

TEXAS

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Collision Confusion:

Inside the Debate over
“Opt-OE” Parts

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Remembering Dean Griffin
Holiday Gala Preview
Suffering with Sublets





Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. As the general manager of Auto Claim Specialists, Robert expertly leads this National Public Insurance Adjuster Agency, which is currently licensed in 11 different states and specializes in providing automotive-related claim liquidation techniques, strategies and motor vehicle valuation services to all parties, including individual consumers, body shops, auto dealers, repair facilities, towing and storage operations, lenders, finance companies, banks, legal professionals, governmental agencies and others. The firm's consistent success can be attributed to Robert's 35+ years of automotive industry knowledge, practical hands-on experience and multiple certifications, including licensure by the Texas Department of Insurance as a Public Insurance Adjuster. Auto Claim Specialists clients can absolutely trust that they will be provided with analytical, sophisticated, state-of-the-art, comprehensive, accurate, unbiased and up-to-date data and information that all parties can rely upon as both factual and objective. Robert can be reached at (800) 736-6816, (817) 756-5482 or asktheexpert@autoclaimspecialists.com.

Ask the Expert

"WAS MY CLIENT'S VEHICLE REALLY A TOTAL LOSS?"

Dear Mr. McDorman:

I have attended your seminars at previous ABAT Trade Shows, and I attended your seminar at this year's event. I learned several new techniques from your seminar as well as the other education presentations I attended. I will be able to use each of the educational items I learned in my business. We also routinely refer our clients to you for inherent diminished value claims, policy-related issues and total loss claims. Over the years, we have been able to repair many of the vehicles the carrier deemed a total loss once Auto Claim Specialists became involved. In your presentation this year, you used several examples of carriers deeming a vehicle a total loss and then agreeing to repair it after the client retained Auto Claim Specialists. You mentioned your records reflect that a large percentage of the vehicles the carriers are deeming total losses could be safely returned to their pre-loss condition. How can the insured detour the carrier from wrongfully deeming a safely repairable vehicle a total loss?

Thank you for your question, and thank you for attending my seminars and referring your clients to us. This is correct. Many of the total loss claims we review are repairable vehicles that should have been repaired under the policy guidelines without our involvement. Below are a few steps the insured can take to make sure the carrier has properly indemnified them for their loss.

The first step is to read the **LIMIT OF LIABILITY** section of the policy. What we routinely see in our office is that claims-handling guidelines do not match the policy. As an example, most Texas insurance policies under **LIMIT OF LIABILITY** state the following:

Our limit of liability for loss will be the lesser of the:
a. actual cash value of the stolen or damaged property;
b. amount necessary to repair or replace the property with other of like kind and quality; or;
c. amount stated in the declarations of this policy.

The **LIMIT OF LIABILITY** listed above is the common language in most Texas motor vehicle policies. This policy language does not give the carrier the right

to deem the vehicle a total loss because the salvage value is high. In my experience, I have never seen a Texas policy that allows the carrier the right to do this. However, we hear daily that carriers inform the insured they are deeming their vehicle a Total Loss because the salvage value is so high.

The second step is to review the proposed settlement for the actual cash value of the vehicle to determine the accuracy. In Texas, the driving force of determining if the vehicle can be repaired is the proper actual cash value and the cost of the repair plan to safely return the vehicle to its pre-loss condition.

Whenever there is a dispute over step one or two, the insurer and the insured must look to the policy for relief. Most Texas policies have appraisal clauses, such as the one below, to resolve loss disputes in a fast and amicable manner:

APPRAISAL

If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.

Each party will:

- 1. pay its chosen appraiser; and*
- 2. bear the expenses of the umpire equally.*

We do not waive any of our rights under this policy by agreeing to an appraisal.

As noted in the policy, all either party - the insurer or the insured - needs to do is not agree on the covered loss, and either party can invoke said right. The binding appraisal process is an extra-judicial means designed to avoid litigation on the issue of damages/loss. If the insured has suffered no prejudice due to delay, it makes little sense to prohibit the appraisal when it can provide a more efficient and cost-effective alternative to litigation. An appraisal is intended to take place before a suit is filed; courts have held it is a condition precedent to a suit.

The appraisal process in most policies will allow the insured the relief needed to ensure they are made whole. The appraisal process in most policies grants the insured the right to remove the inexperienced claim handler's ability to mismanage the claim and place it in the hands of experienced professionals to adequately manage the loss.

By Robert L. McDorman

In today's world regarding motor vehicle insurance policies, claim management, frequent changes in insurance carrier claim handling policies and various GAP Addendums, there are many variables that could affect the resolution of the claim. Over the years, we have found it is always in the best interest of the insured or claimant to have their proposed insurance settlement reviewed prior to accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and offer a professional opinion as to the fairness of the settlement.

The spirit of the **Appraisal Clause** is to resolve loss disputes fairly and in a timely and cost-effective manner. Through the **Appraisal Clause**, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased, experienced and independent third-party appraisers when compared to mediation, arbitration and litigation.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies and GAP Addendums in our library. Always keep in mind a safe repair is a quality repair, and quality equates to value. I thank you for your questions and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman

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