

**USING "LEMON LAW"  
WORKSHEETS IN JURY  
TRIALS**

Beverly T. Beal  
Conference of Superior Court  
Judges  
June 20, 2012

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**THERE ARE NEW CALCULATION  
SHEETS WITH "LEMON LAW" PATTERN  
JURY INSTRUCTIONS**

*TO ASSIST THE TRIAL JUDGES, THE  
PATTERN JURY INSTRUCTION COMMITTEE  
HAS PRODUCED CALCULATION SHEETS AS  
APPENDICES TO "LEMON LAW"  
INSTRUCTIONS. THE TRIAL JUDGE MAY  
WANT TO CONSIDER THE OPTION OF  
GIVING THE BLANK FORMS TO THE JURY  
WITH THE VERDICT SHEET, FOR USE  
DURING DELIBERATIONS.*

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**N.C. GENERAL STATUTES,  
CHAPTER 20, ARTICLE 15A**

**NEW MOTOR VEHICLES  
WARRANTIES ACT**

N.C. Gen. Stat. § 20-351, et seq.

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**N.C.G.S. § 20-351.3 (c)**

Refunds shall be made to the consumer, lessor, and any lienholders as their interest may appear. The refund to the consumer ["consumer" includes a purchaser or a lessee] shall be reduced by a reasonable allowance for the consumer's use of the vehicle.

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**N.C. Gen. Stat. § 20-351.3**

FORMULA FOR CALCULATING  
"REASONABLE ALLOWANCE"  
FOR THE PLAINTIFF'S USE OF THE  
VEHICLE

- (a) WHEN THE CONSUMER (PLAINTIFF) IS A PURCHASER
- (b) (1) WHEN THE PLAINTIFF (CONSUMER) IS A LESSEE

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**N.C. Gen. Stat. § 20-351.3 (a)  
REASONABLE ALLOWANCE**

WHEN THE CONSUMER IS THE PURCHASER  
N.C.P.I.—Civil 754.07, APPENDIX A.

- A "Reasonable Allowance" is determined by:
- 1. Calculating the number of miles used by the plaintiff up to: (a) the date of the third attempt to repair the same nonconformity which is the subject of the claim, or (b) the twentieth cumulative business day when the vehicle is out of service by reason of repair of one or more nonconformities; whichever occurs first;

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**N.C. Gen. Stat. § 20-351.3 (a)**  
**REASONABLE ALLOWANCE,**  
 WHEN THE CONSUMER IS THE PURCHASER  
 N.C.P.I.—Civil 754.07, APPENDIX A.

2. Multiplying the number of miles in (1) by the purchase price of the vehicle; and

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**N.C. Gen. Stat. § 20-351.3 (a)**  
**REASONABLE ALLOWANCE,**  
 WHEN THE CONSUMER IS THE PURCHASER  
 N.C.P.I.—Civil 754.07, APPENDIX A.

3. Dividing such amount by 120,000.

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**N.C. Gen. Stat. § 20-351.3 (a)**  
 FORMULA FOR CALCULATING THE  
 PLAINTIFF'S **DAMAGES** WHEN THE  
 PLAINTIFF IS A PURCHASER  
 N.C.P.I. – Civil 745.07, APPENDIX B

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N.C. Gen. Stat. § 20-351.3 (b)  
**REFUND**  
 WHEN THE CONSUMER IS A LESSEE  
 N.C.P.I.—Civil 754.09, APPENDIX A.

A "Reasonable Allowance" is determined by:

1. Calculating the number of miles used by the plaintiff up to: (a) the date of the third attempt to repair the same nonconformity which is the subject of the claim, or (b) the twentieth cumulative business day when the vehicle is out of service by reason of repair of one or more nonconformities; whichever occurs first;

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N.C. Gen. Stat. § 20-351.3 (b)  
**REFUND,**  
 WHEN THE CONSUMER IS A LESSEE  
 N.C.P.I.—Civil 754.09, APPENDIX A.

2. Multiplying the number of miles in (1) by the lessor's actual lease price (which means the actual purchase cost of the vehicle to the lessor); and

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N.C. Gen. Stat. § 20-351.3 (b)  
**REFUND**  
 WHEN THE CONSUMER IS A LESSEE  
 N.C.P.I.—Civil 754.09, APPENDIX A.

3. Dividing such amount by 120,000.

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N.C. Gen. Stat. § 20-351.3 (b)(1)

FORMULA FOR CALCULATING THE PLAINTIFF'S **DAMAGES** WHEN THE PLAINTIFF IS A LESSEE

N.C.P.I. – Civil 745.09, APPENDIX B

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N.C. Gen. Stat. § 20-351.3(b)(2)

Formula for Calculating the Plaintiff's Damages When the Plaintiff is a **Lessor**  
(N.C. Gen. Stat. § 20-351.3(b)(2))

**N.C.P.I.--Civil 745.11, APPENDIX A**

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PATTERN JURY INSTRUCTIONS

- N.C.P.I.—Civil 745.01
- N.C.P.I.—Civil 745.03
- N.C.P.I.—Civil 745.05
- N.C.P.I.—Civil 745.07
- N.C.P.I.—Civil 745.09
- N.C.P.I.—Civil 745.11

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### CALCULATION WORKSHEETS

- N.C.P.I.—Civil 745.07, APPENDIX A
- N.C.P.I.—Civil 745.07, APPENDIX B
- N.C.P.I.—Civil 745.09, APPENDIX A
- N.C.P.I.—Civil 745.09, APPENDIX B
- N.C.P.I.—Civil 745.11, APPENDIX A

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### HYPOTHETICAL, PAGE 1

- On June 18, 2012, Jesse C. purchases a brand new red 2012 Lamborghini Aventador. The price is \$ 376,000. Sales tax etc., is \$1,000. He paid cash.
- He drives it everyday for a 30 days and it leaks brake fluid. On Monday, July 18 he takes it in for repairs at the dealer. The mileage is 2,000. He picks it up on July 25.

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### HYPOTHETICAL, PAGE 2

- Jesse drives it for 60 days and the brakes fail in the Mecklenburg county courthouse parking garage and he hits the wall (no appreciable damages). He returns it for service on August 30. The mileage is 6,000 miles.
- He picks it up on September 8.

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**HYPOTHETICAL, PAGE 3**

- Jesse drives it 33 days and the brakes do not work well on his trip to Chapel Hill for the pattern jury instruction committee meeting on October 5. No brake fluid. He returns it on October 8. The mileage is 8,150. Another attempt to repair the brake fluid leak is made.
- He picks it up on October 17.

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**HYPOTHETICAL, PAGE 4**

- On October 18, the brakes fail due to no brake fluid, he has a wreck and his girlfriend Gina Maria Josephina suffers a bruise on her latissimus. Their relationship ends. The vehicle is unsafe to drive. Damage estimate is \$4,000.00. A wrecker takes it to the dealer on October 19. The mileage is 8,250.

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**HYPOTHETICAL, PAGE 5**

- Jesse goes to the dealer on October 20, and demands his money back. The dispute results in a civil action by Jesse against the manufacturer. Jury verdict is in Jesse's favor.
- Calculate the amount to which Jesse C. is entitled as a money damages.

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