

BEFORE THE IDAHO TRANSPORTATION DEPARTMENT

SCOTT HYRUM RENCHER,)	
)	OAH Case No. 23-290-80
Petitioner,)	
v.)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND PRELIMINARY ORDER
IDAHO TRANSPORTATION)	
DEPARTMENT,)	
)	
Respondent.)	
_____)	

This matter was assigned to Hearing Officer Scott Zanzig on August 14, 2023. A scheduling conference was held on August 23, 2023. At that conference, by agreement of the parties, an in-person administrative hearing was set for October 10, 2023, at 1:00 p.m. Mountain Time, at Associated Reporting and Video (“ARV”), located at The Owyhee, 1109 Main St., Suite 220, Boise, Idaho 83702. Present at the hearing were Hearing Officer Scott Zanzig; Petitioner Scott Rencher; Deputy Attorney General Paul Schlegel, counsel for Idaho Transportation Department (“ITD”); and ITD representatives Kendra Conder and Gladys Montelongo. The proceedings were reported by court reporter Misti Alcalde.

Prior to the hearing, the parties signed ITD and Petitioner’s Joint Stipulation of Facts (Stipulation). The parties also stipulated to admission of all exhibits offered at the hearing. Mr. Rencher offered four exhibits, marked A, B, C, and D. ITD offered 12 exhibits, marked ITD-1 through ITD-12. Two witnesses testified at the hearing: Mr. Rencher and Ms. Conder. The parties requested that they be permitted to submit written closing arguments, which they did on October 17, 2023. The record is now closed, and this matter is ripe for the Hearing Officer’s consideration.

DISCUSSION

In this case, Mr. Rencher challenges ITD’s determination that Mr. Rencher must apply for

a rebuilt salvage title to title his car in Idaho. The car was involved in an accident in Georgia while owned by someone prior to Mr. Rencher. The insurer determined that the car was a total loss and paid on its policy accordingly, and reported these things to the National Motor Vehicle Title Information System (NMVTIS). After that, both Georgia and Washington issued unbranded titles to the owners of the car. Mr. Rencher purchased the car in reliance on these unbranded out-of-state titles, brought the car to Idaho, and applied for an unbranded Idaho certificate of title. Based on Idaho law, ITD determined that it could not issue an unbranded title due to the insurer's total loss determination and payout.

Mr. Rencher advances two primary bases for his challenge. First, he argues that the United States Constitution's Full Faith and Credit Clause requires ITD to ignore Idaho law and follow Georgia's and Washington's executive agency decisions to issue unbranded titles for the car. Second, Mr. Rencher appeals to equity. He contends that it is unfair for ITD to apply Idaho titling law in his case, because the information ITD relies on (NMVTIS, e.g.) is not publicly available, ITD's website does not adequately explain the law to consumers, and a salvage-branded title would sap the car of most of its value. Mr. Rencher also argues that ITD (or its county agents) should have notified him immediately, when he registered the car in Ada County, about the potential title issue.

Mr. Rencher's arguments involve some complex legal issues. Mr. Rencher ably advanced his positions, even though he is self-represented and not a lawyer. Unfortunately for Mr. Rencher, the law is not on his side. The Full Faith and Credit Clause does not go so far as to require ITD to blindly follow other states' titling decisions and ignore Idaho law when titling a car. And as unfair as it may seem to Mr. Rencher, ITD is merely following Idaho law by telling him that he must apply for a salvage title if he wants to title his car in Idaho (as opposed to having it titled in another

state that might provide a “clean” title, which is something ITD has offered to help facilitate if Mr. Rencher chooses to do so).

Based upon the evidence presented at the hearing and the balance of the administrative record, the Hearing Officer makes the following Findings of Fact and Conclusions of Law pursuant to IDAPA 04.11.01.413.01.d.

