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A WELL-FUNDED MANDATORY RIGHT TO APPRAISAL JOURNEY IN TEXAS CONTINUES

Dear Mr. McDorman,

I own and operate a collision facility in east Texas. I read last month's editorial about Mr. Collins donating every penny he received from the \$248,517.59 State Farm verdict in support of the fight for mandatory appraisal rights in all Texas motor vehicle policies. I further read that he entrusted you as the steward of these funds to determine how best to use them to help secure mandatory appraisal rights for all Texans.

I, like Mr. Collins, completely trust your direction on this critical issue. Over the last decade, we have seen you staunchly and successfully help hundreds of our clients and others resolve their motor vehicle claims. Thank you so much for your service. Without your help and direction, many of these clients would have wrongfully had their vehicles taken from them by their insurance carrier with no chance of being made whole for their loss. Now that Mr. Collins has entrusted you with every penny of the State Farm verdict awarded to him, Texans' eyes are on you to see how you can get this important reform to the finish line. What is the next step you will take in the battle to secure mandatory appraisal rights in Texas motor vehicle policies?

Thank you for your question, support and kind words. For several months, I have written, "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 am now that third monkey in line and will do just as I have advised my clients over the years. It is my unwavering position that the removal or limiting of the Right to Appraisal in the motor vehicle policy is the enemy of a safe repair and the nail in the coffin for safe roadways for us all.

It was on September 13, 2019 when Auto Claim Specialists first brought the need for the Right of Appraisal reform to the Texas Department of Insurance. On May 14, 2020 – after over seven months of anticipation – TDI finally issued its response. (You can find their response included in my editorial, "Beyond TDI, published in the July 2020 issue of *Texas Automotive* and available at grecoPublishing.com/Texas-automotive-july-2020.) As we wrote then, our interpretation of the TDI response was that the issue we presented to them was actually one for the court system to address rather than the regulatory system. This is what we did and will continue to do until legislators pass laws to make the Right to Appraisal mandatory in Texas for all motor vehicle policies.

Now, nearly four years after the TDI responded to our appraisal reform, we have referred hundreds of our clients to very

interested consumer advocate law firms to protect their interests when their insurance carrier has unlawfully harmed them and ignored their rights. Many of these have now settled before court with our client being made completely whole, including receiving substantial monetary damages. *Joseph Wayne Collins v. State Farm Mutual Automobile Insurance Company* was the first to go to court and result in a \$248,517.59 jury verdict for State Farm's unlawful behavior. The litigation that the jury decided over had many of the same unlawful optics we see most carriers levying against their policyholders daily.

It is my goal on this journey to bring together in a formal setting the Texas Department of Insurance (TDI), Office of Public Insurance Counsel (OPIC), Texas Watch, the insured citizens of the great state of Texas and anyone else adversely affected by the removal of or modification to the Right to Appraisal in a motor vehicle policy, and ask that the Commissioner issue a ruling on this critical issue ahead of the 89th legislative session. I have provided a brief overview of positions issued by TDI, OPIC and Texas Watch on this sensitive issue.

During the 88th Texas Legislature, Texas Watch, a bipartisan consumer advocate group, presented their study of the impact of auto appraisal to legislators. As quoted from the study, "Too often, insurance companies offer consumers too little to repair or replace their vehicle." Their findings went on to note that in over 1,246 auto insurance claims they analyzed, the average difference between appraisal awards and insurance offers for repair claims was \$5,307.35. Also, the average difference between appraisal award and insurance offer for total loss claims was \$3,889.27. The complete Texas Watch "Impact of Auto Appraisal" report can be viewed at bit.ly/TXW-RTA.



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. Robert can be reached by phone at (800) 736-6816, (817) 756-5482 or via email at AskTheExpert@autoclaimspecialists.com.

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Ask The Expert

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In addition, the very first recommendation in OPIC's Report to the 88th Texas Legislature by Mr. David Bolduc was to require personal auto and residential property insurers in Texas to preserve the insurance consumers' right to invoke appraisal in disputes regarding the cost to repair or the amount of a total loss. The complete OPIC Report to the 88th Texas Legislature can be viewed at bit.ly/OPIC2023.

Finally, the TDI 2022 Biennial Report suggested the need to establish policy form appraisal guidance under policy considerations. The complete TDI 2022 Biennial Report can be viewed at bit.ly/TDI2022biennial.

I have pulled together all these resources listed above regarding the mandatory Right to Appraisal in motor vehicle policies and taken them under advisement. Please watch for next month's editorial with the findings and direction we will be taking to ensure all Texans have the mandatory Right to Appraisal in their motor vehicle insurance policy.

As I have noted in several past editorials and public speaking engagements over the years, as a stark consumer advocate, Auto Claim Specialists has gone to agencies with well-documented facts seeking to help 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 a time for change. 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 statement, we have also reduced clients' out-of-pocket expenses on repair procedure disputes such as in 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 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.

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 if 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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