

UNDERSTANDING BASIC CONSUMER RIGHTS:



HOW TO TIP THE SCALES OF JUSTICE IN YOUR FAVOR.

¹ This guide is intended to educate you as to some basic consumer rights, remedies and protections available to you under State and federal law. This guide is not intended to be an exhaustive list of all such rights, remedies or protections, nor is it intended to constitute specific legal advice or substitute for the advice of legal counsel. You are encouraged to seek the advice of an attorney in your state to learn your specific legal rights.

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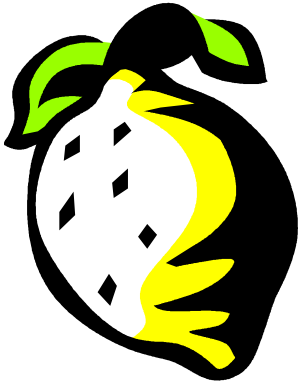
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As a 21st century consumer, you have more rights and protections than ever before. If you have a defective consumer product that has been subject to multiple repairs, you may be entitled to compensation under State and federal laws. Likewise, if you were sold a consumer product or service under false pretenses, you may be entitled to "undo" the deal and/or compensatory and punitive damages. Similarly, if inaccuracies exist on your credit report, or if you are being harassed in connection with the collection of a debt, you may be entitled to actual and statutory damages.

Most of these laws and statutes also provide for the **payment of your attorney fees and court costs by the manufacturer or seller** if successful, thereby tipping the scales of justice in your favor by providing consumers the financial ability to enforce these rights against otherwise "untouchable" giant corporations.

If you believe any of your rights as explained herein have been violated, you may contact Weisberg & Meyers, LLC toll-free at 866 755 3666 or via E-mail at help@AttorneysForConsumers.com for a free consultation or nationwide referral.



LEMON LAWS

Whereas at one time you had no alternative but to allow the manufacturer or seller of a defective product an endless amount of repair attempts, State and federal statutes informally known as "Lemon Laws" provide for compensation to you where you have a defective product that cannot be fixed within a reasonable opportunity. The federal Lemon Law, officially known as the Magnuson-Moss Warranty Act, provides for the payment of your attorney fees and court costs if successful, as do most State Lemon laws.

To qualify for protection under a Lemon Law, you must generally have a defective consumer product that has not been fixed within a reasonable amount of repair attempts. Most State Lemon Laws

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specifically apply to motor vehicles and require the manufacturer to refund your money or replace your vehicle if, during the first twelve to twenty-four months of ownership, your vehicle has suffered three to four repairs for the same problem or has been out of service by reason of repair more than thirty days. Although State Lemon Laws are generally limited to new vehicles, many states have enacted specific lemon statutes that protect purchasers of used vehicles and/or other consumer products such as Motor Homes and computers.

The federal Lemon Law often extends protection far past State law, making warrantors responsible for irreparable defects for up to four years after the factory warranty has expired. This federal statute generally provides cash compensation where the warrantor cannot make your product free from defects within a reasonable opportunity. Unlike State Lemon Laws, the Magnuson-Moss Warranty Act applies not just to vehicles but instead to all consumer products – including boats and appliances. Magnuson-Moss also creates strict requirement for warrantors when drafting warranties and disclosing warranty terms, thereby eliminating much of the confusing “doubletalk” inherent in consumer warranties.

Lemon Laws often, but not always, require you to provide written notice of the defect to the warrantor and a final opportunity to fix the defects. These statutes also authorize warrantors to establish programs to resolve consumer complaints out of court. However, these programs are often wholly funded by the warrantors themselves, calling into serious question the credibility and impartiality of these mechanisms. You are generally only obligated to participate in such programs where the warrantor establishes the program in strict compliance with State and federal law. Before participating in any such program, you should consult an attorney as although such programs may be helpful, they may be harmful as well due to the bias towards the warrantor inherent in most of these mechanisms.

Because of the expansive legal rights these statutes provide you, sellers and manufacturers will often create obstacles to your enforcement of these rights and at times, will discourage you from enforcing your time-sensitive rights by providing false and misleading information. For example, a warrantor may tell you the time to enforce your *State* Lemon Law rights has expired without informing you of the rights you have under the *federal* Lemon Law. Likewise, in an effort to make you accept your lemon, warrantors will often tell you there is no problem with your product and that what you are experiencing is a “normal operating condition.” Always get a second – or third – opinion

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before believing that problem you know is there really isn't. Further, always ask for all Technical Service Bulletins ("TSB's") on your vehicle as these internal documents often prove your problem exists. Finally, and perhaps most important of all, always make sure to get documentation from the warrantor of each and every repair attempt whenever you retrieve your product back from the repair shop. Withholding these records from you is often the warrantor's best way to prevent you from building your lemon case, so always insist on receiving a repair order. If the warrantor refuses to give you one, make your own by faxing or mailing the repair shop a letter memorializing the defect and date of the repair, and the warrantor's refusal to provide you a repair order.

