

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 23-0000473 CAF**

DON BUSH,
Complainant

v.

HYUNDAI MOTOR AMERICA,
Respondent

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Don Bush (Complainant) filed a complaint with the Texas Department of Motor Vehicles (Department) seeking relief pursuant to Texas Occupations Code §§ 2301.601-.613 (Lemon Law) for alleged warrantable defects in a vehicle manufactured by Hyundai Motor America (Respondent). A preponderance of the evidence shows that Complainant's vehicle does not qualify for repurchase relief but does qualify for repair.

I. PROCEDURAL HISTORY, JURISDICTION, AND NOTICE

Notice and jurisdiction were not contested and are only addressed in the Findings of Fact and Conclusions of Law. The hearing in this case convened on May 18, 2023, in Carrollton, Texas, before Chief Hearings Examiner Bennie Brown with the Department's Office of Administrative Hearings (OAH). Complainant appeared and represented himself. Respondent appeared through its representative Susan Lucas. The hearing concluded, and the record closed the same day.

II. APPLICABLE LAW

The Texas Lemon Law and Warranty Performance Law require a manufacturer, converter, or distributor to make repairs necessary to conform a new motor vehicle to an applicable warranty.¹ If this cannot be accomplished, the owner of the vehicle may seek relief by filing a complaint with

¹ Tex. Occ. Code § 2301.603(a).

the Department.² The case may be referred to OAH for a hearing on the merits to determine which type of relief, if any, is warranted pursuant to statute.³ The complaint filed with the Department identifies the relevant issues to address at the hearing.⁴ The Complainant has the burden of proof to prove, by a preponderance of the evidence, all facts required for relief.⁵ Failure to prove even one required fact results in denial of relief.

In the present case, Complainant is seeking repurchase of the subject vehicle.

A. Repurchase/Replacement Relief Requirements

Repurchase and replacement relief only apply to new vehicles.⁶ A new vehicle may qualify for repurchase or replacement of the vehicle, along with reimbursement of incidental expenses resulting from the loss of use of the vehicle due to the defect(s).⁷ A vehicle qualifies for repurchase or replacement if all the following conditions are met:

- 1) the vehicle has a defect covered by an applicable warranty (applicable 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 currently exist after a “reasonable number of attempts” to repair the vehicle.⁸

² Tex. Occ. Code § 2301.204(a); 43 Tex. Admin. Code § 215.202.

³ Tex. Occ. Code § 2301.204(d); 43 Tex. Admin. Code § 215.202(b)(4).

⁴ Because the complaint determines the relevant issues, the Department cannot order relief for an issue not included in the complaint unless tried by consent. *See* Tex. Gov’t Code §§ 2001.051-.052, .141(b)-(c); Tex. R. Civ. P. 301.

⁵ 43 Tex. Admin. Code § 206.66(d); *see Vance v. My Apartment Steak House, Inc.*, 677 S.W. 2d 480, 482 (Tex. 1984) (“[A] civil litigant who asserts an affirmative claim of relief has the burden to persuade the finder of fact of the existence of each element of his cause of action.”).

⁶ Tex. Occ. Code § 2301.603

⁷ Tex. Occ. Code § 2301.604.

⁸ Tex. Occ. Code § 2301.604(a).

The above terms are further defined by the Lemon Law statute and case law.

1. Serious Safety Hazard

The Lemon Law statute defines “serious safety hazard” as a life-threatening malfunction or non-conformity 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.⁹

2. Substantial Impairment of Use or Value

a. Impairment of Use

The Department applies a reasonable purchaser standard for determining whether a defect substantially impairs use of the vehicle. Under this standard, the factfinder considers “whether a defect or nonconformity hampers the intended normal operation of the vehicle” from the perspective of a reasonable prospective purchaser.¹⁰ For example, “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.”¹¹

b. 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.”¹² 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

⁹ Tex. Occ. Code § 2301.601(4).

¹⁰ *Dutchmen Manufacturing, Inc. v. Texas Dep’t of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 228 (Tex. App. – Austin 2012).

