

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 21-0008434 CAF**

**SUSAN AND DENNIS SCROGGINS,
Complainants**

v.

**FORD MOTOR COMPANY,
Respondent**

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**BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

Susan and Dennis Scroggins (Complainants) seek relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 (Lemon Law) for alleged defects in their 2020 Lincoln Aviator. Complainants assert that the vehicle’s computer systems are malfunctioning. Ford Motor Company (Respondent) argued that the vehicle has been repaired, that it is working as designed, that no defect or nonconformity currently exists in the vehicle, and that no relief is warranted. The hearings examiner concludes that the vehicle does not have an existing warrantable defect and Complainants are not entitled to repurchase or replacement relief.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

Matters of notice and jurisdiction were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing in this case convened in Fort Worth, Texas in the Texas Department of Transportation District Office on August 19, 2021, before Hearings Examiner Edward Sandoval. Dennis Scroggins represented himself and Susan Scroggins (Complainants) at the hearing. Susan Scroggins was also present at the hearing. Respondent, Ford Motor Company, was represented by Anthony Gregory, Consumer Affairs Legal Analyst who appeared telephonically. Also appearing telephonically for Respondent was Sayyed Asad Bashir, Automotive Technical Consultant. The hearing record closed on August 19, 2021.

II. DISCUSSION

A. Applicable Law

The Lemon Law provides, in part, that a manufacturer of a motor vehicle must repurchase or replace a vehicle complained of with a comparable vehicle if the following conditions are met. First, the manufacturer is not able to conform the vehicle to an applicable express warranty by repairing or correcting a defect after a reasonable number of attempts.¹ Second, the defect or condition in the vehicle creates a serious safety hazard or substantially impairs the use or market value of the vehicle.² Third, the manufacturer has been given a reasonable number of attempts to repair or correct the defect or condition.³ Fourth, the owner must have provided written notice of the alleged defect or nonconformity to the manufacturer.⁴ Lastly, the manufacturer must have been given an opportunity to cure the defect or nonconformity.⁵

In addition to these conditions, a rebuttable presumption can be established that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty if the 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 repair 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.⁶

If a vehicle is found to have a nonconformity that creates a serious safety hazard which continues to exist, the rebuttable presumption that a reasonable number of repair attempts have been performed can be established if the vehicle has 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.⁷

¹ Tex. Occ. Code § 2301.604(a).

² *Id.*

³ *Id.*

⁴ Tex. Occ. Code § 2301.606(c)(1).

⁵ Tex. Occ. Code § 2301.606(c)(2).

⁶ Tex. Occ. Code § 2301.605(a)(1)(A) and (B).

⁷ Tex. Occ. Code § 2301.605(a)(2)(A) and (B).

“Serious safety hazard” means a life-threatening malfunction or nonconformity that substantially impedes a person’s ability to control or operate a vehicle for ordinary use or intended purposes, or creates a substantial risk of fire or explosion.⁸

Finally, a rebuttable presumption can be established that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty if the same nonconformity continues to exist that substantially impairs the vehicle’s use or market value, the vehicle has been out of service for repair for a cumulative total of 30 or more days, and the repairs 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 day out of service requirement described in Section 2301.605(a)(3) does not include any period during which the manufacturer or distributor lends the vehicle owner a comparable motor vehicle while the owner’s vehicle is being repaired by a franchised dealer.¹⁰

B. Complainant’s Evidence and Arguments

1. Dennis Scroggins’ Testimony

Complainants purchased a new 2020 Lincoln Aviator on August 15, 2019, from Grapevine Ford–Lincoln (Grapevine) located in Grapevine, Texas.¹¹ The vehicle’s mileage at the time of delivery was 28.¹² Respondent provided a new vehicle limited bumper-to-bumper warranty for the vehicle which provides coverage for four (4) years or 50,000 miles, whichever comes first. In addition, Respondent provided a powertrain warranty for the vehicle providing coverage for six (6) years or 70,000 miles.¹³ On the date of hearing the vehicle’s mileage was 22,314 miles and the vehicle’s warranties were still in effect.

