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## CONSIGNMENT RISKS

# Obscure law leads to loss of Cadillac

*Woman's car seized off lot of indebted dealer helping her sell it, and she can't get it back*

By MICHAEL SQUIRES

REVIEW-JOURNAL

"Buyer beware" long has been the watchword for people interested in purchasing a used car. But in Nevada, "seller beware" is also sound advice.

Just ask Jeannine Huckleberry. The 65-year-old Amargosa Valley resident hoped to sell her \$22,000 Cadillac on consignment but ended up giving it away thanks to a little-known state law.

Shortly before Huckleberry's father died in late 1998, he signed over to her the title to his 1995 Cadillac Sedan DeVille.

She admired the vehicle, its white paint job, gray interior and low mileage, and kept it for a few years. Ultimately, though, she decided she needed money more than the car and began trying to sell it.

Classified advertisements in several Southern Nevada newspapers failed to produce

► SEE CADILLAC PAGE 7B



GARY THOMPSON/REVIEW-JOURNAL

Jeannine Huckleberry sits with all she possesses of her 1995 Cadillac — a photo and title — after she tried to sell it on consignment at a Pahrump lot.

OVER →

# ► CADILLAC: Woman hopes to 'save some other poor soul'

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a buyer, so she turned the task over to professionals.

Huckleberry signed an agreement with Valley Motorsports, a small used-car lot in Pahrump, to sell the vehicle on consignment. She would continue to insure the vehicle while it was on the lot. The dealer would handle the marketing, notify Huckleberry of any offers and keep 10 percent of the sale if a buyer emerged.

"If they didn't sell it, I'd just take it back," she said.

That was in April 2000. Over the next few months, Huckleberry's car sat on Valley Motorsports' lot along with about 40 other vehicles.

"I would drive past there all the time," Huckleberry said.

"It was always parked in the front row because it looked real nice and had all the bells and whistles that most Cadillacs have."

A few months later, she drove by and found that her Cadillac — and the rest of the vehicles on the lot — were gone, seized by a credit company to cover Valley Motorsports' mounting debt.

That began an 18-month fight to get her Cadillac back.

She first contacted Automotive Finance Corp., the Indiana-based commercial lender that seized Valley Motorsports' inventory.

Despite making many pleas for her car's return and faxing them a copy of her title to the car and the consignment contract, company officials informed Huckleberry they were within their rights to keep her vehicle, along with the rest of Valley Motorsports' inventory.

"I was told by them that it was legal to seize the car," she said.

Joel Garcia, general counsel for Automotive Finance, said it was his company's understanding from Valley Motorsports' owners that Huckleberry's Cadillac was part of the car lot's own inventory instead of a vehicle on

consignment when they entered a financing agreement. Thus it became collateral for the loan.

Because Huckleberry failed to file a statement with the secretary of state's office "marking" the vehicle as hers, the financing company legally is entitled under Nevada's commercial code to keep her Cadillac, he said.

"The bottom line is, under the law, Automotive Finance's right to the vehicle would be superior to the person's," Garcia said.

"The bad guy is the dealer because he represented to us that that was his car," Garcia added.

Valley Motorsports' representatives could not be located for comment.

Huckleberry's attorney, Melvin Close, examined the state's commercial code and was surprised to find that the finance company's assertions were correct.

"The law allows the finance

company to take all the cars on the lot, even though it was only on the lot for consignment," Close said.

He said it appeared to him that the finance company, in seizing the car, can rely on the assertions of Valley Motorsports, even if they turn out to be false.

"There's no recourse that we've found," he said.

The Department of Motor Vehicles revoked Valley Motorsports' license in October 2000 on a variety of charges related to the company's failure to pay lienholders.

Huckleberry then filed a claim with the DMV against the car dealer's \$50,000 bond, which all car dealers in the state are required to post.

"I never heard from them," she said.

Car dealers are licensed by the DMV, but officials with the agency declined to comment on the seizure of Huckleberry's car.

"The uniform commercial

code is civil law, and the DMV doesn't want to render advice on civil law," said Kevin Malone, public information officer for the DMV.

"It's not our role to do so."

And as far as any requirement for car dealers to disclose the risk consumers take by selling their vehicle on consignment, "it would be up to the dealer to disclose it," Malone added.

Close, who has sold several cars on consignment without knowing the risks, described the loss of Huckleberry's car as "a bizarre set of circumstances and a trap for the unwary."

Huckleberry has given up hope of recouping her losses but still hopes some good comes of her 18 months of frustration.

"There's a statute that they can steal your car legally, so I'm never going to see the car again," she said.

"I'm not going to get anything out of it, but maybe they can get the law changed and save some other poor soul."