



CAMVAP
PAVAC

Getting Ready For CAMVAP

Canadian Motor Vehicle Arbitration Plan

www.camvap.ca

June 2020



The Canadian Motor Vehicle Arbitration Plan

Vision

To have CAMVAP valued by consumers, industry and government as a national, voluntary, objective dispute resolution program to address vehicle defects and warranty disputes. Our vision is that consumers needing the plan will be aware of CAMVAP and able to access it readily.

Values

CAMVAP will deliver the plan in a manner that is fair, fast, friendly, free and final.

Mission

To provide an alternative dispute resolution process for vehicle defects and warranty disputes between consumers and manufacturers that is fair, fast, friendly, free and final.

For Your Information

*This booklet contains an overview of the CAMVAP arbitration process and gives you tips on how to take part. It is not a legal document. For a detailed and legal description, please refer to the **"Agreement for Arbitration"**.*



PART I – GENERAL INFORMATION ABOUT CAMVAP HEARINGS	5
Getting ready for a CAMVAP hearing	5
Who is the arbitrator?	5
What happens at a CAMVAP hearing?	5
Eligibility Hearing.....	5
Hearing on the Merits of the Case.....	6
Basic Equipment for Web Conferences.....	6
Accommodation at the Hearing.....	6
May I contact the arbitrator directly?.....	6
Does the arbitrator independently look into my claim?	6
Where will the hearing be held?	7
Who will be at the hearing?.....	7
Do I have to bring my vehicle to the hearing?.....	7
How much notice will I get before the hearing?	7
When will my hearing happen by teleconference?	7
Do I need a lawyer to make my presentation at the hearing?	8
What is the purpose of my hearing presentation?	8
What should my presentation contain?	8
Are there special rules about how to behave at the hearing?	9
PART II – CHALLENGES TO ELIGIBILITY FOR CAMVAP	9
The manufacturer says that I do not qualify for CAMVAP. What does this mean?	9
The manufacturer says that all or a part of my claim is caused by or related to an aftermarket part. What are my options?	9
How is an aftermarket parts issue dispute resolved?	10
What is the Arbitration Specialist’s mandate?	10
Do I get to see the Arbitration Specialist’s decision?.....	10
Can I appeal the Arbitration Specialist’s decision if I do not like it?	10
I cannot proceed with my claim until I remove an aftermarket part. Will I be reimbursed for the cost?.....	11
The manufacturer says that my third-party device is incompatible with my vehicle. What does this mean?	11
How is an eligibility dispute resolved?	11
How should I prepare for the eligibility hearing?	11
What happens next if the arbitrator finds that my claim is eligible?.....	12
Can the manufacturer challenge eligibility during the hearing?	12
PART III – PREPARING FOR YOUR CAMVAP HEARING	12
How should I prepare for the hearing?.....	12
What happens at the hearing?	13
Stage 1 - Arbitrator Introduction	13
Stage 2 - Swearing In of Witnesses	14
Stage 3 - Opening Statements (Optional)	14
Stage 4 - Your Case	14
Stage 5 - The Manufacturer’s Case.....	14
Stage 6 - Your Reply (Optional).....	15
Stage 7 - Inspecting the Vehicle and the Test Drive.....	15
Stage 8 - Summing Up	15
Stage 9 (Optional) – Technical Inspection.....	15



The Canadian Motor Vehicle Arbitration Plan

What evidence can I present?	16
Do I have to bring original documents to the hearing?	16
How do I make sure that the witnesses I need will come to the hearing?	16
What if I or one of my witnesses requires an interpreter?.....	17
How do I plan for the manufacturer's case?	17
How do I prepare for cross-examination?	17
How will I know what the manufacturer plans to present?	17
PART IV – ORDERS A CAMVAP ARBITRATOR CAN MAKE	18
What is a “remedy” and what remedies can I ask for in my presentation?.....	18
Are there special requirements if I am asking for a buy-back?.....	19
What if I owed money on my previous vehicle that was included in the financing of this vehicle? This is known as negative equity.....	19
What if my vehicle is damaged or has components missing at the time of the hearing?.....	19
If I ask for a repair at the hearing can the arbitrator order a buy-back instead?	19
If I ask for a buy-back at the hearing, can the arbitrator order repairs instead?	19
What if I want to change my request from repairs to a buy-back at the hearing?.....	20
Can I ask the arbitrator to consider new problems with my vehicle at the hearing?.....	20
What if I spent money on diagnostic testing since I filed my Claim Form?.....	20
PART V – SETTLEMENT OF YOUR CAMVAP CLAIM.....	20
What if the manufacturer offers to settle my claim before the hearing?	20
What if the manufacturer wants to discuss settlement at the hearing?.....	21
PART VI – TECHNICAL INSPECTIONS.....	21
What is a technical inspection?	21
Who pays for the technical inspection?.....	21
Who decides if there will be a technical inspection?.....	21
What is the technical inspector's mandate?	21
Can I attend the technical inspection?	21
Do I get to see the inspector's report?	22
Can I comment on the inspector's report?	22
How does the arbitrator use the inspector's report?.....	22
PART VII – ONCE THE HEARING IS OVER.....	22
When and how do I learn the arbitrator's decision?	22
If the arbitrator orders repairs, what happens next?	22
If the arbitrator orders a buy-back, what happens next?	23
If the arbitrator makes a monetary Award, when will I get paid?	23
What if the arbitrator rules against me?.....	23
Can I appeal the Award if I do not like it?	23
What if there is a calculation error or something in the Award that I do not understand?	23
What if I have concerns about the arbitrator or how the arbitrator ran the process?	24



PART I – GENERAL INFORMATION ABOUT CAMVAP HEARINGS

Getting ready for a CAMVAP hearing

The CAMVAP Provincial Administrator will maintain contact with you through the CAMVAP Claims Management System (CMS) which can be accessed through the 'View My Claim' button on the www.camvap.ca website unless you have previously indicated a preference for communications to be handled by email, regular mail or fax for documents. When needed communications can always be done through the CAMVAP toll-free service at 1-800-207-0685. The Provincial Administrator can be contacted any time during normal business hours.