Ms. Scroggins is the primary driver of the vehicle. Mr. Scroggins testified that he drives the vehicle once or twice a week. Mr. Scroggins stated that they did test drive the vehicle before purchasing it, and they did not notice any issues during the test drive.

Mr. Scroggins testified that on September 30, 2019, when Ms. Scroggins attempted to start the vehicle, there was no power to any electrical of the systems and Ms. Scroggins was trapped

⁸ Tex. Occ. Code § 2301.601(4).

⁹ Tex. Occ. Code § 2301.605(a)(3)(A) and (B).

¹⁰ Tex. Occ. Code § 2301.605(c).

¹¹ Complainant Ex. 2, Purchase Agreement dated August 15, 2019.

¹² Complainant Ex. 3, Odometer Disclosure Statement dated August 15, 2019.

¹³ Complainant Ex. 11, Lincoln Aviator Monroney Sticker.

inside the vehicle could not get out. Mr. Scroggins stated that he went to Ms. Scroggins' location and tried to jump start the vehicle, but it still would not start. He had to use the key to manually open the vehicle's door in order to attempt to start the vehicle. The vehicle was towed to Grapevine the next day for repair. Grapevine's service technician verified the concern.¹⁴ The technician replaced the vehicle's body control module (BCM) and reprogrammed it.¹⁵ The vehicle's mileage on this occasion was 630.¹⁶ The vehicle was in Grapevine's possession for 23 days. Complainants were provided a loaner vehicle while their vehicle was being repaired. There have been no issues with complete loss of power since the repair.

Mr. Scroggins testified that on August 10, 2020, he noticed the E-brake warning light would appear while the vehicle was stopped at a red light. He stated that this would occur randomly when the vehicle is turned on. He took the vehicle to Grapevine for repair for the E-brake light issue on August 10, 2020. Grapevine's service technician was unable to verify the concern.¹⁷ No work was done to the repair the issue at the time. The vehicle's mileage on this occasion was 10,335.¹⁸ He testified that the vehicle was in Grapevine's possession for two (2) days. Complainants were provided with a loaner vehicle while their vehicle was being repaired. Complainants testified that the issue still occurs intermittently.

Mr. Scroggins stated that he noticed numerous electrical issues on or around January 13, 2021. He testified that the vehicle's lane assist and rear backup assist systems were not working. Ms. Scroggins had noticed a warning message alerting the driver that the backup assist system was not operating appeared intermittently on the vehicle's display screen. In addition, the steering wheel button for the phone was not working properly. Complainants took the vehicle to Grapevine for repair for the electrical issues on January 13, 2021. Grapevine's service technician verified the concerns.¹⁹ The service technician ordered a replacement for the windshield, reprogrammed the image processing module B (IPMB) and the accessory protocol interface module (APIM).²⁰ The vehicle's mileage at the time was 16,365.²¹ The vehicle was in Grapevine's possession for seven (7) days during this repair. Complainants were provided a loaner vehicle while their vehicle was being repaired. Mr. Scroggins stated that the backup assist issue and the issue with the phone button on the steering wheel were fixed. Mrs. Scroggins also stated that there is still an issue with the quality of phone calls deteriorating over time and the lane assist feature was not fixed.

¹⁴ Complainant Ex. 4, Repair Order dated October 1, 2019.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Complainant Ex. 5, Repair Order dated August 10, 2020.

¹⁸ *Id.*

¹⁹ Complainant Ex. 6, Repair Order dated January 13, 2021.

