

MASSACHUSETTS USED VEHICLE WARRANTY LAW CONSUMER ARBITRATION MANUAL



Commonwealth of Massachusetts
Office of Consumer Affairs and Business Regulation

Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

Beth Lindstrom
Director

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TABLE OF CONTENTS

	Page
(s)	
Table of Contents	1
I. CONTACTING THE LEMON LAW ARBITRATION PROGRAM	2
II. PREPARING YOUR CASE	3-4
A. Evidence checklist	3
B. Financial information	4
III. QUESTIONS AND ANSWERS ABOUT LEMON LAW ARBITRATION	5-18
A. PRE-HEARING	5-10
1. Arbitration	5
2. Dealer's Response and Defenses	6
4. Negotiating a Settlement with the Dealer	6
5. Withdrawal of Request for Arbitration.	7
6. Rescheduling.	7-8
7. Preparing for a Hearing.	8-10
9. Dealer's View/Inspection of the Vehicle	10
B. THE HEARING	10-13
1. Attendance at the Hearing.	10
2. The Arbitrator	11
3. Hearing Procedures	11-
5. Default	12-13
C. AFTER THE HEARING	13-18
1. The Decision	13-18
2. Late Awards and Dealer's Right to Appeal	18

12

The Used Vehicle Arbitration Program is administered by the Office of Consumer Affairs and Business Regulation (OCABR). This manual is designed to answer the most frequently asked questions consumers have about the arbitration process.

I. Lemon Law Arbitration Program Addresses and Phone Numbers

For general information about the Used Vehicle Warranty Law and arbitration:

The Office of Consumer Affairs and Business Regulation Consumer Hotline:
(617)973-8700 or toll free at (888) 283-3757, or

The Office of Consumer Affairs and Business Regulation
Attention: Consumer Hotline
10 Park Plaza, Suite 5170
Boston, MA 02116

To submit your application for arbitration:

The Office of Consumer Affairs and Business Regulation
Attention: Lemon Law Arbitration Program Coordinator
10 Park Plaza, Suite 5170
Boston, MA 02116

For information about your hearing, your award, or for other procedural questions:

The Office of Consumer Affairs and Business Regulation Lemon Law Program
(617) 973-8700

The Office of Consumer Affairs and Business Regulation
Attention: Lemon Law Arbitration Program Coordinator
10 Park Plaza, Suite 5170
Boston, MA 02116

NOTE: You will talk directly to the arbitrator only at the arbitration hearing.

II. Preparing Your Case

The better organized you are at the hearing, the more quickly and easily a decision can be made. You should gather any evidence you think will help your case, but concentrate on proving these points:

1. Repair Attempts: You must show that during the dealer warranty period, your vehicle was either:

a) repaired three or more times for the same defect, **OR**

b) out of service for 11 or more business days, not necessarily all at one time, for one or more defects.

Your vehicle may meet both of these repair attempt standards, but you must show that it meets at least one.

2. Impairment: You must show that the defect repaired by the dealer impaired the use or the safety of your vehicle. The defect may impair both the use and the safety of the vehicle, but you must show that it impairs at least one of these. It is wise to try to prove all that are applicable.

Document Checklist

A. Evidence: This is a list of evidence we suggest that you bring to the hearing. Remember, it is important to support any oral testimony you give with written information. *This list is a suggestion only.* You may bring more or less than the items we list.

- _____ Copy of your Request for Arbitration (for your reference)
- _____ Copies of work orders or maintenance records (request from dealer before the hearing)
- _____ Mileage reading of the vehicle on the hearing date
- _____ Your written records
- _____ Copies of correspondence with the dealer
- _____ Statements from mechanics or other experts regarding your vehicle's defects
- _____ Statements from people who have witnessed the problem

B. Financial Information: It is essential to bring to your hearing three copies of receipts for all costs that you are claiming, if you did not submit them with your Request for Arbitration. DO NOT ASSUME THAT A PHOTOCOPIER WILL BE AVAILABLE DURING THE HEARING
Here are examples of some financial documents you should bring:

- _____ Motor vehicle purchase contract
- _____ Bill of sale/invoice
- _____ Receipts for towing and alternate transportation costs
- _____ Receipts for any deductible you paid to the dealer for repairs
- _____ Financing agreement (retail installment contract with your lender)
- _____ Statement from lender of finance charges paid to date on your loan
- _____ Documentation for credit life/disability insurance on the vehicle's loan
- _____ Motor vehicle insurance information
- _____ Service contracts/extended warranty documents
- _____ Registration form (RMV1) from Registry of Motor Vehicles

III. Questions and Answers About Used Car Arbitration

A. Before the Hearing

Arbitration

What is arbitration?

