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## Digging Deep in His Pockets to Protect the Right to Appraisal

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# Digging Deep in His Pockets to Protect the Right to Appraisal

It's easy enough for people to claim they're willing to "put their money where their mouth is" when there isn't much money involved, but few people are actually willing to invest time, energy and money – and certainly not all three! – to stand by their convictions and do what's right to protect others. Texas consumer Joe Collins is a rare exception to that rule.

Last summer, a Rusk County District Court jury ruled in Collins' favor in *Joseph Wayne Collins v. State Farm Mutual Automobile Insurance Company*. During the trial, 12 Texans found the insurance giant had knowingly or intentionally engaged in unfair and deceptive acts or practices and awarded the plaintiff \$248,517.59. (Find the full story at [greco-publishing.com/txa0823localfeature](https://www.greco-publishing.com/txa0823localfeature).)

Although the jury awarded a significant sum, Collins' attorney, Rusty Phenix (Phenix & Crump, PLLC) and Burl Richards, owner

of Burl's Collision Center in Henderson (where Collins took his vehicle to be repaired) insisted that the three-year journey they had embarked upon together had nothing to do with the money.

"It's not about the money; it's about making change and hoping insurers will start treating people right," Richards stressed. Phenix agreed, "Joe didn't do this for the money. He did not want to see this happen to other people, so he did his part to put a stop to it."

Turns out that was an understatement...Collins has gone above and beyond his duty to do good – he decided to selflessly donate **every penny** he received from the verdict in support of the fight for mandatory appraisal rights in all Texas insurance policies!

"We all want to leave a positive impact on the world, and that means having the fortitude to do what needs to be done to make a difference when you see something negative happening," Collins

shared, acknowledging that doing the right thing isn't always easy. The decision to invoke the Appraisal Clause in his policy and pursue the under-indemnification in court was not a simple one.

For starters, like most consumers, Collins did not even realize he had the Right to Appraisal. "When my insurer initially told me what my vehicle was worth, I thought, 'Okay, that's what it's worth,'" he recalled, admitting, "Insurance policy language is boring, so I had no idea about my rights."

Thankfully, in addition to educating his customer about how State Farm was not living up to its policy obligations, Richards introduced Collins to consumer advocate and Right to Appraisal champion Robert McDorman (Auto Claim Specialists), whose independent appraisal revealed that the vehicle had been undervalued by several thousand dollars.

"Seeing the difference made me wonder how often they're doing this to other policyholders," Collins noted. "While I am not a wealthy man, a couple thousand dollars isn't going to break me; however, for many people in our community, it would be devastating. I thought about my mother-in-law living on a fixed income, whose vehicle was damaged by hail. What if she had been shortchanged like this? What would happen to a single mom working two jobs and living paycheck to paycheck if her insurer cheated her out of thousands and she couldn't afford to invoke her Right to Appraisal? I had options to handle the situation, but those options might not be available to everyone else."

Still, the idea of taking up arms and entering the courtroom filled him with trepidation.

"When you're thinking about a lawsuit, you're talking about possibly taking money out of your pocket. Although I was losing money due to the under-indemnification, chasing that could have proven much more detrimental in the long run. I'm close to retirement with kids in college, so I was scared to death."

McDorman recommended Collins talk to Phenix, and that conversation opened up an unforeseen circumstance. "Rusty and I were already good friends since he had been my Sunday school teacher for a while," Collins explained. "At that point, it became about my relationship with God...I felt convicted to take a chance, and I had to listen to the Lord. He's never failed me before, and he didn't fail me this time. I knew I would win, but I also felt convicted that the jury's award was not meant for me."

"It wasn't about some big payout. It was about doing the right thing."

Once the verdict was rendered, Collins wanted to make sure those funds went toward doing the right thing for that hypothetical single mom, so what better way to protect her and other Texas consumers from under-indemnification than contributing to the fight for mandatory appraisal rights? "If that money goes toward making sure all Texas policies include the Right to Appraisal, then I'm helping everybody."

