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U.S. Department of Justice
Office of Consumer Litigation
Civil Division
Washington, DC 20530

December 16, 2010

**INFORMATION Redacted PURSUANT TO THE FREEDOM OF
INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)**

[Redacted]
Prairie Grove, AR [Redacted]

Re: 2004 Lexus LX470

CL 10368839-7407

Dear [Redacted]

This letter is in reply to your correspondence to the Attorney General, dated November 15, 2010, which was referred to this Office for consideration and response. I regret the delay in responding. Your letter concerns your complaint with Lexus following your inability to have your transmission repaired under warranty. You feel that your repair should still be covered under the vehicle's warranty, even though it has expired, because the Lexus was aware of the problem prior to the warranty's expiration, and issued a Technical Service Bulletin.

The Department of Justice is not authorized to provide private legal advice nor to represent individuals in their efforts to recover monetary losses in situations such as the one you describe. Since your inquiry relates to a matter involving questions that do not come within the immediate jurisdiction of this Department, I am forwarding your letter to the agency indicated below for consideration.

For your information, I have enclosed a handout from the Federal Trade Commission entitled "Warranties."

If you have not yet done so, you may wish to consult a private attorney who could advise you of your rights and any remedies that may be available to you.

Sincerely yours,

Kenneth L. Jost
Deputy Director
Office of Consumer Litigation
Civil Division

By: Sierra Forbes
Consumer Affairs Specialist

Enclosure

MC
08/06/2011
KB

cc:

National Highway Traffic Safety Administration
Department of Transportation
400 7th Street, SW, Rm. 5232
Washington, DC 20590
Toll free DOT Safety Hotline: 1-888-327-4236 (DASH 2 DOT)
TTY: 1-800-424-9153
www.nhtsa.dot.gov

1990799 (25)

November 15, 2010

CM/CL

United States Attorney General
U. S. Department of Justice
050 Pennsylvania Ave. NW
Washington, DC 20530-0001

To Whom It May Concern:

We have a 2004 Lexus LX470 that retailed for approximately \$70,000. Approximately 2 years ago between and 60-70,000 miles, I noticed a very slight shake. I thought I ran over something.

My wife drives it 95% of the time, so I did not have a feel for the vehicle. Sometimes when I did drive it, I noticed this shake. After a few months, I was driving it and it vibrated a little harder than before so I had the front end aligned. Later I drove it again and it started vibrating again. I thought it might be the tires, so I bought new tires. That did not fix the problem, so I took it to Toyota of Fayetteville and they informed me that Lexus has had problems with this and was aware this was happening to these vehicles. The vent on the transmission was letting water into the transmission. The Toyota dealer put it on the diagnostic machine then advised me to take it to the nearest Lexus dealer. FYI Toyota and Lexus are made by the same manufacturer.

We took it to the closest Lexus dealer in Tulsa, 110 miles away. Their diagnosis was the same. However, we were denied warranty work at Tulsa, but were advised to contact Lexus. Lexus reviewed our problem and denied warranty work because it was out of warranty. However, after talking to employees of Lexus of Tulsa and Toyota of Fayetteville, I discovered this was a known common problem with the Lexus transmission.

I know our Lexus is now out of warranty, but it was not when the problem started and they were aware it takes a long time for this malfunction to show up. I think they wanted to avoid a recall.

I sent all the information to Lexus of Tulsa to forward on to Lexus headquarters, but was denied warranty again. I then took my car to AAMCO Transmission to get another opinion and they confirmed this was a problem that Lexus was aware of via Lexus' website (see attached).

I would like for you to look into this problem for me and for others. Lexus' customer satisfaction phone # is 1-800-255-3987. My case # is 1010071537. I would appreciate your assistance in this matter.

Sincerely,

[Redacted Signature]

[Redacted Address]
Prairie Grove, AR [Redacted]

Attachments

CM - 12026



Toyota of Fayetteville
 1352 W. Showroom Dr.
 Fayetteville, AR 72704
 479-251-2151

918-628-1263

CUSTOMER NO. 86643	ADVISOR CHUCK MULKEY	TAG NO. 452	INVOICE DATE 10/01/10	INVOICE NO. TOCS273157
	LABOR RATE	LICENSE NO.	MILEAGE 88,600	COLOR WHITE/
	YEAR / MAKE / MODEL 04 / LEXUS / LX470			DELIVERY DATE
PRAIRIE GROVE, AR	VEHICLE I.D. NO. J T J H T 0 0 W 0 4 3			DELIVERY MILES
	F.T.E. NO.	P.O. NO.	R.O. DATE 10/01/10	PRODUCTION DATE
RESIDENCE PHONE	BUSINESS PHONE	COMMENTS		
		MO: 88600		

