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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SILVAN S. SMITH, and JOY E. SMITH,)	
on behalf of themselves and all others)	
similarly situated,)	CIVIL ACTION NO. 00-6003 (DMC)
)	
Plaintiffs,)	RETURN DATE:
)	
-against-)	
)	NOTICE OF MOTION FOR
CHRYSLER FINANCIAL COMPANY)	PRELIMINARY APPROVAL
L.L.C.,)	OF CLASS SETTLEMENT
)	
Defendant.)	

To: Clerk, U.S.District Court, District of New Jersey
M.L. King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101-0999

All Counsel on Attached Service List

PLEASE TAKE NOTICE the undersigned, attorneys for plaintiffs Silvan S. Smith and Joy E. Smith, shall move before the Honorable Dennis M. Cavanaugh, U.S.D.J., at a date and time to be set by the Court, at the United States Courthouse, Martin Luther King, Jr. Federal Building and U.S. Courthouse, 50 Walnut Street, Newark, New Jersey for entry of the within

Order, attached as Exhibit D to the enclosed Settlement Agreement, granting Plaintiffs' Motion for Preliminary Approval of the Settlement Agreement.

Dated: June 24, 2005

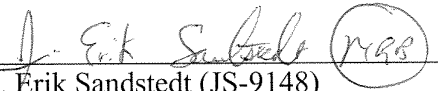
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Respectfully Submitted,


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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SILVAN S. SMITH, and JOY E. SMITH,)	
on behalf of themselves and all others)	Hon. Dennis M. Cavanaugh
similarly situated,)	
)	Civil Action No.00-CV-6003 (DMC)
Plaintiffs,)	
v.)	
)	
CHRYSLER FINANCIAL COMPANY, LLC,)	
)	
Defendant.)	

MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Plaintiffs Silvan S. Smith and Joy E. Smith (“Plaintiffs”) respectfully file this Motion under Rule 23(e)(1) of the Federal Rules of Civil Procedure for preliminary approval of a Settlement with DaimlerChrysler Services North America, LLC (“DaimlerChrysler Services”).¹

1. This action was originally filed in this Court on December 11, 2000, by Silvan S. Smith and Joy E. Smith as a class action, alleging that the Defendant’s credit pricing policy for automobile loans violated the terms of the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.* (“ECOA”), and seeking injunctive and declaratory relief as well as equitable disgorgement and/or restitution. The Plaintiffs asserted that African American financing customers of DaimlerChrysler Services are more likely to pay more for automobile financing than other customers or similarly situated white customers. For its part, DaimlerChrysler Services denies

¹ Unless defined herein, all terms used in this Motion shall have the same meanings as set forth in the Settlement Agreement. Defendant DaimlerChrysler Services is the successor to Chrysler Financial Company, L.L.C.

any basis for liability, denies any basis for class certification, and denies the plaintiffs' factual allegations.

2. In December 2004, the Court granted DaimlerChrysler Services' Motion for Summary Judgment on the Plaintiffs' claims for declaratory and injunctive relief on the grounds that those plaintiffs lack standing to assert those claims. Based on the Plaintiffs' lack of standing, the Court also denied the Plaintiffs' Motion for Class Certification under Federal Rules of Civil Procedure 23(b)(2) and (b)(3), although the Court granted leave for the Plaintiffs to re-brief the issue of class certification under Rule 23(b)(3).

3. The Plaintiffs filed a timely Motion for Reconsideration of the Court's rulings and Rainbow/PUSH Coalition filed a Motion to Intervene as a plaintiff in this case. At approximately the same time, Patricia Chatman, Horace Green, Jr., Phillip Allen, Leonard Epperson and Michael Martinez (the "Additional Plaintiffs"; collectively the Plaintiffs and Additional Plaintiffs are referred to as the "Class Representatives") were preparing to seek permission from the Court to join the case as well. These Additional Plaintiffs are joined in the case in the Second Amended Complaint.

4. Since that time, the parties have engaged in negotiations to resolve this matter, which has resulted in a Settlement of this case.² The parties have entered into a Settlement Agreement and request that the Court preliminarily approve the Settlement Agreement that is attached hereto as Exhibit A.

² Plaintiffs contend that Hispanic customers of DaimlerChrysler Services have also been subjected to discriminatory dealer mark-up in violation of the ECOA. Although DaimlerChrysler Services denies these contentions, the parties have agreed to include Hispanics within the class definition. A Second Amended Complaint including an Hispanic Class Representative and claims on behalf of Hispanic DaimlerChrysler Services customers in this Litigation is attached as an Exhibit to the Settlement Agreement.

