



DeMars & Associates, Ltd.
Innovative Dispute Resolution



CONSUMER ARBITRATION PROGRAM FOR RECREATION VEHICLES (CAP-RV FLORIDA)

GUIDE & RULES FOR MEDIATION/ARBITRATION

EFFECTIVE SEPTEMBER 2013



TABLE OF CONTENTS

ADMINISTRATION OF THE RV PROGRAM	5
FILING A CLAIM	5
RV PROGRAM TIMELINE.....	6
INSPECTION OF RECREATION VEHICLE	6
WHAT IS MEDIATION?	7
MEDIATION PROCEDURES.....	7
INITIATION OF MEDIATION.....	7
ASSIGNMENT OF THE MEDIATOR	7
MEDIATOR DISCLOSURE AND CHALLENGE PROCEDURE.....	7
MEDIATION SUMMARY	8
MEDIATOR VACANCIES	8
REPRESENTATION BY ATTORNEY.....	8
SETTLEMENT AUTHORITY	8
DATE, TIME, AND PLACE OF MEDIATION CONFERENCE.....	8
RESCHEDULING THE MEDIATION CONFERENCE DATE.....	8
IDENTIFICATION OF MATTERS IN DISPUTE	8
POSSIBLE REMEDIES.....	8
PRIVACY.....	9
CONFIDENTIALITY	9
NO STENOGRAPHIC RECORD OR RECORDING	9
TERMINATION OF MEDIATION	9
SETTLEMENT	9
IMPASSE	9
WHAT IS ARBITRATION?	10
CONSENT TO EXPAND SCOPE.....	10
ARBITRATION PROCEDURES	10
INITIATION OF ARBITRATION	10
RV PROGRAM FORMS.....	10
ADDITIONAL PARTIES.....	11
APPOINTMENT OF ARBITRATOR.....	11
ARBITRATOR DISCLOSURE AND CHALLENGE. PROCEDURE	11
ARBITRATOR VACANCIES.....	11
REPRESENTATION BY ATTORNEY.....	11
WITHDRAWAL OF CONSUMER'S CLAIM.....	12
DISCOVERY	12
ATTENDANCE OF WITNESSES	12
DATE, TIME, AND PLACE OF ARBITRATION HEARING.....	13
RESCHEDULING THE ARBITRATION HEARING	13
PREPARATION FOR ARBITRATION HEARING.....	13



ATTENDANCE AT ARBITRATION HEARING 13

COMMUNICATION WITH ARBITRATOR 14

EVIDENCE..... 14

ARBITRATION IN THE ABSENCE OF A PARTY 14

ORDER OF PROCEEDINGS AT THE ARBITRATION HEARING 14

RECORDING OF ARBITRATION HEARING 15

POST HEARING FILING OF DOCUMENTS OR OTHER EVIDENCE 15

CLOSING OF ARBITRATION HEARING..... 15

SCOPE OF DECISION 15

TIME AND FORM OF DECISION..... 15

DELIVERY OF DECISION TO PARTIES..... 16

COMPLIANCE WITH ARBITRATOR'S DECISION..... 16

TECHNICAL CORRECTIONS..... 16

APPEALS..... 16



PLEASE REMEMBER

Documentation and Deadlines

All deadlines are required by Florida Statutes.

Applications must be received by CAP-RV no later than 60 days after the expiration of the Lemon Law rights period (the first 24 months after the date of original delivery of a motor vehicle to a consumer).

Please keep copies of all documents you send to CAP-RV.

All parties must cooperate with CAP-RV's request to produce documents.

If mediation concludes in an impasse (a mutually agreeable solution is not found) and arbitration is scheduled, you are required to complete a Pre-Arbitration Hearing Information form and provide it to CAP-RV and the other parties or their attorneys at least seven (7) days prior to the arbitration hearing.

Vehicle Inspection and Proceedings

The manufacturer and the consumer should attempt to arrange a mutually agreeable time and location for inspection; if a mutually agreeable time and location are not established, the inspection shall take place at the mediation conference, provided the vehicle is operable and capable of being safely driven. Any inspection reports should be forwarded to CAP-RV within ten (10) days of the inspection.

Proceedings are conducted in English. Any party desiring an interpreter must make all arrangements directly with the interpreter and is solely responsible for the cost of such service.

The consumer is responsible for making parking arrangements for the recreation vehicle during proceedings at scheduled locations. Local government parking services are usually available to assist the consumer.

If you wish to request that the mediation conference or arbitration hearing be rescheduled, you must first contact the other parties or their attorneys and attempt to find an alternate and mutually acceptable date before contacting the program administrator.

Settlement

Settlement agreements are not confidential. The appropriate settlement form is to be used if a settlement is reached at any time after a claim is filed with CAP-RV.

