



LEGAL HOTLINE FOR TEXANS

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Pension Counseling (888) 343-4414

CONSUMER COMPLAINTS

Attorney General's Consumer Complaint Information Attorney General's Consumer Complaint Form

THIS PUBLICATION IS NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY.

The pamphlets of the Legal Hotline for Texans are general in nature and should not be relied on as advice for your particular circumstances. For advice that is specific to your particular circumstances, you should consult a lawyer.

The Legal Hotline for Texans (LHT) is a telephone hotline providing free legal advice and consultation and other free legal services to Texans Age 60 and Older or Eligible for Medicare; Crime Victims Age 60 and Older and their Family Members and Authorized Claimants; and Pension and Retirement Plan Employees, Participants and Beneficiaries.

Eligible Clients can consult with an attorney of the Legal Hotline for Texans free of charge by calling one of the phone numbers listed above. If clients would like to consult with an attorney in their communities, or if ongoing representation by an attorney is needed, the Legal Hotline for Texans may be able to make a referral.

Depending on individual circumstances and local availability, such a referral may be to an organization providing free attorneys to low income persons, or may be to an attorney on the Legal Hotline for Texans' reduced-fee panel, or may be to a statewide or local lawyer referral service.

The Legal Hotline for Texans is a project of the Texas Legal Services Center with support from the Texas Department of Aging, and Disability Services (DADS), the U.S. Centers for Medicare and Medicaid Services (CMS), the U.S. Administration on Aging (AoA) and the Texas Equal Access to Justice Foundation through the Texas Basic Civil Legal Services Program (BCLS) and the Texas Crime Victims Civil Legal Services Program (CVCLS)

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Consumer Complaints

(Excerpted from a brochure by the Office of the Attorney General)

Few things are more frustrating than paying hard-earned money for a product or service only to discover that it doesn't measure up to the promises or your expectations. When that happens, you have a legal right to have the problem solved or your money returned. Even careful buyers get stuck now and then. If that happens, you want to know where and how to proceed to get the best results.

Each year, the Attorney General's Consumer Protection Division receives approximately 30,000 consumer complaints. This guide explains how their informal dispute resolution service works to solve misunderstandings between consumers and sellers without the need for time-consuming and costly lawsuits. It also explains where and how to file a consumer complaint.

First Contact the Business

Take your problem to the salesperson, manager or company's customer service representative. Most problems are resolved at this level. If you are still not satisfied, contact the owner or the company's headquarters.

Then Seek Help

If the business will not resolve a problem directly, you can file a written complaint with the Office of the Attorney General. A written complaint should explain in detail, with documentation, what the problem is, who it is with, what you have done, and what resolution you want. In particular, the complaint should:

1. Identify the Business. Include the name and current address of the business. An agency will not be able to help very much without the firm's current address.
2. Describe the Problem. You should describe as completely as possible the problem with the product or service you purchased. Were you told something that was untrue? If so, the complaint should describe what was said and how it was untrue. Is there a defective product? Explain the defect in detail.
3. Explain What is Wrong. Did the business refuse to honor a warranty? The complaint should explain what repairs are needed and include a photocopy of any warranty.
4. Explain What Is Wanted. The complaint should state what you want the business to do, how much money should be refunded or exactly how a product should be fixed or a service should be performed.
5. Include Photocopies. The complaint should always include photocopies of documents relevant to the complaint, including receipts, warranties, both sides of canceled checks, contracts, etc. Do not send originals. Only send copies, except upon request of the agency to which the complaint is being made.

Dispute resolution through the Office of the Attorney General

If you contact the Office of the Attorney General for assistance, they will send you a complaint form to be filled out and mailed back to them. If they decide your complaint is appropriate for their dispute resolution process, they will ask the business to respond to your allegations. You will receive correspondence regarding their decision as well as the response from the business. After reviewing your complaint, they may refer you to another agency. Often a state, federal, or local agency will have more expertise than their office to handle a particular consumer problem. In such a case, they refer the complaint to the agency best able to help. If at any time they need more information, they will contact you. If you need to provide them with additional information, please do so in writing. As a reference, include your file number in all correspondence.

If your complaint is not one they can handle, or if they refer your complaint to another agency, they will

advise you of the decision. In any event, they will keep your complaint on file so that they can monitor consumer complaints in the marketplace.

Arbitration or mediation?

If the Office of the Attorney General is unable to resolve a complaint through its informal dispute resolution process, you may seek to resolve the matter through arbitration or mediation.

In arbitration, a neutral party hears both sides of a complaint and makes a decision that will be binding on the parties, depending on the terms of the arbitration agreement. Usually, both sides formally agree to submit the dispute to an arbitrator.

In mediation, a neutral party tries to get both sides to agree on a resolution of the complaint. Dispute resolution can begin without any formal agreement between the parties. The Better Business Bureau offers mediation services for resolution of complaints against members. In some cases, the Bureau provides arbitration services if there is an agreement in place with the company complained about or its industry. Consumers may also choose to go to a small claims court as an alternative to arbitration or mediation.

Special problems

Some consumer problems may require some extra steps to resolve.