CAMVAP is a national program that you can use to resolve disputes with a manufacturer about alleged defects in your vehicle's assembly or materials, or how the manufacturer is applying or administering its new vehicle warranty. Disputes are resolved through binding arbitration.

Binding arbitration means that you and the manufacturer agree to accept the decision of an impartial person called an arbitrator who listens to presentations from each of you at a hearing and decides based on those presentations.

This guide is intended to help you prepare for and take part in a CAMVAP hearing. However, always remember that you can settle the dispute with the manufacturer at any time before the hearing. Also, see Part V of this booklet.

Who is the arbitrator?

The arbitrator for your case will come from a roster maintained by CAMVAP. When your case is being scheduled the Provincial Administrator will select an arbitrator from that roster and you will receive a copy of the arbitrator's résumé.

What happens at a CAMVAP hearing?

There are two types of hearings in the CAMVAP process, the first being an Eligibility Hearing if there is a dispute in eligibility for the CAMVAP program that the Provincial Administrator cannot resolve and the second is a hearing on the merits of the case.

Eligibility Hearing

The Eligibility hearing will occur if the manufacturer alleges that your case is not eligible for CAMVAP and the Provincial Administrator has, after review of your filings and the manufacturer's objections, determined that the matter should proceed to an eligibility hearing.

The eligibility hearing will normally be held by teleconference. Here, the manufacturer will lead its evidence as to why it believes your vehicle is ineligible for the program. The burden of proof here rests with the manufacturer as they are making the argument that your case is ineligible.



The Canadian Motor Vehicle Arbitration Plan

You are required to respond to these allegations with enough evidence to counter the manufacturer's assertions.

The purpose of this hearing is to determine eligibility of the vehicle for CAMVAP arbitration only and that your vehicle meets the eligibility requirements as set out in the Agreement for Arbitration. Section 4 of the Agreement for Arbitration sets out the eligibility requirements for the program.

Hearing on the Merits of the Case

This hearing is an in-person meeting, a conference call or a web conference meeting where you make your presentation to the arbitrator to explain your case.

Although CAMVAP is less formal than court, the general pattern of a CAMVAP hearing is similar to court. You (the "claimant") make the first presentation. The manufacturer's representative (the "respondent") goes second. Then you may reply to anything new that the respondent brings up.

The arbitrator leads everyone through the process, listens carefully and makes notes of what is said. Later, the arbitrator refers to these notes and decides the case from information you and the manufacturer provided.

It is your job to prove the merits of your case with respect to the allegations that you are making with respect to the case before the arbitrator.

Basic Equipment for Web Conferences

Should a web based hearing be held, you will need a computer, but you will need to include the right accessories and software, such as a webcam, headset or microphone, a broadband internet connection, monitor or other display device. Most modern laptop computers have these features built in to the device.

Accommodation at the Hearing

If you have a disability that might affect your ability to participate in a hearing by teleconference or web conference meeting or otherwise require an accommodation, please contact the Provincial Administrator to discuss your needs related to the conduct of a CAMVAP hearing. There is a 'Hearing Info' section on the CAMVAP claim application package for you to identify the need for accommodation.

May I contact the arbitrator directly?

No. Neither you nor the manufacturer may contact the arbitrator directly. All contact and all exchange of documents or other information must be made through the Provincial Administrator who forwards it to the arbitrator.

Does the arbitrator independently look into my claim?

No. The arbitrator does not do independent research or act as an investigator at any time. The arbitrator is an impartial person who does not take sides or help either party make its case.



Where will the hearing be held?

The hearing will be held in a hotel meeting room, community centre or similar facility as close to your home as possible. In some cases, it may be held at the Provincial Administrator's office or the arbitrator's office. The hearing may also be held by teleconference or a web conference meeting.

Who will be at the hearing?

CAMVAP hearings are held in private, attended by you, the manufacturer's representative and the arbitrator. You may also use one or more of the following people to assist you with your case: witness(es), an interpreter, a paralegal, lawyer or another person designated by you to present your case. No one else may attend without the agreement of all the parties.

Generally, the manufacturer's representative attends alone. Occasionally, the manufacturer may be represented by a lawyer. In some cases, the manufacturer's representative brings a technician, dealer or other witness.

Do I have to bring my vehicle to the hearing?

Yes. You must bring the vehicle to the hearing location so that it can be inspected, and the odometer reading can be verified. The arbitrator or manufacturer may also want to take the vehicle for a test drive, so it must be insured for use on the road.

If your vehicle is inoperable, notify the Provincial Administrator in plenty of time before the hearing so that the arbitrator can give appropriate directions.

You will be required to provide proof of insurance at the hearing.

How much notice will I get before the hearing?

