

The official publication of the Auto Body Association of Texas (ABAT)

TEXAS

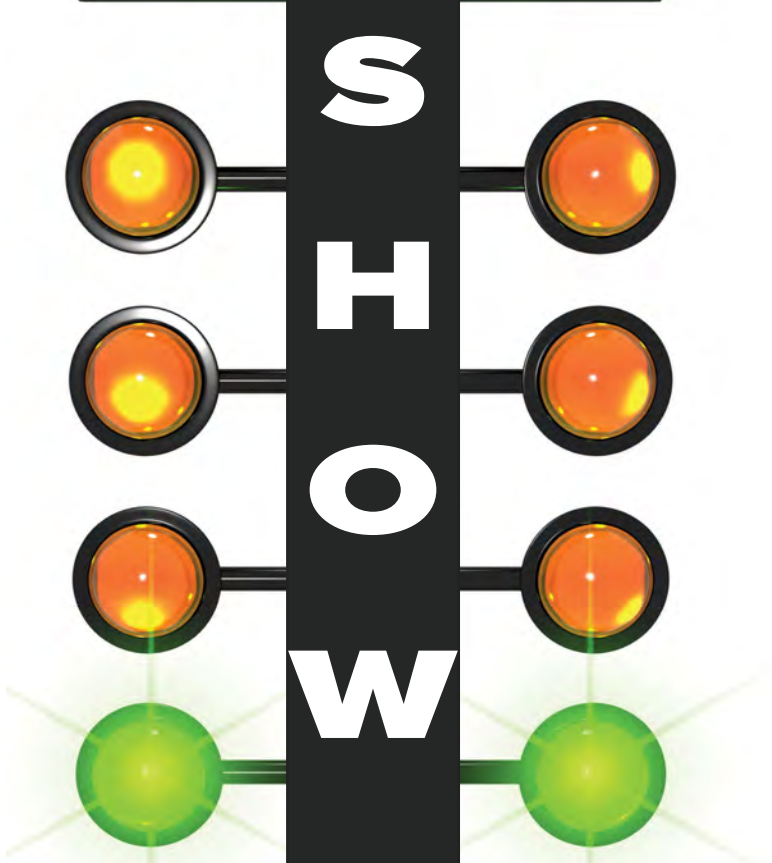


AUTOMOTIVE™



Countdown to the

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RELIEF
For Wronged Consumers
COVID-19
Then & Now

WHAT RELIEF IS AVAILABLE FOR CONSUMERS WRONGED BY INSURERS?

Dear Mr. McDorman:

It's Burl Richards, owner and operator of Burl's Collision Center in Henderson, here about your response last month to the reader who sought information to help his and other shops' clients when the insurance carrier wrongfully deems a repairable vehicle a total loss. We refer many clients each month to Auto Claim Specialists with under-indemnification and limits of liability issues. Many of these clients, at the end of the dispute, have called to thank me for referring them to you. They regularly tell me that not only are they receiving full compensation for our complete repair cost to return their vehicle safely to its pre-loss condition, but they are also receiving additional relief for their damages – in some cases over \$20,000!

As an example, we recently had a client whose carrier had accepted liability for his loss and delivered to us an undisputed liability estimate for \$1,486.81 after the \$251 deductible. Once the vehicle was disassembled and thoroughly inspected, a complete repair plan revealed the exact cost to return the vehicle safely to its pre-loss condition was \$5,174.34 after the \$251 deductible. Upon our issuing the carrier a supplement for the extra \$3,687.53 in cost, the company informed our client that it was deeming his safely repairable vehicle a total loss. We referred the client to Auto Claim Specialists to assist with his loss dispute with the carrier. At the end of the dispute process, we were paid our complete repair cost of \$5,425.34, which included the \$251 deductible, and my client informed me his carrier was required to pay over \$15,000 in additional damages.

