

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

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THE SCO GROUP, INC.,
a Delaware corporation,

2004 AUG -6 11:25

04-056587-CK



OAKLAND JUDGE RAE LEE CHABOT
COUNTY SCO GROUP INC V DAIMLERCHR

BY:
DEPUTY COUNTY CLERK

Plaintiff,

-vs-

Case No. 04-056587-CK
Hon. Rae Lee Chabot

DAIMLERCHRYSLER
CORPORATION, a Delaware
corporation,

Defendant.

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**PLAINTIFF'S OBJECTIONS TO DEFENDANT'S
NOTICE OF SUBMISSION OF ORDER GRANTING
DEFENDANT'S MOTION
FOR SUMMARY DISPOSITION**

NOW COMES Plaintiff, SCO Group, Inc., by and through its attorneys, Seyburn, Kahn, Ginn, Bess & Serlin, P.C., and objects, pursuant to MCR 2.602(B)(3), to the Notice of Submission of the Order Granting Defendant DaimlerChrysler Corporation's Motion for Summary Disposition for the following reasons:

SEYBURN, KAHN, GINN,
BESS AND SERLIN
PROFESSIONAL CORPORATION
2000 TOWN CENTER, SUITE 1500
SOUTHFIELD, MICHIGAN 48075-1195

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1. Defendant is not entitled to submit a proposed order for entry pursuant to MCR 2.602(B) because Defendant served a copy of the proposed order more than seven (7) days after the granting of the order.

2. The proposed order does not comport with the Court's decision rendered on July 21, 2004 because:

- a. The title of the proposed order is incomplete and misleading in that the Court denied Defendant's Motion for Summary Disposition with regard to Plaintiff's claim that Defendant had breached its contract with Plaintiff by filing an untimely certification; and
- b. The proposed order references and attaches as an exhibit a transcript of the entire hearing of July 21, 2004, including the arguments of counsel. MCR 2.602(B) does not contemplate the incorporation and attachment of the entire transcript of the hearing on the motion to the proposed order in lieu of a statement of the Court's decision on the motion. It is sufficient for the order to merely reference that the Court's reasons for the decision were stated on the record at the hearing.

3. Attached hereto is a proposed Order Granting In Part And Denying In Part Defendant's Motion For Summary Disposition which comports with the Court's decision of July 21, 2004.

4. Plaintiff does not object to the entry of the proposed Order Denying Defendant DaimlerChrysler Corporation's Motion to Strike Certain Paragraphs of the Affidavit of William Broderick and Order Granting Defendant DaimlerChrysler's Corporation's Motion to Admit Mark G. Matuschak *Pro Hac Vice*.

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WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter the attached proposed Order Granting In Part And Denying In Part Defendant's Motion For Summary Disposition submitted herewith by Plaintiff.

Respectfully submitted,

**SEYBURN, KAHN, GINN,
BESS AND SERLIN, P.C.**

By: 

Barry M. Rosenbaum (P26487)
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Dated: August 5, 2004