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# TEXAS

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## FACT CHECKING GEICO'S DEFICIENT RESPONSE TO TDI - PART 2

Dear Mr. McDorman:

I own and manage a collision facility in east Texas and submitted last month's reader question. After reading your January editorial, re-reading the December 2022 *Repairer Driven News* editorial "TDI includes RTA in report to legislature, invites public policy response" and listening once again to the September hearings concerning the mandatory Right to Appraisal in Texas motor vehicle insurance policies, I have several additional questions I hope you can answer for me and the readers. First, GEICO stated to TDI in their failed filing that they reviewed one year's worth of claims with payments to independent appraisers and 56 appraisals were completed on vehicles with total loss claims. Second, GEICO stated to TDI that they reviewed one year's worth of claims with payments to independent appraisers and 20 appraisals were completed on repaired vehicles. With GEICO being in the top five biggest motor vehicle insurers in Texas, these numbers seem extremely low compared to the number of our clients with GEICO insurance whom we have referred to you with an under-indemnification issue. Do you track this type of data on your clients, and if so, can you share it with the readers?

Thank you for your additional questions relating to GEICO's deficient responses to TDI concerning its failed proposal to limit the Right to Appraisal in its policies. Yes, I agree the data points GEICO provided to TDI in their failed filing appear to be unrealistic based on the number of clients we represent with under-indemnification issues who have GEICO as their primary insurance carrier. Before I respond to your questions, please allow me to point out that TDI actually asked GEICO to provide information over **the past three years** on total loss and repair procedure claims where the Right to Appraisal was invoked; however, GEICO's limited response was that they reviewed a single year's worth of claims with payments to independent appraisers.

In response to your first question, yes, we monitor and keep track of the data relating to our clients' claims by their insurance carrier. Over the past three years, we have represented 93 clients with under-indemnification issues on total loss claims who had GEICO as their insurance carrier. Over the same period, we have represented 26 clients in repair procedure disputes in their Right of Appraisal process who had GEICO as their primary insurer.

Surely, our single adjuster agency does not receive and work such a large majority of GEICO claims going to appraisal. In

addition, I wonder – just as you probably do – why GEICO would be spending so much time and so many resources to get the Appraisal Clause altered or removed from their policy if the number of claims going to appraisal is really so low? Thankfully, we have now brought this critical issue to the attention of too many people for limited and questionable responses on the part of insurance carriers to pass unnoticed and unchallenged.

The Office of Public Insurance Counsel (OPIC) in their report to the 88th Texas Legislature, released in early January, recommended that the Texas Insurance Code be amended to require personal auto and residential property insurers in Texas to preserve the insurance consumer's right to invoke appraisal in disputes regarding the cost to repair and the amount of total loss. OPIC stated in the report that they are increasingly concerned with restrictions on appraisal in policy forms filed by top insurers. Additionally, OPIC stated restrictions on appraisal can remove an important consumer protection that saves the parties and the judicial system time and resources. I could not agree more with OPIC and applaud their position on the mandatory Right to Appraisal in Texas.

As further support of the OPIC recommendation, it is my understanding that the Texas Supreme Court has ruled that appraisal should be the absolute mechanism to define loss precedence to litigation. With the Texas Supreme Court ruling that appraisal is the absolute mechanism to define loss, and now OPIC recommending to legislators that the Texas Insurance Code be

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# Ask The Expert

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amended to require personal auto and residential property insurers in Texas to preserve the Right to Appraisal for all loss types, how can the Right to Appraisal to define loss *not* be made mandatory in Texas?

As a note, the documented data we are seeing on the systematic under-indemnification of policy holders on motor vehicle claims in Texas is of epic proportion and totally out of control. As I have emphatically stated many times, it is my professional opinion that the insurer should never be in control of the loss settlement; however, they are instead gaining greater control each year. As we are seeing, when this happens, shortcuts are invariably made to reduce their liability, leading to rampant under-indemnification issues and substandard repairs. This is the driving force behind our advocacy for the mandatory Right to Appraisal in every motor vehicle insurance policy. The Right of Appraisal works as a guardrail to prevent under-indemnification and substandard repairs. 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, while further escalating grossly undervalued total loss settlement offers.

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**



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