

53518

STATE OF NORTH CAROLINA FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
99-CVS-4161

COUNTY OF WAKE

FILED 2001 FEB 20 14:05
WAKE COUNTY, N.C.

PETER PLESKACH and wife,
FRANCES PLESKACH, BY _____)

Plaintiffs,)

vs.)

CHRYSLER CORPORATION,)

Defendant and
Third-Party Plaintiff,)

vs.)

A.E. COX CORPORATION,
d/b/a COX DODGE,)

Third-Party Defendant.)

**ORDER FOR SANCTIONS
FEBRUARY 20, 2001**

THIS CAUSE coming on to be heard and being heard before the Honorable Narley L. Cashwell, Superior Court Judge presiding on January 29, 2001 upon Plaintiffs' Motion for Sanctions filed December 11, 2000, Defendant Chrysler's Motion for Protective Order filed January 22, 2001, Defendant Chrysler's Motion to Dismiss filed January 4, 2001. And the Court, having considered all above-noted motions, having heard the arguments of counsel, having reviewed the applicable law, and the motions of record, and having concluded that Plaintiffs' Motion for Sanctions and Motion to Compel should be **GRANTED**, that Defendant Chrysler's Motion for Protective Order should be **DENIED**, and that Defendant Chrysler's Motion to Dismiss should be **DENIED**. With regard to this Order of Sanctions this Court makes following findings of fact:

1. There have been numerous discovery violations by the Defendant Chrysler.

2. The Defendant Chrysler was ordered by Judge Gregory Weeks on October 20, 1999 to properly answer and respond to Plaintiffs' First Set of Interrogatories and Request for Production. This Order to Compel Discovery is attached as Exhibit 1.
3. On April 19, 2000, Judge Henry Barnette issued a Sanctions Order for the failure of the Defendant Chrysler to properly respond to Judge Weeks' Order compelling discovery. This Sanctions Order is attached as Exhibit 2.
4. On November 6, 2000, Judge Wade Barber heard Plaintiffs' Motion to Compel and Motion for Sanctions with respect to Plaintiffs' Second Request for Production of Documents and Second Set of Interrogatories.
5. After hearing these motions and considering the applicable law and reviewing the matters of record, Judge Barber entered a Sanctions Order on November 6, 2000, in open court against Defendant Chrysler and this Order was reduced to writing and signed on November 17, 2000. This Sanctions Order is attached as Exhibit 3; and hereinafter this Order is referred to as the November 6, 2000 Order.
6. The November 6 Order compelled Defendant Chrysler to submit its responses to Plaintiffs' Second Request for Production and Second Set of Interrogatories not later than November 27, 2000 at 12:00 P.M. EST.
7. The Plaintiffs' had requested that Judge Barber compel the discovery responses by November 20, 2000, but after receiving a letter from counsel for Defendant Chrysler requesting additional time, Judge Barber concluded that it would provide additional time to Defendant Chrysler and would set the time for compliance as November 27, 2000, at 12:00 P.M. EST.
8. Defendant Chrysler did not comply with Judge Barber's November 6 Order.

9. Defendant Chrysler did not produce documents on or before 12:00 P.M. EST on November 27, 2000.
10. Immediately before the hearing of Plaintiffs' Motion for Sanctions on November 29, 2000, the Defendant Chrysler produced certain documents to Plaintiffs' counsel in response to the discovery.
11. Judge Barber entered a third Sanctions Order against the Defendant Chrysler in open court on November 29, 2000, which he signed January 9, 2001. This Sanctions Order is attached as Exhibit 4.
12. In Exhibit 4 Judge Barber ruled that the documents produced by the Defendant Chrysler on November 29, 2000 were incomplete and were not in complete compliance with Judge Barber's Order.
13. Judge Barber ruled that Defendant Chrysler offered no appropriate explanation for its failure to comply with Judge Barber's November 6 Order.
14. Defendant Chrysler purported to respond to the requirement in Judge Barber's Sanctions Order by submitting an unverified fax transmittal to Plaintiffs' counsel after the time for compliance had passed.
15. Judge Barber ruled that the purported supplementation which was not verified was not in compliance with Judge Barber's November 6 Order.
16. This Court finds as a fact that the Defendant Chrysler has demonstrated a pattern of discovery abuse.
17. This Court finds as a fact that the Defendant Chrysler has demonstrated a pattern of submitting objections which were not made in good faith and which were intended to harass the Plaintiffs and to increase the cost of litigation.

18. Defendant Chrysler has not timely or properly complied with virtually all, if not all, of any discovery requests propounded by Plaintiffs.
19. Defendant Chrysler was ordered to fully answer certain Interrogatories and Request for Production of Documents by 12:00 P.M. EST on November 27, 2000 in the November 6 Order of Judge Barber.
20. Judge Barber has previously considered striking the pleadings of Defendant Chrysler in his November 6 Order.
21. Judge Barber's Sanctions Order (Exhibit 4) imposed a per diem fine against Defendant Chrysler as follows:
 - a. A fine of \$2,000 per business day beginning on November 27, 2000 shall be paid to counsel for Plaintiffs upon delivery of all the documents requested by Plaintiffs in Plaintiffs' Second Request for Production, as modified by the Court.
 - b. A fine of \$5,000 per business day will commence on December 7, 2000 and shall be paid to counsel for Plaintiffs if all documents requested by Plaintiffs in Plaintiffs' Second Request for Production as modified by the Court have not been produced by that date.
 - c. Said checks for per diem sanctions shall be made payable to "Twiggs, Abrams, Strickland & Trehy, P.A. and H.C. Kirkhart."
22. Judge Barber further ordered that all documents requested in Plaintiffs' Notice of Deposition of Defendant Chrysler pursuant to Rule 30(b)(6), as modified by the Court, shall be delivered to the offices of Twiggs, Abrams, Strickland & Trehy,

P.A., on December 7, 2000, and then any further supplementation must occur by December 11, 2000.

