

ABAC NEWS

The Official Newsletter of the Auto Body Association of Connecticut

July-August 2015

Was justice served?

Let's start with the facts.

A jury of our peers saw fit to award us \$15 million in compensatory damages. A Superior Court judge ordered an additional \$20 million in punitive damages based on the premise that what The Hartford insurance company did was so oppressive that he needed to send a message to the industry. The Hartford then appealed those decisions and sought to overturn the case on a legal technicality based on the unfair trade practices law. On January 13, 2015, both sides argued their case in front of the Connecticut Supreme Court. We argued the merits of the case and The Hartford argued technicalities.

July 13, 2015 was a sad day for the state of Connecticut, consumers, body shops and our industry at large. The Connecticut Supreme Court overturned the verdict and the lower court's decisions, and in so doing, disregarded our state regulations which were there to make sure appraisers did their job independently and so as to inspire public confidence by fair and honorable dealings. I don't profess to know the technicalities of our unfair trade practices laws, but what I do know is that justice was not served. My opinion is that our Supreme Court failed to appreciate the ramifications of taking away appraiser independence and empowering insurance companies to exercise greater control over appraisers.

We all know that insurers are not negotiating in good faith or taking into consideration market forces, or the real cost of doing business. They are systemically squeezing every last drop out of our industry by manipulating the market and artificially suppressing rates. That's what the jury found, and that's what inspired the trial court to award so much in punitive damages. The Supreme Court has sent a message to our industry: if you don't want to work for DRP rates, don't take the job. As if it were that easy. Whatever happened to the free market? The Hartford manipulated the free market so it can make more money off our backs.

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The Supreme Court missed the ball.

I would encourage each of you to read the decision, talk with your accountants, and make appropriate decisions that would enable your shop to stay in business. We may have lost this appeal, but we have not lost the war. We took on an insurance giant and won the hearts and minds of the jury and the trial court. To lose on a technicality is beyond frustrating. But, it's not the end. This industry will find another way. We will continue to fight for safer repairs, fair market conditions and adherence to the law. I hope you will stand with us going forward.

Finally, I want to thank all of the ABAC members that supported this case. ***Special thanks to Chip Platz, Bob Skrip, Tom Bivona and Mike Walsh for being on the front line and not backing down. Also special thanks to our legal team for a hard fought and costly battle: David Slossberg, Hurwitz, Sagarin, Slossberg & Knuff Alan Neigher, Byelas & Neigher Ronald Aranoff, Bernstein Liebhard LLP and Robert Berg.***



Tony Ferraiolo

President - Auto Body Association of Connecticut

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Nearly 80 Percent of Consumers Think Vehicle Hacking Will Be Frequent Problem

The vulnerabilities of vehicle hacking have made an impression on car owners and shoppers, and nearly 80 percent say it will be a frequent problem within the next three years or less, according to a survey by Kelley Blue Book.

Awareness of the [recent Jeep Cherokee hacking incident](#) is very high, and nearly half of respondents said they will keep this event in mind when buying or leasing their next car. Moreover, the majority of consumers do not think there will ever be a permanent solution to the problem of vehicle hacking.

“Technology offers a wide range of enhanced convenience for today’s new vehicle buyers, but it also offers the increasing potential for unauthorized access and control,” said Karl Brauer, senior analyst for Kelley Blue Book. “Cyber-security is still a relatively new area of specialization for automakers, but it’s one they need to take seriously to ensure they are ahead of the curve. If automotive engineers find themselves playing catch-up in this field, it could have disastrous results for both consumers and the industry. According to Kelley Blue Book’s latest survey, while few consumers consider vehicle hacking a major problem today, many feel it will be a real threat in the next one-to-three years. Consumers also are highly skeptical that a comprehensive solution to prevent vehicle hacking can ever be developed, though an overwhelming majority would be willing to pay for hack-proof vehicle security if it existed.”

Awareness and Concerns about Vehicle Hacking:

- 72 percent said they are aware of the recent Jeep Cherokee hacking incident.
- 41 percent said they will consider this recent vehicle hacking incident when buying/leasing their next car.
- 78 percent said vehicle hacking will be a frequent problem in the next three years or less.
- 33 percent classified vehicle hacking as a “serious” problem; 35 percent classified it as a “moderate” problem.
- 58 percent do not think there will ever be a permanent solution to vehicle hacking.

