

# Complaint Case Studies

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Bureau of Automotive Repair

# Example 1 – Repair Transaction (1 of 5)

- Consumer purchases a Certified Pre-Owned vehicle on January 3.
- On February 6, consumer returns to dealership service department with an illuminated “blind spot malfunction” indicator.
- The dealership prepared a no-charge initial estimate to perform a diagnosis and inspection.

# Example 1 – Repair Transaction (2 of 5)

- Authorization to proceed was provided by the customer in the form of a signature on the estimate.
- The diagnosis and inspection determined an apparent impact to the left rear corner had damaged the rear bumper support and radar sensor bracket.

# Example 1 – Repair Transaction (3 of 5)

- The final invoice, dated February 18, showed repairs valued at \$2,190 were performed at no-charge to the consumer.
- The two additional authorizations showed the repairs were approved by the service writer on behalf of the consumer.
- An additional note stated “per sales approved to proceed” indicating the sales department authorized the repairs at no charge to the consumer.

# Example 1 – Repair Transaction (4 of 5)

- Apparently, the initial repairs were insufficient as the vehicle was immediately returned to the service department on February 18.
- A new, no-charge estimate was created to perform additional diagnosis and inspection and authorized by the consumer on February 18.
- The second diagnosis confirmed the same blind spot sensor malfunctions previously identified remained.
  - The dealership work order copy showed the vehicle computer data log reported the malfunction on January 28, after delivery to the customer.

# Example 1 – Repair Transaction (5 of 5)

- A new revised estimate was generated in the amount of \$4,391 to perform more extensive repairs.
- A dispute between the consumer and dealership arose due to the dealership wanting the consumer to pay for the additional repairs.
- The dealership subsequently offered to release the vehicle at no charge.

# California Code of Regulations (1 of 5)

## Title 16, CCR Section 3354

- (a) Exceeding Original Estimate. Except as provided in subsection (c), **before any additional diagnosis or repair is commenced**, and before any additional charges accrue for labor or parts in excess of the original estimated and authorized price, the automotive repair dealer shall:
  - (1) give the customer an estimate that describes all additional parts and labor, provides the cost of all additional parts and labor, and provides a total revised cost; and
  - (2) obtain customer authorization and record the authorization as specified in sections 3353.1 and 3356 of this Article and section 9884.9 of the Business and Professions Code.

# California Code of Regulations (2 of 5)

## Title 16, CCR Section 3354

- (b) Revising an Itemized Work Order. If the customer has authorized repairs according to a work order on which parts and labor are itemized, the automotive repair dealer shall not change the method of repair or parts supplied without written, oral, or electronic authorization from the customer. The authorization from the customer shall be recorded as provided in section 3353.1 and section 9884.9 of the Business and Professions Code.



# California Code of Regulations (3 of 5)

## Title 16, CCR Section 3354

- (c) Designation of Person to Authorize **Additional Diagnosis, Repair, or Parts**. When a customer, pursuant to subdivision (d) of section 9884.9 of the Business and Professions Code, designates another person to authorize repairs not estimated or parts not included in the estimate given to the customer, all of the following shall apply:
  - (1) The designation may be either a separate form or incorporated into the automotive repair dealer's work order and must include, at a minimum, all of the following:

# California Code of Regulations (4 of 5)

## Title 16, CCR Section 3354

- (A) The following title: “DESIGNATION OF PERSON TO AUTHORIZE ADDITIONAL DIAGNOSIS, REPAIR, OR PARTS.”;
- (B) The following statement: “I hereby designate the individual named below to authorize any additional work not specified or parts not included in the original estimate for parts and labor.”;
- (C) The name of the designee;
- (D) The contact information for the designee;
- (E) The customer’s signature;
- (F) The date of signing; and
- (G) The work order number.

# California Code of Regulations (5 of 5)

## Title 16, CCR Section 3354

- (2) The automotive repair dealer shall not accept from the customer the designation of any person or entity not eligible to be a designee under subdivision (d) of section 9884.9 of the Business and Professions Code. Ineligible designees include the automotive repair dealer providing repair services, an insurer involved in a claim that includes the motor vehicle being repaired, and any employees, agents, and persons acting on behalf of the automotive repair dealer or insurer.

# Example 1 – Analysis

- California Code of Regulations (CCR) section 3354(a) requires automotive repair dealers (ARD) to provide the customer an estimate, obtain authorization and document the authorization before ***any additional diagnosis or repair is commenced***.
- Although CCR 3354 discusses additional cost, repairs performed at no charge are not exempt from the additional authorization requirements of this section.
- Additionally, CCR 3354(c) specifies the requirements for the customer to designate someone else to authorize repairs. However, subparagraph (2) of this section excludes ARDs and their employees from this role.

## Example 2 – Repair Transaction (1 of 2)

- BAR recently reviewed an invoice generated after services were performed under a maintenance agreement purchased with a new vehicle.
- The initial estimate in the amount of \$116 was for an oil change, tire rotation, and vehicle inspection to be performed at no cost to the consumer under the contract.
- Upon completion of the repair, the consumer signed the final invoice (not required by BAR statutes and regulations) and received a copy.

## Example 2 – Repair Transaction (2 of 2)

- The consumer did not review the final invoice until getting home and found the value of the repairs listed at \$222 due to the costs for an oil filter, oil, and engine air filter having been added.
- The consumer did not incur any expense for the air filter replacement; however, they were not notified and provided the opportunity to authorize this additional repair.

# California Code of Regulations

## Title 16, CCR Section 3354

- (a) Exceeding Original Estimate. Except as provided in subsection (c), before any additional diagnosis or repair is commenced, and before any additional charges accrue for labor or parts in excess of the original estimated and authorized price, the automotive repair dealer shall:
  - (1) give the customer an estimate that describes all additional parts and labor, provides the cost of all additional parts and labor, and provides a total revised cost; and
  - (2) obtain customer authorization and record the authorization as specified in sections 3353.1 and 3356 of this Article and section 9884.9 of the Business and Professions Code.

# Example 2 – Analysis (1 of 2)

If there is no cost to the consumer, why is notification and authorization important?

- The customer's right to make decisions as to what work is performed on their vehicle.
- Failing to notify a consumer of “goodwill” repairs establishes an expectation of future no-charge repairs. (Example 1)
- If a malfunction(s) occurs as a result of the repairs, liability is questionable.
- Slippery slope – if no-charge repairs do not require notification and authorization, why not \$20 repairs, or \$40 repairs?
- Finally, CCR section 3354 requires notification and authorization for any repairs not contained in the original estimate.



## Example 2 – Analysis (2 of 2)

- Most complaints to BAR involve a lack of effective communication between the ARD and consumer.
- Following the best practice of always notifying the consumer of suggested repairs supports good, effective communication.

# Contact Information

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