

The Washington Post



Consummate Consumer

Don Oldenburg, Columnist

Recourse for When That Sweet Ride Turns Sour Car Buyers Who Get Clunkers Can Use Lemon Laws Against Automakers

By Don Oldenburg

Washington Post Staff Writer

Sunday, February 26, 2006; Page F05

Swing by Vince Megna's neighborhood this week, and you may see his brand-new 2006 Corvette Coupe looking pretty in the driveway. Check out the "velocity yellow" exterior and ebony leather interior. The 400-hp LS2 6.0-liter V8 engine tops out at 186 mph and runs a zero to 60 in 4.2 seconds. Zoom zoom! Underneath, this baby packs a six-speed paddle-shift transmission with automatic modes. And inside it sports a Bose premium seven-speaker system, XM radio, MP3 playback, DVD navigation with color display touch screen and voice recognition.

All that's just car talk for one sweet machine. But, then, what would you expect the King of Lemon Laws to be driving? Some kind of jalopy? Don't think so.

See, there's a reason Megna's license plate reads "LEMN LAW."

Arguably he's America's foremost lemon-law lawyer. He's the author of the 2004 book "Bring On Goliath: Lemon Law Justice in America" (Ken Press; \$24.95), which evaluates the lemon laws of all 50 states and the District and advises consumers how to use them. And he and his Waukesha, Wis., law firm, Jastroch & LaBarge, have taken the wheel in more than 1,500 lemon-law cases over the past 16 years and lost only nine. In cases where Megna made the final argument, he has turned lemons into lemonade not once, but twice. And when it's his own family cars gone bad he's six for six.

That just-delivered '06 'Vette is his latest trophy in a continuing mission on behalf of consumers who have bought new autos that turn out to be defective and irreparable clunkers.

"I really do love Corvettes," says Megna, who soured on his 2004 blue Corvette after 17 months of charge-system problems that made the ignition a chug-o-thon and driving it a breakdown risk.

After only 900 miles on the odometer, that dang warning started lighting up the dash when Megna started the car. His Chevy dealer changed the alternator. Same thing happened a month later. Then again and again until it got to be regular.

"They didn't know what it was," says Megna. "They never did figure it out."

But General Motors knew who Vince Megna was. GM, he says, has lost some 650 lemon-law cases to Megna's firm – and won zero.

By the time Megna squeezed Wisconsin's consumer-friendly lemon law on his own behalf in November, giving the automaker 30 days to offer a new car or his money back, or head over to the courthouse with him and risk paying double damages plus attorney fees, GM had already asked him what he wanted.

"So I'm getting an '06," says Megna, delighted. "They didn't give me a hard time at all. GM would do better if they treated other people like this – although GM isn't the worst."

Megna doesn't want to get into a lemon-squirting match over which carmakers are the worst. But he says his firm has taken just about every one of them to court in lemon cases – Ford 300 to 400 times, Chrysler 75 to 100 times, Volkswagen maybe 50 times, Toyota only about 10 times. Except for Toyota, which he says doesn't get many lemon-law claims, the figures don't necessarily correlate to product quality or the likelihood of lemons rolling off the production line (as many as 1 million of the 17 million new cars sold annually by some estimates). Instead, they have more to do with the unwillingness of some carmakers' legal eagles to settle a claim rather than fight it.

"Some of these companies get arrogant," says Megna. "And that's with us handling the case. But, when you're a guy on your worn, they just push you around."

So read and learn. This guy Megna is the real deal when it comes to legit claims about bad cars. Hey, in his younger years, circa the mid-'60s, he played lead guitar with Tommy Boyce and Bobby Hart (who wrote songs for the Monkees), with Teddy Randazzo ("Hurt So Bad" and "Goin' Out of My Head") and legendary jazz guitarist Herb Ellis, so ya know he's not the average lawyer. In fact, this April, Ken Press will publish his new book, an irreverent look at the law and lawyers, "Lap Dancers Don't Take Checks: The Truth About Law, Lawyers and Other Trivialities." So who you gonna trust?

Carmakers would rather steer clear of lemon cases. Megna says they often do that by giving lemon owners a bum steer when they call the dealer or manufacturer and ask what to do next. "I've heard so many people come in here saying, 'Customer service says we don't qualify for lemon-law relief.' Customer service is the last people who are going to tell you that you qualify," he says.

Manufacturers often try to placate lemon owners by offering cheap financial incentives to head off a claim, he warns. They'll extend the car's warranty, or pay a few car payments, or even give an "appreciation certificate" for \$1,000 to \$2,000 toward a trade-in purchase of a new car. "I've seen so many people take that," says Megna. "They end up signing off their right to sue. To give somebody a few hundred bucks when they've got serious car problems is just wrong."

Another trap can be arbitration, which all manufacturers and some states prefer to that good-old Seventh Amendment right to a trial by jury. "Consumer think they are dealing with an objective third party, and they are not," says Megna, adding as evidence that his firm has won every case in which the client had previously lost in nonbinding arbitration. But the odds aren't good either way, he says.

"All people know is that they went to this proceeding, lost, and then they drop it," he says.

Like automobiles, all lemon laws are not created equal. In fact, you could say some lemon laws are sort of like sucking lemons. They vary by state – including what constitutes a lemon and what remedies are available to consumers.

Typically, lemon laws identify a lemon as a car that in the first year or maybe while under warranty has had a certain number of unsuccessful repairs of the same problem, or an unsuccessful repair of a safety defect such as the brakes or steering, or has been out of service a certain number of days. "Every state has a lemon law – for better or for worse," says Megna. "All the lemons laws try to serve the same purpose – and that is, if a problem continues to repeat itself and they can't fix it, you have a remedy."

Where the laws differ the most is in provisions that may require lemon owners to submit to arbitration before they can sue the manufacturer or that require consumers who lose court cases to pay attorney fees – both of which are bad for the consumer, according to Megna, who likes the lemon laws in the Cheesehead State, of course, and in California, New York, Minnesota and Ohio.

With no hesitation, Megna says that among the worst is Illinois, which has no provision requiring carmakers to pay the consumer's attorney fees. "Colorado has probably the worst lemon law in the country because if the consumer loses, he has to pay the manufacturer's attorney's fees," says Megna. "You could never take that chance of suing over a \$20,000 car and ending up paying \$100,000 in Chrysler's attorney's fees if you lost. There are no lemon-law cases there," he adds, referring to Colorado,

Megna says the laws in Maryland, Virginia and West Virginia generally conform to standard lemon-law criteria and each allows consumers to recover attorney's fees from the manufacturer. But the District, he says, "has no provision for the consumer to recover attorney fees." And it steers lemon law claimants to arbitration via the Board of Consumer Claims Arbitration, which has been "out of business" for years from lack of funding.

So especially in the District, and under any circumstances, lemon-law experts advise that consumers get a lawyer. Megna (yes, a lawyer himself) agrees: "A lot of people start representing themselves and making phone calls. Consumers read the law, and there is so much on the Internet about lemon laws, it looks so easy.... But Ford doesn't give you the F-150 with a ribbon wrapped around it just because you send them a letter."

But here's the big tip: Megna says any worthwhile lawyer handling a lemon-law case will recoup his fees from the losing manufacturer and won't charge a client who loses.

"You cannot afford to hire an attorney at \$200 to \$300 an hour to fight over your \$12,000 car and have to pay those bills," says Megna, who regularly makes referrals to lemon owners in states other than Wisconsin. "People need to become aware that they have some rights, even when going up against those giant companies that try to intimidate."