

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 14-0188 CAF**

**MONICA GARIBALDI,**  
**Complainant**

v.

**FORD MOTOR COMPANY,**  
**Respondent**

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**BEFORE THE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Monica Garibaldi (Complainant) seeks repurchase relief pursuant to Texas Occupations Code §§ 2301.601-.613 (Lemon Law) for alleged defects in her 2013 Ford Focus, including suspension and transmission problems, and an oil leak from a valve cover gasket. Ford Motor Company (Respondent) argues that the complained-of defects have been successfully repaired. The hearings examiner concludes that the evidence does not establish the current existence of a warrantable defect in Complainant's vehicle. Accordingly, Complainant is not eligible for repurchase relief.

**I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION**

Matters of jurisdiction were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing on the merits in this case convened and closed on July 21, 2014 in Mesquite, Texas, with Hearings Examiner Anne K. Perez presiding. Complainant appeared and represented herself. Respondent appeared through Field Service Engineer Greg Bartos.

Issues of notice, specifically the required elements of timeliness and sufficiency, were addressed at the hearing. Complainant desired to raise three problems with the vehicle: (1) a "clunking" noise coming from the suspension system; (2) a "stuttering" in the transmission; and (3) an oil leak from a valve cover gasket. In contrast, Respondent understood that a single issue remained in contention: whether the valve cover gasket was leaking oil. For the reasons explained below, this decision determines the legal sufficiency of only one alleged warrantable defect, involving the valve cover gasket leak.

To begin with, Complainant's written notice mailed to Respondent described the vehicle's alleged defects as "suspension making a noise and a valve cover gasket leak."<sup>1</sup> Likewise, Complainant's petition filed with the Texas Department of Motor Vehicles (Department) alleged the existence of two warrantable defects: (1) a "clunking noise from passenger front wheel area;" and (2) "valve cover gasket leaking."<sup>2</sup> Although Complainant discussed her transmission concerns with local dealer service

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<sup>1</sup> Complainant Ex. 9, letter dated March 7, 2014.

<sup>2</sup> Complainant Ex. 12, Lemon Law Complaint Form, received by the Department on March 12, 2014.

personnel, those communications do not constitute notice to Respondent of an alleged nonconformity in the transmission.

That Respondent remained unaware of Complainant's transmission concerns following its receipt of her petition filed with the Department and her March 7, 2014 letter to Respondent, is plain from subsequent events. In late-March 2014, Respondent dispatched a field service engineer to inspect the suspension system and valve cover area in Complainant's vehicle, and to oversee any necessary related repairs.<sup>3</sup> Had Respondent known that Complainant alleged the presence of a third defect – a “stuttering” in the transmission – Respondent could have expanded the inspection and repair authority of its field service engineer to include that concern.

Complainant's failure to provide timely and adequate notice of an alleged defect in the vehicle's transmission precluded Respondent's opportunity to repair any related nonconformity. In this instance, Texas Occupations Code § 2301.606(c) governs matters of notice. The statute prohibits the issuance of an order requiring a manufacturer to repurchase or replace a vehicle on the basis of a warrantable defect unless the manufacturer has been given notice and an opportunity to cure that defect. As a result, Complainant is ineligible for repurchase relief on the basis of a transmission-related defect.

Similarly, whether a warrantable defect exists in the suspension system of Complainant's vehicle is not determined by this decision because the issue is moot. During a July 2014 telephonic prehearing conference, Complainant reported that the “clunking noise” coming from the passenger-side front area was successfully repaired by Respondent on April 8, 2014. And, at the evidentiary hearing on July 21, 2014, both Complainant and her spouse confirmed that the suspension issue was fully resolved.

Although an alleged defect in a valve cover gasket is the only remaining live issue, the decision nevertheless includes extensive discussion of problems that Complainant has experienced with the vehicle's suspension system and transmission. The repair history of all three concerns is necessary to understand Complainant's current discomfort with the vehicle, as well as her apprehension that the warranty repairs performed thus far will ultimately fail.

## II. DISCUSSION

### A. Applicable Law

The manufacturer of a motor vehicle must repurchase or replace the vehicle with a comparable vehicle if five conditions are met. First, the manufacturer has not conformed the vehicle to an applicable express warranty because the manufacturer cannot repair or correct a defect or condition in the vehicle.

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<sup>3</sup> Respondent Exs. 1 and 2.

