

# ABAC NEWS

November  
December  
2017

The Official Newsletter of the Auto Body Association of Connecticut



**ABAC Educates & Celebrates 2017**

*Auto Body Association President Covers "Year in Review"*

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# ABAC President Tony Ferraiolo



## 2017 Year In Review

As with the previous years, the ABAC has been very busy.

Our mission is and has been bring educational meetings to our membership. A variety of events did exactly that this year. The Board of Directors are very hard at work to secure speakers that will educate and motivate you in 2018. We continue to provide our members with the latest news that affects our industry. We strive to make your business respectful and a good career choice for your employees.

We encourage you to provide continuing education for you and your employees on the latest repair information. We encourage you to repair vehicles per OEM procedures and recommendations, properly and safely.

For the motoring public, we strive to inform and educate them on proper repairs, including OEM repair procedures and proper parts choices. We serve as a consumer advocate for consumers and lobby to protect their rights under Connecticut state regulations involving collision repair. We support our state trade schools to provide future technicians.

The list goes on and on. Here is a list of just some of our accomplishments for 2017.

- Increased membership
- Increased ABAC News Supporting Advertisers
- Continued growth of ABAC News to another level
- Record breaking attendance at membership meetings
- March Meeting hosted Mike Anderson
- May Meeting was "Are you really the only one"
- September meeting hosted Shawn Collins from 3M on Corrosion protection

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- October Meeting “Refuse to Lose”
- November Meeting Jim Mickle General Motors (Post Collision Inspections, power steering)
- Solidarity with other state associations
- Represented Connecticut at leadership meeting at AASP/NJ Northeast trade show
- Attended OEM summit meetings (SEMA)
- Meetings with Department of Insurance
- Meetings with Department of Motor Vehicles
- Meeting with US Senator Blumenthal’s office
- Testified Insurance and real-estate committee
- Meetings with Tech Schools advisory committee
- Created social media Campaign Facebook, Twitter ect. (Continuing education of consumers)
- Created shop posters (Consumer Alert Beware of any Insurance Company or Appraiser) **Free to member shops.**

All this and much more in one year. I wish I could take the credit for such accomplishments, but I can’t.

This was all possible with the support of a lot of people. First a Very Special thanks to the ABAC Board of Directors, who are dedicated and work hard for you. (Love you guys and Gals)

Next our Executive Assistant, Heather Romanello for all she does to make this association run so smooth, and make me look like I know what I’m doing!

A special thanks to the ABAC legal counsel John Parese for, well, everything he does so well for us all.

Andy Markowski our Lobbyist for his watchful eye at the capitol and setting up all these meetings with state agency’s Senators and Representatives.

Don Cushing and Dave Fogarty for their hard work on ABAC News. Our supporting advertisers who support this association and its endeavors.

To our Meeting sponsors who make our membership meetings such a huge success.

And last but certainly not least you our members who make this Association one of the strongest in the country.

Just wait and see what 2018 has in store for you. Look in this mailing for upcoming special meeting you not want to miss January 11<sup>th</sup>. In unity there is strength In strength there is power

I would like to wish everyone a safe and happy holiday season for you and your families. And a prosperous New Year. Merry Christmas See everyone in 2018.



**President**  
**Auto Body Association of Connecticut**



## Education Was Major Industry Concern in 2017

**Starting with the inauguration of the 45th President, moving on to the solar eclipse and three devastating hurricanes, 2017 has been a year to remember with many major changes impacting the United States.**

The collision repair industry has continued to change as well, with evolving technology and raging legal battles, including the renowned John Eagle lawsuit in Texas. Associations around the country offered a variety of educational opportunities through meetings and conferences, and as the New Year crept up on us, Autobody News spoke with several association leaders about the best and most memorable things they did in 2017.

From getting associations off the ground to establishing a broader member base, several associations focused on growth this year.

**Stephen Regan, Executive Director of ASA-MA/RI, shared,** “The most memorable thing ASA-MA/RI has done in 2017 is open its doors. We have brought back to the region an entity dedicated solely to the advancement of collision and mechanical repair shops and those who serve them. Unlike many state trade associations in the industry, ASA-MA/RI has a fully staffed, dedicated office location. Our sole purpose is the professional operation of the association on behalf of its members and supporters.”

**Brian Davies, President of the North Carolina Association of Collision and Autobody Repair, stated,** “2017 was our first full year of existence. It is a broad statement, but we made ourselves relevant to the collision industry in North Carolina and made a significant impact by bringing the collision industry closer together, learning how to work together, and helping each other improve while improving the industry in North Carolina. Another big one was being accepted as an affiliate member to the SCRS. With their support, we all feel more confident knowing we have others all over the U.S. that have our back. In addition, having the support of the largest paint manufacturer, PPG, has been invaluable, and without them, we would not be where we are now.”

The Women’s Industry Network (WIN®) has surpassed its goals, but continues to focus on growth.

“After a very successful and exciting 2017, it is challenging to focus on just one thing... besides encouraging, developing and cultivating opportunities to attract women to collision repair, the WIN Board of Directors considered how we might move our organization to the next level of impacting women,” noted **Petra Schroeder**, WIN’s Chair. “We reflected on our industry-at-large and surveyed our board leaders, our members and our sponsors to assess their satisfaction with their WIN affiliation. This was followed by a board retreat to reflect on our current position and to dream about WIN’s contributions to our industry in the future. Finally, we charted the course to get there through our 2018–2020 strategy plan. It sets out a bold and ambitious vision for the members of WIN and all women in the collision repair industry. It will also provide direction for the ongoing growth and sustainability of our organization in a rapidly changing industry.

“In our first strategic plan (2008–2011), we envisioned a 500-member-strong national network, recognized as a key contributor to our industry’s success. We surpassed the 500-member mark in 2016. In addition to ensuring that we continue to provide value for our growing network of members, the new plan looks beyond our membership to identify ways that WIN can have a greater impact on industry diversity and sustainability.”

Education, for both repairers and consumers, was also a major area of concern for many associations.

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**According to Auto Body Association of Connecticut (ABAC) President Tony Ferraiolo,** “I think the best thing our association did in 2017 was bring educational meetings to our members. We also took a stand on photo estimates, informing consumers and shops that, in our state, the customer has the right to have their vehicles physically inspected in person by a licensed appraiser if they choose to [do so].”

**Ray Fisher, President of ASA-MI, shared,** “There were many things that were quite memorable in 2017, but the one that I think stands out for the collision repair industry here in Michigan is the session that we created from scratch, titled ‘The Relationship between Structural Repair and Vehicle Calibration.’ The reason that it stands out was because it came about from a conversation at the PF3 Paint Supply Open House and [came to] fruition within a few months. The training was intense, and it combined collision and mechanical technology and teachings, creating awareness for not only what is ahead, but also what is on the road currently. I am proud that ASA represents the professionals within the automotive independent collision repair industry, and I think it is important to keep that attribute at the forefront as we move into the future. “Today, not only is our reputation of craftsmanship at risk, but the lives of our customers and their families are in our hands every time we make a decision to repair a vehicle. I believe that 2017 served as a ‘wake-up call’ to the repair industry reflecting on this very point via a major settlement. Just as the cardiologist does what their previous or their required annual training taught them to do during open heart surgery, the technician also has to apply their knowledge to repair the vehicle properly within the guidelines of the vehicle manufacturer to ensure safe and proper repairs. I understand keeping the cost of repairs down---that is the art of negotiation between two businesses---but it should never be used to pressure anyone to compromise proper and safe repairs being performed by the expert.”

**Burl Richards, President of the Auto Body Association of Texas (ABAT), said,** “The most memorable things ABAT did in 2017 were related to Todd Tracy, who allowed us to visit his law firm in Dallas. It was unlike anything we had ever seen, with hundreds of wrecked vehicles in warehouses at his facility. It was eye-opening to see the amount of time and expertise that was being used to inspect these wrecked vehicles. Then, we invited him to speak at our tradeshow. His presence was met with a little resistance from the industry, but once everyone heard the message, ‘Repairing vehicles has consequences, so you better follow OEM guidelines,’ it was a message well-received, and I believe it made us all better for it.”

For the Automotive Service Association (ASA), the most important experience in 2017 was related to legislation.

**ASA Executive Director Dan Risley shared,** “We have invested several thousand man hours representing our members and the industry in Washington D.C. We have been working tirelessly with legislators, other industry partners and the OE’s on new vehicle technology relative to telematics, (ADAS) advanced driver assistance systems, autonomous vehicles and the connected car. ASA has been extremely vocal and visible representing the best interests of the collision and service repair industries. Our goal is to ensure that our members continue to have access to the information necessary to repair their customers’ vehicles without having to enact legislation. As cybersecurity and data ownership continue to take center stage, we are ensuring that the independent repairer is part of the solution and equation.”

A lot of momentum was begun and carried through into 2017, and 2018 is gearing up to be an even bigger year for the collision repair industry as these associations and others continue to educate members, expand their offerings and fight for the rights of shop owners and consumers.

Source: [www.autobodynews.com](http://www.autobodynews.com)

Written by Chasidy Rae Sisk

## “Refuse to Lose” Seminar attracts Collision Repair Shops from Fairfield County and Beyond



Tony Lombardozzi

Bob Amendola

Dave Fogarty

Tony Ferraiolo

The Refuse to Lose event was a great success with over 100 attendees from repair shops and industry-related organizations. We had a host of speakers including:

- Dave Fogarty – Lorensen Auto Group
- Tony Ferraiolo – A&R Body Specialty - Wallingford
- Joe Miano – Friendly Auto Body - Hartford
- Ed Lupinek – Eddie’s Auto Body – East Haddam
- Bob Amendola – Autoworks of Westville
- Mike Wilkowski – Stanley’s Auto Body - Waterbury
- John Parese – ABAC Legal Counsel – Buckley, Wynne & Parese

These dedicated people offered their personal ideas on how to correct and eliminate the barriers our industry faces. Many of the topics we discussed included the importance of following OEM repair procedures, photo estimating, towing and storage, the art of negotiations, using social media and processing short pays in small claims court.

Tony Lombardozzi of Superare Marketing also spoke at the event addressing the state of the industry and reminded shop owners to know their true cost of business and charge accordingly.

The meeting really struck a chord with attendees and the feedback we have received has been tremendous. Throughout the meeting everyone was so attentive that you could hear a pin drop in the room. With a town-hall style format, attendees were able to ask questions throughout the meeting, sparking great conversations and improving the discussion even more so.

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The purpose of the meeting was to encourage and motivate member shops to believe in themselves and “refuse to lose”. Refuse to lose money, time, resources, and negotiations with insurers.

Association-sponsored events are so important because they add value to our membership and help industry professionals in more ways than one. Association-sponsored events not only address topics that are pertinent to our industry, but these events also help promote a sense of unity between members.

We host these events to not only shed light on critical aspects of our industry but to also help foster relationships between members. “In unity there is strength. In knowledge there is power.”

We would like to thank the following sponsors for their support of the “Refuse to Lose” Seminar.

- **Buckley, Wynne & Parese**  
John M. Parese, Esq
- **Lorensen Auto Group**  
Dave Fogarty - Wholesale Parts Director
- **Paul Francis & Co.**  
Paul Modica - President



## ABAC Hosts GM Workshop/Training

Another packed house descended upon the Country House Restaurant in East Haven for education on a variety of subjects presented by representatives of General Motors.

President Tony Ferraiolo began the night by thanking those in attendance and our sponsors for the evening. He thanked Stephen Auto Mall for their efforts with the educational portion of the evening's meeting. Says, Ferraiolo, ***"Training is so important to our industry and anytime you are able to attend an ABAC Meeting and the training is free, you must take advantage of it."***

Our Sponsors for the evening:

- Stephen Auto Mall Centre
- ABSAP - Auto Body Supplies And Paint
- Enterprise

Ferraiolo then welcomed Tony Lombardozi, President of CCRE and co-owner of Superare Marketing to the podium. Mr. Lombardozi talked about the **"Refuse to Lose"** seminar that was held in Norwalk, and the tremendous cost of doing business due to, among other things, equipment, technician training and certification. Lombardozi is always able to teach shops not only on how to make better financial decisions but also to train shops on the way to effectively conduct their business the proper and profitable way. Says Lombardozi, ***"If you want to see change, YOU have to make it!"***

Back to the podium, Ferraiolo touched on the effects of the now infamous John Eagle Case. He commented, ***"You have to be qualified to repair cars and sometimes you just have to say NO and walk away from jobs that you might not have the equipment or knowledge to repair. And that's hard for us because we're pretty resilient and want to be able to fix anything, and most of the people in this room can do just about anything. You will be faced with choices in the future that you're not always going to want to make, but you'll need to make the right choice and do the right thing. At the end of the day you have to feel confident of the repairs that you made. You feel confident that you can stand behind the repairs that you made, that you don't have to worry about some attorney coming after you for liability because you did not research the repair and follow the repair procedures that need to be followed according to the OEM's!"***



The ABAC would like to thank our new ABAC News Supporting Advertisers:

- National Products
- Metro-Car-O-Liner
- Lombard Equipment

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President Ferraiolo then introduced our feature speakers for the evening:

- **Jeff Shaw – GM Wholesale Specialist**
- **Jim Mickle – GM Parts Trainer**

Jeff thanked the staff at Stephen Auto Mall for their involvement in getting Jeff and Jim to make the presentation for the ABAC Meeting.

Said Jeff Shaw, *“Jim Mickle was my instructor for a number of years and tonight you’ll have an opportunity to learn from the best. The training book*

*that are on your table contain a lot of information as far as where you can find GM Repair Procedures, Position Statements and an abundance of collision training. The website is [www.GenuineGMParts.com](http://www.GenuineGMParts.com). The OEM is there to assist you.”*

At this point Jeff brought Jim Mickle to the front to go over a variety of repair procedures and give us information on:

- **Post Collision – Power Steering Inspection and Repair**
- **Supplemental Restraints – Service & Repair**

Excellent training by excellent, qualified people.

The ABAC wants to thank Jeff Shaw and Jim Mickle for their time in presenting this educational opportunity to ABAC Members and also thanks to Stephen Auto Mall for helping to make it happen.



**AUTO BODY  
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## Nick's Garage - A Great Ruling from our Second Circuit on Some Issues that Might Sound Familiar.

*John M. Parese, Esq, ABAC General Counsel*



The Second Circuit Court of Appeals<sup>1</sup> recently issued a favorable decision in the case of Nick's Garage, Inc. v. Progressive Casualty Insurance Company, Et. Al. (Docket No. 15-1426-cv). In that case, the Court of Appeals, with great insight, rejected several ill-founded insurer arguments used by insurers to proliferate cheap imitation parts and underpay on repair claims. Here are three excerpts from the opinion that highlight why I found this decision so helpful. For anyone interested in this subject, I would encourage you to read the Court's entire decision, which is excellent and exceptionally critical of the lower court's decision (a decision that had me scratching my head).

First, Progressive (referred to as "Insurer") argued that Nick's (referred to as "Garage") through assignment could not establish that "damage" was suffered because the vehicles at issue were repaired. The Court disagreed, holding that Progressive "was obligated to pay its insureds the 'loss' on a covered vehicle, i.e. the amount of money sufficient to return the vehicles to their pre-loss condition. Thus, the difference between what Insurer paid to Garage and the amount necessary to return the vehicles to their pre-loss condition constitutes damages suffered by the insureds on which Garage, as assignee, can bring suit." I thought this analysis was important because it recognized two important points: one, it recognized a shop's right to bring a claim by assignment; and two, that there can, in fact, be legally recognized damage caused by an insurer's short pay on a claim.

Second, Progressive attempted to argue that it was not required to pay for non-OEM parts pursuant to its insurance contract. Again, the Court disagreed, holding: "The fact that the policy permits basing the cost of repair on non-OEM parts does not mean that non-OEM parts will in all instances be sufficient to satisfy Insurer's contractual obligations. Insurer is obligated to pay a sufficient sum to return the vehicle to its 'pre-loss condition.' This may or may not be possible using non-OEM parts for a particular repair." The Court reasoned that Progressive cannot simply limit its payments to the cost of non-OEM parts in all instances. New York law allows for the use of non-OEM parts, but requires that the part "shall equal or exceed the comparable OEM crash part in terms of fit, form, finish, quality and performance." Though Connecticut does not have a similar statutory provision, there is no reason to think a lesser standard would apply in the designation and use of any non-OEM parts. Thus, pursuant to this decision (which oversees our jurisdiction, and is therefore, precedential and persuasive) an insurer cannot simply refuse to pay for OEM parts because its policy includes the right to use non-OEM parts. This panel of distinguished judges – in our jurisdiction – essentially just ruled that if non-OEM parts do not return a vehicle to "pre-loss condition" those non-OEM parts should not be used and the insurer, regardless of what its policy states, would be obligated to pay for OEM parts if those parts are necessary to fix the car properly. This is a big deal.

Third, and this is equally compelling, so pay attention: Progressive attempted to get summary judgment on the basis that it only needed to pay the prevailing competitive labor rate **as determined by Progressive** using its bogus labor

***1 The Second Circuit Court of Appeals hears appeals from the district courts within the circuit, which includes six districts within the states of Connecticut, New York, and Vermont.***

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rate analysis of what it pays DRP shops. This is an absurd argument that I have frequently confronted in court. Both the contractual provision and methodology of establishing labor rates is fundamentally flawed, and the Court in Nick's Garage recognized that. Nick's Garage outwardly rejected the insurer's theory that it can serve as the judge, jury and executioner in this context, holding that: "The fact that repair shops may accept a labor rate paid by a particular insurer that may bring the shop a large volume of business does not demonstrate that the shop, or shops generally, would accept the same rate in dealing with another insurer or a customer who has only one car to be repaired. In other words, Insurer's evidence that it pays labor rates based on its own ability to get repair shops to agree to those rates does not demonstrate that it pays what it is contractually obligated to pay – the rates that actually prevail in the market in the area where the repairs are performed." Thus, insurers cannot simply utilize DRP networks to artificially suppress labor rates, then use that program as a basis for setting forth what the prevailing competitive rate is.

In summary, the Nick's Garage case is a great ruling for the good guys and includes important dicta and guidance on how issues of this nature should be treated by lower courts. The Court overturned a summary judgment originally found in favor of Progressive, which is no easy endeavor for an appellate court. From my perspective, the case involved many of the same arguments I regularly confront. This decision resolved every one of those arguments in our favor. The ruling is of great persuasive weight here in Connecticut and should be used as such.

That's all I have for 2017. I wish you all a happy and healthy holiday season. Provided the "Editorial Board" has not sought the wisdom of a cleverer attorney/comedian to pen these stupid articles, I expect to be back in 2018 – bigger and better. Try to control your anticipation in the meantime.

*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.*

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## Social Media Update 12/15/17

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We have been working hard to build our online presence and educate consumers through our ABAC Facebook page. In the last two months, we have reached over 25,000 people and surpassed 1,000 likes/followers through posts and advertisements! We continuously monitor the page for comments, questions and concerns from followers to show them that we are here to help and inform them.

Our intention is to create a social media presence that not only promotes education and awareness but also empowers consumers to protect their best interests. We have been posting consumer alerts, imperative safety information and helpful tips to help educate the motoring public as best we can. Many of the topics we have covered include the hazards of photo estimates, steering by insurers, vehicle owner's rights, the difference between OEM and imitation parts, driving in hazardous conditions and tips to prepare vehicles for the winter.

Most recently, we shared Todd Tracy's introductory YouTube video explaining the upcoming crash tests he is sponsoring that will be conducted at Karco, an NHTSA-approved crash test facility. We will be posting the results as they become available in an effort to shed light on the difference between OEM an imitation parts and what happens when a repair shop strays from manufacturer's repair procedures.

With 2018 right around the corner, we are preparing our marketing plan and gearing up for another great year. Stay tuned to see what we have in store!

***P.S. You can help us expand our reach! From your Facebook account, search "ABAConn" and make sure you "like" and "follow" our page. Additionally, please share our page with your family and friends and encourage them to do the same.***

***Submitted by Board of Director Ashley Burzenski - Autoworks of Westville***

## CIC panel: Shops should prepare for vehicles notifying owners of their work — and mistakes

Telematics will alert customers to collision repairer activity — and inactivity — on their vehicle, two diagnostics experts warned last month at the Collision Industry Conference.

“The customer has the ability to check up on us,” AirPro operations Executive Director Chuck Olsen said of newer vehicles during the Oct. 31 Emerging Technologies Committee segment.

“We are going to be seeing more and more of that,” he said.

The shop is now “committed” to doing a post-repair scan to ensure that the car confirms a clean bill of health to the customer after delivery, Olsen said.

It’s not just newer vehicles with built-in OEM devices, such as OnStar’s diagnostic alerts dating back to 2015 or Hyundai’s Blue Link dating back a couple of years prior.

Aftermarket OBD-II plug-ins such as Verizon’s Hum and Meineke’s Revvy can alert drivers to diagnostic faults on vehicles dating back to 1996.

Insurers might also encourage the use of diagnostics-capable OBD-II plug-ins on older vehicles as part of a usage-based insurance or claims-management program. (Which will make for an ironic situation if an insurer refuses to pay for a post-repair scan and the carrier’s own plug-in notifies the customer of remaining DTCs.)

Collision Diagnostic Services director of client services Jake Rodenroth described his grandfather, an electrical engineer, asking why his vehicle’s OnStar report was different the month it was in a shop.

This kind of transparency to a customer “certainly creates a question at the act of delivery for a shop,” Rodenroth said. A report from a telematics device outing the vehicle’s internal issues post-delivery will be like returning a car with mismatched paint or a misaligned fender, he said. The customer will catch the error.

The conversation arose following a question by audience member Mike Anderson, CEO of Collision Advice. Anderson described two situations — one involving a Toyota, the other with Rodenroth’s grandfather (presumably the same one Rodenroth mentioned earlier) — where telematics on a vehicle alerted the OEM that parts had been removed.

The OEMs in turn sent emails to a customer notifying them of the parts’ status, Anderson said.

This chain of events could be avoided for a Toyota if a shop disabled Safety Connect using a scan tool, Anderson indicated. But if shops aren’t educated about the issue, “all these consumers are going to start getting emails,” he said.

Anderson asked if the committee saw itself contacting OEMs about what kinds of telematics systems needed to be disabled in this fashion.

“We certainly would welcome that participation,” Rodenroth said.

Rodenroth noted a similar issue in the case of NissanConnect. The car has a curfew alert, which will bust a teenager sneaking the car out after a certain time by notifying their parent, the Nissan owner. Nissan Connect also features a boundary alert, where driving outside of a certain part of town causes the vehicle owner to be notified, he said.

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This is great for a vehicle owner living with a rebellious child or near a bunch of auto thieves. But it could lead to the owner receiving the same alerts in response to legitimate repair activities, Rodenroth said. These could include a shop test-driving a vehicle at odd hours or calibrating it by driving 40 mph on an out-of-boundary stretch of road. (A calibration which might also need to occur at an unusual hour in a congested urban area.)

Noting that OEMs had to sell the technology to drivers, Rodenroth encouraged repairers to take advantage of the automakers' consumer-facing webpages describing the systems as a means of boning up to intelligently discuss the tech with customers.

Source: [www.RepairerDrivenNews.com](http://www.RepairerDrivenNews.com)

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## Understand this or die!

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There is a difference between RESEARCH and TRAINING. Training classes are for general subject procedures. As an example: How to pre-clean a panel before bodywork is started. This knowledge can be applied to most cars that are repaired at your shop. There SHOULD be a budget for this training built into your door rate and is part of your cost of doing business. Today, if you do not train OR you do not get paid to train, you will surely die. This is not funny. There are two things that have to happen. Both have to happen. Keep rereading until you understand.

Research is for information needed to repair "a" car and may be forgotten or outdated by the time that same model is repaired by that technician again. If you hired an architectural firm to have a bridge repaired, you would expect them to do research for your situation and you would expect to pay for the necessary research to do a safe repair. Getting paid for research is not a crazy idea. Not getting paid is the crazy idea. This is a required procedure today. There is not one person reading this that could tell me where the battery is in every model car out there. Why would anyone think that an autobody professional could or should know every trouble code, every metal type location, and every quirk in every module that was ever made? Research must be done to do a safe repair today. Cars are like iPhones on wheels but people's lives are endangered if their vehicle does not perform correctly. The liability a body shop owner has today is downright scary.

The idea that .3hr @ some insurance rate could possibly cover the research required to safely repair today's cars makes no sense at all. What that turns to in dollars would not cover the cost of the updates for a good scan tool. Our costs are real. They do not go away just because we do not want to pay them. If we do not pass these required costs on, we will die in the near future.

Change is never easy. We have to change to repair these new cars. We do not have to die. The insurance industry must also change. They have the same option that we have. If they do not want to pay for the proper repair of today's car, they have the option of only insuring cars that are twenty years old and older. Nobody is forcing them to insure this new breed of car. The more I think about it, I am looking forward to some changes.

I hope you understand,

**Eddie Lupinek - Eddie's Auto Body - ABAC Board of Director**

## What the Recent Wave of Lawsuits Means for Collision Repair

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That's what shop owner Leif Hansen kept reiterating while discussing the scope of the lawsuit he's filed on behalf of Leif's Auto Collision Centers against GEICO.

But the question is whether this "iceberg"—aka the slew of recent lawsuits varying from John Eagle's failure to follow OEM procedures, to Nick's Garage accusing Nationwide and Progressive of breaching contracts, to Hansen's own hub-and-spoke conspiracy theory—will be a catalyst for industry change.

Particularly: A change in insurer-repairer relationships.

No court case is the same, but with various insurance companies being involved in a large majority of them, shop owners are raising concerns of liability and unfair payment. And, as Erica Eversman (a collision repair attorney for Vehicle Information Services) noted in a previous article with FenderBender, the John Eagle case wasn't just another lawsuit—it was a watershed moment; it was the stepping stone that could lead to massive, industry-wide action. But for massive, industry-wide action to take place, it requires more diligence and accountability from collision repair shops, says Doug Irish, co-chair of insurer-repairer relations for the Collision Industry Conference (CIC). *FenderBender* spoke with both Hansen and Irish to evaluate the legal landscape and gauge whether change is, indeed, coming.

### Leif's vs. GEICO

This isn't the first time Hansen has seen GEICO (who did not respond to an interview request from FenderBender) in court. In a case over rates back in 2016, Hansen won and hoped that it would change things—unfortunately, it didn't. In November 2017, Hansen filed on behalf of his two-location shop operation (once 11 locations) against GEICO, alleging the insurance company contracted with a group of body shops in various Portland regions to set a ceiling for repair rates. Hansen says that discounted rate is being forced on other shops that believe they are conforming to the "market rate."

In his part of the market, Hansen says the going rate for mechanical work is about \$110-120 an hour for domestic vehicles. He alleges that GEICO shops do the work for \$58 an hour.

"As the lawsuit explains, this is a classic hub-and-spoke conspiracy where a big industry giant bullies its way to higher profits," said Steven Olson, attorney for Leif's. "Many Oregonians will be surprised to learn they are driving unsafe cars as a direct result of GEICO's backroom dealings with repair shops."

But this push-and-pull with GEICO has been going on for a bit. In addition to Hansen's previous suit against GEICO, earlier this year the insurer filed against Leif's for using "intimidation, delays and other abusive tactics to keep adjusters from inspecting vehicles."

When asked how the lawsuit is affecting business, Hansen says that he has to send a daily email to the president of GEICO claims, listing the dozen-and-a-half cars that have been sitting in his shop waiting for them to be approved, with some cars being there for almost a month.

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After recently discovering his shops have been insured with GEICO for personal auto insurance for quite some time now, Hansen also personally filed a class action on behalf of all the GEICO-insured across the nation for breach of contract, claiming that GEICO sold him a policy that does not pay out 100 percent when a claim is made.

## **More to the Puzzle**

Irish believes it's more complex than just one insurance company telling a shop what it can and can't do.

"[These lawsuits] ... are trying to work through some laws that I don't necessarily agree apply to the issues that they have at hand," Irish says. There's always going to be the same issue between insurers and repairers on whether or not they're being paid properly, he says.

"The challenge that I have is that whenever I see these lawsuits, it always claims that the insurance carrier is either prohibiting or preventing or demanding the shop fix a car improperly. I've always taken the position that the insurance companies don't have anything to do with a repair," Irish says. "They're there to indemnify the owner of the vehicle to have the vehicle repaired, so the only control they have is how much they will pay for the repair and that's what the shops need to negotiate. A fair price for fixing the car. "

The insurance company never touches the car, Irish says, so shops can't claim after the fact that the insurance company didn't let them repair it properly.

Not speaking to the Leif's case in particular, Irish says that when it comes to cases similar to that of the John Eagle case, it's fairly common for shop technicians, managers or owners to say they didn't repair something because they weren't being paid. His response to the shops he works with is quite simple:

"You need to fix the car properly regardless of whether or not you got paid for it up front."

For actual change to happen, Irish says, it would depend on how many cases reach a jury verdict. If these cases keep getting settled beforehand, he says, it's going to be very hard for any shop to claim that an insurance company is culpable in an improper repair.

## **Covering Your Bases**

Ninety percent of the time, when a shop owner claims a insurance company prohibited a repair, Irish says the shop owner cannot provide documentation of it.

To avoid a he-said-she-said situation, whenever you're discussing claims with the owner of the vehicle or the adjuster, Irish suggests you ask them to send you a follow-up email about the discussion.

Otherwise, send the other party a summary in writing of what you've discussed so you have documents to back up your case.

"Photos and documentation are more important than any telephone conversation you're ever going to have," he says.

**Source:** [www.FenderBender.com](http://www.FenderBender.com)

## Saying No to Low Paint and Materials Profits

At Brian Martin's two high-volume shops, everything counts—especially when it comes to paint and materials.

As director of auto collision for Lexus of Pembroke Pines and Lexus of North Miami (Florida), he sees about 500 cars per month across both body shops. But with such high volumes, he noticed that his paint and materials (P&M) profits could be tracked a little better. And with a push from insurance companies to reduce paint times on estimates, he knew he needed a better system to combat falling victim to not being compensated appropriately for his shops' work.

After some critical tracking and standing his ground with insurers, Martin excelled in the P&M department. Here's how he did it.

### The Backstory

Martin has been with Craig Zinn Automotive Group for 11 years. He designed, engineered and built the body shop for Lexus of North Miami. But despite the major strides the shops have made, there was once a time when Martin noticed that his P&M profits could be improved, as his operation consistently sat in the low- to mid-40 percent range. His company brought in Mike Anderson, president of Collision Advice, and joined his Axalta 20 Group to identify ways to increase those profits.

### The Problem

"There were a lot of initial obstacles," Martin says about beginning the journey to increased P&M profits. And it all started with evalu.

According to Martin, South Florida has some of the lowest labor rates in the country and low allotments for P&M work, which he realized when he started going to 20 Groups and learning about other shops. And when insurance companies decided to reduce the paint times on repair panels, he says it was a huge eye opener and a huge profit decline. After being told time and time again by insurance companies to either comply or lose the DRP,, Martin eventually opted to eliminate the partnership. "[After losing the DRP], we lost some volume, but in the end we certainly made that up in profit," he says. "We really have to focus on what we're collecting from the insurance company as far as paint and material sales per repair order."

Once he addressed the concerns with the insurance companies, he began reviewing his internal operations and realized there were a number of issues:

**Balancing the paint increase:** Martin says that there is a constant yearly increase in paint costs. The manufacturers triple, if not, quadruple the pace of additional income for paint and materials allotted by the insurance company, so it's essential that they balance the costs.

**Reduction in paint times:** He wasn't fighting against the reduction of paint times on estimates.

**Maximizing estimates:** Shop employees weren't sure if they were charging appropriately for all the simple things, like a two-color setup or blending.

**Measuring:** The shop did not effectively measure each painter's usage or identify overpouring problems.

### The Solution

First, the shops made it a standing practice that they were never going to allow paint reductions unless it can be proven otherwise by an insurance company, Martin says.

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Because manufacturers provide paint times to estimating softwares such as CCC, insurance companies will manually reduce the times with an argument such as, for example, since only a portion of a panel is being painted, the entire time allotted is not needed, according to Martin. This reduces labor revenue and the allotment for paint and materials based on paint labor time. “We, under no circumstance, allow for a paint cap,” he says.

He says that a lot of the time, they have to educate insurance companies as to why the processes don’t change when repairing a panel and why the reduction in times don’t work. And when he asks them why they chose the amount they did, he says “99 percent of the time,” they can’t substantiate the answer. “When we pushed back and held our line, they came back,” he says.

Next, Martin evaluated the estimates. He realized that the biggest and easiest way to increase P&M profitability was through the selling and estimating process. Since flex additive isn’t included in the Axalta paint line and there is a high volume of cars that require the additive on bumper work, Martin concluded he needed to charge for it. “We really have to make sure that if we’re doing it, we’re getting paid for it,” he says. “With one of our DRPs, we’ve been advised that we’re the only ones in the state of Florida that charges for flex additive.”

If for any reason the shops have a low P&M profit month, Martin says that his team prints a detailed list of all the repairs orders for the month and calculates what went wrong by asking the following questions:

- Did we have any paint caps?
- Did we have a low paint and material per estimate?
- Was it a certain estimator?
- Was it an estimator that wasn’t trained properly?
- Did we have re-dos from a certain paint technician?
- Did we have any waste?
- Has our hazardous waste removal gone up?

In addition to the shop’s management system, he began tracking the each paint technician’s usage per hour through Axalta’s paint scale.

“One of the things that made a big difference to us was measuring all of the products across the scale,” he says.

Every painter has to enter their repair order on the mixing scale and mix across the scale. This way, he can assess if it’s the same tech that consistently has low profits, if more education is needed, etc.

The shop also uses Nuventory, which is a software that allows Martin to calculate the cost per hour per tech for dry goods. “It’s more to let us know what we’re using and what we’re ordering and that’s something that has been extremely cost efficient for us,” he says. “In fact, it lowered our dry goods by half.”

## **The Aftermath**

Now, the shop is consistently in the 55–65 percent range for P&M profits across both shops, a more than 10 percent jump from his profit margins in 2012. Martin says that because the estimates are being done correctly and reflect the proper paint times, it has helped tremendously with the technicians’ morale.

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This led to improved efficiency. All techs across both locations are above 150 percent efficiency, a 15–20 percent jump from where the techs were before the P&M changes in 2012.

## The Takeaway

From this experience, Martin has realized his top five tips for any shop looking to increase P&M profits:

- Focus on each and every estimate.
- Focus on not accepting a paint cap.
- Focus on not having reduced paint times or blend within panels, even if it is with a DRP.
- Understand what it takes to fix the cars back to manufacturers' standards.
- Join the 20 Group of your paint manufacturer.

## Expert Advice

Brent Beaulieu, national account manager for Axalta Coating Systems, has helped many of his clients' time and time again with their P&M profits.

Having been in the industry for over 20 years, working in body shops and eventually transitioning into his current role, Beaulieu offers some tips for achieving and maintaining high P&M profits.

### Tips for Easy Implementation

- Standardize the materials: Whether you're an independent shop or an MSO, most tend to allow their techs to buy all types of materials from different brands. That makes it hard to track your usage.
- Separate your accounts: Having a breakdown of your distributor accounts, such as taxable and non-taxable, makes it easier to determine the best area for your accounts.
- Understand both sides: There are two sides to P&M gross profit: the cost side (which is what the body shop purchases) and then the sales side (which body shops collect on estimates). If you spend more than what you're bringing in in sales, that's obviously bad because you'll have a negative gross profit. You need to make sure that you're capturing sales from estimates.
- Spot check the estimates: Have your estimator spot check other estimates. If you have peers spot checking, you can capture additional material sales.
- Tips to Achieve and Maintain Improved Profits
- Consistency. Continue to monitor and operate your processes in place.
- Standardize materials (see above).
- Limit your suppliers. Limit your suppliers to preferably one. Most shops search for the best deal, so they buy from multiple distributors. This makes it tough to keep up and you suddenly become blinded by the "best deal."
- Check in. Check on your suppliers' pricing every six months to ensure consistency

**Source:** [www.FenderBender.com](http://www.FenderBender.com)

## SHOPS WILL NOW RECEIVE E-COMMERCE RISK RATINGS

Government Regulatory Compliance, LLC., a consulting firm in Reno, NV, recently announced that they had been selected to evaluate a new e-Commerce risk rating system developed by a group of private investors as a secondary screening measure for vendors, lenders and insurers within every aspect of the automotive aftermarket, including body shops, car dealerships, their vendors and insurance partners. Slated to be effective in all 50 states by 2019, this new compliance credit rating will differentiate collision repairers in a significant way, according to Steven Schillinger, the lead consultant overseeing this venture. "This new scoring system is being established for suppliers, creditors and underwriters to help evaluate the risk of doing business in the ever-changing automotive aftermarket," he explained. "This rating, generally called round-robin rating, will indicate whether a shop may have additional low-risk disruptions that can result in costs.

"Regulatory agencies such as EPA, NFPA, PCI and OSHA have already established scoring standards for compliance attainment and every collision repairer is continually rated and measured," Schillinger said.

"Correspondingly, credit scoring bureaus have accepted scoring standards to indicate if a company will likely pay its bills. Like regulatory agencies, credit scores are available from bureaus like Equifax, Experian, and TransUnion that calculate ratings using mathematical models built by FICO."

These new ratings will be more important to body shops, especially after a recent court decision that took place earlier this year. "In the aftermath of the John Eagle Collision civil case where a couple was awarded \$31.5 million for an improper repair on a Honda Fit, insurers are going to be more proactive about vetting shops," Schillinger said. "They don't want the liability and they don't want to be associated with poorly rated shops, so these ratings are going to be used by insurers as part of their due diligence on a regular basis."

This new rating system will be available to the public, so consumers will be able to access the information as well, just like with credit ratings, Schillinger said. "There are some obvious similarities between credit scoring and compliance scoring. They are both based on various performance and historical data. In addition, they are both calculated using scoring models built around proven mathematical calculations. "However, there are important differences as well," he said. "Credit risk scoring models are built to predict the likelihood that a business may become delinquent in payments. The compliance risk scoring models, by contrast, are built to predict the likelihood that a company may become negligent in regulatory requirements. The Property and Casualty Insurers Association of America "PCI" recently posted new e-Commerce laws that expand access to insurance information by adopting electronic posting of insurance policies. Now there is a growing number of states that are embracing the idea of allowing consumers to have greater electronic access to automotive service and repair shops' insurance information."

Phil Troy, President of ComplyNet Corporation sees great value in this new e-Commerce risk rating system "Compliance ratings are used differently from the way a creditor would use a credit risk rating," he said. "For example, a compliance rating is most often just one of many factors used in an account evaluation. Most bankers and insurers use credit ratings along with inspection reports, permit and license history, city and state records and other kinds of information in their decision-making process." These numbers speak volumes and will become more and more vital in the collision repair industry overtime, Troy said. "What kind of business do you own and operate? Are you operating in a compliant manner or cutting corners? With this new system, the good shops will excel while the shady operators will suffer. Insurance companies, paint companies, equipment companies and finally the customers themselves will be able to use these numbers to make decisions about whom to work with."

Schillinger said that top operators won't be concerned by this system, because they're already compliant and operating within the law, he said. "In this age of full transparency and accountability, this is the way things are going and those businesses that are already doing the right things will benefit from this system. But, shops and other automotive businesses that are continually cited or fined for not being compliant, they won't like this system."

*Source: [www.abrn.com](http://www.abrn.com)*

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