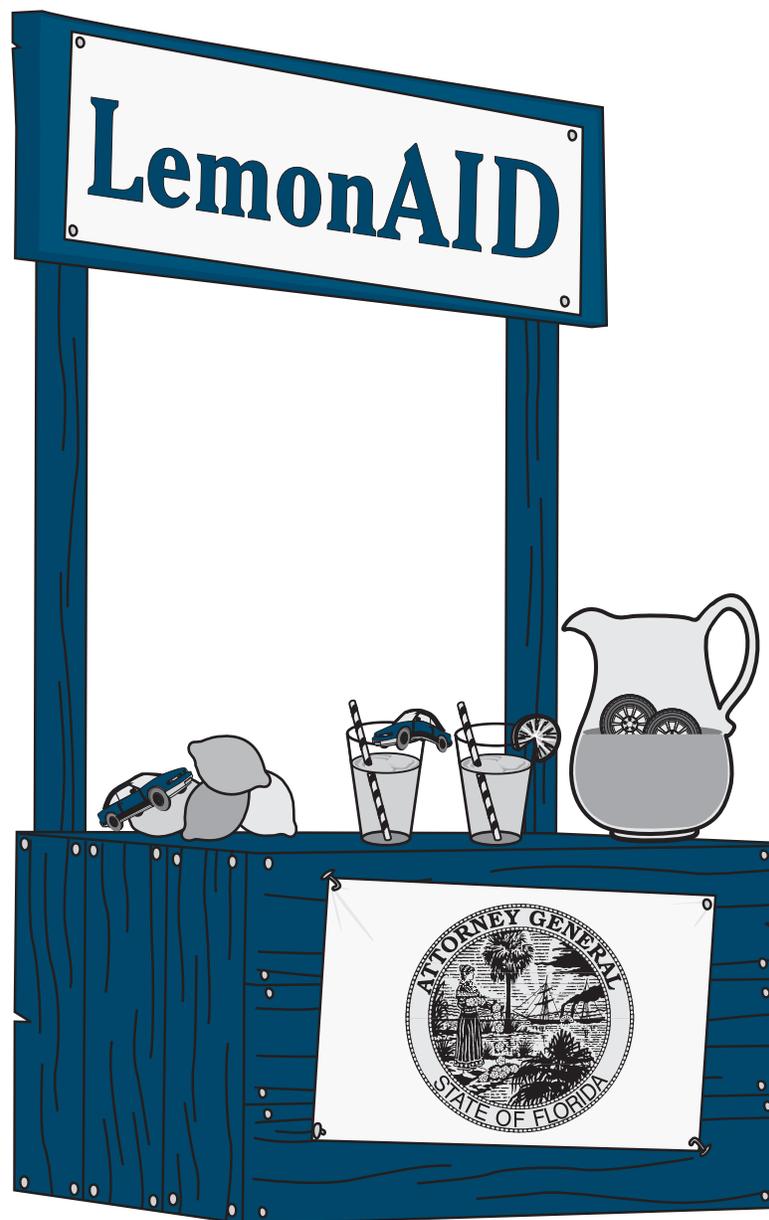


# LEMON LAW

## Arbitration Program

### 2004 Annual Report



Office of the Attorney General  
Charlie Crist

# Table of Contents

LETTER FROM FLORIDA ATTORNEY GENERAL CHARLIE CRIST . . . . .	1
INTRODUCTION . . . . .	3
EXECUTIVE PROGRAM SUMMARY . . . . .	4
CASES APPROVED FOR ARBITRATION . . . . .	5
PREHEARING SETTLEMENTS . . . . .	7
DECISIONS BY THE ARBITRATION BOARD . . . . .	9
SUBSTANTIAL DEFECTS FOUND . . . . .	13
APPEALS . . . . .	14
CONCLUSION . . . . .	14
MANUFACTURER REPORTED VEHICLE REPURCHASES . . . . .	17



Dear Floridians:

Florida's Lemon Law Arbitration Program completed 16 years of operation in 2004, a year in which consumer recoveries exceeded \$307.6 million. The Program provides a fair and inexpensive means of resolving disputes between consumers and manufacturers via arbitration before the New Motor Vehicle Arbitration Board. The \$307.6 million in recoveries represents relief obtained as a result of settlements between consumers and manufacturers or relief awarded by the New Motor Vehicle Arbitration Board under Florida's "Lemon Law."

Calendar year 2004 saw 1,033 consumer claims approved for arbitration, with engine and transmission complaints topping the list of defects resulting in vehicle buy backs. Caseload in 2004 was down by 170 claims from the prior year. The dollar value of recoveries was \$23.5 million in 2004, slightly lower than 2003 recoveries.