Second, the defect or condition in the vehicle creates a serious safety hazard or substantially impairs the use or market value of the vehicle. Third, the manufacturer has been given a reasonable number of attempts to repair or correct the defect or condition.<sup>4</sup> Fourth, the owner must have mailed written notice of the alleged defect or nonconformity to the manufacturer.<sup>5</sup> Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.<sup>6</sup>

In addition to the five conditions, a rebuttable presumption exists that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty if the same nonconformity continues to exist after being subject to repair four or more times and: (1) two of the repair attempts were made in the 12 months or 12,000 miles, whichever comes first, following the date of original delivery to the owner; and (2) the other two repair attempts were made in the 12 months or 12,000 miles, whichever comes first, immediately following the date of the second repair attempt.<sup>7</sup>

## B. Complainant's Evidence and Arguments

Complainant purchased a new 2013 Ford Focus (the vehicle) from Prestige Ford of Garland, Texas on May 1, 2013, with mileage of fifteen (15) at the time of delivery.<sup>8</sup> Respondent, the manufacturer, issued a limited warranty for the vehicle covering defects in factory-supplied materials and workmanship for 36 months or 36,000 miles, whichever comes first. Respondent also issued a powertrain warranty covering defects in the vehicle's engine, transmission, and drive train for 60 months or 100,000 miles, whichever comes first. On the date of hearing the vehicle's mileage was 24,443, and both types of warranty coverage were in place.<sup>9</sup>

Complainant testified that she purchased a brand-new car in order to have reliable transportation to and from her job. She was aware that a new vehicle would require routine maintenance, such as regular oil changes, but she did not anticipate the necessity of major repairs for several years. Instead of a care-free experience, her new vehicle has been source of frustration and disappointment. Within a few days of purchase, she noticed a "clunking" noise coming from under the hood on the front right passenger side. Not long after, she observed the transmission "stuttering" when the vehicle is traveling at low speeds *i.e.*, under 20 miles per hour (mph), sometimes accompanied by a "grinding" or "fluttering" noise. Beyond these problems, within five months of purchase one of the valve cover gaskets began leaking oil.

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<sup>4</sup> Tex. Occ. Code § 2301.604(a)(1) and (2).

<sup>5</sup> Tex. Occ. Code § 2301.606(c)(1).

<sup>6</sup> Tex. Occ. Code § 2301.606(c)(2).

<sup>7</sup> Tex. Occ. Code § 2301.605(a)(1)(A) and (B). Texas Occupations Code § 2301.605(a)(2) and (a)(3) provide alternative methods for a complainant to establish a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a vehicle to an applicable express warranty. However, § 2301.605(a)(2) applies only to a nonconformity that creates a serious safety hazard, and § 2301.605(a)(3) requires that the vehicle be out of service for repair for a total of 30 or more days in the 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to the owner.

<sup>8</sup> Complainant Ex. 11, Motor Vehicle Retail Installment Sales Contract.

<sup>9</sup> Complainant Ex. 10, 2013 Model Year Ford Warranty Guide.

Complainant's car was serviced by two authorized repair facilities, Prestige Ford and Town East Ford of Mesquite, Texas. The dealers' repair orders reflect the following relevant information:<sup>10</sup>

Date	Mileage	Reported Concern	Diagnostic Action And Dealer's Findings
5-9-13	628	Clatter/clunk on accel, esp. on incline	Performed TSB 13-4-5, Monitor PIDS
6-17-13	2,720	Noise from front suspension, like looseness/flutter at >15 mph	Drive to verify; Unable to duplicate at this time
10-17-13	9,176	On rough road at low speed: clunking noise from right front  Valve cover gaskets leaking; oil crust build up around valve cover	Unable to duplicate at this time  Engine oil leaks; Perform Oil Leak Diagnosis, found oil seeping from corner of valve cover gasket; removed valve cover & applied silicone to corners of valve cover & reinstalled cover to seal it; cleaned, retested, & verified repair
11-22-13	11,519	Noise from front right suspension	Verified concern; Performed TSB 13-09-09; Lubed Strut Rods per TSB
2-20-14	16,288	Engine leaking oil, possible valve cover  Bumping rattle noise on right front	Performed Engine Oil Leak Diagnosis, found rocker cover leaking; replaced cover; passed retest  Unable to duplicate concern
3-27-14	18,244	Oil leak at front of valve cover  Popping, knocking noise from car's right front at 15-40 mph	No finding or diagnostic action re: oil leak.  Verified concern; Road test car with FSE. Per FSE's instructions: replaced right front strut bearing and plate necessary to remove spindle assembly; noise still there; replaced left front strut bearing and plate necessary to replace spindle; still has noise; replaced both front struts; road tested, checked alignment, adjusted caster camber to specs and reset; FSE road tested several miles concern eliminate (sic)
4-8-14	18,865	Knocking noise front end at low speeds	Per FSE's instructions: Replaced front motor mount; after repair FSE [indicated that] some noise is normal due to suspension movement
7-10-14	23,802	Oil leaking from valve cover area	FSE inspected car; found slight oil drain plug leak to be replaced next oil change

<sup>10</sup> The repair orders were admitted as Complainants Exs. 1-8. For clarity and ease of reference, some of the information has been summarized instead of quoted.

