

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 23-0005909 CAF**

**RAFAEL MATHEWS,
Complainant**

v.

**KIA MOTORS AMERICA, INC.,
Respondent**

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**BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS**

DECISION AND ORDER

Rafael Mathews (Complainant) filed a complaint with the Texas Department of Motor Vehicles (Department) seeking relief pursuant to Texas Occupations Code § 2301.204 (Warranty Performance) for alleged warrantable defects in a vehicle manufactured by Kia Motors America, Inc. (Respondent). A preponderance of the evidence does not show that the Complainant's vehicle qualifies for warranty repair relief.

I. PROCEDURAL HISTORY, JURISDICTION, AND NOTICE

Notice and jurisdiction were not contested and are addressed only in the Findings of Fact and Conclusions of Law. The hearing in this case convened on April 21, 2023, in Rosenberg, Texas, before Chief Hearings Examiner Bennie Brown with the Department's Office of Administrative Hearings (OAH). The Complainant appeared and represented himself. Respondent appeared through its representative Danielle Gaynair. The hearing concluded the same day, but the record was held open until May 4, 2023, to allow the submission of additional evidence and written objections.

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 Lemon Law statute only applies to new motor vehicles with warrantable defects (defects covered by warranty) that create a serious safety hazard or substantially impair the vehicle's use or value. 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).⁴ If a vehicle does not qualify for repurchase or replacement, the vehicle may still qualify for warranty repair relief.⁵

The Warranty Performance Law applies to both new and used vehicles with any warrantable defects. Both the Lemon Law and the Warranty Performance Law require prior notice of the defect to the respondent to qualify for relief.⁶ In this case Complainant is seeking repair of alleged warrantable defects.

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 Tex. Occ. Code § 2301.604.

⁵ 43 Tex. Admin. Code § 215.208(e).

⁶ Tex. Occ. Code § 2301.606(c)(1); 43 Tex. Admin. Code § 215.202(b)(3).

A. Warranty Repair Relief

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;”⁷
- 2) the vehicle owner provided written notice of the defect to the manufacturer, converter, distributor, or its authorized agent before the warranty’s expiration;⁸ and
- 3) the vehicle owner filed a complaint with the Department specifying the defect.⁹

B. Burden of Proof

The Complainant has the burden of proof to prove, by a preponderance of the evidence, all facts required for relief.¹⁰ That is, the Complainant must present sufficient evidence to show that it is more likely than not that every required fact for relief exists.¹¹

C. The Lemon Law Complaint Identifies the Relevant Issues in the Case

The complaint filed with the Department identifies the relevant issues to address in this case. The complaint must state “sufficient facts to enable the [D]epartment and the party complained against to know the nature of the complaint and the specific problems or circumstances forming the basis of the claim for relief under the lemon law.”¹² However, the parties may expressly or impliedly consent to hearing issues not included in the complaint or pleadings.¹³ Implied consent occurs when a party introduces evidence on an unpleaded issue without

⁷ Tex. Occ. Code § 2301.204(a).

⁸ Tex. Occ. Code § 2301.204(b); 43 Tex. Admin. Code § 215.202(b)(1), (3).

⁹ Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202(b)(1).

¹⁰ 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.”).

¹¹ *E.g., Southwestern Bell Telephone Company v. Garza*, 164 S.W.3d 607, 621 (Tex. 2005).

¹² 43 Tex. Admin. Code § 215.202(a)(3), (b)(1).

¹³ 43 Tex. Admin. Code § 215.42; Tex. R. Civ. P. 67.

objection.¹⁴ Because the complaint determines the relevant issues, the Department cannot order relief for an issue not included in the complaint unless tried by consent.¹⁵

