

# *Ford/Chrysler/GMAC/NMAC/Toyota Consumer Finance Discrimination Litigation*

**COURT:** Multiple Jurisdictions

Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") has been prosecuting several credit discrimination class action cases alleging that the lending practices of captive automobile financing companies, including Ford Motor Credit Company ("Ford Credit"), DaimlerChrysler Services North America LLC ("DaimlerChrysler," formerly known as Chrysler Financial Company), General Motors Acceptance Corp ("GMAC"), Nissan Motor Acceptance Corp ("NMAC"), and Toyota Motor Credit Company ("Toyota") cause minority car buyers to pay millions of dollars more for car loans than similarly situated white buyers. At issue is a discriminatory credit pricing system under which minorities typically pay as much as 50% more in dealer "mark-up" (non-risk based discretionary finance charges) which is then shared by auto dealers with the defendants. Plaintiffs allege that these discriminatory mark-ups violate the Equal Credit Opportunity Act because they result in African-Americans and Hispanics being charged mark-ups more frequently and in larger amounts than similarly situated white customers.

As detailed below, historic settlements have already been approved with Toyota, Ford Credit, DaimlerChrysler, GMAC and NMAC.

## **Court Approves Settlement of Credit Discrimination Class Action Against Toyota**

On November 6, 2006, the United States District Court for the Central District of California granted final approval of the settlement of BLB&G's case against Toyota. Under the Settlement Agreement, Toyota agreed to limit the amount of mark-up on certain automobiles for the next three years with a cap of 2.50% on loans for terms of sixty (60) months or less; 2.00% on loans for terms of sixty-one (61) to seventy-one (71) months; and 1.75% on loans for terms of seventy-two (72) months or more. In addition, Toyota agreed to: (i) disclose to consumers that loan rates are negotiable and can be negotiated with the dealer; (ii) fund consumer education and assistance programs directed to African-American and Hispanic communities which will help consumers with respect to credit financing; (iii) offer 850,000 pre-approved, no mark-up offers of credit to African-Americans and Hispanics over the next five years; and offer a certificate of credit or cash to eligible class members.

## **Court Approves Settlement of Credit Discrimination Class Action Against Ford Credit**

On June 1, 2006, the United States District Court for the Southern District of New York granted final approval of the settlement in this class action lawsuit. Under the terms of the settlement, Ford Credit agreed to make contract disclosures in the forms it creates and distributes to dealerships informing consumers that the customer's Annual Percentage Rate ("APR") may be negotiated and that sellers may assign their contracts and retain their right to receive a portion of the finance charge. Ford Credit also agreed to: (i) maintain or lower its present maximum differential between the customer APR and Ford Credit's "Buy Rate"; (ii) to contribute \$2 million toward certain consumer education and assistance programs; and (iii) to fund a Diversity Marketing Initiative offering 2,000,000 pre-approved firm offers of credit to African American and Hispanic Class Members during the next three years. Please see above URL for the full text of the Settlement Agreement.

## **Court Approves Settlement of Credit Discrimination Class Action Against DaimlerChrysler**

On October 19, 2005, the United States District Court for the District of New Jersey granted final approval of the settlement of BLB&G's case against DaimlerChrysler. Under the Settlement Agreement, DaimlerChrysler agreed to implement substantial changes to the Company's practices, including limiting the maximum amount of mark-up dealers may charge customers to between 1.25% and 2.5% depending upon the length of the customer's loan. In addition, the Company agreed to (i) include disclosures on its contract forms that the consumer can negotiate the interest rate with the dealer and that DaimlerChrysler may share the finance charges with the dealer, (ii) send out 875,000 pre-approved credit offers of no-mark-up loans to African-American and Hispanic consumers over the next several years, and (iii) contribute \$1.8 million to provide consumer education and assistance programs on credit financing. Class members will retain any rights they may have to pursue individual claims for monetary relief. Please see above URL for the full text of the Settlement Agreement.

### **Court Approves Settlement of Credit Discrimination Class Action Against GMAC**

In another major victory for African-American and Hispanic car buyers, on March 29, 2004, the United States District Court for the Middle District of Tennessee granted final approval of this six year old class action lawsuit.

In the settlement, GMAC agreed to take the historic step of imposing a 2.5% markup cap on loans with terms up to sixty months, and a cap of 2% on extended term loans. GMAC also agreed to institute a substantial credit pre-approval program designed to provide special financing rates to minority car buyers with special rate financing. The pre-approval credit program follows the example laid down in the successful program that NMAC is currently implementing. The GMAC program will extend to African-American and Hispanic customers throughout the United States and will offer no less than 1.25 million qualified applicants "no markup" loans over a period of five years. In addition, GMAC further agreed to (i) change its financing contract forms to disclose that the customer's annual percentage interest rate may be negotiable and that the dealer may retain a portion of the finance charge paid by the customer to GMAC, and (ii) to contribute \$1.6 million toward programs aimed at educating and assisting consumers. The full text of the Settlement Agreement is available for review at the National Consumer Law Website.

### **Court Approves Settlement of Credit Discrimination Class Action Against NMAC**

On March 27, 2003, the United States District Court for the Middle District of Tennessee granted final approval of the settlement of the class action against NMAC. Under the terms of the settlement, NMAC agreed to offer pre-approved loans to hundreds of thousands of current and potential African-American and Hispanic NMAC customers, and will limit how much it raises the interest charged to car buyers above the Company's minimum acceptable rate. The company will also contribute \$1 million to America Saves, to develop a car financing literacy program targeted toward minority consumers. The settlement also provides for the payment of \$5,000 to \$20,000 to the 10 people named in the class-action lawsuit. Other car buyers wishing to recover damages are still be able to sue NMAC separately. The full text of the Settlement Agreement is available for review at the National Consumer Law Website.

BLB&G continues to actively investigate the practices of other automobile finance companies. If you are a minority that may have been a victim of this practice, please contact us via email by clicking on [blbg@blbglaw.com](mailto:blbg@blbglaw.com) or by calling BLB&G partner Jerry Silk at (800) 380-8496.