

JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306
Corinne Ball
Veerle Roovers

JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
David G. Heiman

JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309
Jeffrey B. Ellman

Proposed Attorneys for Debtors
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)
Debtors. : (Jointly Administered)
-----x

**MOTION OF DEBTORS AND DEBTORS IN POSSESSION,
PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY
CODE, FOR AN ORDER (A) AUTHORIZING THE DEBTORS TO (I) CONTINUE
THEIR EXISTING WORKERS' COMPENSATION PROGRAMS AND (II) PAY
CERTAIN PREPETITION WORKERS' COMPENSATION PREMIUMS, CLAIMS
AND RELATED EXPENSES; AND (B) GRANTING CERTAIN RELATED RELIEF**

TO THE HONORABLE
UNITED STATES BANKRUPTCY JUDGE:

Chrysler LLC ("Chrysler") and 24 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession (collectively with Chrysler, the "Debtors"), respectfully represent as follows:

Background

1. On the date hereof (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors and their nondebtor direct and indirect subsidiaries (collectively, the "Chrysler Companies") comprise one of the world's largest manufacturers and distributors of automobiles and other vehicles, together with related parts and accessories. On the Petition Date, the Chrysler Companies employed approximately 55,000 hourly and salaried employees worldwide, 70% of whom were based in the United States. In addition, as of the Petition Date, the Debtors made payments for health care and related benefits to more than 105,000 retirees.

4. Chrysler's ultimate parent company, Chrysler Holding LLC ("Chrysler Parent"), also owns a financing company, nondebtor Chrysler Financial Services Americas LLC ("Chrysler Financial"), that operates under a governance structure separate from Chrysler, with

its own board and management. Historically, Chrysler Financial has provided financing to both Chrysler's dealers and consumers.

5. For the twelve months ended December 31, 2008, the Chrysler Companies recorded revenue of more than \$48.4 billion and had assets of approximately \$39.3 billion and liabilities totaling \$55.2 billion.

6. A more detailed explanation of Chrysler's businesses and operations, and the events leading to the commencement of these cases, can be found in the Affidavit of Ronald E. Kolka, which was filed contemporaneously herewith and is incorporated herein by reference.

Overview of These Cases

7. The significance of this chapter 11 filing to Chrysler and to the United States economy is difficult to overstate. In connection with the filing, Chrysler is seeking approval from this Court to consummate the only sale transaction that preserves some portion of its business as a going concern and averts a liquidation of historic proportions. If the proposed transaction, designed to effect an alliance with Italian automobile manufacturer Fiat S.p.A. ("Fiat"), is rejected and Chrysler liquidates, it will mean the end of an iconic, 83-year-old American car company whose name has been synonymous with innovative engineering, from the Slant-Six and HEMI engines, to power windows, power brakes and power steering, to the minivan. A liquidation would also have impacts on the nation's economy and Chrysler's stakeholders that are grim:

- 38,500 hourly and salaried Chrysler workers in the U.S. will lose their jobs;
- Chrysler's workers and retirees and their surviving spouses will lose over \$9.8 billion of health care and other benefits and \$2 billion in annual pension payments;

- All 23 of Chrysler's manufacturing plants and facilities and 15 parts depots in the United States will shut down (as well as 18 additional plants and parts depots worldwide);
- Approximately 3,200 Chrysler dealers will be put out of business and the over 140,000 employees of those dealerships will lose their jobs;
- Over \$5.7 billion in outstanding auto parts and service supplier invoices will not be paid to Chrysler's suppliers and new business will be cancelled, forcing hundreds of suppliers out of business and the loss of hundreds of thousands of additional jobs;
- Over 31 million Chrysler, Jeep and Dodge owners would lose significant value in their cars and trucks, particularly due to questions about the ongoing availability of warranties and replacement parts and services;
- Local, state and federal governments will lose tens of billions of dollars in tax revenues, according to a research memorandum published by the Center for Automotive Research in November 2008;¹
- Over \$100 billion in annual sales will disappear from local economies; and
- Chrysler's first lien secured creditors will receive net present value recoveries of less than 38 cents on the dollar and possibly as little as 9 cents; the U.S. government, another secured creditor, will receive less than that; and Chrysler's unsecured creditors will receive nothing.