Arbitration is the informal hearing of a dispute without going to court. Both the consumer and the dealer present their side of the story in a structured, but less formal manner than in a courtroom. After the hearing, the arbitrator will make a decision based on the information presented at the hearing. Generally, a decision is mailed within 45 days from the date your case was accepted.

The decision is an “all or nothing” decision. If your vehicle is declared a lemon, the dealer must refund your money. (See information on page 15 regarding refunds.) If your vehicle is not declared a lemon, you will not be entitled to any award under the Used Vehicle Warranty Law. However, you may have rights under other laws.

Note: Although the arbitration hearing is less formal than a court hearing, you or the dealer may choose to have an attorney present.

When will the hearing be held, and how long will it be before a decision is made?

Generally, the arbitrator will hold a hearing and decide the case within 45 days from the date your case was accepted into the program. OCABR will notify you and the dealer of the date, time and place of the hearing at least seven days before the hearing.

You will have at least three weeks to prepare your case, as a hearing will be scheduled no earlier than 21 days after your application is accepted.

Should I continue to make loan payments?

We suggest that you do. To seek state-sponsored arbitration, you must still own the vehicle in question. Although other laws may allow you to withhold payment for defective goods, if the car is repossessed, you will not be able to return the vehicle to the dealer, and thus you will not be eligible for arbitration.

Should my car be registered and insured?

The dealer and/or arbitrator may request an inspection and/or road test of your vehicle. Therefore, your vehicle should be registered and insured for legal road use.

Dealer’s Response and Defenses

What is a dealer's response?

Within 10 days of the date of the notice of acceptance of your Request for Arbitration, you should receive a response from the dealer to your complaint. In its response, the dealer may dispute or deny some of the claims you made in your Request for Arbitration.

What happens if I do not receive a dealer's response letter?

There is no specific penalty imposed on the dealer for not issuing a dealer's response, or for issuing it late. You should notify the arbitrator or OCABR that a response was not received or was received late, but that will not necessarily change the status of your case. You still have a right to go to arbitration, and you still must prove that the requirements of the Used Vehicle Warranty Law have been met.

What is the dealer likely to claim?

The dealer is likely to make one or more of the following claims in its dealer response or at the hearing:

1. The defect does not exist or was repaired before or during the third repair attempt or within ten business days out of service.
2. The defect is the result of something not covered by the law, such as your negligence, accident, vandalism, unauthorized repair or modification.
3. The defect does not impair the use or safety of the vehicle.
4. There were not 3 repair attempts for the same defect or 11 business days out of service within the dealer warranty period.

Negotiating a Settlement with the Dealer

Can I settle with the dealer before the hearing?

Yes. When your Request for Arbitration is accepted, the dealer receives a copy. The dealer may contact you and offer a settlement. If you settle with the dealer, **you must withdraw your Request for Arbitration** (see page 7). However, you should not withdraw your Request for Arbitration until you fully understand the terms of your settlement agreement. OCABR also offers mediation services. The dealer can offer whatever it feels is a reasonable settlement. You may wish to read the Refund section of this kit for information about the refund you would receive if the arbitrator decided in your favor.

Note: Under the Used Vehicle Arbitration Program, the arbitrator has no authority to enforce any settlement agreement outside of arbitration.

Withdrawing Your Request for Arbitration

Can I withdraw my Request for Arbitration?

You may withdraw your Request for Arbitration at any time before the decision is mailed to you and the dealer. Certain penalties apply, however, if your withdrawal is not received by OCABR at least one business day before the scheduled hearing date. (See the next two questions.)

As part of a settlement, the dealer may ask you to sign a waiver of any future claims you bring against it for the vehicle. You should read and fully understand any agreement you sign. Such a waiver may be legally binding on both you and the dealer, and may prevent you from pursuing a claim under the Used Vehicle Warranty Law and under other applicable laws.

