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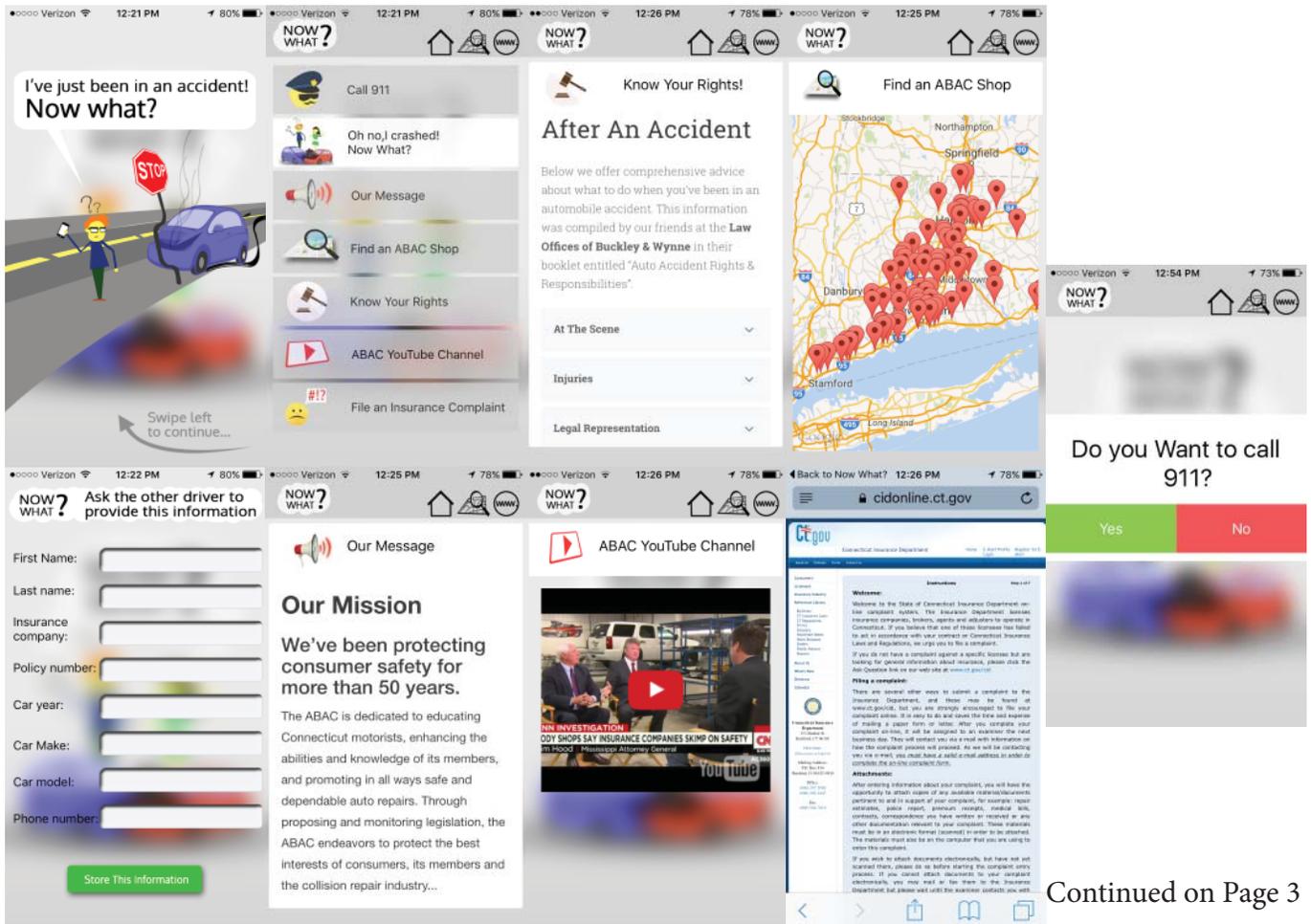
ABAC's "NOW WHAT?" App Will Be a Game Changer For Consumers and Shops!

Our "Now What?" App is Ready to Download!

We've created an app to ensure that customers follow proper steps after being involved in an accident. Our app provides consumers with the convenience of having a guide readily available to lead them through the process of documenting their accident.

Our app is free, easy to use, and assists consumers by navigating easily through what would normally be a stressful and hectic process. By downloading our app, consumers will be able to:

- Gather information
- Take photos
- Share the report with others, including their body shop
- Find an ABAC shop in their area, if they don't already have one
- File a complaint with the Department of Insurance



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The steps and resources provided, give consumers confidence knowing their accident was properly documented, ensuring the repair process goes smoothly. Our app also provides you (the body shop) with information needed to help your customers file the insurance claim.