23. Judge Barber further ordered that all reasonable expenses for the 30(b)(6) deposition of Defendant Chrysler shall be paid by Defendant Chrysler, including attorneys fees for the Plaintiffs' counsel and Third-Party Defendant's counsel, and including all reasonable deposition costs and expenses.
24. With regard to the fines imposed by Judge Barber, Judge Barber ruled that the fines shall continue until there is full and complete compliance with this Order, including the production of documents and the payment of all fines and fees and expenses ordered by this Court.
25. This Court specifically questioned counsel for Defendant Chrysler whether the documents ordered produced by Judge Barber's Sanctions Order of November 29, 2000 were produced.
26. This Court gave counsel for Defendant Chrysler an opportunity to explain why the Defendant Chrysler had not produced the documents required to be produced by Judge Barber.
27. Defendant Chrysler did not comply with Judge Barber's Sanctions Order of November 29, 2000.
28. The Court finds that the Defendant Chrysler is in willful violation of Judge Barber's Sanctions Order of November 29, 2000.
29. The Court finds that the Defendant Chrysler has not offered to the Court justifiable reasons for its failure to comply with Judge Barber's Sanctions Order.

30. The Court finds that the previous sanctions rendered against the Defendant Chrysler in this case have not been sufficient to persuade Defendant Chrysler to comply with the Sanctions Orders previously entered in this case.

31. The Court has considered other lesser sanctions and concludes that the lesser sanctions are not appropriate, but that the sanctions imposed by this Order, including striking the pleadings of Defendant Chrysler and entry of default is proper under law and is in the best interests of the administration of justice.

IT IS ALSO ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion for Sanctions is **ALLOWED**.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that the Answer of Defendant Chrysler is stricken, all allegations in the Complaint are deemed admitted and a default is entered against Defendant Chrysler. The issue of the Plaintiffs' damages is the sole remaining issue in the case, to be determined by the trier of fact.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that Defendant Chrysler shall immediately produce to the Plaintiffs those documents placed under seal by this Court, specifically including the costs materials and documents placed under seal and the materials of Mr. Busacca, which were to be maintained by Defendant's counsel; and the Court specifically authorizes the Clerk of the Wake County Superior Court to release these documents immediately to the Plaintiffs' counsel.

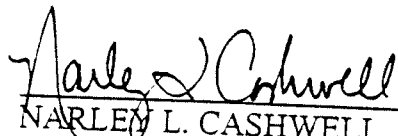
IT IS ALSO ORDERED, ADJUDGED, AND DECREED that Defendant Chrysler shall produce by March 7, 2001, at the offices of Twiggs, Abrams, Strickland & Rabenau, P.A., the complete vehicle identification number, auction packages, warranty cards, and disclosure statements, including the last disclosure statement, whether that statement is located at Chrysler,

at the NCDS or a Chrysler dealer, original owners, including the name and mailing address, and subsequent purchasers, including name and mailing address, for all vehicles which were the subject of a vehicle repurchase for any reason from the years 1996 to the present for the United States and in which no disclosure was executed by the purchaser or purchasers, a computer-generated report in which the owners of repurchased vehicles which were the subject of an extended Chrysler warranty were charged fees for work that was covered by the Chrysler extended warranty. This information shall be placed in a Microsoft Excel Format and a Word 2000 format and given on CD-ROM to the counsel for Plaintiffs. A printed copy of this report shall be submitted at the same time to Plaintiffs' counsel.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that Defendant Chrysler is ordered to pay Plaintiffs' counsel attorneys fees with respect to the time expended with respect to the Motion for Sanctions, including time in preparing for and presenting this motion to the Court, as well as the time expended with regard to responding to Defendant Chrysler's subsequent submissions and correspondence related to Plaintiffs' Motion for Sanctions and this Court's Order. Plaintiffs' counsel shall submit their time to the Court for its approval and any amount ordered by the Court shall be paid within five (5) days of the Order being faxed to counsel for Defendant Chrysler.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Chrysler's Motion for Protective Order for discovery materials is DENIED.

Signed this 20th day of February, 2001.


NARLEY L. CASHWELL

SUPERIOR COURT JUDGE PRESIDING

NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

99 CVS 04161

NOV 21 AM 10:01

WAKE COUNTY, C.S.C.

PETER PLESKACH and Wife,
FRANCES PLESKACH

BY _____)

Plaintiffs,)

v.)

CHRYSLER CORPORATION)

Defendant.)

**ORDER COMPELLING DEFENDANT
TO SUPPLEMENT ITS ANSWERS TO
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

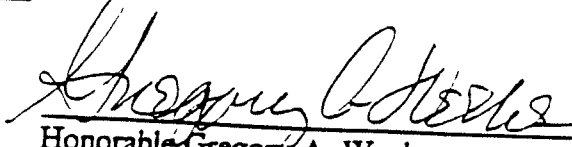
THIS CAUSE coming on for hearing on the Motion to Compel of Plaintiffs, pursuant to Rule 37(a)(2) and 37(d) of the Rules of Civil Procedure, and being heard before the Honorable Gregory A. Weeks, Superior Court Judge Presiding at the Regular Civil Non-Jury Session of Wake County Superior Court commencing October 14, 1999, and the Court, having heard arguments of counsel for Plaintiffs and counsel for Defendant, is of the opinion that the Motion to Compel should be allowed as specifically indicated below:

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Defendant shall supplement their responses to Interrogatory numbers 11, 12 and 13 as requested, in full; that it update its response to Interrogatory number 15; that regarding interrogatory numbers 16, 18 and 19, the court declined to rule, the responses will stand as they were submitted.