5. A copy of the Settlement Agreement agreed to by all parties and their counsel also has been filed contemporaneously with this Motion.

6. The proposed Settlement Class is defined as:

All African-American and Hispanic consumers who entered into Contracts that were assigned to DaimlerChrysler Services or any of its predecessors or successors in interest during the period January 1, 1990 through the Effective Date of the Settlement Agreement.

The proposed Settlement Class for settlement purposes only meets the requirements of Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

7. The Settlement is fundamentally fair, adequate, and reasonable in light of the circumstances of this case and preliminary approval of the Settlement is in the best interests of the Class Members. In return for a release of the Class Representatives' and Class Members' claims,³ DaimlerChrysler Services has agreed to:

- (a) Add a plain language disclosure on DaimlerChrysler Services financing contract forms that a customer's APR may be negotiable with the dealer;
- (b) Limit the maximum difference between the APR and Buy Rate on contracts that DaimlerChrysler Services acquires or accepts for assignment. Prior to final approval DaimlerChrysler Services may choose one of the following options: (1) 2.5% for contracts of 60 months or less, 2.0% for contracts of more than 60 months up to and including 71 months, and 1.75% for contracts of 72 months or more; or (2) 2.5% for contracts of 60 months or less, 2.0% for contracts of more than 60 months up to and including 72 months, and 1.25% for contracts of 73 months or more.

³ Class Members will only be releasing their claims for injunctive, declaratory and equitable relief, and will not be foregoing their right to seek monetary relief.

- (c) Establish a pre-approved Firm Offer of Credit program in accordance with Sect. 10.8 of the Settlement Agreement.
- (d) Establish a policy against customers being moved from a more creditworthy credit tier to a less creditworthy credit tier;
- (e) Contribute \$1,800,000 to public education of minority consumers about financing of automobile purchases.

8. The purpose of preliminary approval is merely to “determine whether the proposed settlement is ‘within the range of possible approval’ . . .” *In re Diet Drugs Prods. Liability Litig.*, 1999 WL 33644489, at *2 (E.D. Pa. Dec. 3, 1999), quoting *Armstrong v. Bd. of School Dir. of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980). The preliminary approval hearing is not a fairness hearing. *Id.*

9. The Settlement reached between the parties here more than satisfies this standard and is clearly “within the range of possible approval” by the Court given the nature of the case and the result reached by the plaintiffs. Preliminary approval will not foreclose interested persons from objecting to the Settlement and thereby presenting dissenting viewpoints to the Court.

10. Plaintiffs will also submit to the Court prior to the preliminary approval hearing Declarations of the Class Representatives and a Joint Declaration of Class Counsel in support of the preliminary approval of the settlement.

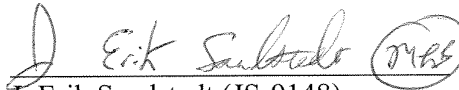
WHEREFORE, Plaintiffs request the following:

- ▶ That the Court hold a preliminary approval hearing to review the Settlement Agreement and to receive argument from counsel regarding the adequacy of the Settlement;
- ▶ That following the preliminary approval hearing, the Court enter an Order granting its preliminary approval of the Settlement Agreement in the form attached as Exhibit D to the Settlement Agreement, which includes

granting Plaintiffs leave to file their Second Amended Complaint (attached as Exhibit A to the Settlement Agreement);

- ▶ That the Court order any interested party to file any objections to the Settlement within the time limit set by the Court, with supporting documentation, and order that such objections, if any, be served on counsel as set forth in the proposed Preliminary Approval Order;
- ▶ That the Court schedule a Fairness Hearing for the purpose of receiving evidence, argument, and any objections relating to the Parties' Settlement Agreement; and
- ▶ That following the Fairness Hearing, the Court enter an Order granting final approval of the Parties' Settlement and dismissing the Second Amended Complaint in this Litigation with prejudice.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 24th day of June, 2005, a true and exact copy of the foregoing document was forwarded to the persons listed below:

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Angelo A. Stio III, Esq.
Pepper Hamilton LLP
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Princeton, NJ 08543-5276

by the method identified as follows:

- U.S. Mail, Postage Prepaid
- Overnight Mail
- Facsimile



Darnley B. Stewart