

The official publication of the Auto Body Association of Texas (ABAT)

# TEXAS

AUTOMOTIVE



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**GREAT MEMORIES  
MADE AT**



**ABAT'S  
TEXAS AUTO BODY  
TRADE SHOW**

**FULL SHOW RECAP BEGINS ON PG. 10!**

# LATEST TOTAL LOSS SCHEME - INSURANCE CARRIERS ABANDONING VEHICLES AT SHOPS

Dear Mr. McDorman,

I own and operate a collision facility in East Texas. In the last several months, several insurance carriers have abandoned vehicles at our shop. The insurance carrier refused to send us the title in each of these instances. Over the years, you have represented many clients when the insurance carrier deducted our shop fees from the insured's total loss settlement. On each of these, you were able to help our client get reimbursed for these wrongful deductions by their insurance carrier and also increase their settlement by accurately defining the Actual Cash Value through the Right-to-Appraisal process. How can the insurance carrier abandon the vehicle at our shop without paying reasonable fees? Have you seen this type of egregious behavior in other parts of Texas?

Thank you for your comments and questions. Yes, we see this egregious behavior across the United States. It is my professional opinion the first line of defense the insured has in these types of situations is to review the total loss proposed settlement offer to make sure the insurance carrier has appropriately defined the actual cash value. If the insured emails us the market valuation report, settlement summary and photos of the damaged vehicle, we will review the settlement at no cost. Should we determine that the insurance carrier has likely under-indemnified the proposed settlement, we will offer suggestions to the insured to see to it they are made whole for their loss. The first step is to obtain a certified actual cash value appraisal. As I have spoken and written about for many years, the actual cash value of the loss vehicle is the fencepost on how liability should be handled according to the policy.

Over the years, when our clients' insurance carriers have wrongfully deducted the shop charges from their settlement, we have successfully seen that these charges are reimbursed. However, the carriers' latest scheme to harm the insured by abandoning the vehicle has different optics. As a note, the insurance carrier is only liable to the insured for the liability limits as outlined in the policy and declaration page. As mentioned above, the insured should always check the proposed settlement to ensure the insurance carrier has appropriately identified the actual cash value.

In most of the Texas insurance policies in our library, the limits of liability states that the limits of liability for loss to a covered auto, non-owned auto or custom parts or equipment is the lowest of: A) the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible; B) the amount necessary to replace the stolen or damaged property reduced by the applicable deductible; C) the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or D) the stated amount shown on the declarations page for that covered auto.

As we can see in the policy language listed above, once the insurance carrier has reached the policy limits of liability, the carrier has the right not to honor the insured policy requirement to preserve the loss vehicle after the loss expense. To take this one step further, when the insurance carrier realizes they cannot reduce their liability

enough to cover the collision facility's fees to pick up the loss vehicle, we see the insurance carrier electing to abandon the vehicle at the shop. Our position at Auto Claim Specialists is that these types of loss disputes should be subject to appraisal.

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. In my professional opinion, the more times these systematic under-indemnification schemes are exposed and monetary punishment is levied, the quicker change will come to help us all.

Our position at Auto Claim Specialists is that the Right to Appraisal should be a mandatory contractual right in every policy. For the 89th Texas Legislative panel, we will team up with our lobbyist, Andrew "Drew" Graham, to educate lawmakers and help secure mandatory contractual appraisal rights for all insured Texans. We, the insureds, are many, and I am confident that if we all join forces and do what we can, we will be successful in securing our rights and our children's rights to contest insurance settlement offers that would result in underpayment of losses and/or shoddy and dangerous repairs.

Under-indemnification in repair procedure claims in Texas is rampant. Most of the above-referenced averages on estimates and supplements had many overlooked (by design) safety and OEM-required operations needed to restore the loss vehicle to its pre-loss condition to the best of one's human ability. Besides the higher settlements we have obtained for our clients with repair procedure disputes, we have increased total loss settlements on average by \$4,200 (or 28 percent) above the carrier's proposed final offer. These under-indemnification percentages are staggering and harmful to Texas citizens. I believe limiting or removing the insured's right to appraise a repair procedure is a safety issue. Allowing insurance carriers to limit or eliminate the Right to Appraisal in a repair procedure dispute will be the nail in the coffin for safe roadways in Texas.

The spirit of the Appraisal Clause is to resolve loss disputes fairly and to do so in a timely and cost-effective manner. Invoking 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



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# President's Message

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awards ceremony as ABAT celebrates a DECADE! Some very deserving folks finally received some of the recognition they're due (full list of winners on page 18), but two of those awards mean an awful lot to me personally.

I was so honored to present ABAT's inaugural Founder's Award to Chad Neal (Paint Works; Tyler), one of our founding members who does not get nearly enough recognition for everything he's done. If it wasn't for Chad, there wouldn't *be* an ABAT! When we were trying to get things off the ground, shops didn't want to listen to a "competitor" like me, so Chad stepped in and hosted a training event with Tim Ronak (AkzoNobel). He used his resources to bring shops into the same room, allowing us to discuss why Texas shops needed an organization to support their businesses, and from there, we took ABAT to the next level. But it would have never existed at all if Chad hadn't understood how important this group would be to his customers.

It was also exciting to recognize another vital part of our association: Robert McDorman (Auto Claim Specialists) received ABAT's first President's Award. Nobody deserves to be honored more for everything he has done for this organization, from contributing his time and money to educating shops and legislators on Right to Appraisal and diminished value. I'm proud to call him my friend.

ABAT has a lot of really great friends, which is why we're able to convince some of the biggest names in the industry to come on down to Irving and enjoy the southern charm they're bound to find

in our neck of the woods. We're talking about people like Mike Anderson (Collision Advice), Tony Adams (AkzoNobel), Danny Gredinberg (Database Enhancement Gateway) and so many others. (Check out the recap of the educational sessions on page 10.)

As always, there was a ton to learn for anyone who was willing to engage, but I have to admit that my favorite wound up being one that I was involved in (and I swear that's not why I enjoyed it so much). Because one of our presenters couldn't make it because of a plane delay, I agreed to step in and figure something out, and I'm really proud of how that impromptu session turned out. Fortunately, John Niechwiadowicz (QLC, Inc.) was on hand, and I asked attorney Travis Clardy (Clardy Law Offices) to join us as we tackled a topic that got brought up in another class related to what happens when insurance companies abandon vehicles at shops. If you were there, you definitely learned something, and if you weren't, don't worry – I suspect we stumbled upon something that you'll be reading more about in a future issue of this magazine!

Running a body shop can be exhausting, so I understand how easily we can all get tired and worn down, but this show manages to reinvigorate me in unexpected ways each year. I'm always amazed by how much I learn from others and by those who learn from me. I believe that's one of the keys that makes this show such a success; ABAT wants to share this information with every body shop in Texas and anyone else who wants to join us. That's how we give back to our industry. We support and educate one another, and that's really a refreshing concept.

*Burl Richards*

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## Ask The Expert

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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 should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always remember that 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