¹¹ *Id.*

¹² *Id.*

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.”¹³

3. 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.¹⁴

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.¹⁵

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, 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

¹³ *Id.*

¹⁴ Tex. Occ. Code § 2301.605(a)(1).

¹⁵ Tex. Occ. Code § 2301.605(a)(2).

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.¹⁶

The 30 days described above do not include any period when the owner has a comparable loaner vehicle provided while the dealer repairs the subject vehicle.¹⁷

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.¹⁸ 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.¹⁹

4. Other Requirements for Repurchase/Replacement

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, or the Department has provided written notice of the alleged defect or nonconformity to the respondent;²⁰

¹⁶ Tex. Occ. Code § 2301.605(a)(3).

¹⁷ Tex. Occ. Code § 2301.605(c).

¹⁸ *Ford Motor Company v. Texas Dep't 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.’”).

¹⁹ *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.”).

²⁰ Tex. Occ. Code § 2301.606(c)(1); 43 Tex. Admin. Code § 215.204.

- (2) the respondent was given an opportunity to cure the defect or nonconformity;²¹ and
- (3) the Lemon Law complaint was filed within 6 months after the earliest of:
 - (a) the warranty's expiration date; or
 - (b) 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.²²

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 due to the defect.²³ 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.²⁴ However, the Department's rules expressly exclude compensation for "any interest, finance charge, or insurance premiums."²⁵

²¹ Tex. Occ. Code § 2301.606(c)(2). A respondent may delegate its opportunity to cure to a dealer. A repair visit to a dealer may satisfy the opportunity to cure requirement when the respondent authorizes a dealer to attempt repair after written notice to the respondent. *Dutchmen Manufacturing, Inc. v. Texas Dep't of Transportation, Motor Vehicle Division*, 383 S.W.3d 217, 221, 226 (Tex. App.—Austin 2012); Texas Department of Transportation, *Kennemer v. Dutchman Manufacturing, Inc.*, MVD Cause No. 09-0091 CAF (Motor Vehicle Division Sept. 25, 2009) (Final Order Granting Chapter 2301, Subchapter M Relief). An opportunity to cure does not require an actual repair attempt but only a valid opportunity. A respondent forgoes its opportunity to repair by replying to a written notice of defect with a settlement offer instead of arranging a repair attempt. *Id.* at 2.

²² Tex. Occ. Code § 2301.606(d).

²³ Tex. Occ. Code § 2301.604(a).

²⁴ 43 Tex. Admin. Code § 215.209(a).

²⁵ 43 Tex. Admin. Code § 215.208(b)(1).

B. Warranty Repair Relief

If a vehicle does not qualify for repurchase or replacement, the vehicle may still qualify for warranty repair relief.²⁶ A vehicle may qualify for warranty repair relief if all the following conditions are met:

- 1) the vehicle has a “defect . . . that is covered by a manufacturer’s, converter’s, or distributor’s warranty agreement applicable to the vehicle;”
- 2) the vehicle owner, or the owner’s designated agent, provided written notice of the defect to the manufacturer, converter, distributor, or its authorized agent before the warranty’s expiration; and
- 3) the vehicle owner filed a complaint with the Department specifying the defect.²⁷

III. DISCUSSION

A. Summary of Complainant’s Evidence and Arguments

On September 30, 2021, Complainant purchased a new 2021 Genesis GV80 from Huffines Genesis, an authorized dealer of Respondent, in Plano, Texas. The vehicle had 219 miles on the odometer at the time of purchase.²⁸

The vehicle’s limited warranty provides coverage for 5 years or 100,000 miles, whichever occurs first, and powertrain coverage for 5 years or 100,000 miles, whichever occurs first.²⁹ The warranty “covers repair or replacement of any component manufactured or originally installed by Genesis that is defective. . .”³⁰

²⁶ 43 Tex. Admin. Code § 215.208(e).

²⁷ Tex. Occ. Code § 2301.204(a),(b); 43 Tex. Admin. Code § 215.202(b)(1), (3).

