

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 18-0188587 CAF**

ROBERT and SHELLY DEAN,
Complainants

v.

FORD MOTOR COMPANY,
Respondent

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

On July 12, 2018, Robert and Shelly Dean (Complainants) filed a petition seeking relief pursuant to Texas Occupations Code § 2301.204 (Warranty Performance) for alleged warrantable defects in a motor vehicle manufactured by Ford Motor Company (Respondent). Complainants sought to have the vehicle repaired but did not appear at the hearing to provide testimony to support their complaint. Based on the circumstances, good cause exists to dismiss the complaint.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

The hearing in this case convened and the record was closed on November 8, 2018, in Carrollton, Texas before Hearings Examiner Edward Sandoval. Complainants did not appear and were not represented at the hearing.

On October 1, 2018, the staff of the Office of Administrative Hearings (OAH) issued a Notice of Hearing to the parties advising them that a hearing was scheduled on Complainant's Warranty Performance complaint on November 8, 2018, 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. The Notice was mailed via certified mail, return receipt requested, to Complainants at 789 Mountcastle Driver, Rockwall, Texas 75087. Complainants did not pick up the notice from the United States Postal Service (USPS). The notice was also sent to Complainants via email at the same time. In addition, Complainants participated in a prehearing conference on October 24, 2018, at which time the Hearings Examiner advised Complainants of the hearing date, time, and location.

II. FINDINGS OF FACT

1. Complainants filed a Warranty Performance complaint on July 12, 2018, alleging defects in their 2017 Ford F Series pickup truck which had not been repaired.
2. On October 1, 2018, the staff of the Office of Administrative Hearings (OAH) timely mailed a Notice of Hearing by certified mail, return receipt requested, and by email to Complainants' mailing address at 789 Mountcastle Driver, Rockwall, Texas 75087. The Notice of Hearing contained information regarding the date, time, and place of the hearing, the statutes involved, the legal authorities under which the hearing would be held, and the matters asserted.
3. The Notice of Hearing also informed the parties on page two (2) that their failure to appear will not prevent the hearings examiner from issuing a decision and order granting relief to an appearing party.
4. The hearing on the merits convened on November 8, 2018, in Carrollton, Texas, before Hearings Examiner Edward Sandoval. Complainants did not appear and were not represented at the hearing.
5. Since Complainants failed to appear to offer testimony, the Hearings Examiner dismissed the complaint.

III. CONCLUSIONS OF LAW

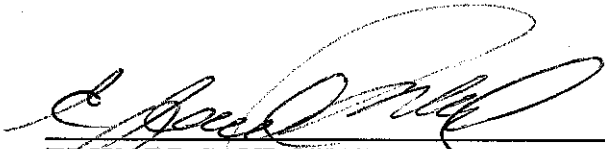
1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, 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. Complainants timely filed a complaint with the Department. Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202.
4. The parties received proper notice of the hearing. Tex. Gov't Code §§ 2001.051, 2001.052; 43 Tex. Admin. Code § 215.206(2).

5. Procedures in the hearings, except where otherwise provided by the Department's rules or in the notice of hearing, shall be insofar as reasonably practicable in accordance with the Texas Rules of Civil Procedure applicable in district and county courts in civil actions heard before the court without a jury. 43 Tex. Admin. Code § 215.42.
6. A case may be dismissed for want of prosecution on failure of any party seeking affirmative relief to appear for any hearing of which the party had notice. Tex. R. Civ. P. 165a.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainants' petition for relief pursuant to Texas Occupations Code § 2301.204 is hereby **DISMISSED** for want of prosecution.

SIGNED November 12, 2018


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