This report focuses on disputes approved for arbitration before the New Motor Vehicle Arbitration Board for calendar year 2004, including a summary comparison with information from previous years. New this year is a report of the number of motor vehicles the manufacturers identified as having been repurchased in 2004.

Consumers can obtain information about Florida's Lemon Law and search a list of vehicles repurchased by motor vehicle manufacturers on the home page of the Office of the Attorney General at [www.myfloridalegal.com](http://www.myfloridalegal.com).

Sincerely,



Charlie Crist  
Attorney General





# INTRODUCTION

Florida's "Lemon Law," Chapter 681, Florida Statutes, allows consumers to receive replacement motor vehicles or purchase price refunds when their new or demonstrator motor vehicles are subjected to repeated, unsuccessful warranty repairs for the same defect or are constantly in the shop for repair of one or more different defects. The defects must substantially impair the use, value or safety of the vehicle, and must be first reported to the manufacturer or its authorized service agent during a specified period after the consumer takes delivery. If the manufacturer fails to provide the statutory remedy, the consumer can arbitrate their claim before the New Motor Vehicle Arbitration Board, which is created within the Department of Legal Affairs. The board consists of members appointed by the Attorney General to conduct arbitration hearings throughout the state. Arbitration is an all-or-nothing proposition for the consumer, who will either win an award of a refund or replacement, or have their claim dismissed. Section 681.1095, Florida Statutes, requires that the Attorney General compile annual statistics for all disputes submitted to the board. The information contained in this report was derived from the records of the Lemon Law Arbitration Program, which is administered by the Office of the Attorney General. This report covers claims approved for arbitration from January 1 through December 31, 2004.

Disputes are reported by manufacturer. In cases involving some conversion vehicles, a single claim could involve multiple manufacturers. In those instances, approval of the claim for arbitration is credited to the "nameplate" manufacturer (the name of the manufacturer under which the vehicle was sold). In reporting the dollar values of the arbitration awards, all manufacturers found liable by the board in each case are listed; however, the per-case dollar amount of the award is not pro-rated. For example, if two manufacturers were found liable to pay the consumer in one case a refund of \$30,000, only the total amount of the award is reflected in this report, along with the names of both liable manufacturers. The law does not give the board the authority to pro-rate awards in multiple manufacturer cases.



