

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 16-0141 CAF**

**NELDA & EDWIN RHAME,  
Complainants**

**v.**

**WINNEBAGO INDUSTRIES, INC.,  
Respondent**

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**BEFORE THE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Nelda & Edwin Rhame (Complainants) filed a complaint with the Texas Department of Motor Vehicles seeking relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged warrantable defects in their vehicle manufactured by Winnebago Industries, Inc. (Respondent). The hearings examiner concludes that the subject vehicle falls outside of the relevant warranty's coverage. Consequently, the Complainants' vehicle does not qualify for repurchase/replacement or warranty repair.

**I. Procedural History, Notice and Jurisdiction**

Matters of notice of hearing<sup>1</sup> 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 10, 2016, in Lufkin, Texas, before Hearings Examiner Andrew Kang. Tom Rorie, attorney, represented the Complainants. Nelda and Edwin Rhame testified on their own behalf. Christopher Lowman, attorney, represented the Respondent. Steve Mary, Product Compliance Manager, and Tony Clark, Vice President of Service for the Ron Hoover companies, testified for the Respondent.

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<sup>1</sup> TEX. GOV'T CODE § 2001.051.

## II. Discussion

### A. Applicable Law

#### 1. Repurchase/Replacement Relief

A vehicle qualifies for repurchase or replacement if the manufacturer cannot “conform a motor vehicle to an applicable express warranty by repairing or correcting a defect or condition that creates a serious safety hazard or substantially impairs the use or market value of the motor vehicle after a reasonable number of attempts.”<sup>2</sup> In other words, (1) the vehicle must have a defect covered by an applicable warranty (warrantable defect); (2) the defect must either (a) create a serious safety hazard or (b) substantially impair the use or market value of the vehicle; and (3) the defect must continue to exist after a “reasonable number of attempts” at repair.<sup>3</sup> In addition, the Lemon Law imposes other requirements for repurchase/replacement relief, including (1) a mailed written notice of the defect to the manufacturer, (2) an opportunity to repair by the manufacturer, and (3) a deadline for filing a Lemon Law complaint.

##### a. Serious Safety Hazard

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.<sup>4</sup>

##### b. Substantial Impairment of Use or Value

###### i. Impairment of Use

In determining substantial impairment of use, the Department considers “whether a defect or nonconformity hampers the intended normal operation of the vehicle.” For instance, “while a vehicle with a non-functioning air conditioner would be available for use and transporting passengers, its intended normal use would be substantially impaired.”<sup>5</sup>

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<sup>2</sup> TEX. OCC. CODE § 2301.604(a).

<sup>3</sup> TEX. OCC. CODE § 2301.604(a).

<sup>4</sup> TEX. OCC. CODE § 2301.601(4).

<sup>5</sup> *Dutchmen Manufacturing, Inc. v. Texas Department of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 228 (Tex. App.—Austin 2012).

**ii. Impairment of Value**

The Department applies a reasonable purchaser standard for determining whether a defect substantially impairs the value of a vehicle. The reasonable purchaser standard “does not require an owner to present an expert witness or any technical or market-based evidence to show decreased value.” Instead, under this standard, “factfinders 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.”<sup>6</sup>

**c. Reasonable Number of Repair Attempts**

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.<sup>7</sup>

Alternatively, for vehicles out of service at least 30 days, a rebuttable presumption may be established that the vehicle had a reasonable number of repair attempts if:

[A] nonconformity still exists that substantially impairs the vehicle’s use or market value and: (A) the vehicle is out of service for repair for a cumulative 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; and (B) at least two repair attempts were made in the 12 months or 12,000 miles following the date of original delivery to an owner.<sup>8</sup>

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<sup>6</sup> *Dutchmen Manufacturing, Inc. v. Texas Department of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 228 (Tex. App.—Austin 2012) (“[T]he Division’s interpretation that expert testimony or technical or market-based evidence is not required to show diminished value or use is consistent with the statute’s goal of mitigating manufacturers’ economic advantages in warranty-related disputes.”).

<sup>7</sup> TEX. OCC. CODE § 2301.605(a)(1)(A) and (B).

<sup>8</sup> TEX. OCC. CODE § 2301.605(a)(3).

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.<sup>9</sup> Furthermore, the Department adopted a decision indicating that if a consumer presents the vehicle to a dealer for repair and the dealer fails to repair the vehicle, then that visit would constitute a repair attempt unless the consumer was at fault for the failure to repair the vehicle.<sup>10</sup>

#### d. Other Requirements

Even if a vehicle satisfies the preceding requirements for repurchase/replacement relief, the Lemon Law prohibits repurchase or replacement unless: (1) the owner or someone on behalf of the owner mailed written notice of the alleged defect or nonconformity to the manufacturer;<sup>11</sup> (2) the manufacturer was given an opportunity to cure the defect or nonconformity;<sup>12</sup> and (3) the Lemon Law complaint was filed within six months after the earliest of: the warranty's expiration date or the dates on which 24 months or 24,000 miles had passed since the date of original delivery of the motor vehicle to an owner.<sup>13</sup>

## 2. Warranty Repair Relief

Even if repurchase or replacement relief does not apply, a vehicle may still qualify for warranty repair if the vehicle has a “defect . . . that is covered by a manufacturer's . . . warranty

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<sup>9</sup> “[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).

<sup>10</sup> “[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).

<sup>11</sup> TEX. OCC. CODE § 2301.606(c)(1). Note: the Lemon Law does not define the words “mailed” or “mail”, so under the Code Construction Act, the common usage of the word applies. TEX. GOV'T CODE § 311.011. Dictionary.com defines “mail” as “to send by mail; place in a post office or mailbox for transmission” or “to transmit by email.” mail. Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. <http://www.dictionary.com/browse/mail> (accessed: April 01, 2016). Also, 43 TEX. ADMIN. CODE § 215.204 provides that “[u]pon receipt of a complaint for lemon law or warranty performance relief, the department will provide notification of the complaint to the appropriate manufacturer, converter, or distributor.” The Department's notice of the complaint to the Respondent may satisfy the requirement that someone on behalf of the owner mailed notice of the defect/nonconformity to the Respondent.

<sup>12</sup> TEX. OCC. CODE § 2301.606(c)(2). Note: a repair visit to a dealer can satisfy the “opportunity to cure” requirement if the manufacturer authorized repairs by the dealer after written notice to the manufacturer, i.e., the manufacturer essentially authorized the dealer to attempt the final repair on the manufacturer's behalf. *See Dutchmen Manufacturing, Inc. v. Texas Department of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 226 (Tex. App.—Austin 2012).

<sup>13</sup> TEX. OCC. CODE § 2301.606(d)(2).

agreement applicable to the vehicle.”<sup>14</sup> The manufacturer has an obligation to “make repairs necessary to conform a new motor vehicle to an applicable . . . express warranty.”<sup>15</sup>

#### A. Complainants’ Evidence and Arguments

On February 5, 2015, the Complainants, purchased a new 2015 Winnebago Journey from Ron Hoover Marine, an authorized dealer of the Respondent, Winnebago Industries, Inc., in La Marque, Texas.<sup>16</sup> The vehicle’s limited warranty covers the vehicle for 12 months or 15,000 miles, whichever occurs first.<sup>17</sup>

On January 21, 2016, the Complainants’ attorney, Mr. Rorie, on behalf of the Complainants, mailed a written notice of defect to the Respondent. On January 11, 2016, the Complainants filed a Lemon Law complaint (Complaint) with the Texas Department of Motor Vehicles (Department) alleging that the clothes dryer made noise; the generator exhaust weld broke but was later repaired; the towel drawer was broken and re-done; the water heater produces cold and hot water; lights have gone out; rear bumper was scratched while in the dealer’s lot, was touched up but the dealer refused to repaint at its cost; EGR valve was not correctly calibrated; passenger-side slide makes a whining noise and a grinding, popping noise; water is leaking out of the unit.

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<sup>14</sup> TEX. OCC. CODE § 2301.204.

<sup>15</sup> TEX. OCC. CODE § 2301.603(a).

<sup>16</sup> Complainant’s Ex. 2, Purchase Agreement.

<sup>17</sup> Respondent’s Ex. 1, Winnebago Industries, Inc. 2015 New Vehicle Limited Warranty.

In relevant part, the Complainants took the vehicle to a dealer for repair as shown below:

Date	Miles	Issue
July 28, 2015	4,127	Generator exhaust holder weld broke; towel drawer broken; hot water is hot and cold intermittently; trouble with slides <sup>18</sup>
August 19, 2015	4,250	Slide out behind driver's seat cogs skipping; lights flickering and some burned out; bathroom drawer off rails; generator exhaust bad weld; scratched rear bumper <sup>19</sup>
September 28, 2015	4,250	Cabinet drawer came apart <sup>20</sup>
January 20, 2016	13,420	Water coming out of the top and from under the belly; hot water heater not lasting on city water; lights flickering; screw missed wood on latch at towel drawer; plumbing vacuum breakers; Atwood water heater recall <sup>21</sup>

Mr. Rhame testified that the dealer appeared to deliver a different vehicle than the one picked out at the RV show. At delivery, the door (panel) to the hot water heater had nicks and scratches. He stated that the water system presented the major issue. Mr. Rhame said that he did not know whether the water heater would produce hot or cold water. He explained that if the water was cold, he would have to run the hot water in the lavatory before getting hot water in the shower. He added that this problem existed from the first day. He stated that he only had one warm shower despite showering every day. Mr. Rhame also noted that water would overflow from the top and bottom of the vehicle. He described the overflow as about the same as a water hose turned on full. The Complainants kept the vehicle hooked up to house water to avoid using the water in the vehicle's tank. Mr. Rhame later added that the leak occurred with the water fill valve turned fully to the normal position. With regard to the slides, Mr. Rhame stated that the one slide would click, hang-up at the top but the bottom would come in. One slide broke upon returning from the dealer so the Complainants took the vehicle right back. The vehicle spent a total of 62 days at the dealer for repairs. Mr. Rhame stated that in the first trip in the vehicle, the engine malfunction light came on at Montrose, Colorado. The EGR (exhaust gas recirculation) valve and another valve had

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<sup>18</sup> Complainant's Ex. 9, Work Order 4457.

<sup>19</sup> Complainant's Ex. 10, Work Order 4567.

<sup>20</sup> Complainant's Ex. 11, Work Order 4721.

<sup>21</sup> Complainant's Ex. 12, Work Order 5232; Complainant's Ex. 12A, Work Order 5232.

malfunctioned. The Complainants stopped at a Freightliner repair facility in Bryan, Texas but could not get in and so the Complainants proceeded to Ron Hoover. Mr. Rhame stated that the slide works satisfactorily but makes noise. Mr. Rhame identified various other problems that required repair, including: paneling that came off, quarter round that could be pulled off with the fingers, bathroom cabinet drawer coming out, towel rack difficult to pull out, lights flickering, satellite TV not working in the bedroom due to a nail driven through a wire. Mr. Rhame added that the tank sensors would show full after emptying the tanks. The dealer replaced the sensors, but Mr. Rhame had not been in the vehicle long enough to tell if this issue was fixed. In one incident, the vehicle had sewage running out of the top of the vehicle. Mr. Rhame also noted that the stove/microwave vent made a noise like a jet because of missing gasket. A technician at the dealer repaired the vent.

Mrs. Rhame testified that when washing dishes, that she would get warm (not hot) water but the water would turn cold by the time she rinsed the dishes. The same thing would occur with the shower. She had two warm showers, which had to be quick. The water may start warm but turn cold. Mrs. Rhame testified that, while the Complainants were living in the vehicle, Mr. Rhame at times had to find an alternative place to stay when working. Mrs. Rhame stated that she discovered, while washing her hands, the water was warm. So she left the lavatory water running and the shower started warm but was cold after getting in. Mr. Rhame added that he changed the modulator on the water heater two or three times with no effect. Mr. Mary confirmed that the Respondent installed the water heater system as well as the water lines. Mrs. Rhame testified that the vehicle had been in for service for at least five months, including three air conditioner repairs.

Upon the hearings examiner's clarifying questions, Mr. Rhame testified the black water debris issue last occurred this past summer, one time, maybe in June. Mrs. Rhame remembered the time frame to be more like around Christmas, after the first of January. Black debris came out after the holidays and again one other time. That was when the black water tank sensor would stay reading two-thirds full. Mr. Rhame could not remember the precisely when the freshwater last overflowed, but did remember that it occurred recently, while at the house with the water hooked up to the vehicle. Mr. Rhame confirmed that the overflow occurred after the repairs—Mrs. Rhame interjected March 6th (the date the Complainants picked the vehicle up after the last repairs). With regard to the last instance of the water heater issue, Mrs. Rhame recalled that they had been living

in the vehicle but then moved their belongings into the house. She really noticed the lack of hot water around the time she had some medical tests, which occurred sometime after March 6, 2016.

### **B. Respondent's Evidence and Arguments**

Mrs. Rhame confirmed that a technician at the dealer showed the Complainants that a dryer in another motorhome made the same level of noise. Mr. Rhame affirmed that the generator exhaust weld was repaired and that the towel drawer worked (but stiffly). Mrs. Rhame acknowledged that on-demand water heaters have a different protocol requiring a certain amount of water flow to go through the water heater to turn it on. The Complainants confirmed that the dealer fixed the scratch that occurred in the dealer's lot. Mr. Rhame affirmed that Freightliner had fixed the EGR valve.

On cross-examination, Mrs. Rhame confirmed that the Complainants purchased the vehicle to live in it and did so continuously except for four days when she went to check on her mother and that they intended to continue living in the vehicle while in Nacogdoches but the vehicle did not function properly.

Mr. Mary testified that the vehicle has an on-demand hot water heater, which does not maintain a supply of hot water in a tank like a traditional water heater. The on-demand system requires sufficient water pressure to work. Not having sufficient pressure will shut down the burner element. Mr. Clark added that Atwood manufactured the on-demand water heater. Mr. Mary confirmed that the water heater was not a Winnebago product and that Atwood warranted the water heater (not Winnebago). Mr. Mary explained that NHTSA (National Highway Traffic Safety Administration) requires the vehicle manufacturer to notify the buyer of recalls of components installed in the vehicle. Accordingly, the Respondent had to notify the Complainants of the water heater recall initiated by Atwood and the water heater was repaired sometime in early February.

Mr. Mary reviewed the results of an inspection of the vehicle on January 27, 2016. Mr. Mary stated that the Complainants were shown a dryer in another new motorhome at the dealer that exhibited the same sound, indicating that such sound was typical for that dryer. Mr. Mary had the dealer repair the generator exhaust weld. The cause of the broken was unknown, so the repair was considered goodwill rather than covered under warranty. The towel drawer was found operating as designed; the dealer previously replaced the glide and latch. At the time of the

inspection, the water heater recall had not yet been performed so Mr. Mary advised the recall should be completed. Mr. Mary continued that any lights flickering at the time were replaced. The EGR valve was a Freightliner issue and has not recurred since replacement. The slide out was operating as designed. Mr. Mary had discussed with the Complainants that the slide needed 14 volts, preferably with the engine on, or the slide would struggle. The water leak could not be duplicated with the valves in the proper positions while hooked up to city water.<sup>22</sup> Mr. Mary clarified that the city water valve has two positions. When on city water, the valve should be in “normal” mode. If the valve is not fully seated when hooked up to city water, the fresh water tank will fill and eventually come out of the overflow tube, which corresponds to the location where Mr. Rhame said the water would come out. The other position is “tank fill”, for putting water into the freshwater tank. Mr. Mary pointed out that the overflow tube takes the water down to a normal level, to avoid damage from overfilling, and can siphon water out of the freshwater tank. He concluded that this explained the freshwater flowing out that the Complainants experienced. Mr. Mary surmised that the only way the black water problem could have happened is if the black water flush system was hooked up with debris in the tank. The path of least resistance (for the debris) would be the vent out through the roof. Mr. Mary testified that the black water tank sensors were replaced as a precaution. However, he noted that when the tank is drained but not flushed, any debris collected on the sides of the tank will cause a level reading, even though empty. Additionally, as a precaution, the freshwater fill valve was replaced.

Mr. Clark testified that the freshwater fill valve and tank sensors were replaced to eliminate equipment failure as a cause of the issues. He recalled that the black water tank read correctly after flushing the tank though the Complainants found that the tank did not read correctly before flushing the tank. Mr. Clark elaborated that Ron Hoover’s La Marque location also included a campground of 100 spots on the east of the dealership. The first row closest to customer service was where the Complainants stayed if there for an extended time or there for service. Mr. Clark noted that for all purposes, the Complainants lived in the coach. At last conversation, the Complainants agreed that all repairs were complete except for the scratch on the bumper.

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<sup>22</sup> Respondent’s Ex. 3, Vehicle Inspection Report.

### C. Inspection

At the inspection during the hearing, the vehicle had 4,989 miles on the odometer. The subject vehicle was connected to a city water source using a garden hose. Mr. Rhame pointed out that the water overflow occurred so long as the city water remained on. Mr. Mary stated that if the overflow outlet cannot keep up with the water coming in, the water can come out the vent at the top and burping can occur. After about 14 minutes, water began to overflow from behind the door-side front wheel. Mr. Mary stated that water may continue to flow from the overflow outlet after turning the water off because of a siphoning effect. An examination of the vehicle revealed a dim light over the sink, loose trim near the floor by the entry, and scratches at the bottom of the water heater panel. The water heater could not be inspected because the water heater panel could not be removed, apparently due to stripped screws holding the panel in place.

Regarding the inspection at the hearing, Mr. Mary testified that he did not see any abnormalities with the lights. He noted that the towel drawer was heavy, and difficult to open, but opened and closed as designed. The hot water system did not fire on. Mr. Mary attempted to check the regulator setting, but the panel to the water heater could not be opened. Mr. Mary explained that the LP (liquid propane) line initially had air, possibly from not being used. He expounded that the range's flame burned orange—not clear blue—indicating the presence of air. Mr. Clark concurred that the LP line had air, given that the range's burner required several attempts to light. Mr. Clark could not explain why the water heater would not work other than Mr. Rhame adjusted the water heater at one point but had not adjusted it since.

### D. Analysis

The Lemon Law only provides a remedy for warrantable defects. In this case, the relevant warranty provides no coverage of the subject vehicle's defects. In the paragraph "Only Warranty", the warranty specifies that it "provides coverage so long as the motorhome is used exclusively for recreational purposes in the U.S.A. or Canada."<sup>23</sup> Under "Promise to Repair: Basic Coverage, Winnebago supplied and installed parts", the warranty provides that Winnebago will repair or replace any defective part "so long as the motorhome has been used exclusively for recreational

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<sup>23</sup> Respondent's Ex. 1, Winnebago Industries, Inc. 2015 New Vehicle Limited Warranty (emphasis added).

purposes and maintained as recommended in the Operator's Manual."<sup>24</sup> Moreover, the warranty lists "a motorhome used for a purpose other than recreational use" as "Excluded from Basic Coverage".<sup>25</sup> The Complainants testified that they used the vehicle for residential purposes in addition to recreational purposes. The record reflects that the Complainants resided in the vehicle while Mr. Rhame managed a restaurant for his son and thereafter, until moving back into their house in March of this year. Consequently, because the vehicle was not used exclusively for recreation, the warranty does not cover any defects and the vehicle does not qualify for repurchase/replacement or warranty repair relief.

### III. Findings of Fact

1. On February 5, 2015, the Complainants, purchased a new 2015 Winnebago Journey from Ron Hoover Marine, an authorized dealer of the Respondent, Winnebago Industries, Inc., in La Marque, Texas.
2. The vehicle's limited warranty covers the vehicle for 12 months or 15,000 miles, whichever occurs first.
3. The vehicle's warranty coverage excludes motorhomes used for any purpose other than recreational use.
4. The Complainants used the vehicle for residential purposes in addition to recreational purposes.
5. The vehicle's warranty provides no coverage for the subject vehicle.
6. On January 21, 2016, the Complainants' attorney, on behalf of the Complainants, mailed a written notice of defect to the Respondent.
7. On January 11, 2016, the Complainants filed a Lemon Law complaint (Complaint) with the Texas Department of Motor Vehicles (Department) alleging that the clothes dryer made noise; the generator exhaust weld broke but was later repaired; the towel drawer was broken and re-done; the water heater produces cold and hot water; lights have gone out; rear bumper was scratched while in the dealer's lot, was touched up but the dealer refused to

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<sup>24</sup> Respondent's Ex. 1, Winnebago Industries, Inc. 2015 New Vehicle Limited Warranty (emphasis added).

<sup>25</sup> Respondent's Ex. 1, Winnebago Industries, Inc. 2015 New Vehicle Limited Warranty (emphasis added).

repaint at its cost; EGR valve was not correctly calibrated; passenger-side slide makes a whining noise and a grinding, popping noise; water is leaking out of the unit.

8. On February 16, 2016, the Department's Office of Administrative Hearings issued a notice of hearing directed to the Complainants and the Respondent, Winnebago Industries, 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.
9. The hearing in this case convened and the record closed on May 10, 2016, in Lufkin, Texas, before Hearings Examiner Andrew Kang. Tom Rorie, attorney, represented the Complainants. Nelda and Edwin Rhame testified on their own behalf. Christopher Lowman, attorney, represented the Respondent. Steve Mary, Product Compliance Manager, and Tony Clark, Vice President of Service for the Ron Hoover companies, testified for the Respondent.

#### IV. Conclusions of Law

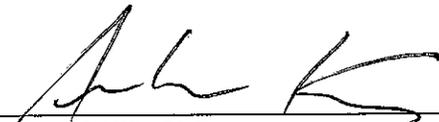
1. The Texas Department of Motor Vehicles has jurisdiction over this matter. TEX. OCC. CODE §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the 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 Complainants 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 Complainants bears the burden of proof in this matter. 43 TEX. ADMIN. CODE § 206.66(d).

6. The Complainants did not prove that the vehicle has a defect covered by the Respondent's warranty. TEX. OCC. CODE § 2301.604(a).
7. The Complainants' vehicle does not qualify for replacement or repurchase. TEX. OCC. CODE § 2301.604.

**V. Order**

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

**SIGNED June 7, 2016**

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