

ABAC NEWS

**JAN - FEB
2011**

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The Official Newsletter of the Auto Body Association of Connecticut



**A Message from the
desk of
Bob Skrip
Skrip's Auto Body
ABAC President**

Seven feet??... Really?? Has anyone ever heard of a roof rake before this winter? I know the hardware stores in Maine and Vermont keep them in stock. But here in Ct.? We all know someone whose property suffered devastating structural damage as a result of this winters snow. I see community spirit like never before. Neighbors helping neighbors, strangers helping strangers in their time of need. I hope and pray that we all survive and become stronger as a result.

Now for some good news. I talk to shop owners, vendors and jobbers daily, and they are pleased with the work load that this winter has been filling the shops with. I know we are busting at the seams here, and I hope you are too. Now is the time to shine ladies and gentlemen. Show your customers what this industry is all about. Promote your business and knowledge of the work you do. Go the extra mile now for that customer that is becoming more and more difficult to retain. Give him or her reason to not only be a satisfied customer, but more importantly, a LOYAL customer. There is a difference. By now giving them a positive experience will perhaps forever keep your shops name in their mind when and if they ever need a collision repairer in the future. They will remember you for all the right reasons. Don't give them a reason to forget you.

Promote the ABAC as well. Tell your customers that you are a part of The ABAC, and we as an association have one goal in mind. Safe, Quality Repairs.. PERIOD...Satisfy that customer, and remind them that is your goal as well. Remind them who you work for.

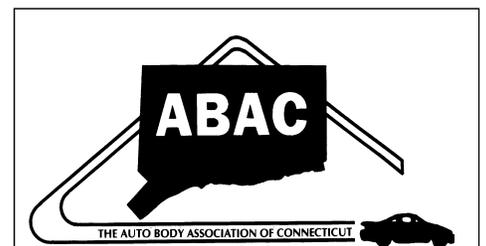
I encourage you to read this edition of ABAC News, it is once again full of useful information, and shows a bit about what your association is doing for you from industry news, to our legislative efforts.

Now where did I leave my roof rake.....

Bob

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All Pro Collision Wins Against Allstate

New Britain, February 8, 2011

“I don’t care how much it actually cost you to fix this car, that’s all we’re paying ... so deal with it!”

How many times have you heard that? Probably a lot. Well, that’s basically what Allstate told Bill Romaniello of All Pro Collision Repair after completing repairs on a customer’s vehicle. Now it took a little while, but Romaniello eventually got the last laugh.

Here’s what happened. Carol Erhardt, who was insured with Allstate, caused damages in a car accident. The vehicle she damaged was repaired at All Pro. When Erhardt’s insurer, Allstate, would not pay All Pro’s full repair bill, All Pro had no choice but to sue Ms. Erhardt, asking her to make up the difference for what Allstate refused to pay. All Pro was able to sue Erhardt directly by obtaining an Assignment of Claim from its customer, who was not involved in the case. The dispute went to trial in New Britain Small Claims Court on January 28, 2011. The issue, according to All Pro’s attorney, John Parese of Buckley & Wynne, was “whether the shop’s charges were fair and reasonable. And, clearly the court found that they were.”

Ms. Erhardt was not a witness, nor was she present for the trial; she was, however, represented by staff counsel for Allstate. In addition to an attorney, Allstate also had two staff appraisers present for the trial, but neither testified.

“These small claims cases are not about complicated theories of contract or antitrust law; they’re generally about what’s fair and what’s reasonable,” said Attorney Parese. “I try to keep these cases as simple and straightforward as possible. If the magistrate concludes that the charges were fair, you get paid. It’s that simple.” Parese continued: “Just because Allstate doesn’t want to pay your posted rate, or has managed to force it’s will on other shops, does not mean that’s the end of the story.”

“The magistrate seemed interested in my testimony that my rates were formulated after consultation with my accountant,” said Bill Romaniello who testified at trial. “I also did a labor rate survey in my market area, which was important in helping me establish the reasonableness of my rates,” said Romaniello.