JOB# 1 CHARGES-----

LABOR-----

J# 1 10TOZ DRIVEABILITY TECH(S):3673 90.00
 CUST STATES THE VEHICLE SHAKES AT 30 AND 40 MPH PLEASE
 CHECK AND ADVISE
 VEHICLE HAS SHUDDER AND DRONE WHEN VEHICLE IS IN 5TH GEAR
 VENT ON TRANSMISSION LETTING WATER INTO TRANS.
 VEHICLE NEEDS TRANSMISSION REBUILT OR REPLACED CUST ADVISED
 THEIR IS TSB FOR THIS CONDITION VEHICLE NEEDS TO BE
 TAKEN TO NEAREST LEXUS FOR REPAIRS

JOB# 1 TOTALS-----

LABOR 90.00

JOB# 1 JOURNAL PREFIX TOCS JOB# 1 TOTAL 90.00

MISC-----CODE-----DESCRIPTION-----CONTROL NO-----

JOB # A A1 SHOP SUPPLIES 9.00
 TOTAL - MISC 9.00

COMMENTS-----

WAITING

TOTALS-----

* [] CASH [] CHECK CK NO. [] * * [] VISA [] MASTERCARD [] DISCOVER * * <input checked="" type="checkbox"/> AMER XPRESS [] OTHER [] CHARGE * *****	TOTAL LABOR.... 90.00 TOTAL PARTS.... 0.00 TOTAL SUBLET... 0.00 TOTAL G.O.G.... 0.00 TOTAL MISC CHG. 9.00 TOTAL MISC DISC 0.00 TOTAL TAX..... 9.16 TOTAL INVOICE \$ 108.16
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DISCLAIMER OF WARRANTIES
 AS IS - THE ONLY WARRANTIES APPLYING TO THIS PART(S) ARE THOSE WHICH MAY BE OFFERED BY THE MANUFACTURER. THE SELLING DEALER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THIS PART(S) AND/OR SERVICE. BUYERS SHALL NOT BE ENTITLED TO RECOVER FROM THE SELLING DEALER ANY CONSEQUENTIAL DAMAGES, DAMAGES TO PROPERTY, DAMAGES FOR LOSS OF USE, LOSS OF TIME, LOSS OF PROFIT, OR INCOME, OR ANY OTHER INCIDENTAL DAMAGES. WARRANTY.

NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL. ITEMS LEFT IN VEHICLES.

ENVIRONMENTAL COMPLIANCE CHARGE
 Maintaining and repairing your car inevitably involves the use of chemicals and generation of wastes (solvents, oils, caustics, lead, asbestos, etc.) that must be stored, managed and disposed of in strict compliance with federal, state and local environmental regulations. We support these regulations and also believe our customers do too because they help ensure a safer, healthier environment for everyone. Complying with these regulations increase the cost of service. Ordinarily, increase costs simply result in an increased hourly labor charge. This dealership has decided in lieu of raising its labor rate, to list a compliance charge on appropriate service bills because we believe our customers would be interested to know they are helping to pay for a cleaner environment.

THANK YOU FOR YOUR BUSINESS!
 WE SELL TIRES:)WE SELL TIRES:)WE SELL TIRES:)WE SELL TIRES:)

 CUSTOMER SIGNATURE

I ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR LISTED

X _____
 CUSTOMER SIGNATURE

Thank You!
 WE APPRECIATE
 YOUR
 BUSINESS

The Reynolds and Reynolds Company ERAINTNVE C2691946 Q (09/09)

RECOMMENDED SERVICES

OPERATION	OPERATION DESCRIPTION	MO/MI	TOTAL	OPERATION	OPERATION DESCRIPTION	MO/MI	TOTAL
00TOZLOF	OIL&FILTER SERVICE	MI		00TOZLOFV	VALUE LOF SERVICE	MI	

SERVICE HISTORY

DATE	REPAIR ORDER	MILEAGE	ADVISOR	TECHNICIAN	TYPE	OPERATION	OPERATION DESCRIPTION
11/16/05	132537	42406	9164	1952	I	85TOZ008	DVD DUAL HEADREST
10/24/05	130190	40741	4911	1952	I	85TOZ15	SECURE KEY
10/21/05	130095	40741	1235	1304	I	70TOZ01	DETAIL SUV/TRUCK
				8914	I	70TOZ03	PAINTLESS DENT REP.
				8370	I	01TOZ0003	USED CAR CHECK LIST
				8370	I	01TOZ	OIL & FILTER SERVICE

SALESPERSON NO.

