



HAIL ROOF REPLACEMENT \$42 MILLION DOLLAR LAWSUIT

When Dallas attorney Todd Tracy filed a lawsuit against Honda on behalf of Matthew and Marcia Seebachan, he said to himself, "This is the greatest manufacturing-defect case I've ever seen."



Tracy knows a good product-liability case when he sees one. According to Tracy, his firm has handled 2,700 defect lawsuits against the automakers, shepherding 154 of them to trial and recovering \$1.4 billion in damages. His website boldly proclaims: "You can sue car companies for safety failures that cause serious injuries or death."

But despite his initial assessment, something was not adding up.

Tracy paced the floor as he explained how he put on his "Sherlock Holmes hat" to deduce that there was no case against Honda, setting the stage for the lawsuit and \$42 million verdict against John Eagle Collision Center.

Tracy said he assessed the Seebachans' collision-damaged 2010 Honda Fit in the context of vehicle crashworthiness, which is "the science of preventing or minimizing serious injuries or death following an accident through the use of safety systems." He explained that there are five elements of crashworthiness:

- *Maintaining the occupants' survival space*
- *Managing and distributing the collision forces away from the survival space*
- *Providing proper restraint throughout the accident*
- *Preventing ejection*
- *Preventing fires*

Tracy's first clue that he was taking the wrong tack came when he placed a life-size Honda weld map over the vehicle roof. Honda's repair manual calls for 108 welds when replacing the roof on a 2010 Honda Fit; he found none.

"Not a single one," Tracy added. "So, I said, 'I know for a fact that it can't be a manufacturing defect,' because if it's a manufacturing defect, there may be 105 welds instead of 108, or there may be an edge weld or a cold weld here and there, but 108 missing – I don't think so."

Still, the vehicle's **CARFAX report "didn't say a word about the roof being replaced,"** according to Tracy. So, Tracy's law firm tracked down the vehicle's original owner, who revealed that he had taken the car to **John Eagle Collision Center to replace the roof after a 2012 hailstorm.**

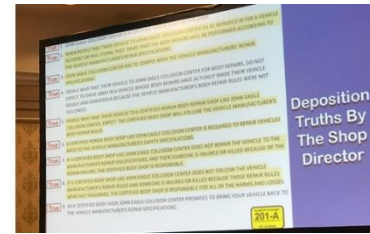
The trial **revealed that John Eagle deliberately deviated from Honda's 2009-2013 Honda Fit Body Repair Manual** when the shop **GLUED** the new steel roof onto the hail-damaged vehicle with a **3M adhesive.**

Tracy built his case by establishing rules and showing how John Eagle Collision Center violated them. In a deposition, the body shop director agreed that an OEM-certified shop is required to follow the OEM's repair specifications, and if it does not, the shop is responsible for the damages incurred in a subsequent collision. The shop director also acknowledged that the Honda repair manual is John Eagle's "bible."



Perhaps the most damning part of the deposition, though, was the shop director's statement that **insurance companies can trump OEM repair specifications by not paying the bill.**

"Folks, let me tell you, if you ever get deposed, don't ever say this," Tracy told attendees at the Midwest Auto Body Trade Show. "Even if you believe it, don't say it. Because this puts safety way below profits, and profits should never take precedence over safety."



The 10-2 jury verdict was the culmination of a weeklong trial. Tracy's strategy was to present the lawsuit as a crashworthiness case, focusing on the vehicle's safety cage – "because jurors love the idea of putting their family in a safety cage."

"The reptile theory goes like this: Jurors want to protect themselves, their family, their loved ones and the community at large," Tracy explained. "So, when you make [the case] about people other than your clients, you're in good shape."

With that in mind, Tracy talked about Honda's crashworthiness engineering, noting that its **vehicles are designed to distribute collision forces away from the occupant space.** Certain parts of the vehicle serve as a firewall for the safety cage, he explained, so they are designed to crush or bend in a collision.

John Eagle's Collisions repair compromised the crashworthiness engineering of the vehicle, Tracy argued.

"There are consequences to faulty repairs," he said. "Faulty repairs equal the fuel tank punctured in our accident, because the frame rail crushed back so far it took the fuel tank out."

IF YOUR ROOF HAS BEEN DAMAGED BY HAIL, BE VERY, VERY DILIGENT TO ENSURE A ROOF REPLACEMENT HAS NOT BEEN DONE WITH GLUE. TODAY THIS IS STILL A NORMAL PRACTICE BUT GROUPS WHO WANT TO COMPLETE A HAIL REPAIR JOB QUICKLY, SO BE VERY AWARE.

THE NORMAN/SHAWNEE HAILSTORM HAS RESULTED IN MANY ROOFS REQUIRING REPLACEMENT.