GCADA e-Monthly

Sponsored by: NSE NORTH SHORE ENERGY

July 2026

TIME Dealer of the Year Nominations Needed!

Nominations for the 2027 TIME Dealer of the Year Award from Greater Cleveland are now open! This is a prestigious recognition for one GCADA member to be celebrated at the NADA Show in Orlando next February.

A donation of $1,000 to a local community cause chosen by the dealer nominated will be made through TIME's partnership with Ally, along with $5,000 to charities selected by the regional finalists, and $10,000 to the organization designated by the 2027 TIME Dealer of the Year winner.

To nominate yourself or a fellow dealer, please complete the following short Google Form by Friday. Thank you!

Nomination Requirements

1. The actual operating head, per the factory agreement, of a franchised new car dealership
2. A member of GCADA, OADA, and NADA for the last five years
3. Willing to participate in Dealer of the Year activities, February 18-19 in Orlando, FL

Past nominees may be re-nominated after four years, and current NADA Directors are not eligible. Congratulations and thanks to our previous nominees: Alison Spitzer, 2026; Colin MacLean, 2025; Michael Herrick, 2024; Adam Huff, 2023. Thank you to our current NADA Director: Kirt Frye.

Inside this issue:

Recordings in the Dealership

Recently, GCADA has received a range of questions all revolving around the same topic: recordings in the Dealership. This memo will attempt to address the basics of several scenarios; for detailed guidance, please contact GCADA or outside counsel directly.

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Recording Telephone Conversations
In Ohio, consent to record the conversation is required by one party. Thus, Dealerships may record incoming and outgoing calls and be in compliance with the law when on a call with parties located in Ohio. However, many states (including Pennsylvania) require consent from both parties prior to recording. To be safe, GCADA recommends that any Dealer recording calls notify callers in Ohio at the outset that "This call may be recorded for quality assurance." Keep in mind, that this simple notice will not suffice in two-party consent states. Dealers conducting such calls should work carefully with their vendors to ensure compliance for such calls.

Recording F&I Closings
While recording F&I closings can be a valuable tool, it can be a double-edged sword. Dealers recording their F&I closings should have a system in place where these recordings are periodically reviewed for compliance by management. If you are recording F&I closings, you should have signage clearly posted notifying consumers. Additionally, your F&I manager should verbally inform the Customer that the transaction is being recorded at the outset of the F&I process.

Dealer Recordings in Common Areas
Many Dealers have security cameras throughout the Dealership. While it is permissible to record both audio and video in areas where an employee has no expectation of privacy, it is recommended that Dealers post signage (i.e. "For the safety of our guests and employees, all common areas are under video surveillance"). Dealers may also consider adding a similar line in your employee handbook outlining the Dealerships practices.

Employee Recordings in the Workplace
Dealers often have issues with an employee attempting to record events in the workplace. While Ohio is a one-party consent state, Dealers can have a policy prohibiting recordings in the workplace. Any Dealer instituting such a policy should include qualifying language that "Nothing in this policy is meant to violate the employee's section 7 rights under the National Labor Relations Act regarding protected activity including employees' right to organize, take part in grievances, protests and strikes." For a sample policy, click here.

Note on AI note takers: Dealers should be aware that AI "Note Taking" devices essentially record and then transcribe the conversations and/or presentations and make summaries from that transcription. Any policy prohibiting recording would technically apply to these devices as well, as they are more than just 'taking notes.'

Dash Cameras in Customer Vehicles
Similar to employee recordings, Dealers can prohibit recordings by Customers. Several Dealers have experienced Customer issues after dashcam incidents in the service department revealed less than stellar employee behavior. Dealers should consider posting signage that any dash camera should be turned off prior to service.

Customers Wearing Meta Glasses
With the rise in use of Meta or other Glasses with recording capabilities, Dealers have expressed concern over their privacy and safeguarding requirements. While the use of these glasses is technically permissible under Ohio law, the Dealership can again institute a policy prohibit their use by Customers and Employees. Click here for a sample sign. In conjunction with such a policy, GCADA recommends sending an update to your staff reminding them of the importance of safeguarding customer information and their obligations under the safeguards rule. Due to those obligations, the prohibition of smart glasses extends to both customers and employees.