S E R V I C E

STATE REG# 04678772001

TERMS CASH <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> CHECK <input type="checkbox"/> (PRIOR APPROVAL) OTHER <input type="checkbox"/>	VEHICLE I.D. NO. JTJHT00W043	YEAR/MAKE/MODEL 04/LEXUS/LX470	PRODUCTION DATE	STOCK NO.	LICENSE NO.	R. O. NO. 273157					
CALL WHEN READY <input type="checkbox"/> YES <input type="checkbox"/> NO	PRAIRIE GROVE, AR	CUSTOMER NO. 86643	SERVICE CONTRACT	DELIVERY DATE	DELIVERY MILES	SELLING DEALER NO.					
SAVE REMOVED PARTS FOR CUSTOMER <input type="checkbox"/> YES <input type="checkbox"/> NO	RESIDENCE PHONE	BUSINESS PHONE	I hereby authorize the repair work therein set forth to be done by you, together with the furnishing by you of the necessary parts and other material for such repair, and agree that you are not responsible for any delays caused by unavailability or delayed availability of parts or material for any reason; that you neither assume or authorize any other person to assume for you any liability in connection with such repair; that you shall not be responsible for loss or damage to the above vehicle, or articles left therein, in case of fire, theft or other cause beyond your control; that an express mechanic's lien is hereby acknowledged on the above vehicle to secure the amount of repairs thereto; that your employees may operate the above vehicle on streets, highways or elsewhere for the purpose of testing and/or inspecting such vehicle.		CONTRACT NO.	EXPIRATION DATE	EXPIRATION MILES	TAG NO.			
APPOINTMENT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	TIME RECEIVED 09:23am	DATE/TIME PROMISED 10/01/10 06:00pm	PRIORITY	LABOR RATE	TURBO M/MC TOZZ	AIR COND.	P. S.	TRANS	MILEAGE 88,600	ADVISOR NO. 452	ADVISOR CHUCK MULKEY

ORIGINAL CUSTOMER ESTIMATE: TOTAL

X _____

COMMENTS:
WAITING

1 C 10TOZ DRIVEABILITY 1.0
CUST STATES THE VEHICLE SHAKES AT 30 AND 40 MPH PLEASE CHECK AND ADVISE

Drove vehicle confirmed vehicle has a shake accompanied by a dronic noise. Vehicle is in 5th gear. TSB for 5th Gear Shudder matches description. Water intrusion through breather vent causes this 5th gear shuddering. Vin also matches

3673

WATER

POI

Quality Control

Tech DH

Team Leader DW

Parts Return _____

FAYETTEVILLE AUTO PARK, DISCLAIMER OF WARRANTY - All warranties on these parts are the manufacturer's. The seller, FAYETTEVILLE AUTO PARK hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose and FAYETTEVILLE AUTO PARK neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of these parts. This disclaimer by the seller, FAYETTEVILLE AUTO PARK in no way affects the terms of the manufacturer's warranty. REPAIR WORK DONE ON THIS ORDER WILL BE BASED IN PART UPON A FLAT RATE MANUAL COMPUTATION.

TOYOTA
TOYOTA of FAYETTEVILLE
479-251-2151

Thank You For Your Business!

Ask for Genuine TOYOTA Parts & Service
PLEASE PEEL OFF SLOWLY

LEXUS OF TULSA

4210 South Memorial
Tulsa, OK 74145-4812
Phone 918-665-3987
www.lexusoftulsa.com



CUSTOMER NO. 63775		ADVISOR KEDRICK	TAG NO. 850	INVOICE DATE 10/07/10	INVOICE NO. LECS174057
[REDACTED]		LABOR RATE 95.00	MILEAGE 88,730	COLOR BLIZZARD PE	STOCK NO.
PRAIRIE GROVE, AR [REDACTED]		YEAR / MAKE / MODEL 04/LEXUS/LX 470/	VEHICLE I.D. NO. J T J H T 0 0 W 0 4 3	DELIVERY DATE 03/30/04	DELIVERY MILES
RESIDENCE PHONE [REDACTED]		BUSINESS PHONE [REDACTED]		SELLING DEALER NO.	PRODUCTION DATE 12/01/03
COMMENTS		F.T.E. NO.		R. O. DATE 10/07/10	REPRINT# 1
					MO: 88731