III. DISCUSSION

A. Summary of Complainant's Evidence and Arguments

1. Complainant

On June 25, 2022, Complainant purchased a certified pre-owned 2019 Kia Stinger GT R from Clay Cooley Kia, a franchised dealer of Respondent located in Irving, Texas. The vehicle had 35,608 miles on the odometer at the time of purchase.¹⁶ As a certified pre-owned vehicle, the vehicle's powertrain warranty provides coverage for 120 months or 100,000 miles, whichever occurred first.¹⁷ The powertrain warranty provides engine coverage for the "[c]ylinder block, cylinder head and all internal parts, timing gear, seals and gaskets, valve cover, flywheel, oil pump, water pump and turbo charger."¹⁸ However, the warranty does not cover damage due to factors beyond the manufacturer's control, such as misuse or consumer-induced damage.¹⁹

On or about January 16, 2023, Complainant filed a complaint with the Department alleging that the vehicle stalled out three times in 60 days and was being serviced at the time of the complaint. On or about January 19, 2023, the Department sent a copy of the complaint to Respondent, providing written notice of the alleged defects.

¹⁴ See *Gadd v. Lynch*, 258 S.W.2d 168, 169 (Tex. Civ. App. – San Antonio 1953, writ ref'd).

¹⁵ See Tex. Gov't Code §§ 2001.051-.052, .141(b)-(c); Tex. R. Civ. P. 301.

¹⁶ Complainant Exs. 1, 3.

¹⁷ Complainant Ex. 20; Respondent Ex. 6.

¹⁸ Respondent Ex. 6.

¹⁹ Respondent Ex. 6.

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

Date	Miles	Issue	Repair/Recommendation
11/14/2022	51,514	Vehicle stalling and check engine light on	Bad gas; components flushed; fuel pump and spark plugs replaced
12/12/2022	54,343	Vehicle stalling and delayed start	Starter replaced
01/13/2023	54,440	Vehicle engine blew and vehicle inoperable	Water found in engine; engine replacement recommended

Complainant testified that seven days prior to purchasing the vehicle, the vehicle was serviced by Clay Cooley Kia on June 18, 2022, at 35,608 miles. According to the invoice, the vehicle's evaporator system was flushed, and the cabin filter was replaced due to a mildew or smoke smell coming from the air conditioning system.²⁰

In July 2022, Complainant noticed that the ABS system malfunctioned intermittently by stopping or pausing and did not operate normally. Complainant took the vehicle in for service at Clay Cooley Kia and was told that he would be charged for an oil change. He explained that one service advisor told him he could turn off the ABS system; however, another service advisor told him doing so would void the warranty. Complainant then took the vehicle for service at Preston Road Tire and Service, Inc.

Complainant testified that around late October or early November 2022, the vehicle started stalling and required restarting. On or about November 14, 2022, the vehicle acted "weird" and the check engine light came on. Complaint took the vehicle in for service. The vehicle's mileage was 51,514 miles at that time. The dealership advised that the issues were due to bad gas and that Complainant should file a claim with the gas station. However, Complainant stated that he had experience several misfires with the vehicle's engine. Complainant spoke with Carter Pennington, from Kia's service department, who advised that the vehicle's fuel pump needed to be flushed or replaced. The invoice indicated that a tune-up was performed, the vehicle's fuel pump was

²⁰ Respondent Ex. 5.

replaced, and the system was flushed. The invoice totaled \$1,480.00. However, Complainant stated that the invoice failed to describe the charge for \$1,134.95.²¹ Complainant noted that there was no mention of any water damage at that time.

Shortly after the repair, the vehicle stalled continuously and would not start. Complainant took the vehicle back in for service on December 12, 2022. The vehicle was at the dealership approximately one month before Complainant was advised that the vehicle's starter needed replacement, which was covered under warranty.²² Complainant noted that there was no mention of any water damage at that time.

On January 13, 2023, six days after the starter replacement, the vehicle's engine appeared to catch on fire and was completely inoperable. Complainant explained that sparks shot out from the exhaust pipe and white smoke emitted from the engine. He feared for his life and thought the engine might explode. When the vehicle was lifted for towing, Complainant observed oil splatter underneath the vehicle. Complainant did not know there was a hole in the side of the cylinder until advised by Respondent.

