

Settling Ownership of Vehicles

Get it Right the First Time

By William Leslie

value and the actual value may vary from vehicle to vehicle and from region to region. During the past two years, wholesale and retail values of many vehicles have actually been increasing.

Not long ago, a recently divorced woman arrived at a dealership to trade in her ex-husband's pride and joy, a late model 4x4 pickup. The truck had every gadget and toy, including a navigation system, chrome wheels, oversized tires, an expensive stereo system and a fancy paint job. The couple had invested more than \$40,000 in the truck. (Perhaps the energy that the husband spent on the truck should have been spent on his mar-

have been worth a little something to the woman to deprive her ex-husband of his prize possession, but it was clear that she had no idea that equity in the truck (calculated as trade-in value less loan balance owing) was negative.

The attorney and the wife had used the invoices showing what her husband spent on the truck to determine its value. The real value that the wife could expect to receive if the truck were traded in at a dealership would be low or "wholesale" book, adjusted for local market conditions, adjusted for the current condition of the vehicle, but not adjusted for all the glitter and expensive toys that the hus-

Quote

Handling a titled vehicle in a divorce, bankruptcy or estate doesn't have to be hard, but simple mistakes are made by new and experienced attorneys alike. Whether the context is settling a simple estate, handling a bankruptcy or struggling through a protracted divorce, simple mistakes in handling vehicles and vehicle titles can be excruciatingly painful — and expensive — to clean up. Fortunately, the simplest mistakes are also the easiest to avoid.

Here are some common mistakes made by attorneys in handling vehicles. The concepts apply equally well to boats, airplanes and anything else with a title issued by a state agency.

Improper Valuation of Vehicles

What a customer paid for a vehicle may be a poor guide to value, even if it was purchased just a month or two ago. Book values, such as the NADA guide and Kelly Blue Book, are merely guides to

riage.) The woman bragged to the sales staff at the dealership that she had "won" the truck in the divorce, one last dig at an unfaithful spouse. With the truck she received responsibility for paying off the loan for it.

The wife had punished her husband for his inattentiveness by taking his favorite toy away from him, but when the dealership ran the numbers they had to advise her that the truck was worth about \$8,000 less than the balance owing. Most of the improvements and gadgets that her husband had poured into the truck hadn't significantly increased its value. It may

band had added. A dealership can't normally pay more for a vehicle than a bank will lend and most accessories and expensive paint jobs don't change book value very much, if at all.

As she left the lot in the truck, on her way to her attorney's office to complain, the wife was heard repeating over and over, "But I won, but I won." Chances are she had a very interesting chat with her attorney.

Solution: Use book values only as a guide to value. For rare or heavily customized vehicles, get a written buy offer from one or more dealers. What was paid for

the vehicle is irrelevant.

Imprecise Divorce Decrees

For many newly divorced people, part of the process of recovering from a bad marriage involves buying a new vehicle. Shortly after the divorce is final, one or both spouses may arrive at a dealership only to find that there is a problem with trading in the vehicle that they received through the divorce settlement. Instead of actually completing the process of changing the titled owner on the vehicle, many attorneys rely on the divorce decree to arrange for the transfer. Often, that doesn't work.

Most states allow an ex-spouse to be removed from the title to a vehicle by using the divorce decree only if the vehicle is properly described. Many decrees fail to adequately describe the vehicle. A typical divorce decree reads "Respondent will retain 2009 Chevrolet" or even "2009 Chevrolet with license plate XYZ 123." Neither description provides the specificity required by most state agencies. The first description provides only the make and year of the vehicle. That's not specific enough. The second description adds the license number, but since plates are routinely moved from vehicle to vehicle, most states won't accept this description either.

Solution: The best practice is to have each party sign new application for title for each vehicle — removing one titled owner where appropriate. Then the attorneys should submit the paperwork to the appropriate state agency on behalf of their clients. Local auto dealers will be glad to help with this matter for a small fee. Don't rely on the clients to take care of this. Too often, one or both parties to the divorce fail to follow through. Getting the appropriate signatures at the time of the divorce is easy. Getting an autograph from an angry spouse months later — after a child support check has bounced — may be impossible.

If a simple application for a new title isn't possible, such as when a lien holder holds the title, carefully identify each vehicle in the decree using the name of the manufacturer and the full Vehicle Identification Number, or VIN, associated with the vehicle. Don't include the license number or the model of the vehicle. Mod-

els names often aren't even tracked by state motor vehicle agencies. Worse, they may confuse matters. Is that a pickup, a double cab or a Tundra? Instead, include only the name of the manufacturer and the VIN.

Failure to Confirm the Vehicle in Question

Decrees are often built around inadequate documentation or around no documentation at all. The husband advises that the vehicle he will keep is a 2008 Chevrolet and provides the license plate number or perhaps a repair order, which includes the Vehicle Identification Number. Six months later it is determined that the mechanic transposed two numbers or the title was for a vehicle sold several years before.

Solution: Confirm the VIN by physical examination of the vehicle itself. Don't rely on the title or on an insurance card.

Failure to Confirm the Titled Owner

Paper titles are often superseded through lost title applications and mechanics' liens. In other states, the registration may show a different name than the title. Your client may find that a divorce decree or power of attorney is worthless in delivering title that the deceased never owned, because it is still in the name of a deceased grandfather.

Solution: Verify the current titled owner to the vehicle, not by the title document, but by inquiry to the appropriate state motor vehicles department. This is often free, but will never cost more than a few dollars. In many states, new car dealerships are recognized as agents of the state motor vehicle agency and can confirm the titled owner for free.

Conclusion

Transferring title to a vehicle is a routine part of handling a divorce or of settling an estate. With a little care, it can be trouble free.

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