Defendant is also required to produce documents responsive to Request for Production of Documents No. 7 by providing the table of contents from the manual; that it update its response to No. 11 from the date of buy back to the present; that it provide the table of contents from the manual in response to No. 12; that Requests Nos. 13 and 14 be amended to include 1996 to the present; and that it provide the resale disclosures and warranty coverage on all buy back vehicles from 1996 to the present only as requested in No. 17.

These responses are due no later than November 14, 1999.

This the 20th day of October, 1999


Honorable Gregory A. Weeks
Judge Presiding
Wake County Superior Court

NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
99 CVS 04161

PETER PLESKACH and Wife,
FRANCES PLESKACH

Plaintiffs,
v.

CHRYSLER CORPORATION

Defendant and
Third-Party
Plaintiff,
v.

A.E. COX CORPORATION, d/b/a
COX DODGE,

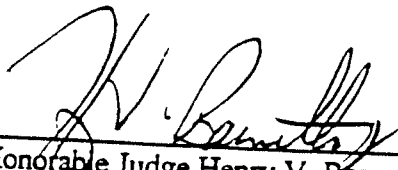
Third-Party
Defendant.

ORDER FOR SANCTIONS

THIS CAUSE coming on for hearing on the Motion for Sanctions and Amended Motion for Sanctions filed by Plaintiff's against Defendant Chrysler Corporation for failure to produce discovery as Ordered by this court and signed by the Honorable Judge Gregory A. Weeks on the 20th day of October, 1999. The Motion for Sanctions and Amended Motion for Sanctions being heard before the Honorable Judge Henry V. Barnette, Superior Court Judge Presiding at the Regular Civil Non-Jury Session of Wake County Superior Court commencing April 17, 2000. The Court, having heard arguments of counsel for Plaintiffs and counsel for Defendant Chrysler Corporation finds that Defendant Chrysler Corporation has failed to comply with the Order Compelling discovery filed October 20, 1999. The court considered sanctions pursuant to N.C.G.S. § 1A Rule 37(b)(2)(c), but did not order having the Defendant Chrysler's Answer and Counter-claim stricken and an Entry of Default entered at this time. Plaintiff's Motion for a Protective Order was heard and the Court denied the Motion at this session.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Defendant Chrysler Corporation shall produce all discovery in full as ordered by the Honorable Gregory A. Weeks on October 20, 1999. Defendant Chrysler Corporation shall produce all the discovery materials on or before May 17, 2000 at the Office of H.C. Kirkhart, attorney for Plaintiffs. Defendant Chrysler Corporation must make payment to H.C. Kirkhart attorneys fees in the amount of \$1,600.00 for bringing this Motion for Sanctions before this Court. Payment is to be made on or before May 17, 2000.

This the 19 day of April, 2000.


The Honorable Judge Henry V. Barnette
Judge Presiding Wake County Superior Court

NORTH CAROLINA

WAKE COUNTY

PETER PLESKACH, and wife,
FRANCES PLESKACH,

Plaintiffs,

v.

CHRYSLER CORPORATION,

Defendant and
Third-Party Plaintiff,

v.

A.E. COX CORPORATION,
d/b/a COX DODGE,

Third-Party
Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
99 CVS 4161

**ORDER
REGARDING PLAINTIFFS' MOTION
TO COMPEL AND MOTION
FOR SANCTIONS**

THIS CAUSE coming to be heard and being heard before the Honorable Wade Barber, Superior Court Judge presiding on November 6, 2000 upon Plaintiffs' Motion to Compel and Motion for Sanctions. And the Court, having considered Plaintiffs' Motion to Compel and Motion for Sanctions, having heard the arguments of counsel, having reviewed the applicable law, and the motion of record, has concluded that Plaintiff's Motion to Compel and Motion for Sanctions should be GRANTED.

The Court makes the following findings of fact:

1. On May 4, 2000, Plaintiffs served upon Defendant Chrysler Plaintiffs' First Set of Interrogatories and Requests for Production of Documents.

2. On July 21, 1999, Defendant Chrysler submitted responses to Plaintiffs' First Set of Interrogatories and Requests for Production of Documents.
3. On July 27, 1999, Plaintiffs filed a Motion to Compel requesting that the Court enter an Order compelling Defendant Chrysler to fully respond to Plaintiffs' First Set of Interrogatories and Requests for Production of Documents and to impose sanctions.
4. On October 21, 1999, the Honorable Gregory A. Weeks entered an order requiring that Defendant Chrysler shall supplement their responses to Interrogatory numbers 11, 12 and 13 as requested, in full; that it update its response to Interrogatory number 15.
5. On October 21, 1999, the Honorable Gregory A. Weeks' Order further required Defendant Chrysler to produce documents responsive to Request for Production of Documents No. 17 by providing a table of contents from the manual; that it update its response to No. 11 from the date of buy back to the present; that it provide the table of contents from the manual in response to No. 12; that Requests Nos. 13 and 14 be amended to include 1996 to the present; and that it provide the resale disclosures and warranty coverage on all buy back vehicles from 1996 to the present only as requested in No. 17.
6. On March 1, 2000, Plaintiffs filed their Amended Motion for Sanctions as Defendant Chrysler had not fully complied with Judge Weeks' order of October 21, 1999.
7. On April 19, 2000, the Honorable Henry V. Barnette entered an order requiring that Defendant Chrysler fully comply with Judge Weeks' October

21, 1999 order within 30 days. Judge Barnette also sanctioned Defendant Chrysler for attorneys' fees in the amount of \$1,600. Judge Barnette also considered sanctions pursuant to Rule 37(b)(2)(c) to strike Defendant Chrysler's answer and counter-claim, but did not order it at this time.