According to Complainant, the vehicle was at the dealership approximately one month before it was inspected by a field service technician. Complainant attempted to obtain status updates from the service manager, but he advised Complainant that corporate was involved and his hands were tied. The dealership determined that the vehicle had water damage in the engine and the engine needed replacement. Respondent denied Complainant's claim for warranty repair of the engine stating that the engine's failure was not due to a manufacturing defect but due to water damage caused by Complainant. However, Complainant testified that during his ownership, the vehicle never sustained any type of water damage.

Complainant stated that during the time the vehicle was at the dealership waiting to be inspected, a severe weather event occurred with rain and snow. Complainant speculates that the

²¹ Complainant Ex. 3. A review of the invoice indicates that the \$1,134.95 charge was for labor.

²² Complainant also testified that when he picked up the vehicle, there was damage to both doors on the driver's side of the vehicle. The dealership repaired the damage.

vehicle may have been exposed to flooding at the dealership, which caused water damage prior to inspection.

Complainant also stated that there is an open recall for his vehicle.²³ However, the CarFax Report offered by Respondent, dated March 29, 2023, indicates that there are no open recalls for Complainant's vehicle, which is identified by VIN number.²⁴

Complainant estimates that he has only driven the vehicle approximately two months since purchasing the vehicle. During the remaining time, the vehicle either required service or was waiting to be serviced. The vehicle has been inoperable since January 2023. He explained that the vehicle has been sitting stationary and has not been washed. The vehicle is dirty with dust under the hood.

He testified that the whole experience has created a hardship because he is a personal trainer and is no longer able to drive to his clients' homes. Instead, he must request that they come to him, and this has had a negative impact on his income. In addition, Complainant experienced trauma from the engine blowout. He thought the vehicle was catching on fire and feared for his life.

²³ <https://www.autoblog.com/buy/2019-Kia-Stinger/recalls/>. Complainant testified that he read a report regarding a recall for the 2019 Kia Stinger with a 3.0-liter engine. On December 30, 2020, Kia expanded the recall and added certain 2018 through 2021 Stinger vehicles. The recall, which began on November 30, 2020, stated that while driving, an engine compartment fire may occur in the area where the anti-lock brake hydraulic electronic control unit (HECU) is located. The report mentioned that Kia owners will be notified and dealers are to install a new fuse kit free of charge. The report advised that as a precaution, owners should park outside and away from structures until the recall repair is completed. The recall notice also states that the affected components are "Service Brakes, Hydraulic: Antilock/Traction Control/Electronic Limited Slip: Control Unit/Module."

Complainant stated that when he entered his VIN number on a national highway service website, it shows there was an open recall numbered 20V518000. When Complainant became aware of the recall, the vehicle was in for service. He added that he received a Kia ATCU settlement notification in the mail due to a class action lawsuit for Kia models 2016 through 2021.

²⁴ Respondent Ex. 3.

Complainant asserts that the engine failure is a manufacturing defect and that it should be repaired under the vehicle's powertrain warranty.

2. Shahidah Harris

Ms. Harris testified that she has been involved in this situation from the beginning. She complained that Respondent's service personnel lacked professionalism and were very vague and unresponsive to communication attempts. She stated that Complainant was not provided photographs or evidence of the damage claimed by Respondent. She noted that the engine repair invoice received from Clay Cooley Kia did not look the same as other invoices.²⁵ She explained that the invoice was not provided when the vehicle was brought in for service but had to be requested by Complainant. Further, the mathematical calculations on the invoice are incorrect. Ms. Harris added that she and Complainant were not made aware of the repair estimate until Complainant went to the dealership in-person to resolve the issue.

She testified that the first mention of water damage by Respondent was after the engine blew. She confirmed that the vehicle has never been in any high water and has never sustained any water damage. She explained that the vehicle is parked in a parking garage every night and has only been exposed to rain while driving. Ms. Harris argued that if the vehicle sustained water damage, it may have occurred prior to Complainant's purchase of the vehicle because the vehicle was treated for a mildew smell seven days prior to its purchase.²⁶

Ms. Harris stated that due to the problems with the vehicle, she and Complainant have been limited to one vehicle, which has inhibited her ability to visit her daughter in Tyler, Texas. The whole situation has created a hardship for their family.