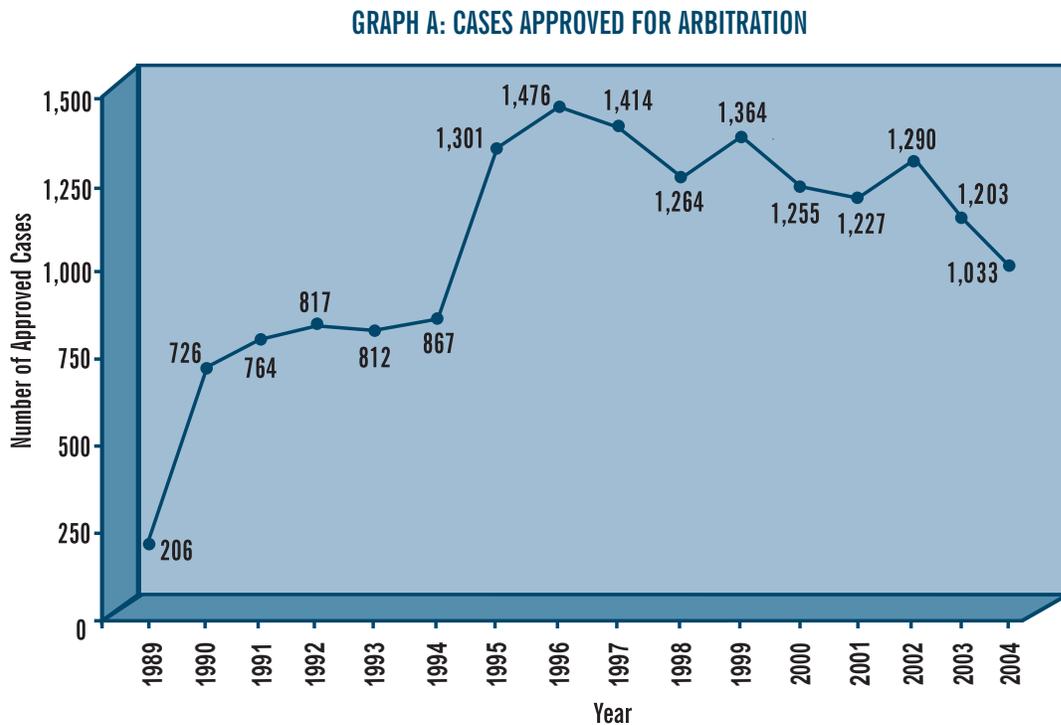
## EXECUTIVE PROGRAM SUMMARY

The number of cases approved for arbitration decreased slightly from 1,203 in 2003 to 1,033 in 2004. The dollar amount of relief obtained was approximately 1.8 million less than the prior year. Some 48 consumers withdrew their claims prior to resolving them in arbitration or by settlement. The impact of legislative changes to the statutory formula for calculating the reasonable offset for use paid by consumers and for determining the amount of net trade-in allowances in refund awards continued to be felt in 2004. There were several “deficit” refund awards where the amounts of the consumers’ portions of the awards were less than zero.

As in prior years, settlements outnumbered decision awards in 2004, as manufacturers continued to resolve disputes prior to arbitration hearings in 545 (52.8 percent) of the 1,033 approved cases. Full refunds or replacement vehicles, consistent with what the Lemon Law provides, comprised 509 of those settlements, with the remaining 36 being partial settlements, meaning the consumers accepted something less than a full refund or replacement. Cases heard by the arbitration board numbered 439, with 204 resulting in awards, and 235 being dismissed. The appeal rate of Arbitration Board decisions remained low, with 7 of the 439 (1.6 percent) decisions appealed to the courts.



Graph A below tracks the cases approved from 1989 to 2004.



## CASES APPROVED FOR ARBITRATION

Consumers can request arbitration of their Lemon Law disputes by the New Motor Vehicle Arbitration Board by calling the Lemon Law hotline and asking for a Request for Arbitration form. There is also a link to the form on the Attorney General's website at [www.myfloridalegal.com](http://www.myfloridalegal.com), enabling consumers to obtain the form without waiting. The completed form must be submitted to the Division of Consumer Services of the Department of Agriculture and Consumer Services, which screens the form for eligibility under a process governed by statute. If a request is determined eligible, it is forwarded to the Office of the Attorney General for further processing and the scheduling of a hearing.

Consumers filing for arbitration are asked to indicate on the arbitration request form whether they prefer a refund or a replacement vehicle. Refunds were requested by 78.6 percent (812) of the consumers, while 21.4 percent (221) requested replacement vehicles.



Claims were approved against 24 manufacturers in 2004. The number and percentage of cases approved for each manufacturer is reflected in **Table 1**. Claims withdrawn by consumers for reasons other than settlement are also depicted in **Table 1**. Withdrawals in 2004 were 4.6 percent of the approved claims for that year. **Table 1** identifies the manufacturers by the nameplate under which the vehicles were sold.

TABLE 1. CASES APPROVED FOR ARBITRATION AND CASES WITHDRAWN			
Manufacturer	Cases Approved	Cases Withdrawn	Percentage of Total Approved
AMERICAN HONDA	21	1	2.03%
AMERICAN SUZUKI	11	1	1.06%
AUTOMOBILI LAMBORGHINI	2	1	0.19%
BMW	46	2	4.45%
DAIMLERCHRYSLER	172	5	16.65%
FORD	364	20	35.24%
GENERAL MOTORS	82	2	7.94%
HYUNDAI	15	1	1.45%
ISUZU MOTORS	9		0.87%
JAGUAR	17	1	1.65%
KIA	15	1	1.45%
LAFAYETTE COUNTY CAR	1		0.10%
LAND ROVER	6		0.58%
MASERATI	4	1	0.39%
MAZDA	47	1	4.55%
MERCEDES-BENZ	73	5	7.07%
MITSUBISHI	16		1.55%
NISSAN	29	1	2.81%
PORSCHE	8	1	0.77%
ROLLS-ROYCE	1		0.10%
SUBARU	5		0.48%
TOYOTA	72	3	6.97%
VOLKSWAGEN	12	1	1.16%
VOLVO	5		0.48%
<b>TOTALS</b>	<b>1,033</b>	<b>48</b>	<b>100.00%</b>



## PREHEARING SETTLEMENTS

Consumer claims were resolved by settlement between the parties in 52.8 percent (545) of the 1,033 approved cases for 2004. “Full” settlements, or settlements for the same full refund or vehicle replacements consumers would have obtained had they prevailed in arbitration, numbered 509, while the remaining 36 cases were settled for something less than full relief. Generally, these partial settlements were for such things as additional repairs, extended warranties, or partial cash payments. The prehearing settlement rate for 2004 was slightly higher than the 2003 rate of 50.8 percent. The result of this increase in settlements, coupled with the decrease in total caseload for 2004, was that a slightly lower percentage of cases went to hearing in 2004 than in the previous year. (45 percent in 2003, compared to 42 percent in 2004).

