

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 15-0234 CAF**

CHRISTOPHER IRVINE,
Complainant

v.

**VOLKSWAGEN GROUP OF AMERICA,
INC.,**
Respondent

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Christopher Irvine (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for an alleged defect in his 2014 Volkswagen GTI. The Complainant filed a Lemon Law complaint (Complaint) alleging that the vehicle's front axle made grinding noises, the four tires failed on the front axle, the media cable failed, water pump failed, electrical system shorted, and a light cover was broken. Volkswagen Group of America, Inc. (Respondent) argued that the Complainant's concerns do not substantially impair the use, value or safety of the vehicle, the vehicle has been repaired, and the vehicle does not meet the criteria for relief under the Lemon Law, in particular, the Respondent indicated that the noise and tire failure were not warrantable defects. The hearings examiner concludes that the Complainant failed to prove by a preponderance of the evidence that the vehicle has a warrantable defect. Consequently, the Complainant's vehicle does not qualify for repurchase/replacement or warranty repair.

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 September 10, 2015, in Mesquite, Texas, before Hearings Examiner Andrew Kang. The Complainant, represented himself. Adrian Guerrero, Customer Resolution & Retention Specialist, represented the Respondent.

II. Discussion

A. Applicable Law

The Lemon Law, in part, requires a manufacturer of a motor vehicle to repurchase or replace a vehicle when the manufacturer is “unable to conform a motor vehicle to an applicable express warranty.”¹ Additionally, warranty repair under Section 2301.204 of the Texas Occupations Code requires a “defect in a motor vehicle that is covered by a manufacturer’s . . . warranty agreement applicable to the vehicle.”² Accordingly, for a vehicle to be eligible for repurchase or replacement, or even warranty repair, the vehicle must have a defect under an applicable warranty (warrantable defect).

Further, for a vehicle to qualify for replacement or repurchase, a warrantable defect must either (1) create a serious safety hazard or (2) substantially impair the use or market value of the vehicle despite a “reasonable number of attempts” at repair.³ The Lemon Law defines “serious safety hazard” as a life threatening malfunction or nonconformity that: (1) substantially impedes a person’s ability to control or operate a vehicle for ordinary use or intended purposes, or (2) creates a substantial risk of fire or explosion.⁴ The Department applies a reasonable purchaser standard for determining whether the defect substantially impairs the value of the vehicle.⁵ The Lemon Law provides three ways to establish a rebuttable presumption that a reasonable number of repair attempts have been undertaken.⁶ The first applies generally,⁷ the second applies to serious safety hazards,⁸ and the third applies to vehicles out of service for repair for at least 30 days.⁹

¹ TEX. OCC. CODE § 2301.604(a).

² TEX. OCC. CODE § 2301.204.

³ TEX. OCC. CODE § 2301.604(a).

⁴ TEX. OCC. CODE § 2301.601(4).

⁵ “[F]actfinders should put themselves in the position of a reasonable prospective purchaser of the subject vehicle and determine (based on the evidence presented) if the current condition of the vehicle would deter them from buying the vehicle or substantially negatively affect how much they would be willing to pay for the vehicle.” *Dutchmen Manufacturing, Inc. v. Texas Department of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 228 (Tex. App.—Austin 2012).

⁶ TEX. OCC. CODE § 2301.605(a).

⁷ TEX. OCC. CODE § 2301.605(a)(1).

⁸ TEX. OCC. CODE § 2301.605(a)(2).

⁹ TEX. OCC. CODE § 2301.605(a)(3).

Generally, a rebuttable presumption is established that the vehicle had a reasonable number of repair attempts if:

[T]he same nonconformity continues to exist after being subject to repair four or more times by the manufacturer, converter, or distributor or an authorized agent or franchised dealer of a manufacturer, converter, or distributor and: (A) two of the 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 (B) the other two repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, immediately following the date of the second repair attempt.¹⁰

However, the statutory rebuttable presumption does not preclude otherwise finding a reasonable number of attempts to repair the vehicle based on different circumstances and fewer attempts.¹¹ Furthermore, the Department adopted a decision implying that if the consumer takes the vehicle for a service visit then that visit would constitute a repair attempt unless the consumer was at fault for failure to repair the vehicle.¹²