The Provincial Administrator will schedule your hearing within fifty (50) calendar days of receiving your completed application. You will get at least fourteen (14) calendar days notice of an in-person hearing and three (3) calendar days notice of a teleconference or web conference hearing. Sometimes, a hearing will be held on shorter notice if you, the manufacturer, and the arbitrator all agree to a specific date.

When will my hearing happen by teleconference?

If it is more convenient or economical, you or the manufacturer can request that your claim be heard by teleconference or web conference meeting. The arbitrator may grant the request for a teleconference or web conference hearing if three (3) conditions are met:

- Both you and the manufacturer agree to a teleconference or web conference meeting;
- The arbitrator considers it appropriate; and
- The territorial or provincial arbitration legislation permits it.



The Canadian Motor Vehicle Arbitration Plan

If your hearing will be by teleconference or web conference meeting, the Provincial Administrator will make all of the arrangements and give you a toll-free number to call or an internet link to join the web conference.

The general pattern of these hearings is the same as an in-person hearing except that a vehicle test drive or inspection cannot occur and the odometer reading cannot be verified on that date. In some instances, when a teleconference or web conference hearing is being held, the arbitrator may direct local arrangements to be made to verify the odometer reading.

The arbitrator may use a teleconference or web conference meeting at other times during the arbitration process such as for eligibility challenges by the manufacturer or other pre-hearing or post-hearing issues.

Do I need a lawyer to make my presentation at the hearing?

You do not need a lawyer but if you feel more comfortable having a lawyer advise you and make your presentation, you may do so at your expense. You also have the option of bringing a friend, family member, or a paralegal to help with your presentation.

Manufacturers do not usually bring lawyers to the hearing, but they may do so on occasion.

What is the purpose of my hearing presentation?

The purpose of your presentation is to explain your case and convince the arbitrator to rule in your favour. You do this by bringing evidence to prove necessary facts or conclusions and by making logical arguments that help the arbitrator see things your way.

Like you, the manufacturer will be trying to convince the arbitrator to rule in its favour at the hearing, so for your case to prevail, your evidence and argument must be more convincing than the manufacturer's case.

Otherwise, your claim may be dismissed for lack of proof.

What should my presentation contain?

Your presentation should cover two basic areas.

It should convince the arbitrator of a manufacturer's new vehicle warranty obligation or that a current defect in vehicle assembly or materials specific to your vehicle exists. For example, why should the arbitrator conclude that the problem with your vehicle is due to a defect?

Then it should show the arbitrator why you are entitled to the remedy that you want. For example, if you are asking for a buy-back, why should the arbitrator give you a buy-back instead of repairs? If you are claiming reimbursement of expenses, you must present documents to prove that the expenses were incurred and paid.



Are there special rules about how to behave at the hearing?

You should behave with respect and common courtesy towards the arbitrator and the other people taking part in the arbitration. You do not have to use special words or legal language.

During the hearing:

- Be clear;
- Avoid being repetitious;
- Be courteous and respectful to all the participants, even if you disagree with what the other person is saying. The arbitrator must listen to all sides;
- Where possible and appropriate have witnesses or video that can assist you in making the case or to demonstrate the issue being arbitrated;
- Try not to interrupt. Both parties will be given ample time to present their case;
- Stay focused – your purpose is to make the most convincing presentation.

PART II – CHALLENGES TO ELIGIBILITY FOR CAMVAP

The manufacturer says that I do not qualify for CAMVAP.

What does this mean?

During the arbitration the manufacturer may challenge your eligibility for the program by arguing that your claim does not meet the plan's basic requirements. This is something that an arbitrator must decide. If the arbitrator rules that the plan's requirements are not met, your claim cannot be arbitrated through CAMVAP and you will have to resolve your dispute by other means.

The manufacturer says that all or a part of my claim is caused by or related to an aftermarket part. What are my options?

If the manufacturer responds to the Qualification Worksheet or Claim Form and provides verification documents (such as build sheets, work orders, invoices, third party reports or photographs) alleging that all or part of your claim is caused by or related to an aftermarket part.

If you dispute the manufacturer's verification:

- Initiate a review to be completed by an independent Arbitration Specialist by disputing the verification in writing within (10) days of receiving the manufacturer's verification from the Provincial Administrator.

If you agree with the manufacturer's verification:

- Remove the aftermarket part (at your own cost) believed by the manufacturer to be the cause of the vehicle issue within (21) days to continue the application and/or arbitration process; or



The Canadian Motor Vehicle Arbitration Plan

- Withdraw the allegation believed by the manufacturer to be caused by or related to an aftermarket part and continue the application and/or arbitration process with all other allegations; or
- Withdraw your claim entirely if the sole allegation is believed by the manufacturer to be caused by or related to an aftermarket part.

How is an aftermarket parts issue dispute resolved?

CAMVAP has a process in place to address aftermarket part issue disputes. If the Provincial Administrator receives, in writing, your dispute of the manufacturer's verification of an aftermarket parts issue, the Provincial Administrator will request an Arbitration Specialist to make a determination and express its view regarding the dispute. You are not required to present additional documents. The Arbitration Specialist will base the determination solely on the verification documents provided by the manufacturer.

A determination will be made within (10) days of receiving the request from the Provincial Administrator. That determination is binding on the parties.

If the Arbitration Specialist determines or expresses the view that allegation of defect is caused by or related to an aftermarket part, that part of your claim (or all of it, if it is the sole allegation) will not be accepted for arbitration unless you remove (at your own cost) the aftermarket part within (21) days from the date of the Arbitration specialist's determination.