Verification of settlement terms is obtained from the parties. **Tables 2** and **3** list those manufacturers which entered into partial and full settlements with consumers and the dollar values of the full settlements. The nature of most partial settlements prevents assignment of dollar values to them.

Manufacturer	Number
AMERICAN HONDA	1
AMERICAN SUZUKI	1
BMW	1
DAIMLERCHRYSLER	3
FORD	4
GENERAL MOTORS	6
KIA	6
MAZDA	1
MERCEDES-BENZ	1
NISSAN	2
PORSCHE	1
SUBARU	4
TOYOTA	5
<b>TOTAL</b>	<b>36</b>



**TABLE 3. 2004 NUMBER, PERCENT, AND VALUE OF FULL SETTLEMENTS**

<b>Manufacturer</b>	<b>Full Settlements</b>	<b>Percentages of Full Settlements</b>	<b>Value of Full Settlements</b>
AMERICAN HONDA	2	0.39%	\$44,351.00
AMERICAN SUZUKI	5	0.98%	\$83,730.00
AUTOMOBILI LAMBORGHINI	1	0.20%	\$235,000.00
BMW	23	4.52%	\$1,211,084.00
DAIMLERCHRYSLER	90	17.68%	\$2,338,170.00
FORD	208	40.86%	\$6,286,694.00
GENERAL MOTORS	43	8.45%	\$1,308,555.00
HYUNDAI	7	1.38%	\$114,935.00
ISUZU MOTORS	1	0.20%	\$29,269.00
JAGUAR	13	2.55%	\$463,030.00
KIA	5	0.98%	\$85,733.00
LAND ROVER	4	0.79%	\$106,153.00
MASERATI	2	0.39%	\$182,859.00
MAZDA	18	3.54%	\$604,046.00
MERCEDES-BENZ	37	7.27%	\$2,272,025.00
MITSUBISHI	7	1.38%	\$184,598.00
NISSAN	6	1.18%	\$154,672.00
PORSCHE	2	0.39%	\$242,904.00
ROLLS-ROYCE	1	0.20%	\$341,544.00
SUBARU	1	0.20%	\$20,870.00
TOYOTA	27	5.30%	\$864,281.00
VOLKSWAGEN	1	0.20%	\$43,008.00
VOLVO	5	0.98%	\$150,060.00
<b>TOTALS</b>	<b>509</b>	<b>100.00%</b>	<b>\$17,367,571.00</b>



## DECISIONS BY THE ARBITRATION BOARD

Cases that were not withdrawn or settled went to hearings before the Florida New Motor Vehicle Arbitration Board. In 2004, there were as many as 80 Florida citizens serving as members of the statewide Arbitration Board. Board members come from all walks of life—the legal profession, education, automotive mechanical, engineering, alternative dispute resolution, business and homemaking. They perform a very valuable public service for very little compensation. Cases are assigned according to geographical regions from Pensacola to Miami, depending upon the residence address of the approved consumer.

Arbitration hearings are conducted by three-member panels of the Board in public locations throughout the state. If the consumer prevails, a refund or replacement motor vehicle is awarded. If the manufacturer prevails, the case is dismissed. The Board conducted 439 hearings for cases approved in 2004. Consumers prevailed in 204 (46.5 percent) of these cases, while manufacturers prevailed in 235 (53.5 percent). It is neither necessary nor required for parties to have attorneys to participate in arbitrations before the New Motor Vehicle Arbitration Board, and the Board is not empowered by the Legislature to award attorney fees to parties who prevail in arbitration. While most consumers did not have attorneys when they appeared before the Board, several manufacturers (Ford/Jaguar/Land Rover, Mercedes-Benz, BMW, Honda & Toyota) consistently were represented by attorneys.

When the consumer prevails at a hearing, the Arbitration Board awards either a refund of all amounts paid to acquire the vehicle or a replacement motor vehicle, at the option of the Consumer. If a refund is awarded and the “lemon” vehicle was purchased with financing, the consumer and lienholder are refunded according to their interests.

Generally, such awards direct the manufacturer to pay the consumer a specified amount consisting of all expenses incurred to acquire the vehicle (e.g. cash down payment, government fees, options and accessories, extended service agreements, etc.), and where applicable, the net allowance for any trade-in vehicle, all periodic principal and interest payments made as of the date the vehicle is repurchased and any reasonable costs caused by the substantial defect(s). The manufacturer is directed to pay to the lienholder the balance owed on the loan as of the repurchase date.