²⁵ Complainant Ex. 8.

²⁶ Respondent Ex. 5.

B. Vehicle Inspection

The vehicle was present for inspection at the hearing but was inoperable. No physical damage was observed on the body of the vehicle. During the inspection, the hood was raised, and the engine compartment inspected. The Hearings Examiner did not observe any staining from water. Dust was observed on components under the hood, and one leaf was observed on the side panel near the driver side fender. The backseat passenger compartment was inspected, and no signs of water damage or water ingress was observed inside that area of the passenger compartment.

C. Summary of Respondent's Evidence and Arguments**1. Respondent Representative Danielle Gaynair**

Ms. Gaynair provided a statement regarding her understanding of the case. She stated that according to her records, Complainant's first visit for service to Clay Cooley Kia occurred in November 2022. The vehicle had 51,500 miles at that time, which was approximately 15,000 miles added after the purchase of the vehicle. The dealership determined the problem with the vehicle was the result of bad gas and advised Complainant to file a claim with the gas station.

On December 12, 2022, the vehicle was towed to the dealership because it would not start, and the vehicle starter was replaced. Ms. Gaynair stated that according to her records, the shop technician noted that the air filter was completely wet and that Complainant failed to state that the vehicle may have been driven through a large puddle of water. However, this information was not noted on the invoice provided to Complainant.²⁷ Ms. Gaynair clarified that this information was only documented internally and confirmed that no water damage was found in the engine during this repair visit.

On January 13, 2023, at approximately 55,000 miles, the vehicle was towed to the dealership and would not start. White smoke emitted from the vehicle. The technician

²⁷ Complainant Ex. 4.

recommended an engine replacement. Kia corporate became involved and attempted to determine if the issue was due to a manufacturing defect or a third-party influence. Ms. Gaynair explained that Kia corporate technicians are available via the Tech Line to assist local dealerships in the inspection and repair of Kia vehicles. In this case, a Tech Line case was opened to assist the dealership in determining why the vehicle would not start. The vehicle would not crank, and some misfires were found. Specifically, signs of water intrusion and corrosion were found on the connector housing. The technicians attempted to turn the engine over by hand, but the engine was locked.

On January 27, 2023, a borescope was utilized to determine why the vehicle would not start. Water droplets were observed inside the engine.²⁸ It was determined that the connecting rod was snapped in cylinder two, and the crank shaft and case were visible. According to Ms. Gaynair, water damage was found in the engine and was documented only through internal communications with the dealership on January 30, 2023.²⁹ It was determined that the damage was beyond Respondent's control, and Complainant was referred to their insurance company.

Ms. Gaynair confirmed that the vehicle's basic warranty provided coverage for 60 months or 60,000 miles for an original owner. However, she noted that this vehicle was purchased as a certified pre-owned vehicle and that the warranty was not from Kia but from a third party, which extended powertrain coverage for 10 years or 100,000 miles.

2. Leo McAdams

Mr. McAdams is a Field Technical Specialist for Respondent. He confirmed that no invoice or repair ticket was generated for the January 2023 visit.

²⁸ Respondent Ex. 1.

²⁹ Ms. Gaynair stated she would offer evidence of the documented water damage after the hearing, and the record was held open for both parties to submit additional evidence. However, Respondent did not submit evidence of the documented water damage or any additional evidence.

Mr. McAdams explained that during the December repair visit, the technician found the air filter to be wet and asked Complainant if the vehicle had been submerged in water. Complainant advised that it had not. There was no further investigation regarding the wet air filter because Complainant denied that the vehicle had been in water and the starter replacement cured the problem with the vehicle. However, Mr. McAdams speculated that the wet air filter was the result of the vehicle being driven through a very deep puddle, lake, or river. He believes there was water ingress into the engine compartment causing the air filter to become wet. But he explained that water was not inside the engine at that time because if it had been, the engine would have failed within a few minutes, not six days later.

