

13:45A-25.5 Documentation of maintenance of security

Each establishment which has posted a bond as security shall maintain complete and accurate records relating to the bond and premium payments made thereon. Each establishment which has posted a letter of credit or provided other security acceptable to the Director of the Division shall maintain complete and accurate records relating to those items. These records shall be available on the premises of the establishment for review by the Director or his or her designated representative on any operating day.

13:45A-25.6 Health club contracts

(a) For the purpose of this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Affiliated health club” means a health club located within 25 miles of a member’s new permanent residence that will provide the same or similar services and facilities to the member as the originating health club.

“Member” means a buyer of a health club services contract from the originating health club.

“Originating health club” means the health club that is party to a contract sought to be cancelled.

“Originating health club’s facility” means the facility identified in the contract between a member and the originating health club by name and street address as the health club that the member joined.

(b) A health club services contract subject to cancellation pursuant to N.J.S.A. 56:8-42g shall not be cancelled if, after receipt of a notice of cancellation from a member, which notice shall be sent or delivered to the originating health club’s facility, the originating health club reaffirms the contract in writing to the member guarantying that there is an affiliated health club or clubs that will provide to that member the use of the same or similar services and facilities as the originating health club at no additional expense for the remaining term of the contract, giving the name and address of the affiliated club or clubs.

(c) If, during the remaining term of a health club services contract that is subject to cancellation but for (b) above, the services and facilities contracted for become unavailable from the affiliated health club without additional expense and the originating health club receives notice from the member to that effect, the originating health club shall refund to the member, within 20 days of receipt of notice, the pro rata portion of the contract price paid to the originating health club that relates to the portion of the contract term for which the services and facilities are unavailable and the member shall have no further obligation under the contract.

(d) The obligation to make the refund provided for in (c) above, is an obligation of the originating health club under

the health club services contract secured by any bond or other security it maintains under N.J.S.A. 56:8-41.

New Rule, R.2009 d.76, effective March 2, 2009.

See: 40 N.J.R. 5530(a), 41 N.J.R. 1082(a).

Former N.J.A.C. 13:45A-25.6, Violations; sanctions, recodified to N.J.A.C. 13:45A-25.7.

13:45A-25.7 Violations; sanctions

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any violation of the provisions of this subchapter shall be subject to the sanctions contained in the Consumer Fraud Act.

Recodified from N.J.A.C. 13:45A-25.6 by R.2009 d.76, effective March 2, 2009.

See: 40 N.J.R. 5530(a), 41 N.J.R. 1082(a).

SUBCHAPTER 26. AUTOMOTIVE DISPUTE RESOLUTION

Cross References

Special rules regarding disputes arising under the New Jersey Lemon Law, see N.J.A.C. 1:13A.

Law Review and Journal Commentaries

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

13:45A-26.1 Purpose and scope

(a) The purpose of this subchapter is to implement the Lemon Law, P.L. 1988, c.123, by establishing an automotive dispute resolution system within the Division of Consumer Affairs in conjunction with the Office of Administrative Law. The subchapter also sets forth the method of refund computation, and details the reporting requirements and procedure for publication of compliance records of manufacturers of motor vehicles.

(b) This subchapter is applicable to:

1. All manufacturers of passenger cars and motorcycles registered, sold or leased in the State of New Jersey;
2. All purchasers and lessees of passenger cars and motorcycles registered, sold or leased in the State of New Jersey; and
3. Dealers servicing such vehicles whether their service facilities are located within or outside of the State.

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

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

Revised (b).

Case Notes

Lemon Law relief denied for paint chipping. *Zurita v. Mitsubishi Motor Sales*, OAL Dkt. No. CMA 11788-07, 2007 N.J. AGEN LEXIS

795, Initial Decision (December 12, 2007, deemed adopted, 2008 N.J. AGEN LEXIS 43 (January 1, 2008)).

Intermittent lighting of the brake light constituted a nonconformity under the Lemon Law; a warning light system that is unreliable creates an unsafe condition, and thus constitutes a nonconformity under the Lemon Law. *Fondoules v. Ford Motor Co.*, OAL Dkt. No. CMA 6099-07, 2007 N.J. AGEN LEXIS 854, Final Decision (November 30, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 729) adopted, which denied Lemon Law relief where the consumer alleged a constant, loud engine knocking noise and the engine pistons had been improved on models manufactured after the consumer's vehicle; the manufacturer's expert testified that the vehicle fell within the normal standards for internal combustion engine noise. *He v. Lexus Division, Toyota Motor Sales, USA, Inc.*, OAL Dkt. No. CMA 8224-07, 2007 N.J. AGEN LEXIS 956, Final Decision (November 20, 2007).

Adopting Initial Decision's conclusion that repeated lighting of the air bag warning light, when it was from a variety of causes, constituted a substantial impairment to the use or safety of the vehicle within the meaning of the Lemon Law statute and regulations (adopting and modifying 2007 N.J. AGEN LEXIS 767). *Miller v. Hyundai Motor America*, OAL Dkt. No. CMA 00035-07, 2007 N.J. AGEN LEXIS 955, Final Decision (November 7, 2007).

Consumer did not show that a minivan's pronounced pull substantially impaired its use since the consumer drove the vehicle more than 22,000 miles; however, under the mixed objective/subjective standard, the consumer met the burden of demonstrating that the pull rendered the vehicle unsafe within the meaning of the Lemon Law. *Dymko v. American Honda Motor Co.*, OAL Dkt. No. CMA 00977-07, 2007 N.J. AGEN LEXIS 586, Initial Decision (August 10, 2007).

