

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI

SHARON K. NOBLE, Individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

HEARTLAND CHEVROLET, INC.

Defendant.

Case No.: 10CY-CV09183

Division: 2

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

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**YOUR LEGAL RIGHTS MIGHT BE AFFECTED BY THIS SETTLEMENT.  
PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

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A class action settlement has been reached under which your rights may be affected. If you purchased or leased a vehicle from any dealership owned by Heartland Chevrolet, Inc. from August 10, 2005 through August 27, 2009 and you were charged a "Processing Fee" or similar fee, you may be a class member and you may be entitled to a Gift Card under the terms of a proposed Settlement.

If you are a class member and you wish to file a claim, comment on the Settlement, object to the Settlement, or exclude yourself from the Settlement, you must do so following the procedures outlined in this Notice.

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**WHAT THIS NOTICE CONTAINS**

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This Notice is to advise you of the status of the lawsuit, the terms of the proposed Settlement, and your rights in connection with the proposed Settlement. This is not a lawsuit against you. A full copy of the Settlement Agreement may be reviewed at the Settlement website: [www.heartlandchevroletsettlement.com](http://www.heartlandchevroletsettlement.com). This Notice contains only a summary of the Settlement Agreement.

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**1. Why Did I Get This Notice?**

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This Notice was sent to you because you requested a long form Notice and/or a Claim Form, either through the Settlement website or by calling the settlement's toll-free number. If you purchased or leased a vehicle from Heartland Chevrolet from August 10, 2005 through August 27, 2009 and you were charged certain fees, variously known as a "Document Preparation Fee," "Doc Prep Fee," "Document Processing Fee," "Doc Processing Fee" "Doc Fee," "Document Fee," "Processing Fees," "Customer Service Processing Fees," "Administrative Fees," "Admin Fee," "Customer Benefit Fee," "Delivery Fee" or a similarly named fee, you are a potential class member. The lawsuit was captioned *Sharon Noble v. Heartland Chevrolet, Inc.*, Case No. 10CY-CV09183.

This Class Settlement has been entered and preliminarily approved by the Court under Rule 52.08 of the Missouri Rules of Civil Procedure.

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**2. What is the Lawsuit About?**

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Plaintiff Noble alleges that Heartland Chevrolet (Defendant) violated Missouri Revised Statutes, § 408.010 et seq. (the Missouri "Practicing Law Statute") and Missouri Revised Statutes § 407.010 et seq. (the "Merchandise Practices Act"). Plaintiff alleges that Defendant violated the Practicing Law Statute and the Merchandise Practices Act by charging the Fees, referred to by various names as set forth above, for alleged unauthorized actions. Plaintiff seeks a refund of this fee as any fee charged for legal services by a non-lawyer is a violation of Missouri law. Defendant denies all claims and any liability and has vigorously defended the allegations and raised numerous defenses to the Plaintiff's claim including whether the entire fee should be considered damage without any attempt to break down the fee into components and whether the fee was for the practice of law. (In August, 2009, legislation took effect enacted by the Missouri Legislature which states that certain administrative fees are lawful and may be charged).

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**3. Why is there a Settlement?**

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The parties recognize that there is substantial risk for all involved and have agreed that rather than continue litigation for months and possibly years, that a resolution at this point is in the best interests of all. Plaintiff believes she will prevail and Defendant believes it will prevail. Because there are substantial issues that can affect the end result of the case, the parties have decided to settle the case to avoid the risk of future litigation and to provide benefits to the Class.

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#### **4. Is the Settlement an Admission of Liability?**

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The Settlement Agreement provides that it shall not be deemed nor construed as an admission or evidence of violation of the Practicing Law Statute or of any liability or wrongdoing by Defendant. Defendant decided, despite its belief that it is not liable for the claims asserted, to enter into the Settlement to avoid the further expense, inconvenience, and burden of this litigation and the distraction and diversion of its personnel and resources. The Settlement Agreement further provides that Plaintiff and Defendant concluded that it would be in their respective best interests to enter into the Settlement in order to avoid the uncertainties of litigation and potential lengthy appeals.

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#### **5. Who is Included in the Settlement?**

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You are included in the Settlement if you fit within the Settlement Class definition. The Settlement Class is defined as all persons who paid a doc fee, document fee, documentary fee, administrative fee, processing fee, delivery fee, or similarly denominated fee as part of a purchase or lease of an automobile from any dealership owned by Heartland Chevrolet Inc. from August 10, 2005, through August 27, 2009. The Settlement Class excludes (i) The Defendant and its officers, directors, shareholders, partners, employees, and owners; (ii) the Court presiding over any motion to approve this Settlement Agreement; and (iii) those persons who timely and validly request exclusion from the Settlement Class.

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#### **6. Who are the Defendants Subject to This Notice and What is the Class Period for that Defendant?**

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Heartland Chevrolet, Inc. You are a class member if you purchased or leased a vehicle from this Defendant during the time period set forth in Paragraph 5.