Again, this is a cursory overview of complicated topics that may require further guidance depending on your situation. If you have any questions regarding the information outlined above, please contact Ellen Mastrangelo, Pat Harrington or Nick Hanna. **This notification and its contents should not be construed as legal advice.**

Visa/MasterCard Settlement Update

Dealers may soon receive an email with a subject line: Action Required: Payment Card Settlement – Payment Election. The body of this email is outlined below. This is in regards to the Visa/Mastercard Settlement that has been going on for over a decade. It appears the first portion of payment will be issued in the coming months. The email outlines instructions for payment method election. Please be on the lookout for such an email, but if no action is taken a paper check will be issued.

> On October 30, 2025, the Court issued an Order approving a plan to issue initial, partial payments to certain claimants. At least one claim that you filed has been approved for an initial, partial payment. Please note that this initial payment is for only a portion of the total award amount. The remainder of the award will be paid after review of all claims is completed and outstanding legal issues have been resolved by the Court.
>
> To view the payment amount and choose your preferred payment method, log in to the Merchant Portal at www.PaymentCardSettlement.com. The Account Summary now includes a Payment Status for each TIN you registered. To choose your desired payment method for claims with a Payment Status of "Ready for Payment," scroll down and click the "Make Payment Election" button. On the Payment Election page, you can view the partial payment amount(s) and choose your payment method. If you have multiple claims approved for partial payment, you can choose whether you want to receive individual payments or one lump sum payment.
>
> Please make your payment election by **August 14, 2026**. It is anticipated that payments for those that make a timely payment election will be made in September 2026. A paper check will be issued for claims where a timely payment election is not made.
>
> Only merchants with a Payment Status of "Ready for Payment" are approved for a payment at this time. More information about the claims included in this round of distribution can be found here. A timeline for future payments is not yet known. Please continue to monitor your email for notifications. We recommend you whitelist the www.PaymentCardSettlement.com Settlement Website address to ensure you receive all communications from the Class Administrator.
>
> Sincerely,
>
> Class Administrator
> Payment Card Settlement

Reminder: Ohio Sales Tax Holiday Returns this August

As in the past, Ohio will host a three-day back-to-school Sales Tax Holiday from 12:00 a.m. Friday, August 7 through 11:59 p.m. Sunday, August 9. However, the “holiday” will not apply to motor vehicle repairs and services this year, instead applying to dealerships in a much more limited way.

The following items can be purchased without sales tax during the holiday:

- Clothing priced at $75 or less per item
- School supplies priced at $20 or less per item
- School instructional materials priced at $20 or less per item

For additional information, including frequently asked questions and guidance for consumers and retailers, visit the Ohio Department of Taxation’s Sales Tax Holiday page. GCADA will share a reminder as the Sales Tax Holiday approaches, but again the Holiday will have much more limited applicability to Dealers this year.

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Ohio Department of Taxation

Second Quarter 2026 **Released July 2026**

Greater Cleveland Auto Outlook

Sponsored by: Greater Cleveland Automobile Dealers Association

FORECAST

Area New Vehicle Market Predicted to be Flat in 2nd Half of Year

Cleveland area new retail light vehicle registrations declined 4.7% during the first six months of this year versus a year earlier, better than the 6% drop in the nation. Second quarter registrations this year were off 4.3% compared to 2Q '25, a small improvement from the 5.1% drop in the First Quarter.

This edition includes factors steering the new vehicle market, forecast for the rest of this year and more. Click here to read the Greater Cleveland Auto Outlook covering Second Quarter 2026.

Cookie Compliance Resources

As GCADA has communicated, cookies, pixels and tracking technologies are a current area of exposure for Dealers.

ComplyAuto conducted a webinar for Automobile Trade Association Executives discussing this issue. Click here to view this webinar, and/or click here to download the slides.

ComplyAuto's Dealer Guide to Online Tracking and Cookie Consent Management is also available for download.

Dealers are encouraged to also consult NADA's Best Practices for Tracking Consumer Website Activity. Dealers should know what tracking is occurring on their websites and ensure their privacy policy accurately discloses what information is being collected and shared with third parties. Responding to a demand letter is an individual business decision for the dealership and should be done after consultation with counsel.

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NADA hosted a webinar to discuss the issue, an experienced dealership litigator from Fisher Phillips who has represented dealerships in these matters to provide updates and practical strategies to help assess risk. Click here to view the webinar recording and/or download slides.

GCADA recommends Dealers review these resources and ensure your compliance. If you have other questions, please feel free to contact Ellen Mastrangelo or Nick Hanna. **This notification and its contents should not be construed as legal advice**.

