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# BEYOND TDI:

## Finding Help with Auto Insurance Complaints

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☐ **“YOU Don’t Know What You DON’T KNOW”**

**Important  
Texas Auto Body  
Trade Show  
Announcement!  
See page 8**

## BEYOND TDI: FINDING HELP WITH AUTO INSURANCE COMPLAINTS



Robert is a recognized Public Insurance Adjuster and Certified Vehicle Value Expert specializing in motor vehicle-related insurance claim resolution. As the general manager of Auto Claim Specialists, Robert expertly leads this National Public Insurance Adjuster Agency, which is currently licensed in over 22 different states and specializes in providing automotive-related claim liquidation techniques, strategies and motor vehicle valuation services to all parties, including individual consumers, body shops, auto dealers, repair facilities, towing and storage operations, lenders, finance companies, banks, legal professionals, governmental agencies and others. The firm's consistent success can be attributed to Robert's 35-plus years of automotive industry knowledge, practical hands-on experience and multiple certifications, including licensure by the Texas Department of Insurance as a Public Insurance Adjuster. Auto Claim Specialists clients can absolutely trust that they will be provided with analytical, sophisticated, state-of-the-art, comprehensive, accurate, unbiased and up-to-date data and information that all parties can rely upon as both factual and objective. Robert can be reached at (800) 736-6816, (817) 756-5482 or AskTheExpert@autoclaimspecialists.com.

Dear Readers:

Over the past several months, I have answered numerous questions in regard to the insured's policy rights and what steps are available for relief when there is a covered loss dispute. Also, I have continued to update you on a widespread unfair claim settlement scheme Auto Claim Specialists discovered and brought to the attention of the Texas Department of Insurance. TDI has now issued its position on the scheme and a suggestion on how to proceed. Before I share their position, it is useful to review the recommendations outlined on its website regarding insurance-related complaints.

The Texas Department of Insurance's website offers a clear three-step process in the event there is a dispute between the insurer and the insured for a covered loss. In such an instance, you may direct your clients to [tdi.texas.gov/consumer/auto-insurance-complaint.html](http://tdi.texas.gov/consumer/auto-insurance-complaint.html), which contains the following advice (which appears below without edits):

### Get help with an auto insurance complaint

#### Step 1: Talk to the insurance company.

You can resolve many issues by talking to your insurance company or agent. If you disagree with the adjuster's estimate, tell the company why. The company might raise the estimate if it finds out that it overlooked something or gets new information. Send the company any supporting documents, such as the body shop's estimate for the repairs.

Most companies have a toll-free customer helpline. The phone number is printed on your policy.

#### Step 2: Ask for an appraisal.

If you and your insurance company can't agree on the amount of your settlement, you can ask for an appraisal. You and the company each hire an appraiser. The two appraisers choose a third appraiser as an umpire. You must pay for your appraiser and half of the umpire's cost.

The appraisers review your claim and estimate the amount of damage. If their estimates are different, the umpire decides.

You can only use appraisal to resolve disputes about the amount of damages. If there's a dispute about whether something is covered, you can try and resolve that issue after the appraisal.

Check your policy for any deadlines to demand appraisal. If you need help finding an appraiser, search for a "property damage appraiser" online or check your contractor.

#### Step 3: File a complaint with us.

We can help with complaints against the insurance companies, agents and adjusters we regulate.

We can't help with complaints about service providers, including body shops. If you have a complaint against a service provider, send it to the licensing or enforcement agency that regulates the provider.

#### Before you complain to us, understand that there are some things we can't do:

- We can't make a company pay a claim unless the failure to pay violates a law or terms of your policy.
- We can't help with complaints against another person's insurance company. For instance, we probably won't be able to help you if you're in an accident and the other driver's insurance company won't accept liability.
- We can't decide who was at fault in an accident.

