

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 23-0001730 CAF**

**PHYLLIS JOHNSON,
Complainant**

v.

**GENERAL MOTORS, LLC,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

Phyllis Johnson (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 General Motors, LLC (Respondent). A preponderance of the evidence shows that Complainant's vehicle does not qualify for repurchase relief.

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 June 27, 2023, in Beaumont, Texas, before Chief Hearings Examiner Bennie Brown with the Department's Office of Administrative Hearings (OAH). Complainant appeared and represented herself. Respondent appeared electronically through its representative Kevin Phillips. The hearing concluded the same day, but the record was held open until July 6, 2023, to allow the submission of additional evidence.

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 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 be addressed 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 this 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

¹ Tex. Occ. Code § 2301.603(a).

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.

- 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

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

⁸ Tex. Occ. Code § 2301.604(a).

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.*

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 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

¹² *Id.*

¹³ *Id.*

¹⁴ Tex. Occ. Code § 2301.605(a)(1).

¹⁵ Tex. Occ. Code § 2301.605(a)(2).

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 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 4, 2021, Complainant purchased a new 2021 GMC Sierra from Moore Chevrolet-Buick-GMC-Cadillac, a franchised dealer of Respondent, in Silsbee, Texas. The vehicle had 1,369 miles on the odometer at the time of purchase.²⁸

The vehicle’s limited warranty provides bumper-to-bumper coverage for 3 years or 36,000 miles, whichever occurs first, and powertrain coverage for 5 years or 60,000 miles, whichever occurs first.²⁹

On October 12, 2022, Complainant filed a Lemon Law complaint with the Department alleging that the subject vehicle stalls and will not start. The complaint also alleged that the vehicle

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. 3.

²⁹ Respondent Ex. 2.

knocks loudly and loses power. Shortly thereafter, the Department sent a copy of the Lemon Law complaint to Respondent, providing written notice of the alleged defects. Complainant later provided notice to Respondent of additional problems with the subject vehicle. Specifically, Complainant alleged that the vehicle makes a clunking noise and jerks while shifting between gears.

In relevant part, the Complainant took the vehicle for repair of the alleged issues as follows:³⁰

Date	Miles	Issue
09/30/2021	2,555	Vehicle will not start and stalled out; check engine light on after vehicle started
06/27/2022	9,221	Check engine light on
06/29/2022	9,349	OnStar report regarding emissions
10/12/2022- 10/31/2022	13,081	Vehicle will not start; made noises and not driving smoothly
11/25/2022	13,524	Vehicle will not start; dead battery
05/05/2023	-	Abnormal noise and jerking while shifting between gears

Complainant testified that shortly after purchasing the vehicle, on September 30, 2021, the vehicle would not start. Her husband was eventually able to get the vehicle started, and it was taken in for service the same day. The dealer found chafed wires on the wiring harness, and the issue was repaired.³¹

On June 27, 2022, the check engine light came on, and the vehicle was taken in for service. The vent solenoid was replaced. On June 29, 2022, the vehicle was taken in because Complainant received an OnStar notice regarding emissions. The vent valve assembly and fuel tank filler neck assembly were replaced.

³⁰ Complainant Ex. 3; Respondent Exs. 3-4.

³¹ Complainant Ex. 3.

In October 2022, the vehicle would not start. Noises came from the vehicle, and it was hesitating and jumping. A new battery was installed, and the right-side valve lifter was replaced.

On November 25, 2022, the vehicle would not start. The battery was dead. The dealer charged the battery and advised that the battery had been drained by an after-market dash camera. However, Complainant does not believe the dash camera was the cause of the dead battery.

Complainant testified that currently, when shifting gears, the vehicle makes a clunking noise and jerks. She explained that if the gears are shifted from Reverse-to-Drive-to-Park, the noise is audible when placed in Park. However, if the gears are shifted from Park-to-Drive-to-Reverse, the clunking noise can be heard in each gear, and the vehicle jerks. The dealer checked the problem in May 2023 and said nothing is wrong.

The vehicle was in an accident on April 8, 2022. The driver's airbag was deployed, and most of the impact was to the front of the vehicle. The vehicle was repaired by Payne and Sons. The final repair cost was between \$14,000 to \$15,000.

Complainant does not believe the vehicle is safe and dependable since she has had so many problems. She requests that the vehicle be repurchased.

B. Vehicle Inspection

Upon inspection at the hearing, the vehicle's odometer displayed 18,125 miles. No warning lights were illuminated on the instrument panel. Complainant shifted gears while the vehicle was stationary. Complainant shifted the vehicle from Park-to-Reverse-to-Neutral-to-Drive and back again in reverse order. The Hearings Examiner observed a "click" each time the vehicle shifted into a different gear and a slight movement when the vehicle shifted from Neutral-to-Reverse. However, the noise and slight movement were minimal and did not appear to be abnormal.

