

**TEXAS DEPARTMENT OF MOTOR VEHICLES  
CASE NO. 17-0098 CAF**

<b>THUAN NGUYEN,</b>	§	<b>BEFORE THE OFFICE</b>
<b>Complainant</b>	§	
	§	
<b>v.</b>	§	<b>OF</b>
	§	
<b>AMERICAN HONDA MOTOR CO., INC.,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

Thuan Nguyen (Complainant) 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 his vehicle distributed by American Honda Motor Co., Inc. (Respondent). A preponderance of the evidence shows that the subject vehicle has a warrantable defect. However, this defect does not qualify for repurchase/replacement but qualifies for 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 on May 24, 2017, in Carrollton, Texas, before Hearings Examiner Andrew Kang, and the record closed on the same day. The Complainant, represented and testified for himself. Abigail Mathews, attorney, represented the Respondent. Jeff Queen, District Parts and Service Manager, 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 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.<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)(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.<sup>9</sup>

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.<sup>10</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>11</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>12</sup> (2) the manufacturer was given an opportunity to cure the defect or nonconformity;<sup>13</sup> and (3) the

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<sup>9</sup> TEX. OCC. CODE § 2301.605(a)(3).

<sup>10</sup> *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.’”).

<sup>11</sup> *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.”).

<sup>12</sup> 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.

<sup>13</sup> 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.<sup>14</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, converter's, or distributor's . . . warranty agreement applicable to the vehicle."<sup>15</sup> The manufacturer, converter, or distributor has an obligation to "make repairs necessary to conform a new motor vehicle to an applicable . . . express warranty."<sup>16</sup>

## 3. Burden of Proof

The law places the burden of proof on the Complainant.<sup>17</sup> The Complainant must prove all facts required for relief by a preponderance, that is, the Complainant must present sufficient evidence to show that each required fact is more likely than not true.<sup>18</sup> If any required fact appears equally likely or unlikely, then the Complainant has not met the burden of proof.

## 4. The Complaint Identifies the Issues in this Proceeding

The complaint identifies the issues to be addressed in this proceeding.<sup>19</sup> 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."<sup>20</sup> However, the parties may expressly or impliedly consent

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<sup>14</sup> TEX. OCC. CODE § 2301.606(d)(2).

<sup>15</sup> TEX. OCC. CODE § 2301.204.

<sup>16</sup> TEX. OCC. CODE § 2301.603(a).

<sup>17</sup> 43 TEX. ADMIN. CODE § 215.66(d).

<sup>18</sup> *E.g., Southwestern Bell Telephone Company v. Garza*, 164 S.W.3d 607, 621 (Tex. 2005).

<sup>19</sup> "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.").

<sup>20</sup> 43 TEX. ADMIN. CODE § 215.202(a)(2).

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

#### A. Complainant's Evidence and Arguments

On May 14, 2016, the Complainant, purchased a new 2016 Acura MDX from David McDavid Acura, a franchised/authorized dealer of the Respondent, in Plano, Texas. The vehicle had 10 miles on the odometer at the time of purchase. The vehicle's new vehicle limited warranty covers the vehicle for four years or 50,000 miles, whichever occurs first. The powertrain limited warranty covers the powertrain for six years or 70,000 miles, whichever occurs first. On November 7, 2016, the Complainant mailed a written notice of defect to the Respondent. On November 21, 2016, the Complainant filed a Lemon Law complaint with the Department alleging that while driving 35-45 mph, the transmission jerks in fourth gear, the transmission downshifts hard when slowing down, the vehicles feels like it is being bumped from behind when reaching a full stop, and the transmission jerks in first and second gear. Also, the brake pedal exhibits a clunking/clicking sound when pressed and released. The Complainant confirmed that the brake pedal noise was successfully repaired, leaving only the transmission shifting issue for resolution in this proceeding. The Complainant took the vehicle to a dealer for repair as follows:

Date	Miles	Issue
July 18, 2016	2,273	Transmission jerks
August 3, 2016	3,365	Jerks in 4th gear, hard downshift when slowing, bump when reaching a full stop
August 31, 2016	4,277	Jerking sensation
February 28, 2017	14,937	Transmission system light on

The Complainant testified that the when accelerating around 35 to 45 mph, the transmission would jerk every time. The transmission jerking continued to occur after re-flashing the PCM (powertrain control module) multiple times. The dealership notified the Complainant that the transmission would be replaced with a remanufactured transmission. The Complainant expressed that the repair order nowhere specified replacement of the transmission, so he did not believe the dealership was being honest. He stated that the jerking still existed and the vehicle would exhibit a check engine light and other warning lights. He added that sometimes, when driving at 50 to 60

<sup>21</sup> 43 TEX. ADMIN. CODE § 215.42; TEX. R. CIV. P. 67.

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

mph, the rpms would stay high and the transmission would not shift. At times after shifting into drive or reverse, the transmission would not engage. He first noticed the hard shifting around May 2016 at about 2,200 miles. He stated that the hard shifting occurred consistently from the time he picked up the vehicle after repair up to the day of the hearing. The Complainant testified that the repairs did not improve the transmission's shifting.

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

On cross-examination, the Complainant acknowledged that the invoice with a September 22, 2016, ready date listed items for an A/T (automatic transmission) kit along and a freight charge. He confirmed that he did not bring the vehicle in for repair or analysis of the jerking issue since October 2016. He also confirmed that he never brought the vehicle to the dealership for the safe mode issue. The Complainant recognized agreed that the invoice from the February 2017 service visit showed the replacement of two sensors but added that they did not relate to his complaint. The Complainant confirmed that during the test drive at the hearing, he only felt the vehicle jerk once, which occurred in the parking lot.

Mr. Queen testified that customers tend to find the MDX's ZF nine speed transmission to be jerkier than typical transmissions. He noted that his own personal vehicle has the same transmission. Mr. Queen testified that he did not feel any abnormalities during the test drive and that the vehicle shifted as designed. Mr. Queen confirmed that the replacement of the mass air flow (MAF) sensor and the manifold air pressure sensor related to the DTCs (diagnostic trouble codes) on invoice 668085. He also confirmed that the DTCs did not relate to the transmission. Mr. Queen opined that warning lights turning on and off implicated a sensor issue. He did not believe that the warning lights or the issues in invoice 668085 related to the transmission. Mr. Queen explained that the vehicle's replacement transmission had a three year 36,000 mile warranty. Mr. Queen confirmed that the A/T kit and ATF-type 3.1 items on the invoice 651228 signified the replacement of the transmission.

### **C. Inspection and Test Drive**

Upon inspection at the hearing before the test drive, the vehicle had 18,736 miles on the odometer. Upon starting the vehicle, the vehicle displayed a "Road Departure Mitigation Problem" warning light. While leaving the parking lot, the Complainant noted a hard shift; however, the

hearings examiner did not notice any unusual shift. The Complainant confirmed that the check engine light comes and goes. The hearings examiner asked if warning lights came on at high speed; the Complainant answered “not necessarily” pointing out that on the morning of the hearing, warning lights came on and he could barely accelerate. Ms. Mathews asked the Complainant to describe what he saw when a light he believed related to the transmission came on. The Complainant explained that various indicator lights (check engine light, fuel warning light, and brake light), and messages (brake system problem, transmission system problem, engine emission problem, lane keeping assist, and road departure mitigation) come on. When the lights come on, at about 60 mph, the rpms go up to about five (thousand) and the engine is loud, the vehicle will not accelerate any faster, and the gear will not change. When shifting into drive or reverse, the transmission will not engage and a message will pop up stating that the transmission is in safe mode. At the end of the test drive, the odometer displayed 18,752 miles. The Complainant pointed out the various lights and messages that come on; he confirmed they come on while driving and do not go off. Brake system problem, transmission system problem, engine emission problem, appear on the display and cycle through the different problems. He explained that when the lights come on, he stops the vehicle, turns it off and turns it back on. Sometimes one of the lights will go away and sometimes they all stay on. When shifting into reverse and the transmission does not engage, a pop up message states “transmission safe mode”. The Complainant stated that the transmission safe mode message last appeared on the morning of the hearing. He explained that all the indicator lights came on when the transmission safe mode message appeared. After turning the vehicle off and on and shifting into reverse or drive, the vehicle will engage. He stated that the all of the indicator lights turned on twice on the morning of the hearing, once in his garage and once at the parking lot of the hearing site. He confirmed this occurred when first starting the vehicle. The Complainant noted that after the indicator lights turn off they would appear again in about a week or two.

#### **D. Analysis**

The complaint identified two issues: hard shifts by the transmission and a clunking/clicking noise from the brake pedal. The Complainant confirmed that the brake pedal noise was successfully repaired, leaving only the transmission shifting issue for resolution. The hard shifting appears to be a normal characteristic of the vehicle and not a warrantable defect that supports any

relief. Although the shifting concern is not a warrantable defect, the vehicle does appear to have an existing warrantable defect. The Complainant testified that the vehicle displayed various warning lights and messages and the transmission would enter safe mode, which limited the vehicle's speed. Although, the Complainant believed the warning lights/messages and safe mode related to the complained of hard shifts, they actually appear unrelated. Instead, the evidence indicates that the existing defect involves sensor malfunctions. Moreover, the record does not show a reasonable number of repair attempts for the warning lights/messages or safe mode. Further, neither the complaint nor the notice of defect addressed warning lights/messages or safe mode. Accordingly, the warning lights/messages and safe mode related issues do not provide a basis for repurchase or replacement relief. However, the Department's rules specify that if a vehicle does not qualify for replacement or repurchase relief, an order may require repair under the Respondent's warranty obligations.<sup>23</sup> In this case, testimony showed that the vehicle will exhibit warning lights/messages and the transmission will enter safe mode, limiting the vehicle's speed and ability to shift gears. Accordingly, the vehicle qualifies for warranty repair relief.

### III. Findings of Fact

1. On May 14, 2016, the Complainant, purchased a new 2016 Acura MDX from David McDavid Acura, a franchised/authorized dealer of the Respondent, in Plano, Texas. The vehicle had 10 miles on the odometer at the time of purchase.
2. The vehicle's new vehicle limited warranty covers the vehicle for four years or 50,000 miles, whichever occurs first. The powertrain limited warranty covers the powertrain for six years or 70,000 miles, whichever occurs first.
3. The Complainant took the vehicle to a dealer for repair as shown below:

Date	Miles	Issue
July 18, 2016	2,273	Transmission jerks
August 3, 2016	3,365	Jerks in 4th gear, hard downshift when slowing, bump when reaching a full stop
August 31, 2016	4,277	Jerking sensation
February 28, 2017	14,937	Transmission system light on

<sup>23</sup> 43 TEX. ADMIN. CODE § 215.208(e) ("If the final order authority finds that a complainant's vehicle does not qualify for replacement or repurchase, an order may be entered in any proceeding, where appropriate, requiring repair work to be performed or other action taken to obtain compliance with the manufacturer's, converter's, or distributor's warranty obligations.").

4. On November 7, 2016, the Complainant mailed a written notice of defect to the Respondent.
5. On November 21, 2016, the Complainant filed a Lemon Law complaint with the Department alleging that while driving 35-45 mph, the transmission jerks in fourth gear, the transmission downshifts hard when slowing down, the vehicles feels like it is being bumped from behind when reaching a full stop, and the transmission jerks in first and second gear. Also, the brake pedal exhibits a clunking/clicking sound when pressed and released. The brake pedal noise issue was successfully resolved prior to the hearing.
6. On January 30, 2017, the Department's Office of Administrative Hearings issued a notice of hearing directed to the Complainant 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 on May 24, 2017, in Carrollton, Texas, before Hearings Examiner Andrew Kang, and the record closed on the same day. The Complainant, represented and testified for himself. Abigail Mathews, attorney, represented the Respondent. Jeff Queen, District Parts and Service Manager, testified for the Respondent.
8. The vehicle's odometer displayed 18,736 miles at the time of the hearing.
9. The vehicle's new vehicle limited warranty and powertrain limited warranty were in effect at the time of the hearing.
10. During the inspection and test drive at the hearing, the vehicle displayed a "Road Departure Mitigation" warning upon starting. The vehicle otherwise appeared to perform normally.
11. The transmission's hard shifting is a normal characteristic of the vehicle's design.
12. The vehicle continues to display various warning lights and messages and operate in safe mode. While in safe mode, the transmission will not change gears and limits the vehicle's speed. Additionally, if the transmission enter safe mode when starting the vehicle, the

transmission will not respond to selecting the drive or reverse gear positions and the transmission will not engage until after restarting the vehicle.

#### 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 or a person on behalf of the Complainant did not provide sufficient notice of the defect(s) to the Respondent. This Order may not require repurchase or replacement of the vehicle without mailed written notice of the defect/nonconformity to the Respondent. TEX. OCC. CODE § 2301.606(c)(1).
7. The Complainant did not meet the requirement for a reasonable number of repair attempts. TEX. OCC. CODE §§ 2301.604(a) and 2301.605(a).
8. The Complainant's vehicle does not qualify for replacement or repurchase. TEX. OCC. CODE § 2301.606(c)(1); TEX. OCC. CODE §§ 2301.604(a) and 2301.605(a).
9. 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).

10. The Respondent remains responsible to address and repair or correct any defects that are covered by the Respondent's warranty. TEX. OCC. CODE § 2301.603.

### V. Order

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that the Complainant's petition for relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 is **DISMISSED**. It is **FURTHER ORDERED** that the Respondent shall make any repairs needed to conform the vehicle to the applicable warranty; specifically, the Respondent shall repair the nonconformities causing the vehicle to operate in safe mode and display the warning lights and warning messages as described above. The Complainant shall deliver the subject vehicle to the Respondent within 20 days after the date this Order becomes final under Texas Government Code § 2001.144.<sup>24</sup> Within 20 days after receiving the vehicle from the Complainant, the Respondent shall complete repair of the subject vehicle. However, if the Department determines the Complainant's refusal or inability to deliver the vehicle caused the failure to complete the required repair as prescribed, the Department may consider the Complainant to have rejected the granted relief and deem this proceeding concluded and the complaint file closed under 43 Texas Administrative Code § 215.210(2).

**SIGNED July 19, 2017**

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

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<sup>24</sup> (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.