BMV Form Update: 3722 (ATV/UTV)

The Ohio Bureau of Motor Vehicles has updated the 3722 Affidavit for titling Mini-Trucks, Utility Vehicles, and Under-Speed Vehicles, to include All-Purpose Vehicles. The updated form also includes clarifications developed with Ohio Clerk of Courts Association leadership and business partners to help ensure accurate vehicle classification and consistent titling in all offices.

Click here to download an updated version of BMV 3722.

Summary of Key Changes

- Clearer definitions for AT, MT, UT, and US vehicle categories.
- Certain roadway use language moved to the FAQ section to improve readability.
- Outdated tax related language removed.
- Added explanations about misclassification impacts and dealer requirements.

Roadway Use and Registration (FAQ Update)

- Applicants who plan to operate MTs, UTs, or USVs on limited public roadways, where allowed, must register the vehicle.
- A law enforcement inspection is required before registration, under R.C. 4511.215, O.A.C. 4501-30-01, and O.A.C. 4501-30-02.
- The inspection form (DPS 1373) is available at ohiobmv.gov.

Implementation

- Effective August 21st, the updated BMV 3722 form will be available at ohiobmv.gov.
- Title Clerks will continue to accept the former version of BMV 3722 if executed prior to the August 21 effective date.

Prolific Privacy Litigant Declared "Vexatious" by Federal Court

A federal court just made it harder for one of the country's most active website-privacy plaintiffs to continue operating the way he has been. But if your business has received one of his letters, the ruling does not make the issue go away.

What Happened

On July 20, 2026, the U.S. District Court for the Central District of California (Judge R. Gary Klausner) declared Vivek Shah a vexatious litigant in *Vivek Shah v. Crain Communications, Inc.*. Shah, a self-represented plaintiff, has filed at least 29 lawsuits since 2021, many of them under the California Invasion of Privacy Act (CIPA). He must now get court approval before filing any new CIPA or related digital-privacy suit in that district.

The court walked through all 29 of Shah's prior cases and found a consistent pattern: seeking out potential violations, generating just enough activity against a target website to clear the federal amount-in-controversy threshold, voluntarily dismissing cases once they were challenged, and never once litigating a claim to the merits. Taken together, the court concluded this pattern pointed to an intent to pressure defendants into quick settlements rather than to pursue legitimate claims.

Why This Matters to Almost Any Business with a Website

Since late 2024, Shah has been one of the most prolific senders of CIPA demand letters (Cal. Penal Code § 631(a)) in the country. His letters typically arrive addressed to a company's registered agent, framed as a request for "Informal Dispute Resolution," and allege that the business's website secretly "intercepted" a visitor's communications through everyday tracking tools: analytics platforms, chat widgets, session-replay scripts, and marketing pixels.

The legal theory barely changes from one letter to the next; usually only the company name and website are swapped out. Because these tracking tools are standard on most commercial websites, any business running them, regardless of industry, is a plausible target.

What the Ruling Does (and Doesn't) Change

The order is narrow. Shah wasn't barred from suing anyone, and the underlying case against Crain Communications wasn't dismissed. The pre-filing restriction applies only to new federal CIPA or digital-privacy filings by Shah in the Central District of California. It carries no formal weight in other federal courts, in state court, or in arbitration.

This ruling is a meaningful development, but it isn't a reason to set a letter aside, or to rush into settling one either. A few practical takeaways:

- This decision doesn't automatically resolve or eliminate any letter or claim your business has already received.
- It's a useful data point going forward. If Shah, or a similar plaintiff, targets your business, you can point to the court's findings to challenge credibility and motive, even in venues where the order itself has no formal effect.
- Because this ruling (along with related trends in state courts) raises the cost of pursuing these claims in court, expect plaintiffs like Shah to lean more heavily on arbitration demands where a company's terms allow for it.
- Any letter you receive, and your website's privacy practices more broadly, are worth a legal review: consent and disclosure banners, how tracking tools are configured, and what your vendor agreements say. That review is the single best way to reduce exposure to the next letter, whoever sends it.

This article was prepared by Michele Shuster, a Partner with Mac Murray & Shuster, LLP. Michele can be reached at mshuster@mslawgroup.com, 614-939-9955 or at www.mslawgroup.com.

MAC MURRAY & SHUSTER

HR Quick Hits: Minimum Wage, Overtime, and Using "Guarantee" in Pay Plans

Violations of federal wage and hour laws and regulations can result in Department of Labor audits or costly lawsuits which can lead to back pay, penalties and interest. We recommend Dealers take some time to review their pay plans to ensure compliance with all wage and hour laws.

