2010 AUDIT
OF
BBB AUTO LINE

INCLUDING:
THE STATE OF FLORIDA
AND
THE STATE OF OHIO

Prepared by:

MORRISON AND COMPANY
1339 Tatum Gulf Road
Cloudland, Georgia 30731-5128
Telephone and Fax: 1-706-398-3789
Email: jimkitty@jimandkittymorrison.com
Website: www.jimandkittymorrison.com

TABLE OF CONTENTS

PREFACE: INCEPTIVE INFORMATION . . . . . Preface, Page 1
SECTION 01: INTRODUCTION . . . . . Preface, Page 1
SECTION 02: STATUTORY REQUIREMENTS . . . . . Preface, Page 2
SECTION 03: CONDITIONS . . . . . Preface, Page 2
SECTION 04: FINDINGS . . . . . Preface, Page 4
A. Manufacturer Warranty Materials . . . . . Preface, Page 6
B. Office Practices and Procedures . . . . . Preface, Page 6
C. Record-Keeping Procedures . . . . . Preface, Page 7
D. Comparative Statistical Analysis . . . . . Preface, Page 7
SECTION 05: RECOMMENDATIONS AND CONCLUSIONS . . Preface, Page 7

CHAPTER 01: MANUFACTURER WARRANTY MATERIALS . . . . . Chapter 1, Page 1
SECTION 01: INTRODUCTION . . . . . Chapter 1, Page 1
SECTION 02: STATUTORY REQUIREMENTS . . . . . Chapter 1, Page 2
SECTION 03: CONDITIONS . . . . . Chapter 1, Page 3
SECTION 04: FINDINGS . . . . . Chapter 1, Page 6
A. AM General Sales Corporation (Hummer) . . . . . Chapter 1, Page 11
B. American Honda Motor Company (Honda/Acura) . . Chapter 1, Page 11
C. Bentley Motors, Inc. . . . . Chapter 1, Page 12
D. Ford Motor Company . . . . . Chapter 1, Page 13
E. General Motors Company . . . . . Chapter 1, Page 14
F. Hyundai Motor America . . . . . Chapter 1, Page 14
G. Isuzu Motors America . . . . . Chapter 1, Page 15
H. Kia Motors America . . . . . Chapter 1, Page 16
I. Land Rover of North America . . . . . Chapter 1, Page 17
J. Mazda North American Operations . . . . . Chapter 1, Page 18
K. Nissan North America (Infiniti and Nissan) . . . . . Chapter 1, Page 18
L. Volkswagen Group of America . . . . . Chapter 1, Page 19
M. Workhorse Custom Chassis . . . . . Chapter 1, Page 20
SECTION 05: RECOMMENDATIONS . . . . . Chapter 1, Page 21
A. National . . . . . Chapter 1, Page 21
B. Florida . . . . . Chapter 1, Page 22
C. Ohio . . . . . Chapter 1, Page 22
SECTION 06: CONCLUSIONS . . . . . Chapter 1, Page 23

CHAPTER 02: OFFICE PRACTICES AND PROCEDURES . . . . . Chapter 2, Page 1
SECTION 01: INTRODUCTION . . . . . Chapter 2, Page 1
A. BBB AUTO LINE Forms . . . . . Chapter 2, Page 1
B. Informal Dispute Settlement Procedure . . . . . Chapter 2, Page 3
01. Conciliation . . . . . Chapter 2, Page 3
02. Mediation . . . . . Chapter 2, Page 3
03. Arbitration . . . . . Chapter 2, Page 4
a. Preparation for Arbitration Hearing . . . Chapter 2, Page 5

b. Arbitration Hearing . . . . . Chapter 2, Page 5
c. Arbitration Decision . . . . . Chapter 2, Page 6
d. Post Arbitration Decision . . . . . Chapter 2, Page 6
SECTION 02: STATUTORY REQUIREMENTS . . . . . Chapter 2, Page 7
SECTION 03: CONDITIONS . . . . . Chapter 2, Page 7
A. National . . . . . Chapter 2, Page 7
B. Florida . . . . . Chapter 2, Page 8
C. Ohio . . . . . Chapter 2, Page 8
SECTION 04: FINDINGS . . . . . Chapter 2, Page 8
A. National . . . . . Chapter 2, Page 9
01. Office Site . . . . . Chapter 2, Page 9
a. Facilities . . . . . Chapter 2, Page 9
b. Personnel . . . . . Chapter 2, Page 9
B. Florida . . . . . Chapter 2, Page 10
01. Office Site . . . . . Chapter 2, Page 10
a. Facilities . . . . . Chapter 2, Page 10
b. Personnel . . . . . Chapter 2, Page 11
02. Arbitration Hearing Process . . . . . Chapter 2, Page 11
a. Openness of Arbitration Hearing . . . . Chapter 2, Page 11
b. Effectiveness of Arbitration Hearing . . Chapter 2, Page 11
c. Decision-Making . . . . . Chapter 2, Page 12
SECTION 05: RECOMMENDATIONS . . . . . Chapter 2, Page 13
A. National . . . . . Chapter 2, Page 13
B. Florida . . . . . Chapter 2, Page 14
C. Ohio . . . . . Chapter 2, Page 14
SECTION 06: CONCLUSIONS . . . . . Chapter 2, Page 14
A. National . . . . . Chapter 2, Page 14
B. Florida . . . . . Chapter 2, Page 14
C. Ohio . . . . . Chapter 2, Page 15

CHAPTER 03: RECORD-KEEPING PROCEDURES . . . . . Chapter 3, Page 1
SECTION 01: INTRODUCTION . . . . . Chapter 3, Page 1
SECTION 02: STATUTORY REQUIREMENTS . . . . . Chapter 3, Page 1
A. National . . . . . Chapter 3, Page 1
B. Florida . . . . . Chapter 3, Page 2
C. Ohio . . . . . Chapter 3, Page 2
SECTION 03: CONDITIONS . . . . . Chapter 3, Page 2
SECTION 04: FINDINGS . . . . . Chapter 3, Page 2
PART I . . . . . Chapter 3, Page 3
PART II . . . . . Chapter 3, Page 21
SECTION 05: RECOMMENDATIONS . . . . . Chapter 3, Page 33
A. National . . . . . Chapter 3, Page 33
B. Florida . . . . . Chapter 3, Page 33
C. Ohio . . . . . Chapter 3, Page 34
SECTION 06: CONCLUSIONS . . . . . Chapter 3, Page 34

CHAPTER 04: COMPARATIVE STATISTICAL ANALYSIS . . . . . Chapter 4, Page 1
SECTION 01: INTRODUCTION . . . . . Chapter 4, Page 1
SECTION 02: STATUTORY REQUIREMENTS . . . . . Chapter 4, Page 2
SECTION 03: CONDITIONS . . . . . Chapter 4, Page 2
A. National . . . . . Chapter 4, Page 2
B. Florida . . . . . Chapter 4, Page 4
C. Ohio . . . . . Chapter 4, Page 4
SECTION 04: FINDINGS . . . . . Chapter 4, Page 4
A. National . . . . . Chapter 4, Page 4
01. General Information . . . . . Chapter 4, Page 4
02. Consumer Knowledge about Program . . . . . Chapter 4, Page 5
03. Ineligible/Withdrawn Cases + ... Chapter 4, Page 8
04. Forty Day Time Limit + ... Chapter 4, Page 8
05. Resolution of Cases + ... Chapter 4, Page 10
06. Mediated Cases + ... Chapter 4, Page 12
07. Arbitrated Cases+ . . . . . Chapter 4, Page 15
08. Consumer Satisfaction with Arbitrators . . . . Chapter 4, Page 20
09. Consumer Satisfaction with BBB . . . . . Chapter 4, Page 23
B. Florida . . . . . Chapter 4, Page 26
01. General Information . . . . . Chapter 4, Page 26
02. Consumer Knowledge about Program . . . . Chapter 4, Page 26
03. Ineligible/Withdrawn Cases + ... Chapter 4, Page 29
04. Forty Day Time Limit + ... Chapter 4, Page 29
05. Resolution of Cases + ... Chapter 4, Page 32
06. Mediated Cases + ... Chapter 4, Page 34
07. Arbitrated Cases+ . . . . . Chapter 4, Page 37
08. Consumer Satisfaction with Arbitrators . . . . Chapter 4, Page 42
09. Consumer Satisfaction with of BBB . . . . . Chapter 4, Page 45
C. Ohio . . . . . Chapter 4, Page 48
01. General Information . . . . . Chapter 4, Page 48
02. Consumer Knowledge about Program . . . . Chapter 4, Page 48
03. Ineligible/Withdrawn Cases + ... Chapter 4, Page 51
04. Forty Day Time Limit + ... Chapter 4, Page 51
05. Resolution of Cases + ... Chapter 4, Page 54
06. Mediated Cases + ... Chapter 4, Page 55
07. Arbitrated Cases+ . . . . . Chapter 4, Page 58
08. Consumer Satisfaction with Arbitrators . . . . Chapter 4, Page 63
09. Consumer Satisfaction with BBB . . . . . Chapter 4, Page 66
SECTION 05: RECOMMENDATIONS . . . . . Chapter 4, Page 69
A. National . . . . . Chapter 4, Page 69
B. Florida . . . . . Chapter 4, Page 69
C. Ohio . . . . . Chapter 4, Page 69
SECTION 06: CONCLUSIONS . . . . . Chapter 4, Page 69

CHAPTER 05: SUMMARY . . . . . Chapter 5, Page 1
SECTION 01: INTRODUCTION . . . . . Chapter 5, Page 1
SECTION 02: STATUTORY REQUIREMENTS . . . . . Chapter 5, Page 1
SECTION 03: CONDITIONS . . . . . Chapter 5, Page 1
SECTION 04: FINDINGS . . . . . Chapter 5, Page 1
A. Manufacturer Warranty Materials . . . . . Chapter 5, Page 1
B. Office Practices and Procedures . . . . . Chapter 5, Page 1
C. Record-Keeping Procedures . . . . . Chapter 5, Page 2
D. Comparative Statistical Analysis . . . . . Chapter 5, Page 2
SECTION 05: RECOMMENDATIONS . . . . . Chapter 5, Page 2
A. Manufacturer Warranty Materials . . . . . Chapter 5, Page 2
B. Office Practices and Procedures . . . . . Chapter 5, Page 2
C. Record-Keeping Procedures . . . . . Chapter 5, Page 3
D. Comparative Statistical Analysis . . . . . Chapter 5, Page 3
SECTION 06: CONCLUSIONS . . . . . Chapter 5, Page 3

APPENDIX A: MAGNUSON-MOSS WARRANTY ACT . . . . . Appendix A, Page. 1
APPENDIX B: 16 C.F.R. PART 703 . . . . . Appendix B, Page. 1
APPENDIX C: FLORIDA STATUTES CHAPTER 681 . . . . . Appendix C, Page. 1
APPENDIX D: FLORIDA ADMINISTRATIVE CODE ANNOTATED Appendix D, Page. 1
APPENDIX E: OHIO REVISED CODE ANNOTATED . . . . . Appendix E, Page. 1
APPENDIX F: OHIO ADMINISTRATIVE CODE . . . . . Appendix F, Page. 1
APPENDIX G: CONSUMER SURVEY QUESTIONS . . . . . Appendix G, Page 1
APPENDIX H: FORM NAMES . . . . . Appendix H, Page 1

PREFACE

INCEPTIVE FINDINGS

PREFACE: INCEPTIVE INFORMATION

SECTION 01: INTRODUCTION

Manufacturers which issue warranties for consumer products in the United States are required to abide by the terms of Public Law 93-637, the Magnuson-Moss Warranty Act; 15 U.S.C. § 2301 et seq. (hereinafter referred to as **Magnuson-Moss**). If a warrantor elects to incorporate an Informal Dispute Settlement Procedure into its warranty, thereby requiring consumers to utilize the procedure prior to enforcing rights under Magnuson-Moss in court, the manufacturer and its Informal Dispute Settlement Procedure (hereinafter referred to as **BBB AUTO LINE**), administered by the Council of Better Business Bureaus, which is located in Arlington, Virginia (hereinafter referred to as **CBBB**), and the local Better Business Bureau offices (hereinafter referred to collectively as **BBB AUTO LINE**) must abide by the Federal Trade Commission Regulations set out in 16 C.F.R. Part 703 (hereinafter referred to as **Rule 703**). BBB AUTO LINE is utilized by participating manufacturers to handle all of the responsibilities under Rule 703, with the exception of those provisions in Rule § 703.2, which outline the duties of the warrantor/manufacturer.

State motor vehicle warranty laws, informally known as Lemon Laws, provide state-law remedies for consumers who experience significant problems with their vehicles. BBB AUTO LINE performs the function of the Lemon Law's Informal Dispute Settlement Procedure for many manufacturers which choose to utilize BBB AUTO LINE services.

Rule 703 mandates an annual audit of any Informal Dispute Settlement Procedure incorporated into a manufacturer's warranty. Unique requirements in Florida and in Ohio also require, in addition, a separate annual audit in those states. This audit is mandated by the laws and administrative codes below, which are quoted fully in the appendices. If a manufacturer elects to require a consumer to use its Informal Dispute Settlement Procedure prior to enforcing rights under the Lemon Laws of Florida or of Ohio, the manufacturer must also abide by the following laws and administrative codes:

A. Florida Statutes Title 39, Chapter 681: Motor Vehicle Sales Warranties, Motor Vehicle Warranty Enforcement Act (hereinafter referred to as the **Florida Lemon Law**)
B. Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification (hereinafter referred to as the **Florida Administrative Code**)
C. Ohio Revised Code Annotated, Title XIII Commercial Transactions, Chapter 1345 Consumer Sales Practices, §1345.71-78 (hereinafter referred to as the **Ohio Lemon Law**)
D. Ohio Revised Administrative Code, 109:4 Consumer Protection, Chapter 109:4-4 (hereinafter referred to as the **Ohio Administrative Code**).

The location of BBB AUTO LINE office which has been visited for the 2010 audit, as well as the location of the national CBBB offices are listed as follows:

A. Council of Better Business Bureaus, Inc.
Dispute Resolution Division
4200 Wilson Boulevard, Suite 800
Arlington, Virginia 22203-1838
www.dr.bbb.org

B. Better Business Bureau of West Florida
2653 McCormick Drive
Clearwater, Florida 33759
www.bbbwestflorida.org

Copies of all BBB AUTO LINE Case Files are maintained by CBBB, with computerized information provided to the local offices as required. All cases resulting in mediated settlements or in arbitrated decisions are monitored by BBB AUTO LINE staff in order to ensure that the terms of the mediated settlement or of the arbitrated decision are in compliance.

SECTION 02: STATUTORY REQUIREMENTS

Magnuson-Moss
Rule 703
The Florida Lemon Law
The Florida Administrative Code
The Ohio Lemon Law
The Ohio Administrative Code
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

SECTION 03: CONDITIONS

In addition to reviewing the BBB AUTO LINE Case Records for the 2010 year, as well as for the three preceding years, audits have been conducted by Morrison and Company in the early part of the calendar year 2011, with the understanding that the activities of BBB AUTO LINE were reflective of the activities of the calendar year, 2010.

This section covers, in brief, information about four of the five chapters in this report; they are as follows:

A. Manufacturer Warranty Materials
B. Office Practices and Procedures
C. Record-Keeping Procedures
D. Comparative Statistical Analysis.

Following is a brief discussion examining the four specific areas of the audit listed above:

A. an evaluation of the **Manufacturer Warranty Materials** which are provided to the consumer and/or posted in the dealerships to provide notice of the availability of BBB AUTO LINE services at the time a dispute arises; this section of the audit consists of the following information:

01. tables which list the information as noted below:

a. Table 1.01: Manufacturers which Require Prior Resort to BBB AUTO LINE before Pursuing Magnuson-Moss Claims in Court
b. Table 1.02: Basic Information Statements Required by Rule 703.2(b)
c. Table 1.03: Additional Information Required by Rule § 703.2(c)
d. Table 1.04: Types of Materials Used to Inform Consumers about BBB AUTO LINE Required by Rule § 703.2 (d)

02. a listing of all manufacturer materials sent for evaluation to Morrison and Company.

B. an evaluation of **Office Practices and Procedures** of BBB AUTO LINE, consisting of a review of the following activities:

01. Arbitration Hearing Site

a. the appropriateness of facilities
b. the adequacy of personnel and equipment

02. Arbitration Process

a. the openness of arbitration hearings
b. the effectiveness of arbitration hearings
c. the appropriateness of decision-making at arbitration hearings

C. an evaluation of **Record-Keeping Procedures** of BBB AUTO LINE. The evaluation consists of a review of the following activities:

01. the implementation of each related requirement in BBB AUTO LINE on a national basis
02. the implementation of each related requirement in BBB AUTO LINE in Florida
03. the implementation of each related requirement in BBB AUTO LINE in Ohio

D. a **Comparative Statistical Analysis** comparing the information provided by a telephone survey of consumers with the statistical information provided by CBBB staff. This chapter consists of the following:

01. The results of a survey of a random sample of cases throughout the United States, until a total of 400 responses is recorded nation-wide
02. The results of a survey of a random sample of cases throughout Florida, until a total of 100 responses is recorded for the state
03. The results of a survey of a random sample of cases throughout Ohio, until a total of 100 responses is recorded for the state
04. The charting, comparison, and analysis of the information gained from the surveys and from BBB AUTO LINE statistics.

SECTION 04: FINDINGS

Before an evaluation of mandated requirements for this audit can be addressed properly, certain issues must be considered, since no Mechanism can fully satisfy the FTC's minimum procedural requirements without compliance with Rule § 703.3(a)(b)(c) below:

MINIMUM REQUIREMENTS OF THE MECHANISM

Rule § 703.3 Mechanism organization.

(a) The Mechanism shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the Mechanism.

(b) The warrantor and the sponsor of the Mechanism (if other than the warrantor) shall take all steps necessary to ensure that the Mechanism, and its members and staff, are sufficiently insulated from the warrantor and the sponsor, so that the decisions of the members and the performance of the staff are not influenced by either the warrantor or the sponsor. Necessary steps shall include, at a minimum, committing funds in advance, basing personnel decisions solely on merit, and not assigning conflicting warrantor or sponsor duties to Mechanism staff persons.

(c) The Mechanism shall impose any other reasonable requirements necessary to ensure that the members and staff act fairly and expeditiously in each dispute.

The requirements of Rule § 703.3(a) mandate that the Mechanism must be funded and must be competently staffed to ensure fair and expeditious handling of all disputes at no charge to the consumer. There is no question that BBB AUTO LINE meets the funding requirement nor that it provides its services to the consumer at no cost. A copy of the incorporation (non-profit) papers, the by-laws, the mission statement, and the tax forms were reviewed. This information clearly shows the soundness and

purpose of the program, which is in strict conformity with the requirements of Rule § 703.3(a) above.

It is noted that CBBB and all Better Business Bureaus are independent non-profit corporations which provide to manufacturers the administration of a dispute resolution program. As non-profit, tax-exempt organizations, CBBB and all Better Business Bureaus' are limited to conducting activities which serve to promote their non-profit mission: fostering ethical business practices.

Rule § 703.3(b) clearly places a responsibility on the manufacturers to ensure the insulation of the Mechanism and its staff from the influence of the manufacturer/ warrantor. This section is extremely important to the integrity of the entire Informal Dispute Settlement Procedure. Without question, it was the intent of the framers of Rule 703 to place a wall between the manufacturers and the Mechanism created thereunder. This wall is the foundation upon which the integrity of the entire Informal Dispute Settlement Procedure program is reliant.

For an auditor to be able to certify the compliance of any Mechanism, it must be very clear that there is no circumstance where the independence of the Mechanism is compromised. Morrison and Company has looked carefully into the operations of BBB AUTO LINE and has found no circumstances where there is any clear sign of manufacturer violation of the independence of BBB AUTO LINE.

Morrison and Company found the following points to confirm the extent to which BBB AUTO LINE goes to ensure complete insulation from the manufacturers and to protect consumers:

01. CBBB's structure and operations are open to public scrutiny. A comprehensive website describes, not only the BBB AUTO LINE Informal Dispute Settlement Procedure, but all Better Business Bureau services. The website also provides public access to the most recent audit reports. In addition, BBB AUTO LINE procedures, eligibility terms, and available remedies are published and distributed to each consumer prior to filing a claim.

02. BBB AUTO LINE complaint handling staff and arbitrators do not perform any functions for manufacturers other than resolving disputes.

03. CBBB requires its employees to abide by a conflict-of-interest policy, and requires its arbitrators to observe strict ethical standards.

04. BBB AUTO LINE hearings are held in neutral locations insulated from undue influence.

05. The even distribution of the ways in which cases are closed (mediation, arbitration, out-of-jurisdiction), and of decision outcomes (in favor of consumer, in

favor of manufacturer) suggest no influence is exerted on individual complaints.

06. Survey results indicate consumers are pleased with the impartiality and the quality of dispute resolution services of BBB AUTO LINE.

Rule § 703.3(c) clearly places a burden upon the Mechanism to impose all necessary requirements upon the operation of the Mechanism to ensure that all members and staff act fairly and expeditiously in the handling of all cases, while not allowing situations to arise which might give the appearance of conflict of interest between the manufacturer/warrantor and the Mechanism. The audit by Morrison and Company reviewed all of the activities of BBB AUTO LINE with these requirements in mind and found no situation of conflict or circumstance which might give rise to an impression that one exists. The observed structure and operation of the diverse functions of BBB AUTO LINE impressed Morrison and Company by their obvious efforts and by their success in protecting the independence of the Mechanism from interference from the manufacturers and from their personnel.

A. Manufacturer Warranty Materials

Those manufacturers which participate in BBB AUTO LINE nationwide and which incorporate the program into their warranties are audited in this report. These manufacturers have supplied to Morrison and Company the materials which each manufacturer uses to inform consumers and dealers about BBB AUTO LINE.

If the manufacturer materials were the same as in the preceding years, no new materials were required. Some manufacturers rely primarily on their warranty/owner's manuals and consumer letters to provide this information; others have implemented a number of other steps to inform consumers of the availability of BBB AUTO LINE. Some of the programs provide even more information.

B. Office Practices and Procedures

Morrison and Company has audited the following programs for the 2010 audit:

01. the office in Clearwater, Florida
02. the national BBB AUTO LINE program.

These program audits provide an opportunity to talk with personnel and to review program function in detail. Morrison and Company audited all Case Files electronically. All pertinent indexes and statistics, both annual and semi-annual, were audited.

C. Record-Keeping Procedures

Morrison and Company audited at least 50 BBB AUTO LINE case files from all states, including Florida and Ohio, in order to be certain that all information required is not only provided, but is in appropriate order in the files. Morrison and Company also made certain that Case Files for the previous three years were available electronically.

D. Comparative Statistical Analysis

Before the telephone surveys commenced, each potential survey participant was sent a letter from Morrison and Company explaining the purposes of the survey and informing the consumer regarding the survey process. A telephone number and an e-mail address were provided to consumers who might have questions; several consumers took advantage of this opportunity to communicate with a representative of Morrison and Company.

The telephone survey results supplied feedback only from those consumers who utilized the program. What is not known is how many consumers with a warranty dispute were unaware of the arbitration option, and therefore were not afforded an opportunity to use BBB AUTO LINE. This issue is becoming increasingly problematic as the numbers of cases filed by the legal profession increases. Generally, consumers represented by certain law firms have no direct contact with BBB AUTO LINE and tend to fare worse in the program than unrepresented consumers.

SECTION 05: RECOMMENDATIONS AND CONCLUSIONS

For each of the four major areas evaluated (Manufacturer Warranty Materials, Office Practices and Procedures, Record-Keeping Procedures, and Comparative Statistical Analysis), the details of Morrison and Company's recommendations and conclusions will be discussed extensively in the remaining chapters with a final summary in Chapter 05.

All manufacturers which participate in this audit have been found to be in compliance with the mandates of the regulations. Some manufacturers have gone to great lengths to provide excellent materials for consumers, while other manufacturers choose to follow only the minimal requirements of the regulations.

The Informal Dispute Settlement Procedure of BBB AUTO LINE is the result of many years of fine-tuning and the program of today is a well-organized, proficient organization. Morrison and Company's review has found very few irregularities in the operation of BBB AUTO LINE offices listed above.

The method of handling all BBB AUTO LINE records is completed in a security-

conscious manner, and expedience is not as important as security. This point is made very clear when noting that all files are formatted as “Read Only”; local offices are able to access the information, but no one, without prior authorization, is allowed to modify the data once it becomes part of the permanent data base. BBB AUTO LINE’s efforts appear to be working extremely well, allowing the files to be both useable and secure at the same time.

The records which have been reviewed in detail by Morrison and Company were very well organized and managed with the concern of the consumer in the forefront. The BBB AUTO LINE office at CBBB, and the BBB AUTO LINE office which was visited, had a uniform plan of operations in place and the individual staff operations were carried out expeditiously and in conformity with the program.

It is obvious that serious efforts are constantly being made to make the entire BBB AUTO LINE program as transparent as possible in its functioning, so that there is nothing hidden, so that all processes are what they are purported to be, and so that there is an extremely high level of integrity in all functions and processes. BBB AUTO LINE should be highly commended for its efforts in this regard.

No serious regulatory irregularities in the entire audit of BBB AUTO LINE have been found. Even in the aggregate, any irregularities are relatively inconsequential and should not be viewed as cause for regulatory alarm. These discrepancies can be adjusted as part of the normal on-going managerial oversight process. The program uses an efficiently and professionally-managed Informal Dispute Settlement Procedure which is in compliance with all pertinent federal and state regulations.

CHAPTER ONE

MANUFACTURER WARRANTY MATERIALS

CHAPTER 01: MANUFACTURER WARRANTY MATERIALS

SECTION 01: INTRODUCTION

This chapter deals with the requirements for vehicle manufacturers which participate in BBB AUTO LINE. Morrison and Company evaluated how each of these parties carries out the mandate of sharing required information with the consumer to insure that it is not only available to the consumer at the point of sale or at the time a warranty dispute arises, but that all information required by the regulations is included in the manner specified, and that the manufacturers follow all other requirements mandated by the statutes.

To handle the responsibilities of fulfilling warranties, manufacturers have developed consumer relations programs as an adjunct to selling new vehicles. These manufacturers have expended a great deal of effort and money to encourage consumers to utilize the selling dealership, or any dealer which represents that particular manufacturer, as their recourse in solving these problems.

In Rule § 703.2(a), there is specific language which clearly permits the manufacturer to encourage consumers to seek redress directly from the manufacturer so long as the manufacturer does not exclusively require consumers to do so. At the same time, the manufacturer must also inform the consumer about any independent program of mediation/arbitration which is available to settle the differences between the parties. Some manufacturers, especially in certain states, incorporate the Informal Dispute Settlement Procedure as a necessary prerequisite to filing legal actions based upon Magnuson-Moss or upon the state's Lemon Law. This requirement is customarily referred to as "prior resort". Prior resort is extremely important to the manufacturers because this requirement provides the parties of an impending warranty dispute with an opportunity to solve the problem in such a way that the necessity of resorting to the court system is eliminated.

The sections of Rule 703 which are covered in this section, and upon which the section is designed, read as follows:

§ 703.2 Duties of warrantor.

(b) The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty:

(1) A statement of the availability of the informal dispute settlement mechanism;

(2) The name and address of the Mechanism, or the name and a telephone number of the Mechanism which consumers may use without charge;

(3) A statement of any requirement that the consumer resort to the Mechanism before exercising rights or seeking remedies created by Title I of the Act; together with the disclosure that if a consumer

chooses to seek redress by pursuing rights and remedies not created by Title I of the Act, resort to the Mechanism would not be required by any provision of the Act; and

(4) A statement, if applicable, indicating where further information on the Mechanism can be found in materials accompanying the product, as provided in § 703.2(c) of this section.

(c) The warrantor shall include in the written warranty or in a separate section of materials accompanying the product, the following information:

(1) Either

(i) a form addressed to the Mechanism containing spaces requesting the information which the Mechanism may require for prompt resolution of warranty disputes; or

(ii) a telephone number of the Mechanism which consumers may use without charge;

(2) The name and address of the Mechanism;

(3) A brief description of Mechanism procedures;

(4) The time limits adhered to by the Mechanism; and

(5) The types of information which the Mechanism may require for prompt resolution of warranty disputes.

(d) The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes. Nothing contained in paragraphs (b), (c), or (d) of this section shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor as long as the warrantor does not expressly require consumers to seek redress directly from the warrantor. The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

§ 703.7 Audits.

(b) Each audit provided for in paragraph (a) of this section shall include at a minimum the following:

(1) Evaluation of warrantors' efforts to make consumers aware of the Mechanism's existence as required in § 703.2(d) of this part;

Each section of this part of Rule 703 is covered in table form in this chapter, as well as in narrative form. The source of information for this chapter is derived from the participating manufacturers which sent materials, as requested, to Morrison and Company for review. Each manufacturer’s set of materials was audited in order to determine compliance.

SECTION 02: STATUTORY REQUIREMENTS

A. National

Rule § 703.7(b)(1) and § 703.2(b-d)

(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

B. Florida

Florida Lemon Law § 681.103(2)(3)
Florida Administrative Code: § Rule 5J-11.002, § 11.003, § 11.004
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

C. Ohio

Ohio Administrative Code § 109:4-4-03
Ohio Lemon Law § 1345.71-78
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

SECTION 03: CONDITIONS

A. National

Morrison and Company is directed by Rule § 703.7(b)(1) to consider compliance by manufacturers with the provisions of Rule § 703.2(d), which requires that the warrantor take steps reasonably calculated to make consumers aware of BBB AUTO LINE at the time consumers experience warranty disputes. Morrison and Company has noted under each manufacturer's section those items for which the manufacturer has provided evidence of compliance.

The manufacturers which choose to participate in BBB AUTO LINE on a nation-wide basis are listed below; only these manufacturers will be audited. The list is as follows:

01. AM General Sales Corporation (Hummer)
02. American Honda Motor Company (Honda/Acura)
03. Bentley Motors, Inc.
04. Ford Motor Company
05. General Motors Company
06. Hyundai Motor America
07. Isuzu Motors America
08. Kia Motors America
09. Land Rover of North America
10. Mazda North American Operations
11. Nissan North America (Nissan/Infiniti)
12. Volkswagen Group of America (Volkswagen/Audi)

13. Workhorse Custom Chassis (BBB AUTO LINE Informal Dispute Settlement Procedure offered in most, but not all, states).

The above-listed manufacturers are those which Morrison and Company has reviewed for compliance with national regulations contained in Magnuson-Moss and in Rule 703. Although smart USA and Lotus Cars USA participate nationally in BBB AUTO LINE, they were not included in this evaluation.

With the exception of the states of Florida and of Ohio, this audit does not include a detailed review of notices required by other states. This does not mean that other state requirements were not reviewed; it means only that the national audit covers the entire United States, and that specific state audits cover only Florida and Ohio.

The following manufacturers participate in BBB AUTO LINE in some states, but not in others. These manufacturers' materials were not evaluated.

01. Aston Martin North America
02. BMW of North America
03. Jaguar Cars
04. Mercedes-Benz USA
05. Subaru of America
06. Volvo North America
07. Winnebago Industries.

The list below defines the tables used to document manufacturer information and compliance with the regulations:

01. Table 1.01: Manufacturers which Require Prior Resort to BBB AUTO LINE before Pursuing Magnuson-Moss Claims in Court
02. Table 1.02: Basic Information Statements Required by Rule 703.2(b)
03. Table 1.03: Additional Information Required by Rule § 703.2(c)
04. Table 1.04: Types of Materials Used to Inform Consumers about BBB AUTO LINE Required by Rule § 703.2 (d)

B. Florida

In Florida, the requirements are very similar to those set out in Rule § 703.2. The Florida requirements are contained in the Florida Lemon Law and in the Florida Administrative Code. They are as follows:

01. The manufacturer must give to the office of the Attorney General, by January 1st of each year, complete copies of owner's manuals and any written warranty information for each make and model of motor vehicle which is to be sold in the state of Florida in the following year.

02. The selling dealer must give to the consumer, at the point of sale, a copy of the booklet, *Preserving Your Rights Under the Florida Lemon Law,* which is published by the office of the Attorney General. This booklet must include the following information:

a. the toll-free number of the Informal Dispute Settlement Procedure which represents the manufacturer
b. the toll-free number of the state of Florida's consumer hot line.

The office of the Attorney General is responsible for monitoring the performance of the manufacturers and for monitoring the dealers' responsibility to deliver to each new vehicle purchaser a current copy of the above-listed requisite information. These provisions are therefore not discussed in this report.

The following is a list of the manufacturers which were certified for participation in BBB AUTO LINE in the state of Florida during 2010.

01. AM General Sales Corporation (Hummer)
02. American Honda Motor Company (Honda/Acura)
03. Bentley Motors, Inc.
04. Ford Motor Company
05. General Motors Company
06. Hyundai Motor America
07. Isuzu Motors America
08. Kia Motors America
09. Mazda North American Operations
10. Nissan North America (Nissan/Infiniti)
11. Volkswagen Group of America (Volkswagen/Audi).

As noted above, Morrison and Company considers compliance by manufacturers who are certified in Florida to mean that each manufacturer must comply with the provisions of Rule § 703.2(d). Morrison and Company has noted under each manufacturer those items for which the manufacturer has provided evidence of compliance.

C. Ohio

The duties of the manufacturer are contained in the Ohio Administrative Code § 109:4-4-03, which contains the same information found in the federal rules, as well as additional requirements for the manufacturer. The Ohio Administrative Code § 109:4-4-03(C)(3)(4) outlines rights and responsibilities. The enforcement of this part of Ohio's regulations is under the jurisdiction of the Attorney General's office; therefore, they are not specifically delineated in this audit.

In the state of Ohio, specifically mandated notices are required which must be given to the consumer at the point of sale and/or must be posted in conspicuous locations in dealerships. When manufacturers have been certified by the state of Ohio as being compliant with both the federal requirements and with the Ohio requirements, these manufacturers are authorized by Ohio law to require a consumer to participate in an Informal Dispute Settlement Procedure as a prerequisite to filing a legal action under the Ohio lemon law.

The following is a list of the manufacturers which were certified to use BBB AUTO LINE in the state of Ohio during 2010:

01. American Honda Motor Company (Honda/Acura)
02. Ford Motor Company
03. General Motors Company
04. Hyundai Motor America
05. Isuzu Motors America
06. Kia Motors America
07. Mazda North American Operations
08. Nissan North America (Nissan/Infiniti)
09. Volkswagen Group of America (Volkswagen/Audi)
10. Workhorse Custom Chassis.

As noted above, Morrison and Company considers compliance by manufacturers who are certified in Ohio to mean that each manufacturer must comply with the provisions of Rule § 703.2(d). Morrison and Company has noted under each manufacturer those items for which the manufacturer has provided evidence of compliance.

SECTION 04: FINDINGS

Below are tables which give a brief but descriptive view of manufacturer materials. In Table 1.01, Morrison and Company is looking for specific language which communicates a requirement that the consumer use BBB AUTO LINE before filing suit under Rule 703. The “yes/no” responses noted in Table 1.01 are based upon Morrison and Company’s interpretation of the warranty materials provided, and are not intended to state any legal conclusion as to whether that language is sufficient to require prior resort. These tables include all manufacturers who have been evaluated.

TABLE 1.01
Manufacturers which Require Prior Resort to BBB AUTO LINE before Pursuing Magnuson-Moss Claims in Court

MANUFACTURER	YES/NO
01. AM General	**yes**
02. American Honda Motor Co.	no
03. Bentley Motors, Inc.	**yes**
04. Ford Motor Company	**yes**
05. General Motors Company	**yes**
06. Hyundai Motor America	**yes**
07. Isuzu Motors America	no
08. Kia Motors America	**yes**
09. Land Rover of North America	**yes**
10. Mazda North American Operations	**yes**
11. Nissan North America	**yes**
12. Volkswagen Group of America	no
13. Workhorse Custom Chassis	**yes**

The sections of Rule 703 to which Table 1.02 apply are stated below, as follows:

Rule § 703.2 Duties of warrantor.
(b) The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty:

(1) A statement of the availability of the informal dispute settlement mechanism;
(2) The name and address of the Mechanism, or the name and a telephone number of the Mechanism which consumers may use without charge;
(3) A statement of any requirement that the consumer resort to the Mechanism before exercising rights or seeking remedies created by Title I of the Act; together with the disclosure that if a consumer chooses to seek redress by pursuing rights and remedies not created by Title I of the Act, resort to the Mechanism would not be required by any provision of the Act; and

(4) A statement, if applicable, indicating where further information on the Mechanism can be found in materials accompanying the product, as provided in § 703.2(c) of this section.

TABLE 1.02
Basic Information Statements Required by Rule 703.2(b)

MANUFACTURER	§703.2 (b)(1)	§703.2 (b)(2)	§703.2 (b)(3)	§703.2 (b)(4)	TOTAL
01. AM General	yes	yes	yes	yes	4/4
02. American Honda Motor Co.	yes	yes	N/A	yes	3/3
03. Bentley Motors, Inc.	yes	yes	yes	yes	4/4
04. Ford Motor Company	yes	yes	yes	yes	4/4
05. General Motors Company	yes	yes	yes	yes	4/4
06. Hyundai Motor America	yes	yes	yes	yes	4/4
07. Isuzu Motors America	yes	yes	N/A	yes	3/3
08. Kia Motors America	yes	yes	yes	yes	4/4
09. Land Rover of North America	yes	yes	yes	yes	4/4
10. Mazda North American	yes	yes	yes	yes	4/4
11. Nissan North America	yes	yes	yes	yes	4/4
12. Volkswagen Group of America	yes	yes	N/A	yes	3/3
13. Workhorse Custom Chassis	yes	yes	yes	yes	4/4

The sections of Rule 703 which apply to Table 1.03 are stated below, as follows:

Rule § 703.2 Duties of warrantor.
(c) The warrantor shall include in the written warranty or in a separate section of materials accompanying the product, the following information:
(1) Either
(i) a form addressed to the Mechanism containing spaces requesting the information which the Mechanism may require for prompt resolution of warranty disputes; or
(ii) a telephone number of the Mechanism which consumers may use without charge;
(2) The name and address of the Mechanism;

(3) A brief description of Mechanism procedures;
(4) The time limits adhered to by the Mechanism; and
(5) The types of information which the Mechanism may require for prompt resolution of warranty disputes.

TABLE 1.03
Additional Information Required by Rule § 703.2(c)

MANUFACTURER	§ 703.2 (C)(1) (both are not required)		703.2 (c)(2)	703.2 (c)(3)	703.2 (c)(4)	703.2 (c)(5)	TOTAL
	(i)	(ii)					
01. AM General	N/A	**yes**	**yes**	**yes**	no	**yes**	4/5
02. American Honda Motor Co.	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
03. Bentley Motors, Inc.	**yes**	**yes**	**yes**	**yes**	no	no	3/5
04. Ford Motor Company	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
05. General Motors Company	N/A	**yes**	**yes**	**yes**	**yes**	no	4/5
06. Hyundai Motor America	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
07. Isuzu Motors America	**yes**	**yes**	**yes**	**yes**	no	**yes**	4/5
08. Kia Motors America	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
09. Land Rover	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
10. Mazda North American	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
11. Nissan North America	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
12. Volkswagen Group	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**
13. Workhorse Custom Chassis	N/A	**yes**	**yes**	**yes**	**yes**	**yes**	**5/5**

The sections of Rule 703 which apply to Table 1.04 are stated below, as follows:

Rule § 703.2 Duties of warrantor.
(d) The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes. Nothing contained in paragraphs (b), (c), or (d) of this section shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor as long as the warrantor does not expressly require consumers to seek redress directly from the warrantor. The warrantor shall proceed fairly and

expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

TABLE 1.04
Types of Materials Used to Inform Consumers about BBB AUTO LINE to Show Compliance with § 703.2 (d)

MANUFACTURER	Warranty book/ Owner's Manual	Dealer Training Materials	Specific BBB AUTO LINE or Lemon Law Pamphlet or Info	Consumer Relations Training Materials with BBB AUTO LINE Info	Sample Letters to Consumers with BBB AUTO LINE Info
01. AM General	**yes**	**yes**	no	no	**yes**
02. American Honda Motor Co.	**yes**	**yes**	**yes**	**yes**	no
03. Bentley Motors, Inc.	**yes**	**yes**	**yes**	**yes**	**yes**
04. Ford Motor Company	**yes**	**yes**	**yes**	**yes**	no
05. General Motors Company	**yes**	**yes**	**yes**	**yes**	**yes**
06. Hyundai Motor America	**yes**	**yes**	**yes**	**yes**	**yes**
07. Isuzu Motors America	**yes**	**yes**	**yes**	**yes**	**yes**
08. Kia Motors America	**yes**	**yes**	**yes**	**yes**	**yes**
09. Land Rover	**yes**	no	**yes**	**yes**	**yes**
10. Mazda North American	**yes**	**yes**	**yes**	**yes**	no
11. Nissan North America	**yes**	**yes**	**yes**	**yes**	**yes**
12. Volkswagen Group	**yes**	**yes**	**yes**	**yes**	**yes**
13. Workhorse	**yes**	**yes**	**yes**	**yes**	**yes**

In order to determine how the manufacturers' information programs are working, Morrison and Company reviewed the materials which manufacturers supplied. Below is a description, by individual manufacturer, which describes exactly what materials each manufacturer has submitted to Morrison and Company for review. Where the manufacturer indicated that materials and policies for informing consumers about BBB AUTO LINE had not changed since the previous year, Morrison and Company based the review on materials submitted for previous audits as representative of 2010 operations.

