



When Life Gives You Lemon Laws

AN IN-DEPTH VIEW INSIDE CURRENT ISSUES
IN THE AUTOMOTIVE INDUSTRY

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“I’m just glad I ordered
it in yellow... like the
lemon it is!”

Several years ago, we hired a professional improv troupe to portray customers in a live role-play exercise for an automotive client. When our actor, depicting an intensely angry type-A client, snarled sarcastically, “I’m just glad I ordered it in yellow...like the lemon it is!” everyone cracked up. Sure, it wrecked the scene, but we all got it. Every salesperson in the room had heard some version of that line from an actual owner who’d reached their breaking point.

At the very least, a real-life scene like that signals an unhappy customer and an uncomfortable - possibly expensive - situation for retailers and manufacturers. At worst, those are the last words you hear before the demand letter arrives.

The automotive industry is currently awash in buyback requests and lemon law cases. One of our OEM clients – despite being a relatively niche brand - estimates these legal wranglings cost them upwards of \$75 million a year. And the trend is hockey-sticking upward. As one leader put it, “Historically, we could amicably settle around 60% of these cases. Now, we’re losing 60-70%.”

So, what’s driving this shift? What are the warning signs? And most importantly, how can you steer clear of trouble? **Let’s dig in.**



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WHY THE LEMON LAW LEGALITIES?

FACT: Every manufacturer of any product occasionally produces a bad apple. Despite significant advances in production and quality control, mistakes inevitably slip through. On those rare occasions, any responsible brand eagerly replaces the product or repairs the issue. That's not what we're talking about here.

Something bigger is happening. The car business is seeing record buyback demands and lawsuits creating big challenges for OEMs. So, what's behind the rise? Here are a few things contributing to the problem.

INCREASING COMPLEXITY

A sea change occurred about 10-15 years ago in the JD Power Initial Quality Study (IQS). The number of reported DTU (Difficult to Understand) and

HTO (Hard to Operate) faults in motor vehicles outnumbered features reported as broken or mechanically non-functional. And here's the thing: a reported DTU or HTO fault "weighs" the same as any other fault in the survey. To illustrate, if an engine seizes at highway speed, that's one fault. If I don't like the way the engine sounds, that's one fault. If the center screen falls out of the dashboard, that's one fault. If I think it's too hard to pair my new iPhone and stream a Netflix movie on that screen...yep, still one fault.

See the problem? Cars were already complex machines. Now, they are rolling spaceships. Add drivers who (maybe just a bit unreasonably) expect their car to function like a mobile living room or office, and when it doesn't, disappointment is certain. And they'll blame the manufacturer pretty much every time.

REVENGE TURNED REGRET

Perhaps like me, you remember a teeny-tiny, microscopic, little virus turning our world upside-down- or, rather inside-in. The Covid pandemic immobilized everyone—including consumer spending—for well over a year. When the masks eventually came off and the doors reopened, consumers emerged with two dangerous things: time they wanted back and money they hadn't spent. Consumers were flush and frustrated. And a new term was born: revenge-buying.

That week-long Caribbean cruise you had to cancel in late 2020...and again in 2021? Make it two weeks. In Europe. The new family grocery-hauler your dealer didn't have in stock because ships didn't sail for a year? Screw it - get the Range Rover. And let's not forget the estimated 23 million pets adopted in 2020. Now, you probably don't regret the cruise or the memories that came with it. And the new puppy? You're all attached now—she's not going anywhere. Ah, but the more-car-than-you-ever-would-have-bought-otherwise? That's got another thirty payments, and you'd sure like a way out.



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LAWYERS ARE WRITING THE PLAYBOOK

Take a short break and search “Lemon Law lawyers in (insert your town).” Chances are, you’ll see no fewer than ten pages of results; one of them is likely to be lemonlaw.com>(your state). Buybacks are good business, and the legal profession knows it. A few firms specialize in it. Some actively target specific manufacturers. Do plaintiffs deserve competent legal representation? Absolutely. Does every owner of every poorly behaved car have a case? Absolutely not. But manufacturers are in a tough spot these days. And barristers know they don’t need much to bring a suit—the mere existence of a case is often enough to broker a deal.

WE’RE LOOKING AT YOU, CALI

Some places are, shall we say, more “consumer-friendly” than others. California is by far the hotspot. One manufacturer we work with sells approximately 8.5% of their cars there, but faces over 80% of lemon law cases in the Golden State. If it’s true (and it usually is) that all trends begin on the West Coast, well...watch out.

HYPER-FOCUS ON CUSTOMER SATISFACTION

For more on this, read our white paper called The Customer Experience Gold Rush. Meanwhile, here’s the Cliff’s Notes version:

- True product differentiation is getting harder all the time.
- Today’s customers are more interested in experiences than things.
- Manufacturers and retailers are frantically trying to outdo each other with extraordinary client experiences.
- **Result:** If an owner so much as squeaks, armies of customer service reps, managers, and goodwill specialists are marshalled to over-respond and put a big smile back on their face—fast. If that means converting regret into a repurchase, so be it. Beats the dreaded one-star Google review.





