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MORE MANDATORY APPRAISAL BILL RULE MAKING CONSIDERATIONS EXPLORED

Dear Mr. McDorman,

I own and operate a collision facility in West Texas. I read your editorial last month about the Texas Mandatory Appraisal Bill rule making and the appraiser and umpire criteria phase. I do have some questions about the time triggers you suggested and your recommendation for licensing, bonding and errors and omission coverage for independent appraisers and umpires. As for your rule making suggestions, I did not see a suggestion from you concerning a commencement date deadline for the Appraisal Clause. Is there one? Also, why would independent appraisers and umpires need to be licensed, bonded and insured?

Thank you so much for your questions concerning my suggestions and recommendations for the Texas Mandatory Appraisal Bill rule making and appraiser and umpire criteria phase. A commencement time for appraisal was brought up and discussed extensively during our conversations with the principles and lawmakers prior to the passing of the Mandatory Appraisal Bill. Commencement dates (when appraisal can be invoked) for real property and personal property claims have two different variances and needs. On the real property side, I can see a need for a defined period when appraisal can be invoked and when it cannot. However, on the personal property side of the claim, a defined commencement date is much more problematic and could easily harm the parties. Anytime additional damage is discovered outside the commencement date that results in a dispute, the parties would be barred from the Right to Appraisal to resolve the dispute. For example, say the original carrier's undisputed liability offer was based on a photo estimate or no inspection (which is often the case), and the client waited an extended period to take the car into the shop for repair for legitimate reasons (such as saving up to meet their deductible or only having one vehicle and needing it for work, etc.). Then, once the repair begins, if additional damage is discovered, a commencement deadline could already be exceeded between the date of loss and repair. The parties would be barred from invoking appraisal should a dispute arise over the loss. Thus, I completely agree with legislators that there should not be a commencement deadline on the personal property (auto) side of the claim.

Here is why I recommend that appraisers and umpires be licensed, bonded and carry a \$1,000,000 E&O (errors and omission) coverage policy. Engineers are seldom used in the

repair process, so once the loss dispute is elevated to independent appraisers and or/an umpire to decide the safe and proper repair methodology, they should be held to a higher standard. The collision industry today is no longer made up of blacksmiths. We are educated, trained collision repair professionals who are expected and required to understand how to safely repair highly technical vehicles with many variances, special repair procedures, processes and needs. The technical requirements vary starkly between each vehicle, guiding us on how to repair the vehicle back to its pre-loss condition safely and to the best of one's human ability. For this reason, it is my professional opinion that appraisers and umpires should be held to a higher standard and liability. As I wrote last month, it is my unwavering position that anytime there is a loss dispute on the personal property (auto) claim, the dispute should be handled by (TRULY) independent industry expert appraisers and umpires who are licensed by the Texas Department of Insurance, with the license requiring a minimum of 40 hours continuing education for each licensed period, a minimum \$100,000 bond and a \$1,000,000 E&O policy. This is needed if we are to hold the independent appraiser and umpire in an auto claim liable for the binding repair plan they agree to through the appraisal process. *The only way to ensure the appraisal and umpire process is truly independent is to hold the appraisers and umpires accountable and liable.*

We must always remember and keep at the front of our thoughts, "Safe repairs save lives." Requiring the appraisers and umpires to be licensed, bonded and insured will help ensure a truly unbiased arena. Legislators have given Commissioner Brown the authority to do just this. We should do everything in our power to make sure this happens. Always, what gets measured gets done!

The Mandatory Appraisal Bill rule making and appraiser and umpire criteria phase for Commissioner Brown to adopt rules mandating an appraisal for total loss and delineating property damage subject to the appraisal and the period of appraisal is critical to the appraisal process. Also, equally as critical to the



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appraisal process, Commissioner Brown must consider the qualifications and selection criteria for appraisers and umpires for the appraisal. We have done an excellent job making legislators problem-aware to give Commissioner Brown the backing she needs for adapting rules and requirements. We now must make her solution aware. I am confident that, with the right information and data, she will set the correct rules and qualifications in place for motor vehicle loss disputes. I have complete faith in her to do this.

The under-indemnification in repair procedure claims in Texas is rampant. Most of the estimates and supplements we see for repair claims have 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. Now, with the passing of SB 458, when a dispute arises over the loss on a motor vehicle repair claim, there will



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be a binding Appraisal Clause in the policy allowing these disputes to be turned over to industry professionals to determine the loss. And again, as stated above, I believe it is imperative that the appraisers and umpires be held accountable for their decisions and actions

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

removes the 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 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. 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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