Even if a vehicle satisfies the preceding requirements for repurchase/replacement relief, the Lemon Law prohibits repurchase or replacement unless: (1) the owner mailed written notice of the alleged defect or nonconformity to the manufacturer;¹³ (2) the manufacturer was given an opportunity to cure the defect or nonconformity;¹⁴ and (3) the owner filed the Lemon Law complaint within six months after the earliest of: the warranty's expiration date or the dates on which 24 months or 24,000 miles have passed since the date of original delivery of the motor vehicle to an owner.¹⁵

¹⁰ TEX. OCC. CODE § 2301.605(a)(1)(A) and (B). Texas Occupations Code § 2301.605(a)(2) and (a)(3) provide alternative methods for establishing a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a vehicle to an applicable express warranty. Section 2301.605(a)(2) only applies 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.

¹¹ “[T]he existence of statutory presumptions does not forbid the agency from finding that different circumstances or fewer attempts meet the requisite ‘reasonable number of attempts.’” *Ford Motor Company v. Texas Department of Transportation*, 936 S.W.2d 427, 432 (Tex. App.—Austin 1996, no writ).

¹² “[O]nly those occasions when failure to repair the vehicle was the fault of the consumer would not be considered a repair attempt under the statute.” *DaimlerChrysler Corporation v. Williams*, No. 03-99-00822-CV (Tex. App.—Austin, June 22, 2000, no writ) (not designated for publication).

¹³ TEX. OCC. CODE § 2301.606(c)(1).

¹⁴ TEX. OCC. CODE § 2301.606(c)(2).

¹⁵ TEX. OCC. CODE § 2301.606(d)(2).

The law places the burden of proof on the Complainant.¹⁶ The Complainant must prove each fact required for relief by a preponderance, that is, the Complainant must present enough evidence to show that all of the required facts are more likely than not true.¹⁷ For example, the Complainant must show that a warrantable defect, among other things, more likely than not exists. For any required fact, if the evidence weighs in favor of the Respondent or if the evidence supports the Complainant and the Respondent equally, the Respondent will prevail. The Complainant prevails only if the evidence shows that all of the required facts are more likely than not true.

B. Complainants' Evidence and Arguments

On June 24, 2014, the Complainant purchased a new 2014 Volkswagen GTI from Randall Reed Volkswagen McKinney. The vehicle had 63 miles on the odometer at the time of purchase. Within the first couple of days after receiving the vehicle, the Complainant experienced rubbing and clicking sounds that still persist. The Complainant speculated that the noises could relate to excessive tire wear on the front end (the tires wearing down excessively correspond to the axle making noise). The Complainant also cited an air bag issue as an aggravating safety risk factor.¹⁸ The Complainant confirmed that only he drove the vehicle and he testified that typically drove the vehicle to commute to and from work, run errands and to visit family and friends. The Complainant estimated that he drove the vehicle about 40 miles per weekday and less on weekends. The Complainant noted that he typically drove within the city, avoiding highway driving. The Complainant has not taken any long road trips since October 2014. The Complainant took the vehicle to a dealer on the following dates and miles for warranty service as shown below:

¹⁶ 43 TEX. ADMIN. CODE § 215.206.66(d).

¹⁷ *E.g., Southwestern Bell Telephone Company v. Garza*, 164 S.W.3d 607, 621 (Tex. 2005).

¹⁸ Complainant's Ex. E12, National Highway Traffic Safety Administration letter dated August 12, 2015, re: Air Bag Clock Spring may Fail.

