

You AUTO KNOW®

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VEHICLE INSPECTIONS

Scenario: Mr. Jones regularly brings in his vehicle for service. As part of your customer good will, the dealership performs an inspection on each service vehicle. The inspection is noted on the repair order and the service advisor is supposed to review the vehicle inspection with the customer. Mr. Jones brings in his vehicle prior to a family trip and is not advised that one of his tires is severely worn and needs to be replaced, although it was noted on the dealership inspection form. Mr. Jones and his family are traveling when the tire blows out and the vehicle is in a severe accident. The Jones family files a lawsuit against the dealership. What are the consequences?

Over the years, past *You Auto Know®* articles have dealt with the issue of vehicle inspections. During the hay day of consumer litigation when this author was handling hundreds of consumer lawsuits a year, the documentation regarding vehicle inspections was always a key factor in the defense and/or prosecution of a consumer claim. Dealers used to, and some still do, advertise that they perform 100 plus point vehicle inspections on each used vehicle; accordingly, vehicles are certified or non-certified. As you know, the programs operated by the various manufacturers for certified used vehicles have a litany of inspection items which must be reviewed in order to qualify as a certified used vehicle.

As most dealerships are utilizing the vehicle inspection as a sales tool, not only for retail sales in the Used Vehicle Department, but as a sales tool for additional service work, it is imperative that the inspections be performed properly, documented properly and communicated to the customer -- verbally and in writing. As you know, the penalties for falsifying documentation under a Manufacturers Certified Used Vehicle Program can be very severe relative to charge backs and any other legal penalties the manufacturer can impose upon the dealership. Further, the falsification of inspections relative to a service customer's vehicle and/or failure to communicate issues found during an inspection can lead to lawsuits and major economic damages.

The situation in this scenario is a true case from the State of New Jersey. The customer brought his vehicle in regularly for service maintenance and three days prior to leaving on a family vacation, he brought the vehicle in for service. The technician noted that one of the tires was very bald on the repair order and inspection sheet; however, contrary to dealership policy, the service writer did not inform the customer that there was a need to replace the tire. En route to Florida on vacation, the family was in a severe and tragic automobile accident due to the failure of the bald tire. The family filed a lawsuit and a jury awarded the family over \$2 million in compensatory damages and \$3 million in punitive damages.

It must be noted that during testimony, the parts and service managers admitted that the dealership should have recommended replacement of the tire which it did not do. Further, the judge stated this was not an isolated incident since the customer had brought the vehicle in on a regular basis and the dealership knew or should have known that the bald tire could fail and result in a catastrophic accident.

Since your dealership is utilizing some sort of vehicle inspection, for used vehicle retail sales and service sales, it is imperative that the inspections be performed properly and completely. Further, if an issue is found during the inspection, it is incumbent upon your service writers to contact the customer and inform him/her of the issue and, at the very least, at the time when the customer picks up the vehicle, he or she should be informed of the results of the vehicle inspection.



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As always, these are highlights of the law and are not to be construed as containing the entire law. This is not to be construed or relied upon as a legal opinion. If you are presented with this problem, contact your legal counsel for advice.

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Having been a Chevrolet dealer, Robert A. Poklar's business background and experience in the automotive industry aid him in his representation of numerous Ohio automotive dealerships. He also represents after-market service companies, trade organizations, dealers, advertising associations and corporations. Pursuant to certain ethical standards, this may be construed as advertising.