

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 14-0163 CAF**

**RYAN SULLIVAN,
Complainant**

v.

**CHRYSLER GROUP, LLC,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Ryan Sullivan (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-.613 (Lemon Law) for several alleged defects to his 2013 Jeep Wrangler Unlimited Rubicon. The vehicle was manufactured by Chrysler Group, LLC (Respondent). Complainant alleges the following defects to his vehicle: (1) the doors are improperly sealed, allowing water to enter the cabin; (2) chafing on the transmission oil cooler tube that may cause transmission fluid to leak, leading to possible transmission damage or a fire; (3) poor quality in the sound and speaker system; (4) a leak in the power steering reservoir system, leading to the possibility of a fire; and (5) a faulty oil pump, leading to low oil pressure and the possibility of internal damage. Complainant seeks the remedy of a repurchase or replacement of the vehicle. The hearings examiner finds that Complainant has not established the existence of a defect creating a serious safety hazard or substantial impairment to the use or market value of the vehicle, and therefore finds that Complainant's Lemon Law claim should be dismissed.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

There are no contested issues of jurisdiction or notice. Those issues are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

The hearing convened before Hearings Examiner James D. Arbogast on May 22, 2014 at the Texas Department of Transportation District Office in Corpus Christi, Texas. Complainant appeared and represented himself. Appearing for Respondent was Jan Kershaw, Early Resolution Case Manager, and Stuart Richey, Technical Advisor. The record was held open following the hearing to allow the parties to submit post-hearing submissions, and closed on May 29, 2014.

II. APPLICABLE LAW

The Lemon Law provides administrative remedies for a consumer whose vehicle cannot be made to conform to an applicable express warranty. Tex. Occ. Code §§ 2301.601-.613. If the manufacturer of the vehicle “is unable to conform a motor vehicle to an applicable express warranty by repairing or correcting a defect or condition that creates a serious safety hazard or substantially impairs the use or market value after a reasonable number of attempts,” the manufacturer shall reimburse the owner for reasonable incidental costs resulting from the loss of use of the motor vehicle, and either replace the motor vehicle with a comparable motor vehicle or repurchase the vehicle less a reasonable allowance for the owner’s use of the vehicle. Tex. Occ. Code § 2301.604. An impairment of market value is “a substantial loss in market value caused by a defect specific to a motor vehicle.” Tex. Occ. Code § 2301.601(1). A serious safety hazard is “a life-threatening malfunction or nonconformity that: (A) substantially impedes a person’s ability to control or operate a motor vehicle for ordinary use or intended purposes; or (B) creates a substantial risk of fire or explosion.” Tex. Occ. Code § 2301.601(4).

To obtain relief under the Lemon Law, the owner of the vehicle must give written notice of the alleged defect or nonconformity to the manufacturer, and the manufacturer must be “given an opportunity to cure the alleged defect or nonconformity.” Tex. Occ. Code § 2301.606(c). The Lemon Law provides several methods for a complainant to establish a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty. Tex. Occ. Code § 2301.605(a).

III. DISCUSSION

Complainant purchased a 2013 Jeep Wrangler Unlimited Rubicon 4x4 from Ancira Chrysler Jeep Dodge of San Antonio, Texas (Ancira) on October 3, 2012. The total sales price, including tax, title and fees, was \$39,379, with mileage of 13 at the time of delivery.¹ The vehicle was covered by a 5-year or 100,000 mile powertrain limited warranty and a 3-year or 36,000 mile basic limited warranty.² On the day of the hearing, the mileage was 26,608.

The Jeep Wrangler Unlimited Rubicon 4x4 is designed and marketed as one of the world’s most rugged and capable off-road and trail-rated vehicles, able to ford streams, climb boulders and logs, and power through deep sand and mud.³ Complainant, an off-road enthusiast, has significantly modified his vehicle from factory stock by installing many after-market parts, systems and accessories to further enhance its off-road capability. For example, Complainant has added a lift kit and oversize wheels and tires, added skid plates and other underbody protection, and replaced or

¹ Complainant Exs. C-9 (Motor Vehicle Purchase Order); C-8 (Odometer Disclosure Statement); C-10 (Application for Texas Certificate of Title).

² Complainant Ex. C-11 (window sticker); Respondent Ex. R-5 (2013 Jeep Warranty Information – All Vehicles).

