

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 14-0233 CAF**

<b>NATALIE SAIKOWSKI,</b>	§	<b>BEFORE THE OFFICE</b>
<b>Complainant</b>	§	
<b>v.</b>	§	
	§	<b>OF</b>
<b>GULF STATES TOYOTA, INC.,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

Natalie Saikowski (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-.613 (Lemon Law) for alleged defects in her 2012 Toyota Highlander Limited. Complainant asserts that the vehicle has electrical issues which affect the vehicle's XM radio and blue tooth connectivity with her cell phone. Gulf States Toyota, Inc. (Respondent) argued that there are no defects with the vehicle and that it is operating appropriately. The hearings examiner concludes that the vehicle does not have an existing warrantable defect, and Complainant is not eligible for relief.

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

Matters of notice and jurisdiction were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing in this case convened on September 10, 2014, in Houston, Texas, before Hearings Examiner Edward Sandoval. The record was closed on September 16, 2014, upon receipt of video evidence submitted by Complainant. Complainant represented herself at the hearing. She also presented her father, Ron Saikowski, as a witness. Respondent was represented by Donna Martin, Customer Relations Manager. Also present at the hearing for Respondent was Don Campbell, Field Technical Specialist.

**II. DISCUSSION**

**A. Applicable Law**

The Texas Lemon Law provides that a manufacturer of a motor vehicle must repurchase or replace a vehicle complained of under the Texas Occupations Code 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. 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>1</sup> Fourth, the owner must have mailed written notice of the alleged defect or nonconformity to the

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

manufacturer.<sup>2</sup> Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.<sup>3</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>4</sup>

### **B. Complainant's Evidence and Arguments**

Complainant purchased a 2012 Toyota Highlander Limited from Gullo Toyota of Conroe in Conroe, Texas on March 31, 2012, with mileage of 8,308 at the time of delivery.<sup>5</sup> On the date of hearing the vehicle's mileage was 37,747. At this time, Respondent's warranty coverage for the vehicle has expired. The warranty provided basic coverage for three years or 36,000 miles, whichever comes first. Also, the vehicle has a five year or 60,000 mile powertrain warranty.

Complainant testified that she first began experiencing problems with the Bluetooth connection soon after purchase. When using the Bluetooth while driving, the connection with the Bluetooth would drop off intermittently. Complainant's call would still be connected. However, she could not talk to whomever she was speaking, because the Bluetooth was not connecting to the phone. Complainant would have to pick up her phone and speak through the phone on those occasions. During the first year that she owned the vehicle, Complainant mentioned having some issues with the Bluetooth to a service advisor for Gullo Toyota. He advised her that she needed to buy a new phone, since her HTC Droid was not compatible with the Bluetooth. She did not take any immediate action because she thought that the problem would go away and she did not feel that there was a problem with the phone she was using. Complainant later decided to purchase an iPhone 4S in November 2012. That did not resolve the problem, however.

Complainant took the vehicle to Respondent's authorized dealer on April 1, 2013, which was the first time that the issue with the Bluetooth was documented. In addition, Complainant informed

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<sup>2</sup> Tex. Occ. Code § 2301.606(c) (1).

<sup>3</sup> Tex. Occ. Code § 2301.606(c) (2).

<sup>4</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>5</sup> Complainant Ex. 1, Motor Vehicle Retail Installment Agreement, Odometer Disclosure Statement dated March 31, 2012.

the dealer's service adviser that the XM radio was cutting in and out. The service technician inspected the vehicle and determined the navigation receiver was intermittently shorting which caused "abnormal operation of the various functions."<sup>6</sup> The navigation receiver was replaced and the Bluetooth and navigation settings were reset. The vehicle's mileage when she took it to the dealership on this occasion was 24,198.<sup>7</sup> The vehicle was in the dealership's possession until April 5, 2013. Complainant was provided with a rental vehicle for two days (April 1, 2013 and April 5, 2013) while her vehicle was being repaired.

Complainant took the vehicle to an authorized dealer for repairs again on May 1, 2013. On this occasion, Complainant advised the dealer's service adviser that the navigation system was not working properly. Complainant also indicated to the service advisor that she was still having problems with the Bluetooth connection for her cell phone. The service technician determined that the navigation map disc was corrupted and replaced it. In regards to the Bluetooth issue, the technician determined that the multi-media ECU could be intermittently shorting. As a result, he replaced the component. The mileage on the vehicle when Complainant took it to the dealership on this occasion was 24,280.<sup>8</sup> Complainant was provided with a rental vehicle for one day (May 16, 2013) while her vehicle was being repaired. The vehicle was returned to Complainant on May 17, 2013.