- **Credit Card Purchases** – In a credit card purchase dispute, the card issuer may credit your account and charge the item back to the business if you follow certain steps.
 1. Write to your credit card issuer at the address for errors or inquiries found on your billing statement.
 2. Include vital information such as your name and account number, the date and amount of the disputed transaction and the business name and address.
 3. Describe the dispute. Explain in detail actions you have taken in good faith to resolve the complaint and why you feel the business should not be paid.
 4. Send photocopies of any papers or other documents you believe relate to the transaction. Do not send originals! If the card issuer charges the item back to the business, the business must then try to collect the disputed amount directly from you. You or your attorney may wish to consult the federal “Truth-in-Lending” laws (12 C.F.R. 226.12 and 226.13).
- **Company Moved or Out of Business** – Perhaps the most frustrating consumer complaint is one against a company that is out of business or that has moved without leaving a forwarding address. Such complaints are difficult to resolve. Even agencies that assist consumers may not have the resources to find these companies or their owners. In some rare instances, you may recover some of your money if the company has filed bankruptcy. To have any chance, you must file a “proof of claim.” Obtain a claim form from the clerk of the Federal District Court in which the business has filed for bankruptcy, fill it out, then return it to the clerk. Bankruptcy cases can be very complex, so you may wish to hire an attorney to help, especially if the claim is large.

If you need an attorney

If a complaint cannot be resolved informally, or if it involves a large amount of money, you may want to seek the services of a private attorney.

- **Private Attorneys** – The State Bar of Texas and many county bar associations operate lawyer referral programs. Often there is only a small fee for the initial consultation.
- **Legal Aid or Legal Services** – If you cannot afford a lawyer, you may be eligible for federally funded legal assistance. Look in the phone book under “Legal Aid” or “Legal Services.”
- **Law School Legal Clinics** – Some law schools operate legal clinics at which law students assist people under the supervision of a law professor or other lawyer. Each law school can provide you with more information about their programs.

- Legal Hotline for Older Texans – The hotline will answer your questions and, if needed, give you a referral to an attorney or to legal services.

Other sources of help

There are a variety of public and private sources that may be better able to help with resolution of consumer complaints.

- Better Business Bureau – Most cities have a BBB that offers complaint mediation services. In some cases, the BBB also provides arbitration services. Some businesses pledge to arbitrate all consumer complaints filed with the BBB that are not resolved by mediation.
- Local Consumer Offices – Some cities and counties have consumer affairs offices or other programs to assist consumers. Check the blue pages of your phone book.
- Justice of the Peace or Small Claims Court – Counties have special courts established by law to handle small claims. The filing fees are usually much less than those charged in the county or district courts and the proceedings are less formal, with citizens often representing themselves. In these courts, consumers may present their side to the judge, using the same information they would include in a complaint, and bringing any documents or witnesses that are relevant.
- Private Mediation Services – Many cities have private mediation or alternative dispute resolution centers. They are usually non-profit and charge either no fee or a small fee.
- Consumer Reporters – Some television and radio stations and newspapers have consumer reporters who help people with complaints.
- Trade Associations – Many industries have trade associations that perform a variety of functions, often including resolution of complaints against their members.
- Federal Trade Commission – The FTC enforces fair trade laws and may help consumers resolve complaints. The commission has a regional office in Dallas. You may reach them at (214) 979-0213.
- Other State Attorneys General – If your complaint is against a company in another state, you may be able to get help from that state’s attorney general.
- Elected Representatives – Members of Congress, state legislators, city council members, county commissioners and other elected officials may help constituents with consumer complaints. These are also the people to contact if you believe that there should be a law to protect consumers from a particular problem.

Claim against a Government Agency

If a your complaint is against a government agency rather than a business, you should contact the elected officials with authority over that agency. For example, if it is a federal agency, you would contact the U.S. Representative or Senator in your district or state. If the complaint is against a state agency contact the director of that agency. For a local agency, contact a city or county official.

If you seek assistance from the Texas Attorney General

If you seek assistance from the Texas Attorney General in resolving a consumer complaint, please understand the following:

- They Can Only File Suit to Protect the Public Interest – The Office of the Attorney General files suits against companies that violate the laws protecting consumers. They file these lawsuits to protect the public interest. Whether a lawsuit is in the public interest depends on several factors:
 1. Severity of the case in terms of economic loss or the number and gravity of law violations;
 2. Possibility of halting a deceptive scheme quickly;
 3. Extent to which consumers will benefit from public enforcement;
 4. Costs of enforcement as compared to the benefits to the public; and
 5. Likelihood of collecting penalties and restitution from the business.
- They Cannot Act As Your Private Attorney – State law prohibits their office from giving

individual citizens legal advice or opinions or acting as their private attorney. They cannot file a lawsuit whose only purpose is to recover money or property for a single person. In those instances, it is appropriate for you to seek legal advice from a private attorney, legal aid society or other organization.

- A Lawsuit May Not Recover Money for Consumers – When filing a law suit to stop illegal business practices, they make every effort to recover actual damages suffered by identified consumers hurt by the business. However, in some cases it is simply not possible to recover actual damages. For example, a company’s practices may have affected so many people that it is impossible to prove each person’s damages. A company facing a lawsuit may go out of business, the owners may not be held legally responsible or they may simply disappear to avoid punishment. Finally, a company may have used up or hidden its money and other assets, leaving nothing with which to repay consumers. In such situations, the suit may be filed to stop illegal practices even though they know they will be unable to recover individual consumers’ money.

All consumer complaints must be made in writing. Use the form that follows and send it to:

Office of the Attorney General
Consumer Protection Division/010
P.O. Box 12548
Austin, Texas 78711-2548