²⁰ *Id.*

²¹ *Id.*

Mr. Scroggins testified that on January 23, 2021, Ms. Scroggins was not able to start the vehicle and the car would only go into accessory mode. In addition, all of the warning lights on the vehicle's dashboard flashed. When Ms. Scroggins attempted to restart the vehicle, it stayed in accessory mode. Ms. Scroggins called a tow company to pick up the vehicle to have it towed to Grapevine. However, when the tow truck arrived to pick up the vehicle, the tow truck driver was able to start the vehicle. So, Ms. Scroggins drove the vehicle herself to Grapevine for repair for the start-up issue as well as the continued E-brake and the phone call deteriorating issues on January 23, 2021. Grapevine's service technician verified the concerns except for the phone call issue.²² Grapevine's service technician reprogrammed all electronic modules on the vehicle, these were the powertrain control module (PCM), the anti-lock brake system (ABS), the driver's seat module (DSM), the audio control module (ACM) and the BCM.²³ The vehicle's mileage on this occasion was 16,661.²⁴ Mr. Scroggins testified that the vehicle was in Grapevine's possession until May 18, 2021. Complainants were provided with multiple loaner vehicles while their vehicle was being repaired. The first loaner vehicle had a transmission failure and the second loaner vehicle overheated. Complainants testified that they have not had problems with their vehicle starting since the repair.

On March 11, 2021, Complainants wrote a letter to Respondent advising it of their dissatisfaction with the vehicle.²⁵ Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) on March 24, 2021.²⁶

Ms. Scroggins was contacted by Mr. Gregory sometime after the Lemon Law complaint was filed. Mr. Scroggins testified that Respondent did not request for an opportunity to inspect the vehicle.

Mr. Scroggins testified that he took the vehicle to Grapevine for repair for the E-brake automatically activating issue on June 2, 2021. No work was done on the vehicle during this visit.²⁷ The vehicle's mileage on this occasion was 19,713.²⁸ Mr. Scroggins testified that the vehicle was in Grapevine's possession for 11 days. Complainants were provided a loaner vehicle while their vehicle was being repaired.

²² Complainant Ex. 7, Repair Order dated January 23, 2021.

²³ *Id.*

²⁴ *Id.*

²⁵ Complainant Ex. 8, Letter to Lincoln Motor Company dated March 11, 2021.

²⁶ Complainant Ex. 1, Lemon Law Complaint dated March 24, 2021.

²⁷ Complainant Ex. 9, Repair Order dated June 2, 2021.

²⁸ *Id.*

Mr. Scroggins testified that on July 22, 2021, Grapevine called him and asked him to bring the vehicle back to the dealership so they could look at the ABS which they felt might be affecting the E-brake. Ms. Scroggins took the vehicle to Grapevine as requested on July 22, 2021. Grapevine's service technician reprogrammed the ABS module.²⁹ The vehicle's mileage on this occasion was 19,715.³⁰ Mr. Scroggins testified that the vehicle was in Grapevine's possession until August 04, 2021. Complainants were provided a loaner vehicle while their vehicle was being repaired. Mr. Scroggins testified that the issue is still ongoing intermittently since the repair. The issue occurred most recently the day before the hearing.

On cross examination, Mr. Scroggins clarified that the E-brake light comes on when the vehicle starts up and then stays on. He further clarified that it does not come on while he is driving but it has come on once while he was stopped at a stop light. Mr. Scroggins stated that the issue with the E-brake is the only issue that has not been remedied by the dealer.

2. Susan Scroggins' Testimony

Ms. Scroggins testified in the hearing. She stated that she is the daily driver of the vehicle.

Mrs. Scroggins testified that she does not set the E-brake at night but when she gets in the vehicle in the morning, it is set. She further explained that sometimes the automatic shut off works and she is able to drive away without manually releasing the E-brake, but at other times she is required to manually release it before the vehicle will move.

Ms. Scroggins testified about the January 23, 2021 incident when the vehicle would not start and only entered accessory mode. She noticed that all of the warning lights were flashing on the dashboard and a "ding" sounded. She waited for 30 minutes until a tow truck arrived to tow the vehicle to Grapevine. The tow truck driver was able to successfully start the vehicle when he arrived at Ms. Scroggins location. Ms. Scroggins then drove the vehicle directly to Grapevine for repair.

Ms. Scroggins stated that on September 30, 2019, she was unable to open the vehicle with the key fob and that she believed the battery in the key fob was dead, so she used the manual key to open the door. Upon entering the vehicle and closing the door, the vehicle would not start, and nothing turned on. Ms. Scroggins stated she was forced to use the emergency release on the driver's door in order to exit the vehicle because the electronic door handles were not working.

