

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

TEXAS

AUTOMOTIVE™

October 2021
\$5.95



BIG SHOTS AND MORE:



INSIDE ABAT'S UNFORGETTABLE



Life After
VIRTUAL

Unlawful Appraisal Denial:
FIGHTING BACK

HOW CAN SHOPS ENSURE PROPER INDEMNIFICATION WHEN AN APPRAISAL IS DENIED UNLAWFULLY?

Dear Mr. McDorman:

I own and operate a collision facility in East Texas. I attended your presentation at ABAT's Texas Auto Body Trade Show. Over the past few months, I have also read several articles about Auto Claim Specialists successfully convincing the insurance carrier through the judicial process to reverse the total loss decisions for vehicles that can be safely repaired after all other means had failed.

Over the years, you have helped many of our clients resolve loss disputes with their insurance carriers, but this is the first I've heard about these types of significant court settlements. I am certain that many other collision facilities also routinely deal with their clients being under-indemnified and harmed by their insurance carrier's unlawful behavior.

Can you explain to the readers how this process works and help us understand the path to proper indemnification when an appraisal is unlawfully denied? Finally, what is the largest settlement you have seen the court award a client for their carriers' unlawful actions toward their insured?

Thank you for referring your clients to us over the years and for asking these excellent questions. Let me begin by explaining to readers that the key defense for protecting insurance policyholders' contractual right of indemnification is their policy's **Appraisal Clause**. When the insured utilizes the **Appraisal Clause** in their policy, it removes the inexperienced (and biased) carrier appraisers and claims handlers from the process; this undermines many of the insurer's tricks, which are designed to undervalue the loss settlement and under-indemnify the insured. Through the **Appraisal Clause**, experienced, independent third-party appraisers (who are not biased towards the insurer) help resolve loss disputes relatively quickly, economically, equitably and amicably – as opposed to relying on more costly and time-consuming methods, such as mediation, arbitration and litigation.

At Auto Claim Specialists, as a licensed public insurance adjuster agency, our business model includes holding the primary carrier accountable for the insured's policy rights and the indemnification of their covered loss. Being public insurance adjusters gives us the right to offer insurance-related advice equivalent to that of lawyers (though only for property claims) and to step into our clients' shoes. We also recommend that customers hire Vehicle Value Experts as their appraiser. Once the insured retains Auto Claim Specialists as their public insurance adjuster and Vehicle Value Experts as their independent, third-party appraiser, we place the insured's carrier on notice, informing them that our client is invoking their policy's **Right to Appraisal Clause** in contest of the loss. The insured or the insurer can invoke this clause; once invoked by either party, it becomes a contractual obligation.

When insurance carriers violate their insured's policy rights to relief by refusing demands for an appraisal, there are now proven remedies to help make the insured whole again through the court system. Typically, we see significant damage awards allotted to the consumer due to their carrier's bad behavior. These consequential damage awards routinely average over \$30,000 for the insurer ignoring or denying our many notices invoking appraisal – often for disputes that could have settled for less than one-tenth of that amount. For appraisal demands that are not denied outright, our standard procedure is to post six notices before sending a seventh and final 10-day notice. Thus, we give the insurers every opportunity to do the right thing and appoint a third-party appraiser to represent the insurance company. Although going to court has proven highly effective, we still want to use it as a last resort to achieve proper indemnification.

As for your question about the largest court award our clients have received, the court recently awarded our client \$10,000 in consequential damages and \$100,000 in punitive damages for both the insured and co-insured. This default judgment began with the unlawful carrier ignoring our appraisal notices and subsequently ignoring the judicial process for our client's rights. This dispute could have been amicably resolved for a small fraction of that amount through the Right of Appraisal if the carrier had simply participated; however, the unlawful carrier now has a \$220,000 default judgment (plus attorney fees) to deal with.

Once a carrier ignores or denies the public insurance adjuster's appraisal demands, these violations become contractual events of default for the unlawful carrier. Now, there is a track record of the judicial system punishing the unlawful carrier who harms their policyholders by ignoring or denying their policy right to relief. Auto owners purchase insurance in order to be fully indemnified if they suffer an accidental loss. Indemnification means placing an insured in the same financial position after a covered loss event as they were in prior to the event. Should the insured's insurance carrier under-indemnify their loss, the **Appraisal Clause** is the policyholder's key



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.

by Robert L. McDorman

defense to protect their contractual right of indemnification.

The spirit of the **Appraisal Clause** is to resolve loss disputes fairly in a timely and cost-effective manner. It is unfortunate when uncaring or pigheaded insurance carriers don't give it the respect it deserves. As shown in my reply to your questions, that decision can also be very costly for the carrier. Some have finally taken notice and now routinely participate in appraisal demands, but others remain remarkably obstinate.

The under-indemnification in total loss and repair procedure claims in Texas is rampant. Besides the higher settlements for total loss clients averaging 28 percent above the carrier's undisputed loss statement, we have also reduced clients' out-of-pocket expenses by an average of 90 percent on repair procedure disputes. These under-indemnification percentages are staggering and harmful to Texas citizens.

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

The 300 Advantage™

Providing real-time intelligence before,
during, and after a hail storm



- Our network of local partners allows us to scale to any sized hail event.
- Our technology provides real-time visibility and performance measurements to keep business moving.
- Our people and repair management systems ensure the least amount of business disruption as possible.
- Our business model protects our clients' core business within auto dealerships, body shops, fleet companies, and insurers alike.

But don't just take our word for it...

CALL 636-734-5470

EMAIL ryan@the300advantage.com

To learn more!

FindPigtails.com

Give Us a Call: (844) 255-5899
Email Us: hello@findpigtails.com
Free Shipping

Search for any automotive connector by VIN, model year, part number or other keyword

Terminal Search | Shop | Resources | Today's Deal | Contact Us

350,000 pigtails
Connector, Pigtail? Ride with us!

Make: Please select
Model: Please select
Year: Please select
LOOKUP BY MODEL YEAR

Or, search by VIN
Enter your 17-character VIN code
LOOKUP BY VIN

Chat with us now
Pigtail Pro Customer Support
Chat started
Customer Service
We're here to help, just let us know!
Type a message here.

Live-Chat, Now!