

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 15-0316 CAF**

SHIRLEY MASON-WORMLY,	§	
Complainant	§	BEFORE THE OFFICE
	§	
v.	§	
	§	OF
ALLIED RECREATION GROUP, INC.	§	
and	§	
FORD MOTOR COMPANY,	§	ADMINISTRATIVE HEARINGS
Respondents	§	

DECISION AND ORDER

Shirley Mason-Wormly (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in her 2014 Holiday Rambler manufactured by Allied Recreation Group, Inc. and Ford Motor Company (Respondents). However, the Complainant did not appear at the hearing, either personally or through a representative.

I. Procedural History, Notice and Jurisdiction

The hearing in this case convened on November 13, 2015, in Mesquite, Texas, before Hearings Examiner Andrew Kang. The record closed on the same day. Neither the Complainant nor a representative of the Complainant appeared. Christopher Lowman, attorney, represented Allied Recreation Group, Inc. In addition, Tyler Walden and Angela Brooks attended to testify for the Allied Recreation Group, Inc. Maria Diaz, Consumer Legal Analyst, represented Ford Motor Company.

On August 21, 2015, the Department's Office of Administrative Hearings issued a notice of hearing directed to the Complainant and the Respondent, Allied Recreation Group, Inc. and Ford Motor Company, 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.

On September 18, 2015, the Department's Office of Administrative Hearings issued Order No. 2, Memorializing Prehearing Conference and Resetting Hearing on the Merits. Order No. 2 reset the hearing to November 13, 2015 at 9:00 a.m. as agreed by the parties during the prehearing conference on September 18, 2015.

II. Findings of Fact

1. On July 10, 2015, the Complainant filed a Lemon Law complaint alleging defects in her 2014 Holiday Rambler.
2. On August 21, 2015, the staff of the Office of Administrative Hearings sent the Notice Of Hearing by first class mail and certified mail, return receipt requested, to the Complainant's last known mailing address at 8035 East R.L. Thornton Freeway, Dallas, Texas 75228 as well as by e-mail to crystalclearbusinessconsulting@gmail.com. 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.
3. The Notice of Hearing states that a "party's failure to appear at the hearing will not prevent granting relief to a party that does appear."
4. On September 18, 2015, Hearings Examiner Andrew Kang convened a prehearing conference by telephone. Shirley Mason-Wormly, the Complainant, appeared on her own behalf. Linda Smith also appeared for the Complainant. Christopher Lowman, attorney, appeared for Allied Recreation Group, Inc. Maria Diaz, Consumer Legal Analyst, appeared for Ford Motor Company. To accommodate final inspection and repair by Allied and Ford, the parties agreed to reset the hearing to November 13, 2015, at 9:00 a.m.
5. On September 18, 2015, the staff of the Office of Administrative Hearings sent Order No. 2, Memorializing Prehearing Conference and Resetting Hearing on the Merits, by first class mail and certified mail, return receipt requested, to the Complainant's last known mailing address at 8035 East R.L. Thornton Freeway, Dallas, Texas 75228 as well as by e-mail to crystalclearbusinessconsulting@gmail.com. Order No. 2 reset the hearing to November 13, 2015 at 9:00 a.m. as agreed by the parties during the prehearing conference on September 18, 2015.

6. On November 13, 2015, the hearing in this case convened in Mesquite, Texas, before Hearings Examiner Andrew Kang. The record closed on the same day. Neither the Complainant nor a representative of the Complainant appeared. Christopher Lowman, attorney, represented Allied Recreation Group, Inc. In addition, Tyler Walden and Angela Brooks attended to testify for the Allied Recreation Group, Inc. Maria Diaz, Consumer Legal Analyst, represented Ford Motor Company.

III. 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; 43 TEX. ADMIN. CODE § 215.55(b).
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. Procedures in the hearings, except where otherwise provided by the Department's rules or in the notice of hearing, shall be insofar as reasonably practicable in accordance with the Texas Rules of Civil Procedure applicable in district and county courts in civil actions heard before the court without a jury. 43 TEX. ADMIN. CODE § 215.42.
6. A case may be dismissed for want of prosecution on failure of any party seeking affirmative relief to appear for any hearing of which the party had notice. TEX. R. CIV. P. 165a.

IV. 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** for want of prosecution.

SIGNED November 25, 2015



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