If the vehicle was leased, the consumer is awarded all amounts paid at lease signing, the net allowance for any trade-in vehicle, all lease payments made as of the date the vehicle is repurchased and any reasonable costs caused by the substantial defect(s). The lessor is paid according to a formula set forth in the statute, and is prohibited from charging any penalty for early termination of the lease.

If a replacement motor vehicle is awarded, the replacement vehicle must be identical or reasonably equivalent to the vehicle being replaced, and it must be acceptable to the consumer. In addition, the consumer is refunded costs paid to acquire the “lemon” vehicle (e.g. options and accessories, sales tax, extended service agreements, interest paid on the loan or rental charge paid on the lease as of the date of replacement, if applicable) and costs incurred as a result of the substantial defect(s).

Whether the award is a refund or a replacement vehicle, a “reasonable offset for use” is charged to the consumer. The offset for use is calculated according to a statutory formula (purchase price multiplied by mileage attributable to the consumer up to the date of an arbitration hearing, divided by 120,000).

The 1997 changes to the statutory formula for calculating the offset for use, and the method by which an amount is calculated for the net trade-in allowance continued to impact the amounts recovered by some consumers. In some instances, high mileage or high debt on a trade-in vehicle resulted in the amount refunded to the consumer being less than zero, exclusive of any amounts for loan or lease payoffs. In other instances, where mileage was very low, or where the net allowance on the trade-in vehicle was higher utilizing the statutory alternative, the result was to increase the amount refunded to the consumer, exclusive of loan or lease payoffs.

**Table 4** shows the number, percentage and dollar values of award decisions by the Arbitration Board for 2004. Dollar values are based upon the total amount of the awards, including the loan and lease pay-offs, and any additional amounts awarded, reduced by the statutory offsets. In multiple manufacturer cases, one or several of the participating manufacturers could have been found liable for the award. If liability was assessed jointly against several participating manufacturers, these are listed separately. **Table 5** shows the number of cases dismissed per manufacturer and the percentages of the total number for 2004.



TABLE 4. 2004 DECISION AWARDS BY LIABLE MANUFACTURER			
Liabile Manufacturer	Number of Decision Awards	Percentages	Value of Awards
AMERICAN HONDA	6	2.94%	\$151,297.00
AMERICAN SUZUKI	3	1.47%	\$54,287.00
BMW*	12	5.88%	\$414,325.00
DAIMLERCHRYSLER	16	7.84%	\$403,551.00
ELK AUTOMOTIVE & DAIMLERCHRYSLER	1	0.49%	\$49,383.00
FORD	64	31.37%	\$1,738,756.00
GENERAL MOTORS	17	8.33%	\$597,946.00
HYUNDAI	3	1.47%	\$57,342.00
ISUZU MOTORS	3	1.47%	\$84,161.00
JAGUAR	1	0.49%	\$22,021.00
KIA	2	0.98%	\$35,038.00
LAFAYETTE COUNTY CAR	1	0.49%	\$8,206.00
MASERATI	1	0.49%	\$83,951.00
MAZDA	15	7.35%	\$345,557.00
MERCEDES-BENZ	16	7.84%	\$869,333.00
MITSUBISHI	2	0.98%	\$45,171.00
NISSAN	16	7.84%	\$455,904.00
PORSCHE*	1	0.49%	—
SOUTHERN CONVERSIONS & GM	1	0.49%	\$35,376.00
TOYOTA	18	8.82%	\$517,975.00
VOLKSWAGEN	5	2.45%	\$212,645.00
<b>TOTALS</b>	<b>204</b>	<b>100.00%</b>	<b>\$6,182,225.00</b>

