

ABAC NEWS

January
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2017

The Official Newsletter of the Auto Body Association of Connecticut

President's Message:
"ESTIMATE"
Not Final Invoice!

Consumer Tech Tip:
"Your Car, Your Choice!"

"Know Your Role"
ABAC General Counsel
John M. Parese, Esq.

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Regulation Endeavors to Keep Pace with Technological Developments

The Automotive Service Association (ASA) reports that with the state legislative season in full swing in many states, new automotive technologies, including vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications, driver assistance and automated vehicles (AV), are the focus for policymakers.

Since the beginning of the 2017 legislative session, there have been several bills introduced addressing self-driving vehicles and vehicles with varying levels of automation. One such bill is New Jersey's Senate Bill (SB) 2895, introduced by State Sen. Nia Gill, D-34. SB 2895 clarifies that owners of self-driving motor vehicles must ensure that their vehicles comply with all existing insurance requirements. In this case, "self-driving" is defined as a vehicle that is "capable of operating without active control or monitoring by a human operator."

This movement is not unique to the states. In September 2016, the U.S. Department of Transportation (DOT) issued federal policy guidelines for automobiles. The National Highway Transportation Safety Administration's (NHTSA) and DOT have both published items to regulate V2V communications.

AV technology also has captured the attention of congressional lawmakers. At the end of 2016, the U.S. House Committee on Energy and Commerce conducted a series of hearings on technological issues, including self-driving vehicles and connected devices.

With new technologies expanding at an exponential rate, policymakers are left playing catch-up in terms of regulation. ASA anticipates many more technology-specific bills over the course of the next few years as the legislative process attempts to keep pace with the rate of technology development.

Source: www.BodyShopBusiness.com

Body shops' RICO case against insurers active again; see status of other states' lawsuits

Middle District of Florida Judge Gregory Presnell has agreed to resume two auto body shops' RICO case against various major insurers.

Presnell on Dec. 22, 2016, stayed five cases from various states which a federal panel had consolidated before his court.

All five involve collision repairers suing insurers for allegedly trying to artificially deflate auto body compensation and interfering with repairer businesses. However, the Crawford's Auto Center and K&M Collision v. State Farm et al case filed by Pennsylvania and North Carolina repairers takes a different legal approach than the other four lawsuits — a point made by its plaintiffs in their motion Jan. 19 to end the stay.

Presnell appears to have agreed with the shops that he was incorrect to equate the Racketeer Influenced and Corrupt Organizations Act Crawford case with the other four Sherman Antitrust Act lawsuits.

Those four cases still remain on hold, pending an upcoming Eleventh Circuit Court of Appeals decision on Presnell's earlier antitrust rulings.

The remaining state cases are AASP-Pennsylvania et al v. State Farm et al and AASP-PA et al v. Erie in Pennsylvania, Only One et al v. State Farm et al in Alabama and Kallemeyn et al v. 21st Century et al in Illinois.

"The above referenced cases are still pending before me with outstanding motions to dismiss," Presnell wrote Dec. 22, 2016. "Resolution of the cases on appeal will likely resolve the antitrust claims in these cases."

That might sound like putting the cart before the horse, but those four cases follow a similar template to several collision repairer cases on appeal before the Eleventh Circuit after Presnell threw out their Sherman Antitrust Act price-fixing and boycott claims and numerous but not all state claims for good.

Five cases were consolidated together before the appeals court: Campbell v. State Farm (Kentucky), Lee Pappas v. State Farm (Virginia), Quality Auto Painting v. State Farm and Ultimate v. State Farm (New Jersey) and Concord v. State Farm (Missouri). The quintet's appeal was originally tentatively scheduled to be heard the week of March 27, but the Eleventh Circuit has since belayed that, and the cases remain unscheduled.

The appeal accuses Presnell of overly relying on the arguments of the defendant insurers and giving short shrift to the plaintiffs. The appellant shops also disparaged his application of Virginia, Kentucky, New Jersey and Missouri state law.

