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AUTOMOTIVE

September
2018
\$5.95

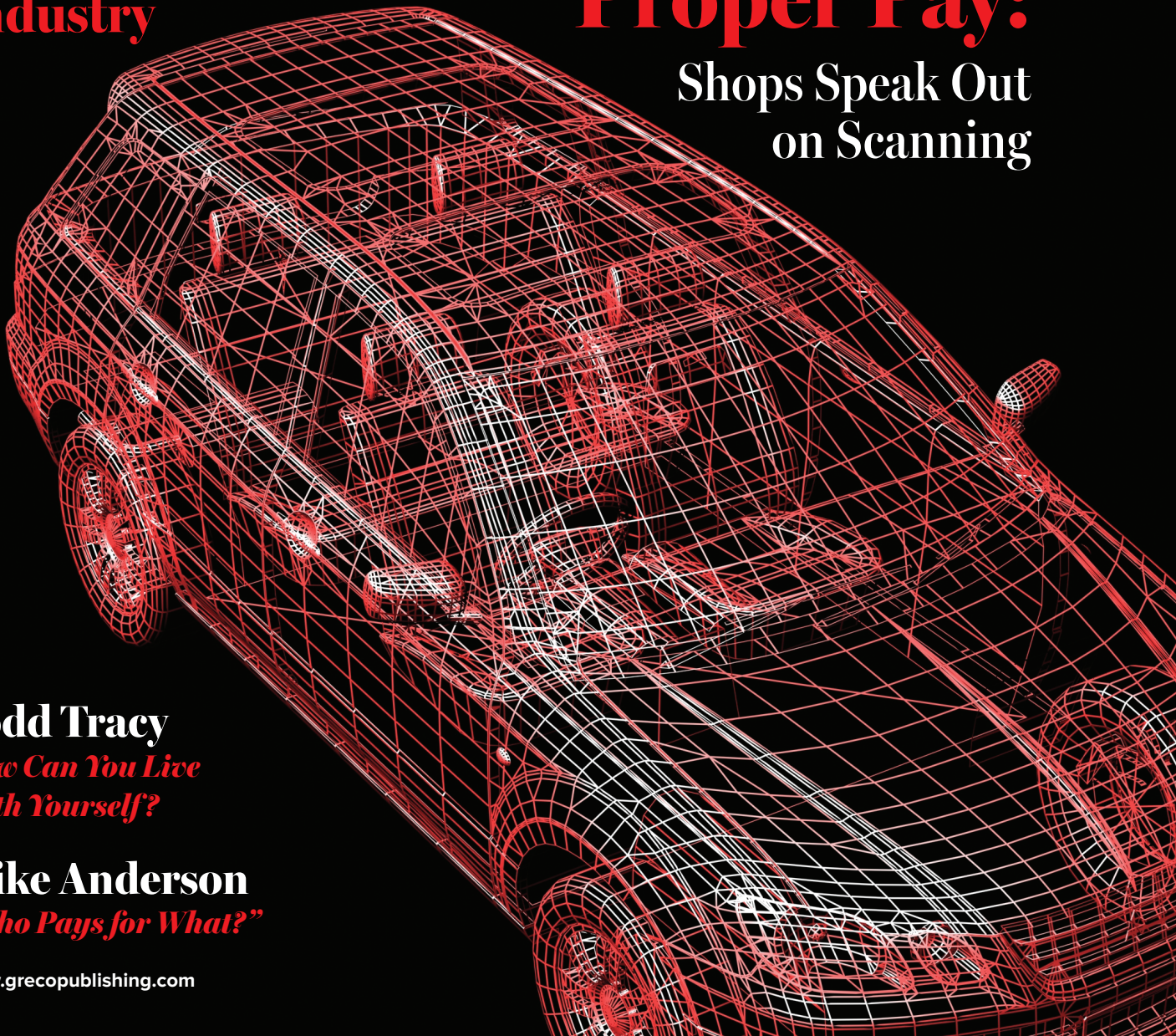
The official publication of the Auto Body Association of Texas and the Houston Auto Body Association



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SHOP RATES VS. “PREVAILING COMPETITIVE RATES”

Dear Mr. McDorman:

I own and operate a collision facility in East Texas. We are OEM-certified for each make and model that we repair. Except for two insurance carriers, we are always paid our listed rates. When we perform collision repairs for clients who have these two insurers, those clients are left owing the difference between our rates and what their insurance carrier states are the “prevailing competitive rates.” These two carriers will not provide any type of supporting documentation to support their “prevailing competitive rate” assertions. Typically, when questioned by the insured as to why they owe an amount over their deductible, these two specific insurance carriers will tell my clients that their shop of choice (mine) is the only one charging these rates. In the interest of customer satisfaction and full transparency, we never want our clients to doubt us as to why we have charged a specific rate. How can my clients be sure their insurance companies have properly indemnified them from liability for their proper OEM-certified collision repair?