The next month, Complainant returned the vehicle to the dealership on June 24, 2013, due to several issues. Complainant informed the service advisor that the rear air conditioning was not working properly, that the XM radio was resetting itself to station 1 intermittently, that she was still experiencing problems with the Bluetooth, and that the vehicle's back-up camera was not working. Upon inspection, the service technician repaired the air conditioning issue and determined that it was performing as designed when the vehicle was returned to Complainant. However, the technician could not duplicate the problem with the XM radio and determined that the problem could be outside interference which could cause a problem with the radio's reception. The Bluetooth issue was also investigated again. Complainant had indicated that one of the problems was that the phone that she was using would sometimes not connect. The technician attempted to connect and use the Bluetooth with three different phones and they all worked appropriately. No calls were dropped while the vehicle was in the dealer's possession. Finally, the technician found a loose connection on the back-up camera. It was reconnected properly and the technician determined that the back-up camera was operating appropriately. Complainant had arrived to pick up her vehicle on June 26, 2013, and determined that the back-up camera was still not working properly, so a new work order was opened. The camera was again inspected and it was determined that the camera was intermittently shorting. So, the rear camera assembly was replaced. The vehicle was left with the dealer on June 24, 2013, and returned to Complainant on June 28, 2013. The vehicle's mileage when Complainant took it to

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<sup>6</sup> Complainant Ex. 2, Repair and Service Orders for 2012 Toyota Highlander Limited.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

the dealership was 26,929.<sup>9</sup> Complainant was provided with a rental vehicle during the entire time that the vehicle was in the dealer's possession being repaired.

A few days after Complainant had picked up her car from the dealer, the back-up camera stopped working again. She returned the car to the dealer on July 1, 2013, to complain about the camera. A service technician verified that the camera was not working properly. He removed the navigation/multi-media display assembly and checked the harness. The camera then began to operate properly. The technician indicated on the repair order that: "No further diag [sic] needed untill [sic] system no longer operates instead of an intermittent condition."<sup>10</sup> The mileage on the vehicle on this occasion was 26,990.<sup>11</sup>

On July 22, 2013, Complainant took the vehicle back to the dealership to repair the back-up camera again. The camera was working intermittently. The service technician performed several diagnostic tests on the camera and was advised by Toyota's technical specialists to replace the "neutral safety switch" which was not supplying a signal to the navigation unit. The switch was replaced and the vehicle was returned to Complainant on July 31, 2013. The mileage on the vehicle on this date was 27,000.<sup>12</sup> Complainant was provided with a rental vehicle for one day while her vehicle was being repaired.

On January 13, 2014, Complainant took the vehicle to the dealership because she was still experiencing problems with the back-up camera and the Bluetooth connection. One of Toyota's field technical specialists provided help in trouble shooting the problems. It was determined that the information wire harness was not communicating with the driver in the navigation ECU. As a result, both the harness and the ECU were replaced. Afterwards, it was determined that the systems were operating properly. Complainant was also advised at this time that on certain phones with IO7 software, there may be some abnormal operation because of the device being used, i.e. the phone, rather than with the vehicle's software. The vehicle was returned to Complainant on February 17, 2014. The mileage on the vehicle when she first presented it to the dealer was 31,874.<sup>13</sup> Complainant was provided with a rental vehicle for two days during this period of time.<sup>14</sup>

Complainant did contact Respondent's customer service line in March of 2013. She was told by a dealership representative, that she should open up a file with Toyota regarding the issues she was

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> The second page of the repair order dated January 13, 2014 (Complainant's Exhibit 2) indicates that Complainant was provided with a rental vehicle for two days during this repair attempt. However, the summary of the repair orders prepared by Respondent (Respondent's Exhibit 1) shows that Complainant was provided with a rental vehicle for only one day. Since the original repair order was prepared contemporaneously with the repair attempt, this document will be considered more credible.

experiencing with her vehicle. However, no resolution of the issues was ever provided for Complainant.

Complainant filed her Lemon Law complaint with the Texas Department of Motor Vehicles on April 29, 2014. She amended the complaint on May 28, 2014. Complainant indicated at the time of hearing that she felt that problems with the navigation system caused a safety concern because on one occasion, she had followed the navigation system's directions and ended up alone in a bad part of Houston at night.

Complainant also indicated that recently she has been experiencing an intermittent key fob issue. The service advisor at the Respondent's authorized dealership is aware of the problem. Sometimes the vehicle won't start as designed, even though she has the key fob in the vehicle as in the past. She has two key fobs and has had the batteries replaced in both of them. However, the problem still occurs. Complainant was advised that a work around for when the fob was not connecting with the system is to manually insert the key in the ignition and start the vehicle. In addition, Complainant indicated that she was now experiencing a problem with the front air conditioning system in the vehicle. However, she has not presented the vehicle to Respondent to repair or even informed them of this issue.