If you believe you have a "Lemon," call toll-free 866-77-LEMON (866 755 3666) or E-mail help@AttorneysForConsumers.com for a free case evaluation and/or nationwide referral.



CONSUMER FRAUD

Consumers today face a daunting challenge when buying products or services. The "great deal" you just bargained for may not be that which the seller promised, and your agreement to "sign on the dotted line" may have been coerced by false pretenses. Fortunately, you may not be obligated under the contract if the same was induced by misrepresentation or concealment.

All states have "common law" principles that prevent unscrupulous businesses from capitalizing on deals that are the product of fraud. Most often, common law fraud requires a representation the seller

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knew or should have known was false, your reliance on the representation, and your subsequent injury. Many states have formalized common law fraud by enacting statutes which make proving fraud even easier. These “little FTC acts” often relax the elements of common law fraud and minimize your duty to investigate by imposing a “least sophisticated consumer” standard.

The standard measure of damages for fraud is rescission – the ability to void the deal. Sometimes, you may be entitled to cash compensation as well, and in many cases, punitive damages can be awarded against the business and to you to discourage such deceptive behavior in the future. Additionally, successful consumers may often recover their attorney fees and court costs.

There are several ways to protect against being the victim of consumer fraud. One way is to always get all promises in writing. If the seller has promised something verbally that isn’t in the contract, ask him to put it there as written promises are easier to enforce than those made verbally. Plainly, the seller should be willing to put in writing anything he promised – if he won’t, you may be better off doing business with someone who will. Likewise, there are many ways to investigate the company you are considering doing business with before you enter into the contract. State attorney generals often keep lists of consumer complaints against local companies as does your local Better Business Bureau. Although these sources are often very helpful, they are not always complete, so the mere fact a business doesn’t show up on any such lists does not necessarily mean you are safe.

The prior history of a used car is also often easy to investigate. Internet research engines like CarFax or Autocheck² generally provide a simple way to probe a vehicle’s past history. You may also contact your local motor vehicle division to acquire a “title history” which often reveals a vehicle’s travels across state lines in an effort to “wash away” an unclean history. The most common red flags to look for when researching a vehicle’s past history include where the vehicle was previously repurchased by the manufacturer (known as a “Lemon Law buyback”), where it was involved in an accident prior to your purchase, where the vehicle was previously used as a rental car, and where the vehicle’s odometer was altered. Although none of these research tools are infallible, your chances of avoiding becoming the

² Weisberg & Meyers, LLC has no affiliation with these services and makes no warranties as to the same, we just provide these links for your information.

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victim of consumer fraud are greatly increased by taking simple measures such as these.

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FAIR CREDIT REPORTING

Federal and state fair credit reporting statutes promote the accuracy and privacy of information kept and distributed by the nation's consumer reporting companies by defining how information must be recorded, verified and safeguarded. These requirements are critical as the accuracy of your credit report can affect whether you qualify for a loan and at what interest rate, and the privacy of your information guards against identity theft, a very serious problem today that can ultimately affect your ability to get credit, insurance, or even a job. Violations of these statutes require compensation for the damages suffered plus an additional amount up to \$1,000 per violation, attorney fees and court costs, and often more importantly, allow you to correct and protect your credit report in the future.

The accuracy of your report can be easily verified by simply ordering your report. Each of the nationwide consumer reporting companies—Equifax, Experian, and TransUnion—are required by federal law to provide you with a free copy of your credit report, at your request, once every 12 months.³ You are also entitled to a free report if a company takes adverse action against you based on information in your report (e.g., denies your application for credit, insurance, or

³ You may obtain your free report(s) online at www.annualcreditreport.com, by calling toll-free 877-322-8228, or by writing Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281.

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employment) if you ask for your report within 60 days of receiving notice of the action. Free reports can also be obtained if you're unemployed and plan to look for a job within 60 days; if you're on welfare; or if your report is inaccurate because of fraud or identity theft. If you are entitled to a free report under any of these circumstances, get it, there is nothing to lose and only much to gain – for example, better or more credit and identity theft prevention!

