

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

TEXAS

AUTOMOTIVE™



October 2022
\$5.95

THE RIGHT TO APPRAISAL: THE NEW ALAMO

Is I-CAR
STILL RELEVANT?

Better Than the
“BEST” TO COME

More Grit
THAN GOLD

www.grecopublishing.com

QUESTIONS ABOUT THE TEXAS HOUSE COMMITTEE'S SEPTEMBER HEARING

Dear Mr. McDorman:

I own and operate several collision facilities in east Texas and am a strong advocate of the mandatory Right to Appraisal, which you have been championing for motor vehicle loss disputes in Texas. I watched the entire September 6 hearing that you participated in at the Capitol, and I have a few questions about what I witnessed.

First of all, Committee members and witnesses kept referring to an unnamed insurance company that previously received approval from TDI for a policy form submission that removed the Right to Appraisal for repair disputes. Do you know which insurance company that was? Secondly, according to the Committee members and witnesses, another unnamed insurance company has also filed several policy form revision requests with TDI to remove the Right to Appraisal on repair procedure loss disputes. Do you know which insurer did that? Third, do you think the Committee members should have asked TDI what questions, if any, they asked the unnamed insurance carrier before approving their policy form request removing the Right to Appraisal for repair disputes? Finally, one of the witnesses said that insurance policies state the insurer must return vehicles to their pre-loss condition. I have never heard of this. Have you?

Thank you for your great questions. Probably everyone in the hearing room knew or could guess which companies were being referred to during the hearing, but it wasn't the venue for naming names. As for your first question, State Farm is the company that has received TDI approval for a policy form that excludes the Right to Appraisal for repair disputes. And GEICO has made several efforts to obtain similar TDI approval for policy forms that would also remove the Right to Appraisal for repair procedure loss disputes.

Your third question is an excellent one, and I agree 100 percent that one of the Committee members should have asked TDI what kind of questioning and due diligence they performed before approving the State Farm policy form. Who knows? Perhaps, it was simply a policy form change that somehow got completely overlooked. In my opinion, TDI should be required to disclose all questions, documents and research relating to potential long-term effects on the insured citizens of Texas of major policy form changes

such as altering time-honored Appraisal Clause language.

It was clear that with GEICO's submission of a policy form altering appraisal rights, TDI definitely did not miss the language change. As we heard from the witnesses with TDI, they asked this insurer questions about the change, and when the questions were not answered, TDI canceled the policy form request. Were the same questions asked of State Farm before approval of their submitted policy form removing appraisal rights for repair disputes? If so, how did State Farm answer? Again, as an insured citizen of Texas, it is my position that TDI should be required to disclose this type of due diligence information. It is unjust to deprive insureds of their Right to Appraisal on one element of a covered loss and not all elements of a covered loss. Depriving or limiting the scope of appraisal rights for any covered loss is clearly an unspoken misrepresentation.

In response to your final question, witness Jay Thompson, legal representation for the Association of Fire and Casualty Companies of Texas (AFACT), did state to Committee members that the "duty of the insurance company under the policy is to indemnify the insured for the cost to repair the vehicle to the same condition it was prior to the accident."

When asked about this statement after his testimony by Mr. Richards, Thompson backstepped a bit, stating that he was "not

continued on pg. 24



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

continued from pg. 22

aware of any policy having that exact language; however, it is common law the insurer has to restore the vehicle back to its pre-accident condition.” As a note, we concur with Mr. Thompson in that we do not have any Texas insurance policies in our library stating that the carrier has the duty to indemnify the insured for the cost to repair the vehicle to the same condition it was prior to the accident.

There is a stark difference between Mr. Thompson’s testimony versus what Texas auto policies state under the limits of liability. These disputes over the loss and entailed safety issues are the foundation for our mandatory Right to Appraisal position. As a note, Thompson began his testimony with, “I think I’ve only seen one appraisal in an auto case in several decades of practicing law, and it was not a vehicle appraisal – it was on a horse trailer.” Surely Mr. Thompson should have handled at least one automobile appraisal case before holding himself out as an expert on automobile appraisal or a fact matter expert.

It is my unwavering position that the removal of the Right to Appraisal on repair procedure disputes will be the enemy of a safe repair and become the stake in the coffin for safe roadways for us all.

In today’s world, regarding motor vehicle insurance policies, frequent changes in claim management and claim handling policies, and non-standardized GAP Addendums, we have found it is always in the best interest of the insured or claimant to have their proposed insurance settlement reviewed by an expert before accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and give their professional opinion as to the fairness of the offer.

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 questions and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA

ICYMI: Check the recap of the September 6 hearing on page 16.

Cover Story

continued from pg. 17

litigation.

“The appraisal process doesn’t exactly level the playing field, but it at least gives consumers an expert who works for them, not the insurer, and will identify and help close the gap between what the insurer originally offered and what the contract is supposed to ensure,” he continued. “It gives consumers some peace of mind that they received both the repairs they paid for through their policy and the safety they need for their family.”

“The Appraisal Clause is very much needed,” Richards agreed, emphasizing, “It’s necessary because policy forms are being written that allow insurance companies to dictate the repairs with no consequences. And there’s nothing in that policy that says they have to restore that vehicle back to pre-accident condition. Right to Appraisal is a faster method that gets the consumer back on the road and hopefully gets them back in a safer vehicle.”

McDorman expressed the gravity of the situation in an email to Heller after the hearing, which he shared with *Texas Automotive*:

“My unwavering position is that removing the Right to Appraisal on repair procedure disputes will be the enemy of a safe repair and become the stake in the coffin for safe roadways for us all.”

“Appraisal is about getting it right; it’s about finding the number. The Right to Appraisal should be mandatory. If there’s a loss dispute, it should be subject to appraisal.”

Two additional witnesses, TDI’s Cindy Wright and Marianne Baker, were also on hand, but rather than offering testimony, they took the floor to answer questions from the committee. Which side of the line did they stand on? Stay tuned to next month’s *Texas Automotive* as we explore TDI’s responses. Until then, the entire hearing can be viewed at bit.ly/TXHouse9622. **TXA**