

13-0195

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

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STATE OF WEST VIRGINIA ex rel.
DARRELL V. McGRAW, JR.,
Attorney General,

Plaintiff/Petitioner,

v.

CIVIL ACTION NO. 11-C-2231
The Honorable Charles e. King, Jr.

LIBERTY MUTUAL INSURANCE COMPANY,
a Massachusetts corporation' and
GREG CHANDLER'S FRAME & BODY, LLC,

Defendants/Respondents.

FINAL ORDER

On this day, September 24, 2012, came the Plaintiff/Petitioner, the State of West Virginia ("the State"), by and through its Attorney General, Darrell V. McGraw, Jr., by counsel, Matthew Stonestreet, Assistant Attorney General, and Douglas Davis, Assistant Attorney General, and came the Defendant/Respondent, Liberty Mutual Insurance Co. ("Liberty Mutual"), by counsel, Clarence E. Martin, III, of Martin & Seibert, L.C. , and the Defendant/Respondent, Greg Chandler's Frame & Body, LLC ("Chandler's"), by counsel, Clarence E. Martin, III, of Martin & Seibert, L.C., and R. Michael Shaw, for a hearing on the State's Motion for Summary Judgment and Motion to Dismiss Defendant's Counterclaim for Declaratory Judgment. This matter was originally scheduled for hearing on July 26, 2012 and was continued, at the Defendants' request, to this date.

BRIEF PROCEDURAL BACKGROUND

The State filed its complaint and Petition for Temporary and Permanent Injunction on December 15, 2011. The State's complaint alleges three (3) causes of action: (1) The Defendant, Liberty Mutual, required the use of salvaged crash parts when negotiating the repairs of motor vehicles without the written consent of the motor vehicle owner in violation of W. Va. Code § 46A-6B-3 and W. Va. Code § 46A-6-104; (2) the Defendant, Chandler's, failed to include a written statement notifying motor vehicle owners that salvaged crash parts were being used to repair their vehicles in violation of W. Va. Code § 46A-6B-4 and W. Va. Code § 46A-6-104; (3) Defendants' failure to disclose to consumers that salvaged crash parts were being used in the repair of their vehicles was an unfair or deceptive act or practice as defined by W. Va. Code § 46A-6-102(7)(M) in violation of W. Va. Code § 47A-6-104.

The State also filed a memorandum of law in support of its complaint and petition and included as exhibits affidavits from employees of body shops formerly doing business with Liberty Mutual as total Liberty Care ("TLC") body shops; consumer affidavit of Regina Anderson; manufacturer position statements from Volvo, Honda and Mazda; and, Liberty Mutual's "Limited Lifetime Warranty."

The Defendants/Respondents immediately removed the action to the United States District Court for the Southern District of West Virginia on January 10, 2012, filing a Motion to Dismiss under Rule 12(b)(6) for Failure to State a Claim and supporting memorandum of law on January 17, 2012. Defendants asserted that the Magnuson-Moss Warranty Act ("MMWA"), 15 U.S.C. § 2301, *et seq.*, preempted the West Virginia Automotive Crash parts Act ("automotive Crash Parts Act") because it "prohibit[ed] manufacturers from voiding or invalidating warranties based on the use of

aftermarket or recycled genuine OEM parts during repairs.” Defs.’ Mem. of Law in Support of Mot. to Dismiss, ¶. 1-2. Defendants argued that the MMWA, and not the Automotive Crash Parts Act, governed its conduct.

On March 27, 2012, the District Court, J. Goodwin, issued a Memorandum Opinion and Order remanding this matter to state court. State ex rel. McGraw v. Liberty Mutual Insurance Company, et al., 2012 WL 1036848 (S.D.W. Va.). In his Memorandum Opinion and Order, Judge Goodwin rejected the Defendants’ MMWA preemption arguments and adopted this court’s definition of a “salvage crash part” to mean “one manufactured by or for the original manufacturer of the motor vehicle and which is authorized to carry the name or trademark of the original manufacturer of the motor vehicle, and that has been removed from a salvaged vehicle.” *Id.*, ¶. 2. The Court noted that the Defendants refer to salvage crash parts as “recycled genuine original equipment manufacturer parts.” *Id.*, n. 1.

