

Exhibit 4

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ROBERT LUBITZ, ET AL.

Plaintiffs

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION BERGEN COUNTY

DOCKET NO. BER-L-4883-04

vs.

Civil Action

DAIMLER CHRYSLER CORP.

Defendant

OBJECTION TO PROPOSED SETTLEMENT
& APPLICATION FOR ATTORNEYS FEES

To The Honorable Judge:

Comes Now Cynthia Balsler ("Objector"), and files this Objection to the Proposed Settlement and Objection to Application for Attorneys' Fees, and Notice of Appearance of Counsel, and would show as follows:

1. Specific information required in the notice

1.1 The name of this lawsuit is *Lubitz, et al. v. DaimlerChrysler Corp.*, Case No. BER-L-4883-04.

1.2 Objector's full name and current address are: Cynthia B. Balsler, 37521 Eagle Nest Drive, Grafton, Ohio, 44044.

1.3 I currently own a 2002 Jeep Grand Cherokee. To the best of my knowledge, I have incurred out-of-pocket expenses to correct a problem with pulsation of the front disc brakes.

1.4 The Vehicle Identification Number of my vehicle is 1J4FA59S62P776386.

1.5 The specific reasons for my objection are stated below.

1.6 All evidence and supporting papers I want the Court to consider are contained in this document or the Court's file in this case. I may also rely on any evidence, testimony, and pleadings offered by the settling parties at the final fairness hearing.

1.7 My signature:


Cynthia B. Balsor, Objector

1.8 The date of my signature is September 4, 2006.

1.9 Counsel Gary E. Stern hereby provides the parties and their counsel with this Notice of Appearance as Local Counsel for Jeffrey L. Weinstein P.C., attorney for Objector. Jeffrey Weinstein will also be appearing as counsel for objector, contingent on the Court's granting of a motion to admit him pro hac vice. Counsel for Objector will appear in person and desires to be heard on this objection on behalf of Objector at the final fairness hearing.

2. Objector Asserts Her Party Status

Objector hereby asserts her status as a party to this proceeding under the U.S. Supreme Court's opinion in *Devlin v. Scardelletti*, 536 US 1 (2002). Objector asserts her rights as a party for all purposes, including, but not limited to, the right to: object to the settlement, appeal a decision approving the settlement, receive notice of all hearings, receive copies of all filings by the Settling Parties, and participate as a party at all hearings and conferences with the Court in this case.

3. Objections to Settlement

3.1. The settlement is not fair, reasonable, or adequate, and Objector objects to the settlement because for the large majority of the class, there is no consideration for the release of liability. The class is defined as "all persons in the United States who bought or leased a Jeep Grand Cherokee vehicle, model years 1999-2004, between May 1, 1998 and the present, excluding fleet and governmental purchasers and lessees." Thus, there are two categories of class members: (1) those who "experienced pulsation during application of the brakes in his/her vehicle" and (2) those who did not.

Those class members who did not experience pulsation during application of the brakes in their vehicle receive NO benefits under the settlement. Yet, they are required to release DaimlerChrysler from liability. Therefore, there is no consideration under the settlement for the release of liability.

The 1999-2002 Model Year subclass receives only one type of potential relief under the settlement: reimbursement of expenses incurred *only for* repair expenses "performed for reasons relating to disc thickness variation resulting in pulsation during application of the

brakes.” Thus, a class member who did not have a repair for reasons relating to disc thickness variation resulting in pulsation during application of the brakes receives NO benefits under this settlement. Yet, DaimlerChrysler receives the benefit of a release of liability.

The 2003-2004 Model Year Extended Warranty and 2003-2004 Model Year subclasses receive a free inspection and possible repair *only if* the class member is “experiencing pulsation during application of the brakes in his/her vehicle.” Thus, a class member who did not experience pulsation during application of the brakes in his/her vehicle receives NO benefits under this settlement. Yet, DaimlerChrysler receives the benefit of a release of liability.

Class members who did not incur this problem should not have to release any rights, for a variety of reasons. First, there is no consideration for the release. The settlement agreement is a contract and must be supported by consideration to be enforceable. Since there is no consideration as to class members who have not experienced pulsation, the agreement is unenforceable as to them. Second, the release cuts off any claim these class members may have in the future. Statutes of limitation are tolled during the pendency of a class action in most states, so many such claims would still be viable. Regardless of the strength of those possible future claims, there it is unfair and unreasonable to cut off those class members’ rights without getting anything in return. Third, class members would run the risk that the release may be construed as broader than this specific problem. For instance, if they raised another brake problem with DaimlerChrysler, the class members could be faced with additional litigation costs and potential losses arguing over whether this release applied to that particular issue. Given the breadth of the release, discussed below, there is a good chance that they will lose their rights regarding other brake problems.

The bottom line for class members who have not experienced pulsation problems with their brakes is that *they undeniably and unequivocally come out worse off under this settlement than if there were no settlement or lawsuit*. Regardless of the existence or strength of any claims they may have against DaimlerChrysler, they are losing *something* by the release. Yet, they get absolutely *nothing* in return. This complete lack of consideration renders this settlement unfair, unreasonable, and inadequate as a matter of law.