GCADA Dealer HR Services Program

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General Rule: Unless a specific exemption exists, an employee must be paid at least the prevailing minimum wage and overtime at 150% of the normal rate for hours worked in excess of 40 in a workweek. As a reminder, the current federal minimum wage remains $7.25 per hour while the Ohio minimum wage is $11.00 per hour. Accordingly, Ohio minimum wage prevails.

Reminder: to be exempt from overtime all of the requirements in each category must be met to qualify for that particular exemption; some common exemptions are below.

Salesperson Exemption: To fall under this exemption salespeople must spend at least 50% of their time performing their specified duties. Salespeople make sales or obtain orders/contracts for the sale of automobiles, trailers or trucks. Work performed incidental to and in conjunction with a salesperson's sales or solicitations (i.e., deliveries and collections) fall within this exemption.

A Note About Settlement Periods: Commissioned salespersons must be paid minimum wage for all hours worked. Short settlement periods (weekly) can result in no commissions due for that period. As a result, pay due for the hours worked within that period may be less than the minimum wage requirement. To avoid this issue, we recommend dealers use a monthly settlement period with interim draws to cover minimum wage requirements to avoid this problem.

Mechanics and Parts Persons are generally exempt from overtime pay requirements.

- **Mechanics**: Include individuals primarily performing mechanical work. Typically, this includes service mechanics, reconditioning mechanics and body shop mechanics. The following activities not considered mechanical: painting, cleaning, polishing, tire changing and lubrication.
- **Parts Persons**: Include individuals whose primary duties include ordering, stocking, pulling and selling of parts. Parts delivery people do not qualify for this exemption.

F&I Managers: Employees who spend more than 50% of their time selling finance and insurance products related to the sale of a motor vehicle at the dealership are exempt from overtime regardless of how they are paid.

Salaried Employees: A common misconception is that because my employee is paid a salary, they are exempt from minimum wage and overtime requirements. This is not the case. There is no exemption from minimum wage or overtime provisions simply because an employee is paid on a salary basis.

Reminder on Using Guarantee Language in Pay Plans: Are you using the term "guarantee" in your salesperson pay plans? Doing so can create unnecessary headaches for dealers. While "guarantee" has been a term long used in the industry, we recommend removing it from salesperson pay plans.

Where "guarantee" is not defined properly or qualifications set in place in your pay plan, you may be required to pay the guaranteed amount even where it has not been earned. We recommend that in all pay plans you include language to protect the dealership from overpaying an employee who takes excessive time off during the week.

- For example, dealers can include similar language in these pay plans: "Pay plan is based on employee working all regularly scheduled hours. Failure to work all regularly scheduled hours may result in a pro-rated amount based on actual hours worked."
- Further, any pay plans utilizing the word "guarantee" should specifically note that there is no guarantee of employment and all employees are employed on an "at-will" basis.

NADA's Dealer Guide to Federal Wage and Hour Compliance is available here. If you have any questions regarding wage and hour issues, pay plans or any other HR matter please contact Pat Harrington or Nick Hanna. **This notification and its contents should not be construed as legal advice.**

Gateway Confidential Shredding

No surcharges – if you're using someone else, you're paying too much!

The Association's recommended vendor for document shredding, Gateway Confidential, has a "flat fee" based program and will not charge a surcharge to GCADA Members. This is important as many shredding companies are now instituting "fuel charges", "recycling recovery fees", "environmental surcharges" or other unnecessary ancillary fees.

Gateway is a full-service shredding company that specializes in secured destruction of documents. They provide the most secure method of protecting your information by offering consistent on-site document destruction service, performed by bonded Customer Service Representatives. The chain of custody is never compromised! With locations throughout Ohio, Gateway has the ability to service dealerships across the state.

GCADA Products, Programs & Services

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Services and Pricing:

- Gateway will provide an onsite shredding service for secure consoles and/or secure toters every 4 weeks (or a frequency determined by you and Gateway) at a $46 secure trip charge, plus $5.00 per console and/or $10.00 per locked toter (minimum $56.00 per service). All containers are provided to GCADA members.
- Gateway will provide bulk shredding (purges) for $5.00 per box or $50 per toter with a minimum charge of $125 for such projects to GCADA members. Gateway may charge an additional $50 if service requires multiple locations per service request.
- Gateway will not charge a fuel surcharge or any ancillary fees to members of GCADA. Beware of any line items/fees that are not "shredding" related.