8. On May 31, 2000, Plaintiffs' served upon Defendant Chrysler their Second Set of Interrogatories and Requests for Production.

9. On August 7, 2000, Defendant Chrysler submitted responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents.

10. On September 11, 2000, Plaintiffs filed a Motion to Compel regarding Defendant Chrysler's responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents alleging that Defendant Chrysler's responses were incomplete and inadequate.

11. With respect to Defendant Chrysler's responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents the court finds that Defendant Chrysler improperly failed to answer or answered in an evasive or incomplete answer with respect to the Interrogatories and Requests for Production, specifically Interrogatory numbers 3, 4, 5, 6, 7 and Requests for Production numbers 1 through 19.

12. With respect to Defendant Chrysler's responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents the court finds that Defendant Chrysler's objections were unfounded with regard to

Interrogatories and Requests for Production, specifically Interrogatory numbers 3, 4, 5, 6, 7 and Requests for Production numbers 1 through 19.

13. The Court has reviewed the history of discovery in this case and the Court finds as a fact that Defendant Chrysler has previously been sanctioned in this case for the failure to properly comply with the discovery rules in North Carolina.

14. The Court finds as a fact that in other cases involving lemon laundering and first-party lemon litigation the Defendant Chrysler has previously been sanctioned in the State courts of North Carolina for a variety of discovery and/or pre-trial abuses.

15. In the present case, the Court finds as a fact that with respect to Interrogatory numbers 3, 4, 5, 6, 7 and Requests for Production numbers 1 through 19, these responses were not made in good faith and instead were designed to delay or increase costs in this litigation as the Plaintiffs sought to obtain disclosure of discoverable information.

16. This Court finds as a fact that this misconduct by Defendant Chrysler was done for an improper purpose in violation of rules of civil procedure, including North Carolina Rules of Procedure 33 and 34 and Rule 11.

17. The Court also finds as a fact that this Court has to order discovery responses and Defendant Chrysler has been sanctioned in multiple times in this and in other cases.

18. This court in prior orders has considered sanctioning Defendant Chrysler pursuant to Rule 37(b)(2)(c) striking Defendant Chrysler's answer and counter-claim but allowed lesser sanctions.

19. The court in this case has also considered in this motion the remedy of striking Defendant Chrysler's answer and counter-claim but at present has determined that lesser sanctions would be imposed at this time.

20. The Court finds as a fact that appropriate sanctions are necessary against Defendant Chrysler in order to ensure that Defendant Chrysler will cease with its improper conduct and instead will comply with the North Carolina Rules of Civil Procedure.

21. The Court also finds that Defendant Chrysler is subject to sanctions pursuant to Rule 14.1 of the Tenth District Local Rules.

ORDER ON PLAINTIFFS' MOTION TO COMPEL

IT IS NOW THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion to Compel Defendant Chrysler to fully respond to Plaintiffs' Second Set of Interrogatories and Requests for Production as follows and all ordered information shall be placed in the possession of Plaintiffs' counsel at the offices of Twiggs, Abrams, Strickland & Trehy, P.A., 150 Fayetteville Street Mall, Suite 1100, Raleigh, North Carolina by 12:00 p.m. EST on Monday, November 20th, 2000:

**PLAINTIFF'S SECOND SET OF INTERROGATORIES TO DEFENDANT
DAIMLERCHRYSLER**

Interrogatory #1: Defendant will amend response.
Interrogatory #2: Defendant will amend response.
Interrogatory #3: Allowed.

- Interrogatory #4: Allowed.
- Interrogatory #5: Allowed.
- Interrogatory #6: Allowed as it relates to lemon laundering.
- Interrogatory #7: Allowed, except modify interrogatory to state "Charlotte zone and chain of command and/or all of the State of North Carolina."

**PLAINTIFFS' SECOND REQUEST FOR PRODUCTION TO DEFENDANT
DAIMLERCHRYSLER**

- Request for Production #1: Allowed.
- Request for Production #2: Allowed.
- Request for Production #3: Allowed.
- Request for Production #4: Allowed.
- Request for Production #5: Allowed.
- Request for Production #6: Allowed as it relates to lemon laundering.
- Request for Production #7: Allowed.
- Request for Production #8: Allowed.
- Request for Production #9: Allowed.
- Request for Production #10: Allowed.
- Request for Production #11: Allowed. "Outside sources" is defined to mean, "private associations, private groups, independent contractors other than those retained as consultants for litigation, private individuals other than employees of Chrysler to the extent those employees of Chrysler are protected work product or attorney client privileges, trade associations, governmental agencies or officials."
- Request for Production #12: Allowed.
- Request for Production #13: Allowed.
- Request for Production #14: Allowed.
- Request for Production #15: Allowed.
- Request for Production #16: Allowed.
- Request for Production #17: Allowed.
- Request for Production #18: Allowed.
- Request for Production #19: Allowed.

ORDER ON PLAINTIFFS' MOTION FOR SANCTIONS

IT IS NOW FURTHER THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion for Sanctions Against Defendant Chrysler is hereby allowed and the Court imposes the following sanctions:

1. The Court hereby orders that the Defendant Chrysler is prohibited from participating in any further discovery, including the participation in

depositions and the submission of any further discovery requests to any party in the case.

