

# ABAC NEWS

**JAN - FEB  
2012**

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*The Official Newsletter of the Auto Body Association of Connecticut*



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

**10% off.. For a limited time only...**

Get ready, The ABAC has been on fire lately. We are in the middle of our biggest media campaign ever with a radio ad on FM 104.1 and a television commercial showing on the Fox61, 10 O'clock news. The purpose of the campaign is to direct motorists to our consumer friendly ABAC web site, and remind them of the "Your Car, Your Choice" slogan. We have noticed increased web traffic as a result. All ABAC members have their web link posted on the site; hopefully you have received some positive feedback as a result of our actions.

We sent out a survey last month asking members if they would be interested in sending employees to I-Car training classes. The response was overwhelming and the results are in. We have approximately 240 people ready to attend classes. Your Board of Directors and I have met with representative's from I-Car to "hammer" out a plan of action, and bring our members what they want. More education, more training, more commitment to our ever-changing industry. We will be starting with three classes:

1. "Cycle Time"
2. "Steel Unitized Structures"
3. "Technologies and Trends"

Now the good stuff. For a limited time, The ABAC will be assisting all members that want to attend I-Car classes by paying 10% of the fee. This is an added benefit to being a member. So if you were on the fence as to whether you want to be a member, I hope this will encourage you to join. I feel the time is now to get involved so you're not left on the outside looking in. The ABAC has been on a mission to

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bring us all up to date with today's vehicle repair techniques, and this 10% discount, if used properly, could easily offset the cost of membership.

The ABAC has also offered their assistance to I-Car with the implementation and curriculum of the upcoming "Blueprint" course being introduced. This is one of the hottest topics facing your writers today. We are trying to eliminate the "Estimate" and bring forth the "Blueprint". The fact that I-Car has accepted our offer weighs volumes for the ABAC. We will now have a STRONG voice in the programs that affect our business. Right now we have three board members stepping up and assisting the program. Thanks to Bill Romaniello, Bill Denya, and Randy Serkey. These gentlemen will be taking time from their businesses and families for this worthwhile task. Thanks Guys..

I-Car will have representatives at our March meeting to introduce the upcoming classes and our relationship arrangement. This is a MUST ATTEND meeting. Along with I-Car, there will be representatives from Chrysler doing an OE presentation on repair procedures. This is part of our ongoing OE training series. This is being brought to you thanks to our friends at the Bald Hill Dodge Motor Group and our friend Don Cushing. We all owe Don and his staff a great big thank you for all he does for this association. Without supporters like him and Bald Hill, we could not function as effectively as we do.

This issue of The ABAC News is jamb packed with useful information for all to read. Like last issue, we brought you a story about someone related to this industry that received some very deserving recognition. Be sure to check out this issue's "In The Headlights" story on Page 8.

Once again I would like to thank our supporting advertisers and sponsors for another successful, productive year for The ABAC. I can't thank you guys enough. Members and non-members should thank you as well. You helped make this difficult time somewhat easier. Thanks for your support.

Sincerely,

*Bob*

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## When Things Don't Add Up !!!!!

This week the DEG received an inquiry from a shop that was asking if color sand and buff is an included operation within Audatex. The reason for the inquiry was because the shop had written for color sand and buff on an insurance estimate, but the adjuster said they would not pay and that color sand and buff is included within Audatex. After several unsuccessful tries to negotiate the shop asked for the adjuster to show where in Audatex it states the item is included. The adjuster sent over a document to the shop and the last line of the "included operations" for two stage was color sand and buff. The shop was confident that the document was not valid, but the adjuster was adamant and refused to pay for color sand and buff.

Frustrated the shop turned to the DEG and submitted an inquiry asking if we could provide any documents that color sand and buff was not included. Along with the inquiry the shop submitted the document that was provided by the adjuster. We contacted Audatex and provided to them the document and asked if they could validate or deny the accuracy of the document. Below is the complete inquiry that shows the response from Audatex and as the shop suspected Audatex states the document did not come from Audatex and color sand and buff is NOT an included operation.

Inquiry Number **3959**

### **Color Sand and Buff**

IssueSummary//OUR DATABASE MANUAL SAYS FINAL SAND AND POLISH IS NOT INCLUDED IN TWO STAGE REFINISH,THE ADJUSTER PRINTED A DOCUMENT THAT SAYS IT IS. WHO IS RIGHT?

Response from Audatex

### **DEG Response**

"Due to the nature of this inquiry the DEG contacted Audatex via email and forwarded the document provided by the user. Below is the response from Audatex.

