

Introduction

This 2004 annual audit of Ford Motor Company'

¹ This convention has been in operation for several years and is used to avoid the unduly high costs that would be associated with an audit that was on-going during a good part of two calendar years.

SECTION I

Compliance Summary

This audit report (2004 report completed in 2005) constitutes the twenty-second independent annual audit of the Ford Motor Company sponsored third-party informal dispute resolution mechanism, the Dispute Settlement Board (DSB)².

² The initial audit was conducted for the calendar year 1983.

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³ This percentage determined by dividing the number of in-jurisdiction cases (6,460) into the number reported being closed beyond the requisite 40 day period (1,702) which does not not include the “pending cases” category.

⁴ The contractors used by Ford to carry out the program requirements are: DeMars & Associates, Ltd.; Engineering Analysis Associates, Inc.; Minacs; Spike Lawrence, Inc.; Professor James Brown, University of Wisconsin-Milwaukee; Claverhouse Associates; and, Research Data Analysis.

⁵ While this was true during the audit year (2004), the DSB program is now defunct and replaced by the BBB AUTOLINE arbitration program effective in mid-2005.

SECTION II

Detailed Findings

This section addresses the requirements set forth in 16 C.F.R. Para 703, Public Law 93-637 (The Magnuson-Moss Warranty Act, 15 U.S.C. 2301. et seq.). For each regulatory requirement set forth, the audit's findings are recorded and appropriate discrepancies and/or recommendations are made.

This audit covers the calendar year 2004. An important component of the audit is the survey of a randomly selected sample of Dispute Settlement Board (DSB) applicants whose cases were closed in 2003 and found to be within the DSB's jurisdiction. The sample is comprised of 362 applicants and was drawn from the national universe of DSB applicants whose cases were closed in 2004.⁶

We also analyzed several Ford-generated statistical reports covering each DSB operation in the United States. Those reports are available from Ms Kristine Cravens, DSB Process Manager, Ford Motor Company, 16800 Executive Plaza Drive, Room 3NE-234, Dearborn, MI 48126.

Claverhouse Associates performed field audits of the case files for these areas: Kansas, City, Kansas; Pittsburgh, Pennsylvania, 16800 2(16.6(s, Los.00ge107 Tc.0s)-.w76-dsurvey) Fors7.8(e)1eeq.4r(any]TJ-18.

⁶ Ford does not offer an DSB program for New York residents; thus, there are no cases in the sample from New York.

⁷ Our dealership reviews only encompass three or four dealerships out of perhaps hundreds of dealers in any given state. In no way is this a representative sample, but it can give a useful impression when viewed over time.

Records pertaining to the DSB that are required to be maintained by 703.6 (Record-keeping) are being kept and were made available for our review. All case files of our random sample of 50 for each region were located and provided for our review.

The DSB program provides that all files be kept for four years following the case's closing date, but DeMars & Associates elects to keep them for five years. These files are kept at the headquarters of DeMars & Associates in Waukesha, Wisconsin. This program requirement is consistent with the regulatory requirement for maintaining records for four years.

REQUIREMENT: § 703.6 (a) (1-12) [Record keeping]

(a) The mechanism shall maintain records on each dispute referred to it which shall include:

(1) Name, address, telephone number of the consumer;

(2) Name, address, telephone number and contact person of the warrantor;

(3) Brand name and model number of the product involved;

(4) The date of receipt of the dispute and the date of disclosure to the consumer of the decision.

- (7) A summary of any relevant and material information presented by either party at an oral presentation;**
(8) The decision of the members including information as to date, time and place of meeting, and the identity of members voting; or information on any other resolution;

FINDINGS:

Documents submitted by the disputing parties, in addition to the standard file entries, were found in many files. The audit revealed nothing to suggest that any material submitted by a party was not included in the file, and every indication is that the files were complete in this regard. We made no attempt to validate the existence of "summaries of relevant and

⁸ Arbitration decisions come in vastly different forms depending, in part, on the arbitration format. In an arbitration panel format, an audio tape of the meeting would reveal a result similar to U.S. Supreme Court decisions wherein members indicate their, sometimes widely divergent, views. The final result in this context, however, is a single decision. In the DSB process, the essence of the decision is reflected on the *Agenda/Decision Summary* form. The administrator's notes on the decision are then crafted into a draft decision. The draft, upon approval and signature of the board chair, is sent to the parties (i.e., the customer and the manufacturer).

⁹ We are informed by a manufacturer's representative that since 1999, the language contained on this form has been entered into the MORS III [now CuDL] computer system by Minacs, which is an important record-keeping procedure, but, notwithstanding Minacs's honorable intent, one that is not easily verifiable for accuracy by someone who doesn't know that an original, handwritten set of notes exists.[As of 2002 this no longer true, but included here because it is language drawn from the 2001 audit report and it demonstrates the appropriate changes made by the DSB.]

REQUIREMENT: § 703.6 (b)

(b) The mechanism shall maintain an index of each warrantor's disputes grouped under brand name and subgrouped under product model.

FINDINGS:

These tabulations are maintained by Minacs. The audit includes a review and assessment of a data printout for the calendar year 2004. The *Index of Disputes* identifies 8,538 total disputes for 2004. Of these, 6,460 were eligible for DSB review and were determined to be out-of-jurisdiction. Preliminary out-of-jurisdiction determinations was recently transferred to DeMars & Associates using the same standards as were applied by their predecessors, Minacs. It should be noted, however, that in some cases the board that receives a case that is initially determined to be within its jurisdiction will subsequently rule it out-of-jurisdiction. For example, the board may determine that the vehicle is the subject of warranty-related litigation or discover that it has been involved in an accident affecting the warranty dispute, both cases are outside the program's jurisdiction. Likewise, the board may overrule a preliminary out-of-jurisdiction determination made by DeMars & Associates and then hear and decide the dispute. In so doing, they are exercising the authority on such matters that is ultimately theirs.

This *Index of Disputes* lists three brand categories: Ford (15 models [two less than in 2003]), Lincoln (7 models), and Mercury (7 models [one less than in 2003]).

DISCREPANCIES:

NONE

Indices are complete and consistent with all requirements. The information is available from the DSB Coordinator at the Ford Consumer Affairs Office in Dearborn, Michigan. Some of the data included in these reports are compared with the findings of our sample survey (see Survey Section).

REQUIREMENT: § 703.6

The mechanism shall maintain an index for each warrantor as

DISCREPANCIES:

NONE

REQUIREMENT: § 703.6 (d)

(d) The Mechanism shall maintain an index as will show all disputes delayed beyond 40 days.

DSB Process Manager provides detailed information regarding data maintained by the DSB program in Section III. These comments provide useful insight into the DSB database set-up for maintaining the required statistical information.

The figures reported in this index are analyzed and discussed in further detail in the Survey Section. The survey addresses most of the issues dealt with in the section above.

DISCREPANCIES:

NONE

REQUIREMENT: § 703.6 (f)

THE MECHANISM SHALL RETAIN ALL RECORDS SPECIFIED IN PARAGRAPHS (a) - (e) of this section for at least 4 years after final disposition of the dispute.

FINDINGS:

(a) All of the information listed in the 12 subsections detailed in the previous section is maintained for the required four years. The few administrative irregularities are discussed in the field audit of regional offices section of this report.

An inspection was made of all case files at DeMars & Associates office, and a random selection of case files from the recent four-year period was inspected and evaluated for completeness. Each case file bearing the randomly selected case number was pulled from storage and inspected. The files were all appropriately maintained and readily available for audit.

(b) [Complaints by brand name/model] The DSB Process Manager provided for audit the warrantor's "Disputes under Brand Name and Product Model" index for 2004. The indexes for the previous four years are maintained in the audit reports for those years and are available from a variety of sources, including the DSB Coordinator in the Ford Consumer Affairs Office in Dearborn, Michigan.

(c) [Two non-compliance categories] The information required by subsection (1) is maintained in the Ford Consumer Affairs Office in Dearborn, Michigan, and is available from the DSB Process Manager. Subsection (2) is not applicable since Ford, as a matter of corporate policy, always complies with DSB decisions.

