

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 15-0132 CAF**

JOSE LOPEZ,
Complainant

v.

FORD MOTOR COMPANY,
Respondent

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§

**BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

Jose Lopez (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in his 2014 Ford Focus. Complainant asserts that the vehicle jumps or hesitates when he's driving it and that there is an oil problem with the vehicle. Ford Motor Company (Respondent) argued that Complainant's concerns have been addressed and the vehicle has been repaired. The hearings examiner concludes that the vehicle has a currently existing warrantable defect and Complainant is eligible for replacement 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 and the record closed on May 13, 2015, in Pharr, Texas before Hearings Examiner Edward Sandoval. Complainant represented himself in the hearing. Complainant's wife, Maria Lopez, also testified in the hearing. Respondent was represented via telephone by Terrie Stone, Regulatory Compliance Specialist. Also present was Mario Davila, who provided Spanish interpretive services for Complainant.

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 owner must have mailed written notice of the alleged defect or nonconformity to the manufacturer.³ Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.⁴

¹ Tex. Occ. Code § 2301.604(a).

² *Id.*

³ Tex. Occ. Code § 2301.606(c)(1).

⁴ Tex. Occ. Code § 2301.606(c)(2).

In addition to these 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.⁵

B. Complainant's Evidence and Arguments

Complainant purchased a 2014 Ford Focus, from Boggus Ford (Boggus) in McAllen, Texas on June 21, 2014. The vehicle had mileage of 5 at the time of purchase.⁶ At this time, Respondent's basic express warranty for the vehicle is still in effect. Respondent's basic bumper to bumper warranty provides coverage for three (3) years or 36,000 miles, whichever comes first. On the date of hearing the vehicle's mileage was 19,914.

Complainant testified that the vehicle jumps or hesitates when he attempts to accelerate in the vehicle. In addition, he feels that there's an oil leak or oil problem with the vehicle. For the last four months Complainant has had to put oil in the vehicle on a monthly basis.

Complainant testified that he noticed the vehicle hesitating when he drove it about three days after purchasing it. He immediately took the vehicle back to Boggus and informed the dealer representative that the vehicle was hesitating. The representative informed Complainant that this was normal for the vehicle and that it was getting to know him. Complainant was further told that if the problem persisted after he had driven 5,000 miles in the vehicle to return the vehicle to the dealer so that it could be looked at.

Complainant further testified that he took the vehicle back to the dealer when he had accumulated 5,000 miles on the vehicle. He testified that this occurred on October 15, 2014. He left the vehicle for ten days and the dealer did not do anything to the vehicle. He also testified that he took the vehicle to the dealer on an unknown date in September of 2014, due to the fact that the vehicle had been losing oil. However, no repair order was given to him on this occasion.

Complainant took the vehicle to Boggus on September 24, 2014, due to the hesitation issue. The vehicle was in Boggus' possession until October 15, 2014.⁷ Complainant was provided a rental vehicle by the dealership while his vehicle was being repaired. He testified that he had to pay

⁵ 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.

⁶ Complainant Ex. 1, Motor Vehicle Purchase Order dated June 21, 2014.

⁷ Complainant Ex. 2, Repair Order dated September 24, 2014.

\$50 for the rental vehicle and that he was not reimbursed this amount by the dealer or the manufacturer. Complainant does not believe that the dealer's service technicians performed any repairs to the vehicle on this occasion, since he was informed by Boggus' manager that no repairs had been performed. When Complainant asked why it had taken so long for him to get the vehicle back, the manager said he didn't know. The mileage on the vehicle when Complainant took it to Boggus was 6,236.⁸

Complainant testified that after the vehicle was returned to him, it began acting the same and continued to hesitate when he attempted to accelerate. Complainant took the vehicle to Boggus on October 24, 2014. The vehicle was in Boggus' possession until October 30, 2014. Complainant was provided with a rental vehicle while his vehicle was being repaired. Complainant indicated to the dealer's service advisor that the vehicle was using too much oil and might have an oil leak, that the vehicle would hesitate upon take off, and that the vehicle needed an oil change.⁹ Complainant testified that he was told by the dealer's representatives that the dealer did not have the part required to repair the vehicle. However, they did reprogram the vehicle. The vehicle's mileage on this occasion was 6,914.¹⁰

Complainant testified that he took the vehicle back to Boggus on November 20, 2014 and December 16, 2014. Complainant testified that he was not provided with a repair order for these visits because the dealer's service technicians just put oil in the vehicle. Both times he took it to the dealer because of his concerns with the vehicle's oil consumption. However, on both occasions he told them about the vehicle hesitating when he drove it. In addition, Complainant testified that the dealer's service representatives indicated that Complainant was taking the screw out of the oil pan in order to let oil out of the vehicle. The dealer's service technicians marked the vehicle's oil dip stick and told Complainant not to touch the dip stick. When he took the vehicle back the oil level was low again. After December of 2014, Complainant did not take the vehicle back to the dealer until the final repair attempt which took place in February of 2015.

Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (TxDMV) regarding the vehicle with an effective date of January 20, 2015.¹¹ Complainant mailed a letter to Respondent informing them of his concerns with the vehicle on January 8, 2015.¹²

Complainant testified that he received a call from a Ford representative who advised him to take the vehicle to Boggus on February 12, 2015, for repair. Complainant took the vehicle as instructed to the dealer and was provided a rental vehicle while his vehicle was being inspected.

⁸ *Id.*

⁹ Complainant Ex. 3, Repair Order dated October 24, 2014.

¹⁰ *Id.*

¹¹ Complainant Ex. 4, Lemon Law complaint signed January 16, 2015. Although the complaint was signed by Complainant on January 16, 2015, it was not received by Texas Department of Motor Vehicles until January 20, 2015, which is the effective date of the complaint.

¹² Complainant Ex. 5, Letter dated January 8, 2015.

Complainant was told that same day that the vehicle was ready for pick up. Complainant does not know if any repairs were performed during this repair attempt.

Complainant stated that the vehicle is still jumping or hesitating when he drives it. In addition, he feels that the vehicle is using too much oil, since he purchased and installed two quarts of oil in the vehicle in both March and April of 2015. He also testified that the vehicle did not have oil in it on the date of hearing. However, Complainant testified that he has not seen any evidence of an oil leak after parking the vehicle.

During cross examination, Complainant testified that the only recorded oil change for the vehicle since he purchased it was in October of 2014. He stated that he took the vehicle to a mechanic in Mexico for an oil change on January 15, 2015, at which time the vehicle's oil and oil filter were changed. Complainant did not keep the receipt for this oil change.

Maria Lopez, Complainant's wife testified that she spoke to the service technician with Boggus and that she felt that the dealer's representatives did not want to help them with their concerns with the vehicle. On one occasion, Ms. Lopez was informed that she could pick out a new vehicle for an exchange. She looked at the dealer's lot and picked out a car. However, when it came time to complete the transaction, Ms. Lopez was informed that she and her husband would have to pay \$1,500 to complete the exchange.

C. Respondent's Evidence and Arguments

Terrie Stone, Regulatory Compliance Specialist, testified that the vehicle's bumper to bumper warranty is good for three (3) years or 36,000 miles. In addition, Respondent has provided a five (5) year or 60,000 mile powertrain warranty for the vehicle. Other warranties provided by Respondent for the vehicle are a seven (7) year or 100,000 mile warranty for the vehicle's clutch and a ten (10) year or 150,000 mile warranty for the vehicle's transmission control module (TCM).

Ms. Stone testified that Respondent's field service engineer, Kurt Kindler, performed a final repair attempt on Complainant's vehicle on February 12, 2015. This repair attempt was performed at Boggus. Complainant was provided with a rental vehicle during the repair. Mr. Kindler was informed that Complainant's concerns were that the vehicle's transmission "shuddered" and that the vehicle consumed too much oil.¹³ Mr. Kindler did not find anything abnormal with the vehicle's transmission and he felt that the vehicle's oil had not been changed in over 8,000 miles based on the dealer's records which he felt would account for the vehicle's oil consumption.¹⁴ The vehicle's mileage at the time of the final repair attempt was 15,037.¹⁵

¹³ Respondent Ex. 2, Vehicle Inspection Report dated February 12, 2015.

¹⁴ *Id.*

¹⁵ *Id.*

Ms. Stone testified that during the repair performed on Complainant's vehicle by Boggus on September 24, 2014, Complainant's concerns could not be duplicated. No repairs were performed on this occasion. The only warranty claim during this visit was for a goodwill rental car charge for allowing Complainant to drive a rental vehicle while his vehicle was being repaired.