41 percent think pranking is the most common reason for hacking a vehicle; 37 percent think theft is the most common reason for hacking a vehicle.

Source:www.collisionweek.com

Who Needs Regulation? - Attorney John Parese



The word “regulation” is defined as “a law, rule, or other order prescribed by authority, especially to regulate conduct.” Regulations are important because they help govern conduct and set a standard for acceptable behavior. Like the rest of you, I find myself disheartened by the Supreme Court’s decision in the Artie’s case. Simply put, I think the Court got it wrong. As has been stated, the Court disregarded the will of the jury and the trial judge. But, the Court also contradicted the will of our regulatory process, which in this case, provided for regulations designed to protect consumers from unscrupulous appraisers and insurers. Prior to the Artie’s case, I would have said that the biggest problem in this industry was not lack of regulation, but lack of regulatory enforcement. Unambiguous laws were simply not being enforced. I blame most of that on the Insurance Department.

When the jury returned its verdict and Judge Jennings added \$20 million in punitive damages, that struck me as an equitable adjustment for the Insurance Department’s inaction. Of course, that reckoning was short lived since the Supreme Court then took to making unambiguous regulatory language completely ambiguous. Here’s what I mean: 38a-790-8 requires every appraiser to: “approach the appraisal of damaged property without prejudice against, or favoritism toward, any party involved in order to make fair and impartial appraisals; (3) disregard any efforts on the part of others to influence his judgment in the interest of the parties involved; (4) prepare an independent appraisal of damage.” This is not some insurance commissioner’s opinion. This is the law. It was written for a reason. The Artie’s decision has taken this reasonably clear regulatory guidepost and rendered it convoluted. It is not clear how the dicta in the Artie’s case will affect the future of the industry and the quality of repairs, how independently licensed appraisers will conduct business, or how the Insurance Department and other regulatory agencies will respond. I wish I could offer more guidance on this, but it’s just too early to tell.

With that said, I hope that next session the legislature will take up fixing what is quite clearly a regulatory mess. In the meantime, I would encourage all of you to continue doing high quality repairs and promoting positive reforms within the industry. The law remains: Your Car, Your Choice. Insurers do not fix cars and have no legal rights to dictate repair decisions.

I hope you and your families enjoy the rest of your summer.

John M. Parese, Esq. is a Partner with the law firm of Buckley & Wynne and serves as general counsel to the ABAC. Buckley & Wynne 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.

Just My Take

By Steve Sbalcio – Dean Autoworks

Emails and text messages, oh my!

I used to say that when the phone rings, it's like the sound of money. A customer making an appointment or, even better yet, a customer paying an invoice who picked up their vehicle after hours the night before. Ah...the good old days of the one method of communication. Or is it? Today, when the phone rings in our shop, it's like nails on a chalkboard. The calls are constant, time consuming, and, part of the time, solicitors. I just love when I'm out in the shop discussing an issue with a tech and the phone rings. I have to stop an important and productive conversation to tell a solicitor it's not a good time. I'll have to say to a customer that, "no your vehicle is not complete, but I promise that as soon as it is

assessed or complete they will be my first call." I'm not ranting, it's just that I'm trying to be productive and in this day and age of technology, a phone call is not a productive form of communication. I can write an email or send a text from my computer, get straight to the point and get back to work. Heck, I can send out 3 or 4 emails in less than 3 minutes and order some parts online at the same time. I can't do that with a phone call.

A few months back, I checked my caller ID and found an interesting report. The system has a running total of calls made and received. I put in the dates for last year and hit print. I'm not sure what I was expecting but let's just say my eyes widened when I gazed at the total number of calls located in the lower right of the page. The number just stared right back at me: 16,932. *I must have made a mistake*, I thought to myself. *Yeah, that's it. I probably put in the wrong dates.* I tried to run the report again being extra careful to check the dates before hitting start. There it was again: 16,932, just like before. I got out the calculator, deducted for Saturday and Sunday since we're closed, and came up with an average of about 65 call per day. I averaged the time at about 3 minutes per call and did some more number crunching on the calculator on my desk. The glowing green numbers on the calculator read 3.5! That was how many hours I had spent the last year talking on the phone every day.

Some might say that is a lot. Some might say that is about right. I say that is very unproductive. I know the calls are business, but if half of those calls could be converted into emails, I could have communicated with 35 of those customers in about 35-40 minutes. Freeing up more time to complete supplements or write an estimate for a brake job would be a better use of my time.