³ Complainant Ex. C-14 (marketing materials from Jeep.com and other sources describing the vehicle’s off-road features and capabilities).

added parts to the original factory suspension, steering and axle components.⁴ Inspection of the vehicle at the hearing evidenced Complainant's extensive off-road use of the vehicle, with deep gouges in the skid plates and certain bent assemblies on the suspension system.

Modification of a vehicle through the addition of after-market parts raises the issue of whether an alleged defect is caused by factory parts covered by the warranty, or by after-market modifications which are not covered by the warranty.⁵ In addition, evidence of hard and damaging off-road use raises the issue of whether a vehicle, even one intended for off-road use, has been subjected to excessive abuse or misuse resulting in damage excluded from the warranty.⁶ However, Complainant has limited his allegations of defects to issues that should be covered by warranty if they continue to exist, in that the alleged defects do not appear to be directly related to the after-market parts or conditions caused by those parts, or to the extensive off-road use of the vehicle. For example, Complainant is not alleging a defect in a suspension system part that was purchased after-market or that has been visibly damaged through off-road use. Therefore, Complainant's modification of the vehicle and the evident vigorous off-road use of the vehicle do not affect the analysis of the alleged defects in the sections below.

A. Door Leaks

Complainant alleges that the seals on the vehicle's doors, particularly the front driver side door, are defective and allow a significant amount of water to accumulate in the floor pan. Complainant alleges that because of the leaks, he was required to remove the carpet on the floor of the vehicle to avoid the accumulation of mold. At the time of the hearing, the carpet had indeed been removed, exposing the bare metal of the floor.

Repair invoices document numerous repair visits addressing these door leaks. The December 12, 2012 repair invoice from the dealer, Ancira, notes that "customer states both front doors have water leaking into the doors and on to the carpet. Found water leak at both door seals. Replaced both front door seals."⁷

The January 28, 2013 Ancira invoice documents that "customer states all 4 doors leak water." Attempting to correct the issue, Ancira "installed foam tape and resealed all four doors." However,

⁴ Complainant Exs. C-15 through C-41 are invoices and correspondence that document the purchase of these and other after-market modifications, such as bumpers, fender flares, winch kit, light bar, and other parts.

⁵ Respondent Ex. R-5 at 12 (the warranty for the vehicle provides that "your warranties don't cover any part that was not on your vehicle when it left the manufacturing plant or is not certified for use on your vehicle. Nor do they cover the costs of any repairs or adjustments that might be caused or needed because of the installation or use of non-Chrysler parts, components, equipment, materials, or additives.")

⁶ Respondent Ex. R-5 at 16 (Warranty exclusions for damage or conditions caused by "abuse or negligence" or "misuse" such as "driving over curbs or over-loading.")

⁷ Complainant Ex. C-3; Respondent Ex. R-2. Each of these exhibits collect all repair invoices offered into evidence by Complainant and Respondent, respectively. For clarity, quotes from the invoices correct some spelling and grammatical errors.

“while picking up vehicle customer stated doors were still leaking. The water came inside when customer opened the door. [To] prove they were not leaking we water tested the vehicle with the customer sitting in it. He could not find any leaks and took delivery of the vehicle.”⁸ During the March 5, 2013 repair visit, Complainant stated there was “water leaking from both driver’s side and passenger side front doors,” but at that time Ancira “could not duplicate leak.”⁹

The vehicle was inspected by Mr. Richey, Respondent’s Technical Advisor, on August 20, 2013 to address a number of issues with the vehicle, including to “check for water leak at both front doors at top and bottom.” At that time, there was “no problem found” by Mr. Richey.¹⁰ The October 7, 2013 Ancira invoice documents that the dealer “found passenger B pillar mocket gone,” which was “replaced with new seal [and] mocket.”¹¹ Finally, a November 22, 2013 invoice documents that Complainant requested that Ancira “check for loose seal at soft top above driver’s door,” and that Ancira “reinstalled loose seal at left front corner of soft top.”¹²

During the inspection of the vehicle at the hearing, Complainant attempted to demonstrate the alleged defect by puncturing a small hole in a plastic one-gallon jug of water, placing the jug on the soft-top roof of the vehicle near the driver-side front door, and directing the stream of water to the seal at the top of the door. After the jug had fully drained, the hearings examiner observed a few drops of water on the floor of the vehicle near the driver-side front door.