Pursuant to Florida Statutes Section 681.115, any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth under Florida lemon law, or that requires a consumer not to disclose the terms of such agreement, is void as contrary to public policy.

Time for performance shall not exceed 40 days from the date the settlement agreement is signed by the parties.

If a manufacturer fails to perform the agreed upon actions within the time required in a settlement agreement, the consumer must notify CAP-RV of such failure, in writing, within 30 days of the required performance date. Time for performance shall not exceed 40 days from the date the settlement agreement is signed by the parties.

If a manufacturer fails to perform the agreed upon actions within the time required in a settlement agreement, the consumer must notify CAP-RV of such failure, in writing, within 30 days of the required performance date.



I. GENERAL INFORMATION

A. Introduction

This guide provides important information about the mediation and arbitration program for recreation vehicles ("RV Program") under the Florida Motor Vehicle Warranty Enforcement Act ("Lemon Law"). This guide is designed to help you prepare for mediation, and if necessary, arbitration under the RV Program. ***You should read all of this publication.*** Otherwise, you may not fully understand your rights and responsibilities under the RV Program. References to "you" in this Guide include all parties to a dispute, their representatives and attorneys.

Important! You should keep copies of all documents you send to CAP-RV and to any opposing parties.

Special Accommodations. Persons needing special accommodations to participate in the mediation conference and/or arbitration hearing should contact CAP-RV no later than 10 days prior to the hearing date. If hearing impaired, contact CAP-RV via the Florida Relay Service at 711.

B. Administration of the RV Program

The RV Program is administered by the Consumer Arbitration Program for Recreation Vehicles (CAP- RV). An employee of CAP-RV is the Program Coordinator. CAP-RV is part of DeMars & Associates, Ltd. (DMA), a leading national alternative dispute resolution firm managed by some of the most reputable experts in the business. DMA designs and manages alternative dispute resolution programs that help settle thousands of business-consumer disputes. Since 1988, DeMars & Associates has designed and administered business- consumer dispute settlement programs. CAP-RV does not decide cases; rather, it provides a forum for the resolution of disputes.

CAP-RV's administrative fees, including mediator and arbitrator fees, are paid by the involved RV manufacturer(s). Manufacturers are required to pay all such RV Program fees to CAP-RV at least 10 days before the mediation conference. **No fees are charged to the consumer.**

The CAP-RV Program, the Program Coordinator and all other DeMars & Associates employees, owners and staff, the mediators and the arbitrators are exempt from civil liability arising from any act or omission in connection with any mediation or arbitration conducted under the RV Program.

The State of Florida Department of Legal Affairs (Department) monitors the RV Program to ensure compliance with the Lemon Law.

C. Filing a Claim

Upon receipt of an application for mediation and arbitration from a consumer, CAP-RV will date-stamp the application as filed and this date will be the filing date of the claim. In order to be considered filed timely, **the application must be received by CAP-RV no later than 60 days after the expiration of the Lemon Law rights period**, which is the first 24 months after the date of original delivery of a motor vehicle to a consumer.

CAP-RV will screen the application form to determine whether the claim is eligible. A completed form, with all relevant questions answered and all requested documents attached will prevent delay in processing. As part of the screening process, CAP-RV may request further information and/or documents from the consumer. Cooperation and prompt response to any such request will expedite this process. A manufacturer does not make the decision as to whether the claim proceeds to mediation or arbitration.

If CAP-RV determines the claim is eligible, the consumer and all involved manufacturers will be notified in writing. CAP-RV will collect from you all documents necessary for a full consideration of the claim; will provide you, the other parties, the mediator and the arbitrator with copies of all documents submitted; will schedule the mediation conference and arbitration hearing and will assign a qualified, impartial mediator and arbitrator to the claim. All parties must cooperate with CAP-RV's request to produce documents.

Proceedings are conducted in English. Any party desiring an interpreter must make all arrangements directly with the interpreter and is solely responsible for the cost of such service.



The consumer and the manufacturer(s) will be notified in writing by CAP-RV if, and why, an application is rejected.

D. RV Program Timeline

The mediation conference and, if necessary, an arbitration hearing of an eligible consumer claim must be completed within 70 days of the date the claim is filed with CAP-RV. Failure to complete all proceedings within the prescribed period, however, does not invalidate any settlement agreement or arbitration decision.

A request by a consumer to change the scheduled mediation conference or arbitration hearing to a later date constitutes a waiver of the 70-day time period.

CAP-RV or the arbitrator may, for good cause, extend any period of time established in this guide, within the statutory time limits.