Just as the example above, we see this many times a month at our facility. Can you explain to the readers how clients can be made whole for their loss and even receive additional relief for damages caused by their carriers' wrongful actions? I am certain many other collision facilities such as ours have clients facing similar challenges with their insurance carriers trying to circumvent liability for accepted covered losses.

Thank you for sharing this example of the blatant disregard of insureds' rights that we uncover on a regular basis. We do in fact handle a number of these repair-or-replace types of claims each month across Texas that have the same elements of damage seen with clients referred to us from Burl's Collision Center. How we handle these types of claims changes from carrier to carrier depending on the language in the policy. However, in this example you brought to the readers' attention, the insured had the same policy language as shown in last month's editorial. To review, the policy limits of liability and appraisal clause for this insured are as follows:

LIMIT OF LIABILITY

1. 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;
 - c. Amount stated in the Declarations of this policy.

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.

When the insured in question reached out to us, we were informed the carrier had deemed his vehicle a total loss but that Burl's Collision Center had informed him the vehicle could be safely returned to its pre-loss condition. The insured informed us he was seeking to be indemnified by his insurance company by having his vehicle be safely returned to its pre-loss condition. We then reached out to Burl's Collision Center to verify the vehicle could indeed be safely returned to its pre-loss condition. Burl's Collision Center confirmed and supplied us with a complete repair plan cost of \$5,425.34. We then requested that the insured provide us with the Market Valuation Report issued by his insurance carrier. The CCC ONE Market Valuation Report documented the adjusted vehicle value as \$2,332. We sent the CCC ONE report and other documents to our subsidiary, Vehicle Value Experts, and requested a certified actual cash value for the loss vehicle. Vehicle Value Experts returned an actual cash value estimate as of the date of loss of \$5,900 for the vehicle. As we see from the insurance carrier's policy limits of liability

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Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached at (800) 736-6816, (817) 756-5482 or via email at AskTheExpert@autoclaimspecialists.com.

Ask The Expert

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shown in this article, repairing the vehicle was the lesser of the repair-or-replace option.

The insured retained Auto Claim Specialists as his public insurance adjuster and Vehicle Value Experts as his independent appraiser to invoke his policy Right to Appraisal to define the actual cash value in contest of the loss type (repair or replace). The carrier was put on notice that it had not defined the actual cash value, and an appraisal of the loss to define that actual cash value for establishing the contractual limits of liability repair or replace was ordered. After several time-sensitive notices, the unlawful carrier refused to honor the policyholder's Right to Appraisal for his loss. Once this event of default occurred, we referred our client to an attorney. Once the carrier was placed on notice by the law firm, it was clearly caught off guard and finally began scrambling to resolve its violations.

As noted earlier, the unlawful carrier ended up not only paying the complete repair cost of \$5,425.34 to safely return the vehicle to its pre-loss condition but also paid our client over \$15,000 in consequential damages. The purpose of insurance is to indemnify the insured from loss and put them back to the position they were before the loss. Just as we saw here, we routinely see insurance carriers deliberately or negligently under-indemnifying motor vehicle claims by following incompetent or intentionally deceptive claim practices. As a public insurance adjuster agency, we are allowed to represent the

insured and bring these infractions to the attention of the negligent or unlawful insurance carrier. In the event the carrier refuses to correct the infractions and abide by the policy of insurance it has sold our client – the insured – we must refer our client to a law firm to defend their policy rights. In reference to these referrals, we routinely see consequential damage settlements from the judicial process averaging \$30,000 for claims that could have been settled for an average of \$3,300. Consequential damages result from the negligent or unlawful carriers' incompetent or intentionally deceptive claim practices and their ignoring policyholders' rights to relief. The abuses, policy violations and infractions we see in our office are rampant and dangerously out of control. Since the pandemic, the lack of actual inspections of the loss has caused these violations and infractions to increase even more.

Please call me should you have any questions relating to the policy or covered loss. We have

most insurance policies in our library. Always keep in mind a safe repair is a quality repair, and quality equates to value. I thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA



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