

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KEVIN MCCLINTIC, on behalf of himself )  
and all others similarly situated, )  
Plaintiff, )  
v. )  
LITHIA MOTORS, INC., )  
Defendant. )

No. 11-cv-00859-RAJ

**PLAINTIFF KEVIN McCLINTIC  
AND DEFENDANT LITHIA  
MOTORS, INC.'S JOINT  
MEMORANDUM AND  
AMENDMENT TO SETTLEMENT  
AGREEMENT**

Plaintiff Kevin McClintic ("Plaintiff" or "McClintic") and Defendant Lithia Motors, Inc. ("Defendant" or "Lithia") hereby submit this Joint Memorandum and Amendment to the Settlement Agreement. The parties previously submitted a Joint Supplemental Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement on February 16, 2012. Dkt. No. 34. The Court has not yet issued a ruling following that submission. The parties now present the Court with information regarding an inquiry the parties received since their last submission to the Court.

Pursuant to the Class Action Fairness Act, Defendant sent notices of the potential class action settlement to the Attorney General Offices for each of the states in which a potential class member resides. Defendant's counsel recently received an inquiry from an Assistant Attorney General from the State of Texas (the "AAG"), questioning the Settlement's provision that proceeds of uncashed checks were to go to the Legal Fund of Washington. Declaration of

1 Grant S. Degginger (“Degginger Decl.”) at ¶ 2. The AAG informed defense counsel that Texas  
2 has an unclaimed property statute requiring that the proceeds of the unclaimed funds be  
3 distributed pursuant to the state statute. *See All Plaintiffs v. All Defendants*, 645 F.3d 329 (5th  
4 Cir. 2011). Because other states have similar provisions, counsel for the parties believe a  
5 change in this provision of the Settlement Agreement is appropriate.

6 The parties have revised the Settlement Agreement and the exhibits thereto in order to  
7 address this subject. Paragraph III.(C)(1)(d)(7) of the Settlement Agreement has been revised  
8 to reflect that the “value of any checks sent to the Settlement Class Members that have not been  
9 negotiated within sixty (60) days of the Effective Date will be forwarded to the appropriate  
10 entity of the State of last known address of the claimant for distribution pursuant to that State’s  
11 unclaimed property statute.” The Amended Settlement Agreement is attached as Exhibit A to  
12 the Degginger Decl. The AAG indicated that this change addressed the State’s concern.  
13 Degginger Decl. at ¶ 3.

14 The Proposed Order Granting Preliminary Approval of Class Action Settlement that  
15 was previously submitted to the Court as Exhibit B to the Settlement Agreement has been  
16 similarly revised at paragraph 9. *See Exhibit B to the Degginger Decl.* The Long Form of  
17 Notice of Settlement of Class Action that was previously submitted to the Court as Exhibit D to  
18 the Settlement Agreement has also been revised to reflect the change discussed herein. *Id.* at  
19 Ex. C.

20 DATED: March 20, 2012

21 WILLIAMSON & WILLIAMS

22  
23 By s/Roblin Williamson  
24 Roblin Williamson, WSBA No. 11387  
25 Attorneys for Plaintiff Kevin McClintic and  
26 Putative Class  
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LANE POWELL PC

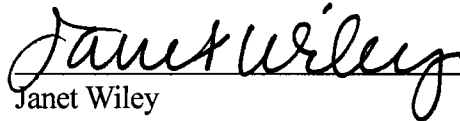
By s/Erin M. Wilson  
Grant S. Degginger, WSBA No. 15261  
Erin M. Wilson, WSBA No. 42454  
Attorneys for Defendant Lithia Motors, Inc.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to RCW 9.A.72.085, the undersigned certifies under penalty of perjury under  
3 the laws of the State of Washington, that on the 20<sup>th</sup> day of March, 2012, the document attached  
4 hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system.  
5 In accordance with their ECF registration agreement and the Court's rules, the Clerk of the  
6 Court will send e-mail notification of such filing to all CM/ECF participants and any non-  
7 CM/ECF participants will be served in accordance with the Federal Rules of Civil Procedure.

8 Kim Williams  
9 Rob Williamson  
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15 DATED this 20<sup>th</sup> day of March, 2012 at Seattle, Washington.

16   
17 Janet Wiley