E. Inspection of Recreation Vehicle

Once a claim is determined eligible and all parties have been notified, the manufacturer(s) may inspect the recreation vehicle before or during the mediation conference. The manufacturer(s) and the consumer(s) should attempt to arrange a mutually agreeable time and location for such inspection upon a manufacturer's request. If, after reasonable good faith attempts to arrange an inspection, a mutually agreeable time and location are not established, the inspection shall take place at the mediation conference, provided the vehicle is operable and capable of being safely driven.

The manufacturer(s) may perform limited non-repair diagnostic examinations and inspection procedures, such as test driving the vehicle or attaching a testing device to the vehicle. **All information gathered as a result of the inspection must be provided to CAP-RV, in writing, within 10 days of the inspection. CAP-RV will forward the information to you the same day it is received.**

The consumer must be present during the inspection, unless the consumer expressly waives in writing the right to be present. The inspection does not constitute another attempt to repair the vehicle, and no repair procedures may be conducted. This is the only pre-proceeding vehicle inspection permitted by these rules.

II. MEDIATION PROCESS

A. What Is Mediation?

Mediation is a process in which you, any opposing party, and the mediator assigned by CAP-RV (a neutral facilitator) meet to discuss settlement. The mediator assists the parties' efforts to reach a mutually acceptable settlement of the dispute; however, the mediator cannot impose any settlement upon you. Mediation is mandatory unless you settle the dispute before the scheduled mediation conference. The parties may negotiate directly with each other at any time.

In mediation, you can discuss any concern related to the recreation vehicle and attempt to resolve all differences, even if some of the alleged problems with the vehicle may not be covered by the Lemon Law. This is different from arbitration where an arbitrator hears evidence and makes a decision.

At the beginning of the mediation conference, the mediator will describe the procedures and ground rules. Each person then discusses their understanding of the issues, the facts surrounding the dispute, how they would like to see the dispute resolved and why. In this initial session, the mediator gathers as many facts as possible.

If joint discussions reach a point where no progress is being made or is likely to be made, the mediator may meet separately with the consumer(s) and manufacturer(s). While holding these separate sessions, the mediator may shuttle back and forth between the parties and may bring them back to joint sessions at appropriate intervals. During each separate session, the mediator attempts to clarify each party's version of the facts, priorities and positions, and explores alternative solutions. Information you provide the mediator when you meet in separate sessions is



confidential, and the mediator will not disclose this information to another party without your permission.

During the separate and joint sessions, the mediator attempts to assist you in narrowing your differences and in obtaining agreement on major and minor issues. The mediator attempts to reduce a disagreement into a workable solution. At appropriate times, the mediator may make suggestions about a final settlement, advise you of the possible consequences of failure to reach a mutually acceptable agreement, outline the progress that has been made, and formalize offers to achieve agreement.

The mediator acts as a facilitator to keep discussions focused and to avoid new outbreaks of disagreement. The mediator often has the parties negotiate the final terms of settlement in a joint session. The mediator then verifies the specifics of an agreement and helps the parties ensure that the terms are comprehensive, specific, clear, and put in legible written form.

B. Mediation Procedures

1. Initiation of Mediation. Once the claim is determined to be eligible, CAP-RV will promptly notify you and the manufacturer(s) in writing. The notification will include: (i) the identity and biography of the assigned mediator, (ii) the scheduled mediation conference date, time and location and (iii) the address to which all requests or other correspondence concerning the claim should be directed.

2. Assignment of the Mediator. A single mediator will be assigned by CAP-RV to conduct the mediation conference.

3. Mediator Disclosure and Challenge Procedure. No person will serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation. **A party will have 10 days from the date of the letter scheduling the mediation conference to factually object to the assigned mediator.** Upon receipt of a party's written objection to the continued service of the mediator, CAP-RV shall determine whether the mediator should be disqualified and will inform the parties of the decision, which will be conclusive.

4. Manufacturer's Summary. The manufacturer is required to provide a mediation summary to CAP- RV five (5) days prior to the mediation conference. CAP-RV will forward a copy to the consumer the same day it is received.

5. Mediator Vacancies. If for any reason the mediator becomes unwilling or unable to perform his or her duties, CAP-RV may declare the position vacant and appoint a new mediator.

6. Representation by Attorney. You may be represented by an attorney. The attorney's name, address, Florida Bar number, email address, and telephone number must be communicated in writing to all parties and to CAP-RV at least 10 days before the mediation. If you do not have an attorney and are interested in meeting with one, The Florida Bar Lawyer Referral Service can assist you in locating an attorney who practices consumer law. Their toll free number is 1-800-342-8011.

7. Settlement Authority. All parties must have or be represented by persons who have full settlement authority. This means persons attending on behalf of the parties are not only authorized to negotiate the terms of the settlement but are authorized to sign the settlement agreement. A manufacturer must send a representative with full and binding authority to enter into a full and complete settlement without further consultation.