So, I decided to give it my all and start converting my customers into other forms of communication. If I just get half of them to use email, I will save myself, conservatively, 1 hour of time per day. Since I'm not a working tech, an hour is not a billable hour. It comes down to how many items I can write on an estimate or up-sell some unrelated damage. That could be \$300 in sales conservatively per day. Hey, I'm no genius but my calculator tells me that with a five-day work week, over the course of a year, that's about \$78,000!

So, in conclusion, next time the phone rings in your shop, I hope it's not your spouse asking you what time you'll be home for dinner because a text of "6:30 ttyl!" would have accomplished the same thing in a fraction of the time.



SCRS Releases Additional Details on OEM Collision Repair Technology Summit Schedule

Prosser, Washington, June 23, 2015 - The Society of Collision Repair Specialists (SCRS) added additional schedule topic details to the website landing pages for the upcoming OEM Collision Repair Technology Summit. The OEM Summit, which will be held Thursday, November 5th during the 2015 SEMA Show in Las Vegas, Nevada, will focus on emerging trends in vehicle construction and technology and how both of those aspects influence vehicle repairability and collision industry preparation. The program is designed to put SEMA Show attendees in a room with innovators in automotive structural design and technology, providing one of the most unique networking and learning opportunities available to the collision repair industry.

This year, the program will provide three different segments which can be selected individually or collectively as part of the RDE Full Series Pass.

The sessions will feature companies and individuals with rich histories of producing sophisticated advancements in the automotive and collision repair fields, and will highlight architectural and technological developments in modern vehicles, and how those advancements intersect with the repair process. Sessions will include:

9:30 - 11:30am

OEM1 | Advanced Automotive Technology

This will include panel discussions on both Structural Connectivity - Understanding the Future of Automaker Joining Techniques, as well as Tech Crunch -The Role of Programming and Diagnostics in Post-Repair Road Worthiness.

12:30 - 2:30pm

OEM2 | The Future of Aluminum in the Automotive Industry

3:00 - 5:00pm

OEM3 | The Continuing Evolution of Advanced Steels in Automotive Bodies

Both afternoon sessions will include detailed presentations on technological developments in each of the featured substrate markets, and then transition to panels of automakers known for their use of the featured materials to discuss real world applications in vehicular structural design, vehicle safety and vehicle repairability.

More details on each segment are available by following the individual links.

Attendees are encouraged to register early, as space will be limited for each of these sessions. For more information go to www.Semashow.com and register for the SEMA Show and SCRS Repairer Driven Education series, including the OEM Collision Repair Technology Summit.

Source: www.scrs.com

Louisiana's WAFB highlights State Farm's use of non-OEM parts

Louisiana television station WAFB on Wednesday became one of the latest networks to warn consumers that their policies indicate the insurers won't always use new parts in collision repairs.

This time, the story focused on a 2014 Kia Sedona minivan — last model year! — which needed a condenser, radiator and bumper after the owner rear-ended another vehicle, according to WAFB's article and video posted Wednesday.

State Farm refused to pay more than the cost of non-OEM parts, and Baton Rouge, La.-based Miles Paint & Body Shop owner Tim Elkins decided to eat the difference in cost, according to WAFB. (It's unclear from the broadcast if the parts in question were recycled, aftermarket or reconditioned; Elkins describes all three.)

"They force these parts on us," Elkins says on the WAFB broadcast. "They make us use them. They've gotten to where now they tell us where to buy our parts and who we have to buy them from."

Elkins also criticizes the idea of reconditioned parts, noting in the broadcast that "for that matter, I could fix what was on it."

The repairer also raised the question of the minivan's warranty being affected by non-OEM parts, WAFB points out the distinction that Kia can't void the warranty, but it can deny it citing damage from the parts.

"A vibrant, profitable auto collision repair industry is in the interest of State Farm," State Farm said in a statement to WAFB. "At the same time, we are advocates on behalf of our customers for reasonable repair costs. We believe repairer profitability and proper auto repairs that are reasonably priced can both be achieved."

The story also references Republican Louisiana Attorney General Buddy Caldwell's lawsuit against State Farm, part of the multidistrict litigation being heard in Florida.

Not much has happened with that case this year based on our look at the docket, but other related private-sector Louisiana lawsuits were in May amended with more detailed allegations, including poor customer service and blatant steering.

Source: www.repairerdrivennews.com

Takata Airbag Lawsuit Investigation (Update!)

In the United States, a record 34 million vehicles made by 10 different automakers have been recalled to replace frontal airbags on the driver's or passenger's side, or both. The airbags involved in the recall were made by Takata, a major parts supplier to automobile companies worldwide. Some of the airbags supplied by Takata have been found to deploy explosively, causing injury and even death to car occupants. Most of the defective airbags were installed in cars from Model Years 2002 through 2008, however some models continued to use the airbags as late as 2014. To date, eight fatalities – all in Honda vehicles – and more than 100 injuries have been linked to the defective Takata airbags. In many cases the incidents involved metal shards penetrating a driver's face and neck. The company is under congressional investigation and recently announced that the recall was being extended globally to include an additional 3.2 million cars.

THE HEART OF THE AIRBAG PROBLEM

In 1998, Takata announced in a trade magazine that it was entering a “new technological age” by introducing the compound tetrazole as a reliable and effective propellant for inflating airbags. However, with little reason or fanfare, in 2001 the company switched to an alternative formula that used ammonium nitrate. Widely used for large demolitions in mining and construction, ammonium nitrate was known to be highly sensitive to temperature changes and moisture and to lose stability over time. Despite the known risks, indications are that Takata made the change from tetrazole to the new propellant because ammonium nitrate was cheap and would help the company boost profit margins. The propellant is used in the airbag inflator, which is composed of a metal cartridge loaded with wafers of ammonium nitrate and a trigger that will detonate and deploy the airbag in the case of impact. The switch to ammonium nitrate introduced a propellant that breaks down over time and becomes violently combustible when exposed to temperature changes and moisture. This increase in combustibility is believed to be violent enough to rupture the inflator housing in a crash and spray shrapnel throughout the cabin – effectively turning a lifesaving device into a deadly bomb.

TAKATA'S ROLE

When Takata introduced tetrazole in the 1990s it was promoted as a safer and more environmentally friendly alternative than earlier propellants used in airbags. The exciting new product was first included on 1998 vehicles, but almost immediately Takata began looking for alternatives. The problem was the airbag market had become more competitive globally and tetrazole was expensive to obtain and only produced in limited quantities. To maintain its market share, Takata researchers were pressured by company executives to develop propellant alternatives. By 1999, the company was already working on an alternative that used much cheaper, but unstable, ammonium nitrate. Engineers at Takata raise objections almost immediately to using the ammonium nitrate-based propellant. The *New York Times* has reported that the engineers even went so far as to show executives explosive manuals that warned the compound “tended to disintegrate on storage under widely varying temperature conditions” with “irregular ballistic” consequences. Even with the knowledge of the compounds volatility, Takata researchers attempted to find ways to stabilize the ammonium nitrate to try to mitigate the effects of varying conditions. But explosives experts agree that ammonium nitrate can only be stabilized with minimal success.

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THE TAKATA COMPANY COVER-UP

In 2004, Takata received a report that one of its airbags had ruptured and sprayed the driver of the car with metal shrapnel. The company secretly began conducting tests and found that the steel inflators in several of the airbags tested ruptured when deployed. Takata responded not by alerting regulators at the National Highway Traffic Safety Administration, but by ordering the technicians who conducted the tests to delete the testing data from their computers and dispose of the airbag inflators in the trash. It was a decade later before *New York Times* reporter Hiroko Tabuchi uncovered these tests and wrote of Takata's attempts to cover them up in a devastating investigative article ("Takata Saw and Hid Risk in Airbags in 2004, Former Workers Say," *New York Times*, Nov. 6, 2014).

Separately, reporters also found that Takata had ongoing issues with manufacturing problems and quality control that only compounded the problems caused by ammonium nitrate-based propellants. The scrutiny raised by the *New York Times* has led to the NHTSA reopening an earlier inconclusive investigation of Takata. A U.S. House of Representatives committee has asked the Government Accountability Office to conduct its own investigation, and federal prosecutors in Manhattan have also taken an interest. As of July 2015, Takata has appeared four times before congressional committees, each time drawing harsh criticism from lawmakers as recalls continue to grow and deaths from these defective airbags climb. U.S. Sen. Bill Nelson of Florida has directly confronted Takata executives to demand explanations of why the company continued to use ammonium nitrate in its airbags when other suppliers do not.

U.S. Sen. Richard Blumenthal of Connecticut in a June hearing called for Takata to start a compensation program for the victims of faulty airbag inflators.

PROTECTION FOR CONSUMERS

It is important that owners who suspect their car may have defective airbags to check if their car is affected. This warning is especially urgent in Florida since it is believed that exposure to high heat and humidity will only accelerate the dangers posed by these defective airbags. The easiest way to check a car's airbags is to call a franchised dealer or look to the ownership sections on manufacturers' websites for recall information. Owners can also use their vehicle identification number, VIN, and enter it into the NHTSA's online [VIN-lookup tool](#). The NHTSA website also has a list of vehicles affected by the recalls for quick review.

At Saunders & Walker we will continue to monitor the Takata recall and offer representation to anyone suspecting that they, or their relatives, may have been killed or injured by these dangerous airbags.

Source: www.thelegalexaminer.com

<http://www.saunderslawyers.com>

ABAC Shop of the Month

Autoworks of Westville - New Haven



For this issue we visited a family owned and operated business, Autoworks of Westville. We spoke to President/Owner Bob Amendola who tells us he has operated his facility from the same location since 1986 serving the Greater New Haven area.

Bob has 41 years in the automotive industry with a degree in automotive engineering and early in his career worked for Traveler's Insurance.

Autoworks is a 14,000 sq. ft. facility with all of the necessary equipment needs to be OEM certified. Currently they are a Honda Certified Collision Center.

Techs are responsible for tear down and the final parts ordering for the vehicles they are repairing.

Bob is joined in his business by his wife and Office Manager, Liz who handles all of the front end operations of the business. Daughter Ashley, a graduate of Albertus Magnus College, is a licensed appraiser who handles the interactions with customers and insurance companies. Son Tyler, who is entering his junior year at Albertus is, according to Bob, "in training" for the family business.

Bob tells us that through his years in the automotive industry one of the most important things to do is to invest in your business. Autoworks is getting ready for their next big investment with aluminum on the horizon.



Social Media has also played a big part of their success and the Amendola's are big proponents of today's technology.

Bob Amendola has been involved with the Auto Body Association for many years and has been a guest speaker at many of the meetings sharing his knowledge and helping to educate members.

The ABAC would like to wish the Amendola family continued success with Autoworks of Westville and thank them for taking the time to share their thoughts with us.

Meet your ABAC Board Members!



Meet Mike & Mark Wilkowski who are long time members of the ABAC and both have served in different capacities within the association.

Their father, Stanley Wilkowski, who founded Stanley's back in 1947, was an officer of the Greater Waterbury Trade Association, one of the original local associations. So it's not hard to understand how both Mike and Mark have come to be so involved.

Mike first became involved in 1972 when he came home from serving our country. Mark had been already working at his dad's shop since 1968 and had a few years more experience than his brother. Obvi-

ously both grew up in the shop keeping themselves busy. Mike tells us that as a young boy he would ask his dad for things to do and would take apart cars and reassemble them.

Mike was always involved with associations joining his dad at many meetings throughout the years and has always served as a committee member or officer in some capacity.

Mark began attending ABAC meetings in 2004 and that was the beginning of his involvement with the group. Mark has served as Secretary and Treasurer throughout the years and currently holds the Secretary's position.

Mike has served in all positions within the ABAC and currently holds the Treasurer's position. Mike was instrumental during his tenure as President when the idea for the ABAC News was brought to him. It was in his office back in 2000 when he was approached with the concept and through his guidance and discussions with the ABAC Board of Directors, the ABAC News inaugural issue was released. (Just a little historical fact!)

We thank Mike and Mark for their time and for their dedication to the Auto Body Association of Connecticut!

**"Meet your ABAC Board Members & "Shop of the Month"
will be continuous features in the ABAC News**

How can YOU become an ABAC Shop of the Month?

At every ABAC Membership Meeting just fill out the entry card on your table or drop your business card into the drawing basket. We will be drawing at the end of each meeting. If selected, we will visit your shop to take photos and interview you for the article.

Attend more meetings and Increase your opportunity!

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Upcoming ABAC Meetings
Tuesday September 15th - Country House Restaurant
Tuesday November 10th - TBD

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