(d) [Complaints beyond 40 days] This information is stored on computer in the CuDL system and is housed with the independent contractor, Minacs. Any required report can be obtained from this system via the DSB Process Manager. The information is maintained as required.

(e) [Includes 12 categories of statistics] The information referenced in this section is available from the DSB Process Manager. All data pertaining to this requirement are also available from the DSB Process Manager. The 12 categories of statistics required to be maintained have been incorporated into the CuDL system and are being kept as required.

DISCREPANCIES:

NONE

¹¹ Dealerships access the DSB pamphlets and pa

! Ford's new vehicle *Delivery Checklist* includes a Florida-specific check-off affirming dealer delivery of the state's Lemon Law Rights booklet, "Preserving your Rights under the Florida Lemon Law."

! Ford created and distributes an acknowledgment portion of the required *Notice of Lemon Law Rights Notification & Acknowledgment* card in applicable states to verify that dealers comply with notice requirements.

! Ford maintains (via a vendor) a Ford-to-Dealer website, FMCDealer.com, which is used for all company to dealer communication. At the "Customer Satisfaction" location on this site, there is a "Lemon Law Rights" section providing consumer rights notification.

! The FMCDealer.com website allows dealers to place orders for DSB brochures, which include a DSB application form, brochure holders and Lemon Law acknowledgment forms.

! The FMCDealer.com website includes a roadmap, which outlines the dealership role in the DSB process. It also provides information on how customers can contact Ford via e-mail, letter, or telephone to receive DSB information.

! Ford provides an owner's packet at the point of sale that includes: the *Owner's Guide*, *Warranty Guide*, *Maintenance Guide*. The packet provides a brief description of the DSB and its address.

! Ford staffs a toll-free customer assistance line. The phone number, 1-800-392-3673, is listed on the inside cover of the

In the greater Los Angeles Region, we visited the following dealerships:

Puente Hills Ford
17340 E. Gale
City of Industry, California 91748

Clippinger Ford
116 San Bernadino Rd.
Covina, California

Power Ford
3311 Pacific Coast Highway
Torrance, California 90505

Our dealer visits in the greater Los Angeles area were similar as concerns the program for DSB information dissemination to last year's review. All three of the three Los Angeles area dealerships we visited appeared to know about arbitration generally and made specific reference to the Dispute Settlement Board. The Los Angeles review is contained in the California audit report, but the results were much better than many recent audits in California

It continues to be the case that customers who seek assistance from their salespersons are

Despite these limited reservations, Ford Motor Company's multi-faceted strategy for "making customers aware" appears, once again, to be having a measurable impact. Consider for example, the nearly 80,000 customers who made application to the program in the last six years (i.e., 1999-2004). Our audit cannot determine what specific strategy or combination of strategies should receive the credit, but the fact remains that many Ford customers have been **made aware of the DSB program** and have made use of it in considerable numbers to assist them in resolving warranty disputes.

In some respects, the manufacturer's difficulty in carrying out this requirement relates directly to the issue of uncertainty as to the regulation's intent about when the customer is to be informed. A better information dissemination strategy could be developed if regulators provided manufacturers with a clear operational definition of the phrase, **"... at the time consumers experience warranty disputes."** As it stands, the Ford Motor Company program meets the basic requirement insofar as their new efforts have the anticipated results.

It is noted that the party who is in the best position to communicate with customers at most junctures in the warranty repair context is the servicing dealer. In the main, dealers who wish to ignore their role in facilitating "fair and expeditious" warranty dispute resolution may do so with regulatory impunity, notwithstanding the many demonstrated efforts of Ford Motor Company.

Ford Motor Company representatives have informed us that they continue to work on improving their information dissemination program as we have discussed elsewhere in this report. Moreover, we have discussed the current activities carried out by Ford to ensure that more dealers have readily available DSB pamphlets and display holders. Our review did reveal a modest increase in the use of the display pamphlet holders by dealers.

DISCREPANCIES:

The four categories of warranty information required by Rule 703 to be on the face of the warranty are provided elsewhere, but not on the warranty's face. This appears to be technically inconsistent with the regulation despite the regulation's unusual definition of the term, "on the face of the warranty," which is discussed elsewhere in this report.

REQUIREMENT: § 703.7 (b) (3)(I)

Analysis of a random sample of disputes handled by the Mechanism to determine the following: (I) Adequacy of the Mechanism's complaint and other forms, investigation, mediation and follow-up efforts, and other aspects of complaint handling; and (ii) Accuracy of the Mechanism's statistical compilations under 703.6 (e). (For purposes of this subparagraph "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random sample.)

FINDINGS:

The FINDINGS for this section are arranged as follows:

- (1) **Forms**
- (2) **Investigation**
- (3) **Mediation**
- (4) **Follow-up**
- (5) **Dispute Resolution**

1) Forms

The auditors reviewed most of the forms used by each component of the DSB, including those used by Minacs, DeMars & Associates,¹² Professor James Brown,¹³ Director for the Center for Consumer Affairs, University of Wisconsin-Milwaukee, and Ford Motor Company.

The forms used by the DSB have been modified several times in attempts to refine their utility and consistency with regulatory requirements. As such, they are exceptionally "user friendly." They are also well balanced in providing enough information to properly advise the parties without overwhelming them with unnecessary paperwork. Overall, the DSB forms promote efficiency and assist the program in meeting the stated objective of facilitating fair and expeditious resolution of disputes.

The *DSB Agenda/Decision Summary* form is a valuable tool for record keeping and facilitating more thorough decision letters. Its layout was modified recently to improve the recording of board decisions by providing more space for the details necessary to craft a complete decision with an appropriate accompanying rationale.

DSB forms designed to be used only in certain states because of unique regulatory requirements in those states¹⁴ were audited for the limited purpose of ensuring that they do not conflict with the requirements of the Magnuson Moss-Warranty Act or Rule 703. In summary, no irregularities or inconsistencies were identified in the Magnuson training(s u)]T3(s. [(com)8.)T.

¹² DeMars & Associates is an independent contractor that served as the independent national administrator of the DSB.

¹³ Professor James Brown provided national and California-specific training for arbitrators.

¹⁴ States for which Ford or DSB provided unique forms are Arkansas, California, Georgia, Montana, Ohio, Wisconsin, and West Virginia.

was confirmed by field audits, monitoring of board meetings, and interviews with board members and administrators.

It is common for boards to request independent inspections of vehicles. Independent inspections can appropriately be done to confirm or deny one party's representations; however, monitoring of board meetings suggests that some board members still do not understand the appropriate purpose of an independent inspection, which is to attempt to gain clarification in cases where the parties have presented conflicts of fact. For example, one party may represent that a certain mechanical problem exists and the other party deny that representation. In such a case, the view of an independent certified mechanic can often resolve this dispute. Some members' comments continue to demonstrate that their objective in requesting an independent inspection is to diagnose the true nature of the vehicle's mechanical problem. Diagnosing vehicle repair problems is, generally speaking, beyond the intended scope of the DSB. The most likely exception to this limitation is the case wherein a customer is specifically asking the board to assist in "just getting my car fixed." Even so, it is entirely appropriate for the board to expect that a customer who applies for arbitration has obtained an inspection from a qualified mechanic in order to supply some degree of verification of the claim. This is especially so when the customer asserts an intermittent problem that he/she acknowledges has not been duplicated in the presence of their dealership's repair facility personnel. There is no regulatory requirement for regulated warranty dispute settlement mechanisms to assist either of the parties in preparing or supporting their cases. The board's responsibility is limited to *hearing* and *deciding* the matter in dispute. The primary responsibility for case preparation belongs to the disputing parties.

When the subject of Technical Service Bulletins (TSBs) arises in the context of arbitration board meetings, it is customary for technical members (frequently instructors in auto mechanics or dealer members) to know whether a bulletin exists. Boards rarely request that the manufacturer provide a copy of a TSB and then delay action on the case pending receipt of the bulletin. Whether a TSB *exists* is apparently more likely to be central to a board's determination than any information contained therein. The existence of a TSB may increase, in the minds of some members, the likelihood that a customer's otherwise unverified concern is real.