Lemon Law claim failed, where consumer's complaints of pulling to the left, intermittent stalling upon starting, and loss of power could not be replicated despite extensive road testing. *Pezzuto v. American Honda Motor Co.*, OAL Dkt. No. CMA 10398-06, 2006 N.J. AGEN LEXIS 958, Initial Decision (November 2, 2006).

Insufficient competent and credible evidence was submitted that the problem with the vehicle's power sliding doors continued to exist, and thus Lemon Law relief was denied; in addition, the manufacturer contended that certain damage to a vehicle's power sliding doors was a result of an external force rather than a mechanical or electrical problem, the electronic door switch was an option, the doors could be operated manually, and the consumers had continued to use the vehicle. *Blath v. Mazda North American Operations*, OAL Dkt. No. CMA 4568-06, 2006 N.J. AGEN LEXIS 886, Initial Decision (October 25, 2006).

Initial Decision (2006 N.J. AGEN LEXIS 697) adopted, which concluded that a rattle-type noise heard in the front of the consumer's vehicle when going over bumps did not warrant Lemon Law relief; although struts were replaced numerous times, an upgraded strut was installed that alleviated the problem and there was no convincing evidence of substantial impairment of safety, value, or use. *Jones v. Nissan North America, Inc.*, OAL Dkt. No. CMA 7669-06, 2006 N.J. AGEN LEXIS 764, Final Decision (August 31, 2006).

Predominant use of the consumer's pickup truck was personal, and not commercial, and consequently the consumer was entitled to Lemon Law relief, where (1) the truck was not registered commercially, and did not have commercial license plates nor any lettering or advertising on it; and (2) the consumer, who co-owned a company that installed doors and windows, testified that he drove 100 to 200 miles per week on business-related matters — half of this for travel to business sites in residential areas, where he would install windows and doors on homes, and half to give estimates, mostly on the weekend. *Morehouse v. Ford Motor Co.*, OAL Dkt. No. CMA 4569-06, 2006 N.J. AGEN LEXIS 762, Final Decision (August 22, 2006, modified, 2006 N.J. AGEN LEXIS 855 (September 14, 2006) (supplementary order regarding calculation of refund).

Annoyances and inconveniences do not constitute substantial impairment under the Lemon Law, and consumer failed to provide any objective evidence of transmission shifting. *Post v. Daimler Chrysler Motor Co.*, OAL Dkt. No. CMA 05815-06, 2006 N.J. AGEN LEXIS 399, Initial Decision (June 14, 2006).

Initial Decision (2006 N.J. AGEN LEXIS 357) adopted, which concluded that Lemon Law claimant had not established an alleged brake "dragging" effect substantially impairing the use, safety, or value of the leased vehicle. *Allen v. Ford Motor Co.*, OAL Dkt. No. CMA 05173-06, 2006 N.J. AGEN LEXIS 527, Final Decision (June 14, 2006).

Lemon Law relief rejected, where there was insufficient evidence of abnormal pulling and steering wheel vibration and no substantial impairment of use; the lessee had full use of the vehicle other than for four days and drove it about 1,000 miles per month. *Capizzi v. Nissan North American, Inc.*, OAL Dkt. No. CMA 01846-06, 2006 N.J. AGEN LEXIS 356, Initial Decision (May 12, 2006).

Initial Decision (2006 N.J. AGEN LEXIS 151) adopted, which concluded that repeated and frustrating efforts in starting the engine, which, according to the manufacturer's own expert witness, should have started within the industry standard of four seconds, constituted a nonconformity which impaired the vehicle's use under the Lemon Law. *San Martino v. Mazda North American Operations*, OAL Dkt. No. CMA 01737-06, 2006 N.J. AGEN LEXIS 524, Final Decision (March 31, 2006).

Initial Decision (2006 N.J. AGEN LEXIS 62) adopted, which found that the operation of the resume function on consumer's cruise control was consistent with the normal operation of the vehicle and not a nonconformity under the Lemon Law. *Ciraulo v. Daimler Chrysler Motor Co.*, OAL Dkt. No. CMA 110-06, 2006 N.J. AGEN LEXIS 146, Final Decision (February 22, 2006).

Defect existed in the functioning of the consumer's windshield wipers, whereby the wipers did not clear rain, snow, sleet, or wiper fluid from the windshield in cold weather, and this defect was a substantial impairment of use or safety under the Lemon Law; despite ample time, the manufacturer did not repair the defect. *Dasilva v. Ford Motor Co.*, OAL Dkt. No. CMA 7782-04, 2005 N.J. AGEN LEXIS 1067, Final Decision (December 22, 2005).

Lemon Law claimant need not establish the cause of the defect. *Dasilva v. Ford Motor Co.*, OAL Dkt. No. CMA 7782-04, 2005 N.J. AGEN LEXIS 1067, Final Decision (December 22, 2005).

Initial Decision adopted (2005 N.J. AGEN LEXIS 632), which concluded that a vehicle's navigation system that did not always provide correct directions did not constitute a nonconformity under the Lemon Law. *Maffeo v. Mercedes-Benz USA, Inc.*, OAL Dkt. No. CMA 6020-05, 2005 N.J. AGEN LEXIS 1127, Final Decision (November 18, 2005).

Initial Decision (2005 N.J. AGEN LEXIS 369) adopted, which found that the subject vehicle's excessive oil consumption and engine tapping noise were nonconformities under the Lemon Law and that no expert testimony was needed to establish that the defects substantially impaired the vehicle's use and value. *Carvalho v. Isuzu Motors America, Inc.*, OAL Dkt. No. CMA 4127-05, 2005 N.J. AGEN LEXIS 1126, Final Decision (August 12, 2005).