\* Decision is on Appeal



**TABLE 5. 2004 CASES DISMISSED**

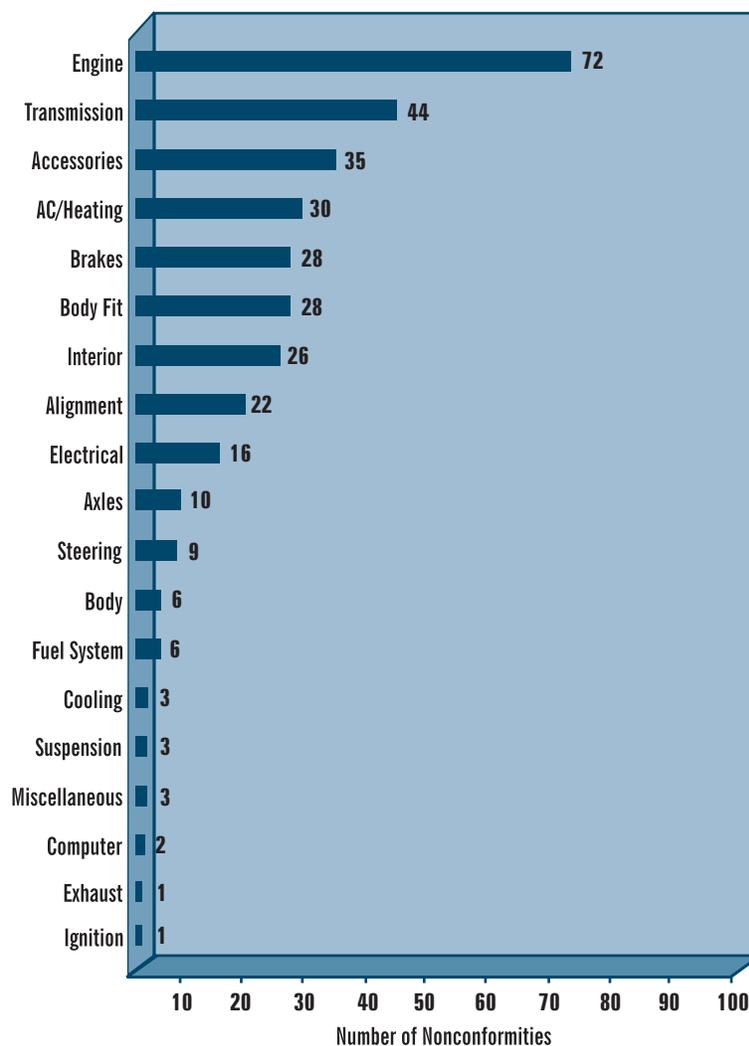
<b>Manufacturer</b>	<b>Number</b>	<b>Total Percentages</b>
AMERICAN HONDA	10	4.26%
AMERICAN SUZUKI	1	0.43%
BMW	8	3.40%
DAIMLERCHRYSLER	57	24.26%
FORD	68	28.94%
GENERAL MOTORS	14	5.96%
HYUNDAI	4	1.70%
ISUZU MOTORS	5	2.13%
JAGUAR	2	0.85%
KIA	1	0.43%
LAND ROVER	2	0.85%
MAZDA	12	5.11%
MERCEDES-BENZ	13	5.53%
MINI	1	0.43%
MITSUBISHI	7	2.98%
NISSAN	4	1.70%
PORSCHE	3	1.28%
TOYOTA	19	8.09%
VOLKSWAGEN	5	2.13%
<b>TOTALS</b>	<b>235</b>	<b>100.00%</b>



# SUBSTANTIAL DEFECTS FOUND

The Lemon Law requires that the problems complained of by the consumer be “nonconformities,” meaning defects or conditions that substantially impair the use, value or safety of the vehicle and that are not the result of abuse, neglect, modification or alteration by persons other than the manufacturer or its authorized service agent. **Graph B** illustrates the number of substantial defects found by the Arbitration Board in 2004, in the major vehicle systems or components listed. Engine defects, which topped the list in 2003, were again the number one nonconformity in 2004, with defective transmissions second and accessories third.

**GRAPH B: 2004 SUBSTANTIAL DEFECTS FOUND**



## APPEALS

Parties not satisfied with decisions of the Arbitration Board can appeal them to the circuit court. Appeals under the Lemon Law are by trial de novo and are initiated by the filing of a petition to the court stating the grounds relied upon and the action requested. In 2004, manufacturers filed one appeal (by Porsche), and 6 appeals were filed by consumers. In one case, the Consumer appealed a decision awarding a refund, because the Consumer disagreed with the amount of the award. The other five decisions appealed by consumers were dismissal decisions. The total number of cases appealed represented 1.6 percent of the 439 cases that were decided by the Board. All seven appeals remain pending.

## CONCLUSION

**Table 6** and **Graph C** best illustrate the consumer relief obtained since the program's inception in 1989. Of the 17,019 consumer claims approved for arbitration from 1989 through 2004, full relief via either prehearing settlements or decision awards was obtained in 71 percent (12,083), for a total dollar value of \$307.6 million.