Other areas to be investigated include:

**...number of repair attempts; length of repair periods; and
possibility of unreasonable use of the product.**

The program solicits information on these subjects from the customer via the DSB application and any oral presentation they may make, from the dealer via the questionnaire, "*Dealers Statement*," and from Ford Motor Company via the questionnaire, "*Company Statement*."

The Customer Application form does not request information about the issue of possible misuse or abuse of the vehicle. It may be argued that the request for maintenance records addresses this issue, at least in part, but the question of whether the manner in which the vehicle has been driven, or maintained, might contribute to the asserted problem is not specifically addressed. The Dealer Questionnaire, however, does solicit this information. The result is that the board is likely to receive information on this important subject from

to resolve the dispute to the customer's satisfaction prior to any board action. Detailed records are kept as required by § 703.6. This information is contained in the case files maintained by the DSB program's principal administrator.

This audit is concerned with the mediation function only in terms of its impact on the requirement to facilitate fair and expeditious resolution of disputes. All indications are that the mediation function meets, in the main, the minimum requirements for fair and expeditious resolution of disputes. Mediation is voluntary and in no way delays a customer's access to arbitration. The degree to which performance of mediated resolutions conforms with time limit requirements is reviewed in the survey section of this report.

4) Follow-up

There are several sections of Rule 703 that relate to follow-up and manufacturer compliance with DSB awards. In addition, follow-up is one of the very specific factors that is to be reviewed in the annual audit. In the main, follow-up in this context refers to efforts to assure that DSB awards have actually been performed. This requires that each case file contain specific information about when performance occurred and whether performance was to the customer's satisfaction. It is, of course, entirely possible that the manufacturer and the customer could disagree about whether performance has occurred as envisioned by the DSB decision. When such an eventuality occurs, and it is known to the program, it is imperative that the case file reflects this important fact.

The DSB Dispute Resolution Specialist (DRS) continued to monitor this facet of the program. In California, it was the responsibility of the DSB's independent administrator, DeMars & Associates.

When a customer accepted a "prior resolve" (i.e., mediation) offer or a board decision, the DSB Dispute Resolution Specialist (DRS) monitored the promised performance,¹⁶ but DeMars & Associates was responsible for maintaining the records.¹⁷ In addition, Minacs mailed a questionnaire to the customer to determine that the promised performance has taken place.

The completed questionnaire, if returned, is placed in the case file folder at DeMars & Associates headquarters office, where it is maintained for four years.

In earlier reports we included the statement below:

We verified the recording and maintenance of performance procedure by our on-site inspections of case files in the regional offices audited. As we found in earlier reports, few completed questionnaires were located in the case files either because questionnaires were not returned by customers, or because the old MORS III system had interrupted the mailing of questionnaires. This suggests that, despite the reinstatement of the questionnaire program, the performance verification process has not been getting the desired results. The program may need to consider alternative methods, including the use of a negative option addition to the questionnaire that says something to the effect of:

¹⁶ In cases in which the DSB board awards a repair, a refund, or a replacement vehicle, the Dispute Resolution Specialist has been responsible for ensuring that the awards are completed.

¹⁷ This function was performed exclusively by DeMars & Associates (the independent national DSB administrator). Once performance of a settlement or award was verified and the facts related to the performance were logged in by the independent administrator, the case was closed and the performance date was logged for inclusion in the CuDL system.

If this questionnaire is not returned, we will assume that the board's decision was satisfactorily performed and record it in this manner.

Importantly, Minacs incorporated such language in the survey which it sent to customers in order for the case file to be completed. It allows the customer a reasonable opportunity to record performance verification information. Thus, the negative option device appeared to reasonably meet the regulations intent.

For each region selected for inspection, we reviewed a random sample of approximately 50 case files. The sample is drawn from the computer system CUDL maintained by Minacs. The files are reviewed at the headquarters of DeMars & Associates in Waukesha, Wisconsin.

DISCREPANCIES:

NONE

5) Dispute Resolution

The DSB resolution system used a panel of four arbitrators, each of whom is provided, in advance of the board meeting, a case file that contains pertinent facts gathered by the program. The arbitrators met to discuss the facts, take testimony where applicable, and render a decision. In some cases, the board requested additional information, usually in the form of an independent inspection conducted by a specialist in auto mechanics. Occasionally, the board asked for Technical Service Bulletin information, although technical questions were often answered by the board's technical member.

DeMars & Associates hired a contractor who functioned as a hearing/meeting administrator. The administrator did not participate in the board's deliberations except to clarify administrative questions. The administrator took comprehensive notes during the board meeting and, from these notes, prepared a draft of the decision. This draft was approved by the board chair and used to develop the Decision Letter. In addition, the administrator prepared any necessary independent inspection request forms and, where appropriate, an oral presentation summary for the case file. The administrator also functioned, in many cases, as the liaison between the board and DeMars' main office. As such, they would carry communications between the board and the administrator also.

¹⁸ The program requires that this quorum consist of a majority of consumer (i.e., non-manufacturer or dealer-related) members.

information in the file. In addition, customers were informed that they may make an oral presentation to the board. Information received subsequent to the initial filing of a DSB application was provided to the board prior to its deliberations. The parties were also able to provide contrasting testimony during their oral presentations.

DSB policies provide that decisions of the board are binding on Ford Motor Company but not on the consumer.

FINDINGS:

The DSB's meeting process is in substantial compliance with the regulation and provides for fair and expeditious resolution of warranty disputes. Overall, the program meets, and often exceeds, the minimum requirements of Rule 703.

In comparison with the early days of the DSB, there has been a marked increase in board member awareness of federal and state regulations that govern the program. In addition, most newer board members demonstrate a substantially greater degree of understanding of such things as the board's scope of authority. We attribute these improvements in board member knowledge and understanding to the professional training of board members (i.e., arbitrators) and the regular feedback the board receives from experienced meeting administrators.

Board members are unpaid volunteers who are not required to have previous expertise in the complexities of automobile warranty law. Fairness, as envisioned by state and federal policy makers, however, suggests that board members have at least a moderate level of knowledge of the state and federal regulations and legal doctrines that set forth the basic rights and responsibilities of the parties to a warranty dispute. To meet this fairness test, the DSB has initiated a national training program for all arbitrators. In addition, the program procedures provide for a state-specific training component for California, focusing the unique requirements of that state. The training session we attended in New Orleans confirmed the arbitrators receptivity to, and desire for, ongoing input regarding the issues of automobile warranty arbitration.

Monitoring board meetings and interviewing arbitrators and board meeting administrators underscored the importance of ongoing training. It is readily Tc.gp0004 TcD[(DSB 09 -ne/wd-spejli12ec

measure of reinforcement and, together with the DSB newsletter,¹⁹ should result in a marked improvement. The continuing education effort was an integral part of the DSB program. Professor Brown was the editor of this publication.

In interviews, board members again this year (i.e., year 2005 for the 2004 report) expressed their appreciation of the continuing education efforts, which are designed to reinforce their initial training and focus on the areas in which mistakes are most likely to be made. Board members continue to be receptive to this ongoing flow of information that aims to improve their understanding.

Overall, the boards demonstrated their clear ability and commitment to provide fair and expeditious resolution of warranty disputes. The fundamental objective of Magnuson-Moss and Rule 703 is met.

DISCREPANCIES:

NONE

¹⁹ This valuable continuing education tool was a newsletter/bulletin aimed specifically at current DSB arbitrators. Introduced in November 1992 as the Dispute Settlement Board *Bulletin*, it was re-named *The Dispute Dispatch* in 1993.

SECTION III

Interview with the DSB Process Manager

Ms Kristine Cravens, the current (i.e. 2004) Dispute Settlement Board (DSB) Process Manager (appointed 5/1/03), in Ford's Customer Service Division, is the Ford Motor Company manager most directly involved with the ongoing administrative requirements of the DSB. This interview format was developed for use in the 1993 national (FTC) audit we conducted of the DSB program as it operates nationally. [NOTE: As noted earlier in this report the DSB defunct as of 2005.]

Because the DSB has been supplanted by the Better Business Bureaus' BBB AUTOLINE, this section replicates, in the main, the interview conducted for the 2003 report and is applicable to the 2004 program.