Three more cases are in various stages of the appellate process following Presnell's refusal to reconsider terminating them: Alpine v. State Farm (Utah), Indiana Autobody Association v. State Farm (Indiana) and Auto Alignment v. State Farm (Mississippi, formerly titled Capitol v. State Farm).

Two Louisiana shop v. insurer cases also appealed, but for now have petered out in the Eleventh Circuit and are at least for now closed.

Still other states' cases are either still active in Presnell's court, or have not yet appealed despite being partly or completely dismissed with prejudice.

Source: www.RepairerDrivenNews.com



ABAC President Tony Ferraiolo “Estimate” not Final Invoice

Definition of estimate: “Est-ti-mate”

- *to judge tentatively or approximately the value, worth, or significance of*
- *Forming of a personal opinion or judgment*
- *General calculation of size, value, etc.*

These are some of the definitions in Webster’s Dictionary. What you don’t see here is an Itemized list of goods shipped or services rendered, stating quantities, prices, fees, shipping charges, etc.; bill. This is Webster’s definition of Invoice.

Now that, that is out of the way, lets understand why you as an Auto Body repair professional need to understand and change how you are billing your final invoice.

The Estimate should be for **INFORMATION PURPOSES ONLY**. That should be stamped on the front page, so you are letting the insurance company know that their estimate is only for information purpose only.

Next you should also stamp that estimate with **“BE IT KNOWN TO ALL “the Insurance company document provided will be filed for “INFORMATION PURPOSES ONLY”** as a courtesy to our customer. The insurance estimate will not be used to determine methodology, parts and/or procedures necessary to repair the damage vehicle. This is a licensed repair facility. We will use our own blueprint to repair vehicles.

This is real, you need to get on board with being the repair professional. Remember you are the only Connecticut licensed repairer. The insurer, the appraiser, the adjuster; none are licensed repairers.

Start believing in what you do and stop repairing vehicles the way a non-licensed repairer is suggesting. First get a Repair contract/ Authorization signed by your customer, (**very important**) and required by the Department of Motor Vehicles. Educate your customers on what the OEM manufacturer of their vehicle recommends and what you as the repairer believe is the proper and safe repair. Then allow an insurance company to inspect vehicle to verify loss; stamp their guess (estimate) with stamps you can get from the ABAC then consult your customer as to how they want their vehicle repaired. It can be that easy.

Prepare a final invoice on a separate system such as QuickBooks that detail exactly what was done on the vehicle. Inform your customer of the amount that is owed to them from their insurer. If your customer requests, allow the insurer to re-inspect for additional charges related to the repair.

Remember the contract for repair is between you and your customer. The insurance company and you have no contract to repair. Anything you agree to with insurance company must be on behalf of your customer and needs to be approved of by your customer.

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This all sounds wrong, right? No, we have been brain washed into thinking the insurance company makes all the decisions. **WRONG!** They do not and should never be allowed to determine your repair plan. Be the repair professional and change the way business is performed. Let's re-train the insurance industry on what and where their place is in the repair process. **Stop repairing vehicles the way an insurance company is trying to dictate.** It just doesn't make sense and it could compromise quality and safety.

Most estimates written in field are underwritten and not accurate, so why would you use them as your repair plan? Also, remember if you are charging customers for charges not paid for by their insurance company or your customer has Assigned their right for you to collect monies owed, please assist them in filling a complaint with the Department of Insurance. It is very important the DOI gets these complaints and can question the dealings of Insurance Companies in the state.

Stamps (referenced) can be purchased from the ABAC. Contact Heather at abacadmin.heather@gmail.com.

Repair Contract and all important forms and documents needed can be downloaded from our ABAC website abaconn.org

Please join us at our next membership meeting Featuring Mike Anderson of Collision Advice on March 7th at the Country House in Foxon. Make your reservation early. This was a sellout last time Mr. Anderson was here and we expect another capacity crowd. See flyer inside for more information.



President
Auto Body Association of Connecticut



Estimate Data Now Available on EstimateScrubber

VehicleOwnersGuide.com, a provider of technology to the collision repair and property and casualty markets, announced shops can now download their estimate data using its **EstimateScrubber.com** product.

