

In the matter of arbitration entitled:

Jacobson v. Land Rover

2017-2081



**STATE OF CONNECTICUT  
DEPARTMENT OF CONSUMER PROTECTION  
Automobile Dispute Settlement Program**



Pursuant to Connecticut General Statutes Chapter 743b, the undersigned arbitrators, Ian Ayres, Esq., Michael Weaver, and Aislinn Klos, having been duly sworn and having given due consideration to the proofs and allegations of the parties, hereby decide the following in regard to the above captioned matter:

**I. FINDINGS OF FACT**

Tawnia L. Jacobson (the “Consumer”) leased a 2016 Range Rover Sport (VIN No. SALWR2PF7GA114287) (the “Vehicle”) from Land Rover Farmington Valley located at 95 Albany Turnpike in Canton, Connecticut, 06019 (the “Dealer”). The Consumer took delivery of this Vehicle on November 23, 2016. The registration is “passenger,” “combination,” or “motorcycle,” as defined in section 14-1 of the Connecticut General Statutes, or the equivalent.

After reviewing the allegations, the arbitrators deemed this case eligible for an arbitration hearing pursuant to Connecticut General Statutes Chapter 743b. The manufacturer of the subject Vehicle, Jaguar Land Rover NA LLC (the “Manufacturer”) did not contest the initial eligibility of the Vehicle in this case. Said hearing was held on Monday, November 13, 2017.

**A.** The Consumer first reported to the Manufacturer, its authorized dealer, or its agent a defect pertaining to a **squeaking or screeching when breaking** on **January 18, 2017** with **2,138 miles** on the Vehicle’s odometer. Subsequent repair attempts for this defect and others occurred on:

Repair Date	Miles	Defect
01-18-2017	2,138	Squeaking or screeching breaks.
04-04-2017	4,769	Squeaking Brakes. Noise occurred with soft braking.
05-08-2017	6,050	Brakes squeaking. Noise occurs during soft braking.
08-09-2017	9,302	Squeaking Brakes. Noise occurred with soft braking.
10-16-2017	11,544	Brakes squeaking. Dealer could not reproduce.

After repairs, the Consumer reports that the brake squeaking has become less severe, but still occurs intermittently.

**B.** Five repair attempts were made during the first 12 months and a defect still existed that could endanger safety if the Vehicle is driven. The repair attempts occurred as follows:

Repair Date	Miles	Defect
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01-18-2017	2,138	Squeaking or screeching breaks.
04-04-2017	4,769	Squeaking Brakes. Noise occurred with soft braking.
05-08-2017	6,050	Brakes squeaking. Noise occurs during soft braking.
08-09-2017	9,302	Squeaking Brakes. Noise occurred with soft braking.
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## **II. REASONING**

### **Nonconformity**

The Consumer at the Hearing complained of the following nonconformities with the Vehicle: Squeaking brakes when braking, idles high, takes a long time to shift into reverse, and howls on the right side of the Vehicle. Only the squeaking brakes have been subject to sufficient repair attempts to be eligible for relief.

### **Eligibility and Reasonable Repair Attempts**

The Consumer's Request for Arbitration revealed that the Vehicle experienced squeaking brakes, necessitating multiple visits to the Dealer for diagnosis, testing, and repair. Said defects met the statutory presumption for eligibility, as they were subject to multiple repair attempts during just the first 12,000 miles of ownership, as detailed in Part I of this decision. The Vehicle therefore met the statutory presumption of four repairs before the first 24,000 miles. The Consumer was therefore found to have met the eligibility requirements of the statute. The Manufacturer failed to submit any repair records, and chose to rely on the Consumer's; the Consumer's records are therefore unrebutted and will be taken as true and correct.

The squeaking brakes were also proven by substantial evidence to be a safety concern. Said concern was subject to two or more repair attempts, as set forth in Part I of this decision. The statutory presumption for eligibility based upon a safety-related concern, as set forth in Chapter 743b, was therefore also met.

### **Substantial Impairment and Factual Discussion**

In the present matter, this panel holds that a substantial impairment to use exist in the form of defects which meet the requirements of Connecticut General Statutes Section 42-179. The documents in the record and the testimony presented at the arbitration hearing indicate a violation of Connecticut General Statutes Chapter 743b.

The Consumer appeared and testified at the arbitration hearing, as did her husband Chris Jacobson. The Manufacturer was represented by Jose Bracero. The Consumer's Request for Arbitration, the written repair records, and the oral testimony provided at the hearing detailed the Vehicle defects experienced by the Consumer and the multiple repair attempts by the Dealer. The Manufacturer submitted a late statement at the hearing detailing the Vehicle's repair history, which did not noticeably differ from the Consumer's account.