In response to this issue, Respondent’s witness Mr. Richey noted that there were several small holes in the soft-top roof of the vehicle in the area over the driver’s seat which might explain the accumulation of water in the vehicle. Respondent also presented excerpts from the vehicle’s owner manual which documented that unlike most vehicles, the Jeep Wrangler at issue has removable door frames and a removable top, so that the owner may remove and replace the doors and top at will.¹³ Respondent argued that any issues with the door seals had been fixed during the repair visits described above, and that any continuing issues with water in the cabin are not defects but are caused by the holes in the soft-top or by improper replacement of the doors or the soft-top after removal by Complainant.

Petitioner bears the burden of proof to establish by a preponderance of evidence that a defect or condition creates a serious safety hazard or substantially impairs the use or market value of the vehicle. The record demonstrates that while door leaks were an issue in the past, requiring door seals to be replaced or reinstalled on several occasions, there is insufficient record evidence to show that the leaks remain as a continuing defective condition. The few drops of water observed in the vehicle after Complainant’s demonstration, in which a gallon of water was streamed directly at the

⁸ Complainant Ex. C-3; Respondent Ex. R-2.

⁹ Complainant Ex. C-3; Respondent Ex. R-2.

¹⁰ Complainant Ex. C-3; Respondent Ex. R-2.

¹¹ Complainant Ex. C-3; Respondent Ex. R-2.

¹² Complainant Ex. C-3; Respondent Ex. R-2.

¹³ Respondent Exs. R-3 and R-4.

allegedly defective door seal, did not convincingly establish that the door seals are defective in real-world conditions, or that the alleged defect substantially impairs the use or market value of the vehicle. Therefore, Complainant is not entitled to Lemon Law relief on this alleged defect.

B. Transmission Oil Cooler Tube

Complainant alleges that a defective transmission oil cooler tube creates a serious safety hazard through the possibility of leaking transmission fluid, which may cause a fire. To support this allegation, Complainant offered a safety recall notice issued to him by Respondent, "Safety Recall N28," stating that a "defect, which relates to motor vehicle safety, exists in some 2012 and 2013 model year Jeep Wrangler vehicles equipped with an automatic transmission." Safety Recall N28 notice describes the issue as follows:

The transmission oil cooler tube on your vehicle may inadvertently come in contact with the power steering fluid return tube. This tube-to-tube contact could eventually cause the transmission oil cooler tube to develop a wear hole and leak. A loss of transmission fluid could cause transmission damage and if the leaking transmission fluid comes in contact with an ignition source, cause an underbody fire.¹⁴

This defect, if not repaired, would certainly constitute a serious safety hazard.

The first attempt to repair this defect pursuant to Safety Recall N28 took place on October 7, 2013, where in order to "perform recall #N28 trans oil cooler line," Ancira "replaced line as per recall."¹⁵

Complainant testified that this attempt to repair the defect was performed incorrectly, with the transmission oil cooler tube not properly clipped and not properly wrapped in an insulating abrasion sleeve. This testimony is supported by the November 27, 2013 repair invoice, which documents that the transmission fluid tube was not properly clipped and fastened and was improperly installed:

Recheck automatic transmission cooler tube recall for proper installation and damaged lines, clips not fastened, abrasion sleeve installed on incorrect line. Replaced scratched line and clip hold down.¹⁶

This November 27, 2013 invoice indicates that the transmission oil cooler tube was finally resolved, correcting the faulty installation during the October 7, 2013 repair visit. Complainant did not demonstrate at the hearing that the transmission oil cooler tube remained damaged or defective following this November 27, 2013 repair attempt. During the inspection of the vehicle at the hearing, there was no visible evidence of chafing or wear on the transmission oil cooler tube.

¹⁴ Complainant Ex. C-1 (Safety Recall N-28).

¹⁵ Complainant Ex. C-3.

¹⁶ Complainant Ex. C-3; Respondent Ex. R-2.

Therefore, Complainant did not meet his burden of proof to show that the transmission oil cooler tube constitutes a continuing serious safety hazard, or that it substantially impairs the use or market value of the vehicle.