The District court further concluded:

1. The MMWA prohibits warrantors of consumer products from conditioning warranties on certain circumstances. *Id.*, p. 7.
2. The Crash Parts Act maintains standards for motor vehicle shops and insurance companies for the repair of new automobiles. *Id.*, p. 7.
3. The MMWA and Crash Parts Act govern “different factors and different conduct.” *Id.*, p. 7.
4. The Defendants are incorrect in their contention that the court must look to the MMWA to determine if Defendants’ use of salvage crash parts in new cars without the owners’ written consent violates the Crash Parts Act. *Id.*, p. 7.

Upon remand, a hearing was held on April 9, 2012 on the State's Petition for Temporary Injunction at which time the parties represented they had reached a temporary agreement and put the same on the record. This Court then inquired as to any other outstanding matters. Defendants noted they had a Motion to Dismiss pending. Both parties agreed this matter would be decided on cross motions for summary judgment. Tr. p. 14. Defendants' agreed to waive presentation of its Motion to Dismiss and to convert it to a rule 56 Summary Judgment Motion with the right to supplement said motion. Agreed Order, April 11, 2012. At no time during these proceedings have the State or the Defendants requested a scheduling order.

Subsequently, the State filed its Motion for Summary Judgment and supporting memoranda, exhibits, and affidavits. The State's exhibits attached to its memorandum included email between Liberty Mutual and its TLC shops, work orders from TLC shops, manufacturers' position statements from Mazda, Honda, Volvo and Ford, published opinions from automobile industry guide Edmunds.com, and correspondence from the New York State Auto collision Technicians Association and the Federal Trade Commission.

Defendants did not file pleadings to supplement their original Motion to dismiss to comply with the standards required for a motion for summary judgment under rule 56. Agreed Order. Defendants, instead, filed their Answers to the State's complaint and a counterclaim for a declaratory judgment under Rule 57 of the West Virginia Rules of civil Procedure and W. Va. Code § 55-13-1, *et seq.* Defendants' counterclaim requests a judgment declaring, among other things, the that the Automotive Crash Parts Act is null and void. Defendants' counterclaim is based upon identical arguments it made before the United States District court that the Automotive Crash Parts Act is preempted by the MMWA.

The State filed a Motion to Dismiss the Defendants' counterclaim for declaratory judgment and supporting memorandum of law. The State's motion to dismiss asserts that (1) the Defendants' counterclaim fails to state a claim upon which relief may be granted insofar as both this Court and the federal district court have determined that the MMWA does not govern the same conduct as the Crash Parts Act; that rendering a judgment on the Defendants' counterclaim would not terminate the controversy giving rise to the proceedings, W. Va. Code § 55-13-6; and, the Defendants' counterclaim was improperly filed insofar as Defendants' failed to comply with the mandatory pre-filing notice provisions set forth in W. Va. Code § 55-17-3(a)(1), (3). Defendants have asserted that, because their declaratory judgment action was brought as a counterclaim, they were excepted from the requirements of W. Va. Code § 55-17-3(a)(1), (3).

This Court notes that it previously ruled on the issue that is the basis for the state's complaint. Specifically, this Court ruled that "when automobile insurance companies negotiate the repair of automobiles, and when motor vehicle body shops repair automobiles using new 'genuine crash parts' sufficient to maintain the automobile manufacturer's new car warranty for that part, they first must obtain the written consent of the owner of the automobile to be repaired to use 'aftermarket crash parts,' as defined by the Act, or 'salvage crash parts,' as the term has been used in this opinion." The West Virginia Automotive Dismantles and Recycles Association, the West Virginia Insurance Federation, Inc. and State Farm Mutual Automobile Insurance Company v. McGraw, et al., C.A. 97-C-2797 (Aug. 1998).

Having considered the pleadings and exhibits of record, which included this Court's prior 1998 order, as well as the oral arguments of the parties, this Court does hereby make the following Findings of Fact,

FINDINGS OF FACT

1. Defendants were served with the State's Motion for Summary Judgment, supporting memorandum, and notice of hearing on or about June 6, 2012.

2. The State originally noticed its Motion for Summary Judgment and Motion to Dismiss the Defendants' counterclaim to be heard on July 26, 2012. This hearing was continued upon the Defendants' motion, to September 24, 2012.

3. The State does not contend that the legislature intended to prohibit the use of salvaged crash parts, but rather that it intended that consumers be informed and provide written consent prior to the use of salvaged crash parts to repair their new motor vehicles.