If I withdraw, am I still eligible to request arbitration for the same car?

If you withdraw from arbitration at least one business day before the hearing, you remain eligible for arbitration. You are eligible for six months from the date you took delivery of the vehicle or two months from the date you withdrew, whichever is later. If you wish to re-enter your case into the program, you must send a written request to OCABR.

What if I withdraw my case on or after the hearing?

If you withdraw on or after the day of the hearing, you “withdraw with prejudice,” and your right to re-enter the program is **not** automatically preserved. After you withdraw with prejudice, you may only participate in the state’s arbitration program if the dealer voluntarily agrees to attend a hearing.

Rescheduling

How do I ask for a different hearing date?

The hearing will only be rescheduled under extraordinary circumstances. You should make every effort to attend the hearing on the date it is scheduled. If you can show extraordinarily circumstances, you should request a new hearing date as soon as possible, and contact OCABR at least one business day before the scheduled hearing.

What if something comes up on the day of the hearing which prevents me from attending?

A request to reschedule the hearing on the day of the hearing is considered a default unless OCABR decides that you have an acceptable, extraordinary reason for the last minute request.

What happens if I just don’t show up at the hearing?

Failure to appear at the hearing is considered a default. (See page 12 for information on defaults.)

When will a rescheduled hearing take place?

If possible, a new hearing date will be set within the original 45-day period. If this is not possible, a new hearing date will be set within a new 45-day period that begins with the date you asked to reschedule.

How will I know the new hearing date?

OCABR will notify you and the dealer of the date, time and place of the hearing at least seven days before the new hearing.

Preparing for a Hearing

What do I have to prove to have my vehicle declared a lemon?

You must prove that you have given the dealer the number of repair attempts required by the law within the warranty period to fix a defect which impairs the use or safety of the vehicle. The law requires 3 or more repair attempts for the same defect, or 11 or more business days out of service by reason of repair for one of more defects.

Most importantly, you must show that after the repair attempts, the use or safety defect continued to exist. If your vehicle was fixed during the first 3 repair attempts or 10 business days out of service, and the problem has not recurred, you are not eligible for arbitration and should withdraw your case.

What is a business day?

Business days are Monday through Friday and do not include state or federal holidays. A portion of a day is counted as one full day. For example, if your vehicle goes in for repairs on Tuesday at 9:00 a.m., and you pick it up at 12:00 p.m., you must count that time as one business day.

How should I explain to the arbitrator the nature and extent of my vehicle's problems?

Describe to the arbitrator what happened to your vehicle, the number of repairs it had, the number of days it has been in the shop, what the dealer did or did not do about it, and the performance of the vehicle after the repair attempts. Support your statements with copies of repair bills, letters or testimony from mechanics, your correspondence with the dealer, etc.

How can I prove impairment?

To show impairment, you must prove that the defect(s) does at least **one** of the following:

1. Impairs the use of the vehicle;

OR

2. Creates or has the potential to create a substantial danger to occupants, others, or property.

Even though you need only prove one of these to show impairment, you may wish to prove both.

What if my defect is intermittent?

Intermittent defects can be the most difficult to prove. An arbitrator needs evidence that the defect does exist and that it impairs the use or safety of the vehicle. If no mechanic at the dealership has ever identified the problem, you may wish to bring statements from the people who have witnessed the defect, or bring the witnesses to the hearing.

If the dealer claims that the vehicle's defect was caused by me, do I have to prove that I did not cause the problem?

The dealer cannot simply state that your vehicle's defect was caused by your negligence, by accident or vandalism, or by unauthorized attempts to repair or modify the vehicle. The dealer should support that allegation with testimony or documentation. However, you should be prepared to show that you did not cause the defect if such testimony or documentation is presented by the dealer.

What if I get into an accident or the vehicle is damaged?

You should notify OCABR and the dealer that there has been an accident. **If you withhold information concerning an accident or damage, you may cause delays or other problems with your case.** The dealer may argue that the accident caused the defect in your vehicle. Be prepared to show that the accident did not cause or worsen the defect you are complaining about.

I do not have receipts for the repairs done on my car. What can I do?

You may ask the dealer to give you copies of work orders, maintenance records, bills, or other information. Dealers are required by the Attorney General's regulations to give you this information. (See 904 CMR 5.00) You also have the right to ask for any information necessary to prepare your case.