²⁸ Complainant Ex. 7.

²⁹ Complainant Ex. 1.

³⁰ *Id.*

On September 13, 2022, Complainant filed a Lemon Law complaint with the Department alleging that the subject vehicle's parking assist engages on its own and the GPS occasionally provides incorrect information. On September 18, 2022, Complainant provided written notice to Respondent of the alleged defects with parking button.³¹ On or about October 5, 2022, the Department sent a copy of the Lemon Law complaint to Respondent, providing written notice of the complaint and alleged defects regarding the parking button and navigation system.

Complainant testified that he has three concerns regarding the vehicle and his experience. First, Complainant asserts that the navigation system only works intermittently. Second, Complainant had an issue with the Parking safety and parking assist function, but the issue has been resolved. Finally, Complainant feels that he was the subject of intimidation and fraud by one of the dealerships.

In relevant part, the Complainant took the vehicle to a dealer for repair of the alleged defects as follows:

Date	Miles	Issue
06/10/2022	9,743	Drive mode button flashes and failure to accelerate ³²
07/27/2022	10,968	Parking assist light stays activated ³³
11/01/2022	13,706	Parking assist light stays activated
02/04/2023	16,152	Navigation system not working

Sometime prior to April 2022, Complainant began having issues with the vehicle's navigation system. The GPS mapped appeared to the sticking. In addition, the system

³¹ Complainant Ex. 6.

³² Complainant testified that he told the dealer about problems with the navigation system, but it was not documented on the invoice.

³³ Complainant testified that he told the dealer about problems with the navigation system, but it was not documented on the invoice.

rarely worked when he manually entered an address and did not work at all while using the voice command, advising that it was out of range.³⁴

On April 4, 2022, Complainant received a call through his vehicle and was instructed to call Genesis USA by pressing a button, which he did. He was instructed to immediately schedule an appointment for his vehicle. He scheduled an appointment for the same day at 4:30 p.m. Upon arrival to Huffines Genesis, the appointment was cancelled. Complainant was informed that he could not go through Genesis USA to schedule an appointment but needed to deal with Huffines Genesis directly.

After contacting Genesis USA, an appointment was scheduled with Clay Cooley Hyundai in Mesquite, Texas, for June 10, 2022. Complainant testified that he told the dealer about the problems with the navigation system; however, it was not documented on the invoice.³⁵

On July 27, 2022, Complainant took the vehicle to Huffines Genesis because the parking assist light remained on even after he turned it off. Complainant testified that he told them about the problems with his navigation system; however, it was not documented. Nevertheless, the dealer performed a 32-point inspection, and found the vehicle to be operating normally. The parking assist issue could not be duplicated.³⁶

After picking up the vehicle, Complainant continued to have issues with the navigation system. On August 4, 2022, Complainant spoke to the dealership regarding problems with the navigation system. They advised that the software may need to be updated. Complainant performed the update at home but still experienced issues with mapping after the update. He also sent an email on this date advising that the mapping system was not working properly and that the GPS showed the wrong location on one occasion.³⁷

³⁴ Complainant Ex. 2.

³⁵ Complainant Ex. 12.

³⁶ Complainant Ex. 23.

³⁷ Complainant Ex. 25.

On February 4, 2023, Complainant took the vehicle in for service because the navigation system was not working. He explained that the system worked intermittently prior to the software update but did not work at all at that time. He was told that the dealer needed to order a special USB with navigational updates for his vehicle. He would be contacted when the USB was available. The update became available on May 3, 2023; however, the update had not been installed at the time of the hearing.

Complainant testified that the problems with the navigation system still exist and are intermittent. He noted that one time, the GPS map did not track properly and showed he was in a different location other than where he was traveling. In addition, the maps do not fully load on occasion.

Complainant's second issue involving the "P" parking button has been resolved. He explained that there was confusion between the Parking safety and parking assist function, and resolution of the issue was more difficult than it should have been.