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#### **7. What are the Settlement Terms?**

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The total number of Customers within the Settlement Class is estimated to be approximately 2,670. As discussed below, the Settlement Payout to Participating Claimants shall be in the form of Gift Cards issued by the Settlement Administrator on behalf of the Dealer. All unclaimed Gift Cards at the close of the Claims Period shall revert back to the issuing Dealer.

- A. Settlement Class Members who purchased or leased a vehicle between August 10, 2005, and August 9, 2008. The Face Value of the Gift Cards will be \$46.00 to be used for any goods or services provided by the dealership, including the purchase of a new or used vehicle. Gift Cards shall have no cash redemption value.
- B. Settlement Class Members who purchased or leased a vehicle between August 10, 2008, and August 27, 2009. The Face Value of the Gift Cards will be \$48.00 to be used for any goods or services provided by the dealership, including the purchase of a new or used vehicle. Gift Cards shall have no cash redemption value.
- C. The election of how a Gift Card is to be used (whether for purchase of a vehicle or for any other goods or services offered by the issuing Dealer) is at the Customer's sole option, to be made by the Customer at time of the use of the Gift Card. If the customer intends to use the Gift Card for repairs or services, an appointment must be made in advance, to ensure that Defendant has sufficient staff and resources available to assist the Customer.
- D. Defendant will distribute Gift Cards to class members on a claims-made basis as set forth in the Settlement Agreement. To be eligible for a Gift Card, a class member must make a claim within 60 days after receiving notice.
- E. Defendant will pay all of the costs of Claims Administration.
- F. Any Gift Card provided in response to a claim shall expire 15 months after the date of issuance.
- G. Gift Cards shall not be transferrable by the Claimant receiving the Gift Card, unless the Claimant resides more than 75 miles from the issuing Dealer. If the Claimant receiving the Gift Card resides more than 75 miles from the issuing Dealer, then the Claimant may transfer or assign the Gift Card. Any transfer must be in writing, and the Claimant must provide a copy of his or her Photo ID to the person receiving the Gift Card.
- H. Up to three (3) Gift Cards may be stacked and used together. Any unused balance on a claimant's Gift Card after its original use can be applied to future purchases from the issuing Dealer, until the expiration of the Gift Card.
- I. Defendant agrees to pay Class Representative Sharon Noble \$1500.00 for her service as Class Representative.
- J. All distribution of the Gift Cards shall be performed by the Claims Administrator, who shall mail the Gift Cards to the Participating Claimants.

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#### **8. Can I Opt Out of the Settlement?**

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If you are a Class Member and do not wish to participate in, and be bound by, the proposed Settlement, you have the right to exclude yourself ("opt out") from the Settlement Class. To opt out of the Settlement Class, you must submit a signed notice of intent, clearly stating that you wish to be excluded from the Settlement Class. The opt out must be

postmarked no later than March 20, 2012 (60 days from the date of the mailing of the Notice). Said notice of intent to opt out must state your name, address, telephone number, and date of birth, and clearly state that you want to be excluded from the Settlement Class. Your opt out letter must be mailed to the Claims Administrator at Heartland Chevrolet Settlement Administrator, c/o Kurtzman Carson Consultants, LLC, PO Box 6177, Novato CA 94948-6177. If you opt out of the Settlement Class, you will not be bound by the terms of the Settlement or any final judgment as they apply to Class Members, you will not be entitled to receive any distribution from the Settlement Fund, and you may not object to the Settlement.

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### **9. Am I Bound by the Settlement?**

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All persons falling within the definition of the Class will be bound by the terms of the Settlement Agreement and final judgment except as indicated in Paragraph 8.

You will have the right to appear at the Final Approval Hearing to support or oppose the Settlement. You have the right to enter an appearance through your own attorney. If you do not choose to appear in person or by an attorney, your interests will be represented by Class Counsel (except to the extent that you have opted out of the Settlement Class).

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### **10. Do I Have a Lawyer in This Case?**

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The Court-appointed Settlement Class Counsel are:

**Mitch Burgess**

Burgess and Lamb P.C.  
1000 Broadway, Suite 400  
Kansas City, MO 64105  
816-471-1700

**Ralph Phalen**

The Law Offices of Ralph K. Phalen  
1000 Broadway, Suite 400  
Kansas City, MO 64105  
816-589-0753

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### **11. How Will the Lawyers be Paid?**

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Counsel for the Class in this lawsuit will apply to the Court for an award of attorneys' fees and costs of a total of \$46,500.00 to be paid separately from the Settlement Fund. Defendant agrees to pay that amount and not to oppose such application for fees and expenses.

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### **12. Has the Court Decided on the Settlement?**

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The Court has provisionally certified the Settlement Class, pursuant to Missouri Rules of Civil Procedure 52.08(b)(3), for settlement purposes only. In addition, the Court has preliminarily approved the Settlement terms. If the Settlement is not granted final approval by the Court, then the lawsuit will return to its litigation posture.

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### **13. When and Where Will the Court Decide to Approve the Settlement?**

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A Final Approval Hearing ("Hearing") will be held on May 9, 2012 at 9 a.m. in the Clay County Circuit Court before the Honorable Anthony Rex Gabbert, to determine whether the proposed Settlement is fair, reasonable, and adequate. The date is subject to change; any change will be posted on the Settlement website at [www.heartlandchevroletsettlement.com](http://www.heartlandchevroletsettlement.com). Class Counsel recommends acceptance of the proposed Settlement in the best interests of the Class.

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### **14. How Do I Object to the Settlement?**

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Any member of the Settlement Class may object to the Settlement by submitting a timely written notice of his or her objection. The written notice of objection must state (1) the objector's full name, address, telephone number and e-mail address; (2) information identifying the objector as a Settlement Class Member, such as (a) proof (e.g., an invoice showing the payment of a "Processing Fee" or similar fee) or (b) an affidavit setting forth, in as much detail as the objector can reasonably provide, the fact of paying a "Processing Fee" and the dealership to whom it was paid; and documentation supporting the objector's allegation of damage if the objector is making such an allegation; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection; (4) the identity of all counsel representing the objector; (5) the identity of all counsel representing the objector who will appear at the Final Approval Hearing; (6) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (7) a statement confirming whether the objector intends to testify at the Final Approval Hearing; and (8) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such authorization).

To be timely, written notice of an objection in appropriate form must be filed with the Circuit Court of Clay County, The Honorable Anthony Rex Gabbert, Div. 2, 11 South Water Street, Liberty, Missouri 64068 no later than March 20, 2012. In addition, copies must be served by mail or hand delivery upon the following attorneys:

**Co-Class Counsel:**

Mitchell Burgess  
Burgess and Lamb, P.C.  
1000 Broadway, Suite 400  
Kansas City, MO 64105

**Counsel for Defendants:**

Russell Jones  
Polsinelli Shughart P.C.  
12 Wyandotte Plaza  
120 W. 12<sup>th</sup> Street, Suite 1700  
Kansas City, MO 64105

Unless the Court directs otherwise, any objectors who fail to properly or timely file their objections with the Court and counsel as set forth above, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

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**15. How Do I File a Claim?**

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If you are an eligible Class Member and you do not exclude yourself from the Settlement, and if you wish to receive a Gift Card for a portion of the distribution from the Settlement Fund, then you must make a valid Claim by March 20, 2012.

Claims can be made one of the three following ways:

1. Online at [www.heartlandchevroletsettlement.com](http://www.heartlandchevroletsettlement.com) by March 20, 2012.
2. Alternatively, you can request a paper Verified Claim Form by calling the Settlement Administrator at 1-888-845-2754 and file a claim by completing the Form and returning it to the address listed on the Form, postmarked by no later than March 20, 2012, or
3. You can file by telephone by calling 1-888-845-2754 and providing the claim number on the back of the notice you received in the mail no later than March 20, 2012.

Claims for distribution submitted after March 20, 2012 will not be paid.

If the Settlement is approved by the Court after the Final Approval Hearing, if you have timely submitted a valid Claim by the deadline of March 20, 2012, and if the Claims Administrator has confirmed your eligibility to participate, you will be sent a Gift Card for the value of your share of the Settlement Fund distribution, as set forth herein.

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**16. How Will I Receive Payments?**

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The Claims Administrator will verify the eligibility of each Class Member who submitted a valid Claim and will determine the amount of the Gift Card to be issued, if any, to which the Class Member is entitled from the Settlement Fund. The Gift Cards will be distributed in three groups. The Claims Administrator will send the Gift Cards to each eligible Class Member in the first group within 45 days after the Court has entered a final order and judgment approving the Settlement Agreement and dismissing the lawsuit, except that, if any party or Class Member files an appeal from the Court's order, then payment will not be made until 45 days after the appeal has been finally resolved and a final judgment has been entered. The second and third groups of Gift Cards will be mailed at 90-day intervals after the first group has been mailed. The Claims Administrator will send a postcard to each claimant whose claims are denied informing each claimant of the reason for the denial.

No person shall have any claim against Defendant's counsel, or Class Counsel based on distributions of benefits made substantially in accordance with the Settlement Agreement or further order(s) of the Court. Any dispute regarding the Gift Card received or denial of a claim for a Gift Card shall be submitted to Mediation. (Costs of mediation will be paid by the Defendant.)

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**17. How Do I Get More Information?**

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This Notice is intended to be a summary of the terms of the Settlement. The Settlement Agreement and Verified Claim Form may be viewed on the Settlement website at [www.heartlandchevroletsettlement.com](http://www.heartlandchevroletsettlement.com). The pleadings and other papers filed in this lawsuit are available for inspection and/or copying at the Court. Further inquiries can be directed to the Claims Administrator, at 1-888-845-2754.

PLEASE DO NOT CALL THE COURT OR THE CLERK'S OFFICE ABOUT THIS SETTLEMENT.

DATE: January 20, 2012

BY ORDER OF THE COURT