

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.1994 d.107, effective February 3, 1994.
 See: 25 N.J.R. 5387(a), 26 N.J.R. 1223(a).

Executive Order No. 66(1978) Expiration Date
 Chapter 13A, Division of Consumer Affairs Lemon Law Hearings, expires on February 3, 1999.

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 was readopted as R.1994 d.107. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. APPLICABILITY

1:13A-1.1 Applicability

The special rules in this chapter shall apply to matters transmitted to the Office of Administrative Law (OAL) by the Division of Consumer Affairs (Division) wherein a consumer of a motor vehicle 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. 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).

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 mat-

ter 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

(a) 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.

(b) Cases shall be scheduled for an in-person summary hearing unless the consumer requests a proceeding on the papers in the application for dispute resolution (N.J.A.C. 13:45A-26.7) and the manufacturer consents to proceeding on the papers in its response, required by N.J.A.C. 13:45A-26.10(f).

(c) The proceeding on the papers shall be based upon the application, the manufacturer's response and whatever additional documents may be required by the judge.

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.

SUBCHAPTER 11. (RESERVED)

Subchapter Historical Note

Subchapter 11, Subpoenas, consisted of section 11.1, which was amended by R.1994 d.107, effective March 7, 1994. See: 25 N.J.R. 5387(a), 26 N.J.R. 1223(a). Subchapter 11 was repealed by R.1994 d.293, effective June 6, 1994. See: 26 N.J.R. 1276(a), 26 N.J.R. 2255(a).

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.

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).

1:13A-14.3 Burden of producing evidence

The consumer shall first present his or her evidence. The manufacturer may then present any contradictory evidence or argument and affirmative defenses as set forth in the statute.