On October 24, 2014, Boggus' service technicians replaced the vehicle's clutch assembly pursuant to Technical Service Bulletin (TSB) 14-0197. A TSB is an update to Respondent's Workshop Manual and provides advice to dealer's service technicians regarding issues that may be raised with particular models of vehicles. The TSB will provide information on how to repair those issues. In this instance, TSB 14-0197 deals with Respondent's DPS 6 automatic transmission which is installed in Complainant's vehicle. The TSB provides that if the technician determines that there is excessive clutch shudder in a vehicle with a DPS 6 transmission during light acceleration or if there is a fluid leak, then the technician is advised to replace the vehicle's dual clutch assembly. This was done for Complainant's vehicle during the October 24, 2014, repair.

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 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 June 21, 2014, and presented the vehicle to Respondent's authorized dealer, Boggus Ford, due to his concerns with the vehicle's hesitation issue on the following dates: June 24, 2014; September 24, 2014; October 24, 2014; November 20, 2014; and December 16, 2014. 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 2301.605(a) specifies 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."

The evidence presented at the hearing establishes that Complainant has met the requirements of this test. Complainant's first-hand and uncontroverted testimony established that when he took the vehicle to Boggus on June 24, 2014; November 20, 2014; and December 16, 2014, he

indicated to the dealer's service representatives that he was concerned with the vehicle hesitating when he drove it. Rather than inspect the vehicle to determine if Complainant's concerns were warranted, the dealer's representatives on June 24, 2014, merely told Complainant that the vehicle's behavior was normal and to return the vehicle after he had driven more than 5,000 miles to determine if there was truly a problem with the vehicle.¹⁶ On November 20, 2014 and December 16, 2014, the evidence reveals that Complainant took the vehicle to the dealer for repair for an oil consumption issue, but also raised the issue of the vehicle's hesitation, but no work was done on the vehicle at the time. Since the decision not to investigate Complainant's concern regarding the hesitation issue was due to the dealer's representatives' decisions, all three visits must be considered as valid repair attempts that were not addressed by Respondent's authorized representatives. As such, the fault in not repairing the vehicle on these occasions lies with the dealership. In addition, all six of the repair visits were made before the vehicle had been driven 12,000 miles from the date of delivery. As such, Complainant has established that a reasonable number of attempts to repair the vehicle were made by Respondent.

In addition, the evidence presented at the hearing indicates that Complainant also provided Respondent with a final opportunity to cure the defect. Complainant informed Respondent via letter dated January 8, 2015, of the issues with the vehicle and providing them with an opportunity to cure of which Respondent availed themselves. The vehicle was inspected for a final repair attempt on February 12, 2015, by Respondent's representative who determined that no repairs were necessary at that time.

The evidence indicates that the defect in Complainant's vehicle substantially impairs its use and market value. The vehicle's hesitation makes it less desirable to drive than comparable vehicles. In addition, it can cause the driver to decide that the vehicle is not roadworthy for extended trips which can affect its marketability due to the reduced capacity for use.

The evidence further demonstrates that the defect in Complainant's vehicle creates a serious safety hazard. The intermittent nature of the condition increases the safety risk and substantially impedes Complainant's ability to control or operate the vehicle for ordinary use or intended purposes.

Complainant also raised the issue of the vehicle's abnormal oil consumption. The testimony from Complainant established that he was having to put additional oil in the vehicle on a monthly basis. However, he never saw evidence of an oil leak and Respondent's technicians never discovered a leak. Obviously, the oil consumption alleged by Complainant is abnormal for a new vehicle, but absent any finding of a specific defect causing an oil leak, this cannot be used as the basis of a ruling in Complainant's favor.

¹⁶ No repair order was completed on this date, so the hearing examiner had to extrapolate the vehicle's mileage at the time of the repair visit. Between the date of purchase and the date of hearing (326 days), Complainant drove the vehicle 19,909 miles. Complainant averaged driving the vehicle approximately 61 miles per day. So, the mileage on June 24, 2014, was approximately 127. Following the same formula, the vehicle's mileage on November 20, 2014, was approximately 9,272; and on December 16, 2014, the mileage was approximately 10,858.

Although Respondent has been provided several opportunities to repair the vehicle and to ensure that it operates properly, they have not been able to do so. As such, Complainant has met his burden of proof to establish a warrantable and existing defect or condition that substantially impairs the vehicle's use and market value and creates a serious safety hazard.

Based on the evidence and the arguments presented, the hearings examiner finds that replacement of the vehicle is the appropriate remedy in this case. Complainant's request for replacement relief is hereby granted.

