

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 14-0277 CAF**

DAMON D. WILSON,
Complainant

v.

CHRYSLER GROUP LLC,
Respondent

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Damon D. Wilson (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in his 2014 Jeep Grand Cherokee SRT. Complainant asserts that the vehicle has electrical issues and that the vehicle has lost substantial value due to the repairs performed by the service department of Respondent's authorized dealer. Chrysler Group LLC (Respondent) argued that the vehicle has been repaired, does not have any defects, and that no relief is warranted. 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 October 1, 2014, in Houston, Texas, before Hearings Examiner Edward Sandoval. The record closed on October 3, 2014. Complainant represented himself at the hearing. Also, present on Complainant's behalf were, Levi Wilson, his wife; Primativa Dimagan, his mother-in-law; and McArthur Reed, his father. Respondent was represented by Jan Kershaw, Early Resolution Case Manager. Also present at the hearing for Respondent was Tymothen Mancini, Technical Adviser.

II. DISCUSSION

A. Applicable Law

The Lemon Law provides, in part, that a manufacturer of a motor vehicle must repurchase or replace a vehicle complained of with a comparable vehicle if the following conditions are met. First, the manufacturer is not able to conform the vehicle to an applicable express warranty by repairing or correcting a defect after a reasonable number of attempts.¹ Second, the defect or condition in the vehicle creates a serious safety hazard or substantially impairs the use or market value of the vehicle.² Third, the manufacturer has been given a reasonable number of attempts to repair or correct the defect or condition.³ Fourth, the owner must have mailed written notice of

¹ Tex. Occ. Code § 2301.604(a).

² *Id.*

³ *Id.*

the alleged defect or nonconformity to the manufacturer.⁴ Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.⁵

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.⁶

B. Complainant's Evidence and Arguments

Complainant purchased a 2014 Jeep Grand Cherokee SRT from AutoNation Chrysler-Dodge-Jeep-Ram (AutoNation), in Spring, Texas on March 22, 2014, with mileage of 489 at the time of delivery.⁷ On the date of hearing the vehicle's mileage was 6,426. At this time, Respondent's warranty coverage for the vehicle remains in place, with "bumper to bumper" coverage for three years or 36,000 miles, whichever comes first. In addition, Respondent's powertrain warranty provides for coverage for the powertrain for five years or 100,000 miles.

Complainant feels that the vehicle in question has electrical issues and that the vehicle has been devalued as a result of damage done to the vehicle by the dealership. He wants Respondent to repurchase the vehicle from him due to his concerns.

Complainant's initial concern with the vehicle was that the right front fender flare was sticking out. Three days after he purchased the vehicle, Complainant took the vehicle to the dealer and was told that they were going to replace it, after the technicians had tried to repair it. At that time, Complainant was informed that a part had to be special ordered and be installed on the

⁴ Tex. Occ. Code § 2301.606(c)(1).

⁵ Tex. Occ. Code § 2301.606(c)(2).

⁶ 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.

⁷ Complainant Ex. 1, Motor Vehicle Retail Installment Sales Contract, Retail Purchase Agreement, Appearance and/or Windshield Protection Product Guarantee, Paintless Dent Repair Service Agreement, Tire and Wheel Protection, and Odometer Disclosure Statement dated March 22, 2014.

vehicle.⁸ The dealer kept the vehicle for three days while a repair was attempted. The mileage on the vehicle at the time was 683.⁹ Complainant was not provided with a rental car while the vehicle was in the shop.

Complainant took the vehicle back to AutoNation on April 4, 2014, and left the vehicle at the dealership and when he went to pick it up, it appeared that the dealer's service technicians had tried to repair the flare, rather than replace it. The flare was warped or sticking out, and it appeared that the dealer's technician tried to bend it back in place and ended up denting the flare and scratching it. The dealer's representative apologized to Complainant when he arrived to pick up the vehicle. Complainant questioned the representative about replacing the flare and was told that it had been damaged. The mileage on the vehicle when he took it to the dealer on this occasion was 1,830.¹⁰ Complainant was provided with a rental vehicle on this occasion, since his vehicle was not returned to him until April 12, 2014.¹¹

Complainant allowed AutoNation another opportunity to repair the vehicle and left the vehicle with the dealer around April 22, 2014. Just before he arrived to pick up the vehicle, Complainant received a call from the dealership saying that the vehicle was not ready because they had just realized that the part that they had ordered was for the wrong side of the vehicle. The left side flare had been ordered and it should have been the right side. They said that they needed to keep the vehicle another day. The next day, Complainant was told that the vehicle was ready. He believes that the dealer just repaired the original piece and put it back on the vehicle. Complainant still has possession of the left side fender flare because it was left in the vehicle by the dealership. The vehicle's mileage when he left it with the dealer on this occasion was 2,229.¹² Complainant was provided with a rental vehicle while his vehicle was being repaired.¹³ Complainant does not feel that the flare was repaired adequately because he doesn't feel that they ever installed a new fender flare, but instead just repaired the original flare.