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SEE THE SIGNS: 2-3-30

Okay, this might be starting to sound a little hopeless. The bottom line: the best lemon law case is the one that never happens. Fortunately, there are often some clear warning signs before the situation heads off the rails. We call it the “2-3-30 Rule.” And it’s a simple way to spot trouble early before it escalates.

2 If a vehicle appears in your service department a second time for any safety-related issue, you may be headed in the general direction of trouble. Here’s the trick: what counts as “safety?” Well, there’s obvious things like braking or steering issues, an airbag warning lamp or cracked windshield. But remember those eager lawyers from the last section? We know of one case where a malfunctioning air conditioning unit was construed as a life-threatening safety issue.

The logic: the driver covered a large sales territory. The tepid A/C was causing drowsiness on long trips, thus endangering his safety. The owner won the case, and the manufacturer bought the vehicle back.

3 If the car materializes in your shop for a third shot for the same (or related) issue, that’s something a lawyer will call “substantially impairing non-conformity.” Nonconformity is defined by the Tanner Act as anything that “impairs the use, market value, or safety of a vehicle to the buyer or lessee.” That’s a pretty broad definition. In the name of consumer protection, it’s meant to be.

30 If the car can be shown as “VOR” (vehicle off-road) for a total of thirty days - in any combination - over some reasonable length of time (usually, but not always around two years), it might be subject to buyback based on that fact alone.

That might seem obvious, but here’s the tricky part: it includes ANY time in ANY shop - not just the selling or servicing dealer - and for any reason, even something as simple as a diagnostic test that finds no problem. It can also include time the customer ASKED the dealer to hold the vehicle, like while they are out of town for vacation or business.

One obvious conclusion: never hold a car unless you’re actively working on it. But what if the customer insists and swears, they don’t mind? Document it: “Vehicle held at customer request.” Better yet, have them acknowledge that on the repair order. (We’ll get to the RO in the next section.)



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“ The 30-day counter includes ANY time a vehicle is spent in ANY shop for ANY reason. ”

NOW HEAR THIS

In Lemon Law training classes, we often counsel service advisors or technicians to listen for certain “trigger words” that might indicate the owner is reaching the end of their rope. Here are a few:

- I just don't feel confident in this car anymore.
- Are you sure it's safe?
- I'm really not happy...what are my options?
- This is the third time...
- I'll have to get back to you on whether this will work or not.
- My brother-in-law is a lawyer.

OK, that last one was probably a bright, red, neon red flag with a siren attached, but you get the idea. Pay attention to what the owner is saying. Dogs growl before they bite. Customers usually drop hints before they drop the hammer.





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Outrun the Omens

**NOW THAT YOU KNOW THE
WARNING SIGNS, HERE ARE
SOME SIMPLE WAYS TO HEAD OFF
TROUBLE BEFORE IT HAPPENS.**

JUST THE FACTS, MA'AM

The Repair Order (RO) —the document that describes a vehicle's diagnosis, repair procedure, parts list, client authorizations and more—is considered a legal document, admissible in court during a lemon law case. Stick with clear, fact-based RO notations that detail every step taken and each client interaction in unbiased, factual terms. This is no time for opinion or conjecture. As we teach, before you write anything into the RO, imagine it being said out loud by a judge.

PARTS ARE PARTS (AND PARCEL)

You can't predict everything that's going to wander into the service lane on any given day. But some things we can see coming, for example, recalls and other service actions. If possible, stock up on those parts. You might not need them today or this week, but they're coming. As for vehicles already in the shop that might be "at risk," one common mistake we see is hesitation to rush or special-order parts. The perception is, "It's too expensive." (Or worse, "My manager will kill me.") Trust us, no matter what it costs to get Part X to your loading dock, a legal case is far MORE expensive.

GOODWILL ISN'T JUST A THRIFT STORE

Per the section above, nearly all OEMs have expediting programs and shipping allowances designed for these situations. (Hint: They don't want legal trouble any more than the dealer does!) They'll likely reimburse or overlook rush shipping charges in the name of client service. Also, that same OEM will absolutely have programs dealers can leverage to keep the customer happy, ranging from discounted service or parts to covering the cost of buying a bottle of wine, concert tickets, or free stuff from the brand boutique to acknowledge their inconvenience. They've set budget aside for this. Spend it.



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SUMMATION: TAKE THE LONG VIEW

Studies show that customers who have had a problem resolved to their satisfaction are MORE loyal than those who never had a problem. That makes sense. It's in the crucible that metal is hardened—and relationships are tested. And here's the deal: customers don't want lawsuits, either. They're messy, lengthy, expensive, confrontational, and emotionally draining. That makes a negative product experience a fantastic opportunity to show empathy, problem-solving skills, and personal attention.

And that leads to another long-held industry standard: "Fix the customer. Then fix the car." Do that, and you'll avoid most litigation. In the end, if your best efforts fail and the vehicle is bought back, you'll have been the client's ally from the jump. In that case, they'll likely buy the replacement from you, giving you a chance to reset the relationship—with you as the hero.

THIS JUICE IS WORTH THE SQUEEZE

Ladies and gentlemen of the jury...TiER1 has supported OEMs across the industry to improve customer interactions, proactively address customer concerns, and reduce lemon law complaints. 



[Check here](#) to connect with us and arrange a chat with one of our industry experts to start turning those lemons into...oh, you know.