Date	Miles	Issue
July 17, 2014	1,114	Rattling noise from engine/foot well area ¹⁹
July 19, 2014	1,207	Radio cycles between radio and phone's audio files when phone connected with MDI cable; clicking noises from front of vehicle ²⁰
October 27, 2014	5,316	Antifreeze leaking ²¹
February 9, 2015	10,213	Left inner tail light was not working ²²
February 19, 2015	10,670	Scraping noise on slow turns ²³
May 19, 2015	14,308	Noise from front end when turning; front tires wearing and forming blisters on sidewalls ²⁴
August 20, 2015	18,681	Noise from front left wheel ²⁵

In addition, the Complainant took the vehicle to a dealer on February 6, 2015, at 10,004 miles for 10,000 mile service and a multi-point inspection.²⁶ The Complainant had tires replaced at Discount Tire on October 14, 2014, at 4,606 miles;²⁷ November 3, 2014, at 5,528 miles;²⁸ and April 7, 2015, at 12,416 miles.²⁹

On July 17, 2014, the Complainant, during a visit to have his license plate installed, also asked the dealer to investigate a noise from the wheel well. The dealer asked the Complainant to leave the vehicle overnight for further inspection but the Complainant could not leave the vehicle so the dealer lubricated the front end. The lubrication did not resolve the issue. The noise returned and the Complainant brought the vehicle in for service. On July 19, 2014, the Complainant took the vehicle to a dealer to address the clicking noise and connectivity issues with the MDI cable. The Complainant left the vehicle to allow the dealer to troubleshoot the source of the noise. The Complainant also testified that after repairs, the noise abated significantly. The clicking went away and the grinding noise only occurred when starting. The Complainant stated that the MDI cable

¹⁹ Complainant's Ex. D1, Invoice No. VWCS76066.

²⁰ Complainant's Ex. D2, Invoice No. 145121.

²¹ Complainant's Ex. D5, Invoice No. 149418.

²² Complainant's Ex. D8, Invoice No. 153755.

²³ Complainant's Ex. D9, Invoice No. 154201.

²⁴ Complainant's Ex. D11, Invoice No. 157711.

²⁵ Complainant's Ex. D12, Invoice No. 161761.

²⁶ Complainant's Ex. D7, Invoice No. 153705.

²⁷ Complainant's Ex. D3, Invoice No. 1251214.

²⁸ Complainant's Ex. D6, Invoice No. 1254837.

²⁹ Complainant's Ex. D10, Invoice No. 1876317.

worked when checked but also stated that he did not use it much. On October 14, 2014, the Complainant noticed a blister on sidewall of the left front tire and had the tire replaced with the same type of tire that originally came with the vehicle. On October 27, 2014, the Complainant took the vehicle to the dealer to address leaking antifreeze, at which visit the dealer replaced the water pump, seals, and a belt. The Complainant did not notice any further antifreeze leaking. On November 3, 2014, the Complainant had the front passenger tire replaced, with the same type tire, at Discount Tire due to a blister on the sidewall. On February 6, 2015, the Complainant brought the vehicle in for its regular 10,000 mile maintenance and did not notice any tire issues. On February 9, 2015, the Complainant took the vehicle to a dealer to address a warning light showing the tail light off. The dealer replaced the tail light bulb. After replacement of the bulb, the Complainant found the light assembly dangling and notice that the tabs had been mashed as if someone tried to reinstall the assembly. The Complainant was given a replacement and the issue did not recur. On February 19, 2015, the Complainant brought the vehicle to a dealer for the grinding/rubbing noise. The dealer found the CV boots chafing while turning and lubricated the CV boots. The Complainant testified that the noise recurred after this service visit. On April 7, 2015, the Complainant took the vehicle to Discount Tire to replace a leaking driver's side front tire, which he noticed after hearing a noise as if a plastic bag were caught. While waiting for delivery of a replacement tire, the Complainant found a blister on the passenger side front tire. On May 19, 2015, the Complainant took the vehicle to a dealer after hearing the noise the night before, but the dealer could not detect an issue. The next day, an employee of the Respondent, Russell (Russ) Ruland, Quality Technical Manager, who happened to be at the dealership, found three of the wheels to be bent (out of round) and the bearings on one wheel to be failing. On August 20, 2015, the Complainant brought the vehicle in for service after seeing news about a recall and the dealer said the vehicle should be brought in for a service campaign. During this service visit, the Complainant asked to have the failing wheel bearings inspected. The dealer contacted the Complainant that the wheel bearing assembly was replaced under warranty. The Complainant stated that both the clicking and grinding noise continued. The Complainant confirmed that the vehicle's wheels had not been replaced. The Complainant stated the belief that the wheels were damaged prior to his purchase of the vehicle or "damaged not in response to this repair" and therefore not his responsibility. The Complainant noted that he owned an older version of the same model vehicle, purchased in 2009, and did not have a single tire failure. When asked by the

