

SUBCHAPTER 17A. HOME ELEVATION
CONTRACTOR REGISTRATION**13:45A-17A.1 Purpose and scope**

(a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as amended by P.L. 2004, c. 16, P.L. 2013, c. 144, and P.L. 2014, c. 34 (the "Act") by providing procedures for the regulation of home elevation contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for home elevation contractors.

(b) These rules shall apply to home elevation contractors in this State.

13:45A-17A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Advertise" means to communicate to the public by means of any print, electronic, or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer, or the Internet. "Advertise" includes having a person's name in a classified advertisement or directory in this State under any classification of home improvement or home elevation as defined in this section, but does not include simple residential alphabetical listings in standard or Internet telephone directories.

"Badge declaration" means the electronic form that a registered entity must complete, as set forth in N.J.A.C. 13:45A-17A.14(b), that identifies individuals performing, engaging, or attempting to engage in the face-to-face sale of home improvements, including home elevations, on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c).

"Director" means the Director of the Division of Consumer Affairs.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Employee" means an employee as defined in N.J.A.C. 18:35-7.1.

"Entity" means the business registered or to be registered as a home elevation contractor.

"Home elevation" means a home improvement consisting of lifting a home off a slab or existing foundation system and setting it back down on a new foundation or piers, posts, columns, or pilings.

"Home elevation contract" means a home improvement contract for a home elevation.

"Home elevation contractor" means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or non-commercial property, or a contractor and a tenant or lessee of residential or non-commercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Home improvement contractor" means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Residential or non-commercial property" means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

"Sale of home improvements" means any action taken by or on behalf of an entity with the goal of entering into a contract with a consumer for the performance of a home

improvement, including a home elevation, which includes, but is not limited to: initial contact with the consumer; taking measurements; presenting estimates for the cost of a home elevation or other home improvement; and entering into the contract with the consumer for the completion of the home improvement or home elevation or both.

“Staff” means an employee or an individual who is engaged pursuant to a written agreement to provide consulting services to the home elevation contractor.

“State authorized vendor or vendors” means the business or businesses with which the State has contracted to act on behalf of the Director for the issuance and management of home improvement contractor identification badges.

13:45A-17A.3 Registration required

(a) On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:

1. If a home improvement contractor has entered into a contract with a consumer to perform home elevation services, prior to October 1, 2014, and the contractor maintains written proof that the consumer has been apprised of the requirements that became effective October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4(b) and 17A.11(b) which will be implemented on June 17, 2015, and has knowingly elected to proceed under the terms of that contract, the contractor will be deemed in compliance with this subchapter.

(b) No person shall advertise indicating that the person is a home elevation contractor in this State unless the person is registered with the Division in accordance with this subchapter.

(c) Any person registered as a home improvement contractor wishing to perform home elevations shall convert his or her home improvement registration into a home elevation registration at no additional fee by completing a home elevation contractor application. The initial term of such home elevation registration shall be the unexpired term of the home improvement registration that was converted.

(d) A person registered as a home elevation contractor shall be exempt from the requirement to register as a home improvement contractor pursuant to N.J.A.C. 13:45A-17.3(a)9; provided that if a person’s home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, such person shall register as a home improvement contractor under N.J.A.C. 13:45A-17.3 prior to engaging in the business of making or selling home improvements and shall obtain a new badge identifying the person as a home improvement contractor.

(e) Contractors that hire sub-contractors to make home elevations, but do not themselves perform home elevations,

shall not be required to register as a home elevation contractor with the Division in accordance with this subchapter.

(f) Officers and employees of a registered home elevation contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home elevations within their respective scopes of employment for that registered business entity.

Adopted concurrent amendment, R.2015 d.081, with changes effective April 21, 2015.

See: 46 N.J.R. 2188(a), 47 N.J.R. 1014(b).

In (a)1, substituted “on June 17, 2015” for “30 days after adoption of this proposal”.

13:45A-17A.4 Initial and renewal applications

(a) Home improvement contractors seeking to become registered under this subchapter shall apply to convert their registration to a home elevation contractor by submitting the following information in addition to that required by (c) and (d) below, on forms provided by the Director:

1. A current and valid registration number;
2. A certification that the applicant contractor currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience; and
3. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1.

(b) Home elevation contractors who have converted their HIC registrations under (a) above, and those who have initially registered after October 1, 2014, under (c) below, no later than June 17, 2015, shall submit the following on forms provided by the Director:

1. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(b);
2. A letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000; and
3. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the home elevation contractor has elevated a residential or non-commercial structure within the past five years.