8. Date, Time and Place of Mediation Conference. The date, time and place of the mediation conference will be set by CAP-RV, in consultation with the mediator. Written notification will be sent to you 20 days before the mediation conference date. The mediation conference will be held in Florida at a location that is reasonably convenient to the consumer. If the consumer is not a resident of Florida, the mediation conference will be held in the Florida county where the vehicle was purchased. CAP-RV's determination of the location of the mediation conference is final and binding.

9. Rescheduling the Mediation Conference Date. The mediator may reschedule a conference upon the mediator's own initiative, or upon your request, if you can show good cause for your request. If all parties agree to



reschedule the mediation conference, the conference will be rescheduled.

If you wish to request that the mediation conference be rescheduled, you must promptly contact CAP-RV. If CAP-RV cannot arrange an agreeable date for the reschedule, the requesting party must send a written request detailing the reason (five-page limit) to CAP-RV, by no later than 10 days before the conference date. CAP-RV will provide copies to all other parties to the dispute, and will obtain a determination from the mediator. CAP-RV will notify everyone of the determination.

10. Identification of Matters in Dispute. During the mediation conference, you will be expected to present all information reasonably required for the mediator to understand the issues presented, including the manner in which you think the claim should be resolved.

11. Possible Remedies. In a mediation conference, any remedy can be fashioned by the participants if they agree. You should have some idea as to what remedy would be agreeable to you, but be prepared to be flexible and be willing to compromise in order to resolve the dispute, if you can. You are not limited to remedies available under the Lemon Law in mediation.

12. Privacy. Mediation conferences are private. You, your attorney, if any, CAP-RV administration staff and Department personnel may attend mediation conferences. Other persons may attend only with the permission of the parties and with the consent of the mediator.

13. Confidentiality. The mediator will not divulge confidential information disclosed to the mediator by you in the course of the mediation. Furthermore, the mediator will not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.

The parties will maintain the confidentiality of the mediation and, except as otherwise required by law, will not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, (i) views expressed or suggestions made by another party with respect to a possible settlement of the dispute, (ii) admissions made by another party in the course of the mediation proceedings, (iii) proposals made or views expressed by the mediator, or (iv) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

Settlement agreements, even when entered into at mediation, are not confidential.

14. No Stenographic Record or Recording. There will be no stenographic record or recording of the mediation conference.

15. Termination of Mediation. The mediation will be terminated by (i) the execution of a written settlement agreement by the parties; or (ii) a written declaration of impasse, acknowledging that further efforts at mediation are no longer worthwhile.

C. Settlement

If you agree to settle the claim at any time after it is filed with CAP-RV, including during the mediation conference, the settlement terms **must** be detailed in writing on the appropriate settlement form. This settlement form must be signed by you and filed with CAP-RV. All forms requiring signature must be presented at the time the settlement is entered into. The consumer should be given the opportunity to have any settlement-related document reviewed by an attorney, should they so desire. All parties and attorneys shall be given, by the mediator, a copy of the signed settlement agreement and any other documents related to the agreement and/or performance of the agreement.

The terms of any settlement agreement are not confidential and a consumer cannot be required to keep the settlement terms confidential as a condition of the settlement. The consumer cannot be required to disclaim their rights under the Lemon Law as a condition of settlement.

Time for performance shall not exceed 40 days from the date the settlement agreement is signed by the parties. Pursuant to Florida Statutes section 681.1097(4)(g), if a manufacturer fails to perform within the time required in a settlement agreement, the consumer must notify CAP-RV of such failure, in writing, within 30 days of the required



performance date. Within 10 days following receipt of such notice, CAP-RV will determine whether the dispute is eligible to proceed to arbitration and, if eligible, will schedule the case for an arbitration hearing.

D. Impasse

If the mediation concludes in an impasse, CAP-RV will do an eligibility determination at this stage to ensure that the claims left unresolved in impasse are claims that fall under Florida lemon law (i.e. not issues in living quarters, etc.) If the claim is subject to arbitration, CAP-RV will immediately notify the parties in writing that the claim will proceed to arbitration and shall identify the assigned arbitrator.

III. ARBITRATION PROCESS

A. What Is Arbitration?

Arbitration is a referral of a dispute to an impartial person for a determination. Arbitration is a less formal process than litigation. Arbitration is mandatory for both the consumer and the involved RV manufacturer(s), unless the dispute is settled prior to the scheduled arbitration hearing date.

The arbitration hearing is conducted to encourage a full and complete disclosure of the facts and to afford each party a full and equal opportunity to present their case. The arbitrator conducts the hearing and takes whatever action is necessary to insure that the hearing proceeds in an equitable, orderly and expeditious manner. All parties must abide by the arbitrator's rulings.