III. FINDINGS OF FACT

1. Jose Lopez (Complainant) purchased a 2014 Ford Focus on June 21, 2014, from Boggus Ford in McAllen, Texas with mileage of 5 at the time of purchase.
2. The vehicle's mileage on the date of hearing was 19,914.
3. The manufacturer of the vehicle, Ford Motor Company (Respondent), issued an express warranty for the vehicle for three (3) years or 36,000 miles and a powertrain warranty for five (5) years or 60,000 miles.
4. At the time of hearing the warranties for the vehicle were still in effect.
5. Within a few days of purchasing the vehicle, Complainant noticed that the vehicle seemed to jump or hesitate severely upon acceleration.
6. On June 24, 2014, Complainant took the vehicle to Boggus Ford for repair due to the vehicle hesitating, but was told by a dealer representative that the vehicle's behavior was normal.
7. Complainant's vehicle was serviced by Respondent's authorized dealer, Boggus Ford, on the following dates because of Complainant's concerns with the vehicle jumping or hesitating upon acceleration:
 - a. September 24, 2014, at 6,236 miles; and
 - b. October 24, 2014, at 6,914 miles.
8. On September 24, 2014, the dealer's service technicians could not duplicate Complainant's concerns with the vehicle.
9. On October 24, 2014, the dealer's service technicians determined that there was a problem with the vehicle and replaced the clutch assembly in order to address the jumping/hesitation issue.

10. Complainant took the vehicle to Boggus Ford for repair on November 20, 2014 and December 16, 2014 and indicated that the vehicle was still jumping/hesitating, but the dealer did not perform any repairs on either occasion.
11. On January 20, 2015 Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).
12. Respondent performed a final repair attempt on the vehicle for February 12, 2015, during which Respondent's field service engineer determined that the vehicle was operating as designed.
13. On March 30, 2015, 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.
14. The hearing in this case convened and the record closed on May 13, 2015, in Pharr, Texas before Hearings Examiner Edward Sandoval. Complainant represented himself in the hearing. Complainant's wife, Maria Lopez, also testified in the hearing. Respondent was represented via telephone by Terrie Stone, Regulatory Compliance Specialist. Also present was Mario Davila, who provided Spanish interpretive services for Complainant.

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's vehicle has an existing nonconformity that substantially impairs the use and market value of the vehicle. Tex. Occ. Code § 2301.604(a).
7. Complainant's vehicle has an existing defect or condition that creates a serious safety hazard. Tex. Occ. Code § 2301.604(a).
8. After a reasonable number of attempts, Respondent has been unable to repair the nonconformity in Complainant's vehicle so that it conforms to the applicable express warranty. Tex. Occ. Code §§ 2301.604(a) and 2301.605.
9. Based on the above Findings of Fact and Conclusions of Law, Complainant is entitled to relief under Texas Occupations Code § 2301.604(a).
10. Based on the above Findings of Fact and Conclusions of Law, Respondent is required to replace Complainant's 2013 Ford Focus with a comparable motor vehicle. Tex. Occ. Code § 2301.604(a)(1).

IT IS THEREFORE ORDERED that:

1. Respondent shall, in accordance with Texas Administrative Code § 215.208(d)(1)(A), promptly authorize the exchange of Complainant's 2014 Ford Focus (the reacquired vehicle) with Complainant's choice of any comparable motor vehicle.
2. Respondent shall instruct the dealer to contract the sale of the selected comparable vehicle with Complainant under the following terms:
 - (a) The sales price of the comparable vehicle shall be the vehicle's Manufacturer's Suggested Retail Price (MSRP);
 - (b) The trade-in value of Complainant's 2014 Ford Focus shall be the MSRP at the time of the original transaction, less a reasonable allowance for Complainant's use of the vehicle;
 - (c) The use allowance for replacement relief shall be calculated in accordance with the formula outlined in Texas Administrative Code § 215.208(b)(2) (the use allowance is \$1,914.48);
 - (d) The use allowance paid by Complainant to Respondent shall be reduced by \$35.00 (the refund for the filing fee) (after deducting the filing fee, the use allowance is reduced to **\$1,879.48**, which is the amount that Complainant must be responsible for at the time of the vehicle exchange).

