

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 14-0244**

**SUE A. KENDRICK AND  
WARREN KENDRICK,  
Complainants**

v.

**HEARTLAND RECREATIONAL  
VEHICLES, LLC,  
Respondent**

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**BEFORE THE OFFICE  
  
OF  
  
ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Sue A. Kendrick and Warren Kendrick (Complainants) seek relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in their 2014 Heartland Road Warrior 415RW Fifth Wheel Travel Trailer (vehicle). The Complainants claimed that the black and gray water tanks leaked, the air conditioning worked inadequately, the 12 volt system underperformed, the slide outs made a noise during operation, tank level indicators were inaccurate, a window leaked, guides on a drawer were broken, awning lights operated partially, the fresh water tank leaked, weather stripping had to be removed, a stove striker knob was broken, the bathroom partition door would come off-track, the sound system volume would increase by itself, and bed legs were broken. However, all issues have been resolved except for the sound system volume. Heartland Recreational Vehicles, LLC. (Respondent) argued that Complainants have not met the repurchase requirements in the Occupations Code and that no relief is warranted. The hearings examiner concludes that the vehicle does not have an existing warrantable defect under the warranty and Complainants are not eligible for relief.

**I. Procedural History, Notice and Jurisdiction**

Matters of notice and jurisdiction were not contested and are only addressed in the Findings of Fact and Conclusions of Law. The hearing in this case convened on December 15, 2014, in Lubbock, Texas, before Hearings Examiner Anne Perez. The Complainants represented themselves and testified on their own behalf. David Partin, Consumer Affairs Manager for

Respondent, represented and testified for Respondent. The record closed on April 10, 2015, upon the Complainants' notification that the issue regarding the water tanks had been resolved.<sup>1</sup>

## II. Discussion

### A. Applicable Law

The Lemon Law, in part, requires a manufacturer of a motor vehicle to repurchase or replace a vehicle when the manufacturer is "unable to conform a motor vehicle to an applicable express warranty."<sup>2</sup> Additionally, warranty repair under section 2301.204 of the Texas Occupations Code requires a "defect in a motor vehicle that is covered by a manufacturer's . . . warranty agreement applicable to the vehicle."<sup>3</sup> Accordingly, to be eligible for repurchase or replacement, or even warranty repair, Heartland's warranty must apply to the alleged defect.

### B. Complainants' Evidence and Arguments

Complainants purchased a new 2014 Road Warrior 415RW Fifth Wheel Travel Trailer from Camping World RV Sales in Lubbock, Texas, on June 24, 2013.<sup>4</sup> The vehicle's warranty provides one year of coverage starting from the date of the original retail purchase.<sup>5</sup>

On December 2, 2013, the Complainants took the vehicle to Camping World RV Sales in Lubbock, Texas, stating that the sound system was too loud and the sound quality was bad. The technician could not duplicate the problem but noted that the TV may need adjustment.<sup>6</sup> On October 24, 2013, the Complainants took the vehicle to Camping World RV Supercenter in New Braunfels, Texas, stating that the sound system's volume intermittently turns up on its own. The

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<sup>1</sup> The record was left open to allow testimony from the repair technician regarding the water tanks. However, during the April 10, 2015, posthearing conference, the Complainants confirmed that the water tank issues had been resolved, making further testimony unnecessary. Also at the prehearing conference, the Complainants raised a new issue about the trailer's propane. However, the Lemon Law complaint as amended did not include the propane issue and the hearing did not address the propane issue. Accordingly, the propane issue is not considered in this Decision and Order. *See* 43 TEX. ADMIN. CODE § 215.34(d).

<sup>2</sup> TEX. OCC. CODE § 2301.604(a) (emphasis added).

<sup>3</sup> TEX. OCC. CODE § 2301.204 (emphasis added).

<sup>4</sup> Complainants' Ex. 4, Retail Installment Contract and Security Agreement.

<sup>5</sup> Respondent's Ex. 1, Heartland RV, LLC Limited Warranty in the United States and Canada.

<sup>6</sup> Complainants' Ex. 5, Work Order # 2312, October 24, 2013.

technician could not duplicate the issue.<sup>7</sup> Heartland subsequently replaced the sound system.<sup>8</sup> However, during the inspection of the vehicle at the hearing, the sound system appeared to malfunction.

### C. Respondent's Evidence and Arguments

Mr. Partin testified that Heartland's warranty does not cover everything that goes into a recreational vehicle and that components have warranties from the manufacturer of the component. Mr. Partin also explained that though Heartland may file a warranty claim on a defective component with the component manufacturer on the buyer's behalf, the component manufacturer provides the warranty, not Heartland. Testimony showed that Sony manufactured the sound system at issue.

### D. Analysis

In this case, the Complainants seek repurchase of the vehicle. To qualify for repurchase/replacement (or repair), the law requires the defect to be covered by the manufacturer's warranty.<sup>9</sup> However, the vehicle does not have a defect covered by Heartland's warranty. Heartland's warranty states that:

Additional components which have been installed in the recreational vehicle, including but not limited to microwave ovens, ranges, refrigerators, leveling jacks, furnaces/heaters, DVD/CD players, air conditioning, icemakers, vacuum cleaners, televisions, hot water heaters, generators, power converters, batteries, and other items not specifically manufactured by Heartland RV, LLC, are warranted by the component manufacturers as detailed in their individual manufacturers' warranties, and are not covered by this Limited Warranty.<sup>10</sup>

Accordingly, components, such as the sound system manufactured by Sony, are not covered by the warranty.