INTERVIEW WITH Ms KRISTINE CRAVENS, DISPUTE SETTLEMENT BOARD PROCESS MANAGER, FORD CUSTOMER SERVICE DIVISION

Question 1: *How detailed is the Board's explanation of its decisions?*

Answer: Each customer who applies to the Board receives a written statement as to which specific warranty coverage applies to the vehicle in question. We have retained an independent consulting firm to process

observe the meetings and some Boards have honored requests from members of the media.

Question 3: *Have the Board members received any training in dispute resolution, consumer law, or automotive technology? What instructions have been given to the board members by Ford?*

Answer: Board members are all volunteers, identified, selected and trained by an independent outside agency. Member recruitment, selection, appointment, and retirement are coordinated primarily through Professor James L. Brown, Professor of Law and the Director of the Center for Consumer Affairs, University of Wisconsin-Milwaukee. (Dealer members are identified by Ford regional offices, with the exception of California.) Board member selection is usually based on education and experience in the area of consumer affairs. Members normally serve for a three-year period.

Professor Brown also coordinates training for the Board members. The training program and its contents have been developed completely independently from Ford by Professor Brown and his staff, who conduct training sessions in hotel facilities around the country.

Attendees are reimbursed for out-of-pocket costs such as transportation, lodging, meals, etc. Major facets of the training include:

- ! Distribution of training and reference manuals.
- ! Techniques for running effective meetings.
- ! Mediation and arbitration techniques.
- ! Detailed explanations of DSB procedures, operations, policies, activities and responsibilities.
- ! Familiarization with available remedies and their implications for equity for all parties.
- ! Thorough assessment of case documents and inspections.
- ! Role-playing situations.
- ! Promotions of objective decision-making.
- ! Use of board members' abilities, skills, and objectivity.
- ! Efficiency of time, material review, and deliberations.
- ! Dynamics of group interaction and hands-on experience.
- ! Instruction in provisions of federal and respective state laws.

Every Board member attendee receives a nine-page DSB Guide, which describes the workings of the DSB process in condensed form.

Question 4: *What, if any, follow-up is made to customers after a Board decision?*

Answer: There are several attempts to follow-up by the Board. The first is the decision letter from the Board Chairperson. If the Board made an award, an Acceptance or Rejection of Decision form accompanies the decision letter. The customer is asked to sign and return it within a specific period of time (14 days unless otherwise required by State Certification rules) indicating whether he/she accepts or rejects the Board's decision. If the customer accepts the decision, a Dispute Resolution Specialist (DRS) contacts the customer and works with them to complete the award performance.

We also send a DSB customer survey to any customer who received an award from the DSB process. The purpose of the survey is twofold: 1) to ensure the DSB award was

completed and 2) to determine the customer loyalty based on the handling of their DSB case.

Question 5: *What are the procedures for monitoring placement of brochures and posters in dealer service areas?*

Answer: This is an ongoing monitoring responsibility for all Ford Customer Service Division (FCSD) dealer contact personnel. In addition, Ford has an Internet website, FMCDealer.com, that is our primary means of communication with our dealers. The site has a section dedicated to DSB that explains the process and the dealer responsibilities under state and Federal laws. It also directs dealers to the Dealer e-Store, an internet website for dealers to order needed brochures, holders, posters and other materials at no charge. In addition, this system has the capability for dealers to place a monthly "subscription" for materials to ensure an ongoing supply of materials.

Each dealership, upon appointment, is required to sign a Dealer Participation Agreement for the DSB, which includes an agreement to display DSB materials.

Question 6: *What kind of reporting data are maintained at any given point in time?*

Answer: The database containing DSB information is created and updated through electronic entries made by the independent contractor, DeMars & Associates, as well as the Ford Dispute Resolution Specialists (DRS). This data is used to generate the following reports:

1. Monthly Volume Activity Report. This report provides a complete accounting of all DSB cases for the current month and year-to-date periods. Region and national composites are provided. The following categories are tallied:

- Statements Received
- Cases Opened
- Cases Resolved Prior (Mediated)
- Board Decisions
- Total Case Closings
- Average Days Handling
- Cases in Inventory
- Number Over 40 Days

The DSB Statistical Summary Report. This report is maintained by Minacs and used to fulfill various state and Federal reporting requirements. The report lists DSB activity by FCSD Region or by state. The supporting documentation to this report contains a list of all the DSB cases by case number, customer name, address, city, state and by vehicle make and model.

Question 7. *What mediation/conciliation procedures, if any, are used after a complaint has been filed with the Board, before actual board review? How are these recorded?*

Answer: Ford has a centralized Dispute Resolution Specialist (DRS) position

Question 12: *What procedures are followed if a customer petitions the warrantor directly, rather than the board? At what point is the customer informed of the board?*

Answer: The Customer Relationship Center (CRC) features a toll-free 800 number to ensure that Ford Motor Company is accessible and responsive to the needs of our growing body of vehicle owners. We have a dedicated toll-free line for the hearing impaired (TDD) and a language line for non-English speaking customers.

We try diligently to resolve most concerns first through our normal customer handling process at the dealership or, if requested by the customer, with CRC assistance. If a customer is still not satisfied and asks the CRC about mediation, arbitration or dispute settlement procedures, the Customer Service Representative will advise the caller of the DSB process and arrange for our independent source to send a brochure and application form.

In addition, the DSB is explained in the Warranty Guide and Owner's Guide found in every vehicle's glove box. The guides provide a toll free phone number and address to obtain an application/brochure. Finally, all Ford, Lincoln, and Mercury dealers also have the brochures available and are required to display them openly.

Question 13: *How is contradictory information handled? What procedure is followed? How often does this happen? Is the Company and the customer offered a chance to rebut any contradictory evidence? How?*

Answer: Every customer is sent a copy of the case file that is sent to the Board before the scheduled hearing. This is sent at least five (5) days in advance. Thus, every customer has the opportunity to refute, in writing, the statements from the warrantor or the dealer. Should they do so, their written response becomes part of the documentation presented to the board. The DSB Policy Manual states:

DeMars & Associates will provide the consumer a copy of the DSB documents to be reviewed at least five (5) days prior to the hearing. The customer will be invited to refute the statements/comments in writing to the DSB address. Additional correspondence from the customer must be carried to the meeting and incorporated with documents previously provided to the members. With this procedure, we believe the customers' concerns are fairly represented.

The customer is also provided the opportunity to make an oral presentation directly to the Board. This can be done in person or by telephone conference. Ford Motor Company and the dealer each provide a written report to the Board. These reports are part of the original case file that is sent to the Board and to the customer prior to the meeting date. Ford does not, as a rule, make an oral presentation or attempt to rebut any additional information provided by the customer.

In practice, when there is a disagreement, the board often calls for an independent inspection of the vehicle before rendering a decision.

Question 14: *What procedures are followed for Board inspections? How often are they requested?*

Answer: The Board will occasionally want to inspect a customer's vehicle and will do so if it is available when the customer makes an oral presentation. More frequently, the Board will ask the administrator to make arrangements with Engineering Analysis Associates (EAA), an independent inspection firm, to have the vehicle inspected. EAA submits their findings to

the Board. In 2003, the Board requested 302 independent inspections, or 6% of the cases reviewed.

Question 15: *How far in advance of a Board meeting are cases made available to Board members?*

Answer: Board members receive them at least five (5) days in advance.

Question 16: a) *Do Board members feel independent of Ford?*

Answer: Very much so. The independent training program conducted, by Professor James Brown has been very successful in letting new Board members know their responsibilities. The training stresses the Board members' insulation and independence from Ford Motor Company.

Professor Brown does an excellent job and is a valuable resource and sounding board for Board members. He is always available to hear their concerns. As a result, he is able to offer us suggestions for further improvement or training based on the feedback he receives from the Board members.

The Dispute Dispatch newsletter, which Professor Brown initiated for Board members, is an informative and timely resource and training aid. It fosters discussion and defines or reinforces key practice points for the board members. *The Dispute Dispatch* adds an important dimension to Board member training, confidence, and independence.

b) *Do they feel adequately rewarded?*

Answer: DSB members serve voluntarily for a three-year term without any direct compensation from Ford for the many hours of service they provide on their respective boards. We are proud of the fact that they willingly do so, though we have no opportunity to tell them so directly.