4. Liberty Mutual "required the use of salvaged crash parts when negotiating for repairs for motor vehicles in the year of their manufacture or in the two succeeding years without the written consent of the owner of the motor vehicle." See Liberty Mutual Response to West Virginia Attorney General's Request for Information, ¶ 1 (June 8, 2012).

5. Liberty Mutual required the use of salvaged parts as set forth in ¶ 5 on 192 consumers' vehicles. *Id.*

6. In response to this Court's inquiry at the summary judgment hearing as to what Liberty Mutual would do if a consumer requested a new OEM crash part under W. Va. Code § 46A-6B-101, et seq., Defendants' responded that Liberty Mutual would probably charge the consumer the difference in cost between the new OEM crash part and the salvaged crash part.

7. Liberty Mutual also required the use of aftermarket, remanufactured, recycled, and reconditioned parts when "negotiating for repairs of motor vehicles in the year of their manufacture

or in the two succeeding years without the consent of the owner of the motor vehicle.” See Liberty Mutual Response to West Virginia Attorney General’s Request for Information (June 8, 2012).

8. Liberty Mutual represented in its pleadings that it “instituted a policy stating that, where available, recycled genuine OEM parts should be used to repair vehicles.” Defs.’ Memo. in Support of Motion to Dismiss, p. 3.

9. Liberty Mutual further represented that, as a part of its policy, Liberty Mutual repaired consumers’ vehicles with “recycled genuine OEM parts” without the written consent of the consumer or providing the consumers with notice thereof. *Id.*

10. Beginning on or before June 2, 2010, Liberty Mutual instruct its preferred body shops, including Chandler’s body shop, that when negotiating repairs for vehicles covered by the Automotive Crash Parts Act, to negotiate those repairs using salvaged crash parts. State’s Memorandum of Law in Support of Summary Judgment, Ex. A-2, A-3.

11. Chandler’s has provided no proof to dispute that it repaired Regina Anderson’s vehicle, under a claim through Liberty Mutual, using salvaged crash parts without her knowledge or written consent.

12. Defendants did not supplement their initial motion to dismiss in order to comply with the requirements of Rule 56, W. Va. R. Civ. P. However, on July 25, 2012, the Defendants’ scheduled their motion for summary judgment to be heard on September 24, 2012.

13. Defendants filed their response to the State’s motions for summary judgment and to dismiss on September 19, 2012. Along with their responses, Defendants filed an affidavit by Clarence E. Martin, III, pursuant to Rule 56(f), W. Va. R. Civ. P.

14. Defendants' Rule 56(f) affidavit detailed the discovery that had been done thus far and included correspondence between the parties and the State's responses to their discovery requests.

15. The only discovery conducted by the Defendants in the nine (9) months preceding this hearing was the issuance of requests for production and interrogatories to the State and Rule 45(a) subpoenas to 20 automobile manufacturers and a car dealership. The 45(a) subpoenas were not issued until August 1, 2012.

16. The Defendants' Rule 56(f) affidavit states that discovery disputes with the State prevented it from identifying prospective fact witnesses, even though the witnesses the Defendants name were initially disclosed in the State's complaint and supporting memorandum of law.

17. The State did object to many of the Defendants' discovery requests as being overly broad and irrelevant to the State's claims. At no time did the Defendants attempt to narrow its requests.

18. The State orally represented to this Court that it had supplemented its responses to the Defendants' discovery requests on three (3) separate occasions and provided thorough discovery responses.

19. The Defendants' affidavit sets forth the discovery it seeks "will reflect that contrary to prior representations to this Court, the use of recycled OEM crash parts does not serve to automatically void a manufacturer's new car warranty, as alleged by the WVAG." Clarence E. Martin, III's Rule 56(f) Affidavit ¶ 44.

20. The State has filed no pleadings in this action containing the allegation set forth in ¶ 44 of said Rule 56(f) Affidavit. The State alleged violations of the Automotive Crash Parts Act based upon this Court's 1998 order, wherein it ruled that

[W]hen automobile insurance companies negotiate the repair of automobiles, and when motor vehicle body shops repair automobiles, they must negotiate and effect the repair of automobiles using new “genuine crash parts” sufficient to maintain the automobile manufacturer’s new car warranty for that part, unless they first obtain the consent of the owner of the automobile to be repaired to use “aftermarket crash parts,” as defined by the Act, or “salvage crash parts,” as the term has been used in this opinion.

21. On September 19, 2012, Defendants’ informed this Court, by letter, that it did not intend to bring its Motion for Summary Judgment on for hearing on September 24.