(c) Applicants seeking to engage in home elevations who do not have a current and valid registration as a home improvement contractor shall apply for initial registration with the Division by submitting the following on forms provided by the Director:

13:45A-17A.6 Duty to update information

(a) Whenever any information required to be included in the application changes, including, but not limited to, a change to the certification required under N.J.A.C. 13:45A-17A.4(c)11, or if additional information should be added after the filing of the application, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Act (N.J.S.A. 56:8-136 et seq.) or this subchapter has changed, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.

(b) Whenever any information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant or registered home elevation contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.

(c) Whenever there is a deletion or addition to the list of individuals required to wear identification badges pursuant to N.J.A.C. 13:45A-17A.14, the registered home elevation contractor shall inform the Division within three business days of the deletion or addition by logging on to the Division's website and amending the badge declaration. Any additions to the list shall be accompanied by the badge fee. Any individual added to the entity's list of individuals required to wear a badge shall not perform, engage, or attempt to engage in the face-to-face sales of home elevations on behalf of the entity at a location or locations in this State other than the business location or locations disclosed by the entity pursuant to N.J.A.C. 13:45A-17A.4(c) until the individual has obtained and is wearing a badge.

(d) If, at any time, a home elevation contractor no longer has in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, the home elevation contractor shall notify the Division, in writing, within three calendar days.

13:45A-17A.7 Requirement to cooperate

Home elevation contractor applicants seeking to register with the Division and registered home elevation contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation, or hearing conducted by the Director.

13:45A-17A.8 Refusal to issue, suspension, or revocation of registration; hearing; other sanctions

(a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its

officers, directors, principals, or persons with an ownership interest of 10 percent or more in the entity:

1. Has obtained any registration, certification, or license by fraud, deception, or misrepresentation;
2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;
3. Has engaged in gross negligence, gross malpractice, or gross incompetence;
4. Has engaged in repeated acts of negligence, malpractice, or incompetence involving selling or making a home elevation or other home improvement;
5. Has engaged in professional or occupational misconduct;
6. Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a basis for discipline pursuant to (a)1 through 5 above, regardless of whether that finding was made in the context of an injunction; a proceeding resulting in the denial, suspension, or revocation of a license, certification, or registration; consented to in an assurance of voluntary compliance; or any similar order or legal agreement with any state or Federal agency;
7. Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction;
8. Has had his or her authority to engage in the activity regulated by the Director revoked or suspended by any other state or Federal agency or authority for reasons consistent with this section;
9. Has failed to comply with the badge requirements set forth in N.J.A.C. 13:45A-17A.14. It shall be an affirmative defense to a charge of failing to return a badge to the State authorized vendor that the entity used its best efforts to collect and surrender the badge;
10. Has failed to update information as required by N.J.A.C. 13:45A-17A.6;
11. Has violated or failed to comply with the Act (N.J.S.A. 56:8-136 et seq.) or any provision of this subchapter or the provisions of any act, regulation, or order administered or issued by the Director;
12. No longer has at least one named person with the experience required in N.J.A.C. 13:45A-17A.4(g) in an ownership or staff position; or
13. Is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or any rule in this subchapter

for medical or any other good cause to the detriment of the public's health, safety, and welfare.

(b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17A.4 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17A.5 may be used by the Director as grounds for denying, suspending, or revoking a registration. An applicant whose registration is denied or a home elevation contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension, or revocation, which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that act.

(c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home elevation contractor registration, assessing a penalty, or other sanction, the Director shall notify the applicant or registrant and provide an opportunity to be heard.

(d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.

(e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution, or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

13:45A-17A.9 Reinstatement of suspended registration

A registration that is suspended by the Director may be reinstated upon the home elevation contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties, and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17A.13. If a suspended registration is reinstated, all individuals associated with the reinstated entity required to wear badges pursuant to N.J.A.C. 13:45A-17A.14 shall obtain new badges.

13:45A-17A.10 Ownership and use of registration number; replacement and duplicate certificates

(a) Each registration number and certificate containing such registration number issued by the Director to a home elevation contractor shall remain the property of the State of New Jersey. If the Director suspends, refuses to renew, or revokes a registration, the home elevation contractor shall

immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising, and anything else on which the registration number is displayed or otherwise communicated.

(b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated, or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.

(c) The Director shall issue a duplicate certificate to a registered home elevation contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the home elevation contractor must display a certificate. A registered home elevation contractor may not possess more registration certificates than the number of places of business utilized by the home elevation contractor.

(d) A registered home elevation contractor shall prominently display:

1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and
2. The home elevation contractor's registration number on all advertisements distributed within this State, on business documents and contracts, and on correspondence with consumers of home elevation services in this State.