hearings examiner whether the Complainant recalled any significant bumps or impacts between the vehicle purchase to the first tire replacement, he answered that when pulling away from an ATM, he heard some scraping and when inspecting the wheel he saw that he scraped one of the wheels; he (initially) thought this could have caused the tire failure. The Complainant testified that he specifically avoided problem roads because of the problems with the tires. In preparation for a BBB Auto Line arbitration, a technical expert inspected the vehicle and verified the existence of the complained of noise, most noticeable when making hard turns, but could not determine whether the noise constituted a defect or an inherent characteristic of the vehicle.³⁰ During the test drive at the hearing, the vehicle exhibited the scraping/grinding noise. The Complainant explained that the scraping sound did not occur going straight but occurred most often with the wheels fully turned and that the clicking sound occurred most often with the vehicle cold and at night. The Complainant could not recall any impacts that would have caused the abrasions on the edge of the wheels but stated that he did lay a wheel face down on the pavement when changing a tire and that he would not be aware of any minor abrasions that may have occurred from frequent tire replacement.

C. Respondent's Evidence and Arguments

Mr. Guerrero explained that a tire blister is not something normally from wear and tear from the suspension on the vehicle adding that wear caused by the suspension would appear as uneven wear on the tires (tread). Further, the Discount Tire invoices stated that the tire sidewalls had bubbles from impact, not suspension issues. Mr. Guerrero noted that the Complainant did not report any problems at the February 6, 2015, visit and that the tail light problem was a one-time issue that has been resolved. Mr. Guerrero stated that the wheel bearing issue identified at the May 19, 2015, visit was due to an outside influence and not a manufacturer's defect so the wheel bearing repair was denied. Mr. Ruland's inspection of the vehicle found three bent wheels, a damaged wheel bearing, and a missing front spoiler, which Mr. Ruland explained were not warrantable because outside influences caused this damage. A video of the inspection showed that both front wheels and the left rear wheels were bent.³¹ Mr. Ruland recommended replacement or straightening of the three bent wheels as well as a four wheel alignment and replacement of the

³⁰ Complainant's Ex. E9, Technical Expert's Report.

³¹ Respondent's Ex. 7, Irvine inspection.mov.

wheel bearing before addressing the complained of noise.³² In essence, the bent wheels, wheel bearing and misaligned wheels, which were not warrantable, may have caused the noise and needed to be eliminated as possible causes to determine if the noise was a warrantable defect. Mr. Guerrero reiterated that Mr. Ruland advised the Complainant that if the Complainant addresses (replaces) the bent wheels, which are clearly the result of an outside influence and not warrantable, the Respondent would be willing to further investigate the Complainant's concerns. However, the Complainant has declined to do so.

D. Analysis

The Lemon Law complaint in this case identified the following issues for resolution: the vehicle's front axle made grinding noises, the four tires failed on the front axle, the media cable failed, water pump failed, electrical system shorted, and a light cover was broken. The Complainant did not include the air bag issue in the complaint or the notice of defect mailed to the Respondent, thereby leaving the air bag issue outside the scope of this case.³³ The evidence shows that most of the complained of issues have been resolved except for the front axle noise and tire failures.

The Complainant has the burden of proving every required element of a Lemon Law claim, including the existence of a warrantable defect, by a preponderance. Accordingly, the evidence must show that a warrantable defect more likely than not exists. However, a preponderance of the evidence in this case does not show that the vehicle has a warrantable defect. The vehicle's warranty covers "any repair to correct a manufacturers defect in material or workmanship except wheel alignment, tire balance, and the repair or replacement of tires."³⁴ Accordingly, the Complainant must prove that the vehicle more likely than not has a manufacturing defect in material or workmanship as opposed to a condition caused outside of manufacturing.

³² Respondent's Ex. 2, E-mail Re: Irvine – VVWHD7AJ5EW005061, May 20, 2015.

³³ The complaint identifies the issues to be addressed at the hearing. *See* TEX. OCC. CODE § 2301.204; TEX. GOV'T CODE §§ 2001.051-2001.052. To qualify for repurchase/replacement, the complainant must have mailed written notice of the alleged defect to the manufacturer. TEX. OCC. CODE § 2301.606(c)(1).

³⁴ Complainant's Ex. C, USA Warranty and Maintenance, CC, Eos, Golf, GTI, Tiguan, Passat, Model year 2014 at 3.

1. Warranty Excludes Coverage of Tires

As specified above, the warranty expressly excludes coverage of the tires, making them non-warrantable and therefore not a basis for repurchase/replacement or warranty repair relief.

2. Front Axle Noise

A preponderance of the evidence does not show that the front axle noise is a warrantable defect. As outlined above, the warranty applies to manufacturing defects as opposed to conditions occurring outside of manufacturing, such as damage to the wheels occurring after manufacture. The Respondent suggested that outside influences (i.e., non-manufacturing conditions) may have caused the complained of noise, in particular, the Respondent showed that the vehicle had three bent wheels and a failing wheel bearing.

a. Occurrence of Noise and Tire Failure Consistent with Damage After Delivery

A preponderance of the evidence does not show that the wheel damage existed before the vehicle's delivery. At best, wheel damage occurring before delivery appears just as likely as wheel damage occurring after delivery. The Complainant testified that he did not experience the grinding noise until a couple of days after receiving the vehicle, indicating that any wheel damage, if causing the noise, may not have existed until after delivery of the vehicle. The Complainant would have driven approximately 92 miles by the time he noticed the noise³⁵ as compared to the 63 miles on the vehicle before delivery on June 24, 2014. Given these parameters, for the wheel damage to have existed prior to delivery, all three bent wheels must have sustained damage within 63 miles. In contrast, for a bent wheel to have caused the noise a couple of days after delivery, only one wheel would have had to sustain damage within 92 miles. On the other hand, noise occurring at delivery would have indicated that the issue existed prior to delivery. Similarly, the tire sidewall bulge occurred after delivery and the first tire replacement occurred on October 14, 2014, at 4,606 miles. In contrast, a tire bulge existing at delivery would have indicated that the issue existed prior to delivery. However, the timing of the noise and tire failure in this case only leaves uncertainty as to the likelihood that the wheel damage occurred prior to delivery and whether such damage occurred in the manufacturing process or occurred after manufacture.

³⁵ At the first service visit on July 17, 2014, the vehicle had 1,114 miles. In the 23 days between delivery and the first service visit, the vehicle accrued 1,051 miles, or approximately 46 miles per day. The Complainant testified that he first noticed the noise a couple of days after delivery or after approximately 92 miles (46 miles per day × 2 days).

b. Impact Causing Tire Failure Comports with Damage to the Wheels

The Complainant speculated that the wheels were bent prior to the vehicle's delivery to him, but the record does not contain any evidence showing such preexisting damage. The Complainant also implicated the scraping and clicking noise in the tire failures since the bulging tires and the noise all occurred on the front axle. However, the evidence shows that impacts caused the bulging tires. Significantly, such impacts appear consistent with the damage to the wheels (which were bent), which in turn appears to comport with damage to the wheel bearing and with any misalignment, any of which could have contributed to the noise from the front axle.

Though the evidence does not show the exact cause of the tire failure, such as hitting a curb or driving over a pothole, the Discount Tire invoices from November 3, 2014, and April 7, 2015, described the damage as an "impact bubble"³⁶ and "sidewall impact knot"³⁷ indicating that some type of impact caused the bulging as opposed to abrasion or some vehicle defect. Additionally, the Complainant provided photographs showing that at least one tire bulge did not correspond to any damage on the face of the wheel and the bulge itself did not have abrasions, which would appear to eliminate abrasion as a cause of the bulge. Although the Complainant could only recall one impact to the wheels (which left a roughly two inch scrape on one spoke), the inspection at the hearing revealed that all four wheels exhibited damage, particularly on the edges of the flanges. This damage appeared consistent with hitting a curb. At least one instance of such damage appeared relatively recent, indicating that the impacts, though causing damage, may not have been noticeable by the Complainant. In sum, damage occurring after delivery appears as likely, if not more likely, to have caused the wheel damage and in turn the front axle noise.

