beach, CA 90802

Paid envelope was then sealed and postage thereon fully prepaid, and thereafter was on April 6, 2021 deposited in the United States mail at Modesto, California. That there is delivery service by United States mail at the place so addressed, or regular communication by United States mail between the place of mailing and the place so addressed.

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

Executed on April 6, 2021 at Modesto, California

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF STANISLAUS

By 51
Angela Segundo, Deputy Clerk

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 20, 2021, I served the foregoing document described as **(1) DECLARATION OF DANIEL F. GAINES IN**
6 **SUPPORT OF SUPPLEMENTAL BRIEF FOR MOTION FOR PRELIMINARY APPROVAL OF CLASS**
7 **ACTION SETTLEMENT and (2) SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action by
9 placing a true copy thereof enclosed in sealed envelopes addressed as follows:

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

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

17 On the above date:

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

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

26 _____ (BY FACSIMILE TRANSMISSION) On April 20, 2021, at _____ a.m./p.m., at Calabasas, California, I
27 served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008
28 of the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-8984 and the
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.

22 ☒ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic
23 transmission via email on the counsel of record listed above.

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

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

26 Executed on April 20, 2021, at Calabasas, California.

27 *Amelia Booth*
28 AMELIA BOOTH