The Consumer testified that they had first reported the braking problem in January, 2017. The Consumer took the Vehicle to the Dealer, who replaced the rear brake pads. This appeared to stop the squeaking of the brakes for roughly two weeks.

Based on both the Consumer's testimony, and the Manufacturer's concessions, we find that there is substantial evidence that the Consumer was not able to fully use her Vehicle, and that it poses a safety hazard to her.

The Consumer testified that the brake noises made her worry about the efficacy of the brakes. She had never been in a situation where she had to make a "panic stop" and she was unsure how well the Vehicle would perform in one. The Consumer testified that because of her concerns she only drove the Vehicle when required to for her job as a nurse anesthetist. This position is considered essential at the two hospitals where she works, and she must therefore have reliable transportation. The Consumer drove for roughly 12,000 miles, and speculated that she would have driven 15,000 if not for her safety concern.



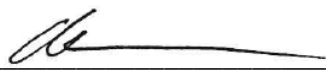
In determining whether the Consumer suffered a substantial impairment of use, safety or value of a motor Vehicle, "the standard is subjective in that the fact finder first must examine the subjective desires, needs and circumstances of the particular consumer. In light of those desires, needs and circumstances, the fact finder then must make an objective determination as to whether the value of the motor vehicle to the consumer has, in fact, been substantially impaired." GMC v. Dohmann, 247 Conn. 274, 291 (1998).

### **III. CONCLUSION**

Given that the Consumer presented substantial evidence of a substantial impairment of use, we hold for the Consumer in this case. A refund of the lease, as noted in Part IV of this decision, is appropriate given the facts presented.

The decision of this arbitrator does not replace any other remedies available under the applicable warranties, Connecticut General Statutes Chapter 743b, or the Magnuson-Moss Warranty Federal Trade Commission Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect on October 1, 1982.

Either party to the dispute may apply to the Superior Court within 30 days receiving this decision to have the decision vacated, modified, or corrected or within one year to have it confirmed as provided in Sections 42-181, 52-417, 52-418, and 52-420 of the Connecticut General Statutes.

	_____	12-14-2017	_____
Ian Ayres, Arbitrator		Date	
	_____	12-14-2017	_____
Michael Weaver, Arbitrator		Date	
	_____	12-14-2017	_____
Aislinn Klos, Arbitrator		Date	

***(See Section IV of this decision, entitled "Replacement Award," on the following page.)***

## **IV. Refund Award for Leased Vehicle**

This panel finds in favor of the Consumer, and holds that the Consumer and lease holder are entitled to a refund based upon the terms of the Vehicle lease agreement and this decision, as set forth below.

### **For the Consumer:**

The Manufacturer shall refund to the Consumer the total of all amounts detailed below:

- 1) All lease payments made by the Consumer since January 18, 2017 (the date of the first repair attempt) with a credit due in favor of the Manufacturer in the amount of \$634.50 for accumulated mileage computed by using the mileage at purchase (23 miles) subtracted from the mileage at the time of the January 18, 2107 repair (2,138 miles), a distance of 2,115 miles, multiplied by the overage charge per mile listed in the lease agreement (\$0.30 per mile).
- 2) All lease costs paid;
- 3) State Sales Tax due at signing in the amount of \$117.82;
- 4) Vehicle title, registration, and Clean Air Act fees in the amount of \$248.20;
- 5) Dealer conveyance fee in the amount of \$474.00;
- 6) State Lemon Law fee for new Vehicle purchase in the amount of \$3.00;
- 7) The price of the VIN etching purchased by the Consumer in the amount of \$139.00; and
- 8) The Department of Consumer Protection Lemon Law filing fee of \$50.00.
- 9) Certified Mail Fees: \$3.84

No additional costs other than those indicated above shall be borne by the Consumer.

### **For the Leasing Company:**

The Manufacturer shall pay the leasing company “**JPMorgan Chase Bank NA**” the balance necessary to terminate the lease and release the Consumer from any further obligation of the lease. The Manufacturer shall also pay the leasing company the “purchase option,” and therefore ownership shall revert to the Manufacturer. The Manufacturer shall be responsible for any early termination fees, if applicable.

### **Other Reimbursements by the Manufacturer:**

The Manufacturer shall reimburse to the leasing company all of the following fees or expenses:

**NONE**

### **Vehicle Exchange:**

The Manufacturer shall provide the total refund to the Consumer and the leasing company, as their interests may appear. The exchange shall occur at **Land Rover Farmington Valley** located at **95 Albany Turnpike in Canton, Connecticut, 06019** within **twenty-five (25) days** of the Manufacturer’s receipt of this arbitration decision. Payment of the refund shall be conditional upon the assignment of any right, title, and interest in the Vehicle by the leasing company and the Consumer, to the Manufacturer. The Consumer and the leasing company shall surrender the Vehicle at the time of receipt of the refund.