The feedback we get from contractors such as Professor Brown, DeMars & Associates and others makes it clear that DSB members are proud of the opportunity to use their experience and judgment in a voluntary process that is increasingly recognized for its quality and independence. They clearly take pride in what they're doing. They enjoy it and look forward to the meetings.

c) *Do dealers vote on warranty cases?*

Answer: Yes. The dealer is one of the four vo

The Board member training conducted by Jim Brown and the Dispute Dispatch stress the importance of making a “fair and equitable” decision.

We limit attendance of Ford employees at Board meetings to the rare occasions when Ford

SECTION IV

On-Site Audit of DSB Operations for Three Regions

The calendar year 2004 (January - December) audit involved a field inspection of the DSB component of the Ford Customer Service Division in the Kansas, City, Kansas; Pittsburgh, Pennsylvania; and Los Angeles, California Regions.

The Kansas City Region has responsibility for Missouri, Illinois, Iowa, Kansas, and Nebraska. .

I. Kansas City Region (St. Louis),

- 1) All case files we reviewed contained the customer's name, address, and telephone number. There was one case that was a duplicate that had been opened the second time with a different case number, but otherwise all was in order.
- 2) The requirement is met. The name and address of the independent administrator who receives the application, DeMars & Associates, is provided in the DSB brochure and is so generally known as to not require it to be placed in each individual case file.
- 3) All case files inspected contained the make and vehicle identification number (VIN) of the vehicle. It is generally found in the customer application as well as in any number of other documents in the file. The independent contractor Minacs receives the initial filing and then opens cases as is appropriate. They routinely send applications back to customers who have failed to include the VIN and explain that they cannot open the case until the VIN is supplied.
- 4) All case files inspected contained this information where appropriate. Not all cases necessitated a decision letter, but where a decision was rendered, the appropriate notification letter was present.
- 5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§ 703.6 (a) [continued]

- 6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part);**
- 7) A summary of any relevant and material information presented by either party at an oral presentation;**
- 8) The decision of the members including information as to date, time and place of meeting, the identity of the members voting; or information on any other resolution;**

FINDINGS:

All case files we reviewed and that involved arbitrated cases contained the information required by sections 6-8.

- 9) A copy of the disclosure to the parties of the decision.**

FINDINGS:

All applicable (i.e., arbitrated) case files contained copies of decision letters sent to the customer. This letter serves as both the decision and the disclosure of the decision.

- 10) A statement of the warrantor's intended action(s);**

FINDINGS:

The warrantor's intended action(s) and performance are inextricably linked. As such, we validate this item in terms of performance verification.²¹ Of the case files examined, most files with decisions that contained an award contained the appropriate performance verification information. That responsibility is held by Minacs who sends out performance questionnaires with Minacs return address. The returned questionnaires are eventually stored in the case file at DeMars' office in Waukesha, Wisconsin. Performance is assumed if the questionnaire is not returned.

Of the 50 case files examined, several did not contain performance verification information in the file, but all mediated and arbitrated cases had performance verification information registered on the *DSB Action Status* reports. Of course, in some situations the board's decision is for "no further action" and, in such cases, performance verification is not applicable.

11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and

12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

The two sections above are not applicable for purposes of the audit because there is no practical means by which to verify the completeness and accuracy of such possible additions to the files.

C. Case File Records (4 years 2001-2004)

§ 703.6(f)

The Mechanism shall retain all records specified in paragraph (a) through (e) of this section for at least 4 years after final disposition of the dispute.

A random sample of 50 case numbers from the years 2001-04 was drawn by Minacs, and the field audit involved checking the sample case files for the region to verify that they were being maintained per requirement § 703.6(f). In addition, a visual inspection was made of the entire four-year accumulation of case files required by the same section. We found all cases maintained as required.

The closed files for the years 2001-2004 are stored at the DeMars & Associates headquarters in a room on the third floor set aside for that purpose. All current (i.e., 2004) files appeared intact and were readily available for inspection. The random sample inspection validated the apparent completeness suggested by the visual inspection.

D. Board Records

i. Agenda/Decision Summaries

All information required to be kept is maintained and available for inspection. The board's administrator completes a separate *Agenda/Decision Summary* form for each board

²¹ The "warrantor's intended actions" also relates to how they intend to respond to an arbitrator's decision/award. Since Ford's policy is to abide by all board decisions as part of the program they sponsor (i.e., The Dispute Settlement Board) there is no need to have any information about the policy in each case file folder.

meeting. The administrator provides a copy of this form to DeMars & Associates, which maintains the copies at their headquarters. Information on each form includes: a) meeting place, date, and time; b) arbitrator's name; c) agenda by customer name and case number; and d) the decisions and reasons for the decisions.

Since all records of the program that relate to a case are available to the parties upon request, it is important to point out that this particular record is a very important one because it contains the administrator's interpretation of the board's decision at the meeting in question. Since both parties are to be treated equally, it is imperative that this record be available to the parties only after the letters to the parties announcing the board's decisions have been mailed. Because Minacs logs the contents of the *Agenda/Decision Summary*

for the meeting and the general administration of the meeting were very efficient. The administrator did a professional job in assisting the board in carrying out its duties and she did so without crossing the fine line that separates the administrative from substantive participation in the hearing process.

iv. Board Process

This board, like all others we audited in 2005 for the 2004 audit report, is clearly committed to fair and expeditious resolution of warranty disputes. The deliberations indicated a general awareness of many of the federal and state regulations.

Generally, most pertinent issues identified on the customer's application were addressed by the board.

While the board's reasoning appeared to be generally acceptable, it would be helpful if, in some cases, they would more clearly specify their reasoning on important and fundamental issues. In addition, the Board indicated a lack of understanding about the use of Field Service Engineers, an issue discussed repeatedly over the years we have conducted audits. Having the board's reasoning better defined would also help auditors, observers, and customers to better understand the board's decision.

v. Board Decisions

The board's decisions were generally rendered in a manner consistent with federal regulations as well as the DSB's *Written Operating Procedures*. Any exceptions, other than the inappropriate use of Field Service Engineers, are programmatic errors or inconsistencies, which are being corrected and have been noted at other points in the audit report. In no case are such errors or inconsistencies sufficient in themselves to pose a threat to the program's substantial compliance status with federal requirements.

CONCLUSION:

In general, the St. Louis DSB board process functioned well within the federal and state regulatory requirements. Our review of case files suggests that records are being created and maintained as required.

Overall, the review of the DSB program as it operates in Kansas, City, Kansas, Region is "Good," excepting the noted inappropriate use of Field Service Engineers (FSE).

II. Pittsburgh, Pennsylvania, Ford Customer Service Division, Foster Plaza 9, 750 Holiday Drive, Pittsburgh, Pennsylvania

A. Personnel and Case Load

We interviewed the DSB board members and the DeMars & Associates administrator.

The Pittsburgh region received 471 DSB applications in 2004. Of the cases filed, 340 were determined to be "in-jurisdiction" and 131 were determined to be "not-in-jurisdiction" cases. The Dispute Resolution Specialist who covers this region mediated 59 cases; the board arbitrated 281 cases. The number of cases in this region that were not decided within the allowable 40 days was 53. The average number of days for handling a Pittsburgh Region case in 2004 was 32. This compares with 33 days nationally.

The Dispute Resolution Specialist who attempts pre-arbitration mediation and deals with post arbitration award implementation is adequately housed and provided with up-to-date equipment. Similarly, DeMars and Associates is appropriately staffed and has adequate equipment to support the board process in this region.

B. Record Keeping Accuracy and Completeness

We drew a random sample of 50 cases that were closed during 2004 and examined them to determine whether they were complete and available for audit.

The results of the inspection of the random sample of 50 cases from 2004 are detailed below.

§ 703.6 (a)(1-12)

(a) The Mechanism shall maintain records on each dispute referred to it which shall include;

- 1) Name, address and telephone number of the consumer;**
- 2) Name, address and telephone number the contact person of the Warrantor;**
- 3) Brand name and model number of the product involved;**
- 4) The date of receipt of the dispute and date of disclosure to the consumer of the decision;**

documents in the file. As a result, cases are rarely delayed simply because the customer fails to include the VIN in the application.