If the dealer refuses to give you copies of work orders, you should send a letter to the service manager at the dealership. Bring copies of this letter to your hearing and any other documentation of repair attempts. You may also contact your local consumer program for assistance. If you do not know the address for your local consumer program, check the Self-Help section in the front of your telephone book or call the OCABR consumer hotline toll free at 1-888-283-3757.

If you are unable to get work orders, you may wish to present other evidence of repairs such as car rental receipts, statements from witnesses who provided alternate transportation, employer statement of time off from work, etc. This documentation may add credibility to your oral testimony. **Note:** The arbitrator may give oral testimony as much weight as written records.

However, with little written back-up, oral testimony can be less credible. In all cases, the arbitrator will judge the credibility of the people giving oral testimony.

Can the dealer ask me for information, or can I ask for information from the dealer?

Yes. You and the dealer are required to respond to a request for information. Either party can request information of the other to help prepare for the hearing. An information request must allow a reasonable amount of time for a response. A response to an information request should be received by the requesting party no later than three days before the hearing.

If the arbitrator requests information from me before or at the hearing, when must I respond?

The arbitrator may ask for additional information from either party. Such information must be provided within the time period that the arbitrator specifies. If a time period is not specified, you should provide the information within seven days.

Dealer's View/Inspection of the Vehicle

Can the dealer ask to examine my car or to take a test drive before the hearing?

Yes. The dealer does have a right to inspect your vehicle and/or take it for a test drive. This is **not** an additional repair attempt. If the dealer asks you to examine the car, you should comply. You may delay or jeopardize your case if you refuse. The dealer may examine your car for the purpose of preparing its case, but not to attempt repair. A view or inspection of the vehicle should be at your convenience and at the dealer's expense, if any. You have a right to be present during the inspection and test drive.

B. The Hearing

Attending the Hearing

Will I need an attorney?

The hearing will be conducted less formally than a court proceeding. However, the dealer may be represented by an attorney. Although an attorney is not required, you may want an attorney or any other person to represent you at the hearing. Attorney fees are not recoverable through arbitration.

Do I have to attend the hearing?

Usually both parties attend the hearing. However, this may not always be possible. If, for example, you live out of state and cannot be present, notify OCABR and the dealer as far in advance as possible, but no later than the day before the hearing. You may then present your case by telephone. All costs for holding a telephone hearing must be paid by you.

The Arbitrator

How many arbitrators will there be at the hearing?

There will be one arbitrator at the hearing.

Who chooses the arbitrator?

Arbitrators are chosen by OCABR from a pool of specially trained arbitrators. The choice is not subject to approval by either you or the dealer. The arbitrators are not paid by either party or by OCABR.

How can I be sure of the impartiality of the arbitrators?

Arbitrators cannot have a personal interest in the outcome of any hearing while they serve on lemon law cases. Therefore, arbitrators are required to file a disclosure form with OCABR stating any reasons which could affect their impartiality in hearing used vehicle cases. Additionally, an arbitrator cannot know any of the participants involved in the scheduled hearing, except through the hearing process. Any other familiarity must be disclosed to you and the dealer.

What should I do if I believe the arbitrator did not follow proper procedures?

The arbitrator's decision is final, but all claims concerning errors in the application of the law or in the conduct of a hearing, or other complaints should be made in writing to the Lemon Law Arbitration Program. A claim in error in the application of the statute or in the conduct of a hearing cannot be considered an appeal of any kind.

Hearing Procedures

How long is a hearing?

Generally, a hearing lasts approximately two hours.

What is the order of presentation at the hearing?

You present your case first. The dealer will follow you.

May I ask questions at the hearing?

Yes. Each party may question the other after his/her presentation and may question each witness after his/her testimony. The arbitrator may question either party or witness at any time.

Will a record be made of the proceedings?

The arbitrator will tape record the hearing. The parties may request copies of hearing tapes from OCABR for a small fee.

What will be considered evidence at the hearing?

The formal rules of evidence **do not** apply in an arbitration hearing. An arbitrator may accept or reject any evidence that s/he believes is or is not helpful in making a decision. However, each party is expected to make a brief and focused presentation so that the hearing may be conducted in a timely fashion.

What if the dealer claims it can repair the defects if given another opportunity?