Ron Saikowski, Complainant's father, testified that sometimes when he speaks to Complainant on the phone that the call quality is garbled. Mr. Saikowski, who is a licensed electrical engineer, feels that there may be a faulty design or faulty construction of the vehicle.

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

Donna Martin, Customer Relations Manager, first became involved in attempting to resolve Complainant's concerns regarding the vehicle in January of 2014. Complainant informed Ms. Martin that she was frustrated with the situation. During her conversation with Complainant, Ms. Martin informed her that the Respondent's concern was to repair the vehicle and get it back to manufacturer's specifications. So, Ms. Martin arranged to have one of Respondent's field technical specialists to look at the vehicle to determine what was going on. After the vehicle was inspected by the field technical specialist, Complainant was still not satisfied. In an e-mail to Respondent, Complainant indicated that she wanted a new 2014 Highlander at no additional charge with no out of pocket costs and the same or better financing options. Ms. Martin informed Complainant that would not be possible. However, Ms. Martin did offer to take the matter to a third party dispute resolution arbitration company that the Respondent offers its customers. Complainant responded with a request for full MSRP on the navigation package in the vehicle which would have been \$2650. Ms. Martin also indicated to Complainant that this could not be done. However, Ms. Martin did offer Complainant one month's loan payment (\$585) as compensation for the issues she was experiencing. Complainant reiterated that she still wanted the full cost of the navigation package. Ms. Martin pointed out that the system in general was

working, since the back-up camera had been repaired. The only real problem that Complainant was experiencing was with the Bluetooth connection. Ms. Martin then offered, on March 25, 2014, Complainant two months' worth of loan payments which would have been \$1170 as compensation. Complainant also refused this offer and followed through with the Lemon Law complaint.

Ms. Martin also testified that the dealer's service technicians were able to sync their iPhones with the Bluetooth system in Complainant's vehicle and did not experience any problems with the system. Respondent's website indicated that Complainant's cell phone was only partially compatible with the system, as far as the hands free function, i.e. that some features may not function correctly under certain conditions. Ms. Martin testified that as far as she was aware that all of Complainant's issues with the vehicle had been addressed and the only concern Complainant had was the intermittent Bluetooth issue. Respondent was not aware that Complainant had a concern with the front air conditioning system, since it had not been taken to a dealer for repairs. In addition, Ms. Martin indicated that she had been told in March of 2014, that the dealer was working with Complainant on the key fob issue and was not aware of any further complaints on the issue.

Don Campbell, Field Technical Specialist, has worked for Respondent for the past ten (10) years. He's worked in quality assurance and monitoring, primary electrical components, hybrid vehicle components, electric motors, smart key systems, navigation systems, and Bluetooth support. He inspected Complainant's vehicle in February of 2014, in an attempt to repair and resolve Complainant's issues with the vehicle. He was initially told that the issue with the vehicle was that the back-up camera was not operating, not that there was a problem with the Bluetooth. He repaired the back-up camera during his inspection of the vehicle. Mr. Campbell felt that the problem with the back-up camera was that it was not repaired correctly the first time. He feels that the service technician accidentally reinstalled the defective camera assembly on June 26, 2013, and that the repair was fully effectuated during the repair visit of January 13, 2014. While Mr. Campbell was repairing the camera, it was mentioned to him that Complainant was having an issue with the Bluetooth. The service technician informed Mr. Campbell that he was unable to duplicate Complainant's concerns regarding the Bluetooth issue. After repairing the back-up camera, Mr. Campbell took the vehicle on a road test and was able to duplicate the concern. While making a call the Bluetooth connection was severed. The caller was still on the phone and not disconnected, but Mr. Campbell was not able to speak to him through the hands-free option. He had to pick up the phone to continue the conversation. Mr. Campbell had seen this type of problem in the past. It's a characteristic of iPhones and it's an issue with the iPhone software. He feels that this is a phone issue and not within Respondent's control. Mr. Campbell suggested to Complainant that she get another phone that is more compatible with the system. She indicated that due to her contract with her cell phone carrier obtaining another phone was not an option. At the time that Mr. Campbell inspected the vehicle, he was not advised of any other concerns with the vehicle. The radio that is in Complainant's vehicle does not have "Entune" capability which

runs smart phone apps to play internet based data feeds. Complainant's vehicle has "Premium Navigation" or AVN as the radio.