And he immediately knew who to turn to: McDorman.

"Robert is a wonderful man who wants to do the right thing," Collins praised. "He's passionate about what he does and why he does it, and it's definitely not the money because he told me I wouldn't owe him anything unless we won. All you have to do is talk to Robert for five minutes, and you can tell what his motive is;

he's on a mission to make sure people aren't being taken advantage of, and I cannot even guess how many people he has helped."

It seems like the consumer and the consumer advocate just may be two birds of a feather, so it makes perfect sense that Collins entrusted Auto Claim Specialists as the steward of his settlement funds, allowing McDorman to determine how to best use them to secure mandatory appraisal rights in Texas.

Other heavy-hitters in this ongoing fight agree.

"Joe Collins is a hero in this community," Phenix expressed. "Where a lot of people will just take it, he didn't. He stood up for what was right, not for selfish reasons, but to prevent it from happening to anyone else. He never once thought about keeping the money, even when I encouraged him to. Throughout the entire process, his goals have been others-oriented; he recognizes that some people are unable to withstand the financial hardship that would be inflicted by this kind of conduct and wants to do all he can to prevent others from falling victim to it."

"Mr. Collins felt like this was something he needed to pursue from a moral standpoint. It means a lot to have customers who are so passionate about doing the right thing and standing up against bullies," Richards said. As president of ABAT, Richards has joined McDorman on numerous occasions to talk to lawmakers about the need for mandatory appraisal rights to protect Texas consumers,

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## WHAT ARE THE NEXT STEPS TOWARD MANDATORY APPRAISAL RIGHTS?

Dear Mr. McDorman,

I own and operate a collision facility in West Texas. I read last month's editorial about Mr. Collins, a Texas Hero. Like you, I also hope Mr. Collins will come to the Capitol this next legislative session to tell his story. I am certain it will have the same impact on lawmakers as it did on the jury in East Texas. It says something special about a man who will stand up and fight for others to prevent them from being harmed like he was. About the State Farm verdict, I have seen a small but noticeable change since this trial in the way some carriers are handling claims once I point them to the verdict. What do you think the next step should be in the battle to secure mandatory appraisal rights in Texas motor vehicle policies?

Thank you for your questions. Yes, Mr. Collins is a special man, a man who humbly puts others ahead of himself. I had the opportunity to meet with Mr. Collins and his attorney last week. At the beginning of our meeting, he again told me, "You know Robert, I am not a wealthy man, but this small amount of money that State Farm cheated me out of will not break me; however, for many people in our community, it would be devastating." He went on to ask me if I would accept the proceeds the jury awarded him and use it to help secure mandatory appraisal rights for all insured Texans. Once again, he said, "I want to make a difference and possibly make a change in the current claim handling process, so maybe one day, this will not happen to the single mom working two jobs and living paycheck to paycheck." Of course, he didn't have to ask me twice. I immediately told him I would.

Mr. Collins asked me how I planned to use the State Farm settlement proceeds to further advance our position for mandatory appraisal rights in Texas. I explained to him that, with his permission, in my professional opinion, we should use it to educate the Texas Department of Insurance (TDI) and lawmakers to further advance the mandatory Right to Appraisal message and show it as a safety issue for us all. Now that the State Farm verdict is final and set in concrete as a precedent to point to, I believe it will be a little easier to get folks to understand and become interested in helping. I further explained to him that we should call on the TDI to closely look at any motor vehicle policy changes regarding the Appraisal Clause until the end of the next legislative session. It is my position that any limiting or removal of the Right to Appraisal concerning a repair procedure dispute will be the nail in the coffin for safe roadways for us all.