Beginning at the scene of the accident, an icon for 911 has been developed to assist your customers call for help. While waiting for an officer to arrive, the user can fill in information regarding other vehicle(s) involved, input a description of the accident, and attach photos. Once the information has been entered, they have the ability to send it to themselves, another person, or their auto body shop.

Not only does our app provide a check-list for customers, but also provides valuable information and resources informing them of their rights and responsibilities. An interactive map representing nearby ABAC shops is accessible, as well as contact information and a link to the shop's website. Additionally, the app provides users with a link to our YouTube channel and information on how to file a complaint with the Department of Insurance.

We encourage you to invite your customers to download the app and utilize the great features provided!

To get our app, go to the main page on the **ABACONN.org** site, click on the "get the app tab" at the top of the screen and download.

Using Social Networking for Results

It may take time at first, but virtual connections can lead to real results.

Article by Tom Franklin

I admit I have been slow to get with the new wave of online social networks like Facebook and LinkedIn. I'm still working on how to set all the buttons on my digital watch, so I have been reluctant to figure out how to make use of this new networking tool. Until recently, that is.

I got a request from an old CCC Information Services contact to be on his LinkedIn network. Then I went to a local autobody association meeting and another old friend that I once worked with at CCC told me the company was opening a new office nearby and some of the original crew were rejoining the company. I worked with CCC back in the 1990s, and really have no interest in going back, but I discovered that I now had access to what could be a lot of valuable information. Gradually I found still more old contacts inviting me to join their networks on Plaxo and LinkedIn, and I realized I had questions that only these people could answer.

WHAT GOOD'S A NETWORK?

The autobody association meeting I attended was covering the subject of refinish materials calculators. The panel consisted of two people from Mitchell, Bob Klem from Paint-Ex, and CEO Richard Palmer from Computer Logic. They made an excellent case for using any one of their calculators to create more complete repair orders and collect a proper price for materials. But when all of the shop owners in the room were asked to raise their hand if they were using a materials calculator, only five or six hands went up.

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It looked to me like a no-brainer for someone using UltraMate to add the PMC module for \$69 a month, but most Mitchell users were not using it and seemed reluctant to try it. The CCC guy at the meeting said they would soon be releasing a materials calculator to integrate with Pathways.

The next day I was communicating with a Pathways user and mentioned the many benefits it seemed could come from integrating a materials calculator. The Paint Logic system would integrate with Pathways, but he wanted to wait and see what CCC would come up with. He also didn't want to be the first to try it out. It was at this point that I realized what a social network could do for someone like this. He doesn't go to the autobody association meetings and isn't in touch with other local CCC users, many of whom would be competitors. So how would he find out who was using a materials calculator, how they liked it, whether insurance companies were accepting it, and was it really profitable?

This would have been a perfect use of a social networking group. In the early days of computers, there were Apple user groups, IBM user groups and more. This is where real deficiencies in the products were revealed, discussed and often presented to the manufacturers to demand corrections. It seems that most user groups have disappeared, but social networking groups now make it possible to connect across the nation and even across the world to get user information. By joining a group and indicating an interest in connecting with other users of a product, it would be possible to get user opinions on products from Mitchell, CCC, Computer Logic, Paint Logic, Paint-Ex and others. Companies provide one viewpoint of how a product should be used, but users often deal in a more real world.

GROW YOUR NETWORK

Once you enter a network like LinkedIn, you will begin to get invitations to connect. When you create your profile, if you specify Mitchell, CCC, Computer Logic, etc., you will begin to get invitations from like-minded shop owner users, but not just down the street. The answer you're looking for may come from a shop owner all the way across the country. The broader your reach into each user world, the more viewpoints you can collect and the more answers to questions and concerns you will get.

I have found that many shop owners are reluctant to participate in association groups because of competitive concerns, because they think it's just a social activity and a waste of time, or because they somehow can't make the time. Checking social network connections can be done any time of the day and don't require any particular attention until there is a specific question or issue a user wants addressed.

Like my confusing digital watch, it does take a bit of time to get set up and learn the ropes, but these networks are here to stay and growing daily. Just like learning computers, eventually you'll have to find out how they work and make use of them. But I guarantee you, you can benefit from getting involved right now.

Source: Reprinted w/permission from Fenderbender Magazine
www.fenderbender.com



Time To Complain!