4) All case files inspected contain this information. Not all cases necessitate a decision letter, but where a decision was rendered, the appropriate notification letter was present.

5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§ 703.6 (a)(1-12) (Continued)

6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part;

7) A summary of any relevant and material information presented by either party at an oral presentation;

8) The decision of the members including information as to date, time and place of meeting and the identity of members voting; or information on any other resolution;

FINDINGS:

All case files that were arbitrated contained the information required by subsections 6 and 8. The oral summaries required by section 7 are created by the DeMars' administrator and later placed in the computer file by Minacs in an electronic file format. The source used to create the summary is the *Agenda/Decision Summary* form filled out by the board administrator at the time of the board meeting.

9) A copy of the disclosure to the parties of the decision.

FINDINGS:

All applicable case files (i.e., arbitrated cases) contained decision letters.

10) A statement of the warrantor's intended action(s);

FINDINGS:

The warrantor's intended action(s) and performance are inextricably linked. As such, we validate this item in terms of performance verification.²² Of the case files examined, most files with decisions that contained an award contained the appropriate performance verification information. That changed recently with responsibility being transferred to the Dispute Resolution Specialist at-Ford Motor Company who sends out performance questionnaires with Ford's return address. Performance is assumed if the questionnaire is not returned.

²² The "warrantor's intended actions" also relates to how they intend to respond to an arbitrator's decision/award. Since Ford's policy is to abide by all board decisions as part of the program they sponsor (i.e., The Dispute Settlement Board) there is no need to have any information about the policy in each case file folder.

Of the 50 case files examined, several did not contain performance verification information in the file, but all mediated and arbitrated cases had performance verification information registered on the *DSB Action Status* reports. Of course, in some situations the board's decision is for "no further action" and, in such cases, performance verification is not applicable.

11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer, and responses thereto; and

12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

The two sections above are not applicable for purposes of the audit because there is no practical means by which to verify the completeness and accuracy of such possible additions to the files. However, based on our extensive experience with this and other arbitration programs, we have no reason to believe that any required information is not contained in case file folders

C. Case File Records (4 years 2001-2004)

§ 703.6(f)

The Mechanism shall retain all records specified in paragraph (a) through (e) of this section for at least 4 years after final disposition of the dispute.

A random sample of 50 case numbers from the years 2001-04 was drawn by Minacs, and the field audit checked the sample case files to verify that they were being maintained per requirement § 703.6(f). In addition, a visual inspection was made of the entire four-year accumulation of case files required by the same section.

The closed files for the years 2001-2004 are stored at the DeMars & Associates headquarters in a room on the third floor set aside for that purpose. All current (i.e., 2004) files appeared intact and were readily available for inspection. The random sample inspection validated the apparent completeness suggested by the visual inspection.

D. Board Records

i. Agenda/Decision Summaries

The four-year accumulation of *Agenda/Decision Summary* forms was kept in one location and was complete and readily available for audit. The board administrator completes a separate form for each board meeting and provides a copy of this form to DeMars & Associates at which point it becomes a permanent record. Information included on each form includes: a) meeting place, date, and time; b) arbitrators' names; c) agenda by customer name and case number; and, d) the decisions and reasons. That portion of this form pertaining to a given case is copied and placed in the customer's case file. This is important because as a part of the file a customer may review it and compare the decision letter they received with the notes taken at the time of the hearing to ensure that they are consistent.

ii. Arbitrator Biographies

The arbitrator biographies are available for review and can be provided by either DeMars & Associates, Professor James Brown, or the DSB Process Manager at the Consumer Affairs Office in Dearborn, Michigan. The biographies are thorough and current. The list of arbitrators/board members for each region includes the dates of each arbitrator's appointment and DSB training.²³

E. Board Operations

i. Physical Description of Board Meeting

The DSB board meeting on February 11, 2004, began at 9:00 a.m. at the Holiday Inn, Monroeville, Pennsylvania (suburb of Pittsburgh) 2750 Moss Side Boulevard, Monroeville, Pennsylvania. The meeting room was adequate for those in attendance and for any likely number of visitors. Notice of the meeting was appropriately posted in the hotel lobby.

ii. Openness of Meeting

The meeting was open to observers in compliance with FTC rule 703.8 (d) concerning open meetings in that the board recognized that the parties may stay and observe the entire meeting if they choose to do so.

iii. Efficiency of Meeting

The case files were well prepared and arranged in an orderly fashion. The DSB administrator took detailed notes on each decision, thereby reducing the likelihood of decision letter error.

iv. Board Process

Overall, the board's performance very good. It was clear that the process was generally fair, impartial, and exceedingly efficient.

In one case, however, a customer ambled into the room and the administrator escorted them back out. This, of course, is contrary to the open meetings requirements. The problem was subsequently rectified. The chair provided a thorough case opening statement in each case.

It appeared that the board members were generally well prepared and had reviewed the case files prior to oral presentations or final deliberations.

v. Board Decisions

²³ The document codes the subject of training on the third entry line as follows: the Arabic numeral represents the year of training (i.e., 2=1992); the letter C = California-specific training; and the letters CR = California Refresher training.

- 1) All case files reviewed contained the customer's name, address, and telephone number.
- 2) The requirement is met in that the name and address of the independent contractor who receives the application, DeMars & Associates, is provided in the DSB brochure. It is so generally known as to not require it to be placed in each individual case file.
- 3) All case files reviewed contain the make and vehicle identification number (VIN) of the vehicle. This information is generally found in the customer application and in a number of other documents in the file. As a result, cases are rarely delayed simply because the customer fails to include the VIN in the application.
- 4) All case files inspected contain this information. Not all cases necessitate a decision letter, but where a decision was rendered, the appropriate notification letter was present.
- 5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§703.6 (a) [continued]

- 6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part;**
- 7) A summary of any relevant and material information presented by either party at an oral presentation;**
- 8) The decision of the members including information as to date, time and place of meeting and the identity of members voting; or information on any other resolution;**

FINDINGS:

All case files that were arbitrated contained the information required by subsections 6 and 8. The oral summaries required by section 7 are created by the DeMars administrator and later placed in the computer file by Minacs in an electronic file format. The source used to create the summary is the *Agenda/Decision Summary* form filled out by the board administrator at the time of the board meeting.

- 9) A copy of the disclosure to the parties of the decision.**

FINDINGS:

All applicable case files (i.e., arbitrated cases) contained decision letters.

10) A statement of the warrantor's intended action(s);

FINDINGS:

²⁴ The “warrantor’s intended actions” also relates to how they intend to respond to an arbitrator’s decision/award. Since Ford’s policy is to abide by all board decisions as part of the program they sponsor (i.e., The Dispute Settlement Board) there is no need to have any information about the policy in each case file folder.

²⁵ The document codes the subject of training on the third entry line as follows: the Arabic numeral represents the year of training (i.e., 2=1992); the letter C = California-specific training; and the letters CR = California Refresher training.

²⁶ The address of the DeMars & Associates California office is: 680 Langsdorf Drive, Fullerton, California.

The meeting was open to observers and were in compliance with FTC rule 703.8 (d)

The above recommendation was adopted by this board and the improvements were impressive.

We also said in those reports:

We found troubling the fact that the board discussed cases substantively prior to the customers being escorted into the room. Case opening statements and substantive discussions should only take place while the parties are present unless he/she elects to absent themselves from the meeting.

The board we reviewed this year had, like last year's, corrected this problem.

We interviewed selected board members either during or immediately following the meeting.²⁷ Those we talked to, as is usually the case, rated their training very high. Overall, board members appear to be pleased with the program and believe the program provides customers with a fair process. As in the past, board members indicate concerns about case file preparation. The most common concerns are incomplete and/or illegible portions of files and nonexistent dealer or company statements. Customers also often fail to provide certain important information on the application. This can deprive the board of a clear view of the matter prior to their more deliberations, which can clearly affect the quality of the analysis. This concern may be alleviated by those customers opting to make oral presentations.

The board operated well within the regulatory requirements in respect to all but the one possible technical violation concerning the open meeting requirement previously discussed.

v. Board Decisions

We found no substantive problems with any of the decisions rendered by this board.