If the Arbitration Specialist determines or expresses the view that allegation of defect is not caused by or related to an aftermarket part, that part of your claim (or all of it, if it is the sole allegation) may proceed with the application and/or arbitration process.

What is the Arbitration Specialist's mandate?

Independent Arbitration Specialists are engaged by CAMVAP to investigate complaints and reports findings (with recommendations, if appropriate) to you and CAMVAP's Board of Directors and additionally, review and make a determination for aftermarket part issue disputes based on verification documents provided by the manufacturer. Before the review takes place, you must dispute the manufacturer's verification in writing to the Provincial Administrator within (10) ten days from the day the Provincial Administrator notifies you of the manufacturer's verification.

Do I get to see the Arbitration Specialist's decision?

Yes. The Provincial Administrator sends a copy of the Arbitration Specialist's decision to you and the manufacturer. The Arbitration Specialist's decision will be made available to the arbitrator assigned to your claim.

Can I appeal the Arbitration Specialist's decision if I do not like it?

No. The Arbitration Specialist's decision is final and binding. You and the manufacturer must both obey the Arbitration Specialist's award even if you disagree with it.



I cannot proceed with my claim until I remove an aftermarket part. Will I be reimbursed for the cost?

You may claim a refund of \$200 for reimbursement to cover the cost of removing and reinstalling an aftermarket part that was removed as a result of the arbitrator's determination that the allegation(s) of defect is not caused by or related to an aftermarket part.

The manufacturer says that my third-party device is incompatible with my vehicle. What does this mean?

If the manufacturer provides verification that any of your allegation(s) of defect is due to incompatibility of third-party device and/or its functionality with your vehicle, then those allegations of defect will not be accepted for arbitration. When applying for a Claim Form, you will be asked to provide the make, model, and software version of the third-party device if the allegation(s) of defect is an unreliable connection to your vehicle's computer or electronic systems.

How is an eligibility dispute resolved?

If the manufacturer raises an eligibility issue before the hearing, an arbitrator may be appointed to bring you and the manufacturer together (usually by teleconference) to listen to what each of you has to say about that issue. This is called an eligibility hearing or eligibility teleconference.

It is the manufacturer's job to convince the arbitrator that your claim does not qualify. The manufacturer presents its facts and evidence first and then you get to respond. Your job is to convince the arbitrator that your claim does qualify and show why the manufacturer's position is not correct. The manufacturer gets to reply to anything new that you raise when you respond.

After listening to both sides (and asking questions, as appropriate) the arbitrator rules whether or not you qualify for CAMVAP. The arbitrator can do this orally right away or prepare a written ruling within fourteen (14) calendar days. In either case, the decision will include written reasons and will not decide the merits of your defect or warranty claim.

How should I prepare for the eligibility hearing?

Before the eligibility hearing, find out why the manufacturer disputes eligibility and what sections of the Agreement for Arbitration it relies on to back up its position. For example, it might say it already settled your claim (section 4.4.4) or you did not give both the dealer and the manufacturer a reasonable amount of time and opportunity to resolve the problem (section 4.3.7) or that your claim is for a defect in the design of your vehicle or the design of any of the materials used to manufacture your vehicle (4.4.2). You will have a chance to challenge or rebut the manufacturer's position before the arbitrator, so be prepared.



The Canadian Motor Vehicle Arbitration Plan

Make sure that you are prepared to respond to all of the points the manufacturer may raise about the eligibility of your vehicle for CAMVAP arbitration. This hearing will be limited to determining the eligibility of your vehicle. It is not the time to make your full case.

If the manufacturer requests a teleconference to discuss eligibility, you may ask the arbitrator to accept the odometer reading on that date for the purposes of the arbitration. The arbitrator will have to determine the most appropriate way to confirm the odometer reading.

What happens next if the arbitrator finds that my claim is eligible?

If an arbitrator finds that your claim is eligible, he or she remains responsible for your case and will be the arbitrator at the hearing which the Provincial Administrator will arrange for a later date.

Can the manufacturer challenge eligibility during the hearing?

Yes. If the manufacturer challenges eligibility during the hearing (as opposed to before the hearing), the same basic process will apply. The arbitrator will listen to both sides and make a ruling on eligibility as part of the hearing process.

PART III – PREPARING FOR YOUR CAMVAP HEARING

How should I prepare for the hearing?

The key to a successful presentation is planning and preparation.

A thorough, organized and focused presentation will help the arbitrator see of the logic of your claim.

Spend time planning how to explain the problem with your vehicle and how to persuade the arbitrator that the problems you are experiencing are the manufacturer's responsibility. Keep in mind that the arbitrator is not a technical expert and does not know you or your vehicle.

Review the facts of your case. It might be helpful to prepare a list of events in the order that they took place. When did the problem with your vehicle first begin? How was the problem diagnosed and repaired? With what results? What did you do next? When and how did you conclude that there was a defect in vehicle assembly or materials or that the manufacturer was not administering or implementing its warranty properly?

Think about the best way to demonstrate each important fact or conclusion, such as through a witness, documents, photographs, video tape or expert report.

Having witnesses who have seen or experienced the problems with your vehicle or presenting photographic or video images could add significantly to your case. Any photographic or video evidence must be included in your claim application package. Photo and video files smaller than 50MB can be uploaded to the Claims Management System.



Read over your Claim Form. Confirm which CAMVAP remedies you want the arbitrator to order and think about why these are the right ones for the case.

