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March 6, 2008

The Honorable Eliot Spitzer
Governor of New York State
Executive Chamber, Second Floor
Albany, New York 12224

The Honorable Sheldon Silver
New York State Assembly
932 Legislative Office Building
Albany, New York 12248

The Honorable Joseph L. Bruno
New York State Senate
909 Legislative Office Building
Albany, New York 12247

Re: Improvements to the New York State Lemon Law

Gentlemen,

This office represents New York consumers with respect to claims against automobile manufacturers pursuant to New York State General Business Law § 198-a and New York State General Business Law § 198-b, otherwise known as the new and used car "Lemon Law." I am writing to bring attention to some serious deficiencies in these consumer protection statutes, and to urge the promulgation of legislation to update and improve them.

Since the statutes were originally promulgated in 1983, they have been an overwhelming success. Whereas in the past, consumers had little recourse in the event they were sold an unsafe or defective vehicle, they can now take advantage of the statutes to have their vehicle repurchased or replaced. I derive much satisfaction assisting consumers in such a manner.

Nonetheless, there is ample room for improvement. According to its most recent ranking of state Lemon Law statutes in 2002, the Center for Auto Safety ranked New York just 17th out of 51 (counting Washington DC). Since that time, many states have significantly improved their laws, but New York has only made minor amendments. I can attest from experience that there exist 'holes' in the New York statute which

represent a potential danger to your constituents. I suspect that if a similar ranking were produced today, New York would be significantly lower on the list.

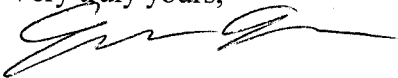
By way of example, according to the Center for Auto Safety's letter to Governor (then Attorney General) Spitzer in 2002, which can be viewed online at <http://www.autosafety.org/article.php?scid=109&did=685>, the biggest weakness of the current statute is that it "lacks a safety lemon provision requiring auto companies to buy back or replace safety lemons after one unsuccessful repair attempt for a defect that threatens death or serious bodily injury." This is a very important suggestion. My clients have vehicles that stall at highway speeds, have brakes that suddenly stop working, doors that open up without warning, and many other potentially lethal defects. Imagine having to tell one of your constituents that in order to take advantage of the Lemon Law, he or she will have to experience such a potentially lethal defect not once, not twice, but **four times**, AND the defect needs to continue to persist after that fourth repair attempt. I have to tell my clients this all the time. It is absolutely imperative that the New York statutes be modified to grant recourse to consumers in such dire straits.

Interestingly enough, our neighbor, New Jersey, which was ranked #2 by The Center For Auto Safety, is in the process of doing just that. New Jersey Senate Bill S-454, which recently passed the Senate Commerce Committee by unanimous vote, is awaiting consideration by the full New Jersey Senate. The Bill would create a distinction between general defects and those "likely to cause death or serious bodily injury." In the event that a vehicle exhibited a potentially lethal defect, the Bill would allow the dealer only one chance to repair it. If the defect then continued to persist, the consumer would be entitled to have the vehicle repurchased or replaced by its manufacturer.

The New Jersey Bill is also proposing another smart change to its already consumer friendly statute. The Bill provides that the lemon law coverage period be extended from 18,000 miles to 24,000 miles. This makes sense, because as New Jersey State Senator Barbara Buono stated, "drivers commute much farther today, and 18,000 miles no longer provides the coverage the average car buyer deserves." I cannot agree more. The New York statute covers defects that occur within the first 2 years or 18,000 miles, whichever comes first. This only allocates 9,000 miles per year. The statute should be extended to 2 years or 24,000 miles, to better reflect current driving habits.

New Yorkers deserve to have the most comprehensive and up to date consumer protection laws. However, it is readily apparent that serious deficiencies exist in the current Lemon Law statutes. I respectfully ask that you give attention to this matter and take steps to correct it. Additionally, if I can be of any assistance, please do not hesitate to contact me.

Very truly yours,



Eugene Kruk, Esq.