²⁹ Complainant Ex. 10, Repair Order dated July 22, 2021.

³⁰ *Id.*

Ms. Scroggins attempted to jump start the vehicle, but it still would not start. They had to have the vehicle towed to Grapevine for repair.

On cross-examination, Ms. Scroggins testified that when she parks the vehicle, she normally parks the vehicle on a flat surface. She also clarified that Mr. Gregory called her several times after the Lemon Law complaint was filed. She claimed a technician at Grapevine informed her that Respondent's field service engineer inspected the vehicle while it was in Grapevine's possession during the January 23, 2021, repair visit.

C. Respondent's Evidence and Arguments

1. Anthony Gregory's Testimony

Anthony Gregory, Consumer Affairs Legal Analyst, testified for Respondent. Mr. Gregory stated that Respondent received Complainants' written notice regarding their dissatisfaction with the vehicle on March 25, 2021. Mr. Gregory stated that on April 13, 2021, he contacted Complainants and asked for an opportunity to inspect the vehicle. The inspection took place on April 23, 2021, at the Grapevine dealership.

Patrick Johnson, Field Service Engineer, inspected the vehicle on April 19, 2021.³¹ The vehicle's mileage was 16,661 at the time of inspection.³² Mr. Johnson did not find any stored diagnostic trouble codes on the vehicle's computers at the time of the inspection.³³ He found that the passenger door module was not responding but after a software update it worked properly.³⁴ Prior to his involvement the dealership adjusted the harness routing to the BCM in order to address Complainant's concerns regarding the various systems not working properly.³⁵ Mr. Johnson identified 15+ computers that needed updates and they were updated by the dealership.³⁶ He test drove the vehicle extensively and reported that the concerns did not reappear after the software updates.³⁷

³¹ Respondent Ex. 1, FSE Vehicle Inspection Report dated April 19, 2021. Mr. Gregory testified that the inspection took place on April 23, 2021, but the inspection report indicates that the inspection actually took place on April 19, 2021.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

2. Sayyed Asad Bashir's Testimony

Sayyed Asad Bashir, Automotive Technical Consultant, testified for Respondent at the hearing. Mr. Bashir testified that he has worked in the automotive industry for 22 years. For the first eight (8) years of his career, Mr. Bashir worked for various independent automotive repair shops. He was hired by Respondent in 2007, as a claims adjuster in their warranty department. In 2009, Mr. Bashir was hired in his present position. He is an Automotive Service Excellence (ASE) Master Certified Technician and is enrolled in Respondent's senior master technician certification program.

Mr. Bashir testified that he has never personally seen the subject vehicle. He testified that the E-brake can automatically apply if certain conditions are met such as when the vehicle is parked on a non-level surface or when the vehicle is shifted into park without the brake pedal being fully depressed. He further stated that the E-brake will automatically release when the gas pedal is pressed. Mr. Bashir added that the auto hold feature could apply the parking brake if certain conditions are met.

D. Inspection of the Vehicle

The vehicles mileage at the time of the inspection was 22,314. The vehicle was parked on a slight incline in the parking lot and when it was started the E-brake was applied. Mr. Scroggins stated that he did not manually apply the E-brake when he turned the vehicle off. Earlier that day, when the gas pedal was pressed the E-brake automatically released.

During the test drive, Mr. Scroggins parked the vehicle on inclined and slanted parking spots. He turned off the vehicle while pressing the brake and without pressing the E-brake. While parking on a slanted spot, occasionally the E-brake light turned on as the vehicle was placed into park. When the vehicle turned back on the E-brake was still set. When parked on a level spot, the E-brake did not set. The E-brake also did not set when the vehicle was parked on a level spot when auto hold was used. Each time the E-brake was set, it would automatically release when the gas pedal was pressed.