Collision repairers can extract and download the information contained in collision estimate PDF files when scrubbing estimates.

"You only need a single click to download the estimate information to your browser. The download contains basically everything on the printed estimate—including notes," Steven Siessman, founder of VehicleOwnersGuide.com, said.

Estimates, supplements and repair orders printed from CCC ONE are currently supported. Documents from Mitchell International, Audatex and other sources will be available in the second and third quarters of 2017.

"The new download gives repairers the option of working with their software vendors to get their estimate information in other applications, quickly, easily and without paying an additional toll," Siessman said. "It is ideal in a situation where you receive an estimate from an insurer and all you want to do is import into your management systems—rather than having it re-keyed."

Know Your Role

John M. Parese, Esq., ABAC General Counsel



I am issuing a legal opinion to the ABAC and have asked the DMV to issue a similar statement relative to the respective duties and obligations of repairers and insurers (primarily insurance appraisers). I am doing this because there is a broad misperception as to what a representative of the insurance industry has the training, expertise, and at more fundamental level, the legal authority to do or say in connection with a motor vehicle repair.

The premise of my legal opinion is as follows, and I would challenge anyone to contradict me from a safety or legal perspective: Insurance estimates are actuarial tools used by insurance companies to set aside monies in reserve for the paying property damage claims. Insurance

estimates are not designed, nor should they be utilized by repairers as the scope or methodology for repair or the true cost of repair. The scope, methodology and true cost of repair must come from a licensed repairer and must conform with the laws and regulations governing licensed repairers. Since an insurance estimate is a tool written by someone without a repairer's license, it cannot serve as evidence of the true cost of repairs or dictate how a vehicle should be repaired. Put in other words, the opinions of an insurance company or its representative cannot serve as a basis in court or otherwise as evidence of the true cost of repairs or how a vehicle should be fixed.

To many of you, this may seem so obvious as to be unnecessary of a formal pronouncement. But after years of subtle and not so subtle encroachments on how business is conducted, insurers have distorted fundamental understandings as to who gets to make repair decisions. Really, it's pretty unbelievable. They did the same thing in the health care market, and to a lesser extent, in the context of homeowner damage claims. It should be fundamentally understood that insurance companies have no greater right to tell doctors how to treat patients than they do to tell repairers how to fix cars.

Look: this is a dynamic problem that has taken years to develop. We're not going to fix it quickly or easily. But, the next time you find yourself dealing with an insurance company or appraiser attempting to dictate how you should repair your customer's vehicle, I suggest you contact the ABAC for a copy of my legal opinion. And as Dwayne "The Rock" Johnson aptly put it, you may want to remind that insurance person: "know your damn role, and shut your damn mouth." Okay, so maybe that last part might work better in the context of entertainment wrestling, but there are definitely professional and persuasive ways to convey this sentiment. Together, maybe we can at least get the market back to a more appropriate understanding of who does what; something that is sorely needed to better protect your customers and your businesses.

John M. Parese, Esq. is a Partner with the law firm of Buckley Wynne & Parese and serves as General Counsel to the ABAC. Buckley Wynne & Parese maintains offices in New Haven, Hartford and Stamford, and services clients throughout all of Connecticut. The opinions set forth in Attorney Parese's articles are for education and entertainment purposes only, and should not be construed as legal advice or legally binding. If you have any questions or concerns about the content of this or any of Attorney Parese's articles, you are encouraged to contact Attorney Parese directly.

GEICO, Progressive Challenged in Setting Insurance Rates

Feb. 9, 2017—Consumer Watchdog has petitioned the California Department of Insurance to reject GEICO's and Progressive's use of occupation in setting auto insurance rates.

Consumer Watchdog claims the insurance companies give discounts to drivers who are employed in "elite" professions—such as lobbyists, lawyers and bankers—while surcharging drivers who do not meet the companies' selective criteria, including those in less-skilled or non-professional occupations. The group says such discriminatory pricing results in lower-income drivers paying more and is unlawful under California's landmark insurance reform law, Proposition 103.