There is additional clarification and information on how to resolve insurance-related disputes found at [tdi.texas.gov/pubs/consumer/cb020.html](http://tdi.texas.gov/pubs/consumer/cb020.html) under "Automobile Insurance Made Easy." The following text from the website appears below without edits. Please note the last option: **Resolve your issue in court:**

#### Resolving problems

If you disagree with the adjuster's estimate or the amount the company is offering to pay you, tell the insurance company why. You might be able to

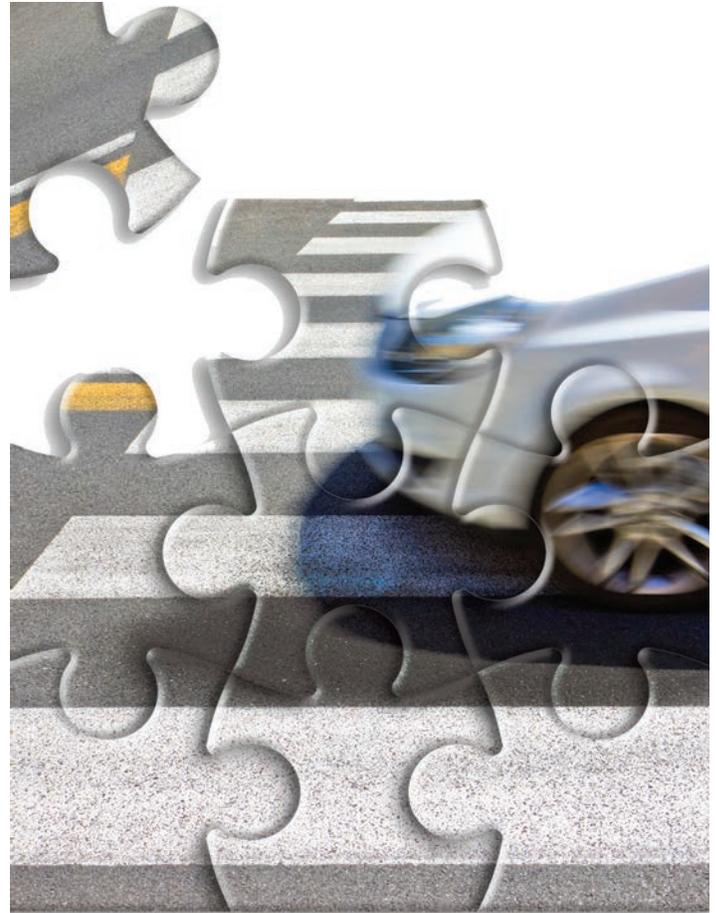
work things out by talking with the company or the adjuster. If that doesn't resolve the issue, here are your options:

- **Ask for an appraisal.** The appraisal process is for disputes about the amount of your claim. If you use appraisal, you and the insurance company each hire an appraiser. The two appraisers then choose a third appraiser as an umpire. Your appraiser and the company's appraiser each estimate the amount of your loss. If the estimates are different, the umpire makes the final decision. The umpire's decision is binding on both you and the insurance company. You pay for your appraiser and half of the umpire's expenses. You can use appraisal only for disputes with your insurance company. You can't use it to resolve disputes with another person's insurance company.
- **Complain to us.** Your complaint must be in writing. You can use our Online Complaint Portal. Understand that our ability to help might be limited. For instance, we can't decide who was at fault in an accident or determine damage amounts.
- **Resolve your issue in court.** You might have to file a lawsuit to resolve the issue. If your claim is for less than \$10,000, you can use Justice Court. Justice Court is a special court that handles small-claims disputes. You don't need an attorney, but you have to pay a filing fee and other court costs in advance. If you win, you can get that money back. For more information, call your county justice of the peace office.

Each month, many of our clients who are insured with law-abiding carriers follow TDI's appraisal advice and successfully resolve loss disputes quickly, amicably and at minimal cost to both parties. However, some clients find – at the most inopportune time – that their carrier is unconcerned about the unlawful disregard of contractual obligations, such as the right of appraisal, when it suits its pocketbook. While we reasonably believed that a straightforward matter such as this would be in TDI's purview and interest, it seems there is a reason for its advice to file a lawsuit to resolve the issue.