Consider whether you should get a report from an independent diagnostic centre or an expert with relevant qualifications. If you do so, make certain that the diagnostic report is clear and that it addresses the issues to be arbitrated. Also ensure you have obtained and recorded the qualifications of the person doing the diagnostic testing.

You may claim a refund of up to \$500 for reimbursement to cover the cost of the diagnostic testing of your vehicle. The results from this testing may assist you in making your case to the arbitrator. These results must be sent to the Provincial Administrator at least ten (10) calendar days before the hearing so that it may be sent to the manufacturer as part of your evidence and request for reimbursement.

Prepare yourself to show how the expert is qualified to give an opinion about your vehicle and why the opinion should be taken seriously. Think about whether it would also be effective to have the expert attend the hearing of the merits.

Read the manufacturer's submissions carefully and try to understand the evidence from their perspective so that you can best address each point that may be raised. Also note that if you are requesting a buy-back remedy, the manufacturer may be making claims with respect to negative equity in your vehicle caused by the financing of your previous vehicle or because of other liens registered against the vehicle. This may affect the buyback amount for your vehicle if the negative equity is proven through evidence given at the hearing and accepted by the arbitrator for use in the buyback calculation.

Make yourself a master plan so you know what proof you will bring for each fact or conclusion you want the arbitrator to reach. Ensure that all your documents are legible, organized and available for the hearing. Talk to the people who will assist you. Let them know when and where to go and what you expect of them.

What happens at the hearing?

Each CAMVAP hearing typically goes through the following stages:

Stage 1 - Arbitrator Introduction

The arbitrator calls everyone to order and makes introductory remarks. The arbitrator may double check what you and the manufacturer are looking for (buy-back versus repairs, for example) and invite you to ask general questions about the process or raise any preliminary issues. If you have questions or concerns about the arbitration process or the arbitrator's mandate, do not hesitate to raise them.



The Canadian Motor Vehicle Arbitration Plan

Stage 2 - Swearing In of Witnesses

The arbitrator asks each witness (including you and the manufacturer's representative) to promise to tell the truth by way of oath or affirmation (solemn promise).

Stage 3 - Opening Statements (Optional)

The arbitrator invites you to give a big-picture overview of the case. The manufacturer is given the same opportunity. If you choose to make a statement, it should include:

- What order or orders or outcomes (i.e., buy-back, repairs, reimbursement for repairs) are you looking for;
- An overview of your case;
- What facts you intend to prove.

Stage 4 - Your Case

The arbitrator asks you (as the claimant) to make your presentation first. Now is the time to prove your claim, including any alleged defects.

- Follow your master plan. Tell and show the arbitrator your case in a clear, logical and convincing way;
- Present your evidence witness by witness;
- Introduce your expert or expert's report, beginning with the person's relevant credentials;
- Refer to any documents or physical evidence (such as old parts) that you rely on. Explain what they prove and why they are important; When the arbitrator says so, the manufacturer may ask you questions (cross-examines you) about the issues to try to clarify or put your case into doubt;
- Answer clearly, concisely and honestly;
- Respond to the actual question, not the one you wish was asked. The same process happens for each of your witnesses.

Stage 5 - The Manufacturer's Case

The arbitrator asks the manufacturer (as the respondent) to make its presentation, just as you did. Then you may ask the manufacturer's representative questions about the issues to try to clarify or put its case into doubt.

- Listen carefully and follow the manufacturer's presentation;
- Note the questions you want to ask and wait for the arbitrator's direction that you may ask questions;
- Make sure you ask all the questions that you think are important – this is your only opportunity for this witness;
- Be assertive – but stay courteous.

The same process happens for all of the manufacturer's witnesses.



Stage 6 - Your Reply (Optional)

The arbitrator asks if you have anything to offer by way of reply. Do not repeat your original presentation. Offer a reply only if the manufacturer's presentation raised something that you could not anticipate.

Stage 7 - Inspecting the Vehicle and the Test Drive

The test drive is an opportunity for everyone to observe the vehicle and its condition.

You must bring the vehicle to the hearing so that you, the arbitrator and the manufacturer's representative can look at or take it for a test drive. You, the manufacturer's representative, and the arbitrator must be in the vehicle during the test drive unless this is not feasible because of seating constraints.

Please make sure your vehicle is clean as this helps with the inspection process.

The arbitrator will ask for proof of insurance for the vehicle. Any inspection that requires operation of the vehicle will not take place if valid proof of insurance is not provided.

The arbitrator, along with you and the manufacturer, will view the vehicle and complete a vehicle inspection form that is designed to confirm the odometer reading and the condition of the vehicle at the hearing. You should be prepared to address any issues that may be raised by the manufacturer or the arbitrator with respect to the condition of the vehicle.

The arbitrator will not allow the vehicle to be operated in an unsafe manner or in contravention of the rules of the road. For example, the vehicle cannot be operated above the posted speed limits nor can it be operated in an unsafe manner. Witnesses or video evidence presented at the hearing may be of assistance here if the issues cannot be duplicated within these safety restrictions.

Stage 8 - Summing Up

The arbitrator will give you a chance to summarize the case. Help the arbitrator by showing how everything fits together to support your claim. Use this as the final opportunity to explain why your case is more persuasive than the manufacturer's.

The arbitrator then gives the manufacturer the same opportunity to summarize its case. After that, the hearing will be over. Additional evidence is only allowed in exceptional circumstances.

Stage 9 (Optional) – Technical Inspection

At or after the hearing, the arbitrator may order a technical inspection of your vehicle.

