

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR SPOKANE COUNTY

ALAN McGINNITY and TERRY DEWITT,
on their own behalf and on behalf of all others
similarly situated,

Plaintiffs,

v.

AUTONATION, INC., a Delaware corporation;
APPLEWAY CHEVROLET, INC., a
Washington corporation, d/b/a APPLEWAY
CHEVROLET, APPLEWAY MAZDA
SUBARU, APPLEWAY MITSUBISHI,
APPLEWAY SCION, APPLEWAY TOYOTA,
APPLEWAY VW AUDI, APPLEWAY
ADVERTISING, APPLEWAY AUTOMOTIVE
GROUP, APPLEWAY CHEVROLET
LEASING, APPLEWAY GROUP, APPLEWAY
TOWING, EAST TRENT AUTO SALES,
OPPORTUNITY CENTER, TSP
DISTRIBUTORS; NORTHWEST FINANCIAL
GROUP, a Washington corporation, d/b/a BMW
OF BELLEVUE; AN/PF ACQUISITION
CORP., a Delaware corporation, d/b/a FORD OF
BELLEVUE; TOWN & COUNTRY
CHRYSLER JEEP, INC., a Delaware
corporation, d/b/a TOWN & COUNTRY
CHRYSLER JEEP; DODGE OF BELLEVUE,
INC., a Delaware corporation, d/b/a DODGE OF
BELLEVUE; KIRKLAND PONTIAC-BUICK-
GMC, INC., a Washington corporation, d/b/a
KIRKLAND PONTIAC-BUICK-GMC,

Defendants.

NO. 06-2-01941-0

~~[PROPOSED]~~ ORDER DENYING
MOTION TO VACATE, CONFIRMING
ARBITRATION AWARD AND
ENTERING JUDGMENT

[PROPOSED] ORDER DENYING MOTION TO VACATE,
CONFIRMING ARBITRATION AWARD AND ENTERING
JUDGMENT - 1

CASE NO. 06-2-01941-0

4417/001/217238.2

1 THIS MATTER came before the undersigned upon Defendants' Motion to Vacate
2 Arbitration Award Regarding Attorneys' Fees under RCW 49.48.030. The Court has reviewed
3 and considered the following briefing and evidence:

4 1. The Arbitrator's Final Award, which is attached to this Order as Exhibit A ("the
5 Arbitration Award")

6 2. Defendants' Motion to Vacate Arbitration Award Regarding Attorneys' Fees
7 under RCW 49.48.030;

8 3. Plaintiffs' Response to Defendants' Motion to Vacate Arbitration Award
9 Regarding Attorneys' Fees Under RCW 49.48.030;

10 4. Declaration of Toby J. Marshall in Support of Plaintiffs' Response to
11 Defendants' Motion to Vacate Arbitration Award; and

12 5. Defendants' Reply in Support of Defendants' Motion to Vacate Arbitration
13 Award Regarding Attorneys' Fees Under RCW 49.48.030.

14 Based upon the foregoing, IT IS ORDERED that Defendants' Motion to Vacate
15 Arbitration Award Regarding Attorneys' Fees is hereby DENIED, and the Arbitration Award
16 attached hereto as Exhibit A is CONFIRMED.

17 NOW, THEREFORE, JUDGMENT IS HEREBY ENTERED AS FOLLOWS:

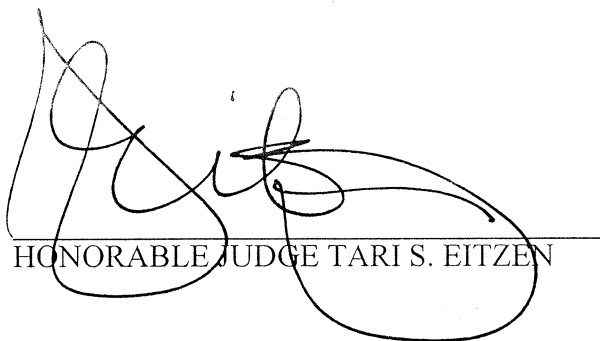
18 Plaintiffs Alan McGinnity et al., are granted a judgment against Defendants in the principal
19 amount of \$1,217,954.50 together with \$231,370.02 for prejudgment interest (plus \$400.42 per
20 day every day from January 24, 2008 until judgment is entered), \$884,647.50 for attorneys'
21 fees and \$10,246.06 for costs, for a total Judgment of **\$2,344,218.07 (plus \$400.42 per day
22 every day from January 24, 2008 until judgment is entered)**. Post-judgment interest shall
23 accrue at a rate of 12 percent per annum pursuant to RCW 4.56.110.
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[PROPOSED] ORDER DENYING MOTION TO VACATE,
CONFIRMING ARBITRATION AWARD AND ENTERING
JUDGMENT - 2