22. It is undisputed that in order to continue in its business as a Liberty Mutual preferred body shop, Chandler’s was required to, and did, negotiate repairs in West Virginia for motor vehicles in the year of their manufacture or in the two succeeding years thereafter, using salvaged crash parts without the owners’ knowledge or written consent.

23. Defendants’ Rule 56(f) affidavit did not present this Court with a plausible basis to believe that discoverable material facts are likely to exist which have not yet been accessible to it that would dispute the allegations contained in the State’s complaint.

24. Defendants’ Rule 56(f) affidavit did not demonstrate to this Court good cause for its failure to conduct its discovery earlier.

CONCLUSIONS OF LAW

Based upon the Court’s review of the entire record thus far generated, expressly taking into consideration the motions, exhibits, and legal arguments in support thereof and in opposition thereto, the Court does hereby make the following conclusions of law:

1. “Genuine crash parts” means “parts manufactured by or for the original manufacturer of the motor vehicle to be repaired” that “are authorized to carry the name or trademark of the original manufacturer of the motor vehicle.” W. Va. Code § 46A-6B-2(d).

2. “Aftermarket crash part” means a part “manufactured by a person other than the original manufacturer of the motor vehicle to be repaired” and “for which the original manufacturer of the motor vehicle has not authorized the use of its name or trademark by the manufacturer of the crash parts.” W. Va. Code § 46A-6B-2(a).

3. “Salvage crash parts” means “a part manufactured by or for the original manufacturer that is authorized to carry the name or trademark of the original manufacturer, but has been removed from a salvaged vehicle.” 1998 Order (August 1998); State ex rel. McGraw v. Liberty Mutual Insurance Company, et al., 2012 WL 1036848 (S.D.W. Va.).

4. “Salvaged vehicles” means a vehicle with a salvaged title certificate,” as defined by W. Va. Code § 17A-4-10.

5. “Recycled genuine original equipment manufacturer parts,” as used by the Defendants, has the same meaning as “salvage crash parts.” 1998 Order (Aug. 1998).

6. Although salvage crash parts meet the statutory definition of “genuine crash parts,” they do not comply with the underlying requirement that such parts be “sufficient to maintain the manufacturer’s warranty” on that part.

7. Summary judgment is appropriate only if the record reveals no genuine issue of material fact and the movant demonstrates an entitlement to judgment as a matter of law. Rule 56(c), W. Va. R. Civ. P.

8. The State's motion for summary judgment and supporting memoranda of law demonstrated the absence of genuine issues of material fact as required by Rule 56.

9. The party opposing a motion for summary judgment may not rest upon mere allegations or denials as to the moving party's pleading, but must, by affidavit or otherwise, set forth specific facts showing there is a genuine issue for trial. rule 56(e), W. Va. R. Civ. P.

10. An opposing party unable to set forth specific facts showing there is a genuine issue for trial, may, by affidavit, state such reasons as to why it is unable to present such facts. rule 56(f), W. Va. R. Civ. P.

11. Rule 56(f) provides a "procedural escape hatch" for a party "genuinely requiring] additional time to marshal material facts to contest a summary judgment motion." Powderidge Unit Owners Association v. Highland Properties, Ltd., 196 W. Va. 692, 701, 472 S.E.2d 872, 881 (1996).

12. At a minimum, an affidavit under rule 56(f), must

(1) articulate some plausible basis for the party's belief that specified "discoverable" material facts likely exist which have not yet become accessible to the party;

(2) demonstrate some realistic prospect that the material facts can be obtained within a reasonable additional time period;

(3) demonstrate that the material facts will, if obtained, suffice to engender an issue both genuine and material; and

(4) demonstrate good cause for failure to have conducted the discovery earlier.

Id. at 702, 882.

13. A party may not simply assert that discovery will reveal material fact, but must comply with the requirements of Rule 56(f). A party's failure to satisfy these requirements is justification for rejecting its claim. *Id.*

14. The Defendants' Rule 56(f) affidavit did not articulate that specified discoverable material facts are likely to exist to show that Liberty Mutual did not require the use of salvaged crash parts when negotiating the repairs of motor vehicles without the written consent of the motor vehicle owner in violation of W. Va. Code § 46A-6B-3 and W. Va. Code § 46A-6-104.