Complainant also believes there was intentional fraud and intimidation by the Clay Cooley dealership in Mesquite, Texas. An incorrect name and address were listed on the rental agreement as well as incorrect information regarding the vehicle information, phone number, and dates of service.³⁸ He believes this was intentional and not a mistake because the listed address is fictitious.

Complainant is still experiencing issues with the navigation system and requests repurchase of the vehicle.

B. Vehicle Inspection

The vehicle was present on the day of the hearing, and the mileage was 19,386 miles. During the inspection, Complainant attempted to obtain directions to an address using voice

³⁸ Complainant Exs. 11, 12.

command.³⁹ A message displayed on the screen that read, “Services are unavailable in this area.” Complainant manually typed in the same address, and it was found by the system. The weather attempted to load but never loaded during the inspection period. The vehicle was driven for approximately 2 miles, and the GPS properly tracked the vehicle’s location. The vehicle’s mileage was 19,388 miles at the end of the inspection.

C. Summary of Respondent’s Evidence and Arguments

Ms. Lucas made a statement on behalf of Respondent. She confirmed that the subject vehicle has a new vehicle limited warranty which provides bumper-to-bumper coverage for 5 years or 60,000 miles and powertrain coverage for 10 years or 10,000 miles. The vehicle’s warranties are still in effect.

Although the vehicle has been in service for the navigation issue, it was not able to be duplicated by the service technicians. Therefore, Respondent does not agree that a repurchase is warranted. Rather, Respondent asks that the software update be completed and the repurchase claim be denied.

D. Analysis

Complainant had the burden of proof to show that the subject vehicle qualified for relief. To qualify for relief, Complainant must prove, by a preponderance of the evidence, the following elements: (1) the alleged defect is covered under Respondent’s warranty; (2) the defect causes either a serious safety hazard or a substantial impairment of use or value; and (3) the vehicle has had a reasonable number of repair attempts. Based on the evidence presented, Complainant failed to establish the facts necessary for repurchase relief, but the subject vehicle qualifies for repair.

It is undisputed that the subject vehicle’s bumper-to-bumper warranty is still in effect. However, the preponderance of the evidence fails to show that the intermittent navigational issues

³⁹ The address utilized was 501 Park Place, Fowler, Indiana.

create a serious safety hazard or a substantial impairment of use or value. According to the evidence, the navigation system will not respond to voice commands, intermittently accepts manual entry of an address, and intermittently loads maps. On one occasion, the GPS incorrectly tracked the vehicle. However, the GPS correctly tracked the vehicle during the vehicle inspection and accepted the manual entry of an address.

Although these occurrences may be inconvenient, they do not rise to the level of a serious safety hazard or substantial impairment of use or value. There is no risk of a life-threatening malfunction, and the vehicle can be safely operated regardless of whether the navigation system is operating correctly. In addition, the occurrences are intermittent, and a new software update is available, which may resolve the system's issues.

The evidence also fails to show that the vehicle has had a reasonable number of repair attempts as required by statute. Generally, a rebuttable presumption is established that the vehicle had a reasonable number of repair attempts if the same nonconformity continues to exist after being subject to repair four or more times by the manufacturer.⁴⁰ In this case, the vehicle service records show that the vehicle has only had one repair attempt by Respondent for the navigational issues.⁴¹ Complainant testified that he told the dealer about the navigational issues on the June 10, 2022, and July 27, 2022, repair visits, but they were not documented on the repair orders. Even if these two instances were considered as repair attempts, the requisite number of repair attempts would not be satisfied. Therefore, the subject vehicle does not qualify for repurchase or replacement pursuant to statute.

However, the vehicle qualifies for repair relief since it is still covered under Respondent's warranty, written notice was provided to Respondent before the warranty's expiration, and a complaint was filed with the Department specifying the defect.⁴²

⁴⁰ Tex. Occ. Code § 2301.605(a)(1).

⁴¹ Complainant Ex. 23.

⁴² Tex. Occ. Code § 2301.204(a),(b); 43 Tex. Admin. Code § 215.202(b)(1), (3).

