

The official publication of the Auto Body Association of Texas (ABAT)

# TEXAS

## AUTOMOTIVE™



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### PREVAILING PRICE COSTS LIVES:

*Addressing the Danger of  
When a Third Party Dictates  
Repair Practices*

### PART 1

Get Off Your Island and  
**GET INVOLVED!**

Small Claims to Address  
**BIG PROBLEMS**

Tim Ronak Addresses a Common Industry Question:

**“WHAT EXACTLY IS A  
PREVAILING RATE?”**

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## WHAT CHANGES SHOULD BE MADE TO THE CURRENT TITLING OF VEHICLES DEEMED A TOTAL LOSS?

Dear Mr. McDorman:

I manage a collision facility in Wichita Falls. In May 2019, we took in a 2017 Chevrolet Suburban that had suffered a right rear impact. The damage on the surface appeared minimal. Upon initial disassembly to perform our OEM repair plan, we discovered that the Suburban had been in a previous accident and had unrepaired frame damage. Under further inspection, it was discovered the vehicle was unsafely repaired and should not have been on the highway. After complete disassembly, our findings showed the Suburban could not have been safely returned to its OEM pre-loss condition from the prior accident and should have been deemed unrepairable. I contacted the client to inquire about our findings. Our client was as surprised as I was and had no idea the vehicle had been in a previous accident. I was told he purchased the vehicle in June 2018 from a reputable new car dealership in Arlington, was provided a CarFax showing no accident damage at the time of sale and was told the vehicle had no prior accidents.

Around February 2020, I sent you a question about my concerns with the salvage title process and asked your professional opinion about changes that could be made to the titling process in Texas for vehicles being deemed a total loss by the carriers to make sure what happened with my client does not happen to future consumers. You responded to my question in the April 2020 edition of *Texas Automotive*. Thank you. Can you please update me and the readers what the titling status is on the remaining 43 (21.5 percent) vehicles mentioned in your editorial where the title was still in the insured or claimant's name with a clean or blue title as of that date? Also, have there been any changes since your response to my question in the titling process for vehicles deemed a total loss by insurance carriers in Texas?

Thank you very much for your follow up question. Unfortunately, the titling process in Texas on vehicles deemed a total loss by an insurance carrier has not changed since the April 2020 editorial. This process is flawed and outdated. We still routinely receive calls from consumers who are faced with the same situation as your client with the Suburban: They purchased a vehicle that should have been deemed a total loss with a salvage title but was instead unsafely repaired and deceitfully sold with a clean or blue title. It is in the best economic interest of the carrier to promote, market and sell as many vehicles as possible with a clean, blue or non-salvage title after deeming them a total loss.

Under the current titling system in place in Texas, insurance carriers overseeing losses are deeming vehicles as total losses for the sake of administering the claim loss, and from time to time, they use the Texas Transportation Code 501 to pick and choose when to transfer the title as a salvage title. This subjectivity allows for vehicles that are either non-repairable, or which could be safely repaired at a reputable collision facility for less than their actual cash value but at an expense the carrier doesn't want to pay, to fall into the hands of less-than-desirable rebuilders to perform unsafe, non-OEM repair procedures. Upon completion of these unsafe repair procedures, total loss vehicles are marketed and sold as clean title vehicles with no title history indicating that they were in fact previously deemed total losses by a carrier. Who knows how many of these should have been titled as salvage or non-repairable vehicles like the client with the Suburban at your shop?

When the vehicle is deemed a total loss by the carrier and the carrier elects to instruct their titling procurement handler to not transfer the title into their name as a salvage title, the total

loss vehicle's clean or blue title will be preserved to the next buyer which is almost always a licensed motor vehicle dealer. Once this vehicle falls into the hands of the licensed dealer, the title will be assigned to this dealer, and the next retail registered buyer will not be identified until the vehicle is sold and registered. Therefore, in these situations, there is much time between the date the vehicle is deemed a total loss and when it is sent to the salvage sale, sold, repaired, marketed and sold to the next registered owner, making it easier to conceal unsafe repairs.

The 43 vehicles you ask about were from a random selection of 200 total loss claims we handled for Texas clients where we went back and researched the title history for each. The table below shows the status of these 200 vehicles as of the first editorial in which the results were published (May 2019), the follow up editorial that you are citing (April 2020) and their current status.

	May 2019	April 2020	February 2022
<b>Titled as Salvage:</b>	118	130	133
<b>Remain with claimant with blue title:</b>	60	23	38
<b>Sold and retitled with blue title:</b>	22	27	29

As you can see, of the 43 vehicles that remained in the claimant's name with a blue title as of April 2020, five more have dropped out, with two of those being sold and retitled with a blue title. So, almost two years after we first researched these 200 vehicles deemed a total loss, 33.5 percent either remain with the claimant with a blue title or have been subsequently sold with a blue title.

Based upon these 200 randomly selected total loss claims we handled, there is strong statistical evidence of a scheme of massive proportion and a safety issue for all citizens. There is no question that an alarming number of the remaining 38 vehicles that are still in the claimant's name with a clean or blue title will eventually be resold and transferred into the next owner's name with a clean or blue title. There is little doubt that most of the consumers who fall prey to buying one of these questionably repaired total loss vehicles will not know of the vehicle's damage history. The buyers of these vehicles will subsequently fall into the same unfortunate situation as your client with the Suburban.

Until the State of Texas requires each insurance carrier that deems a vehicle a total loss to transfer the title into their name as

a salvage title, **this scheme that places consumers in harm's way will continue.** It is my professional opinion that if the vehicle is deemed a total loss by the carrier, then the next step of the claim closure and titling process should include the title always being transferred to the carrier as a salvage title with any such subsequent sale or transfers reflecting this salvage title status. This process would curtail the purchasing, marketing and selling of total loss vehicles that have been unsafely rebuilt and made available to the unsuspecting public with clean or blue titles. Please call me should you have any questions or comments relating to this vehicle titling scheme, policy or covered loss issues. We have most insurance policies in our library. Always keep in mind: A safe repair is a quality repair, and quality equates to value. I thank you for your questions and look forward to any follow-up questions that may arise.

Sincerely,  
Robert L. McDorman  
TXA



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached at (800) 736-6816, (817) 756-5482 or via email at [AskTheExpert@autoclaimspecialists.com](mailto:AskTheExpert@autoclaimspecialists.com).

*A staunch advocate of consumer safety, McDorman discussed this topic in-depth at the most recent Collision Industry Conference (CIC). Stay tuned to Texas Automotive for next month's recap of his presentation, including a proposed cure to end this sensitive safety-related issue!*

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