(e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home elevations, except for vehicles leased or rented by a registrant to a customer of that registrant, shall be marked on both sides with the following information:

1. The name of the registered home elevation contractor in lettering at least one inch in height; and
2. The home elevation contractor registration number of the registrant in lettering at least one inch in height.

(f) Any invoice, contract, or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to N.J.S.A. 56:8-149.b, which shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

matters shall be directed to the attention of the Lemon Law Unit, as follows:

Division of Consumer Affairs
Lemon Law Unit
Post Office Box 45026
Newark, New Jersey 07101
Telephone (973) 504-6226

Amended by R.1992 d.236, effective June 1, 1992.

See: 24 N.J.R. 53(a), 24 N.J.R. 2063(a).

Revised (c).

Administrative change.

See: 25 N.J.R. 1516(b).

Amended by R.1994 d.176, effective April 4, 1994.

See: 25 N.J.R. 3939(a), 26 N.J.R. 1535(a).

Administrative Change.

See: 32 N.J.R. 1037(a).

13:45A-26.5 Preliminary steps to initiate a Lemon Law action within the Division of Consumer Affairs Lemon Law Unit

(a) To initiate a claim within the Division of Consumer Affairs Lemon Law Unit under the Lemon Law:

1. Written notification of the potential claim shall be sent certified mail, return receipt requested, by or on behalf of a consumer, to the manufacturer of a nonconforming motor vehicle if and only after one of the following occurs during the first 24,000 miles of operation or within 24 months after the date of original delivery, whichever is earlier:

i. Except as set forth in (a)liii below, substantially the same nonconformity has been subject to examination or repair two or more times by the manufacturer or its dealer and the nonconformity continues to exist;

ii. The motor vehicle has been out of service by reason of repair for one or more nonconformities for a minimum of 20 days, or in the case of a motor home, for a minimum of 45 days, since the original delivery of the motor vehicle, and a nonconformity continues to exist; or

iii. In the case of nonconformity that is likely to cause death or serious bodily injury if the vehicle is driven, the nonconformity has been subject to examination or repair at least once by the manufacturer or its dealer and the nonconformity continues to exist; and

2. The manufacturer has one more opportunity to examine, repair or correct the nonconformity within 10 days following receipt of the written notification from the consumer of a potential claim provided for in (a)1 above. If the nonconformity continues to exist after expiration of the 10-day time period and the manufacturer refuses to replace or refund the price of the vehicle, the consumer may pursue a Lemon Law claim with the Lemon Law Unit.

(b) Nothing contained in this section shall preclude a consumer from alternatively filing an action in Superior Court.

(c) When a motor home or authorized emergency vehicle has been constructed by more than one manufacturer, an examination or repair attempt will not count towards the examination or repair attempts referred to in (a)1 above, if the repair facility is not authorized to provide services by the manufacturer, co-manufacturer or post-manufacturing modifier who constructed the nonconforming portion of the vehicle.

(d) If a nonconformity in a motor home is addressed more than once due to a consumer's decision to continue travelling and to seek examination or repair of the same nonconformity at another authorized repair facility rather than waiting for the examination or repair to be completed at the initial repair facility, it shall constitute one examination or repair for the purpose of the examination or repair attempts referred to in (a)1 above.

Amended by R.2006 d.141, effective April 17, 2006.

See: 37 N.J.R. 4369(a), 38 N.J.R. 1760(a).

Section heading was "Preliminary steps"; in introductory paragraph (a), added "within the Division of Consumer Affairs Lemon Law Unit" and substituted "shall" for "must"; in (a)2, substituted "a minimum of 20 days" for "a cumulative total of 20 or more days"; rewrote (b); added (c).

Amended by R.2010 d.166, effective August 2, 2010.

See: 41 N.J.R. 4187(a), 42 N.J.R. 1740(a).

In the introductory paragraph of (a), substituted a colon for "written" at the end; inserted new designation (a)1; redesignated former (a)1 and (a)2 as (a)1i and (a)1ii; in the introductory paragraph of (a)1, inserted "Written", and substituted "and only after one" for "either" and "24,000" for "18,000"; in (a)1i, substituted "Except as set forth in (a)liii below, substantially" for "Substantially", inserted "examination or", and deleted "or" at the end; in (a)1ii, inserted "or in the case of a motor home, for a minimum of 45 days," and substituted "or" for a period at the end; added (a)liii; redesignated former (b) as (a)2 and former (c) as (b); in (b)2, inserted "examine," inserted "the" preceding "written", and inserted "provided for in (a)1 above"; and added new (c) and (d).

Amended by R.2012 d.016, effective January 17, 2012.

