

Notice of Agency Approval

Legislative Rule: Legislative rule dealing with the establishment and qualification of third-party dispute mechanisms for the resolution of new motor vehicle warranty disputes between the consumer and manufacturer.

The above titled legislative rule constitutes the official rule approved by the Attorney General's Office of Consumer Protection and Antitrust on the 5th day of December, 1984 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.

Donald L. Darling

Entered

FILED
1984 DEC -6 PM 12:01
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

CHAUNCEY H. BROWNING
ATTORNEY GENERAL

December 6, 1984

The Honorable A. James Manchin
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary of State Manchin:

Please find enclosed the transcript of the public hearing and the comments received regarding the proposed legislative rule dealing with the establishment and qualification of third-party dispute mechanisms for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer, its agent, or authorized dealer. The comments were reviewed and evaluated, however, no amendments were made to the proposed legislative rule.

If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,

H. Wyatt Hanna III

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp

Enclosure

BEFORE THE CONSUMER PROTECTION AND ANTITRUST DIVISION OF THE
ATTORNEY GENERAL'S OFFICE OF THE STATE OF
WEST VIRGINIA

IN THE MATTER OF: Proposed regulations promulgated
under new "lemon law."

Transcript of proceedings had or testimony adduced
in a hearing held at 1204 Kanawha Boulevard, East, Charleston,
West Virginia, on the 18th day of September, 1984, beginning
at 1:30 p.m., pursuant to notice to all interested parties.

BEFORE: DONALD L. DARLING,
Assistant Attorney-General

APPEARANCES: S. C. STUDEBAKER,
Customer Relations Manager
U. S. Automotive Sales
Chrysler Corporation
100 Park Manor Drive
Pittsburgh, Pennsylvania 15205;

H. WYATT HANNA, III
Assistant Attorney General
Consumer Protection & Antitrust Division
Charleston, WV 25305

GENERAL REPORTERS
2020 Kanawha Boulevard, East
Charleston, West Virginia 25311
344-4862

DIRECTOR DARLING: Good afternoon. It's 1:37 p.m. on Tuesday, September the 18th of 1984.

My name is Donald L. Darling, and I am the acting Director of the Consumer Protection & Antitrust Division of the Attorney General's Office of the State of West Virginia.

This is a hearing being held to receive comments from the public respecting proposed rules and regulations, particularly what proposed Legislative rules required to be promulgated under the provisions of the Consumer Protection New Motor Vehicle Warranties Act of the West Virginia Code which is cited as Chapter 46A, Article 6A, Sections 1 through 9, inclusive.

The proposed Legislative rules deal with the establishment and qualification of third party dispute mechanisms for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer or the manufacturer's agent or authorized dealer.

The regulations submitted for public comment and review are required and authorized by the provision of Chapter 46A, Article 6A, Section 8, subpart (a) of that section.

The regulations, along with the notice of public hearing were duly filed in the Office of A. James Manchin, the Secretary of State for the State of West Virginia, on July 18th, 1984. At that time, the notice of public hearing stated that

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a hearing would be held in the Office of the Attorney General's Consumer Protection & Antitrust Division at 1204 Kanawha Boulevard, East, Charleston, West Virginia.

Mr. Hanna, after identifying yourself for the record, I wonder if you would state for the record if you made any attempts beyond the filing of this notice to give particular notice to any parties that may be interested in the promulgation of these regulations.

MR. HANNA: I am H. Wyatt Hanna, III. I'm an Assistant Attorney General in the Consumer Protection & Antitrust Division.

I was given the responsibility of filing these rules and regulations with the Secretary of State, in which I did on July 18th, 1984.

I, also, in addition to that attempted to get copies of the proposed Legislative rule to certain groups which I did, and I'll go ahead and recite those groups now for you.

I sent a copy of the proposed Legislative rules to Susan Moriak. She's with RVIA at Post Office Box 204, Shantilly, Virginia 22021.