In the petition filed against GEICO, Consumer Watchdog challenged the company's application for an overall rate hike of 4.9 percent, or \$11 million. Consumer Watchdog is challenging that GEICO is proposing a rate decrease or modest overall rate increases of between negative 0.4 percent and 2.2 percent for the "elite occupations," while also raising rates for drivers not employed in one of those occupations by 11.5 percent.

In addition to challenging these actions as unlawful, Consumer Watchdog's analysis concludes that GEICO has failed to support its proposed rates and that all of the company's 150,000 policyholders are actually due for an overall rate decrease.

FCAI: 500,000 Counterfeit Auto Parts Found in UAE raid

A warehouse raid led to the seizure of 500,000 "fake and counterfeit" car parts in the United Arab Emirates, the Federal Chamber of Automotive Industries announced earlier this month.

Authorities believe the parts were likely bound for Australia, FCAI wrote in a news release Jan. 13, though the Middle Eastern outlet Gulf News on Jan. 10 also noted that an Abu Dhabi Department of Economic Development official described the bust as protecting UAE drivers.

The FCAI, Australian's version of the U.S. Alliance of Automobile Manufacturers, called the seizure the largest in Abu Dhabi, UAE, history. Authorities filled 21 trucks worth of fake parts; the counterfeits will ultimately be destroyed.

Such large operations call into question the issue of "Opt-OE" parts, a vague and sometimes undefined term for seemingly new but surplus parts not bought within the formal automaker supply chain. For distributors, wholesalers, insurers and collision repairers, how sure are you of that part's pedigree?

"Dubai dealers have been contacting Australian automotive retailers offering to sell them genuine parts at less than local prices, and our experience has shown that in most cases those parts are, in fact, counterfeit," Nationwide Research Group Director Craig Douglas said in a statement.

"Through our investigations over the last 25 years, we have increasingly seen spare parts for the major car brands being imported into Australia from Dubai, Abu Dhabi and other parts of the UAE.

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“Our investigations have revealed that some of these parts are fake. This recent seizure of fake parts suggests the problem is on the rise and Australian consumers should be vigilant.”

Gulf News said authorities in the UAE were examining if the dealer, who sold parts at a third of the price of the originals, was selling retail or wholesale. Parts were imported from out of the UAE and spanned nearly 15 global vehicle brands, the news site reported.

Echoing FCAI, officials from the UAE ADDED agency urged consumers — or even dealers — to stick with the known automotive supply chain, according to Gulf News:

“We advise consumers to always look for original auto spare parts and never compromise your safety by buying cheaper fake products,” the ADDED officials said. They said buying the product from authorised dealers is the only way to ensure its genuineness. It is difficult for a consumer to distinguish between original and fake products. Even authorised dealers often find it hard to do so because counterfeiters have become smarter these days, they said.

The FCAI, which has been aggressively campaigning against counterfeit and aftermarket parts through its “Genuine is Best” initiative, also recalled a 2016 raid that turned up 33,000 fake Toyota and Lexus parts — including brakes and airbags.

“Counterfeiters are more sophisticated than ever,” FCAI Chief Executive Tony Weber said in a statement. “These inferior copies are so close in appearance to the originals that even professionals can have difficulty telling them apart until they test their actual performance. The only way for consumers to ensure they are getting genuine OEM parts is to purchase spare parts and accessories from the authorised genuine part dealers and dealerships.”

Counterfeiting concerns in U.S.

At NACE in August 2016, officials from OEMs and the Department of Homeland Security on the “A2C2” Automotive Anti-Counterfeiting Council warned about the potential for counterfeit auto parts here in the U.S. Counterfeiters generally targeted individual buyers — the guy buying parts off the Internet — not larger operations, but the potential is of course there.

“You’re making me doubt my supply chain,” Automotive Service Association Vice President Tony Molla said during the talk — perhaps only half-joking.

Then-U.S. Intellectual Property Rights Coordination Center Director Bruce Foucart said that anything that can possibly be faked will be faked, and authorities have even worked a case where phony computer chips could have ended up on a nuclear submarine.