Dismissal of Lemon Law complaint due to failure to establish material defect in commercial vehicle affirmed. *Romano v. Ford*, 97 N.J.A.R.2d (CMA) 138.

Application to vacate completed settlement agreement denied. *Martin v. Hyundai Motor America*, 97 N.J.A.R.2d (CMA) 115.

Lemon law petition dismissed for additional use of vehicle. *Riley v. Volkswagen, U.S., Inc.*, 97 N.J.A.R.2d (CMA) 111.

Failure to substantiate new car defect complaints defeats lemon law claim. *Ghahramni v. Nissan Motor Corporation*, 97 N.J.A.R.2d (CMA) 101.

Lack of objective evidence of transmission defect defeats lemon law claim. *Gennusa v. Mercedes-Benz of North America*, 97 N.J.A.R.2d (CMA) 89.

Failure to comply with statutory requirements bars consumer's lemon law claim. *Hefler v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 85.

Lemon law complaints require adequate opportunity to repair and actual nonconformity affecting car's use, value or safety. *Solomon v. Hyundai Motor Corporation, USA*, 97 N.J.A.R.2d (CMA) 80.

Commercial vehicle ineligible for relief under Lemon Law. *Rivera v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 55.

Lack of objective evidence defeats consumer's lemon law claim. *Tattersall v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 49.

Lack of evidence defeats consumer's lemon law claim. *Olszewski v. Chrysler Motor Corp.*, 97 N.J.A.R.2d (CMA) 46.

New car noise not qualifying nonconforming defect under lemon law. *Nebbia v. Nissan Motor Company*, 97 N.J.A.R.2d (CMA) 44.

Easily repairable nonconformity precludes lemon law relief. *Lee v. Hyundai Motor of America*, 97 N.J.A.R.2d (CMA) 41.

Multiple out-of-service repair attempts without fixing car's serious electrical malfunctions justifies lemon law relief. *Parrish v. Saab-Scania of America*, 97 N.J.A.R.2d (CMA) 38.

New car's vibration noise fails to qualify as lemon law nonconformity. *Marder v. Chrysler Corporation*, 97 N.J.A.R.2d (CMA) 34.

New car's infrequent stalling fails to meet lemon law standard. *Tenido v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 33.

Leased car's use and safety substantially impaired by engine's hesitation arising from inherent defect. *Pertain v. Mitsubishi Motor Sales of America*, 97 N.J.A.R.2d (CMA) 23.

Automobile purchaser was not entitled to Lemon Law relief for defect which recurred two years after successful repair. *Fowler-Fernandez v. Volkswagen United States, Inc.*, 96 N.J.A.R.2d (CMA) 190.

Van's commercial design does not preclude Lemon Law complaint so long as van is not used commercially. *Short v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 185.

Lemon Law does not provide relief for nonconformities which occur above legal speed limit. *Sher v. Buick Motor Division*, 96 N.J.A.R.2d (CMA) 109.

Truck purchased primarily for commercial use not covered under Lemon Law. *Maino v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 32.

Car suffering from collision damage not subject to Lemon Law remedy. *Lloyd-Brown v. Hyundai Motor Corporation*, 96 N.J.A.R.2d (CMA) 6.

13:45A-26.2 Definitions

As used in this subchapter, the following words shall have the following meanings:

"Days" means calendar days.

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

"Dispute Resolution System" means a procedure established by the Division of Consumer Affairs and the Office of Administrative Law for the resolution of disputes regarding motor vehicle nonconformity(s) through summary administrative hearings.

“Lemon Law” means P.L. 1988, c.123, an Act concerning new motor warranties and repealing P.L. 1983, c.215, as amended by P.L. 1993, c.21.

“Lemon Law Unit” (“LLU”) means the administrative unit within the Division of Consumer Affairs that processes Lemon Law matters.

“Motor vehicle” means a passenger automobile or motorcycle as defined in N.J.S.A. 39:1-1, that is registered, sold or leased in the State of New Jersey, whether purchased, leased, or repaired in the State or outside the State.

“Nonconformity” means a defect or condition which substantially impairs the use, value or safety of a motor vehicle.

“OAL” means the Office of Administrative Law.

“Out of service” means the number of days the defective motor vehicle is on the premises of a repair facility for the purpose of repairing one or more nonconformities; delays caused by the consumer, such as a delay in picking up the motor vehicle from the facility after notification that it is ready, shall not be counted as days out of service.

“Term of protection” means within the first 18,000 miles of operation or the two years following the original date of delivery of the motor vehicle to the consumer, whichever is the earlier date.

“Title” means the certificate of ownership of a motor vehicle.

Amended by R.1992 d.236, effective June 1, 1992.
See: 24 N.J.R. 53(a), 24 N.J.R. 2063(a).

Revised definition “motor vehicle”.
Amended by R.1994 d.176, effective April 4, 1994.
See: 25 N.J.R. 3939(a), 26 N.J.R. 1535(a).

