

**DIVISION OF CONSUMER SERVICES’
ANNUAL LEMON LAW REVIEW OF
CERTIFIED INDEPENDENT DISPUTE SETTLEMENT PROCEDURES
IMPLEMENTED THROUGH BETTER BUSINESS BUREAU – AUTO LINE
January 1, 2008 through December 31, 2008**

I. BACKGROUND

A. Legislative Authority

Chapter 681, Florida Statutes, effective January 1, 1989, provides the authority for the Division of Consumer Services of the Department of Agriculture and Consumer Services (“Division”) to certify a manufacturer’s procedure for dispute settlement that substantially complies with Title 16 C.F.R. Part 703.1 et seq. (“Magnuson-Moss Act”), effective October 1, 1983; Chapter 681, Florida Statutes (“F.S.”); and Chapter 5J-11, Florida Administrative Code (“F.A.C.”).

B. Audit

Section 681.108(5), F.S., requires the Division to review each manufacturer’s certified procedure at least annually and prepare an annual report evaluating the operations of each certified procedure for compliance with the provisions of Title 16 C.F.R. Part 703, Chapter 681, F.S. (“Lemon Law”), and rules adopted thereunder. The staff of the Division’s Lemon Law Section conducts the review and prepares the annual evaluation report. This report is compiled for the calendar year beginning January 1, 2008, and ending December 31, 2008. The data gathering process includes an evaluation of hearings, an office audit of the procedures’ records, a review of data that is electronically submitted to the Division on a weekly basis by the procedures, a review of

the procedures' arbitrator training processes, and a review of surveys sent to consumers who have participated in the procedures.

II. CERTIFIED PROCEDURES ADMINISTERED BY BETTER BUSINESS

BUREAU - AUTOLINE

A. Manufacturers

Several manufacturers have established dispute settlement procedures since the enactment of the Magnuson-Moss Act. Below are the manufacturers that have established a certified procedure with the Division, implemented through the Better Business Bureau – Auto Line (“BBB”) program. The listing below reflects the manufacturers implementing programs through the BBB and their initial date of certification.

- AM General August 23, 1994
- Acura/Honda December 22, 1990
- Bentley November 7, 1994
- Ford Motor Company May 27, 2005
- General Motors August 14, 1989
- Hyundai August 23, 1994
- Isuzu August 23, 1994
- Kia June 30, 1995
- Mazda December 21, 2007
- Nissan/Infiniti January 22, 1990
- Saturn October 20, 1994
- Volkswagen/Audi November 7, 1989

The Division was notified on May 12, 2008, that Saturn was operating as a Division of General Motors effective May 8, 2008, and Saturn's complaints were being handled under the General Motors Program Summary. Divisions under the General Motors Program Summary include Chevrolet, Buick, Pontiac, GMC, Cadillac, Oldsmobile, Saab, Saturn, and Hummer H2. For purposes of this report all Saturn complaints and statistics received prior to May 8, 2008, are included in all statistics reported for General Motors.

Ford's certification is only for Ford, Lincoln, and Mercury.

On March 31, 2008, the Division recertified all procedures listed until March 31, 2009. For future reports Saturn will be included in the certification date provided for General Motors.

B. Better Business Bureau - Auto Line Headquarters

BBB is headquartered at the offices of the Council of Better Business Bureau ("CBBB") in Arlington, Virginia, and is administered by the Dispute Resolution section ("DR").

Associate General Counsel for CBBB is Mr. Richard Woods and Mr. Rodney Davis is VP of DR. These individuals are located in the offices in Virginia.

C. Florida Offices

BBB maintains five offices in Florida. The Florida offices are maintained at the following locations:

- Clearwater, Better Business Bureau of West Florida
- Pensacola, Better Business Bureau of Northwest Florida
- Jacksonville, Better Business Bureau of Northeast Florida
- Orlando, Better Business Bureau of Central Florida

- West Palm Beach, Better Business Bureau of Southeast Florida.

Mrs. Karen Nalven is the Coordinator of BBB functions for all offices in the State of Florida. She is located in Clearwater, Florida.

III. BBB EVALUATION

A. Recordkeeping

The individual Florida BBB offices are responsible for organizing and maintaining the case file information relative to each office's activities. Each of the Florida offices of BBB transmits the information to the Clearwater BBB office after the file is closed. The Clearwater BBB office transmits the arbitration case file data to the CBBB office in Arlington via electronic transfer.