A. AM General Sales Corporation (Hummer) (NATIONAL and FLORIDA)

01. *Hummer Owner's Manual* (Note that AM General ceased production of Hummers for the retail market at the end of the 2006 model year.)
02. *AM General Corporation Hummer Service Policies and Procedures Manual*
03. "AM General Hummer Warranty Insert/California"
04. sample consumer letter which refers consumers to BBB AUTO LINE

AM General Sales Corporation has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted.

AM General Sales Corporation includes most of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). One item missing from the point-of-sale materials is the time limits that BBB AUTO LINE adheres to, mandated by § 703.2 (c)(4). AM General has also submitted information demonstrating efforts to train dealer staff about BBB AUTO LINE, and to directly notify customers about the program's availability, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. AM General has taken *steps reasonably calculated* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

AM General Sales Corporation (Hummer) materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

B. American Honda Motor Company (Honda/Acura) (NATIONAL, FLORIDA, and OHIO)

01. *Honda Warranties*
02. *Acura RL Warranties*
03. Consumer Relations Training materials

04. Dealer Operations Manual

American Honda Motor Company has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

American Honda Motor Company has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). American Honda has also submitted information demonstrating efforts to train customer relations and dealer staff about BBB AUTO LINE, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. American Honda Motor Company has taken *significant efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

American Honda Motor Company (Honda and Acura) materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

C. Bentley Motors, Inc. (NATIONAL, FLORIDA, and OHIO)

01. *Warranty Information, Bentley*
02. *California Department of Consumer Affairs Lemon-aid Pamphlet for Consumers*
03. Correspondence has submitted by Bentley consumer service to consumers who present complaints (template)
04. Letters sent to consumers in response to complaints
05. *Bentley Motors, Inc. Owner Information - Consumer Protection Laws Booklet*
06. *Important Notice to Consumers* to be posted in service facilities
07. *Important Notice to Consumers* card

Bentley Motors, Inc. has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Bentley Motors, Inc. submitted most of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). Two items still missing from the point-of-sale materials are the time limits which BBB AUTO LINE adheres to, mandated by § 703.2 (c)(4). Bentley Motors has also submitted information demonstrating efforts to train customer relations and dealer staff about BBB AUTO LINE, and to directly notify customers about the program's

availability, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. Bentley Motors, Inc. has taken *steps reasonably calculated* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

Bentley Motors, Inc. materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

D. Ford Motor Company (NATIONAL, FLORIDA and OHIO)

01. *Escape Owner's Guide*
02. *Warranty Guide, Lincoln*
03. Dealership Warranty Insert providing BBB AUTO LINE contact information and describing requirement to use the program before resorting to court
04. Consumer DRP Card for distribution at dealerships, describing BBB AUTO LINE and giving contact information
05. New Dispute Resolution Specialist Training Check Sheet
06. Electronic Field Communications, informing field staff about BBB AUTO LINE and instructing them to inform dealer staff
07. Ohio Lemon Law Notices
08. Ohio Lemon Law Rights dealer sign

Ford Motor Company has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Ford Motor Company has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). Ford has also submitted information demonstrating efforts to train customer relations and dealer staff about BBB AUTO LINE, and to notify customers about the program's availability directly and through notices at dealerships, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. This information indicates Ford Motor Company has taken *significant efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

Ford Motor Company materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule

703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

E. General Motors Company (NATIONAL, FLORIDA and OHIO)

01. *GMC Warranty and Owner Assistance Information*
02. sample consumer letter which refers consumers to BBB AUTO LINE
03. *Mid Year GM Service Policies and Procedures Manual*
04. "Training Materials: Satisfied and Dissatisfied Closings" - details responsibilities of "Customer Relationship Managers"
05. Lemon Law Point of Sale Materials: Information mailed to GM dealerships in states which require specific notification to consumers

General Motors Company has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

General Motors Company has submitted most of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). The item still missing from the point-of-sale materials is the type of information which BBB AUTO LINE may require, as required in § 703.2 (c)(5). General Motors has also submitted information demonstrating efforts to train customer relations and dealer staff about BBB AUTO LINE, and to directly notify customers about the program's availability, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. General Motors Company has taken *steps reasonably calculated* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

General Motors Company materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

F. Hyundai Motor America (NATIONAL, FLORIDA and OHIO)

01. *Owner's Handbook & Warranty Information, Hyundai*
02. *Hyundai Owner's Handbook Supplement: State Disclosure Notices; Consumer Assistance Process; Alternative Dispute Resolution Program*
03. sample letter to consumers regarding BBB AUTO LINE

04. Ohio dealership signage
05. CA-3rd Party Activities Resource Manual
06. Dealer Orientation Manual/Dealer Training

Hyundai Motor America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted.

Hyundai Motor America has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c) as well as all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. This information indicates Hyundai Motor America has made *outstanding efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes. Hyundai Motor America should be commended for its efforts.

Hyundai Motor America materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

G. Isuzu Motors America (NATIONAL, FLORIDA, AND OHIO)

01. *Isuzu Ascender, Isuzu Owner, Warranty Information*
02. *The Better Business Bureau: Notice to Purchasers and Lessees of Isuzu Motors America Inc. Vehicles* (Yellow Glove Box Insert (4x6) card for consumers)
03. Notices to Consumers and Dealer Acknowledgment forms for selected states (AR, CA, ID, IA, MN, OH, AND WI)
04. sample consumer letters advising consumers of the availability of BBB AUTO LINE
05. *Isuzu Motors America Inc. Service Policies and Procedures Manual*
06. *Zone Service and Parts Manager Field Operations Manual*
07. dealer showroom materials which are placed in the *Isuzu Warranties Information Binder*
08. *Isuzu Light Vehicle Dealer Agreement* - outlines dealer responsibilities relative to compliance with consumer protection statutes, rules, and regulations
09. Isuzu's websites
    a. www.isuzu.com - for consumers; BBB AUTO LINE information is found under "Help" section for owners of Isuzu vehicles
    b. internal website - for dealer personnel only; BBB AUTO LINE information is found under "Customer Satisfaction" Section

10. video: *The Lemon Law and The Repair Order*

Isuzu Motors America ceased importing vehicles in 2008, so there is no new warranty. Isuzu Motors America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted.

Isuzu Motors America has submitted most of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). One item still missing from the point-of-sale materials is the time limit to which BBB AUTO LINE adheres, mandated by § 703.2 (c)(4). Isuzu Motors America has also submitted all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. This information indicates Isuzu Motors America has taken *significant efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

Isuzu Motors America materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

H. Kia Motors America (NATIONAL, FLORIDA and OHIO)

01. *Kia Motors Warranty and Consumer Information Manual*
02. state notices to consumers for all states
03. sample consumer letter which refers consumers to BBB AUTO LINE
04. *Consumer Affairs Manual*
05. letters to Ohio dealers re: BBB AUTO LINE
06. *Kia Motors America, Inc. Service Policies and Procedures* manual

Kia Motors America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Kia Motors America has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b), (c), and (d)as well as all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. This information indicates Kia Motors America has made *outstanding efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes. Kia Motors America should be commended on its efforts.

KIA Motors America materials are IN

COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

I. Land Rover of North America (NATIONAL)

01. *Passport to Service* (warranty)
02. *Dispute Resolution Supplement* (original booklet providing information about manufacturer assistance, BBB AUTO LINE, and state Lemon Laws).
03. letter describing consumer relations staff training about the availability of BBB AUTO LINE
04. sample language used in consumer letters to inform them about BBB AUTO LINE

Land Rover of North America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Land Rover of North America has submitted some of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). One item still missing from the point-of-sale materials is a statement on the face of the warranty of any requirement that the consumer resort to BBB AUTO LINE before exercising rights or seeking remedies created by Magnuson-Moss, together with the disclosure that if a consumer chooses to seek redress by pursuing rights and remedies not created by Magnuson-Moss, resort to BBB AUTO LINE would not be required by the Act, pursuant to §703.2 (b)(3).

Land Rover of North America has also submitted all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. This information indicates Land Rover of North America has taken *significant efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

Land Rover of North America materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703.

J. Mazda North American Operations (NATIONAL, FLORIDA, and OHIO)

01. *Mazda North American Operations Warranty Booklet*
02. letter describing consumer relations staff training about the availability of BBB AUTO LINE
03. dealer network newsletter regarding BBB AUTO LINE process
04. Dealer card describing BBB AUTO LINE, to be distributed at service counter.
05. FAQ for consumer questions about BBB AUTO LINE, to be distributed by dealer.
06. Electronic Field Communication to dealer staff and regional staff, describing BBB AUTO LINE and providing instruction on when to distribute FAQ to consumers.

Mazda North American Operations has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Mazda North American Operations has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c). Mazda has also submitted information demonstrating efforts to train customer relations and dealer staff about BBB AUTO LINE, and to notify customers about the program's availability through notices at dealerships, which shows evidence of compliance with § 703.2 (d), as noted in Table 1.04 above. This information indicates Mazda North American Operations has taken *significant efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes.

Mazda North American Operations materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

K. Nissan North America (Infiniti and Nissan) (NATIONAL, FLORIDA, and OHIO)

01. *Infiniti Warranty Information Booklet*
02. *Supplement to Infiniti Warranty Information Booklet & Nissan Owner's Manual: Customer Care/Lemon Law Information*
03. *Nissan Warranty Information Book*
04.Supplement to Nissan Warranty Information Booklet & Nissan Owner's Manual: Customer Care/Lemon Law Information
05. *Nissan/Infiniti BBB AUTO LINE and Lemon Law Procedures for Consumer Affairs* training materials

06. sample consumer letter under Warranty Denial Procedure listing BBB AUTO LINE
07. materials used in training classes
08. “Consumer Affairs Policies and Procedures, Warranty Denial Procedures” (posted on internal website)

Nissan North America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner’s manual was submitted.

Nissan North America has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c) as well as all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. Nissan North America has made *outstanding efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes. Nissan North America should be commended for its efforts.

Nissan North America (Nissan and Infiniti) materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

L. Volkswagen Group of America (Audi and Volkswagen) (NATIONAL FLORIDA, and OHIO)

01. *USA Warranty, VW*
02. *USA Warranty, Audi*
03. VW *Owner Information: Consumer Protection Laws*
04. “Information for Consumers who Wish to Present their Complaint to BBB AUTO LINE Arbitration and Mediation Program”
05. “Volkswagen of America: Policies and Procedures” - notice to dealers
06. sample consumer letter which refers consumers to BBB AUTO LINE
07. State Specific (FL and OH) Consumer Notification-Point of Sale Information
08. Consumer Notification Letters (VW and Audi)
09. Dealer-Facing Warranty Policies and Procedures Sections
10. Florida and Ohio VW and Audi Lemon Law Dealer Letters

Volkswagen Group of America has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner’s manual was submitted.

Volkswagen Group of America has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c) as well as all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. This information indicates Volkswagen Group of America has made *outstanding efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes. Volkswagen Group of America should be commended on its efforts.

Volkswagen Group of America (Audi and Volkswagen) materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

M. Workhorse Custom Chassis (NATIONAL FLORIDA, and OHIO)

01. *Workhorse Owner's Manual: W Series*
02. *Workhorse Custom Chassis Service Policies and Procedures*
03. sample consumer letter which refers consumers to BBB AUTO LINE

Workhorse Custom Chassis has not indicated any changes in its methods of communication to the consumer regarding warranty issues. All information is based on prior materials submitted. An updated owner's manual was submitted.

Workhorse Custom Chassis has submitted all of the information in its warranty and other point-of-sale materials required by § 703.2 (b) and (c) as well as all of the information reasonably expected in § 703.2 (d), as noted in Table 1.04 above. Workhorse Custom Chassis has made *outstanding efforts* to inform consumers about BBB AUTO LINE when consumers experience warranty disputes. Workhorse Custom Chassis should be commended on its efforts.

Workhorse Custom Chassis materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 05: RECOMMENDATIONS

The primary function of Rule 703.2(d), in the opinion of Morrison and Company, is to involve manufacturers in the process of informing consumers of the Informal Dispute Settlement Procedure. The regulation's drafters were able to accomplish this function in only a very few places. Rule § 703.2(b) and (c) require specific information to be disclosed in the warranty/owner's manual, or in other similar materials. Rule § 703.2(d) states: "The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes". It is clear that the drafters definitely intended to place upon the manufacturer the responsibility of informing consumers of appropriate recourse if the vehicle fails to perform as warranted.

It is important to note that this requirement is mandatory, and that the burden is upon the manufacturer to make the materials available to the auditor if, in fact, they exist. Overall, the quality of information has improved over the years by several of the manufacturers, but others still do little more than inform consumers about the program through the warranty book.

Manufacturers need to be aware that Morrison and Company considers that compliance under Rule § 703.2(d) requires demonstrated efforts which will inform consumers about the availability of BBB AUTO LINE, when a warranty dispute arises, by the dealer (as evidenced by training of dealer staff and by written materials available at the dealership) or by the manufacturer (as evidenced by training of consumer relations staff and by actual written communications with consumers containing mandated references to BBB AUTO LINE).

A. National

Morrison and Company recommends that the manufacturers continue to work to improve their performance in fully informing consumers of their rights to recourse in the case of a defective vehicle. Most manufacturers do comply with the mandate to disclose certain information about BBB AUTO LINE in the warranty materials. In addition, manufacturers which use BBB AUTO LINE should receive credit for offering a dispute resolution process administered by the Better Business Bureau, to which many consumers automatically turn when a marketplace dispute arises; however, a few of the participating manufacturers need to develop additional materials and/or procedures in order to accomplish this purpose.

To ensure compliance with the requirement, manufacturers should also adopt measures to further encourage dealerships to prominently display information about BBB AUTO LINE in strategic locations throughout the dealerships. These areas might include the following locations: the service area, the wall near the cashier, and the consumer lounge areas. Several manufacturers are doing this already; others need to follow suit.

It is obvious from the changes made in the last few years by a number of manufacturers which participate in BBB AUTO LINE that most manufacturers take very seriously the need to improve their services to the consumer. It is suggested that all manufacturers make greater efforts to promote the use of BBB AUTO LINE, since it serves consumers so effectively. It is recommended that the BBB AUTO LINE work with manufacturers who are in minimal compliance to assist them in weak areas so that they can remain in compliance in the future.

The above-listed named manufacturers' materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703.

B. Florida

No specific recommendations have been made for Florida. National recommendations should be referenced for Florida as well.

The above-listed named manufacturers' materials which are certified in Florida are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

C. Ohio

No specific recommendations have been made for Ohio. National recommendations should be referenced for Ohio as well.

The above-listed named manufacturers' materials which are certified in Ohio are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 06: CONCLUSIONS

From this review, Morrison and Company has determined that, in general, information is provided to consumers about BBB AUTO LINE, and that the overall

performance of the manufacturers meets the minimum requirements. In Morrison and Company's view, most manufacturers provide the requisite information in the owner's manual; however, some manufacturers should demonstrate a greater commitment to the intent of Rule 703, as well as to the regulations of Florida and of Ohio, simply by providing additional information or by providing information which is more easily located by the average consumer. As mentioned previously, certain manufacturers aid consumers by listing BBB AUTO LINE in a Table of Contents in the warranty, a certain help for consumers searching for redress. Some local dealerships are also beginning to recommend BBB AUTO LINE as the consumer's next course of action, as evidenced by Morrison and Company's telephone surveys.

Most manufacturers show a well-developed recognition of the importance of handling consumer problems as early in the process as possible. Morrison and Company's national survey results indicate that 23.75% of consumers learned about BBB AUTO LINE from the warranty/owner's manual, 08.50% from the dealership, and 03.50% from a manufacturer representative. This is a total of 35.75% of consumers who learned of BBB AUTO LINE through some facet of the manufacturer/dealer information process. Another 24.25% learned about the program by calling the Better Business Bureau, the entity selected by these manufacturers to administer their dispute resolution process.

Morrison and Company notes that there has been improvement in some information dissemination programs. Several of the manufacturers are using a Lemon Law handbook which reports all the state Lemon Laws and the minimum requirements of each state. In addition, several manufacturers notify consumers about BBB AUTO LINE when their consumer relations staff are not able to offer a resolution to the dispute.

In conclusion, some manufacturers are showing an improved commitment to inform consumers of their full rights under these laws, and with the passage of time, this commitment will surely increase. This gives clear hope that these manufacturers have embarked upon a course of improvement which will lead to a better informed consumer. Those manufacturers which provide booklets with clearly marked consumer information are the leaders of this improvement.

The above-listed manufacturers are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

CHAPTER TWO

OFFICE PRACTICES AND PROCEDURES

CHAPTER 02: OFFICE PRACTICES AND PROCEDURES

SECTION 01: INTRODUCTION

As a part of the required audit, Morrison and Company inspects at least one office of BBB AUTO LINE as well as the records maintained at the central BBB AUTO LINE office at CBBB, in order to determine how these offices function on a daily basis and whether they do, indeed, function to serve both parties to these disputes.

In order to explain the process used in auditing these practices and procedures, this chapter has been divided into the following sections:

A. BBB AUTO LINE Forms
B. Informal Dispute Settlement Procedure
    01. Conciliation
    02. Mediation
    03. Arbitration
        a. Preparation for Arbitration Hearing
        b. Arbitration Hearing
        c. Arbitration Decision
        c. Post Arbitration Decision.

A. BBB AUTO LINE Forms

In the process of the Informal Dispute Settlement Procedure, BBB AUTO LINE utilizes a great many forms. In some cases California and Florida practices are different from those of other states; in cases where forms are handled differently, it has been noted. All forms eventually become part of the permanent computerized Case File. For clarification purposes, some of the more significant forms and their respective purposes are listed below, as follows:

01. The *Customer Claim Form* is a questionnaire which BBB AUTO LINE staff send directly to the consumer after receipt of the first phone call from the consumer. The form is comprehensive and is very helpful in promoting a more effective solution of disputes. Except in California and Florida, BBB AUTO LINE staff open the dispute on the date a completed Customer Claim Form is received from the consumer. When the Customer Claim Form is returned to BBB AUTO LINE, a copy of the form is sent to the manufacturer.

02. The *Manufacturer Response Form* is sent to the manufacturer's representative to complete and to return to BBB AUTO LINE.

03. The *Automotive Case Record* is the record of the activity maintained in the Case File, wherein all actions are noted in order to keep a complete

file.

04. The *Case File Notes* are the individual notes which accompany the computer record.

05. The *Bureau Case Processing Checklist* includes all the steps required in setting up, conducting, and completing the follow-up required in the arbitration hearing process.

06. The *Notice of Hearing Form* is the notice sent to all involved parties prior to the arbitration hearing which gives all pertinent information about the arbitration hearing.

07. The *Checklist for Arbitration Hearing Form* consists of a list of responsibilities for the following purposes:

a. assisting in the coordination of setting up the initial arbitration process
b. contributing to arbitration hearing efficiency
c. serving as an excellent accountability tool.

The Case File also includes a separate *Checklist for Arbitration Hearing Form* which is completed by the local BBB AUTO LINE staff and is returned to CBBB. When the signed form is returned, it is electronically filed. The hard copies of Case Files are generated by BBB AUTO LINE and information is provided to the states as requested. Local offices keep hard copies of only those files currently in progress since all files are stored electronically.

07. The *Agreement to Arbitrate Form* is used to present the issues, each party's position, and the relief sought in arbitration. (This form is not used in California.)

08. The *Record of Hearing Form* is a record of the proceedings which transpire during the arbitration hearing. This form is then added to the Case File.

09. The *Reasons for Decision Form* is the form which the arbitrator uses during the arbitration hearing and deliberations, and which contains a series of questions designed to assist the arbitrator in reaching a decision; this form is then filed in the Case File.

10. The *Decision Form* is the form which contains the decision rendered in the arbitration case. It is prepared by the arbitrator and is sent to the local BBB AUTO LINE staff, who copy it, and send it to the consumer and to the

manufacturer. This form is computerized and arbitrators enter the decision directly onto a computer template.

11. The *Performance Verification Record* is the final step in the mediation/arbitration process. This form is sent to the consumer to verify that the settlement agreed upon in mediation, or the decision rendered in arbitration, has been completed by the manufacturer. When the signed form is returned by the consumer, it is filed in the computer system as a closed case. In most cases, files which call for performance verification include a date when performance either was completed or was assumed to be completed. If no contact can be made with the consumer, BBB AUTO LINE staff mail a postcard to the consumer notifying him/her that unless he/she responds with fourteen days, BBB AUTO LINE staff may assume that performance is satisfactory. The assumed satisfaction is recorded in the Case File and is counted as a case in which performance is satisfactory for index tabulation purposes.

12. The *Case File* is the entire computer record and includes all documentation which has accrued during the case. The entire File is stored electronically.

B. Informal Dispute Settlement Procedure

The Informal Dispute Settlement Procedure can be divided into the following three segments which are discussed below, as follows:

01. Conciliation

Conciliation is a process in which initial contact information is filed with BBB AUTO LINE by the consumer, and is then passed on to the manufacturer's representative. The manufacturer's representative then contacts the consumer and the dispute may be able to be resolved. In a large number of cases, this process facilitates a prompt resolution of the dispute prior to the more formal process of mediation.

02. Mediation

Cases which are not resolved through conciliation move on to the mediation phase. Mediation is the interim process of handling consumer claims. The mediation function is one of the more important functions of BBB AUTO LINE and is an integral part of the services provided for the parties. All mediation is performed by BBB AUTO LINE staff at CBBB and in California and Florida offices.

This form of mediation is different from ordinary mediation

processes in that BBB AUTO LINE staff either will relay communications between the parties or will conduct a mediation teleconference. BBB AUTO LINE staff perform the function of a neutral third party to bring the parties together in an attempt to resolve the dispute. BBB AUTO LINE mediation is an integral part of the overall Informal Dispute Settlement Procedure, and is in operation at all times, up to, and including, the time of the arbitration hearing itself.

When an offer is made by the manufacturer, the consumer has the option to accept, to reject, or to make a counter offer in response to the proposal. If agreement is reached, BBB AUTO LINE staff send each party a letter describing the terms of the settlement. The final step in settlement by mediation occurs when a Performance Verification Record Form is sent to the consumer.

If, on the other hand, the parties indicate that they do not wish to participate in mediation, or that there is no likelihood of settlement, preparations are made for conducting an arbitration hearing and the mediation function becomes inactive; however, the mediation process may be reactivated at any time, if there is a renewed interest in settlement through mediation by either of the parties.

03. Arbitration

A very important function of BBB AUTO LINE is arbitration, which is at the very heart of the program from the regulator's perspective. Along with mediation, it is in the arbitration phase that the overall efficacy, in terms of fairness and timeliness, is generally determined. The arbitration hearing provides to both parties in the dispute an opportunity to present any information pertinent to the dispute.

The choice of which arbitrator will conduct any given case is usually made at the local BBB AUTO LINE office; however, the parties are afforded an opportunity to reject any proposed arbitrator if a conflict exists. So that BBB AUTO LINE has an adequate pool of trained arbitrators, a national program is in place to train new arbitrators. To produce this pool of qualified arbitrators, the applicants are nominated and screened on the basis of education and experience. Using this pool of applicants who submit their names to serve as arbitrators, the prospective arbitrators are invited to participate in training.

The training process includes participation in the following: mock arbitration hearings, both as witnesses and as decision-makers; writing mock decisions based on cases presented; and analyzing case studies for in-depth analysis. The final approval for certifying arbitrators is based on

candidate performance, with the final decision made by BBB AUTO LINE training staff.

CBBB staff begin the arbitration hearing process in all states, except in California and Florida, which do their intake process differently. The BBB AUTO LINE arbitration process involves the following steps:

a. Preparation for Arbitration Hearing

CBBB staff notify the local BBB AUTO LINE staff, where an arbitration hearing room is set aside. The local BBB AUTO LINE staff set a date for the arbitration hearing, which is chosen from a list sent by CBBB, and list the parties involved in the dispute. The local BBB AUTO LINE staff complete a Checklist for Arbitration Hearing Form.

The local BBB AUTO LINE staff contact, and arrange for, an arbitrator. A panel of three arbitrators may be requested in some jurisdictions, and with certain manufacturers, when hearing repurchase or replacement cases. In most cases, BBB AUTO LINE staff select an arbitrator from the current list and, if this person is unable to serve, continue through the list until an arbitrator is contacted who is available. CBBB staff send a Notice of Hearing Form to all involved parties.

b. Arbitration Hearing

The local BBB AUTO LINE office staff is responsible for the following aspects of the arbitration hearing process:

01. introducing the arbitrator to the hearing participants,
02. making sure the sworn oath is signed by the participant,
03. conducting the arbitration hearing by operating the taping equipment, if the hearing is taped,
04. making copies of documents which may be needed, and
05. helping the arbitrator with the organization and the collection of documentation and with any other materials needed to draft the decision.

The arbitration hearing process almost always involves an inspection of the motor vehicle, which may include a test drive by the arbitrator and/or the parties. This is typically done after the parties have made their presentations and after the arbitrator has questioned the parties. This process is very important to the arbitrator in evaluating the claim, in determining the condition of the

vehicle, and in deciding whether a financial adjustment should be made. The consideration of the condition of the vehicle may be positive or negative, based upon a comparison of the current condition of the vehicle and of the normal condition of a like vehicle.

Cases in which a vehicle has been damaged can present an issue for the arbitrator to determine. The amount of money which is due to the consumer as a result of the arbitration decision may be reduced, based upon the mileage and the condition of the vehicle. This is known as the off-set, or the amount to which the manufacturer is entitled upon repurchase of the vehicle.

Rule § 703.8 (d) requires that “meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms.” BBB AUTO LINE rules allow observers to be present during the arbitration hearing phase of the case, provided that they have obtained the permission of the consumer and of the arbitrator assigned to the case in advance of the arbitration hearing; however, these same observers, and the parties to the case, are not allowed to remain in the arbitration hearing room during the deliberations and the decision-making phases of the meeting (if a panel is used). It is very similar to the judicial system, in which court hearings are open to the public, but in which internal deliberations of judges and juries are not open.

c. Arbitration Decision

The arbitrator prepares the Decision Form and the Reasons for Decision Form on a computer template and submits them to BBB AUTO LINE staff for review. After the case is heard, the BBB AUTO LINE staff are responsible for the processing of reimbursements and/or for the stipend, if applicable, to the arbitrator. The Record of Hearing Form, the Reasons for Decision Form, the Decision Form, and an audio-tape of the arbitration hearings are the principal documentation used in cases.

d. Post Arbitration Decision

BBB AUTO LINE staff send a copy of the decision to the consumer and a copy to the manufacturer. After receipt of the Decision Form, if either party disagrees with the decision, each may request that the arbitrator reconsider his/her decision, albeit on very limited grounds. (This review is not permitted in California.)

The Performance Verification Record Form is used to log the

action required of the manufacturer. The consumer's response to whether this has occurred is then logged into the consumer's Case File. This step is to determine whether the award has actually taken place and whether the performance has been satisfactory.

If no contact can be made with the consumer, BBB AUTO LINE staff mail a postcard to the consumer notifying him/her that, unless he/she responds with fourteen days, BBB AUTO LINE will assume that the manufacturer's performance has been satisfactory. The actual or assumed satisfaction is recorded in the computer Case File; this is then counted as a case in which performance was satisfactory for index tabulation purposes.

SECTION 02: STATUTORY REQUIREMENTS

Rule § 703.3(a)(b)(c)
Rule § 703.6(a)(f) and § 703.8(b)(c)(d)(e)(f)
Florida Administrative Code Rule 5J-11.010
Ohio Administrative Code § 109:4-4-04(D) and (E)
(Please refer to appendices for the complete text of all related statutes and regulations)

SECTION 03: CONDITIONS

the audit conducted by Morrison and Company during the 2010 calendar year included cases which were current at the time of the review. Morrison and Company completed an on-site audit at BBB AUTO LINE offices in Clearwater, Florida. In order to comply with the Ohio regulations, Morrison and Company also audited Ohio case files. Morrison and Company also audited a random selection of at least fifty pertinent BBB AUTO LINE records maintained by CBBB.

In evaluating the decisions of the arbitrators, it should be noted that it is not Morrison and Company's responsibility to determine whether the decision in itself was right or wrong. Rather, it is Morrison and Company's responsibility to evaluate the process which the arbitrator applied in order to arrive at a decision.

A. National

Council of Better Business Bureaus, Inc.
Dispute Resolution Division
4200 Wilson Boulevard, Suite 800
Arlington, Virginia 22203-1838
www.dr.bbb.org

The BBB AUTO LINE offices at CBBB are the heart of the entire BBB AUTO LINE operations. They house the phone banks for the entire nation. These phone banks are responsible for the intake of all information from consumers nationwide. CBBB staff handle the conciliation and mediation stages of all claims (except in California and Florida) up until the point that the consumer goes to arbitration. At that point, pertinent information is sent to the local BBB AUTO LINE office. CBBB is responsible for all arbitrator training and for oversight of all personnel for BBB AUTO LINE divisions of the Better Business Bureau offices nationwide. CBBB provides resource information for complex cases; they also provide expert witnesses and ensure compliance with applicable laws and regulations. CBBB is also responsible for electronically archiving all files required by Magnuson-Moss.

B. Florida

Better Business Bureau of West Florida
2653 McCormick Drive
Clearwater, Florida 33759
www.bbbwestflorida.org

This office has the unique responsibility for all cases processed in the state of Florida. The Clearwater, Florida, BBB AUTO LINE handles its own preparation for arbitrations and provides consumer assistance for the Tampa Bay/Clearwater area, as well as for the west coast of Florida. The specific boundaries are determined by zip codes. The audit of the state of Florida is included separately due to state regulations in Florida, as discussed in an earlier chapter.

The Clearwater, Florida, BBB AUTO LINE is responsible for handling all mediating activity in the state of Florida, as opposed to other states, for which mediation is handled by CBBB. The staff conduct all arbitration hearings for the Clearwater/Tampa area. This office also supervises all hearings held in other Florida BBB AUTO LINE offices.

C. Ohio

BBB AUTO LINE centers throughout Ohio are responsible for hearing all arbitration cases throughout the state. The precise area of coverage for each local Better Business Bureau is determined by postal zip codes. The procedures of BBB AUTO LINE in Ohio are basically the same as in other local BBB AUTO LINE offices throughout the United States.

SECTION 04: FINDINGS

This section has been divided into two segments for clarification purposes for

each of the two office sites. The first segment deals with the office site itself, and the second segment deals with the process involved in an arbitration hearing, as follows:

01. Office Site
    a. Facilities
    b. Personnel
02. Arbitration Hearing Process
    a. Openness of Arbitration Hearing
    b. Effectiveness of Arbitration Hearing
    c. Arbitration Decision
    d. Post Arbitration Decision.

A. National

01. Office Site

Council of Better Business Bureaus, Inc.
Dispute Resolution Division
4200 Wilson Boulevard, Suite 800
Arlington, Virginia 22203-1838
www.dr.bbb.org

a. Facilities

The CBBB office complex consists of a well-appointed, large suite of offices accommodating BBB AUTO LINE as well as the principal offices of the entire Council of Better Business Bureaus. The BBB AUTO LINE facility has a very large room with cubicles for telephone operators and a large bank of adjoining offices for supervisory staff who oversee the activities of BBB AUTO LINE. There is a large conference room to facilitate training of BBB AUTO LINE staff and meetings of any type.

This location also contains extensive filing facilities to accommodate the materials and information submitted by local BBB AUTO LINE offices throughout the U.S. on all pending cases, as well as electronic files on closed cases, which are retained for a minimum of four years as required by Magnuson-Moss. All Case Files are stored electronically.

b. Personnel

The following people have direct responsibility for BBB AUTO LINE operations at CBBB:

01. Rodney L. Davis; Vice President, Programs and Services
02. Nancy Loader, Senior Director, Dispute Resolution Programs
03. Alan L. Cohen; Vice President, General Counsel and Corporate Secretary
04. Richard Woods; Deputy General Counsel

When a consumer calls BBB AUTO LINE, an automatic answering system directs the caller to the appropriate connection. The consumer is informed of the requisite information which will be required when an intake staff person takes his/her call. Consumers who call with complaints for vehicles not covered by the BBB AUTO LINE are given the appropriate number to call.

Consumers also have the option to inquire about filing a claim on the internet by going to the BBB AUTO LINE link on the Better Business Bureau website at www.bbb.org. This site guides the user through the necessary steps, as well as providing valuable information regarding BBB AUTO LINE and all services of the Better Business Bureau.

This segment of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

B. Florida

01. Office Site

Better Business Bureau of West Florida
2653 McCormick Drive,
Clearwater, Florida 33759
www.bbbwestflorida.org

a. Facilities

The Clearwater, Florida, offices, visited on April 15, 2011, are located in an office building located in a semi-residential area. The facility is self-contained and offers several conference rooms which function well for arbitrations.

There is ample room for adjacent parking for consumers. This factor makes it easily accessible for those consumers who attend arbitration hearings, since the arbitrator and the consumer can easily reach the vehicle for the inspection and test drive.

b. Personnel

While in the Clearwater, Florida, office, Morrison and Company met with the following people:

01. Karen Nalven; President, Better Business Bureau
02. Todd M. Eikenberry; Regional BBB AUTO LINE Director
03. Rhonda Eakins; Mediation Specialist
04. Diverse Staff Members

When Morrison and Company staff visited this office, they found it to be run in an extremely efficient and consumer friendly manner. Morrison and Company was shown through all areas of operations and observed many of the staff members. Mr. Eikenberry noted that he still has an adequate pool of arbitrators from which to choose.

This segment of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

02. Arbitration Hearing Process

a. Openness of Arbitration Hearing

Morrison and Company was able to audit a hearing during their visit to this office. All observed activity functioned in an open and conciliatory fashion. The arbitration hearing files, which were audited by Morrison and Company, had all the necessary information, which led the auditors to believe that hearings appeared to have been carried out completely in accord with BBB AUTO LINE policies regarding outside observers and participants in the procedure.

b. Effectiveness of Arbitration Hearing

The arbitration hearing observed by Morrison and Company

was facilitated by Todd M. Eikenberry; Regional BBB AUTO LINE Director, since Mr. Oglesby was not in the office the day Morrison and Company visited. Although he did not remain present during the actual hearing, Mr. Eikenberry opened the hearing and aided the arbitrator with any questions, and then returned to close the hearing.

In the arbitration hearing observed by Morrison and Company, the arbitrator acted in a very professional manner and made certain all parties understood the proceedings. The consumer was present and the manufacturer was represented on the telephone. The presentation of evidence and the testimony of both parties was facilitated in a very professional manner by the arbitrator.

Each party was given ample opportunity to present evidence and testimony, as well as time to question and to challenge the other party. The arbitrator was extremely careful to follow all protocol and to make certain both parties had sufficient time to state all the information each wished to convey.

At the appropriate time, Mr. Eikenberry disconnected the manufacturer's representative, and turned off the recording device. The arbitrator, the consumer, and Mr. Eikenberry left the hearing room to inspect the vehicle. When this phase was completed, the parties returned and the recorder was turned on again, and the manufacturer's representative was reconnected by telephone.

After all testimony was presented, the manufacturer's representative and the consumer made concluding remarks. The arbitrator asked some questions and then closed the arbitration hearing, with the explanation that she would make a decision in a few days and that BBB AUTO LINE would notify the parties involved.

c. Decision-Making

In the case of the arbitration hearing audited in Clearwater, Florida, and in other Case Files which Morrison and Company reviewed, it was very clear that this office staff was familiar with Rule 703, with the Florida Lemon Law, and with the Florida Administrative Code. Having reviewed the Decision forms, the consent decision appears to have been made according to guidelines.

This segment of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

SECTION 05: RECOMMENDATIONS

A. National

In the process of observing many hearings and speaking with thousands of consumers in the telephone surveys over the past years, Morrison and Company has observed a gradual change from a consumer-friendly program to a more courtroom-like atmosphere during arbitration hearings.

It should be remembered that one of the major purposes of this law is to assist the consumer in an environment more comfortable than that provided in a courtroom. Hearings are not to be duplicates of the processes used in the courtroom, but are to be more accessible for the average, uninformed consumer to present his/her case without knowledge of technical, legal presentations of fact and detail.

From observations of the patterns of the decisions over the past several years, there appears to be a steady increase in the number of “No Award” decisions made by arbitrators. Part of this trend can be explained by the increasing number of cases filed by specialized law firms, who tend to obtain a higher percentage of “No Awards” than do consumers who handle their claims directly. Nevertheless, Morrison and Company believes this trend is also related to the increased formality in hearings and application of legal standards.

It should be remembered that another of the major purposes of Magnuson and Moss and Rule 703 is to provide an alternative to the court system. It appears that, if “No Awards” are continuing to climb, even considering the effect of specialized law firms, more consumers are meeting with too much difficulty in receiving much needed recompense for their warranty concerns.

The consumer telephone surveys show that, over the years, the satisfaction with the BBB AUTO LINE staff continues to decline. It might be noted that this may be caused by the decline in awards in arbitration hearings. Those consumers who go all the way to an arbitration and receive nothing tend to be far more critical of the program than those who were able to get some relief.

At the same time, Morrison and Company does understand the need for strict neutrality in all activities. This, however, does not preclude the mandate that

BBB AUTO LINE personnel must be cognizant of the consumers' needs in staff efforts to resolve consumer complaints.

B. Florida

No specific recommendations have been made for Florida. National recommendations should be referenced for Florida as well.

C. Ohio

No specific recommendations have been made for Ohio. National recommendations should be referenced for Ohio as well.

SECTION 06: CONCLUSIONS

A. National

BBB AUTO LINE has done an outstanding job in providing any information requested, and in answering questions requisite to the audit. Morrison and Company would like to commend BBB AUTO LINE and CBBB for their continued efforts in behalf of consumers, while still meeting the needs of manufacturers. It is felt by Morrison and Company that this is a great part of the reason BBB AUTO LINE continues to have a relatively high ratio of mediation settlements compared to the necessity of going to arbitration.

It should be noted that, in the cases which Morrison and Company reviewed, when a repurchase was ordered, the computation of the off-set amount for mileage and/or damage was properly accomplished, even though states use different formulas to arrive at the proper amount. The determination concerning mileage off-sets and the deductions for damage beyond normal wear and tear have been handled in detail; the decisions appeared appropriate, based upon the facts in the case.

Morrison and Company would like to comment that all BBB AUTO LINE staff in every audited location and/or setting has gone to great lengths to be of assistance to the consumers and to the manufacturers. Staff appears to function at a level greater than is generally seen in current commerce.

B. Florida

CBBB and BBB AUTO LINE in Clearwater, Florida, as well as the other BBB AUTO LINE offices throughout the state of Florida, worked well together, and with the regulating agencies in the state of Florida. The Clearwater, Florida, BBB AUTO LINE office has a well-organized and professionally-operated program. This office appeared to operate in an exemplary fashion. This program continues to be an excellent model of one type of program, as it was envisioned

by the writers of the regulations.

C. Ohio

Morrison and Company found the case files which they reviewed to be in order, and the statement can be made that Ohio is in conformity with all regulations.

This section of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

CHAPTER THREE

RECORD-KEEPING PROCEDURES

CHAPTER 03: RECORD-KEEPING PROCEDURES

SECTION 01: INTRODUCTION

One function of the BBB AUTO LINE audit, required under Rule 703, is to verify that the records kept by BBB AUTO LINE are accurate and are filed properly. As stated previously, Florida and Ohio have regulations which require individual state audits; however, no other state has these requirements. BBB AUTO LINE of Clearwater, Florida, is evaluated each year due to the fact that it performs many of the functions for the rest of the Florida BBB AUTO LINE offices. All official records from Florida and Ohio are maintained by CBBB. Only those files currently in progress are kept at the local level.