Mr. McAdams also addressed Complainant's concern that the vehicle may have sustained water damage at the dealership during a severe weather event. He explained that if the vehicle was parked and the engine was not running, no water would be sucked into the engine. He added that if water is high enough, up to the hood, for example, water can get into the engine even if the vehicle is not moving. But there would be evidence of water ingress inside the vehicle cabin, and if that occurred in this situation, several other vehicles on the lot would have been damaged as well. He does not believe the vehicle sustained water damage while at the dealership.

Rather, Mr. McAdams speculates that the vehicle was driven through water prior to being brought to the dealership in January 2023. He surmised that the presence of dust on the engine components, observed during the vehicle inspection, was evidence of water damage. He explained that dust would normally blow off while driving unless the components were wet, which would cause the dust to stick. He also stated that the leaf observed on the inside fender was evidence of water damage and debris.

Lastly, Mr. McAdams explained that if the vehicle had a mildew smell prior to Complainant's purchase of the vehicle, the smell would have been caused by the air condition (AC) evaporator located inside the dash of the vehicle. He noted that this type of issue is the result of condensation from the air condition. The cabin air filter was replaced and would not have anything to do with the engine air filter, which is located inside the engine compartment.

Mr. McAdams also noted that the bad gas issue was corrected and had nothing to do with the starter issue in November.

D. Analysis

Complainant had the burden of proof to show that the subject vehicle qualified for warranty repair relief. To qualify for relief, Complainant must prove the required elements by a preponderance of the evidence. Failure to prove even one of the required elements, causes the vehicle to be ineligible for relief. Based on the evidence presented, Complainant failed to establish the facts necessary for warranty repair relief.

The first element required to be proven for warranty repair is that the vehicle had a “defect. . . covered by a manufacturer’s, converter’s, or distributor’s . . . warranty agreement applicable to the vehicle.”³⁰ As a certified pre-owned vehicle, the vehicle’s powertrain warranty provides engine coverage for the “[c]ylinder block, cylinder head and all internal parts, timing gear, seals and gaskets, valve cover, flywheel, oil pump, water pump and turbo charger.”³¹ However, the warranty does not cover damage due to factors beyond the manufacturer’s control, such as misuse or consumer-induced damage.³²

It is undisputed that the subject vehicle sustained water damage to the engine. The water damage was found after the engine blew in January 2023 and was brought to the dealership for repair. Based on the evidence and testimony, no water damage was found in the engine during the December 2022 repair visit. According to Mr. McAdams, a vehicle with water damage in the engine can only be driven for a few miles. Therefore, the water damage must have occurred after the December repair and before the engine blew on or about January 13, 2023.

Complainant, however, argues that the vehicle was never driven through water or in a flood situation. Instead, Complainant argues that the vehicle may have sustained water damage while in

³⁰ Tex. Occ. Code § 2301.204(a).

³¹ Respondent Ex. 6.

³² Respondent Ex. 6.

the dealership's possession waiting to be inspected. However, there is no evidence that this occurred. In fact, Mr. McAdams testified that in order for a parked vehicle to sustain water damage to the engine, a flood situation would have to occur where water would be up to the hood of the vehicle. If that happened, there would have been evidence of water ingress into the passenger compartment, and other vehicles on the lot would have flooded as well. There is no evidence of such an occurrence.

In addition, there is no evidence that the vehicle sustained water damage prior to being purchased by Complainant. Mr. McAdams explained that the cause of a mildew smell from the AC unit is due to condensation from the evaporator, which is located in the vehicle's dash. In this case, the cabin air filter was replaced and had nothing to do with the engine air filter, which is located inside the engine compartment.

The more likely scenario is that the vehicle sustained water damage to the engine while in the possession of Complainant after the December 2022 repair visit. Since an engine with water damage can only be driven a few miles, the water damage must have occurred prior to the engine blowout in January 2023. The vehicle was unable to start after this event, and the uncontroverted evidence shows that water damage was observed in the engine upon inspection. Therefore, the preponderance of evidence supports the conclusion that the water damage was not due to a manufacturing defect. As a result, the first element required for relief has not been proven, and the vehicle does not qualify for repair pursuant to Texas Occupations Code § 2301.204. Thus, Complainant's request for relief is denied.