As I have said many times, appraisal is the guardrail for indemnification of the loss when a dispute over the loss arises between the insurer and the insured. Without legislation requiring mandatory time-sensitive appraisal rights, we can expect to see continued efforts by all insurers to limit or remove economic relief for the insured. When it comes to dogged institutionalized practices for under-indemnification of a covered loss, the insurance carrier can best be seen as a mama bear protecting her cubs and will fight anyone trying to take them away. Mandatory Right to Appraisal would stop this atrocity.

Over the years, as stark consumer advocates, Auto Claim Specialists have gone to agencies to seek help and relief with well-documented facts for our clients who have been harmed by their insurance carrier and to bring awareness to these systematic atrocities. At each turn, we were told the only help was to seek legislation or a finder of fact. I believe now that the State Farm verdict is a matter of law, lawmakers will take note and see this as time for change.

Until legislators pass laws to make the Right to Appraisal mandatory in Texas for all motor vehicle policies, we have no choice but to continue to advise our clients who have been harmed and cheated by their insurance carriers to fight like the third monkey in line to get onto Noah's Ark when it has already begun to rain, and we will help. I firmly believe that the more times these systematic under-indemnification schemes are exposed – and monetary punishment is levied – the quicker change will come about to help us all. Thank you, Mr. Collins, for believing in me to be a good steward of your State Farm settlement proceeds to help ensure that the mandatory Right to Appraisal in Texas motor vehicle insurance policies becomes law.

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



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# Ask The Expert

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statement, we have also reduced clients' out-of-pocket expenses on repair procedure disputes such as the above example. 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 invocation 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

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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.

In today's world regarding motor vehicle insurance policies, frequent changes in claim management, 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**

## Cover Story

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and both have been strong proponents of ABAT's proposed legislation to make the Appraisal Clause mandatory in all insurance policies to ensure consumers have a reasonable way to seek proper indemnification from their carriers.

In the last two legislative sessions, Representative Travis Clardy (R-Nacogdoches) sponsored ABAT's bills that sought to mandate Right to Appraisal legislatively, and he weighed in on Collins' selfless donation: "I am thankful for the persistence, tenacity and generosity of Mr. Collins, as well as his willingness to shine a light on this important issue for all Texans. It's about safety, and it's about fairness...and it's about time insurance companies live up to the promises they've made to Texans."

ABAT Lobbyist Jacob Smith (Longleaf Consulting) thinks it's "amazing that Joe made that donation, but it's a shame that he had to. The Texas Department of Insurance (TDI) is responsible for looking out for consumers and should have mandated Right to Appraisal long ago, but when our government fails, individual citizens have to step up. We're fortunate in Texas to have so many good people willing to do that."

McDorman is just that type of person.

"Robert is a wealth of knowledge," Smith stated. "He knows this issue better than almost anybody I've ever met. He has a library of insurance policies and can point to various incidents and data that no one else has bothered to compile. Robert is fully invested in

this battle; he has educated lawmakers at the Capitol and worked with TDI to help them understand why mandatory appraisal is so necessary. He has lived and breathed this fight for well over a decade on behalf of consumers in Texas and the other states where he is licensed, and there's no better expert on the subject."

"The man is certainly passionate about protecting consumers through Right to Appraisal," Phenix chimed in. "He is invested in the people who trust him to champion their causes, and he's willing to take the fight to levels I would have never predicted. Robert is one of a kind; he's a different breed, just like Joe. He is a true consumer champion."

But as Smith indicated, the onus to defend Texas policyholders should not fall on the shoulders of one or two good men.

McDorman believes, "If you want to *see* change, you have to *be involved* in change. Most policyholders don't realize they have the Right to Appraisal, but we need mandatory Appraisal Clauses in all Texas insurance policies. I'm so impressed with everything Mr. Collins has done, and I'm honored that he believes in me so much that he has entrusted me with the duty of protecting more people from being under-indemnified."

So, how does McDorman intend to use the funds to fight for mandatory appraisal? Stay tuned to next month's *Texas Automotive* to find out! **TXA**