

Is Your Shop at Fault?

How far does a shop's responsibility go when it works on a vehicle?

By Michelle MacDonald, Esq.

The modern car is a complex machine containing thousands of interacting parts that must be serviced regularly for the vehicle to perform well over its lifetime. If any one of those parts fails due to a design or manufacturing defect, the original manufacturer may be found responsible. But what if a car is brought in to the local repair shop by the owner for a routine oil change and later the brakes fail due to a condition that perhaps could have been detected by a thorough inspection? Is the repair shop responsible for ensuring that all of the vehicles' systems are functioning properly if it was not part of the duties outlined in the original repair estimate?

Typically, the repair shop is not responsible for thorough inspections such as this. The law draws a clear distinction between a manufacturer and an independent repair shop. Manufacturers can be found liable for the design and fabrication of its products such that a customer must only prove that the product was defective without necessarily demonstrating explicit negligence on the manufacturer's behalf. Repair shops are held to a negligence standard, which means a customer must



prove the shop did something by act or omission that "fell below the standard of care" generally expected of repair shops.

Even beyond this hurdle, an injured person must prove that the repair performed by the shop was directly related to the failure. Repairers are not insuring that a used product will perform flawlessly after the customer leaves the shop. California courts have ruled that for a repair shop to be held responsible for an injury related to its work on a product, a

repair shop must be alerted to a potential problem by the customer; make an attempt to repair the mentioned problem; and have either failed to make the repair or the repair was defective. However, an independent shop called on to address specific symptoms or make certain repairs are not required to investigate other possible problems with a used machine. In other words, a routine oil change does not require a shop to perform extensive diagnostics or address other systems on the machine.

The rationale for this rule is straightforward. When a customer comes into a repair shop complaining of a discrete symptom or requesting a limited service, a contract is formed between the repair shop and the customer for only the work the shop has been asked to perform. If a repairer were obligated to go beyond what the customer has requested, it would make simple repairs far more protracted, time consuming and expensive for the customer. It could also result in a heavy burden for the repair shop when it comes to addressing large complex machinery, such as an automobile. The simplest service could turn into an all-day affair

while the technician inspected all of the major systems of the vehicle.

This rule does not require a shop to limit itself strictly to diagnosing the repair requested. Prudence and good customer service may mean that a shop will

check the brakes of a car as part of its regular service. However, the shop is generally only responsible for work actually performed and authorized by a customer. In other words, the repair shop may diagnose a problem as part of its ordinary inspection and alert the customer but it has no responsibility to complete the work until a customer requests it, nor is it the shop's responsibility for not doing the work if it was not authorized.

There is one exception to these general rules. If a repair shop is on a retainer to perform general inspection, perhaps in the corporate setting for a fleet of vehicles, case law has determined that the shop is therefore obligated to perform more extensive maintenance and diagnostics as agreed to by the terms of the retainer. The rationale in this case is that the shop is in a defined relationship with its customer and can negotiate the terms of the contract and the scope of that relationship accordingly.

Specifically, courts have found that when a repair company agrees for a fee to keep a piece of equipment in repair, perform all work necessary for the safety and maintenance of the equipment and make periodic inspections as necessary, an obligation is created that requires the repair company to perform these inspections and repairs as part of its service. The extent of liability becomes governed by the contract language, which underscores the need for



repair shops in this arrangement to carefully craft an agreement that sets forth exactly what services are agreed upon, at what interval and which repairs are explicitly authorized by the customer as "maintenance."

This is a limited exception to a fairly broad rule. Generally,

the responsibility of repair shops is limited to work actually performed in response to requests explicitly made by their customers. Even with this protection, it is good practice to document

findings from a routine inspection, especially when the recommended repairs were refused by the customer. Preferably, this should be on the original paperwork for the repair and signed by the customer. Otherwise, if there is work performed by retention, it is important to agree specifically and in writing what the scope of those inspections will be. **ai**

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Just Go By ASA's Code of Ethics

As Michelle MacDonald points out in her adjacent article, in general a repair shop is only responsible for work requested by a customer.

But it's just good customer relations to recommend other corrective and maintenance services discovered while working on a customer's vehicle.

A shop that adheres to ASA's Code of Ethics won't go wrong in dealing with customers.

ASA's Code of Ethics

The owners and managers of automotive service businesses that belong to the Automotive Service Association (ASA) agree to adhere to a Code of Ethics. ASA's Code of Ethics is the automotive service industry's standard for professional business practices.

- To perform high-quality repair service at a fair and just price.
- To use only proven merchandise of high quality distributed by reputable firms.
- To employ the best skilled technicians obtainable.
- To furnish an itemized invoice for fairly priced parts and services that clearly identifies any used or remanufactured parts. Replaced parts may be inspected upon request.
- To have a sense of personal obligation to each customer.
- To promote good will between the motorist and members of the association.
- To recommend corrective and maintenance services, explaining to the customer which of these are required to correct existing problems and which are for preventive maintenance.
- To offer the customer a price estimate for work to be performed.
- To furnish or post copies of any warranties covering parts or services.
- To obtain prior authorization for all work done, in writing, or by other means satisfactory to the customer.
- To notify the customer if appointments or completion promises cannot be kept.
- To maintain customer service records for one year or more.
- To exercise reasonable care for the customer's property while in our possession.
- To maintain a system for fair settlement of customer's complaints.
- To cooperate with established consumer complaint mediation activities.
- To uphold the high standards of our profession and always seek to correct any and all abuses within the automotive industry.
- To uphold the integrity of all members of the Automotive Service Association.