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<sup>7</sup> Complainants' Ex. 3, Work Order # 14131, December 2, 2013.

<sup>8</sup> Respondent's Ex. 3, Summary of Complaints and Repairs.

<sup>9</sup> TEX. OCC. CODE § 2301.604(a); TEX. OCC. CODE § 2301.204.

<sup>10</sup> Respondent's Ex. 1, Heartland RV, LLC Limited Warranty in the United States and Canada (emphasis added).

The Complainants original Lemon Law Complaint asserted that the black and gray water tanks leaked.<sup>11</sup> The Complainants subsequently claimed that the air conditioning worked inadequately, the 12 volt system underperformed, the slide outs made a noise during operation, tank level indicators were inaccurate, a window leaked, guides on a drawer were broken, awning lights operated partially, the fresh water tank leaked, weather stripping had to be removed, a stove striker knob was broken, the bathroom partition door would come off-track, the stereo system volume would increase by itself, and bed legs were broken.<sup>12</sup> Except for the intermittent increase in the sound system<sup>13</sup> volume, all of these issues were resolved. Given that Sony manufactured the sound system installed in the Complainants' vehicle, Heartland's warranty does not cover the defects in the sound system. Because the intermittent sound system volume increase is not a warrantable defect, this defect does not provide a basis for relief under either Texas Occupations Code Section 2301.604 or 2301.204. Therefore, the Complainants' request for repurchase/replacement relief is denied.

### III. Findings of Fact

1. Sue A. Kendrick and Warren Kendrick, the Complainants, purchased a 2014 Heartland Road Warrior 415RW Fifth Wheel Travel Trailer on June 24, 2013, from Camping World RV Sales in Lubbock, Texas.
2. The vehicle's manufacturer, Heartland Recreational Vehicles, LLC, the Respondent, issued a one year warranty with coverage starting from the date of the original retail purchase.
3. At the time of the hearing on December 15, 2014, the vehicle's warranty had expired.
4. The Complainants filed the Lemon Law complaint because the black and gray water tanks leaked. In addition, the Complainants amended their complaint to allege that the air conditioning worked inadequately, the 12 volt system underperformed, the slide outs made a noise during operation, the tank level indicators appeared inaccurate, a window

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<sup>11</sup> Complainants' Ex. 1, Lemon Law Complaint Form.

<sup>12</sup> Complainants' Ex. 2, August 20, 2014, letter to John DuFour with attachments.

<sup>13</sup> The component referred to as the sound system or DVD player actually combines a DVD player and a stereo receiver in a single unit (i.e., a home theater system). David Partin testified that the DVD player is integrated with the stereo in a single unit.

leaked, guides on a drawer were broken, awning lights operated partially, the fresh water tank leaked, weather stripping had to be removed, a stove striker knob was broken, the bathroom partition door would come off-track, the sound system volume would increase by itself, and bed legs were broken.

5. All issues in the Lemon Law complaint, as amended, were resolved except for the sound system volume.
6. On October 24, 2013, the Complainants took the vehicle for repair to Camping World RV Supercenter, Respondent's authorized dealer, in New Braunfels, Texas. No repairs were performed on the sound system because the volume issue could not be duplicated.
7. On December 2, 2013, the Complainants took the vehicle for repair to Camping World RV Sales, Respondent's authorized dealer, in Lubbock, Texas. No repairs were performed on the sound system because the volume issue could not be duplicated. However, the dealer noted that the TV may need to be adjusted.
8. On or about October 20, 2014, through November 15, 2014, the Respondent performed an inspection and final repair at the Respondent's facilities in Elkhart, Indiana.
9. During the final repair attempt, the Respondent replaced the sound system and remote.
10. Since the final repair attempt, the Complainants have continued to experience issues with the sound.
11. The Respondent's warranty states that it does not cover additional components in the vehicle, including but not limited to DVD/CD players and other components not specifically manufactured by Respondent.
12. The sound system was manufactured by Sony.
13. On July 11, 2014, the Department's Office of Administrative Hearings issued a notice of hearing directed to Complainants 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.

14. The hearing convened on December 15, 2014, in Lubbock, Texas before Hearings Examiner Anne K. Perez. Complainants, Sue A. Kendrick and Warren Kendrick, represented themselves. David Partin, Consumer Affairs Manager, represented the Respondent. The hearing record was closed on April 10, 2015, upon the Complainants' notification that the issue regarding the water tanks had been resolved, making further testimony unnecessary.

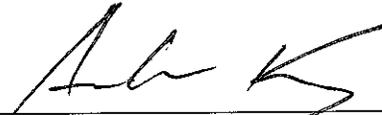
#### **IV. Conclusions of Law**

1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. TEX. OCC. CODE §§ 2301.601-2301.613 (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. Complainants 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. Complainants bear the burden of proof in this matter. 43 TEX. ADMIN. CODE § 215.206.66(d).
6. Complainants failed to prove by a preponderance of the evidence that the vehicle has a verifiable defect or condition covered by Respondent's warranty 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. Complainants' vehicle does not qualify for replacement or repurchase. TEX. OCC. CODE § 2301.604.

**V. Order**

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainants' petition for relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 is **DISMISSED**.

**SIGNED May 27, 2015**



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**ANDREW KANG**  
**HEARINGS EXAMINER**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**