Complainant later took the vehicle to another of Respondent's authorized dealers when an issue arose with the vehicle's blind spot sensors which kept activating whenever a vehicle was near his vehicle. Complainant took the vehicle to a different dealer, rather than continue to work with the original dealership. Complainant was told when the blind spot sensors were repaired that the service technician had to remove the vehicle's rear bumper. When taking off the bumper, the technician had to take the rear fender flares off the vehicle. When the rear fender flares were

⁸ Complainant Ex. 5, Repair Order dated March 25, 2014.

⁹ *Id.*

¹⁰ Complainant Ex. 6, Repair Order dated April 4, 2014.

¹¹ *Id.*

¹² Complainant Ex. 7, Repair Order dated April 22, 2014.

¹³ *Id.*

reinstalled, they were protruding and sticking out from the vehicle. The dealership couldn't repair the flares, so Complainant was advised to take the vehicle to a body shop which the dealer used in order to effectuate the repair. Complainant was told by the body shop manager that once the flares come off, they don't lay back down correctly, that it was a design flaw. There's a strip of tape that holds the flare in place and when they're built they lay down correctly. However, once they're pulled off, they don't go back. The manager said that they had to glue the flare back on. The next day the sensors went out again, so they had to remove the flare that had been glued back on to the vehicle in order to work on the sensors. Complainant felt that this devalued the vehicle.

Complainant received the car back again with the flare sticking out of the back. He had already filed a Lemon Law complaint and was told that Respondent had thirty days in which to look at the vehicle. Ms. Kershaw had Complainant meet the Respondent's technical adviser at the dealership. The dealership took the vehicle and the technical adviser did not speak to Complainant. When Complainant picked up the vehicle after the final repair attempt, there was a scratch on the side from the front door to the back door. The Complainant testified that every time that he's taken the vehicle to the dealership something has happened or there's been damage to the vehicle. He feels that something was done to the radio on the last trip and that the radio was pulled out, because now the molding next to it is popping up and sticking out. He also feels that the service technicians put so much glue on the flare you can see where they put the glue to get it to lay flat.

Complainant feels that the vehicle has electrical issues because an error message started appearing on the vehicle's dashboard. The message indicated "Blind Spot Alert Unavailable Wipe Rear Bumper."¹⁴ The lights on the mirror would come on and stay on. Whenever any car passed, it would go off. The blind spot sensor is supposed to turn on whenever another vehicle is in Complainant's vehicle's blind spot. If you turn on the signal while another vehicle is in the blind spot, the sensor is supposed to send an alert, i.e. a beep. The entire system kept rebooting.

Complainant first took the vehicle to Respondent's authorized dealership, Texan Chrysler-Dodge-Jeep-Ram (Texan) in Humble, Texas, to repair the issue regarding the blind spot sensor on May 16, 2014. The vehicle was inspected and a diagnostic error message came up which indicated that the right side blind spot module (RBSS) had suffered an internal failure.¹⁵ The part had to be ordered by the dealership in order to repair the vehicle. The vehicle was with the

¹⁴ Complainant Ex. 11, Vehicle Photos, date unspecified.