2016 is here. Part of our duties as the ABAC is to meet with our state legislators to determine if we need to propose legislation in our industry.

We first meet with the co-chairman of the insurance committee, Senator Crisco (D). We expressed our concerns on steering, labor rate suppression, photo estimates, imitation parts, and the lack of enforcement of the state regulations. The Senator was interested in helping us in any way he could. The one thing he asked that stuck with me was “Are there any complaints filed with the DOI (Department of Insurance) on these issues?”

A week later we meet with Representative Sampson (R). We expressed the same issues to Rep. Sampson. His response to the issue of labor rate suppression, being paid our posted labor rates, was “Are you charging your customers the difference? If your customers are not harmed and again not filing complaints with the DOI, than no one knows or can acknowledge that there is a problem.”

A week after the meeting with Rep. Sampson, we met with Representative Megna (D). We voiced our same concerns that we had brought up to his colleges and again he asked “Are there complaints filed with the DOI? We need complaints to follow-up on and to be sure that the state agencies are protecting the consumers.”

I sit here today begging everyone to assist and educate your customers, the consumers, that our state legislators are asking to file complaints.

The buck stops here and now! The time is now to prove that our customers are being harmed. The time is now to get your customers involved in reimbursing you for your services. If you have a proper repair contract, the vehicle owner is responsible for your repair charges. Get them involved in collecting from their insurance companies.

We have insulated the consumer way too long. Now it’s affecting the future of your business. Listen to our state Senators and Representatives. Put the consumer in harm’s way, if that is what their insurance company is willing to do to them. Get the customers to file complaints. It’s the only way to show there is a problem.

Look for important content at the March 8 membership meeting. We will provide you with educational material on your options on how to be compensated for your services.

Look in this edition of our newsletter for “CONSUMER ALERT !!!!” bulletin for important information that you should pass on to your customers.

Complaints should be filed online at:

- State of Connecticut Dept. of Insurance: <https://cidonline.ct.gov/ccf/>
- Richard Blumenthal, US Senator: senator@blumenthal.senate.gov
- Make sure they copy: abacadmin.heather@gmail.com

Let’s make 2016 a Very Good Year, Start with a Complaint!

Thank you all.

President - Auto Body Association of Connecticut

Liability: Where Do You Stand?

By Jacquelyn Bauman

On July 5, 2014, Donald Ibey of Barre, VT was driving his 1992 Chevrolet Corsica when, according to police reports, "he heard a pop." The sedan went out of control down a steep hill and crashed, killing Ibey's wife, Elizabeth.

Just two months earlier, Vermont mechanic Steven Jalbert had passed the vehicle, posting an inspection sticker on it after it drove into his family's Barre-based business, A.J.'s Sunoco. A post-crash inspection of the vehicle uncovered extensive rust on the rocker panels that, according to DMV Lieutenant Tim Charland in a court affidavit, would "most likely" have been present when the car was brought in to be inspected, as the Corsica had only traveled 383 miles since its visit with Jalbert.

As a result, Jalbert was brought up on charges of involuntary manslaughter and reckless endangerment. He is currently awaiting trial.

The case shook shop owner Mike Parker of Parker's Classic Auto Works in Rutland, VT, who is well known in the AASP/MA community for his legal proceedings fighting insurance companies on short-pays. (The most recent *NEAR* article detailing one of Parker's cases can be found in the April 2015 issue ["VT Shop Wins \$53K Assignment of Proceeds Suit"].)

"It surprised me to hear that this case was criminal as opposed to civil," Parker says. "But now that this has happened, it has opened up a whole new avenue. There's a potential precedent to be set now throughout the US. There's a lot of things you can do to get fined or sued for, but when a death results, it puts the case in a whole different area."

Parker is concerned not only for the impact this case may have on inspectors, but on collision repairers as well.

"When you put this same issue into the collision industry, it's comparable to putting on a reconditioned wheel or using used suspension, except we would be held even more responsible because we are the installer," he says.

Parker tells *New England Automotive Report* that he is experiencing a similar issue in his own shop regarding a struggle to get an insurance company to pay for an OEM upper tie bar. According to him, his shop never installs aftermarket structural parts; if a customer's insurance company refuses to write for OE, he or she must pay the difference. In this case, the customer fought the insurer to pay the \$8 difference for an OEM upper tie bar versus its aftermarket version. The company put the burden of proof on Parker, insisting that he must show that the aftermarket piece was not of like kind and quality in order for them to pay for the OEM part.

