

1 Michael K. Perkins, SBN 172560  
2 E-Mail: [mperkins@employerlawyers.com](mailto:mperkins@employerlawyers.com)  
3 FINE, BOGGS & PERKINS LLP  
4 80 Stone Pine Road, Suite 210  
5 Half Moon Bay, California 92614  
6 Telephone (650) 712-8908  
7 Facsimile (650) 712-1712

8 Attorneys for Defendants  
9 LITHIA MOTORS, INC.  
10 LITHIA TOYOTA, LITHIA  
11 MOTORS SUPPORT SERVICES,  
12 LITHIA TOYOTA/SCION  
13 OF REDDING and GARY RUEBER

14 UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

16 JOSEPH D. ATCHLEY IV,

17 Case No. 2:15-cv-00099-JAM-CMK

18 Plaintiff,

19 vs.  
20 LITHIA MOTORS, INC. AND LITHIA  
21 TOYOTA, LITHIA MOTORS SUPPORT  
22 SERVICES, LITHIA TOYOTA/SCION OF  
23 REDDING, COREY KERSTEN, GARY  
24 RUEBER and DOES 1 through 100, Inclusive.

25 STIPULATION TO APPOINT  
26 ARBITRATOR AND TO FOLLOW  
27 CALIFORNIA SUBSTANTIVE LAW  
28 AND PROCEDURE; AND ORDER  
THEREON

29 Defendants.

30 Plaintiff JOSEPH D. ATCHLEY IV ("Plaintiff") and defendants LITHIA  
31 MOTORS, INC., LITHIA TOYOTA, LITHIA MOTORS SUPPORT SERVICES,  
32 LITHIA TOYOTA/SCION OF REDDING, COREY KERSTEN and GARY RUEBER,  
33 ("Defendants") (collectively the "Parties") by and through their respective counsel of  
34 record hereby stipulate to appointing Judge Raul Ramirez (Ret.) as the arbitrator in this  
35 matter.

## RECITALS

WHEREAS all parties have agreed in writing to resolve their disputes through binding arbitration and have been ordered to do so by the Federal Court;

WHEREAS that order signed 3/30/15 by Hon. Judge John A. Mendez in case No. 2:15-cv-00099-JAM-CMK, and its provisions are incorporated herein by reference;

WHEREAS prior to beginning the arbitration, the parties attempted an early mediation conducted by Judge Raul Ramirez but the case did not settle at the mediation;

WHEREAS all parties nevertheless desire to appoint Judge Raul Ramirez as the arbitrator in this matter;

WHEREAS counsel for all parties represent that they have explained to their respective clients the risks, benefits and potential for conflicts of interest by using Judge Ramirez as both the mediator and the arbitrator in this matter;

WHEREAS all parties and their counsel knowingly waive any conflicts of interest that may result from appointing Judge Ramirez as the arbitrator after he acted as the mediator in this matter;

WHEREAS all parties have agreed to follow California procedure and substantive law in the arbitration, while preserving the other terms of the arbitration agreements, including the right to appeal:

IT IS HEREBY STIPULATED by and between the parties that:

1. The "Recitals" above are incorporated into this Stipulation as though fully  
set forth herein:

2. The parties stipulate and agree to appoint Judge Raul Ramirez as the  
arbitrator in this matter with full knowledge and consent that Judge Ramirez also acted  
as the mediator in this action.

3. All parties with full knowledge of the benefits, risks and potential for conflicts of interest that could occur when a mediator is appointed to be the arbitrator.

1 waive any and all conflicts of interest related to Judge Ramirez acting as the mediator  
2 and arbitrator in this action;

3       4. Judge Ramirez shall open a new arbitration file for this matter which shall  
4 be separate from the mediation file. The mediation file shall be closed and will not be  
5 reviewed again;

6       5. Nothing which occurred during the mediation will be used at any  
7 subsequent arbitration proceedings, including reference to the same in a final award;

8       6. The parties agree that nothing which occurred at the mediation shall be  
9 used as a basis to seek an appeal from the arbitrator's final award. Likewise, the parties'  
10 agreement that the fact that the mediation occurred before Judge Ramirez, who is also  
11 the arbitrator, shall not be a basis to appeal any final award. Thus, the parties agree that  
12 even though Judge Ramirez served as a mediator, (i) he can serve as the arbitrator; and  
13 (ii) the parties waive any conflict that Judge Ramirez may have in serving as a mediator  
14 and arbitrator;

15       7. The parties agree that this Stipulation does not alter, in any fashion, the  
16 arbitral immunity afforded to arbitrators and mediators in private arbitration  
17 proceedings. *La Serena Properties v. Weisbach* (2010) 186 Cal.App.4<sup>th</sup> 893;

18       8. The parties agree to follow California procedure and substantive law in the  
19 arbitration, while preserving the other terms of the arbitration agreements, including the  
20 right to appeal;

21       9. The parties' counsel represent that they have the full authority to execute  
22 this Stipulation.

23       **IT IS SO STIPULATED.**

24

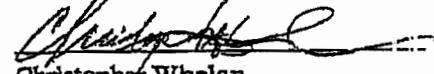
25 Date: July 7, 2015

26

CHRISTOPHER H. WHELAN, INC.

27

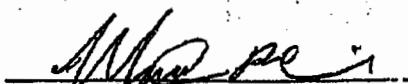
By:

  
Christopher Whelan  
Attorney for Plaintiff Joseph Atchley

28

1  
2  
3 Date: July 7, 2015

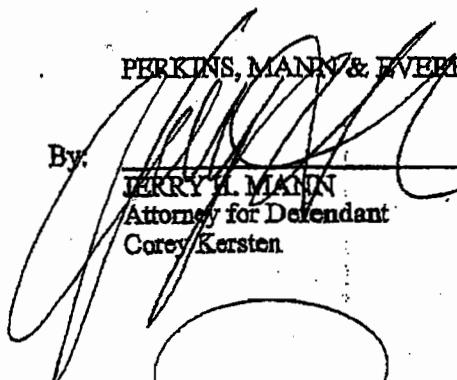
FINE, BOGGS & PERKINS LLP

4 By: 

5 MICHAEL K. PERKINS  
6 Attorney for Defendants  
7 Lithia Motors, Inc., Lithia Toyota, Lithia  
8 Motors Support Services, Lithia  
9 Toyota/Scion of Redding, and Gary  
10 Rueber

11 Date: July 8, 2015

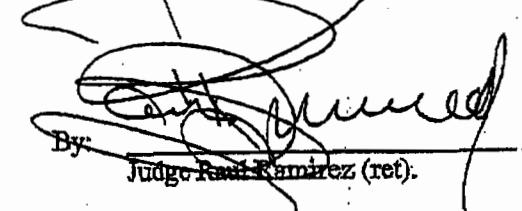
PERKINS, MANN & EVERETT APC

12 By: 

13 JERRY L. MANN  
14 Attorney for Defendant  
15 Corey Kersten

16 I hereby accept the appointment as arbitrator:  
17

18 Date: July 15, 2015

19 By: 

20 Judge Paul Ramirez (ret.).

21  
22  
23 IT IS SO ORDERED:  
24

25 Date: 7-11-2015

26 HONORABLE JUDGE JOHN A. MENDIZ