The Division has been provided access to all case files through the BBB website. The files are accessible by manufacturer and consumer name. The Florida files are segregated from other governmental jurisdictions files pursuant to § 5J-11.009, F.A.C.

The CBBB office in Arlington submits a weekly claims report via electronic transfer to Division. This report provides the pertinent information regarding disposition of each claim processed by BBB for that week. This information is uploaded into the database maintained by the Division and is readily accessible.

On November 19, 2008, the Division staff visited the BBB office in Orlando (Longwood) to review the retention of records and to discuss the arbitration procedures implemented by the office. It was noted that the office staff was very knowledgeable regarding the dispute resolution procedures. It was noted that the records were maintained in an orderly and accurate manner.

B. Disputes/Claims

Consumers may file claims with BBB by calling their 800 phone number, completing a claim form from their website, or completing a claim form received from other sources.

A call to BBB's 800 number from a consumer that provides the data required by § 5J-11.005, F.A.C., initiates a claim with the BBB. If a claim form is completed from BBB's website by the consumer, the submission of the electronic form initiates a claim with BBB. Likewise, a form mailed to BBB initiates a claim upon receipt by BBB.

BBB submitted details to the Division for 2,315 claims processed for Florida consumers in 2008, compared to the previous year when 2,716 claims were submitted. The claims processed by BBB were categorized as ineligible, withdrawn, mediated, or arbitrated. The charts below (see Chart 1) provide a comparison of the number of claims and percentage of the total claims that were processed by BBB for the 2008 audit year and the previous audit year of 2007. The number and percentage of categorized dispositions remained comparable to the previous year.

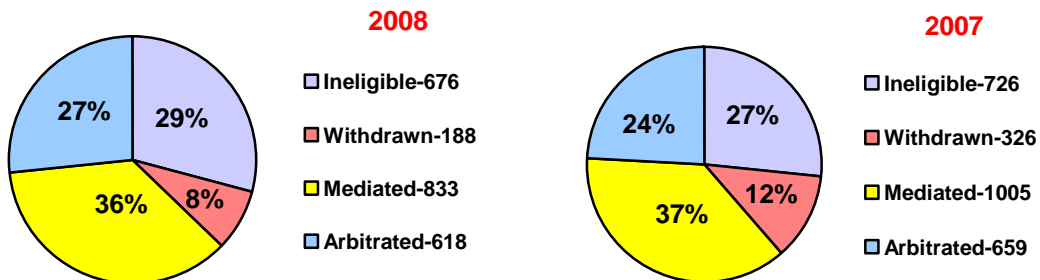


Chart 1

The following table (see Table 1) provides the number of claim dispositions by type that was processed for each certified program implemented by BBB. The

disposition of claims are categorized as those that were declared ineligible to participate in the program, withdrawn by the consumer from the program, settled through mediation by the program, or arbitrated by the program.

| Manufacturer | Ineligible | Withdrawn | Mediated | Arbitrated | Total |
|------------------------|-------------------|------------------|-----------------|-------------------|--------------|
| Acura/Honda | 56 | 14 | 39 | 54 | 163 |
| Bentley | 0 | 0 | 1 | 0 | 1 |
| Ford | 165 | 44 | 133 | 156 | 498 |
| General Motors | 226 | 66 | 327 | 218 | 837 |
| Hyundai | 34 | 9 | 76 | 54 | 173 |
| Isuzu | 4 | 1 | 3 | 2 | 10 |
| Kia | 33 | 10 | 58 | 11 | 112 |
| Mazda | 11 | 8 | 12 | 2 | 33 |
| Nissan/Infiniti | 99 | 21 | 148 | 93 | 361 |
| Volkswagen/Audi | 48 | 15 | 36 | 28 | 127 |
| Total | 676 | 188 | 833 | 618 | 2315 |

Table 1

Following is a description of each claim disposition category and the awards provided in that disposition category:

1. Ineligible

These are disputes in which BBB lacked contractual jurisdiction to process the case. There is no award available when a dispute is declared ineligible as the program is not required to process the claim, and the file is closed immediately.

Examples of cases that are deemed ineligible include claims that are filed in an

untimely manner or beyond the warranty period, claims where the vehicle was purchased or leased by the consumer as “used”, claims in which the gross vehicle weight of the vehicle exceeded 10,000 pounds, or claims where the vehicle was purchased or leased by the consumer outside the state of Florida.