If you or the manufacturer thinks a technical inspection would help the arbitrator to decide the case, either of you can ask for one at the hearing and the arbitrator will consider the request.



What evidence can I present?

Evidence is something that proves a fact or tends to support a conclusion.

It is up to you to decide what evidence to bring to support your case and satisfy the arbitrator that your vehicle has a problem which is a defect in your vehicle's assembly or materials.

Ways in which you can prove your claim to the arbitrator include the following:

- Oral testimony from witnesses, including your own testimony. The best witnesses are usually those who have personal, first-hand knowledge of the facts.
- The oral testimony or written report of an expert who is qualified to give an opinion about the cause of the problems and how to fix them;
- Documents, such as work orders, towing bills, logs or journals;
- Photographic or video evidence;
- Physical evidence such as the old parts;
- Affidavits (sworn letters or statements) from others – although in-person first-hand testimony is generally more convincing;
- Admissions made to you by the manufacturer or the dealer;
- Conclusions that automatically and logically flow from other facts.

You can (and should) present all relevant evidence pertaining to your claim. It is not the responsibility of the arbitrator or manufacturer to fill in any blanks for you.

Chat and forum discussions from Internet sources may not carry much weight in proving your case as it may not be cross-examined.

Do I have to bring original documents to the hearing?

Although the arbitrator can accept copies of documents, it is a good idea to bring originals to the hearing in case all or part of a copy is not legible.

How do I make sure that the witnesses I need will come to the hearing?

It is your responsibility to make sure that the witnesses you need are present at the hearing. If you are concerned that a witness will not attend voluntarily or bring relevant documents, you may obtain a summons to witness or subpoena to compel their attendance.

In fact, you should consider using a summons if you propose to have any person attend the hearing even if attendance of that person is included on the manufacturer's witness list. This must be done more than ten (10) calendar days before the hearing.

Contact the Provincial Administrator for assistance. You must make sure that any summons or subpoena is properly issued and served before the hearing in accordance with the requirements in your province or territory.



Although you must pay the costs associated with obtaining the summons or subpoena, you can get a refund for up to \$100 of your total costs to do so if the arbitrator is satisfied that the evidence of the witness(es) was material to your case. Be sure to ask the arbitrator for this refund if it applies.

What if I or one of my witnesses requires an interpreter?

If an interpreter is required, notify the Provincial Administrator in plenty of time before the hearing. CAMVAP hearings are conducted in one of Canada's official languages, English or French. For all other languages CAMVAP can arrange an interpreter at your expense.

How do I plan for the manufacturer's case?

The manufacturer is able to respond to your claim and may give evidence that will affect the arbitrator's view of your entitlement. Be prepared to effectively rebut or challenge what the manufacturer proves or argues.

- Review the manufacturer's response to your claim and its documentation;
- Identify the outcome the manufacturer wants at the hearing;
- Try to understand the "why" of the manufacturer's case – does it make sense?;
- Look for ways to challenge or rebut the manufacturer's case, such as through opposing evidence, cross examination or argument.

How do I prepare for cross-examination?

You will have a chance to ask questions of the manufacturer and its witnesses at the hearing. The purpose of your questions is to put the manufacturer's case into doubt and support your own. Think about what you need to ask and how the answers will help your claim. You may ask:

- Questions for clarification - what did you mean by...?
- Questions to challenge - how could you comment when you weren't present...?
- Questions to obtain admissions that help you - didn't you tell me that those repairs wouldn't work...?

The manufacturer will have the same chance to question you and your witnesses. Review the manufacturer's case and try to anticipate what those questions might be.

How will I know what the manufacturer plans to present?

Before the hearing, you and the manufacturer must disclose the documents and information you will use to prove your case. Within ten (10) business days of receiving your claim the manufacturer must file a written response plus the documents it intends to use at the hearing. At least ten (10) calendar days before the hearing, it must give the Provincial Administrator the name, title and purpose of each intended witnesses plus the name of any person who will assist at the hearing. The Provincial Administrator forwards all of this material to you.



The Canadian Motor Vehicle Arbitration Plan

You have exactly the same disclosure duties as the manufacturer and the Provincial Administrator forwards your material to the manufacturer.

If you or the manufacturer do not make the necessary pre-hearing disclosure, the arbitrator may refuse to accept and/or rely on new material presented at the hearing, unless the other side agrees.

PART IV – ORDERS A CAMVAP ARBITRATOR CAN MAKE

What is a “remedy” and what remedies can I ask for in my presentation?

A remedy is one of the specific things that a CAMVAP arbitrator can order to resolve your claim.

A CAMVAP arbitrator can order that the manufacturer:

- Repair your vehicle at no cost to you;
- Buy your vehicle back at a price set by a formula;
- Reimburse you for previous repairs;
- Reimburse you for diagnostic testing of your vehicle done prior to the date of your hearing up to \$500;
- Reimburse you for certain out-of-pocket expenses up to \$1,000;
- Reimburse you up to \$100 of your total cost to summons witnesses;
- Reimburse you up to \$200 of your total cost to remove and reinstall an aftermarket part subject to the Arbitrator’s determination that the allegation is not an aftermarket parts issue.

The arbitrator can also order that:

- The manufacturer has no liability for your claim; or
- The arbitrator has no jurisdiction (authority) over your claim.

