MARTIN & JONES PLLC
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We recently concluded a trial where we discovered that the insurance company was manipulating the actual cash value of the vehicle to keep from "totaling" a van. In North Carolina there is a safety rule that states if a vehicle is damaged where the repairs are going to cost 75 percent of the actual cash value of the vehicle before the wreck, the vehicle must be totaled. The reason for this safety rule is to protect the consumer. If you decide you want to keep your "totaled" vehicle, you know it was totaled and may have some structural integrity problems that could affect its safety. However, if you sold the vehicle and the damage was structural, the buyer may not know of the extent of the damage unless the title was branded. A branded title tells the next buyer that the vehicle had been totaled.

In order to avoid totaling the vehicle, the insurance company increased the actual cash value it used so that the repairs would not reach the 75 percent threshold. It saves the insurance company money to not total a vehicle.

If you are in a collision, immediately check the NADA value for your area to determine the retail value of your vehicle. You should also contact the insurance company and ask them to disclose the actual cash value they are using when they are calculating the 75 percent safety rule. Inform the insurance adjuster that you want him/her to disclose any changes the actual cash value being used to determine total loss.

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