B. Consent to Expand Scope

The parties may, by mutual written agreement, consent to expand the scope of the arbitration hearing to permit the arbitrator to consider warranty claims by the consumer that may not be covered under the Lemon Law. Such claims must have been first reported by the consumer to the manufacturer or its authorized service agent during the term of the manufacturer's written warranty.

A consent form will be provided to all parties by CAP-RV. Signing the form does not constitute a waiver or limitation of any rights any party may have, nor does it constitute an admission of liability by any manufacturer.

Failure or unwillingness of a party to consent to the arbitration of any particular alleged defect will not preclude the arbitrator from determining whether the defect is covered under the statute.

C. Arbitration Procedures

1. Initiation of Arbitration. CAP-RV will initiate the arbitration process upon notice from the mediator that the mediation has been terminated and no settlement was reached or upon a determination of eligibility after notice from the consumer, within 30 days of the required performance date, that the manufacturer failed to perform within the time required in a settlement agreement.

CAP-RV provides the parties with the following information:

- (i) the identity and biography of the assigned arbitrator;
- (ii) the scheduled arbitration hearing date, time, and location; and
- (iii) applicable RV Program forms.

2. RV Program Forms. Remember to keep copies of all completed forms and/or documents that you send to CAP-RV.

a. Manufacturer's Answer Form. The manufacturer is required to complete a Manufacturer's Answer form with information relevant to the dispute, and copies of all documents supporting the defenses or assertions raised in the Answer. The Answer and supporting documents are submitted to CAP-RV, who will provide copies to the other parties or their attorneys. Any affirmative defenses to be raised at the arbitration hearing by the manufacturer should also be raised on the form; provided, however, manufacturer(s) may amend or supplement their Answer up to five (5) days prior to the arbitration hearing. The arbitrator will not consider affirmative defenses subsequently



raised unless the arbitrator, for good cause shown, determines otherwise. CAP-RV must receive the completed Manufacturer's Answer within 10 days after the mediation ends in an impasse or after the manufacturer(s) receive the notification of failure to comply with a settlement agreement. The same day the documents are received by CAP-RV, program staff will forward copies to the other parties, or their attorneys.

b. Pre-arbitration Hearing Form. You are required to complete a Pre-Arbitration Hearing Information form and provide it to CAP-RV at least ten (10) days prior to the arbitration hearing.

CAP-RV will provide a copy to all parties or their attorney(s) at least five (5) days prior to the arbitration hearing.

Witnesses, other than rebuttal witnesses, not listed on the Pre-Arbitration Hearing Information form, or not made known in writing to the other parties at least five (5) days prior to the arbitration hearing, may be precluded from testifying as determined by the arbitrator. **Except for rebuttal evidence, any document not attached to the Pre-Arbitration Hearing Information form, or supplied to CAP-RV at least five (5) days prior to the arbitration hearing, may be precluded from evidence** as determined by the arbitrator.

c. Warranty Repair Information Form. You are required to complete a Warranty Repair Information Form and provide it to CAP-RV at least ten (10) days prior to the arbitration hearing.

CAP-RV will provide a copy to all parties or their attorney(s) at least five (5) days prior to the arbitration hearing. This form contains information about the number of repair attempts, the nature of the repairs, the mileage at each repair attempt, and the days out of service.

3. Additional Parties. Any party may request CAP-RV to bring a new party into the dispute on the ground that the new party is, or may be, liable under the Lemon Law for all or part of the claim. The request to add an additional party must be submitted in writing to CAP-RV, with copies to the party sought to be added. CAP-RV will forward copies to the other parties or their attorneys the same day as received and no later than five (5) days after the mediation conference.

4. Appointment of Arbitrator. A single arbitrator will be assigned by CAP-RV to hear and determine the arbitration dispute. The arbitrator will not be the same person who mediated the dispute. CAP-RV will provide the arbitrator with all relevant documents submitted to CAP-RV by the parties prior to the arbitration hearing.

5. Arbitrator Disclosure and Challenge Procedure. Any person appointed as an arbitrator will disclose to CAP-RV any circumstance likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from the arbitrator or another source, CAP-RV will communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others. A party has 10 days from the date of the letter scheduling arbitration to factually object to the assigned arbitrator. Upon CAP-RV's receipt of a party's written objection to the continued service of an arbitrator, CAP-RV will determine whether the arbitrator should be disqualified and will inform the parties of the decision, which will be conclusive.

6. Arbitrator Vacancies. If for any reason the arbitrator becomes unwilling or unable to perform his or her duties, CAP-RV may declare the position vacant and appoint a new arbitrator.