At the request of Respondent, the Hearings Examiner observed structural damage repair work performed by Payne and Sons. It appears that the spot welding was performed on the core support area for both sides of the vehicle. The welding is black and wavy.

C. Summary of Respondent's Evidence and Arguments

Bruce Morris testified on behalf of Respondent. He is currently employed by Respondent as a Field Service Engineer for the Houston and East Texas region. He has been employed by Respondent since 2009 and holds 27 ASC certifications.

Mr. Morris inspected the subject vehicle on two occasions. The first inspection occurred on October 25, 2022, at the dealership. He observed that the vehicle had structural repair to the front core support area, the after-market right side running board was bent, and an after-market front and rear-view dash camera had been installed. He performed a complete Diagnostic Trouble Code (DTC) scan of the vehicle and found codes P0300 and P050D stored in the Engine Control Module (ECM). Mr. Morris explained that these codes were related to the current condition of the vehicle which was diagnosed to be a collapsed lifter on cylinder #2. The part needed to repair this issue arrived on the day Mr. Morris was present, the lifter was replaced, and the issue was resolved.

Mr. Morris reviewed previous repairs and found that the no start issue was resolved by Bulletin #21-NA-149: Engine Wire Harness Chafing on October 10, 2022.³² The second repair was for an EVAP emissions code P0455 Gross EVAP Leak. The issue was resolved by replacing the vent valve assembly and fuel filler neck. He noted that there were two other repairs not related to warranty issues.³³

³² Respondent Ex. 3.

³³ Respondent Ex. 3. The first non-warranty repair was to recharge the Heating Ventilation Air Conditioning (HVAC) system. The second non-warranty repair was to replace multiple Supplemental Inflatable Restraints (SIR) system components from airbag deployment.

The second inspection occurred on May 5, 2023. He noted that the structural repair to the core support was still evident, the running board was still bent, both taillights were cracked, and the windshield had a rock chip. The after-market dash camera had been removed.

Mr. Morris performed a DTC scan of the vehicle and found code U152B, set as current in the Heating Ventilation Air Conditioning (HVAC) system, and code B1325 in the history of the Steering Column Lock Control Module (SCLCM). He explained that a code could stay in history for 40-100 ignition cycles before it is cleared. It does not mean that the code is for a current issue. He also clarified that these codes did not pertain to the issues complained about at the hearing.

He stated that at the time of the inspection, the vehicle had been sitting for 5 days and started with no issues. Mr. Morris checked for battery draw and found that the system would go to sleep normally with no abnormal amp draw. He explained that some after-market devices can cause battery draw and eventually drain the battery. However, the after-market dash camera had been removed at the time of his inspection.

He also test drove the vehicle for 31 miles and checked for abnormal shifting. He performed multiple garage shifts and found no slack or abnormal shifting. He found the vehicle to be operating as designed at the time of his inspection. He did not find any warrantable defects during his inspection.

Mr. Morris also testified that the structural repair performed by Payne and Sons did not meet Respondent's standards. He explained that rather than spot-welding, the core support should have been replaced. Respondent would not have left the repair in that condition. It also appeared that some of the seams were cracking or separating, and that is not acceptable by Respondent's standards.

Mr. Phillips pointed out that Complainant's only current concern is noise and jerking while shifting. However, Mr. Morris did not find any issues or problems with the vehicle's shifting. Mr. Phillips explained that the Lemon Law statute requires a substantial manufacturing defect to qualify for repurchase. In this case, the vehicle does not qualify for relief because all repairs have

been completed and the vehicle has been conformed to the new vehicle warranty. He asked, in the alternative, if repurchase is ordered, that the diminished value of the vehicle be considered due to the accident and sub-standard repairs. He also asked that the vehicle be fully repaired before repurchase is granted.

D. Analysis

Complainant had the burden of proof to show that the subject vehicle qualified for relief. All facts must be proven by a preponderance of the evidence, and failure to prove even one required fact results in denial of relief. Based on the evidence presented, Complainant failed to establish the facts necessary for relief.

To qualify for relief, Complainant must prove, by a preponderance of the evidence, that the vehicle has a warrantable manufacturing defect and that the defect continues to exist after a reasonable number of repair attempts.³⁴ In the present case, all issues with the subject vehicle have been repaired. The no start issue was repaired by Bulletin #21-NA-149: Engine Wire Harness Chafing. The check engine light and emissions notice issues were resolved by replacing the vent valve assembly and fuel tank filler neck assembly. Finally, the dead battery and hesitating and jumping issues were resolved by replacement of the battery and the right-side valve lifter.