E. Analysis

Under the Lemon Law, Complainants bear the burden of proof to establish by a preponderance of evidence that a defect or condition creates a serious safety hazard or substantially impairs the use or market value of the vehicle. In addition, Complainants must meet the presumption that the manufacturer was given a reasonable number of attempts to repair or correct the defect or

condition to conform the vehicle to an applicable express warranty. Finally, Complainants are required to serve written notice of the defect or nonconformity on Respondent, who must be allowed an opportunity to cure the defect. If each of these requirements is met and Respondent is still unable to conform the vehicle to an express warranty by repairing the defect or condition, Complainants are entitled to have the vehicle repurchased or replaced.

1. Electrical System Loss of Power Issue

The evidence presented at the hearing indicates that the vehicle lost power to all electrical systems on September 30, 2019. Complainants testified that this is the only time that this issue has occurred. Since repairs performed by Respondent's authorized dealers were performed after the incident occurred and the issue has not recurred, the hearings examiner must hold that the issue has been repaired and, as such, does not provide grounds to order repurchase or replacement relief for Complainants.

2. Lane Assist, Backup Assist, and Phone Button Issues

The evidence taken at the hearing indicates that several systems were not functioning properly. These systems included the following: Lane Keeping Assist (LKA), Rear Backup Assist (RBA), and the phone button on the steering wheel. Complainants took the vehicle to Respondent's authorized dealership, Grapevine, on January 13, 2021, where repairs to the vehicle were performed. Complainants testified that the issues have not reoccurred after the vehicle was repaired. Since repairs performed by Respondent's authorized dealer were performed after the incident occurred and the issues have not recurred, the hearings examiner must hold that the issues have been repaired and, as such, do not provide grounds to order repurchase or replacement relief for Complainants.

3. Failure to Start Issue

The evidence presented at the hearing indicates that the vehicle would not start and would only enter accessory mode on January 23, 2021. Complainants testified that this is the only time that this issue has occurred. Since repairs performed by Respondent's authorized dealers were performed after the incident occurred and the issue has not recurred, the hearings examiner must hold that the issue has been repaired and, as such, does not provide grounds to order repurchase or replacement relief for Complainants.

4. E-Brake Issue

The evidence taken at the hearing indicates that the E-brake is randomly applied when the vehicle is first turned on. Testimony from Respondent established that this is a safety feature and is designed to activate when the vehicle is parked on an incline or when the brake is not pressed far enough when the vehicle's transmission is shifted to park. The vehicle uses varied measurements to determine if the E-brake needs to be applied as an additional safety measure. Although the E-brake does not apply consistently, the application of the E-break is not a warrantable defect.

Additionally, the application of the E-Brake does not create a serious safety hazard or substantially impair the use or market value of the vehicle. The E-brake is easily turned off when the gas pedal is pressed. The application of the E-brake does not affect the use of the vehicle because it is a completely automatic system and requires no additional input from the driver other than normal driving. Therefore, the Hearings Examiner must hold that this issue is not a serious safety hazard and it does not substantially impair the use or market value of the vehicle and, as such, it is not grounds to order repurchase or replacement relief for Complainants.

Respondent's express warranty applicable to Complainant's vehicle provides bumper-to-bumper coverage for four (4) years or 50,000 miles whichever comes first. In addition, the powertrain warranty provides coverage for six (6) years or 70,000 miles. On the date of hearing, the vehicle's mileage was 22,314 and it remains covered under the warranties. As such, Respondent is still under an obligation to repair the vehicle whenever there is a problem covered by the warranties.

Complainants' request for repurchase or replacement relief is denied.

