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“HOW DID MY CLIENT’S REPAIRABLE VEHICLE GET RECORDED BY THE TEXAS DEPARTMENT OF TRANSPORTATION AS NON-REPAIRABLE/SALVAGE?”



AUTO CLAIM SPECIALISTS

"Fair settlements come from knowledge and negotiation"



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. As the general manager of Auto Claim Specialists, Robert expertly leads this National Public Insurance Adjuster Agency, which is currently licensed in over 25 different states and specializes in providing automotive-related claim liquidation techniques, strategies and motor vehicle valuation services to all parties, including individual consumers, body shops, auto dealers, repair facilities, towing and storage operations, lenders, finance companies, banks, legal professionals, governmental agencies and others. The firm's consistent success can be attributed to Robert's 35-plus years of automotive industry knowledge, practical hands-on experience and multiple certifications, including licensure by the Texas Department of Insurance as a Public Insurance Adjuster. Auto Claim Specialists clients can absolutely trust that they will be provided with analytical, sophisticated, state-of-the-art, comprehensive, accurate, unbiased and up-to-date data and information that all parties can rely upon as both factual and objective. Robert can be reached at (800) 736-6816, (817) 756-5482 or AskTheExpert@autoclaimspecialists.com.

Dear Mr. McDorman:

The insurance carrier incorrectly deemed my client's vehicle an economic total loss, and my client elected to keep that vehicle and had us return it safely to its pre-loss condition. Now, the state has it documented as a non-repairable or salvage-titled vehicle. Under the Texas Department of Transportation 501 guidelines, the vehicle did not meet the definition of salvage or non-repairable since its repair cost was below the actual cash value. This situation not only destroyed the value of my client's truck, but he is also now unable to get insurance coverage. Can you help me understand how this happened and what my client can do to resolve this unlawful situation? Have you experienced this situation? If so, can you share how you resolved it and the outcome?

Thank you for your question, which is particularly good and brings up a serious problem in Texas. The only way this situation could have happened is by the insurance carrier unlawfully turning in an Owner Retained Report (VTR-436) to the Texas Department of Motor Vehicles and disclosing the vehicle as non-repairable or salvage. If the vehicle did not meet the Texas Transportation Code 501 definition of non-repairable or salvage, then the authorized agent who signed the Owner Retained Report (VTR-436) as listed on the document has falsified information and committed a third-degree felony. Nevertheless, we routinely see carriers perform this unlawful action.

The Texas Transportation Code, not the insurance carrier, defines a non-repairable or

salvage motor vehicle. Texas is a 100 percent total loss threshold state and does not recognize the total loss formula to define what constitutes a non-repairable or salvage vehicle. The 100 percent threshold definition states that should the repair cost not exceed the **true actual cash value** of the vehicle (not the perceived actual cash value arrived at by the market valuation firm), and if the vehicle is not missing a major component, then the vehicle is salvage or non-repairable.

Additionally, Texas Transportation Code 501 takes the equation one step further and says that the repair cost – including parts and labor other than the cost of materials and labor for repainting (and excluding sales tax on the total cost of repairs) – must exceed the actual cash value of the motor vehicle immediately prior to being damaged. In other words, before the calculation of determining if the vehicle fits the Texas Transportation Code definition of a non-repairable or salvage vehicle, all refinishing time, paint materials and sales tax must be deducted from the final repair invoice. The accumulated dollar amount of these three components typically average approximately 25 percent of the total estimate, which in return drastically decreases the severity percentage. Once this value is determined, should it be less than the **true actual cash value** of the vehicle, that vehicle does not meet the Texas Transportation Code 501 definition of a non-repairable or salvage vehicle. Arriving at the true actual cash value of the vehicle is paramount.

We currently have a client in the same situation. Our client is going through the judicial system to seek relief and damages for the carrier's unlawful actions of deeming his repairable truck an economic total loss and then issuing an unsupported Owner Retained

Report (VTR-436) to further penalize him. This unlawful issuance of the VTR-436 caused the state to deem the truck a salvage-titled vehicle. This has not only prohibited our client from getting insurance on his truck, but it also destroyed the market value of the truck. We have requested the state provide us with a complete certified copy of the complete motor vehicle title history. The certified request for Texas Motor Vehicle information (VTR-275) will disclose the authorized agent with the insurance carrier who falsified the Owner Retained Report (VTR-436) and further harmed our client.

Recently, the Judge asked me to outline how this situation could have happened and if I see this unlawful situation occur often. My immediate response was, "Yes, your honor, I do." This problem is deep-rooted and harms many interested parties daily in Texas. In the upcoming months as my client's case progresses through the judicial system, I will update the readers to the last part of your question, "If so, can you share how you resolved it and the outcome?"

The under-indemnification in total loss and repair procedure claims in Texas is rampant. In my professional opinion, this is the fence post in the economic total loss scheme carried out by the carriers. We have been increasing the total loss settlement for the eight out of 10 contacts who we end up retaining as clients an average of 28 percent. We have also reduced clients' out-of-pocket expenses an average of 35 percent on repair procedure disputes, such as the example provided in this response. These under-indemnification percentages are staggering and harmful to Texas citizens.

The spirit of the **Appraisal Clause** is to resolve loss disputes fairly and do so in a timely and cost-effective manner. The invoking of the **Appraisal Clause** removes inexperienced and biased carrier appraisers and claims handlers from the process, undermining their management's many tricks to undervalue the loss settlement and under-indemnify the insured. Through the **Appraisal Clause**, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased experienced, independent third-party appraisers as opposed to more costly and time-consuming methods, such as mediation, arbitration and litigation.

In today's world regarding motor vehicle insurance policies, frequent changes in claim management and claim-handling policies and non-standardized GAP Addendums, we have found it is always in the best interest of the insured or claimant to have their proposed insurance settlement reviewed

by an expert before accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and give its professional opinion as to the fairness of the offer.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always keep in mind that a safe repair is a quality repair, and quality equates to value. I thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman

PS: In further support of this editorial, please see the enclosed Texas Department of Motor Vehicles Request for Texas Motor Vehicle Information (VTR-275) and Owner Retained Report (VTR-436) on pages 24 and 25. If you should need any help completing these forms or have any questions, please call me.

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