CASE NO. 06-2-01941-0
4417/001/217238.2

TOUSLEY BRAIN STEPHENS PLLC
1700 Seventh Avenue, Suite 2200
Seattle, Washington 98101
TEL. 206.682.5600 • FAX 206.682.2992

1 DATED this 7 day of May, 2008.

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4 
HONORABLE JUDGE TARI S. EITZEN

5 Presented by:

6 TOUSLEY BRAIN STEPHENS PLLC

7
8 By: 

9 Kim D. Stephens, WSBA #11984
10 Beth E. Terrell, WSBA #26759
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21 *Attorneys for Plaintiffs*

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[PROPOSED] ORDER DENYING MOTION TO VACATE,
CONFIRMING ARBITRATION AWARD AND ENTERING
JUDGMENT - 3

CASE NO. 06-2-01941-0
4417/001/217238.2

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MAR 12 2008

THE SCOTT LAW GROUP

IN THE ARBITRATION BEFORE
JUDGE JAMES M. MURPHY

ALAN MCGINNITY, on his own behalf and)
on behalf of all others similarly situated,)
TERRY DEWITT, on her own behalf and on)
behalf of all others similarly situated,)

Plaintiffs,

ARBITRATOR'S FINAL AWARD

v.

AUTONATION, INC., a Delaware corporation;)
APPLEWAY CHEVROLET, INC., a Washington)
corporation, d/b/a APPLEWAY CHEVROLET,)
APPLEWAY MAZDA SUBARU, APPLEWAY)
MITSUBISHI, APPLEWAY SCION,)
APPLEWAY TOYOTA, APPLEWAY VW)
AUDI, APPLEWAY ADVERTISING,)
APPLEWAY AUTOMOTIVE GROUP,)
APPLEWAY CHEVROLET LEASING,)
APPLEWAY GROUP, APPLEWAY TOWING,)
EAST TRENT AUTO SALES, OPPORTUNITY)
CENTER, TSP DISTRIBUTORS;)
NORTHWEST FINANCIAL GROUP, a)
Washington corporation, d/b/a BMW OF)
BELLEVUE; AN/PF ACQUISITION CORP., a)
Delaware corporation, d/b/a FORD OF)
BELLEVUE; TOWN & COUNTRY)
CHRYSLER JEEP, INC., a Delaware)
corporation, d/b/a TOWN & COUNTRY)
CHRYSLER JEEP; DODGE OF BELLEVUE,)
INC., a Delaware corporation, d/b/a DODGE OF)
BELLEVUE; KIRKLAND PONTIAC-BUICK-)
GMC, INC., a Washington corporation, d/b/a)
KIRKLAND PONTIAC-BUICK-GMC,)

Defendants.

FINAL AWARD: 1

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THE SCOTT LAW GROUP
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114 W SPOKANE AVENUE
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1 On March 7, 2008, the Arbitrator held a final post-trial hearing in this matter. Plaintiffs
2 were represented by Toby Marshall and Matt Zuchetto. Defendants were represented by
3 Michael Killeen and James Kalamon. Pending before the Arbitrator were the parties' requests
4 in regards to numerous post-trial issues, as addressed below, and Plaintiffs' motion for
5 sanctions. Having reviewed the parties' submissions and heard oral argument of counsel, the
6 Arbitrator is fully informed.

7 Accordingly, IT IS HEREBY ORDERED:

8 1. The Arbitrator's Award dated January 24, 2008, is incorporated herein in its
9 entirety.

10 2. Plaintiffs' request for prejudgment interest is granted. The Arbitrator finds that
11 the Class members' damages can be computed with exactness and are therefore liquidated.
12 Prejudgment interest runs from each Class member's anniversary date in 2006 to the date
13 judgment is entered in this matter at a rate of 12 percent per annum, which equals \$231,370.02
14 as of January 24, 2008 and \$400.42 per day every day thereafter until judgment is entered.
15 Defendants shall pay this interest in addition to the damages award, and the interest shall be
16 added to the Common Fund.

17 3. It is unnecessary for the Arbitrator to address post-judgment interest because
18 post-judgment interest can be awarded by the Superior Court once the judgment is entered.

19 4. Plaintiffs are entitled to an award of attorneys' fees pursuant to RCW 49.48.030
20 because they prevailed on a breach of contract claim to recover damages arising out of their
21 employment with Defendants. *See Gagliardi v. Denny's Rest., Inc.*, 117 Wn.2d 426, 815 P.2d
22 1362 (1991); *Naches Valley Sch. Dist. No. JT3 v. Cruzen*, 54 Wn. App. 388, 775 P.2d 960
23 (1989).

24 5. After adjusting for time spent on unsuccessful matters, Class Counsel's fees in
25 this action are \$589,765.00 (the "lodestar").
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FINAL AWARD: 2

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