\$5.59M in counterfeit auto parts in 130 incidents were seized in 2015 — mostly from China, he said.

Jason Kosofsky of Ford global brand protection said counterfeit editions of about every part of a car — and even items like diagnostic tools — have been encountered.

“We see body panels, we’ve seen glass,” said Andy Forsythe of Nissan, also the president of the A2C2. There’s even been counterfeit tires without steel bands.

David Goodloe, then involved in Toyota brand protection, predicted that the next trend in vehicle counterfeiting would be higher-margin but less sexy parts like light bulbs and taillights.

“I think that’s the trend we’re going to start seeing real soon,” he said.

Source: www.repairerDrivenNews.com

“Path to Certification” Forums Focus of AASP/NJ’s NORTHEAST®

Following the success of last year’s “Body Shop Certification and You” discussion panel at NORTHEAST 2016, the Alliance of Automotive Service Providers of New Jersey (AASP/NJ) is expanding the discussion to a four-session series to gain perspectives from all parties involved in the repair certification process: The OEMs, the tooling and equipment providers, and the shops themselves.

These discussions will take place at this year’s 40th Annual NORTHEAST 2017 Automotive Services Show, happening March 17-19 at the Meadowlands Exposition Center in Secaucus, NJ.

“Every year, we face the challenge of presenting something that will not only educate our attendees, but also keep them one step ahead,” said AASP/NJ President Jeff McDowell. “Last year, our initial OEM certification program panel helped inform attendees of what was on the horizon. Since then, the topic has exploded, and so we thought we’d incorporate the theme of certification throughout the weekend of NORTHEAST 2017. Certification is the future of this industry, and we plan to cover the topic inside and out at the show.”

The planned sessions include:

- **Session 1: THE SHOP PERSPECTIVE**
Friday, March 17, 5:45pm - 7:00pm
- **Session 2: THE OEM PERSPECTIVE, PART 1**
Saturday, March 18, 11:00am - 12:30pm
- **Session 3: CONSIDERATIONS IN TOOLING & EQUIPMENT**
Saturday, March 18, 1:00pm - 2:30pm
- **Session 4: THE OEM PERSPECTIVE, PART 2**
Saturday, March 18, 3:00pm - 4:00pm

Registration for these sessions as well as the rest of the NORTHEAST educational slate will be available February 1st at www.aaspnjnortheast.com.

AASP/NJ’s 40th Annual Automotive Services Show will be held March 17-19 at the Meadowlands Exposition Center in Secaucus, NJ. Click here to find out more about how you can be a part of the NORTHEAST 2017 Automotive Services Show.

For more information about AASP/NJ, visit www.aaspnj.org.

Source: www.abnews.com

Shop of the Month: Traynor Collision Center



Our Shop of the Month for this issue is Traynor Collision Center in Milford.

Owners Richard "Richie" Zacchia and Chris Argonese took time from their busy day to give the ABAC News a little background on their business.

Besides the owners, the staff at Traynor Collision Center consists of:

Customer Service Representative Ann Marie Levesque, **Manager** Pam Mayo-Yacko, **Parts Manager** Bob Battaglia, **Shop Foreman** Kyle Erbis, and **Manager** Benito DiTuri

Teardown Department: Eriberto Cruz, Librado DeLos Santos, Thor Hellgren, Shaun Hennessey, Michael McGlufin, Cameron McKenna and Charles Ward.

Body Department: Jose Cardenas, Herbert Greaves and Kevin Mallon

Paint Department: Brian Belleza, Jose Sepulveda, Juan Valle. **Detail Department:** Raymond Trotta

Richie graduated from Bullard Havens Technical School working for three shops right after. In 1992 he came on board with Traynor Auto Body in Fairfield. Richie, along with several other employees was offered to purchase the business from the Traynor Motors dealerships. After that transaction, the decision came in 2000 that it was time to expand and open a second shop in Milford at the former K&D Auto Body. In August 2001, Traynor Collision Center opened its doors. In March of 2002, Richie made the move from Fairfield to the new Traynor Collision Center which is now celebrating its 16th year in its present location!



Chris worked for his father in law at age 17 in his shop. He started by washing and cleaning cars. He always had an interest in cars. With no automotive schooling behind him he decided to go to school for law enforcement to be a policeman. He continued to work at his father in laws shop for the next five years. A friend then started working for Traynor Auto Body in Fairfield and mentioned to Chris they were hiring. He applied in 1995 and got the job as a body man. Within 2 years he advanced to a painter where he found his true passion. In 2000 the idea to expand the shop came into play and only a select few were asked to take part, Chris being one of them. In 2001 he transitioned to Traynor Collision Center in Milford.

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Richie and Chris are both ASE Certified Technicians.

Richie currently does all initial estimates. Once the vehicle is scheduled in for repairs, it goes into production where Ben Dituri takes over creating the supplement and works with his team as the car flows thru the repair, dealing with any non-DRP insurance appraiser. Once the vehicle is complete, Richie does a quality control & final paperwork goes to Pam Mayo-Yacko to do a final file audit before uploading through the CCC One Estimating System. Traynor Collision Center uses all the newest technology and tools to keep the assembly line streamlined.

A few other facts about Traynor Collision Center:

- Honda Certified
- Shop employees are individually I-Car Platinum Certified
- Collision Center is I-Car Gold Certified
- 2 Paint Booths- Junair & Acudraft
- Collision Center uses Waterborne Paint
- Pro-Spot Welders & 2 Frame Machines both Car-O-Liner



We then asked Richie and Chris when they first became involved with the ABAC and what are the benefits of being a member?

Says Richie, **“We were former members of the Auto Body Association of Connecticut in the early 2000’s and we didn’t feel that Traynor had the same interests as theirs. We now have a new agenda at Traynor Collision Center for beginning in 2016 and beyond and since have rejoined with the ABAC.”**



Chris tells us, **“Just the fact of getting together as a whole (with the ABAC Meetings). We all make mistakes, we can learn from each other & help each other out.”**



The ABAC would like to thank Richie Zacchia and Chris Argonese for taking time from their busy schedule to answer a few questions for us. We’d also like to wish them great success with their business and to thank them for rejoining the ABAC. Together we can certainly help make this industry better for the future!

Montana Repairer's Diagnostics Study Shows 'dash light' myth, need for pre- and post- scans

For months, a Montana collision repairer kept statistics on his three shops' repair orders to examine the necessity of pre- and post-repair scanning and whether the dash light can serve as an indicator of fault codes.

His findings from scanning more than 200 vehicles and comments in interviews this year bear out what OEMs have been saying: Vehicles require scanning, and the dash light is for customers, not auto repair professionals.

McDonnell Group President Matthew McDonnell, who uses one of Collision Diagnostic Services' asTech devices, shared the results with us last month. They're presented here with the customers, insurers, and repair order numbers redacted to protect privacy, and minor stylistic edits for easier sorting. Gaps in the data typically indicate vehicles received at the shop but which have not yet received a particular step in the repair process.

Here are some of the highlights of the study, which presents a template for other data-driven repairers to follow:

- Only about 14 percent of the 216 vehicles McDonnell's staff scanned actually had a dash light on when it came into the shop. "About half of these dash lights were Tire Pressure Monitor and or maintenance lights not related to the repair," McDonnell wrote in an email.
- About 80 percent of the vehicles without a dash light showing posted at least one fault code when scanned prior to the repair. Some threw as many as 13. "Scanning a vehicle (only) when there is a dash lamp is a myth and considered dangerous," McDonnell wrote.
- Vehicles with fault codes but no dash lights encountered at the shop reached as far back as 2006 and into the 2017 model year (two Ford Escapes). OEMs say this condition can extend at least as far as the OBD-II standard in 1996.
- They included OEMs which had issued position statements on scanning and ones which hadn't. The latter included makes such as Subaru, Ford/Lincoln, Audi, Mazda, Mitsubishi, Volkswagen, Kia. Also blasts from the past like a 2008 Saturn Vue and 2009 Pontiac G6.
- Post-repair scans found numerous additional faults, which is not surprising as the repair process itself generates fault codes. The record appears to have been claimed by a 2015 GMC K1500 Yukon, which amazingly came in with zero fault codes but had 107 following an extensive repair. (Severity was more than \$16,000.)

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The History

McDonnell said the scan study was a logical offshoot of an earlier attempt to study how well his estimators matched up, following a complaint that “your estimators are too different.” He found a difference spanning several hours in their labor times, and concluded, “This isn’t good.” “We really got calibrated,” he said, doing an extensive study of P-pages and OEM requirements. The McDonnell Group later took an interest in scanning, and decided to perform a similar study to analyze the issue. “We were really the tip of the spear here,” said McDonnell, who pointed out that scanning didn’t have the industry attention at that point.

The shop had an asTech scanner — “We just got lucky,” McDonnell said, by having something that could act like an OEM tool from the start — and it began to scan everything, comparing codes at intake with codes following the repair.

49 out of 50 cars came back with codes related to the repair or collision, which McDonnell called “another ‘Oh crap,’ moment.”

At that point, the McDonnell Group decided to check dash light data as well and collect subsequent findings in the spreadsheet. Technicians found that a vehicle typically needed a “pretty hard hit” before dash lights would appear. (McDonnell’s chart also details tow-in and five-figure repairs brought into the shop without dash lights but with pre-scan codes.) Some OEMs, such as Nissan, only strongly recommend pre-repair scanning — but don’t mandate it. However, McDonnell said his technicians “live and die by the prescan” and the details it provides them about modules and parts requiring attention.

If you waited until the end of the repair to scan the car and found, “we have to replace this, this and this,” and start tearing the car back apart to do so, “who’s going to pay us to do that?” he said. (Not to mention the impact such a rework would have on cycle time, customer satisfaction and rental car bills — all of which affect an insurer as well.)

McDonnell’s study didn’t track dash lights encountered following the repair. “It makes me want to redo my Excel spreadsheet,” he said when asked about this. However, asked if his staff saw many vehicles with a dash light on post-repair, he said “most times, no.” As the data show, diagnostic codes still existed unseen within the system. McDonnell said that while there are “still guys saying it,” the misconception that diagnostic trouble codes always trigger dash lights seems to be dying among insurers.

Source: www.RepairerDrivenNews.com

Takata Pleads Guilty and Pays \$1 Billion in Criminal Penalties for Airbag Scheme

Three Takata Executives Charged with Wire Fraud and Conspiracy

Tokyo-based Takata Corporation agreed on Friday to plead guilty to wire fraud and pay a total of \$1 billion in criminal penalties stemming from the company's fraudulent conduct in relation to sales of defective airbag inflators. An indictment was also unsealed charging three Takata executives with wire fraud and conspiracy in relation to the same conduct.

U.S. Attorney Barbara McQuade of the Eastern District of Michigan, Chief Andrew Weissmann of the Fraud Section of the Justice Department's Criminal Division, Special Agent in Charge David P. Gelios of the FBI's Detroit Field Office and Inspector General Calvin L. Scovel III of the U.S. Department of Transportation Office of Inspector General made the announcement. "Automotive suppliers who sell products that are supposed to protect consumers from injury or death must put safety ahead of profits," said U.S. Attorney McQuade. "If they choose instead to engage in fraud, we will hold accountable the individuals and business entities who are responsible." "For more than a decade, Takata repeatedly and systematically falsified critical test data related to the safety of its products, putting profits and production schedules ahead of safety," said Fraud Section Chief Weissmann. "This announcement is the latest in the automotive industry enforcement actions the Fraud Section has taken to protect U.S. consumers against fraud."

"Today's criminal charges of the Takata Corporation and three of its employees should be a reminder to other corporations and their employees that if they commit fraud, the FBI and its law enforcement partners will ensure they are held accountable for their actions," said Special Agent in Charge Gelios. "Whether it is the manipulation of test results which impact customer safety, defective product development or any other type of fraud, we will continue to aggressively investigate corporate fraud allegations to protect consumers in the United States and elsewhere." "I offer my deepest sympathies to the families and friends of those who died and to those who were injured as a result of the Takata Corporation's failure to fulfill its obligation to ensure the safety of its airbag systems," said Inspector General Scovel. "Because safety is and will remain the highest priority for my office, we will continue to work tirelessly with our law enforcement and prosecutorial partners in pursuing those who commit criminal violations of transportation-related laws and regulations. Along with similar settlements with General Motors in September 2015 and Toyota in March 2014, today's agreement makes clear to all auto manufacturers and parts suppliers their duty in keeping the public safe."

According to the company's admissions, in the late 1990s, Takata began developing airbag inflators that relied upon ammonium nitrate as their primary propellant. From at least in or around 2000, Takata knew that certain ammonium nitrate-based inflators were not performing to the specifications required by the auto manufacturers. Takata also knew that certain inflators had sustained failures, including ruptures, during testing. Nevertheless, Takata induced its customers to purchase these airbag systems by submitting false and fraudulent reports and other information that concealed the true condition of the inflators. This fraudulent data made the performance of the company's airbag inflators appear better than it actually was, including by omitting that, in some instances, inflators ruptured during testing. Takata employees – including a number of key executives – routinely discussed the falsification of test reports being provided to Takata's customers in email and in verbal communications.

Even after the inflators began to experience repeated problems in the field – including ruptures causing injuries and deaths – Takata executives continued to withhold the true and accurate inflator test information and data from their customers.

Takata has agreed to plead guilty to a one-count criminal information filed January 13 in the Eastern District of Michigan and assigned to U.S. District Judge George Caram Steeh, charging the company with one count of wire fraud. Under the terms of the agreement, Takata will pay a total criminal penalty of \$1 billion, including

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\$975 million in restitution and a \$25 million fine. Two restitution funds will be established: a \$125 million fund for individuals who have been physically injured by Takata's airbags and who have not already reached a settlement with the company, and a \$850 million fund for airbag recall and replacement costs incurred by auto manufacturers who were victims of Takata's fraud scheme. A court-appointed special master will oversee administration of the restitution funds. Takata has also agreed to implement rigorous internal controls, retain a compliance monitor for a term of three years and cooperate fully with the department's ongoing investigation, including its investigation of individuals.

The three Takata executives – Shinichi Tanaka, 59; Hideo Nakajima, 65; and Tsuneo Chikaraishi, 61, all Japanese citizens – were each charged in an indictment filed on Dec. 7, 2016, in the Eastern District of Michigan with one count of conspiracy to commit wire fraud and five counts of wire fraud for their alleged conduct in connection with the above-described fraud scheme.

Source: www.CollisionWeek.com

Your Car, Your Choice! - Consumer Tech Tip!

This issue's Tech Tip is for all of our Consumers! The ABAC has fought long and hard to ensure consumers have the right to select the repair shop of their choice. Don't let this right be stripped away by a pushy insurance adjustor!



- You have the right to go to the repair shop of your choice. Your insurance company cannot require you to go to a particular shop. It says so on your insurance card.
- You are not required by law to obtain more than one estimate or appraisal at the request of an insurance company.
- Choose a shop that has certifications such as I-CAR or ASE and are affiliated with trusted organizations such as ABAC, AAA, Better Business Bureau, etc.
- Ask if the shop will be using genuine manufacturer (OEM) replacement parts.
- Ask if the shop offers a repair warranty.
- Differences in repair estimates are common. A lower estimate may not include all necessary work. If you're not sure why one estimate is different from another you've received, please ask your body shop to explain.
- A professional body shop will help you handle your claim with the insurance company.
- Some insurance companies may want you to visit their drive-in claims center before having your car repaired. You can do this, or you may leave your car at your shop and ask that the insurance company inspect the car there.
- Never drive a car that could be unsafe because of damages.
- Your car is the second largest investment you're likely to make. Preserve its value and your safety by having it repaired professionally.

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