3. Respondent's communications with Complainant finalizing replacement of the reacquired vehicle shall be reduced to writing, and a copy thereof shall be provided to the Department within twenty (20) days of completion of the replacement.
4. Respondent shall obtain a Texas title for the reacquired vehicle prior to resale and issue a disclosure statement on a form provided or approved by the Department.¹⁷
5. Respondent shall affix the disclosure label to the reacquired vehicle in a conspicuous location (*e.g.*, hanging from the rear view mirror). Upon Respondent's first retail sale of the reacquired vehicle, the disclosure statement shall be completed and returned to the Department.
6. Within sixty (60) days of transfer of the reacquired vehicle, Respondent shall provide to the Department written notice of the name, address and telephone number of any transferee (wholesaler or equivalent), regardless of residence.
7. Respondent shall repair the defect or condition that was the basis of the 2014 Ford Focus's reacquisition and issue a new 12-month/12,000-mile warranty on the reacquired vehicle.
8. Upon replacement of Complainant's 2014 Ford Focus, Complainant shall be responsible for payment or financing of the usage allowance of the reacquired vehicle, any outstanding liens on the reacquired vehicle, and applicable taxes and fees associated with the new sale, excluding documentary fees. Further, in accordance with 43 Tex. Administrative Code § 215.208(d)(2):
 - (a) If the comparable vehicle has a higher MSRP than the reacquired vehicle, Complainant shall be responsible at the time of sale to pay or finance the difference in the two vehicles' MSRPs to the manufacturer, converter or distributor; and
 - (b) If the comparable vehicle has a lower MSRP than the reacquired vehicle, Complainant will be credited the difference in the MSRP between the two vehicles. The difference credited shall not exceed the amount of the calculated usage allowance for the reacquired vehicle.
9. Complainant shall be responsible for obtaining financing, if necessary, to complete the transaction.

¹⁷ Correspondence and telephone inquiries regarding disclosure labels should be addressed to: Texas Department of Motor Vehicles, Enforcement Division-Lemon Law Section, 4000 Jackson Avenue Building 1, Austin, Texas 78731, Phone (512) 465-4076.

10. The replacement transaction described in this Order shall be completed within 20 calendar days from the receipt of this Order. If the transaction cannot be accomplished within the ordered time period, Respondent shall repurchase Complainant's 2014 Ford Focus pursuant to the repurchase provisions set forth in 43 Tex. Administrative Code § 215.208(b)(1) and (2). The repurchase price shall be **\$21,058.74**. The refund shall be paid to Complainant and the lien holder, if any, as their interests appear. If clear title is delivered, the full refund shall be paid to Complainant. The calculations for the repurchase price are as follows:

Purchase price, including tax, title, license and registration	\$22,938.22
Delivery mileage	5
Mileage at first report of defective condition	127
Mileage on hearing date	19,914
Useful life determination	120,000

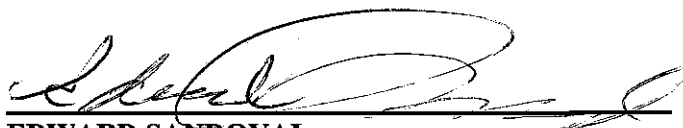
Purchase price, including tax, title, license and registration					\$22,938.22
Mileage at first report of defective condition				127	
Less mileage at delivery				<u>-5</u>	
Unimpaired miles				122	
Mileage on hearing date				19,914	
Less mileage at first report of defective condition				<u>-127</u>	
Impaired miles				19,787	
Reasonable Allowance for Use Calculations:					
Unimpaired miles					
	<u>122</u>				
	120,000	X		\$22,938.22	= \$23.32
Impaired miles					
	<u>19,787</u>				
	120,000	X		\$22,938.22	X .5 = <u>\$1,891.16</u>
Total reasonable allowance for use deduction:					\$1,914.48
Purchase price, including tax, title, license and registration					\$22,938.22
Less reasonable allowance for use deduction					-\$1,914.48
Plus filing fee refund					<u>\$35.00</u>
TOTAL REPURCHASE AMOUNT					\$21,058.74

11. If Complainant's 2014 Ford Focus is substantially damaged or there is an adverse change in its condition, beyond ordinary wear and tear, from the date of the hearing to the date of Respondent's reacquisition of the vehicle, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request reconsideration by the final order authority of the trade-in value of Complainant's vehicle.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainant's petition for replacement relief pursuant to Texas Occupations Code §§ 2301.601-.613 is hereby **GRANTED**. It is further **ORDERED** that Respondent shall repair the warrantable defect in the reacquired vehicle identified in this Decision.

SIGNED June 12, 2015



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