¹⁵ Complainant Ex. 2, Repair Order dated May 16, 2014.

dealership for one day. Complainant was provided with a rental vehicle while his vehicle was being repaired. The vehicle's mileage when he took it to Texan was 2,889.¹⁶

On May 19, 2014, Complainant took the vehicle back to Texan in order to complete the repair with the RBSS. At this time, it was necessary to remove the rear bumper fascia in order to repair the sensor. So, the dealer's technician removed the fascia, replaced the RBSS, and reinstalled the fascia. The technician also cleared the diagnostic code and verified that the system was working properly. The vehicle's mileage at the time was 2,937.¹⁷

Complainant was not satisfied with the repair because he felt that the vehicle's flare was sticking out and was advised by the dealer to take the vehicle to the body shop which the dealer used to perform body work. A technician at the body shop glued the flare down so it was no longer sticking out. When he left the body shop, the lights for the blind spot sensor locked again and came on. So, he had to take the vehicle back to the dealership again. On May 29, 2014, Complainant took the vehicle to Texan again to repair the sensor. At this time the dealer's service technician determined that the problem with the sensor was due to the fact that a ground circuit was open and not grounded properly. The ground was reinstalled and during a road test, the sensor operated normally. The vehicle's mileage when Complainant left it with Texan was 3,178.¹⁸ Complainant was provided with a loaner vehicle by the dealer, since his vehicle was in the shop for almost a week.

Complainant testified that after the blind side sensors were repaired, he began having issues with the vehicle's entertainment system. The system kept rebooting for no known reason or it would lock up so that he could not change the radio stations or do anything else with it. He would have to turn the vehicle off and on to unlock the system. This began occurring in June of 2014. This was an intermittent issue. Complainant was frustrated with going back and forth to the dealership and had already filed his Lemon Law complaint and he was in the process of making arrangements with Respondent for a final repair attempt. (Complainant filed his Lemon Law complaint with the Texas Department of Motor Vehicles on June 13, 2014.¹⁹) Complainant raised the issue regarding the system at the time for Respondent's final repair and the system was repaired at that time. What was required was a software update for the system.²⁰ In addition, Complainant felt that the rear flares were sticking out of the vehicle after the repair to the blind spot sensor system. However, they were repaired when the final repair attempt was performed. The repair was performed by gluing down the flares. The blind spot sensor system was also

¹⁶ *Id.*

¹⁷ Complainant Ex. 3, Repair Order dated May 19, 2014.

¹⁸ Complainant Ex. 4, Repair Order dated May 29, 2014.

¹⁹ Complainant Ex. 8, Lemon Law Complaint dated June 13, 2014.

²⁰ Complainant Ex. 9, Repair Order dated August 7, 2014.

inspected and determined to be performing as designed. Also, it was determined that some rivets at the bottom of the fascia were loose during the inspection. As a result, the rivets were tightened. Complainant left the vehicle at Texan for the final repair attempt on August 7, 2014. The vehicle's mileage at the time of the final inspection and repair attempt was 5,174.²¹ Complainant was provided with a rental vehicle at the time, since the dealer had possession of the vehicle until August 18, 2014.²²

During cross examination, Complainant indicated that the electrical problems have been repaired, although the radio rebooted while he was driving the vehicle the day before. He's not sure why the radio rebooted. He has not had any other problems with the blind spot sensor or the sensor for the brake system since the repairs were made to them. The Bluetooth system has been working well also.

However, Complainant is not satisfied that the vehicle's fender flares are glued down and that he can see the glue. Complainant testified that the front right fender flare was never replaced. A part was ordered for the right front, but when he arrived at the dealership to pick up the vehicle, he was told that the part that had arrived was for the wrong side of the vehicle. However, he was called the next day to pick up the vehicle as being repaired. Another part was not ordered, but the vehicle was fixed. The part is not popping off, but Complainant wanted a new part for the car not for the part to be repaired. Complainant feels that the vehicle was devalued as a result of the repair. He should not have to pay a new car price for a vehicle that has had body work done to it. When he traded in a vehicle for his present vehicle, Complainant testified that the trade in price was reduced by \$500 because he had some slight repair work done to his prior vehicle. So, he's not happy that he purchased a new vehicle which has had some body work done to it and he's expected to pay for a new car. So, at this point whenever he takes the vehicle to be serviced, he has no confidence on what he's going to get back. It doesn't make any sense to him that he takes a vehicle in to be serviced and it gets scratched and damaged, the dealership only has to repair it and it costs Complainant the value of the vehicle.

Complainant used Kelley Blue Book to determine the current value of his vehicle. He said that according to Kelley Blue Book, his vehicle is currently worth \$10,000 less than what he originally paid for it. The issue with the fender flares has not affected his use of the vehicle, but he feels it has substantially devalued the vehicle.