Each section of the record-keeping statutes must be audited individually in order to assure that the requirements of that section are being met. Thus, this chapter is divided into segments based upon the individual segments of Rule 703, as follows:

A. PART I

In each of the first twelve segments listed below, Morrison and Company has audited the record-keeping procedures of BBB AUTO LINE. In order to meet the specific requirements of the Florida law and of the Ohio law, Morrison and Company has made separate notations under the Findings Section of this chapter discussing how the specific requirements pertaining to each of these two states differ from the national requirements.

B. PART II

The focus of this section concerning the requirements of Rule 703 is different from the prior segments; from this point on, the rule mandates that BBB AUTO LINE maintain certain composite indices and statistics. Again, in order to meet the specific requirements of the Florida law and of the Ohio law, Morrison and Company has made separate notations under the Findings Section of this chapter, discussing how the specific requirements pertaining to each of these two states differ from the national requirements.

SECTION 02: STATUTORY REQUIREMENTS

A. National

Rule § 703.6(a)(1-12)
Rule § 703.6(b-f)
Rule § 703.7(b)(3)(i)
(Please refer to appendices for the complete text of all related laws,

statutes, and regulations)

B. Florida

Florida Lemon Law § 681.108
Florida Administrative Code Rule § 5J-11.009
Florida Administrative Code Rule § 5J-11.010
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

C. Ohio

Ohio Lemon Law § 1345.71-78
Ohio Administrative Code § 109:4-4-04(D) and (E)
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

SECTION 03: CONDITIONS

In order to audit PART I, a minimum of fifty randomly selected Case Files from each of the three audited programs have been thoroughly audited by Morrison and Company, as noted in each segment below. These files are completely computerized and are stored electronically.

In order to audit PART II, all requisite indices and statistics, both annual and semi-annual, were evaluated by Morrison and Company. Individual BBB AUTO LINE offices do not maintain their own indices or statistics; rather, these indices and statistics are maintained by CBBB. All information was shared with Morrison and Company in a timely, complete, and very functional fashion.

In PART I, as well as in PART II, many of the mandates are not actually written specifically into the Florida regulations because the drafters adopted Rule 703 by reference in its entirety. Ohio's regulations list each requirement separately and do not incorporate Rule 703 by reference.

SECTION 04: FINDINGS

All BBB AUTO LINE files have been stored completely electronically since 1994. Morrison and Company audited files on computer, as well as auditing the process which is used for creating and maintaining the files. The records which Morrison and Company audited were very detailed and were maintained consistently with BBB AUTO LINE procedures, as well as in compliance with Rule 703. All items were easy to locate and were found, as required, in the appropriate files as noted below. CBBB provided comprehensive indices and statistics, both annual and semi-annual, which covered all

requisite information in detail.

PART I

A. Segment 01

01. National

a. Statutes

01. Rule § 703.6(a)(1)

(1)Name, address, telephone number of the consumer

b. Discussion

This information could be found easily in every Case File audited. No files were audited which did not contain the required information.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(3)(a)

(a) A certified procedure or a procedure of an applicant seeking certification shall submit to the division a copy of each settlement approved by the procedure or decision made by a decision-maker within 30 days after the settlement is reached or the decision is rendered. The decision or settlement must contain at a minimum the:

(i) Name and address of the consumer;

b. Discussion

In Florida, only the name and the address of the consumer are required. The information was easily located in the Case Files. No files were audited which did not contain the required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(a)

(a) Name, address and telephone number of the consumer;

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(1). The information was easily located in every Case File audited. No files were audited which did not contain the required information.

Segment 01 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

B. Segment 02

01. National

a. Statutes

01. Rule § 703.6(a)(2)

(2)Name, address, telephone number, and contact person of the warrantor

b. Discussion

In every Case File audited, Morrison and Company found that each contained the name, address, telephone number, and contact person of at least one manufacturer's representative who interacted with BBB AUTO LINE staff prior to arbitration. When the case went to arbitration, the Case File also contained the name of the manufacturer's representative participating at the arbitration hearing. This information could be found in the Case File Notes. No files were audited which did not contain the required information.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(3)(b)

(b) Name of the manufacturer and address of the dealership from which the motor vehicle was purchased;

b. Discussion

This requirement has one feature which is not contained in Rule § 703.6(a)(2): the address of the dealership from which the vehicle was purchased. All of the randomly audited Case Files contained the required information. No files were audited which did not contain the required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(b)

(b) Name, address, and telephone number of the contact person designated by the warrantor under paragraph (F)(1) of rule 109:4-4-03 of the Administrative Code;

b. Discussion

This law is similar to Rule § 703.6(a)(2). The audit of randomly selected Case Files from Ohio disclosed that the information in each was complete and correct, even though the information was not always in the same position, due mainly to the manner in which each case developed. No files were audited which did not contain the required information.

Segment 02 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

C. Segment 03

01. National

a. Statutes

01. Rule § 703.6(a)(3)

(3)Brand name and model number of the product involved

b. Discussion

Morrison and Company found the brand name and the model

number of each vehicle clearly reported in every Case File audited. No files were audited which did not contain the required information.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

The information required for Rule § 703.6(a)(3) was easily located in every Case File audited. No files were audited which did not contain the required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(c)

(c)Makes, models and vehicle identification numbers of the motor vehicles;

b. Discussion

Morrison and Company found the make, the model, and the vehicle identification number for each vehicle clearly reported in every Case File. No files were audited which did not contain the required information.

Segment 03 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

D. Segment 04

01. National

a. Statutes

01. Rule § 703.6(a)(4)

(4)The date of receipt of the dispute and the date of disclosure to the consumer of the decision

b. Discussion

BBB AUTO LINE considers the date of receipt of the dispute to be the date it receives a completed Customer Claim Form from the consumer (except in California and Florida, where the date when the consumer first contacts BBB AUTO LINE is considered to be the opening date of the file). The date of disclosure of a decision is the same date on which the decision is sent to the consumer and to the manufacturer. When Morrison and Company audited Case Files, this information was found in one or more locations and was clearly stated in each Case File. No files were audited which did not contain the required information.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(3)(c)

(c) Date the claim was received and the location of the procedure office that handled the claim;

b. Discussion

This date is different in Florida, which recognizes the date of receipt as the date of first contact, which is usually the first phone call the consumer makes to BBB AUTO LINE. When Morrison and Company audited Case Files, this information was found in one or more locations and was clearly stated in each Case File audited. No files were audited which did not contain the required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(d)

(d) The date of receipt of the dispute and the date of disclosure to the consumer of the decision;

b. Discussion

Ohio’s required information for this segment is the same as that

found in Rule § 703.6(a)(4). The information was easily located in every Case File audited. No files were audited which did not contain the required information.

Segment 04 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

E. Segment 05

01. National

a. Statutes

01. Rule § 703.6(a)(5)

(5)All letters or other written documents submitted by either party

b. Discussion

Since there are no objective standards against which to measure the information in Rule § 703.6(a)(5), Morrison and Company could draw no absolute conclusions. Rather, the existence of the materials was noted. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

As noted above, there is no absolute way to verify the precise information in Rule § 703.6(a)(5) without direct interview The audited Case Files and the similarity of materials led Morrison and Company to the

conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(e)

(e) All letters or other written documents submitted by either party;

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(5). As noted above, there is no absolute way to verify the precise information without direct interview. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

Segment 05 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

F. Segment 06

01. National

a. Statutes

01. Rule § 703.6(a)(6)

(6)All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other persons (including consultants described in § 703.4 (b))

b. Discussion

Again, there are no absolute standards by which to measure this information; however, materials of this type were present in every Case File audited. This information appeared to be in the same order in each audited Case File, and the similarity of materials led to the conclusion that a concerted effort had been made to comply with this requirement in every Case File audited. No files were audited in which information appeared to be missing or out of order.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

Given the same auditing concern, the information required for Rule § 703.6(a)(6) appeared to be present. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(f)

(f) All other evidence collected by the board relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the board and any other person (including neutral consultants described in paragraph (B)(4) or (C)(4) of this rule);

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(6). Given the same auditing concern, all information appeared to be present. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

Segment 06 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

G. Segment 07

01. National

a. Statutes

01. Rule § 703.6(a)(7)

(7) A summary of any relevant and material information presented by either party at an oral presentation;

b. Discussion

Morrison and Company's examination of BBB AUTO LINE Case Files found that each case which resulted in an arbitration hearing was audio-recorded. Although the recording is maintained for only 60 days, a Record of Hearing Form was stored for the required four years. The recordings of arbitration hearings were kept and filed separately by BBB AUTO LINE by case number and did not remain with the electronically stored Case Files. Even though the tapes were not maintained as part of the Case File at the same location, their existence is well known to the parties, to the regulators, and to the auditors, which makes them readily accessible for audit, if requested or needed. No files were audited which did not contain reference to the required information.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

The records and tapes of arbitration hearings required for Rule § 703.6(a)(7) were stored in different locations, but in every Case File audited there was a Reasons for Decision Form and a Decision Form

noting supporting tape recordings. No files were audited which did not contain the reference to required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(g)

(g) A summary of any relevant and material information presented by either party at an oral presentation;

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(7). The records and tapes of arbitration hearings were stored in different locations, but in every Case File audited there was a Reasons for Decision Form and a Decision Form noting supporting tape recordings. No files were audited which did not contain reference to the required information.

Segment 07 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

H. Segment 08

01. National

a. Statutes

01. Rule § 703.6(a)(8)

(8) The decision of the members including information as to date, time and place of meeting, and the identity of members voting, or information on any other resolution

b. Discussion

This information is maintained in the Decision Form and in the Reasons for Decision Form, or, if not entirely there, as a part of the Notice of Hearing Form, which is maintained as part of the Case File. All

information was located in the places stated above in every Case File audited. No files were audited which did not contain the required information.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(3)(d)(e)

(d) Relief requested by the consumer;
(e) Name of each decision-maker rendering the decision or person approving the settlement;

02. Florida Administrative Code Rule 5J-11.006 Decision of Dispute Resolution Mechanism

(1) All decisions rendered pursuant to a certified dispute-settlement procedure shall be signed by a decision-maker and shall disclose how each decision-maker voted.
(2) All decisions, final or otherwise, provided to consumers shall contain the following information, if applicable:
(a) A statement setting forth the issue presented by the parties to the decision-makers;
(b) A statement setting forth the specific terms of the decision and a reasonable time for performance;
(c) A list of the materials and documents submitted by the parties for consideration;
(d) A statement setting forth the basis upon which the decision-makers made their determination, and indicating the specific documents relied upon;
(e) The following statement in bold print:

The consumer may reject this decision and, if eligible, may pursue arbitration with the Florida New Motor Vehicle Arbitration Board administered by the Office of the Attorney General. To obtain information about eligibility for the state-run arbitration program, the consumer should contact the Division of Consumer Services' Lemon Law Hotline at 1-800-321-5366. PLEASE BE ADVISED that Section 681.109(4), *F.S.*, provides that the consumer must file the Request for Arbitration no later than 60 days after the expiration of the Lemon Law rights period, or within 30 days after the

final action of a certified dispute-settlement procedure, whichever date occurs later.

(f) The address of the Division of Consumer Services, Lemon Law Section.

(g) If it is determined that the certified dispute-settlement procedure has no jurisdiction to decide the consumer's dispute, a statement setting forth the basis for such determination.

b. Discussion

In the Florida statutes, the language is not in conformity with Rule § 703.6(a)(8), but there are several sections of Florida law which deal with various aspects of this rule. This information was found in the Decision Form, the Reasons for Decision Form, and/or the Decision Notification cover letter. Parts of this information were also found in the Record of Hearing Form. No files were audited which did not contain the required information.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(h)

(h) The decision of the arbitrators, including information as to date, time and place of meeting and the identity of arbitrators voting, or information on any other resolution;

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a(8). The information was easily located in every Case File audited. This information was found in the Decision Form, the Reasons for Decision Form, and/or the Decision Notification cover letter. Parts of this information were also found in the Record of Hearing Form. No files were audited which did not contain the required information.

Segment 08 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

I. Segment 09

01. National

a. Statutes

01. Rule § 703.6(a)(9)

(9) A copy of the disclosure to the parties of the decision

b. Discussion

The Decision Form meets the requirement for disclosure to the parties, since the final draft of the decision utilizes the Decision Form, which serves as the decision disclosure. The Decision Form is sent to each party along with the Reasons for Decision Form. When Morrison and Company audited Case Files, this information was found in one or more locations in every Case File audited. No files were audited which did not contain the required information.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

The information required for Rule § 703.6(a)(9) was located in every Case File audited. The disclosure is contained in the Decision Form and the Reasons for Decision Form. No files were audited which did not contain the required information.

3. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(i)

(I) A copy of the disclosure to the parties of the decision;

b. Discussion

Ohio's required information for this segment is the same as that

found in Rule § 703.6(a)(9).The disclosure is contained in the Case File, which clearly showed the Decision Form and the Reasons for Decision Form. No files were audited which did not contain the required information.

Segment 09 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

J. Segment 10

01. National

a. Statutes

01. Rule § 703.6(a)(10)

(10) Statement of the warrantor's intended action(s)

b. Discussion

By participating in BBB AUTO LINE, all manufacturers agree in advance to abide by the arbitration decision, so long as the decision falls within the scope of the program's authority. This pre-commitment is communicated to consumers in BBB AUTO LINE's Arbitration Rules and on the Acceptance or Rejection of Decision Form.

In the randomly audited Case Files, it was very clear that manufacturer compliance with BBB AUTO LINE decisions was the sole response. The paperwork explaining the manufacturer's reasons for failing to comply with the decision would be extensive. This paperwork would be maintained as a part of the permanent Case File in such cases.

Any refusal to comply with a decision would involve circumstances where performance of the decision would not be possible or where the decision clearly exceeded program limitations. Because of the extensive paper trail that would be created in such a situation, there is no reason for a special form to explain the manufacturer's refusal to comply with BBB AUTO LINE's arbitration decision. This procedure has been confirmed by CBBB's attorney. None of the Case Files that were audited indicated

manufacturers did not comply.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.101 - Legislative Intent

In the Florida Lemon Law § 681.101, reference is made to the following:

> . . . .the intent of the Legislature that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time.

b. Discussion

This specific language does not appear in the Florida Statutes, but in reading the entire Florida Statutes, there are numerous references to the duty of the manufacturer to carry out its responsibilities to the consumers of its products. No files were audited in which manufacturers did not comply.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(C)(12)

> (12) Decisions of the board shall be legally binding on the warrantor, which must perform its obligations pursuant to any such decisions if the consumer so elects.

b. Discussion

Although worded differently, this statute is similar to Rule § 703.6(a)(10). No files were audited in which manufacturers did not comply.

Segment 10 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

K. Segment 11

01. National

a. Statutes

01. Rule § 703.6(a)(11)

(11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer, and responses thereto

b. Discussion

The above requirements, again, are not appropriate for standard auditing methods, since there is no objective standard by which to measure. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

From the audit of Case Files, the records pertaining to Rule § 703.6(a)(11) appeared to be complete and had been processed properly. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(j)

(j) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(11), and contains the same auditing problems. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

Segment 11 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

L. Segment 12

01. National

a. Statutes

01. Rule § 703.6(a)(12)

(12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

b. Discussion

As with the above requirements, this segment requires any other documents and all communications relating to the dispute to be on file. This type of requirement, again, is not subject to standard auditing methods since there is no objective standard by which to measure the materials. No files were audited in which information appeared to be missing or out of order.

Morrison and Company's audit of the randomly selected Case Files revealed the existence of these materials in the records audited. Although there is no means by which to discover if all required information has been included, the audit has not found anything to suggest that a discrepancy existed. No files were audited in which information appeared to be missing or out of order.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

From the audit of the Case Files, the records for Rule § 703.6(a)(12) appeared to be complete and processed properly. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements. No files were audited in which information appeared to be missing or out of order.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D(1)(k)

(k) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(a)(12), and contains the same auditing problems. The audited Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements in every Case File audited. No files were audited in which information appeared to be missing or out of order.

Segment 12 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

PART II

From this point on, Rule 703 mandates that BBB AUTO LINE maintain certain composite indices and statistics. This section of the report is very valuable in determining the performance level of BBB AUTO LINE. As stated before, the statistics are kept both on a semi-annual basis and on an annual basis by BBB AUTO LINE. Some are also available to the general public on the Better Business Bureau website.

M. Segment 13

01. National

a. Statutes

01. Rule § 703.6(b)

(b)The Mechanism shall maintain an index of each warrantor's disputes grouped under brand name and sub grouped under product model.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(4)

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of Rule 703, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

b. Discussion

Florida's requirements are similar to Rule § 703.6(b). Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D)(2)

(2) The board shall maintain an index of each warrantor's disputes grouped under make and subgrouped under model.

b. Discussion

Ohio's required information for this segment is the same as that found in Rule § 703.6(6)(b). The requirements mandate that BBB AUTO LINE maintain an index of each manufacturer's disputes grouped under make, and sub-grouped under model. Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

Segment 13 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

N. Segment 14

01. National

a. Statutes

01. Rule § 703.6(c)

(c)The Mechanism shall maintain an index for each warrantor as will show:

1. All disputes in which the warrantor has promised some performance (either by settlement or in response to a Mechanism decision) and has failed to comply;
2. All disputes in which the warrantor has refused to abide by a Mechanism decision.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is

consistent with the regulatory requirements. No deficiencies were found.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(4)

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of Rule 703, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D)(3)

(3) The board shall maintain an index for each warrantor which will show:

(a) All disputes in which the warrantor has agreed to perform any obligations as part of a settlement reached after notification of the dispute or has been ordered to perform any obligations as the result of a decision under paragraph (C)(5) of this rule and has failed to comply; and

(b) All disputes in which the warrantor has refused to abide by an arbitration decision.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

Segment 14 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

O. Segment 15

01. National

a. Statutes

01. Rule § 703.6(d)

(d)The Mechanism shall maintain an index as will show all disputes delayed beyond 40 days.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(4)

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of Rule 703, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

b. Discussion

Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

03. Ohio

a. Statutes

01. Ohio Administrative Codes § 109:4-4-04(D)(4)

(4) The board shall maintain an index that will show all disputes delayed beyond forty days.

b. Discussion

The requirement is basically the same in Ohio as it is in Rule § 703.6(d). Morrison and Company's audit of the index supplied by BBB AUTO LINE has determined that the statistical index is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

Segment 15 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

P. Segment 16

01. National

a. Statutes

01. Rule § 703.6(e)

(e) The Mechanism shall compile semi-annually and maintain statistics which show the number and percent of disputes in each of the following categories:

1. Resolved by staff of the Mechanism and warrantor has complied;
2. Resolved by staff of the Mechanism, time for compliance has occurred, and warrantor has not complied;
3. Resolved by staff of the Mechanism and time for compliance has not yet occurred;
4. Decided by members and warrantor has complied;
5. Decided by members, time for compliance has occurred, and warrantor has not complied;

6. Decided by members and time for compliance has not yet occurred;
7. Decided by members adverse to the consumer;
8. No jurisdiction;
9. Decision delayed beyond 40 days under 703.5(e)(1);
10. Decision delayed beyond 40 days under 703.5(2);
11. Decision delayed beyond 40 days for any other reason; and
12. Pending decision**.**

b. Discussion

The semi-annual statistics maintained by BBB AUTO LINE addressed completely all of the requirements of the subsections, and thereby met all of the requirements of the full section. BBB AUTO LINE provided Morrison and Company with semi-annual statistics and annual statistics for 2010 showing the numbers and percentages of cases in each of the specified categories. No deficiencies were found.

02. Florida

a. Statutes

01. Florida Lemon Law § 681.108(4)

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of Rule 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

02. Rule 5J-11.010 Required Annual Audit of Dispute Resolution Mechanisms

(1) Each manufacturer establishing a certified dispute-settlement procedure shall file with the Division an annual report relating to Florida consumers for the period ending December 31 of each year. The report shall be filed with the Division on or before July 1 of the following year.
(2) The annual report shall contain the following information relative to Florida consumers for the period audited:
(a) The information required under the provisions of

16 CFR § 703.7, relating to an annual audit;
(b) The number of disputes filed by consumers with the administrator of a certified dispute-settlement procedure, including the number of disputes dismissed or withdrawn by the consumer;
(c) The total number of decisions rendered under the certified dispute-settlement procedure broken down to specifically reference the number of decisions: ordering refunds; ordering additional repair attempts; ordering or recognizing trade assists; ordering partial refunds; concluding that the certified dispute-settlement procedure has no jurisdiction to decide the dispute; dismissing the dispute filed by the consumer; ordering a replacement of the consumer's motor vehicle; ordering any other relief not specifically listed in this rule.

b. Discussion

The Florida law is more inclusive than Magnuson-Moss, since it requires everything which Rule § 703.6(e) requires, in addition to all of the information mentioned above. In these sections there is a duplication of the information requested; however, the statistics provided all information. The information in which Florida shows a special interest is the number of refunds and replacements made in this state. All information was located in the statistics. No deficiencies were found.

The information in Tables 3.01 and 3.02 below was provided to Morrison and Company by BBB AUTO LINE staff for evaluating record-keeping under the provisions of § 5J-11.010. The review of this information meets the requirements of this section of the Florida Rules.

Table 3.01
Florida Annual Report, Part I: January through December, 2010

Claims	All Manufacturers		Certified Manufacturers	
Mediations	406	30.10%	406	30.34%
Arbitrations	289	21.42%	287	21.45%
No jurisdiction	576	42.70%	568	42.45%
Withdrawn	78	05.78%	77	05.76%
TOTAL	**1,349**	**100.00%**	**1,338**	**100.00%**

Table 3.02
Florida Annual Report, Part II: January through December, 2010

Arbitration Claims	All Manufacturers		Certified Manufacturers	
Full Repurchase	59	20.42%	58	20.21%
Partial Repurchase	06	02.08%	06	02.09%
Replacement	09	03.11%	09	03.14%
Repair	19	06.57%	19	06.62%
Trade Assist	00	00.00%	00	00.00%
Other Award	09	03.11%	09	03.14%
No Award	187	64.71%	186	64.80%
TOTAL	**289**	**100.00%**	**287**	**100.00%**

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D)(5)

(5) The board shall compile semiannually and, maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of warranty disputes received in each of the following categories (which shall total one hundred per cent of the total number of warranty disputes received):

(a) Resolved by staff of the board without arbitration and the warrantor has complied;

(b) Resolved by staff of the board, without arbitration,

time for compliance has expired, and the warrantor has not complied;
(c) Resolved by staff of the board without arbitration, and time for compliance has not yet expired;
(d) Decided by arbitration and the party required to perform has complied, specifying whether the party required to perform is the consumer or the warrantor or both;
(e) Decided by arbitration, time for compliance has expired, and the party required to perform has not complied, specifying whether the party required to perform is the consumer or the warrantor or both;
(f) Decided by arbitration and time for compliance has not yet expired;
(g) Decided by arbitration in which neither party was awarded anything;
(h) No jurisdiction;
(i) Decision delayed beyond forty days under paragraph (C)(8)(a) of this rule;
(j) Decision delayed beyond forty days under paragraph (C)(8)(b) of this rule;
(k) Decision delayed beyond forty days under paragraph (C)(8)(c) of this rule;
(l) Decision delayed beyond forty days under paragraph (C)(8)(d) of this rule;
(m) Decision delayed beyond forty days for any other reason; and
(n) Decision is pending and the forty-day limit has not expired.
In addition, the board shall compile semiannually and maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of disputes received (which need not add up to one hundred per cent of all disputes received) in which:
(o) Consumer requested a refund or replacement for a motor vehicle within the first year or eighteen thousand miles of operation;
(p) Vehicle refund or replacement was awarded, specifying whether the award was made by arbitration or through settlement;
(q) Vehicle refund or replacement decisions complied with by the manufacturer, specifying whether the decision was made by arbitration or through settlement;

(r) Decisions in which additional repairs were the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;
(s) Decisions in which a warranty extension was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;
(t) Decisions in which reimbursement for expenses or compensation for losses was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;
(u) Vehicle refund or replacement arbitration awards accepted by the consumer; and
(v) Non-repurchase or replacement arbitration decisions accepted by the consumer.

b. Discussion

Ohio's law is also more comprehensive than Rule § 703.6(e) requires; this regulation requires all the information listed above, in addition to that in Rule 703. Morrison and Company's audit of the statistics supplied by CBBB has determined that the compilation is comprehensive and is consistent with the regulatory requirements. No deficiencies were found.

Segment 16 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Q. Segment 17

01. National

a. Statutes

01. Rule § 703.6(f)

(f) The Mechanism shall retain all records specified in paragraphs (a) - (e) of this section for at least 4 years after final disposition of the dispute.

b. Discussion

This requirement deals specifically with the retention of the Case Files and all records. As a function of the audit, Morrison and Company has found that BBB AUTO LINE maintains the Case Files for the entire country for the four years as required. Morrison and Company audited the computer data base which stores the files for at least the preceding four years. No deficiencies were found.

02. Florida

a. Statutes

This particular requirement is not contained in the Florida statutes or regulations; however, it is covered under Rule 703 by reference.

b. Discussion

Florida cases are also maintained in the BBB AUTO LINE data base. All Case Files were available in the local office through the national computer database. No deficiencies were found.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(D)(7)

(7) The board shall retain all records specified in paragraphs (D)(1) to (D)(6) of this rule at least four years after final disposition of the dispute.

b. Discussion

The Ohio requirements are very similar to those of Rule § 703.6(f). Ohio cases are also maintained in the BBB AUTO LINE data base. All Case Files were available in the local office through the national computer database. No deficiencies were found.

Segment 17 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio

Administrative Code.

R. Segment 18

01. National

a. Statutes

01. Rule § 703.7(3)(b)(i)

(i) adequacy of the Mechanism's complaint and other forms

b. Discussion

At the outset, it should be made clear that all forms utilized by BBB AUTO LINE were developed by CBBB, and as a result, are uniform throughout the program with very few exceptions. Morrison and Company audited BBB AUTO LINE forms and found them to be exemplary.

The forms are extremely well-designed, well-organized, and easy to read, which allow them to serve as a valuable resource for the local BBB AUTO LINE offices. By using the same forms throughout the system (except in those jurisdictions which have special requirements and which are not covered by the national program), all of the local BBB AUTO LINE offices are able to function in synchronization with CBBB.

The design of the forms is to ensure, as fully as possible, that the entire program operates in compliance with all the requirements of the federal and state regulations. As the audits were conducted, it was simple to note how well the forms work, both at the local offices and at CBBB.

0**2. Florida**

a. Statutes

01. Florida Lemon Law § 681.108(4)

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of Rule 703, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

b. Discussion

The Florida statute also mandates an evaluation of the Mechanism's complaint forms and other forms. The discussion located in the national segment above, on forms and documents, applies equally to the Florida program. Since Florida uses the forms provided by CBBB, all documents are uniform.

03. Ohio

a. Statutes

01. Ohio Administrative Code § 109:4-4-04(E)(2)(i)

(2) Each audit provided for in paragraph (E)(1) of this rule shall include at a minimum the following:

(i) adequacy of the board's complaint and other forms, investigation, mediation and follow-up efforts and other aspects of complaint handling;

b. Discussion

The Ohio statute also mandates an evaluation of the Mechanism's complaint forms and other forms. The discussion located in the national segment above, on forms and documents, applies equally well to the Ohio program. Since Ohio uses the forms provided by CBBB, all documents are uniform.

Segment 18 of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 05: RECOMMENDATIONS

A. National

BBB AUTO LINE has maintained its standard of excellence in its record-keeping procedures. For this reason, Morrison and Company does not have any recommendations in this area.

B. Florida

No specific recommendations have been made for Florida. National recommendations should be referenced for Florida as well.

C. Ohio

No specific recommendations have been made for Ohio. National recommendations should be referenced for Ohio as well.

SECTION 06: CONCLUSIONS

As stated directly above, BBB AUTO LINE and CBBB have continued a standard of excellence which should serve as a role model for other dispute resolution programs. The efforts to show uniformity in use of forms and transparency of operations in all areas is significant. In addition, CBBB has endeavored to address many of the concerns of the local BBB AUTO LINE offices. Hopefully, these improvements will continue to make the jobs of staff in the local offices even easier.

In the view of Morrison and Company,

> **This entire section of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.**

CHAPTER FOUR

COMPARATIVE STATISTICAL ANALYSIS

CHAPTER 04: COMPARATIVE STATISTICAL ANALYSIS

SECTION 01: INTRODUCTION

A. National

Morrison and Company is mandated to evaluate the adequacy of BBB AUTO LINE complaint handling procedures and to substantiate the accuracy of BBB AUTO LINE's record-keeping and reporting through the use of composite statistics. Morrison and Company must also compare and report any discrepancies and/or disparities found between BBB AUTO LINE records and Morrison and Company's survey information.

To accomplish the requirements of this portion of the audit, which requires oral or written contact with consumers, a telephone survey was chosen by Morrison and Company this year.

The surveys consisted of randomly selected purchasers or lessees of motor vehicles who were within the following parameters:

01. those consumers who utilized BBB AUTO LINE
02. those consumers whose cases were closed in the year 2010
03. those consumers who were willing to respond to Morrison and Company's survey questions, up to the target sample size of 400 national consumers and 100 consumers each from Florida and from Ohio.

B. Florida

The Florida Lemon Law and the Florida Administrative Code require BBB AUTO LINE to file a copy of the required national audit with the state of Florida. This audit contains more detailed information which is required for the report as it relates to Florida consumers. Morrison and Company conducted a telephone survey of a random sample of 100 Florida consumers whose cases were closed in the year 2010. Florida consumers were also sampled as a part of the national portion as they appeared randomly.

C. Ohio

The state of Ohio has it own requirements for this report, similar to those contained in Rule 703. The Ohio Lemon Law and the Ohio Administrative Code mandate direct random sampling of Ohio consumers. This audit contains more detailed information which is required for the report, as it relates to Ohio consumers. Morrison and Company conducted a telephone survey of a random sample of 100 Ohio consumers whose cases were closed in the year 2010. Ohio consumers were also sampled as a part of the national portion as they appeared

randomly.

SECTION 02: STATUTORY REQUIREMENTS

A. National

Rule § 703.7(b)(3)
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

B. Florida

Florida Lemon Law.
Florida Administrative Code Rule § 5J-11.010
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

C. Ohio

Ohio Lemon Law § 1345.71-78 and § 1345.77
Ohio Administrative Code § 109:4-4-04(E)(2)(c)
(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

SECTION 03: CONDITIONS

A. National

The audit information from the consumers was sought in a manner as candid as possible, so that the average consumer would be able to understand what was being asked. The consumer survey portion of this audit did not require precise consumer knowledge; rather, it attempted to garner generalized recollections of the process in order to acquire a benchmark with which to compare BBB AUTO LINE statistics. As a result, survey results may not be as accurate as those kept by CBBB.

01. Consumer Surveys

In the telephone survey, prior to the telephone calls, all selected consumers were mailed a letter in which Morrison and Company described the study and requested the recipient's participation. The letters went out shortly before the group of consumers was called; the number of returned letters was very light: a total of 27 letters was returned out of the 1,033 letters mailed.

This letter explained that the consumer was likely to receive a telephone call from Morrison and Company and that the consumer was invited to participate in the interview when the call was received. A telephone number and an e-mail address to reach Morrison and Company were listed. Several consumers took advantage of the opportunity to ask questions and/or to offer input. Most calls averaged approximately four minutes for completion when Morrison and Company reached the consumer.

The list below denotes the categories used in the survey of consumers as well as the information from BBB AUTO LINE. The notation, “+”, is an indication that regulations require BBB AUTO LINE to keep similar records:

01. General Information
02. Consumer Knowledge About BBB AUTO LINE
03. Ineligible/Withdrawn Cases +
04. Forty Day Time Limit +
05. Resolution of Cases +
06. Mediated Cases +
07. Arbitrated Cases +
08. Consumer Satisfaction with Arbitrators
09. Consumer Satisfaction with BBB AUTO LINE staff.

Telephone interviews were conducted by Morrison and Company between September 01, 2010, and April 03, 2011. The auditors attempted to contact a total of 1,047 telephone consumers, randomly drawn by BBB AUTO LINE from the total 10,075 disputes which were closed in the year 2010. Some telephone consumers were called multiple times and at different numbers and different times of the day. Morrison and Company made a total of 8,367 phone calls, in order to reach a total of 600 responses. This resulted in a 07.17% response rate for completed calls. Due to the increase in automated answering devices, more calls need to be made each year in order to reach the requisite number of 600 responses completed survey responses. Phone calls could be divided into the following categories:

a. the consumer was unavailable
b. the consumer declined to respond
c. the consumer responded to the survey.

02. Division of Cases

The outcome of cases was divided into three categories, each of which will be discussed in detail in the Findings Section, as follows:

a. Ineligible/Withdrawn
b. Mediated
c. Arbitrated.

B. Florida

Of the 600 total survey respondents, 100 surveys were completed with Florida consumers because Florida's BBB AUTO LINE and audit are governed by state regulations which are not identical to the federal regulations in every case. The audit results for Florida are reported in a separate segment of this chapter.

C. Ohio

The same situation applies in Ohio as it does in Florida; 100 of the 600 total surveys were completed with Ohio consumers because that state's regulations require a separate audit of Ohio cases. The audit results for Ohio are also reported in a separate segment of this chapter.

SECTION 04: FINDINGS

A. National

Several segments of this section include a comparison of statistics compiled by BBB AUTO LINE with those figures compiled through Morrison and Company's survey. BBB AUTO LINE does not keep, nor is it required to keep, statistics for several sections of consumer survey questions.

Each survey question is presented in the form and in the order in which it was presented to each consumer surveyed. The material in each of the following segments (National, Florida, and Ohio) consists of charts which represent actual survey questions, as well as tables which represent information compiled from BBB AUTO LINE statistics and/or from comparisons of the above information. An actual copy of the survey as presented by telephone is listed in the appendix.

Morrison and Company did a complete audit of all statistics presented and found no reason to suspect that the BBB AUTO LINE statistics and indices are not accurate as presented. This statement should be considered true for all charts and tables presented below.

01. General Information

This segment establishes the year of the vehicle involved in the consumer complaint. All consumers who responded to the survey were asked Question Numbers 01 through 04.

01. What is the year of the vehicle involved in the complaint you filed with BBB AUTO LINE?

2011	2010	2009	2008	2007 or earlier	DK/DR	TOTAL
05	81	89	146	79	00	**400**
01.25%	20.25%	22.25%	36.50%	19.75%	00.00%	**100.00%**

02. Consumer Knowledge about Program

Table 4.01 is a comparison of the results of consumer surveys from the four previous years; all comparison tables use the same survey years. All information has been compiled in the same manner.

02. How did you first learn about BBB AUTO LINE?

TABLE 4.01 (National)
Comparison of How the Consumer Learned about BBB AUTO LINE

Method	2010	2009	2008	2007
Better Business Bureau	97	102	98	95
	24.25%	25.50%	24.50%	23.75%
Internet	73	58	62	59
	18.25%	14.50%	15.50%	14.75%
Friend/Family	48	53	50	53
	12.00%	13.25%	12.50%	13.25%
Attorney	24	21	20	19
	06.00%	05.25%	05.00%	04.75%
Media	00	00	00	06
	00.00%	00.00%	00.00%	01.50%
Dealer	34	35	31	37
	08.50%	08.75%	07.75%	9.25%
Manufacturer's Representative	14	14	15	18
	03.50%	03.50%	03.75%	04.50%
Owner's Manual/ Manufacturer Information	95	98	96	91
	23.75%	24.50%	24.00%	22.75%
Other	08	09	15	10
	02.00%	02.25%%	3.75%	02.50%
DK/DR	07	0	13	12
	01.75%	02.50%	3.25%	03.00%
TOTAL	**400**	**400**	**400**	**400**
	100.00%	**100.00%**	**100.00%**	**100.00%**

03. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted BBB AUTO LINE?

1	2	3	4 or More	DK/DR	TOTAL
46	40	106	205	03	**400**
11.50%	10.00%	26.50%	51.25%	00.75%	**100.00%**

It should be noted that, in order to initiate a BBB AUTO LINE claim, consumers must complete and return the claim form they received with the BBB AUTO LINE brochure and other materials (except in California and Florida, where consumers may initiate claims over the telephone). In the review of BBB AUTO LINE records, Morrison and Company did not find any records which did not contain the claim form returned by the consumer. It should also be noted that some consumers stated they did not receive any materials but proceeded to give information at some point in the conversation about the materials they received.

04. After you contacted BBB AUTO LINE, do you recall receiving a claim form, brochure, or other materials from BBB AUTO LINE explaining the program?

Yes	No	DK/DR	TOTAL
379	20	01	**400**
94.75%	05.00%	00.25%	**100.00%**

Only those consumers who responded “Yes” to Question Number 04 were asked Question Numbers 05 and 06.

05. How would you describe the information in the materials you received?

Clear and Easy to Understand	Somewhat Clear and Easy to Understand	Difficult to Understand	DK/DR	TOTAL
179	178	15	07	**379**
47.23%	46.97%	03.96%	01.84%	**100.00%**

06. How helpful was the information you received in preparing you for what would happen in your particular case?

Information was Very Helpful	Information was Somewhat Helpful	Information was Not Helpful	DK/DR	TOTAL
171	165	35	08	**379**
45.12%	43.54%	09.23%	02.11%	**100.00%**

03. Ineligible/Withdrawn Cases +

All consumers who responded to the survey were asked Question Number 07.

07. Was your case determined to be ineligible or did you choose to withdraw your claim?

Yes	No	TOTAL
199	201	**400**
49.75%	50.25%	**100.00%**

Only those consumers who responded “Yes” to Question Number 07 were asked Question Number 08.

08. Why was your case considered ineligible or what caused you to withdraw your claim?

Outside Program’s Jurisdiction	Settled/Car was Repaired	Consumer Sold Vehicle	Consumer Initiated Legal Action	Consumer Did Not Want to Pursue	DK/DR	TOTAL
153	17	15	08	05	01	**199**
76.88%	08.54%	07.54%	04.02%	02.51%	00.51%	**100.00%**

04. Forty Day Time Limit +

Rule § 703.6(e) 9-11 requires BBB AUTO LINE to record the reasons for delay of cases beyond 40 days in accordance with Rule § 703.5(e)(1,2), as follows:

§ 703.6 Record keeping.

(e) The Mechanism shall compile semi-annually and maintain statistics which show the number and percent of disputes in each of the following categories:

(9) Decision delayed beyond 40 days under § 703.5(e)(1) of this part;

(10) Decision delayed beyond 40 days under § 703.5(e)(2) of this part;

(11) Decision delayed beyond 40 days for any other reason;.

§ 703.5 Operation of the Mechanism.

(e) The Mechanism may delay the performance of its duties under paragraph (d) of this section beyond the 40 day time limit:

(1) Where the period of delay is due solely to failure of a

consumer to provide promptly his or her name and address, brand name and model number of the product involved, and a statement as to the nature of the defect or other complaint; or
(2) For a 7 day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor.

BBB AUTO LINE does not delay cases as a result of missing consumer information described in Rule § 703.5(e)(1). However, when there is missing consumer information other than the specified minimum, BBB AUTO LINE staff continue the process based upon information provided at any time by the consumer.

Only those consumers who answered “No” to Question Number 07 were asked Question Number 09.

09. BBB AUTO LINE records show that your case required _____ days to complete. Does that seem correct to you?

Table 4.02 (National)
Forty Day Compliance

Time Limit	2010	2009	2008	2007
40 Days or Less	99	72	69	104
	49.25%	34.78%	33.82%	35.02%
More than 40 Days	87	101	97	129
	43.29%	48.79%	47.55%	43.43%
DK/DR	15	34	38	64
	07.46%	16.43%	18.63%	21.55%
TOTAL	**201**	**207**	**204**	**297**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that their cases went beyond 40 days in Question Number 09 were asked Question Number 10.

10. What was the reason for going beyond 40 days in your case?

TABLE 4.03 (National)
Reasons for Exceeding 40 Days

Reason for Delay	2010	2009	2008	2007
Request of, or Action by, Consumer	22	17	14	29
	25.29%	16.83%	14.43%	22.48%
Action by BBB AUTO LINE	09	15	12	18
	10.34%	14.85%	12.37%	13.96%
Request of, or Action by, Manufacturer	36	47	45	54
	41.38%	46.54%	46.39%	41.86%
Additional Inf. or Technical Inspection by Arbitrator	20	22	26	27
	22.99%	21.78%	26.81%	20.93%
TOTAL	**87**	**101**	**97**	**129**
	100.00%	**100.00%**	**100.00%**	**100.00%**

05. Resolution of Cases +

All consumers who responded to the survey were asked Question Number 11.