I also sent a copy to Valerie Post of Steptoe and Johnson at P. O. Box 2190, Clarksburg, West Virginia 26301. They represent various insurance companies and were interested in the rules and regulations.

I also sent a copy to Mr. Norman R. Sherbert, c/o General Motors Corporation, 240 West State Street, Suite 1524, Trenton, New Jersey 08608.

I also sent a copy of the rules to the Customer Relations Manager, Pittsburgh Zone Office of Chrysler Corporation, P. O. Box 4599, Pittsburgh, Pennsylvania 15205.

I also sent copies to Charles G. Brown who is head of the West Virginia Consumer Federation at 814 Virginia Street, East, Suite 207, Charleston, West Virginia 25301.

And I also sent copies of these proposed regulations to Mr. Dean Determan, the Vice President, Council of Better Business Bureaus, 1515 Wilson Boulevard in Arlington, Virginia 22209. Ms. Polly Diller, the Director of Charleston Consumer Protection at Virginia and Court Street, Charleston, West Virginia 25301.

I might add just for the purpose of the record that we did have about four or five inquires from consumers who also wanted copies of the proposed rules, and we did send those out to those consumers. I won't bother mentioning them here now, but we did send copies to anyone who requested them.

DIRECTOR DARLING: Thank you, Mr. Hanna.

Mr. Hanna, did the letter which accompanied the copies of the proposed regulation also include a notification as to the date and time of the hearing, the public hearing

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for the receipt of comment?

MR. HANNA: Yes, I'm sorry. I didn't address that point. Yes. It said, "All interested parties may either appear and be heard at the public hearing on Tuesday, September 18th, 1984, or you may present written comments to this office on or before that date." The hearing date being September 18th.

Yes. And that was made clear to everyone that received a letter.

DIRECTOR DARLING: Thank you, Mr. Hanna.

I wonder if anyone wishes to make comments, now being present in the hearing, would please identify themselves for the record.

MR. STUDEBAKER: This is Sam Studebaker. I'm with Chrysler Corporation from the Pittsburg Zone Office.

DIRECTOR DARLING: There being no other members of the public being present, wishing to make comments at this time, I now invite Mr. Studebaker to make any comments he may desire with respect to the act and regulations.

MR. STUDEBAKER: Now, relative to the regulations as I've briefly had the opportunity to review them, pending any oversight on my behalf relative to what I have scanned through, read through at this time, I find that the regulations as currently proposed fully comply with the system that has been previously established by Chrysler Corporation under our own

informal complaint handling procedure.

At this point in time, I find no problem here whatsoever. I feel that Chrysler Corporation in our complaint handling procedure can fully qualify and does fully qualify under the current proposed regulations.

DIRECTOR DARLING: Mr. Studebaker, would you desire a short period of time in which to file written comments, if you would so desire, after having more time to review the regulation?

MR. STUDEBAKER: Once I've had the opportunity to totally review these myself, as well as the Corporate Customer Relations Department in Detroit, at that point in time if they feel there's need for additional comment, I would expect Detroit to be doing some correspondence directly with your office.

DIRECTOR DARLING: As you know, as I told you earlier before the hearing began, we're hoping to have our regulations ready for submission to the October meeting of the Legislative Review Committee, which is the next step in the regulation promulgation procedure in West Virginia.

I think it might be appropriate if we could establish a date at this time so that we might feel free to proceed with the filing of the regulations for the October meeting.

So I would suggest, then, that we agree upon a reasonable period of time now of which to submit written comments, if any. And if we have not received any by that agreed upon date, then we will assume then that no comments will be forthcoming.

Does that seem equitable to you, sir?

MR. STUDEBAKER: Very good.

DIRECTOR DARLING: Would September the 28th provide you adequate time? That is a week from Friday of this week, and 10 days from this date?

MR. STUDEBAKER: No problem with that, whatsoever.