²¹ *Id.*

²² *Id.*

C. Respondent's Evidence and Arguments

Jan Kershaw, Early Resolution Case Manager, testified that Respondent did perform a final inspection and repair attempt on Complainant's vehicle. The inspection and repair attempt was performed by Tymothy Mancini, Technical Adviser. She believes that the vehicle has been repaired and that Complainant is just not happy with how the vehicle was repaired. The vehicle's use or value has not been impaired substantially. The vehicle's warranty is for three years or 36,000 miles for basic warranty and five years or 100,000 miles for the powertrain warranty.

During cross examination, Ms. Kershaw testified that she was aware that Complainant had reached out to Respondent's customer care representatives. She was able to see the notes that the customer care representatives had taken regarding Complainant's concerns.

Tymothy Mancini, Technical Adviser, testified for Respondent. He has worked as a technical adviser for Respondent for approximately three years. He has Automotive Service Excellence (ASE) certifications in engine repair and engine performance. His other certifications have expired. He's been in the automotive industry for about nine years. Prior to his employment with Respondent, Mr. Mancini worked for independent repair shops as a mechanic.

Mr. Mancini oversaw Respondent's final repair attempt on August 7, 2014. He was referred to Texan to perform the inspection of the vehicle. He cannot personally perform any repairs to the vehicle. The dealer's technicians have to perform the required repairs. Mr. Mancini determines what's wrong with the vehicle, whether it can be fixed, and give the instructions on how to make the repairs. He feels that all of the issues raised by Complainant regarding the vehicle have been repaired.

During the inspection, Mr. Mancini addressed each of the issues raised by Complainant to Respondent. At the time, he noted that the rear fender flares were sticking out somewhat. Since neither of the dealers which Complainant used for repairs has a body shop, the repair work on this issue was farmed out to Service King Collision Repair Centers. In regards to the Bluetooth locking up, Mr. Mancini stated that this was a known issue on some of the new entertainment systems which have been installed in Respondent's vehicles. It was not necessary to remove the radio in order to perform the required update which was the required fix. All that's required for the update is to install a flash drive into the system's USB port and then upload the information. It takes about half an hour. As a result of the update, some of the settings may have changed on the radio, but nothing else has changed. The update did not affect the blind spot monitoring or the forward collision warning system which are separate from the entertainment system. In

addition, Mr. Mancini looked at the blind spot sensors to make sure they were performing properly, since they had been repaired in the past. He test drove the vehicle to ensure that the sensors were working as designed. No repairs were necessary, since they were working properly. The vehicle is equipped with forward collision warning which taps the vehicles brakes when a vehicle is too close in front. However, this option can be disabled. In addition, he tested the vehicle's adaptive cruise control which can control the distance between the vehicle and the vehicle in front of it. This was also working as designed. Mr. Mancini also looked at the right rear of the vehicle where some rivets were loose on the bottom of the vehicle's fascia where the wheel well meets the rear bumper. He believes that when a prior repair had been made to the blind spot sensors they forgot to put the rivets back in. He had the body shop put them back in. Finally, he had the dealer's technicians perform repair work due to a recall for the brake booster.

Mr. Mancini also offered testimony on the repair orders submitted by Complainant for the hearing. He stated that the repair order from AutoNation dated March 25, 2014, seems to indicate that an inspection was performed on Complainant's vehicle, but no work was actually performed, since the necessary part was not available. Instead the part was ordered for future installment. The part in question was the right front fender flare. The part was not installed until the April 4, 2014, repair visit.

Mr. Mancini indicated that on the May 16, 2014, repair order dealing with the blind spot sensor that a diagnostic trouble code was read which indicated that the vehicle's right blind spot module had encountered an internal failure and needed to be replaced.

In regards to the May 19, 2014, repair order, Mr. Mancini indicated that the vehicle's blind spot sensors and the turn signals are independent and are two separate systems, so they should not have problems at the same time.

Mr. Mancini did inspect the vehicle at the time of hearing. He feels that the wheel flares look good and the gaps are right. They look better than when he initially inspected the vehicle in August of 2014. The dealer said the right front fender was replaced and it looks like it was well done. The gaps are appropriate, the paint looks good, and it looks like it was done right. The scratches on the left side seem to have been buffed out.

In regards to a question regarding information provided to Complainant from the dealership regarding one of the repairs, Mr. Mancini indicated that there apparently was a dealership error. If the part in question (the fender flare) was ordered incorrectly, then the dealership should have had to order a new part and it would have taken three to five days to arrive. Although the body

repair work may have been performed by Service King, the dealership has to order the part for them.