Case Notes

Noise defect qualified as a nonconformity for purposes of the Lemon Law where the consumer’s safety fears caused him to avoid hauling materials, making it so that the consumer was unable to use the vehicle in the manner intended; it was reasonable to conclude that a noise emanating from a vehicle was indicative of some underlying problem and would have shaken the confidence of any reasonable consumer, substantially impairing the value of the vehicle (adopting as modified 2009 N.J. AGEN LEXIS 106). *Rufrano v. Nissan North America, Inc.*, OAL Dkt. No. CMA 11891-08, 2009 N.J. AGEN LEXIS 616, Final Decision (March 10, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 791) adopted, which concluded that consumer seeking Lemon Law relief failed to establish the existence of an abnormal vibration in the gas pedal through objective factual evidence or expert testimony; he and his mother made regular use of the vehicle, the manufacturer was not able to duplicate the alleged defect, nor was the alleged defect duplicated on the test-drive conducted by the ALJ. *Ragusano v. Ford Motor Co.*, OAL Dkt. No. CMA 8077-08, 2008 N.J. AGEN LEXIS 1050, Final Decision (October 10, 2008).

Initial Decision (2007 N.J. AGEN LEXIS 664) adopted, which concluded that noisy brakes were not a nonconformity that substantially impaired the safety, value, or use of the motor vehicle; although the sound may have been an annoyance to the consumer, there was no showing that the noise was the result of some defect found in the braking system impairing the ability to stop. *Pospisil v. Kia Motors America,*

OAL Dkt. No. CMA 09952-07, 2007 N.J. AGEN LEXIS 997, Final Decision (November 9, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 768) adopted, which found that noise from the power steering and leak of power steering fluid on leased vehicle did not rise to the level of a nonconformity under the Lemon Law; the defect had been reduced to a slow leak and the problem with the steering could be solved by adding power steering fluid. *Jones v. Ford Motor Co.*, OAL Dkt. No. CMA 9433-07, 2007 N.J. AGEN LEXIS 957, Final Decision (October 29, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 462) adopted, which concluded that the consumer failed to prove a remediable steering vibration under the Lemon Law. *Moore v. Hyundai Motor America*, OAL Dkt. No. CMA 03904-07, 2007 N.J. AGEN LEXIS 852, Final Decision (July 13, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 398) adopted, which concluded that difficulties with a leased vehicle’s telephone system and radio did not rise to the level of substantial impairments under the Lemon Law; vehicle performance was not affected and the telephone was an optional feature, which the consumer was urged to avoid. *Samuels v. Mercedes-Benz USA, Inc.*, OAL Dkt. No. CMA 03179-06, 2006 N.J. AGEN LEXIS 526, Final Decision (May 26, 2006).

Remanded by the Director for further findings of fact with respect to the frequency of occurrence of the defective condition, i.e., the thumping and jerking; if the defect occurs with sufficient frequency that the consumer could not reasonably be expected to sell the vehicle without either substantially lowering the price from the prevailing price of such a vehicle, or would have to misrepresent the condition of the vehicle to a prospective buyer in order to obtain the prevailing price, then the defect constitutes a nonconformity, and the consumer is entitled to Lemon Law relief. *Bernal v. Ford Motor Co.*, OAL Dkt. No. CMA 12680-05, 2006 N.J. AGEN LEXIS 95 (January 31, 2006).

Where rotten egg smell was present frequently but not constantly and there was no evidence that the odor was linked to a health or safety problem, the smell was not so intense as to constitute a substantial impairment under the Lemon Law. *Gellis v. Mitsubishi Motor Sales*, OAL Dkt. No. CMA 08005-05, 2005 N.J. AGEN LEXIS 647, Initial Decision (November 9, 2005).

Intermittent failure of the consumer’s vehicle to start occurred with sufficient frequency to constitute a nonconformity under the Lemon Law. *Toney v. Nissan North America, Inc.*, OAL Dkt. No. CMA 1971-05; CMA 11690-04, 2005 N.J. AGEN LEXIS 1165, Final Decision (October 14, 2005).

Initial Decision (2005 N.J. AGEN LEXIS 424) adopted, which found that thumping sound in the rear of the consumer’s vehicle when it accelerated quickly from a full stop if the gasoline tank was full or three-quarters full did not substantially impair the use, value, or safety of the vehicle under the Lemon Law. *LaPelusa v. Lexus Division, Toyota Motor Sales, U.S.A., Inc.*, OAL Dkt. No. CMA 7866-05, 2005 N.J. AGEN LEXIS 1069, Final Decision (September 1, 2005).

No Lemon Law remedy for new car consumer failing to prove alleged defects impair use, safety and value. *Sera v. General Motors Corporation*, 97 N.J.A.R.2d (CMA) 149.

Failure to demonstrate nonconformity leads to dismissal of Lemon Law claim. *Pizzute v. American Suzuki Motor Corporation*, 97 N.J.A.R.2d (CMA) 147.

Lemon Law claim dismissed when burden of proof not met. *Petonak v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 143.

Irreparable defects substantially impairing use and safety of car entitles lessee to Lemon Law remedies. *Hall v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 142.

Vibration impaired the use, value and safety of vehicle. *Randall v. Chevrolet, Division of General Motors Corporation*, 97 N.J.A.R.2d (CMA) 135.

Dismissal of Lemon Law complaint due to failure to demonstrate substantial impairment of vehicle affirmed. *Leonard v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 132.

Vehicle's use, value or safety not impaired by vibration. *King v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 129.

Vehicle's use, value or safety not impaired by alleged defects in transmission and brake fluid. *Galanty v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 127.

Vehicle's use, value or safety not impaired by noise from power steering system. *Haralambidis v. Chevrolet Motor Division-G.M.*, 97 N.J.A.R.2d (CMA) 125.

Vehicle's use, value or safety not effected by alleged hesitation in transmission. *Wilks v. Mazda Motor of America*, 97 N.J.A.R.2d (CMA) 117.

