

3301 LEMON LAW CLAIM: NONCONFORMITY

Question 1 asks: Did (plaintiff)'s vehicle have at least one "nonconformity"?

Wisconsin law defines a "nonconformity" as a condition or defect which (1) substantially impairs the use, value, or safety of a motor vehicle and (2) is covered by an express warranty applicable to the vehicle or a component of the vehicle. [Nonconformity does not include a condition or defect which is the result of abuse, neglect, or unauthorized modification or alteration by the consumer.]

[Committee Note: Insert any stipulated language concerning the delivery of vehicle or stipulated warranty periods.]

A condition or defect that substantially impairs the use, value, or safety of a vehicle must be more than a minor annoyance or inconvenience. However, the (plaintiff)'s vehicle need not have been undriveable for the nonconformity to substantially impair its use, value, or safety. Also, the nonconformity may substantially impair use, value, or safety even if the vehicle was able to provide simple transportation.

COMMENT

This instruction and comment were approved in 1999. The comment was updated in 2000.

(Note: Refer to general instructions on burden of proof, argument of counsel, and evidence.) Chmill v. Friendly Ford-Mercury, 144 Wis.2d 796, 424 N.W.2d 747 (Ct. App. 1988).

Buyer's Reliance. The supreme court has said that the Lemon Law contains no "hidden defect" or lack of knowledge requirement. Therefore, it allowed consumers who were aware of scratches to their trucks at the time they took delivery to pursue Lemon Law remedies. In so holding, the supreme court reversed the court of appeals which had concluded that consumers who are aware of defects in a motor vehicle at the time they accept delivery may not sue the vehicle manufacturer under the Lemon Law when repair efforts fail. Dieter v. Chrysler Corp., 2000 WI 45, 234 Wis.2d 670, 610 N.W.2d 832.