If a dealer doesn't have a body shop, they can send the work to a shop that can perform the required repairs. That company then would become liable for the repairs performed if something turned out to be wrong with the work. The contracted body shops are expected to follow Respondent's repair guidelines.

Under cross examination, Mr. Mancini indicated that the repairs to the vehicle look appropriate. He doesn't know if they repainted the scratches on the driver's side door, but to him it looked like they were buffed out. Mr. Mancini stated that the fender flare could not have been reworked if it had been dented as stated by Complainant. If it's bent the part can't be reworked, since it's plastic. In addition, Mr. Mancini doesn't know whether the contracted body shop glued the fender flare to the vehicle, since the body shop is not affiliated with Respondent. The part has an adhesive strip and clips to attach the part to the body of the vehicle. However, he did not see any glue seeping out of the pores or coming out on top of the flare.

Mr. Mancini indicated that the vehicle's radio system was updated. It did not need to be completely replaced and should not have been taken out of the dash. The molding by the radio that was sticking up at the time of the vehicle inspection was not related to any repairs made to the radio's system. If the radio had been removed, the molding would not have been affected. The molding sticking up sometimes happens and could be due to the heat during the summer. The molding is still covered by warranty and can be repaired at no cost to Complainant.

D. Analysis

Under the 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 the manufacturer was given a reasonable number of attempts to repair or correct the defect or condition to conform the vehicle to an applicable express warranty. Finally, Complainant is required to serve written notice of the defect or 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 or condition, Complainant is entitled to have the vehicle repurchased or replaced.

Complainant purchased the vehicle on March 22, 2014 and presented the vehicle to an authorized dealer of Respondent due to his concerns with the vehicle's right front fender flare on the

following dates: March 25, 2014, April 4, 2014, and April 22, 2014. In addition, Complainant presented the vehicle to an authorized dealer due to his concerns with the vehicle's blind spot monitors on May 16, 2014, May 19, 2014, and May 29, 2014.

Texas Occupations Code § 2301.603 provides that "a manufacturer, converter, or distributor shall make repairs necessary to conform a new motor vehicle to an applicable manufacturer's converter's or distributor's express warranty." In the present case, the evidence indicates that Complainant had two primary concerns with the vehicle. These concerns were: that the vehicle has electrical issues and that the vehicle has lost substantial value due to the repairs performed by the service department of Respondent's authorized dealer. Whether the vehicle had electrical issues was not proven by Complainant. The vehicle did have issues with the blind spot sensors not working correctly. But this was repaired on May 29, 2014, and Complainant has not had any other problems with the blind spot sensor system. In addition, the radio system malfunctions were cured by the software update performed on August 7, 2014. There was no other evidence of any possible electrical issues with the vehicle. Therefore, the hearings examiner must hold that the problems were repaired and Complainant's concerns regarding this issue do not constitute sufficient grounds to order repurchase or replacement relief.

Complainant's second concern regarding the vehicle's loss of value was raised due to the type of repair performed by the dealer on the vehicle's right front flare and the repairs done to the rear fender flares. Complainant alleges that the flares were glued down and that a replacement part which was allegedly ordered by the dealership for the right front fender flare was never installed on his vehicle. Complainant feels that the type of repair has substantially decreased the value of the vehicle. Relief under the Lemon Law can only be granted if the manufacturer of a vehicle has been unable to conform a vehicle to the manufacturer's warranty. If a vehicle has been repaired then no relief can be possible. The Lemon Law does not require that a manufacturer use new parts to repair a vehicle, as long as the vehicle has been repaired to conform to the manufacturer's warranty. In addition, a loss of value to the vehicle when a defect has been cured does not warrant relief under the Lemon Law. The Lemon Law requires that in order for a vehicle to be determined to be a "lemon" the "nonconformity continues to exist" after the manufacturer has made repeated repair attempts.²³ In the present case, the evidence reveals that the vehicle has been fully repaired and that it currently conforms to the manufacturer's warranty. Therefore, the hearings examiner finds that there is no defect with the vehicle that has not been repaired and, as such, repurchase or replacement relief for Complainant is not warranted.

Respondent's express warranty applicable to Complainant's vehicle provides "bumper to bumper" coverage for 3 years or 36,000 miles whichever comes first. In addition, the powertrain

²³ Tex. Occ. Code § 2301.605.

warranty provides coverage for 5 years or 100,000 miles. On the date of hearing, the vehicle's mileage was 6,426 and it remains under this warranty. As such, the Respondent is still under an obligation to repair the vehicle whenever there is a problem covered by the warranty.