Repeated stalling constitutes substantial impairment of vehicle's use, value and safety. *Franco v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 113.

Alignment defect constitutes substantial impairment of vehicle's use, value and safety. *Albrecht v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 107.

No lemon law recovery when consumer's gas choice causes new car stalling. *Hamilton v. Mitsubishi Motor Sales of America*, 97 N.J.A.R.2d (CMA) 103.

New car lessor receives lemon law refund when transmission defect substantially affects value and safety. *Archibald v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 97.

Dashboard reflection on front window not substantial defect. *Doyle v. General Motors*, 97 N.J.A.R.2d (CMA) 95.

Subjective dislike of new car's alleged rotten egg smell insufficient basis for lemon law claim. *Dworkis v. General Motors Corporation*, 97 N.J.A.R.2d (CMA) 93.

Four-wheel drive pulling condition not nonconformity for lemon law purposes. *Hynes v. Chrysler Motor Corporation*, 97 N.J.A.R.2d (CMA) 88.

Nonconforming vehicle defects caused by road accident not remedial under lemon law. *Jones v. Chrysler Motor Company*, 97 N.J.A.R.2d (CMA) 77.

Subjective noise complaint insufficient for lemon law claim. *Choudhury v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 75.

Car owner's unhappiness with transmission insufficient for lemon law recovery. *Weiss v. Ford Motor Corporation*, 97 N.J.A.R.2d (CMA) 52.

Automobile owner who experienced engine knocking noise, followed by loss of power, was entitled to relief under Lemon Law. *Capps v. Nissan Motor Corporation*, 97 N.J.A.R.2d (CMA) 19.

Automobile's slipping clutch substantially impaired its safety, use, and value, entitling owners to Lemon Law relief. *Totin v. Hyundai Motor Company*, 97 N.J.A.R.2d (CMA) 16.

Grinding noise in automobile's brakes did not impair its safety, use, or value, and thus owner was not entitled to relief under Lemon Law. *Davis v. Toyota Motor Sales*, 97 N.J.A.R.2d (CMA) 14.

Rotten egg smell emanating from automobile's exhaust pipe did not substantially impair its safety, use, or value, and thus owner was not entitled to Lemon Law relief. *Monninger v. Hyundai Motor Company*, 97 N.J.A.R.2d (CMA) 12.

Poor gas mileage is not covered under Lemon Law. *Hassmiller v. Ford Motor Company*, 97 N.J.A.R.2d (CMA) 10.

Owner's unverifiable allegation that automobile's engine raced at idle was insufficient to support Lemon Law relief. *Glombiak v. Nissan Motor Corporation*, 97 N.J.A.R.2d (CMA) 7.

Strong odor of rotten eggs which emanated from automobile, particularly during stops and starts, constituted nonconformity entitling owner to Lemon Law relief. *Conte v. Mitsubishi Motor Sales of America, Inc.*, 97 N.J.A.R.2d (CMA) 4.

Owner failed to show that value of automobile was substantially impacted by transmission whine, wind noise, and rattles and vibrations in passenger door and dashboard. *Martins v. Ford Motor Corporation*, 97 N.J.A.R.2d (CMA) 1.

Squeaking noise in van's wheels was significant enough to constitute substantial defect and to impair van's use, safety and value. *Lloyd v. Chrysler Corporation*, 96 N.J.A.R.2d (CMA) 282.

Steering problem was substantial nonconformity which impaired use, value and safety of automobile. *Toth v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 281.

Fact that lessor had driven automobile 16,000 miles in 17 months controverted his claim that engine noise, backfiring, loss of power and excessive gasoline consumption had impaired his use of automobile. *Mohamadi v. Mercedes-Benz of N.A.*, 96 N.J.A.R.2d (CMA) 279.

Lessor of new van failed to show that loud creaking noise in front end of vehicle indicated steering or suspension problem. *Shtutman v. Chrysler Motor Corporation*, 96 N.J.A.R.2d (CMA) 277.

Automobile lessor failed to show that automobile's propensity for stalling in damp or rainy weather constituted continuing nonconformity. *Christelles v. Nissan Motor Corporation*, 96 N.J.A.R.2d (CMA) 274.

Brake noise was nonconformity which substantially impaired safety and value of leased automobile. *Orefice v. Chrysler Corporation*, 96 N.J.A.R.2d (CMA) 271.

Noxious smoke venting from engine into passenger compartment of automobile was nonconformity which substantially impaired its use, safety and value. *Noonan v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 269.

Lemon Law relief was denied where automobile noise did not impair its use, value or safety. *Primiano v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 265.

Slight transmission noise was found not to constitute substantial defect warranting Lemon Law relief. *Ciccione v. Chrysler Motor Corporation*, 96 N.J.A.R.2d (CMA) 263.

Lemon Law claim was denied where truck's drifting to left and right was easily corrected by driver's steering. *Sreenen v. Ford Motor Company*, 96 N.J.A.R.2d (CMA) 259.

Rough idle and rattle was not impairment in use, value and safety as to constitute a nonconforming vehicle. *Scanlon v. Volkswagen of America, Inc.*, 92 N.J.A.R.2d (CMA) 190.

Excessive bounciness and swaying and creaking noises did not constitute nonconformity. *Ostrovsky v. Toyota Motor Sales*, 92 N.J.A.R.2d (CMA) 187.

Sudden excessive revving was defect or nonconformity which substantially impaired use, safety or value of vehicle. *Bertucci v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 185.

Stalling and electrical failures interfered with reasonable enjoyment and safe operation of vehicle entitling owner to relief under Lemon Law. *Baccigalupi v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 182.