Respondent has an obligation to “make repairs necessary to conform a new motor vehicle to an applicable. . . express warranty.”⁴³

For these reasons, the Hearings Examiner finds that Complainant’s request for repurchase of the subject vehicle is denied. However, repair of the vehicle’s navigational issues is granted.

As noted earlier, Complainant’s issue with the parking safety and parking assist function has been resolved, and no further action is necessary. In addition, Complainant’s complaint regarding fraud and intimidation are not actionable issues under the applicable statutes for this hearing.

IV. FINDINGS OF FACT

1. On September 30, 2021, Don Bush (Complainant) purchased a new 2021 Genes GV80 from Huffines Genesis, an authorized dealer of Hyundai Motor America (Respondent), located in Plano, Texas.
2. The vehicle had 219 miles on the odometer at the time of purchase.
3. The vehicle’s limited warranty provides bumper-to-bumper coverage for 5 years or 60,000 miles, whichever occurs first, and powertrain coverage for 10 years or 100,000 miles, whichever occurs first.
4. In relevant part, the Complainant took the vehicle to a dealer for repair of the alleged defect as follows:

Date	Miles	Issue
06/10/2022	9,743	Drive mode button flashes and failure to accelerate
07/27/2022	10,968	Parking assist light stays activated
11/01/2022	13,706	Parking assist light stays activated
02/04/2023	16,152	Navigation system not working

5. Sometime prior to April 2022, Complainant began having issues with the vehicle’s navigation system. The GPS mapped appeared to the sticking. In addition, the

⁴³ Tex. Occ. Code § 2301.603(a).

system rarely worked when an address was entered manually and did not work at all while using the voice command.

6. On April 4, 2022, Complainant received a call through his vehicle and was instructed to call Genesis USA and schedule an appointment for his vehicle. He scheduled an appointment for the same day at 4:30 p.m. Upon arrival to Huffines Genesis, the appointment was cancelled.
7. On June 10, 2022, Complainant took the vehicle to Clay Cooley Hyundai in Mesquite, Texas, for service. Complainant told the dealer about the issues with the navigation system, but there is no documentation on the invoice.
8. On July 27, 2022, Complainant took the vehicle to Huffines Genesis for issues with the parking assist light. Complainant told the dealer about the issues with the navigation system, but there is no documentation on the invoice. A 32-point inspection was performed, and the vehicle was found to be operating normally.
9. On August 4, 2022, Complainant spoke to the dealership regarding issues with the navigation system and was advised that a software update may be necessary. Complainant performed the update at home but still experienced issues with mapping after the update.
10. On the same day, Complainant also sent an email to Respondent advising that the mapping system was not working properly and that the GPS showed the wrong location on one occasion.
11. On February 4, 2023, Complainant took the vehicle in for service because the navigation system was not working. He was told that the dealer needed to order a special USB with navigational updates for the vehicle.
12. The update became available on May 3, 2023. The update had not been installed at the time of the hearing.
13. On September 13, 2022, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) alleging that the subject vehicle's parking assist engages on its own and the GPS occasionally provides incorrect information.
14. On or about October 5, 2022, the Department sent a copy of the Lemon Law complaint to Respondent, providing written notice of the complaint and alleged defects regarding the parking button and navigation system.
15. On February 2, 2023, the Department's Office of Administrative Hearings (OAH) issued a Notice of Hearing directed to all parties, providing not less than 10 days' notice of the hearing date and advising the parties of their rights under the applicable rules and statutes.
16. The Notice of Hearing advised the parties of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; a reference to the

particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the Department.