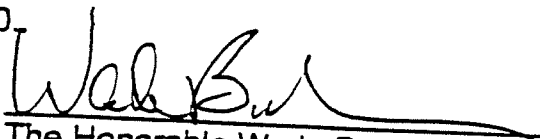
2. The Court orders that Defendant Chrysler be subject to sanctions in the form of Plaintiffs' attorneys' fees for the time entailed in preparing this Motion for Sanctions, participating in the hearing and all time related to the drafting of the order.

3. Plaintiffs' counsel shall file affidavits outlining their time expended in this regard.

4. As previously ordered, Defendant Chrysler shall place all ordered information in the possession of Plaintiffs' counsel at the offices of Twigg, Abrams, Strickland & Trehy, P.A., 150 Fayetteville Street Mall, Suite 1100, Raleigh, North Carolina by 12:00 p.m. EST on Monday, November ~~20th~~ ^{27th}, 2000: WGB

5. Attorneys' fees shall be paid to Plaintiffs' counsel by December 1, 2000.

Signed This 17th day of November, 2000.


The Honorable Wade Barber
Superior Court Judge Presiding

NORTH CAROLINA

WAKE COUNTY

PETER PLESKACH, and wife,
FRANCES PLESKACH,

Plaintiffs,

v.

CHRYSLER CORPORATION,

Defendant and
Third-Party Plaintiff,

v.

A.E. COX CORPORATION,
d/b/a COX DODGE,

Third-Party
Defendant.

IN THE ~~GENERAL~~ COURT OF JUSTICE
SUPERIOR COURT DIVISION
2001 JAN - 999 CVS 4161

WAKE COUNTY, C.S.C.

BY _____

ORDER FOR SANCTIONS
NOVEMBER 29, 2000

THIS CAUSE coming to be heard and being heard before the Honorable Wade Barber, Superior Court Judge presiding on November 29, 2000 upon Plaintiffs' Motion for Sanctions filed November 22, 2000, Plaintiffs' Motion for Sanctions and Motion to Show Cause filed November 27, 2000, Plaintiffs' Motion for Additional Sanctions filed November 28, 2000, Defendant's Motion for Protective Order filed November 22, 2000, Defendant's Motion for Reconsideration filed November 27, 2000, and Defendant's Motion to Stay filed November 27, 2000. And the Court, having considered all above-noted motions, having heard the arguments of counsel, having reviewed the applicable law, and the motions of record, has made factual findings and legal conclusions as follows in this Order.

The Court makes the following findings of fact:

1. There have been numerous discovery violations by the Defendant Chrysler.
2. The Defendant Chrysler was ordered by Judge Gregory Weeks on October 20th, 1999 to properly answer and respond to Plaintiffs' First Set of Interrogatories and Request for Production. This Order to Compel Discovery is attached as Exhibit 1.
3. On April 19, 2000, Judge Barnette issued a Sanctions Order for the failure of the Defendant Chrysler to properly respond to Judge Weeks' Order compelling discovery. This Sanctions Order is attached as Exhibit 2.
4. On November 6, 2000, this Court heard Plaintiffs' Motion to Compel and Motion for Sanctions with respect to Plaintiffs' Second Request for Production of Documents and Second Set of Interrogatories.
5. After hearing these motions and considering the applicable law and reviewing the matters of record, this Court entered a Sanctions Order on November 6, 2000, in Open Court against Defendant Chrysler and this Order was reduced to writing and signed on November 17, 2000. This Sanctions Order is attached as Exhibit 3; and hereinafter this Order is referred to as the November 6, ~~2000~~, ^{wB} Order.
6. The November 6th Order compelled Defendant Chrysler to submit its responses to Plaintiffs' Second Request for Production and Second Set of Interrogatories not later than November 27, 2000 at 12:00 p.m. EST.
7. The Plaintiffs' had requested that this Court compel the discovery responses by November 20, 2000, but after receiving a letter from Counsel for Defendant Chrysler requesting additional time, this Court concluded that it would provide additional time to Defendant Chrysler and would set the time for compliance as November 27, 2000, at 12:00 p.m. EST.
8. Defendant Chrysler did not comply with the Court's November 6th Order.
9. Defendant Chrysler did not produce documents on or before 12:00 p.m. noon on November 27, 2000.

10. Immediately before the hearing of Plaintiffs' Motion for Sanctions on November 29, 2000, the Defendant Chrysler produced certain documents to Plaintiffs' counsel in response to the discovery.
11. The documents produced by the Defendant Chrysler on November 29, 2000 were incomplete and were not in complete compliance with the Court's Order.
12. Defendant Chrysler offered no appropriate explanation for its failure to comply with this Court's November 6th Order.
13. Defendant Chrysler purported to respond to the requirement in the Court's Sanctions Order by submitting an unverified fax transmittal to Plaintiffs' counsel after the time for compliance had passed.
14. The purported supplementation which was not verified and was not in compliance with this Court's November 6th Order.
15. This Court finds as a fact that the Defendant Chrysler has demonstrated a pattern of discovery abuse.
16. This Court finds as a fact that the Defendant Chrysler has demonstrated a pattern of submitting objections which were not made in good faith and which were intended to harass the Plaintiffs and to increase the cost of litigation.
17. Defendant Chrysler has not timely or properly complied with virtually all, if not all, of any discovery requests propounded by Plaintiffs.
18. Defendant Chrysler was ordered to fully answer certain Interrogatories and Request for Production of Documents by 12:00 p.m. EST on November 27, 2000 in the November 6th Order.
19. Judge Wade Barber has previously considered striking the pleadings of Defendant Chrysler in his November 6th Order.
20. As of 12:00 p.m. EST on November 27, 2000, Defendant Chrysler had produced no documents in response to Plaintiffs' Second Request for Production as required by the November 6th Order. During the afternoon of November 27th, 2000, Defendant faxed to Plaintiff answers to Interrogatories which were unverified and remain unverified as of the date of this hearing.