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

III. FINDINGS OF FACT

1. Damon D. Wilson (Complainant) purchased a new 2014 Jeep Grand Cherokee SRT on March 22, 2014, from AutoNation Chrysler-Dodge-Jeep-Ram, in Spring, Texas, with mileage of 489 at the time of delivery.
2. The manufacturer of the vehicle, Chrysler Group LLC (Respondent) issued a bumper to bumper warranty for 3 years or 36,000 miles, whichever occurs first and a separate powertrain warranty for 5 years or 100,000 miles.
3. The vehicle's mileage on the date of hearing was 6,426.
4. At the time of hearing the vehicle was still under warranty.
5. Complainant took the vehicle to Respondent's authorized dealer, AutoNation Chrysler-Dodge-Jeep-Ram, in order to address his concerns with the vehicle's right front fender flare, on the following dates:
 - a. March 25, 2014, at 683 miles;
 - b. April 4, 2014, at 1,830 miles; and
 - c. April 22, 2014, at 2,229 miles.
6. During the March 25, 2014, repair visit to the dealership the dealer's service technician attempted to repair the flare, but was unable to do so. At the time, Complainant was advised that a part would have to be ordered and the vehicle brought back at a later date.
7. During the April 4, 2014, repair visit to the dealership the service technician again attempted to repair the fender flare and dented and scratched it. Complainant was not satisfied with the repair. At this time, Complainant was advised that a new fender flare would be ordered and installed on the vehicle.

8. On April 22, 2014, the vehicle was delivered to Complainant after the dealer repaired the fender flare. The dealer told Complainant that a new flare had been installed on the vehicle, but Complainant did not believe them. He believed that the original part had been repaired and reinstalled.
9. Complainant took the vehicle to Respondent's authorized dealer, Texan Chrysler-Dodge-Jeep-Ram, in order to address his concerns with the vehicle's blind spot sensors, on the following dates:
 - a. May 16, 2014, at 2,889 miles;
 - b. May 19, 2014, at 2,937 miles; and
 - c. May 29, 2014, at 3,178 miles.
10. During the May 16, 2014, repair visit to the dealership, the service technician determined that right side blind spot module had suffered an internal failure. Since the part was not available and had to be ordered, no other work was done at the time.
11. When the dealer received the part, Complainant took his vehicle for repair. The repair was done on May 19, 2014, at which time the blind spot module was replaced.
12. The blind spot sensor continued to act up, so Complainant took the vehicle to the dealer for repairs on May 29, 2014, at which time it was determined that a ground circuit was open and not grounded properly. The technician reinstalled the ground and ensured that the system was working properly.
13. On June 13, 2014, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).
14. Also in June of 2014, Complainant's radio system began acting up and rebooting itself.
15. On August 7, 2014, Respondent had a technical adviser (Tymothy Mancini) inspect the vehicle and conduct any necessary final repairs.
16. Mr. Mancini checked the vehicle's rear fender flares, the radio system, the blind spot sensors, the forward collision warning system, the adaptive cruise control, and the rear fascia. Repairs and updates were performed to the vehicle as necessary at this time.
17. The issue with the radio system was corrected with a software update.

18. On August 21, 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.
19. The hearing in this case convened on October 1, 2014, in Houston, Texas, before Hearings Examiner Edward Sandoval. The record closed on October 3, 2014. Complainant represented himself at the hearing. Also, present on Complainant's behalf were, Levi Wilson, his wife; Primativa Dimagan, his mother-in-law; and McArthur Reed, his father. Respondent was represented by Jan Kershaw, Early Resolution Case Manager. Also present at the hearing was Tymothen Mancini, Technical Adviser.

IV. CONCLUSIONS OF LAW

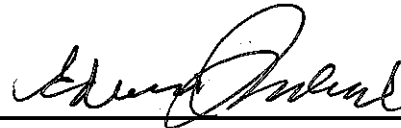
1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, 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. 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 Respondent was unable to conform the vehicle to an express warranty by repairing or correcting a 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, 2301.603.

8. Complainant's vehicle does not meet the requirements 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 §§ 2301.601-2301.613 is hereby **DISMISSED**.

SIGNED November 26, 2014



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