III. Findings of Fact

1. On June 24, 2014, the Complainant purchased a new 2014 Volkswagen GTI from Randall Reed Volkswagen McKinney in McKinney, Texas. The vehicle had 63 miles on the odometer at the time of purchase.
2. The manufacturer's new vehicle limited warranty period is three years or 36,000 miles, whichever occurs first. This warranty covers "any repair to correct a manufacturers defect

³⁶ Complainant's Ex. D6, Invoice No. 1254837.

³⁷ Complainant's Ex. D10, Invoice No. 1876317.

in material or workmanship except wheel alignment, tire balance, and the repair or replacement of tires.”

3. The vehicle’s warranty was in effect at the time of the hearing.
4. The Complainant took the vehicle to a dealer for repair as follows:

Date	Miles	Issue
July 17, 2014	1,114	Rattling noise from engine/foot well area
July 19, 2014	1,207	Radio cycles between radio and phone’s audio files when phone connected with MDI cable; clicking noises from front of vehicle
October 27, 2014	5,316	Antifreeze leaking.
February 9, 2015	10,213	Left inner tail light was not working
February 19, 2015	10,670	Scraping noise on slow turns
May 19, 2015	14,308	Noise from front end when turning; front tires wearing and forming blisters on sidewalls
August 20, 2015	18,681	Noise from front left wheel

5. On March 1, 2015, the Complainant mailed written notice of the defects to the Respondent.
6. On April 21, 2015, the Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department), alleging that the vehicle’s front axle made grinding noises, four tires failed on the front axle, the media cable failed, water pump failed, electrical system shorted, and a light cover was broken.
7. Neither the Lemon Law complaint nor the notice of defects addressed the any issues with the air bag.
8. Except for noise from the front axle and the tire failures, the issues identified in the Lemon Law complaint have been resolved prior to the hearing.
9. On July 1, 2015, the Department’s Office of Administrative Hearings issued a notice of hearing directed to the Complainant and the Respondent, Volkswagen Group of America, Inc., 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.
10. The hearing in this case convened and the record closed on September 10, 2015, in Mesquite, Texas, before Hearings Examiner Andrew Kang. The Complainant, Christopher

Irvine, represented himself. Adrian Guerrero, Customer Resolution & Retention Specialist, represented the Respondent.

11. The vehicle had three bent wheels (left front, right front, and left rear) and a failing wheel bearing.
12. The occurrence of the front axle noise a couple of days after delivery and the replacement of the bulging tire on October 14, 2014, is consistent with the wheel damage occurring after delivery of the vehicle.
13. The Discount Tire invoices from November 3, 2014, and April 7, 2015, described the tire damage as caused by impact as opposed some defect of the vehicle.
14. The vehicle's odometer showed 19,606 miles at the time of the hearing.
15. The vehicle exhibited a grinding/scraping noise during the test drive at the hearing.
16. Inspection of the vehicle revealed that all four wheels of the vehicle had sustained damage, particularly on the flanges, and at least one instance of damage appeared relatively recent. The damage appeared consistent with hitting a curb.

IV. Conclusions of Law

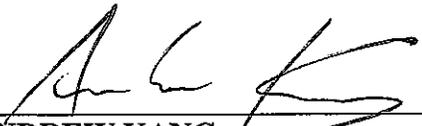
1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. TEX. OCC. CODE §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, 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. The Complainant timely filed a sufficient complaint with the Department. TEX. OCC. CODE §§ 2301.204, 2301.606(d); 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. The Complainant bears the burden of proof in this matter. 43 TEX. ADMIN. CODE § 215.206.66(d).

6. The Complainant did not prove that the vehicle has a defect covered by the Respondent's warranty. TEX. OCC. CODE § 2301.604(a).
7. The Complainant's vehicle does not qualify for replacement or repurchase. TEX. OCC. CODE § 2301.604.
8. The Respondent remains responsible to address and repair or correct any defects that are covered by the Respondent's warranties. TEX. OCC. CODE §§ 2301.204, 2301.603.

V. Order

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

SIGNED November 6, 2015



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