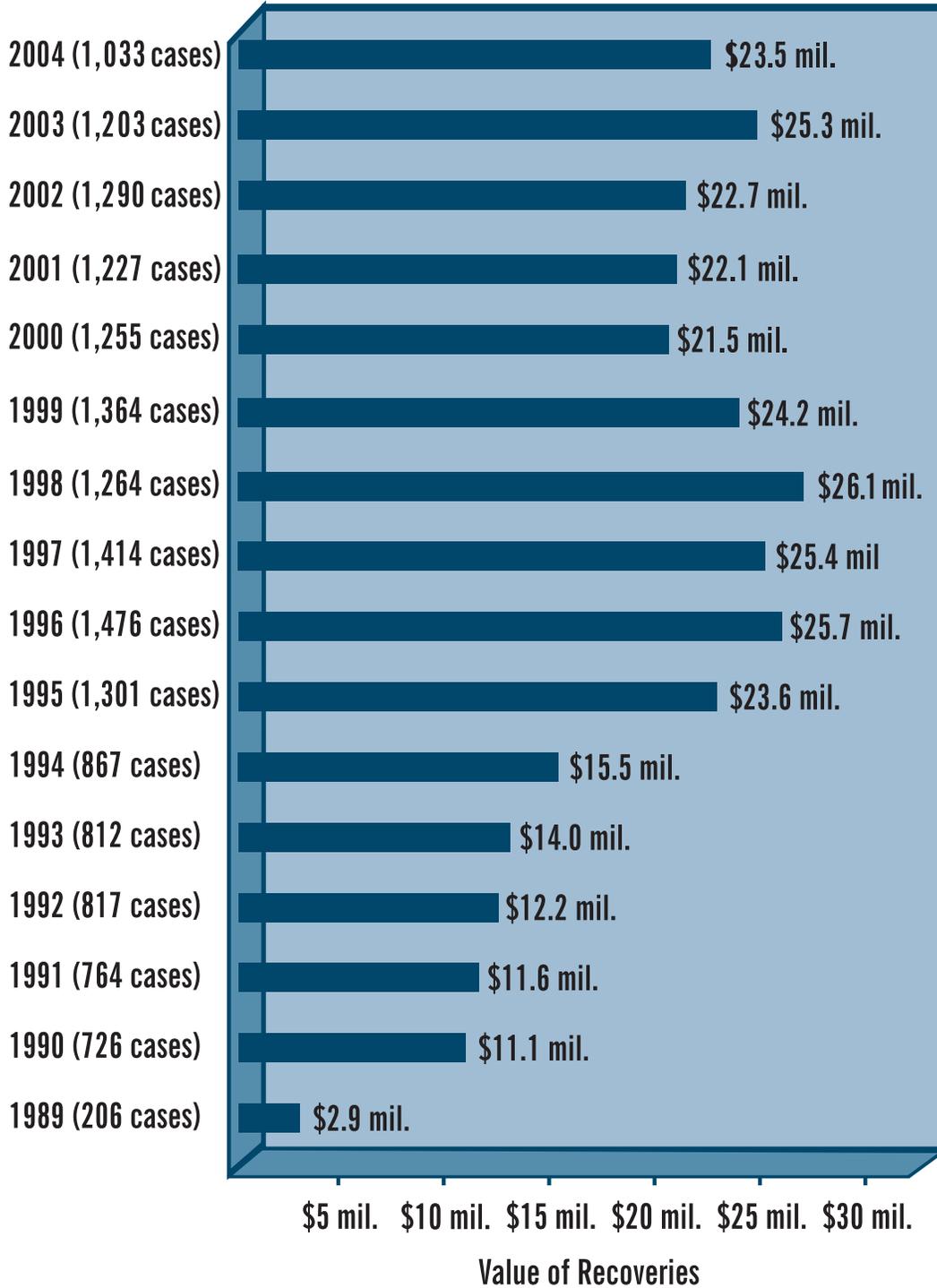


**TABLE 6. 1989–2004 TOTAL CASES AND RECOVERY VALUES**

<b>Year</b>	<b>Total Number of Cases</b>	<b>Dollar Value of Recoveries</b>	<b>Number of Cases with Recoveries</b>
1989	206	\$2,925,943.00	145
1990	726	\$11,084,254.00	533
1991	764	\$11,645,821.00	543
1992	817	\$12,194,871.00	661
1993	812	\$13,955,116.00	603
1994	867	\$15,455,498.00	635
1995	1,301	\$23,623,638.00	934
1996	1,476	\$25,716,474.00	1,076
1997	1,414	\$25,407,219.00	1,014
1998	1,264	\$26,103,773.00	905
1999	1,364	\$24,284,201.00	953
2000	1,255	\$21,473,959.00	863
2001	1,227	\$22,115,863.00	849
2002	1,290	\$22,730,626.00	833
2003	1,203	\$25,311,738.00	825
2004	1033	\$23,549,796.00	711
<b>TOTALS</b>	<b>17,019</b>	<b>\$307,578,790.00</b>	<b>12,083</b>



