

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 18-0182248 CAF**

**DARYL THATCHER,
Complainant**

v.

**JAYCO, INC.,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Daryl Thatcher (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 recreational vehicle (RV) manufactured by Jayco, Inc. (Respondent). A preponderance of the evidence does not show that the subject vehicle has a defect covered by warranty. Consequently, the Complainant's vehicle does not qualify for repurchase/replacement or warranty repair.

I. Procedural History, Notice and Jurisdiction

Matters of notice of hearing¹ 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 September 13, 2018, in Beaumont, Texas, before Hearings Examiner Andrew Kang, and the record closed on the same day. The Complainant, represented and testified for himself. Christopher Lowman, attorney, represented the Respondent. Angie Cox, Consumer Affairs Manager, testified for the Respondent.

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

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 the attempts were made before the earlier of: (A) the date the express warranty expires; or (B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner.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 the attempts were made before the earlier of: (A) the date the express warranty expires; or (B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner.⁸

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:

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).

[A] nonconformity still exists that substantially impairs the vehicle's use or market value, the vehicle is out of service for repair for a cumulative total of 30 or more days, and the attempts were made before the earlier of: (A) the date the express warranty expires; or (B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner.⁹

The 30 days described above does not include any period when the owner has a comparable loaner vehicle provided while the dealer repairs the subject vehicle.¹⁰

The existence of 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.¹¹ 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.¹²

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, someone on behalf of the owner, or the Department provided written notice of the alleged defect or nonconformity to the manufacturer;¹³ (2) the manufacturer was given an opportunity to cure the defect or nonconformity;¹⁴ 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.¹⁵

⁹ TEX. OCC. CODE § 2301.605(a)(3).

¹⁰ TEX. OCC. CODE § 2301.605(c).

¹¹ *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.’”).

¹² *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.”).

¹³ TEX. OCC. CODE § 2301.606(c)(1).

¹⁴ TEX. OCC. CODE § 2301.606(c)(2). A repair visit to a dealer satisfied the “opportunity to cure” requirement when the manufacturer authorized repairs by the dealer after written notice to the manufacturer, i.e., the manufacturer essentially authorized the dealer to attempt a repair on the manufacturer's behalf. *Dutchmen Manufacturing, Inc. v. Texas Department of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 226 (Tex. App.—Austin 2012).

¹⁵ TEX. OCC. CODE § 2301.606(d)(2).

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” and the vehicle owner notified the manufacturer, converter, distributor, or its authorized agent of the defect.¹⁶ The manufacturer, converter, or distributor has an obligation to “make repairs necessary to conform a new motor vehicle to an applicable . . . express warranty.”¹⁷

3. **Burden of Proof**

The law places the burden of proof on the Complainant.¹⁸ The Complainant must prove all facts required for relief by a preponderance, that is, the Complainant must present sufficient evidence to show that every required fact is more likely than not true.¹⁹ If any required fact appears more likely to be untrue or equally likely to be true or untrue, then the Complainant cannot prevail.

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

The complaint identifies the issues to be addressed in this proceeding.²⁰ 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.”²¹ However, the parties may expressly or impliedly consent to trying issues not included in the pleadings.²² Implied consent occurs when a party introduces evidence on an unpleaded issue without objection.²³

¹⁶ TEX. OCC. CODE § 2301.204; 43 TEX. ADMIN. CODE § 215.202(b)(3).

¹⁷ TEX. OCC. CODE § 2301.603(a).

¹⁸ 43 TEX. ADMIN. CODE § 215.66(d).

¹⁹ *E.g.*, *Southwestern Bell Telephone Company v. Garza*, 164 S.W.3d 607, 621 (Tex. 2005).

²⁰ “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.”).

²¹ 43 TEX. ADMIN. CODE § 215.202(a)(2).

²² 43 TEX. ADMIN. CODE § 215.42; TEX. R. CIV. P. 67.

²³ *See Gadd v. Lynch*, 258 S.W.2d 168, 169 (Tex. Civ. App.—San Antonio 1953, writ ref’d).