Oil pump rotor damage and consequences following oil changes by owner was substantial defect for which neither the dealer nor the manufacturer was liable under the Lemon Law. *Purcell v. Kawasaki Motors Corporation, U.S.A.*, 92 N.J.A.R.2d (CMA) 177.

Rattles did not use to a level for which Lemon Law relief was appropriate. *George v. Acura Div.-American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 175.

Vehicle pulling and vibrating was substantially impaired in use, value and safety. *Kaufman v. Mercedes-Benz of North America*, 92 N.J.A.R.2d (CMA) 171.

Rough engine idle was not substantial impairment. *Wilson v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 169.

Emission of odor and low gasoline mileage constituted substantial impairment. *Ryan v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 165.

Vehicle pulling sideways at least three feet within a 60 foot stop entitled the owner to relief under the Lemon Law. *Cranston v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 160.

Vehicle contained fuel pump defect which constituted a nonconformity. *Stanford v. Toyota Motor Sales, U.S.A., Inc.*, 92 N.J.A.R.2d (CMA) 155.

Failure of anti-lock brake system constituted a nonconformity. *Sluzczuk v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 151.

Neither squealing noise nor a "popping" noise constituted a condition which substantially impaired the use, safety or value of the vehicle. *Kuras v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 149.

Pulsating/knocking noise would not impair the safety or use of vehicle. *Ruff v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 147.

Steering mechanism had design defect substantially impairing the value of the vehicle. *Watkins v. Chevrolet Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 144.

Nonconformity as defined in the Lemon Law existed in vehicle with steering problems. *Shannon v. Buick Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 142.

Proof failed to establish veering of vehicle on sudden braking. *Breitman v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 140.

Failure of judge to hear noise on a test drive and continued driving of the vehicle after report of problem indicated that nonconformity did not exist. *Compolo v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 138.

Continued repair efforts did not prove nonconformity of the vehicle under the Lemon Law. *Bennett v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 137.

Clanging, rumbling and vibration in the drive shaft substantially affected the use of sports utility vehicle and entitled the purchaser to relief under Lemon Law. *Ward v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 133.

Continuing tire air loss constituted a nonconformity which entitled owner of vehicle right to restitution under Lemon Law. *McCarthy v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 132.

Smell from the air conditioning and wind noise from the windows was not substantial impairment of the use of the vehicle. *Galvano v. American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 130.

Rattle was not a substantial impairment of the value of the car. *Hirschorn v. Acura Division-American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 129.

Leak was a nonconformity under the Lemon Law. *Black v. Volvo North America Corporation*, 92 N.J.A.R.2d (CMA) 123.

Vibration due to transmission with a lock-up torque converter was not nonconformity within the Lemon Law. *Gentile v. Chevrolet Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 120.

Vehicle contained a defect which constituted a nonconformity which impaired the use, safety and value of the vehicle. *Berrie v. Toyota Motor Sales, U.S.A., Inc.*, 92 N.J.A.R.2d (CMA) 117 affirmed 267 N.J. Super. 152.

Leak was a nonconformity which substantially impaired the value of the vehicle. *Cappuccio v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 114.

Intermittent rattle and claimed vibration in the steering column failed to establish right to relief under the Lemon Law. *Longa v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 111.

Finish of car did not constitute a nonconformity within the Lemon Law. *Rottenberg v. Volkswagen of America, Inc.*, 92 N.J.A.R.2d (CMA) 109.

Squeaking brakes substantially impaired vehicle use, value or safety, and entitled owner to full restitution. *Pardo v. Chevrolet Motor Division*, 92 N.J.A.R.2d (CMA) 105.

Corrected nonconformity of exterior paint of car was not basis for relief under the Lemon Law. *Ferrara v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 93.

Transmission slippage was not a sufficient defect to constitute a nonconformity under the Lemon Law. *Roe v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 91.

Repair of rattle negated any claim for nonconformity under the Lemon Law. *Pagano v. General Motors Corporation*, 92 N.J.A.R.2d (CMA) 87.

Transmission defects caused by impact of external force, and results of repair and/or maintenance not authorized by the manufacturer, did not allow the owner the right of recovery under the Lemon Law. *Lugo v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 84.

Uncorrectable water leak constituted a substantial impairment of value which allowed the owner to relief under the Lemon Law. *Pak v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 80.

Vehicle noisier than the owner desired, and without the gas mileage which the owner expected, was not so defective as to constitute a nonconformity. *Frison v. Toyota Motor Sales, U.S.A.*, 92 N.J.A.R.2d (CMA) 75.

Noises were not nonconformity which would impair use, value or safety of vehicle. *Dogra v. Mitsubishi Motor Sales of America, Inc.*, 92 N.J.A.R.2d (CMA) 73.

Transmission slippage and whining and clanking did not constitute a condition or defect which substantially impaired the use, value or safety of the vehicle. *Valentini v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 70.

Transmission with design defect entitled owner to restitution under the Lemon Law. *Mills v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 68.

Failure of the headlights and wipers entitled the owner to relief under the Lemon Law. *Marley v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 62.

Engine noise did not constitute a nonconformity. *Spadavecchia v. Toyota Motor Corporation*, 92 N.J.A.R.2d (CMA) 59.

Leaks of water into the passenger compartment and engine starting defect constituted a nonconformity under the Lemon Law. *Hartzell v. Porsche Cars North America, Inc.*, 92 N.J.A.R.2d (CMA) 55.