III. FINDINGS OF FACT

1. Susan and Dennis Scroggins (Complainants) purchased a new 2020 Lincoln Aviator on August 15, 2019, from Grapevine Ford–Lincoln (Grapevine) located in Grapevine, Texas with mileage of 28 at the time of delivery.
2. The manufacturer or distributor of the vehicle, Ford Motor Company (Respondent), issued a new vehicle limited warranty for the vehicle which provides coverage for the first four (4) years or 50,000 miles, whichever comes first. In addition, Respondent provided a powertrain warranty for the vehicle providing coverage for the vehicle's powertrain for six (6) years or 70,000 miles.
3. The vehicle's mileage on the date of hearing was 22,314.
4. At the time of hearing the vehicle's warranties were still in effect.
5. Complainants have experienced several situations where the vehicle's various electrical systems have not worked properly or not worked at all.
6. Complainants took the vehicle for repair to Respondent's authorized dealer, Grapevine, in order to address their concerns with the vehicle's electrical systems on the following dates:
 - a. October 1, 2019, at 630 miles;
 - b. August 10, 2020, at 10,335 miles;
 - c. January 13, 2021, at 16,365 miles;
 - d. January 23, 2021, at 16,661 miles;
 - e. June 2, 2021, at 19,713 miles; and
 - f. July 22, 2021, at 19,715 miles.
7. On October 1, 2019, the vehicle was taken to Grapevine for repair because there was no power to any electrical systems.

8. During the repair visit described in Findings of Fact #7, in order to address Complainants' concerns, Grapevine's service technician replaced the vehicle's body control module and reprogrammed it.
9. On August 10, 2020, Complainants took the vehicle to Grapevine because the E-brake would randomly automatically set itself.
10. During the repair visit described in Findings of Fact #9, Grapevine's service technician was unable to verify the concern and no repair was performed.
11. On January 13, 2021, Complainants took the vehicle to Grapevine for various electrical system errors and warning messages.
12. During the repair visit described in Findings of Fact #11, Grapevine's service technician reprogrammed the vehicle's image processing module B (IPMB) and the accessory protocol interface module (APIM).
13. On January 23, 2021, Complainants took the vehicle back to Grapevine because the vehicle would not start and only entered accessory mode. The vehicle was in Grapevine's possession until May 18, 2021, during this repair.
14. During the repair visit described in Findings of Fact #13, Grapevine's service technician reprogrammed all of the modules on the vehicle.
15. On March 11, 2021, Complainants mailed a letter to Respondent advising them that they were dissatisfied with the vehicle.
16. On March 24, 2021, Complainants filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department).

17. On April 19, 2021, Respondent's field service engineer, Patrick Johnson, performed an inspection of the vehicle at the Grapevine location. The vehicle's mileage was 16,661 at the time.
18. During the inspection performed on April 19, 2021, Mr. Johnson recommended 15+ computer systems be updated. After the updates were performed, Mr. Johnson determined that all of the systems were operating properly.
19. On June 2, 2021, took the vehicle back to Grapevine because the E-brake was still automatically applying. No repair was performed on the vehicle.
20. On July 22, 2021, Grapevine's service technician reprogrammed the vehicle's anti-lock braking system (ABS) module in order to address the E-brake issue.
21. On June 16, 2021, the Department's Office of Administrative Hearings issued a notice of hearing directed to Complainants and 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 matters asserted.
22. The hearing in this case convened in Fort Worth, Texas in the Texas Department of Transportation District Office on August 19, 2021, before Hearings Examiner Edward Sandoval. Dennis Scroggins represented himself and Susan Scroggins (Complainants) at the hearing. Susan Scroggins was also present and testified at the hearing. Respondent, Ford Motor Company, was represented by Anthony Gregory, Consumer Affairs Legal Analyst who appeared telephonically. Also appearing telephonically for Respondent was Sayyed Asad Bashir, Automotive Technical Consultant. The hearing record closed on August 19, 2021.

IV. 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. Complainants bear the burden of proof in this matter.
6. Complainants failed to prove by a preponderance of the evidence that Respondent was unable to conform the vehicle to an express warranty by repairing or correcting a defect or condition that presents a serious safety hazard or substantially impairs the use or market value of the vehicle. Tex. Occ. Code § 2301.604.
7. Respondent remains responsible to address and repair or correct any defects that are covered by Respondent's warranties. Tex. Occ. Code §§ 2301.204, 2301.603.
8. Complainants' vehicle does not qualify for replacement or repurchase. Tex. Occ. Code § 2301.604.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainants' petition for replacement or repurchase relief pursuant to Texas Occupations Code §§ 2301.601-2301.613 is hereby **DISMISSED**.

SIGNED October 7, 2021.



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