Complainant testified that the clunking noise from the vehicle's front passenger side persisted for a full year, despite her multiple requests for a repair. Because the noise came from under the hood she thought there could be a problem in the engine or transmission, and this caused her anxiety. Her unease was compounded by the transmission "stutter," which persisted alongside the "clunking" noise.

Complainant's communications with service personnel at Town East Ford and Prestige Ford did little to inspire trust. She was continuously told by service personnel that her concerns "could not be duplicated," and even when repairs were performed the vehicle's problems were not fixed. Absent any proficiency in automotive technology, she could not independently determine if the transmission "stutter" was related to the "clunking" noise, or if her observations signified two different nonconformities. She remained fearful that her car had at least one serious, undiagnosed defect until April 2014, when the "clunking noise" from the suspension system was finally eradicated. At that point, the transmission "stutter" became more noticeable than ever.

To this day, Complainant remains concerned about the lasting effects of these nonconformities, regardless of any repairs. Her vehicle's suspension system was faulty for an entire year, and driving it in this condition may have caused internal damage to the engine, or the transmission, or both. With respect to the transmission "stutter," Complainant was upset to learn from dealer service personnel that "no repair is currently available," although she was offered the reassurance that Respondent's issuance of "periodic updates" might lessen her concern. In addition, one of the valve cover gaskets has been replaced twice but there is still oil seepage. Complainant expressed concern that an oil leak could do further harm to the vehicle's engine. Overall, she questioned the integrity of the warranty repairs performed on her vehicle. She believes it is only a matter of time before another failure occurs.

Complainant also offered the testimony of her spouse, Joseph Gutierrez. Mr. Gutierrez testified that he is familiar with the vehicle, although he is not the primary driver. He has repeatedly examined the valve covers bolted to the top of engine, and what he observed there gives him cause for concern. He noted that a crust of oil tends to build up around one of the valve cover gaskets.<sup>11</sup> He has wiped away this sludge-like substance on a number of occasions, but within a couple of weeks the gasket is once again surrounded by an oily crust. He indicated that the valve cover gasket has been replaced twice, once in October 2013 and again in February 2014. The continuing presence of build-up around the gasket may indicate the presence of an oil leak under the valve cover. If left unchecked, the leaking oil could cause internal damage to the car's engine.

### **C. Respondent's Evidence and Arguments**

Respondent presented the testimony of Field Service Engineer Greg Bartos. At the outset, Mr. Bartos admitted that he lacks personal knowledge of Complainant's vehicle. He explained that his appearance

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<sup>11</sup> The seepage of oil combines with dust and dirt to form a sludge-like substance.

at hearing was a “last-minute decision” necessitated by the unavailability of David Green, the Field Service Engineer who examined Complainant’s vehicle on three separate occasions.

On March 27, 2014, Mr. Green inspected Complainant’s vehicle for two concerns: “Clunk from right front at low speeds [and] oil leak from valve cover.”<sup>12</sup> According to Mr. Green’s inspection report, he examined the valve cover and engine area but found no signs of oil leakage. With respect to the suspension issue, he test drove the vehicle and noted a “tapping” noise from the right front side. Per Mr. Green’s instructions, Prestige Ford service technicians replaced both front struts, checked the vehicle’s alignment, and adjusted caster and camber alignment to specifications. Afterwards the vehicle was test driven, and the noise appeared to be eliminated.<sup>13</sup>

However, one week later Complainant reported that the clunking noise from the right front side was still present. On April 8, 2014, Mr. Green returned to Prestige Ford and re-inspected the vehicle’s suspension using “chassis ears.” Upon finding that the noise was coming from the motor mount on the right front side, he instructed service technicians to replace the passenger side motor mount.<sup>14</sup> On the same date, Mr. Green re-inspected the valve cover and noted no signs of oil leakage.<sup>15</sup>

On July 10, 2014, Mr. Green performed a third inspection of the valve cover in Complainant’s vehicle. His report states:

Inspected the valve cover and engine area for an oil leak. No oil leaks were noted from the valve cover. Very light oil seeping was noted and the customer identified this was their (sic) concern. [I]nformed [customer] this was normal ... [o]nly excessive leaks such as dripping are considered abnormal. Further inspection did identify a slight leak from the oil drain plug. Notes were placed in the dealer system to replace the drain plug at the next oil change.<sup>16</sup>

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<sup>12</sup> Respondent Ex. 1.