Morrison and Company would like to note that there is a significant difference in the percentage of consumers who state that their case was arbitrated compared to the statistics provided by the CBBB. This difference might be attributed to the fact that some consumers think that they went to arbitration, when, in fact, their cases were settled through mediation. This could also be attributed to sampling error, resulting from a greater proportion of consumers whose claims were arbitrated agreeing to respond to the survey

11. Which statement best reflects the resolution in your case?

TABLE 4.04 (National)
Comparison of Resolution of Cases

Method of Resolution	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Mediation	101	2,627	120	3,360	118	4,325	152	5,470
	25.25%	26.07%	30.00%	28.55%	29.50%	28.92%	38.00%	31.50%
Arbitration	100	1,783	87	2,361	86	3,384	145	4,439
	25.00%	17.70%	21.75%	20.06%	21.50%	22.62%	36.25%	25.56%
Sub-Total (Eligible Cases)	**201**	**4,410**	**207**	**5,721**	**204**	**7,709**	**297**	**9,909**
	50.25%	**43.77%**	**51.75%**	**48.61%**	**51.00%**	**51.54%**	**74.25%**	**57.06%**
Ineligible	N/A	4,863	N/A	5,096	N/A	5,851	N/A	5,671
	N/A	48.27%	N/A	43.30%	N/A	39.11%	N/A	32.66%
Withdrawn	N/A	802	N/A	951	N/A	1,398	N/A	1,785
	N/A	07.96%	N/A	08.09%	N/A	09.35%	N/A	10.28%
Sub-Total (Ineligible/ Withdrawn)	**199**	**5,665**	**193**	**6,047**	**196**	**7,249**	**103**	**7,456**
	49.75%	**56.23%**	**48.25%**	**51.39%**	**49.00%**	**48.46%**	**25.75%**	**42.94%**
TOTAL	**400**	**10,075**	**400**	**11,768**	**400**	**14,958**	**400**	**17,365**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Because of the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers, and how these cases affect the proportion of cases closed at the various stages, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.05 notes the differences between the two groups. The category of cases identified as “Claims Filed by Lawyers on Behalf of Consumers” consists primarily of claims from law firms which handle a high volume of motor vehicle warranty claims, but may also include claims from lawyers who do not specialize in this area.

Table 4.05 (National)
Comparison of Resolution of Cases Filed By Lawyers

Method of Resolution	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Mediation	2,488	139
	28.38%	10.63%
Arbitration	1,049	734
	11.96%	56.12%
Ineligible	4,538	325
	51.77%	24.85%
Withdrawn	692	110
	07.89%	08.40%
TOTAL	**8,768**	**1,308**
	100.00%	**100.00%**

06. Mediated Cases +

Only those consumers who responded that their cases were resolved through mediation in Question Number 11 were asked Question Numbers 12 through 15.

12. Which statement best describes your mediation settlement?

TABLE 4.06 (National)
Comparison of Mediation Settlements

Method of Settlement	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	29	737	28	820	30	1,176	68	1,811
	28.72%	28.06%	23.33%	24.40%	25.42%	27.19%	44.74%	33.10%
Repair Reimbursement	49	1,311	60	1,733	55	2,102	33	2,213
	48.51%	49.90%	50.00%	51.58%	46.61%	48.60%	21.71%	40.46%
Other Settlement	23	579	32	807	33	1,047	27	1,446
	22.77%	22.04%	26.67%	24.02%	27.97%	24.21%	17.76%	26.44%
TOTAL	**101**	**2,627**	**120**	**3,360**	**118**	**4,325**	**152**	**5,470**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

As noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.07 notes the differences in settlement outcomes between the two groups.

Table 4.07 (National)
Comparison of Mediation Settlements: Claims Filed By Lawyers

Method of Settlement	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Repurchase/Replacement	654	83
	26.29%	59.71%
Repair/Reimbursement	1,282	29
	51.53%	20.86%
Other Settlement	552	27
	22.18%	19.43%
TOTAL	**2,488**	**139**
	100.00%	**100.00%**

13. After you reached a settlement, did you receive a letter from BBB AUTO LINE staff describing the settlement terms?

Yes	No	DK/DR	TOTAL
88	12	01	**101**
87.13%	11.88%	00.99%	**100.00%**

14. Did the manufacturer carry out the terms of your settlement?

TABLE 4.08 (National)
Comparison of Manufacturer Compliance with Mediation Settlement

Manufacturer Compliance	2010		2008		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, Within the Specified Time	95	2,529	112	3,232	84	4,169	104	5,271
	94.06%	96.16%	93.33%	96.16%	71.19%	96.39%	68.42%	96.36%
Yes, After the Specified Time	01	06	01	08	06	09	10	06
	00.99%	00.23%	00.83%	00.24%	05.08%	00.21%	06.58%	00.11%
Sub-Total (Positive Performance)	**96**	**2,535**	**113**	**3,240**	**90**	**4,178**	**114**	**5277**
	95.05%	**96.39%**	**94.16%**	**96.40%**	**76.27%**	**96.60%**	**75.00%**	**96.47%**
No	02	35	02	57	27	67	34	85
	01.98%	01.33%	01.67%	01.70%	22.88%	01.55%	22.37%	01.55%
DK/DR	03	N/A	05	N/A	01	N/A	04	N/A
	02.97%	N/A	04.17%	N/A	00.05%	N/A	02.63%	N/A
Nonperf. due to consumer or time for perf. has not occurred	N/A	60	N/A	64	N/A	80	N/A	108
	N/A	02.28%	N/A	01.90%	N/A	01.85%	N/A	01.98%
TOTAL	**101**	**2,630**	**120**	**3,361**	**118**	**4,325**	**152**	**5,470**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

15. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the settlement?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
36	32	30	02	01	**101**
35.65%	31.68%	29.70%	01.98%	00.99%	**100.00%**

Only those consumers who responded “No” in Question Number 14 were asked Question Number 16.

16. Did you continue your case with BBB AUTO LINE after this point?

Yes	No	TOTAL
02	00	**02**
100.00%	00.00%	**100.00%**

07. Arbitrated Cases+

Only those consumers who responded that their cases were resolved through arbitration in Question Number 11 were asked Question Numbers 17 through 19.

17. Did you receive written notice of the scheduled date, time, and place for your arbitration hearing?

Yes	No	DK/DR	TOTAL
89	09	02	**100**
89.00%	09.00%	02.00%	**100.00%**

18. After the arbitration hearing, was a copy of the decision sent to you?

Yes	No	DK/DR	TOTAL
88	09	03	**100**
88.00%	09.00%	03.00%	**100.00%**

19. Which statement best describes your arbitration decision?

TABLE 4.09 (National)
Comparison of Arbitration Awards

Arbitration Award	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	19	387	19	542	21	840	33	1,247
	19.00%	21.71%	21.84%	22.96%	24.42%	24.82%	22.76%	28.09%
Repair Reimbursement	14	228	10	277	10	413	28	578
	14.00%	12.79%	11.49%	11.73%	11.63%	12.20%	19.31%	13.02%
Other Award	03	50	02	62	01	71	19	120
	03.00%	02.80%	02.30%	02.62%	01.16%	02.10%	13.10%	02.71%
SUB-TOTAL	**36**	**665**	**31**	**881**	**32**	**1,324**	**80**	**1,945**
	36.00%	**37.30%**	**35.63%**	**37.31%**	**37.21%**	**39.12%**	**55.17%**	**43.82%**
No award	64	1,118	56	1,480	54	2,060	65	2,494
	64.00%	62.70%	64.37%	62.69%	62.79%	60.88%	44.83%	56.18%
TOTAL	**100**	**1,783**	**87**	**2,361**	**86**	**3,384**	**145**	**4,439**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Again, as noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.10 notes the differences in arbitration outcomes between the two groups.

There may be several reasons for these differences, some of which include the following: in many cases, attorneys provide little supporting evidence and discussion of the evidence in written filings; in many cases, attorneys provide little or no response to requests for further evidence; and, in many attorney cases, neither the consumer nor the manufacturer's representative is available to answer any questions the arbitrator may have.

TABLE 4.10 (National)
Comparison of Arbitration Decisions: Claims Filed by Lawyers

Arbitration Outcomes	Claims Filed Directly By Consumers	Claims Filed By Lawyers on Behalf of Consumers
Repurchase/Replacement	270	117
	25.74%	15.94%
Repair/Reimbursement	170	58
	16.21%	07.90%
Other Award	47	3
	04.48%	00.41%
Sub-Total	**487**	**178**
	46.43%	**24.25%**
No award	562	556
	53.57%	75.75%
TOTAL	**1,049**	**734**
	100.00%	**100.00%**

BBB AUTO LINE also provides more detailed information about the awards obtained when consumers participated in an arbitration hearing in person, by telephone, or in writing. The vast majority of in-writing hearings occur in cases filed by several particular law firms specializing in lemon law/warranty claims. As noted in Table 4.11 below, these statistics indicate that consumers who present their positions in writing had a noticeably lower percentage of awards than those who presented their cases either in person or by telephone; they also had a higher percentage of no awards than those presented in person or by telephone.

Incomplete participation in BBB AUTO LINE by certain consumer representatives seems to defeat the purpose of Informal Dispute Settlement Procedures, as envisioned by Congress and by the Federal Trade Commission, to encourage early and informal resolution of warranty disputes without having to resort to the courts. As noted under the Recommendations section below, Morrison and Company suggests that the Federal Trade Commission review the provisions of its regulations relating to oral presentations and the authority of the Mechanism to gather

information necessary for a fair decision.

Table 4.11 (National)
Comparison of Arbitrations Based on Method of Presentation of Case

BBB AUTO LINE Arbitration	All Arbitration Awards	Arbitration Awards when Presented in Person	Arbitration Awards when Presented by Telephone	Arbitration Awards when Presented in Writing
Repurchase Replacement	387	313	10	64
	21.70%	27.39%	20.00%	10.85%
Repair Reimbursement	228	176	07	45
	12.79%	15.40%	14.00%	07.63%
Other Award	50	42	05	03
	02.81%	03.67%	10.00%	00.51%
Subtotal of Awards	**665**	**531**	**22**	**112**
	37.30%	**46.46%**	**44.00%**	**18.98%**
No Award	1,118	612	28	478
	62.70%	53.54%	56.00%	81.02%
TOTAL Arbitrations	**1,783**	**1,143**	**50**	**590**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that they received an arbitration award in Question Number 19 were asked Question Number 20.

20. Did you accept or reject the arbitration decision?

Accepted	Rejected	TOTAL
33	03	**36**
91.67%	08.33%	**100.00%**

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Numbers 21 and 22.

21. Did the manufacturer carry out the terms of the arbitration decision?

TABLE 4.12 (National)
Comparison of Manufacturer Compliance with Arbitration Decision

Manufacturer Compliance	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, within the Specified Time	31	435	26	600	17	923	45	1,328
	93.94%	90.63%	92.86%	93.17%	70.83%	95.15%	73.77%	94.39%
Yes, After the Specified Time	00	03	01	10	05	09	11	08
	00.00%	00.62%	03.57%	01.55%	20.83%	00.93%	18.03%	00.57%
Sub-Total (Positive Performance)	**31**	**438**	**27**	**610**	**22**	**932**	**56**	**1,336**
	93.94%	**91.25%**	**96.43%**	**94.72%**	**91.66%**	**96.08%**	**91.80%**	**94.96%**
No	02	00	01	02	02	00	05	05
	06.06%	00.00%	03.57%	00.31%	08.33%	00.00%	08.20%	00.36%
Nonperf. due to consumer, time for perf. has not occurred	N/A	42	N/A	32	N/A	38	N/A	66
	N/A	08.75%	N/A	04.97%	N/A	03.92%	N/A	04.68%
TOTAL AWARDS ACCEPTED	**33**	**480**	**28**	**644**	**24**	**970**	**61**	**1,407**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Number 22.

22. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the arbitration decision?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
12	09	10	01	01	**33**
36.37%	27.27%	30.30%	03.03%	03.03%	**100.00%**

Only those consumers who responded that they received no award in Question Number 19 or that they rejected an award in Question Number 20 were asked Question Number 23.

23. After your arbitration decision, did you pursue the dispute any further?

Yes	No	TOTAL
35	29	**64**
54.69%	45.31%	**100.00%**

Only those consumers who responded that they continued their dispute after arbitration in Question Number 23 were asked Question Number 24.

24. Which of the following did you do?

Re-contacted BBB AUTO LINE	Worked Out Solution with Dealer/Mfr.	Contacted Legal Counsel	Contacted State or Other Govt. Agency	Other	TOTAL
09	08	08	06	04	**35**
25.71%	22.86%	22.86%	17.14%	11.43%	**100.00%**

08. Consumer Satisfaction with Arbitrators

This segment deals with how consumers graded their arbitrator(s). It is divided into separate questions in order to deal with the four separate issues listed, and then broken down by general satisfaction, as noted in the tables below.

Morrison and Company would like to note that the difference in opinion between consumers surveyed regarding arbitrators and BBB AUTO LINE staff appeared to result from unsatisfactory resolution of individual cases. Those consumers who received an award appeared to be far more favorable towards their arbitrator than those who received no award.

It should be noted here that only the more complex cases ever reach arbitration now, due to the mediation efforts of BBB AUTO LINE staff, and to those manufacturers who have made efforts to resolve claims before they reach the arbitration stage. Even when consumers were not wholly satisfied with their arbitrators, they almost always felt that the BBB AUTO LINE staff's efforts were excellent.

Only those consumers who responded that their case was decided by an arbitrator after a hearing in Question Number 11 were asked Question Numbers 25 through 28.

25. What grade would you give the arbitrator on understanding the facts?

A	B	C	D	F	TOTAL
09	11	12	36	32	**100**
09.00%	11.00%	12.00%	36.00%	32.00%	**100.00%**

26. What grade would you give the arbitrator on objectivity and fairness?

A	B	C	D	F	TOTAL
08	12	13	35	32	**100**
08.00%	12.00%	13.00%	35.00%	32.00%	**100.00%**

27. What grade would you give the arbitrator on rendering an impartial decision?

A	B	C	D	F	TOTAL
10	10	11	36	33	**100**
10.00%	10.00%	11.00%	36.00%	33.00%	**100.00%**

28. What grade would you give the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	TOTAL
10	10	10	37	33	**100**
10.00%	10.00%	10.00%	37.00%	33.00%	**100.00%**

Table 4.13 has been determined by averaging the separate areas graded (Understanding the Facts, Objectivity and Fairness, Rendering Impartial Decisions, and Rendering Reasonable and Well Thought-out Decision) into one number.

TABLE 4.13 (National)
Arbitrator Satisfaction (Composite)

Grade	2010	2009	2008	2007
A	09.25	20.50	21.50	69.00
	09.25%	23.56%	25.00%	47.59%
B	10.75	10.00	10.50	17.50
	10.75%	11.50%	12.21%	12.07%
C	11.50	05.50	12.50	26.50
	11.50%	06.32%	14.54%	18.28%
Sub-Total	**31.50**	**36.00**	**44.50**	**113**
	31.50%	**41.38%**	**51.75%**	**79.94%**
D	36.00	30.50	19.50	17.00
	36.00%	35.06%	22.67%	11.72%
F	32.50	20.50	22.00	15.00
	32.50%	23.56%	25.58%	10.34%
TOTAL	**100**	**87**	**86**	**145**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.14 represents satisfactory grades (A, B, and C) from Table 4.13, which were then averaged into one single “Satisfactory” grade.

Table 4.14 (National)
Comparison of Satisfactory Arbitrator Grades

Satisfactory Grade	2010	2009	2008	2007
A	09.25	20.50	21.50	69
	09.25%	23.56%	25.00%	47.59%
B	10.75	10	10.50	17.50
	10.75%	11.50%	12.21%	12.07%
C	11.50	05.50	12.50	26.50
	11.50%	06.32%	14.54%	18.28%
TOTAL/Out of #	**31.50/100**	**41.38/87**	**44.50/86**	**111/145**
Out of 100.00%	**31.50%**	**47.56%**	**51.74%**	**77.94%**

09. Consumer Satisfaction with BBB AUTO LINE staff

Consumers who responded that their cases were resolved through mediation or arbitration in Question Number 11 were asked Question Numbers 29 through 32.

29. What grade would you give BBB AUTO LINE staff on objectivity and fairness?

A	B	C	D	F	TOTAL
46	45	47	30	33	**201**
22.89%	22.39%	23.38%	14.92%	16.42%	**100.00%**

30. What grade would you give BBB AUTO LINE staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	TOTAL
46	45	47	30	33	**201**
22.89%	22.39%	23.38%	14.92%	16.42%	**100.00%**

31. Overall, what grade would you give BBB AUTO LINE?

A	B	C	D	F	TOTAL
46	45	47	30	33	**201**
22.89%	22.39%	23.38%	14.92%	16.42%	**100.00%**

TABLE 4.15 (National)
BBB AUTO LINE Staff Efforts

Grade	2010	2009	2008	2007
A	46	82.67	81	174.66
	22.89%	39.94%	39.71%	58.81%
B	45	30	30	35.33
	22.39%	14.49%	14.71%	11.90%
C	47	49.33	47	35.67
	23.38%	23.83%	23.04%	12.01%
Sub-Total	**162**	**162**	**158**	**245.66**
	68.66%	**78.26%**	**77.45%**	**82.71%**
D	30	24.33	26	25.67
	14.92%	11.75%	12.74%	08.64%
F	33	20.67	20	25.67
	16.42%	09.99%	09.80%	08.64%
TOTAL	**201**	**207**	**204**	**297**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.16 represents the satisfactory grades (A, B, and C) from Table 4.15, which were then averaged into one single “Satisfactory” grade.

Table 4.16 (National)
Comparison of Satisfactory BBB AUTO LINE Grades

Satisfactory Grade	2010	2009	2008	2007
A	46	82.67	81	174.66
	22.89%	39.94%	39.71%	58.81%
B	45	30	30	35.33
	22.39%	14.49%	14.71%	11.90%
C	47	49.33	47	35.67
	23.38%	23.83%	23.04%	12.01%
TOTAL/Out of #	**138/201**	**162/207**	**158/204**	**245.66/297**
Out of 100.00%	**68.66%**	**78.26%**	**77.45%**	**82.72%**

32. Would you recommend BBB AUTO LINE to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
146	55	00.00	**201**
72.64%	27.36%	00.00%	**100.00%**

This segment of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703.

B. Florida

As noted in the national segment, this segment is devoted to the statistical data provided through the Florida consumer survey. It is required that Florida consumers be specifically surveyed, in addition to those drawn for the national survey.

01. General Information

This segment establishes the year of the vehicle involved in the consumer complaint. All consumers who responded to the survey were asked Question Numbers 01 through 04.

01. What is the year of the vehicle involved in the complaint you filed with BBB AUTO LINE?

2011	2010	2009	2008	2007 or earlier	DK/DR	TOTAL
02	17	30	24	26	01	**100**
02.00%	17.00%	30.00%	24.00%	26.00%	01.00%	**100.00%**

02. Consumer Knowledge about Program

Table 4.17 is a comparison of the results of consumer surveys from the four previous years; all comparison tables use the same survey years. All information has been compiled in the same manner.

02. How did you first learn about BBB AUTO LINE?

TABLE 4.17 (Florida)
Comparison of How the Consumer Learned about BBB AUTO LINE

Method	2010	2009	2008	2007
Better Business Bureau	08	09	14	15
	08.00%	09.00%	14.00%	15.00%
Internet	42	41	33	27
	42.00%	41.00%	33.00%	27.00%
Friend/Family	09	09	12	13
	09.00%	09.00%	12.00%	13.00%
Attorney	02	01	00	01
	02.00%	01.00%	00.00%	01.00%
Media	00	00	00	00
	00.00%	00.00%	00.00%	00.00%
Dealer	17	19	21	23
	17.00%	19.00%	21.00%	23.00%
Manufacturer's Representative	03	01	03	01
	03.00%	01.00%	03.00%	01.00%
Owner's Manual/ Manufacturer Information	16	15	13	17
	16.00%	15.00%	13.00%	17.00%
Other	01	02	03	02
	01.00%	02.00%	03.00%	02.00%
DK/DR	02	03	01	01
	02.00%	03.00%	01.00%	01.00%
TOTAL	**100**	**100**	**100**	**100**
	100.00%	**100.00%**	**100.00%**	**100.00%**

03. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted BBB AUTO LINE?

1	2	3	4 or More	DK/DR	TOTAL
06	09	35	46	04	**100**
06.00%	09.00%	35.00%	46.00%	04.00%	**100.00%**

It should be noted that, in order to initiate a BBB AUTO LINE claim, Florida consumers need not complete and return the claim form they received with the BBB AUTO LINE brochure and other materials, and instead, may initiate claims over the telephone. In the review of BBB AUTO LINE records, Morrison and Company did not find any records that did not contain the claim form returned by the consumer. It should also be noted that some consumers stated they did not receive any materials but proceeded to give information at some point in the conversation about the materials they received.

04. After you contacted BBB AUTO LINE, do you recall receiving a claim form, brochure, or other materials from BBB AUTO LINE explaining the program?

Yes	No	DK/DR	TOTAL
93	05	02	**100**
93.00%	05.00%	02.00%	**100.00%**

Only those consumers who responded “Yes” to Question Number 04 were asked Question Numbers 05 and 06.

05. How would you describe the information in the materials you received?

Clear and Easy to Understand	Somewhat Clear and Easy to Understand	Difficult to Understand	DK/DR	TOTAL
34	30	24	05	**93**
36.56%	32.26%	25.81%	05.37%	**100.00%**

06. How helpful was the information you received in preparing you for what would happen in your particular case?

Information was Very Helpful	Information was Somewhat Helpful	Information was Not Helpful	DK/DR	TOTAL
27	43	18	05	**93**
29.03%	46.24%	19.35%	05.38%	**100.00%**

03. Ineligible/Withdrawn Cases +

All consumers who responded to the survey were asked Question Number 07.

07. Was your case determined to be ineligible or did you choose to withdraw your claim?

Yes	No	TOTAL
38	62	**100**
38.00%	62.00%	**100.00%**

Only those consumers who responded “Yes” to Question Number 07 were asked Question Number 08.

08. Why was your case considered ineligible or what caused you to withdraw your claim?

Outside Program’s Jurisdiction	Settled/Car was Repaired	Consumer Sold Vehicle	Consumer Initiated Legal Action	Consumer Did Not Want to Pursue	DK/DR	TOTAL
16	04	02	07	07	02	**38**
42.11%	10.53%	05.26%	18.42%	18.42%	05.26%	**100.00%**

04. Forty Day Time Limit +

This section discusses the mandated time limit of 40 days in which BBB AUTO LINE is required to close all cases. BBB AUTO LINE does not delay cases as a result of missing consumer information described in Rule § 703.5(e)(1). However, when there is missing consumer information other than the specified minimum, the staff continues the process based upon information provided at any time by the consumer.

Only those consumers who answered “No” to Question Number 07 were asked Question Number 09.

09. BBB AUTO LINE records show that your case required _____ days to complete. Does that seem correct to you?

Table 4.18 (Florida)
Forty Day Compliance

Time Limit	2010	2009	2008	2007
40 Days or Less	33	23	20	22
	53.23%	37.70%	31.25%	33.85%
More than 40 Days	22	32	34	26
	35.48%	52.46%	53.12%	40.00%
DK/DR	07	06	10	17
	11.29%	09.84%	15.63%	26.15%
TOTAL	**62**	**61**	**64**	**65**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that their cases went beyond 40 days in Question Number 09 were asked Question Number 10.

10. What was the reason for going beyond 40 days in your case?

TABLE 4.19 (Florida)
Reasons for Exceeding 40 Days

Reason for Delay	2010	2009	2008	2007
Request of, or Action by, Consumer	07	06	04	05
	31.82%	18.75%	11.76%	19.23%
Action by BBB AUTO LINE	06	07	08	04
	27.27%	21.88%	23.53%	15.38%
Request of, or Action by, Manufacturer	08	06	07	12
	36.36%	18.75%	20.59%	46.15%
Additional Inf. or Technical Inspection by Arbitrator	01	13	15	05
	04.55%	40.62%	44.12%	19.24%
TOTAL	**22**	**32**	**34**	**26**
	100.00%	**100.00%**	**100.00%**	**100.00%**

05. Resolution of Cases +

All consumers who responded to the survey were asked Question Number 11.

Morrison and Company would like to note that there is a significant difference in the percentage of consumers who state that their case was arbitrated compared to the statistics provided by the CBBB. This difference might be attributed to the fact that some consumers think that they went to arbitration, when, in fact, their cases were settled through mediation.

11. Which statement best reflects the resolution in your case?

TABLE 4.20 (Florida)
Comparison of Resolution of Cases

Method of Resolution	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Mediation	35	406	37	614	36	868	37	1,090
	35.00%	30.10%	37.00%	36.35%	36.00%	36.22%	37.00%	35.69%
Arbitration	27	289	27	415	28	666	27	860
	27.00%	21.42%	27.00%	24.57%	28.00%	27.80%	27.00%	28.16%
Sub-Total (Eligible Cases)	**62**	**695**	**64**	**1,029**	**64**	**1,534**	**64**	**1,950**
	62.00%	**51.52%**	**64.00%**	**60.92%**	**64.00%**	**64.02%**	**64.00%**	**63.85%**
Ineligible	N/A	576	N/A	543	N/A	665	N/A	774
	N/A	42.70%	N/A	32.15%	N/A	27.75%	N/A	25.34%
Withdrawn	N/A	78	N/A	117	N/A	197	N/A	330
	N/A	05.78%	N/A	06.93%	N/A	08.23%	N/A	10.81%
Sub-Total (Ineligible/ Withdrawn)	**38**	**654**	**36**	**660**	**36**	**862**	**36**	**1,104**
	38.00%	**48.48%**	**36.00%**	**39.08%**	**36.00%**	**35.98%**	**36.00%**	**36.15%**
TOTAL	**100**	**1,349**	**100**	**1,689**	**100**	**2,396**	**100**	**3,054**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Because of the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers, and how these cases affect the

proportion of cases closed at the various stages, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.21 notes the differences between the two groups. The category of cases identified as “Claims Filed by Lawyers on Behalf of Consumers” consists primarily of claims from law firms which handle a high volume of motor vehicle warranty claims, but may also include claims from lawyers who do not specialize in this area.

Table 4.21 (Florida)
Comparison of Resolution of Cases Filed By Lawyers

Method of Resolution	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Mediation	383	23
	31.89%	15.54%
Arbitration	209	80
	17.40%	54.05%
Ineligible	538	38
	44.80%	25.68%
Withdrawn	71	07
	05.91%	04.73%
TOTAL	**1,201**	**148**
	100.00%	**100.00%**

06. Mediated Cases +

Only those consumers who responded that their cases were resolved through mediation in Question Number 11 were asked Question Numbers 12 through 15.

12. Which statement best describes your mediation settlement?

TABLE 4.22 (Florida)
Comparison of Mediation Settlements

Mediation Settlement	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	11	139	09	169	07	226	12	328
	31.43%	34.24%	24.32%	27.52%	19.45%	26.04%	32.43%	30.09%
Repair Reimbursement	17	213	21	349	21	512	19	564
	48.57%	52.46%	56.76%	56.84%	58.33%	58.98%	51.35%	51.74%
Other	07	54	07	96	08	130	06	198
	20.00%	13.30%	18.92%	15.64%	22.22%	14.98%	16.22%	18.17%
TOTAL	**35**	**406**	**37**	**614**	**36**	**868**	**37**	**1,090**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

As noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.23 notes the differences in settlement outcomes between the two groups.

Table 4.23 (Florida)
Comparison of Mediation Settlements: Claims Filed By Lawyers

Method of Settlement	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Repurchase/Replacement	126	13
	32.90%	56.52%
Repair/Reimbursement	204	09
	53.26%	39.13%
Other Settlement	53	01
	13.84%	04.35%
TOTAL	**383**	**23**
	100.00%	**100.00%**

13. After you reached a settlement, did you receive a letter from BBB AUTO LINE staff describing the settlement terms?

Yes	No	DK/DR	TOTAL
31	01	03	**35**
88.57%	02.86%	08.57%	**100.00%**

14. Did the manufacturer carry out the terms of your settlement?

TABLE 4.24 (Florida)
Comparison of Manufacturer Compliance with Mediation Settlement

Manufacturer Compliance	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, Within the Specified Time	32	393	34	598	33	845	24	1,052
	91.43%	96.80%	91.89%	97.71%	91.67%	97.57%	64.86%	96.51%
Yes, After the Specified Time	01	00	02	00	02	03	03	02
	02.86%	00.00%	05.41%	00.00%	05.56%	00.35%	08.11%	00.18%
Sub-Total (Positive Performance)	**33**	**393**	**36**	**598**	**35**	**848**	**27**	**1,054**
	94.29%	**96.80%**	**97.43%**	**97.71%**	**97.23%**	**97.92%**	**72.97%**	**96.69%**
No	02	04	01	05	01	04	10	16
	05.71%	00.99%	02.70%	00.82%	02.77%	00.46%	27.03%	01.48%
Nonperf. due to consumer or time for perf. has not occurred	N/A	09	N/A	09	N/A	14	N/A	20
	N/A	02.21%	N/A	01.47%	N/A	01.62%	N/A	01.83%
TOTAL	**35**	**406**	**37**	**612**	**36**	**866**	**37**	**1,090**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

15. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the settlement?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
14	09	07	03	02	**35**
40.00%	25.72%	20.00%	08.57%	05.71%	**100.00%**

Only those consumers who responded “No” in Question Number 14 were asked Question Number 16.

16. Did you continue your case with BBB AUTO LINE after this point?

Yes	No	TOTAL
01	01	**02**
50.00%	50.00%	**100.00%**

07. Arbitrated Cases+

Only those consumers who responded that their cases were resolved through arbitration in Question Number 11 were asked Question Numbers 17 through 19.

17. Did you receive written notice of the scheduled date, time, and place for your arbitration hearing?

Yes	No	DK/DR	TOTAL
24	02	01	**27**
88.89%	07.41%	03.70%	**100.00%**

18. After the arbitration hearing, was a copy of the decision sent to you?

Yes	No	DK/DR	TOTAL
24	02	01	**27**
88.89%	07.41%	03.70%	**100.00%**

19. Which statement best describes your arbitration decision?

TABLE 4.25 (Florida)
Comparison of Arbitration Awards

BBB AUTO LINE Arbitration Awards	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	05	74	08	126	08	212	08	291
	18.52%	25.61%	29.63%	30.36%	28.58%	31.83%	29.63%	33.84%
Repair Reimbursement	02	19	02	24	02	34	02	61
	07.41%	06.57%	07.41%	05.78%	07.14%	05.11%	07.41%	07.09%
Other	01	09	01	14	01	14	01	22
	03.70%	03.11%	03.70%	03.38%	03.57%	02.10%	03.70%	02.56%
SUB-TOTAL	**08**	**102**	**11**	**164**	**11**	**260**	**11**	**374**
	29.63%	**35.29%**	**40.74%**	**39.52%**	**39.29%**	**39.04%**	**40.74%**	**43.49%**
No Award	19	187	16	251	17	406	16	486
	70.37%	64.71%	59.26%	60.48%	60.71%	60.96%	59.26%	56.51%
TOTAL	**27**	**289**	**27**	**415**	**28**	**666**	**27**	**860**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Again, as noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.26 notes the differences in arbitration outcomes between the two groups.

There may be several reasons for these differences, some of which include the following: in many cases, attorneys provide little supporting evidence and discussion of the evidence in written filings; in many cases, attorneys provide little or no response to requests for further evidence; and, in many attorney cases, neither the consumer nor the manufacturer's representative is available to answer any questions the arbitrator may have.

TABLE 4.26 (Florida)
Comparison of Arbitration Decisions: Claims Filed by Lawyers

Arbitration Outcomes	Claims Filed Directly By Consumers	Claims Filed By Lawyers on Behalf of Consumers
Repurchase/Replacement	62	12
	29.67%	15.00%
Repair/Reimbursement	18	01
	08.61%	01.25%
Other Award	08	01
	03.83%	01.25%
Sub-Total	**88**	**14**
	42.11%	**17.50%**
No award	121	66
	57.89%	82.50%
TOTAL	**209**	**80**
	100.00%	**100.00%**

BBB AUTO LINE also provides more detailed information about the awards obtained when consumers participated in an arbitration hearing in person, by telephone or in writing. The vast majority of in-writing hearings occur in cases filed by several particular law firms specializing in lemon law/warranty claims. As noted in Table 4.27 below, these statistics indicate that consumers who present their positions in writing had a noticeably lower percentage of awards than those who presented their cases either in person or by telephone; they also had a higher percentage of “No awards” than those presented in person or by telephone.

Incomplete participation in BBB AUTO LINE by certain consumer representatives seems to defeat the purpose of Informal Dispute Settlement Procedures, as envisioned by Congress and the Federal Trade Commission, to encourage early and informal resolution of warranty disputes without having to resort to the courts. As noted under the Recommendations section to this chapter, Morrison and Company suggests that the Federal Trade Commission and Florida regulators review the provisions of their regulations relating to oral presentations and the authority of the Mechanism to gather information necessary for a fair

decision.

Table 4.27 (Florida)
Comparison of Arbitrations Based on Method of Presentation of Case

BBB AUTO LINE Arbitrations	All Arbitration Awards	Arbitration Awards when Presented in Person	Arbitration Awards when Presented by Telephone	Arbitration Awards when Presented in Writing
Repurchase Replacement	74	62	06	06
	25.61%	30.39%	26.09%	09.68%
Repair Reimbursement	19	16	02	01
	06.57%	07.84%	08.70%	01.61%
Other award	09	09	00	00
	03.11%	04.41%	00.00%	00.00%
Sub-Total Arbitration Awards	**102**	**87**	**08**	**07**
	35.29%	**42.65%**	**34.78%**	**11.29%**
TOTAL No Award Arbitrations	187	117	15	55
	64.71%	57.35%	65.22%	88.71%
TOTAL Arbitrations	**289**	**204**	**23**	**62**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that they received an arbitration award in Question Number 19 were asked Question Number 20.

20. Did you accept or reject the arbitration decision?

Accepted	Rejected	TOTAL
05	01	**06**
83.33%	16.67%	**100.00%**

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Numbers 21 through 22.

21. Did the manufacturer carry out the terms of the arbitration decision?

TABLE 4.28 (Florida)
Comparison of Manufacturer Compliance with Arbitration Decision

Manufacturer Compliance	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, within the Specified Time	04	73	08	118	04	203	04	281
	80.00%	93.59%	88.89%	94.40%	80.00%	96.67%	66.66%	95.91%
Yes, After the Specified Time	00	00	01	04	01	04	01	00
	00.00%	00.00%	11.11%	03.20%	20.00%	01.90%	16.67%	00.00%
Sub-Total (Positive Performance)	**04**	**73**	**09**	**122**	**05**	**207**	**05**	**281**
	80.00%	**93.59%**	**100.00%**	**97.60%**	**100.00%**	**98.57%**	**83.33%**	**95.91%**
No	01	00	00	00	00	00	01	01
	20.00%	00.00%	00.00%	00.00%	00.00%	00.00%	16.67%	00.34%
Nonperf. due to consumer time for perf. has not occurred	N/A	05	N/A	03	N/A	03	N/A	11
	N/A	06.41%	N/A	02.40%	N/A	01.43%	N/A	03.75%
TOTAL AWARDS ACCEPTED	**05**	**78**	**09**	**125**	**05**	**210**	**06**	**293**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Number 22.

22. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the decision?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
03	02	00	00	00	**05**
60.00%	40.00%	00.00%	00.00%	00.00%	**100.00%**

Only those consumers who responded that they received no award in Question Number 19 or that they rejected an award in Question Number 20 were asked Question Number 23.

23. After your arbitration decision, did you pursue the dispute any further?

Yes	No	TOTAL
09	10	**19**
47.37%	52.63%	**100.00%**

Only those consumers who responded that they continued their dispute after arbitration in Question Number 23 were asked Question Number 24.

24. Which of the following did you do?

Re-contacted BBB AUTO LINE	Worked Out Solution with Dealer/Mfr.	Contacted Legal Counsel	Contacted State or Other Govt. Agency	Other	TOTAL
03	01	02	02	01	**09**
33.34%	11.11%	22.22%	22.22%	11.11%	**100.00%**

08. Consumer Satisfaction with Arbitrators

This segment deals with how consumers graded their arbitrator(s). It is divided into separate questions in order to deal with the four separate issues listed, and then broken down by general satisfaction, as noted in the tables below.

Morrison and Company would like to note that the difference in opinion between consumers surveyed regarding arbitrators and BBB AUTO LINE staff appeared to result from unsatisfactory resolution of individual cases. Those consumers who received an award appeared to be far more favorable towards their arbitrator than those who received no award.

It should be noted here that only the more complex cases ever reach arbitration now, due to the mediation efforts of BBB AUTO LINE staff in their mediation efforts, and to those manufacturers who have made efforts to resolve claims before they reach the arbitration stage. Even when consumers were not wholly satisfied with their arbitrators, they almost always felt that BBB AUTO LINE staff's efforts were excellent.

Only those consumers who responded that their case was decided by an arbitrator after a hearing in Question Number 11 were asked Question Numbers 25 through 28.

25. What grade would you give the arbitrator on understanding the facts?

A	B	C	D	F	TOTAL
03	04	02	10	08	**27**
11.11%	14.81%	07.41%	37.04%	29.63%	**100.00%**

26. What grade would you give the arbitrator on objectivity and fairness?

A	B	C	D	F	TOTAL
02	05	01	11	08	**27**
07.41%	18.52%	03.70%	40.74%	29.63%	**100.00%**

27. What grade would you give the arbitrator on rendering an impartial decision?

A	B	C	D	F	TOTAL
04	03	03	09	08	**27**
14.81%	11.11%	11.11%	33.34%	29.63%	**100.00%**

28. What grade would you give the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	TOTAL
03	04	03	09	08	**27**
11.11%	14.81%	11.11%	33.34%	29.63%	**100.00%**

Table 4.29 has been determined by averaging the separate areas graded (Understanding the Facts, Objectivity and Fairness, Rendering Impartial Decisions, and Rendering Reasonable and Well Thought-out Decision) into one number.

TABLE 4.29 (Florida)
Arbitrator Satisfaction (Composite)

Grade	2010	2009	2008	2007
A	03.00	07.50	05.50	10.00
	11.11%	27.78%	19.64%	37.04%
B	04.00	03.00	05.00	02.75
	14.81%	11.11%	17.86%	10.19%
C	02.25	01.00	03.25	03.50
	08.33%	03.70%	11.61%	12.96%
Sub-Total	**09.25**	**11.50**	**13.75**	**16.25**
	34.25%	**42.59%**	**49.11%**	**60.19%**
D	09.75	08.50	07.25	04.00
	36.11%	31.48%	25.89%	14.81%
F	08.00	07.00	07.00	06.75
	29.64%	25.93%	25.00%	25.00%
TOTAL	**27**	**27**	**28**	**27**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.30 represents satisfactory grades (A, B, and C) from Table 4.29, which were then averaged into one single “Satisfactory” grade.

Table 4.30 (Florida)
Comparison of Satisfactory Arbitrator Grades

Satisfactory Grade	2010	2009	2008	2007
A	03.00	07.50	05.50	10.00
	11.11%	27.78%	19.61%	37.04%
B	04.00	03.00	05.00	02.75
	14.81%	11.11%	17.86%	10.19%
C	02.25	01.00	03.25	03.50
	08.33%	03.70%	11.61%	12.96%
TOTAL/Out of #	**09.25/27**	**11.50/27**	**13.75/28**	**16.25/27**
Out of 100.00%	**34.25%**	**42.59%**	**49.11%**	**60.19%**

09. Consumer Satisfaction with of BBB AUTO LINE staff

Consumers who responded that their cases were resolved through mediation or arbitration in Question Number 11 were asked Question Numbers 29 through 32.

29. What grade would you give BBB AUTO LINE staff on objectivity and fairness?

A	B	C	D	F	TOTAL
13	13	14	11	11	**62**
20.97%	20.97%	22.58%	17.74%	17.74%	**100.00%**

30. What grade would you give BBB AUTO LINE staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	TOTAL
14	11	13	13	11	**62**
22.58%	17.74%	20.97%	20.97%	17.74%	**100.00%**

31. Overall, what grade would you give BBB AUTO LINE?

A	B	C	D	F	TOTAL
11	13	14	11	13	**62**
17.74%	20.97%	22.58%	17.74%	20.97%	**100.00%**

TABLE 4.31 (Florida)
BBB AUTO LINE Staff Efforts

Grade	2010	2009	2008	2007
A	12.67	23.00	11.67	30.67
	20.44%	35.93%	18.23%	47.92%
B	12.33	19.00	13.00	06.33
	19.89%	29.69%	20.31%	09.89%
C	13.66	17.00	12.67	08.00
	22.03%	26.56%	19.79%	12.50%
Sub-Total	**38.66**	**59.00**	**37.34**	**45.00**
	62.36%	**92.18%**	**58.34%**	**70.31%**
D	11.67	03.00	13.00	06.33
	18.82%	04.69%	20.31%	09.89 %
F	11.67	02.00	13.66	12.67
	18.82%	03.13%	21.36%	19.80%
TOTAL	**62**	**64**	**64**	**64**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.32 represents the satisfactory grades (A, B, and C) from Table 4.31, which were then averaged into one single “Satisfactory” grade.