7. Representation by Attorney. Any party may be represented by an attorney. The attorney's name, address, Florida Bar number, email address and telephone number must be included on the Pre-Arbitration Hearing Information form or otherwise provided to CAP-RV, in writing, five (5) days before the arbitration hearing. CAP-RV will forward the information to all parties. Contact the program coordinator for procedures to follow if you are represented by an out of state attorney.

8. Withdrawal of Consumer's Claim. The consumer may withdraw the claim up to five (5) days prior to the arbitration hearing date. If the claim is withdrawn, the case file will be closed. If the consumer desires to file another claim, the consumer should contact CAP-RV, who will determine if the consumer is eligible to file another claim.

9. Discovery. Discovery is a procedure by which you may obtain information about the case that is in the possession of the opposing party. Discovery is prohibited unless permitted by the Lemon Law, this guide, or the



arbitrator.

The arbitrator may issue appropriate orders to effectuate or limit discovery and to prevent delay. The arbitrator has no authority to impose sanctions, find a party in contempt, or award attorneys' fees if a party fails to comply with a discovery order. Except as otherwise provided in this guide or as otherwise directed by the arbitrator, responses to motions/discovery will be provided to the requesting party at least 10 days prior to the arbitration hearing date.

A party should not request documents that have been previously provided by CAP-RV or the other party.

10. Attendance of Witnesses. The arbitrator may receive and consider the statements of witnesses by affidavit, but will give them only such weight as they are deemed entitled to receive after consideration of any objection for relevancy made by the opposing side.

The arbitrator may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence. CAP-RV provides the subpoena form to parties or their attorneys upon request.

The procedure for subpoenas is as follows:

- a. The party/attorney must complete the subpoena form(s) and file with CAP-RV sufficiently in advance of the scheduled arbitration hearing date to allow service prior to the hearing;
- b. The arbitrator will issue the subpoena(s) and return to CAP-RV for forwarding to the requesting party/attorney.

The party requesting the subpoena is responsible for having the subpoena served upon the witness. A subpoena may be served by any person authorized by law to serve process or by any person who is not a party and who is not less than 18 years of age. Service must be by delivery of the subpoena to the person named in the subpoena. Proof of service must be made by affidavit of the person making the service.

Any party or person against whom a subpoena is directed may file a request in writing (five-page limit) with CAP-RV to quash or limit the subpoena. CAP-RV will provide a copy of the request to the other parties or their attorneys. The request must set forth the grounds relied upon for quashing or limiting the subpoena. The arbitrator will make a ruling on the request immediately thereafter.

If a person fails to comply with a subpoena, the serving party may seek enforcement of the subpoena by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena resides or as otherwise provided in the Florida Rules of Civil Procedure.

The party who subpoenas the witness must pay the witness fees. Fees for attendance as a witness, other than expert witness fees, are the same as for a witness in civil cases in Florida's circuit courts. The witness is also entitled to mileage reimbursement. The check for the witness fee and mileage reimbursement must be attached to the subpoena. You do not have to pay a witness fee to anyone who appears at the arbitration hearing voluntarily.

11. Date, Time and Place of Arbitration Hearing. The date, time and place of the arbitration hearing will be set by CAP-RV, in consultation with the arbitrator. Written notification will be sent to you and the other parties 20 days before the arbitration hearing date. The arbitration hearing will be held in Florida at a location that is reasonably convenient to the consumer. If the consumer is not a resident of Florida, the arbitration hearing will be held in the Florida county where the vehicle was purchased. CAP-RV's determination of the location of the arbitration hearing is final and binding.

12. Rescheduling the Arbitration Hearing. The arbitrator may reschedule an arbitration hearing upon your request, if you can show good cause for the request. If all parties agree to reschedule the arbitration hearing, the arbitration hearing will be rescheduled.

If you wish to request that the arbitration hearing be rescheduled, you must promptly contact the other parties or their attorneys and attempt to reschedule the arbitration hearing to a mutually acceptable date. If all parties agree on a new date, all parties must notify CAP-RV no later than 10 days before the scheduled date. If all parties cannot agree,



the party making the request must send a written request giving the reason (five-page limit) to CAP-RV, by no later than 10 days before the hearing. CAP-RV will provide copies to all other parties to the dispute. CAP-RV will obtain a determination from the arbitrator and will notify everyone of the determination.

A request by a consumer to change the scheduled arbitration hearing to a later date is a waiver of the 70- day time period for completion of all proceedings under the RV Program.

13. Preparation for Arbitration Hearing. You should come to the hearing prepared to present testimony, documents and other evidence on all aspects of the claim, including information related to the relief being requested. You should bring with you to the hearing your copies of all documents that have been submitted to CAP-RV and to the opposing side, if any, and all documents you have received from CAP-RV and the opposing side, if any.

If the arbitrator awards a refund or replacement vehicle and applies the Lemon Law in calculating the award, the consumer may be charged a reasonable offset for the use of the recreation vehicle. The statutory formula for the offset takes the number of miles attributable to a consumer up to the date of a settlement agreement or arbitration hearing, whichever occurs first, multiplied by the base selling or sale price of the vehicle as reflected on the purchase invoice, exclusive of taxes, government fees, and dealer fees, or in the case of a lease, the agreed upon value as reflected in the lease agreement. The total of price multiplied by mileage is then divided by 60,000 to determine the offset.

Rule 2-30.001(2)(e), Florida Administrative Code, defines "mileage attributable to the consumer." There is additional information regarding Lemon Law remedies in the "Consumer Guide to the Florida Lemon Law" distributed to consumers at the time of recreation vehicle acquisition, or on the web site of the Office of the Attorney General at www.myfloridalegal.com

14. Attendance at Arbitration Hearing. Arbitration hearings will be open to the public as required by the Lemon Law. The rule of sequestration of witnesses will not be imposed.

15. Communication with Arbitrator. Except as otherwise specifically permitted herein, there will be no direct communication between you and the arbitrator other than at the oral hearing, unless all parties and the arbitrator agree otherwise. Any other communication for the arbitrator will be directed to CAP-RV for transmittal to the arbitrator.

16. Evidence. The technical rules of evidence as are applicable to civil court proceedings do not apply to arbitration. You may offer relevant testimony, documents and material and produce such evidence as the arbitrator deems necessary to reach an understanding and determination of the dispute. All testimony will be taken under oath.

The arbitrator will be the judge of the relevance and materiality of the evidence offered. Evidence will be taken in the presence of all of the parties, except where a party is absent in default or has waived the right to be present. All documents submitted by the parties to CAP-RV and to each other, if any, prior to the hearing will be made a part of the record, unless excluded by the arbitrator as irrelevant or cumulative.

Whenever possible, demonstrative and physical evidence is labeled and placed in the record; otherwise, the arbitrator will describe it in detail on the record.

The consumer should have the recreation vehicle at the arbitration hearing if the recreation vehicle is operable and capable of being safely driven to the hearing. The consumer must notify CAP-RV and the other parties at least 10 days prior to the arbitration hearing date if the recreation vehicle cannot be brought to the hearing. The consumer must bring proof of current insurance coverage for the recreation vehicle. The arbitrator may inspect the recreation vehicle if requested by a party or if the arbitrator deems it appropriate. Additionally, if the arbitrator deems it appropriate, the arbitrator may test-drive or ride in the recreation vehicle. The parties must be present and accompany the arbitrator on such inspection or ride unless a party waives the right to be present on the record.

17. Arbitration in the Absence of a Party. If the consumer fails to appear at the arbitration hearing, the arbitrator will dismiss the case with prejudice. It was the intention in establishing the RV Program that such a dismissal would not constitute exhaustion of administrative remedies or satisfaction of the precondition to filing a civil action set forth in Section 681.1097(1), Florida Statutes. If the manufacturer fails to appear, the arbitrator will hold the arbitration hearing and make a decision based on testimony and documents presented by the consumer and any documents contained in the record. All matters asserted as affirmative defenses will be considered admitted.



The arbitrator's decision in such instances is final unless, within one (1) business day of the arbitration hearing, the non-appearing party requests that the decision be set aside and can show that an unforeseeable circumstance prevented their appearance. The party's request should be made to CAP-RV, who will forward it to the arbitrator for determination. The arbitrator will consider the request and listen to arguments from the parties by telephone conference call. If a decision is set aside, a new arbitration hearing will be scheduled as soon as possible after the original hearing date. Notice of the rescheduled hearing will be made to the parties by any means deemed appropriate by the arbitrator.

If both parties fail to appear, the arbitrator will dismiss the case with prejudice, unless a consumer's request to set aside the arbitrator's decision is granted by the arbitrator as provided above.

