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HAIL OF A SCHEME: WHAT OPTIONS DO MY CLIENTS HAVE?

Dear Mr. McDorman,

I own and operate a collision facility in East Texas. This month, we had two hailstorms of epic proportion, and the insurance carriers are totaling many of my clients' vehicles that, in our professional opinion, could be easily and safely repaired. As an example, we wrote a complete repair plan for a recent job on a 2018 Ford Edge after the tear down and inspection that totaled \$12,132.98. Upon providing the repair plan to the insurance carrier, the carrier quickly deemed the insured's vehicle a total loss. At our recommendation, our client requested the carrier provide them with support of the vehicle value and forward this information to your office for review. The carrier provided our client with a CCC ONE Market Valuation Report showing an adjusted vehicle value of \$19,273. After your office forwarded the CCC ONE Market Valuation Report to Vehicle Value Experts for a preliminary review, we understand it was determined the insurance carrier had undervalued the 2018 Ford Edge, making the difference between the vehicle's value versus the repair cost even greater. My question is twofold: One, have you also been seeing this type of aggressive behavior to policyholders on these most recent hail claims? And two, what are my clients' options for relief in loss situations such as this?

Thank you for your questions, which are very timely. Yes, we are experiencing a large influx of claims with the exact same optics. We are seeing on a large scale these most recent hail claims are being grossly undervalued and being wrongfully deemed as a total loss. On these claims, the carriers are aggressively totaling safely repairable vehicles at a greater rate than we have seen before. This is a hail of a scheme to reduce the insurance carrier's liability at the insured policyholder's financial expense. **I would like the readers to send in as many questions as possible about this situation over the next several months.** It is my intent to write about the outcome of this sensitive situation over the next several months. Please stay tuned.

In situations like these hail claims, we always request the insured first provide us with the proposed settlement breakdown, supporting documents from the carrier and the complete repair plan from the collision facility as we did for your client in question. After we receive these, we will then send the information to an expert appraisal firm like Vehicle Value Experts to verify the proper pre- and post-actual cash value of the loss vehicle. Next, we review the complete repair plan provided to us. If there is a dispute over the covered loss type, in most policies in Texas the insured can invoke their Right of Appraisal to resolve the dispute and see to it they are properly indemnified for their loss.

How we handle these types of loss disputes concerning repair or replace will vary from carrier to carrier depending on the language

in the policy. However, in most Texas motor vehicle insurance policies, the limit of liability is for the lesser of the two repair or replace as shown below. Additionally, most Texas motor vehicle insurance policies have the following Right to Appraisal language:

LIMIT OF LIABILITY

1. Our limit of liability for loss will be the lesser of the:
 - a. **Actual cash value** of the stolen or damaged property;
 - b. Amount necessary to repair or replace the property with other of like kind and quality;
 - c. Amount stated in the Declarations of this policy.

APPRAISAL

If we and **you** do not agree on the amount of **loss**, either may demand an appraisal of the **loss**. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

1. Pay its chosen appraiser; and
2. Bear the expenses of the umpire equally.

We do not waive any of our rights under this policy by agreeing to an appraisal.

When the insured's insurance policy has the limits of liability and Appraisal Clause listed above, their right to relief if a dispute arises over the loss almost always has a positive outcome. The Right of Appraisal is always the first line of defense against under-indemnification in loss disputes. Appraisal is about finding the right number.

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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

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However, the Right to Appraisal is only available to the insured and not to a claimant who has filed a claim with the at-fault party's insurance company. We are vigorously working with lawmakers to pass legislation requiring every personal auto policy to have a structured Right to Appraisal in the policy. Appraisal is the guardrail for indemnification of the loss when a dispute over the loss arises between the insurer and the insured.

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 on repair procedure disputes such as the example provided above. These under-indemnification percentages are staggering and harmful to Texas citizens.

The spirit of the Appraisal Clause is to resolve loss disputes fairly and to do so in a timely and cost-effective manner. The invoking of the Appraisal Clause removes inexperienced and biased carrier appraisers and claims handlers from the process, undermining their management's many tricks to undervalue the loss settlement and under-indemnify the insured. Through the Appraisal Clause, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased, experienced

independent third party appraisers as opposed to more costly and time-consuming methods such as mediation, arbitration and litigation. It is my professional opinion that the removal or limiting of the Right to Appraisal in a motor vehicle repair procedure loss dispute will be the nail 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 question and look forward to any follow-up questions that may arise.

Sincerely,
Robert L. McDorman
TXA

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