

# HOW TO AVOID FOUR COMMON LEMON LAW RIP-OFFS



## Consumer Awareness Guide



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### **How to Avoid Lemon Law Rip-Off No. 1: NEVER sign your rights away in exchange for a minimal compensation offer from the car, motorcycle, boat, or RV company.**

We have had consumers come to our Firm with egregious vehicle problems and repair histories, but we can't help them. Why? **Because they signed away all of their Lemon Law and breach of warranty rights**, usually for a lot less than what they're legally entitled to. A common tactic of car, motorcycle, boat, or RV manufacturers is to offer consumers who call to complain about excessive vehicle problems minimal compensation like a warranty extension or reimbursement for one or two months of payments. The problem is that this compensation comes with a huge catch. Often times to receive this compensation a consumer must sign a "release" of claims for the entire vehicle repair history. Most consumers do not understand the rights they are giving up, including the right to pursue a Lemon Law or a breach of warranty action in the future if they keep having vehicle problems. Under the law, people are generally deemed to have agreed to what they sign, even if they don't understand all of the terms. Over the years we have seen several unfortunate consumers who signed their rights away like this when they could have been entitled to a Lemon Law Refund, a New Vehicle, or thousands of dollars in Cash Compensation. If a car, motorcycle, boat, or RV company offers to provide you reimbursement for monthly payments or a warranty extension NEVER EVER agree to sign any document to receive this compensation without having a Lemon Law attorney review the document for you first. If you do, then no matter how serious the problems are or how untimely repairs may be, you could be legally barred from being able to do anything about it.

### **How to Avoid Lemon Law Rip-Off No. 2: When picking up your vehicle after a warranty repair is completed, NEVER leave a repair shop or authorized repairing dealership without being given repair records showing everything that was done to it and listing all of your defect complaints.**

A common tactic by repairing dealerships is not to give consumers repair records when their vehicle has numerous and/or untimely warranty repairs or to only provide incomplete records that don't list all of the defects that were complained of or incorrectly minimize the time in the repair shop. Dealerships do this because they know the number one most important type of evidence for Lemon Law and breach of warranty claims is their repair records. According to the Ninth Circuit Court of Appeals (which covers Oregon) the repair records containing warranty repair information are a legal admission

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of repairs to a warrantable defect that triggers Lemon Law and/or breach of warranty protection.

Although the Lemon Law and breach of warranty laws generally apply to vehicle manufacturers, not selling or repairing dealerships (there are some instances where the State version of the Uniform Commercial Code can be used against selling dealerships as well as implied warranty claims, but even then the dealerships are usually defended by manufacturers), the dealerships have a business relationship with manufacturers and they often try and shield their business partners from potential Lemon Law or breach of warranty claims. If you don't protect yourself by requesting and keeping track of all your repair records, if you request them later, sometimes records conveniently disappear from the dealership's files or new records are drafted that do not list all of the repair issues and/or even blame you for the repair issues. That greatly complicates a Lemon Law or breach of warranty claim and makes it much more difficult to prove when it turns into a he said/she said situation. The frame of mind to have is that if you don't have it in writing it didn't happen because anyone can obviously say anything after the fact. **So NEVER EVER let a dealership get away with not giving you a repair order *showing exactly what issues you complained of and what repairs were done* when you pick up your vehicle.** When you are given the repair order be sure to review it for accuracy regarding the repair issues described and the time your vehicle was in the repair shop. If there are inaccuracies then request that the dealership fix them right then and there. It is much easier to get a record corrected in the moment rather than at some point in the future. If you encounter this situation, live by the adage that you catch more flies with honey than you do with vinegar—be polite and non-confrontational, but assertive in your demand that the records be provided and that the records are accurate.

**How to Avoid Lemon Law Rip-Off No. 3: NEVER sign an out of court Lemon Law representation agreement that charges you for attorneys' fees up front, has ways you can be charged for attorneys' fees out of pocket, or allows the attorney to be paid more than you out of a cash compensation settlement.**

The State Lemon Law entitles consumers to recover attorneys' fees from motor vehicle companies for successfully resolved Lemon Law cases. The federal Lemon Law also gives consumers the right to recover attorneys' fees from any company that warrants a defective consumer product. The vast majority of legitimate Lemon Law cases settle out of court without any lawsuit *if* you have a reputable Lemon Law attorney. For that reason, do not ever sign an out of court representation agreement that obligates you to pay attorneys' fees up front or out of pocket. The attorney should be able to

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recover attorneys' fees as part of any Lemon Law or breach of warranty settlement, but many attorneys still find ways to charge their clients out of pocket anyway. Some common ways attorneys charge people for attorneys' fees or are unfairly paid more than their clients include:

- ✓ If there was a new vehicle replacement settlement where the car, motorcycle, boat, or RV company refused to pay all the attorneys' fees, some attorneys require you to pay the remaining balance out of pocket if the settlement is accepted;
- ✓ If there was a smaller cash compensation settlement where there was not enough money to cover the attorneys' fees and an equal amount of compensation to you, some attorneys actually end up getting paid *more* than you even though you are the one who is suffering with a Lemon vehicle.



**The only limited exception where you could reasonably be charged for attorneys' fees up front or out of pocket is if there is a lawsuit or arbitration filed.** Unlike out of court, where the process takes roughly the same amount of time and work for each case, it is not possible to know exactly how long a lawsuit will take or how much work will be involved once a lawsuit or arbitration action is filed. It can take much more

time and work to resolve a court or arbitration case than an out of court case, which requires that both the client and the attorney share the financial burden and risks of litigating. So unless your case is one of just a small percentage of Lemon Law or breach of warranty claims that require a formal legal action in court or arbitration, you should **NEVER** agree to pay attorneys' fees out of pocket for representation in an *out of court* Lemon Law or breach of warranty claim.

**How to Avoid Lemon Law Rip-Off No. 4: Do not sign any disclaimer of legal rights when you purchase your vehicle.**

A common rip-off tactic by Motor Home, boat, and RV companies that happens less frequently with car or motorcycle companies is to have you sign a supposed "warranty registration" form that waives or severely limits your legal rights to

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compensation and even may force you to go to the State the product is manufactured in to pursue a defective vehicle claim. This is often one of many in a stack of documents that you are told to sign during the sales process and rarely are these unfair and restrictive terms disclosed. Even though the sales process can be long and tedious, do not allow the sales and/or financing people rush you through the process and make sure to read every document you are signing. Do not just rely on what you are told about documents by sales or financing people. If you see a document that states you are giving up your legal rights refuse to purchase the product unless it is removed. If not, then if the product ends up being defective and you seek compensation, the company will use the document you signed against you. Do not fall into this trap!

**To receive more information or have your case reviewed by one of our attorneys for FREE, give us a call today!**



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