Grinding and noisy brakes demonstrated a nonconformity which substantially impaired the use, safety and value of the vehicle. *Davis v. Mazda Motor of America*, 92 N.J.A.R.2d (CMA) 53.

Racing of engine failed to establish a nonconformity under the Lemon Law. *Quairol v. Chrysler Motor Corporation, Inc.*, 92 N.J.A.R.2d (CMA) 51.

Screeching brakes did not substantially impair use, value or safety of vehicle. *Friedberg v. Volvo Cars of North America*, 92 N.J.A.R.2d (CMA) 47.

Vehicle was not subject to the defect of a "body boom", but was the normal condition for the vehicle as modified, and did not constitute a nonconformity under the Lemon Law. *Palamara v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 45.

Neither rattling noise, ignition switch problem, nor misalignment of the steering wheel constituted a nonconformity under Lemon Law. *Kochie v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 39.

Transmission problems constituted a nonconformity which substantially impaired the use, safety or value of the vehicle and entitled the purchaser to restitution. *Caprio v. American Honda Motor Company, Inc.*, 92 N.J.A.R.2d (CMA) 36.

Transmission problem was nonconformity which substantially impaired the use, safety or value of the vehicle and entitled the buyer to full restitution. *Hopke v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 33.

Transmission and other claimed defects did not establish the existence of a bona fide defect or condition substantially impairing the use, value or safety. *Deitelbaum v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 30.

Acid rain damage is not covered by Lemon Law. *Mavuro v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 26.

Transmission drag did not rise to the level of a substantial impairment to the use, safety, or market value of the vehicle. *Boyd v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 24.

Stalling for no apparent reason was not substantial impairment in use, value and safety within the statutory standard for relief under the Lemon Law. *Cortes v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 23.

No sufficient evidence that a defect or nonconformity which affected its use, safety or value existed. *Trifun v. World-Wide Volkswagen Corp.*, 92 N.J.A.R.2d (CMA) 20.

Absence of testimony to the effect on value or safe use made a claim under the Lemon Law unavailable. *Rosko v. General Motors Corporation*, 92 N.J.A.R.2d (CMA) 18.

Clicking noise was not a substantial impairment under the Lemon Law. *Greenbaum v. Ford Motor Co.*, 92 N.J.A.R.2d (CMA) 16.

Unauthorized modification or alteration did not constitute a "nonconformity" within the Lemon Law. *Mount v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 13.

Unsuccessful repair entitled the owner to a claim under the Lemon Law. *Quinton v. GMC Truck, D.M.A.C. Operation*, 92 N.J.A.R.2d (CMA) 5.

Convertible having water leak was not "nonconformity" under the Lemon Law. *Chudzinski v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 1.

Rattle and rumbling noise did not cause motor vehicle to be a "nonconformity" under the Lemon Law. *Stewart v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 1.

Evidence was insufficient to find that motor vehicle had any unusual vibration. N.J.S.A. 56:12-30, 56:12-31, 56:12-32, 56:12-40, 56:12-33. *Nolin v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 19.

Automobile used excessive amounts of oil; nonconformity which substantially impaired its safety, use, and value. N.J.S.A. 56:12-29, 56:12-30, 56:12-31, 56:12-32, 56:12-34, 56:12-42. *Antunes v. Mitsubishi Motor Sales of America, Inc.*, 91 N.J.A.R.2d (CMA) 14.

Rattle in wheels presented a safety hazard with respect to use of the vehicle. N.J.S.A. 13:45A-26.11, 56:12-29 et seq., 56:12-33. *Sager v. Nissan Motor Corp.*, 91 N.J.A.R.2d (CMA) 7.

Humming and vibrations substantially impaired use and value of the vehicle under the Lemon Law. N.J.S.A. 56:12-29 et seq. *Zuelch v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 7.

Gear noise was not defect. N.J.S.A. 56:12-29 et seq., 56:12-30. *Weaver v. Hyundai Motor America*, 91 N.J.A.R.2d (CMA) 6.

Overheated engine and loss of fluids, malfunctioning air conditioning system, and smell of exhaust fumes inside car, did not justify refund of purchase price. N.J.S.A. 56:12-29 et seq., 56:12-31. *Gilliard v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 4.

Excessive vibration was not a defect. N.J.S.A. 56:12-29 et seq. *McClintock v. Chrysler Motor Corp.*, 91 N.J.A.R.2d (CMA) 2.

Pick-up was not a passenger vehicle under the state Lemon Law. N.J.S.A. 39:1-1, 56:12-29 et seq. *Hund v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 1.

13:45A-26.3 Statements to consumer; other notices

(a) At the time of purchase or lease of a motor vehicle in the State of New Jersey, the manufacturer, through its dealer or lessor, shall provide the following written statement directly to the consumer on a separate piece of paper, in 10-point bold-face type:

"IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF THE PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR COMPLETE INFORMATION REGARDING YOUR RIGHTS AND REMEDIES UNDER THE RELEVANT LAW, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS, LEMON LAW UNIT, AT POST OFFICE BOX 45026, NEWARK, NEW JERSEY 07101, TEL. NO. (973) 504-6226."

The manufacturer, through its dealer or lessor, shall maintain a record substantiating compliance with this section and shall make the record available to the Division upon request.

(b) If a motor vehicle is returned to the manufacturer under the provisions of the Lemon Law or a similar statute of another state or as the result of a legal action or an informal dispute settlement procedure, the motor vehicle shall not be resold or released in New Jersey unless the following steps are taken:

1. Immediately upon receipt of the vehicle, the manufacturer, its agent, or a dealer who accepts the vehicle shall cause the words "R—RETURNED TO MANUFACTURER UNDER LEMON LAW OR OTHER PROCEEDING" to be clearly and conspicuously stamped on the face of the original certificate of title, the manufacturer's statement of origin, or other evidence of ownership.