**GRAPH C: 1989–2004 CASES AND RECOVERY VALUES**



## Manufacturer Reported Vehicle Repurchases

Under Florida’s Lemon Law, when a manufacturer reacquires a new vehicle from the original owner as a result of a settlement or decision after a claim is filed either with a manufacturer-sponsored informal dispute resolution procedure, the New Motor Vehicle Arbitration Board, a court, or as a result of a similar statute in another state, the Manufacturer is required to notify the Office of the Attorney General within a time specified by statute. This notification is made on a form that includes identification of the vehicle, the reason for the buy-back, and disclosure of the vehicle’s defects. A portion of the form is sent by the Manufacturer to the Office of the Attorney General, with the remainder of the form required to travel with the vehicle and be provided to the retail buyer when and if the vehicle is resold.

When a disclosure form is received from a manufacturer, the information reported by the manufacturer is entered in a database maintained by the Lemon Law Arbitration Program of the Attorney General’s Office. This information also forms the basis for the searchable database of repurchased vehicles that is accessible on the Attorney General’s website at [www.myfloridalegal.com](http://www.myfloridalegal.com).

**Table 7** lists by vehicle make the number of vehicles reported by manufacturers as having been repurchased in 2004. The total number reported was 2,689. Included in that number were vehicles bought back as a result of settlements or decisions of claims before the New Motor Vehicle Arbitration Board, along with vehicles repurchased for a variety of other reasons, including settlements or decisions of manufacturer-sponsored procedures, similar statutes of other states (a number of the reported repurchases originated in states other than Florida), court settlements or decisions, and reasons characterized as “customer goodwill.”

Vehicle Make	Reporting Manufacturer	Number of Vehicles Repurchased
ACURA	AMERICAN HONDA MOTOR COMPANY	26
AIRSTREAM	THOR INDUSTRIES, INC.	1
AUDI	VOLKSWAGEN UNITED STATES, INC.	27
BMW	BMW OF NORTH AMERICA, LLC	12
BUICK	GENERAL MOTORS CORPORATION	20



CADILLAC	GENERAL MOTORS CORPORATION	111
CHEVROLET	GENERAL MOTORS CORPORATION	343
CHRYSLER	DAIMLERCHRYSLER MOTORS CORPORATION	41
DODGE	DAIMLERCHRYSLER MOTORS CORPORATION	96
ELK/DODGE	ELK AUTOMOTIVE, INC.	2
FORD	FORD MOTOR COMPANY	579
GMC	GENERAL MOTORS CORPORATION	98
HONDA	AMERICAN HONDA MOTOR COMPANY	60
HUMMER	GENERAL MOTORS CORPORATION	18
HYUNDAI	HYUNDAI MOTOR AMERICA	69
INFINITI	NISSAN MOTOR CORPORATION U.S.A.	14
ISUZU	ISUZU MOTORS AMERICA, INC.	6
JAGUAR	JAGUAR CARS	17
JEEP	DAIMLERCHRYSLER MOTORS CORPORATION	12
KIA	KIA MOTORS AMERICA, INC.	159
LAND ROVER	LAND ROVER OF NORTH AMERICA, INC.	4
LEXUS	TOYOTA MOTOR SALES, U.S.A., INC.	156
LINCOLN	FORD MOTOR COMPANY	107
MASERATI	MASERATI NORTH AMERICA, INC.	1
MAZDA	MAZDA MOTOR OF AMERICA, INC.	46
MERCEDES-BENZ	MERCEDES-BENZ U.S.A., INC.	173
MERCURY	FORD MOTOR COMPANY	30
MITSUBISHI	MITSUBISHI MOTORS NORTH AMERICA, INC.	17
NISSAN	NISSAN MOTOR CORPORATION U.S.A.	85
OLDSMOBILE	GENERAL MOTORS CORPORATION	11
PONTIAC	GENERAL MOTORS CORPORATION	43
PORSCHE	PORSCHE CARS NORTH AMERICA, INC.	29
ROLLS-ROYCE	ROLLS-ROYCE MOTOR CARS, INC.	1
SAAB	SAAB CARS USA, INC.	8
SATURN	GENERAL MOTORS CORPORATION	63
SUZUKI	AMERICAN SUZUKI MOTOR CORPORATION	20
TOYOTA	TOYOTA MOTOR SALES, U.S.A., INC.	89
VOLKSWAGEN	VOLKSWAGEN UNITED STATES, INC.	64
VOLVO	VOLVO CARS OF NORTH AMERICA	30
WINNEBAGO	WINNEBAGO INDUSTRIES, INC.	1
<b>TOTAL</b>		<b>2,689</b>



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