15. The Defendants' Rule 56(f) affidavit did not articulate that discoverable material facts are likely to exist to show that Chandler's did not fail to include a written statement notifying motor vehicle owners that salvaged crash parts were being used to repair their vehicles in violation of W. Va. Code § 46A-6B-4 and W. Va. Code § 46A-6-104.

16. The Defendants' Rule 56(f) affidavit did not articulate that discoverable material facts are likely to exist to show that the Defendants' failure to disclose to consumers that salvaged crash parts were being used in the repair of their vehicles was not an unfair or deceptive act or practice as defined by W. Va. Code § 46A-6-102(7)(M) in violation of W. Va. Code § 46A-6-104.

17. Defendants failed to meet their burden to show that some genuine issue of material fact exists or to articulate that some genuine issue of material fact would come to light if given more time for discovery.

18. The West Virginia consumer Credit and Protection Act, W. Va. Code § 46A-10101, *et seq.* is a remedial statute and should be liberally interpreted to achieve its purpose. State ex rel. McGraw v. Scott Runyan Pontiac-Buick, 194 W. Va. 770, 777, 461 S.E.2d 516, 523 (1995). The purpose of the WVCCPA is to protect consumers in the State of West Virginia. The consumers

protected by Article 6B are the owners of motor vehicles. The Court must construe any ambiguity in the statute to effectuate that purpose.

19. The State has shown that there are no genuine issues of material fact as to its causes of action.

20. The Defendants' arguments based upon the MMWA are entirely legal in nature and fail to engender any genuine issues of material fact.

21. Having reviewed its 1998 Order, this Court concludes that it was correct in its prior interpretation of the Automotive Crash Parts Act – that “when automobile insurance companies negotiate the repair of automobiles, and when motor vehicle body shops repair automobiles, they must negotiate and effect the repair of the automobiles using new “genuine crash parts” sufficient to maintain the automobile manufacturer’s new car warranty for that part, unless they first obtain the written consent of the owner of the automobile to be repaired to use ‘aftermarket crash parts,’ as defined by the Act, or ‘salvage crash parts,’ as the term has been used in [the 1998 opinion].”

22. The language required to be used in the notice to the consumer “if the replacement parts are aftermarket crash parts” set forth in W. Va. Code § 46A-6B-4(b) does not preclude Defendants from complying with W. Va. Code § 46a-6B-4(a) which requires:

- a. providing a list to the vehicle owner of the replacement crash parts that the body shop intends to use in making repairs, W. Va. Code § 46A-6B-4(a)(1);
- b. specifying whether the replacement parts are genuine crash parts, W. Va. Code § 46A-6B-4(a)(2); and
- c. identifying the manufacturer of the parts if the replacement parts are aftermarket crash parts, W. Va. Code § 46A-6B-4(a)(3).

(Emphasis added.) These disclosures are required to be given to consumers before the motor vehicle body shop begins work on the consumer's vehicle and is clearly intended to include all replacement crash parts intended to be used in the repair whether new, salvaged, or aftermarket.

23. The type and quality of parts being used to repair a consumer's motor vehicle, i.e. – salvaged crash parts, are material facts.

24. West Virginia Code § 46A-6-102(7)(M) defines an unfair or deceptive act or practice to include “the concealment, suppression or omission of any material fact with the intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any goods or services”

25. Both MMWA and the WVCCPA are consumer protection statutes. However, as Judge Goodwin determined, these statutes regulate “different actors and different conduct.” State ex rel. McGraw v. Liberty Mutual Insurance Company, et al., 2012 WL 1036848 (S.D.W. Va.).

26. MMWA was passed “to improve the adequacy of information available to consumers, prevent deception, and improve competition in marketing of consumer products.” State ex rel. McGraw v. Liberty Mutual Insurance Company, et al., 2012 WL 1036848 (S.D.W. Va.), citing Davis v. S. Energy Homes, Inc., 305 F.3d 1268, 1272 (11th Cir. 2002), quoting 15 U.S.C. § 2302(a).

27. Assuming *arguendo*, that Defendants are correct in their assertion that the MMWA governs the same area of law as the Automotive Crash Parts Act, the MMWA provides that “nothing in this chapter shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.” 15 U.S.C. § 2311(b)(1). See Prousi v. Cruisers Div. of KCS Int'l. Inc., 975 F. Supp. 768, 772 n. 3(E.D. Pa. 1997)(Congress did not intend to supplant state warranty law; rather MMWA intended to complement state laws). Thus, Defendants arguments fail.