Evidence that the problem can now be repaired is irrelevant. The arbitrator must determine whether the vehicle was still impaired at the end of the third repair attempt for the same problem or after the eleventh business day in the shop. If you prove that after the repair attempts the problem impaired the vehicle's use or safety, and all other requirements of the Used Vehicle Warranty Law have been met, you are entitled to a refund.

Do I have to bring my vehicle to the hearing so the arbitrator can examine it or test drive it?

Yes. You should bring your vehicle to the hearing unless it is inoperable or unsafe to drive. The arbitrator will decide whether to examine or test drive the vehicle. Neither party can require that the arbitrator examine or ride in the vehicle.

Defaults

What is a default?

If a party does not show up at the hearing or asks to reschedule the hearing on the day of the hearing, that is considered a default. In addition, after a warning, the arbitrator may end any hearing that becomes unmanageable due to the behavior of one of the parties; the arbitrator may issue a default against the party whose behavior became unmanageable.

What happens if the dealer defaults?

The arbitrator will hold the hearing anyway and make a decision based on your evidence and any evidence already submitted by the dealer. The dealer has three business days to give a good cause reason for defaulting. If the OCABR determines that the dealer has a good cause reason, a new hearing date will be set and the evidence already heard be disregarded. If the dealer does not show good cause, the arbitrator will issue a decision.

What happens if I default?

The hearing will be canceled and your Request for Arbitration will be withdrawn with prejudice. You have three business days to give a good cause reason for defaulting. If the OCABR determines that you have a good cause reason, a new hearing date will be set.

What happens when both parties default?

The hearing will be canceled and your Request for Arbitration will be withdrawn with prejudice.

What if there is a good reason for defaulting?

You have three business days after the hearing to show that you had good cause for defaulting. If OCABR decides to set aside the default, a new hearing will be held.

C. After the Hearing

The Decision

What will the arbitrator decide?

The arbitrator can only decide whether or not the vehicle meets the standards for a refund under the Used Vehicle Warranty Law. An arbitrator cannot order additional repairs, an extended warranty, a partial refund or other remedy.

When will I receive the decision?

Generally, a written decision is mailed within 45 days from the acceptance date of your Request for Arbitration.

What is included in a written decision?

A decision will include a summary of the evidence presented, a finding of facts, a conclusion of whether or not the vehicle meets the standards for refund, and, if appropriate, a calculation of the monetary award and an order. The decision does not have to detail every point made by you or the dealer.

If the arbitrator decides my car is not a lemon, will I receive anything?

If the arbitrator decides that your vehicle is not a lemon as defined by the Used Vehicle Warranty Law, you will not receive an award through this program. However, you may have rights under other laws.

What action can I take if I am dissatisfied with the decision?

An arbitrator's decision is final.

However, either party may request a technical correction in writing within 14 days of the mailing of the decision. Technical corrections are defined as computational corrections, typographical

corrections or other minor corrections. Technical corrections do not constitute an appeal of the decision.

If you lose your case at arbitration, you may file a claim against the dealer in court for violation of Massachusetts General Laws Chapter 93A, the Consumer Protection Act. Under this law, you may be entitled to double or triple damages, plus court costs and reasonable attorney's fees if the case is decided in your favor. **NOTE:** In such a lawsuit, the dealer may present the decision of the arbitrator as evidence that the requirements for a refund under the Used Vehicle Warranty Law have not been met.

What happens if the arbitrator decides in my favor?

Within 21 days of the mailing date listed on the decision, the dealer must either pay the award ordered by the arbitrator or appeal the decision to Massachusetts District or Superior Court. Unless the case is appealed, you should contact the dealer before the 21-day due date to set up a time to make the exchange. If you are not able to reach the dealer, contact the Lemon Law Program Coordinator at OCABR. In addition, OCABR will contact the parties prior to the 21-day due date to inquire about the award.

How do I get my award, and what should I do with my vehicle?

If the case is decided in your favor, you should be prepared to give up the vehicle within the 21-day period. You should contact the dealer if you have any particular problem meeting with him/her within the 21-day period. If the vehicle was financed, you and the dealer may meet at the bank during normal business hours. If the vehicle was not financed, the meeting may take place at the dealership.