8. The economic and market conditions that led to the commencement of Chrysler's chapter 11 cases and the need for the proposed sale transaction are well known, but sobering nonetheless. The automotive market meltdown, the worst in at least 26 years,² disrupted Chrysler's substantial progress in implementing a long-term plan to reduce costs and transform its businesses for the next generation of cars. With sales plummeting and credit markets frozen, Chrysler undertook an intense effort to address the challenges it faced. After months of hard work and dedication by Chrysler's management, employees and advisors,

¹ Daniel Cole, *et al.*, Center for Automotive Research Memorandum, *The Impact on the U.S. Economy of a Major Contraction of the Detroit Three Automakers*, at <http://www.cargroup.org> (Nov 4, 2008).

² Chris Isidore, *Auto Sales Are Worst in 26 Years. January Sales Tumble More Than Expected at GM, Ford and Toyota as Rental Car Companies Slash Purchases*, CNNMoney.com, Feb. 3, 2009 (4:22 p.m., ET).

working with all key stakeholders and with the support of the U.S. government, the Debtors have commenced these cases to implement a prompt sale to preserve the going concern value of their businesses and return these businesses to viability under new ownership.

9. The proposed sale transaction would create the sixth-largest global automaker by volume unit, increasing competitiveness with other Original Equipment Manufacturers ("OEMs") and creating billions of dollars in synergies. This transaction is the result of thousands of hours of negotiations among multiple parties. The transaction is being financially backed by the United States Department of the Treasury (the "U.S. Treasury") and Export Development Canada, an affiliate of the Canadian government, which together will provide the new alliance with approximately \$6 billion of taxpayer money to start up and maintain operations. In addition to this unprecedented government support, virtually all of the major constituencies that would be affected by a Chrysler liquidation have recognized how devastating it would be and have made important concessions in support of the proposed alliance:

- The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the "UAW") has agreed to wage and benefit reductions in the context of a sale to the new company, which would receive the benefit of a new collective bargaining agreement eliminating certain severance benefits, and would be a party to an agreement with the UAW containing restructured retiree health care benefits;
- Chrysler's dealers have agreed to reduce their dealer and service contract margins;
- Chrysler's already financially troubled suppliers have agreed to a further 3% price reduction and other measures that will save millions of dollars;
- Chrysler's largest secured creditors, JPMorgan Chase, Goldman Sachs, Morgan Stanley and Citigroup, have agreed to the transaction that would substantially compromise their first lien debt, comprising 70% of the \$6.9 billion total outstanding, for an estimated recovery of approximately 28 cents on the dollar; and

- Chrysler Parent's minority shareholder, Daimler AG ("Daimler"), has agreed as part of a settlement with Chrysler to (a) forgive \$1.5 billion of second lien debt, at the same time that \$500 million of second lien debt is forgiven by majority shareholder Cerberus Capital Management L.P. ("Cerberus"); and (b) assist in funding Chrysler's pension plans.

Representatives of these constituencies have devoted the past six months to reaching these agreements.

10. As the culmination of these efforts, Chrysler, Fiat and New Chrysler (as defined below) have reached an agreement in principle and are expected to enter into a Master Transaction Agreement (collectively with other ancillary and supporting documents, the "Purchase Agreement") in short order. Pursuant to the Purchase Agreement, among other things: (a) Chrysler will transfer the majority of its operating assets to New CarCo Acquisition LLC ("New Chrysler"), a newly established Delaware limited liability company that currently is an indirect wholly-owned subsidiary of Fiat; and (b) in exchange for those assets, New Chrysler will assume certain liabilities of Chrysler and pay to Chrysler \$2 billion in cash (collectively with the other transactions contemplated by the Purchase Agreement, the "Fiat Transaction").

11. With the support of the U.S. government, Fiat, the UAW, dealers, suppliers and other stakeholders, the Debtors commenced these cases to implement an expeditious sale process to implement the Fiat Transaction, or a similar transaction with a competing bidder, designed to maximize the value of the Debtors' operations and businesses for the benefit of their stakeholders. Pending the proposed sale, the Debtors will idle most operations as they conserve their resources, while at the same time ensuring that (a) the facilities are prepared to resume normal production schedules quickly upon the completion of a sale and (b) consumers are not impacted by the filing.

12. Time is of the essence. Given the continuing stress on all aspects of the automotive industry and the idling of the Debtors' manufacturing facilities, key relationships

with suppliers, dealers and other business partners simply cannot be preserved if the sale process is not concluded quickly. Absent a prompt sale, approved and consummated in the coming weeks, the value of the Debtors' assets will rapidly decline and the ability to achieve a going concern sale will be irretrievably lost. By contrast, the proposed sale transaction, if it can be promptly consummated, will maximize the value available for stakeholders, will save hundreds of thousands of jobs and will strengthen the U.S. automotive sector and the economy generally.

Jurisdiction

13. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

14. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors hereby seek the entry of an order: (a) authorizing the Debtors, in the Debtors' sole discretion, to (i) continue their existing workers' compensation programs and (ii) pay certain prepetition workers' compensation premiums, claims and related expenses; and (b) granting certain related relief.

Facts Relevant to This Motion

15. The Debtors maintain workers' compensation coverage for employees in all 50 states.

Self-Insured Programs

16. The Debtors currently operate as self-insured employers in five states: Illinois, Indiana, Michigan, Missouri and Ohio (collectively, the "Self-Insured States").³ As a

³ The Debtors previously operated as self-insured employers in Alabama, California, Delaware and New York.

result, the Debtors maintain self-insured workers' compensation programs (collectively, the "Self-Insured Programs") under which the Debtors pay applicable workers' compensation claims and employer liability claims (collectively, the "Self-Insured Claims") as these claims arise, up to a maximum of \$5 million per claimant (the "Self-Insured Maximum") depending on the Self-Insured State.

17. The Debtors maintain excess workers' compensation and employer liability insurance with American International Group or certain of its subsidiaries (collectively, "AIG") for Self-Insured Claims exceeding the Self-Insured Maximum. The Debtors pay an annual premium that is adjusted retroactively based on the Debtors' final audited payroll for the applicable coverage period (the "Self-Insured Excess Premium"). With the exception of any retroactive adjustment, no Self-Insured Excess Premiums were due as of the Petition Date.

18. Certain of the Self-Insured States have required the Debtors to post various forms of collateral as security for the Debtors' obligations to pay the Self-Insured Claims in these jurisdictions. The Debtors' obligations under the Self-Insured Programs are secured by a combination of letters of credit (each, an "LOC") and surety bonds totaling approximately \$88.2 million.⁴ In addition, certain of the Self-Insured States have required nondebtor affiliate Chrysler Holding LLC, Chrysler's ultimate parent, to guaranty the Debtors' obligations under the Self-Insured Programs.

⁴ The Debtors have indemnity obligations to the surety providers and issuers of the LOCs. The Debtors also have deposited cash with the banks issuing the LOCs equal to 108% of the value of the LOCs. These cash collateralized LOCs provided to AIG apply to both Self-Insured Programs and Insured Programs (as defined below).

19. Based on historical experience, the Debtors estimate that the aggregate amount of Self-Insured Claims accrued but not yet paid as of the Petition Date (collectively, the "Prepetition Self-Insured Claims") was approximately \$208.4 million.⁵

Insured Programs

20. The Debtors maintain a high-deductible workers' compensation program and an employers' liability insurance program (collectively with insured programs previously maintained by the Debtors, the "Insured Programs")⁶ with AIG covering all states except the Self-Insured States and the Monopolistic States (as defined below) (collectively, the "Insured States").

21. Under the Insured Programs: (a) insurance coverage is provided by AIG in the Insured States in excess of \$850,000 for (i) workers' compensation claims in amounts required under applicable law and (ii) employer liability claims up to \$5 million per accident; and (b) the Debtors are obligated to (i) pay a semi-annual premium, which is adjusted retroactively based on the Debtors' final audited payroll for the coverage period (the "Insured Premium"),⁷ and (ii) reimburse Sedgwick Claims Management Services, Inc. ("Sedgwick"), the Debtors' third party claims processor, up to \$850,000 per claim for the loss payments in respect of coverage deductibles for both workers' compensation claims and employer liability claims (collectively with similar claims owed to prior insurers, the "Insured Claims"), in accordance with the terms of the Insured Program.

⁵ This estimate includes \$23.9 million of previously accrued but unpaid Self-Insured Claims of former employees of DCC 929, Inc., an affiliate of the Debtors formerly known as New Venture Gear Inc., who are now employed by an affiliate of Magna International Inc.

⁶ The Debtors previously maintained Insured Programs with Liberty Mutual Insurance Company ("Liberty") and the Home Insurance Company ("Home"). To secure the Debtors' obligations under the prior Insured Programs with Liberty and Home, the Debtors have posted collateral, in the form of irrevocable LOCs, surety bonds and cash deposits for such liabilities in the aggregate amount of approximately \$24.3 million.

⁷ The current Insured Premium covers the Insured Program through October 1, 2009.

22. Based on historical experience, the Debtors estimate that the aggregate amount of Insured Claims accrued but not yet paid as of the Petition Date (collectively, the "Prepetition Insured Claims") is approximately \$17.9 million. The Debtors estimate that the Insured Claims paid by the Third Party Processors (as defined below) but not yet reimbursed by the Debtors as of the Petition Date totaled approximately \$200,000.00. With the exception of any retroactive adjustment, no Insured Premiums are due as of the Petition Date.

Funded Programs

23. In North Dakota, Wyoming, West Virginia and Washington (the "Monopolistic States"), the Debtors participate in "monopolistic"⁸ workers' compensation insurance programs (collectively, the "Funded Programs" and, together with the Self-Insured Programs and the Insured Programs, the "Workers' Compensation Programs") funded through, and administered by, the North Dakota Workforce Safety & Insurance, the Wyoming Workers' Safety and Compensation Division, the West Virginia Workers' Compensation Commission and the Washington Department of Labor & Industries (collectively, the "State Administrators").

24. Under the Funded Programs, the Debtors pay certain premiums (collectively, the "Funded Premiums" and, together with the Prepetition Self-Insured Claims, the Self-Insured Excess Premiums, the Prepetition Insured Claims and the Insured Premiums, the "Prepetition Workers' Compensation Claims") to the State Administrators. Given the very limited number of employees covered under the Funded Programs,⁹ the Debtors estimate that the aggregate amount of Funded Premiums accrued but not yet paid as of the Petition Date is negligible, if any.

⁸ In the Monopolistic States, the Debtors are required to provide workers' compensation coverage through specific state-run insurance pools.

⁹ The Debtors estimate that, as of the Petition Date, approximately 110 employees were employed in Monopolistic States.

Prepetition Processing Costs

25. The Debtors incur certain costs incident to the Workers' Compensation Programs, such as state assessments, processing costs and accrued but unpaid prepetition charges for the administration of these programs (collectively, the "Prepetition Processing Costs"). The Debtors estimate that the aggregate amount of Prepetition Processing Costs accrued but unpaid as of the Petition Date was approximately \$1.1 million.

26. Sedgwick (together with the third party processors under the previously maintained Insured Programs,¹⁰ the "Third Party Processors") is the primary third-party processor that the Debtors rely upon to process and pay workers' compensation claims under the Self-Insured Programs and Insured Programs. Sedgwick pays claims, and its fees, by draws on a prefunded account with an average balance of approximately \$1.9 million (the "Claims Fund"). Sedgwick submits an invoice to the Debtors on a weekly basis for amounts paid from the Claims Fund and the Debtors replenish the Claims Fund accordingly.

Argument

27. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors seek authority, in their sole discretion, to (a) continue the Workers' Compensation Programs and (b) pay the Prepetition Workers' Compensation Claims, the Prepetition Processing Costs and any other amount related to the Workers' Compensation Programs, insofar as the Debtors' failure to pay these amounts, where necessary or appropriate, could adversely impact their administration of these chapter 11 cases and their ability to preserve going concern value

¹⁰ The third party administrators for the previously Insured Programs, under which certain claims remain outstanding, are Liberty (which submits invoices on a monthly basis for claims paid averaging approximately \$100,000 to \$200,000 per month), Helmsman Insurance Agency and Home.

pending completion of the Fiat Transaction or similar sale transaction (each, a "Sale Transaction").

28. Section 105(a) of the Bankruptcy Code, which codifies the equitable powers of bankruptcy courts, authorizes the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a).

29. It is well established under the "doctrine of necessity" that bankruptcy courts have the equitable power to authorize the payment of prepetition claims where such payments are necessary to preserve the value of a debtor's business or assets, thereby facilitating the chapter 11 process. See, e.g., Miltenberger v. Logansport, Crawfordsville and Southwestern Ry. Co., 106 U.S. 286, 311 (1882) (holding that "[m]any circumstances may exist which may make it necessary and indispensable to . . . the preservation of the property, for the receiver to pay pre-existing debts of certain classes out of the earnings of the receivership . . ."); see also Mich. Bureau of Workers' Disability Comp. v. Chateaugay (In re Chateaugay Corp.), 80 B.R. 279, 285-87 (S.D.N.Y. 1987) (finding that a court's equitable powers include authorizing a debtor to pay prepetition debts).

30. The bankruptcy court's exercise of its authority under the "doctrine of necessity" is appropriate to carry out specific statutory provisions of chapter 11, specifically sections 1107(a), 1108 and 363(b)(1) of the Bankruptcy Code, which authorize a debtor in possession to maintain and operate the debtor's business and use estate property outside of the ordinary course of business. Indeed, a debtor in possession has a duty to protect and preserve the value of its assets, and prepetition claims may be paid if necessary to perform the debtor's duty. See In re Tusa-Expo Holdings, Inc., No. 08-45057(DML) 2008 WL 4857954 at*3 (Bankr. N.D.

Tex. 2008) (noting the necessity of permitting the payment of prepetition employee wages, workers' compensation obligations and other similar benefits in chapter 11 bankruptcy, "notably . . . [where] employee turnover can inhibit a debtor's ability to perform its chapter 11 duties"); In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim."); In re Gulf Air, Inc., 112 B.R. 152, 154 (Bankr. W.D. La. 1989) (authorizing the debtor to pay certain prepetition employee claims for wages, health and life insurance and workers' compensation premiums). Accordingly, a bankruptcy court's exercise of its authority under section 105(a) of the Bankruptcy Code is appropriate to carry out one of the central policies underlying chapter 11: to preserve value and maximize property available to satisfy all stakeholders.

31. Moreover, recently implemented changes to the Bankruptcy Rules confirm that the Court may authorize the postpetition satisfaction of prepetition claims by reference to standards mirroring those articulated by courts with respect to the doctrine of necessity. Specifically, Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant relief regarding . . . a motion to pay all or part of a claim that arose before the filing of the petition." This rule plainly implies that, where the failure to grant any such requested relief *would* result in immediate and irreparable harm to the Debtors' estates, the Court *may* allow the Debtors to pay (prior to the twenty-first day following the Petition Date) all or part of a prepetition claim.

32. Although few court decisions have been rendered on this barely year-old rule, the "immediate and irreparable harm" standard established by Bankruptcy Rule 6003(b) appears to be essentially congruent with the "necessary and indispensable to . . . the preservation

of property" standard established by the Supreme Court in Miltenberger (as described above). See Miltenberger, 106 U.S. at 311; see also In re Frontier Airlines Holdings, Inc., No. 08-11298 (RDD) (Bankr. S.D.N.Y. Apr. 14, 2008) (finding that debtors had satisfied the standard of Bankruptcy Rule 6003(b) where "immediate relief [was] necessary to avoid irreparable harm" and ordering that the debtor could make expenditures related to certain prepetition customer obligations). Accordingly, Bankruptcy Rule 6003(b), in addition to providing independent grounds for the authorization of payment of prepetition claims, serves to complement the doctrine of necessity.

33. Here, it is critical that the Debtors be permitted, in their discretion, to continue the Workers' Compensation Programs and ensure that the Prepetition Workers' Compensation Claims described herein continue to be processed and paid in the states where they continue to engage in some level of business activity. Employers face severe remedies if they fail to comply with these requirements.¹¹ In fact, if workers' compensation coverage is not maintained as required by applicable state laws, without interruption, during periods when the Debtors are conducting business activities, (a) employees could bring lawsuits for damages; (b) the Debtors' business activities in certain states could be enjoined; (c) the Debtors' officers could be subject to criminal prosecution;¹² and (d) ultimately, the Debtors may be required to

¹¹ The Debtors arguably may be required to comply with such laws in connection with ongoing business activities consistent with 28 U.S.C. § 959(b), which provides that a debtor in possession "shall manage and operate the property in his possession . . . according to the requirements of valid laws of the State in which such property is situated."

¹² See, e.g., 19 DEL. CODE ANN. § 2386(b) (2008) (establishing, among other things, criminal liability for failure to comply with obligatory provisions of workers' compensation statutes, including the obligation to provide workers' compensation coverage where there is ongoing business activity in the state or employees perform substantial work therein); MICH. COMP. LAWS § 418.641(1) (2008) (same); OHIO REV. CODE ANN. §§ 4123.50, 4123.75-4123.79 (West 2008) (permitting employee lawsuits against noncomplying employers and certain of their officers for on-the-job injuries, providing for a deemed waiver of certain common law defenses and authorizing any complying, non-self-insuring employer to seek to enjoin the operations of any noncomplying employer); TEX. LAB. CODE ANN. § 418.001 (Vernon 2008) (establishing, among other things, criminal liability for denying workers' compensation coverage under certain circumstances).

make alternative arrangements for workers' compensation coverage to return to compliance — almost certainly at a much higher cost.

34. It is worth emphasizing, however, that the Debtors will exercise the requested authority to maintain the Workers' Compensation Programs and pay the Prepetition Workers' Compensation Claims in their discretion in accordance with their business judgment. The Debtors plan to idle their manufacturing and assembly facilities and are conserving cash as they pursue a Sale Transaction to maximize the value of the estates. It may be appropriate, and perhaps necessary, for the reasons stated above to maintain the Workers' Compensation Programs and pay the Prepetition Workers' Compensation Claims in states where the Debtors are conducting ongoing business activities to preserve their assets and prepare them for sale. By contrast, continuing these programs and paying these claims may not be necessary or appropriate in states where the Debtors no longer will be conducting any business activities.¹³ The Debtors intend to evaluate the relevant facts and circumstances, as they change over time, to determine whether to continue any particular Workers' Compensation Program or pay any particular Prepetition Workers' Compensation Claim.

35. In connection with the foregoing, the Debtors also request that they be authorized, in their sole discretion, to pay the Prepetition Processing Costs. Such payment is justified in connection with the continuation of Workers' Compensation Programs because the Third Party Processors' services are necessary to administer these programs and the Debtors' failure to pay any such amounts might disrupt the Third Party Processors' services, delay payment of workers' compensation benefits that the Debtors have determined to pay and

¹³ As noted above, the majority of the Debtors' operating assets are expected to be transferred to New Chrysler (or another purchaser) in short order. Following the sale, the purchaser will maintain its own workers' compensation programs.

undermine the Debtors' ability to comply with workers' compensation statutes in states where they continue to conduct business activities.

36. Relief similar to the relief requested herein has been granted by courts in this District, as well in chapter 11 cases in other districts. See, e.g., In re Lyondell Chem. Co., No. 09-10023 (REG) (Bankr. S.D.N.Y Jan. 26, 2009); In re Steve & Berry's Manhattan LLC, No. 08-12579 (ALG) (Bankr. S.D.N.Y. Jul. 29, 2008); In re Interep Nat'l Radio Sales, Inc., No. 08-11079 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2008); In re Dana Corp., No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 6, 2006); In re Footstar, Inc., No. 04-22350 (ASH) (Bankr. S.D.N.Y. Mar. 30, 2004); In re Loral Space & Commc'n Ltd., No. 03-41710 (RDD) (Bankr. S.D.N.Y. July 15, 2003); In re WorldCom, Inc., No. 02-13533 (AJG) (Bankr. S.D.N.Y. July 22, 2002); see also In re HQ Global Holdings, Inc., No. 02-10760 (MFW) (Bankr. D. Del. Mar. 14, 2002); In re Kaiser Aluminum Corp., No. 02-10429 (JKF) (Bankr. D. Del. Feb. 13, 2002); In re USG Corp., No. 01-02094 (RJN) (D. Del. June 27, 2001).¹⁴

**Request for Authority for Banks to Honor and Pay Checks and Funds Transfers
Related to Prepetition Workers' Compensation Claims and Prepetition Processing Costs**

37. In addition, by this Motion, the Debtors request that all applicable banks and other financial institutions be authorized and directed, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay any and all checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to, the Prepetition Workers' Compensation Claims and Prepetition Processing Costs, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments.

¹⁴ Because of the voluminous nature of these unreported orders, they are not attached to this Motion. Copies of these unreported orders will be made available to the Court at or prior to the hearing on this Motion and are available to other parties upon request from the Debtors' counsel.

The Debtors represent that these checks are drawn on identifiable disbursement accounts and can be readily identified as relating directly to the authorized payment of the Prepetition Workers' Compensation Claims and Prepetition Processing Costs. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently.

38. The Debtors represent that they have anticipated access to sufficient debtor in possession financing¹⁵ to pay all Prepetition Workers' Compensation Claims and Prepetition Processing Costs, to the extent described herein, as such amounts become due in the ordinary course of their businesses.