28. A salvaged vehicle is no longer covered by a manufacturer's warranty. Any parts removed from that vehicle have no manufacturer's warranty and, therefore, MMWA is inapplicable.

29. MMWA protects a consumer's right to choose an aftermarket part over a new genuine OEM part (oil filters, wiper blades, etc.) and prohibits manufacturers from mandating that only their genuine OEM parts can be used on their goods. While it prohibits manufacturers from requiring OEM parts be used to maintain a warranty, the Federal Trade Commission has recognized a manufacturer may refuse to warrant a problem that is caused by the use of the aftermarket part. In this situation, the consumer is aware of the part they are purchasing and making a fully informed decision.

30. The Automotive Crash parts Act requires that insurance companies and motor vehicle body shops disclose to consumers the type of crash parts being used to repair their motor vehicles. It requires that consumers provide written consent that the repairs be made with those specific parts and that those parts be sufficient to maintain the manufacturer's warranty on that specific part.

31. The WVCCPA is not an outright prohibition to the use of crash parts other than genuine OEM crash parts. Rather, it is a consumer protection statute requiring that consumers be given the material facts pertaining to their vehicles repairs.

32. While not alleged in the State's complaint, this Court takes note that Liberty Mutual filed pleadings in this action showing that it specifically violated the Automotive Crash Parts Act by negotiating the repair of consumers vehicles with aftermarket crash parts.

33. The Defendant, Liberty Mutual, violated W. Va. Code § 46A-6B-3, when it required the use of salvaged crash parts when it negotiated the repairs of consumers' motor vehicles with motor vehicle body shops and did not obtain the consumers' written consents at the time of the repair.

34. The Defendant, Chandler's, violated W. Va. Code § 46A-6B-4 when it failed to provide consumers a list of the replacement crash parts that it intended to use in making repairs; failed to specify whether the replacements were genuine crash parts; and failed to obtain consumers' consents in writing before beginning repairs.

35. The Defendants, Liberty Mutual and Chandler's, each violated W. Va. Code § 46A-6-104 by concealing, suppressing or omitting the material facts as to the types of parts used to repair consumers' vehicles in a consumer transaction.

36. The Defendants failed to meet the standards under rule 56(f), W. Va. R. Civ. P., to defeat the State's Motion for Summary Judgment.

37. The Defendant Liberty Mutual repeatedly violated the Automotive Crash Parts Act and the WVCCPA.

38. The State is entitled to summary judgment as a matter of law.

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ADJUDGED, ORDERED and DECREED that the State's Motion to Dismiss the Defendants' Counterclaim for Declaratory Judgment is GRANTED and the State's Motion for Summary Judgment is GRANTED. Any requests for civil penalties, restitution and/or attorney fees shall be reserved for future determination.

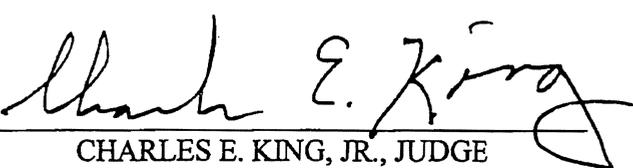
It is FURTHER ORDERED that the State is awarded an injunction against the Defendants, as authorized by W. Va. Code § 46A-7-108, permanently prohibiting the Defendants from violating the WVCCPA and the Automotive Crash Parts Act. Specifically, Liberty Mutual is permanently prohibited from requiring the use of salvaged crash parts when negotiating the repairs for motor vehicles in the year of their manufacture or in the two succeeding years without the written consent

of the owner of the motor vehicle in the State of West Virginia. Moreover, Greg Chandler's Frame 7 Body, LLC is permanently prohibited from preparing estimates for the repair of new motor vehicles using salvaged crash parts unless it provides disclosures and obtains written consent in accordance with W. Va. Code § 46A-6B-1, *et seq.*

The Court notes the objection and exception of the party or parties aggrieved by this Order.

The Clerk is DIRECTED to send a certified copy of this Order to all counsel of record.

Entered this 18TH day of December, 2012.



CHARLES E. KING, JR., JUDGE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF THE CIRCUIT COURT OF SAID COUNTY AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY FROM THE RECORDS OF SAID COURT GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 19th DAY OF December 2012
 CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA


12-19-12
J. Miles
C. Martin III
Greg Chandler's Frame 7 Body
Liberty Mutual Ins.
J.M. Shaw
C. Martin III
Greg Chandler's Frame 7 Body
Liberty Mutual Ins.