17. On May 18, 2023, a hearing on the merits was convened in Carrollton, Texas, before OAH Chief Hearings Examiner Bennie Brown. Complainant appeared and represented himself. Respondent appeared through its representative Susan Lucas. The hearing concluded, and the record closed the same day.
18. The vehicle's mileage on the day of the hearing was 19,386 miles.
19. The vehicle's warranty was in effect at the time of the hearing.
20. During the vehicle inspection and test drive, the navigation system would not respond to a voice command for directions. The system correctly responded to manual entry of an address and correctly tracked the vehicle's location while driving. The weather information did not load on the display during the inspection period.
21. The vehicle's navigational issues do not affect the safe operation of the vehicle and do not create a serious safety hazard.
22. The vehicle's navigational issues are intermittent and do not substantially impair the vehicle's use or value.
23. The subject vehicle has only had one documented repair attempt for the navigational issues, or three total attempts if the undocumented service visits are counted.
24. The subject vehicle has not had the requisite number of repair attempts to qualify for repurchase or replacement.
25. Complainant provided written notice of the navigational issues to Respondent prior to the expiration of the vehicle's warranty.
26. Complainant's issue with the parking safety and parking assist function was resolved prior to the hearing.

V. CONCLUSIONS OF LAW

1. The Texas Department of Motor Vehicles has jurisdiction over this matter. Tex. Occ. Code §§ 2301.204, 601-.613.
2. A Hearings Examiner with 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. Complainant filed a sufficient complaint with the Department. 43 Tex. Admin. Code § 215.202.
4. Proper and timely notice of the hearing was provided. Tex. Gov't Code ch. 2001.051-.052; 43 Tex. Admin. Code § 215.206(2).
5. Complainant bears the burden of proof in this proceeding. 43 Tex. Admin. Code § 206.66(d).
6. Complainant, or a person on behalf of Complainant, provided sufficient notice of the alleged defect(s) to Respondent. Tex. Occ. Code § 2301.606(c)(1).
7. Respondent had an opportunity to cure the alleged defect(s). Tex. Occ. Code § 2301.606(c)(2).
8. Complainant timely filed the complaint commencing this proceeding. Tex. Occ. Code § 2301.606(d).
9. Complainant failed to show, by a preponderance of the evidence, that the subject vehicle has a manufacturing defect that either creates a serious safety hazard or a substantial impairment of use or value, and the defect continues to exist after a reasonable number of repair attempts. Tex. Occ. Code § 2301.604(a), .605.
10. Complainant's vehicle qualifies for warranty repair. Tex. Occ. Code § 2301.204(a),(b); 43 Tex. Admin. Code § 215.202(b)(1),(3).
11. Respondent remains responsible to address and repair or correct any defects covered by Respondent's warranty. Tex. Occ. Code § 2301.603.

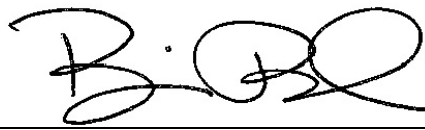
VI. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainant's petition for relief pursuant to Texas Occupations Code §§ 2301.601-.613 is **DISMISSED**. It is **FURTHER ORDERED** that Respondent shall make any repairs needed to conform the subject vehicle to the applicable warranty; specifically, Respondent shall repair/resolve the issues with the vehicle's navigation system. Upon this Order becoming final under Texas Government Code § 2001.144:⁴⁴ (1) Complainant shall deliver the vehicle to

⁴⁴ This Order does not become final on the date this Order is signed, instead: (1) this Order becomes final if a party does not file a motion for rehearing within 25 days after the date this Order is signed, or (2) if a party files a motion for rehearing within 25 days after the date this Order is signed, this Order becomes final when: (A) an order overruling the motion for rehearing is signed, or (B) the Department has not acted on the motion within 55 days after the date

Respondent within 20 days; and (2) Respondent shall complete the repair of the vehicle within **20 days** after receiving the vehicle. However, if the Department determines Complainant's refusal or inability to deliver the vehicle cause the failure to complete the required repair as prescribed, the Department may consider Complainant to have rejected the granted relief and deem this proceeding concluded and the complaint file closed under 43 Texas Administrative Code § 215.210(c).

SIGNED July 18, 2023



**BENNIE BROWN
CHIEF HEARINGS EXAMINER
OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES**

this Order is signed. Accordingly, this Order cannot become final (1) while a motion for rehearing remains pending; or (2) after the grant of a motion for rehearing.