The dealer must pay off the lienholder if there is a loan on the vehicle, and then pay you. The dealer will expect the title to your vehicle in exchange for the award. Your bank loan must be paid before the bank will release your title.

Some dealers will issue one check made payable to both you and the lienholder. In that case, you may sign the check over to the bank, and the bank will issue a check to you for the remainder of the money. Other dealers may issue two checks, one payable to the lienholder for the outstanding loan balance, and one to you for the remainder of the money.

You should not be forced to take out a second loan to deliver clear title of the vehicle, unless the award amount is less than the loan. In addition, you should have up-to-date information available for the dealer at the time of the exchange.

What if I have an accident after the hearing?

If your vehicle is in an accident, you should notify the dealer and OCABR immediately. If the damage is unrelated to the defect in your vehicle, you must either repair the damage, pay the dealer for the cost of the repair, or deduct a reasonable cost of repair from the refund awarded by the arbitrator.

Can I demand a replacement vehicle instead of a refund?

No. The law entitles you to a refund only.

Can I reject an arbitrator's decision in my favor?

If you win, but for some reason decide to reject an arbitrator's decision, you should inform the dealer in writing and mail a copy of that letter to the Lemon Law Program Coordinator at OCABR. The dealer will not be penalized for your failure to accept the award. For example, you will no longer be eligible for dealer warranty repairs under the law.

What is included in a refund?

The following costs are included in a refund:

1. The purchase price, including any trade-in, minus a use allowance
2. Registration fees
3. Finance charges paid to date on your loan up to the date you return the vehicle
4. Cost of options paid by your dealer
5. Payments made toward warranty repairs
6. Unreimbursed costs of towing for up to 30 miles per tow
7. Up to \$15 per day for alternate transportation starting on the third day of each repair attempt
8. Pro-rated cost of property damage liability, collision and comprehensive insurance
9. The non-refundable portion of payments made toward service contracts, extended warranties, or credit life, health or accident insurance on your loan

Bring three copies of receipts of costs claimed to the hearing.

Please note that you are only entitled to reimbursement of a portion of the costs included in Nos. 8 and 9 above.

Property Damage Liability, Collision and Comprehensive Insurance: You will only be reimbursed for the pro-rated cost of property damage liability, collision and comprehensive insurance. Pro-rated means that you will be reimbursed for the amount that you have paid toward the specific coverage only. You will not be reimbursed for other insurance coverage you may have on the vehicle.

Service Contracts and Extended Warranties: You will only be reimbursed for the portion you have paid toward the extended warranty to date. Generally, the unused portion, if any, is reimbursed by the company that issued the warranty. If you paid for the extended warranty in full when you purchased the vehicle, the dealer will reimburse you for the portion used while you owned the vehicle, and the extended warranty company will reimburse you for the unused portion of the warranty.

Credit Life, Health and Accident Insurance on the Loan: This refers to an insurance policy you have taken out on your vehicle loan in case of death, disability, etc. It is not your personal health insurance. You will only be reimbursed for payments made to date for this insurance policy.

What costs are deducted from an award?

1. Use Allowance: The use allowance is a deduction for the total miles you have driven the vehicle from the date of delivery to the date the award is paid. The use allowance is 15 cents per mile. In the award calculation, the arbitrator will determine a use allowance based on the mileage of your vehicle. This deduction, however, is a continuing cost. Keep in mind that your use allowance is not be based on miles driven at the time you file for arbitration or miles driven at the time of your hearing. It will be based on miles driven through the day you actually return the vehicle to the dealer. As such, on the day you return the vehicle you and the dealer will need to adjust the amount of the award based on your mileage.

For example, if a vehicle was purchased with 8,000 miles and has 10,000 miles at the time the award exchange is made, the use allowance would be calculated in the following manner:

Current miles 10,000 - Beginning miles 8,000 = 2,000 miles

.15 per mile X 2,000 miles = \$300.00 deduction

2. Overallowance/Dealer Discount: Sometimes when you trade in a vehicle, there are two parts to the trade-in amount. One is the actual cash value of the trade-in and the other is known as “overallowance” or “discount.” An overallowance or discount is the difference between the trade-in amount and the actual cash value of the trade-in vehicle. For example, the dealer may list the trade-in amount as \$2,000, when the trade-in vehicle is worth only \$1,500. In this case, \$500 of the trade-in amount is an overallowance.

Trade-in amount	\$2,000.00
- Actual cash value	<u>\$1,500.00</u>
Overallowance	\$500.00

The overallowance will be deducted from your refund ***if*** the amount of the overallowance is clearly and separately listed on your copy of the motor vehicle purchase contract, bill of sale, or other documents given to you at the time of sale.

3. Trade-in: If the dealer still has your trade-in vehicle, it can return the vehicle to you and deduct the trade-in value from your arbitration refund. You cannot demand return of your trade-in vehicle as part of the refund. It is the dealer’s option to decide whether to return the trade-in to you as part of the refund.

What costs are not part of a refund?

Costs that are not recoverable include:

1. Lawyer's fees
2. Excise tax
3. Sales tax
4. Time lost from work
5. Emotional distress and other consequential damages

The Massachusetts excise tax is reimbursed by the local city or town on a pro-rated basis. Contact your town or city hall for an appropriate form and more specific information on how to cancel the excise tax.

Under certain circumstances, sales tax may be reimbursed from the Department of Revenue. Contact the Department of Revenue at (617) 887-6367 for more information.

How do I cancel my credit life/disability insurance and extended warranty plans, and am I entitled to a refund?

You are entitled to a refund of the unused, pro-rated amount of any money paid for extended warranty, credit life, or disability insurance. These costs may be recovered directly from the company from which you purchased the plans. You should cancel these plans when your loan is paid and follow the company's procedures for refund of the unused portion.

In cases where the insurance/warranty plans have not been paid in full, but have been financed through the life of the loan, you may not be entitled to a refund of that cost. For more information on the terms of your loan, contact your lender.

Please note that the full amount of these plans may appear in your decision if the pro-rated amount cannot be calculated until you pay off your loan. The amount of the plan is only written into the award in the event that you cannot get a refund from the company involved. Therefore, you may be receiving your refund of these canceled plans directly from the company who issued the plans in a separate check. Some dealers may agree to pay these costs and have you assign your rights to any refund under these plans to the dealer.

What if there are mathematical mistakes or other minor errors in the decision?

The arbitrator or OCABR can issue a technical correction for an omission in award of a paid, recoverable cost such as registration fees, or for other minor errors such as mathematical mistakes. OCABR must receive a written request for a technical correction of an award within 14 days of the mailing date of the arbitrator's decision. Your written request should be specific and include any receipts or documentation for the changes you are requesting.

Please note that generally a technical correction does not need to be issued for continuing costs such as additional finance charges because you are entitled to these costs up to the date of the exchange. OCABR or the arbitrator cannot make substantial changes to the decision, such as reversal of a decision.

What if I have additional costs after the hearing?

The arbitrator's award allows for "plus or minus continuing costs." If you have additional finance charges after the hearing, ask your lender for documentation and forward a copy to the dealer as soon as possible. The dealer is responsible for reimbursing you in a separate check, if necessary.

Late Awards and the Dealer's Right to Appeal

What happens if the dealer fails to pay the award or file an appeal within 21 days?

If by the end of the twenty-first day you have not received your award and an appeal has not been filed, you should contact OCABR immediately for enforcement. OCABR has the authority to issue fines of up to \$50 for every day the award is late, up to a maximum of \$500. Any money paid for state fines is credited to a general state fund, not to the consumer, the Lemon Law Program, or OCABR. If the dealer still does not comply with the arbitrator's decision after the fine has been issued, the case is then referred to the Office of the Attorney General for enforcement in Superior Court. In addition, you may also want to consult with an attorney to file a claim in court under Chapter 93A.

What happens if the dealer appeals the arbitrator's decision?

If the dealer is dissatisfied with the arbitrator's decision, it may appeal the case to District or Superior Court within 21 days from the mailing date of the decision. If the dealer does file an appeal, you will need to hire an attorney if you decide to oppose the appeal in court. OCABR cannot represent individuals in court. Your attorney may contact the Lemon Law Program Coordinator for information on appealed cases. If the court overturns the arbitration decision and decides in favor of the dealer, you must pay for your own attorney's fees.

If you have any further questions about the Used Vehicle Arbitration Program, contact the OCABR at the address and phone numbers listed on page 2. Please be prepared to provide your OCABR case number which is listed on your hearing notice.