



# NEWSLETTER

[www.dealersalliance.org](http://www.dealersalliance.org)

401 Continental Plaza, Hackensack, N.J. 07601

(201) 342-4542 FAX (201) 342-3997

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## BLUE OVAL BATTLE CONTINUES!

As many of you may already be aware from the front-page article of the February 11th issue of Automotive News, the lawsuit challenging the Blue Oval Program was dismissed by the federal district judge without prejudice. It is important to note that the dismissal was based on a procedural issue only -- **not on the merits of the case**. Apparently the attorneys and the judge had a different viewpoint as to when "actual damages" should be presented. The attorneys did not perceive presenting "actual damages" as a prerequisite to getting into federal court. The Judge disagreed. The Judge wins the argument. We will have to provide him with what he has requested in order to proceed.

Although we are disappointed at the delay, we are resolute in our position that Blue Oval Certification is a coercive, divisive Program that must be stopped. It puts all dealers at risk – large, medium and small. We cannot afford to have this Program hanging over our heads forever. It is a threat to our survival. **We will not back down.**

We cannot condone a Program that allows Ford to circumvent federal anti-trust laws and state franchise laws by squeezing dealers out of business with unlawful pricing initiatives.

We cannot allow Ford the opportunity to selectively terminate dealers through subjective decisions.

We cannot allow Ford effectively to change the Sales and Service Agreement to a one-year contract.

We cannot allow Ford to hold us hostage each year with ever-changing criteria.

We cannot allow ourselves to be bribed by the "cocaine" nor should we allow Ford to coerce us with the threat of not returning our one percent.

### IT IS AS SIMPLE AS THAT.

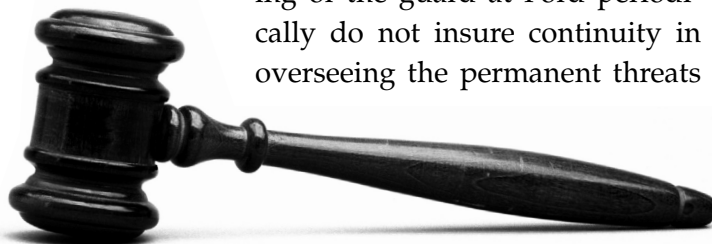
We realize that some dealers have become addicted to the cocaine of the money; however, we ask that dealers think beyond the short-term gratification and think long-range. Ford has

made it a no-brainer to achieve certification the first year. That is not by accident. In fact, dealers are beginning to find it more difficult to achieve certification the second year, especially on facility requirements.

In short, it cannot be about a short-term gain of one-percent. One percent is meaningless if you are forced out of business by this coercive Program. That is the bigger picture.

We continue to ask that the National Ford Dealer Council rescind its endorsement of the Blue Oval Certification Program and we thank those few council representatives who continue to oppose the Program. The key issues cannot be about amending Program criteria. That is like applying a band aid on a hemorrhaging wound.

In addition, the limited terms of the Council members and the changing of the guard at Ford periodically do not insure continuity in overseeing the permanent threats



of the Blue Oval Program. Besides, as we reported in our December newsletter, at a November 2001 National Dealer Council meeting, Ford Motor Company proposed another 2 percent increase in the VOC for 2003. Although 12 of 17 regions voted to have no increase in VOC scores at the regional council meetings, the National Dealers Council voted 25 to 5 to approve the increase. It is clear that the National Ford Dealer Council cannot control this Program or even vote the wishes of its constituents. We cannot count on verbal agreements. Ford can change this Program at any time. We need to work together to achieve a permanent solution to this problem.

Ford increased the price of vehicles by one percent without raising the list price. No matter how Ford spins it, collecting the one percent from the dealers effectively covers its Program costs and, as dealers are eliminated, the Program will become a profit center for Ford.

If Ford truly wants to regain dealer trust, it must do away with Blue Oval as it exists and return the one percent to the dealers. Upon doing so, if Ford feels it necessary to raise the price of the vehicles, including the list price so as not to reduce our margins, that is Ford's prerogative.

Until that time the lawsuit will go forward. The premise of the lawsuit will in no way change; in fact, an additional three dealers have joined the suit. The basis of the lawsuit is that Ford through the imposition of the Blue Oval Program has:

- a) engaged in a pattern of discriminatory pricing, qualification and benefits;**
- b) exerted control over its dealer distribution system, thereby circumventing the applicable franchise protection statutes;**
- c) unilaterally expanded Ford's rights under the dealer Agreements without formal amendment;**
- d) micromanaged the certified Ford dealerships; and/or**
- e) helped to eliminate a minority of dealers in the United States who failed, who were warned by Ford that they would fail, or who refused, to qualify under the Blue Oval Program.**

The plaintiffs will seek injunctive and declarative relief, damages, including statutory treble and other punitive damages, and costs and legal fees of suit. Again, Eric L. Chase of Bressler, Amery & Ross and Barry S. Goodman of Greenbaum, Rowe, Smith, Ravin, Davis & Himmel will represent the dealers.

For those of who may have missed it, we are including our Ad, which appeared in the January 14, 2002, issue of Automotive News.



## ILLINOIS VICTORY IN LAWSUIT CHALLENGING THE PREMIER/ADVANTAGE PROGRAMS

The Lincoln-Mercury dealers in the state of Illinois are to be congratulated on their recent victory against Ford Motor Company in their lawsuit challenging the Premier/Advantage Programs.

In July 2001, a Third Amended Complaint was filed by the Illinois Lincoln-Mercury dealers challenging the Premier/Advantage Programs in the state of Illinois. The lawsuit alleges that the Programs violate the Illinois Motor Vehicle Franchise Act because the Programs have an illegal purpose to deprive dealers of their independence as granted in the franchise agreement. In short, the lawsuit states that the Programs represent a scheme put

together by Ford Motor Company, which causes the dealers to face the unpalatable prospect of either,

- a) termination of their franchises; or**
- b) unprecedented control and supervision of their day-to-day business operations, including having their profitability hinge on the results of arbitrarily conceived customer surveys; or**
- c) paying a significantly higher price for Lincoln-Mercury motor vehicles than other competing Lincoln-Mercury dealers.**

In January 2002 the Illinois Court ruled in favor of the Lincoln-Mercury dealers against Ford's August 2001 motion of dismissal.

**AGAIN, CONGRATULATIONS ILLINOIS DEALERS.**