But a CAMVAP arbitrator cannot order:

- Exemplary, punitive or other damages;
- That the agreement to buy or lease your vehicle be voided or set aside;
- Reimbursement of expenses to buy or lease your vehicle;
- A buy-back if you exceed the buy-back eligibility requirements, even if repairs cannot be made;
- Extended service contracts or warranty extensions;
- The repair, removal or addition of an Aftermarket Part(s);
- The repair, removal or addition of any computer software.

Are there special requirements if I am asking for a buy-back?

Yes. There are several requirements that must be considered.

If you asked for a buy-back on your Claim Form, check to make sure you still qualify for one. You are only eligible if your vehicle travelled not more than 60,000 kilometers and was in service for no more than thirty-six (36) months



at the time of the hearing. If your vehicle exceeds these criteria now or at the hearing, the arbitrator cannot order a buy-back even if your vehicle cannot be repaired.

Re-calculate the expected buy-back amount, using the forms in the application package or the on-line calculator at www.camvap.ca.

The arbitrator will establish the final value of the buy-back with you and the manufacturer using the odometer reading at the date of the hearing, but your own calculations will give you an approximate amount to expect.

Consider the buy-back amount carefully against your personal financial situation at this time and other options such as privately selling the vehicle or trading it in. You are the best person to decide if this is the remedy for you.

You should also read the sections on buy-backs in the companion guide called, "Is CAMVAP for Me?" which explains the important differences between buy-backs for owned or leased vehicles.

What if I owed money on my previous vehicle that was included in the financing of this vehicle? This is known as negative equity.

The manufacturer may request that this amount be reduced from the buy-back. Negative equity must be declared as part of the Buy-back calculation.

What if my vehicle is damaged or has components missing at the time of the hearing?

If there is physical damage to your vehicle or components missing at the time of the hearing, the arbitrator can order the buy-back amount to be reduced by the lowest priced estimate obtained from an authorized dealer for the repair of your vehicle.

If I ask for a repair at the hearing can the arbitrator order a buy-back instead?

The arbitrator cannot order a buy-back unless you make a request for a change of remedy.

If I ask for a buy-back at the hearing, can the arbitrator order repairs instead?

The arbitrator can decide to order repairs instead of a buy-back if the arbitrator is convinced that repairs are practical and available.

When repairs are ordered, the arbitrator remains responsible for the case for ninety (90) days from the date they are completed. Within that time frame you can ask the arbitrator to reconsider the repair order if the repairs are not effective. After ninety (90) days, however, the arbitration is at an end and the arbitrator lacks authority to do more.



What if I want to change my request from repairs to a buy-back at the hearing?

If you ask for repairs on your Claim Form but later want to ask for a buy-back, the arbitrator can allow this change as long as the manufacturer has enough notice and/or opportunity to respond to your changed request.

Can I ask the arbitrator to consider new problems with my vehicle at the hearing?

No. The arbitrator can only consider the problems that you originally identified on your Claim Form. New problems can only be added if the manufacturer consents.

What if I spent money on diagnostic testing since I filed my Claim Form?

The arbitrator can order that you be reimbursed up to \$500 for diagnostic testing incurred prior to the date of the hearing provided the expenses are reasonable and documented. If you spent money on diagnostic testing since you filed your Claim Form, you should advise the Provincial Administrator and provide backup documentation at least ten (10) calendar days before the hearing. The arbitrator can allow this addition to the remedies you requested as long as the manufacturer has enough notice and/or opportunity to respond to the addition.

PART V – SETTLEMENT OF YOUR CAMVAP CLAIM

What if the manufacturer offers to settle my claim before the hearing?

You and the manufacturer can talk about settling your claim at any time during a CAMVAP arbitration. If such discussions lead to a settlement before the hearing, the arbitration legislation in your province or territory may let you ask the arbitrator to formalize the settlement into a written Consent Award which gives both parties the safeguard of an arbitrator's decision without the time and effort of a hearing.

If the settlement includes a buy-back of your vehicle, you will likely need a Consent Award in order to claim a refund of the prorated provincial sales tax from your provincial or territorial government.

In any event, you should notify the Provincial Administrator as soon as possible if you settle your claim.

What if the manufacturer wants to discuss settlement at the hearing?

It is up to you to decide whether to settle your claim with the manufacturer rather than going to a hearing. If you do discuss settlement at the hearing, the arbitrator can only participate in the discussions (mediate) if the



arbitration legislation in your province or territory allows this and if both of you agree to the arbitrator's assistance. In most cases the arbitrator will leave the room while settlement discussions take place.

If you reach a settlement with the manufacturer at the hearing the arbitrator will formalize the terms of the settlement into a written Consent Award which gives both parties the safeguard of an arbitrator's decision without the time and effort of a hearing.

PART VI – TECHNICAL INSPECTIONS

What is a technical inspection?

A technical inspection is an examination of your vehicle by a qualified, independent expert who prepares a written report with expert observations and opinions to help the arbitrator understand the technical issues in your claim. The inspection may include disassembly and reassembly of vehicle components as determined by the inspector.

Who pays for the technical inspection?

CAMVAP pays for the technical inspection. There is no cost to you.

Who decides if there will be a technical inspection?

The arbitrator decides whether a technical inspection is appropriate. If you or the manufacturer requests an inspection, the arbitrator will consider the request. The arbitrator can also independently decide to order a technical inspection.

What is the technical inspector's mandate?

The inspector's mandate is to examine the vehicle and answer the arbitrator's technical questions in a neutral way, using his or her technical expertise.

Before the inspection takes place, the arbitrator makes an order for a technical inspection with input from you and the manufacturer. The order describes the vehicle's symptoms and asks the inspector to answer specific questions pertaining to your claim.