Regarding the key fob issue, Mr. Campbell testified that the key fob works through a radio frequency link to the vehicle. It communicates a signal if you're in proximity to unlock the vehicle. If it's not working for a reason such as a dead battery or because of frequency interference, the fob contains a standard key to unlock or start the vehicle. If the vehicle has a push button start, you can touch the Toyota logo on the fob to the power switch and it will start the vehicle. Interference with the key fob can be caused by any large electromagnetic field or radio transmission field in the immediate area.

#### **D. Analysis**

Under Texas' Lemon Law, Complainant 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. In addition, Complainant must meet the presumption that a reasonable number of attempts have been undertaken to conform the vehicle to an applicable express warranty. Finally, Complainant is required to serve written notice of the nonconformity on Respondent, who must be allowed an opportunity to cure the defect. If each of these requirements is met and Respondent is still unable to conform the vehicle to an express warranty by repairing the defect, Complainant is entitled to have the vehicle repurchased or replaced.

Complainant purchased the vehicle on March 31, 2012 and first presented the vehicle to an authorized dealer of Respondent due to her concerns on April 1, 2013, slightly more than a year after purchasing the vehicle. In addition, the mileage on the vehicle at the time of this visit was 24,198. Occupations Code § 2301.604(a) requires a showing that Respondent was unable to conform the vehicle to an applicable express warranty "after a reasonable number of attempts." Section 2301.604(a) goes on to specify that a rebuttable presumption that a reasonable number of attempts to repair have been made if "two or more repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to the owner, and two other repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, immediately following the date of the second repair attempt." Complainant has not met the requirements of this test. Complainant did not present the vehicle for repairs to an authorized dealer for Respondent on two occasions within the first year or 12,000 miles from purchase. The first time that Complainant asked for a repair of the Bluetooth issue was when she took the vehicle for repairs on April 1, 2013, when the vehicle's mileage was 24,198.<sup>15</sup> Even adjusting for the fact that the vehicle had 8,308 miles on it when it was delivered to Complainant, the vehicle

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<sup>15</sup> The hearings examiner is solely addressing the issue of the Bluetooth connection and the XM radio issues, since it appears that the issues with the back-up camera, the navigation system, and the rear air conditioner were corrected by Respondent or their authorized dealer prior to the filing of the Lemon Law complaint.

still had 15,890 miles while under Complainant's possession when she made the first repair attempt. This is substantially beyond the 12,000 miles specified for the first two repair attempt in Section 2301.604(a). So, the first attempt to repair the vehicle was slightly more than a year after the vehicle was originally delivered to Complainant and after the vehicle had accumulated over 12,000 miles since the date of delivery. Since there was no evidence that a repair attempt on the vehicle for the Bluetooth issue was made during the first year or 12,000 miles from delivery to the Complainant, she was unable to establish that a reasonable number of attempts to repair the vehicle were made by Respondent.

In addition, even if Complainant had met the presumption that she had provided Respondent with a reasonable number of attempts to repair the problems with the vehicle, she would not be entitled to replacement of the vehicle. Occupations Code § 2301.601(1) provides that "Impairment of market value" means a substantial loss in market value caused by a defect specific to a motor vehicle." The fact that the Bluetooth connection intermittently cuts out does not cause a substantial loss in market value, particularly in light of the fact that Respondent's web site indicates that the cell phone used by Complainant may not be compatible with the radio and Bluetooth system installed in the vehicle. Since the Bluetooth system may work with other types of phones, it cannot be stated with any certainty that there is anything wrong with the system.

In addition, Occupations Code § 2301.601(4) provides that "Serious safety hazard" means 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." Complainant provided no evidence to indicate that the problems with the vehicle's Bluetooth connection "substantially" impeded her ability to control the vehicle or created a risk of fire or explosion. As such, the problems with Bluetooth connection did not constitute a serious safety hazard as defined in the Code.

Complainant also brought up two additional issues at the time of hearing which involved the key fob and the front air conditioning system. Neither of these issues was mentioned to Respondent prior to the date of hearing, so they have not had an opportunity to determine if those issues can be repaired. As such, those issues will not be considered in this decision.

Therefore, the hearings examiner finds that there is no defect with the vehicle as defined in the Occupations Code and, as such, there are no grounds to grant repurchase or replacement relief for Complainant.

Respondent's express warranty applicable to Complainant's vehicle provides "bumper to bumper" coverage for 3 years or 36,000 miles whichever comes first. On the date of hearing, the vehicle's mileage was 37,747 and the warranty had expired. However, Occupations Code § 2301.603(b) provides that a manufacturer may be still be responsible for making repairs after the

expiration date of the warranty if “during the term of the warranty, the owner or the owner’s agent reported the nonconformity to the manufacturer, converter, or distributor, or to a designated agent or franchised dealer of the manufacturer, converter, or distributor.” As such, the Respondent is still under an obligation to repair the vehicle whenever there is a problem which was originally raised under the warranty.