2. Within 10 days of receipt of the vehicle, the manufacturer, its agent, or a dealer who accepts the vehicle shall submit a copy of the stamped document to the Special Title Section of the Motor Vehicle Commission (MVC) to indicate that title to the vehicle shall be permanently branded.

3. The manufacturer shall provide to the dealer or lessor, and the dealer or lessor shall provide to the consumer prior to the resale or release of the motor vehicle a copy for the consumer's records of the following statement on a separate piece of paper, in 10-point boldface type:

NOTICE OF NONCONFORMITY

"IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S WARRANTY AND THE NONCONFORMITY WAS NOT CORRECTED WITHIN A REASONABLE TIME AS PROVIDED BY LAW."

(This notice is required under the New Jersey "Lemon Law", N.J.S.A. 56:12-29, for vehicles that have been replaced or repurchased by the manufacturer as the result of any one of the following: a court judgment, or a final decision pursuant to a hearing or settlement by the Office of Administrative Law, or an arbitration proceeding between the manufacturer or its agent and a consumer.)

4. Upon delivery to the consumer of the statement in (b)3 above the dealer or lessor shall obtain from the consumer a signed receipt, on a separate sheet of paper, which shall state the following, in underlined 10-point boldface type:

"I ACKNOWLEDGE RECEIPT OF NOTICE OF NONCONFORMITY OF THIS VEHICLE, VIN NO. _____ AS REQUIRED BY N.J.S.A. 56:12-35 (THE 'LEMON LAW')."

Alternatively, the dealer or lessor may fulfill this requirement by making the following notation in underlined boldface type on the front page of the vehicle buyer order form or the lease form:

"NOTICE OF NONCONFORMITY OF THIS VEHICLE, VIN NO. _____, HAS BEEN PROVIDED TO THE PURCHASER OR LESSEE, AS REQUIRED BY N.J.S.A. 56:12-35 (THE 'LEMON LAW')."

5. The manufacturer, dealer or lessor shall notify the Special Title Section of the MVC of the resale or release of

the vehicle by requesting transfer of the branded title to the new owner or lessor, in writing.

(c) Each time a consumer's motor vehicle is returned from being examined or repaired during the term of protection, the manufacturer through its dealer shall provide to the consumer an itemized, legible statement of repair which indicates any diagnosis made and all work performed on the vehicle; the statement of repair shall provide at least the following information:

1. A description or identification of the problem reported by the consumer or an identification of the defect or condition;

2. A specific description of the repair work performed.

3. The amount charged for parts and the amount charged for labor, if paid by the consumer;

4. The date and the odometer reading when the vehicle was submitted for repair; and

5. The date and the odometer reading when the vehicle was made available to the consumer.

(d) Failure to comply with the provisions of this section shall be a violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

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).

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Administrative Change.

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

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

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

In (b)2, substituted "Motor Vehicle Commission (MVC)" for "Division of Motor Vehicle"; in (b)3, corrected the statutory cite in the "Notice of Nonconformity" statement; in (b)5, substituted "MVC" for "Division of Motor Vehicles".

13:45A-26.4 Lemon Law Unit

(a) There is established within the Division of Consumer Affairs a section processing Lemon Law matters, to be known as the Lemon Law Unit (LLU).

(b) The Lemon Law Unit shall upon request provide consumers with a brochure setting forth:

1. Information regarding a consumer's rights and remedies under the relevant law; and

2. The procedure to be followed in order to participate in the various dispute resolution systems.

(c) All correspondence by consumers or manufacturers to the Division of Consumer Affairs regarding Lemon Law 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, 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 either of the following occurs during the first 18,000 miles of operation or within 24 months after the date of original delivery, whichever is earlier:

1. Substantially the same nonconformity has been subject to repair two or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
2. The motor vehicle has been out of service by reason of repair for one or more nonconformities for a minimum of 20 days since the original delivery of the motor vehicle, and a nonconformity continues to exist.

(b) The manufacturer has one more opportunity to repair or correct the nonconformity within 10 days following receipt of written notification from the consumer of a potential claim. 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.

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

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).

Case Notes

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-Kessarlis 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

manufacturer a last chance opportunity. *Shepps v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 78.

Failure to give manufacturer a final opportunity to repair alleged defect in vehicle was fatal to consumer's claim. *Viccaro v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 56.

Presumption of inability to correct nonconformity was not available when manufacturer commenced repair but was thereafter prevented by consumer from completing repair. *Stassi v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 49.

Remedies under Lemon Law were not available to consumer without affording dealer last chance opportunity to correct alleged defects in vehicle. *Benenati v. Mitsubishi Motor Sales*, 95 N.J.A.R.2d (CMA) 9.

Failure to tell repairer that malfunction occurred only when the headlights were turned on required the manufacturer be given last chance to repair the nonconformity. *Measley v. Volkswagen of America, Inc.*, 93 N.J.A.R.2d (CMA) 1.

Failure to send correct last chance notice required the complaint under the Lemon Law be dismissed without prejudice. *Millar, Patrick J., v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 180.

Settlement agreement was in full force and effect after the manufacturer honestly and in good faith performed its duties under the agreement. *Guarino v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 99.

13:45A-26.6 Eligibility

(a) To be eligible for the Dispute Resolution System, a consumer must provide the following items to the LLU by certified mail, return receipt requested: