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PLUS

- How **BIG** Is **TEXAS?**

- Total Loss Gone Wrong

Ask the Expert

“WHAT CHANGES SHOULD BE MADE TO THE CURRENT TITLING OF VEHICLES DEEMED A TOTAL LOSS BY THE INSURANCE CARRIER?”



Dear Mr. McDorman:

I manage a collision facility in Wichita Falls. In May 2019, we took in a 2017 Chevrolet Suburban that had been hit in the right rear. 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, was provided a CarFax showing no accident damage at the time of sale and was told the vehicle had no prior accidents. It has now been almost a year, and the Suburban is still at our shop. What could be changed to the titling process in Texas for vehicles being deemed a total loss by the carriers to make sure a similar situation does not happen to future consumers? This important matter – which few are aware of – is placing all citizens in harm's way.

Thank you very much for your question. My heart goes out to your client, who was unknowingly sold an unrepairable and unsafe vehicle. We routinely receive calls from consumers who are faced with the same situation of purchasing a vehicle that should have been deemed a total loss and the title transferred by the carrier into a salvage title but was instead unsafely repaired and 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 that they have deemed a total loss with a clean, blue or non-salvage title.

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. From time to time, they use Texas Transportation Code 501 to pick and choose when to transfer the title as a salvage title. This subjectivity allows for non-repairable vehicles 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 being marketed and sold as clean title vehicles with no title history that they were in fact previously deemed total losses by a carrier. Who knows how many of these vehicles there are that should have been titled as salvage or non-repairable vehicles like the Suburban you currently have at your shop?

When the vehicle is deemed a total loss by the carrier and that carrier elects to instruct its titling procurement handler to not transfer the title into its name as a salvage title, the total loss vehicle 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, sent to the salvage sale, sold, repaired, marketed and sold to the next registered owner – making it easier to conceal unsafe repairs.

Last May, a reader asked, “What happens to a total loss vehicle when it leaves our facility?”

The question led us to perform a study of the total loss claims we have handled for Texas clients. We randomly selected 200 total loss claims over the past year and researched the title history for each. Our findings of the random 200 total loss claims showed 118 (59 percent) were titled with salvage titles, 60 (30 percent) were still in the insured or claimant's name (blue title) and 22 (11 percent) had subsequently been transferred to another business or individual with a clean or blue title. I found it alarming that over 40 percent of the 200 total loss claims we randomly picked and researched either had been since sold and/or titled with a clean or blue title or still had an open (untransferred) blue title.

We went back this month after your question and researched the title history on the 60 vehicles that were still titled in the claimant's name with a blue title as of the May 2019 editorial. Our findings revealed five (eight percent) of the 60 have been subsequently either sold and the title transferred to a new owner or transferred into the carrier's name with a non-salvage clean or blue title. Twelve (20 percent) have been transferred out of the insured or claimant's name into the carrier's name as a salvage title, while a staggering 43 (72 percent) were still in the insured or claimant's name with a clean or blue title.

Now, almost a year later, 35 percent of the 200 total loss claims we randomly picked and researched either have been since sold or



Interior and exterior shots of the 2015 BMW X5 reviewed by Auto Claim Specialists

either transferred into the carrier's name and titled with a clean or blue title or still have an open (untransferred) clean or blue title. This is strong statistical evidence of a scheme of massive proportion and a safety issue for all citizens. There is no question that a large percent of the remaining 43 vehicles that are still in the claimant's name with a clean or blue title will be transferred into the next owner's name with a clean or blue title once resold. There is little doubt that most of the consumers who fall prey to buying one of these possibly unsafely 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.

One of the five vehicles where the carrier has transferred the title into their name with a clean/blue or non-salvage title is a 2015 BMW X5. We represented the insured owner of this total loss vehicle. There is **ABSOLUTELY NO QUESTION** the carrier should have been required to transfer ownership of the vehicle as a salvage titled vehicle after deeming it a total loss. However, the carrier did not; thus, it can now promote this vehicle for sale for considerably more money as a repairable vehicle with a clean/blue non-salvage title. As we see, it is in the best economic interest of

the carrier to promote, market and sell as many vehicles they have deemed as a total loss with a clean blue or non-salvage title as possible regardless of the safety issue to citizens. We have included interior and exterior pictures of the BMW in support of our adamant position on this scheme.

A chronology of the history of the BMW shows it was sold new on February 13, 2015 from a dealership and had six miles on it. The date of loss was February 16, 2019. The carrier originally valued the BMW at \$30,009. Through the appraisal process, an agreement was reached on March 13, 2019 for \$33,022. The carrier that deemed the BMW a total loss transferred the title into its name on May 1, 2019 with a clean or blue non-salvage title. The last reported location of the BMW was Insurance Auto Auction (IAA). It was being marketed with a reported estimated repair cost of \$20,927 and an estimated retail value of \$30,009 (same as the original settlement offer) waiting on a prospective rebuilder to purchase, perform some type of repair and then market to the public as a clean /blue non-salvage title. The carrier has weaponized the unscrupulous rebuilder to turn this BMW into an unsafe vehicle capable of potentially harming or bringing death to unknowing consumers and their families.

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 if the vehicle is deemed a total loss by the carrier, then the next step of the claim closure and titling process should be the title always being transferred to the carrier as a salvage title with any such subsequent sale or transfers reflecting this 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 title.

Please call me should you have any questions or comments relating to this vehicle titling scheme or 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

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