Fair credit reporting laws are generally enforceable against both the consumer reporting company and the information provider (the entity that provides information about you to a consumer reporting company). If you see inaccuracies when you get your report, the first step is to write the reporter(s) and provider(s) and clearly identify each disputed item. Explain the factual reasons why you dispute the information and request that it be removed or corrected (keep copies of your dispute letter and enclosures). Within thirty days of receiving your letter, reporting companies must investigate the items in question, and also must forward all relevant data you provide about the inaccuracy to the organization that provided the information to the reporting company. The information provider must then investigate the dispute and report back to the consumer reporting company. Any failure to adequately investigate your dispute gives you the ability to pursue action against both the reporting agency and the information provider.

If the information provider finds the disputed information is in fact inaccurate, it must notify all three nationwide consumer reporting companies of the errors. The consumer reporting company must then remove the inaccurate information from your report and may not report it again. You are entitled to the results of any investigation in writing and a free copy of your report if the dispute results in a change. At your request, the consumer reporting company must also send notices of any corrections to anyone who received your report in the past six months. Even if an investigation doesn't resolve your dispute with the consumer reporting company, you can ask that a statement of the dispute be included in your file and in future reports so that potential lenders and employers can see "your side of the story." When negative information in your report is accurate, only the passage of time can assure its removal; however, even accurate negative information must generally be removed seven to ten years after the information first appeared on your report.

Additionally, because of privacy rights and identity theft concerns, your credit report is also protected from unauthorized viewing. Only

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those with a valid need may see your credit report – for example, a potential creditor or landlord, and a potential employer can only see your report with your express written permission. Any unauthorized review of your credit report may thus also entitle you to damages.

If you believe you are the victim of credit reporting practices, call toll-free 866 755 3666 or E-mail help@AttorneysForConsumers.com for a free case evaluation and/or nationwide referral.



FAIR DEBT COLLECTION

Contrary to what you may have experienced, debt collection efforts are strictly regulated by State and federal law. Fair debt collection laws set forth permissible and impermissible methods for debt collectors when collecting consumer debt. Although violations of these laws do not “wipe away” legitimate debts, such violations do require mandatory monetary compensation to you for the damages suffered plus an additional amount up to \$1,000 per violation. Your reasonable attorney fees and court costs must also be paid by the collector if you prevail.

All consumer debt is covered by debt collection statutes. These kinds of personal, family, and household debts include money owed for goods like automobiles and furniture, services like health care, and on ordinary credit and charge accounts. A “debt collector” is a person who regularly collects debts owed to third parties; a collector does not collect his own debts.

Although a debt collector may contact you in person, a debt collector may not contact you at inconvenient locations such as your place of employment if the collector knows your employer does not permit such contact. Likewise, although a collector may contact you at home by phone, he may not do so at inconvenient times like early in the morning or late in the evening. Similarly, although a collector may initially contact you in writing, he may not do so again if you write a

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letter to the collector telling them to stop; in fact, once the collector receives your letter, they may not contact you again except to say there will be no further contact or to notify you of some specific action the collector or creditor intends to take. Further, a collector generally may not contact a third party about your debt or discuss your debt with anyone other than you or your lawyer.

Even if the collector's methods of contact are legal, the substance of the collector's contact may nonetheless violate collection law. For example, debt collectors may not: use profanity or threaten violence or arrest; repeatedly use the telephone to harass and annoy; threaten to seize your property, garnish your wages or take legal action against you unless it is legal to do so; deposit a post-dated check prematurely; or, make any false or misleading statements.

After first contacting you, a debt collector must, within five days of first contact, send you written notice of the amount you owe; the name of the creditor to whom you owe the money; and what action you can take to dispute the debt. If you in fact dispute the debt in writing within thirty days, a collector cannot contact you again until he sends proof of the debt, e.g., a copy of the alleged bill.

If it is ever alleged you have an outstanding debt, first and foremost make the collector prove the debt. Remember, the collector cannot contact you ever again once you dispute the debt in writing until he has proof of the debt. Also, keep a log of all collection efforts, for example, time and date of phone calls and in person contact. Similarly, keep detailed notes of any collection interactions, including exactly what the collector said or wrote. Finally, make sure to maintain all written correspondence received from the collector.

If you believe you are the victim of unfair debt collection practices, call toll-free 866 755 3666 or E-mail help@AttorneysForConsumers.com for a free case evaluation and/or nationwide referral.⁴

⁴ "Understanding Basic Consumer Rights: How to Tip the Scales of Justice in Your Favor" ©2006 Weisberg & Meyers, LLC All rights reserved.