Thank you for your great question. This topic arises often in our office from our clients and collision facilities across the United States. When an insured calls our office seeking assistance for this issue, we always begin by going to our database and researching the current market rate at OEM-certified collision facilities for the specific repair in question. We use a 100-mile radius for our market survey. If our research finds that the quoted rate by the collision facility is in line with our database of like operations and repairs, we then go to our insurance policy library and research the policy of the responsible carrier. The policy will always have what the carrier is liable for listed under “Limit of Liability.”

In most policies, “prevailing competitive price” means prices charged by a majority of repair facilities in the area where the vehicle is to be repaired, as determined by the carrier. This is the contract language under which the carrier is liable. Any assertions on behalf of the carrier or their representatives concerning their legal liabilities must be fully supported and documented. As the writer of the contract, the burden of proof falls on the insurance carrier. Thus, each carrier must support any assertion about perceived competitive rate calculations, any application of an exclusion in the policy and any exception to (or other avoidance of) coverage claimed. Should our research find the rate is in line with the market, and that an insurance carrier’s prevailing competitive price assertion is out of line with reality, we will issue a demand on the carrier for such

support in challenge to their specific liability.

When seeking such clarification from the carrier on Texas claims, we always point to the Texas Department of Insurance Consumer Bill of Rights – Superseded by Commissioner’s Order No. 12-0862 and the heading EXPLANATION OF CLAIM DENIAL (tdi.texas.gov/rules/bor-auto-english.html). Your insurance company must tell you in writing why your claim (or part of it) is denied. When you file a claim on your own policy, you have the right to have it processed and paid promptly. If the insurance company fails to meet required claims processing and payment deadlines, you have the right to collect 18 percent annual interest and attorney fees in addition to your claim amount. The liable carrier should be held accountable for any short gaps and misrepresentations of such.

In support of the actual rate in a market area, we always reach out to the Variable Rate System (nationalautobodyresearch.com), which is an unbiased authority on the subject of collision facility-related charges. It is my understanding that the Variable Rate System has been retained by one or more state regulatory agencies as an unbiased authority to assist in identifying the true prevailing rate on every related charge in the collision industry.

This specific question on the perceived competitive rate calculation issue is far greater than a dispute between the insurance carrier wanting to pay less and the collision industry wanting to be paid more. In most of the cases we see, the insurance carrier is using a perceived competitive prevailing rate factor to administer claims that is inaccurate and not supported by facts for the specific repair, and the insured is having to pay the difference between the true prevailing rate and the insurance carrier’s perceived prevailing rate. In each of these instances where we see that the wrong prevailing rate is used to administer the claim, the insurance carrier has escaped liability and not made the insured whole. I have raised this concern in a recent meeting with the Texas Department of Insurance management.

In closing, the insured should always ask for written proof with supporting documentation from their insurance carrier for any application of an exclusion in the policy and any exception to (or other avoidance of) coverage claimed by the insurer. This is their policy right.

I thank you for your question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman

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Robert L. McDorman is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. As the general manager of Auto Claim Specialists, Robert expertly leads the National Public Insurance Adjuster Agency, which is currently licensed in 11 different states and specializes in providing automotive-related claim liquidation techniques, strategies and motor vehicle valuation services to all parties, including individual consumers, body shops, auto dealers, repair facilities, towing and storage operations, lenders, finance companies, banks, legal professionals, governmental agencies and others. The firm’s consistent success can be attributed to Robert’s 35+ years of automotive industry knowledge, practical hands-on experience and multiple certifications, including licensure by the Texas Department of Insurance as a Public Insurance Adjuster. Auto Claim Specialists clients can absolutely trust that they will be provided with analytical, sophisticated, state-of-the-art, comprehensive, accurate, unbiased and up-to-date data and information that all parties can rely upon as both factual and objective.

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