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JAN 16 2008

THE SENATE
COMMITTEE ON ADMINISTRATION

OPINION COMMITTEE

January 10, 2008

The Honorable Greg Abbott
Attorney General
Price Daniel, Sr. Building, 8th Floor
209 West 14th Street
Austin, Texas 78701-8701

FILE # ML-45514-08
I.D. # 45514

RQ-0667-GA

Dear General Abbott:

As Chair of the Administration Committee, I would like to request an opinion on the use of Worker's Liens, as established by § 70.001 of the Texas Property Code, by auto repair shops. It is unclear if an auto repair shop can assert a mechanic's lien for administrative and overhead charges when a vehicle is determined to be a total loss and thus is not repaired by the repair shop.

In my research, I found two cases that indicate that a worker's lien should be discharged when the full amount of the repairs are made: *Hinson v. Peak Fin., L.P.* (2004 LEXIS 11018, Tex. App. San Antonio, 2004) (mechanic's lien was discharged under *Tex. Prop. Code* § 70.001(a) because the insurance company paid the entire balance due and the titleholder tendered the insurance deductible to the mechanic but was refused), and *Seureau v. Mudd*, 515 S.W.2d 746 (Tex. Civ. App. Houston 14th Dist. 1974) (shop not entitled to enforce statutory lien where the customer's bill exceeded the amount he authorized for the repair of the vehicle). However, it is not clear whether administrative and overhead charges constitute part of the auto repair shop's statutory lien.

Thank you in advance for your assistance with my request. Please do not hesitate to contact me if you have questions concerning this request. You may reach me at 512-463-0350.

Sincerely,

Handwritten signature of Kim Brimer in cursive script.
Kim Brimer