<sup>13</sup> Complainant Ex. 6.

<sup>14</sup> Respondent Ex. 1; Complainant Ex. 7. The record evidence indicates that the warranty repairs performed on March 27 and April 8, 2014, were authorized by and billed to Respondent six months earlier but were not performed at that time. Mr. Bartos testified that Respondent’s internal warranty repair records show replacement of Complainant’s vehicle’s front struts on October 22, 2013, and replacement of the passenger side motor mount on November 7, 2013 at Town East Ford under the direction of Field Service Engineer Brent Hochgraber. However, the repair orders in evidence contradict Respondent’s internal record of warranty repairs. The Town East Ford invoice (Complainant Ex. 3), dated October 17, 2013, states that technicians were “unable to duplicate” the reported clunking noise and the vehicle was released to Complainant that same day. The next service visit (at Prestige Ford) did not occur until November 22, 2013, and while service technicians “lubed [the] strut rods ... per TSB 13-09-09” on that date, Complainant retrieved her car the same day. Lastly, both Complainant and Mr. Gutierrez testified that: (1) Complainant’s vehicle was not in service between the dates of October 18, 2013 and November 21, 2013; (2) the vehicle’s front struts were not replaced until March 27, 2014 (consistent with Complainant Ex. 6); and (3) the passenger-side motor mount, which finally resolved the car’s suspension issues, was not replaced until April 8, 2014 (consistent with Complainant Ex. 7).

<sup>15</sup> Respondent Ex. 1.

<sup>16</sup> Respondent Ex. 2.

Mr. Bartos explained that the valve cover protects the internal components of the engine, including the timing or cam belt, the crankshaft, and the camshaft. The cover is bolted to the top of the engine and rubber or silicone gaskets seal the cover to the engine. He explained that when the vehicle is operating, metal parts in the engine heat up and oil is pumped from the bottom of the engine to the top, thereby lubricating the valve train. The oil pools inside the valve cover and drips back inside the engine through drain holes. He agreed with Mr. Green's statement that a little bit of oil seepage from the valve cover gaskets is normal. The oil seepage attracts dust and dirt so it is obvious to the naked eye, but visibility does not indicate the presence of an oil leak.

Mr. Bartos went on to state that oil leaks occur for a variety of reasons. Excessive engine pressure is one such cause. When a vehicle is in operation, he explained, pressure accumulates inside the engine. Excess pressure escapes through a "positive crankcase ventilation" (PCV) valve located in the valve cover. If the PCV valve becomes restricted for some reason, the additional pressure may "blow out" the valve cover gaskets that seal in the circulating oil. Oil leaks may also result from inadequate maintenance, such as infrequent oil changes. Oil becomes more viscous over time due to temperature changes and exposure, and if sludge build-ups in the drain holes the drip of oil into the engine slows. At the same time, the accumulation of oil in the valve cover exerts pressure on the valve cover gaskets, resulting in oil leakage. Finally, some oil leaks are simply the result of wear and tear. Valve cover gaskets made of silicone become brittle over time, allowing oil to escape.

Notwithstanding the various circumstances under which an oil leak may occur, Mr. Bartos insisted that slight oil seepage from the valve cover gaskets is normal and expected. Moreover, a faulty motor mount would not cause an oil leak under the valve cover. At the hearing on July 21, 2014, Mr. Bartos inspected the valve cover in Complainant's vehicle. He testified that he observed no signs of abnormal oil leakage from the valve cover gaskets, only slight seepage.<sup>17</sup>