CONCLUSION:

The DSB program as it operates in this region, is administered, by and large, in compliance with Rule 703. The board's commitment to ensure fair and expeditious resolution of warranty disputes is evident throughout most of the program. The staff is clearly dedicated to the program's mission and demonstrates an appropriate degree of professionalism. Overall, the program as it operates in this region is rated this year as "very good."

²⁷ Sometimes, between consideration of cases, there is an opportunity to query the board about issues that may have arisen from their discussion of the previous case.

SECTION V

Arbitration Training

There is no specific language in Rule 703 requiring the training of arbitrators. There are, however, several general requirements for ensuring that the program do whatever is necessary to provide customers with an opportunity for fair and expeditious resolution of warranty disputes.

The arbitration training component of the DSB training was conducted and monitored on December 5 - 7, 2004, at the Omni Royal Orleans Hotel in New Orleans, Louisiana. The arbitration training program's attendees stayed at the hotel where the training exercises were conducted. Professor James Brown, Director of the Center for Consumer Affairs, University of Wisconsin-Milwaukee, conducted the training, assisted by Mr. Clay White. Mr. R. Joseph Bichanich, of DeMars & Associates, provided additional training information.

The training addressed a number of issues: independence of all DSB vendors was stressed as a stated objective of Ford Motor Company; historical perspective of federal Magnuson-Moss Act and state Lemon Law statutes was presented; regulatory concepts and practical

²⁸ In the recent past, receiving the DSB application and reviewing the case for initial jurisdiction determination was handled by the independent contractor, Minacs.

establishing jurisdiction of a DSB application. In cases of an ambiguous "jurisdiction appeal" to the board, trainees were encouraged to decide in favor of customers.

The auditor observed that the training incorporated sufficient emphasis on the practical skill development necessary to efficiently and appropriately conduct board meetings. A good balance of practical and regulatory information was provided to attendees. Regulatory concepts were well selected and professionally presented.

The lecture format was enhanced by printed reference materials which can be placed in a referenced loose-leaf binder that is mailed to each participant following the training. Reference materials stored in the loose-leaf binder are updated as new information is

Professor Brown explained that Ford had recently decided to warrant tires which is a significant departure from the manufacturer's express exclusion of tires for several years.

A period was set aside for Professor Brown to offer additional California-specific training to those attendees who would be serving in California, where there are requirements in addition to those set forth in the federal Rule 703.

The training seminar was comprehensive, well organized, professionally presented, and well received by its attendees.

ARBITRATION TRAINING RATING SYSTEM

- | | |
|---|-----------|
| 1) Adequacy of training materials | EXCELLENT |
| 2) Accuracy of informational materials | EXCELLENT |
| 3) Thoroughness of material | EXCELLENT |
| 4) Quality of presentation | EXCELLENT |
| 5) Apparent understanding and likely comprehension of the information | VERY GOOD |

SECTION VI

Survey and Statistical Index Comparative Analyses

FORD MOTOR COMPANY DISPUTE SETTLEMENT BOARD PROGRAM INDICES

The Federal Trade Commission (FTC) regulates informal dispute resolution programs, such as those operated by the Ford Motor Company, under FTC Rule 703.6(e). The rule mandates disclosure of statistics about the outcomes of warranty disputes and warrantor compliance with settlements and awards. The purpose of this section of this audit is to verify the statistics provided by the company for the year 2004.

A consumer who wants to have a dispute settled by the Dispute Settlement Board (DSB) must: (1) be the owner of a vehicle that meets certain specified age and mileage requirements; and, (2) agree to forego any legal action while the case is open with the DSB. If a customer applies to the program but does not meet these requirements, the case is considered to be “out-of-jurisdiction.” Cases that are “out-of-jurisdiction” are counted as “closed.” A consumer who is not satisfied with the jurisdiction decision of the program can request that the case be reviewed by the board, but the board is not obligated to hear the request.

If a consumer who files with the DSB is able to reach an agreement with the Ford Motor Company prior to an arbitration hearing, the dispute is said to have been “mediated” or “prior resolved” by the staff. If the consumer and the Ford Motor Company cannot reach an agreement, the case is arbitrated by the DSB. Arbitration cases can result in the granting of an award requiring Ford to repair or replace the vehicle, to issue a cash reimbursement, to terminate the lease, or to extend the warranty. On the other hand, the consumer may receive an adverse decision in which there is no award of any kind.

FTC regulations require arbitration decisions to be rendered within 40 days from the date the DSB office receives the application. Manufacturers must comply with both mediated and arbitrated decisions within 30 days of the decision.

FTC Rule 703.6(e) requires warrantors to report statistics (also referred to as indices) in 13 areas. These include such things as: the number of mediated and arbitrated warranty disputes in which the warrantor has complied with a settlement or award; the number of cases in which the warrantor did not comply; the number of decisions adverse to the consumer; the number of “out-of-jurisdiction” disputes; and the number of cases delayed beyond 40 days. In addition to questions designed to assess the validity of DSB statistics, the Claverhouse survey included questions that allowed consumers to evaluate various aspects of the program.

To determine the accuracy of the DSB’s warranty dispute statistics and to gather evaluation information about the program, Claverhouse Associates contracted with the Office for Survey Research (OSR) of the Institute for Public Policy and Social Research at Michigan State University (IPPSR) to conduct a survey of a randomly selected national sample of customers who filed disputes with the DSB during 2004. The primary focus of the survey is to determine whether consumers’ recollections or records of what happened in their cases match the data compiled by the DSB. The question is not whether an individual’s recollections match the data in the DSB’s records but rather whether the aggregate proportion of consumers’ recollections agree with the outcomes reported to the FTC.

ABOUT THE STUDY

The Claverhouse study is based on 362 respondents from a sample of 750 cases randomly drawn from the universe of 6,460 cases that were “in-jurisdiction” and closed nationally in 2004. The method of data collection was a mailed, self-administered questionnaire. OSR used a methodology for self-administered surveys that was designed by Professor Donald Dilman of the University of Washington, a nationally known expert in the field of survey research. His method involves an initial mailing, a postcard reminder, and a second full mailing to non-responders. Since its inception, OSR has used this methodology for all of its self-administered survey projects. If a customer who was sampled had filed more than one case, he or she was asked to refer to the most recent case when answering the survey.

The initial mailing which contained the survey, a cover letter, and a postage-paid return envelope was sent on May 31, 2005. The cover letter explained the purpose of the survey, how the respondent was selected to participate, and how the results would be used. The letter also indicated that participation was voluntary, but extremely valuable to a complete and thorough audit. Respondents were also told of their rights as a research participant. Each respondent was also assigned a unique identification number that was used to track who returned their questionnaire and who did not.

One week after the initial mailing on June 7, 2005, a combination thank you/reminder postcard was sent to the entire sample. Using the unique identification number, OSR staff was able to determine who had completed and returned their questionnaire and which questionnaires were returned by the post office because of invalid addresses.

On June 28, 2005, OSR staff mailed another cover letter, questionnaire, and postage-paid envelope to those who had not returned a completed questionnaire. Data collection was ended on July 29, 2005. Of the 750 questionnaires that were originally sent, 362 were completed and 27 were returned by the post office as undeliverable. The statuses of the remaining questionnaires are unknown, but can be assumed that the selected respondents chose not to participate in the study. The completion rate for the study is 50.0 percent. The questionnaire data were then entered, proofed, and coded by OSR staff.

A threat to the validity of any sample study is non-response bias. That is, if there is any systematic reason that certain consumers selected for the study are unavailable or choose not to participate, the results can be biased. For example, if those who did not receive awards were more likely to refuse participation than those who did receive awards, the study would underestimate the percentage of decisions adverse to consumers.

²⁹ This is the sampling error when the responses divide roughly 50-50 on a given question and when there are cases, given a 95 percent confidence interval (i.e., there is a 1-in-20 chance that the actual proportion in the population falls outside the range of 50 ± 5.0 percent). The magnitude of the sampling error is determined primarily by sample size (a larger sample size yields a smaller sampling error) and also, to some extent, on how evenly responses are divided among alternative answers. For example, if the responses were divided 75-25 on a given question, the margin of error would be $\pm 4.3\%$.