C. Sound and Speaker System

Complainant alleges issues with the sound system, with very poor sound quality coming from the amplifier and speakers. The sound system had been addressed several times during repair visits. The December 7, 2012 Ancira invoice notes that “customer states the right rear speaker crackles;” the dealer “found noise coming from front tweeters and right rear speakers” and replaced those speakers under warranty.¹⁷ The January 18, 2013 Ancira invoice notes that “customer states all speakers sound distorted,” and that the dealer “replaced failed amplifier.”¹⁸ Following the replacement of the amplifier, the January 28, 2013 Ancira invoice documents that “customer states radio sound quality is bad and worse after the amp was replaced,” which was then addressed when Ancira “replaced all four main speakers.”¹⁹

The March 5, 2013 repair visit documents that Complainant stated that the “front speaker sounds like it is blown.” Ancira replaced the speakers with speakers that were designed and sold with the 2012 model of the Jeep Wrangler as a “test only” to “see if it is better,” noting that this test is “not covered under warranty.”²⁰ The sound quality was again an issue during the April 4, 2013 repair visit, when Complainant alleged “poor sound quality from radio.” During that visit, the dealer “inspected radio components” but “all seem to be functioning as designed” and the dealer was “unable to find any component failure at this time.”²¹

Finally, at Complainant’s request, the sound system of this 2013 Jeep Wrangler was replaced entirely with the model of the sound system that was installed on Complainant’s previous vehicle, a 2012 Jeep Wrangler. Before these components were installed, Complainant was informed that there was no guarantee that his request to install the 2012 system on the 2013 would function properly, and that Complainant assumed all responsibility for this system replacement. The July 15, 2013 Ancira invoice states:

Per customer – install 6 speakers, amp, and subwoofer just like ones that were in his 2012 Jeep There is no guarantee these items will work with the current electrical system. Customer assumes all responsibility. Completed.²²

¹⁷ Complainant Ex. C-3; Respondent Ex. R-2.

¹⁸ Complainant Ex. C-3; Respondent Ex. R-2.

¹⁹ Complainant Ex. C-3; Respondent Ex. R-2.

²⁰ Complainant Ex. C-3; Respondent Ex. R-2.

²¹ Complainant Ex. C-3; Respondent Ex. R-2.

²² Complainant Ex. C-3; Respondent Ex. R-2.

Respondent provided a parts sheet for this replacement, listing six speakers, an amplifier and a subwoofer totaling \$650.90, with a total cost including labor and tax of \$979.60, for which Complainant was fully reimbursed by Respondent. This parts sheet notes that "these parts are for a 2012 model going into a 2013 model. We have no way of knowing if the 2012 amp will function properly once installed and there is no guarantee it will."²³

After the replacement of the sound system with the 2012 equipment, Complainant still alleged poor sound quality. However, Mr. Richey, Respondent's technical advisor, was unable to detect or verify any issue with the sound quality during his August 20, 2013 inspection of the vehicle. During the October 7, 2013 repair visit, Complainant again alleged an issue with the speakers on the sound bar, but the invoice states that "sound bar is working at this time."²⁴ Finally, during the inspection of the vehicle during the hearing, there was no apparent issue with the sound quality.

On this record, Complainant has failed to establish the existence of a defect or condition that creates a serious safety hazard or substantially impairs the use or market value of the vehicle. First, there were no obvious sound quality issues present at the time of the hearing that would impair the use or market value of the vehicle. Second, at Complainant's request, the sound system was replaced with a sound system designed for a previous model year of the vehicle at issue, with a specific disclaimer that there was no guarantee that this solution would work, and that Complainant assumed all responsibility if this solution failed. Essentially, Complainant knowingly made the decision to replace his sound system with an aftermarket solution that is not covered by Respondent's warranty. For these reasons, Complainant is not entitled to Lemon Law relief for the alleged poor sound quality.

D. Power Steering Reservoir System

Complainant alleges a continuing defect or condition with respect to a leaking power steering fluid reservoir, which is a plastic container under the hood of the vehicle containing fluid for the vehicle's power steering system. Complainant alleges the leaking power fluid could cause a fire or other dangerous condition.

This issue was first documented by the January 18, 2013 Ancira invoice, which states that the dealer "replaced leaking power steering reservoir cap."²⁵ The January 28, 2013 Ancira invoice notes that "customer states vehicle is leaking power steering fluid. Replaced power steering reservoir."²⁶ After the reservoir was replaced, Complainant again raised the issue of leaking power steering fluid during the April 4, 2013 repair visit, stating the "power steering cap or reservoir is leaking." The repair invoice for that date states that the "cap is sealing and reservoir is fine. Excessive bouncing and excessive fluid pressure from off roading can cause pressurized fluid to seep past the cap

²³ Respondent Ex. R-2.

