



VERDICT

Volume 2014-2015 - Issue 4

ARTICLE OF INTEREST

What You Need to Know When a Client Calls About a Lemon Law Case?



Robert M. Silverman, Esq.
Kimmel & Silverman, P.C.

While handling a significant case for a client injured in a car crash, she calls and tells you that the new car purchased with the property damage settlement is a lemon. She has had nothing but problems with the new vehicle. Can you help her? You have heard about the Lemon Law, but have you ever handled a case? Is it a federal law or a Pennsylvania statute? In spite of the law's efficacy in defending consumer rights, many attorneys know little about it. The lemon law forces manufacturers to take responsibility for defective vehicles, providing consumers with a voice in a situation that can be stressful and somewhat intimidating.

Although each state has its own lemon law, a "lemon" is generally a consumer vehicle subjected to an unreasonable number of repair attempts for a problem impairing its use, value or safety. However, lemon laws may vary in coverage period, the number of repair attempts required for an issue, and the number of calendar days a vehicle must spend in the shop before it's considered a lemon.

The Pennsylvania Lemon Law covers vehicles where the first repair attempt occurs within 12 months or 12,000 miles (whichever

comes first) after the original date of delivery. While our lemon law protects new cars, trucks and vans leased or purchased and registered in the state, and vehicles registered for the first time in Pennsylvania, it excludes commercial vehicles, motorcycles, and the living facilities of motor homes. The offending manufacturer must pay reasonable legal fees if the case settles or the court rules in favor of the buyer.

The manufacturer has a reasonable number of attempts (normally three) to fix problems with a new vehicle before a claim can be filed. In Pennsylvania, a consumer is "presumed" to have given a reasonable number of repair attempts if the new vehicle spends 30 calendar days or more in the shop for repair. These 30 days do not have to be consecutive, nor do they all have to be for the same problem.

What should you find out from the client before you make the wise decision to refer the matter to an attorney who handles Lemon Law cases? Ask for maintenance records for the vehicle. Documentation is everything. A log of reported issues will help to support the claim. A consumer's involvement is pivotal because their records and experiences prove the case. Diligent consumers should record the car's mileage before and after repairs, noting the issues for which the vehicle is being serviced and tracking the total time the car spends in service.

Consumers should provide the dealer with detailed information when seeking a repair. Describe any noises, and when and where they occur. Smartphones provide

an easy way to record problems. Try to replicate the problem with a technician in the vehicle, hopefully leading to a more accurate analysis.

Repair invoices are a powerful asset, providing a record of replaced parts, whether the repair was covered under the manufacturer's warranty and which technical service bulletins were referenced, if any. Consumers should always review repair invoices when picking up their vehicles after service, and correct any inconsistencies before leaving. Repair invoices inaccurate in any way should not be signed.

If the claim does not fall under the parameters of a lemon law, there still may be a case for breach of warranty or a Magnuson-Moss Warranty Act claim. While the lemon law applies primarily to new vehicles, these statutes can be equally effective in protecting consumers of products covered by a manufacturer's warranty.

Although consumers can file claims with the Better Business Bureau, the better course is to work with an experienced attorney who understands the lemon law. Legal fees should be paid by the manufacturer and the case can often be settled quickly without a lawsuit. While owning a lemon can be frustrating, and at times dangerous, the lemon law levels the playing field for car buyers. ♦

Editor's Note: Robert M. Silverman, is partner in the law firm Kimmel & Silverman where he focuses his practice on Lemon Law and breach of warranty claims. You can reach Mr. Silverman at:
rsilverman@lemonlaw.com.