

CHAPTER 13A
DIVISION OF CONSUMER AFFAIRS
LEMON LAW HEARINGS

Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2009 d.217, effective June 10, 2009.
See: 41 N.J.R. 1127(a), 41 N.J.R. 2647(a).

Chapter Expiration Date

Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, expires on June 10, 2014.

Chapter Historical Note

Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, was adopted as R.1989 d.189, effective April 3, 1989. See: 21 N.J.R. 91(a), 21 N.J.R. 889(b).

Pursuant to Executive Order No. 66(1978), Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, was readopted as R.1994 d.107, effective February 3, 1994. See: 25 N.J.R. 5387(a), 26 N.J.R. 1223(a).

Subchapter 11, Subpoenas, was repealed by R.1994 d.293, effective June 6, 1994. See: 26 N.J.R. 1276(a), 26 N.J.R. 2255(a).

Pursuant to Executive Order No. 66(1978), Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, was readopted as R.1999 d.64, effective February 1, 1999. See: 30 N.J.R. 4308(a), 31 N.J.R. 637(a).

Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, was readopted as R.2004 d.147, effective March 18, 2004. See: 36 N.J.R. 6(a), 36 N.J.R. 1919(a).

Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, was readopted as R.2009 d.217, effective June 10, 2009. See: Source and Effective Date.

Cross References

Motorized wheelchair dispute resolution, notification and scheduling of contested case hearings, see N.J.A.C. 13:45A-26E.6.

Law Reviews and Journal Commentaries

Expert testimony not required in Lemon Law suits, court says. *Matt Ackermann*, 150 N.J.L.J. 609 (1997).

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SUBCHAPTER 1. APPLICABILITY

1:13A-1.1 Applicability

The special rules in this chapter shall apply to matter transmitted to the Office of Administrative Law (OAL) by the Division of Consumer Affairs (Division) wherein a consumer of a motor vehicle or of a motorized wheelchair seeks a refund or replacement of the vehicle from a manufacturer under the provisions of the New Jersey Lemon Law, N.J.S.A. 56:12-29 et seq. and of N.J.S.A. 56:12-75. These special rules must be read in conjunction with the Division of Consumer Affairs' rules on dispute resolution at N.J.A.C. 13:45A-26.1 through 26.17. Any aspect of the OAL hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these special rules are inconsistent with the U.A.P.R., these rules shall apply.

Amended by R.1993 d.422, effective September 7, 1993.

See: 25 N.J.R. 2625(a), 25 N.J.R. 4063(a).

Amended by R.1996 d.434, effective September 16, 1996.

See: 28 N.J.R. 3206(b), 28 N.J.R. 4219(a).

Extended application to motorized wheelchairs and added reference to N.J.S.A. 56:12-75.

1:13A-1.2 Presumptions

An initial decision mailed pursuant to these rules shall be presumed to be received three days after mailing.

New Rule, R.1993 d.289, effective June 7, 1993.
See: 24 N.J.R. 1843(a), 25 N.J.R. 2247(a).

SUBCHAPTERS 2 THROUGH 7. (RESERVED)

SUBCHAPTER 8. FILING AND TRANSMISSION OF
CONTESTED CASES IN THE OFFICE OF
ADMINISTRATIVE LAW

**1:13A-8.1 Agency filing with the Office of
Administrative Law**

Immediately after accepting a consumer's application for dispute resolution under N.J.A.C. 13:45A-26.10(c), the matter shall be transmitted to the Office of Administrative Law. The division shall not attempt to settle the case before transmitting the matter to the OAL.

SUBCHAPTER 9. SCHEDULING; CLERK'S NOTICES;
ADJOURNMENTS; INACTIVE LIST

1:13A-9.1 Scheduling of summary proceedings

Upon acceptance of a consumer's application for dispute resolution, the Division and the Office of Administrative Law shall immediately arrange a summary hearing date which, to the greatest extent possible, shall be convenient to all parties. Unless the consumer agrees to a later date, the summary hearing shall be no later than 20 days from the date of acceptance of the consumer's application.

Amended by R.1999 d.64, effective March 1, 1999.
See: 30 N.J.R. 4308(a), 31 N.J.R. 637(a).
Rewrote the section.

1:13A-9.2 Clerk's notices

The Clerk shall send a written notice of filing and summary hearing to each party.

SUBCHAPTER 10. DISCOVERY

1:13A-10.1 Discovery

(a) The consumer's application for dispute resolution, the required attachments and the manufacturer's response shall be provided as specified by N.J.A.C. 13:45A-26.10(b) and (f).

(b) No other discovery shall be permitted.

Case Notes

N.J.A.C. 1:13A-10.1 bars discovery apart from the application for Lemon Law relief and the requisite attachments; consequently, to the extent an ALJ's ruling was based on the failure to provide discovery, it appeared the evidentiary ruling with regard to a videotape offered to demonstrate a defect was incorrect. *Caruso v. Ducati North America Inc.*, OAL Dkt. No. CMA 12681-08, 2009 N.J. AGEN LEXIS 885, Final Decision (February 19, 2009).

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. MOTIONS

1:13A-12.1 Limitations on prehearing motions

Except for a motion for adjournment to which the consumer has consented, a party may not file any motion before the scheduled date of hearing.

Case Notes

The purpose of providing for Lemon Law cases to be brought administratively is to provide an "expeditious forum," and adjournments in Lemon Law cases are disfavored. *Dasilva v. Ford Motor Co.*, OAL Dkt. No. CMA 7782-04, 2005 N.J. AGEN LEXIS 1067, Final Decision (December 22, 2005).

SUBCHAPTER 13. PREHEARING CONFERENCES AND
PROCEDURES

1:13A-13.1 Prehearing conferences

Prehearing conferences will not be scheduled in any proceeding conducted under this chapter.

SUBCHAPTER 14. CONDUCT OF CASES

1:13A-14.1 Failure to appear

If a party fails to appear at any proceeding scheduled by the Clerk or judge, the provisions of N.J.A.C. 1:1-14.4 shall apply.

Amended by R.1991 d.279, effective June 3, 1991 (operative July 1, 1991).
See: 23 N.J.R. 639(a), 23 N.J.R. 1786(a).

Recodified original subsections (a)-(b) to single subsection of rule text. Deleted text superseded by amendments made to N.J.A.C. 1:1-14.4 for procedures on "failure to appear" cases.

1:13A-14.2 Conduct of hearing

(a) Except as modified by N.J.A.C. 1:13A-14.3, the hearing shall be conducted pursuant to the provisions of N.J.A.C. 1:1-14.7(a) through (e).

(b) There shall be no proposed findings of fact, conclusions of law, briefs, forms of order or other posthearing submissions permitted after the final argument except if permitted by the judge for good cause. In no event shall the submission of posthearing documents extend the 20 days permitted for issuing an initial decision.

Amended by R.1993 d.422, effective September 7, 1993.
See: 25 N.J.R. 2625(a), 25 N.J.R. 4063(a).