Table 4.32 (Florida)
Comparison of Satisfactory BBB AUTO LINE Grades

Satisfactory Grade	2010	2009	2008	2007
A	12.67	23.00	11.67	30.67
	20.44%	35.93%	18.23%	47.92%
B	12.33	19.00	13	06.33
	19.89%	29.69%	20.31%	09.89%
C	13.66	17.00	12.67	08.00
	22.03%	26.56%	19.79%	12.50%
TOTAL/Out of #	**38.66/62**	**59.00/64**	**37.33/64**	**45/64**
Out of 100.00%	**62.36%**	**92.19%**	**58.33%**	**70.31%**

32. Would you recommend BBB AUTO LINE to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
54	08	00	**62**
87.10%	12.90%	00.00%	**100.00%**

This segment of the AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

C. Ohio

As noted above, this segment is devoted to the statistical data provided through the consumer survey for Ohio. It is required that Ohio consumers be surveyed, in addition to those drawn for the national survey.

01. General Information

This segment establishes the year of the vehicle involved in the consumer complaint. All consumers who responded to the survey were asked Question Numbers 01 through 04.

01. What is the year of the vehicle involved in the complaint you filed with BBB AUTO LINE?

2010	2009	2008	2007	2006 or earlier	TOTAL
05	19	21	38	17	**100**
05.00%	19.00%	21.00%	38.00%	17.00%	**100.00%**

02. Consumer Knowledge about Program

Table 4.33 is a comparison of the results of consumer surveys from the four previous years; all comparison tables use the same survey years. All information has been compiled in the same manner.

02. How did you first learn about BBB AUTO LINE?

TABLE 4.33 (Ohio)
Comparison of How the Consumer Learned about BBB AUTO LINE

Method	2010	2009	2008	2007
Better Business Bureau	16	18	24	25
	16.00%	18.00%	24.00%	25.00%
Internet	27	25	21	14
	27.00%	25.00%	21.00%	14.00%
Friend/Family	12	11	10	13
	12.00%	11.00%	10.00%	13.00%
Attorney	03	05	07	02
	03.00%	05.00%	07.00%	02.00%
Media	00	00	00	00
	00.00%	00.00%	00.00%	00.00%
Dealer	05	04	10	21
	05.00%	04.00%	10.00%	21.00%
Manufacturer's Representative	07	08	05	02
	07.00%	08.00%	05.00%	02.00%
Owner's Manual/ Manufacturer Information	23	24	20	23
	23.00%	24.00%	20.00%	23.00%
Other	07	05	03	02
	07.00%	05.00%	03.00%	02.00%
DK/DR	01	00	00	00
	01.00%	00.00%	00.00%	00.00%
TOTAL	**100**	**100**	**100**	**100**
	100.00%	**100.00%**	**100.00%**	**100.00%**

03. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted BBB AUTO LINE?

1	2	3	4 or More	DK/DR	TOTAL
08	15	31	41	05	**100**
08.00%	15.00%	31.00%	41.00%	05.00%	**100.00%**

It should be noted that, in order to initiate a BBB AUTO LINE claim, consumers must complete and return the claim form they received with the BBB AUTO LINE brochure and other materials. In the review of CBBB records, Morrison and Company did not find any records that did not contain the claim form returned by the consumer. It should also be noted that some consumers stated they did not receive any materials but proceeded to give information at some point in the conversation about the materials they received.

04. After you contacted BBB AUTO LINE, do you recall receiving a claim form, brochure, or other materials from BBB AUTO LINE explaining the program?

Yes	No	DK/DR	TOTAL
92	06	02	**100**
92.00%	06.00%	02.00%	**100.00%**

Only those consumers who responded “Yes” to Question Number 04 were asked Question Numbers 05 and 06.

05. How would you describe the information in the materials you received?

Clear and Easy to Understand	Somewhat Clear and Easy to Understand	Difficult to Understand	DK/DR	TOTAL
26	39	25	02	**92**
28.26%	42.39%	27.18%	02.17%	**100.00%**

06. How helpful was the information you received in preparing you for what would happen in your particular case?

Information was Very Helpful	Information was Somewhat Helpful	Information was Not Helpful	DK/DR	TOTAL
26	38	26	02	**92**
28.26%	41.31%	28.26%	02.17%	**100.00%**

03. Ineligible/Withdrawn Cases +

All consumers who responded to the survey were asked Question Number 07.

07. Was your case determined to be ineligible or did you choose to withdraw your claim?

Yes	No	TOTAL
49	51	**100**
49.00%	51.00%	**100.00%**

Only those consumers who responded “Yes” to Question Number 07 were asked Question Number 08.

08. Why was your case considered ineligible or what caused you to withdraw your claim?

Outside Program’s Jurisdiction	Settled/Car was Repaired	Consumer Sold Vehicle	Consumer Initiated Legal Action	Consumer Did Not Want to Pursue	DK/DR	TOTAL
19	9	7	8	5	01	**49**
38.77%	18.37%	14.29%	16.33%	10.20%	02.04%	**100.00%**

04. Forty Day Time Limit +

This section discusses the mandated time limit of 40 days in which BBB AUTO LINE is required to close all cases. BBB AUTO LINE does not delay cases as a result of missing consumer information described in Rule § 703.5(e)(1) and Ohio certification regulations §109:4-4-04(C)(8). However, when there is missing consumer information other than the specified minimum, the staff continues the process based upon information provided at any time by the consumer.

Only those consumers who answered “No” to Question Number 07 were asked Question Number 09.

09. BBB AUTO LINE records show that your case required _____ days to complete. Does that seem correct to you?

Table 4.34 (Ohio)
Forty Day Compliance

Time Limit	2010	2009	2008	2007
40 Days or Less	27	19	20	22
	52.94%	37.25%	31.25%	33.85%
More than 40 Days	17	20	34	26
	33.33%	39.22%	53.13%	40.00%
DK/DR	07	12	10	17
	13.73%	23.53%	15.62%	26.15%
TOTAL	**51**	**51**	**64**	**65**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that their cases went beyond 40 days in Question Number 09 were asked Question Number 10.

10. What was the reason for going beyond 40 days in your case?

TABLE 4.35 (Ohio)
Reasons for Exceeding 40 Days

Reason for Delay	2010	2009	2008	2007
Request of, or Action by, Consumer	07	07	09	10
	41.18%	35.00%	34.62%	32.26%
Action by BBB AUTO LINE	03	02	01	01
	17.65%	10.00%	03.85%	03.22%
Request of, or Action by, Manufacturer	05	06	09	10
	29.41%	30.00%	34.62%	32.26%
Additional Inf. or Technical Inspection by Arbitrator	02	05	07	10
	11.76%	25.00%	26.91%	32.26%
TOTAL	**17**	**20**	**26**	**31**
	100.00%	**100.00%**	**100.00%**	**100.00%**

05. Resolution of Cases +

All consumers who responded to the survey were asked Question Number 11.

Morrison and Company would like to note that there is a significant difference in the percentage of consumers who state that their case was arbitrated compared to the statistics provided by the CBBB. This difference might be attributed to the fact that some consumers think that they went to arbitration, when, in fact, their cases were settled through mediation.

11. Which statement best reflects the resolution in your case?

TABLE 4.36 (Ohio)
Comparison of Resolution of Cases

Method of Resolution	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Mediation	26	158	27	163	28	246	34	305
	26.00%	31.35%	27.00%	27.58%	28.00%	29.50%	34.00%	33.66%
Arbitration	25	107	28	132	25	191	26	231
	25.00%	21.23%	28.00%	22.34%	25.00%	22.90%	26.00%	25.50%
Sub-Total (Eligible cases)	**51**	**265**	**55**	**295**	**53**	**437**	**60**	**536**
	51.00%	**52.58%**	**55.00%**	**49.92%**	**53.00%**	**52.40%**	**60.00%**	**59.16%**
Ineligible	N/A	200	N/A	260	N/A	330	N/A	289
	N/A	39.68%	N/A	43.99%	N/A	39.57%	N/A	31.90%
Withdrawn	N/A	39	N/A	36	N/A	67	N/A	81
	N/A	07.74%	N/A	06.09%	N/A	08.03%	N/A	08.94%
Sub-Total (Ineligible/ Withdrawn)	**49**	**239**	**45**	**296**	**47**	**397**	**40**	**370**
	49.00%	**47.42%**	**45.00%**	**50.08%**	**47.00%**	**47.60%**	**40.00%**	**40.84%**
TOTAL	**100**	**504**	**100**	**591**	**100**	**834**	**100**	**906**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Because of the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers, and how these cases affect the proportion of cases closed at the various stages, Morrison and Company

asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.37 notes the differences between the two groups. The category of cases identified as “Claims Filed by Lawyers on Behalf of Consumers” consists primarily of claims from law firms which handle a high volume of motor vehicle warranty claims, but may also include claims from lawyers who do not specialize in this area.

Table 4.37 (Ohio)
Comparison of Resolution of Cases Filed By Lawyers

Method of Resolution	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Mediation	152	06
	36.80%	06.59%
Arbitration	51	56
	12.35%	61.54%
Ineligible	184	16
	44.55%	17.58%
Withdrawn	26	13
	06.30%	14.29%
TOTAL	**413**	**91**
	100.00%	**100.00%**

06. Mediated Cases +

Only those consumers who responded that their cases were resolved through mediation in Question Number 11 were asked Question Numbers 12 through 15.

12. Which statement best describes your mediation settlement?

TABLE 4.38 (Ohio)
Comparison of Mediation Settlements

Mediation Settlement	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	09	53	10	61	07	60	13	107
	34.62%	33.54%	37.04%	37.42%	25.00%	24.39%	38.24%	35.08%
Repair Reimbursement	10	60	09	56	12	109	11	108
	38.46%	37.98%	33.33%	34.36%	42.86%	44.31%	32.35%	35.41%
Other Award	07	45	08	46	09	77	10	90
	26.92%	28.48%	29.63%	28.22%	32.14%	31.30%	29.41%	29.51%
TOTAL	**26**	**158**	**27**	**163**	**28**	**246**	**34**	**305**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

As noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.39 notes the differences in settlement outcomes between the two groups.

Table 4.39 (Ohio)
Comparison of Mediation Settlements: Claims Filed By Lawyers

Method of Settlement	Claims Filed Directly By Consumers	Claims Filed by Lawyers on Behalf of Consumers
Repurchase/Replacement	49	04
	32.45%	57.14%
Repair/Reimbursement	59	01
	39.07%	14.29%
Other Settlement	43	02
	28.48%	28.57%
TOTAL	**151**	**07**
	100.00%	**100.00%**

13. After you reached a settlement, did you receive a letter from BBB AUTO LINE staff describing the settlement terms?

Yes	No	DK/DR	TOTAL
20	05	01	**26**
76.92%	19.23%	03.85%	**100.00%**

14. Did the manufacturer carry out the terms of your settlement?

TABLE 4.40 (Ohio)
Comparison of Manufacturer Compliance with Mediation Settlement

Manufacturer Compliance	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, Within the Specified Time	24	148	26	148	26	237	22	294
	92.30%	96.73%	96.30%	98.66%	92.86%	96.34%	64.71%	96.39%
Yes, After the Specified Time	01	00	00	00	01	00	03	01
	03.85%	00.00%	00.00%	00.00%	03.57%	00.00%	08.82%	00.33%
Sub-Total (Positive Performance)	**25**	**148**	**26**	**148**	**27**	**237**	**25**	**295**
	96.15%	**96.73%**	**96.30%**	**98.66%**	**96.46%**	**96.34%**	**73.53%**	**96.72%**
No	01	01	01	01	01	07	09	06
	03.85%	00.65%	03.70%	00.67%	03.57%	02.85%	26.47%	01.97%
Nonperf. due to consumer or time for perf. has not occurred	N/A	04	N/A	01	N/A	02	N/A	04
	N/A	02.61%	N/A	00.67%	N/A	00.81%	N/A	01.31%
TOTAL	**26**	**153**	**27**	**150**	**28**	**246**	**34**	**305**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

15. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the settlement?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
13	07	02	03	01	**26**
50.00%	26.92%	07.69%	11.54%	03.85%	**100.00%**

Only those consumers who responded “No” in Question Number 14 were asked Question Number 16.

16. Did you continue your case with BBB AUTO LINE after this point?

Yes	No	TOTAL
01	00	**01**
100.00%	00.00%	**100.00%**

07. Arbitrated Cases+

Only those consumers who responded that their cases were resolved through arbitration in Question Number 11 were asked Question Numbers 17 through 19.

17. Did you receive written notice of the scheduled date, time, and place for your arbitration hearing?

Yes	No	DK/DR	TOTAL
23	01	01	**25**
92.00%	04.00%	04.00%	**100.00%**

18. After the arbitration hearing, was a copy of the decision sent to you?

Yes	No	DK/DR	TOTAL
21	02	02	**25**
84.00%	08.00%	08.00%	**100.00%**

19. Which statement best describes your arbitration decision?

TABLE 4.41 (Ohio)
Comparison of Arbitration Awards

Arbitration Award	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Repurchase Replacement	04	24	06	31	06	50	08	72
	16.00%	22.43%	21.43%	23.49%	24.00%	26.18%	30.77%	31.17%
Repair Reimbursement	03	13	03	16	03	25	03	26
	12.00%	12.15%	10.71%	12.12%	12.00%	13.09%	11.54%	11.26%
Other	02	03	01	03	01	04	01	08
	08.00%	02.80%	03.57%	02.27%	04.00%	02.09%	03.85%	03.46%
SUB-TOTAL	**09**	**40**	**10**	**50**	**10**	**79**	**12**	**106**
	36.00%	**37.38%**	**35.71%**	**37.88%**	**40.00%**	**41.36%**	**46.16%**	**45.89%**
No award	16	67	18	**50**	15	112	14	125
	64.00%	62.62%	64.29%	**37.88%**	60%	58.64%	53.84%	54.11%
TOTAL	**25**	**107**	**28**	**82**	**25**	**191**	**26**	**231**
	100.00%	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Again, as noted above, because the increasing number of BBB AUTO LINE claims filed by lawyers on behalf of consumers seems to affect case outcomes, Morrison and Company asked CBBB to provide statistics comparing the resolution of cases filed by lawyers with those filed directly by consumers. Table 4.42 notes the differences in arbitration outcomes between the two groups.

There may be several reasons for these differences, some of which include the following: in many cases, attorneys provide little supporting evidence and discussion of the evidence in written filings; in many cases, attorneys provide little or no response to requests for further evidence; and, in many attorney cases, neither the consumer nor the manufacturer's representative is available to answer any questions the arbitrator may have.

TABLE 4.42 (Ohio)
Comparison of Arbitration Decisions: Claims Filed by Lawyers

Arbitration Outcomes	Claims Filed Directly By Consumers	Claims Filed By Lawyers on Behalf of Consumers
Repurchase/Replacement	14	10
	27.45%	17.86%
Repair/Reimbursement	06	07
	11.76%	12.50%
Other Award	03	00
	05.88%	00.00%
Sub-Total	**23**	**17**
	45.09%	**30.36%**
No award	28	39
	54.91%	69.64%
TOTAL	**51**	**56**
	100.00%	**100.00%**

BBB AUTO LINE also provides more detailed information about the awards obtained when consumers participated in an arbitration hearing in person, by telephone or in writing. The vast majority of in-writing hearings occur in cases filed by several particular law firms specializing in lemon law/warranty claims. As noted in Table 4.43 below, these statistics indicate that consumers who present their positions in writing had a noticeably lower percentage of awards than those who presented their cases either in person or by telephone; they also had a higher percentage of no awards than those presented in person or by telephone.

Incomplete participation in BBB AUTO LINE by certain consumer representatives seems to defeat the purpose of Informal Dispute Settlement Procedures, as envisioned by Congress and the Federal Trade Commission, to encourage early and informal resolution of warranty disputes without having to resort to the courts. As noted under the Recommendations section to this chapter, Morrison and Company suggests that the Federal Trade Commission and Florida regulators review the provisions of their regulations relating to oral presentations and the authority of the Mechanism to gather information necessary for a fair

decision.

Table 4.43 (Ohio)
Comparison of Arbitrations Based on Method of Presentation of Case

BBB AUTO LINE Arbitration	All Arbitration Awards	Arbitration Awards when Presented in Person	Arbitration Awards when Presented by Telephone	Arbitration Awards when Presented in Writing
Repurchase Replacement	24	18	00	06
	22.43%	31.58%	00.00%	12.00%
Repair Reimbursement	13	06	00	07
	12.15%	10.53%	00.00%	14.00%
Other award	03	03	00	00
	02.80%	05.26%	00.00%	00.00%
TOTAL Arbitration Awards	**40**	**27**	**00**	**13**
	37.38%	**47.37%**	**00.00%**	**26.00%**
TOTAL No Award Arbitrations	67	30	00	37
	62.62%	52.63%	00.00%	74.00%
TOTAL Arbitrations	**107**	**57**	**00**	**50**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Only those consumers who responded that they received an arbitration award in Question Number 19 were asked Question Number 20.

20. Did you accept or reject the arbitration decision?

Accepted	Rejected	TOTAL
06	03	**09**
66.67%	33.33%	**100.00%**

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Numbers 21 through 22.

21. Did the manufacturer carry out the terms of the arbitration decision?

TABLE 4.44 (Ohio)
Comparison of Manufacturer Compliance with Arbitration Decision

Manufacturer Compliance	2010		2009		2008		2007	
	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE	Morrison and Company	BBB AUTO LINE
Yes, within the Specified Time	05	23	06	23	05	57	04	76
	83.33%	95.83%	85.71%	88.46%	83.33%	33.73%	57.14%	92.68%
Yes, After the Specified Time	00	00	01	00	01	00	02	00
	00.00%	00.00%	14.29%	00.00%	16.67%	00.00%	28.57%	00.00%
Sub-Total (Positive Performance)	**05**	**23**	**07**	**23**	**06**	**57**	**06**	**76**
	83.33%	**95.83%**	**100.00%**	**88.46%**	**100.00%**	**33.73%**	**85.71%**	**92.68%**
No	01	00	00	00	00	00	01	00
	16.67%	00.00%	00.00%	00.00%	00.00%	00.00%	14.29%	00.00%
Nonperf. due to consumer time for perf. has not occurred	N/A	01	N/A	03	N/A	112	N/A	06
	N/A	04.17%	N/A	11.54%	N/A	66.27%	N/A	07.32%
TOTAL AWARDS ACCEPTED	06	24	07	26	06	169	07	82
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Only those consumers who responded that they accepted an arbitration award in Question Number 20 were asked Question Number 22.

22. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the decision?

Talked with Staff	Received a Letter	Both	Neither	DK/DR	TOTAL
04	01	00	01	00	**06**
66.66%	16.67%	00.00%	16.67%	00.00%	100.00%

Only those consumers who responded that they received no award in Question Number 19 or that they rejected an award in Question Number 20 were asked Question Number 23.

23. After your arbitration decision, did you pursue the dispute any further?

Yes	No	TOTAL
12	04	**16**
75.00%	25.00%	**100.00%**

Only those consumers who responded that they continued their dispute after arbitration in Question Number 23 were asked Question Number 24.

24. Which of the following did you do?

Re-contacted BBB AUTO LINE	Worked Out Solution with Dealer/Mfr.	Contacted Legal Counsel	Contacted State or Other Govt. Agency	Other	TOTAL
01	01	06	03	01	**12**
08.33%	08.33%	50.00%	25.00%	08.33%	**100.00%**

08. Consumer Satisfaction with Arbitrators

This segment deals with how consumers graded their arbitrator(s). It is divided into separate questions in order to deal with the four separate issues listed, and then broken down by general satisfaction, as noted in the tables below.

Morrison and Company would like to note that the difference in opinion between consumers surveyed regarding arbitrators and BBB AUTO LINE staff appeared to result from unsatisfactory resolution of individual cases. Those consumers who received an award appeared to be far more favorable towards their arbitrator than those who received no award.

It should be noted here that only the more complex cases ever reach arbitration now, due to the mediation efforts of BBB AUTO LINE staff in their mediation efforts, and to those manufacturers who have made efforts to resolve claims before they reach the arbitration stage. Even when consumers were not wholly satisfied with their arbitrators, they almost always felt that the BBB AUTO LINE staff's efforts were excellent.

Only those consumers who responded that their case was decided by an arbitrator after a hearing in Question Number 11 were asked Question Numbers 25 through 28.

25. What grade would you give the arbitrator on understanding the facts?

A	B	C	D	F	TOTAL
03	04	03	08	07	**25**
12.00%	16.00%	12.00%	32.00%	28.00%	**100.00%**

26. What grade would you give the arbitrator on objectivity and fairness?

A	B	C	D	F	TOTAL
02	05	03	09	06	**25**
08.00%	20.00%	12.00%	36.00%	24.00%	**100.00%**

27. What grade would you give the arbitrator on rendering an impartial decision?

A	B	C	D	F	TOTAL
04	04	02	07	08	**25**
16.00%	16.00%	08.00%	28.00%	32.00%	**100.00%**

28. What grade would you give the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	TOTAL
03	04	03	07	08	**25**
12.00%	16.00%	12.00%	28.00%	32.00%	**100.00%**

Table 4.45 has been determined by averaging the separate areas graded (Understanding the Facts, Objectivity and Fairness, Rendering Impartial Decisions, and Rendering Reasonable and Well Thought-out Decision) into one number.

TABLE 4.45 (Ohio)
Arbitrator Satisfaction (Composite)

Grade	2010	2009	2008	2007
A	03.00	05.50	06.00	08.00
	12.00%	19.64%	24.00%	30.77%
B	04.25	04.50	03.00	02.25
	17.00%	16.07%	12.00%	08.65%
C	02.75	03.00	01.00	03.75
	11.00%	10.71%	04.00%	14.43%
Sub-Total	**10.00**	**13**	**10**	**14**
	40.00%	**46.42%**	**40.00%**	**53.85%**
D	07.75	08.50	08.00	05.00
	31.00%	30.36%	32.00%	19.23%
F	07.25	06.50	07.00	07.00
	29.00%	23.22%	28.00%	26.92%
TOTAL	**25**	**28**	**25**	**26**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.46 represents satisfactory grades (A, B, and C) from Table 4.45, which were then averaged into one single “Satisfactory” grade.

Table 4.46 (Ohio)
Comparison of Satisfactory Arbitrator Grades

Satisfactory Grade	2010	2009	2008	2007
A	03.00	05.50	06.00	08.00
	12.00%	19.64%	24.00%	30.77%
B	04.25	04.50	03.00	02.25
	17.00%	16.07%	12.00%	08.65%
C	02.75	03.00	01.00	03.75
	11.00%	10.71%	04.00%	14.43%
TOTAL/Out of #	**10/25**	**13/28**	**10/25**	**14/26**
Out of 100.00%	**40.00%**	**46.42%**	**40.00%**	**53.85%**

09. Consumer Satisfaction with BBB AUTO LINE staff

Consumers who responded that their cases were resolved through mediation or arbitration in Question Number 11 were asked Question Numbers 29 through 32.

29. What grade would you give BBB AUTO LINE staff on objectivity and fairness?

A	B	C	D	F	TOTAL
13	14	10	06	08	**51**
25.49%	27.45%	19.61%	11.76%	15.69%	**100.00%**

30. What grade would you give BBB AUTO LINE staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	TOTAL
13	15	09	07	07	**51**
25.49%	29.40%	17.65%	13.73%	13.73%	**100.00%**

31. Overall, what grade would you give BBB AUTO LINE?

A	B	C	D	F	TOTAL
12	15	12	06	06	**51**
23.54%	29.40%	23.54%	11.76%	11.76%	**100.00%**

TABLE 4.47 (Ohio)
BBB AUTO LINE Staff Efforts

Grade	2010	2009	2008	2007
A	12.67	15	21	28.67
	24.84%	27.28%	39.62%	47.78%
B	14.67	14.67	11	06.00
	28.76%	26.67%	20.76%	10.00%
C	10.33	15.67	08	06.33
	20.26%	28.49%	15.09%	10.55%
Sub-Total	**37.67**	**45.34**	**40**	**41**
	73.86%	**82.44%**	**75.47%**	**68.33%**
D	06.33	05.33	06	09.33
	12.41%	09.69%	11.32%	15.55%
F	07.00	04.33	07	09.67
	13.73%	07.87%	13.21%	16.12%
TOTAL	**51**	**55**	**53**	**60**
	100.00%	**100.00%**	**100.00%**	**100.00%**

Table 4.48 represents the satisfactory grades (A, B, and C) from Table 4.47, which were then averaged into one single “Satisfactory” grade.

Table 4.48 (Ohio)
Comparison of Satisfactory BBB AUTO LINE Grades

Satisfactory Grade	2010	2009	2008	2007
A	12.67	15	21	28.67
	24.84%	27.28%	39.62%	47.78%
B	14.67	14.67	11	06.00
	28.76%	26.67%	20.76%	10.00%
C	10.33	15.67	08	06.33
	20.26%	28.49%	15.09%	10.55%
TOTAL/Out of #	**37.67/51**	**45.34/55**	**40/53**	**41/60**
Out of 100.00%	**73.86%**	**82.44%**	**75.47%**	**68.33%**

32. Would you recommend BBB AUTO LINE to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
40	10	01	**51**
78.43%	19.61%	01.96%	**100.00%**

This segment of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 05: RECOMMENDATIONS

A. National

Morrison and Company would like to recommend that BBB AUTO LINE continue its efforts to work with regulators in the area discussed above regarding incomplete participation by certain consumer representatives. It is recommended by Morrison and Company that BBB AUTO LINE look at avenues for making information on this free program more readily available to the general public. This appears to be a continuing and serious concern.

It should also be stressed that consumers can access this program without legal assistance and at no charge to the consumer throughout the entire process. Morrison and Company also recommends that the Federal Trade Commission review the effectiveness of certain provisions of Rule 703, with the goal of encouraging oral presentations by the parties and reinforcing the authority of Mechanisms to gather information necessary for a fair decision.

B. Florida

No recommendations specific to Florida are being made. BBB AUTO LINE staff should continue to work with CBBB to improve the seamless nature of the procedures already in place.

C. Ohio

No recommendations specific to Ohio are being made. BBB AUTO LINE staff should continue to work with CBBB to improve the seamless nature of the procedures already in place. It is hoped that the State Attorney General's office will continue to encourage the utilization of the provisions of Rule 703, and will encourage consumers to understand and to access the free services of the Mechanism therein provided, without the necessity for legal services. It is to be remembered that this is the major purpose behind the Magnuson and Moss legislation.

SECTION 06: CONCLUSIONS

The proportion of mediated cases has steadily increased over the years. This shows that consumers with stronger cases are reaching settlements more frequently. A larger percentage of the cases being arbitrated may not be strong cases. This results in a higher percentage of decisions denying consumer requests and a correspondingly lower percentage of satisfied consumers when evaluating the adversarial aspect of the Informal Dispute Settlement Procedure process. Fewer of these consumers are obtaining the relief they seek in arbitration and are, thereby, less happy with their decision makers.

Morrison and Company would like to commend the BBB AUTO LINE in its efforts

to reduce the number of cases closed within the forty day time limit. It is obvious from the statistics and from the telephone surveys that this number is being substantially reduced.

Morrison and Company analyzed the BBB AUTO LINE statistics. The program review disclosed that exceptional attention was being paid to the details of record-keeping and that the data disclosed a relatively direct correlation with Morrison and Company's data, given the considerations noted elsewhere in this document. BBB AUTO LINE is to be commended for its thorough record-keeping procedures by improving on an already excellent program!

This section of BBB AUTO LINE activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

CHAPTER FIVE

SUMMARY

CHAPTER 05: SUMMARY

SECTION 01: INTRODUCTION

As stated throughout this document, this audit is mandated on an annual basis by the requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code. This audit covers cases which were closed during the 2010 calendar year.

SECTION 02: STATUTORY REQUIREMENTS

(Please refer to appendices for the complete text of all related laws, statutes, and regulations)

SECTION 03: CONDITIONS

All requirements for this audit have been completed by Morrison and Company as carefully as possible. Information has been researched, and this document has been made as complete and as accurate as possible. An on-site visit has been made to assure program quality and consistent record keeping.

SECTION 04: FINDINGS

A. Manufacturer Warranty Materials

Morrison and Company's review of the documentation from the manufacturers provided support to meet the basic requirements of Rule 703; however, the greater majority of manufacturer materials went beyond the minimum compliance requirements and provided more information than required to the consumer. There still remains a tendency on the part of a few manufacturers to place the information about BBB AUTO LINE in diverse areas of the warranty materials under various headings without specific notation of BBB AUTO LINE in the Index and/or the Table of Contents of the publications supplied to the consumer at the time of purchase.

B. Office Practices and Procedures

As has been noted in previous audits, the office practices and procedures of CBBB and of the local BBB AUTO LINE offices were found to be operating very smoothly and efficiently, and well within the requirements of Magnuson-Moss, with no clear violation of rules or regulations. In this year's audit as in past years, BBB AUTO LINE continues to perform well.

The performance of the overall operation of BBB AUTO LINE is excellent. There is abundant evidence of BBB AUTO LINE's efforts to maintain a high

standard of service to consumers.

C. Record-Keeping Procedures

The record-keeping procedures of the national offices of BBB AUTO LINE and the local BBB AUTO LINE offices continue to be outstanding. All case files reviewed by Morrison and Company were found to have been handled properly. The procedures which were in place provided consumers prompt and competent attention.

This outstanding performance has continued to improve each year in which Morrison and Company has reviewed the program. It should be remembered that only the most difficult cases ever arrive at BBB AUTO LINE; the others are all resolved before they ever get to this stage.

D. Comparative Statistical Analysis

BBB AUTO LINE statistics and indices were accurate and complete and were simple to use when comparing them with the telephone survey figures. The telephone survey of consumers continues to provide helpful information and to serve as a comparison with CBBB's more complete statistics. It should be noted that consumers sometimes are not accurate in their recollections of data pertaining to their case, and in some instances, do not understand the intricacies of the process clearly enough to determine the correct response to the survey questions. BBB AUTO LINE should be commended for its planning, and for the execution of a very difficult task.

SECTION 05: RECOMMENDATIONS

A. Manufacturer Warranty Materials

Morrison and Company continues to recommend strongly that certain manufacturers improve their efforts to help consumers learn about BBB AUTO LINE, particularly when consumers contact the manufacturers directly. Those manufacturers which meet only the bare minimum requirements should begin to improve both the quality and the quantity of their materials and information dissemination. This area remains one which *must* be addressed by certain manufacturers in order to remain in compliance and in order to encourage consumers to take advantage of BBB AUTO LINE before seeking other assistance.

B. Office Practices and Procedures

Morrison and Company would like to recommend that CBBB continue to assist the local BBB AUTO LINE offices with problems which they encounter in working with BBB AUTO LINE. Morrison and Company would like to recommend

that CBBB consider looking at revising arbitrator training, since it has been noted by Morrison and Company that arbitrators appear to be showing a trend toward more formality in the hearings, which tends to make them more like courtroom proceedings and less consumer friendly. No serious issues arose during the program audit made by Morrison and Company.

C. Record-Keeping Procedures

Morrison and Company has no recommendations to make regarding record-keeping procedures, due to the extremely high quality of record-keeping already in place. BBB AUTO LINE should serve as a role model for other dispute resolution programs.

D. Comparative Statistical Analysis

Morrison and Company would like to commend the BBB AUTO LINE program on its continuing efforts to reduce the number of days in which it takes to close cases. The numbers continue to decrease over the years.

Morrison and Company would also like to recommend that CBBB continue to work with regulators about the increasingly serious problem of incomplete participation in dispute resolution by certain consumer representatives, since it is obvious from the statistics that it is affecting the number of positive decisions for the consumer, as noted in the differences in awards granted in arbitration hearings when presented in person, as opposed to in writing or by telephone. Since the intent of Magnuson-Moss is to provide a free process which consumers can easily access, this trend is detrimental to the spirit and intent of the original language of Congress. Morrison and Company understands that the options available to BBB AUTO LINE to address this problem are limited.

Morrison and Company would like to suggest strongly that CBBB begin to disseminate more direct information through the media in this regard, especially on television. It is strongly recommended that CBBB avail itself of the opportunity to promote itself more effectively through the internet and through other media to make the public more aware of the free services which are available without the need for legal representation.

When researching information on the Lemon Law on internet, very little appeared under the auspices of the CBBB, while there were a great many listings for various law firms specializing in the Lemon Law. The CBBB should make strong efforts to enhance its public image as an effective Lemon Law dispute resolution service. Even the Better Business Bureau website could show a more prominent link to the Lemon Law.

SECTION 06: CONCLUSIONS

This review of BBB AUTO LINE resulted in only very few areas of concern. Most of these items are currently in the process of being corrected. Those items which need improvement should be addressed by those directly involved in order to maintain compliance.

In conclusion, BBB AUTO LINE continues to show an outstanding level of excellence in its performance of duties; therefore, Morrison and Company can state with confidence that BBB AUTO LINE

IS IN COMPLIANCE
WITH ALL RELATED REQUIREMENTS
FOR THE PURPOSES OF
THE 2010 BBB AUTO LINE AUDIT.

APPENDICES

A - H

APPENDIX
A

APPENDIX A

MAGNUSON-MOSS WARRANTY ACT

Public Law 93-637
93rd Congress, S. 356
January 4, 1975
An Act

To provide minimum disclosure standards for written consumer product warranties; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Magnuson-Moss Warranty–Federal Trade Commission Improvement Act"

TITLE I - CHAPTER 50 - CONSUMER PRODUCT WARRANTIES
DEFINITIONS

Sec.
§ 2301. Definitions.
§ 2302. Rules governing contents of warranties.
(a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents.
(b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract.
(c) Prohibition on conditions for written or implied warranty; waiver by Commission.
(d) Incorporation by reference of detailed substantive warranty provisions.
(e) Applicability to consumer products costing more than $5.
§ 2303. Designation of written warranties.
(a) Full(statement of duration) or limited warranty.
(b) Applicability of requirements, standards, etc., to representations or statements of consumer satisfaction.
(c) Exemptions by Commission.
(d) Applicability to consumer products costing more than $10 and not designated as full warranties.
§ 2304. Federal minimum standards for warranties.
(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement.
(b) Duties and conditions imposed on consumer by warrantor.
(c) Waiver of standards.
(d) Remedy without charge.
(e) Incorporation of standards to products designated with full warranty for

purposes of judicial actions.
§ 2305. Full and limited warranting of a consumer product.
§ 2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty.
§ 2307. Designation of representatives by warrantor to perform duties under written or implied warranty.
§ 2308. Implied warranties.
(a) Restrictions on disclaimers or modifications.
(b) Limitation on duration.
(c) Effectiveness of disclaimers, modifications, or limitations.
§ 2309. Procedures applicable to promulgation of rules by Commission.
(a) Oral presentation.
(b) Warranties and warranty practices involved in sale of used motor vehicles.
§ 2310. Remedies in consumer disputes.
(a) Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures.
(b) Prohibited acts.
(c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions.
(d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses; cognizable claims.
(e) Class actions; conditions; procedures applicable.
(f) Warrantors subject to enforcement of remedies.
§ 2311. Applicability to other laws.
(a) Federal Trade Commission Act and Federal Seed Act.
(b) Rights, remedies, and liabilities.
(c) State warranty laws.
(d) Other Federal warranty laws.
§ 2312. Effective dates.
(a) Effective date of chapter.
(b) Effective date of section 2302(a).
(c) Promulgation of rules.

Sec. 2301. Definitions

For the purposes of this chapter:

(1) The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes(including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "consumer" means a buyer(other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty(or service contract)

applicable to the product, and any other person who is entitled by the terms of such warranty (or service contract) or under applicable State law to enforce against the warrantor (or service contractor) the obligations of the warranty (or service contract).

(4) The term "supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers.

(5) The term "warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.

(6) The term "written warranty" means -

(A) any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

(7) The term "implied warranty" means an implied warranty arising under State law(as modified by sections 2308 and 2304(a) of this title) in connection with the sale by a supplier of a consumer product.

(8) The term "service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair(or both) of a consumer product.

(9) The term "reasonable and necessary maintenance" consists of those operations

(A) which the consumer reasonably can be expected to perform or have performed and(

B) which are necessary to keep any consumer product performing its intended function and operating at a reasonable level of performance.

(10) The term "remedy" means whichever of the following actions the warrantor elects:

(A) repair,

(B) replacement, or

(C) refund;

except that the warrantor may not elect refund unless

(I) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or

(ii) the consumer is willing to accept such refund.

(11) The term ''replacement'' means furnishing a new consumer product which is identical or reasonably equivalent to the warranted consumer product.

(12) The term ''refund'' means refunding the actual purchase price(less reasonable depreciation based on actual use where permitted by rules of the Commission).

(13) The term ''distributed in commerce'' means sold in commerce, introduced or delivered for introduction into commerce, or held for sale or distribution after introduction into commerce.

(14) The term ''commerce'' means trade, traffic, commerce, or transportation -

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(15) The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa. The term ''State law'' includes a law of the United States applicable only to the District of Columbia or only to a territory or possession of the United States; and the term ''Federal law'' excludes any State law.

Sec. 232. Rules governing contents of warranties

(a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any warrantor warranting a consumer product to a consumer by means of a written warranty shall, to the extent required by rules of the Commission, fully and conspicuously disclose in simple and readily understood language the terms and conditions of such warranty. Such rules may require inclusion in the written warranty of any of the following items among others:

(1) The clear identification of the names and addresses of the warrantors.

(2) The identity of the party or parties to whom the warranty is extended.

(3) The products or parts covered.

(4) A statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with such written warranty - at whose expense - and for what period of time.

(5) A statement of what the consumer must do and expenses he must bear.

(6) Exceptions and exclusions from the terms of the warranty.

(7) The step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty, including the identification of any person or class of persons authorized to perform the obligations set forth in the warranty.

(8) Information respecting the availability of any informal dispute settlement procedure offered by the warrantor and a recital, where the

warranty so provides, that the purchaser may be required to resort to such procedure before pursuing any legal remedies in the courts.

(9) A brief, general description of the legal remedies available to the consumer.

(10) The time at which the warrantor will perform any obligations under the warranty.

(11) The period of time within which, after notice of a defect, malfunction, or failure to conform with the warranty, the warrantor will perform any obligations under the warranty.

(12) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.

(13) The elements of the warranty in words or phrases which would not mislead a reasonable, average consumer as to the nature or scope of the warranty.

(b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract

(1) (A) The Commission shall prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the consumer(or prospective consumer) prior to the sale of the product to him.

(B) The Commission may prescribe rules for determining the manner and form in which information with respect to any written warranty of a consumer product shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average consumer, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing.

(2) Nothing in this chapter(other than paragraph (3) of this subsection) shall be deemed to authorize the Commission to prescribe the duration of written warranties given or to require that a consumer product or any of its components be warranted.

(3) The Commission may prescribe rules for extending the period of time a written warranty or service contract is in effect to correspond with any period of time in excess of a reasonable period(not less than 10 days) during which the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the written warranty or by reason of the failure of the warrantor(or service contractor) to carry out such warranty(or service contract) within the period specified in the warranty(or service contract).

(c) Prohibition on conditions for written or implied warranty; waiver by Commission No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service(other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or

corporate name; except that the prohibition of this subsection may be waived by the Commission if -

(1) the warrantor satisfies the Commission that the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and

(2) the Commission finds that such a waiver is in the public interest. The Commission shall identify in the Federal Register, and permit public comment on, all applications for waiver of the prohibition of this subsection, and shall publish in the Federal Register its disposition of any such application, including the reasons therefor.

(d) Incorporation by reference of detailed substantive warranty provisions The Commission may by rule devise detailed substantive warranty provisions which warrantors may incorporate by reference in their warranties.

(e) Applicability to consumer products costing more than $5. The provisions of this section apply only to warranties which pertain to consumer products actually costing the consumer more than $5.

Sec. 2303. Designation of written warranties

(a) Full(statement of duration) or limited warranty Any warrantor warranting a consumer product by means of a written warranty shall clearly and conspicuously designate such warranty in the following manner, unless exempted from doing so by the Commission pursuant to subsection(c) of this section:

(1) If the written warranty meets the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a ''full(statement of duration) warranty''.