21. This failure to respond was in regard to Interrogatories that were served upon Defendant Chrysler on May 29th, 2000 and which were the subject of prior court orders.
23. Material questions were raised as to the completeness of Defendant Chrysler's response to Interrogatory Number 1. These questions have made it evident to the Court that unverified responses to the Interrogatories constituted a material failure by the Defendant Chrysler in this case.
24. No documents were produced by Defendant Chrysler to the Plaintiffs until November 29th, 2000 and no justifiable reason was given as to why there was no production of documents prior to November 29th, 2000 regarding Plaintiffs' Second Request for Production, requests numbers 1 through 19.
25. Defendant Chrysler has also failed to provide the disclosure statements and other copies of discovery responses to counsel for Third-Party Defendant despite repeated attempts by counsel for Third-Party Defendant to obtain these documents.
26. The Court questioned counsel for Defendant Chrysler as to who their corporate designee was at Chrysler in regard to the 30(b)(6). The Court found that they did not know who the corporate designee(s) was at Chrysler and therefore were totally unprepared for the 30(b)(6) deposition to take place on November 30, 2000 as noticed by Plaintiffs.

The Court hereby reaches the following conclusions of law:

1. Defendant's failure to respond and timely object to all discovery has been a cause and pattern of conduct violating both the letter and spirit of the discovery process as set forth in the North Carolina Rules of Civil Procedure.
2. Counsel for Defendant Chrysler has stated on numerous occasions that Defendant Chrysler is a large, multinational corporation with vast resources. Defendant Chrysler has offered no evidence of performance to comply with the discovery order entered on November 17th, 2000.
3. On this date the court also heard Defendant Chrysler's Motion for Protective Order regarding the deposition of Defendant Chrysler pursuant to Rule 30(b)(6) of the North Carolina Rules of Civil Procedure. This deposition was to have taken place on November 30th, 2000. Defendant Chrysler made no objection to this

deposition until last Wednesday, November 22nd, 2000, approximately three business days before the deposition was to have taken place. Defendant Chrysler had not prepared to produce the documents as requested by November 30th, 2000 and at most was prepared to present one witness even though Defendant Chrysler acknowledged several witnesses would be needed to provide the information requested by Plaintiffs.

4. Wherefore, the parties, at the Court's urging, devised a schedule for said 30(b)(6) deposition. This Court today is taking no action on Plaintiffs' Motion for Sanctions regarding the 30(b)(6) deposition.
5. The actions of Defendant Chrysler has been calculated to and have materially and substantially burden the Plaintiffs with time and expenses and has delayed prosecution of this case and has further burdened the Court.
6. The Court has found that Plaintiffs' discovery requests have been reasonable and within the scope of rules concerning discovery.
7. Defendant Chrysler has objected to the breadth of the discovery requests and Plaintiffs have agreed to appropriately narrow the requests.
8. It appears to this Court that the sanctions orders entered previously in this case have not gotten the immediate attention of Defendant Chrysler and the Court has considered various remedies to ensure that Defendant Chrysler will comply with the Orders of this Court and to provide a further sanction to the Defendant Chrysler for its misconduct in this case.
9. The Court concludes that substantial and material sanctions and discovery remedies are appropriate both in order to sanction Defendant Chrysler and to rectify the undue burden and delay that Defendant Chrysler's conduct has caused Plaintiffs. Substantial sanctions are also in order to cause Defendant Chrysler to fairly comply with previous orders of this Court.
10. The Court concludes that Defendant Chrysler's conduct ~~would~~ ^{support} striking pleadings and the Court has seriously considered this sanction as well as lesser sanctions. WB
May well justify
11. The Court has not implemented that remedy as yet.
12. This Court puts Defendant Chrysler on notice that any minor failure to comply with discovery and the North Carolina Rules of Civil

Procedure, and specifically with this Sanctions Order, ~~will~~^{may} in the view of the Court, justify striking the pleadings; and indeed the misconduct to date by the Defendant Chrysler already would justify striking the Answer and Pleadings of the Defendant Chrysler.

13. The Court has further considered the Defendant Chrysler's Motion for Protective Order and finds that the Defendant Chrysler's Motion for Protective Order should be denied.
14. The Court has further found that the Requests for Production contained in the Plaintiffs' Notice of Deposition Pursuant to Rule 30(b)(6) and Rule 30(b)(5) are proper and the objections to those Request for Production are denied; subject to the date limitations agreed to in open court by Plaintiffs' counsel and imposed by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion for Sanctions is ALLOWED as follows:

1. Plaintiff's counsel are entitled to an award of attorneys fees for the time expended in preparing the Plaintiffs' Motions for Sanctions and time spent attending the hearings on November 29th, 2000.
2. Counsel for Third-Party Defendant is entitled to an award of attorneys' fees for time expended in preparing for these motions and time spent attending the hearings on November 29th, 2000.
3. A per diem fine is imposed against Defendant Chrysler as follows:
 - a. A fine of \$2,000 per business day beginning on November 27th, 2000 shall be paid to counsel for Plaintiffs upon delivery of all the documents requested by Plaintiffs' in Plaintiffs' Second Request for Production, as modified by the Court.
 - b. A fine of \$5,000 per business day will commence on December 7th, 2000 shall be paid to counsel for Plaintiffs if all documents requested by Plaintiffs' in Plaintiffs' Second Request for Production as modified by the Court have not been produced by that date.
 - c. Said checks for per diem sanctions shall be made payable to "Twiggs, Abrams, Strickland & Trehy, P.A. and H.C. Kirkhart."