18. Order of Proceedings at the Arbitration Hearing

- a. The arbitration hearing will be opened by the filing of the oath of the arbitrator and by recording of the date, time and place of the hearing, the name of the case and the names and addresses of parties, attorneys and witnesses present. A description of the exhibits in the order received will be made a part of the record.
- b. The arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved.
- c. The arbitrator will administer an oath or affirmation to all persons who are to give testimony.
- d. The arbitrator will limit the oral presentation to two hours for each side of the dispute for a total of four hours. At the arbitrator's discretion, time allowed for the oral presentation may be extended.
- e. The consumer or attorney will present testimony and documents to support the consumer's claim.
- f. The manufacturer(s) or attorney(s) will have the opportunity to question the consumer, if the consumer testifies, and the consumer's witnesses, about their testimony, after each one testifies.
- g. The manufacturer(s) or attorney(s) will then present testimony and documents supporting their defense.
- h. The consumer or the consumer's attorney will have the opportunity to question the manufacturer's representative, if a representative testifies, and the witnesses about their testimony after each one testifies.
- i. The arbitrator may question any witness or party at any time during the hearing.
- j. After all testimony, the arbitrator will determine whether to inspect and/or test drive the vehicle, if the vehicle is present at the hearing. If the inspection and/or test drive is conducted off the record, the parties will have the opportunity to offer additional testimony about it on the record after all persons have returned to the hearing room.
- k. Each party will then have an opportunity to make a brief closing statement.

The arbitrator has the discretion to vary this procedure but will afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence.

19. Recording of Arbitration Hearing. The arbitrator will record the arbitration hearing. The claim file, recording and exhibits will be retained by CAP-RV for at least five years after the final disposition of the claim.

20. Post Hearing Filing of Documents or Other Evidence. If the parties agree or the arbitrator directs that documents or other evidence be submitted to the arbitrator after the arbitration hearing, the documents or other evidence will be filed with CAP-RV for transmission to the arbitrator, unless otherwise directed by CAP-RV. The arbitrator will establish a time certain within which such documents must be submitted and CAP-RV will provide copies to the other parties.

21. Closing of Arbitration Hearing. The arbitrator will specifically inquire of all parties whether they have any further evidence to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrator will declare the arbitration hearing closed.

22. Scope of Decision. The arbitrator shall, in rendering a decision, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty and the provisions of the "Lemon Law" (Florida Statutes Ch. 681).

If the decision awards a remedy to the consumer, the remedy will be specified and will identify the liable manufacturer(s). One or more of the manufacturers involved in the claim may be held liable. Any manufacturer not found liable will be dismissed from the claim. A decision awarding no relief to the consumer will be a dismissal of the claim.



The decision of the arbitrator is final and binding upon you, unless judicial proceedings are initiated (See "Appeals" below). Requests for rehearing are not considered by the arbitrator.

23. Time and Form of Decision. The decision will be made promptly by the arbitrator, but no later than 10 days from the date of closing of the arbitration hearing. (Closing may be postponed if a post hearing filing of documents or other evidence is called for by the arbitrator.) The decision will be in writing and will be signed by the arbitrator.

24. Delivery of Decision to Parties. You will be mailed a copy of the decision via registered mail to your (or your attorney's) and the other parties' last known address. CAP-RV will also send a copy of the decision to the Department within 30 days of mailing it to you.

25. Compliance with Arbitrator's Decision. If the decision is in favor of the consumer, the manufacturer must comply with the decision within 40 days of the date the manufacturer receives the decision. Compliance occurs on the date the consumer receives the relief specified in the decision. If the manufacturer fails to comply within the time required, the consumer must notify CAP-RV in writing within 30 days. CAP-RV does not have the authority to enforce compliance with an arbitrator's decision. A consumer may apply to a court of competent jurisdiction in this state for entry of an order confirming the award. Such application will be filed by motion within 40 days after the manufacturer's failure to comply and will be heard in the manner and upon notice provided by law or rule of court for the making and hearing of motions. Such application will be served in the manner provided by law for the service of a civil summons. The consumer will send a copy of the application for confirmation of the award and any order entered by the court confirming the award to CAP-RV.

In any civil action arising under this chapter relating to a dispute arbitrated pursuant to this section, the decision of the arbitrator is admissible in evidence.

26. Technical Corrections. Either party may request that the arbitrator make a technical correction to the decision by filing a written request with CAP-RV and sending a copy of the request to all opposing parties within 10 days after receipt of the written decision. Technical corrections will be limited to computational errors, corrections of a party's name or information regarding the recreation vehicle, and typographical or spelling errors. Technical correction of a decision will not toll the time for filing an appeal or for manufacturer compliance.

27. Appeals. A decision of the arbitrator is binding unless appealed by either party within 30 days of receiving the written decision by filing a petition with the circuit court in the manner prescribed by ss. 681.1095 (10) and (12), of the Lemon Law.



Consumer Arbitration Program for Recreation Vehicles (CAP-RV) Administered by DeMars & Associates, Ltd.

www.demarsassociates.com

If you have questions or are uncertain about a particular aspect of the RV Program, please call CAP-RV at 800.279.5343 or 262.549.6700 x 1280 Facsimile number 262.549.6744 Email to info@demarsassociates.com.

You may learn more about the program, download a copy of the rules for recreation vehicles in Florida, or download an application directly from the website: <http://demarsassociates.com/Services/CAPRV.aspx>

Our mailing address is:

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