²⁴ Complainant Ex. C-3; Respondent Ex. R-2.

²⁵ Complainant Ex. C-3; Respondent Ex. R-2.

²⁶ Complainant Ex. C-3; Respondent Ex. R-2.

seal.”²⁷ This appears to be the last time the possible power steering fluid leak was addressed during a repair visit; for example, the possibility that the power steering fluid reservoir was leaking was not one of the issues raised or addressed when Mr. Richey, Respondent’s technical advisor, performed a comprehensive inspection of the vehicle on August 20, 2013.²⁸

At the hearing, Complainant pointed out the power steering fluid reservoir, which was covered in a thin layer of grime. However, the entire engine compartment was covered in a thin layer of grime, which is common and to be expected. Complainant did not demonstrate or establish by a preponderance of the evidence that the grime on the power steering fluid reservoir included power steering fluid that had leaked from the reservoir, and did not otherwise establish that the reservoir was leaking. Complainant is therefore not entitled to relief under the Lemon Law on this issue.

E. Oil Pump

Complainant alleges that the oil pump on the vehicle is defective, causing low oil pressure and possibly causing internal damage.

The documentary evidence is unclear how many times Complainant has attempted to have this issue repaired. The Lemon Law complaint form lists the first repair visit as May 16, 2013, but neither Complainant nor Respondent has submitted a repair invoice for that date. The Lemon Law complaint form also lists the August 20, 2013 repair visit as an attempt to address this issue, but the service invoice and Mr. Richey’s summary of his inspection undertaken at that time do not list the oil pump as an issue raised or addressed during that visit.²⁹

The issue of the oil pump was raised during the October 7, 2013 repair visit. Complainant informed Ancira that the “check engine” light was on, and Ancira determined that the diagnostic code for the oil control circuit had been triggered. At that time, the oil pump assembly was replaced.³⁰

Since the oil pump was replaced, there is insufficient evidence to establish a continuing defect or condition related to the oil pump. Complainant testified that he believed that low oil pressure possibly caused internal damage, based on certain noises the engine makes intermittently and under certain conditions. These noises did not manifest when the vehicle was inspected during the hearing.

²⁷ Complainant Ex. C-3; Respondent Ex. R-2.

²⁸ Respondent Ex. R-2.

²⁹ Complainant Ex. C-3; Respondent Ex. R-2. One of the issues addressed during this visit is Complainant’s statement that the “check engine light comes on and off,” which was inspected by Mr. Richey, but a review of the stored diagnostic codes did not indicate an issue with the oil pump or oil pressure that would have triggered the check engine light.

³⁰ Complainant Ex. C-3; Respondent Ex. R-2.

Whatever the source of the noises, there is no evidence that these noises were actually the result of internal damage caused by low oil pressure, or that the noises otherwise relate to a defect or condition constituting a serious safety hazard or that substantially impairs the use or market value of the vehicle. Therefore, Complainant is therefore not entitled to relief under the Lemon Law on this issue.

F. Conclusion

For the reasons stated above, Complainant has not proven by a preponderance of the evidence that Respondent is unable to conform the vehicle to an express warranty by repairing or correcting a defect or condition that constitutes a serious safety hazard or that substantially impairs the use or market value of the vehicle.³¹ Complainant is therefore not entitled to the Lemon Law remedies of repurchase or replacement of the vehicle under Texas Occupation Code § 2301.604.

However, Respondent remains responsible to repair or correct any defects that are covered by Respondent's warranties. Tex. Occ. Code § 2301.204. Complainant is not barred by this decision from seeking the repair of any alleged defect under warranty, whether or not Complainant has sought or will seek an administrative remedy to ensure compliance with the warranties, as long as those warranties are in effect.

Respondent is therefore advised to reconsider its apparent refusal to further discuss or engage with Complainant concerning the repair of alleged warranty defects, as evidenced by the February 4, 2014 email to Complainant from Respondent's attorney Matt Beatty, in which Mr. Beatty states:

With respect to the current status of your vehicle . . . Chrysler Group believes that it has complied with its written limited warranty in all respects. Therefore, Chrysler will not offer any additional assistance at this time In any event, and based upon your actions, Chrysler Group will no longer respond to your phone calls and demands.³²

Although Complainant has failed to establish he is entitled to Lemon Law relief in this hearing, he is in no way precluded from seeking to have defects repaired under warranty, and Respondent is in no way released from its obligation to honor its warranties with respect to Complainant.