Of the total 2,315 claims filed with BBB, there were 676 cases determined to be ineligible to participate in BBB’s program. Division staff reviewed these files to ensure that adequate documentation supporting BBB’s determination of non-jurisdiction was evident.

2. Withdrawn

These are claims that were withdrawn by the consumer. Since the claim was withdrawn by the consumer, no determination was made by the program. The disputes were withdrawn by the consumer for various reasons. Those reasons included the consumer decided to trade the vehicle, the consumer decided not to pursue the dispute for personal reasons, and the consumer determined the problem had been corrected. 188 claims were withdrawn by the consumer during the audit period.

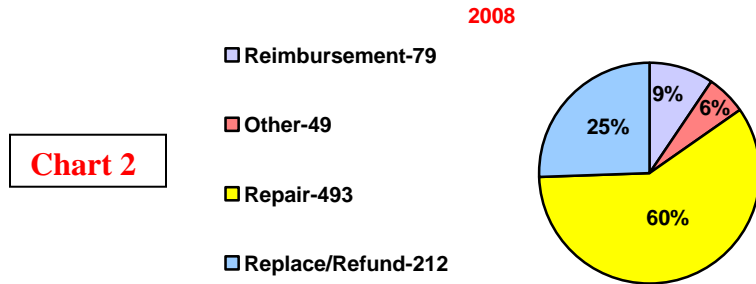
3. Mediated

These are disputes in which the consumer filed a claim with BBB, and the manufacturer and consumer subsequently entered into an agreement resolving the dispute prior to BBB conducting an arbitration hearing. There were 833 BBB case files closed through mediation. This process was typically completed within 7-10 days of the consumer filing a claim.

The manufacturer agreed to repurchase or replace the vehicle in 212 cases. 493 consumers accepted an additional repair attempt. In 79 cases, the disputes

were settled through offers of reimbursement for repairs. 49 cases were settled through other remedies, such as extended warranties or trade allowances.

The chart below (see Chart 2) shows the breakdown of mediated cases:



The following table (see Table 2) provides a breakdown by manufacturer of the awards received through mediation. These awards are directly attributed to the manufacturer as the settlement is an agreement reached between the manufacturer and consumer, assisted by BBB.

| Manufacturer | Reimbursement | Repair | Other | Replace/Refund | Total |
|-----------------|---------------|--------|-------|----------------|-------|
| Acura/Honda | 3 | 33 | 0 | 3 | 39 |
| Bentley | 0 | 1 | 0 | 0 | 1 |
| Ford | 15 | 81 | 12 | 25 | 133 |
| General Motors | 16 | 162 | 20 | 129 | 327 |
| Hyundai | 5 | 58 | 5 | 8 | 76 |
| Isuzu | 0 | 2 | 0 | 1 | 3 |
| Kia | 5 | 26 | 2 | 25 | 58 |
| Mazda | 3 | 8 | 1 | 0 | 12 |
| Nissan/Infiniti | 30 | 98 | 9 | 11 | 148 |

| | | | | | |
|-------------------|----|-----|----|-----|-----|
| Volkswagen | 2 | 24 | 0 | 10 | 36 |
| Total | 79 | 493 | 49 | 212 | 833 |

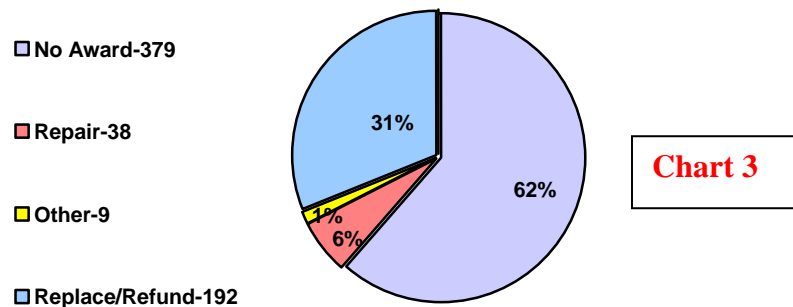
Table 2

4. Arbitration

These are disputes in which the consumer filed a claim with BBB and it conducted an arbitration hearing wherein a decision was rendered. There were 618 cases closed through arbitration during the audit period.