The only remaining complaint is that the vehicle makes a “clunking” noise and jerks when shifting gears. However, Mr. Morris inspected the vehicle in May 2023 and was unable to find any issues while shifting gears. He found the vehicle to be operating as designed and did not find any warrantable defects. In addition, the Hearings Examiner did not observe any abnormal noise or movement while the gears were shifted at the inspection during the hearing. Therefore, the preponderance of the evidence demonstrates that the subject vehicle does not have a warrantable manufacturing defect that continues to exist after a reasonable number of repair attempts.

³⁴ Tex. Occ. Code § 2301.604(a), .605.

For these reasons, the subject vehicle does not qualify for repurchase or any other relief under the Lemon Law statute. Complainant's request for relief is denied.

IV. FINDINGS OF FACT

1. On September 4, 2021, Phyllis Johnson (Complainant) purchased a new 2021 GMC Sierra from Moore Chevrolet-Buick-GMC-Cadillac, a franchised dealer of General Motors, LLC (Respondent), in Silsbee, Texas.
2. The vehicle had 1,369 miles on the odometer at the time of purchase.
3. The vehicle's limited warranty provides basic coverage for 3 years or 36,000 miles, whichever occurs first, and powertrain coverage for 5 years or 60,000 miles, whichever occurs first.
4. Complainant took the vehicle for repair of the alleged issues as follows:

Date	Miles	Issue
09/30/2021	2,555	Vehicle will not start and stalled out; check engine light on after vehicle started
06/27/2022	9,221	Check engine light on
06/29/2022	9,349	OnStar report regarding emissions
10/12/2022- 10/31/2022	13,081	Vehicle will not start; made noises and not driving smoothly
11/25/2022	13,524	Vehicle will not start; dead battery
05/05/2023	-	Abnormal noise and jerking while shifting between gears

5. On September 20, 2021, the vehicle was taken in for service because it would not start. The issue was repaired by Bulletin #21-NA-149: Engine Wire Harness Chafing.
6. In June 2022, the vehicle would not start and would not drive smoothly. EVAP emissions code P0455 Gross EVAP Leak was found. The issue was resolved by replacing the vent valve assembly and fuel filler neck.
7. In April 2022, the vehicle was involved in an accident and sustained damage to the front of the vehicle. The vehicle was repaired by a local body shop. Spot welding was performed on the core support area for both sides of the vehicle. The welding is black and wavy, and cracks are visible on the core support mechanism.

8. In November 2022, the vehicle would not start, and the battery was replaced.
9. In May 2023, the vehicle was inspected for abnormal noise and jerking while shifting gears.
10. Bruce Morris, a Field Service Engineer for Respondent, inspected the vehicle and test drove it for 31 miles. He did not find any abnormality with shifting and found the vehicle to be operating as designed. No warrantable defects were found.
11. On October 12, 2022, Complainant filed a Lemon Law complaint with the Texas Department of Motor Vehicles (Department) alleging that the subject vehicle stalls and will not start. The complaint also alleged that the vehicle knocks loudly and loses power.
12. The Department sent a copy of the Lemon Law complaint to Respondent, providing written notice of the alleged defects.
13. Complainant later provided notice to Respondent of additional problems with the subject vehicle alleging that the vehicle makes a clunking noise and jerks while shifting between gears.
14. 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.
15. 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.
16. On June 27, 2023, a hearing on the merits was convened in Beaumont, Texas, before OAH Chief Hearings Examiner Bennie Brown. Complainant appeared and represented herself. Respondent appeared electronically through its representative Kevin Phillips. The hearing concluded, but the record was held open until July 6, 2023, for the submission of additional evidence.
17. The vehicle's odometer displayed 18,125 miles on the day of the hearing. No warning lights were illuminated on the instrument panel.
18. No abnormal noises or vehicle movements were observed while shifting gears during the vehicle inspection at the hearing.
19. The subject vehicle has been repaired and conformed to the new vehicle warranty.
20. The subject vehicle does not currently have a warrantable manufacturing defect.

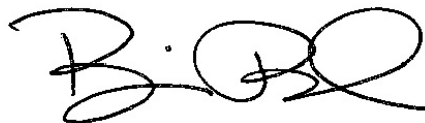
V. CONCLUSIONS OF LAW

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 failed to show, by a preponderance of the evidence, that the subject vehicle has a warrantable manufacturing defect that continued to exist after a reasonable number of repair attempts. Tex. Occ. Code § 2301.604(a), .605.
7. Respondent remains responsible to address and repair or correct any defects that are 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 **DENIED**.

SIGNED September 5, 2023



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