4. Counsel for Plaintiffs shall designate the location for the 30(b)(6) deposition of Defendant Chrysler's designees, which depositions will occur in Raleigh, North Carolina, at a place and time designated by Plaintiffs. Counsel are directed to attempt to resolve the scheduling, but the Court will retain jurisdiction over the timing and scheduling, if necessary.
5. All documents requested in Plaintiffs' Notice of Deposition of Defendant Chrysler pursuant to Rule 30(b)(6), as modified by the Court, shall be delivered to the offices of Twiggs, Abrams, Strickland & Trehy, P.A., on December 7th, 2000, and then any further supplementation must occur by December 11th, 2000.
6. All reasonable expenses for the 30(b)(6) deposition of Defendant Chrysler shall be paid by Defendant Chrysler, including attorneys fees for the Plaintiffs' counsel and Third-Party Defendant's counsel, and including all reasonable deposition costs and expenses.
7. Plaintiffs' counsel and Third-Party Defendant's counsel will submit affidavits as to their time and expense which will be reviewed by this Court.
8. The fines shall continue until there is full and complete compliance with this Order, including the production of documents and the payment of all fines and fees and expenses ordered by this Court.
9. The sanctions for attorneys' fees shall be paid within five (5) business days of the faxing to counsel for Defendant Chrysler by counsel for Plaintiffs of this Court's Order approving the attorneys' fees.

IT IS ALSO ORDERED, ADJUDGED, AND DECREED that Defendant Chrysler shall substantially comply with the production of documents requested in Plaintiffs' Notice of Deposition pursuant to Rule 30(b)(6) by December 7, 2000 and will fully comply with the production of documents as requested in Plaintiff's ^{JB} Notice of Deposition Pursuant to Rule 30(b)(6) by December 11, 2000 as set forth above.

IT IS ALSO ORDERED, ADJUDGED, AND DECREED that

Defendant is required to produce the following by December 7, 2000 in as complete a form as possible with full compliance being required by December 11, 2000 the following:

1. Any records, memoranda or other documentation concerning claims brought against Chrysler for lemons or repurchased or reacquired vehicles by any State Department of Motor Vehicles, any class action, or other litigation within the United States since 1990.
2. Any records, memoranda or other documentation concerning the cost of the buyback programs since January 1, 1996.
3. Any records, memoranda or other documentation concerning the Chrysler rules and procedures for receiving disclosure statements and then taking steps to follow up when disclosure statements were not completed since January 1, 1996.
4. Any records, memoranda or other documentation concerning the auction procedures and processes for vehicle buybacks since January 1, 1996.
5. Any records, memoranda or other documentation concerning the training of dealers and materials sent to dealers on how they were to complete forms sent to dealers since January 1, 1996.
6. Any records, memoranda or other documentation concerning the number of Chrysler vehicles that were part of the buyback programs for the years 1996 through 2000.
7. Any records, memoranda or other documentation concerning any committee that studied lemons, buy backs, and/or governmental investigations since January 1, 1990.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant Chrysler's Motion for Protective Order for discovery materials is DENIED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant Chrysler's Motion to Stay Discovery is DENIED.

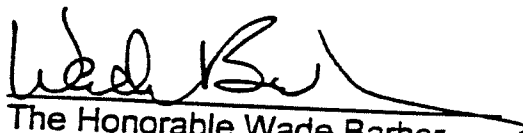
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant Chrysler's Motion for Reconsideration is DENIED, except that the Court has stricken the terms "multiple sanctions" from its Sanctions Order.

The Court has refrained from ruling on Plaintiffs' Motion for Sanctions dated November 22, 2000 and Plaintiffs' Motion for Sanctions dated November 29, 2000, without prejudice, for the Plaintiffs' to re-file as they deem appropriate.

The parties have stipulated through counsel that the Court may render this Order out-of-session, out-of-term, and out-of-County.

Entered in open court on November 29th, 2000.

Signed this 9th day of January, 2001.


The Honorable Wade Barber

Vehicle Buyback Summary
2000 Calendar Year to Date December 2000
(000s)

| | 2000 | | TOTAL |
|--|-------------------|------------------|--------------------|
| | NON-LEGAL | LEGAL | |
| 1. Vehicles Bought Back to Date | 9,583 | 935 | 10,518 |
| 2. Cost of Vehicles Bought Back to Date | \$251,746.0 | \$27,052.0 | \$278,798.0 |
| 3. Impact on Income Statement | | | |
| - Vehicles disposed of at auction (Recovery) | | | |
| Dollar value of vehicles bought back | \$266,522 | \$29,716 | \$296,238 |
| Less revenue from auction | \$169,945 | \$14,799 | \$184,744 |
| Net Expense/(Revenue from Sale) | <u>\$96,577</u> | <u>\$14,917</u> | <u>\$111,494</u> |
| - Vehicles scrapped | | | |
| Dollar value of vehicles bought back | \$5,557 | \$1,194 | \$6,751 |
| Less revenue | \$1,042 | \$183 | \$1,225 |
| Net Expense/(Revenue from Sale) | <u>\$4,515</u> | <u>\$1,011</u> | <u>\$5,326</u> |
| - Vehicles donated | \$913 | \$216 | \$1,129 |
| Total | <u>\$102,005</u> | <u>\$16,144</u> | <u>\$118,149</u> |
| Average per Vehicle Impact | \$9.73 | \$14.88 | \$10.21 |
| 4. Inventory Status | | | |
| Units | | | |
| Inventory at 12/31/99 | 3,667 | 444 | 4,111 |
| +2000 CY Buybacks to date | 9,583 | 935 | 10,518 |
| - Less vehicles sold at auction | 10,174 | 1,035 | 11,209 |
| - Less vehicles scrapped | 278 | 45 | 323 |
| - Less vehicles donated | 35 | 5 | 40 |
| Total | <u>2,763</u> | <u>294</u> | <u>3,057</u> |
| Cost | | | |
| Inventory at 12/31/99 | \$93,205.0 | \$12,208.0 | \$105,413.0 |
| +2000 CY Buybacks to date | 251,746.0 | 27,052.0 | 278,798.0 |
| - Inventory Cost of Vehicles sold at auction | 266,522.0 | 29,716.0 | 296,238.0 |
| - Inventory Cost Vehicles scrapped | 5,557.0 | 1,194.0 | 6,751.0 |
| - inventory Cost Vehicles donated | 913.0 | 216.0 | 1,129.0 |
| Inventory @ 12/31/00 | <u>\$71,959.0</u> | <u>\$8,134.0</u> | <u>\$80,093.0</u> |
| Average per Vehicle Cost | \$26.044 | \$27.667 | \$26.200 |
| Certificates / Cost / Avg. Cost | 299 | \$302.7 | \$2.685 |