IV. FINDINGS OF FACT

1. On June 25, 2022, Rafael Mathews (Complainant) purchased a certified pre-owned 2019 Kia Stinger GT R from Clay Cooley Kia, a franchised dealer of Kia Motors America, Inc. (Respondent), located in Irving, Texas. The vehicle had 35,608 miles on the odometer at the time of purchase.
2. As a certified pre-owned vehicle, the vehicle's powertrain warranty provided coverage for 120 months or 100,000 miles, whichever occurred first.

3. The powertrain warranty provided engine coverage for the cylinder block, cylinder head and all internal parts, timing gear, seals and gaskets, valve cover, flywheel, oil pump, water pump and turbo charger.
4. The warranty did not cover damage due to factors beyond the manufacturer's control, such as misuse or consumer-induced damage.
5. Complainant took the vehicle for repair as shown below:

Date	Miles	Issue	Repair/Recommendation
11/14/2022	51,514	Vehicle stalling and check engine light on	Bad gas; components flushed; fuel pump and spark plugs replaced
12/12/2022	54,343	Vehicle stalling and delayed start	Starter replaced
01/13/2023	54,440	Vehicle engine blew and vehicle inoperable	Water found in engine; engine replacement recommended

6. On January 16, 2023, Complainant filed a complaint with the Texas Department of Motor Vehicles (Department) alleging that the vehicle stalled out three times in 60 days and was in for service at the time the complaint was filed.
7. On or about January 19, 2023, written notice of the alleged defects was provided to Respondent.
8. On March 15, 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.
9. 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.
10. On April 20, 2023, a hearing on the merits was convened in Rosenberg, Texas, before OAH Chief Hearings Examiner Bennie Brown. Complainant appeared and represented himself. Respondent appeared through its representative Danielle Gaynair. The hearing concluded the same day, but the record was held open until May 4, 2023, to allow the submission of additional evidence and written objections.
11. On November 14, 2022, Complainant took the vehicle in for service due to the vehicle stalling and the check engine light being on. Clay Cooley Kia (dealership) determined the

issues were due to bad gas. A tune-up was performed, the vehicle's fuel pump was replaced, and the system was flushed.

12. On December 12, 2022, Complainant took the vehicle to the dealership due to the vehicle stalling and having a delayed start. The vehicle's starter was replaced pursuant to warranty. No water damage was found in the engine during this repair visit.
13. On January 13, 2023, the vehicle's engine became inoperable while Complainant was driving. Sparks shot out from the exhaust pipe and white smoke emitted from the engine. The vehicle was towed to the dealership.
14. The vehicle was inspected approximately two weeks later. Signs of water damage and corrosion were found on the connector housing. The connecting rod was snapped in cylinder two, and the crank shaft and case were visible. It was determined that the engine was inoperable due to water damage. An engine replacement was recommended.
15. Respondent denied Complainant's claim for warranty repair concluding that the water damage was not due to a manufacturing defect, but due to an outside influence.
16. The water damage must have occurred after the December 2022 repair and before the January 13, 2023, engine blowout.
17. The vehicle was in Complainant's possession during this time.
18. There is insufficient evidence that the engine's water damage was caused by a manufacturing defect.

V. CONCLUSIONS OF LAW

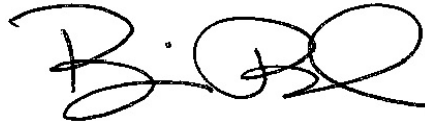
1. The Texas Department of Motor Vehicles has jurisdiction over this matter. Tex. Occ. Code §§ 2301.204, 601-.613.
2. A Hearings Examiner with the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation 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 vehicle has a defect covered by Respondent's warranty. Tex. Occ. Code § 2301.204(a).
7. Complainant is not entitled to relief pursuant to Texas Occupations Code § 2301.204.

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 §§ 2301.204 is **DISMISSED**.

SIGNED June 30, 2023

A handwritten signature in black ink, appearing to read 'B. Brown', written over a horizontal line.

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