BBB arbitrators awarded a replacement vehicle or a refund to 192 consumers. 379 consumers were granted no relief. 38 consumers were awarded additional repair attempts, and there were 9 cases in which miscellaneous decisions were rendered. Miscellaneous decisions included awards for reimbursement for repairs, extended warranties, or partial refunds.

Chart 3 shown below provides a breakdown of the arbitrated cases. The values remain approximately the same as the previous year; however, a slight reduction in the percentage of refunds and replacements and an increase in the percentage of consumers receiving no relief were evident.



The following table (see Table 3) provides a breakdown by manufacturer of the awards received after an arbitration hearing.

| Manufacturer | No Award | Repair | Replace/Refund | Other | Total |
|-----------------|------------|-----------|----------------|----------|------------|
| Acura/Honda | 34 | 3 | 16 | 1 | 54 |
| Ford | 92 | 9 | 49 | 6 | 156 |
| General Motors | 127 | 14 | 77 | 0 | 218 |
| Hyundai | 36 | 3 | 15 | 0 | 54 |
| Isuzu | 1 | 0 | 1 | 0 | 2 |
| Kia | 6 | 0 | 4 | 1 | 11 |
| Mazda | 1 | 0 | 1 | 0 | 2 |
| Nissan/Infiniti | 67 | 8 | 17 | 1 | 93 |
| Volkswagen | 15 | 1 | 12 | 0 | 28 |
| Total | 379 | 38 | 192 | 9 | 618 |

Table 3

The chart below (see Chart 4) combines all arbitrated and mediated claims, showing a breakdown by percentage of the awards received.

2008 Awards for 1,451 Arbitrated & Mediated Claims

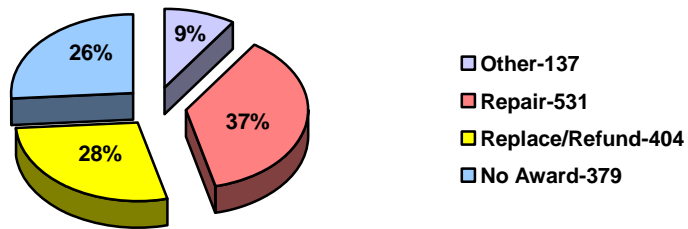


Chart 4

C. Arbitrators/Arbitrator Training

Division staff attended the BBB's new arbitrator training held at Lake Mary, Florida, December 4-5, 2008. The purpose of the training was to establish a larger arbitrator pool for the BBB Central Florida office. A total of 20 new arbitrators attended the training session. Ms. Donna Rubenstein was the training instructor at the training sessions.

Division staff reviewed the content of the Arbitrator Training Manual and monitored the instructional courses. The manual and training sufficiently covered all aspects of the Florida Lemon Law, the federal Magnuson-Moss Act, and the manufacturers' programs.

The new arbitrator training sessions provided excellent coverage of the governing laws. The potential arbitrators participated in mock arbitrations. They were provided a decision checklist to guide them in their reasoning for decisions. BBB staff provided the arbitrators a constructive critique of their handling of the mock arbitrations, when necessary. The instructor's training was excellent. The mock decisions of the potential arbitrators met the standards set forth by § 481.108(2)(f), F.S., and § 5J-11.011(2), F.A.C.

D. Hearings/Hearing Locations

BBB conducts hearings at the five BBB Florida offices previously cited. In addition BBB utilizes hearing sites in the following locations:

- Tallahassee, implemented by BBB of Northeast Florida, Jacksonville,
- Miami Lakes, implemented by BBB of Southeast Florida, Palm Beach,
- Ft. Myers, implemented by BBB of West Florida, Clearwater,
- Panama City, implemented by BBB of Northwest Florida, Pensacola.

This represents nine hearing locations maintained by BBB in Florida.

§ 5J-11.011, F.A.C., requires that all hearings be held no more than 75 miles from the consumer's residence. During the audit period, Division surveys were sent to all consumers who filed a claim through BBB. 391 consumer surveys were returned with 13 consumers, 6 less than the previous year, stating they were required to travel more than 75 miles to participate in an arbitration hearing. BBB does advise consumers who live in an area outside the 75 mile radius of a hearing site, verbally and through a brochure, that a telephone hearing may be held in lieu of appearing in person. Previously, the Division expressed concerns regarding the lack of hearing sites maintained by BBB, thus requiring many consumers to travel distances greater than 75 miles if they wished to be present at the hearing.

