

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 16-0094 CAF**

**KATHA ANDERSON,
Complainant**

v.

**GULF STATES TOYOTA, INC.,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Katha Anderson (Complainant) seeks relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in her 2015 Toyota Corolla. Complainant asserts that the vehicle's brakes don't work properly and that they fail to stop the vehicle promptly. She requests that the vehicle be repaired and, if Respondent is unable to repair the vehicle, then that it be replaced. Gulf States Toyota, Inc. (Respondent) argued that the vehicle's brakes work as designed and that no relief is warranted. The hearings examiner concludes that the vehicle does have an existing warrantable defect, and Complainant is eligible for the requested repair 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 March 15, 2016 in Austin, Texas before Hearings Examiner Edward Sandoval. Complainant, Katha Anderson, represented herself at the hearing. In addition, Complainant's daughter, Cyria Anderson, testified on Complainant's behalf. Respondent was represented by Randy Crawford, Field Technical Specialist. Also testifying for Respondent was Steve Everett, Field Technical Specialist.

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

¹ Tex. Occ. Code § 2301.604(a).

² *Id.*

nonconformity to the manufacturer.³ Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.⁴

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 which creates a safety hazard and continues to exist after being subject to repair two or more times and: (1) at least one repair attempt was made in the 12 months or 12,000 miles, whichever comes first, following the date of original delivery to the owner; and (2) at least one other repair attempt was made in the 12 months or 12,000 miles, whichever comes first, immediately following the date of the first repair attempt.⁵

A serious safety hazard is defined as a life-threatening malfunction or nonconformity that substantially impedes a person's ability to control or operate a motor vehicle for ordinary use or intended purposes; or creates a substantial risk of fire or explosion.⁶

B. Complainant's Evidence and Arguments

1. Katha Anderson's Testimony

Complainant purchased a new 2015 Toyota Corolla from Charles Maund Toyota (Maund) in Austin, Texas on June 15, 2015, with mileage of 22 at the time of delivery.⁷ The basic "bumper-to-bumper" warranty for the vehicle provides coverage for three (3) years or 36,000 miles, whichever comes first. On the date of hearing the vehicle's mileage was 10,982. At this time, Respondent's basic warranty coverage for the vehicle remains in effect.

Complainant testified that there is an intermittent problem with the vehicle's brakes. She hears a crackling noise when she steps on the brakes and the vehicle doesn't always stop promptly after the brakes have been pressed. In addition, she sometimes hears a loud knocking sound when

³ Tex. Occ. Code § 2301.606(c)(1).

⁴ Tex. Occ. Code § 2301.606(c)(2).

⁵ Tex. Occ. Code § 2301.605(a)(2)(A) and (B). Texas Occupations Code § 2301.605(a)(1) 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)(1) requires that four repair attempts on the vehicle, with the first two attempts within the first 12 months or 12,000 miles and the next two attempts within 12 months or 12,000 miles from the second repair attempt, 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 Tex. Occ. Code § 2301.601(4).

⁷ Complainant Ex. 1, Motor Vehicle Worksheet dated June 15, 2015.

she's making a turn in the vehicle and stepping on the brake. She sometimes has to step hard on the brakes to get them to stop the vehicle.

Complainant testified that she took the vehicle to Maund on August 8, 2015, because of her concern with the vehicle's brakes. Complainant informed Maund's service advisor about the brake noises she was hearing. Maund's service technician took the vehicle and inspected it for about five (5) minutes and returned it to Complainant. The technician did not make any repairs to the vehicle, since he indicated that he could not duplicate Complainant's concerns. Complainant did not receive a repair order for this repair visit. She believes that the vehicle's mileage on this occasion was approximately 1,200.

Complainant stated that the vehicle's brakes continued to make a crackling noise, but it began occurring more often. Complainant took the vehicle to Maund for repair on September 28, 2015. Complainant informed the service advisor that she heard a crackling noise whenever she stepped on the brakes, that the brake pedal would go almost to the floor when she stepped on it, and that the brake pedal would go down by itself. Maund's service technician removed the front brake pads and scuffed them.⁸ In addition, the technician applied Quiet Brake to the pads to address Complainant's concerns.⁹ The vehicle's mileage when it was taken to the dealership on this occasion was 4,652.¹⁰ The vehicle was in the dealer's possession for a week on this occasion. Complainant was provided a rental vehicle while her vehicle was being repaired.

When Complainant picked up the vehicle after the September 28, 2015, repairs, she was informed by the dealer's representative that the crackling noise from the brakes was normal for the vehicle. The noise was created by the brake pads. Complainant testified that when she was driving away from the dealership, she observed that when she depressed the brake pedal, it was going down almost to the floor. She also stated that the brake pedal would depress on its own without her stepping on the pedal. However, she did not take the vehicle back to the dealer for further repair until October of 2015.

On October 13, 2015, Complainant took the vehicle to Maund due to her concerns with the vehicle's brakes and the fact that there had been an incident in October where the vehicle's brakes didn't work. Maund's service technician determined that there the brakes were not making any abnormal noises nor was the brake pedal behaving abnormally.¹¹ The vehicle's mileage when it was delivered to the dealer on this occasion was 4,811.¹² The vehicle was in the

⁸ Complainant Ex. 3, Repair Order dated September 28, 2015.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Complainant Ex. 4, Repair Order dated October 13, 2015.

¹² *Id.*

dealer's possession for two (2) days. Complainant received a loaner vehicle while her vehicle was being repaired.

On November 10, 2015, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (TxDMV).¹³ On December 1, 2015, Complainant wrote a letter to Respondent advising them of the concerns regarding the vehicle's brakes.¹⁴

Complainant testified that she allowed Respondent's representatives to inspect the vehicle on February 1, 2016. She took the vehicle to Maund for the inspection. She was informed that Respondent's representative did not find anything wrong with the vehicle and that no repairs were performed. The vehicle's mileage on this occasion was 9,259.¹⁵ The vehicle was in the dealer's possession for a day and a half. Complainant received a rental vehicle while her vehicle was being inspected.

Complainant further testified that she has not heard the crackling noise from the brakes recently. However, she did hear a loud popping noise from the brakes on the date of the hearing, March 15, 2016. In addition, Complainant has not felt the brake depressing on its own since February of 2016.

Complainant stated that the brakes failed to work on March 1, 2016. She was driving the vehicle when an 18 wheel vehicle pulled in front of her. Complainant testified that she depressed the brakes, but the vehicle wouldn't stop or slow down. She had to jerk the vehicle to the left to avoid hitting the truck.

During cross examination, Complainant testified that she hears the crackling noise from the brake pedal only when she steps on the brake. However, she has not heard the noise since February of 2016. She also stated that she hears the knocking noise when she's making a turn in the vehicle.

Complainant also stated that on March 1, 2016, the vehicle would not stop when she stepped on the brakes. However, on other occasions when the vehicle seems to not want to stop, it does eventually stop.

¹³ Complainant Ex. 5, Lemon Law Complaint dated November 10, 2015. Complainant signed the complaint on November 6, 2015. However, the complaint was actually received by Texas Department of Motor Vehicles on November 10, 2015, which is the effective date of the complaint.

¹⁴ Complainant Ex. 6, Letter to Toyota Motor Sales, U.S.A., Inc. dated December 1, 2015.

¹⁵ Complainant Ex. 7, Repair Order dated February 1, 2016.

2. Cyria Anderson's Testimony

Cyria Anderson, Complainant's daughter, testified that she has heard the vehicle's brakes make a cracking or clunking noise at different times when she has ridden in the vehicle. She indicated that she heard some noises the morning of the hearing, March 15, 2016.

During cross-examination, Ms. Anderson testified that she hears the noises when the vehicle is started first thing in the morning or when her mother steps on the vehicle's brakes. She has also heard the knocking noise when the vehicle is slowing down or starting to turn.

C. Respondent's Evidence and Arguments

1. Steve Everett's Testimony

Steve Everett is a Field Technical Specialist for Respondent. He assists authorized dealers with repairs of vehicles. He writes reports on product quality issues and helps address customer complaints regarding problems with Respondent's vehicles.

Mr. Everett worked as a technician for 22 years from 1976 to 1998. In addition, he has worked for Respondent for the past 17 years. Mr. Everett is an Automotive Service Excellence (ASE) Master Certified Technician. He is certified as a Master Diagnostic Technician for Toyota. Mr. Everett has an Associate's degree as an automotive technician.

Mr. Everett testified that he has never seen Complainant's vehicle. He stated that Respondent did not have any information regarding the August of 2015 repair visit to Maund by Complainant. Mr. Everett indicated that during the September 28, 2015, repair attempt, the dealer's service technician scuffed the vehicle's brake pads and applied quiet brake to the pads in order to address the brake noise. No other work was done to address Complainant's other concerns with the brakes. Mr. Everett also stated that on October 13, 2015, the dealer's service technician did not find any problems with the brakes. As a result, no repairs were performed on the vehicle.

Mr. Everett stated that he thinks that the vehicle's anti-lock brake system (ABS) may be activating and that may be what's causing the noises that Complainant hears. The ABS can create a knocking noise when activated. When activated the ABS prevents the vehicle's wheels from locking up and keeps the vehicle from sliding in an emergency situation. Mr. Everett also stated that there is a possibility of pedal misapplication where Complainant may be stepping on the wrong control pedal. In addition, the ABS can cause a different feeling in the vehicle since it

applies the brakes several times in a few seconds. The system can also allow the brake pedal to be pushed almost to the floorboard.

Mr. Everett testified that the vehicle's vehicle stability control (VSC) can create noises when activated. Finally, the brake's return spring can create a squeak or a noise. None of these are considered to be malfunctions in the vehicle.

During cross-examination, Mr. Everett explained that the ABS is a safety feature to prevent a vehicle from skidding. The brakes will pulse. When applied the ABS doesn't stop the vehicle immediately, as one would expect the brakes to do. There is no warning light that illuminates when the ABS is activated.

2. Randy Crawford's Testimony

Randy Crawford is a Field Technical Specialist for Respondent. He has worked for Respondent for the past 20 years. He has eight (8) ASE certifications at the advanced level. He is certified as a Master Diagnostic Technician for Toyota. He also has several high performance driving certifications.

Mr. Crawford testified that he performed an inspection of the vehicle on February 2, 2016, at Charles Maund Toyota. He cold started the vehicle and it seemed normal. Mr. Crawford then test drove the vehicle for approximately ten (10) miles. He drove the vehicle through stop and go traffic and at slower speeds than normal. Mr. Crawford also forced the ABS to actuate while he was taking some turns in the vehicle. He testified that he never heard any noises from the vehicle's brake pedal. In addition, he never felt the brake pedal fall from its normal position. Also, Mr. Crawford had the dealer's technicians take off the vehicle's tires to ensure that the brakes were properly installed.

Mr. Crawford feels the vehicle is operating as designed. He did not observe any malfunctions with the vehicle's brakes. He feels that Complainant may have heard an ABS activation event, since the system makes a noise when activated. Mr. Crawford also stated that the incident when the vehicle failed to stop may have been the result of an ABS event.

Mr. Crawford testified that Respondent has provided a three (3) year or 36,000 miles bumper-to-bumper warranty for the vehicle. In addition, Respondent has provided a five (5) year or 60,000 mile powertrain warranty.

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.

It is clear from the evidence presented at the hearing that the vehicle's brakes don't work properly. She testified that the vehicle sometimes doesn't stop within the expected distance and, in one instance, the brakes failed to work at all. The brake's failure on March 1, 2016, indicates the presence of a serious safety hazard in the vehicle, since the failure "substantially impedes" Complainant's ability to control or operate the vehicle for ordinary intended use or intended purpose. Complainant has met the burden of proof to establish the existence of a defect or condition that creates a serious safety hazard.

Complainant purchased the vehicle on June 15, 2015, and presented the vehicle to Charles Maund Toyota, an authorized dealer of Respondent, due to her concerns with the vehicle's brakes on: August 8, 2015; September 28, 2015; and October 13, 2015. 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)(2) specifies that a rebuttable presumption that a reasonable number of attempts to repair a vehicle with an existing nonconformity which creates a serious safety hazard have been made if "at least one attempt to repair the nonconformity was made in the 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to the owner; and at least one other attempt to repair the nonconformity was made in the 12 months or 12,000 miles, whichever occurs first, immediately following the date of the first repair attempt." The evidence presented at the hearing establishes that Complainant has met the requirements of this test since she took the vehicle for repair the requisite number of times within the specified time frame. 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 December 1, 2015, of the issues with the vehicle's brakes and provided them with an opportunity to cure of which Respondent availed themselves. The vehicle was inspected and a final repair attempt was performed on February 2, 2016, by Respondent's representative who determined that no repairs were necessary at that time.

Although the 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 her burden of proof to establish that the vehicle has a warrantable and existing defect or condition that creates a serious safety hazard.

Based on the evidence, the arguments presented, and Complainant's desired remedy, the hearings examiner finds that repair of the vehicle is the appropriate remedy in this case. However, should Respondent be unable to repair the vehicle as requested, then Respondent will be required to replace the vehicle. The hearings examiner hereby grants Complainant's requested relief.

III. FINDINGS OF FACT

1. Katha Anderson (Complainant) purchased a new 2015 Toyota Corolla on June 15, 2015, from Charles Maund Toyota (Maund), in Austin, Texas, with mileage of 22 at the time of delivery.
2. The manufacturer of the vehicle, Gulf States Toyota, Inc. (Respondent) issued a bumper-to-bumper warranty for the vehicle for three (3) years or 36,000 miles, whichever occurs first.
3. The vehicle's mileage on the date of hearing was 10,982.
4. At the time of hearing the vehicle's bumper-to-bumper warranty was still in effect.
5. Within the first 1,200 miles after purchasing the vehicle, Complainant noticed that the vehicle's brake pedal intermittently seemed to be making a crackling noise when depressed, there was a loud knocking noise coming from the brakes when stepping on the brake and making a turn, and that the brakes don't always seem to work optimally, i.e., the brakes fail to stop the vehicle promptly.

6. Complainant took the vehicle to Respondent's authorized dealer, Maund, in order to address her concerns with the vehicle's brakes on the following dates:
 - a. August 8, 2015, at 1,200 miles;
 - b. September 28, 2015, at 4,652 miles; and
 - c. October 13, 2015, at 4,811 miles.
7. Respondent, through its authorized dealer, undertook a reasonable number of attempts to conform Complainant's vehicle to an applicable express warranty, but the nonconformity in the vehicle continues to exist.
8. The defective condition of Complainant's vehicle substantially creates a serious safety hazard, since Complainant cannot rely on the brakes to always stop the vehicle.
9. Complainant provided written notice of the defect to Respondent on December 1, 2015, and Respondent was given the opportunity to perform a final repair on the vehicle on February 2, 2016.
10. On November 10, 2015, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).
11. On January 14, 2016, 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.
12. The hearing in this case convened and the record closed on March 15, 2016 in Austin, Texas before Hearings Examiner Edward Sandoval. Complainant, Katha Anderson, represented herself at the hearing. In addition, Complainant's daughter, Cyria Anderson, testified on Complainant's behalf. Respondent was represented by Randy Crawford, Field Technical Specialist. Also testifying for Respondent was Steve Everett, Field Technical Specialist.

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 creates a serious safety hazard. Tex. Occ. Code § 2301.604(a).
7. 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.
8. Based on the above Findings of Fact and Conclusions of Law, Complainant is entitled to relief under Texas Occupations Code § 2301.604(a).
9. Based on the above Findings of Fact and Conclusions of Law, Respondent is required to repair Complainant's 2015 Toyota Corolla. Tex. Occ. Code §§ 2301.204, 2301.604(a)(1).
10. If the vehicle cannot be repaired then Respondent is required to repurchase the vehicle. Tex. Occ. Code § 2301.604(a)(1).

IT IS THEREFORE ORDERED that:

1. Respondent shall, in accordance with Texas Administrative Code § 215.208(e), repair Complainant's vehicle.
2. If Respondent is unable to repair the vehicle, then they shall, in accordance with Texas Administrative Code § 215.208(d)(1)(A), promptly authorize the exchange of Complainant's 2015 Toyota Corolla (the reacquired vehicle) with Complainant's choice of any comparable motor vehicle.
3. In the event of repurchase, 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 2015 Toyota Corolla 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 \$1,467.75);
 - (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 **\$1,432.75**, 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.¹⁶
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 2015 Toyota Corolla's reacquisition and issue a new 12-month/12,000-mile warranty on the reacquired vehicle.
8. Upon replacement of Complainant's 2015 Toyota Corolla, 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.

¹⁶ 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, ph. (512) 465-4076.

10. The replacement transaction described in this Order shall be completed within 20 calendar days from the date it is determined that the vehicle cannot be repaired. If the transaction cannot be accomplished within the ordered time period, Respondent shall repurchase Complainant's 2015 Toyota Corolla pursuant to the repurchase provisions set forth in 43 Tex. Administrative Code § 215.208(b)(1) and (2). The repurchase price shall be **\$21,162.52**. 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.

Purchase price, including tax, title, license and registration	\$22,595.27
Delivery mileage	22
Mileage at first report of defective condition	4,652
Mileage on hearing date	10,982
Useful life determination	120,000

Purchase price, including tax, title, license and registration			\$22,595.27		
Mileage at first report of defective condition		4,652			
Less mileage at delivery		<u>-22</u>			
Unimpaired miles		4,630			
Mileage on hearing date		10,982			
Less mileage at first report of defective condition		<u>-4,652</u>			
Impaired miles		6,330			
Reasonable Allowance for Use Calculations:					
Unimpaired miles		<u>4,630</u>			
	120,000	X	\$22,595.27	=	\$871.80
Impaired miles		<u>6,330</u>			
	120,000	X	\$22,595.27	X .5	= <u>\$595.95</u>
Total reasonable allowance for use deduction:					\$1,467.75
Purchase price, including tax, title, license and registration			\$22,595.27		
Less reasonable allowance for use deduction			-\$1,467.75		
Plus filing fee refund			<u>\$35.00</u>		
TOTAL REPURCHASE AMOUNT			\$21,162.52		

11. If Complainant's 2015 Toyota Corolla 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 repair or, in the alternative, 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 vehicle identified in this Decision.

SIGNED April 4, 2016



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