

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 14-0255 CAF**

ERIC ISRAEL,	§	BEFORE THE OFFICE
Complainant	§	
v.	§	
	§	
JAGUAR LAND ROVER CENTRAL	§	OF
AMERICA, LLC, and	§	
CHASE AUTO FINANCE CORP.,	§	
Respondents	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Eric Israel filed a “Lemon Law” complaint against Jaguar Land Rover Central America, LLC (Jaguar) for alleged defects in his 2012 Jaguar XJ. He seeks repurchase relief due to alleged defects in the vehicle’s sunroof. Jaguar argues that the Mr. Israel has not shown the existence of a nonconformity that creates a safety hazard, or that substantially impairs the use or market value of the vehicle. The hearings examiner finds that there is insufficient evidence of a presently existing warrantable defect in the vehicle. Accordingly, the request for repurchase relief must be denied and the complaint dismissed.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

Matters of notice¹ and jurisdiction were not contested. These issues are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

The evidentiary hearing in this case convened and closed on November 5, 2014 in Houston, Texas, with Hearings Examiner Anne K. Perez presiding. Mr. Israel appeared and represented himself. Jaguar appeared and was represented by attorney John W. Chambless II. Chase Auto Finance Corp. appeared telephonically through attorney James M. Meredith.²

¹ In this context, the term “notice” refers to notice of the contested case hearing. The date that Jaguar received Mr. Israel’s written notice of alleged defects in vehicle, and when Jaguar exercised its opportunity to repair the vehicle, is a separate issue discussed below.

² Mr. Israel is leasing the 2012 Jaguar XJ from JPMorgan Chase Bank N.A., as assignee of Chase Auto Finance Corp. Prior to hearing the parties entered into a joint stipulation of facts rendering Chase Auto Finance Corp.’s active participation in the hearing unnecessary. Mr. Meredith’s telephonic participation consisted of confirming that, should this decision order repurchase relief, the stipulated facts provide sufficient information to calculate the repurchase price of the vehicle, and to properly allocate the refund amount between the lessee and lessor in conformance with 43 Texas Administrative Code § 215.208(c).

DISCUSSION

A. Applicable Law

In a contested case hearing before the Texas Department of Motor Vehicles (Department), a complainant seeking repurchase or replacement of a motor vehicle pursuant to Texas Occupations Code §§ 2301.601-.613 (Lemon Law) must establish the following criteria: (1) the manufacturer has not conformed the vehicle to an applicable express warranty because the manufacturer cannot repair the defect; (2) the defect creates a serious safety hazard, or substantially impairs the use or market value of the vehicle;³ (3) the manufacturer has been given a reasonable number of attempts to repair the defect; (4) the owner sent written notice of the defect to the manufacturer;⁴ and (5) the manufacturer has been given an opportunity to cure the defect.⁵

A complainant may establish a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a vehicle to a manufacturer's express warranty. This rebuttable presumption is established by evidence showing that the defect creating a serious safety hazard still exists after two or more repair attempts and that: (1) one repair attempt occurred in the 12 months or 12,000 miles, whichever comes first, following the date of original delivery to the owner; and (2) at least one other repair attempt occurred in the 12 months or 12,000 miles, whichever comes first, immediately following the date of the first repair attempt.⁶

³ A "serious safety hazard" is "a life-threatening malfunction or nonconformity" that "substantially impedes a person's ability to control or operate a vehicle for ordinary use or intended purposes," or "creates a substantial risk of fire or explosion," while "impairment of market value" means "a substantial loss in market value caused by a defect specific to a vehicle." *See* Tex. Occ. Code § 2301.601(1) and (4).

⁴ Tex. Occ. Code § 2301.606(c)(1).

⁵ Tex. Occ. Code § 2301.606(c)(2).

⁶ Tex. Occ. Code § 2301.605(a)(2). Similarly, it is presumed that a reasonable number of attempts have been made to correct a warrantable defect that substantially impairs the vehicle's use or market value if the defect still exists after being subject to repair four or more times and: (A) 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 (B) 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. *See* Tex. Occ. Code § 2301.605(a)(1). The same presumption is established if a warrantable defect that substantially impairs the vehicle's use or market value continues to exist and (A) the vehicle was out of service for repair for a cumulative 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; and (B) at least two repair attempts were made in the 12 months or 12,000 miles following the date of original delivery to an owner. *See* Tex. Occ. Code § 2301.605(a)(3).