Gateway has continued to be a less expensive alternative than all other shredding companies in the market, is NAID AAA Certified to meet your compliance regulations, and has serviced many GCADA Members over the past 9 years. For a FREE side-by-side analysis, please email your current shredding invoice. If you are interested in finding out more about the GCADA Shredding Program, please contact Ruth Kasprzak at your Association.

Electronic Payments, Inc.

Compare rates for credit card processing

All members still using Global Payments (formerly Heartland) are strongly encouraged to carefully review your monthly processing statements. Since Heartland Payment Systems has changed hands, our partner Electronic Payments, Inc., has recently identified that some members are being charged excessively.

Amid rising costs of operations and economic uncertainty, members are more cost conscious than ever, scrutinizing every expense to protect their bottom lines. For many, the answer is SURCHARGING. Electronic Payments, Inc. can show you how surcharging can impact your store, and help get you started.

The following rates are being offered through the GCADA Credit Card Processing Program:

- .10% Discount Rate
- $0.10 per item/authorization
- $10.00 monthly service fee

Electronic Payments, Inc. develops and deploys their own payment and POS technologies in-house, with 24/7 professionals available for all technical support. Electronic Payments, Inc. offers competitive processing rates with no hidden fees, a transparent pricing structure, no additional fees for reporting or customer loyalty programs, and same or next day funding with late cutoff times.

Please contact Ruth Kasprzak at your Association with any questions about processing through Electronic Payments, Inc.

S.A.F.E. PPE Refresher

Complete your PPE Assessments!

As Dealers are aware, OSHA's personal protective equipment (PPE) standard requires every employer to perform a hazard assessment of the work place and select the PPE for the hazards. Members of GCADA's SAFE program can find templates for their PPE Hazard assessments within the PPE section (Section 11) of their Dealership SAFE manual. While PPE assessments are reviewed during your Dealership's SAFE audit, this is a reminder of the importance of completing these assessments, and training and reviewing them with your employees. As outlined in your SAFE manuals, employees should sign off on this receipt, training and review!

According to OSHA's publication on PPE, employers are responsible for:

- Performing a "hazard assessment" of the workplace to identify and control physical and health hazards.
- Identifying and providing appropriate PPE for employees.
- Training employees in the use and care of the PPE.
- Maintaining PPE, including replacing worn or damaged PPE.
- Periodically reviewing, updating and evaluating the effectiveness of the PPE program.

GCADA Safety Awareness for Employees (S.A.F.E.) Program

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Who Pays for PPE?

OSHA requires employers to pay for the PPE used to comply with OSHA standards, with a few exceptions. The most commonly asked about exception is regarding safety toe protective footwear. Safety toe protective footwear does not have to be paid for as long as the employer allows it to be worn off the job site.

OSHA allows for employee-owned equipment as long as it meets the current ANSI standards and protects the employees from the hazards. The employee may voluntarily use their own equipment for any reason. Any equipment that is damaged or not working properly has to be removed from service immediately and the employee provided with the proper new equipment.

PPE standards require that the employer provide replacement PPE as necessary, such as when the PPE no longer provides the protection it was designed to provide or when the previously provided PPE is no longer adequate or functional. OSHA clarifies that when an employee has lost or intentionally damaged the PPE issued to him or her, an employer is not required to pay for its replacement and may require the employee to pay for such replacement. However, in almost all cases GCADA recommends the Dealership pays for replacement PPE.

In Summary

Dealership management should ensure that PPE assessments have been completed for each position and reviewed with all employees. Employees that are not using PPE properly shall be retrained immediately – the employee has to have adequate knowledge of the use of PPE and the hazards of not using the PPE properly. Management must take immediate action when an employee is observed not using PPE properly.

If you have any questions or need a current copy of your Dealership SAFE manual, please feel free to contact Mary Nemitz, Joel Kincannon, or Nick Hanna. **This notification and its contents should not be construed as legal advice**.

Join us at Westfield Country Club for a fun day of golf on impeccable courses, contests, prizes and more!

$200/person includes green fees, cart, lunch, cocktail reception & dinner

Schedule

11:30 AM	Registration Opens
12:00 PM	Lunch
1:00 PM	Shotgun Start
5:00 PM	Cocktail Reception
6:00 PM	Dinner & Awards

RSVP

by August 5th

Click here to register!

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GCADA
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