Buyback Conditions

| Model Year | Production Volume | Calendar Year | | | | | |
|-----------------------------------|-------------------|---------------|---------------|----------------|----------------|----------------|----------------|
| | | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
| 2000 | 2,825,946 | | | | | | |
| 1999 | 2,504,373 | | | | | | |
| 1998 | 2,423,655 | | | | | | 69 |
| 1997 | 2,353,075 | | | | | 38 | 1,775 |
| 1996 | 2,450,390 | | | | 229 | 3,446 | 4,155 |
| 1995 | 2,167,128 | | | 107 | 2,100 | 3,918 | 2,282 |
| 1994 | 2,161,064 | | 110 | 2,503 | 3,140 | 1,582 | 514 |
| 1993 | 1,954,446 | 26 | 1,105 | 1,846 | 1,140 | 314 | 109 |
| 1992 | 1,565,064 | 965 | 1,394 | 613 | 260 | 113 | 35 |
| 1991 | 1,482,912 | 1,081 | 492 | 213 | 75 | 45 | |
| Other | | 689 | 237 | 97 | 80 | | |
| | | 681 | 298 | 141 | 55 | 100 | 53 |
| Total | | 3,442 | 3,636 | 5,520 | 7,079 | 9,556 | 8,992 |
| Average Buyback | | \$14.0 | \$19.6 | \$20.6 | \$22.0 | \$23.0 | \$23.6 |
| Total Outlays (\$Mils) | | \$48.2 | \$71.3 | \$113.7 | \$155.7 | \$219.0 | \$212.2 |
| Average Recovery | | 67.0% | 69.0% | 67.0% | 68.0% | 65.0% | 63.8% |
| Net Total Outlays (\$Mils) | | \$15.9 | \$22.1 | \$37.5 | \$49.8 | \$76.9 | \$76.8 |

Vehicle Buyback Summary
1999 Calendar Year to Date December 1999
(000s)

| | 1999 | | TOTAL |
|--|-------------------|-------------------|--------------------|
| | NON-LEGAL | LEGAL | |
| 1. Vehicles Bought Back to Date | 8,120 | 1,156 | 9,276 |
| 2. Cost of Vehicles Bought Back to Date | \$204,230.0 | \$31,756.0 | \$235,986.0 |
| 3. Impact on Income Statement | | | |
| - Vehicles disposed of at auction (Recovery) | | | |
| Dollar value of vehicles bought back | \$145,068 | \$26,856 | \$171,924 |
| Less revenue from auction | \$98,575 | \$14,164 | \$112,739 |
| Net Expense/(Revenue from Sale) | <u>\$46,493</u> | <u>\$12,692</u> | <u>\$59,185</u> |
| - Vehicles scrapped | | | |
| Dollar value of vehicles bought back | \$6,738 | \$1,258 | \$7,996 |
| Less revenue | \$1,252 | \$192 | \$1,444 |
| Net Expense/(Revenue from Sale) | <u>\$5,486</u> | <u>\$1,066</u> | <u>\$6,552</u> |
| - Vehicles donated | \$1,744 | \$143 | \$1,887 |
| Total | <u>\$53,723</u> | <u>\$13,901</u> | <u>\$67,624</u> |
| Average per Vehicle Impact | \$8.57 | \$13.26 | \$9.25 |
| 4. Inventory Status | | | |
| Units | | | |
| Inventory at 12/31/98 | 1,813 | 336 | 2,149 |
| +1999 Buybacks to date | 8,120 | 1,156 | 9,276 |
| - Less vehicles sold at auction | 5,359 | 988 | 6,347 |
| - Less vehicles scrapped | 335 | 55 | 390 |
| - Less vehicles donated | 72 | 5 | 77 |
| Total | <u>3,567</u> | <u>444</u> | <u>4,111</u> |
| Cost | | | |
| Inventory at 12/31/98 | \$42,525.0 | \$8,709.0 | \$51,234.0 |
| +1999 Buybacks to date | 204,230.0 | 31,756.0 | 235,986.0 |
| - Inventory Cost of Vehicles sold at auction | 145,068.0 | 26,856.0 | 171,924.0 |
| - Inventory Cost Vehicles scrapped | 6,738.0 | 1,258.0 | 7,996.0 |
| - Inventory Cost Vehicles donated | 1,744.0 | 143.0 | 1,887.0 |
| Inventory @ 12/31/99 | <u>\$93,205.0</u> | <u>\$12,208.0</u> | <u>\$105,413.0</u> |
| Average per Vehicle Cost | \$25.417 | \$27.495 | \$25.642 |
| Certificates / Cost / Avg. Cost | 1,903 | \$4,948.0 | \$2.500 |