B. Undisputed Facts

On December 23, 2011, Mr. Israel purchased/leased a new 2012 Jaguar XJ Supercharged (the vehicle) from Nalley Jaguar of Roswell, Georgia, via Chase Auto Finance Corp. (Chase Auto), with mileage of 19 at the time of delivery.⁷ Chase Auto assigned the lease to JPMorgan Chase Bank N.A. As of November 5, 2014, Mr. Israel's lease payments remitted to the lessor, JPMorgan Chase Bank N.A., totaled \$40,128.55.⁸

Jaguar manufactured the vehicle. On December 23, 2011, Jaguar issued a basic limited warranty for the vehicle covering defects in factory-supplied materials and workmanship for four years or 50,000 miles, whichever occurs first.⁹ On the date of hearing the vehicle's mileage was 34,758, and coverage under Jaguar's basic limited warranty was in effect.

Mr. Israel's Lemon Law complaint against Jaguar filed with the Department on May 20, 2014, describes the vehicle's sunroof as "unsecured,"¹⁰ and asserts that the sunroof's defective condition creates a safety hazard.¹¹

C. Mr. Israel's Evidence

Mr. Israel offered his own testimony and the testimony of two other witnesses, Dexter Taylor, Parts and Service Director for Jaguar Houston Central of Houston, Texas, and Greg Duvall, Sales Manager of Helfman Dodge Chrysler Jeep, Inc. located in Katy, Texas. Mr. Israel also offered a number of documentary exhibits.

1. Testimony of Eric Israel

Mr. Israel testified that he is the primary driver of the vehicle. Approximately one month after he took possession of the vehicle he noticed a defect in the rear window glass. He now believes that this early failing was related to a larger problem, the defective condition of the sunroof. Over the past 33 months,

⁷ Complainant Ex. 14, Retail Purchase Agreement and Motor Vehicle Lease Agreement.

⁸ Joint Stipulation of Certain Facts, filed by all parties on November 5, 2014.

⁹ Complainant Ex. 13.

¹⁰ Complainant Ex. 1.

¹¹ *Id.*

the vehicle's sunroof has been serviced repeatedly by Jaguar Houston Central of Houston, Texas, a Jaguar-authorized repair facility. The dealer's repair orders reflect the following information:¹²

Date In/Out	Mileage In/Out	Reported Concern	Diagnostic Action And Dealer's Findings
2-8-12 to 2-10-12	1,023 to 1,023	A defect in rear window. Separating. SOP in Parts Dept.	Cause: Defect in Glass. Subletted to Palladian Glass. Replace the Rear Window Glass
8-27-12 to 8-31-12	7,269 to 7,273	Sunroof shade not closing properly. Leaves about ½ open when in closed position	Cause: Sunroof Misaligned/Out of Calibration. Performed Body System Diagnosis/Performed SDD Diagnosis/Recalibrated Sunroof/Test to Confirm Repair
10-4-12 to 10-5-12	8,111 to 8,112	Sunroof rattling or creaking	Cause: Sunroof misaligned. Lubricated & adjusted sunroof glass & seals/adjusted sliding roof panel
12-19-12 to 12-20-12	10,351 to 10,352	Sunroof making noise or rattling	Adjusted sunroof glass for rattle over rough roads
6-26-13 to 6-28-13	16,002 to 16,002	Creaking noise from sunroof over potholes; sun shade not closing right, or not closing all the way (leaves 2" gap)	Cause: OK. Calibrated sunroof using SDD
8-12-13 to 8-19-13	18,139 to 18,139	Squeak in sunroof while driving & going over bumps	Cause: Loose & misaligned fasteners for roof panel. Removed headliner for access, tightened all roof fasteners & adjusted studs at rear of roof to keep from binding on turns causing noises; reinstalled headliner & test-drove; found no other noises at this time from roof area.
12-24-13 to 1-6-14	24,443 to 24,443	Sunroof is rattling	[Found] bolts installed too tight on Recall K1117 & roof panel trimmed as per SSM 68237. [Re-trimmed] as per SSM 68237 & Reperformed K1117 Repair, i.e., replaced all bolts and washers for roof assembly.
1-13-14 to 1-31-14	25,009 to 25,009	Sunroof is creaking, seems to be worse in cold weather	Cause: Sunroof mechanism stripped out & couldn't tighten roof panel; replaced sunroof tray assembly.
4-21-14 to 5-8-14	28,261 to 28,261	Sunroof is rattling over uneven surfaces or when vehicle is being torqued; See Dexter before doing any work on vehicle	Rechecked & adjusted roof assembly for popping noise on inclines; Did these repairs with FSE as per his request; Replaced sliding roof adjustment bolts & adjusted sliding roof, dropped headliner for access; Checked & adjusted torque on roof assembly; Bolts all as per FSE
9-3-14 to 9-4-14	32,326 to 32,326	Sunroof is making noise	Checked for correct torque & location of all bolts & nuts; performed TSB jtb00368nasl repair working with FSE; dropped headliner checked torque of all bolts & nuts for sunroof assembly; performed repair as per TSB issued 8-18-14 for creaking noise; performed extensive road test with FSE to verify sunroof is quiet & safe.

¹² The repair orders were admitted as Complainant Exs. 2-11. The table summarizes information in the repair orders related to the vehicle's sunroof only, i.e., maintenance and other repair issues are not included.

Following admission of the above-referenced repair orders, the bulk of Mr. Israel's testimony was offered during the course of Mr. Taylor's testimony.¹³

Mr. Israel indicated that his purchase/lease of the 2012 Jaguar XFR was an expensive decision, and the transaction was troubled from the get-go. Nalley Jaguar, the Georgia-based selling dealer, assured Mr. Israel that his purchase of the vehicle prior to January 1, 2012 qualified him for "Platinum" coverage. Nalley Jaguar's claim was an active misrepresentation and the dealer was soon out of business.¹⁴ Meanwhile, Mr. Israel was committed to a 48-month lease term without adequate insurance coverage for expensive automotive repairs. This was not an auspicious beginning.

Still, the leased vehicle was brand-new and he was not expecting that repairs would be necessary anytime soon. Almost immediately, however, the sunroof began exhibiting problems. First there was a defect in the rear window glass. Then the sunroof shade started malfunctioning. After that problem was fixed there was repetitive noise coming from the sunroof: squeaking, rattling, creaking, or popping noises. The sun shade failed again and would not close all the way. Despite numerous repair attempts, the sunroof's complications continued. Based on the recurring nature of these problems, Mr. Israel believes that the sunroof assembly does not properly fit the vehicle, and the issue is not subject to repair. An ill-fitting sunroof raises safety concerns, particularly if one considers a roll-over accident scenario.

Mr. Israel indicated that problems with the car's sunroof have taken up a lot of time and energy that he could have devoted to other matters. The situation has caused him extreme disappointment and frustration. Still, he has remained pleasant and polite to dealership personnel, despite being inconvenienced by their multiple failed repair attempts. He recalled that the dealer made consistent efforts to repair the car, in direct contrast with the manufacturer.

Short of filing a Lemon Law complaint, Mr. Israel said he worked hard to reach a satisfactory resolution with Jaguar. However, the manufacturer has not treated him fairly. Mr. Israel noted Jaguar has received numerous consumer complaints about the sunroof assembly in its XJ models. Although the

¹³ Although counsel for Jaguar voiced numerous, specific evidentiary objections during Mr. Israel's direct case presentation, counsel did not object to the form of Mr. Israel's testimony.

¹⁴ Complainant Ex. 21, email from Dexter Taylor to Jaguar Aftersales Market Manager Matt Humphrey.

manufacturer addressed the issue as early as February 2012,¹⁵ its technical response to problems was very limited. Jaguar's development of broader, more effective repair solutions for the XJ model's sunroof problems were slow to come,¹⁶ and complaints from consumers, including Mr. Israel, went largely ignored. Mr. Israel expressed anger and frustration at Jaguar. The company is plainly aware of problems with the XJ model's sunroof assembly, yet in Mr. Israel's case, Jaguar has willfully refused to acknowledge that his Lemon Law complaint has merit.

Mr. Israel is particularly upset that Jaguar was allowed two opportunities to repair the sun roof assembly in his car, first while the vehicle was being serviced at Houston Jaguar Central between April 21, 2014 and May 8, 2014, and again during a service visit that occurred on September 3-4, 2014. He presented proof that on May 5, 2014, Jaguar received a faxed copy of Mr. Israel's written notice of alleged defects in the vehicle's sunroof assembly, pursuant to the Texas Lemon Law.¹⁷ Mr. Israel purposefully left his vehicle at Jaguar Houston Central until May 8, 2014 so that a Jaguar representative could inspect and/or make repairs. In fact, a Jaguar Field Service Engineer *was* present at that time, and actually oversaw repairs that were made to his vehicle during that service visit. According to Mr. Israel, the vehicle's sunroof "was creaking like crazy" prior to September 2014, when Jaguar was provided a second, unwarranted opportunity to make further repairs to the vehicle. Not only was this second repair attempt unjustified, but the repair itself – which involved the use of felt tape – was merely a "Band-Aid," *i.e.*, the repair may succeed for a short period of time but its future failure is almost certain. In short, Mr. Israel has no confidence that the repair will last.

2. Testimony of Dexter Taylor

Dexter Taylor testified that he is the Parts and Service Director of Jaguar Houston Central, a position that requires him to manage the dealership's service department. He indicated that he is familiar with the service history of Mr. Israel's vehicle. Although he did not work on the vehicle personally, he

¹⁵ Complainant Ex. 17, Technical Bulletin K117NAS1 issued February 17, 2012, titled "Service Action: Panoramic Roof 'Creak,'" was restricted to vehicles within a discrete range of Vehicle Identification Numbers (VINs).

¹⁶ Complainant Ex. 18, identified as "TOPIX-SSM68237-XJ Moving Panel Rear Edge Tooth Feature Removal," was "Last Modified" on September 13, 2013. In addition, Jaguar's Technical Bulletin JTB00368NAS1 addressing "Panoramic Roof 'Creak' Noise While Driving with Roof Opening Panel Closed" was issued on August 18, 2014. See Complainant Ex. 19.

¹⁷ Complainant Ex. 12.

supervised the dealer's lead Jaguar service technician, Joey Watkins, who performed many of the repairs to the vehicle's sunroof.

Mr. Taylor testified about the various repair orders admitted as Complainant Exs. 2-11. With respect to the August 27, 2012 invoice reflecting that the sunroof shade was found to be out of calibration, Mr. Taylor agreed this was a recurring issue with Jaguar XJ vehicles. He explained that noise from the sunroof comes from two potential areas: the sun shade or the moving glass. The sun shade is motorized. Recalibration of the motor should reduce noise associated with the sun shade's movement. If the sun shade "sticks" and fails to open and close properly, technicians employ lubrication for smoother operation. On the other hand, the sunroof's moveable glass is more likely to make "rattling" or "creaking" noises, which cannot be addressed through calibration or lubrication. During a test drive of Mr. Israel's vehicle prior to Jaguar's September 2014 repair attempt, Mr. Taylor agreed that the creaking noise he heard coming from the sunroof was "not normal."

Mr. Taylor testified that he was aware of Technical Bulletin (TB) K117NAS1 issued by Jaguar on February 17, 2012,¹⁸ which provides a repair solution for the following problem description: "...a limited number of 2010-2012 model year XJ vehicles may experience torsional loads which may cause slight movement in the Panoramic Roof joints. In some vehicles, this may lead to the generation of noise as the joint 'slips' and sticks." Although the Vehicle Identification Number (VIN) for Mr. Israel's vehicle was not within the "Affected Vehicle Range" for TB K117NAS1, Mr. Taylor said, it would not be unusual for a technician who was faced with Mr. Israel's complaint, to institute the repair solution recommended in TB K117NAS1. Mr. Taylor acknowledged, however, that the December 24, 2013 repair order indicates that TB K117NAS1 was being performed on Mr. Israel's vehicle a second time, while no prior repair order for the vehicle documents when the repair was initially performed.

Mr. Taylor testified that in January 2014, he knew of at least six service visits addressing problems with the sunroof of Mr. Israel's vehicle. He was also aware that Mr. Israel was frustrated and dissatisfied because of these ongoing issues. In an attempt to remedy the situation, Mr. Taylor personally contacted

¹⁸ Complainant Ex. 17.

Jaguar Aftersales Market Manager Matt Humphrey and asked him to review the vehicle's repair history. Mr. Taylor requested, and received authorization from Mr. Humphrey to replace the sunroof assembly in the vehicle at no charge to Mr. Israel. The sunroof assembly replacement is reflected in the dealer's repair order opened on January 13, 2014.¹⁹

Mr. Taylor testified that according to the April 21, 2014 repair order,²⁰ Jaguar Field Service Engineer Arden Peterson was involved in repairs performed to the vehicle's sunroof during that service visit. At the time, Jaguar had not issued any further technical bulletins regarding the sunroof mechanism in Jaguar XJ models. Several months later, on August 18, 2014, Jaguar issued TB JTB00368NAS1 addressing "Panoramic Roof 'Creak' Noise While Driving with Roof Opening Panel Closed."²¹ The repairs outlined in Jaguar's August 18, 2014 TB were performed on the sunroof in Mr. Israel's vehicle during the September 3, 2014, service visit,²² under the supervision of a Jaguar Field Service Engineer. Mr. Taylor could not say whether the strips of felt tape added to the sunroof assembly were part of this repair, or whether the tape was put in place by dealer technicians.

3. Testimony of Greg Duvall

Greg Duvall, Sales Manager of Helfman Dodge Chrysler Jeep, Inc., appeared by telephone. He testified that he has been dealing in used vehicles since 2001, and currently appraises about 40-50 vehicles per week. On November 3, 2014, he performed a "Used Car Appraisal" of Mr. Israel's 2012 Jaguar XJ to determine the vehicle's "trade-in" value. In order to conduct the appraisal, Mr. Duvall performed a visual inspection of the vehicle, and he reviewed all of the car's service records provided by Mr. Israel. Mr. Duvall also utilized outside resources to determine the car's value, including Manheim Market Reports (a resource for wholesale vehicle valuation) and pricing information published by the National Automobile Dealers Association.

¹⁹ Complainant Ex. 9.

²⁰ Complainant Ex. 10.

²¹ Complainant Ex. 19.

²² Complainant Ex. 11.

Mr. Duvall testified that between his review of the service records and talking with Mr. Israel, he was aware of existing problems with vehicle's sunroof. In addition, when he visually inspected the vehicle he observed the presence of "padding" in the sunroof mechanism.²³ Based on the information made available to him, Mr. Duvall determined that the vehicle's "trade-in" appraisal value was \$40,000.²⁴ After reduction of a \$1,000 standard reconditioning fee, he also reduced the vehicle's appraised trade-in value by \$4,000, the estimated cost of a sunroof assembly replacement. In the end, he concluded that the vehicle's "trade-in" appraisal value was \$35,000.

On cross-examination, Mr. Duvall stated that he did not drive Mr. Israel's vehicle so he lacked any personal knowledge of noise coming from the sunroof. He indicated that with the sunroof "problem," his dealership would purchase the vehicle for \$35,000, spend \$4,000 replacing the sunroof, and then put it on the lot at a sales price of \$44,000 or \$45,000. Although the "padding" in the vehicle's sunroof did not look "normal" to Mr. Duvall, he stated that this factor, in the absence of noise, would not reduce the vehicle's trade-in value, *i.e.*, Mr. Israel's description of noise from the sunroof was the basis for his \$4,000 deduction from the vehicle's appraised trade-in value.

D. Jaguar's Evidence

Jaguar did not offer witness testimony. Jaguar offered one documentary exhibit, reflecting an email exchange between Mr. Israel and Jaguar representative Karen Gehrman that took place on May 8, 2014. Mr. Israel wrote:

Karen,

Attached is a letter to Texas Dept. of Motor Vehicles that I was planning to send today along with the Lemon Law Complaint Form. I am going to hold off on sending it until I hear back from you in the interest in trying to get this resolved.²⁵

Ms. Gehrman confirmed receipt of the letter by email sent ten minutes later.

²³ Mr. Duvall's reference to "padding" is more accurately described as felt tape. Jaguar's September 3, 2014 repairs to the sunroof included the addition of felt tape. Strips of felt tape in the sunroof mechanism are clearly visible in photographs that were taken by Mr. Israel following referenced repairs. *See* Complainant Ex. 20.

²⁴ In contrast, Kelly Blue Book lists a Trade-in Value of \$47,417 for a 2012 Jaguar XJ Supercharged. *See* Complainant Ex. 23.

²⁵ Respondent Ex. 1.

E. Inspection and Test Drive of Vehicle at Hearing

Mileage was at 34,758 when Mr. Israel, Mr. Taylor, Mr. Chambless, and the hearings examiner participated in a vehicle inspection and test-drive at hearing. It was raining throughout the test drive, which lasted approximately 45 minutes.

Mr. Israel acknowledged that between the sound of rain and the addition of the felt tape, any noise from the sunroof was likely to be muffled. He repeatedly (6-7 times) drove the car on a short, sharp incline located behind the Jaguar Houston Central dealership, where the vehicle has undergone similar testing on previous occasions. No discernable noise emitted from the sunroof area.

Mr. Taylor testified that two "teeth" were cut from the sunroof's outside seal on the rear driver's side, and corresponding "teeth" were cut from the sunroof's outside seal on the passenger side. Eight pieces of felt tape were strategically placed to prevent the sunroof glass from coming into contact with the body of the vehicle. He explained that tubes located in the sunroof's outer seal provide an escape route for rain, while protecting the sun roof's inner seal from the elements.

Mr. Taylor acknowledged that rubber seals located in the sunroof assembly, similar to the "teeth," are designed to keep water from getting inside the sunroof. He was unable to say whether Jaguar's repair solution announced in TB JTB00368NAS1,²⁶ which involves cutting or trimming these rubber pieces, would allow water to seep through the sunroof's outer seal. Although it was raining, the sunroof's ability to withstand wind and hard rain was put to the test at a local car wash. Using a high-pressure water hose, Mr. Israel sprayed every angle of the vehicle's closed sunroof. During this test no water dripped into the vehicle through the closed sunroof.

During the test drive, Mr. Israel drove the vehicle for several miles over undulating roads. He drove over bumps and through potholes. Again, the presence of noise from the sunroof was not apparent.

²⁶ Complainant Ex. 19.

F. Analysis

In order to prevail in a request for repurchase relief, Mr. Israel must show by a preponderance of the evidence that Jaguar has not conformed the vehicle to an applicable express warranty because Jaguar cannot repair a warrantable defect in the vehicle. In addition, Mr. Israel must show that the nonconformity creates a serious safety hazard or substantially impairs the use or market value of the vehicle. Neither of these statutory elements were established by the required standard of proof.

Mr. Israel is the primary driver of the vehicle. He credibly testified that he has experienced multiple, recurring problems with the car's sunroof. The sunroof shade's motorized function has required repair on two occasions. On many more occasions, the sunroof assembly was serviced for noise variously described as creaking, squeaking, rattling and popping. The existence of these problems is well-documented, not only by service technicians who worked on the vehicle but by the manufacturer. Jaguar has issued at least three publications addressing the problems raised by Mr. Israel.

Mr. Israel's frustration with a very-expensive leased vehicle, and his perception of Jaguar's cavalier attitude toward customer satisfaction, is completely understandable. Like it or not, he entered into a 48-month lease agreement shadowed by inducement and misrepresentation. Eight months later (in August 2012), with mileage of little more than 7,000, the costly vehicle's sunroof began exhibiting problems. Since that time the car's sunroof assembly has been subject to repair nine times. Some of the repairs have lasted longer than others, but every single repair performed so far has eventually failed. It is no wonder that Mr. Israel lacks confidence in Jaguar's September 2014 repair attempt.

Nevertheless, the standard of proof requires that Mr. Israel demonstrate the current existence of a warrantable defect in the vehicle. Jaguar's September 2014 repairs to the sunroof assembly, regardless of technicians' reliance on felt tape, appears to have successfully eliminated noise coming from the sunroof. The noise was not present during a 45-minute test drive on the date of hearing. In addition, the closed sunroof was sprayed from all angles with a high-pressure hose, yet no water leaked inside the car. These results support the conclusion that the sunroof assembly is safely secured to the vehicle's roof, and there was no sign of any squeaking, creaking, rattling, or popping noise from the sunroof.

The fact that all previous attempts to repair the vehicle's sunroof assembly failed after some period of time, is insufficient to prove the existence of a currently existing warrantable defect. Therefore, the request for repurchase relief must be denied.

II. FINDINGS OF FACT

1. On December 23, 2011, Eric Israel purchased/leased a new 2012 Jaguar XJ Supercharged (the vehicle) from Nalley Jaguar of Roswell, Georgia, via Chase Auto Finance Corp. (Chase Auto), with mileage of 19 at the time of delivery.
2. Chase Auto assigned the motor vehicle lease to JPMorgan Chase Bank N.A. As lessee, Mr. Israel remits monthly lease payments to the lessor, JPMorgan Chase Bank N.A.
3. Jaguar Land Rover Central America, LLC (Jaguar) manufactured the vehicle.
4. Jaguar issued a basic limited warranty for the vehicle covering defects in factory-supplied materials and workmanship for four years or 50,000 miles, whichever occurs first.
5. On the date of hearing the vehicle's mileage was 34,758, and coverage under Jaguar's basic limited warranty was in effect.
6. Jaguar Houston Central of Houston, Texas is an authorized dealer of Jaguar.
7. Between February 2012 and September 2014, the vehicle was serviced for problems with the sunroof assembly on nine occasions by Jaguar Houston Central:
 - a. August 27, 2012, at 7,269 miles;
 - b. October 4, 2012, at 8,111 miles;
 - c. December 19, 2012, at 10,351 miles;
 - d. June 26, 2013, at 16,002 miles;
 - e. August 12, 2013, at 18,139 miles;
 - f. December 24, 2013, at 24,443 miles;
 - g. January 13, 2014, at 25,009 miles;
 - h. April 21, 2014, at 28,261 miles; and
 - i. September 3, 2014, at 32,326 miles.
8. Jaguar Houston Central addressed problems with the sunroof shade malfunctioning by recalibrating the motor.
9. Jaguar Houston Central addressed problems with noise from the sunroof by lubricating and adjusting the sunroof glass; realigning the roof panel by tightening all roof fasteners and adjusting the studs; and instituting repairs in conformance with Jaguar's published instructions.

10. In January 2014, Jaguar Houston Central addressed continuing problems with the vehicle's sunroof by replacing the sunroof assembly.
11. On May 5, 2014, Mr. Israel provided written notice to Jaguar of alleged defects in the vehicle's sunroof assembly.
12. On May 20, 2014, Mr. Israel filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) against Jaguar. The complaint described alleged defects in the vehicle's sunroof.
13. On September 3, 2014, Jaguar made a final attempt to repair the vehicle's sun roof assembly by performing the repairs described in Technical Bulletin JTB00368NAS1, issued by Jaguar on August 18, 2014.
14. Jaguar's September 3, 2014 repairs performed on the vehicle's sunroof were successful.
15. At the time of hearing, the vehicle's sun roof assembly appeared securely attached to the roof of the vehicle.
16. At the time of hearing, the vehicle's sun roof assembly was not emitting noise during travel or during operation.
17. There is not a currently existing warrantable defect in the vehicle's sunroof assembly.
18. On July 14, 2014, the Department's Office of Administrative Hearings issued a notice of hearing directed to Mr. Israel, Jaguar, and Chase Auto, 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.
19. The hearing on the merits in this case convened and closed on November 5, 2014 in Houston, Texas, with Hearings Examiner Anne K. Perez presiding. Mr. Israel appeared and represented himself. Jaguar appeared and was represented by attorney John W. Chambless II. Chase Auto appeared telephonically through attorney Jim Meredith.

III. CONCLUSIONS OF LAW

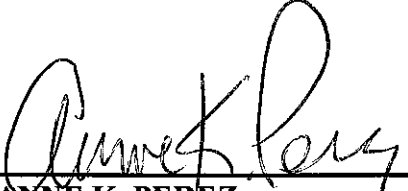
1. The Department has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a decision with findings of fact and conclusions of law, and the issuance of a final order. Tex. Occ. Code § 2301.704.

3. Mr. Israel 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. Mr. Israel 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. Mr. Israel'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 Mr. Israel's petition for repurchase relief pursuant to Texas Occupations Code §§ 2301.601-.613 is hereby **DISMISSED**.

SIGNED December 31, 2014.



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