³¹ Because there is insufficient evidence to establish the existence of a warrantable defect, this decision does not further analyze whether Complainant has established a rebuttable presumption that a reasonable number of attempts have been undertaken to conform the motor vehicle to the warranties with respect to each of the alleged defects. Tex. Occ. Code § 2301.605(a).

³² Complainant Ex. C-13.

FINDINGS OF FACT

1. Ryan Sullivan (Complainant) purchased a new 2013 Jeep Wrangler Unlimited Rubicon 4x4 from Ancira Chrysler Jeep Dodge of San Antonio, Texas (Ancira) on October 3, 2012.
2. The total sales price, including tax, title and fees, was \$39,379 with mileage of 13 at the time of delivery.
3. The manufacturer of the vehicle, Chrysler Group, LLC (Respondent) issued a limited basic warranty for three years or 36,000 miles, whichever comes first, and a limited powertrain warranty for five years or 60,000 miles, whichever comes first, for original owners against defects in materials and workmanship.
4. The vehicle is designed for off-road capability, and Complainant has significantly modified his vehicle from factory stock to enhance off-road capability by installing such after-market parts, systems and accessories as a lift kit, oversize wheels and tires, skid plates, and suspension, steering and axle components.
5. Complainant alleges the following defects to his vehicle: (1) the doors are improperly sealed, allowing water to enter the cabin; (2) chafing on the transmission oil cooler tube may cause transmission fluid to leak, leading to possible transmission damage or a fire; (3) poor quality in the sound and speaker system; (4) a leak in the power steering reservoir system, leading to the possibility of a fire; and (5) a faulty oil pump, leading to low oil pressure and the possibility of internal damage.
6. The door seals were examined during the following repair visits, with the following results:
 - a. December 7, 2012, at 4431 miles: replaced both front door seals.
 - b. January 28, 2013, at 5952 miles: installed foam tape and resealed all four doors. A water test was performed, and Complainant did not find any leaks at that time.
 - c. March 5, 2013, at 8861 miles: a water test could not duplicate the leak.
 - d. August 20, 2013, at 19119 miles: an inspection by Respondent's technical adviser found no door seal leaks, but did document several small holes in the vehicle's fabric top.
 - e. October 7, 2013, at 20439 miles: the passenger side B pillar mocket was missing, and was replaced with a new mocket and seal.

- f. November 22, 2013, at 20439 miles: a loose seal at the left front corner of the fabric top was reinstalled.
7. The record evidence, including Complainant's demonstration of the alleged door leaks at the hearing which resulted in a few drops of water entering the cabin of the vehicle, did not establish a defect that substantially impairs the use or market value of the vehicle or creates a serious safety hazard.
8. The transmission oil cooler tube on Complainant's vehicle was the subject of a safety recall notice, "Safety Recall N28," which describes a defect where the transmission oil cooler tube may contact the power steering fluid return tube and develop a wear hole, possibly leaking transmission fluid and possibly causing a fire.
9. Ancira attempted to repair the defect in the transmission oil cooler tube on October 7, 2013, but did not properly perform the repair; the transmission oil cooler tube was not properly clipped and fastened, and an abrasion sleeve was installed on the wrong tube.
10. The defect involving the transmission oil cooler tube was repaired on November 27, 2013, when the line was replaced and properly clipped in.
11. There is no visible evidence of chafing or wear on the transmission oil cooler tube, or other evidence that the condition of the transmission oil cooler tube constitutes a continuing serious safety hazard, or that it substantially impairs the use or market value of the vehicle.
12. Complainant's vehicle has been serviced multiple times for poor sound quality concerns. The first five repair attempts to address Complainant's concerns with sound quality are as follows:
 - a. December 7, 2012, at 4431 miles: front tweeters and right rear speaker replaced.
 - b. January 18, 2013, at 4952 miles: failed amplifier replaced.
 - c. January 28, 2013, at 6696 miles: four main speakers replaced.
 - d. March 5, 2013, at 8861 miles: Radio head unit replaced, and test performed with speakers from 2012 model Jeep Wrangler.
 - e. April 4, 2013, at 11091 miles: Radio components inspected but appeared to be functioning as designed, and no component failure was detected.