Table 1 compares the method of resolution of disputes in the Claverhouse sample with the figures reported to the FTC. Since the Claverhouse survey contained only in-jurisdiction cases, out-of-jurisdiction cells in the Claverhouse section of the table are blank, and the subtotal (representing in-jurisdiction cases) is equal to total disputes. In this case, we compare only FTC in-jurisdiction cases with the Claverhouse sample. There is no difference between the Claverhouse statistics, (16.3 percent mediated and 83.7 percent arbitrated) and the DSB indices (16.3 percent mediated and 83.7 percent arbitrated). The percentages are an exact match, therefore, they are in agreement.

Table 1
Method of Resolution of Warranty Disputes
Comparison between Claverhouse Survey and DSB Indices 2004

| Resolution | Claverhouse | | DSB | | |
|----------------------------|-------------|---------|--------|----------------------------------|----------------------|
| | Number | Percent | Number | Percent of in-jurisdiction cases | Percent of all cases |
| Mediation | 59 | 16.3% | 1,058 | 16.3% | 12.4% |
| Arbitration | 303 | 83.7% | 5,402 | 83.7% | 63.3% |
| Subtotal (in-jurisdiction) | 362 | 100.0% | 6,460 | 100.0% | 75.7% |
| | | | | | |
| | | | | | |

Table 2
Outcomes of Mediated Settlements
Comparison between Claverhouse Survey and DSB Indices 2004

| Mediated Settlements | Claverhouse | DSB |
|---|---------------------|-----------------------------------|
| | Percent (Number) | Percent ³⁰ (Number) |
| Warrantor has complied within the compliance period | 88.1% (52) | 91.0% (1,023) |
| Warrantor has not complied | 3.4% (2) | 9.0% (101) |
| Warrantor complied but not within the compliance period | 8.5% (5) | NAW585.2 |
| | | |

³⁰ This percentage is a percentage of mediated cases.

Table 3
Specific Outcomes of Mediated Settlements
Claverhouse Survey 2004

| Outcome | Number | Percent |
|--------------------|---------------|----------------|
| New Vehicle | 30 | 51.7% |
| Cash Settlement | 16 | 27.6% |
| Extended Warranty | 7 | 12.1% |
| Trade in Allowance | 5 | 8.6% |
| Total | 58 | 100.0% |

Respondents were asked if they pursued their cases after working with the DSB. Of the small number that did pursue their case (9.3 percent), 14.3 percent contacted an attorney, 28.6 percent went back to the DSB to seek resolution, and 57.1 percent re-contacted the manufacturer or dealer directly.

Respondents were asked if they recalled talking to DSB staff or returning a postcard to the DBS about their settlement and their case in general. Most (44.4 percent) recalled talking to a staff member, 31.5 percent indicated that they had returned a postcard, 16.7 percent did both, and 7.4 percent said that they did not do either.

Arbitrated Cases

Before the questionnaire presented detailed questions about arbitrated cases, respondents were asked about the process leading to their hearings. Respondents were first asked whether they remembered receiving the forms that stated their claim. Of the respondents who reported having arbitration hearings, 93.9 percent of those said that they recalled receiving the forms.

Respondents were also asked a question about how accurately they felt the forms stated their claim. Close to half, 44.6 percent, said their claim was stated very accurately, 42.1 percent said somewhat accurately, and 13.3 percent said not very accurately or not at all accurately. The respondents' evaluation of how accurately their claim was stated is strongly correlated with whether they received an award in the arbitration process. Of those who said their claim was stated very accurately, 83.7 percent received an award from the arbitration process, whereas only 33.3 percent of those who said their claim was stated not very accurately or not at all accurately received an award (see Figure 1).

Respondents were then asked whether they had been notified of the time, place, and date of the arbitration hearing. Of the respondents who answered this question, 97.6 percent said they had been notified, and 25.6 percent said that they had attended their hearings in person, 43.9 percent said they participated by phone, and 30.5 percent did neither. The reasons why respondents did not attend their hearings are summarized in Table 4.

INSERT FIG 1

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Table 6
Methods of Pursuing Cases
Claverhouse Survey 2004

| Method | Number | Percent |
|---------------------------------------|--------|---------|
| Contacted an attorney/legal means | 36 | 40.0% |
| Recontacted the DSB | 21 | 23.3% |
| Contacted a government agency | 18 | 20.0% |
| Worked out a solution with the dealer | 15 | 16.7% |
| Total responses | 90 | 100.0% |

When asked if they talked to the staff of the DSB or returned a postcard indicating how they felt about the decision, 29.8 percent said that they had spoken to someone, 26.7 said that they returned the postcard, 11.8 percent said they had done both, and 31.7 said they did neither.

Delays to Arbitration Decisions

Under FTC Rule 703.6(e)9-13, warrantors must report the proportion of cases in which arbitration cases were delayed beyond the 40 days

INSERT FIG 2

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³²Respondents could indicate more than one source of information on how they learned about the program, therefore, the percentages are based on number of responses not number of respondents.

about the ways in which they were informed of the program by these sources. Those results are summarized in Table 9.

**Table 9
Dealer or Manufacturer Information Sources
Claverhouse Survey 2004**

| Sources of Information | Number | Percent |
|---|-------------------|----------------|
| Dealer or manufacturer talked about the program | 120 | 41.8% |
| Dealer or manufacturer showed written materials | 110 | 38.3% |
| Dealer or manufacturer showed poster or other display | 21 | 7.3% |
| Dealer or Manufacturer other methods | 36 | 12.5% |
| Total | 287 ³³ | 100.0% |

Survey respondents were also asked about the materials and forms they received from the DSB. Most (96.2 percent) recalled receiving the materials, both program information and the arbitration complaint forms. Of those who said they recalled receiving the program informational materials, 70.0 percent reported the materials were very clear and easy to understand; 27.6 percent said they had some problems, but the materials were still fairly easy to understand; and 2.4 percent said they were difficult to understand. As for the complaint form, 73.7 percent said the form was very clear and easy to understand; 24.4 percent said it was a little difficult but still fairly easy to understand; and 1.9 percent said it was difficult or very difficult to understand.

Ease of understanding the materials, especially the complaint form, is directly correlated with the type of case (mediated or arbitrated) and whether or not they received some type of award. For those with mediated cases, 81.3 percent said that the complaint forms were very clear and easy to understand compared to 72.1 percent of those whose case was arbitrated (see Figure 3). Of the respondents who went through arbitration and received an award, 79.5 percent found the forms very clear and easy to understand compared to 57.1 percent who went through arbitration and did not receive an award.

Respondents were then asked to rate their satisfaction with the DSB staff in three areas – objectivity and fairness, promptness, and effort – and overall by using a five-point scale, which ranged from very satisfied to very unsatisfied. Table 10 shows these results.

³³Respondents could indicate more than one source of information from the dealer or manufacturer, therefore, the percentages are based on the number of responses not the number of respondents.

INSERT FIG 3

|

INSERT FIG 4

FIG 5

problems with their vehicles. Of the remainder, 20.2 percent said it would depend on the circumstances, and another 31.3 percent said they would not recommend the program.

If broken down by type of case and outcome, a very different picture emerges. Table 11 summarizes this data.

Table 11
Would Consumer Recommend the DSB Program to Others?
Claverhouse Survey 2004

| Method of Resolution and Outcome | Yes | No | Depends on Circumstances |
|---|------------|-----------|---------------------------------|
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SECTION VII

Audit Related Regulatory Requirements

REQUIREMENT: § 703.7 (c) (3)(I)

A report of each audit under this section shall be submitted to the Federal Trade Commission, and shall be made available to any person at reasonable cost. The Mechanism may direct its auditor to delete names of parties to disputes, and identity of products involved, from the audit report.

A copy has been supplied to the Federal Trade Commission consistent with this requirement.

REQUIREMENT: § 703.7 (d)

Auditors shall be selected by the Mechanism. No auditor may be involved with the Mechanism as a warrantor, sponsor or member, or employee or agent thereof, other than for purposes of the audit.

The audit was conducted consistent with this requirement.

SECTION VIII

Codebook