"This is a safety issue; this is a structural part. I want to ask the insurance companies how they can sleep at night," he expresses. "If a body shop is foolish enough to put these parts on a car, they're going to be liable for them. You are the installer. You are the collision expert. It's up to you. This case here is potentially setting a precedent and will hurt some collision shop that doesn't know the difference. Shops put used suspensions on a car and they think it's never going to happen to them. It only has to happen one time."

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The reverberations of the Jalbert case are also being felt here in the Commonwealth. Massachusetts-based lawyer James Castleman (Paster, Rice and Castleman) weighed in on the situation and the effects it could possibly have on the Massachusetts automotive industry.

“It certainly is an unusual situation to charge someone criminally for this,” he explains. “To show involuntary manslaughter, you have to prove – beyond a reasonable doubt – a reckless disregard for the consequences. This is a very difficult thing; if he had been sued for monetary damages, it would be a much easier case to make. The standard to prove reckless disregard is much higher.”

While a guilty verdict in a civil case for monetary damages may be covered by liability insurance in some circumstances, a criminal prosecution such as this obviously bears a much heavier penalty. If convicted, Jalbert faces up to 16 years behind bars.

“People doing inspections need to be aware of what their liability could be,” Castleman says.

There are also some unforeseen complications for Massachusetts appraisers and repairers that add an extra level of liability.

“In Massachusetts, it’s the law for an appraiser who encounters a vehicle that does not pass inspection to remove the inspection sticker from the windshield,” Castleman notes. “If an appraiser does not do so, he or she is flouting the law. If that vehicle gets in a subsequent accident with the sticker still intact, then the appraiser may well be liable.”

Castleman notes that another state law — the requirement for shops to warranty the parts they install on a customer’s vehicle — makes the liability situation even stickier.

“The first thing to understand is that the insurer never mandates that a particular part be used by a shop; they only tell you what it is they’re going to pay for,” he says. “Clearly, if a repairer makes a repair with parts he or she believes to be inferior, there’s the significant potential for the shop to be sued. As I mentioned before, in the criminal case in Vermont, reckless disregard must be proved beyond a reasonable doubt to charge someone with involuntary manslaughter. If a repair is made with inferior parts that the [technician] recognizes are subpar and an accident results from the failure of one of these parts, there is the potential for criminal action if it can be shown that the technician acted with reckless disregard for the consequences of using those parts.”

While the possibility for these severe ramifications exists, Castleman does not believe that an abnormal amount of worry is warranted from repairers in Massachusetts.

“Despite all of this, I think the much greater liability is being sued monetarily,” he offers.

One of the local industry’s most vocal shop owners, AASP/MA Secretary Gary Cloutier had much to say about this case and its shadow on the Massachusetts repair community.

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“Even though the case dealt with an inspection station, no matter what, in the grand scheme of things, you should never let a vehicle go out of your shop if it’s not in good condition,” he opines. “As a repairer, I am not willing to put my customers’ lives, my business, my livelihood or my license on the line because an insurance company wouldn’t pay an extra \$50 for a part. I’m the customer’s best advocate; it’s my job to look for things that are wrong. I treat the car like it’s my mother’s car, every time.”

Despite how thorough Cloutier is in investigating the damage on a vehicle, he always makes sure to take extra precautions in the case of a legal proceeding. He provides the example of a recent customer whose vehicle was written for a hood latch assembly. As the hood latch assembly was not in bad shape, Cloutier refunded the customer the money, had the customer sign and date a form, gave the customer a copy of that form and kept one for himself. This level of meticulous documentation is a precaution that he insists must be taken.

“If his hood opens up, I can show that he didn’t want it fixed,” he explains. “I try to cover my butt in all situations so that no one can say that I’ve committed fraud. You have to take a proactive approach to this because everyone is so sue happy these days.”

In regard to who is liable for repairs, Parker urges shops to remember their position in the contract between the insurer and the consumer.

“The only way an insurer has a right to dictate how a repair is made is if they choose to repair the car themselves,” Parker explains. “However, this would make the insurer liable for the repairs, so instead they settle in money with the vehicle owner. In 1964, there was a case in Alabama against State Farm [*State Farm Mutual Automobile v. Dodd*] where State Farm was found liable for wrongful death after the suspension snapped in a vehicle that they had elected to repair. That’s when everything changed. In order to avoid liability, they allow the customer to go to the shop of his or her choice. It’s important for shops to be aware of this.”

Regardless of the ultimate impact this case in Vermont will have on the Massachusetts repair industry, it is good business practice to always be prepared for potential liability in your line of work. Guard yourself with liability insurance, be conscientious about documentation and speak with legal counsel as soon as possible in the event of litigation. Additionally, being a member of AASP/MA provides opportunities to learn about this and many other topics regarding how to protect yourself and your business, and also offers the network necessary to answer any questions you may have.