5. Incidental Expenses

When repurchase or replacement is ordered, the Lemon Law provides for reimbursing the Complainant for reasonable incidental expenses resulting from the vehicle's loss of use because of the defect.²⁴ Reimbursable expenses include, but are not limited to: (1) alternate transportation; (2) towing; (3) telephone calls or mail charges directly attributable to contacting the manufacturer, distributor, converter, or dealer regarding the vehicle; (4) meals and lodging necessitated by the vehicle's failure during out-of-town trips; (5) loss or damage to personal property; (6) attorney fees, if the complainant retains counsel after notification that the respondent is represented by counsel; and (7) items or accessories added to the vehicle at or after purchase, less a reasonable allowance for use. The expenses must be reasonable and verifiable (for example, through receipts or similar written documents).²⁵

A. Summary of Complainant's Evidence and Arguments

On June 2, 2015, the Complainant, purchased a new 2015 Jayco Eagle Premier 375BHFS from Lone Star RV Sales, an authorized dealer of the Respondent, in Houston, Texas. The vehicle's limited warranty provides coverage for two years from the date of delivery. On August 9, 2016, the Complainant provided a written notice of defect to the Respondent. On January 2, 2018, the Complainant filed a complaint with the Department alleging that the subject recreational vehicle had worn tires; crooked axles; a bent frame; malfunctioning slides due to the bent frame; a malfunctioning auto-leveling system/leveling jacks; and the RV would not pull straight.

The Complainant affirmed that the bent frame was the underlying issue and caused the axles to be crooked. He noted that the RV was on its third set of axles with the same result. The RV not pulling straight related back to the frame issue. The Complainant confirmed that the auto-leveling system's jacks malfunctioned. The Complainant affirmed that none of the issue were successfully resolved. He pointed out that the slides were repaired three times and one slide was currently malfunctioning for a fourth time. The Complainant testified that the first set of tires had less than 5,000 miles. However, two to three weeks after purchasing the RV, the RV started pulling. The tires had worn so badly that the wires were about to show through. The Complainant

²⁴ TEX. OCC. CODE § 2301.604.

²⁵ 43 TEX. ADMIN. CODE § 215.209(a).

first noticed the tire wear in July of 2015. He brought the RV to the selling dealer on December 15, 2015, for the tire, but he had not noticed the axle issue by this time. He explained that the tire wear and axle issues were ongoing currently.

In describing the bent frame, the Complainant testified that he measured across the frame. The width of the frame varied by an 1-5/8" within a 10-foot span. Lippert Components, Inc. (LCI) sent a technician who found that the frame needed more support. The axles had bent and the leaf springs collapsed and these all needed replacement. The Complainant brought the RV in to the selling dealer in December of 2016. Three LCI technicians cut off hanger brackets and replaced brackets. The dealer reinstalled the axles. The LCI technicians welded angle irons on the brackets but not on the front of the frame. The Complainant elaborated that the LCI technicians had installed 2" square tubing on the frame and welded brackets to the tubing. A magnetic level on the square tubing showed the bubble on the far-right side of the level. Because the tubing was not level, the axle hanger brackets welded to the tubing were not level. Consequently, the axles were not square/level.

The Complainant stated that with the frame bent and sagging at the back, the slides would pop and not operate smoothly. The slide motors would fail because the slides bind from the trailer sagging and not being square. The Complainant first noticed the slide problem sometime before December 28, 2015, the first repair for this issue. He last noticed this issue about three or four months before the hearing. The slide is currently not operable. The Complainant noted that the slide blocked the path from the kitchen to the bunk.

The Complainant testified that with the truck pulling the RV, the back of the trailer is slanted, known as dog tracking (the rear is offset from the front). With the RV's back-right corner on the white line (road striping) the rest of the RV and the dually wheels would be about 8" to 12" away from the white line. The Complainant first noticed this issue in early 2016. He last noticed the problem on the day of the hearing.