By the same token, Mr. Bartos said the defective motor mount in Complainant's vehicle (that was replaced on April 8, 2014) is unrelated to the transmission "stutter," which occurs when the vehicle is traveling at low speeds, in first or second gear. He indicated that this "shuddering" is a by-product of the clutch engaging the automatic transmission. Although Mr. Bartos acknowledged that the car's transmission shudder "may be a drive-ability" concern," he maintained that it does not compromise the transmission function. He also noted Complainant's vehicle was serviced for "intermittent transmission clutch shudder" on May 9, 2013, in accordance with Technical Service Bulletin (TSB) 13-4-5, an update issued by Respondent. Pursuant to the TSB's instructions, Mr. Bartos said service technicians would have reprogrammed the transmission control module in Complainant's vehicle to achieve the latest calibration, while monitoring the "Parameter IDs" through diagnostic testing.<sup>18</sup>

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<sup>17</sup> Mr. Gutierrez testified that all oil residue in the valve cover area was wiped away on July 10, 2014, the date of Mr. Green's inspection. Thus, the lack of visible oil seepage on the hearing date was not surprising.

<sup>18</sup> Complainant Ex. 1.

Mr. Bartos concluded that Complainant's vehicle is functioning as designed and needs no repairs. He likewise confirmed that there are no safety concerns with the car.

#### **D. Analysis**

Complainant seeks repurchase relief under the state's Lemon Law provisions. As such, she bears the burden of proof to establish by a preponderance of evidence that: (1) a defect exists in the vehicle; (2) the nonconformity creates a serious safety hazard, or substantially impairs the use or market value of the vehicle; (3) Respondent has not conformed the vehicle to an applicable express warranty by correcting the defect; (4) Respondent has been given a reasonable number of attempts to repair the defect; and (5) Complainant provided written notice of the nonconformity to Respondent, and allowed Respondent a final opportunity to cure the defect. Complainant has not carried her burden to establish each of these statutory elements. She is therefore ineligible for repurchase relief.

For reasons previously explained, this decision does not determine whether a warrantable defect exists (or previously existed) in the vehicle's suspension system or the transmission. Complainant's request for relief therefore rests on a single allegation: that a valve cover gasket is leaking oil.

A preponderance of the evidence does not demonstrate the current presence of abnormal oil leakage from either of the car's valve cover gaskets. Mr. Green inspected the valve cover and valve cover gaskets in Complainant's vehicle's on three separate occasions: March 27, April 8, and July 10, 2014. As Respondent's Field Service Engineer, he was authorized to order and oversee any repairs he considered necessary. Had Mr. Green observed signs of excessive oil leakage<sup>19</sup> in the valve cover area on any of three occasions it seems unlikely that he would have failed to recommend repairs, especially given that the issue seems straightforward. And, Mr. Bartos' inspection of the valve cover area on the day of hearing confirmed Mr. Green's earlier findings.

Mr. Gutierrez's concern that an oil leak may be present is based on the about the amount of sludge (oil, dust, and dirt) that builds up around the valve cover gasket within a few weeks' time. Because oil leaks in the valve cover area have already been repaired twice, he is worried that the source of the leak remains undiagnosed. Beyond this, he is afraid that leaking oil could damage the car's engine. On the other hand, neither Mr. Gutierrez nor Complainant testified that they have actually observed oil dripping from the valve cover area or the valve cover gaskets. And, while both Mr. Green and Mr. Bartos observed slight oil seepage from the valve cover gaskets in Complainant's vehicle, the field service engineers agreed that this phenomena is normal and expected. No evidence establishes that oil seepage from the valve cover gaskets will cause damage to the engine.

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<sup>19</sup> Although Mr. Green's inspection on July 10, 2014, identified "a slight leak from the oil drain plug," he apparently considered the issue so minor that he placed "a note in the dealer system to replace the drain plug at the next oil change." See Respondent's Ex. 2.

Overall, a preponderance of the evidence does not demonstrate that there is abnormal oil leakage from a valve cover gasket in Complainant's vehicle. Because this decision finds that no warrantable defect exists, it is unnecessary to consider whether the claimed nonconformity would constitute a substantial impairment or safety hazard.

Despite Complainant's ineligibility for repurchase relief, Complainant's case is a sympathetic one. Her purchase of a brand-new 2013 Ford Focus was marred from the outset by a series of problems. Had she known at the time of purchase that the vehicle's transmission "shudder" was well-known, and of sufficient significance to merit Respondent's issuance of TSBs, she might have chosen to buy a different vehicle model. As it stands, the burden is now on Complainant to seek out transmission "updates" from the servicing dealer. The fact that her new vehicle exhibited suspension problems within a week of purchase was unfortunate enough, but the treatment she received from service personnel was worse. Whether the cause was sheer ineptitude, or misrepresentation, or both, the fact is that *an entire year* passed before her vehicle's suspension issues were successfully resolved by warranty repairs. Beyond these problems, within the space of nine months two different oil leaks required repairs. At the time of hearing, the car's oil drain plug still required replacement.