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**Information, education, dedication.....
that is what the Auto Body Association of Connecticut is all about!**

The “L” Word



This month, I’ve been asked to talk about the “L” word. You know: the word that means “we’re taking this to the next level”. A word that makes the bravest of men weak in the knees, and puts butterflies in one’s stomach. A word that can take one down that isolating road of long term commitment and stress. A word that your wife says you never say quite enough. Of course, I’m talking about: Litigation.

Litigation is by no means the best solution to the myriad of problems facing the collisions repair industry. But, when your only options appear to be punching some obnoxious appraiser in the face, or taking an unfair reduction on your services, sometimes litigation is not a terrible alternative. Let me dispel one misplaced concern about litigating a short pay claim: your rights to sue have not been lost on account of the Artie’s Auto Body v. The Hartford case. That case resolved the limited issue of whether the Hartford’s conduct in utilizing its appraisers to negotiate labor rates violated the unfair trade practices law. The decision did not empower insurers or appraisers to: suppress labor rates, underpay claims, prematurely cut off storage, push junk parts, or any of the other unlawful practices that plague the repair industry. Those practices remain very much fair game and ripe for litigation.

Litigation of short pay claims is often done through Small Claims court. This is because the amount in controversy does not exceed \$5,000, and litigating the case can be done relatively quickly and inexpensively. Cases may also be filed in Superior Court, where there is no jurisdictional cap on damages. The cost to litigate in Superior Court, however, can be a deterrent.

All cases need to be evaluated on an individual basis. The basic idea is this: did you do a good job, but for some stupid reason the insurance company or customer would not pay your fair charges? If that’s the case, generally, there is a way to litigate toward a fair outcome. Often, you can litigate without suing your customer through an Assignment. Many shops have taken this course and succeeded.

Before you contemplate litigation, however, you need to first ensure that your authorizations and repair contract are up to date and conform to the legal requirements. If they do not, you cannot recover for your loss – no matter the circumstances. Let me repeat: if your repair contract is not correct, you cannot go to court to recover for your loss.

The ABAC has sponsored a host of seminars on proper repair forms and how to litigate your short pay claims. I expect the ABAC will do more seminars on this topic in the future. If you are interested in learning more, you should go. In the meantime, spend some time getting to better understand your true costs of doing business. Meet with your accountant. Find out where you’re losing the most money. Use the ABAC resources and seminars to empower yourself and your business.

And, most importantly, go home tonight and tell your wife you love her. You can never really say that too much.

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Schulenburg on Educational Opportunities

Executive director, Society of Collision Repair Specialists



As a 19-year-old in search of a career path, Aaron Schulenburg was writing estimates for an auto body shop. It didn't take long for the industry to win him over. He's since held estimating and management positions with shops in Arizona, Delaware and Maryland.

In 2007, Schulenburg left the shop scene to help head up the Database Enhancement Gateway (DEG) as it was being introduced to the collision repair industry. When the position of executive director of the Society of Collision Repair Specialist (SCRS) opened, he saw an opportunity to be involved with an organization that he believes has the potential to make a significant and lasting difference in the industry.

Here, Schulenburg—who says he feels lucky to wake up each day excited about work—weighs in on the industry's new-found unity, emerging educational opportunities and the importance of being professional.

It's hard to hear, but clearly, economic times are still tough. You're seeing some unity in the industry that's giving you hope. Could you tell us about that?

There is a tremendous amount of economic pressure to sustain through these increasingly difficult times. Some of the banding together that we at SCRS feel is taking place seems to stem from these economic conditions. Over the past year, businesses have had to keep a heightened awareness about both their internal practices, as well as the external elements that impact profit margins. With this renewed focus, more collision repair businesses are paying greater attention to such practices in their markets. I think many of these practices—attempts to steer customers, depress retail labor rates and control repair decisions—have led to a significant increase in pressure on both the insurance field staff and the collision repair shops.

If there is a silver lining here, it's that we're hearing and feeling much greater unity in the sentiments expressed by the collision repair market. That unification is bringing these very important issues to the forefront of the industry.

How has this uptick in industry unity influenced SCRS advocacy work?

We've put a great deal of focus into our repairer advocacy efforts, which in many cases have translated into position statements or calls to action. In cases of our positions on Damage Assessment and Written Cost of Repair and on Steering and Deceptive Referrals, we've provided a national perspective that [helps] substantiate our affiliates' positions.