Complainant’s request for repurchase or replacement relief is denied.

### III. FINDINGS OF FACT

1. Natalie Saikowski (Complainant) purchased a new 2012 Toyota Highlander Limited on March 31, 2012 from Gullo Toyota of Conroe in Conroe, Texas, with mileage of 8,308 at the time of delivery.
2. The manufacturer of the vehicle, Gulf States Toyota., Inc. (Respondent) issued a warranty for 3 years or 36,000 miles.
3. The vehicle’s mileage on the date of hearing was 37,747.
4. At the time of hearing the vehicle’s warranty had expired.
5. Soon after purchasing the vehicle, Complainant noticed that there was a problem with the Bluetooth connection with her cell phone. However, she did not take immediate action because she thought the problem may go away
6. Complainant took her vehicle to Respondent’s authorized dealers in order to address the back-up camera, Bluetooth, and radio issues on the following dates:
  - a. April 1, 2013, at 24,198 miles;
  - b. May 1, 2013, at 24,280 miles;
  - c. June 24, 2013, at 26,942 miles;
  - d. June 26, 2013, at 26,943 miles;
  - e. July 1, 2013, at 26,990 miles;
  - f. July 22, 2013, at 27,000 miles; and
  - g. January 13, 2014, at 31,874.
7. Complainant took the vehicle to Respondent’s authorized dealer on April 1, 2013, to address the Bluetooth connection being severed intermittently and because the XM radio was cutting in and out. The dealer replaced the navigation receiver in order to resolve the issue.

8. On May 1, 2013, Complainant took the vehicle to Respondent's authorized dealer because she felt that the navigation system was not working properly and because of the issues with the Bluetooth connection. The dealer replaced the navigation map disc and replaced the ECM component in the radio system.
9. On June 24, 2013, Complainant took the vehicle to Respondent's authorized dealer because the rear air conditioning system was not working properly, the XM radio was resetting to a default setting intermittently, the continuing problems with the Bluetooth connection, and the back-up camera not working properly. The air conditioner was repaired during this visit. The radio and Bluetooth issued could not be duplicated, so no repair was done on them. Finally, a loose connection was repaired on the back-up camera.
10. On June 26, 2013, Complainant went to pick up the vehicle from Respondent's authorized dealer after being repaired and discovered that the back-up camera was still not working properly. So, the dealer replaced the camera assembly.
11. Complainant took the vehicle to Respondent's authorized dealer on July 1, 2013, because the back-up camera was still malfunctioning. After the service technician checked the harness for the camera, it began working properly. No other repair was attempted at that time.
12. On July 22, 2013, Complainant again took the vehicle to Respondent's authorized dealer because of issues with the back-up camera. At this time, it was determined that the neutral safety switch was not supplying a signal to the navigation unit. As a result, the switch was replaced.
13. On January 13, 2014, Complainant took the vehicle to Respondent's authorized dealer because the back-up camera was still not working properly and because of issues with the Bluetooth connection. At this time it was determined that the information wire harness was not communicating with the driver in the navigation ECU. These items were both replaced. Complainant did not have any issues with the back-up camera after this date.
14. In addition, Complainant was advised that the Bluetooth connectivity issues were caused because her cell phone was not completely compatible with the radio system in the vehicle.
15. Complainant filed a Lemon Law complaint regarding the vehicle with the Texas Department of Motor Vehicles on April 29, 2014.

16. On June 24, 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.
17. The hearing convened on September 10, 2014, in Houston, Texas before Hearings Examiner Edward Sandoval. Complainant represented herself in the hearing. She also presented Ron Saikowski, her father, as a witness. Respondent was represented by Donna Martin, Customer Relations Specialist. Also present at the hearing for Respondent was Don Campbell, Field Technical Specialist. The hearing adjourned on that day. The hearing record closed on September 16, 2014.

#### IV. CONCLUSIONS OF LAW

1. The Texas Department of Motor Vehicles (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 bears the burden of proof in this matter.
6. 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.
7. Respondent remains responsible to address and repair or correct any defects that are covered by Respondent's warranties. Tex. Occ. Code § 2301.204.
8. 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 October 14, 2014**

  
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**EDWARD SANDOVAL, HEARINGS EXAMINER  
OFFICE OF ADMINISTRATIVE HEARINGS  
TEXAS DEPARTMENT OF MOTOR VEHICLES**