The Complainant explained that the auto-leveling system was automatic. After disconnecting the RV from the truck, the front two jacks and back four jacks are supposed to level the RV. However, the two middle jacks will go down about an inch and stop. The auto-leveling system will display an error message or sometimes the auto-leveling system will show leveling as successful without the jacks touching the ground. He first noticed the leveling issue in July of

2016. He last noticed the problem on the day of the inspection on January 8, 2018. The auto-leveling system worked when last used, about two weeks before the hearing.

The Complainant added that only LCI repaired the slides. He noted that LCI fixed the slides in 2015 when the LCI technician came to repair the frame. In 2016, the Complainant took the RV to Indiana for repair by LCI. 10 days after the repair by Wheeling Spring in Wheeling West Virginia, LCI cut the hangers off and basically redid the repair from 10 days before. The Complainant did not get any repair receipts from LCI.

On cross-examination, the Complainant acknowledged that the LCI produced the frame, leveling system and slide-outs. However, he did not actually know that that LCI worked on the trailer while in Indiana but he surmised that the Respondent had transported the RV for repair by LCI. The Complainant confirmed that the dealer contacted LCI directly to replace the axles and other hardware. However, he noted that the dealer replaced the leveling jacks.

B. Inspection

The damage shown in Respondent's Exhibit 2 was not present on the crossbar upon inspection, apparently due to the replacement of that part. Burn marks could be seen underneath the RV.

C. Summary of Respondent's Evidence and Arguments

Ms. Cox testified that she became involved about two years ago when the Complainant's first attorney contacted the Respondent. Ms. Cox inspected the RV in June of 2018. At that time, the tires had been replaced so there was no noticeable wear on the tires, which the warranty did not cover. She found that the axles, which were LCI components, had been replaced. She also affirmed that the frame was an LCI component. Ms. Cox noted that she did see the open spots on the underbelly shown in the Complainant's photos. She found the slides functioning at the time of inspection. She did not take the RV on the road but did see video of the RV appearing to dog track. The auto-leveling system was functioning on the inspection day, June 6th; the RV was already leveled when she arrived.

Ms. Cox answered that the warranty did not cover any frame damage by contact. She also confirmed that the Respondent had the RV transported to Goshen, Indiana for goodwill, not warranty, repairs. Ms. Cox explained that the damage appeared to have occurred after LCI's

manufacturing process. The underside of the framework for the receiver hitch had a divot as shown in photos taken in April of 2017. Rust appeared on the edge of the framework where it apparently hit or drug over something. The hitch itself also exhibited corrosion after impact. According to the repair order, LCI measured the camber; added a tube in the back of the chassis; filled gaps in front of the new tube; added a 2x2 on the center hanger; checked the camber in the air; added new equalizers, shackle links and bolts; replaced a motor on the door side slide; and cleaned/lubed slide rails. Ms. Cox explained that an out of camber frame would cause a slide to go out of square. She confirmed that LCI separately warranted the slides, frame and landing gear (leveling jacks).

Ms. Cox explained that when building an RV, whether a new floor plan or a changed layout, the Respondent would give the plans to LCI and that they would work jointly. LCI will notify the Respondent whether the design will work. She affirmed that the Respondent will submit the design to LCI for review before building that design. She acknowledged that many other RVs of the same design as the subject vehicle were on the road but has not heard of any similar frame issues suggesting a weight distribution problem.

D. Analysis

Lemon Law relief does not apply to all problems that a consumer may have with a vehicle but only to defects covered by the vehicle's warranty (warrantable defects).²⁶ The Lemon Law does not require that a manufacturer provide any particular warranty coverage nor does the Lemon Law specify any standards for vehicle characteristics. The Lemon Law only requires the manufacturer to conform its vehicles to whatever coverage the warranty provides.

1. Warranty Coverage Generally

In the present case, the vehicle's warranty generally states that:

In the event that a substantial defect in material or workmanship, attributable to Jayco, is found to exist during the warranty period, it will be repaired or replaced, at Jayco's option, without charge to the RV owner, in accordance with the terms, conditions and limitations of this limited warranty. . . .

. . . . Jayco's limited warranty only covers substantial defects in materials, components, or parts of the RV attributable to Jayco. It does not replace, modify,

²⁶ TEX. OCC. CODE §§ 2301.603(a), 2301.604(a); TEX. OCC. CODE § 2301.204.

or apply to the warranties provided by the manufacturers that supply the products used by Jayco to assemble the RV, like the frame.²⁷

As shown above, the warranty only applies to parts attributable to the Respondent and does not relate to warranties for third party products, including the LCI produced frame. Additionally, the warranty only applies to defects in materials or workmanship (manufacturing defects).²⁸ A manufacturing defect is generally an isolated aberration occurring only in those vehicles not produced according to the manufacturer's specifications. A defectively manufactured vehicle has a flaw because of some error in making it, such as incorrect assembly or the use of a broken part. Unlike manufacturing defects, issues that do not arise from manufacturing, such as the vehicle's design characteristics (which exist before manufacturing) or improper dealer repairs (which occur after manufacturing) are not warrantable defects. Design characteristics result from the vehicle's specified design and not from any error during manufacturing.²⁹

2. **Warranty Exclusion of Parts Not Attributable to Respondent and Parts Warranted by Third Parties**

The warranty expressly excludes coverage of components, such as tires, not attributable to the Respondent or warranted by third parties:

By way of example only, this limited warranty does not cover any of the following: defects in materials, components or parts of the RV not attributable to Jayco; . . . damage resulting from tire wear or tire failure

In addition, this limited warranty does not cover any material, component or part of the RV that is warranted by another entity, including, by way of example, handling, braking, wheel balance, muffler, tires, tubes, batteries, gauges, generator, hydraulic jacks, inverter, converter, microwave, television, DVD/CD player, radio, speakers, television, refrigerator, range, hot water heater, water pump, stove, carbon

²⁷ Complainant's Ex. 13, Jayco 2015 Eagle Towables Manual at 1-8 (emphasis added).

²⁸ Courts have affirmed that warranty language covering "defects in material or workmanship" do not cover design issues. *E.g., Whitt v. Mazda Motor of America*, 5th Dist. Stark No. 2010CA00343, 211-Ohio-3097, ¶¶ 18-21 ("The manufacturer's express warranty in the case sub judice provides: 'Mazda warrants that your new Mazda Vehicle is free from defects in material or workmanship The trial court found the warranty did not cover claims of design defects. . . . The problems about which Appellants complained did not fall within the applicable expressed warranty."); *see GT & MC, Inc. v. Texas City Refining, Inc.*, 822 S.W.2d 252, 257 (Tex. App.—Houston [1st Dist.] 1991, writ denied) ("the language in the contract of May 12, 1980, expressly limited TCR's recovery only for defects in materials or workmanship to damages for repair or replacement value. No mention was made in the guarantee of remedies for design defects.").

²⁹ In contrast to manufacturing defects, "[a] design defect exists where the product conforms to the specification but there is a flaw in the specifications themselves." *Torres v. Caterpillar, Inc.*, 928 S.W.2d 233, 239 (Tex. App.—San Antonio 1996), writ denied, (Feb. 13, 1997).

monoxide detector, smoke detector, propane detector, furnace or any air conditioner.³⁰

Consequently, any LCI warranted components have no coverage under the vehicle's warranty.

3. Discharge of Warranty Obligations

The warranty provides that certain conditions discharge the Respondent from obligations under the warranty:

Certain things completely discharge Jayco from any obligation under this warranty and void it. By way of example, the following shall discharge Jayco from any express or implied warranty obligation to repair or replace any defect that results from: any rental or other commercial use or purchase of the RV (as defined in this warranty), any RV sold outside of, or used outside of, the United States, U.S. Territories or Canada, through an auction or wholesale or by a nonauthorized dealer, any defect in a separately manufactured component part, owner neglect or failure to provide routine maintenance (See Owner's Manual), unauthorized alteration, off road use, collision or accident, whether or not foreseeable, including any acts of weather or damage or corrosion due to the environment, theft, vandalism, fire, explosions, overloading in excess of weight ratings, and tampering with any portion of the RV, or any use of the RV as a semipermanent or permanent home.³¹

Under these terms, defects in components manufactured separately, like those manufactured by LCI absolves the Respondent of any warranty obligation.

4. Applicability of the Warranty to the Complaint Issues

In the present case, the complaint identified six problems: outer (shoulder) tire wear; crooked axles; bent frame; slides malfunctioning due to the frame; trailer pulling crooked (dog tracking); and the auto-leveling system/leveling jacks malfunctioning. The record shows that LCI, a third-party vendor, manufactured and separately warranted axles, frames, slides and auto-leveling system and jacks. Under the Lemon Law, only defects covered by the vehicle's warranty qualify for any relief. However, the warranty does not apply to any components manufactured or warranted by a third party. Moreover, the warranty specifically excludes the tire wear issue (which, in any event, is attributable to defects in an LCI component). As a result, the warranty does not

³⁰ Complainant's Ex. 13, Jayco 2015 Eagle Towables Manual at 1-9 to 1-10 (emphasis added).

³¹ Complainant's Ex. 13, Jayco 2015 Eagle Towables Manual at 1-10 (emphasis added).

apply to any of the issues in this case and therefore the subject vehicle cannot qualify for any relief under the Lemon Law.

III. Findings of Fact

1. On June 2, 2015, the Complainant, purchased a new 2015 Jayco Eagle Premier 375BHFS from Lone Star RV Sales, an authorized dealer of the Respondent, in Houston, Texas.
2. The subject vehicle's limited warranty provides coverage for two years from the date of delivery.
3. On August 9, 2016, the Complainant provided a written notice of defect to the Respondent.
4. On January 2, 2018, the Complainant filed a complaint with the Department alleging that that the vehicle had worn tires; crooked axles; a bent frame; malfunctioning slides due to the bent frame; a malfunctioning auto-leveling system/leveling jacks; and the RV would not pull straight ("dog tracking").
5. On March 21, 2018, the Department's Office of Administrative Hearings issued a notice of hearing directed to all parties, giving them 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.
6. The hearing in this case convened on September 13, 2018, in Beaumont, Texas, before Hearings Examiner Andrew Kang, and the record closed on the same day. The Complainant, represented and testified for himself. Christopher Lowman, attorney, represented the Respondent. Angie Cox, Consumer Affairs Manager, testified for the Respondent.
7. The warranty expired on June 2, 2017.
8. The vehicle's warranty only applies to "a substantial defect in material or workmanship, attributable to Jayco."

9. The vehicle's warranty "does not replace, modify, or apply to the warranties provided by the manufacturers that supply the products used by Jayco to assemble the RV, like the frame."
10. The warranty expressly excludes "defects in materials, components or parts of the RV not attributable to Jayco" and "any material, component or part of the RV that is warranted by another entity, including . . . tires."
11. The warranty provides that "[c]ertain things completely discharge Jayco from any obligation under this warranty and void it," including "any defect in a separately manufactured component part."
12. LCI, a third-party vendor, manufactured and separately warranted the vehicle's frame, axles, auto-leveling system and jacks, and slides.
13. Defects in the frame contributed to misalignment of the axles, leading to "dog tracking" and excessive wear on the outer shoulders of the tires.

IV. Conclusions of Law

1. The Texas Department of Motor Vehicles has jurisdiction over this matter. TEX. OCC. CODE §§ 2301.601-2301.613 and 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's vehicle does not qualify for replacement or repurchase or warranty repair. The Complainant did not prove that the vehicle has a defect covered by the Respondent's warranty. TEX. OCC. CODE §§ 2301.204, 2301.603 and 2301.604(a).
7. 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**.

SIGNED October 26, 2018



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