In other cases, such as the SCRS letter written to U.S. Attorney General Eric Holder, we joined the efforts of others in the industry looking to pique the Department of Justice's involvement in investigation and enforcement of market practices taking place today. There has been a tremendous amount of work done over the years to build relationships with the DOJ by many in the industry.

In our opinion there is a much more united feeling within the industry as it relates to this issue. And the change of political administration has hopefully provided an opportunity that may not have been as viable in the past. SCRS will continue to work with our affiliates and other groups involved in making inroads in this forum.

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Advocacy has actually long been a focus for SCRS, as has education. What should we watch for on that front?

We're developing and delivering much more in the way of educational opportunities. SCRS has worked with Sherwin-Williams to bring some outstanding seminars on Lean Management to markets in California, Washington, Georgia and Pennsylvania through the remainder of 2009. We are also developing additional business workshops that try to capture the "magic" that the ARMS (Auto Repair Management Systems) classes of previous years held for so many of today's successful collision shop owners. We will likely be rolling those out early next year across the country.

We're also continuing efforts to address the data used by collision repairers in the estimating process. Both the CIC Database Committee (formerly the Database Task Force) and the Database Enhancement Gateway have given SCRS the opportunity to work alongside the two other national collision associations, ASA and AASP. There's great value in having the industry work in unison on very important issues.

It seems that the squeeze created by the economy and the pressure from questionable market practices are pushing the industry to become more sophisticated. Are collision repair shops professional enough?

There has been a tremendous growth in the perception of the industry and the professionalism it has.

SCRS recently participated in the U.S. Bureau of Labor Statistics update of the Occupational Outlook Handbook. What was so uplifting about this report was the light in which it portrayed the industry, with a highlight of the professionalism and the need for ongoing education and training of the technicians and employees within the workforce.

How important is it to be seen as professional?

As collision facilities across the nation advance, the professional image does as well. Every effort we involve ourselves in at SCRS is done with the ultimate goal of improving the businesses we represent. That in turn raises the perception of the business, and the trade, within the business's community and among their consumers.

In addition to becoming more professional, what can shops do, right now, to improve the odds that they will survive—perhaps even thrive in—the duration of this depressed economy?

Quite simply, by understanding the business versus just owning it, or worse, letting it own you. So many shop owners and managers still make very emotional decisions, especially in these difficult times. They don't often understand the impact those decisions make on the financial return the business realizes from the services it provides, or the impact they may have on the marketplace in the future.

Collision repairers have accepted so many roles and responsibilities to fill the shop, or to handle transactions that are not theirs to handle, that it has in some cases distracted from the core responsibility of the business owner—to provide a service for a profit, which allows the business to be healthy.

I believe that most repair facilities across the country are experiencing a downturn in the amount of work that comes through the door.

For many shops, this could and should be the perfect opportunity to utilize the additional time to increase training of their staff, or to perhaps implement process changes that they have been considering.

Take advantage of the tools available: Get your estimators to start utilizing the DEG (degweb.org) to improve the accuracy of the data they are using. Sign yourself and your production manager up for one of SCRS lean seminars. Get involved in your local trade association and network with your colleagues in the market. Just be involved in continual improvement. The worst thing that any shop owner can do in a time like this is to cross their fingers and hope for the best.

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Shop of the Month & Meet Your Board of Directors Atwood's Auto Appearance is Customer Driven!

This issue's "Shop of the Month" is also another of our Board Members so the ABAC News will cover two articles with one great collision center!



Atwood's Auto Appearance, Inc. located in Deep River, Ct. was established in 1995 by George Atwood Jr.

George's interest in the auto body repair industry started in 1979 when he took a job at a body shop cleaning cars. He had never dreamed of spending his life repairing cars, but that job was the beginning of what would become a lifelong career.

Atwood's Auto started as a two-man operation and it quickly grew into a successful, thriving, collision repair business. In 2001 a 6,000 sq. ft. addition was added and the formerly existing building was remodeled although you would never know it. The nostalgic décor looks as though it could be original to the 1915 era building.

The attention to detail by Atwood Auto's team is what makes their shop unique. They have over 150 years of combined experience in the auto body trade. Their company has invested in modern state of the art equipment and education which, combined with their experience allows them to produce high quality workmanship. Simply said, Atwood's Auto Appearance really takes pride in their work.

Throughout their careers in this industry they have seen many changes. With technology, automobiles have become increasingly harder to work on and this trend will no doubt continue into the future. Education will continue to become more and more important to repair vehicles correctly.

Consumers need to be informed of their rights when an insurance company is footing the bill for repairs. Says Atwood, ***"Car owners (consumers) need to understand the effect that aftermarket (imitation) parts have in collision repair and how the use of these parts diminish the value of their vehicles."***

As far as being an Auto Body Association of Connecticut Board of Director, Atwood tells us, ***"I'm proud to say I have been a member of the ABAC since 1995 and a board member since 2015. I've learned so much from belonging to this association and have the utmost respect for all the members and supporters who do so much to improve this industry."***

Well George, it's businessmen like you that help keep the ABAC heading in the right direction. Your dedication as a business owner, Board Member, your input and the sacrifice of your time does not go unnoticed!

The ABAC thanks George Atwood for sharing his thoughts and we all wish Atwood's Auto Appearance the very best for 2016.

Massachusetts ADALB Overturns Ruling on Use of Video to Appraise Damage; Addresses Used Part Specification

Safety concerns led to repeal of last year's advisory ruling by the appraiser licensing board on the use of photos and video. Issues new ruling cautioning appraisers on specification of used parts, such as suspension, that could impact safety.

Following the appointment of three new members to the Massachusetts Auto Damage Appraiser Licensing Board by Governor Charlie Baker in June, the Board repealed Advisory Ruling 2014-01, that allowed the use of video and photos during the appraisal process, at its July 21, 2015 meeting. The board also issued a new advisory ruling last week on the use of used parts.

After 14 months in effect, the Board overturned the 2014 ruling, which allowed licensed appraisers to use photos and videos instead of a physical inspection during the estimating process, due to concerns the process could result in inaccurate appraisals and provided a way around the Massachusetts requirement that vehicles with at least \$1,500 in damage were personally inspected by an appraiser. Opponents to the use of photos and video had raised concerns that incomplete estimates could result in consumers driving unsafe vehicles.

Advisory Ruling 2014-01

Advisory Ruling 2014-01, approved last year by the ADALB states, "The Auto Damage Appraiser Licensing Board has passed a motion agreeing that an appraisal conducted by a licensed appraiser via review of quality video or digital images with documentation meets the requirements of 212 CMR 2.04(1)(d), 'The appraiser shall personally inspect the damaged motor vehicle and shall rely primarily on that personal inspection in making that appraisal...'"

Since the repeal of Advisory Ruling 2014-01 was posted on the ADALB website following the July 21, 2015 board meeting, the advisory ruling is no longer in effect.

The ADALB originally passed Advisory Ruling 2014-01 with the intention of keeping the original language of regulation 212 CMR 2.04, specifically the definition of "personal inspection", in line with modern technology and allow the use of digital imaging to speed up the appraisal process.

Carl Garcia, owner of Carl's Collision Center and former member of the ADALB who helped draft Ruling 2014-01, intended for the ruling to show that the Board was open to new technologies, as long as they could be used in a way that benefitted consumers.

John Murphy, of the Massachusetts Insurance Federation, addressed the issue of advancing technology in the claim process and said, "The Federation was very disappointed that the ADALB rescinded Advisory Ruling 2014-01. This ruling sensibly incorporated technological advances into the appraisal process in order to help that process work more efficiently and cost-effectively, all to the consumer's benefit."

However, the Board saw several unintended consequences of the ruling that created a consumer safety issue and needed to be addressed.

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One of the issues opponents of the use of video had with the ADALB's approval of their use was that damage underneath the vehicle or in other hard to access areas might not be visible to an appraiser who examined a photograph or video instead of inspecting the vehicle.

Rick Starbard, owner of Rick's Auto Collision, Inc. in Revere, Mass. since 1983, has been a licensed appraiser for 27 years and is a newly appointed member of the ADALB who voted to rescind the ruling. According to Starbard, "Some things require a physical inspection and auto damage is one of them."

During the board meeting on July 21 before the ruling was rescinded, Board Member and independent appraiser Lyle Pare stated that with the Ruling in place, an experienced appraiser would be able to determine from a photograph whether there was additional damage to the vehicle that a photo or video could not show, and if this was the case, rather than completing the appraisal, would state that additional inspections were necessary before an appraisal could be completed. Following an in person inspection, the appraisal could be completed. In the last few years, some auto insurance companies have released self-serve auto claim apps that allowed the consumer to take photos or videos of their vehicle and send them directly to the insurance company for an appraisal.

While the apps may have been more convenient for consumers, and they cater to a younger generation of consumers, the collision industry has raised issues that self-serve auto claim apps could lead to inaccurate appraisals. According to Starbard, when a consumer is allowed to send photos of damage directly to an insurance company for appraisal, the damage that the insurance appraiser can see in the photograph may not be all of it. Rather than opting to perform the appraisal in person as Pare stated during the ADALB meeting, according to Starbard, some insurance appraisers simply wrote the appraisal based on what they could see in the photo.

This can lead to low appraisals from insurance companies and consumers receiving less than they should from their auto insurance companies. "Insurance companies are abusing [the ruling] and there are people driving around thinking they can't afford to fix their car," Starbard said. "The insurance company can write a check that covers \$60 worth of damage, but when the consumer brings the car into the shop and the damaged area is inspected in person, we may find \$4,000 or more worth of damage."

Another issue raised by the ruling was concern that it was being using to circumvent the requirement that appraisals of \$1,500 or more to have an in-person inspection by a licensed insurance appraiser. Below that threshold, the insurance company has the option to forego a physical inspection.

Molly Brodeur-Nesbitt, President of the Alliance of Automotive Service Providers of Massachusetts (AASP-MA), said, "As an association, [the AASP] interprets 'personal inspection' as 'physical inspection. The division of insurance had a different definition for that one phrase, and we have found that it had unintended consequences."

"The division of insurance and carriers interpreted the ruling as 'we don't need to look at any vehicles,'" Brodeur continued. "The AASP felt that the ruling inadvertently eliminated the need for an in-person inspection, but that the \$1,500 threshold needed to stay intact to protect consumers. Without the threshold, consumer's risk inaccurate inspections, unfair settlements with insurance appraisers who never see the car in person. Ultimately, the cost of the repairs falls on the consumer, who may not be aware that there is more damage to the vehicle behind what a video or a photograph may show."

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With the repeal of the ruling, a licensed appraiser cannot conduct a physical inspection remotely by inspecting photographs or videos of a damaged vehicle in Massachusetts. Shops may use photos and videos to document the damage, and the expedited supplement regulation allows shops and insurance carriers to agree to use videos or photos during the supplemental phase of a vehicle repair, but not during the initial appraisal.

Issues Advisory Ruling 2015--01 Cautioning Appraisers on Used Parts

On September 29, the ADALB adopted an advisory ruling cautioning licensed appraisers on the specification of used parts, particularly those that may be subject to wear like suspension components.

The advisory ruling, 2015-01 states The Auto Damage Appraiser Licensing Board has passed a motion agreeing that an appraisal conducted by a licensed appraiser needs to follow 212 CMR 2.04 (e) which states in part "The appraiser shall determine which parts are to be used in the repair process in accordance with 211 CMR 133.00. The appraiser shall itemize the cost of all parts, labor, materials, and necessary procedures required to restore the vehicle to pre-accident condition and shall total such items." 212 CMR 2.04 (e) also states "The appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs" As such all costs associated with the appraisal shall be negotiated.

While Massachusetts regulations allows the use of used parts, the ADALB cautioned that the regulation "... must be read in its entirety." Specifically referencing regulatory language that. "the repair will not impair the operational safety of the motor vehicle."

The ruling continues, "The ADALB is concerned that the use of used parts that contain wear items, in certain circumstances, may violate 211 CMR 133.04 (3)(c). We want to further note that the insurance company will be responsible and liable for the use of used parts it mandates. Please note 211 CMR 133.04 (2) states: "If the repairer uses the source and specified part(s) indicated on the appraisal and these parts are later determined by both parties to be unfit for use in the repair, the insurance company shall be responsible for the costs of restoring the parts to usable condition."

The ruling concludes, "Further, 212 CMR 2.04 (e) mandates all itemized components and all such costs associated with the appraisal shall be negotiated. As such, the use of used parts needs to be negotiated by the appraisers. The ADALB strongly advises that used parts that would impact the operational safety of the motor vehicle should not be used and complete negotiations should occur as mandated. This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in fines and penalties as provided for by law."

The issue around the specification of used suspension components is particularly acute in northern sections of the country, like Massachusetts, where roads are subjected to the freeze-thaw cycle and suspension damage from potholes are common. Also, corrosion accelerated by the use of salt to melt snow or ice can have a serious impact on the lifespan of modern lightweight suspension components.

While some collision repair facilities avoid using any used suspension components over safety and liability concerns, other repair facility operators would like the option of using some used parts if suitable parts are available. However, the advisory ruling should eliminate blanket mandates for the specification of used parts without concern for their viability or discussion and negotiation with the repair facility.

Source: www.collisionweek.com

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