Can I attend the technical inspection?

Yes. You will be notified of the time and place and must make your vehicle available to the technical inspector who has to complete the inspection within ten (10) business days of receiving the arbitrator's order. The manufacturer must get at least two (2) business days notice before the inspection takes place and the manufacturer has the right to attend the inspection.

The technical inspector has been instructed by CAMVAP that the vehicle must be operated only in a safe manner and within the rules of the road. Driving the vehicle in an unsafe manner or at speeds above the posted limits is not allowed.



Do I get to see the inspector's report?

Yes. The Provincial Administrator sends a copy of the inspector's report to you, the arbitrator and the manufacturer.

Can I comment on the inspector's report?

Yes. From the time the Provincial Administrator sends the report, you and the manufacturer have seven (7) calendar days to send written comments about it to the Provincial Administrator. Your comments can include concerns about the content of the inspector's report, the inspection process or the inspector.

After receiving comments, the arbitrator may decide to hold a teleconference or in-person hearing to hear further from you and the manufacturer or to seek input from the inspector.

How does the arbitrator use the inspector's report?

The arbitrator uses the inspector's report as an aid to understand the technical issues in the case. After considering the report and any comments or other input, the arbitrator makes a final decision about your claim.

The arbitrator may, but does not have to, agree with the observations and opinions of the technical inspector because the inspection report is one piece of information to be considered among many and the arbitrator must make a decision based on all of the evidence.

PART VII – ONCE THE HEARING IS OVER

When and how do I learn the arbitrator's decision?

The arbitrator's written decision and reasons are called the "Award". The arbitrator must deliver an Award to the Provincial Administrator not more than fourteen (14) calendar days after the conclusion of your hearing or any subsequent technical inspection. You and the manufacturer each receive a copy of the Award.

If the arbitrator orders repairs, what happens next?

If the arbitrator orders repairs, you and the authorized dealer must cooperate to have them completed within thirty (30) business days of receiving the Award. The manufacturer will make the arrangements and contact you with the name and location of the authorized dealer to take your vehicle to for completion of the repairs.

If the repairs are unsatisfactory, you can ask the Provincial Administrator to refer the matter back to the arbitrator for up to ninety (90) calendar days from the date the repairs are completed. The arbitrator may decide to hold a teleconference, web based or in-person hearing to receive commentary from you and the manufacturer about the repairs and may order another technical inspection before deciding whether to maintain or change the original Award.



If the arbitrator orders a buy-back, what happens next?

If the arbitrator orders a buy-back, the manufacturer must complete it within twenty-one (21) calendar days after receiving the arbitrator's decision. You must follow all the buy-back steps listed in the Agreement for Arbitration.

If there are problems with the buy-back, you or the manufacturer can ask the Provincial Administrator to refer the matter back to the arbitrator who remains responsible for your case until the buy-back is completed. The arbitrator may decide to hold a teleconference, web conference or in-person hearing to receive commentary from you and the manufacturer about the buy-back before deciding whether to maintain or change the original Award.

If the arbitrator makes a monetary Award, when will I get paid?

If the arbitrator orders payment for repairs, out-of-pocket or diagnostic testing expenses, or costs associated with a summons to witness or subpoena, the manufacturer will pay you within twenty-one (21) calendar days after receiving the arbitrator's decision.

What if the arbitrator rules against me?

If the arbitrator rules for the manufacturer and dismisses your claim, the case is closed.

Can I appeal the Award if I do not like it?

No. A CAMVAP award is final and binding. You and the manufacturer must both obey the arbitrator's award even if you disagree with it.

You may, however, be able to ask a court to set aside the arbitrator's decision or order a new hearing based on the criteria set out in the arbitration legislation in your province or territory. This is something you would likely need to consult a lawyer about.

What if there is a calculation error or something in the Award that I do not understand?

The arbitration legislation in your province or territory may allow you or the manufacturer to ask the arbitrator for a further explanation or correction if either of you:

- Need the award clarified; or
- Need more information on the reasons for the award; or
- Think the award is incomplete; or
- Believe an injustice occurred (in accordance with applicable arbitration legislation); or
- Find arithmetical errors.



The Canadian Motor Vehicle Arbitration Plan

All such requests must be made through the Provincial Administrator within fifteen (15) calendar days of receiving the arbitrator's decision. The Provincial Administrator will pass the request on to the arbitrator and then:

- Forwards the arbitrator's direction or response to the parties;
- Reopens the matter if directed to do so by the arbitrator;
- Continues to monitor implementation of the Award, if applicable; or
- Closes the file as directed by the arbitrator.

What if I have concerns about the arbitrator or how the arbitrator ran the process?

If you have a complaint about an arbitrator or how the hearing was handled, CAMVAP has a formal complaint process. For details, ask the Provincial Administrator or visit www.camvap.ca.

For your complaint about the arbitrator to be considered, the arbitrator's responsibility for the case must be at an end and arbitrator's award must not be challenged in court. The complaint must be in writing and be received by the General Manager not more than 60 days after the arbitrator's responsibility for the case has ended.

An independent Arbitration Specialist engaged by CAMVAP investigates the complaint and reports findings (with recommendations, if appropriate) to you and CAMVAP's Board of Directors.

The complaint process is not an appeal of the arbitrator's decision and will not change the outcome of your case in any way.



1-800-207-0685
www.camvap.ca

Cette publication est également disponible en français.
Revised June 2020