(2) If the written warranty does not meet the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a ''limited warranty''.

(b) Applicability of requirements, standards, etc., to representations or statements of consumer satisfaction This section and sections 2302 and 2304 of this title shall not apply to statements or representations which are similar to expressions of general policy concerning consumer satisfaction and which are not subject to any specific limitations.

(c) Exemptions by Commission In addition to exercising the authority pertaining to disclosure granted in section 2302 of this title, the Commission may by rule determine when a written warranty does not have to be designated either ''full(statement of duration)'' or ''limited'' in accordance with this section.

(d) Applicability to consumer products costing more than $10 and not designated as full warranties The provisions of subsections(a) and(c) of this section apply only to warranties which pertain to consumer products actually costing the consumer more than $10 and which are not designated ''full(statement of duration) warranties''.

Sec. 2304. Federal minimum standards for warranties

(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement In order for a warrantor warranting a consumer

product by means of a written warranty to meet the Federal minimum standards for warranty -

(1) such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty;

(2) notwithstanding section 2308(b) of this title, such warrantor may not impose any limitation on the duration of any implied warranty on the product;

(3) such warrantor may not exclude or limit consequential damages for breach of any written or implied warranty on such product, unless such exclusion or limitation conspicuously appears on the face of the warranty; and

(4) if the product(or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part(as the case may be). The Commission may by rule specify for purposes of this paragraph, what constitutes a reasonable number of attempts to remedy particular kinds of defects or malfunctions under different circumstances. If the warrantor replaces a component part of a consumer product, such replacement shall include installing the part in the product without charge.

(b) Duties and conditions imposed on consumer by warrantor

(1) In fulfilling the duties under subsection(a) of this section respecting a written warranty, the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which malfunctions, is defective, or does not conform to the written warranty, unless the warrantor has demonstrated in a rule-making proceeding, or can demonstrate in an administrative or judicial enforcement proceeding(including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable.

(2) Notwithstanding paragraph(1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection(a) of this section, that such consumer product shall be made available to the warrantor free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

(3) The Commission may, by rule define in detail the duties set forth in subsection(a) of this section and the applicability of such duties to warrantors of different categories of consumer products with ''full(statement of duration)'' warranties.

(4) The duties under subsection (a) of this section extend from the warrantor to each person who is a consumer with respect to the consumer product.

(c) Waiver of standards The performance of the duties under subsection(a) of

this section shall not be required of the warrantor if he can show that the defect, malfunction, or failure of any warranted consumer product to conform with a written warranty, was caused by damage(not resulting from defect or malfunction) while in the possession of the consumer, or unreasonable use(including failure to provide reasonable and necessary maintenance).

(d) Remedy without charge For purposes of this section and of section 2302(c) of this title, the term "without charge" means that the warrantor may not assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. An obligation under subsection(a)(1)(A) of this section to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

(e) Incorporation of standards to products designated with full warranty for purposes of judicial actions If a supplier designates a warranty applicable to a consumer product as a "full(statement of duration)" warranty, then the warranty on such product shall, for purposes of any action under section 2310(d) of this title or under any State law, be deemed to incorporate at least the minimum requirements of this section and rules prescribed under this section.

Sec. 2305. Full and limited warranting of a consumer product

Nothing in this chapter shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

Sec. 2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty

(a) The Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be fully, clearly, and conspicuously disclosed.

(b) Nothing in this chapter shall be construed to prevent a supplier or warrantor from entering into a service contract with the consumer in addition to or in lieu of a written warranty if such contract fully, clearly, and conspicuously discloses its terms and conditions in simple and readily understood language.

Sec. 2307. Designation of representatives by warrantor to perform duties under written or implied warranty

Nothing in this chapter shall be construed to prevent any warrantor from designating representatives to perform duties under the written or implied warranty: Provided, That such warrantor shall make reasonable arrangements for compensation of such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the consumer or make the representative a co-warrantor.

Sec. 2308. Implied warranties

(a) Restrictions on disclaimers or modifications No supplier may disclaim or

modify(except as provided in subsection (b) of this section) any implied warranty to a consumer with respect to such consumer product if

(1) such supplier makes any written warranty to the consumer with respect to such consumer Product, or

(2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

(b) Limitation on duration For purposes of this chapter(other than section 2304(a)(2) of this title), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

(c) Effectiveness of disclaimers, modifications, or limitations A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law.

Sec. 2309. Procedures applicable to promulgation of rules by Commission

(a) Oral presentation Any rule prescribed under this chapter shall be prescribed in accordance with section 553 of title 5; except that the Commission shall give interested persons an opportunity for oral presentations of data, views, and arguments, in addition to written submissions. A transcript shall be kept of any oral presentation. Any such rule shall be subject to judicial review under section 57a(e) of this title in the same manner as rules prescribed under section 57a(a)(1)(B) of this title, except that section 57a(e)(3)(B) of this title shall not apply.

(b) Warranties and warranty practices involved in sale of used motor vehicles The Commission shall initiate within one year after January 4, 1975, a rule-making proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer by this chapter, shall prescribe rules dealing with such warranties and practices. In prescribing rules under this subsection, the Commission may exercise any authority it may have under this chapter, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

Sec. 2310. Remedies in consumer disputes

(a) Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures

(1) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms.

(2) The Commission shall prescribe rules setting forth minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of

this chapter applies. Such rules shall provide for participation in such procedure by independent or governmental entities.

(3) One or more warrantors may establish an informal dispute settlement procedure which meets the requirements of the Commission's rules under paragraph(2). If -

(A) a warrantor establishes such a procedure,

(B) such procedure, and its implementation, meets the requirements of such rules, and

(C) he incorporates in a written warranty a requirement that the consumer resort to such procedure before pursuing any legal remedy under this section respecting such warranty, then

(I) the consumer may not commence a civil action(other than a class action) under subsection (d) of this section unless he initially resorts to such procedure; and

(ii) a class of consumers may not proceed in a class action under subsection(d) of this section except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the named plaintiffs(upon notifying the defendant that they are named plaintiffs in a class action with respect to a warranty obligation) initially resort to such procedure. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure. In any civil action arising out of a warranty obligation and relating to a matter considered in such a procedure, any decision in such procedure shall be admissible in evidence.

(4) The Commission on its own initiative may, or upon written complaint filed by any interested person shall, review the bona fide operation of any dispute settlement procedure resort to which is stated in a written warranty to be a prerequisite to pursuing a legal remedy under this section. If the Commission finds that such procedure or its implementation fails to comply with the requirements of the rules under paragraph(2), the Commission may take appropriate remedial action under any authority it may have under this chapter or any other provision of law.

(5) Until rules under paragraph(2) take effect, this subsection shall not affect the validity of any informal dispute settlement procedure respecting consumer warranties, but in any action under subsection(d) of this section, the court may invalidate any such procedure if it finds that such procedure is unfair.

(b) Prohibited acts It shall be a violation of section 45(a)(1) of this title for any person to fail to comply with any requirement imposed on such person by this chapter(or a rule thereunder) or to violate any prohibition contained in this

chapter(or a rule thereunder).

(c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions

(1) The district courts of the United States shall have jurisdiction of any action brought by the Attorney General(in his capacity as such), or by the Commission by any of its attorneys designated by it for such purpose, to restrain

(A) any warrantor from making a deceptive warranty with respect to a consumer product, or

(B) any person from failing to comply with any requirement imposed on such person by or pursuant to this chapter or from violating any prohibition contained in this chapter. Upon proper showing that, weighing the equities and considering the Commission's or Attorney General's likelihood of ultimate success, such action would be in the public interest and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond. In the case of an action brought by the Commission, if a complaint under section 45 of this title is not filed within such period(not exceeding 10 days) as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any suit shall be brought in the district in which such person resides or transacts business. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) For the purposes of this subsection, the term "deceptive warranty" means

(A) a written warranty which

(I) contains an affirmation, promise, description, or representation which is either false or fraudulent, or which, in light of all of the circumstances, would mislead a reasonable individual exercising due care; or

(ii) fails to contain information which is necessary in light of all of the circumstances, to make the warranty not misleading to a reasonable individual exercising due care; or

(B) a written warranty created by the use of such terms as ''guaranty'' or ''warranty'', if the terms and conditions of such warranty so limit its scope and application as to deceive a reasonable individual.

(d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses; cognizable claims

(1) Subject to subsections(a)(3) and(e) of this section, a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief -

(A) in any court of competent jurisdiction in any State or the District of Columbia; or

(B) in an appropriate district court of the United States, subject to paragraph(3) of this subsection.

(2) If a consumer finally prevails in any action brought under paragraph(1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses(including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(3) No claim shall be cognizable in a suit brought under paragraph(1)(B) of this subsection -

(A) if the amount in controversy of any individual claim is less than the sum or value of $25;

(B) if the amount in controversy is less than the sum or value of $50,000(exclusive of interests and costs) computed on the basis of all claims to be determined in this suit; or

(C) if the action is brought as a class action, and the number of named plaintiffs is less than one hundred.

(e) Class actions; conditions; procedures applicable No action(other than a class action or an action respecting a warranty to which subsection(a)(3) of this section applies) may be brought under subsection(d) of this section for failure to comply with any obligation under any written or implied warranty or service contract, and a class of consumers may not proceed in a class action under such subsection with respect to such a failure except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the person obligated under the warranty or service contract is afforded a reasonable opportunity to cure such failure to comply. In the case of such a class action(other than a class action respecting a warranty to which subsection(a)(3) of this section applies) brought under subsection(d) of this section for breach of any written or implied warranty or service contract, such reasonable opportunity will be afforded by the named plaintiffs and they shall at that time notify the defendant that they are acting on behalf of the class. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure.

(f) Warrantors subject to enforcement of remedies For purposes of this section, only the warrantor actually making a written affirmation of fact, promise, or

undertaking shall be deemed to have created a written warranty, and any rights arising thereunder may be enforced under this section only against such warrantor and no other person.

Sec. 2311. Applicability to other laws

(a) Federal Trade Commission Act and Federal Seed Act

(1) Nothing contained in this chapter shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act(15 U.S.C. 41 et seq.) or any statute defined therein as an Antitrust Act.

(2) Nothing in this chapter shall be construed to repeal, invalidate, or supersede the Federal Seed Act(7 U.S.C. 1551 et seq.) and nothing in this chapter shall apply to seed for planting.

(b) Rights, remedies, and liabilities

(1) Nothing in this chapter shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.

(2) Nothing in this chapter(other than sections 2308 and 2304(a)(2) and(4) of this title) shall

(A) affect the liability of, or impose liability on, any person for personal injury, or

(B) supersede any provision of State law regarding consequential damages for injury to the person or other injury.

(c) State warranty laws

(1) Except as provided in subsection(b) of this section and in paragraph(2) of this subsection, a State requirement -

(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder;

(B) which is within the scope of an applicable requirement of sections 2302, 2303, and 2304 of this title(and rules implementing such sections), and

(C) which is not identical to a requirement of section 2302, 2303, or 2304 of this title(or a rule thereunder), shall not be applicable to written warranties complying with such sections(or rules thereunder).

(2) If, upon application of an appropriate State agency, the Commission determines(pursuant to rules issued in accordance with section 2309 of this title) that any requirement of such State covering any transaction to which this chapter applies

(A) affords protection to consumers greater than the requirements of this chapter and

(B) does not unduly burden interstate commerce, then such State requirement shall be applicable(notwithstanding the provisions of paragraph(1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement.

(d) Other Federal warranty laws This chapter(other than section 2302(c) of this title) shall be inapplicable to any written warranty the making or content of which is otherwise governed by Federal law. If only a portion of a written warranty is so

governed by Federal law, the remaining portion shall be subject to this chapter.

Sec. 2312. Effective dates

(a) Effective date of chapter Except as provided in subsection(b) of this section, this chapter shall take effect 6 months after January 4, 1975, but shall not apply to consumer products manufactured prior to such date.

(b) Effective date of section 2302(a) Section 2302(a) of this title shall take effect 6 months after the final publication of rules respecting such section; except that the Commission, for good cause shown, may postpone the applicability of such sections until one year after such final publication in order to permit any designated classes of suppliers to bring their written warranties into compliance with rules promulgated pursuant to this chapter.

(c) Promulgation of rules The Commission shall promulgate rules for initial implementation of this chapter as soon as possible after January 4, 1975, but in no event later than one year after such date.

APPENDIX
B

APPENDIX B

CODE OF FEDERAL REGULATIONS
TITLE 16 -- COMMERCIAL PRACTICES
CHAPTER I -- FEDERAL TRADE COMMISSION
SUBCHAPTER G --RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT
16 C.F.R. PART 703
INFORMAL DISPUTE SETTLEMENT PROCEDURES
PART 703–INFORMAL SETTLEMENT DISPUTE PROCEDURES

Sec.
703.1 Definitions.
703.2 Duties of warrantor.
MINIMUM REQUIREMENTS OF THE MECHANISM
703.3 Mechanism organization.
703.4.A Qualification of members.
703.5 Operation of the Mechanism.
703.6 Record-keeping.
703.7 Audits.
703.8 Openness of records and proceedings.
AUTHORITY: 15 U.S.C. 2309 and 2310.
SOURCE: 40 FR 60215, Dec. 31, 1975, unless otherwise noted.

§ 703.1 Definitions.

(a)" The Act" means the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, 15 U.S.C. § 2301, *et seq*.

(b) "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(c) "Written warranty" means:

(1) Any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(2) Any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking, becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

(d)" Warrantor" means any person who gives or offers to give a written warranty which incorporates an informal dispute settlement mechanism.

(e) "Mechanism" means an informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of Title I

of the Act applies, as provided in section 110 of the Act.

(f) “Members” means the person or persons within a Mechanism actually deciding disputes.

(g) “Consumer” means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of a written warranty applicable to the product, and any other person who is entitled by the terms of such warranty or under applicable state law to enforce against the warrantor the obligations of the warranty.

(h) On the face of the warranty means:

(1) If the warranty is a single sheet with printing on both sides of the sheet, or if the warranty is comprised of more than one sheet, the page on which the warranty text begins;

(2) If the warranty is included as part of a longer document, such as a use and care manual, the page in such document on which the warranty text begins.

§ 703.2 Duties of warrantor.

(b) The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty:

(1) A statement of the availability of the informal dispute settlement mechanism;

(2) The name and address of the Mechanism, or the name and a telephone number of the Mechanism which consumers may use without charge;

(3) A statement of any requirement that the consumer resort to the Mechanism before exercising rights or seeking remedies created by Title I of the Act; together with the disclosure that if a consumer chooses to seek redress by pursuing rights and remedies not created by Title I of the Act, resort to the Mechanism would not be required by any provision of the Act; and

(4) A statement, if applicable, indicating where further information on the Mechanism can be found in materials accompanying the product, as provided in § 703.2(c) of this section.

(c) The warrantor shall include in the written warranty or in a separate section of materials accompanying the product, the following information:

(1) Either

(I) a form addressed to the Mechanism containing spaces requesting the information which the Mechanism may require for prompt resolution of warranty disputes; or

(ii) a telephone number of the Mechanism which consumers may use without charge;

(2) The name and address of the Mechanism;

(3) A brief description of Mechanism procedures;

(4) The time limits adhered to by the Mechanism; and

(5) The types of information which the Mechanism may require for prompt resolution of warranty disputes.

(d) The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes. Nothing contained in paragraphs (b), (c), or (d) of this section shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor as long as the warrantor does not expressly require consumers to seek redress directly from the warrantor. The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

(e) Whenever a dispute is submitted directly to the warrantor, the warrantor shall, within a reasonable time, decide whether, and to what extent, it will satisfy the consumer, and inform the consumer of its decision. In its notification to the consumer of its decision, the warrantor shall include the information required in § 703.2 (b) and (c) of this section.

(f) The warrantor shall:

(1) Respond fully and promptly to reasonable requests by the Mechanism for information relating to disputes;

(2) Upon notification of any decision of the Mechanism that would require action on the part of the warrantor, immediately notify the Mechanism whether, and to what extent, warrantor will abide by the decision; and

(3) Perform any obligations it has agreed to.

(g) The warrantor shall act in good faith in determining whether, and to what extent, it will abide by a Mechanism decision.

(h) The warrantor shall comply with any reasonable requirements imposed by the Mechanism to fairly and expeditiously resolve warranty disputes.

MINIMUM REQUIREMENTS OF THE MECHANISM

§ 703.3 Mechanism organization.

(a) The Mechanism shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the Mechanism.

(b) The warrantor and the sponsor of the Mechanism (if other than the warrantor) shall take all steps necessary to ensure that the Mechanism, and its members and staff, are sufficiently insulated from the warrantor and the sponsor, so that the decisions of the members and the performance of the staff are not influenced by either the warrantor or the sponsor. Necessary steps shall include, at a minimum, committing funds in advance, basing personnel decisions solely on merit, and not assigning conflicting warrantor or sponsor duties to Mechanism staff persons.

(c) The Mechanism shall impose any other reasonable requirements necessary to ensure that the members and staff act fairly and expeditiously in each dispute.

§ 703.4 Qualification of members.

(a) No member deciding a dispute shall be:

(1) A party to the dispute, or an employee or agent of a party other than for purposes of deciding disputes; or

(2) A person who is or may become a party in any legal action, including but not limited to class actions, relating to the product or complaint in

dispute, or an employee or agent of such person other than for purposes of deciding disputes. For purposes of this paragraph (a) a person shall not be considered a "party" solely because he or she acquires or owns an interest in a party solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment.

(b) When one or two members are deciding a dispute, all shall be persons having no direct involvement in the manufacture, distribution, sale or service of any product. When three or more members are deciding a dispute, at least two-thirds shall be persons having no direct involvement in the manufacture, distribution, sale or service of any product. "Direct involvement" shall not include acquiring or owning an interest solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment. Nothing contained in this section shall prevent the members from consulting with any persons knowledgeable in the technical, commercial or other areas relating to the product which is the subject of the dispute.

(c) Members shall be persons interested in the fair and expeditious settlement of consumer disputes.

§ 703.5 Operation of the Mechanism.

(a) The Mechanism shall establish written operating procedures which shall include at least those items specified in paragraphs (b) through (j) of this section. Copies of the written procedures shall be made available to any person upon request.

(b) Upon notification of a dispute, the Mechanism shall immediately inform both the warrantor and the consumer of receipt of the dispute.

(c) The Mechanism shall investigate, gather and organize all information necessary for a fair and expeditious decision in each dispute. When any evidence gathered by or submitted to the Mechanism raises issues relating to the number of repair attempts, the length of repair periods, the possibility of unreasonable use of the product, or any other issues relevant in light of Title I of the Act (or rules thereunder), including issues relating to consequential damages, or any other remedy under the Act (or rules thereunder), the Mechanism shall investigate these issues. When information which will or may be used in the decision, submitted by one party, or a consultant under § 703.4(b) of this part, or any other source tends to contradict facts submitted by the other party, the Mechanism shall clearly, accurately, and completely disclose to both parties the contradictory information (and its source) and shall provide both parties an opportunity to explain or rebut the information and to submit additional materials. The Mechanism shall not require any information not reasonably necessary to decide the dispute.

(d) If the dispute has not been settled, the Mechanism shall, as expeditiously as possible but at least within 40 days of notification of the dispute, except as provided in paragraph (e) of this section:

(1) Render a fair decision based on the information gathered as described in paragraph (c) of this section, and on any information submitted at an oral presentation which conforms to the requirements of paragraph (f) of this section (A decision shall include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, compensation for damages, and any other remedies available under the written warranty or the Act (or rules thereunder); and a decision shall state a specified reasonable time for performance);

(2) Disclose to the warrantor its decision and the reasons therefor;

(3) If the decision would require action on the part of the warrantor, determine whether, and to what extent, warrantor will abide by its decision; and

(4) Disclose to the consumer its decision, the reasons therefor, warrantor's intended actions (if the decision would require action on the part of the warrantor), and the information described in paragraph (g) of this section.

For purposes of paragraph (d) of this section a dispute shall be deemed settled when the Mechanism has ascertained from the consumer that:

(I) The dispute has been settled to the consumer's satisfaction; and

(ii) the settlement contains a specified reasonable time for performance.

(e) The Mechanism may delay the performance of its duties under paragraph (d) of this section beyond the 40 day time limit:

(1) Where the period of delay is due solely to failure of a consumer to provide promptly his or her name and address, brand name and model number of the product involved, and a statement as to the nature of the defect or other complaint; or

(2) For a 7 day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor.

(f) The Mechanism may allow an oral presentation by a party to a dispute (or a party's representative) only if:

(1) Both warrantor and consumer expressly agree to the presentation;

(2) Prior to agreement the Mechanism fully discloses to the consumer the following information:

(I) That the presentation by either party will take place only if both parties so agree, but that if they agree, and one party fails to appear at the agreed upon time and place, the presentation by the other party may still be allowed;

(ii) That the members will decide the dispute whether or not an oral presentation is made;

(iii) The proposed date, time and place for the presentation; and

(iv) A brief description of what will occur at the presentation including, if applicable, parties' rights to bring witnesses and/or counsel; and

(3) Each party has the right to be present during the other party's oral presentation. Nothing contained in this paragraph (b) of this section shall

preclude the Mechanism from allowing an oral presentation by one party, if the other party fails to appear at the agreed upon time and place, as long as all of the requirements of this paragraph have been satisfied.

(g) The Mechanism shall inform the consumer, at the time of disclosure required in paragraph (d) of this section that:

(1) If he or she is dissatisfied with its decision or warrantor's intended actions, or eventual performance, legal remedies, including use of small claims court, may be pursued;

(2) The Mechanism's decision is admissible in evidence as provided in section 110(a) (3) of the Act; and

(3) The consumer may obtain, at reasonable cost, copies of all Mechanism records relating to the consumer's dispute.

(h) If the warrantor has agreed to perform any obligations, either as part of a settlement agreed to after notification to the Mechanism of the dispute or as a result of a decision under paragraph (d) of this section, the Mechanism shall ascertain from the consumer within 10 working days of the date for performance whether performance has occurred.

(I) A requirement that a consumer resort to the Mechanism prior to commencement of an action under section 110(d) of the Act shall be satisfied 40 days after notification to the Mechanism of the dispute or when the Mechanism completes all of its duties under paragraph (d) of this section, whichever occurs sooner. Except that, if the Mechanism delays performance of its paragraph (d) of this section duties as allowed by paragraph (e) of this section, the requirement that the consumer initially resort to the Mechanism shall not be satisfied until the period of delay allowed by paragraph (e) of this section has ended.

(j) Decisions of the Mechanism shall not be legally binding on any person. However, the warrantor shall act in good faith, as provided in § 703.2(g) of this part. In any civil action arising out of a warranty obligation and relating to a matter considered by the Mechanism, any decision of the Mechanism shall be admissible in evidence, as provided in section 110(a) (3) of the Act.

§ 703.6 Record keeping.

(a) The Mechanism shall maintain records on each dispute referred to it which shall include:

(1) Name, address and telephone number of the consumer;

(2) Name, address, telephone number and contact person of the warrantor;

(3) Brand name and model number of the product involved;

(4) The date of receipt of the dispute and the date of disclosure to the consumer of the decision;

(5) All letters or other written documents submitted by either party;

(6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in § 703.4(b) of this part);

(7) A summary of any relevant and material information presented by either party at an oral presentation;

(8) The decision of the members including information as to date, time and place of meeting, and the identity of members voting; or information on any other resolution;
(9) A copy of the disclosure to the parties of the decision;
(10) A statement of the warrantor's intended action(s);
(11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer, and responses thereto; and
(12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

(b) The Mechanism shall maintain an index of each warrantor's disputes grouped under brand name and sub-grouped under product model.

(c) The Mechanism shall maintain an index for each warrantor as will show:
(1) All disputes in which the warrantor has promised some performance (either by settlement or in response to a Mechanism decision) and has failed to comply; and
(2) All disputes in which the warrantor has refused to abide by a Mechanism decision.

(d) The Mechanism shall maintain an index as will show all disputes delayed beyond 40 days.

(e) The Mechanism shall compile semi-annually and maintain statistics which show the number and percent of disputes in each of the following categories:
(1) Resolved by staff of the Mechanism and warrantor has complied;
(2) Resolved by staff of the Mechanism, time for compliance has occurred, and warrantor has not complied;
(3) Resolved by staff of the Mechanism and time for compliance has not yet occurred;
(4) Decided by members and warrantor has complied;
(5) Decided by members, time for compliance has occurred, and warrantor has not complied;
(6) Decided by members and time for compliance has not yet occurred;
(7) Decided by members adverse to the consumer;
(8) No jurisdiction;
(9) Decision delayed beyond 40 days under § 703.5(e)(1) of this part;
(10) Decision delayed beyond 40 days under § 703.5(e)(2) of this part;
(11) Decision delayed beyond 40 days for any other reason; and
(12) Pending decision.

(f) The Mechanism shall retain all records specified in paragraphs (a) through (e) of this section for at least 4 years after final disposition of the dispute.

§ 703.7 Audits.

(a) The Mechanism shall have an audit conducted at least annually, to determine whether the Mechanism and its implementation are in compliance with this part. All records of the Mechanism required to be kept under § 703.6 of this part shall be available for audit.

(b) Each audit provided for in paragraph (a) of this section shall include at a

minimum the following:

(1) Evaluation of warrantors' efforts to make consumers aware of the Mechanism's existence as required in § 703.2(d) of this part;

(2) Review of the indexes maintained pursuant to § 703.6 (b), (c), and (d) of this part; and

(3) Analysis of a random sample of disputes handled by the Mechanism to determine the following:

(I) Adequacy of the Mechanism's complaint and other forms, investigation, mediation and follow-up efforts, and other aspects of complaint handling; and

(ii) Accuracy of the Mechanism's statistical compilations under § 703.6(e) of this part. (For purposes of this subparagraph "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random sample.)

(c) A report of each audit under this section shall be submitted to the Federal Trade Commission, and shall be made available to any person at reasonable cost. The Mechanism may direct its auditor to delete names of parties to disputes, and identity of products involved, from the audit report.

(d) Auditors shall be selected by the Mechanism. No auditor may be involved with the Mechanism as a warrantor, sponsor or member, or employee or agent thereof, other than for purposes of the audit.

§ 703.8 Openness of records and proceedings.

(a) The statistical summaries specified in § 703.6(e) of this part shall be available to any person for inspection and copying.

(b) Except as provided under paragraphs (a) and (e) of this section, and paragraph (c) of § 703.7 of this part, all records of the Mechanism may be kept confidential, or made available only on such terms and conditions, or in such form, as the Mechanism shall permit.

(c) The policy of the Mechanism with respect to records made available at the Mechanism's option shall be set out in the procedures under § 703.5(a) of this part; the policy shall be applied uniformly to all requests for access to or copies of such records.

(d) Meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms. The identity of the parties and products involved in disputes need not be disclosed at meetings.

(e) Upon request the Mechanism shall provide to either party to a dispute:

(1) Access to all records relating to the dispute; and

(2) Copies of any records relating to the dispute, at reasonable cost.

(f) The Mechanism shall make available to any person upon request, information relating to the qualifications of Mechanism staff and members.

APPENDIX
C

APPENDIX C

FLORIDA STATUTES CHAPTER 681
MOTOR VEHICLE SALES WARRANTIES

681.10 Short title.
681.101 Legislative Intent.
681.102 Definitions.
681.103 Duty of manufacturer to conform a motor vehicle to the warranty.
681.104 Non-conformity of motor vehicle.
681.106 Bad faith claims.
681.108 Dispute settlement procedures.
681.109 Florida New Motor Vehicle Arbitration Board; dispute eligibility.
681.1095 Florida New Motor Vehicle Arbitration Board; creation and function.
681.110 Compliance and disciplinary actions.
681.111 Unfair or deceptive trade practice.
681.112 Consumer remedies.
681.113 Dealer liability.
681.114 Resale of returned vehicles.
681.115 Certain agreements void.
681.116 Preemption.
681.117 Fee.
681.118 Rule-making authority.

§ 681.10 Short title.--

This chapter shall be known and may be cited as the "Motor Vehicle Warranty Enforcement Act."

§ **681.101 Legislative intent.**--

The Legislature recognizes that a motor vehicle is a major consumer purchase and that a defective motor vehicle undoubtedly creates a hardship for the consumer. The Legislature further recognizes that a duly franchised motor vehicle dealer is an authorized service agent of the manufacturer. It is the intent of the Legislature that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time; however, it is not the intent of the Legislature that a consumer establish the presumption of a reasonable number of attempts as to each manufacturer that provides a warranty directly to the consumer. It is further the intent of the Legislature to provide the statutory procedures whereby a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the warranty provided for in this chapter. However, nothing in this chapter shall in any way limit or expand the rights or remedies which are otherwise available to a consumer under any other law.

§ **681.102 Definitions.**--

As used in this chapter, the term:

(1) "Authorized service agent" means any person, including a franchised

motor vehicle dealer, who is authorized by the manufacturer to service motor vehicles. In the case of a recreational vehicle when there are two or more manufacturers, an authorized service agent for any individual manufacturer is any person, including a franchised motor vehicle dealer, who is authorized to service the items warranted by that manufacturer. The term does not include a rental car company authorized to repair rental vehicles.

(2) "Board" means the Florida New Motor Vehicle Arbitration Board.

(3) "Collateral charges" means those additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle. For the purposes of this chapter, collateral charges include, but are not limited to, manufacturer-installed or agent-installed items or service charges, earned finance charges, sales taxes, and title charges.

(4) "Consumer" means the purchaser, other than for purposes of resale, or the lessee, of a motor vehicle primarily used for personal, family, or household purposes; any person to whom such motor vehicle is transferred for the same purposes during the duration of the Lemon Law rights period; and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

(5) "Days" means calendar days.

(6) "Department" means the Department of Legal Affairs.

(7) "Division" means the Division of Consumer Services of the Department of Agriculture and Consumer Services.

(8) "Incidental charges" means those reasonable costs to the consumer which are directly caused by the nonconformity of the motor vehicle.

(9) "Lease price" means the aggregate of the capitalized cost, as defined in § 521.003(2), and each of the following items to the extent not included in the capitalized cost:

(a) Lessor's earned rent charges through the date of repurchase.

(b) Collateral charges, if applicable.

(c) Any fee paid to another to obtain the lease.

(d) Any insurance or other costs expended by the lessor for the benefit of the lessee.

(e) An amount equal to state and local sales taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was initially purchased.

(10) "Lemon Law rights period" means the period ending 24 months after the date of the original delivery of a motor vehicle to a consumer.

(11) "Lessee" means any consumer who leases a motor vehicle for 1 year or more pursuant to a written lease agreement which provides that the lessee is responsible for repairs to such motor vehicle or any consumer who leases a motor vehicle pursuant to a lease-purchase agreement.

(12) "Lessee cost" means the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle but excludes debt from any other transaction.

(13) "Lessor" means a person who holds title to a motor vehicle that is leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement.
(14) "Manufacturer" means any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles, or who manufactures or assembles chassis for recreational vehicles, or who manufactures or installs on previously assembled truck or recreational vehicle chassis special bodies or equipment which, when installed, forms an integral part of the motor vehicle, a distributor as defined in § 320.60(5), or an importer as defined in § 320.60(7). A dealer as defined in § 320.60(11)(a) shall not be deemed to be a manufacturer, distributor, or importer as provided in this section.
(15) Motor vehicle" means a new vehicle, propelled by power other than muscular power, which is sold in this state to transport persons or property, and includes a recreational vehicle or a vehicle used as a demonstrator or leased vehicle if a manufacturer's warranty was issued as a condition of sale, or the lessee is responsible for repairs, but does not include vehicles run only upon tracks, off-road vehicles, trucks over 10,000 pounds gross vehicle weight, motorcycles, mopeds, or the living facilities of recreational vehicles. "Living facilities of recreational vehicles" are those portions designed, used, or maintained primarily as living quarters and include, but are not limited to, the flooring, plumbing system and fixtures, roof air conditioner, furnace, generator, electrical systems other than automotive circuits, the side entrance door, exterior compartments, and windows other than the windshield and driver and front passenger windows.
(16) "Nonconformity" means a defect or condition that substantially impairs the use, value, or safety of a motor vehicle, but does not include a defect or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.
(17) "Procedure" means an informal dispute-settlement procedure established by a manufacturer to mediate and arbitrate motor vehicle warranty disputes.
(18) "Program" means the mediation and arbitration pilot program for recreational vehicles established in this chapter.
(19) "Purchase price" means the cash price as defined in § 520.31(2), inclusive of any allowance for a trade-in vehicle, but excludes debt from any other transaction. "Any allowance for a trade-in vehicle" means the net trade-in allowance as reflected in the purchase contract or lease agreement if acceptable to the consumer and manufacturer. If such amount is not acceptable to the consumer and manufacturer, then the trade-in allowance shall be an amount equal to 100 percent of the retail price of the trade-in vehicle as reflected in the NADA Official Used Car Guide (Southeastern Edition) or NADA Recreation Vehicle Appraisal

Guide, whichever is applicable, in effect at the time of the trade-in. The manufacturer shall be responsible for providing the applicable NADA book.
(20) "Reasonable offset for use" means the number of miles attributable to a consumer up to the date of a settlement agreement or arbitration hearing, whichever occurs first, multiplied by the purchase price of the vehicle and divided by 120,000, except in the case of a recreational vehicle, in which event it shall be divided by 60,000.
(21) "Recreational vehicle" means a motor vehicle primarily designed to provide temporary living quarters for recreational, camping, or travel use, but does not include a van conversion.
(22) "Replacement motor vehicle" means a motor vehicle which is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of acquisition. "Reasonably equivalent to the motor vehicle to be replaced" means the manufacturer's suggested retail price of the replacement vehicle shall not exceed 105 percent of the manufacturer's suggested retail price of the motor vehicle to be replaced. In the case of a recreational vehicle, "reasonably equivalent to the motor vehicle to be replaced" means the retail price of the replacement vehicle shall not exceed 105 percent of the purchase price of the recreational vehicle to be replaced.
(23) "Warranty" means any written warranty issued by the manufacturer, or any affirmation of fact or promise made by the manufacturer, excluding statements made by the dealer, in connection with the sale of a motor vehicle to a consumer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is free of defects or will meet a specified level of performance.

§ **681.103 Duty of manufacturer to conform a motor vehicle to the warranty.**--
(1) If a motor vehicle does not conform to the warranty and the consumer first reports the problem to the manufacturer or its authorized service agent during the Lemon Law rights period, the manufacturer or its authorized service agent shall make such repairs as are necessary to conform the vehicle to the warranty, irrespective of whether such repairs are made after the expiration of the Lemon Law rights period. Such repairs shall be at no cost to the consumer if made during the term of the manufacturer's written express warranty. Nothing in this paragraph shall be construed to grant an extension of the Lemon Law rights period or to expand the time within which a consumer must file a claim under this chapter.
(2) Each manufacturer shall provide to its consumers conspicuous notice of the address and phone number for its zone, district, or regional office for this state in the written warranty or owner's manual. By January 1 of each year, each manufacturer shall forward to the Department of Legal Affairs a copy of the owner's manual and any written warranty for each make and model of motor vehicle that it sells in this state.
(3) At the time of acquisition, the manufacturer shall inform the consumer

clearly and conspicuously in writing how and where to file a claim with a certified procedure if such procedure has been established by the manufacturer pursuant to § 681.108. The manufacturer shall provide to the dealer and, at the time of acquisition, the dealer shall provide to the consumer a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared by the Department of Legal Affairs and shall contain a toll-free number for the division that the consumer can contact to obtain information regarding the consumer's rights and obligations under this chapter or to commence arbitration. If the manufacturer obtains a signed receipt for timely delivery of sufficient quantities of this written statement to meet the dealer's vehicle sales requirements, it shall constitute prima facie evidence of compliance with this subsection by the manufacturer. The consumer's signed acknowledgment of receipt of materials required under this subsection shall constitute prima facie evidence of compliance by the manufacturer and dealer. The form of the acknowledgments shall be approved by the Department of Legal Affairs, and the dealer shall maintain the consumer's signed acknowledgment for 3 years.

(4) A manufacturer, through its authorized service agent, shall provide to the consumer, each time the consumer's motor vehicle is returned after being examined or repaired under the warranty, a fully itemized, legible statement or repair order indicating any test drive performed and the approximate length of the test drive, any diagnosis made, and all work performed on the motor vehicle including, but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the motor vehicle was submitted for examination or repair, and the date when the repair or examination was completed.

§ **681.104 Nonconformity of motor vehicles.**--

(1)

(a) After three attempts have been made to repair the same nonconformity, the consumer shall give written notification, by registered or express mail to the manufacturer, of the need to repair the nonconformity to allow the manufacturer a final attempt to cure the nonconformity. The manufacturer shall have 10 days, commencing upon receipt of such notification, to respond and give the consumer the opportunity to have the motor vehicle repaired at a reasonably accessible repair facility within a reasonable time after the consumer's receipt of the response. The manufacturer shall have 10 days, except in the case of a recreational vehicle, in which event the manufacturer shall have 45 days, commencing upon the delivery of the motor vehicle to the designated repair facility by the consumer, to conform the motor vehicle to the warranty. If the manufacturer fails to respond to the consumer and give the consumer the opportunity to have the motor vehicle repaired at a

reasonably accessible repair facility or perform the repairs within the time periods prescribed in this subsection, the requirement that the manufacturer be given a final attempt to cure the nonconformity does not apply.

(b) If the motor vehicle is out of service by reason of repair of one or more non-conformities by the manufacturer or its authorized service agent for a cumulative total of 15 or more days, exclusive of downtime for routine maintenance prescribed by the owner's manual, the consumer shall so notify the manufacturer in writing by registered or express mail to give the manufacturer or its authorized service agent an opportunity to inspect or repair the vehicle.

(2)

(a) If the manufacturer, or its authorized service agent, cannot conform the motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within 40 days, shall repurchase the motor vehicle and refund the full purchase price to the consumer, less a reasonable offset for use, or, in consideration of its receipt of payment from the consumer of a reasonable offset for use, replace the motor vehicle with a replacement motor vehicle acceptable to the consumer. The refund or replacement must include all reasonably incurred collateral and incidental charges. However, the consumer has an unconditional right to choose a refund rather than a replacement motor vehicle. Upon receipt of such refund or replacement, the consumer, lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the motor vehicle.

(b) Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear. If applicable, refunds shall be made to the lessor and lessee as follows: The lessee shall receive the lessee cost and the lessor shall receive the lease price less the lessee cost. A penalty for early lease termination may not be assessed against a lessee who receives a replacement motor vehicle or refund under this chapter. The Department of Revenue shall refund to the manufacturer any sales tax which the manufacturer refunded to the consumer, lienholder, or lessor under this section, if the manufacturer provides to the department a written request for a refund and evidence that the sales tax was paid when the vehicle was purchased and that the manufacturer refunded the sales tax to the consumer, lienholder, or lessor.

(3) It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the warranty if, during the Lemon Law rights period, either:

(a) The same nonconformity has been subject to repair at least three times by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the motor vehicle

if undertaken as provided for in paragraph (1)(a), and such nonconformity continues to exist; or

(b) The motor vehicle has been out of service by reason of repair of one or more non-conformities by the manufacturer, or its authorized service agent, for a cumulative total of 30 or more days, 60 or more days in the case of a recreational vehicle, exclusive of downtime for routine maintenance prescribed by the owner's manual. The manufacturer or its authorized service agent must have had at least one opportunity to inspect or repair the vehicle following receipt of the notification as provided in paragraph (1)(b). The 30-day period, or 60-day period in the case of a recreational vehicle, may be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or natural disaster.

(4) It is an affirmative defense to any claim under this chapter that:

(a) The alleged nonconformity does not substantially impair the use, value, or safety of the motor vehicle;

(b) The nonconformity is the result of an accident, abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by persons other than the manufacturer or its authorized service agent; or

(c) The claim by the consumer was not filed in good faith.

Any other affirmative defense allowed by law may be raised against the claim.

§ **681.106 Bad faith claims.**--

Any claim by a consumer which is found by the court to have been filed in bad faith or solely for the purpose of harassment, or in complete absence of a justiciable issue of either law or fact raised by the consumer, shall result in the consumer being liable for all costs and reasonable attorney's fees incurred by the manufacturer, or its agent, as a direct result of the bad faith claim.

