

On February 21, 2019, 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 Complainants' Lemon Law complaint for June 5, 2019. The notice also gave 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 5100 Westheimer Rd., Ste. 200, Houston, Texas 77056. The notice was also sent to Complainants via email at the same time. A signed return receipt from Complainants was received by OAH on March 7, 2019.

II. FINDINGS OF FACT

1. Complainants filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) on January 22, 2019, alleging the existence of a defect or nonconformity in their 2018 BMW 3 Series vehicle which has not been repaired by Respondent or its agents.
2. On February 21, 2019, 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 5100 Westheimer Rd., Ste. 200, Houston, Texas 77056. 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 June 5, 2019, in Houston, Texas, before Hearings Examiner Edward Sandoval. Complainants did not appear and were not represented at the hearing.
5. At the time of hearing, Respondent moved for a dismissal of the Lemon Law complaint.
6. Pursuant to Respondent's motion described in Findings of Fact #5, the Hearings Examiner dismissed the complaint.

III. CONCLUSIONS OF LAW

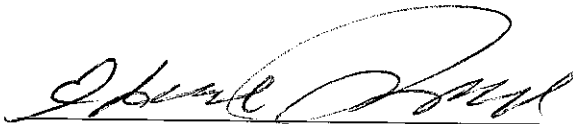
1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, 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 §§ 2301.601-2301.613 is hereby **DISMISSED** for want of prosecution.

SIGNED June 14, 2018



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