39. Nothing contained herein is intended or should be construed as: (a) an admission as to the amount, validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is a claim for Prepetition Workers' Compensation Claims or Prepetition Processing Costs; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

Request for Waiver of Stay

40. Pursuant to Rules 6003(b) and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Debtors seek (a) immediate entry of an order granting the relief sought herein and (b) a waiver of any stay of the effectiveness of such an order. Bankruptcy Rule 6003(b) provides, in relevant part, that

[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant relief regarding . . . a motion to pay all or part of a claim that arose before the filing of the petition.

¹⁵

Concurrently with the filing of this Motion, the Debtors have filed a motion seeking approval of up to \$4.5 billion in debtor in possession financing from the U.S. Treasury and Export Development Canada.

Fed. R. Bankr. P. 6003(b). Accordingly, where the failure to grant any such requested relief would result in immediate and irreparable harm to the Debtors' estates, the Court may allow the Debtors to pay all or part of a claim that arose before the Petition Date prior to the twenty-first day following the Petition Date. Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise."

41. For the reasons set forth above, the ability of the Debtors to pay the Prepetition Workers' Compensation Claims and Prepetition Processing Costs without delay and the continuation of the Debtors' Workers' Compensation Programs, in the Debtors' discretion, is essential to prevent immediate and potentially irreparable damage to the Debtors' ability to administer these cases and to maximize the value available to stakeholders. Accordingly, the Debtors submit that ample cause exists to justify: (a) the immediate entry of an order granting the relief sought herein pursuant to Bankruptcy Rule 6003(b); and (b) a waiver of the ten-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies.

Notice

42. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion has been given to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the creditors holding the 50 largest unsecured claims against the Debtors' estates, as identified in the Debtors' chapter 11 petitions; (c) counsel to the administrative agent for the Debtors' prepetition senior secured lenders; (d) counsel to Cerberus; (e) counsel to Daimler; (f) counsel to the UAW; and (g) counsel to the U.S. Treasury. The Debtors submit that no other or further notice need be provided.

No Prior Request

43. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that this Court: (i) enter an order substantially in the form attached hereto as Exhibit A, granting the relief sought herein; and (ii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: April 30, 2009
New York, New York

Respectfully submitted,

/s/ Corinne Ball
Corinne Ball
Veerle Roovers
JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306

David G. Heiman
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Jeffrey B. Ellman
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309

PROPOSED ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11
: Case No. 09-50002 (AJG)
Chrysler LLC, *et al.*, :
Debtors. : (Jointly Administered)
:
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**ORDER, PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE
BANKRUPTCY CODE, (A) AUTHORIZING THE DEBTORS TO (I) CONTINUE
THEIR EXISTING WORKERS' COMPENSATION PROGRAMS AND (II) PAY
CERTAIN PREPETITION WORKERS' COMPENSATION PREMIUMS, CLAIMS
AND RELATED EXPENSES; AND (B) GRANTING CERTAIN RELATED RELIEF**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code, for an Order (A) Authorizing the Debtors to (I) Continue Their Existing Workers' Compensation Programs and (II) Pay Certain Prepetition Workers' Compensation Premiums, Claims and Related Expenses; and (B) Granting Certain Related Relief (the "Motion"),¹ filed by the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"); the Court having reviewed the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court on the Motion (the "Hearing"); and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iii) notice of the Motion and the Hearing was sufficient under the circumstances, (iv) the payment of the Prepetition Workers'

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Compensation Claims and Prepetition Processing Costs and the continuation of the Workers' Compensation Programs on the terms and conditions described in the Motion is necessary and appropriate to prevent serious, and potentially irreparable, disruptions to the Debtors' efforts to administer these cases and maximize value available to stakeholders, (v) the requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Order and (vi) there is good cause to waive the ten-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the Affidavit and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Debtors are authorized, in the Debtors' sole discretion, to continue their existing Workers' Compensation Programs and take such steps as are necessary or appropriate to provide for the Prepetition Workers' Compensation Claims and Prepetition Processing Costs to be processed and paid in the ordinary course of the Debtors' businesses.
3. The Debtors' banks and other financial institutions (collectively, the "Banks") are authorized and directed, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Prepetition Workers' Compensation Claims and Prepetition Processing Costs, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that funds are available in the Debtors' accounts to cover such checks and funds transfers. The Banks are authorized to rely on the Debtors' designation of any particular check or funds transfer as approved by this Order.

4. Nothing in the Motion or this Order, nor the Debtors' payment of claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the amount, validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is a claim for Prepetition Workers' Compensation Claims and Prepetition Processing Costs; or (e) a request to assume any executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code.

5. Pursuant to Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE