TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 16-0373 CAF

CONRAD SUDERSKI and MARY SUDERSKI, Complainants	§	**BEFORE THE OFFICE**
v.	§	**OF**
FOREST RIVER, INC. and FORD MOTOR COMPANY, Respondents	§	**ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

Conrad Suderski and Mary Suderski (Complainants) filed a complaint with the Texas Department of Motor Vehicles (Department) seeking relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged warrantable defects in their vehicle manufactured by the Respondents, Forest River, Inc. (Forest River or Coachmen) and Ford Motor Company (Ford). A preponderance of the evidence does not show that each Respondent, as opposed to a dealer or other repair facility, had an opportunity to repair the defect(s) in its respective portion of the vehicle. Consequently, the Complainants' vehicle does not qualify for repurchase/replacement but does qualify for warranty repair.

I. Procedural History, Notice and Jurisdiction

Matters of notice of hearing[1] 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 February 24, 2017, in Houston, Texas, before Hearings Examiner Andrew Kang. The Complainants, represented themselves. Mel Williams, Owner Relations Manager, represented Forest River, Inc. Maria Diaz, Consumer Legal Analyst, represented Ford.

[1] 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."[2] 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.[3] 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.[4]

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."[5]

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[2] TEX. OCC. CODE § 2301.604(a).

[3] TEX. OCC. CODE § 2301.604(a).

[4] TEX. OCC. CODE § 2301.601(4).

[5] *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."[6]

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.[7]

Alternatively, for serious safety hazards, a rebuttable presumption is established that the vehicle had a reasonable number of repair attempts if:

> [T]he same nonconformity creates a serious safety hazard and continues to exist after causing the vehicle to have been subject to repair two or more times by the manufacturer, converter, or distributor or an authorized agent or franchised dealer of a manufacturer, converter, or distributor and: (A) 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 (B) 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.[8]

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[6] *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.").

[7] TEX. OCC. CODE § 2301.605(a)(1)(A) and (B).

[8] TEX. OCC. CODE § 2301.605(a)(2).

Additionally, 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.[9]

However, a statutory rebuttable presumption does not preclude otherwise finding a reasonable number of attempts to repair the vehicle based on different circumstances and fewer attempts.[10] 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.[11]

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;[12] (2) the manufacturer was given an opportunity to cure the defect or nonconformity;[13] and (3) the

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[9] TEX. OCC. CODE § 2301.605(a)(3).

[10] *Ford Motor Company v. Texas Department of Transportation*, 936 S.W.2d 427, 432 (Tex. App.—Austin 1996, no writ) ("[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.'").

[11] *DaimlerChrysler Corporation v. Williams*, No. 03-99-00822-CV (Tex. App.—Austin, June 22, 2000, no writ) (not designated for publication) (Repair attempts include "those occasions when the fault for failing to repair the vehicle rests with the dealership." Conversely, "those occasions when failure to repair the vehicle was the fault of the consumer would not be considered a repair attempt under the statute.").

[12] TEX. OCC. CODE § 2301.606(c)(1). 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 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.

[13] TEX. OCC. CODE § 2301.606(c)(2). 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).

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.[14]

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, converter's, or distributor's . . . warranty agreement applicable to the vehicle."[15] The manufacturer, converter, or distributor has an obligation to "make repairs necessary to conform a new motor vehicle to an applicable . . . express warranty."[16]

3. Burden of Proof

The law places the burden of proof on the Complainants.[17] The Complainants must prove all facts required for relief by a preponderance, that is, the Complainants must present sufficient evidence to show that each required fact is more likely than not true.[18]

4. The Complaint Identifies the Issues in this Proceeding

The complaint identifies the issues to be addressed in this proceeding.[19] The complaint should state "sufficient facts to enable the department and the party complained against to know the nature of the complaint and the specific problems or circumstances which form the basis of the claim for relief under the lemon law."[20] However, the parties may expressly or impliedly consent

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[14] TEX. OCC. CODE § 2301.606(d)(2).

[15] TEX. OCC. CODE § 2301.204.

[16] TEX. OCC. CODE § 2301.603(a).

[17] 43 TEX. ADMIN. CODE § 215.66(d).

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

[19] "In a contested case, each party is entitled to an opportunity . . . for hearing after reasonable notice of not less than 10 days." TEX. GOV'T CODE §§ 2001.051; "Notice of a hearing in a contested case must include . . . a short, plain statement of the factual matters asserted." TEX. GOV'T CODE § 2001.052. *See* TEX. OCC. CODE § 2301.204(b) ("The complaint must be made in writing to the applicable dealer, manufacturer, converter, or distributor and must specify each defect in the vehicle that is covered by the warranty."); TEX. OCC. CODE § 2301.204(d) ("A hearing may be scheduled on any complaint made under this section that is not privately resolved between the owner and the dealer, manufacturer, converter, or distributor.").

[20] 43 TEX. ADMIN. CODE § 215.202(a)(2).

to trying issues not included in the pleadings.[21] Implied consent occurs when a party introduces evidence on an unpleaded issue without objection.[22]

A. Complainants' Evidence and Arguments

On October 23, 2015, the Complainants, purchased a new 2016 Coachmen Pursuit 29SB from Holiday World of Katy, LLC, an authorized dealer of the Respondent, in Waller County, Texas. The vehicle had 1,315 miles on the odometer at the time of purchase. Forest River's limited warranty covers the vehicle's body structure for one year or 12,000 miles, whichever occurs first. Ford's limited warranty covers the vehicle's chassis cab for one year or 12,000 miles, whichever occurs first. On or about August 9, 2016, Mrs. Suderski mailed a written notice of defect to Forest River. On August 16, 2016, the Complainants filed a Lemon Law complaint with the Department alleging that the vehicle had mold and damage from a leaking skylight and the air conditioning (AC) blew hot air. The Complainants took the vehicle to a dealer or other repair facility for repair of the alleged issues as follows:

Date	Miles	Issue
October 26, 2015	1,395	Dash AC blows hot (Holiday World of Katy)
November 12, 2015	1,425	AC not cooling (Legacy Ford)
May 7, 2016	3,044	AC not cooling (Texas RV & Car Care)

Mrs. Suderski testified that a skylight let mold and water in. She stated that she first noticed the leak issue around the first visit for the stabilizer bar on May 7, 2016. When asked the last time she noticed the leak issue, she responded that Texas RV & Car Care (TRCC) had sealed the skylight so no more water would come in. The Complainants explained that TRCC initially notified them of the mold and leak. When asked if Mrs. Suderski noticed any leaking after the repair, she replied that she did not have any idea. Mr. Suderski elaborated that the walls took on water before the skylight was sealed. Mrs. Suderski stated that TRCC sealed the skylight so the vehicle would not take on more water, but repair on the roof (water damage) was never done. Mr. Suderski explained that the vehicle did not leak after raining. However, he answered that the manufacturer and dealer could not agree on how to repair the vehicle. During the initial test drive before purchase, Mrs. Suderski asked the salesperson if the vehicle cooled as much as it could.

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[21] 43 TEX. ADMIN. CODE § 215.42; TEX. R. CIV. P. 67.

[22] *See Gadd v. Lynch*, 258 S.W.2d 168, 169 (Tex. Civ. App.—San Antonio 1953, writ ref'd).

The salesperson turned on the roof fans. However, when Mr. Suderski picked up the vehicle, the AC was still blowing hot. The dealer took the vehicle to Legacy Ford for repair. Mr. Suderski last noticed the AC issue an hour before the hearing. Mrs. Suderski testified that the only repair for the AC issue was the visit to Legacy Ford, but nothing was repaired. Mrs. Suderski added that, when taking the vehicle to TRCC to have a stabilizer bar installed, the repair facility found a defect in the condenser and a leak in the skylight leading to damage inside. Tonyia Kopsick, a Coachmen representative, notified Mrs. Suderski that the Complainants could get the vehicle repaired at a facility of their choice. However, she represented that TRCC and Forest River corresponded back and forth without agreement on how to repair the vehicle. TRCC suggested installing a new roof but Forest River offered to repair the vehicle at the factory in Indiana.

B. Forest River's Evidence and Arguments

On cross-examination, Mrs. Suderski affirmed that the vehicle probably leaked without her noticing before the service visit to TRCC. When asked if the AC ever blew cold, Mrs. Suderski answered that after getting the vehicle from Legacy Ford, the AC blew cold for a while but afterwards became hot.

Mr. Williams testified that Coachmen tried to accommodate the Complainants by letting them take the vehicle to a non-dealer. He explained that the manufacturer offered to pay to have the vehicle brought to the factory for repair because TRCC wanted $30,000 to fix the vehicle. The manufacturer would not overlay the top of the roof or the paneling inside, unlike what TRCC represented to the Complainants. If the vehicle had leaked from day one, there would have been mold in there that the Complainants would have noticed. However, TRCC notified the Complainants of the mold and the vehicle sat for another eight or nine months without being fixed. Mr. Williams stated that the manufacturer would take the panels off to see what is happening, repair the damage, and put new panels on. This is what the manufacturer suggested TRCC do. Mr. Williams believed that TRCC did not want to do that and instead wanted to spend thousands and thousands of dollars to put a new roof on. Mr. Suderski noted that TRCC was not responding to the Complainants.

C. Ford's Evidence and Arguments

On cross-examination, Mrs. Suderski answered that TRCC told her of a Ford factory defect in the AC. When asked if the Complainants tried to contact Ford or a Ford dealer when TRCC advised the Complainants about the AC, Mrs. Suderski responded that they did not contact Ford, since Ms. Kopsick said they could get the vehicle repaired anywhere and that they saw no reason to take the vehicle elsewhere because of the Lemon Law.

Ms. Diaz stated that under the warranty, the Complainants can take the vehicle to a (Ford) dealership for a manufacturer's inspection and repair. Ford requested denial of repurchase/replacement because the vehicle does not meet the repair presumptions of two repairs in the first 12 months or 12,000 miles and two other repairs in the following 12 months or 12,000 miles. Tesimony showed only one repair at a Ford dealership. Some repair was done – Legacy Ford recharged the AC system. Additionally, the Department cannot require repurchase or replacement unless the Complainant mailed written notice of the defect to the manufacturer. Ford did not receive notice other than the complaint and did not have an opportunity to repair. Ms. Diaz testified that she contacted Mrs. Suderski, who stated that she would speak with her husband and respond back. After approximately two weeks, Ms. Diaz emailed the Complainants regarding the opportunity for repair but received no response. Further, the vehicle's use was not substantially impaired and the vehicle was not out of service for AC repair at least 30 days. Mrs. Suderski replied that the vehicle had been out of service over 30 days. She added that she called Ms. Diaz back and mentioned that Mr. Suderski would not agree to Ford's repair attempt and did not want the part fixed and instead expressed a need to resolve everything.

D. Inspection

The vehicle had 3,185 miles on the odometer upon inspection at the hearing. The vehicle's chassis cab AC did not cool the air. With the AC on for approximately five minutes, the air from the chassis cab's vents did not appear cooler than the ambient air temperature. The wood trim by the bathroom door exhibited some water damage. Some of the roof panels had some warping. The area around the skylight and along the seams of some roof panels had a blackish brown residue, possibly mold/mildew.

E. Analysis

In part, to qualify for repurchase or replacement, the Lemon Law requires a reasonable number of repair attempts,[23] and an opportunity to repair by the manufacturer (as opposed to a dealer or other repair facility).[24] This case involves two separate manufacturers: Forest River, the manufacturer of the body structure, which includes the skylight, and Ford, the manufacturer of the chassis cab, which includes the dash AC. Consequently, Forest River and Ford must each have an opportunity to repair the portion of the vehicle it manufactured. Accordingly, a repair attempt by Forest River is not a repair attempt by Ford and vice-versa.

1. Skylight Leak and Water Damage

a. Manufacturer's Opportunity to Repair

Due to an unusual set of circumstances, Forest River, did not have an opportunity to repair the water damage. As explained above, the law requires a manufacturer to have been given an opportunity to repair its respectively manufactured portion of the vehicle to make that manufacturer liable for the repurchase or replacement of the vehicle. The evidence shows that the Complainants refused Forest River's offer to repair the vehicle at its factory in Indiana. A repair visit to an authorized agent can satisfy the "opportunity to cure" requirement if the manufacturer authorized repairs by the authorized agent after written notice to the manufacturer. Although Forest River allowed the Complainants to take their vehicle for repair at an independent repair facility, TRCC, the record indicates that because TRCC disagreed with Forest River on the appropriate repair for the vehicle, Forest River did not authorize the repairs that TRCC wanted and TRCC never attempted to repair the water damage. In addition, TRCC ceased responding to the Complainants. Given the circumstances, Forest River offered to have the vehicle transported and repaired at the factory, but as noted above, the Complainants declined the manufacturer's offer to repair.

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[23] TEX. OCC. CODE §§ 2301.604(a) and 2301.605(a).

[24] TEX. OCC. CODE § 2301.606(c).

b. Warranty Repair Relief

Although the vehicle does not qualify for repurchase or repair, it nevertheless qualifies for warranty repair relief. Though the leak has been successfully repaired, the evidence shows that the associated water damage has not been remediated.

2. Chassis Cab AC

In this case, Ford, as opposed to a dealer, did not have an opportunity to repair the vehicle and the vehicle did not have a reasonable number of repair attempts for the chassis cab AC. As explained above, the law requires a manufacturer to have been given an opportunity to repair its respectively manufactured portion of the vehicle to make that manufacturer liable for the repurchase or replacement of the vehicle. Mrs. Suderski testified that the Complainant's expressly denied Ford's opportunity to repair. Additionally, the vehicle did not meet any of the statutory presumptions for reasonable repairs. The repair history shows only one repair attempt for the chassis cab AC lasting 10 days (November 2, 2015, through November 12, 2015). Moreover, the record does not support finding a reasonable number of repair attempts based on different circumstances. Consequently, the Lemon Law prohibits ordering Ford to repurchase or replace the vehicle. However, because the evidence reflects that the Ford manufactured AC continues to have a non-conformity, the AC qualifies for warranty repair relief.

III. Findings of Fact

1. On October 23, 2015, the Complainants, purchased a new 2016 Coachmen Pursuit 29SB from Holiday World of Katy, LLC, an authorized dealer of Forest River, Inc., in Waller County, Texas. The vehicle had 1,315 miles on the odometer at the time of purchase.

2. Forest River's limited warranty covers the vehicle's body structure for one year or 12,000 miles, whichever occurs first. Ford's limited warranty covers the vehicle's chassis cab for one year or 12,000 miles, whichever occurs first.

3. The Complainants took the vehicle to a dealer for repair as shown below:

Date	Miles	Issue
October 26, 2015	1,395	Dash AC blows hot (Holiday World of Katy)
November 12, 2015	1,425	AC not cooling (Legacy Ford)
May 7, 2016	3,044	AC not cooling (Texas RV & Car Care)

4. On or about August 9, 2016, Mrs. Suderski mailed a written notice of defect to Forest River.

5. On August 16, 2016, the Complainants filed a Lemon Law complaint with the Department alleging that the vehicle had mold and damage from a leaking skylight and the air conditioning blew hot air.

6. On October 27, 2016, the Department's Office of Administrative Hearings issued a notice of hearing directed to the Complainants and the 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 factual matters asserted.

7. The hearing in this case convened and the record closed on February 24, 2017, in Houston, Texas, before Hearings Examiner Andrew Kang. The Complainants, represented themselves. Mel Williams, Owner Relations Manager, represented Forest River, Inc. Maria Diaz, Consumer Legal Analyst, represented Ford.

8. The vehicle's odometer displayed 3,185 miles at the time of the hearing.

9. The warranties expired on October 23, 2016.

10. During the inspection of the vehicle at the hearing, the vehicle had 3,185 miles on the odometer. The vehicle's chassis cab AC did not cool the air. With the AC on for approximately five minutes, the air from the chassis cab's vents did not appear cooler than the ambient air temperature. The wood trim by the bathroom door exhibited some water damage. Some of the roof panels had some warping. The area around the skylight and along the seams of some roof panels had a blackish brown residue, possibly mold/mildew.

IV. Conclusions of Law

1. The Texas Department of Motor Vehicles has jurisdiction over this matter. TEX. OCC. CODE §§ 2301.601-2301.613; TEX. OCC. CODE § 2301.204.

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 filed a sufficient complaint with the Department. 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 § 206.66(d).

6. The Complainant did not meet the statutory requirement for a reasonable number of repair attempts for the chassis cab air conditioning. TEX. OCC. CODE §§ 2301.604(a) and 2301.605(a).

7. Forest River, Inc. did not have an opportunity to cure the alleged water damage in the body structure. This Order may not require repurchase or replacement of the vehicle without an opportunity to cure by the manufacturer. TEX. OCC. CODE § 2301.606(c)(2).

8. Ford Motor Company did not have an opportunity to cure the alleged defect in the chassis cab air conditioning. This Order may not require repurchase or replacement of the vehicle without an opportunity to cure by the manufacturer. TEX. OCC. CODE § 2301.606(c)(2).

9. The Complainant's vehicle does not qualify for replacement or repurchase. TEX. OCC. CODE §§ 2301.604(a), 2301.605(a) and 2301.606(c)(2).

10. If the Complainant's vehicle does not qualify for replacement or repurchase, this Order may require repair to obtain compliance with the Respondent's warranty. TEX. OCC. CODE §§ 2301.204 and 2301.603; 43 TEX. ADMIN. CODE § 215.208(e).

11. The Complainant's vehicle qualifies for warranty repair. TEX. OCC. CODE §§ 2301.204 and 2301.603.

12. The Respondent has a continuing obligation after the expiration date of the warranty to address and repair or correct any warrantable nonconformities reported to the Respondent

or Respondent's designated agent or franchised dealer before the warranty expired. TEX. OCC. CODE §§ 2301.603.

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**. It is **FURTHER ORDERED** that Forest River, Inc. shall make any repairs needed to conform the vehicle's body structure, specifically the water-damaged components, to the applicable warranty; Ford Motor Company shall make any repairs needed to conform the chassis cab, specifically the air conditioning, to the applicable warranty. The Complainants shall deliver the subject vehicle to a Respondent within 20 days after the date this Order becomes final under Texas Government Code § 2001.144;[25] within 20 days after the Respondent completes its repairs, the Complainants shall deliver the subject vehicle to the other Respondent. The Respondents shall repair the vehicle within the following timeframes: Forest River, Inc. shall complete its repair of the subject vehicle within 90 days after receiving the vehicle from the Complainants; Ford Motor Company shall complete its repair of the subject vehicle within 20 days after receiving the vehicle from the Complainants. If the Department determines the Complainants' refusal or inability to deliver the vehicle caused the failure to complete the required repair as prescribed, the Department may consider the Complainants to have rejected the granted relief and deem this proceeding concluded and the complaint file closed under 43 Texas Administrative Code § 215.210(2).

[25] (1) If a party does not timely file a motion for rehearing, this Order becomes final when the period for filing a motion for rehearing expires, or (2) if a party timely files a motion for rehearing, this Order becomes final when: (A) the Department renders an order overruling the motion for rehearing, or (B) the Department has not acted on the motion within 45 days after the party receives a copy of this Decision and Order.

SIGNED April 19, 2017

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