13. At Complainant's request, on July 15, 2013 the entire sound system was replaced with a sound system designed to be installed on a previous year model Jeep Wrangler. Complainant was informed there was no guarantee the components would work with his vehicle's electrical system, and that Complainant assumed all responsibility if the replacement was unsatisfactory. Respondent reimbursed Complainant \$979.60 for the installation of this system.
14. The replacement sound system, installed at Complainant's request with an explicit disclaimer of guarantee, is not covered by warranty and therefore not subject to Lemon Law relief.
15. The power steering fluid reservoir, which is a plastic container under the hood of the vehicle containing fluid for the vehicle's power steering system, was the subject of the following repair visits:
 - a. January 18, 2013, at 5952 miles: leaking power steering reservoir cap replaced.
 - b. January 28, 2013, at 6696 miles: power steering reservoir replaced.
 - c. April 4, 2013, at 11091 miles: cap seal and reservoir inspected and determined to be working as intended.
16. The inspection of the vehicle at the hearing did not establish that the power steering reservoir continued to leak fluid, and there is otherwise insufficient evidence in the record to establish that the power steering fluid reservoir is leaking or otherwise continuing to cause a defect or condition that creates a serious safety hazard or substantially impairs the use or market value of the vehicle.
17. The repair invoices in the record indicate that the allegedly defective oil pump was the subject of a single repair visit. The oil pump assembly was replaced on October 7, 2013, when the vehicle had a mileage of 20439.
18. There is insufficient evidence in the record to establish a continuing defect or condition related to the oil pump constituting a serious safety hazard or substantially impairing the use or market value of the vehicle.
19. Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) dated February 4, 2014.
20. On May 2, 2014, the Department's Office of Administrative Hearings issued a notice of hearing directed to Complainant and Respondent, giving both parties not less than 10 days'

notice of hearing and their rights under the applicable rules and statutes. The notice stated the time, place and nature of the hearing, the legal authority and jurisdiction under which the hearing was to be held, particular sections of the statutes and rules involved, and the matters asserted.

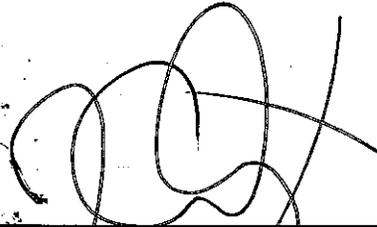
21. The hearing convened before Hearings Examiner James D. Arbogast on May 22, 2014 at the Texas Department of Transportation District Office in Corpus Christi, Texas. Complainant appeared and represented himself. Appearing for Respondent was Jan Kershaw, Early Resolution Case Manager, and Stuart Richey, Technical Advisor. On the day of the hearing, the mileage of the vehicle was 26,608. The record was held open following the hearing to allow the parties to submit post-hearing submissions, and closed on May 29, 2014.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a decision with findings of fact and conclusions of law, and the issuance of a final order. Tex. Occ. Code § 2301.704.
3. Complainant timely filed a complaint with the Department. Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202.
4. The parties received proper notice of the hearing. Tex. Gov't Code §§ 2001.051 and 2001.052; 43 Tex. Admin. Code § 215.206(2).
5. Complainant bears the burden of proof in this matter.
6. Complainant's vehicle does not have an existing defect or condition that creates a serious safety hazard. Tex. Occ. Code § 2301.604(a).
5. Complainant's vehicle does not have an existing nonconformity that substantially impairs the use and market value of the vehicle. Tex. Occ. Code § 2301.604(a).
6. Respondent remains responsible to address and repair or correct any defects that are covered by Respondent's warranties. Tex. Occ. Code § 2301.204.
7. Based on the above Findings of Fact and Conclusions of Law, Complainant is not entitled to relief under Texas Occupations Code § 2301.604(a).

IT IS THEREFORE ORDERED that, based on the foregoing Findings of Fact and Conclusions of Law, Complainant's petition for relief pursuant to Texas Occupations Code §§ 2301.601-613 is hereby **DISMISSED**.

SIGNED July 8, 2014



**JAMES D. ARBOGAST, HEARINGS EXAMINER
OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES**