

ABAC NEWS

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The Official Newsletter of the Auto Body Association of Connecticut

Progressive Insurance v. North State Dismissed *Trial ends before defense even presented their case*

After three weeks of trial before a New York jury, Supreme Court Judge Mary Smith on Tuesday dismissed Progressive Insurance's fraud claims against Greg Coccaro and his Bedford Hills collision repair business North State Custom.

Coccaro had been accused by Progressive of committing fraud in the charges for work performed on a customer's vehicle.

After the plaintiffs, Progressive Insurance, finished presenting their case to the court, the judge found that Progressive did not present sufficient and credible evidence to support their claims of fraud against Coccaro and dismissed the case before the defense even called their first witness.

Progressive's legal team, headed up by Michael Nelson of Nelson Levine de Luca & Horst, finished presenting their case on Tuesday morning. Coccaro's attorneys, Anthony Mamo and Erica Eversman, then moved for a Direct Verdict. Their motion was granted Tuesday afternoon and all claims brought by Progressive were dismissed with prejudice. The Judge agreed that Progressive failed to demonstrate that their claims against North State had legal merit.

After Judge Smith issued her ruling from the bench, Coccaro said he was "...elated with the Judge's decision. "Coccaro said he was looking forward to getting back to his business and that he is "...extremely grateful and touched by all of the support and encouragement shown by fellow members of the collision repair industry."

Witnesses called to testify included Coccaro, Mike West (Southtowne Auto Rebuild in Tukwila, WA) and Progressive Insurance personnel.

Mike Orso, President of the New York State Auto Collision Technicians Association (NYSACTA) said, "On behalf of our whole association and its membership, we congratulate Greg in this result. That was a true David and Goliath battle. This is a huge win for the little guy and a huge win for our industry. If Progressive could do this to Greg, they can do it to anyone."

Orso, was scheduled to testify as an expert witness for the defense regarding the repairs completed by North State, as well as to offer an opinion on the invoicing. "I was retained early in this case and had not known Greg previous to this matter, other than as a face at NYSACTA meetings. When I traveled to NYC to inspect the car, I had no idea what I was in store for. After 15 years of Wreck Check post repair inspections, I have about

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seen it all. This Mercedes was as close to original as humanly possible. Right down to the texture of the vinyl coating on the underside of the floor," Orso said.

Orso concluded, "It is my hope that every shop and association around the world take notice. This case was very costly and if we all pitch in a little, it will mean a lot to Greg. Reach in your pocket and send him a check because tomorrow you may be the one they pick to whip."

With this case behind him, Coccaro still has pending litigation against Progressive. In that case, filed by Coccaro, the complaint alleges that Progressive has engaged in a scheme to injure North State and the public by engaging in deceptive business practices- including telling customers that North State inflates estimates, does shoddy work, and is a problem shop.

That case is still in the discovery phase and a trial date has not yet been scheduled.

August 7, 2008

Members, Friends and Colleagues:

As most of you know, there was a very significant outcome for our industry in the State of New York court system regarding the fraud case that Progressive Insurance Company brought against Greg Coccaro and his shop North State Customs of Bedford Hills. This brave shop owner made the decision to stand up for principles and fight a giant. In the process, he spent over \$200,000.00 of his own money to defend himself. His decision to take this to trial was not for financial gain, but purely for principles. Greg's mantra, "Enough is enough", embodies the feelings of collision repairers throughout the nation. The trial ended with a dismissal, and he won the case as a result. Nonetheless, he is out the money he spent.

This collision repair industry owes him a un-repayable debt for his courage and perseverance in the face of great adversity. If Greg lost the case, it had the potential to lead to financial ruin. This is why The Auto Body Association of Connecticut and CCRE, two of the leading associations of the country are joining forces and their efforts to establish this drive, we all need to show our appreciation; there is no other way to thank him other than helping him to recover his losses. We are hoping you can dig into your heart and pockets, and send a check in any amount you can afford. We are planning a ceremony honoring Greg, his family and staff. We will present Greg with the checks collected with the media present, donated from his industry brothers and sisters in Connecticut, the CCRE, and throughout the country. This correspondence is being sent nationwide for industry support and we are confident that it will be a huge success showing unified support for a just cause. We welcome any and all other industry leaders and associations for their assistance. Please contact us for further information.

Throughout the past few years, you may have attended one of our meetings where Greg spoke briefly about the case that was before him. If you attended, you've come to know what kind of man he is. Greg is most certainly a man that deserves any help we can give. The ABAC and the CCRE board of directors have unanimously agreed to volunteer our financial support to this more than worthy cause.