§ **681.108 Dispute-settlement procedures.**--

(1) If a manufacturer has established a procedure, which the division has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to § 681.103(3), the provisions of § 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decision-makers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decision-makers and staff of a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983. In an

action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.
(2) A manufacturer may apply to the division for certification of its procedure. After receipt and evaluation of the application, the division shall certify the procedure or notify the manufacturer of any deficiencies in the application or the procedure.
(3) A certified procedure or a procedure of an applicant seeking certification shall submit to the division a copy of each settlement approved by the procedure or decision made by a decision-maker within 30 days after the settlement is reached or the decision is rendered. The decision or settlement must contain at a minimum the:

(a) Name and address of the consumer;
(b) Name of the manufacturer and address of the dealership from which the motor vehicle was purchased;
(c) Date the claim was received and the location of the procedure office that handled the claim;
(d) Relief requested by the consumer;
(e) Name of each decision-maker rendering the decision or person approving the settlement;
(f) Statement of the terms of the settlement or decision;
(g) Date of the settlement or decision; and
(h) Statement of whether the decision was accepted or rejected by the consumer.

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.
(5) The division shall review each certified procedure at least annually, prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking certification, and, for a period not to exceed 1 year, shall grant certification to, or renew certification for, those manufacturers whose procedures substantially comply with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and rules adopted under this chapter. If certification is revoked or denied, the division shall state the reasons for such action. The reports and records of actions taken with respect to certification shall be public records.
(6) A manufacturer whose certification is denied or revoked is entitled to a hearing pursuant to chapter 120.
(7) If federal preemption of state authority to regulate procedures occurs, the provisions of subsection (1) concerning prior resort do not apply.
(8) The division shall adopt rules to implement this section.

§ **681.109 Florida New Motor Vehicle Arbitration Board; dispute eligibility.**–

(1) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a decision is not rendered by the certified procedure within 40 days of filing, the consumer may apply to the division to have the dispute removed to the board for arbitration.

(2) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a consumer is not satisfied with the decision or the manufacturer's compliance therewith, the consumer may apply to the division to have the dispute submitted to the board for arbitration. A manufacturer may not seek review of a decision made under its procedure.

(3) If a manufacturer has no certified procedure or if a certified procedure does not have jurisdiction to resolve the dispute, a consumer may apply directly to the division to have the dispute submitted to the board for arbitration.

(4) A consumer must request arbitration before the board with respect to a claim arising during the Lemon Law rights period no later than 60 days after the expiration of the Lemon Law rights period, or within 30 days after the final action of a certified procedure, whichever date occurs later.

(5) The division shall screen all requests for arbitration before the board to determine eligibility. The consumer's request for arbitration before the board shall be made on a form prescribed by the department. The division shall forward to the board all disputes that the division determines are potentially entitled to relief under this chapter.

(6) The division may reject a dispute that it determines to be fraudulent or outside the scope of the board's authority. Any dispute deemed by the division to be ineligible for arbitration by the board due to insufficient evidence may be reconsidered upon the submission of new information regarding the dispute. Following a second review, the division may reject a dispute if the evidence is clearly insufficient to qualify for relief. Any dispute rejected by the division shall be forwarded to the department and a copy shall be sent by registered mail to the consumer and the manufacturer, containing a brief explanation as to the reason for rejection.

(7) If the division rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to a matter considered by the division, any determination made to reject a dispute is admissible in evidence.

(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.

§ **681.1095 Florida New Motor Vehicle Arbitration Board; creation and function.**--

(1) There is established within the Department of Legal Affairs, the Florida New Motor Vehicle Arbitration Board, consisting of members appointed by the Attorney General for an initial term of 1 year. Board members may be reappointed for additional terms of 2 years. Each board member is accountable to the Attorney General for the performance of the member's duties and is exempt from civil liability for any act or omission which occurs while acting in the member's official capacity. The Department of Legal Affairs shall defend a member in any action against the member or the board which arises from any such act or omission. The Attorney General may establish as many regions of the board as necessary to carry out the provisions of this chapter.

(2) The boards shall hear cases in various locations throughout the state so any consumer whose dispute is approved for arbitration by the division may attend an arbitration hearing at a reasonably convenient location and present a dispute orally. Hearings shall be conducted by panels of three board members assigned by the department. A majority vote of the three-member board panel shall be required to render a decision. Arbitration proceedings under this section shall be open to the public on reasonable and nondiscriminatory terms.

(3) Each region of the board shall consist of up to eight members. The members of the board shall construe and apply the provisions of this chapter, and rules adopted thereunder, in making their decisions. An administrator and a secretary shall be assigned to each board by the Department of Legal Affairs. At least one member of each board must be a person with expertise in motor vehicle mechanics. A member must not be employed by a manufacturer or a franchised motor vehicle dealer or be a staff member, a decision-maker, or a consultant for a procedure. Board members shall be trained in the application of this chapter and any rules adopted under this chapter, shall be reimbursed for travel expenses pursuant to § 112.061, and shall be compensated at a rate or wage prescribed by the Attorney General.

(4) Before filing a civil action on a matter subject to § 681.104, the consumer must first submit the dispute to the division, and to the board if such dispute is deemed eligible for arbitration.

(5) Manufacturers shall submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the division pursuant to § 681.109.

(6) The board shall hear the dispute within 40 days and render a decision within 60 days after the date the request for arbitration is approved. The board may continue the hearing on its own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes waiver of the time periods set forth in this subsection. The Department of Legal Affairs, at the board's request, may investigate disputes, and may issue subpoenas for the attendance of witnesses and

for the production of records, documents, and other evidence before the board. The failure of the board to hear a dispute or render a decision within the prescribed periods does not invalidate the decision.
(7) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The board may administer oaths or affirmations to witnesses and inspect the vehicle if requested by a party or if the board deems such inspection appropriate.
(8) The board shall grant relief, if a reasonable number of attempts have been undertaken to correct a nonconformity or non-conformities.
(9) The decision of the board shall be sent by registered mail to the consumer and the manufacturer, and shall contain written findings of fact and rationale for the decision. If the decision is in favor of the consumer, the manufacturer must, within 40 days after receipt of the decision, comply with the terms of the decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. In any civil action arising under this chapter and relating to a dispute arbitrated before the board, any decision by the board is admissible in evidence.
(10) A decision is final unless appealed by either party. A petition to the circuit court to appeal a decision must be made within 30 days after receipt of the decision. The petition shall be filed in the county where the consumer resides, or where the motor vehicle was acquired, or where the arbitration hearing was conducted. Within 7 days after the petition has been filed, the appealing party must send a copy of the petition to the department. If the department does not receive notice of such petition within 40 days after the manufacturer's receipt of a decision in favor of the consumer, and the manufacturer has neither complied with, nor has petitioned to appeal such decision, the department may apply to the circuit court to seek imposition of a fine up to $1,000 per day against the manufacturer until the amount stands at twice the purchase price of the motor vehicle, unless the manufacturer provides clear and convincing evidence that the delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the department shall initiate proceedings against the manufacturer for failure to pay such fine. The proceeds from the fine herein imposed shall be placed in the Motor Vehicle Warranty Trust Fund in the department for implementation and enforcement of this chapter. If the manufacturer fails to comply with the provisions of this subsection, the court shall affirm the award upon application by the consumer.
(11) All provisions in this section and § 681.109 pertaining to compulsory arbitration before the board, the dispute eligibility screening by the division, the proceedings and decisions of the board, and any appeals thereof, are exempt from the provisions of chapter 120.

(12) An appeal of a decision by the board to the circuit court by a consumer or a manufacturer shall be by trial de novo. In a written petition to appeal a decision by the board, the appealing party must state the action requested and the grounds relied upon for appeal. Within 30 days of final disposition of the appeal, the appealing party shall furnish the department with notice of such disposition and, upon request, shall furnish the department with a copy of the order or judgment of the court.
(13) If a decision of the board in favor of the consumer is upheld by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of $25 per day for each day beyond the 40-day period following the manufacturer's receipt of the board's decision. If a court determines that the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.
(14) When a judgment affirms a decision by the board in favor of a consumer, appellate review may be conditioned upon payment by the manufacturer of the consumer's attorney's fees and giving security for costs and expenses resulting from the review period.
(15) The department shall maintain records of each dispute submitted to the board, and the program, including an index of motor vehicles by year, make, and model, and shall compile aggregate annual statistics for all disputes submitted to, and decided by, the board, as well as annual statistics for each manufacturer that include, but are not limited to, the value, if applicable, and the number and percent of:

(a) Replacement motor vehicle requests;
(b) Purchase price refund requests;
(c) Replacement motor vehicles obtained in pre-hearing settlements;
(d) Purchase price refunds obtained in pre-hearing settlements;
(e) Replacement motor vehicles awarded in arbitration;
(f) Purchase price refunds awarded in arbitration;
(g) Board decisions neither complied with in 40 days nor petitioned for appeal within 30 days;
(h) Board decisions appealed;
(I) Appeals affirmed by the court; and
(j) Appeals found by the court to be brought in bad faith or solely for the purpose of harassment.

The statistics compiled under this subsection are public information.
(16) When requested by the department, a manufacturer must verify the settlement terms for disputes that are approved for arbitration but are not decided by the board.

§ **681.1096 Pilot RV Mediation and Arbitration Program; creation and**

qualifications.--

(1) This section and § 681.1097 shall apply to disputes determined eligible under this chapter involving recreational vehicles acquired on or after October 1, 1997, and shall remain in effect until September 30, 2001, at which time recreational vehicle disputes shall be subject to the provisions of § 681.109 and § 681.1095. The Attorney General shall report annually to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, and appropriate legislative committees regarding the efficiency and cost-effectiveness of the pilot program.

(2) Each manufacturer of a recreational vehicle involved in a dispute that is determined eligible under this chapter, including chassis and component manufacturers which separately warrant the chassis and components and which otherwise meet the definition of manufacturer set forth in § 681.102(14), shall participate in a mediation and arbitration program that is deemed qualified by the department.

(3) In order to be deemed qualified by the department, the mediation and arbitration program must, at a minimum, meet the following requirements:

(a) The program must be administered by an administrator and staff that is sufficiently insulated from the manufacturer to ensure impartial mediation and arbitration services.

(b) Program administration fees must be paid by the manufacturer and no such fees shall be charged to a consumer.

(c) The program must be adequately staffed at a level sufficient to ensure the provision of fair and expeditious dispute resolution services.

(d) Program mediators and arbitrators must be sufficiently insulated from a manufacturer to ensure the provision of impartial mediation and arbitration of disputes.

(e) Program mediators and arbitrators shall not be employed by a manufacturer or a motor vehicle dealer.

(f) Program mediators must complete a Florida Supreme Court certified circuit or county mediation training program, or other mediation training program approved by the department, in addition to a minimum of one-half day of training on this chapter conducted by the department.

(g) Program mediators must comply with the Model Standards of Conduct for Mediators issued by the American Arbitration Association, the Dispute Resolution Section of the American Bar Association, and the Society of Professionals in Dispute Resolution.

(h) Program arbitrators must complete a Florida Supreme Court certified circuit or county arbitration program, or other arbitration training program approved by the department, in addition to a minimum of 1 day of training in the application of this chapter and any rules adopted thereunder conducted by the department.

(l) Program arbitrators must comply with the Code of Ethics for Arbitrators in Commercial Disputes published by the American Arbitration Association and the American Bar Association in 1977 and as amended.

(j) Program arbitrators must construe and apply the provisions of this chapter and rules adopted thereunder in making decisions.

(k) The program must complete all mediation and arbitration of an eligible consumer claim within 70 days of the program administrator's receipt of the claim from the department. Failure of the program to complete all proceedings within the prescribed period will not invalidate any settlement agreement or arbitration decision.

(l) Mediation conferences and arbitration proceedings must be held at reasonably convenient locations within the state so as to enable a consumer to attend and present a dispute orally.

(4) The department shall monitor the program for compliance with this chapter. If the program is determined not qualified or if qualification is revoked, then the involved manufacturer shall be required to submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the division pursuant to § 681.109.

(5) If a program is determined not qualified or if qualification is revoked, the involved manufacturer shall be notified by the department of any deficiencies in the program and informed that it is entitled to a hearing pursuant to chapter 120.

(6) The program administrator, mediators, and arbitrators are exempt from civil liability arising from any act or omission in connection with any mediation or arbitration conducted under this chapter.

(7) The program administrator shall maintain records of each dispute submitted to the program, including the recordings of arbitration hearings. All records maintained by the program under this chapter shall be public records and shall be available for inspection by the department upon reasonable notice. The records for disputes closed as of September 30 of each year shall be turned over to the department by the program administrator by no later than October 30 of the same year, unless a later date is specified by the department.

(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.

§ **681.1097 Pilot RV Mediation and Arbitration Program; dispute eligibility and program function.**--

(1) Before filing a civil action on a matter subject to § 681.104, a consumer who acquires a recreational vehicle must first submit the dispute to the department, and to the program if the dispute is deemed eligible. Such consumer is not required to resort to a procedure certified pursuant to § 681.108, notwithstanding that one of the manufacturers of the recreational

vehicle has such a procedure. Such consumer is not required to resort to arbitration conducted by the board, except as provided in § 681.1096(4) and in this section.

(2) A consumer acquiring a recreational vehicle must apply to participate in this program with respect to a claim arising during the Lemon Law rights period by filing the application in subsection (3) with the department no later than 60 days after the expiration of the Lemon Law rights period.

(3) The consumer's application for participation in the program must be on a form prescribed or approved by the department. The department shall screen all applications to participate in the program to determine eligibility. The department shall forward to the program administrator all applications the department determines are potentially entitled to relief under this chapter.

(a) If the department determines the application lacks sufficient information from which a determination of eligibility can be made, the department shall request additional information from the consumer and, upon review of such additional information, shall determine whether the application is eligible or reject the application as incomplete.

(b) The department shall reject any application it determines to be fraudulent or outside the scope of this chapter.

(c) The consumer and the manufacturer shall be notified in writing by the department if an application is rejected. Such notification of rejection shall include a brief explanation as to the reason for the rejection.

(d) If the department rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to the matter considered by the department, any determination made to reject a dispute is admissible in evidence.

(4) Mediation shall be mandatory for both the consumer and manufacturer, unless the dispute is settled prior to the scheduled mediation conference. The mediation conference shall be confidential and inadmissible in any subsequent adversarial proceedings. Participation shall be limited to the parties directly involved in the dispute and their attorneys, if any. All manufacturers shall be represented by persons with settlement authority.

(a) Upon receipt of an eligible application from the department, the program administrator shall notify the consumer and all involved manufacturers in writing that an eligible application has been received. Such notification shall include a statement that a mediation conference will be scheduled, shall identify the assigned mediator, and provide information regarding the program's procedures. The program administrator shall provide all involved manufacturers with a copy of the completed application.

(b) The mediator shall be selected and assigned by the program

administrator. The parties may factually object to a mediator based upon the mediator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another mediator to the case.

(c) At the mediation conference, the mediator shall assist the parties' efforts to reach a mutually acceptable settlement of their dispute; however, the mediator shall not impose any settlement upon the parties.

(d) Upon conclusion of the mediation conference, the mediator shall notify the program administrator that the case has settled or remains at an impasse. The program administrator shall notify the department in writing of the outcome of the mediation.

(e) If the mediation conference ends in an impasse, it shall proceed to arbitration pursuant to subsection (5). The program administrator shall immediately notify the parties in writing that the dispute will proceed to arbitration and shall identify the assigned arbitrator.

(f) If the parties enter into a settlement at any time after the dispute has been submitted to the program, such settlement must be reduced to writing, signed by the consumer and all involved manufacturers, and filed with the program administrator. The program administrator shall send a copy to the department. All settlements must contain, at a minimum, the following information:

1. Name and address of the consumer.
2. Name and address of each involved manufacturer.
3. Year, make, model, and vehicle identification number of the subject recreational vehicle.
4. Name and address of the dealership from which the recreational vehicle was acquired.
5. Date the claim was received by the program administrator.
6. Name of the mediator and/or arbitrator, if any.
7. Statement of the terms of the agreement, including, but not limited to: whether the vehicle is to be reacquired by a manufacturer and the identity of the manufacturer that will reacquire the vehicle; the amount of any moneys to be paid by the consumer and/or a manufacturer; the year, make, and model of any replacement motor vehicle or motor vehicle accepted by the consumer as a trade-assist; and a time certain for performance not to exceed 40 days from the date the settlement agreement is signed by the parties.

(g) If a manufacturer fails to perform within the time required in any settlement agreement, the consumer must notify the program administrator of such failure in writing within 10 days of the required

performance date. Within 10 days of receipt of such notice, the program administrator shall notify the department of the manufacturer's failure in compliance and shall schedule the matter for an arbitration hearing pursuant to subsection (5).

(5) If the mediation ends in an impasse, or if a manufacturer fails to comply with the settlement entered into between the parties, the program administrator shall schedule the dispute for an arbitration hearing. Arbitration proceedings shall be open to the public on reasonable and nondiscriminatory terms.

(a) The arbitration hearing shall be conducted by a single arbitrator assigned by the program administrator. The arbitrator shall not be the same person as the mediator who conducted the prior mediation conference in the dispute. The parties may factually object to an arbitrator based on the arbitrator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another arbitrator to the case.

(b) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party to the arbitration, enforced in the manner provided by law for the service and enforcement of subpoenas in civil actions. Fees for attendance as a witness shall be the same as for a witness in the circuit court.

(c) At all program arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths. The arbitrator may inspect the vehicle if requested by a party or if the arbitrator considers such inspection appropriate.

(d) The program arbitrator may continue a hearing on his or her own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes a waiver of the time period set forth in § 681.1096(3)(k) for completion of all proceedings under the program.

(e) Where the arbitration is the result of a manufacturer's failure to perform in accordance with a mediation agreement, any relief to the consumer granted by the arbitration will be no less than the relief agreed to by the manufacturer in the settlement agreement.

(f) The arbitrator shall grant relief if a reasonable number of attempts have been undertaken to correct a nonconformity or non-

conformities.

(g) The program arbitrator shall render a decision within 10 days of the closing of the hearing. The decision shall be in writing on a form prescribed or approved by the department. The program administrator shall send a copy of the decision to the consumer and each involved manufacturer by registered mail. The program administrator shall also send a copy of the decision to the department within 5 days of mailing to the parties.

(h) A manufacturer shall comply with an arbitration decision within 40 days of the date the manufacturer receives the written decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. If a manufacturer fails to comply within the time required, the consumer must notify the program administrator in writing within 10 days. The program administrator shall notify the department of a manufacturer's failure to comply. The department shall have the authority to enforce compliance with arbitration decisions under this section in the same manner as is provided for enforcement of compliance with board decisions under § 681.1095(10). In any civil action arising under this chapter and relating to a dispute arbitrated pursuant to this section, the decision of the arbitrator is admissible in evidence.

(6) Except as otherwise provided, all provisions in this section pertaining to mandatory mediation and arbitration, eligibility screening, mediation proceedings, arbitration hearings and decisions, and any appeals thereof are exempt from the provisions of chapter 120.

(7) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business or, if neither party resides or has a place of business in this state, the county where the arbitration hearing was held, for an order confirming, vacating, modifying, or correcting any award, in accordance with the provisions of this section and § 682.12, 682.13, § 682.14, § 682.15, and § 682.17. Such application must be filed within 30 days of the moving party's receipt of the written decision or the decision becomes final. Upon filing such application, the moving party shall mail a copy to the department and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the department. A review of such application by the circuit court shall be confined to the record of the proceedings before the program arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in § 682.13 and § 682.14, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual findings of the arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the arbitrator fails to state findings

or reasons for the stated award, or the findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. The court shall expedite consideration of any application filed under this section on the calendar.

(a) If a decision of a program arbitrator in favor of a consumer is confirmed by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of $25 per day for each day beyond the 40-day period following a manufacturer's receipt of the arbitrator's decision. If a court determines the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment, or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.

(b) An appeal of a judgment or order by the court confirming, denying confirmation, modifying or correcting, or vacating the award may be taken in the manner and to the same extent as from orders or judgments in a civil action.

(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.

§ **681.110 Compliance and disciplinary actions.**--

The Department of Legal Affairs may enforce and ensure compliance with the provisions of this chapter and rules adopted thereunder, may issue subpoenas requiring the attendance of witnesses and production of evidence, and may seek relief in the circuit court to compel compliance with such subpoenas. The Department of Legal Affairs may impose a civil penalty against a manufacturer not to exceed $1,000 for each count or separate offense. The proceeds from the fine imposed herein shall be placed in the Motor Vehicle Warranty Trust Fund in the Department of Legal Affairs for implementation and enforcement of this chapter.

§ **681.111 Unfair or deceptive trade practice.**--

A violation by a manufacturer of this chapter is an unfair or deceptive trade practice as defined in part II of chapter 501.

§ **681.112 Consumer remedies.**--

(1) A consumer may file an action to recover damages caused by a violation of this chapter. The court shall award a consumer who prevails in such action the amount of any pecuniary loss, litigation costs, reasonable attorney's fees, and appropriate equitable relief.

(2) An action brought under this chapter must be commenced within 1 year after the expiration of the Lemon Law rights period, or, if a consumer resorts to an informal dispute-settlement procedure or submits a dispute to the division or board, within 1 year after the final action of the procedure, division, or board.

(3) This chapter does not prohibit a consumer from pursuing other rights or remedies under any other law.

§ **681.113 Dealer liability.**--

Except as provided in § 681.103(3) and § 681.114(2), nothing in this chapter imposes any liability on a dealer as defined in § 320.60(11)(a) or creates a cause of action by a consumer against a dealer, except for written express warranties made by the dealer apart from the manufacturer's warranties. A dealer may not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements, incurred by the manufacturer arising out of this chapter, in the absence of evidence that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions.

§ **681.114 Resale of returned vehicles.**--

(1) A manufacturer who accepts the return of a motor vehicle by reason of a settlement, determination, or decision pursuant to this chapter shall notify the department and report the vehicle identification number of that motor vehicle within 10 days after such acceptance, transfer, or disposal of the vehicle, whichever occurs later.

(2) A person shall not knowingly lease, sell at wholesale or retail, or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or similar statute of another state unless the nature of the nonconformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer, and the manufacturer warrants to correct such nonconformity for a term of 1 year or 12,000 miles, whichever occurs first. The Department of Legal Affairs shall prescribe by rule the form, content, and procedure pertaining to such disclosure statement.

(3) As used in this section, the term "settlement" means an agreement entered into between a manufacturer and consumer that occurs after a dispute is submitted to a procedure or program or is approved for arbitration before the board.

§ **681.115 Certain agreements void.**--

Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter is void as contrary to public policy. The rights set forth in this chapter shall extend to a subsequent transferee of such motor vehicle.

§ **681.116 Preemption.**--

This chapter preempts any similar county or municipal ordinance regarding consumer warranty rights resulting from the acquisition of a motor vehicle in this state.

§ **681.117 Fee.**--

(1) A $2 fee shall be collected by a motor vehicle dealer, or by a person engaged in the business of leasing motor vehicles, from the consumer at the consummation of the sale of a motor vehicle or at the time of entry into a lease agreement for a motor vehicle. Such fees shall be remitted to the

county tax collector or private tag agency acting as agent for the Department of Revenue. All fees, less the cost of administration, shall be transferred monthly to the Department of Legal Affairs for deposit into the Motor Vehicle Warranty Trust Fund. The Department of Legal Affairs shall distribute monthly an amount not exceeding one-fourth of the fees received to the Division of Consumer Services of the Department of Agriculture and Consumer Services to carry out the provisions of § 681.108 and § 681.109. The Department of Legal Affairs shall contract with the Division of Consumer Services for payment of services performed by the division pursuant to § 681.108 and § 681.109.

(2) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the provisions of chapter 212. The fee shall not be included in the computation of estimated taxes pursuant to § 212.11(1)(a), nor shall the dealer's credit provided under § 212.12 apply to the fee. The provisions of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent fees apply to the fee imposed by this section.

§ **681.118 Rule-making authority.**--

The Department of Legal Affairs shall adopt rules pursuant to § 120.536(1) and § 120.54 to implement the provisions of this chapter.

APPENDIX D

APPENDIX D

FLORIDA ADMINISTRATIVE CODE ANNOTATED
TITLE 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
DIVISION OF CONSUMER SERVICES

CHAPTER 5J-11 DISPUTE-SETTLEMENT PROCEDURE CERTIFICATION

Rule 5J-11.001 Purpose of Rules Governing Dispute Resolution Mechanisms

These rules implement and make specific the provisions of § 681.108, Florida Statutes, and establish regulations, procedures and requirements for dispute settlement procedures in the state of Florida.

Enacted eff. December 6, 1993

Rule 5J-11.002 Definitions Pertaining to Dispute-Resolution Mechanisms

The definitions contained in Section 681.102, Florida Statutes, and the following shall apply:

(1) Act -- means Chapter 681, Florida Statutes, the Motor Vehicle Warranty Enforcement Act.

(2) Trade-assist -- means a motor vehicle exchange whereby the consumer receives a motor vehicle which is less in value than a replacement.

(3) Partial refund -- means the repurchase of a consumer's motor vehicle for an amount less than a refund.

(4) Decision -- means a determination rendered under a certified dispute-settlement procedure, including a settlement. Decision also means any interim or non-final determination.

(5) Refund -- means the repurchase of a consumer's motor vehicle for an amount equal to the lease price and lessee cost or the purchase price, including any trade-in allowance and collateral and incidental charges, less a reasonable offset for use.

(6) Administrator -- means the person or entity which administers, manages and executes a certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.003 Certification of Dispute-Settlement Mechanisms

No dispute-settlement procedure established by a manufacturer shall hold itself out as being certified until written certification is issued by the Division.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.004 Manufacturer's Obligation to Notify Buyer or Lessor Concerning Dispute Resolution

Each manufacturer which implements a certified dispute-settlement procedure shall notify each consumer, in writing, upon the acquisition of a motor vehicle:

(1) That, if the consumer resorts to a certified dispute-settlement procedure and a decision is not rendered within 40 days from the date the consumer files a claim with the administrator, the consumer may immediately file a Request for Arbitration with the Division of Consumer

Services, Lemon Law Section.

(2) The toll-free telephone number of the Department of Agriculture and Consumer Services, Division of Consumer Services, Lemon Law Section.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.005 Filing of Lemon Law Claim with Dispute-Settlement Mechanism

(1) A claim with a certified dispute-settlement procedure shall be deemed to be filed by the consumer upon notification of the following information to the administrator:

(a) The consumer's name and address;

(b) The brand name and vehicle identification number (VIN) of the consumer's motor vehicle; and

(c) A statement as to the nature of the defect or other complaint.

(2) A claim will not be considered as filed if the consumer fails to provide the information required under subsection (1) above.

(3) At the time of acquisition of a motor vehicle, the manufacturer may provide to the consumer a form for filing a request to participate in a certified dispute-settlement procedure. If the manufacturer provides this form, a claim with the certified dispute-settlement procedure shall be deemed to be filed by the consumer upon receipt of one such form by the administrator. If no form is provided by the manufacturer, the consumer may file a claim with the certified dispute-settlement procedure by orally communicating to the administrator the information set forth in subsection (1) above.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.006 Decision of Dispute Resolution Mechanism

(1) All decisions rendered pursuant to a certified dispute-settlement procedure shall be signed by a decision-maker and shall disclose how each decision-maker voted.

(2) All decisions, final or otherwise, provided to consumers shall contain the following information, if applicable:

(a) A statement setting forth the issue presented by the parties to the decision-makers;

(b) A statement setting forth the specific terms of the decision and a reasonable time for performance;

(c) A list of the materials and documents submitted by the parties for consideration;

(d) A statement setting forth the basis upon which the decision-makers made their determination, and indicating the specific documents relied upon;

(e) The following statement in bold print:

The consumer may reject this decision and, if eligible, may pursue arbitration with the Florida New Motor Vehicle Arbitration Board administered by the Office of the Attorney General. To obtain information about eligibility for the state-run arbitration program, the

consumer should contact the Division of Consumer Services' Lemon Law Hotline at 1-800-321-5366. PLEASE BE ADVISED that Section 681.109(4), F.S., provides that the consumer must file the Request for Arbitration no later than 60 days after the expiration of the Lemon Laws rights period, or within 30 days after the final action of a certified dispute-settlement procedure, whichever date occurs later.

(f) The address of the Division of Consumer Services, Lemon Law Section.

(g) If it is determined that the certified dispute-settlement procedure has no jurisdiction to decide the consumer's dispute, a statement setting forth the basis for such determination.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.007 Dispute Resolution Mechanism's Obligation to Forward Decisions to Division of Consumer Services

All decisions rendered pursuant to a certified dispute-settlement procedure shall be submitted to the Division within 30 days of rendition, along with the following information:

(1) The date and manner in which the administrator was first contacted, if different from the date the claim was filed;

(2) The time and place of each hearing or meeting, including the names and titles of all persons who attended or testified at said hearing or meeting, and whether the hearing or meeting was conducted by phone.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.008 Lemon Law Dispute: Inspection or Test Drive of Consumer's Vehicle.

(1) A decision-maker or manufacturer may request an inspection of the consumer's motor vehicle. An inspection shall be conducted at a mutually agreeable time and at a location reasonably convenient to the consumer. In the event an inspection is requested, the consumer shall be informed in writing that the inspection is voluntary. The failure of a consumer to provide the motor vehicle for inspection shall not extend the 40-day time period a certified dispute-settlement procedure has to render a decision.

(2) In the event a consumer rejects a request for an inspection, such rejection may be considered for purposes of rendering a determination pursuant to a certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

5J-11.009 Record-keeping Requirements for Dispute Resolution Mechanisms

There shall be a separate file maintained for each dispute filed by a Florida consumer. The files for Florida consumers shall be maintained in a manner separate from other governmental jurisdictions. The Division shall have full access at all reasonable business hours to the records maintained pursuant to the certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.010 Required Annual Audit of Dispute Resolution Mechanisms

(1) Each manufacturer establishing a certified dispute-settlement procedure shall file with the Division an annual report relating to Florida consumers for the period ending December 31 of each year. The report shall be filed with the Division on or before July 1 of the following year.

(2) The annual report shall contain the following information relative to Florida consumers for the period audited:

(a) The information required under the provisions of 16 CFR § 703.7, relating to an annual audit;

(b) The number of disputes filed by consumers with the administrator of a certified dispute-settlement procedure, including the number of disputes dismissed or withdrawn by the consumer;

(c) The total number of decisions rendered under the certified dispute-settlement procedure broken down to specifically reference the number of decisions: ordering refunds; ordering additional repair attempts; ordering or recognizing trade assists; ordering partial refunds; concluding that the certified dispute-settlement procedure has no jurisdiction to decide the dispute; dismissing the dispute filed by the consumer; ordering a replacement of the consumer's motor vehicle; ordering any other relief not specifically listed in this rule.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

Rule 5J-11.011 Hearings or Meetings of Dispute Resolution Mechanism

(1) The administrator shall mail or provide written notification to the consumer at least 10 days prior to any hearing. The notice shall state the time, date and location of the hearing.

(2) The consumer and manufacturer shall be entitled to appear in person or by representative at any hearing or meeting held pursuant to a certified dispute-settlement procedure. The consumer and manufacturer shall be entitled to participate or offer evidence in any hearing or meeting held pursuant to a certified dispute-settlement procedure.

(3) No hearing shall be held more than 75 miles from the consumer's residence. The administrator may file a written request with the Division to waive this requirement based upon good cause shown, or a consumer may waive the mileage requirement in writing. The filing of a written request by the administrator shall not toll the 40-day time limit for rendering a determination pursuant to a certified dispute-settlement procedure.

(4) If both parties agree in writing, either party may attend any hearing or meeting by phone. The other party may elect to attend in person or by phone.

(5) All hearings or meetings held under a certified dispute-settlement procedure shall be open to observers.

Enacted eff. December 6, 1993

Rule 5J-11.012 Impartiality of Mechanism's Employees and Decision-Makers

(1)No decision-maker shall be an employee of the manufacturer, a dealer or other person who distributes the manufacturer's products, other than for purposes of the certified dispute settlement procedure, except as provided in 16 CFR Sec.703.4

(2)No employee of an administrator shall be an agent, employee, or representative of the manufacturer, a dealer or other person who distributes the manufacturer's products, other than for purposes of the dispute settlement procedure.

Enacted eff. December 6, 1993

APPENDIX E

APPENDIX E

OHIO REVISED CODE ANNOTATED
(OHIO LEMON LAW)

Bill Number: Amended Sub. House Bill 21
Effective Date: 09/15/99

§ 1345.71 Definitions

Text of Statute

As used in sections 1345.71 to 1345.77 of the Revised Code:

(A) "Consumer" means any of the following:

(1) The purchaser, other than for purposes of resale, of a motor vehicle;

(2) Any lessee of a motor vehicle in a contractual arrangement under which a charge is made for the use of the vehicle at a periodic rate for a term of thirty days or more, and title to the vehicle is in the name of a person other than the user;

(3) Any person to whom the motor vehicle is transferred during the duration of the express warranty that is applicable to the motor vehicle;

(4) Any other person who is entitled by the terms of the warranty to enforce the warranty.

(B) "Manufacturer" and "distributor" have the same meanings as in section 4517.01 of the Revised Code, and "manufacturer" includes a re-manufacturer as defined in that section.

(C) "Express warranty" and "warranty" mean the written warranty of the manufacturer or distributor of a new motor vehicle concerning the condition and fitness for use of the vehicle, including any terms or conditions precedent to the enforcement of obligations under that warranty.

(D) "Motor vehicle" means any passenger car or noncommercial motor vehicle or those parts of any motor home that are not part of the permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping but does not mean any mobile home or recreational vehicle, or any manufactured home as defined in section 3781.06 of the Revised Code.

(E) "Nonconformity" means any defect or condition that substantially impairs the use, value, or safety of a motor vehicle to the consumer and does not conform to the express warranty of the manufacturer or distributor.

(F) "Full purchase price" means both of the following:

(1) In the case of a sale, the contract price for the motor vehicle, including charges for transportation, undercoating, dealer-installed options and accessories, dealer services, dealer preparation, and delivery charges; all finance, credit insurance, warranty, and service contract charges incurred by the consumer; and all sales tax, license and registration fees, and other government charges.

(2) In the case of a lease, the capitalized cost reduction, security deposit, taxes, title fees, all monthly lease payments, the residual value of the vehicle, and all finance, credit insurance, warranty, and service contract

charges incurred by the consumer.

(G) "Buyback" means a motor vehicle that has been replaced or repurchased by a manufacturer as the result of a court judgment, a determination of an informal dispute settlement mechanism, or a settlement agreed to by a consumer regardless of whether it is in the context of a court, an informal dispute settlement mechanism, or otherwise, in this or any other state, in which the consumer has asserted that the motor vehicle does not conform to the warranty, has presented documentation to establish that a nonconformity exists pursuant to section 1345.72 or 1345.73 of the Revised Code, and has requested replacement or repurchase of the vehicle.

(H) "Mobile home," "motor home," "noncommercial motor vehicle," "passenger car,"and "recreational vehicle" have the same meanings as in section 4501.01 of the Revised Code.

Section 1345.72

(A) If a new motor vehicle does not conform to any applicable express warranty and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, the manufacturer, its agent, or its authorized dealer shall make any repairs as are necessary to conform the vehicle to such express warranty, notwithstanding the fact that the repairs are made after the expiration of the appropriate time period.

(B) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer, at the consumer's option and subject to division (D) of this section, either shall replace the motor vehicle with a new motor vehicle acceptable to the consumer or shall accept return of the vehicle from the consumer and refund each of the following:

(1) The full purchase price;

(2) All incidental damages, including, but not limited to, any fees charged by the lender or lessor for making or canceling the loan or lease, and any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

(C) Nothing in this section imposes any liability on a new motor vehicle dealer or creates a cause of action by a buyer against a new motor vehicle dealer.

(D) Sections 1345.71 to 1345.78 of the Revised Code do not affect the obligation of a consumer under a loan or retail installment sales contract or the interest of any secured party, except as follows:

(1) If the consumer elects to take a refund, the manufacturer shall forward the total sum required under division (B) of this section by an instrument jointly payable to the consumer and any lienholder that appears on the face of the certificate of title or the lessor. Prior to disbursing the funds to the consumer, the lienholder or lessor may deduct the balance owing to it, including any fees charged for canceling the loan or the lease and

refunded pursuant to division (B) of this section, and shall immediately remit the balance if any, to the consumer and cancel the lien or the lease.
(2) If the consumer elects to take a new motor vehicle, the manufacturer shall notify any lienholder noted on the certificate of title under section 4505.13 of the Revised Code or the lessor. If both the lienholder or the lessor and the consumer consent to finance or lease the new motor vehicle obtained through the exchange in division (B) of this section, the lienholder or the lessor shall release the lien on or surrender the title to the nonconforming motor vehicle after it has obtained a lien on or title to the new motor vehicle. If the existing lienholder or lessor does not finance or lease the new motor vehicle, it has no obligation to discharge the note or cancel the lien on or surrender the title to the nonconforming motor vehicle until the original indebtedness or the lease terms are satisfied.

Section 1345.73

It shall be presumed that a reasonable number of attempts have been undertaken by the manufacturer, its dealer, or its authorized agent to conform a motor vehicle to any applicable express warranty if, during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, any of the following apply:

(A) Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs;

(B) The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days;

(C) There have been eight or more attempts to repair any nonconformity;

(D) There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs.

Section 1345.74

(A) At the time of purchase, the manufacturer, either directly or through its agent or its authorized dealer, shall provide to the consumer a written statement on a separate piece of paper, in ten-point type, all capital letters, in substantially the following form:

IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO A REPLACEMENT OR TO COMPENSATION.

In the case of a leased motor vehicle, the written statement described in this division shall be provided to the consumer by the manufacturer, either directly or through the lessor, at the time of execution of the lease agreement.

(B) The manufacturer or authorized dealer shall provide to the consumer, each time the motor vehicle of the consumer is returned from being serviced or repaired, a fully itemized written statement indicating all work performed on the vehicle, including, but not limited to, parts and labor as described in the rules adopted pursuant to section 1345.77 of the Revised Code.

Section 1345.75

(A) Any consumer may bring a civil action in a court of common pleas or other

court of competent jurisdiction against any manufacturer if the manufacturer fails to comply with section 1345.72 of the Revised Code and, in addition to the relief to which the consumer is entitled under that section, shall be entitled to recover reasonable attorney's fees and all court costs.

(B) The remedies in sections 1345.71 to 1345.78 of the Revised Code are in addition to remedies otherwise available to consumers under law.

(C) Any action brought under division (A) of this section shall be commenced within five years of the date of original delivery of the motor vehicle. Any period of limitation of actions under any federal or Ohio laws with respect to any consumer shall be tolled for the period that begins on the date that a complaint is filed with an informal dispute resolution mechanism established pursuant to section 1345.77 of the Revised Code and ends on the date of the decision by the informal dispute resolution mechanism.

(D) It is an affirmative defense to any claim under this section that a nonconformity is the result of abuse, neglect, or the unauthorized modification or alteration of a motor vehicle by anyone other than the manufacturer, its agent, or its authorized dealer.

Section 1345.76

(A) A buyback may not be resold or leased in this state unless each of the following applies:

(1) The manufacturer provides the same express warranty that was provided to the original consumer, except that the term of the warranty shall be the greater of either of the following:

(a) Twelve thousand miles or twelve months after the date of resale, whichever is earlier;

(b) The remaining term of any manufacturer's original warranty.

(2) The manufacturer provides to the consumer, either directly or through its agent or its authorized dealer, and prior to obtaining the signature of the consumer on any document, a written statement on a separate piece of paper, in ten-point type, all capital letters, in substantially the following form:

WARNING: THIS VEHICLE PREVIOUSLY WAS SOLD AS NEW. IT WAS RETURNED TO THE MANUFACTURER OR ITS AGENT IN EXCHANGE FOR A REPLACEMENT VEHICLE OR REFUND AS A RESULT OF THE FOLLOWING DEFECT(S) OR CONDITION(S):

1. _____
2. _____
3. _____
4. _____
5. _____

_____ _____

DATE BUYER'S SIGNATURE

The manufacturer shall list each defect or condition on a separate line of the written statement provided to the consumer.

(B) Notwithstanding the provisions of division (A) of this section, if a new motor

vehicle has been returned under the provisions of section 1345.72 of the Revised Code or a similar law of another state because of a nonconformity likely to cause death or serious bodily injury if the vehicle is driven, the motor vehicle may not be sold, leased, or operated in this state.