DIRECTOR DARLING: Please note for the record then that any written comments received on behalf of Chrysler Corporation will be incorporated for purposes of review and inclusion of the record of these proceedings if the same are received by September the 28th, 1984.

Are there any other comments to be made at this time?

(No response)

DIRECTOR DARLING: There being no other comments and there being no other persons present wishing to speak, I close this public hearing.

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit;

I, Bonnie Sue Tichenor, Notary Public in and for the State of West Virginia do hereby certify that the foregoing transcript is true and accurate to the best of my skill and ability.

Bonnie Sue Tichenor
REPORTER

GENERAL REPORTERS
2020 Kanawha Boulevard, East
Charleston, West Virginia 25311
344-4862

September 12, 1984

Susan Moriak
RVIA
Post Office Box 204
Shantilly, Virginia 22021

Dear Ms. Moriak:

For your information, I have enclosed a copy of the proposed regulations promulgated by this office under our new "lemon law." The regulations deal with the establishment and qualification of third party dispute mechanisms for the resolution of automobile warranty disputes.

All interested parties may either appear and be heard at the public hearing on Tuesday, September 18, 1984, or you may present written comments to this office, on or before, the hearing date.

If you have any questions, please feel free to contact me.

Very truly yours,

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp

Enclosure

August 3, 1984

Valerie Post
Stepto and Johnson
Post Office Box 1100
Clarksburg, West Virginia 26301

Dear Ms. Post:

Please find enclosed the information that you requested from this office. If I can be of service to you in the future, please feel free to contact me.

Very truly yours,

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp

Enclosure(s)

Dean Determan, Vice President
Council of Better Business Bureaus
1515 Wilson Boulevard
Arlington, Virginia 22209
800-336-5499

Inquiries-G.M. Arbitration for WV

800-368-5638 Wash. D.C.

202-393-8000

Polly Miller
Director
Charleston Consumer Protection
Va. and Court Street
Charleston, WV

August 3, 1984

Customer Relations Manager
Pittsburgh Zone Office
Chrysler Corporation
Post Office Box 4599
Pittsburgh, Pennsylvania 15205.

Dear Sir:

Please find enclosed the proposed regulations dealing with the "lemon law" which was recently enacted here in West Virginia. All interested parties may either appear and be heard at the public hearing on Tuesday, September 18, 1984, or you may present written comments to this office.

I have, for your convenience, also enclosed a copy of the "lemon law." If I can be of service to you in the future, please feel free to contact me.

Very truly yours,

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp
Enclosure(s)

August 3, 1984

Charles G. Brown
814 Virginia Street, East
Suite 207
Charleston, West Virginia 25301

Dear Charlie:

For your information, I have enclosed a copy of the proposed regulations promulgated by this office under our new "lemon law." The regulations deal with the establishment and qualification of third party dispute mechanisms for the resolution of automobile warranty disputes.

All interested parties may either appear and be heard at the public hearing on Tuesday, September 18, 1984, or you may present written comments to this office, on or before, the hearing date.

If you have any questions, please feel free to contact me.

Very truly yours,

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp

August 3, 1984

Norman R. Sherbert
c/o General Motors Corporation
240 West State Street
Suite 1524
Trenton, New Jersey 08608

Dear Mr. Sherbert:

Please find enclosed the proposed regulations dealing with the "lemon law" which was recently enacted here in West Virginia. All interested parties may either appear and be heard at the public hearing on Tuesday, September 18, 1984, or you may present written comments to this office.

I have, for your convenience, also enclosed a copy of the "lemon law." If I can be of service to you in the future, please feel free to contact me.

Very truly yours,

H. WYATT HANNA III
Assistant Attorney General
Consumer Protection & Antitrust Division

HWH/sp
Enclosure(s)



General Motors Corporation

September 17, 1984

RECEIVED
SEP 18 1984
ATTY GEN. OFFICE
C.P.D.