See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

In (c), inserted "or authorized emergency vehicle" and "co-manufacturer or post-manufacturing modifier", and substituted "vehicle" for "motor home".

Case Notes

Petitioner failed to meet his burden to prove by a preponderance of credible evidence that his vehicle had a defect that constituted a nonconformity that substantially impaired the use, value, and safety of the motor vehicle, or was likely to cause death or serious bodily injury pursuant to N.J.S.A. 56:12-33 and N.J.A.C. 13:45A-26.5. The record contained credible evidence that the vehicle drifted either to the left or to the right according to the crown of the road and drove straight on a flat surface. There was no evidence that the vehicle drifted in any direction when the driver's hands were on steering wheel. Moreover, petitioner drove the vehicle on a daily basis, there was no appraisal evidencing loss of value, and there was no loss of control, or any accident or towing involving the vehicle. *Edward S. Moscatelli v. Chrysler Group, LLC*, OAL Dkt. No. CMA 16510-13, 2013 N.J. AGEN LEXIS 356, Initial Decision (December 26, 2013).

Vehicle was a lemon as defined by the New Jersey Lemon Law, N.J.S.A. 56:12-29. It abruptly stalled in traffic, did not restart, and became completely inoperable, which the owner reported well under the first 24,000 miles of operation and well within two years from the date of delivery. The nonconformity constituted a serious safety defect, as it caused a hazardous condition likely to cause death or serious bodily injury. The manufacturer failed at two repair attempts and the first unsuccessful repair was followed by a last chance letter pursuant to N.J.A.C. 13:45A-26.5(a)(1)(iii). The refund was calculated by taking the

purchase or lease price, adding in any options and modifications made by the manufacturer within 30 days of the delivery date, and adding in reimbursement for other charges or fees under N.J.A.C. 13:45A-26.11(a). Then, a deduction for reasonable vehicle use was calculated and deducted from the total pursuant to N.J.A.C. 13:45A-26.11(b). *Johanna Van Lammeren v. Ford Motor Company*, OAL Dkt. No. CMA 7865-13, 2013 N.J. AGEN LEXIS 201, Initial Decision (July 22, 2013).

Contrary to the conclusion reached by an Administrative Law Judge (ALJ), the owner of a vehicle that was the subject of a Lemon Law claim could not seek further administrative relief for alleged defects that he claimed to have discovered only after he had already applied for Lemon Law relief. That was because the regulation governing such relief limits consumers to one application for Lemon Law relief for any particular vehicle. To the extent that the owner wished to assert claims as to what he claimed to be defects that were previously undiscovered, those claims could only be initiated via an action in the Superior Court. *Khalil v. Kia Motors America, Inc.*, OAL-DKT. NO. CMA 12391-11, 2011 N.J. AGEN LEXIS 938, Final Decision and Order (December 7, 2011).

Petitioner failed to establish by a preponderance of credible evidence in the record that the alleged defect of "shimmying at high rates of speed" continued to exist. Though petitioner's attorney argued that post-claim test drives should not have controlled the outcome of the case, in fact, the failure to demonstrate that the defect continued to exist was determinative pursuant to N.J.A.C. 13:45A-26.5 (adopting 2009 N.J. AGEN LEXIS 1037). *Popielarski v. Nissan Motor Corp.*, OAL Dkt. No. CMA 10386-09, 2009 N.J. AGEN LEXIS 1126, Final Decision (December 3, 2009).

Intermittent failure of petitioner's vehicle to start, so that it has to be jump-started, was a defect which substantially impaired the use and safety of the vehicle; petitioner worked at night in an urban area and was responsible for regularly driving around two children. *Michels v. Chrysler Group*, OAL Dkt. No. CMA 09842-09, 2009 N.J. AGEN LEXIS 884, Final Decision (October 19, 2009).

Because petitioner failed to show that the stalling defect continued to exist, and failed to provide notification to respondent of the racing defect, he did not meet the requirements of the presumption of N.J.S.A. 56:12-33, and consequently was not eligible for relief in the administrative forum. *Caruso v. Ducati North America Inc.*, OAL Dkt. No. CMA 12681-08, 2009 N.J. AGEN LEXIS 885, Final Decision (February 19, 2009).

Consumer's "last chance" letter gave sufficient notice to the manufacturer that he intended to file a Lemon Law claim, but the letter was sent at a time when his car was actually being repaired, and contained inaccurate information such that the notice was defective; the lack of specifics of the "last chance" letter, the timing of the letter, and the failure to stress the fact that the vehicle was currently under repair and that the consumer was distressed about the length of time the repair was taking, all combined to deprive the manufacturer of meaningful notice and opportunity to repair the vehicle. *Chazkel v. Daimler Chrysler Motors Co.*, OAL Dkt. No. CMA 8880-07, 2008 N.J. AGEN LEXIS 248, Final Decision (January 31, 2008).

Once a consumer had knowledge of the existence of the override button, a window's pinch protection mechanism that malfunctioned on the average of once a week did not substantially impair the use of the vehicle; however, the defect substantially impaired the value of the vehicle and posed a substantial safety risk where it would cause a driver to be distracted. *Vigilante v. Saab Cars USA, Inc.*, OAL Dkt. No. CMA 3765-07, 2007 N.J. AGEN LEXIS 996, Final Decision (September 10, 2007).

Consumer is not required, in order to obtain Lemon Law relief, to present the vehicle for repair following the last chance repair; under N.J.S.A. 56:12-33, there is a presumption of an inability to repair in a reasonable time where substantially the same nonconformity has been subject to repair three or more times and it continues to exist. *Vigilante v. Saab Cars USA, Inc.*, OAL Dkt. No. CMA 3765-07, 2007 N.J. AGEN LEXIS 996, Final Decision (September 10, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 1027) adopted, which concluded that consumer's loss of confidence in the vehicle was not a sufficient basis for granting Lemon Law relief where the stalling problem with consumer's vehicle had not continued to exist following the third repair. *Moesch v. Volkswagen of America*, OAL Dkt. No. CMA 11648-06, 2007 N.J. AGEN LEXIS 89, Final Decision (January 2, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 479) adopted, which denied Lemon Law relief because the alleged braking noise had not continued to exist and the evidence failed to show a nonconformity; the vehicle had never failed to stop properly, the consumer admitted to pumping the brakes in emergency situations, and the evidence weighed heavily in favor of the finding that the braking system was operating as designed. *Roger v. General Motors Corp.*, OAL Dkt. No. CMA 5899-06, 2006 N.J. AGEN LEXIS 763, Final Decision (August 23, 2006).

Lemon Law claim was dismissed with prejudice because consumers' "last chance" letter, required pursuant to N.J.A.C. 13:45A-26.5, failed to identify the specific continuing nonconformity alleged. *Velez v. Winnebago Industries*, OAL Dkt. No. CMA 05445-06, 2006 N.J. AGEN LEXIS 358, Initial Decision (May 24, 2006).

Even if, arguendo, certain alleged defects in consumer's Lemon Law application constituted a substantial impairment of vehicle use or value, the failure to allege them in the "last chance" letter precluded them procedurally from consideration. *Ciraulo v. Daimler Chrysler Motor Co.*, OAL Dkt. No. CMA 110-06, 2006 N.J. AGEN LEXIS 146, Final Decision (February 22, 2006).

Lack of qualifying nonconformity defeats Lemon Law claim. *O'Connell v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 139.

Lemon Law claim dismissed due to failure to present vehicle for three repair attempts for the same nonconformity. *Doryk v. General Motors Corporation (Chevrolet Motor Division)* (CMA) 122.

Consumer's failure to give statutorily prescribed notice before filing lemon law complaint defeats claim. *Goldberg v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 36.

Purchaser was entitled to Lemon Law presumption that manufacturer was unable to repair nonconformity where automobile was out-of-service for 34 days during first repair attempt. *Ramnanan v. Chrysler Motor Corporation*, 96 N.J.A.R.2d (CMA) 229.

Lemon Law complaint was dismissed where automobile's problems were repaired by dealer. *Hampton v. Chrysler Motor Corporation*, 96 N.J.A.R.2d (CMA) 192.

Lemon Law relief granted where automobile dealer failed to avail itself of last chance repair opportunity. *Sigman v. Nissan Motor Corporation, U.S.A.*, 96 N.J.A.R.2d (CMA) 168.

Consumer's failure to comply with Lemon Law's statutory filing requirements precludes claim. *Rivera v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 63.

Consumer denied Lemon Law relief for failure to inform manufacturer of problems and offer opportunity for repair before filing Lemon Law complaint. *Vitale v. Buick Motor Division-GM*, 96 N.J.A.R.2d (CMA) 61.

Lemon Law claim that pickup truck pulled to right while braking was dismissed when defect was corrected by manufacturer at last-chance opportunity. *Boothroyd v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 47.

Lemon Law complainant failed to allow dealer sufficient opportunity to repair automobile problems. *Conrad-Kessar v. Mitsubishi Motor Sales of America, Inc.*, 96 N.J.A.R.2d (CMA) 19.

Consumer failed to meet procedural requirements by submitting allegedly defective vehicle to repair three or more times and affording