

3302 LEMON LAW CLAIM: FOUR ATTEMPTS TO REPAIR: SAME NONCONFORMITY

Question 2 asks whether the same nonconformity (ies), found to exist in Question 1, continued to exist after the fourth time the plaintiff's vehicle was made available to the defendant or its authorized dealer for repairs.

Wisconsin law requires a manufacturer or its authorized dealer to repair a nonconformity in four or less attempts.

In order to answer "yes" to this question, you must find:

1. that the same nonconformity was made available for repair to the manufacturer or any of its authorized dealers at least four times (within the terms of the warranty) (within the first year after delivery); AND
2. that the nonconformity continued after the fourth time the vehicle was made available for repairs.

The "same nonconformity" means that the identical or substantially similar condition(s) or defect(s) (is) (are) made available for four or more repair attempts.

A nonconformity is made "available for repairs" regardless of whether any repairs were actually attempted by the manufacturer or its authorized dealers. Also a nonconformity is made available for repairs regardless of whether any nonconformity was verified at the time by the manufacturer or authorized dealer.

COMMENT

This instruction and comment were approved in 1999.

Chmill v. Friendly Ford-Mercury, 144 Wis.2d 796, 424 N.W.2d 747 (Ct. App. 1988); Carl v. Spickler Ent. Ltd., 165 Wis.2d 611, 478 N.W.2d 248 (Ct. App. 1991).