The case concluded with a judgment ordering the defendant to pay All Pro full damages and all court costs. Allstate will almost certainly pay this judgment pursuant to its indemnity obligations to Erhardt. After trial, Magistrate Pursell authored a one-page written decision. A copy of that decision is included in this edition of ABAC news. To read the full decision, please see page 3 of this issue.



Notice of Judgment or DispositionRE: Docket #: SCC-322032
PlaintiffALL PRO COLLISION REPAIR & SALES, LLC VS. ERHARDT
ALL PRO COLLISION REPAIR & SALES, LLC

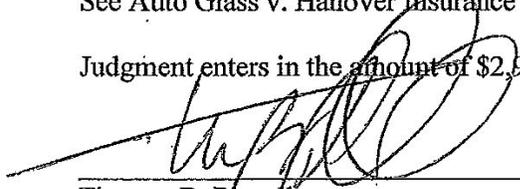
The Court has reviewed the pleadings, exhibits and evidence offered at trial.

Plaintiff commenced this action by Small Claims writ. By way of an answer, the defendant filed a general denial. The defendant did not assert any special defenses. At trial, the defendant conceded that the issue of liability was not contested. Plaintiff alleged that on or about October 2, 2008, an automobile owned by [REDACTED] was involved in an accident with another vehicle owned by Defendant Erhardt. The Erhardt vehicle was insured by Allstate Insurance at the time of the collision. The accident was caused by the carelessness or negligence of Erhardt. The Plaintiff was contracted by [REDACTED] for the repair or replacement of the damage to her vehicle. [REDACTED] executed an October 24, 2008 Assignment of Claim to Plaintiff. The Plaintiff undertook to perform the repair work. At trial, Plaintiff submitted its repair invoice in the amount of \$8165.58, for the material, parts and labor for said repair work. The invoice reflects \$2672.45 for parts and a total of 71.2 hours of labor, plus 6% sales tax. Plaintiff's invoice reflects that it charged \$68.95/hour for Body Labor and Paint Labor; \$90.00/hour for Mechanical Labor; and \$79.55/hour for Frame Labor, for the time spent in making said repairs. Allstate Insurance issued payment to Plaintiff in the amount of \$5173.29, leaving a claimed balance due on Plaintiff's repair invoice in the amount of \$2,992.29. The \$5173.29 figure is summarized in Allstate Insurance repair estimate, supplement 2, consisting of \$2125.42 in parts and 57.2 hours of labor, plus 6% sales tax. The Allstate repair estimate calculates reimburse for labor at the flat rate of \$48.00/hour. Defendant further submitted a copy of Connecticut Insurance Department Regulations/Conduct of Motor Vehicle Physical Damage Appraisers.

The plaintiff offered testimony that its charges reflect a fair and reasonable amount necessary to make repairs that were caused by the accident. Plaintiff testified that its hourly rates are established after a survey of rates charged by other repair shops in the area. Plaintiff testified that its survey disclosed that its hourly rates were higher than some repair shops and lower than some other repair shops. In setting its hourly labor charges, plaintiff also consulted with its accountant. Plaintiff testified that it posted its hourly labor rates as required by law.

The Court finds that the Plaintiff's repair invoice reflects the amount that was reasonable and necessary, in the marketplace, to repair or replace the damage done to the [REDACTED] vehicle. The Court finds Plaintiff is entitled to payment of the \$2,992.29 unpaid balance. See *Auto Glass v. Hanover Insurance* 293 Conn. 218 (2009)

Judgment enters in the amount of \$2,992.29.



Thomas B. Pursell
Small Claims Magistrate
February 2, 2011

ABAC Pushes to Reform Total Loss Bill

Hartford, February 10, 2011 - Submitted by Attorney John Michael Parese

The legislature recently introduced a bill designed to help consumers get a fairer value for their total loss. The bill, H.B. 5-444, would change the way insurers arrive at total loss values. Currently, values are derived from averaging the retail values given by the NADA and one other Department of Insurance approved source. The proposed bill would require the exclusive use of “publicly available” sources. In other words, companies like CCC, Mitchell, and Audatex would no longer be permitted sources for the calculation of total loss values.

Andrew Markowski, John Parese, Bill Denya and Bill Romaniello represented the ABAC at the Capital, where the Insurance and Real Estate Committee held a public hearing on the bill. Attorney Parese testified that General Statutes § 38a-353 needs to be changed, and that “[t]he current law as written enables insurers to artificially suppress total loss values and does so through private valuation companies unavailable to the general public or to public scrutiny.” Attorney Parese took issue with the language of the proposed bill, and suggested technical changes that would allow for the averaging of the NADA and one other publicly available source.

Bill Denya testified that the private valuation sources are routinely undervaluing cars in order to save insurers money on total loss claims. “Connecticut towns and cities tax us based on the NADA. Industry experts rely on the NADA. DMV uses the NADA for registering vehicles. And, the NADA value is what most people think their car is worth. Yet, when a consumer’s vehicle is totaled, the insurer uses a private company whose value is generally hundreds to thousands of dollars less than the NADA. It’s not right,” said Denya. By way of example, Bill Denya referred the Committee to a recent example from an Audatex (Autosource) report. In that report, NADA estimated the consumer’s value at \$3,600. Audatex, however, estimated the vehicle’s value to be \$1,643. Ouch!

Bill Romaniello emphasized that CCC, one of the Insurance Department’s approved sources, has been subject to at least fifteen class action lawsuits for undervaluing total loss claims. The insurance industry’s lobbyist, Bob Kehmna, however, testified that this was absolutely not true, and that CCC was only sued once. According to CollisionWeek, CCC was, in fact, sued for intentionally low-balling total loss valuations fifteen times and that in the fourth quarter of 2001, it took a \$4.3 million charge for estimated costs to settle 14 class action suits. Then, in 2005, according to CollisionWeek, CCC reported another \$8 million charge to settle other class actions suits regarding valuation of total loss vehicles. See *Class Action Filed Against CCC for Total Loss Valuations, Suit claims CCC fabricates total Loss values to save insurers money.* CollisionWeek (May 7, 2010).

Representatives from Audatex, Mitchell and CCC also testified in opposition to the proposed bill. They argued that their products produce the most accurate, reliable and true measure of a vehicle’s value and that publicly available sources such as Autotrader and Cars.com should not be used. Ironically, these same representatives admitted to relying heavily on Autotrader and Cars.com for populating the data in their reports. “It is clearly hypocritical to argue in one breath that these public sources are not valid, and then in the other breath, that these sources are heavily relied upon for coming up with values,” Parese said. “If they’re not reliable, why are you using them?”

Representatives for the insurance industry also testified in opposition to the bill. They argued that many states rely entirely on private sources, whereas Connecticut currently requires an average of the NADA and one other private source. All opponents to the bill claimed that publicly available sources do not reflect fair or accurate values.

The ABAC and its lobbyists will remain active in this debate and will be closely monitoring all developments.

Should You Use OEM Parts or Non-OEM Parts on Customer Vehicles?

A field report from Dave Fogarty

As we continue to visit collision repair owners on a daily basis, the subject of OEM parts vs. non-OEM parts continues to be a concern. Recently, a number of prominent vehicle manufacturers, specifically American Honda Motor Company, Ford Motor Company and Toyota Motor Sales, have issued powerful and informative position statements warning consumers, shop owners and insurance companies about the use of non-OEM parts on their vehicles. Many other OEM manufacturers has similar position statements.

Specifically, many shop owners are concerned that if they install after-market/alternative structural parts (bumper reinforcements, bumper energy absorbers, body panels, etc.), the vehicles' airbag deployment system may not function correctly in any subsequent collision. Toyota Motor Sales' collision repair information statement addresses this in great detail. Their written stance on Supplementary Restraint System components is as follows:

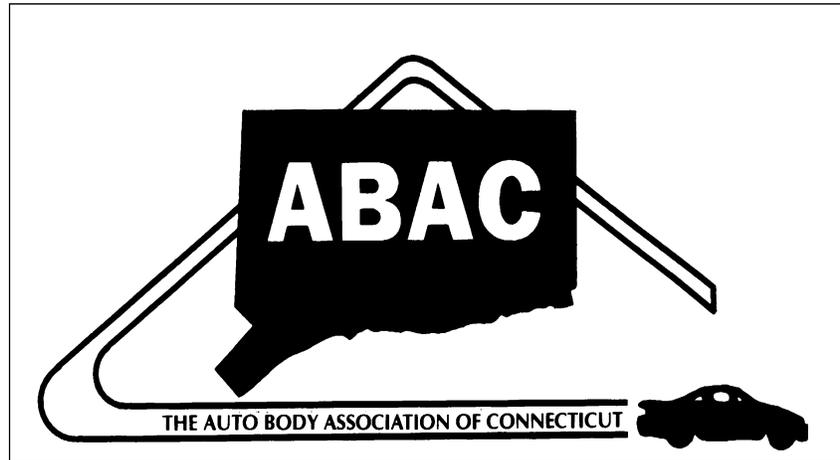
*Toyota, Lexus and Scion vehicles are equipped with several SRS components including airbags and seatbelt pretensioners, which are designed to help protect vehicle occupants from injury. These parts rely upon precisely manufactured sensors to detect a collision event and trigger the SRS components to deploy within milliseconds of an impact. **The installation of parts branded by companies other than Toyota, Scion or Lexus that may not be tested to match Toyota, Lexus or Scion performance specifications may alter the structure of a vehicle and could result in improper operation of the SRS sensors and components.***

Obviously, this means that airbag deployment in a future collision may be adversely affected. Some shop owners, realizing that they could be liable for installing non-OEM parts on customer vehicles, are having insurance appraisers sign off on a non-OEM parts disclaimer form, shifting the liability of any potential losses associated with the installation of these parts over to the insurance appraiser who listed them on his appraisal. As one shop owner told an appraiser, "I am not going to take the responsibility of installing the after market hood that you wrote, because if my customer goes out and unfortunately has a head-on collision and the airbag system does not deploy, I do not want to be sued. You can accept that responsibility." In that specific case, the appraiser changed his mind, re-wrote the appraisal and included the factory OEM hood.

The concerns are real. To our knowledge, we are not aware of any after market parts manufacturer who would guarantee in writing that the installation of their structural replacement parts on a customer's vehicle would not have an adverse effect on airbag deployment in a subsequent collision. In fact, we have been told by some shop owners that they have requested this documentation from after market suppliers, but have been refused.

As seasoned professionals in the field, body shop owners are now faced with decisions that are too important to ignore. Can they consciously repair vehicles with parts that can not officially guarantee a driver's overall safety? It may be time for all shop owners to seriously evaluate the choices that they make.

Attention All Consumers!



**YOU HAVE THE RIGHT TO CHOOSE THE LICENSED
REPAIR SHOP WHERE THE DAMAGE
TO YOUR MOTOR VEHICLE WILL BE REPAIRED.**

U-4-CT (01-10)

**THIS IS CONNECTICUT STATE LAW,
ENDORSED BY *SENATOR
RICHARD BLUMENTHAL,*
IN ORDER TO PROTECT YOU.**

**DO NOT BE INTIMIDATED BY INSURANCE
COMPANIES SUGGESTING THAT YOU HAVE
YOUR VEHICLE REPAIRED AT ONE OF THEIR
PREFERRED SHOPS.**

Rental Car Anti-Steering Legislation Introduced in Maine

Lawmakers in Maine have introduced a bill to prohibit insurance companies from requiring the use of a particular provider when paying claims under rental vehicle reimbursement coverage. It also establishes disclosure requirements when insurers process a claim or write motor vehicle insurance.

Sponsored by Representative Michael Beaulieu, LD 53 states, "A domestic or foreign insurer providing rental vehicle reimbursement coverage may not require that the insured use or not use a particular rental vehicle company or rental vehicle company location."

The measure also requires the insurer to disclose to the insured that the insured has the right to use any rental vehicle company and rental vehicle company location. The disclosure must be provided in a separate written document when writing or renewing policies.

The bill was introduced on January 11 and has been referred to the Committee on Insurance and Financial Services.

Source: www.collisionweek.com

Maryland Lawmakers to Debate Salvage Air Bag Ban

The Maryland Senate Finance committee will hold a hearing on Wednesday to consider a measure that would officially ban the use of salvaged air bags, air bag sensors, controllers and wiring for the repair of collision damaged vehicles.

Senate Bill 48, introduced in January by Senator Delores G. Kelley, also contains specific record keeping and other requirements for repairers performing air bag replacements in addition to the outright ban on salvage air bags. The language of the bill, as introduced, leaves little room for interpretation stating simply, "A person may not install a salvaged air bag in a motor vehicle."

The measure would also require police to begin recording any air bag deployments in their accident reports.

The Washington Metropolitan Auto Body Association (WMABA) is supporting the measure and in written testimony submitted to the Finance Committee said, "At this point in time, it is not verifiable that salvaged airbags can be used for replacement with the same quality, consistency and safety as the Original Equipment Manufacturer (OEM) specifications.

The association further states that, "Salvaged airbags pose a safety risk as there is no means to definitively show that the airbag was removed from the donor vehicle without damage, stored in a climate controlled environment and transported properly to the repair facility. Without verification of these items, there is no possibility of ensuring the same quality and safety as the OEM product. In fact, the only way to know for a fact that a salvaged airbag will deploy properly, is to deploy it, thus rendering the part useless.

The Finance Committee hearing is scheduled to take place on Wednesday, February 9 at 1:00 pm in the Maryland Senate Building in Annapolis. The bill has also been jointly assigned to the Senate Judicial Proceedings committee where a hearing has not yet been scheduled.

Source: www.collisionweek.com

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The goal of the ABAC News is to provide a forum for the free expression of ideas.

The opinions and ideas appearing in this publication are not necessarily representations of the ABAC and should not be construed as legal advice.



The New Blue

Those of us who have taken an ASE Certification Test in the past probably did so using a No. 2 pencil and bubble sheet to answer the questions. Since ASE's founding in 1972, paper-and-pencil has been the most common form of testing. Soon, that will no longer be the case. ASE has begun the process to transition all ASE certification tests from paper-and-pencil written testing to a computer-based delivery format by 2012. After 39 years, written tests will be offered for the final two times in May and November 2011. For ASE, it's the New Blue.

The move to computer-based testing is the natural evolution of any paper-based test these days, but in ASE's case it also allows the organization to address some significant improvements in the program that technicians have been requesting for a while. These improvements include instant results, more frequent testing and the ability to take the test on your own terms.

Although ASE has been offering some tests in a computer-based testing (CBT) format for the past few years, beginning in July 2011, every ASE certification test and its recertification counterpart will be available. That's 48 certification tests across 11 specialties. Also, the number of CBT test sites will increase from approximately 200 to over 300 locations. As before, the tests are offered in proctored test centers, not online over the Internet.

Enhanced computer-based testing for all ASE certification categories debuts in July and August 2011, and beginning in January 2012 and going forward, computer-based testing will be available eight months of the year in a recurring two months on, one month off cycle. Computer-based testing offers advantages in scheduling, convenience, and flexibility over the written tests, and will offer a vast choice of daytime, night, and weekend reserved appointments. Perhaps the biggest advantage is that now technicians will know if they passed before leaving the test center.

Finally, one of the criteria ASE used in finding a new testing partner was to reduce the cost associated with CBT testing. That goal has been achieved. When launched next Summer, the new CBT tests will cost the same as the written tests. Regular tests will cost \$30 each; Advanced Tests (L1 and L2) are \$60 each. Recertification tests max out at \$90, regardless of number taken. Registration costs \$36, regardless of the number of tests taken.

For more information on the changeover to CBT, visit the ASE website at www.ase.com. We'll be adding new information as it becomes available.

Source: www.collisionweek.com