FEDERAL EXPRESS

H. Wyatt Hanna III
Assistant Attorney General
Office of the Attorney General
Consumer Protection and Antitrust Division
1204 Kanawha Boulevard, East
Charleston, West VA 25301

Dear Mr. Hanna:

I have reviewed the proposed legislative rule dealing with the establishment and qualification of automobile manufacturers' informal dispute resolution mechanisms. It is my understanding that under the West Virginia Administrative Procedures Act, the proposed legislative rule will next be reviewed by the joint Legislative Rule-Making Review Committee. I further understand that a bill authorizing the agency to promulgate all or part of the rule and incorporating such amendments as the Committee or the legislature may designate must then be voted upon by the legislature before the rule may be officially promulgated. I am requesting that you send copies of any future proposed amendments to the rules to me at the following address:

Mr. Leonard E. Collins, Jr.
Legal Staff
General Motors Corporation
3044 West Grand Boulevard
Detroit, MI 48202

H. Wyatt Hanna III
September 17, 1984
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Thank you for your cooperation.

Very truly yours,

Leonard E. Collins, Jr.
Leonard E. Collins, Jr.

Attorney
Marketing and Consumer Services
Legal Staff

cj



COUNCIL OF BETTER BUSINESS BUREAUS, INC.
THE INTERNATIONAL ASSEMBLY OF BETTER BUSINESS BUREAUS

September 27, 1984

RECEIVED
OCT 01 1984
ATTY GEN. OFFICE
C.P.D.

H. Wyatt Hanna, III
Assistant Attorney General
Consumer Protection & Antitrust Division
1204 Kanawha Boulevard, East
Charleston, West Virginia 25301

Dear Mr. Hanna:

After having reviewed the proposed regulations for the implementation of West Virginia's Repair/Replace Law, I have questions and comments concerning a few parts of the regulations. My concerns arise primarily from ambiguities in the regulations which, if interpreted improperly, could make AUTO LINE, the Council of Better Business Bureaus' Automotive Mediation/Arbitration Program, more difficult to administer.

Section 5.01(2), in drawing a distinction between the sponsor of the Mechanism and the Mechanism itself, would not allow "assigning conflicting warrantor or sponsor duties to Mechanism staff persons." As written, this regulation would seem to disallow Better Business Bureau staff from also administering AUTO LINE. In most Bureaus throughout the country, AUTO LINE personnel spend part of their time as Bureau staff, often outside the Mediation/Arbitration Program. Also, since AUTO LINE is an integral part of the Better Business Bureaus' overall Mediation/Arbitration Program, we would have a difficult time distinguishing between what is a sponsor duty and what is a mechanism duty. The Council of Better Business Bureaus has made every effort to shield AUTO LINE from warrantor influence. The requirements of this section of the regulations would make it very difficult for Better Business Bureaus to administrate AUTO LINE in your state.

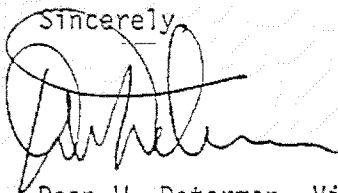
In addition, the restrictions placed upon selection of members to decide a dispute would make it next to impossible to find anyone who is qualified. The regulation states that "no member deciding a dispute shall be...a person who is or may become a party in any legal action, including but not limited to class actions, relating to the product or complaint in dispute..." Does this mean anyone who owns a car made by the manufacturer in the hearing? Or, could it mean anyone who might in the future own a vehicle made by that manufacturer? This section should either be clarified or excluded altogether. The regulation's other restrictions on conflict of interest adequately address the subject.

H. Wyatt Hanna, III
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September 27, 1984

Also, there is one minor change that you should make in Section 4.04.
"Mechanism's" in the first sentence should be "mechanism."

Except for these few changes, I do not see any other major problems
with the rules for the Repair/Replace Law's implementation. Thank you
for giving us the opportunity to comment on the proposed regulations.
If you have any questions about this response, please contact me.

Sincerely,



Dean W. Determan, Vice President
Mediation/Arbitration Division

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