JOB# 1 CHARGES-----

LABOR-----
 J# 1 09LEZ100 AUTO TRANS DIAGNOSIS TECH(S):626 47.50
 CUST STATES SHAKE/VIBRATION THRU TRANSMISSION AT 30/40 MPH.
 CUST ADV OF POSSIBLE TSB FROM LOCAL TOYOTA DEALER.CHK/ADV.
 TRANSMISSION IS CAUSING SHUDDER. NEEDS TRANSMISSION REPLACED
 TO CORRECT
 NO REPAIR PERFORMED
 EST FOR REPLACEMENT OF TRANSMISSION
 \$3764.91 PARTS
 \$864.50 LABOR
 \$320.66 TAX
 \$4950.07 TOTAL REPAIR

JOB# 1 TOTALS-----
 LABOR 47.50
 JOB# 1 JOURNAL PREFIX LECS JOB# 1 TOTAL 47.50

ESTIMATE-----
 CUSTOMER HEREBY ACKNOWLEDGES RECEIVING
 ORIGINAL ESTIMATE OF \$0.00 (+TAX)
 COMMENTS-----
 IN TOWN WAITING;LOANER
 DELETED OPERATION(S)-----
 33LEZWASH WASH AND VACUUM

TOTALS-----

 * TOTAL LABOR.... 47.50
 * TOTAL PARTS.... 0.00
 * TOTAL SUBLET... 0.00
 * TOTAL G.O.G.... 0.00
 * TOTAL MISC CHG. 0.00
 * TOTAL MISC DISC 0.00
 * TOTAL TAX..... 0.00

 TOTAL INVOICE \$ 47.50

THANK YOU FOR YOUR BUSINESS!!
 [REDACTED]

I hereby authorize the repair work herein set forth to be done by you, together with the furnishing by you of the necessary parts and other material for such repair. I acknowledge and accept that you make no warranties, express or implied for the products used for this repair, in particular, that you expressly disclaim any implied warranties of merchantability or fitness for a particular purpose for such products. I also agree: that you are not responsible for any delays caused by unavailability or delayed availability of parts or material for any reason; that you neither assume or authorize any other person to assume for you any liability in connection with such repair; that you shall not be responsible for loss or damage to the above vehicle, or articles left therein in case of fire, theft or other cause beyond your control; that any express mechanic's lien is hereby acknowledged on the above vehicle to secure the amount of repairs thereto; that your employees may operate the above vehicle on streets, highways or elsewhere for the purpose of testing and/or inspecting such vehicle; I shall not be entitled to recover any consequential damages, damages to property, damages for loss of use, loss of time, loss of profits, or income, or any other incidental damages.

X _____
SERVICE AND PARTS HOURS
 MON - FRI 7:00 A.M. - 6:00 P.M.
 SAT 8:00 A.M. - 5:00 P.M.

LEXUS OF TULSA
 4210 SOUTH MEMORIAL
 TULSA, OKLAHOMA 74145
 PHONE (918) 665-3987

Thank You!
 We Sincerely Appreciate
 Your Business!

Select Vehicle | New TSBs | Technician's Reference | Component Search:

OK

Conversion Calculator

2004 Lexus Truck LX 470 V8-4.7L (2UZ-FE)

Vehicle Level → Technical Service Bulletins → All Technical Service Bulletins → A/T - 5th Gear Shudder

A/T - 5th Gear Shudder

TRANSMISSION & CLUTCH TC001-05

Title:
FIFTH GEAR SHUDDER

Models:
'04 - '05 LX 470

January 28, 2005

Introduction

Some 2004 and 2005 model year LX 470 vehicles may exhibit a shudder (or vibration) sensation, usually accompanied by a cyclic droning noise, when lightly accelerating (less than 15% throttle) after the transmission shifts into 5th gear (usually between 35 and 45 mph). This condition may be caused by water entering the transmission breather, contaminating the transmission fluid. The transmission breather has been changed to prevent water intrusion.

Applicable Vehicles

^ 2004 - 2005 model year LX 470 vehicles produced BEFORE the Production Change Effective VIN shown below.

MODEL	PRODUCTION CHANGE EFFECTIVE VIN
LX 470	JTJHT00W#53 [REDACTED]

Zoom

Sized for Print

Production Change Information

PREVIOUS PART NUMBER	CURRENT PART NUMBER	PART NAME	QTY
35123-60040	35123-60060	Skirt,*Transmission Breather	1
-	35010-60A00-84	ATM with Torque Converter	1

Zoom

Sized for Print

Parts Information

OP CODE	DESCRIPTION	TIME	OFF	T1	T2
TC4009	R & R Transmission	5.4	35123-60060	9B	88
Combo A	R & R Transmission Breather	0.1			

Zoom

Sized for Print

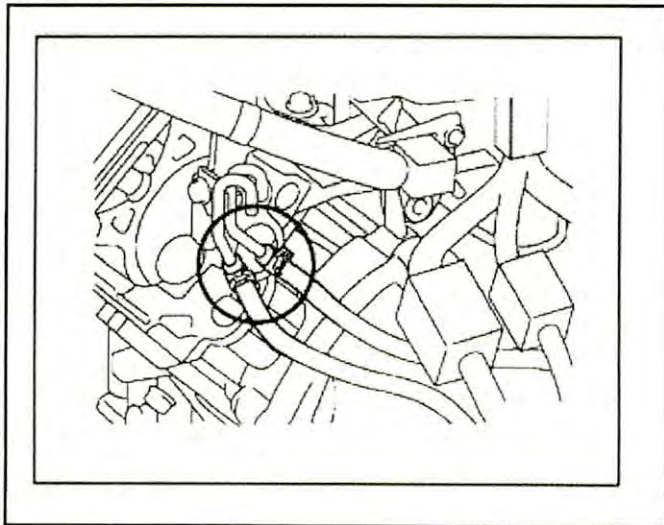
Warranty Information

Applicable Warranty*:

This repair is covered under the Lexus Powertrain Warranty. This warranty is in effect for 72 months or 70,000 miles, whichever occurs first, from the vehicle's in-service date.

* Warranty application is limited to correction of a problem based upon a customer's specific complaint.

Repair Procedure



Zoom

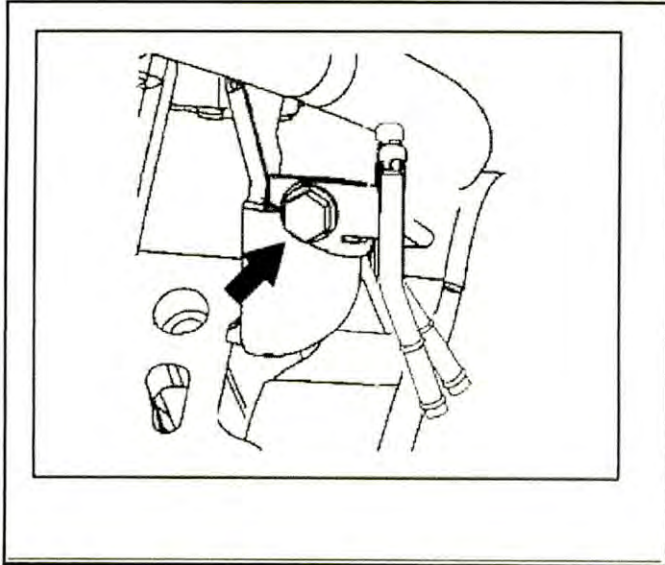
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1. Remove automatic transmission with torque converter.

A. Disconnect the breather tube and transfer rear case hose No. 1 from the

transmission breather skirt (vent).

- B. Remove the transmission with torque converter. Refer to the Technical Information System (TIS), 2004 or 2005 model year LX 470 Repair Manual; Automatic Transmission: Automatic Transmission Unit: Removal.



Zoom

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2. Replace Transmission Breather Skirt (Vent). Remove the bolt and replace the transmission breather skirt (vent).

Torque: 12 N.m (122 kgf.cm, 8.9 ft.lbf)

3. Install new automatic transmission with new torque converter.
 - A. Install the new transmission with new torque converter. Refer to TIS, 2004 or 2005 model year LX 470 Repair Manual; Automatic Transmission: Automatic Transmission Unit: Removal.
 - B. Reconnect the breather tube and transfer rear case hose No. 1 to the transmission breather skirt (vent).
4. Adjust fluid level in transmission. Refer to TIS, 2004 or 2005 model year LX 470 Repair Manual; Diagnostics: Automatic Transmission: Pre-Check.
5. Road test and confirm proper transmission operation.

ew

[REDACTED]
Prairie Grove, AR [REDACTED]

72753

X-RAYED

NOV 23 2010

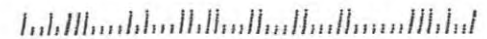
DOJ MAILROOM

United States Attorney General
U. S. Department of Justice
050 Pennsylvania Ave. NW
Washington, DC 20530-0001

20530\$0001



INSPECTED 3





016H16601050
 US OFFICIAL MAIL
 \$300 Penalty
 For Private Use
 \$01.220
 12/17/2010
 Mailed From 20530
 US POSTAGE

Hasler

SECURITY
 DEC 27 2011
 X-1

National Highway Traffic Safety Administration
 Department of Transportation
 400 7th Street, SW, Rm. 5232
 Washington, DC 20590

Defects

PM