As previously mentioned, Greg's intention in going to trial was not for financial gain. Greg has upcoming legal actions that have the potential to recoup his initial losses. If those losses are recouped, Greg, The Auto Body Association of Connecticut, and the CCRE will be donating all proceeds collected to charitable causes and organizations throughout the nation.

Remember, if this happened to Greg, it can happen to you or me.

Make Checks payable to Greg Coccaro and mail them to:

**ABAC
104 Cheshire Rd
Prospect Ct. 06712**

**Bob Skrip Pres. ABAC
Indabodybiz@aol.com
Tony Lombardozzi Pres. CCRE
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**ABAC
President
Bob Skrip
Skrip's Auto Body**

It has been brought to our attention that some shop owners are under the impression the ABAC has alienated or insulted them because they have chosen to participate in direct repair or referral programs offered by insurers. Let me personally say, that is not now, nor has ever been, our intention.

My personal position and the official position of the Officers and Directors of the Auto Body Association of Connecticut is as follows:

The ABAC considers direct repair or referral programs controlled by insurers detrimental to both consumers and our industry as a whole. Unfortunately, these programs are consistently used by insurers to suppress collision repair labor rates, promote deceptive referrals to consumers, and advocate the use of lesser quality parts and inadequate repair procedures. The ABAC will continue to pursue all alternatives to correct the imbalances created by insurer influence has over the collision repair industry.

ABAC Officers and Directors certainly respect that members as well as nonmembers have the right to make their own business decisions. I would be proud to say that, one day, every body shop in Connecticut performs to highest quality standards. However, as in any industry, while there are businesses that are extremely quality oriented, and there are others that are not. Our industry is **NO DIFFERENT**.

We are fully aware there are ABAC member shops participating in DRP programs that perform quality repairs on a consistent basis and we acknowledge their professionalism. On the other hand, any shops performing poor and unsafe repairs should feel insulted and alienated by this Association's position. If an unsafe repair is brought to the attention of this Association by an upset consumer, it will be reported. We, as an Association, will not condone it. Quality shop owners and repairers should not tolerate it either. Unsafe repairs give our entire industry a bad reputation. Looking out for the best interests of consumers who deserve quality repairs is the right thing to do and promotes the positive image our industry deserves.

One issue that cannot be denied by all collision repairers is the fact that the ABAC for many years has pursued the most relevant issues. The Association has always provided members with education and valuable information to help them be more successful.

So, if you are a poor quality repairer with no interest in changing your ways of doing business, please accept our invitation to feel insulted and alienated!

If you are a quality repairer and wish to enhance your business model, while staying current with the issues facing our industry, welcome to the Auto Body Association of Connecticut.

If you are not already a member, I hope you will join us and help fight for our industry. If you are a member, please call me any time with your ideas – and lend a hand when the call goes out for volunteers to write letters to legislators, or attend a meeting or make phone calls or simply to join us at our quarterly meetings and learn new ways to improve your business.

In Unity there is Strength. In knowledge there is Power!

Bob

Bob Skrip

(Bob can be reached @203-758-6606 or via email Indabodybiz@aol.com)

ABAC CONTINUES THEIR COMMITMENT TO EDUCATION



ABAC President Bob Skrip

On Thursday evening, September 11, 2008 at the Country House in Foxon, the ABAC resumed their meetings for the year.

Board of Director Bill Romaniello from Richard Chevrolet opened the meeting by thanking everyone for taking valuable time from their lives to attend and support the ABAC. Bill then asked everyone to observe a moment of silence for our brothers and sisters who lost their lives 7 years ago to the day on 9/11/2001.

Romaniello then recognized the sponsors of the evening:

- BMW of Bridgeport
- Hertz Car Rental
- Lorensen Auto Group

Bill then turned the meeting over to Dave Fogarty of the Lorensen Auto Group who spoke of the ABAC working towards their goal of continuing education and growing membership to help solidify the unity and strength within the association. Fogarty then acknowledged our guests that were in attendance: Larry Eiden, State of CT Dept. of Education/Technical High School System, Dan Thibeault, Oliver Wolcott Tech, Bob Hipp, Abbott Tech, Eduardo Rosado, Kaynor Tech and James Lilienthal, Kaynor Tech. At this point Dave turned things over to ABAC President Bob Skrip from Skrip's Auto Body.

Bob gave us information about the new ABAC website which is about three to four weeks away from launch. This updated website will have an area in which consumers can navigate with their questions and concerns. Bob then told us that Tony Lombardozi, President of CCRE, will be speaking at our November meeting and to make sure you make reservations for this event well in advance as it will sell out quickly.

Bringing us up to date on the Hartford lawsuit, Bob told everyone to ***“pay attention to your e-mail and faxes for information as this lawsuit is scheduled to go to court in December. They are picking the jury in November. We will need everyone to be there to support your industry.”*** Bob then touched on the Greg Carcarro case (which is the front page story in this issue). Greg spent over \$400k of his own money to prove his point and won. Please read of the campaign for Greg on page 3 of this edition of the ABAC News. Skrip then presented Greg's son, Greg, Jr., and his wife, with an envelope containing donations thus far to help Greg Sr's cause.



Dave Fogarty - Lorensen Auto Group

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Board of Director - Bill Romaniello

Bob then welcomed all ideas and suggestions to help make the ABAC better and stronger.

Bill Romaniello returned to the podium adding that the tenacity and integrity that Mr. Cocarro presented during his law suit was exemplary. ***“He could have settled his case with Progressive, be committed to fraud and pay them \$1.00. He could have paid \$1.00 and said ‘I was wrong’ but chose to spend \$400k to fight for what was right. Commitment to excellence. That’s a man of integrity.”*** Continuing on the update on the Hartford lawsuit, Bill also asked for as many shop owners as possible to be at the courtroom for this case. ***“December gets busy but we’re talking about national media coverage. If we’re there, they will want to know why you’re there and not in your shop. You may have a chance to voice your opinion about what you do every day. If you sit back and don’t commit to this then don’t complain about what the out-***

come is. This is a huge opportunity when you get to voice your concerns.” said Romaniello. Bill and Bob will set schedules up. Look for more information soon via fax, email and/or the ABAC News.

Bill then gave us an enlightening speech on his cost of materials and what insurance companies actually pay for. It was very eye opening... especially when you still get paid at prices that existed back in the 1980’s, let alone 2008. You can’t run a business that loses money! Prices have gone up and you need to charge accordingly. ***“When you hear ‘we don’t pay for those supplies’ guess who does? You do”*** said Romaniello.

Bill then introduced our guest speaker for the evening, Rich Jazwin V.P. of Industry Development, for Universal Technical Institute in Phoenix, AZ. UTI, Inc. is a nationwide provider of technical education training for students seeking careers as professional Automotive, Diesel, Collision, Motorcycle and Marine technicians with 15,000 students and 10 campuses located across the U.S. Rick’s topic for the evening: **How to Successfully Recruit, Manage and Retain the New Generation of Generation Y Technicians.** Rick’s presentation was extremely informative and interesting. Those in attendance left with a much better understanding on how to interact with these new young employees of the future.

At the end of Mr. Jazwin’s presentation there was a raffle for a \$500.00 gift certificate donated by John Modica of Paul F. Francis Company.

Once again, an informative and educational meeting brought to you by the Auto Body Association of Connecticut.



Rich Jazwin - VP of Industry Development for Universal Technical Institute, Phoenix, AZ

Rhode Island Court Affirms Authority of Labor Rate Surveys

*Judge rules all insurers must conduct surveys, and results
are to be the sole determination of labor rates*

In a case brought forward by the Auto Body Association of Rhode Island (ABARI), a Rhode Island Superior Court judge ruled on Wednesday that every insurance carrier in the state must conduct a collision repair labor rate survey and use the results of that survey as the sole determinant of the "prevailing" auto body labor rate.

The case, Auto Body Association of Rhode Island (ABARI) v. State of Rhode Island Department of Business Regulation (DBR), was initiated because the association felt that the DBR misinterpreted new legislation passed in 2006 requiring the surveys when it wrote its regulations to enforce the law.

The DBR claimed that the legislation was ambiguous in its use of language and the DBR therefore was required to interpret the law as best it could. The DBR decided, among other things, that most insurers must conduct a labor rate survey, but that the results of the survey were to be used only as a starting point for determining the prevailing rate. DBR decided that labor rate survey results are only one factor among many which insurers may consider in determining a rate.

In July 2007, ABARI formally requested a declaratory ruling from DBR urging the agency to declare that the survey results are to be the sole authority in an insurer's determination of labor rates, as the legislation had intended. The repairer association also claimed that the legislation was not ambiguous and did not allow any interpretation by the DBR.

Following a review, the DBR decided that it had interpreted the law properly and denied ABARI's request in November of 2007. In its decision, the regulatory agency determined that several provisions of the law are ambiguous and it was proper for the agency to interpret the statute as it did.

For example, the DBR said that the phrase "motor vehicle liability insurance" as used in the law was ambiguous because "in Rhode Island there is no line of insurance called 'motor vehicle liability insurance.'" It also claimed that the word "survey" as used in the law is ambiguous because "the statute utilize[s] the word 'survey' in more than one context." These ambiguities freed the DBR to interpret the statute as they did, resulting in the decision that the labor rate survey is not the sole determinant of the prevailing labor rate; rather, it is only one factor which insurers are to consider in determining such a rate.

ABARI appealed DBR's Decision to the Superior Court.

The court ruled that words used in a statute are to be interpreted using their "plain and ordinary meaning" unless the statute seems to indicate a "contrary intent." Deciding that the intent of the statute was indeed to implement a labor rate survey that would actually be used by the industry, the judge ruled that, "this Court will not ascribe to the Legislature an intent to enact legislation that is devoid of any purpose, is inefficacious, or is nugatory."

The judge found that the terms "motor vehicle liability insurance" and "survey" were not ambiguous, as the DBR claimed, and accordingly, the court concluded that DBR's decision was affected by error of law causing ABARI's rights to be "substantially prejudiced."

The Court ruled on Wednesday that the new statute § 27-29-4.4 applies to every insurance carrier authorized to sell motor vehicle liability insurance in Rhode Island and that every insurer governed by § 27-29-4.4 "must conduct a labor rate survey as provided in the statute and use that survey as the sole determinant of the prevailing auto body labor rate."

Insurance industry advocates had made filings in the case asking the court not to overturn DBR's decision calling the labor rate survey process "a badly flawed scheme for calculating the prevailing rate."

Massachusetts House Passes Strict Anti-Steering Bill

The Massachusetts House of Representatives unanimously passed a bill containing some of the strictest anti-steering language ever drafted. The bill states that no insurer "...shall require, suggest, request, or recommend that any appraisals or repairs should or should not be made in a specified registered repair facility..." without exception.

In addition, the measure would make it illegal for insurers to offer to warranty or guarantee repairs. Repairers often argue that an insurer's offer of a repair guarantee is a valueless offer that is used only as an additional tool to steer consumers to a direct repair facility. In many cases, it is the repairer, not the insurer, that is providing the repair guarantee.

House Bill 5056 was passed on July 31 and now awaits approval by the Senate, where the bill has received strong support according to the Massachusetts Auto Body Association (MABA). Should the measure pass the Senate, MABA says the bill is likely to be signed by Massachusetts Governor Deval Patrick, who has already endorsed and signed into law sweeping auto insurance reforms.

"Massachusetts recently passed laws promoted by Governor Patrick to encourage competition in the insurance industry," said MABA spokesman Stephen Regan. "House Bill 5056 is the final piece of that puzzle and will compliment the Governor's initiative by creating more competition, more products, and better services by collision repairers and other segments of our industry."

The bill is the result of work completed by an "Auto Body Working Group" established several years ago by House Financial Services Committee Chairman Ron Mariano, which included all interested parties and key members of legislature, including Senate Chairman Stephen Buoniconti.

The bill addresses not only auto body steering, but glass company steering and rental car steering issues as well. The bill stipulates that no company which serves as a third party biller for an insurance company may additionally provide auto glass replacement/repair services or rental vehicle services for that insurance company. Also, a third-party biller shall not be related to any glass replacement, repair services or rental and replacement vehicle company in any way.

Other HB 5056 reforms include:

- Authorization for shops to communicate supplement requests via the Internet rather than the current personal inspection requirement
- increased equipment requirements for repair shop licensure
- insurer requirement to distribute one list of shops free of any highlights or asterisks that identify the shops as a participant in an insurer program
- ongoing "Market Conduct" studies by the insurance department to gauge and report on compliance

Regan said that the bill's passage in the House helped many repairers better understand the importance of their participation. "The passage of this bill also shows that the Legislature listened to repairers and believed them and now understands the severity of some of the problems in our industry with respect to steering and other issues," said Regan. "Repairers are often frustrated at government inaction and may feel their efforts a waste of time. This action shows their efforts paid off."

Regan said MABA is encouraging all collision repairers in the state to contact their local state Senator and get them to support passage of House Bill 5056.

If someone is unaware of who their Senator or State Representative is, MABA encourages them to visit the [Massachusetts Secretary of State's Web site](#) or contact the MABA office at 1-800-ITS-MABA.

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To all of our sponsors whose financial contributions helped make our September 11, 2008 ABAC Meeting
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