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MOMENTUM FOR 2023

Guidance for Invoking

THE APPRAISAL CLAUSE

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ROBERT MCDORMAN OFFERS GUIDANCE FOR INVOKING THE APPRAISAL CLAUSE AT SEMA 2022

Around 20 percent of the 13 million collision claims made yearly on average are deemed a total loss, but why might consumers want to challenge these vehicle valuations?

ABAT Board Member Robert McDorman (Auto Claim Specialists) dove into the topic of “Consumer Guidance: Invoking the Appraisal Clause” as part of the Society of Collision Repair Specialists’ (SCRS) Repairer Driven Education (RDE) series, held during the 2022 SEMA Show in Las Vegas.

Identifying insurers’ total loss processes as “one of the most puzzling and unmanageable facets of the collision industry,” McDorman stressed, “The consumer’s policy dictates what responsibilities the carrier has. If the policy says they need to fix the car, why aren’t they fixing it? We need to hold the insurers accountable. The policy dictates what happens in the claim – ALWAYS.”

Yet, insurers often provide inadequate valuations, insisting on low repair costs that force shops to write off losses (or sacrifice the quality of the repair and assume the associated liability risk). Shops also lose business when vehicles are deemed total losses when they could actually be repaired. Simultaneously, lenders and vehicle manufacturers suffer from brand loyalty as a result of these activities.

Most importantly, this harms the consumer who has paid for auto insurance that is intended to ensure they maintain their previous financial situation (indemnification) following a loss. Under-indemnification can cause a deficit loan balance liability, lack of equity in replacing a loss vehicle and a negative impact on their credit score – in addition to costing them money, time and peace of mind.

This often poses a concern during total loss scenarios, and though each state utilizes a different total loss threshold or formula, the results are often similar: Many vehicles are inaccurately declared total losses, hurting consumers, shops, lenders and manufacturers since those cars cannot be repaired. McDorman took his lesson one step further by calculating the impact of vehicles being inaccurately deemed a total loss on Texas body shops, estimating that each shop could be missing an average of \$108,273 in profits every year as a result of repairable vehicles being totaled unfairly.

“If the policy says they owe the actual cash value as the limits of liability, and the promise to pay states they owe the lesser of the two (the actual cash value or the cost of repair), they can’t use the total loss formula,” McDorman explained. “If the policy says, ‘Fix the car,’ they should be fixing the car, so why aren’t they? The insurance



Robert McDorman (far right) discusses the benefits of invoking the Appraisal Clause at SEMA 2022 (panelists pictured left to right: Burl Richards, Drew Plischke of Gold Coast Auto Body & Josh Dorris of Collision Safety Consultants of Oklahoma).

carriers want to take as much in premiums as possible and pay out the least amount possible. We need to look at the data because the data doesn’t lie.”

Fortunately, most policyholders have a way to defend their contractual right of indemnification: the Appraisal Clause, which is why McDorman believes that Right to Appraisal should be mandatory in all policies since it can be utilized to obtain a fair settlement, allowing the insured to be properly indemnified for their loss and, when applicable, receive a safe and proper repair when the shop and insurer cannot agree on the proper repair methodology. Here’s how it works: Each party then hires competent appraisers who will separately identify the actual cash value and the amount of the loss; if the two appraisers disagree, they will submit their differences to an umpire who will make the final decision. That decision will be binding.

“When the policy includes Right to Appraisal, the insurance carrier is contractually obligated to comply with the appraisal process and to pay the amount determined to be the lesser of the actual cash value of the damaged property or the amount necessary to repair the property or compensate the consumer in the event of a total loss. The spirit of the Appraisal Clause is to resolve loss disputes fairly and to do so in a timely and cost-effective manner.”

Examining his company’s data, McDorman revealed that customers saw an average increase of \$3,672 (or 27.6 percent) on total loss claims where they implemented Right to Appraisal. He explored several case studies that demonstrated the various ways that under-indemnification harms consumers, and he urged shops

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to educate their customers.

“We need to get together to help the consumer and hold the insurance carriers accountable. If we, as an industry, are rowing the same boat, we can move in the right direction – we can fix more cars, run successful businesses, take care of our employees and take care of our customers. When we take care of customers, they take care of us in turn, but you have to be committed to it and make it part of your business model.”

The Appraisal Clause is designed to resolve loss disputes fairly, in a timely and cost-effective manner without resorting to more costly and time-consuming methods, such as mediation, arbitration and litigation. As it currently stands, McDorman estimated that the total annual under-indemnification, assuming just *five percent* of automated valuations are inaccurate by his company’s average \$3,672, could easily exceed **\$475,000,000!**

“Our position is NOT that every auto claim should go to appraisal,” he emphasized. “Our position IS that, due to the tremendous volume of auto claims, the valuation of loss MUST be automated. There is not – nor will there ever be – a perfect automated vehicle valuation system... The automated valuation systems approved by insurance carriers will always (and

understandably) penalize any tendency of over-indemnification. Thus, the inevitable valuation errors will always tend to be on the low side. Therefore, the Right to Appraisal should be **mandatory** in every state as a means of resolution for insureds when values are disputed.” **TXA**

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