Division staff attended numerous hearings the audit period. Hearings in Tallahassee, Ft. Myers, and Longwood (Orlando) were monitored by Division staff during the report period. The Division staff also monitored numerous hearings throughout the audit period via telephone conference call.

BBB provided administrative support for the arbitrator at each arbitration hearing. Copies, telephone setup, and tape recording setup were provided by BBB staff. A member of BBB staff was present throughout the hearing to address procedural questions. The arbitrators provided ample time for each party to present their case. The hearings monitored by Division staff were well structured and the arbitrators were in control of the hearing and did not appear to be biased.

Title 16 C.F.R. Part 703.5(d)(1) requires consumer disputes to be processed as expeditiously as possible and that a decision be rendered within 40 days of the commencement of the action by the consumer. Data for the audit period indicates the average time for handling all cases, including ineligible, withdrawn, mediated, and

arbitrated disputes, was 20 days. Division staff identified 240 cases that were closed after 40 days. The claims that exceeded 40 days were claims arbitrated by BBB or extended for consumer reasons. This represents a decrease over the previous year. The average number of days to close the 240 claims that exceeded 40 days was 49 days. Generally, these cases were extended due to the arbitrator's request for a technical report or at the consumer's request to keep the case open for various reasons.

Data received from BBB reflected that 108 arbitrators were utilized in its arbitration hearing process. The average number of arbitrations heard by any arbitrator during the audit period was six or one every other month. The most hearings heard by any arbitrator during the current audit period were twenty, six less than that heard by a single arbitrator the previous year. The most frequently utilized arbitrators heard twelve cases during the audit period. This indicates that the rotation among arbitrators in BBB's program is adequate and that no arbitrator is over utilized.

E. Independent Audit

Title 16 C.F.R. Part 703.7(a) requires each manufacturer participating in a certified program to have an audit prepared at least annually by an independent auditor to ensure compliance with the provisions of federal law. § 681.108(4), F.S., and Chapter 5J-11, F.A.C., require that each manufacturer file with Division a copy of the independent audit report by July 1st of the following year. The 2007 independent audit of BBB's program for all certified manufacturers was submitted to the Division in a timely manner.

IV. REPORT SUMMARY

The BBB is commended for the mediation and arbitration processes it implements. The rate of consumer satisfaction is good, as noted from the 367 consumer surveys returned to the Division.

The Florida records maintained by the BBB are separate from other jurisdictions and substantially comply with the provisions of § 5J-11.009, F.A.C.

The arbitrator pool maintained by BBB is sufficient for the Florida case load, complying with Title 16 C.F. R. Part 703.4. The arbitrators are knowledgeable in the applicable laws. The instruction and training materials utilized are excellent, substantially complying with 16 C.F.R. Part 703.3(a). BBB's Florida staff provides the support needed to assist the arbitrators.

Evidenced by the reduction in the number of consumers claiming distances traveled of more than 75 miles, the BBB maintains adequate hearing sites in Florida to comply with the 75 mile requirement of the Florida Administrative Code. The BBB substantially complies with § 5J-11.011(3), F.A.C.

Title 16 C.F.R. Part 705(d) provides for the timely processing of claims to be 40 days from the implementation of the claim. The mediation process utilized by BBB has been instrumental in the timely completion of claims. The BBB substantially complies with Title 16 C.F.R. Part 705(d).

Records are submitted each week to the Division, in compliance with § 5J-11.007, F.A.C. The materials include the claim initiation date, the time and place of the hearing, the name and address of the claimant, the name of the arbitrator, and the vehicle used to conduct the hearing. The records submitted do not include the names of the

manufacturers' representatives; however, these are included in the files maintained by BBB.

The independent audit submitted to the Division substantially complies with Title 16 C.F.R. Part 703.7(a), § 681.108(4), F.S., and Chapter 5J-11, F.A.C.

V. RECCOMENDATION

The dispute settlement procedures administered by BBB substantially comply with Chapter 681, F.S., 5J-11, F.A.C., and Title 16 C.F.R. Part 703.

Considering the documentation and information included in this report, Division staff recommends the re-certification of the informal dispute settlement procedures implemented by BBB for AM General, Acura/Honda, Bentley, Ford, General Motors, Hyundai, Isuzu, Kia, Mazda, Nissan/Infiniti, and Volkswagen/Audi through March 31, 2010, in accordance with Chapter 681, F.S.