This most certainly is not a document from ADP/Audatex that I can find anywhere. I went back into DBRM's to 1993 looking for it. It is not from our current DBRM. I have attached the included/not included page from the current DBRM. You will note a disclaimer at the bottom of the page along with a version number none of which is contained on the document you supplied. This was done to insure being able to identify the current DBRM being used. All prior DBRM versions are invalid. "

One can only speculate how the document was created but unfortunately this type of problem exists in our industry. The shop was confident that the document was not valid but without written information from the IP the shop could not collect on money that is due to them. Anytime that you question a procedure or information from an adjuster or insurance company you can submit an inquiry to the DEG and we will work with the IP to get the correct information. You can visit our website at [www.degweb.org](http://www.degweb.org) or contact us at 302-423-0207, [admin@degweb.org](mailto:admin@degweb.org)

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

## Anyone Know a Good Movie Director?

Submitted by Attorney John M. Parese - Buckley & Wynne



Last weekend, I watched a tremendous documentary entitled *Hot Coffee*, which examined, in part, the McDonald's coffee spill case and its impact on "tort reform" and the judicial system. While most of you have probably heard about the case, I doubt you know what really happened. Here is a brief summation of the case necessary for an appropriate context on my broader point.

The McDonald's case involved a 79-year-old recently retired woman, Stella Liebeck, who purchased coffee from a McDonald's drive-thru. She parked her car in the parking lot, and, while attempting to take off the top off her cup to add cream and sugar, the coffee spilled on her groin causing 3rd degree burns throughout her entire pelvic region. The burns and skin grafts were horrific. You can see photos of her injuries by doing a Google Image search: "Stella Liebeck Burn Pictures". Ms. Liebeck spent 7 days in a hospital, 3 weeks of home care, and additional hospitalizations for very painful skin grafting.

It was evident that McDonald's kept its coffee at a dangerously hot temperature, much hotter than the industry standard and other similar restaurants, and some 40-50 degrees hotter than home coffee pots. McDonald's knew all of this when it offered Ms. Liebeck \$800 to settle the case, not even enough to pay her medical bills. Of course, when Ms. Liebeck brought her case to court and prevailed, she was villainized as the "problem" with our legal system. As it turns out, McDonald's had over 700 cases of burns from coffee spills in the previous ten years. A jury eventually found McDonald's 80% at fault and Ms. Liebeck 20% at fault, and awarded her \$160,000 in general damages and \$2.7 million in punitive damages (i.e. punishment of 2 days of coffee revenues for failing to correct the obviously dangerous and defective condition of its coffee). The judge subsequently reduced punitive damages to \$480,000, for a total award of \$640,000.

The movie *Hot Coffee* premiered at the Sundance Film Festival and later aired on HBO. As a trial lawyer, I was interested in the film because, though nearly 18 years have gone by, that darn McDonald's coffee spill case remains a major obstacle in every jury case I try. Almost inevitably, jurors will bring up the McDonald's coffee case as a premise for believing that juries are out of control; that people abuse the legal system by filing frivolous or junk lawsuits for nonsense reasons (like spilling coffee on themselves); and/or that suing for personal injury is a get rich quick scheme, like winning the lottery. These false perceptions are inspired by a well-funded publicity campaign designed to protect the interests of insurers and big business. And it's been incredibly effective.

So what does any of this have to do with the auto body industry?

I think quite a bit. First, the same tactics of distortion that have plagued the jury trial system are slowly and steadily eroding the good name of the auto body industry. Second, many of the same forces working so diligently to push "tort reform" are also hard at work misleading your customers, insurance departments, public officials and administrative agencies. The message is unmistakable: independent body shops cannot be trusted; they do not stand by their repairs with lifetime warranties; they take longer to repair vehicles; and they will grossly overcharge you. Though we here in Connecticut have been successful in getting stronger laws to better educate consumers on their rights, insurer influence in the industry remains as ruinous as ever - both on a local and national level.

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Consumers are bombarded with a relentless stream of insurance advertisements and propaganda. All designed to elicit trust - and eventually dissuade people from using independent repair shops. Most consumers have no idea of the role insurers play in auto body repair, or how their cost-cutting tactics affect the consumer's rights and safety. Most local and national political representatives are likewise in the dark. The ABAC has spearheaded many forward thinking endeavors to change the industry, including lawsuits, legislative reforms, and diplomatic efforts. All of which deserve great praise. Maybe it's time, however, to consider a well-reasoned documentary.

The parallels are certainly there. Both of our industries are under assault by large well-funded corporations seeking – with the aid of top-notch public relations firms – to distort the truth and manipulate society into attacking us like a cancer. Are trial lawyers truly at fault for rising malpractice premiums? Are juries really out of control? Does DRP really “protect” consumers through faster, and better repairs? Are partnerships with insurers on repair standards and practices the best way to “reform” the industry?

The players might be different, but the game is the same. If a documentary on "tort reform" can be compelling enough to make it to Sundance and HBO, I would humbly submit that this industry certainly has the makings for an even more compelling film!

Consider watching *Hot Coffee* (with an eye toward using this type of medium to tell our side of the story - our way). I think you'll be genuinely amazed at what's happened to the trial lawyers and how closely that parallels what's happened to the auto body industry. And if I've inspired a film documenting the exploitation of this industry, and within that film the director calls for a steamy love scene, I'd simply asked to be cast opposite Charlize Theron.

*\*John M. Parese is an attorney at Buckley & Wynne. John serves as legal counsel to the Auto Body Association of Connecticut and regularly lectures on legal issues affecting the industry. John can be reached at [jparese@buckleywynne.com](mailto:jparese@buckleywynne.com).*

## Coming Soon...

**The ABAC has some exciting educational meetings on the agenda for 2012. Here's just a sampling of what you can look forward to!**

**May 2012 Meeting**  
**Place & Time: TBA**  
**Guests: Kia Motors**

**Join us for some interesting information presented by one of the industry's fastest growing companies!**

**Meeting Sponsor: Columbia Kia**

# Is Your Child Safe in the Backseat?

The proper installation of a car seat can save a child's life. We have heard it in the news, from the police, and even through crash tests: numerous lives can be lost by improper installation, and even worse, by not using a car seat. Using a car seat can decrease the risk of death or injury by up to 90%. These tips and facts will help you in protecting that which is most precious.



A new law went into effect on September 1st, 2005 which makes it compulsory for anyone with children in the car to ensure they are adequately seated in either an infant seat, child seat, or booster seat. This applies to parents, as well as to caregivers, including babysitters and even grandparents.

*Here are some guidelines to help you figure out which seat is appropriate for your child(ren):*

**For Infants - Use a rear-facing car seat until the child is:**

- at least 9 kg (20 lbs.)
- one, in age

**For Toddlers – Your child can use a forward-facing seat if they:**

- weigh more than 9kg (20 lbs.) and less than 18 kg (40 lbs.)
- are between one and eight years old
- Forward-facing seats must use a tether strap, and vehicles which do not have an anchor in place for the strap must have one installed. This can be easily done by calling a dealership. Also the shoulder straps of the seat must be at or above the child's shoulders. There should only be a finger-width gap between the strap and the child's collarbone.

**For Pre-School to 8 Years - Your child should be using a booster seat if they:**

- are under eight years old
- weigh more than 18 kg (40 lbs.) and less than 36 kg (80 lbs.)
- are less than 145 cm (4'9")

**For Children Over 8 Years - Your child can wear a seatbelt alone when they:**

- turn eight years old
- weigh 36 kg (80 lbs)
- are 145 cm (4'9") tall

**Here are some things to keep in mind once you choose the car seat that suits your child:**

- Do not install a rear-facing child seat in front of an active airbag; this can be exceedingly dangerous, and lethal. Children under 13 are safest in the back seat.

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- Regardless of time constraints, you must always use a car or booster seat; it is now the law.
- Be sure that you are able to correctly install your seat and use the correct hardware such as tether strap and locking clip. Read the instructions carefully and seek advice if you do not understand them. There are often car seat clinics held by the local police in your area. Contact them for locations and times.
- Pull belts and buckles tight and check them before every trip. You should only be able to fit one finger between the harness straps and the child's collarbone.
- Be sure to use your body weight to push the child car seat into the vehicle seat while tightening and fastening the seat belt. Make sure the child car seat moves no more than 2.5 cm (1").
- Try not to dress your child in bulky clothing. If a blanket is needed, place it over the harness straps to help keep your child warm. (There are special blankets available to use with child car seats).

For proper instruction on car seat installation, contact your local police department, to see if they have car seat clinics in your area. You can also contact the Infant and Toddler Safety Association (ITSA), located in Kitchener at 1-800-667-3422 ext.111.

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

## I-CAR to announce OEM repair standards position in April



**John Van Alstyne, president and CEO of I-CAR, says the organization will announce whether it will create an industry council to assist with developing OEM-based repair standards in April.**

PALM SPRINGS, CALIF., Jan. 12, 2012—I-CAR will announce whether it will create an industry council to assist with developing OEM-based repair standards in April, according to John Van Alstyne, president and CEO of the organization. During the Collision Industry Conference (CIC) meeting in November 2011, several prominent collision repair organizations released a joint statement recognizing OEM manufacturer published repair procedures as the industry's standards. Organizations that endorsed the statement included the Automotive Service Association (ASA), Society of Collision Repair Specialists (SCRS), Alliance of Automotive Service Providers (AASP) and the Assured Performance Network (APN).

Those organizations asked I-CAR to establish an industry council to identify gaps in existing OEM procedures and develop processes to close gaps, vet industry proposed alternatives, modifications, and additions to OEM procedures. "We believe the request has potential merit, and warrants further review and evaluation by I-CAR," Van Alstyne said.

Van Alstyne said I-CAR's staff will reach out to various industry stakeholders to determine their position on I-CAR's role in the request. I-CAR is working with its Strategic Planning Committee, Executive Committee and board of directors to develop a strategic response to the proposal. I-CAR's decision will be announced during the next CIC meeting, which is scheduled for April 25-26 in Oklahoma City, Okla.



## In The Headlights

### Stamford Mechanic Becomes Top MS Fundraiser



STAMFORD, Conn. – Mike Bivona never thought of himself as much of a fundraiser or a charity guy. That all changed, though, about a year ago. He was at a party in June of 2010 when he started to feel dizzy and not in control of his body. But it wasn't too much celebratory imbibing that was the cause — Bivona found out he's suffered a mild stroke, which landed him in the hospital for 11 days.

While not unheard of, it was rare enough for an otherwise healthy young person that doctors began running tests to find out the cause. That medical detective process went on for three months, during which time he suffered several more small seizures.

Eventually, doctors determined that Bivona was suffering from multiple sclerosis, an autoimmune disease that affects the brain and central nervous system. Rather than sit and moan about his fate, Bivona decided to do something about it. "There was something on the radio about a walk for MS in Stamford that was coming up, and I decided to do it to raise money," he said.

Bivona was able to raise \$12,000 in just 10 days. "I sent out mass emails to everyone I knew," he said. "We got money from people who had corporate matching all the way down to a guy who collects empty cans on the street. I had no idea how much I'd wind up raising."

As it turned out, he was the top fundraiser in the walk, and was asked to join the organizing committee for next year's event. "I've already started raising money," he said. "In the first week we're at \$400 already."

Despite his illness, Bivona continues to work as an auto mechanic with his brother and father at the family business, My Way Auto Body/Bivona Auto Services. He takes medication to control his joint and muscle pain. "You have good days and bad days," he said. "Some mornings it takes me 20 minutes to get warmed up enough to get out of bed." He also receives injections to slow the progress of the MS. "There's no cure for it yet," he said. "That's what we're working toward."

To check out and support Bivona's efforts go to his fundraising webpage at [http://main.nationalmssociety.org/site/TR/Walk/CTNWalkEvents?team\\_id=268529&pg=team&fr\\_id=18396](http://main.nationalmssociety.org/site/TR/Walk/CTNWalkEvents?team_id=268529&pg=team&fr_id=18396)

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

# SCRS Says Estimate Terminology Should Improve Customer Understanding

Association concerned with proposed changes to definition of LKQ, aftermarket and recycled parts.

In November, the Collision Industry Conference (CIC) Definitions Committee presented proposed new definitions for terms used to describe the various categories of parts used in the repair such as LKQ or recycled. But the draft definitions, according to the Society of Collision Repair Specialists (SCRS), may be more misleading and less helpful to consumers trying to understand what types of parts are being used to repair their vehicles.

In a letter to the committee obtained by CollisionWeek, the association suggests that the industry not use terminology such as LKQ, recycled or "Quality Replacement Parts," and instead describe all parts under simpler more concise terms such as New, Used, and Aftermarket.

The committee is suggesting definitions that differentiate between "recycled" and "recyclable" parts while creating two categories of these parts that would differentiate between recycled OEM parts and recycled aftermarket parts. Here, the association suggests that this differentiation should not be necessary because the expectation when ordering a used part is that "the part will come from a vehicle of the same year, make and model [and would be OEM]. The market does not request 'Recycled Aftermarket Parts' and therefore acknowledging it through a definition does not aid the industry," the association writes in its letter.

SCRS says, "If the role and mission of the committee is to clarify and bring universal understanding to nomenclature used in the repair process, we think singular, accurate definitions of existing terms are more important to consumer education, rather than re-marketing terms to make them more appealing to the consumer." The letter continues, "descriptions such as 'Like Kind and Quality', 'Quality Replacement Part,' and now 'Recycled' [are] terms that seem to be designed to 'sell' the part, rather than clearly explain it to the motoring public. Use of the adjective 'quality' in any description is subjective, potentially misleading, and adds no true value to the effort to objectively describe a part type, and should therefore be avoided in all descriptions.

The association instead suggests just three concise definitions to cover all parts:

- OEM: A new un-used part sold by the vehicle manufacturer
- USED: An OEM part removed from a donor vehicle
- AFTERMARKET: A new un-used part sold by a manufacturer other than the OEM

When contacted about the letter, Executive Director Aaron Schulenburg explained that the association feels that the driving force for standardized terminology should be language that is readily understood by consumers and not misleading. "Clarity for the consumer is such an im-

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portant issue and while we're glad the committee is tackling it, we hope they take our viewpoint into consideration. We believe that clear, concise definitions should be used to clarify the repair process rather than definitions designed to promote certain repair elements," Schulenburg said.

Definitions being proposed by the committee include:

- RECYCLABLE OEM PARTS: Used Parts that have been removed from a donor vehicle that were supplied by the Original Equipment Manufacturer
- RECYCLABLE AFTERMARKET PARTS: Used Parts that have been removed from a donor vehicle that were supplied by someone other than the Original Equipment Manufacturer
- RECYCLED OEM PART: Used Parts that have been removed from a donor vehicle that were supplied by the Original Equipment Manufacturer and reused on a recipient vehicle
- RECYCLED AFTERMARKET PARTS: Used Parts that have been removed from a donor vehicle that were NOT supplied by the Original Equipment Manufacturer and reused on a recipient vehicle
- USED PART: Any Part (OEM or Aftermarket) removed from a donor vehicle
- SALVAGE PART: Any Part (OEM or Aftermarket) removed from a donor vehicle
- LIKE KIND AND QUALITY PART (LKQ Part): A generic term that may be used to describe any part that may be used to replace another part (typically assumed to be a used part)

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

## **WV Salvage Parts Lawsuit Against Liberty Mutual, Shop Moves to Federal Court**

*Insurer's lawyers argue use of salvage parts raises questions of federal law.*

Lawyers for Liberty Mutual have successfully moved a lawsuit involving the use of salvage parts to federal court claiming that the case raises questions involving federal law, specifically the Magnuson-Moss Warranty Act.

The lawsuit filed last month by the West Virginia Attorney General claims that Liberty Mutual's policy of using salvage parts to repair late model vehicles is in direct violation of WV law. The suit sought an injunction against the insurer to stop the use of these parts and had a preliminary hearing scheduled

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for January 12.

The move to federal court forced the cancellation of the hearing in which a judge could have potentially ordered Liberty Mutual to discontinue the policy.

In a statement given to the Charleston Gazette, the West Virginia Attorney General's Office said the move to federal court was just a maneuver on Liberty Mutual's part to buy time. "That's why they did it," Assistant Attorney General Jill Miles told the Gazette. "It's a way of delaying the injunction hearing."

State Attorney General Darrell McGraw filed the lawsuit against Liberty Mutual and one of its direct repair shops, Greg Chandler's Frame and Body, alleging that the shop followed an illegal insurance policy to install used or aftermarket crash parts on vehicles manufactured within three years of the date of the crash.

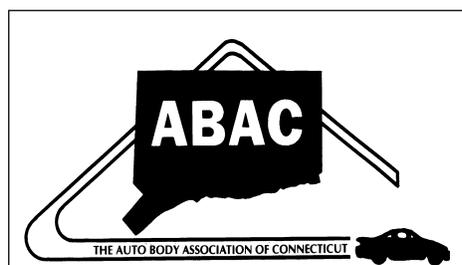
It is unlawful in West Virginia for an insurance company to require the use of aftermarket parts when negotiating repairs of motor vehicles within three years of manufacture, without acquiring the motor vehicle owner's consent. A later court case held that the "aftermarket parts" law also applies to salvage and reconditioned parts.

This case is unique in that the shop, a DRP facility repairing cars under its contractual agreement with Liberty Mutual, was also named as a defendant because it carried out the illegal policies of the insurer when repairing cars.

The Attorney General's Office said it originally became aware of the issue when the manager of a competing shop had filed a complaint after being removed from Liberty Mutual's DRP roster when his shop refused to comply with Liberty Mutual's illegal use of salvage parts.

The original complaint filed by the Attorney General's Office asked the court to order that the defendants provide restitution to all consumers whose vehicles had been illegally repaired with salvage parts. The complaint also sought civil penalties as allowed by West Virginia law, in addition to reimbursing the state for all investigative costs, court costs and attorney's fees.

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



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