(C) A manufacturer that takes possession of a buyback shall obtain the certificate of title for the buyback from the consumer, lienholder, or the lessor. The manufacturer and any subsequent transferee, within thirty days and prior to transferring title to the buyback, shall deliver the certificate of title to the clerk of the court of common pleas and shall make application for a certificate of title for the buyback. The clerk shall issue a buyback certificate of title for the vehicle on a form, prescribed by the registrar of motor vehicles, that bears or is stamped on its face with the words "BUYBACK: This vehicle was returned to the manufacturer because it may not have conformed to its warranty." in black boldface letters in an appropriate location as determined by the registrar. The buyback certificate of title shall be assigned upon transfer of the buyback, for use as evidence of ownership of the buyback and is transferable to any person. Every subsequent certificate of title, memorandum certificate of title, or duplicate copy of a certificate of title or memorandum certificate of title issued for the buyback also shall bear or be stamped on its face with the words "BUYBACK: This vehicle was returned to the manufacturer because it may not have conformed to its warranty." in black boldface letters in the appropriate location.

The clerk of the court of common pleas shall charge a fee of five dollars for each buyback certificate of title, duplicate copy of a buyback certificate of title, memorandum buyback certificate of title, and notation of any lien on a buyback certificate of title. The clerk shall retain two dollars and twenty-five cents of the fee charged for each buyback certificate of title, four dollars and seventy-five cents of the fee charged for each duplicate copy of a buyback certificate of title, all of the fees charged for each memorandum buyback certificate of title, and four dollars and twenty-five cents of the fee charged for each notation of a lien.

The remaining two dollars and seventy-five cents charged for the buyback certificate of title, the remaining twenty-five cents charged for the duplicate copy of a buyback certificate of title, and the remaining seventy-five cents charged for the notation of any lien on a buyback certificate of title shall be paid to the registrar in accordance with division (A) of section 4505.09 of the Revised Code, who shall deposit it as required by division (B) of that section.

(D) No manufacturer that applies for a certificate of title for a buyback shall fail to clearly and unequivocally inform the clerk of the court of common pleas to whom application for a buyback certificate of title for the motor vehicle is submitted that the motor vehicle for which application for a buyback certificate of title is being made is a buyback and that the manufacturer, its agent, or its authorized dealer is applying for a buyback certificate of title for the motor vehicle and not a certificate of title.

Section 1345.77

(A) The attorney general shall adopt rules for the establishment and qualification of an informal dispute resolution mechanism to provide for the resolution of warranty disputes between the consumer and the manufacturer, its agent, or its authorized dealer. The mechanism shall be under the supervision of the division

of consumer protection of the office of the attorney general and shall meet or exceed the minimum requirements for an informal dispute resolution mechanism as provided by the “Magnuson-Moss Warranty Federal Trade Commission Improvement Act,” 88 Stat. 2183, 15 U.S.C.A. 2301, and regulations adopted thereunder.

(B) If a qualified informal dispute resolution mechanism exists and the consumer receives timely notification, in writing, of the availability of the mechanism with a description of its operation and effect, the cause of action under section 1345.75 of the Revised Code may not be asserted by the consumer until after the consumer has initially resorted to the informal dispute resolution mechanism. If such a mechanism does not exist, if the consumer is dissatisfied with the decision produced by the mechanism, or if the manufacturer, its agents, or its authorized dealer fails to promptly fulfill the terms determined by the mechanism, the consumer may assert a cause of action under section 1345.75 of the Revised Code.

(C) Any violation of a rule adopted pursuant to division (A) of this section is an unfair and deceptive act or practice as defined by section 1345.02 of the Revised Code.

Section 1345.78

(A) Failure to comply with section 1345.76 of the Revised Code, in connection with a consumer transaction as defined in division (A) of section 1345.01 of the Revised Code, is an unfair and deceptive act or practice in violation of division (A) of section 1345.02 of the Revised Code.

(B) The attorney general shall investigate any alleged violation of division (D) of section 1345.76 of the Revised Code and, in an appropriate case, may bring an appropriate action in a court of competent jurisdiction, charging a manufacturer with a violation of that division.

APPENDIX F

APPENDIX F

OHIO ADMINISTRATIVE CODE
109:4 CONSUMER FRAUD AND CRIMES
Chapter 109:4-4 Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes

109:4-4-01 Authority, construction and purposes of rules; severability; and definitions.

(A) Authority, rules of construction, purposes

(1) This chapter is adopted by the office of the attorney general of Ohio pursuant to division (A) of section 1345.77 and Chapter 119. of the Revised Code.

(2) Without limiting the scope of any section of the Revised Code or any other rule, this chapter shall be liberally construed and applied to promote their purposes and policies.

(3) The purposes and policies of this chapter are to:

(a) Define with reasonable specificity the qualifications for the certification of informal dispute settlement programs for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer or its agents.

(b) Encourage the establishment and qualification of dispute resolution programs for settlement of new motor vehicle warranty disputes.

(B) Severability

Each substantive rule and every part of each substantive rule is an independent rule and part of a rule, and the holding of any rule or part of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or part of a rule, and, to this end, each and every rule, paragraph, sentence, clause, phrase, or provision of this chapter is hereby declared severable.

(C) Definitions

(1) For purposes of this chapter, the definitions found in section 1345.71 of the Revised Code, including any amendments, shall apply.

(2) "The act" means sections 1345.71 to 1345.77 of the Revised Code, including any amendments.

(3) "Board" means the organization, person, or entity which conducts the dispute-settlement processes, including but not limited to conciliation, mediation, or arbitration procedures by which a warrantor has agreed to be bound.

(4) "Arbitrators" means the person or persons within a board actually deciding disputes.

(5) "On the face of the warranty" means the page on which the warranty text begins or on the first page of an alternative document issued by the warrantor for the purpose of complying with this chapter.

(6) "Warrantor" means the manufacturer or distributor of a new motor vehicle which provides a warranty for that motor vehicle.

(7) "Warranty disputes" means any unresolved complaint initiated by a consumer which alleges a nonconformity in a motor vehicle relating to a written warranty.

(8) "Attorney general" means the attorney general of Ohio, or his or her representative.

History: Enacted by 1987-88 OMR 437, eff. November 29, 11987
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

109:4-4-02 Option to establish informal dispute settlement boards.

(A) One or more warrantors may establish an informal dispute settlement board.

(B) If the board meets the requirements of this rule and the application procedures set forth in Chapter 109:4-5 of the Administrative Code, the attorney general shall qualify the board as to complying warrantors.

(C) Nothing contained in this chapter shall preclude the consumer from electing among available qualifying boards for purposes of satisfying the requirements of the act.

History: Enacted by 1987-88 OMR 437, eff. November 29, 1987.
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

109:4-4-03 Duties of warrantor.

(A) In order to qualify a board to hear its warranty disputes, a warrantor must comply with the provisions of this rule.

(B) The warrantor shall not incorporate into the terms of a written warranty a board that fails to comply with the requirements contained in this chapter. This paragraph shall not prohibit a warrantor from incorporating into the terms of a written warranty the step-by-step procedure which the consumer should follow in order to obtain performance under the warranty.

(C)The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty and on a sign posted in a conspicuous place within that area of the warrantor's agent's place of business to which consumers are directed by the warrantor:

(1) A statement of the availability of the board;

(2) The board's name, address, and a telephone number which consumers may use without charge;

(3) A statement of the requirement that the consumer resort to a qualified board before initiating a legal action under the act, together with a disclosure that, if a consumer chooses to seek redress by pursuing rights and remedies not created by the act, resort to the board would not be required by any provision of the act. This statement will be deemed to be

disclosed if the warrantor or the warrantor's agent either posts a sign in a conspicuous place, or gives the consumer a separate form at the time of the initial face-to-face contact, which clearly and conspicuously contains the following language in boldface ten point type:

NOTICE

OHIO LAW REQUIRES YOU TO USE A QUALIFIED ARBITRATION PROGRAM BEFORE SUING THE MANUFACTURER OVER NEW CAR WARRANTY DISPUTES. FAILURE TO ARBITRATE YOUR CLAIM MAY PRECLUDE YOU FROM MAINTAINING A LAWSUIT UNDER SECTION 1345.75 OF THE REVISED CODE.

(4) A statement, if applicable, indicating where further information about the board can be found in materials accompanying the motor vehicle, as provided in paragraph (D) of this rule.

(D) The warrantor shall include in the written warranty or in a separate section of materials accompanying the motor vehicle the following information:

(1) Either

(a) a postage-paid post card addressed to the board requesting the information which a certified board may require for prompt resolution of warranty disputes; or

(b) a telephone number of the board which consumers may use without charge;

(2) The name and address of the board;

(3) A brief description of board procedures;

(4) The time limits adhered to by the board; and

(5) The types of information which the board may require for prompt resolution of warranty disputes.

(E) The warrantor shall take steps reasonably calculated to make consumers aware of the existence of the board at the time consumers experience warranty disputes. Nothing contained in this chapter shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor. However, the warrantor cannot expressly require consumers to seek redress directly from the warrantor. The warrantor must clearly and conspicuously disclose to the consumer the following information:

(1) That the process of seeking redress directly from the warrantor is optional and may be terminated at any time by either the consumer or warrantor; and

(2) That, if the matter is submitted to a qualified board, a decision, which shall be binding on the warrantor, will be rendered within forty days from the date that the board first receives notification of the dispute.

The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

(F) The warrantor shall:

(1) Designate a contact person to receive notices for purposes of this chapter and Chapter 109:4-5 of the Administrative Code;

(2) Respond fully and promptly to reasonable requests by the board for information relating to disputes;

(3) Upon notification of any decision of the board that would require action on the part of the warrantor, perform any obligations required by the mechanism's decision.

(G) The warrantor shall act in good faith in performing a board's decision.

(H) The warrantor shall comply with any reasonable requirements imposed by the board to fairly and expeditiously resolve warranty disputes.

History: Enacted by 1987-88 OMR 437(E), eff. November 29, 1987. Amended by 1991-92 OMR 679(A), eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-4-04 Minimum requirements of the board.

(A) Board organization

(1) The board shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the board.

(2) The warrantor, the sponsor of the board (if other than the warrantor), and the board shall take all steps necessary to ensure that the board and its arbitrators and staff are sufficiently insulated from the warrantor and the sponsor, so that the decisions of the arbitrators and the performance of the staff are not influenced by either the warrantor or the sponsor. Necessary steps shall include, at a minimum, committing funds in advance of submission of disputes, basing personnel decisions solely on merit, and not assigning conflicting warrantor or sponsor duties to board staff persons. The board shall collect and maintain detailed information relating to any interest and involvement of the arbitrators in the manufacture, distribution, sale or service of any motor vehicle.

(3) The board shall impose any other reasonable requirements necessary to ensure that the arbitrators and staff act fairly and expeditiously in each dispute.

(B) Qualification of arbitrators

(1) No arbitrator shall be:

(a) A party to the dispute or an employee or agent of a party other than for purposes of deciding disputes; or

(b) A person who is or may become a party in any pending legal action, including but not limited to class actions, relating to the product or complaint in dispute or an employee or agent of such persons other than for purposes of deciding disputes. For purposes of this paragraph, a person shall not be considered a "party" solely because he or she acquires or owns an interest in a party solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its

acquisition or ownership solely for investment.

(2) The composition of the arbitration panel(s) shall be as follows:

(a) If a panel consists of less than three arbitrators, all shall be persons having no direct involvement in the manufacture, distribution, sale or service of any motor vehicle.

(b) If a panel consists of three or more arbitrators, at least two-thirds shall be persons having no direct involvement in the manufacture, distribution, sale or service of any motor vehicle.

(3) "Direct involvement" shall not include acquiring or owning an interest solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment.

(4) Notwithstanding paragraph (B)(2) of this rule, any arbitrator selected to hear a dispute shall, immediately upon notification of such selection, disclose to the board any investment he or she has, in any company which is involved in the manufacture, distribution, sale or service of any motor vehicle. If, during the pendency of any dispute, any arbitrator acquires such an interest, he or she shall immediately disclose such acquisition to the board. Any disclosure shall be in writing and the board shall deliver a copy to each party. Upon receipt of such disclosure, a party may elect to disqualify the arbitrator from hearing the dispute.

(5) Nothing contained in paragraph (B) of this rule shall prevent the arbitrators from consulting with any neutral persons knowledgeable in the technical, commercial or other area relating to motor vehicles which is the subject of the dispute.

(6) Arbitrators shall be persons interested in the fair and expeditious settlement of consumer disputes.

(C) Operation of the board

(1) The board shall establish written operating procedures which shall include at least those items specified in paragraphs (C)(2) to (C)(12) of this rule and the information required by paragraph (F)(3) of this rule. Copies of the written procedures shall be made available to any person upon request.

(2) Upon written notification of a dispute, the board shall immediately inform both the warrantor and the consumer of receipt of the dispute by a written notice which includes the following disclosure which must be in bold face ten point type:

NOTICE

OHIO LAW REQUIRES YOU TO USE A QUALIFIED ARBITRATION PROGRAM BEFORE SUING THE MANUFACTURER OVER NEW CAR WARRANTY DISPUTES. FAILURE TO ARBITRATE YOUR CLAIM MAY PRECLUDE YOU FROM MAINTAINING A LAWSUIT UNDER SECTION 1345.75 OF THE

REVISED CODE.

(3) The board shall investigate, gather and organize all information necessary for a fair and expeditious decision on each issue in dispute. When information submitted by any source tends to contradict facts submitted by any party, and the information will or may be used in the decision, the board shall clearly, accurately, and completely disclose to both parties the contradictory information (and its source) and shall provide both parties an opportunity to explain or rebut the information and to submit additional materials. All written documents relating to or accounts of the transaction or services in dispute shall be signed by the person who makes it. Nothing contained herein shall prevent or discourage the board from attempting to settle disputes prior to a hearing. Disputes which are settled after written notification to the board but prior to a hearing shall be reported to the attorney general on forms to be approved by the attorney general, which shall contain, at a minimum, the following information:

(a) The date the complaint was received;

(b) The relief requested by the consumer;

(c) The nature of the settlement; and

(d) The date the settlement was implemented.

(4) Prior to the hearing, the board shall provide the arbitrators with copies of the information collected under paragraph (C)(3) of this rule and shall further provide a conspicuous statement indicating that a neutral technician is available (if the board does not provide one at all hearings) and whom to contact should the arbitrators deem it necessary to have such consultation provided either prior to, or at, the hearing.

(5) If the dispute has not been settled, the board shall, as expeditiously as possible but at least within forty days of notification of the dispute, except as provided in paragraph (C)(8) of this rule:

(a) Render a fair decision signed by all arbitrators making the decision, and conforming with paragraph (C)(6) of this rule, based on the information gathered as described in paragraph (C)(3) of this rule, and on any information submitted at an oral presentation which conforms to the requirements of paragraph (C)(9) of this rule. A decision shall include any remedies ordered by the panel, including repair, replacement, refund, reimbursement for expenses, and any other remedies available under the written warranty or the act (or rules thereunder); and a decision shall state a specified reasonable time for performance;

(b) Disclose to the warrantor, and the consumer, its decision, the reasons, therefor, and the information described in paragraph (C)(7) of this rule.

For purposes of this paragraph, a dispute shall be deemed settled when the board has ascertained from the consumer his or her acceptance of the offer and that the settlement has been fully

implemented.

(6) The board's arbitration decision shall be disclosed to the attorney general on forms to be approved by the attorney general, which shall contain, at a minimum, the following information:

(a) Date the complaint was received;

(b) Relief requested by the consumer;

(c) Decision of the arbitrator(s) and reasons therefor;

(d) Date of the decision;

(e) A specific date for completion of the transactions necessary to carry out the decision of the board;

(f) A statement that the decision is binding upon the warrantor and not the consumer, unless the consumer elects to accept the decision;

(g) The time within which the consumer must respond;

(h) Determination of whether the decision was accepted or rejected by the consumer.

(7) The board shall inform the consumer at the time of disclosure required in paragraph (C)(5) of this rule that:

(a) If he or she is dissatisfied with its decision or if the warrantor, its agent, or its authorized dealer fails to promptly fulfill the terms of the board's decision, the consumer may seek redress by other rights and remedies, including asserting a cause of action under section 1345.75 of the Revised Code.

(b) The consumer may obtain, at reasonable cost, copies of all board records relating to the consumer's dispute.

(8) The board may delay the performance of its duties under paragraph (C)(5) of this rule beyond the forty-day time limit:

(a) Where the period of delay is due solely to the failure of a consumer to provide promptly his or her name and address, make, model and vehicle identification number of the motor vehicle involved, and a statement as to the nature of the defect or other complaint;

(b) For a seven-day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor;

(c) For a fourteen-day period for delays due solely to compliance with the requirement contained in paragraph (C)(3) of this rule that the board provide the parties with an opportunity to explain or rebut contradictory information;

(d) For a fourteen-day period for delays due to consumer requests for hearing postponement, consumer failure to submit adequate information which the arbitrator(s) feel(s) is needed to render a decision, arbitrator unavailability, or acts of God.

(e) For a fourteen-day period at the discretion of the arbitrator(s). The reason for any such discretionary delay shall be disclosed and reported with the other information required by paragraphs (C)(5)

and (C)(6) of this rule.

(f) Where the dispute is settled but the settlement is not fully implemented.

(9) The board must allow an oral presentation at the request of the consumer. If the consumer elects an in-person oral presentation, the warrantor may make its presentation in person, by telephone conference call, or by written submission. If the consumer elects an oral presentation by telephone conference call, the warrantor may make its presentation by telephone conference call, or by written submission. If the consumer does not request an oral presentation the warrantor shall make its presentation by written submission. Upon receipt of the dispute the board shall fully disclose to the parties the following information:

(a) That an oral presentation either in person or by telephone conference call will take place if requested by the consumer, but that, once requested, if one party fails to appear or give an oral presentation at the agreed-upon time and place, the presentation by the other party shall be allowed; and

(b) That the arbitrators will decide the dispute based upon written presentations if an oral presentation is not requested;

(c) That each party is permitted to be represented by a person of his or her choice;

(d) That the date, time and place for the presentation will be arranged to accommodate, where possible, the geographic and time-of-day needs of the parties;

(e) A brief description of what will occur at the presentation, including, if applicable, parties' rights to bring witnesses and/or counsel, and to ask questions of other parties, witnesses and/or counsel; and

(f) That each party has the right to either be present during the other party's oral presentation or, in lieu of attending, to submit a written presentation.

Nothing contained in paragraph (C)(9) of this rule shall preclude the board from allowing an oral presentation by one party, if the other party fails to appear or give an oral presentation at the agreed-upon time and place, as long as all of the requirements of paragraph (C)(9) of this rule have been satisfied.

(10) If the warrantor has agreed to perform any obligations as part of a settlement agreed to after notification to the board of the dispute or has been ordered to perform any obligations as a result of a decision under paragraph (C)(5) of this rule, the board shall ascertain from the consumer within ten working days of the date for performance whether performance has occurred and the board's finding shall be noted in its records.

(11) A requirement that a consumer resort to the board prior to commencement of an action under the act shall be satisfied forty days after notification to the board of the dispute or when the board completes

all of its duties under paragraph (C)(5) of this rule, whichever occurs sooner. Except that, if the board delays performance of its duties required by paragraph (C)(5) of this rule, as allowed by paragraph (C)(8) of this rule, the requirements that the consumer initially resort to the board shall not be satisfied until the period of delay allowed by paragraph (C)(8) of this rule has ended.

(12) Decisions of the board shall be legally binding on the warrantor, which must perform its obligations pursuant to any such decisions if the consumer so elects.

(D) Record-keeping

(1) The board shall maintain records on each dispute referred to it which shall include:

(a) Name, address and telephone number of the consumer;

(b) Name, address, and telephone number of the contact person designated by the warrantor under paragraph (F)(1) of rule 109:4-4-03 of the Administrative Code;

(c) Makes, models and vehicle identification numbers of the motor vehicles;

(d) The date of receipt of the dispute and the date of disclosure to the consumer of the decision;

(e) All letters or other written documents submitted by either party;

(f) All other evidence collected by the board relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the board and any other person (including neutral consultants described in paragraph (B)(4) or (C)(4) of this rule);

(g) A summary of any relevant and material information presented by either party at an oral presentation;

(h) The decision of the arbitrators, including information as to date, time and place of meeting and the identity of arbitrators voting, or information on any other resolution;

(I) A copy of the disclosure to the parties of the decision;

(j) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and

(k) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

(2) The board shall maintain an index of each warrantor's disputes grouped under make and sub-grouped under model.

(3) The board shall maintain an index for each warrantor which will show:

(a) All disputes in which the warrantor has agreed to perform any obligations as part of a settlement reached after notification of the dispute or has been ordered to perform any obligations as the result of a decision under paragraph (C)(5) of this rule and has

failed to comply; and

(b) All disputes in which the warrantor has refused to abide by an arbitration decision.

(4) The board shall maintain an index that will show all disputes delayed beyond forty days.

(5) The board shall compile semiannually and, maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of warranty disputes received in each of the following categories (which shall total one hundred per cent of the total number of warranty disputes received):

(a) Resolved by staff of the board without arbitration and the warrantor has complied;

(b) Resolved by staff of the board, without arbitration, time for compliance has expired, and the warrantor has not complied;

(c) Resolved by staff of the board without arbitration, and time for compliance has not yet expired;

(d) Decided by arbitration and the party required to perform has complied, specifying whether the party required to perform is the consumer or the warrantor or both;

(e) Decided by arbitration, time for compliance has expired, and the party required to perform has not complied, specifying whether the party required to perform is the consumer or the warrantor or both;

(f) Decided by arbitration and time for compliance has not yet expired;

(g) Decided by arbitration in which neither party was awarded anything;

(h) No jurisdiction;

(I) Decision delayed beyond forty days under paragraph (C)(8)(a) of this rule;

(j) Decision delayed beyond forty days under paragraph (C)(8)(b) of this rule;

(k) Decision delayed beyond forty days under paragraph (C)(8)(c) of this rule;

(l) Decision delayed beyond forty days under paragraph (C)(8)(d) of this rule;

(m) Decision delayed beyond forty days for any other reason; and

(n) Decision is pending and the forty-day limit has not expired.

In addition, the board shall compile semiannually and maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of disputes received (which need not add up to one hundred per cent of all disputes received) in which:

(o) Consumer requested a refund or replacement for a motor vehicle within the first year or eighteen thousand miles of operation;

(p) Vehicle refund or replacement was awarded, specifying whether

the award was made by arbitration or through settlement;

(q) Vehicle refund or replacement decisions complied with by the manufacturer, specifying whether the decision was made by arbitration or through settlement;

®) Decisions in which additional repairs were the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(s) Decisions in which a warranty extension was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(t) Decisions in which reimbursement for expenses or compensation for losses was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(u) Vehicle refund or replacement arbitration awards accepted by the consumer; and

(v) Non-repurchase or replacement arbitration decisions accepted by the consumer.

(6) The board shall compile semiannually and maintain and file with the attorney general a listing of all vehicle identification numbers of all vehicles for which decisions or settlements entitled the consumer to a refund or replacement.

(7) The board shall retain all records specified in paragraphs (D)(1) to (D)(6) of this rule at least four years after final disposition of the dispute.

(E) Audits

(1) The board shall have an audit conducted at least annually to determine whether the board and its dispute resolution processes are in compliance with this chapter. All records of the board required to be kept under paragraph (D) of this rule shall be available for audit.

(2) Each audit provided for in paragraph (E)(1) of this rule shall include at a minimum the following:

(a) Evaluation of warrantor's efforts to make consumers aware of the board's existence as required by paragraph (E) of rule 109:4-4-03 of the Administrative Code;

(b) Review of the indices maintained pursuant to paragraph (D) of this rule; and

(c) Analysis of a random sample of disputes handled to determine the following:

(I) adequacy of the board's complaint and other forms, investigation, mediation and follow-up efforts and other aspects of complaint handling; and

(ii) accuracy of the board's statistical compilations under paragraph (D) of this rule. (For purposes of this paragraph, "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random

sample.)

(3) A report of each audit under paragraph (E) of this rule shall be submitted to the attorney general and shall be made available to any person at reasonable cost. The board may direct its auditor to delete names of parties to disputes from the audit report.

(4) Auditors shall be selected by the board. No auditor may be involved with the board as a warrantor, sponsor or arbitrator, or employee or agent thereof, other than for purposes of the audit.

(F) Openness of records and proceedings

(1) The statistical summaries specified in paragraphs (D)(2), (D)(3), (D)(4), (D)(5) and (D)(6) of this rule shall be available to any person for inspection and copying.

(2) Except as provided under paragraphs (E)(3), (F)(1) and (F)(5) of this rule, all records of the board may be kept confidential or made available only on such terms and conditions, or in such form, as the board shall permit and to the extent that Ohio law will allow.

(3) The policy of the board with respect to records made available at the board's option shall be set out in the written procedures required by paragraph (C)(1) of this rule. The policy shall be applied uniformly to all requests for access to or copies of such records.

(4) Meetings of the arbitrators to hear disputes shall be open to observers on reasonable and nondiscriminatory terms, as long as the consumer does not object. The identity of the parties involved in disputes need not be disclosed at meetings.

(5) Upon request, the board shall provide to either party to a dispute: (a) access to all records relating to the dispute; and (b) copies of any records relating to the dispute at reasonable cost.

(6) The board shall make available to any person, upon request, information relating to the qualifications of board staff, arbitrators, and neutral technicians or consultants and detailed information relating to any interest and involvement of the arbitrators in the manufacture, distribution, sale, or service of any motor vehicle.

History: Enacted by 1987-88 OMR 438, eff. November 29, 1987. Amended by 1991-92 OMR 679, eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-4-05 <u>Repair orders for new motor vehicles services or repairs</u>.

(A) This rule is designed to define with reasonable specificity the information required to be provided under division (B) of section 1345.74 of the Revised Code so that consumers may be on notice of any and/or all non-conformities and receive itemized statements of repairs performed or attempted.

(B) In order to comply with the mandates of division (B) of section 1345.74 of the Revised Code, each time the motor vehicle of the consumer is returned from

being serviced or repaired, the supplier shall provide the consumer with a copy of a form, completed in a clear and legible manner, whether or not any repair is performed which:

(1) Is in full compliance with rule 109:4-3-13 of the Administrative Code; and

(2) Lists the consumer's description of the problem or symptom he or she is experiencing, accompanied by the consumer's signature or initials acknowledging the accuracy of the description; and

(3) Identifies the person performing or attempting the repair or service on the specific problem or symptom listed in paragraph (B)(2) of this rule; and

(4) Specifically states the technical diagnosis and all repairs performed or attempted in regard to the problem or symptom listed in paragraph (B)(2) of this rule.

History: Enacted by 1987-88 OMR 440, eff. November 29, 1997. Amended by 1991-92 OMR 682, eff. Dec. 30, 1991
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.74
RULE AMPLIFIES: RC 1345.774
119.032 Review Date: 7-15-03

Chapter 109:4-5
Informal Dispute Resolution Mechanisms for Settlement of New Motor Vehicle Warranty Disputes

109:4-5-01 Authority, construction and purposes of rules severability; definitions.

(A) Authority, rules of construction, purposes

(1) This chapter is adopted by the office of the attorney general of Ohio pursuant to division (A) of section 1345.77 and Chapter 119. of the Revised Code.

(2) Without limiting the scope of any section of the Revised Code or any other rule, this chapter shall be liberally construed and applied to promote their purposes and policies.

(3) The purposes and policies of this chapter are to:

(a) Define with reasonable specificity the process for the qualification of informal dispute settlement mechanisms for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer or its agents.

(b) Encourage the establishment and qualification of dispute resolution mechanisms for settlement of new motor vehicle warranty disputes.

(B) Severability

Each procedural rule and every part of each procedural rule is an independent rule and part of a rule, and the holding of any rule or part of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or part of a rule, and, to this end, each and every rule, paragraph, sentence, clause, phrase, or provision of this chapter is

hereby declared severable.

(c) Definitions

(1) The definitions found in Chapter 109:4-4 of the Administrative Code shall also apply to this chapter.

(2) "Qualified board" means an organization, person or entity which conducts a dispute settlement process which has been reviewed by the attorney general and approved as having met the qualifications specified in Chapter 109:4-4 of the Administrative Code.

(3) "Provisionally qualified board" means an organization, persons, or entity which conducts a dispute settlement process which is not able to submit a complete application under the requirements of Rules 109:4-5-02 and

109:4-5-03 of the Administrative Code, and is granted a one-year approval under the terms of rule 109:45--04 of the Administrative Code.

History: Enacted by 1987-88 OMR 440, eff. November 29, 1987. Amended by 1991-92 OMR 682, eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-5-02 <u>Application for qualification.</u>

(A) Application by a board for certification as a qualified board shall be made in writing to the attorney general.

(B) Applications shall include at least the following information unless specific exceptions are provided in this rule:

(1) Name, address, and telephone number of the board. In the event the applicant does not maintain one or more Ohio addresses and telephone numbers at the time of application, the application shall set forth the specific plans for making the board accessible to Ohio consumers.

(2) The manufacturers, vehicle makes and vehicle models for which the board is authorized to hear disputes and render decisions and copies of such authorization.

(3) Copies of all warranty documents and disclosure information used to alert consumers to the board and the warranty proffered by the manufacturer for each vehicle make and model, together with any other informational material, advertising copy or other notices used to inform consumers concerning warranties, the availability and operation of the board and any other manufacturer dispute resolution procedures.

(4) Copies of all written operating standards and procedures promulgated by the board, as required by paragraph (C)(1) of rule 109:4-4-04 of the Administrative Code.

(5) A description of the general qualifications and the duties of the arbitrators, neutral technicians or consultants, and all other persons employed by the board.

(6) A description of all training programs conducted for the board's arbitrators, and the plans for any such programs should approval be granted.

(7) Copies of the indices required by paragraphs (D)(2), (D)(3), and (D)(4) of rule 109:4-4-04 of the Administrative Code for the record year preceding the application.

(8) Copies of the semiannual statistical compilations required by paragraphs (D)(5) and (D)(6) of rule 109:4-4-04 of the Administrative Code for the preceding year.

(9) Copies of all annual audits previously compiled pursuant to paragraph (E) of rule 109:4-4-04 of the Administrative Code.

(10) Copies of ten per cent, but not in any event less than twenty-five per cent, of the written decision documents issued by the board to Ohio consumers during the preceding year, representing a randomly selected cross-section of such decisions. The attorney general may, upon notice, have these opinions selected by personnel from his office or under his direction.

(11) Statistics for the previous record year showing, for each warrantor served by the board, the number of oral presentations in person and the number of oral presentations by telephone conference call conducted under paragraph (C)(7) of rule 109:4-4-04 of the Administrative Code conducted for each warrantor served by the board, and the number of times such a presentation presentations was were requested.

(12) Such other or additional information as the attorney general might request after initial review of the application.

History: Enacted by 1987-88 OMR 441, eff. November 29, 1987. Amended by 1991-92 OMR 682), eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-5-03 <u>Review of application</u>.

(A) Upon receipt of a completed application, the attorney general shall direct his staff to prepare a report reviewing the operation of the board in view of the requirements of the act and Chapter 109:4-4 of the Administrative Code, and to recommend an appropriate ruling on the application.

(B) After receipt of the staff report and independent review of the application, the attorney general shall issue a written decision to the applicant within sixty days of receipt of the application, setting forth the basis therefor, whether the applicant will be a qualified board, a provisionally qualified board for such time and upon such conditions as may be specified, or whether the application will be denied. Such decision will be a matter of public record.

History: Enacted by 1987-88 OMR 437(E), eff. November 29, 1987.

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

109:4-5-04 Provisionally qualified boards.

(A) Provisional qualification shall be available only for those boards which have not conducted sufficient operations in Ohio under the terms of the act and Chapter 109:4-4 of the Administrative Code, prior to submitting an application, so as to permit the submission of a complete application.

(B) Applicants for provisional qualification shall complete as much of the application as possible, supplementing Ohio information and records with comparable documents and statistics from one or more other states, if available.

(c) All applicants for provisional qualification shall clearly so state on the face of the application.

(D) In the event provisional qualification is granted, it shall continue for a period of one year. Following nine months of operation as a provisionally qualified board, such board shall update its original application with the statistics and materials required in an application under this chapter, reflecting the nine-month operating period, to reapply for approval as a qualified board.

(E) After review of the application as provided in paragraph (A) of rule 109:4-5-03 of the Administrative Code, the attorney general shall announce a decision in the same manner as provided for in rule 109:4-5-03 of the Administrative Code.

History: Enacted by 1987-88 OMR 441, eff. November 29, 1987.
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

109:4-5-05 Continuing obligations of qualified boards.

(A) A qualified board shall promptly inform the attorney general of any changes in the information submitted in its application pursuant to paragraph (B) of rule 109:4-5-02 or paragraph (D) of rule 109:4-5-04 of the Administrative Code and supply copies of such changes or requisite information.

(B) A qualified board shall submit annually, to the attorney general, copies of the annual audit required by paragraph (E) of rule 109:4-4-04 of the Administrative Code, and, semiannually, the statistics required to be compiled under paragraphs (D)(5) and (D)(6) of rule 109:4-4-04 of the Administrative Code.

(C) A qualified board shall supply for review, upon request of the attorney general, any additional statistics, records or documents which must be compiled or prepared pursuant to rule 109:4-4-04 of the Administrative Code.

History: Enacted by 1987-88 OMR 442, eff. November 29, 1987.
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

109:4-5-06 Revocation of qualification.

(A) In the event that the attorney general has probable cause to believe that a qualified or a provisionally qualified board is operating in contravention of the

requirements of the act, Chapter 109:4-4 of the Administrative Code or this chapter, or that such board or sponsoring manufacturer has knowingly engaged in conduct which is designed, intended, or has the effect of depriving consumers of access to fair and expeditious resolution of disputes, written notification shall be sent to the board, outlining the perceived deficiencies, fixing a time within which to respond and identifying any additional information which may be required.

(B) Upon receipt of the qualified or provisionally qualified board's reply, or expiration of the time fixed for reply, the attorney general shall determine whether the approval granted should be revoked, continued as before, or continued for a period contingent upon compliance with such conditions as may be set forth in the decision. This decision will be issued in the same manner as provided for in rule 109:4-5-03 of the Administrative Code. Failure of the board to comply with conditions so stated shall result in the automatic revocation of approval, as of the date provided in such decision.

(C) Any consumer injured by the operation of any procedure of a board which does not conform with the requirements stated in the act, Chapter 109:4-4 of the Administrative Code or this chapter, may request the attorney general to investigate the manufacturer's or board's procedure(s) to determine whether its qualification or provisional qualification shall be suspended or revoked. Such request shall not constitute an appeal of the board's decision.

(D) Either upon application for qualification or provisional qualification or upon a consumer's request for investigation, or upon reasonable cause to believe that a qualified or provisionally qualified board is operating in contravention of the requirements of the act, Chapter 109:4-4 of the Administrative Code or this chapter, the attorney general may conduct any inquiry or investigation or evaluation of a manufacturer's informal dispute settlement procedure and may hold hearings, issue subpoenas requiring the attendance of witnesses and the production of records, documents or other evidence in connection therewith, administer oaths, examine witnesses and receive oral and documentary evidence.

(E) The attorney general may suspend or revoke the qualification or provisional qualification of a manufacturer's informal dispute settlement board, upon finding that the board is being used to cause injury or create hardship to consumers, in accordance with the procedure provided for in paragraphs (A) and (B) of this rule.

(F) After revocation of approval, a board may reapply pursuant to the application procedures in this chapter.

History: Enacted by 1987-88 OMR 442, eff. November 29, 1987.
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
RULE AMPLIFIES: RC 1345.77
119.032 Review Date: 7-15-03

APPENDIX
G

APPENDIX G

BBB AUTO LINE CONSUMER SURVEY QUESTIONS
NATIONAL, FLORIDA, AND OHIO

2010 BBB AUTO LINE SURVEY

(Hello, I would like to ask you some questions regarding your experience with BBB AUTO LINE. All replies will remain anonymous.)

01. What is the year of the vehicle involved in the complaint you filed with BBB AUTO LINE?

2011	2010	2009	2008	2007 or earlier	DK/DR

02. How did you first learn about BBB AUTO LINE?

Better Business Bureau	Internet	Friend/ Family	Attorney	Media	Dealer	Mfr. Rep.	Owner's Manual or other Mfr. Inf.	Other	DK/DR

03. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted BBB AUTO LINE?

01	02	03	4 or More	DK/DR

04. After you contacted BBB AUTO LINE, do you recall receiving a claim form, brochure or other materials from BBB AUTO LINE explaining the program?

Yes	No	DK/DR

05. How would you describe the information in the materials you received?

Clear and easy to understand	Somewhat clear and easy to understand	Difficult to understand	DK/DR

06. How helpful was the information you received in preparing you for what would happen in your particular case?

Information was very helpful	Information was somewhat helpful	Information was not helpful at all	DK/DR

07. Was your case determined to be ineligible or did you choose to withdraw your claim?

Yes	No (Go to Question #09)	DK/DR

08. Why was your case considered ineligible or what caused you to withdraw your claim?

Outside program's jurisdiction	Settled/car was Repaired	Consumer Sold vehicle	Consumer initiated legal action	Consumer did not want to pursue	DK/DR

If consumer withdrew or was ineligible - (Thank-you for your time)

(40 day section begins here)

09. BBB AUTO LINE records show that your case required _____ days to complete. Does that seem correct to you?

Less than 40 Days (Go to Question # 11)	More than 40 Days (Go to Question # 10)	DK/DR

10. (If case took more than 40 days) What was the reason for going beyond 40 days in your case?

Request of, or action by, consumer	Action by BBB AUTO LINE	Request of, or action by, manufacturer	Additional information or technical inspection requested by arbitrator

11. Which statement best reflects the disposition in your case?

Your claim was settled through mediation without having an arbitration hearing	Your claim was decided by an arbitrator after a hearing (Go to Question #17)	DK/DR

(Mediation section begins here)

12. Which statement best describes your mediation settlement?

Repurchase or Replacement	Repair or Reimbursement	Other Settlement

13. After you reached a settlement, did you receive a letter from BBB AUTO LINE staff describing the settlement terms?

Yes	No

14. Did the manufacturer carry out the terms of your settlement?

Yes, within the specified time	Yes, after the specified time	No	DK/DR

15. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the settlement?

Talked with staff	Received a letter	Both	Neither	DK/DR

16. Did you continue your case with BBB AUTO LINE after this point? **(Only those respondents who said the manufacturer did not perform.)**

Yes (Go to Question #29)	No (Go to Question #29)	DK/DR (Go to Question #29)

(Arbitration section begins here)

17. Did you receive notice of the scheduled date, time and place for your arbitration hearing?

Yes	No	DK/DR

18. After the arbitration hearing, was a copy of the decision sent to you?

Yes	No	DK/DR

19. Which statement best describes your arbitration decision?

Mfr. re-purchase or replacement	Mfr. repair	Mfr. reimbursement for expenses	Other award	No award

20. Did you accept or reject the arbitration decision?

Accepted	Rejected (Go to Question #23)

21. Did the manufacturer carry out the terms of the decision?

Yes, within the specified time	Yes, after the specified time	No	DK/DR

22. Did you later talk to BBB AUTO LINE staff or receive a letter from BBB AUTO LINE staff about whether the manufacturer carried out the terms of the arbitration decision?

Talked with staff	Received a letter	Both	Neither	DK/DR

23. After your arbitration, did you pursue the dispute any further?

Yes	No (Go to Question #25)

24. Which of the following did you do?

Re-contacted BBB AUTO LINE	Worked out solution with dealer/mfr.	Contacted legal counsel	Other	Contacted state or other govt. agency

(Arbitrator evaluation section begins here)

(Now, I would like to ask you some questions regarding the arbitrator in your case.)

25. What grade would you give the arbitrator on understanding the facts?

A	B	C	D	F

26. What grade would you give the arbitrator on objectivity and fairness?

A	B	C	D	F

27. What grade would you give the arbitrator on rendering a fair and impartial decision?

A	B	C	D	F

28. What grade would you give the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F

(BBB AUTO LINE evaluation section begins here)

(These are questions regarding BBB AUTO LINE staff.)

29.What grade would you give BBB AUTO LINE staff on objectivity and fairness?

A	B	C	D	F

30. What grade would you give BBB AUTO LINE staff on their efforts to assist you in resolving your claim?

A	B	C	D	F

31. Overall, what grade would you give BBB AUTO LINE?

A	B	C	D	F

32. Would you recommend BBB AUTO LINE to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know

(Thank-you very much for your time.)

APPENDIX H

APPENDIX H

FORM NAMES

Agreement to Arbitrate Form
Automotive Case Record Form
BBB AUTO LINE Case File (not a form, but the entire file)
Call Record
Case File Notes
Checklist for Arbitration Hearing Form
Customer Claim Form
Decision Form
Manufacturer's Response Form
Bureau Case Processing Checklist
Notice of Hearing Form
Performance Verification Record
Program Summary (not a form, but program information)
Reasons for Decision Form
Record of Hearing Form