FINDINGS OF FACT

1. On December 28, 2020, Sundus J. Galiah purchased a new 2021 Tesla Model 3, VIN 5YJ3E1EA8MF859365 (the Tesla). Stipulation, p. 2.
2. On February 9, 2021, the Georgia Department of Revenue issued an unbranded original Georgia certificate of title (Title No. 770063233999962) for the Tesla. Stipulation, p. 2; Ex. C.
3. On May 16, 2021, Ms. Galiah was involved in an automobile collision while driving the Tesla in Georgia. The collision damaged the Tesla’s front end. Stipulation, p. 2.
4. On May 17, 2021, a property/casualty insurance claim related to the collision that damaged the Tesla was submitted to Geico Indemnity Company (Geico), an insurance carrier. Stipulation, p. 2.
5. At some point between May 16, 2021, and December 22, 2021, Geico made a total loss declaration and issued a total loss payment on the Tesla as a result of the May 16, 2021, collision in Georgia. Stipulation # 1, p. 5.
6. A carsforsale.com report on the Tesla (Exs. C & ITD-6) indicates that Geico reported a total loss declaration or total loss claim paid for the Tesla on May 20, 2021. Stipulation, p. 3.
7. Geico is an insurance carrier required to report certain information to the National Motor Vehicle Title Information System (NMVTIS). Stipulation # 2, p. 5.

8. Geico reported to NMVTIS that May 20, 2021, was a “salvage” disposition date for the Tesla. Stipulation, p. 3; Exs. C & ITD-5. This report is a declaration by an insurance carrier and not a salvage brand report. Stipulation, p. 3.
9. The record includes no salvage brand reports for the Tesla relating to the May 2021 collision in Georgia on NMVTIS or any publicly available reports. Stipulation, p. 3.
10. The NMVTIS report (Ex. ITD-5) is not publicly available. Testimony of Kendra Conder.
11. On December 22, 2021, the Georgia Department of Revenue issued an unbranded certificate of title for the Tesla (Title No. 770101285149962) to Sundus Galiah, pursuant to an application submitted by Ms. Galiah and/or Geico. Stipulation, p. 3; Ex. A.
12. On March 22, 2022, the State of Washington issued an original unbranded certificate of title for the Tesla (Title No. 1834636067) to Mr. Chad David Rencher, who is Scott Rencher’s brother. Stipulation, p. 4; Ex. B.
13. Neither the State of Georgia nor the State of Washington, acting through their respective state agencies, has issued a “salvage,” “rebuilt salvage,” “junk,” or other similar title brand for the Tesla. Stipulation # 6, p. 5.
14. On April 20, 2022, Chad Rencher transferred ownership of the Tesla to Scott Rencher. Stipulation, p. 4; Ex. ITD-7.
15. At the time he purchased the Tesla, Scott Rencher knew that Georgia and Washington had issued unbranded titles for the Tesla after the May 2021 collision in Georgia. Testimony of Scott Rencher.
16. Mr. Rencher also consulted ITD’s DMV website, Ex. D. Testimony of Scott Rencher.
17. Based on his research, Mr. Rencher believed that ITD would issue an unbranded title for the Tesla just as Georgia and Washington had done. Testimony of Scott Rencher.

18. On April 21, 2022, Mr. Rencher applied for an Idaho registration and certificate of title at his local county DMV office and the Tesla was inspected by the Ada County (Idaho) Assessor. ITD subsequently issued Idaho motor vehicle registration and registration stickers for the Tesla, but did not issue a certificate of title. Stipulation, p. 4.

19. At the time Mr. Rencher applied for registration and title, neither ITD nor Ada County alerted him that the Tesla might require a branded title. Testimony of Scott Rencher.

20. On July 1, 2022, ITD notified Mr. Rencher that ITD had suspended his application for title on the Tesla until he applied for a salvage-branded title. Stipulation, p. 4; Ex. ITD-1.

21. In March and April 2023, ITD notified Mr. Rencher that the Tesla would be eligible for an unbranded title in Idaho if Geico agreed to rescind or remove its NMVTIS report of “salvage.” Stipulation # 7, p. 5.

22. On July 27, 2023, ITD notified Mr. Rencher that ITD had determined that it could not issue an unbranded title for the Tesla; ITD could proceed to title the Tesla only if Mr. Rencher applied for a “rebuilt salvage vehicle” certificate of title. Stipulation, p. 4; Ex. ITD-2.

23. On August 3, 2023, Mr. Rencher requested an administrative hearing regarding ITD’s suspension of his application for a certificate of title. Stipulation, p. 4. Mr. Rencher challenges ITD’s determination that it can process his title application only if he seeks a salvage-branded title.

24. Based on Ms. Conder’s testimony at the October 10, 2023, hearing, the Hearing Officer finds that ITD would be willing to consider issuing an unbranded title for the Tesla if Geico submitted something in writing indicating that it was withdrawing its total loss and salvage reports. The Hearing Officer also finds, based on Ms. Conder’s testimony, that ITD would be willing to provide appropriate documents to assist Mr. Rencher obtain title in another state.

CONCLUSIONS OF LAW

1. Idaho Code section 49-123(1)(o) defines a “salvage vehicle” to mean:

[a]ny vehicle . . . for which a salvage certificate of title, salvage bill of sale or other documentation has been issued showing evidence that the vehicle . . . has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle . . . , such vehicle shall be considered to be a salvage vehicle

2. IDAPA 39.02.05.303.02 governs salvage vehicles from other jurisdictions. It provides in relevant part:

Every vehicle that is coming into Idaho from another jurisdiction with a Salvage Certificate or other equivalent document showing evidence of a total loss payoff such as a bill of sale from an insurance company, or other documentation indicating that the vehicle may have been a salvage or total loss vehicle and any vehicle for which information retrieved from the National Motor Vehicle Title Information System (NMVTIS) indicates it has been reported as “salvage” will be considered salvage unless there is sufficient evidence for the department to determine the salvage document or information retrieved from NMVTIS was in error.

3. Idaho Code section 49-524(1) provides that “[e]very person acquiring a vehicle that has been determined to be a salvage vehicle shall obtain a salvage certificate of title.”

4. Geico is an insurance company that “has paid money or has made other monetary settlement as compensation for a total loss” of Mr. Rencher’s Tesla.

5. Accordingly, under Idaho Code section 49-123(1)(o), the Tesla “shall be considered to be a salvage vehicle.”

6. Geico’s report to NMVTIS that May 20, 2021, was a “salvage” disposition date for the Tesla requires ITD under IDAPA 39.02.05.303.02 to treat the Tesla as “salvage unless there is sufficient evidence for the department to determine the salvage document or information retrieved from NMVTIS was in error.”

7. There is no “sufficient evidence” in the record for ITD to determine that the “information [it] retrieved from NMVTIS was in error.”

8. Mr. Rencher contends that the Full Faith and Credit Clause of the United States Constitution requires ITD to honor the Georgia and Washington title determinations, ignore Idaho law, and issue an unbranded title. In essence, Mr. Rencher asserts that it would be unconstitutional to apply Idaho titling law to his Tesla.

9. Idaho law prohibits the Hearing Officer from declaring any Idaho statute unconstitutional. IDAPA 04.11.01.415. Although Mr. Rencher is not asking the Hearing Officer to declare Idaho titling law unconstitutional in all applications, he does seek a determination that it would be unconstitutional to apply Idaho statutes to his case. The Hearing Officer does not have authority to make that determination. The Hearing Officer must apply Idaho statutes as they are written.

10. Even if the Hearing Officer had authority to determine the constitutionality of Idaho titling statutes as applied to Mr. Rencher, he would not agree with Mr. Rencher’s interpretation of the Full Faith and Credit Clause. “The Full Faith and Credit Clause does not compel ‘a state to substitute the statutes of other states for its own statutes.’” *Baker v. General Motors Corp.*, 522 U.S. 222, 232 (1998) (quoting *Pacific Employers Ins. Co. v. Industrial Accident Comm’n*, 306 U.S. 493, 501 (1939)). Idaho is free to establish its own rules governing certificates of title that it issues. The Full Faith and Credit Clause does not strip Idaho of this power and require it to follow Georgia or Washington titling rules. If Mr. Rencher or any other vehicle

owner wants the benefit of another state's more lenient rules, they are free to title the vehicle in that other state.¹

11. Mr. Rencher's remaining arguments about the unfair results of ITD applying Idaho titling laws in his case are best described as being based on the equitable theory of estoppel. Generally, the rule is that estoppel does not apply against the state in matters affecting its governmental or sovereign functions. *See, e.g., Rangen, Inc. v. Dep't of Water Resources*, 159 Idaho 798, 809 (2016) (discussing quasi-estoppel and noting that a possible "exigent circumstances" exception to this rule has never been defined). This case involves ITD exercising governmental or sovereign regulatory functions, so estoppel does not apply.

12. Even if estoppel were available to Mr. Rencher, he has not established the necessary elements. Quasi-estoppel requires the proponent to prove that the other party "'took a different position than his or her original position.'" *Id.* at 808 (quoting *Allen v. Reynolds*, 145 Idaho 807, 812 (2008)). Mr. Rencher has not met the burden of proving that ITD originally issued an unbranded title or advised him that it would do so. The fact that neither ITD nor its agents immediately advised him of a branding issue when he applied for a certificate of title does not mean that ITD unfairly changed its position warranting application of estoppel.

13. Similarly, Mr. Rencher's other arguments do not warrant applying estoppel against ITD. Mr. Rencher complains that ITD's DMV website did not fully explain the risks he faced given that Geico had made a total loss payment on the Tesla. But Idaho's statutes are publicly

¹ The result might be different if Mr. Rencher had a court judgment from Georgia or Washington establishing that Geico did not make a total loss payment and declare the Tesla as salvage. That is because "the full faith and credit obligation is exacting" when it comes to court judgments. *Baker*, 522 U.S. at 233. But the unbranded titles Georgia and Washington issued were not the result of court adjudications. They were simply the result of those states' employees applying their laws, which differ from Idaho's. *See* Ga. Code § 40-3-2(11); R.C.W. 46.04.514.

available and make clear that salvage vehicles include vehicles on which an insurer has made a total loss payment. Idaho Code section 49-123(1)(o). And the publicly available carsforsale.com report disclosed Geico's total loss determination. The potential economic loss Mr. Rencher might suffer from a branded title on the Tesla is real and substantial. But the Hearing Officer has no authority to override Idaho law to avoid this unfortunate consequence to Mr. Rencher.

PRELIMINARY ORDER

Based on the foregoing, the Hearing Officer **sustains** ITD's determination that it cannot issue an unbranded title for Mr. Rencher's Tesla.

RULE 730 NOTICE

This is a preliminary order of the Hearing Officer. It can and will be final without further action of the Idaho Transportation Department (ITD) unless any party petitions for reconsideration before the Hearing Officer issuing this preliminary order. Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* I.C. § 67-5243(3).

Within fourteen (14) days after the (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director

of ITD or his designee. **Otherwise, this preliminary order will become a final order of the ITD.**

If any party appeals or takes exception to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within ITD. Written briefs in support of or taking exception to the preliminary order shall be filed with the Director of ITD or his designee. The Director of ITD or his designee may review the preliminary order on its own motion.

If the Director of ITD or his designee grants a petition to review the preliminary order, the Director of ITD or his designee shall allow all parties an opportunity to file briefs in support of or taking exception to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Director of ITD or his designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The Director of ITD or his designee may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code sections 67-5270 and 67-5272, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) a hearing was held; (2) the final agency action was taken; (3) the party seeking review of the order resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency action is located.

This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. *See* I.C. § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

IT IS SO ORDERED.

DATED November 6, 2023.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ W. Scott Zanzig
W. Scott Zanzig
Administrative Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of November, 2023, I caused to be served a true and correct copy of the foregoing by the following method to:

Scott Hyrum Rencher
6019 N. Mitchum Ave.
Meridian, ID 83646
(503) 927-3937
Petitioner

U.S. Mail
 Email:
scottrencher@hotmail.com

Gladys Montelongo
Office of the Attorney General
Idaho Department of Transportation
Service Contact for ITD

U.S. Mail
 Email:
gladys.montelongo@itd.idaho.gov
heidi.lewis@itd.idaho.gov

Paul D. Schlegel
Deputy Attorney General
Office of the Attorney General
Idaho Department of Transportation
Counsel for ITD

U.S. Mail
 Email:
Paul.Schlegel@itd.idaho.gov

OAH
P.O. Box 83720
Boise, ID 83720-0104
Located at: 816 W. Bannock St., Suite 203

Email:
filings@oah.idaho.gov

/s/ W. Scott Zanzig
W. Scott Zanzig
Office of Administrative Hearings