3.2. The settlement is not fair, reasonable, or adequate, and Objector objects to the settlement because for the claim procedure is excessively onerous. For those class members who did suffer damages as a result of the pulsating brake problem, the hurdles in the claim process make it almost impossible for them to obtain relief. The burden on the 1999-2002 Model Year subclass is particularly onerous. Among the requirements for relief are the following.

Requirement (e) provides:

(e) when the repair was performed for reasons relating to disc thickness variation resulting in pulsation during application of the brakes, as shown by (1) a valid receipt for the costs of repair showing both that the repairs were performed within the Warranty Period and that the repairs were performed because of disc thickness variation resulting in pulsation during application of the brakes, or (2) a valid receipt for the costs of repair showing that the repairs were performed within the Warranty Period and a statement signed by the person or company that performed the

repairs stating that the repairs were performed because of disc thickness variation resulting in pulsation during application of the brakes;

Repair tickets usually list what work was performed, not the reason for the repairs. Thus, many class members who had covered repairs will not have a receipt that states that the repairs were performed because of disc thickness variation resulting in pulsation during application of the brakes. Their only other alternative is to go to the shop and get a statement from the repair person. It is highly unlikely that the person who repaired the brakes will (1) still be working there and (2) remember the cause for a brake problem on a car several years ago. Thus, almost none of this subclass will be able to satisfy the claim requirement. As a result of the settlement they will lose their rights for a recognized problem and receive nothing in return.

For those few class members able to satisfy Requirement (e), Requirement (g) will most likely be an insurmountable hurdle:

(g) where the Settlement Class member contacted DaimlerChrysler about the brakes of the vehicle while it was within the Warranty Period, which must be confirmed by a proof of contact provided by the Settlement Class member or in DaimlerChrysler's customer records.

The "proof" required, apparently, does not include the testimony of the class member. Most consumers would have made a call, so their only possible "proof" under the settlement is in DaimlerChrysler's customer records. *But class members have no access to those records and cannot state under oath what the contents are of DaimlerChrysler's records.* Few class members will be able to overcome this hurdle.

3.3. The settlement is not fair, reasonable, or adequate, and Objector objects to the settlement because the release is too broad. Although the lawsuit was only about brake problems "relating to disc thickness variation resulting in pulsation during application of the brakes," the release appears to cover *all* brake problems, except for personal injury, wrongful death, and property damage claims. Thus a class member who has a claim against DaimlerChrysler for defective brakes based on some other defect will lose all rights under this settlement.

3.4. The settlement is not fair, reasonable, or adequate, and Objector objects to the settlement and the application for attorneys' fees, because the proposed fees are excessive. The amount of the proposed attorneys' fees is an integral element in determining whether the settlement is fair, reasonable, and adequate. The proposed fees are excessive in relation to the benefits being provided to the class. The Court should deny the request.

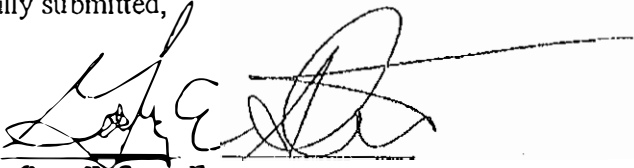
The class counsel fees here are particularly objectionable because for the vast majority of the class they lose rights and receive nothing in return. Thus, class counsel has placed them in a worse economic situation than if there had been no lawsuit and settlement. Class counsel should not be rewarded for economically damaging the very people they are supposed to represent.

Class counsel should be paid only a percentage of the benefits actually received by the class members. In the Federal "Class Action Fairness Act of 2005" Congress found that to be fair, reasonable, and adequate, a coupon settlement should limit attorneys fees to a percentage of the

coupons actually redeemed. The goal was to ensure that class counsel are only paid for the actual benefits they bring to the class. Thus, if they agreed to a settlement that provides no benefits or makes benefits too difficult to obtain, they should earn a fee only based on the actual benefits the class obtains. In this case, class counsel should only be paid a percentage of the actual amounts reimbursed to class members, the fair market value of the inspections actually made (since only class members with pulsation problems are entitled to inspections), and the fair market value of any repairs made "without charge" to the class member.

Wherefore, Objector prays that the Court disapprove the proposed settlement, deny the application for attorneys' fees, grant Objectors party status in this proceeding, and grant Objector such other and further relief as to which she may be entitled.

Respectfully submitted,

By: 
Gary E. Stern Esq.

On behalf of:
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ATTORNEYS FOR OBJECTOR

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by ordinary mail to the following persons on September 5, 2006:

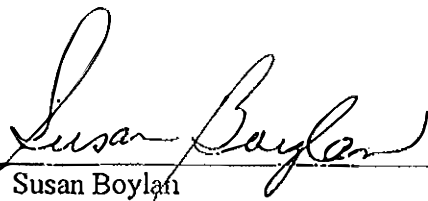
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Susan Boylan

September 5, 2006
Hackensack, NJ