Given this history, Complainant's lack of trust in the durability of warranty repairs performed on her vehicle is understandable. The car has caused her a disproportionate amount of trouble and inconvenience, for which she has received no recompense, let alone an apology. Still, repurchase or replacement relief under the state's Lemon Law is not available unless the manufacturer is unable to conform a complainant's vehicle to an applicable express warranty by correcting a warrantable defect. Because the evidence does not show the existence of a current warrantable defect in Complainant's vehicle, the complaint must be dismissed.

## II. FINDINGS OF FACT

1. Monica Garibaldi (Complainant) purchased a new 2013 Ford Focus (the vehicle) from Prestige Ford of Garland, Texas on May 1, 2013, with mileage of fifteen (15) at the time of delivery.
2. The manufacturer of the vehicle, Ford Motor Company (Respondent), issued a limited warranty for the vehicle covering defects in factory-supplied materials and workmanship for 36 months or 36,000 miles, whichever comes first, and a powertrain warranty covering defects in the vehicle's engine, transmission, and drive train for 60 months or 100,000 miles, whichever comes first.
3. The vehicle's mileage on the date of hearing was 24,443.
4. At the time of hearing, the vehicle was covered by Respondent's basic limited warranty and its powertrain warranty.

5. In October 2013 or earlier, Complainant and her spouse Joseph Gutierrez noticed that oil was leaking from one of the vehicle's valve cover gaskets.
6. The vehicle was serviced for oil leakage in the valve cover area or valve cover gaskets on the following dates:
  - a. October 17, 2013, at 9,176 miles;
  - b. February 20, 2014, at 16,288 miles;
  - c. March 27, 2014, at 18,244 miles; and
  - d. July 10, 2014, at 23,802 miles.
7. On October 17, 2013, service technicians at Town East Ford in Mesquite, Texas found oil leaking from a corner of one of the vehicle's valve cover gaskets. Technicians repaired the oil leak by applying a silicone sealant to the corners of the valve cover.
8. On February 20, 2014, service technicians at Prestige Ford Garland, Texas examined the vehicle's valve cover and found a rocker cover was leaking oil. Technicians repaired the oil leak by replacing the rocker cover.
9. On March 27, April 8, and July 10, 2014, Respondent's Field Service Engineer David Green inspected the vehicle's valve cover area and valve cover gaskets. Although the field service engineer noted slight leakage from the oil drain plug and recommended its replacement at the next oil change, he found no abnormal oil leakage from the valve cover gaskets.
10. Complainant was provided with a rental car each time her car was serviced.
11. On March 7, 2014, Complainant provided written notice to Respondent of an alleged defect in the vehicle's valve cover gasket.
12. On March 12, 2014, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).
13. On July 10, 2014, the Department's Office of Administrative Hearings issued a notice of hearing directed to Complainant and Respondent, giving all 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.

15. The hearing convened on July 21, 2014 in Mesquite, Texas, with Hearings Examiner Anne K. Perez presiding. Complainant appeared and represented herself. Respondent appeared through Field Service Engineer Greg Bartos. The hearing concluded and the record closed that same day.
16. An abnormal amount of oil is not currently leaking from the valve cover gaskets of Complainant's vehicle.
17. Slight oil seepage from a vehicle's valve cover gaskets is both normal and expected.
18. No warrantable defect in Complainant's vehicle currently exists.

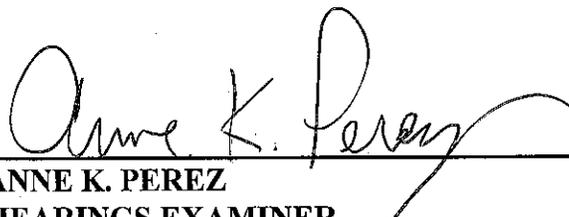
### III. CONCLUSIONS OF LAW

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, 2001.052; 43 Tex. Admin. Code § 215.206(2).
5. Complainant failed to prove by a preponderance of the evidence that the vehicle has a verifiable defect or condition that presents a serious safety hazard or substantially impairs the use or market value of the vehicle. Tex. Occ. Code § 2301.604.
6. Complainant's vehicle does not qualify for replacement or repurchase. Tex. Occ. Code § 2301.604.

**ORDER**

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

**SIGNED September 9, 2014.**

  
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**ANNE K. PEREZ**  
**HEARINGS EXAMINER**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**