Upon seeing more and more carriers ignoring and violating the clear policyholder rights of our clients, I began writing in the January 2020 editorial about the widespread unfair settlement practice scheme being committed by certain Texas carriers. On September 13, 2019, Auto Claim Specialists began turning over information, audio files, claim numbers and supporting documents to TDI in support of our allegations. We respectfully requested that the Department issue an immediate cease-and-desist order from the Commissioner instructing carriers with an appraisal provision in the policy to stop denying the insured's right of appraisal following the discovery of under-indemnification given a reasonable time period for discovery. We further requested a bulletin from the Commissioner stating that the unlawful act mentioned herein had been brought to TDI's attention.

As we progressed through the discovery stages of the dispute process, we continued to provide any and all additional information requested by TDI as well as updates on new cases of violations supporting our allegations. On May 14, after over seven months of



anticipation – not only for us, but for many of you who have contacted us for updates – TDI issued the following response:

*First, after a thorough and careful review of the complaints and information provided, our staff has determined that an insurance company may not be obligated to accept an appraisal request after the policyholder has agreed to a settlement and relinquished their insurable interest in the vehicle. Whether the insurer is obligated depends upon the language in that particular insurance contract and the specific facts of that claim.*

*Second, in some of the examples you provided where your company was able to negotiate an agreed settlement, there appear to be fact questions which indicate the settlement was not necessarily based on an improper valuation by the data vendor or the insurer when the claim was initially settled.*

*Please know that the reasonableness of any settlement, and any change in the valuation and the final settlement amount following an appraisal, are all fact questions. Fact questions are resolved through a court or an alternative dispute resolution process. TDI does not provide advisory opinions, legal advice or otherwise get involved in fact questions intended to be addressed by a court of law in private litigation.*

*We appreciate you bringing all of these matters to our attention and assisting in our regulatory efforts.*

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## Executive Director's Message

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meetings, Golf Tournaments and Skeet Shoots all across the great state of Texas. We will be focusing on membership and expanding our territories to gear up for an exciting legislative session in 2021. If you thought new car technology kept you on your toes, try the legislative ring! With all that our country has faced in the last six months, that realm has altered its course as well. The Legislature will be redrawing districts this year, which adds another layer. The manpower that a trade show requires can now be redirected to formulate a calculated plan for this upcoming session.

ABAT needs your support now more than ever. The profits from the Texas Auto Body Trade Show is ABAT's main source of funding, so we will be relying on membership dollars and corporate sponsorships at events to help us prepare for success in 2021. We are thankful to have such a great support system and look forward to seeing you all – socially distanced, of course – at one of these exciting events this fall and at the Texas Auto Body Trade Show in 2021! **TXA**

  
jill@abat.com

## Ask the Expert

Continued from page 17

Our interpretation of this response is that the issue we presented to TDI is one for the court system (rather than the regulatory system) to address. Lesson learned. I, as well as my clients, appreciate TDI reviewing the allegation, information and documents we provided to support the exposed scheme harming Texas insureds.

Fortunately, in preparation for this exact outcome, we had clients and very interested lawyers lined up to take this issue to the next step should TDI not take action to resolve it.

The first of many of our clients across Texas willing to fight in court to protect their policy right of appraisal appeared in court on June 1. GEICO was the defendant in this case. During the hearing, most if not all of the same evidence provided to TDI on our behalf was entered into the court as evidence. At the end of the hearing, once the evidence was presented and the testimony heard, the Judge swiftly denied the carrier's position to deny the insured's right of appraisal. I heard the Judge say that in the absence of fraud, he found **no legal authority to deny the insured their right of appraisal**. Clear and straightforward. No regulatory agency policy position or interpretation required.

As I understand it, the preliminary denial of the right of appraisal now becomes the unlawful carrier's most expensive means of settling loss disputes. This is because a subsequent court ordered the granting of the appraisal, and the conclusion of such does not cleanse the unlawful acts of the carrier to defraud the insured. The



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carrier now faces additional damages, including (but not limited to) damages for breach of contract, bad faith and various insurance code violations. In addition, here's something in regard to yet another client's claims where the carrier denied the insured their policy right of appraisal: Once the insured filed suit seeking relief and damages against the unlawful carrier, that company's defense team quickly motioned the court to enforce appraisal to mitigate its loss – only to find out the earlier denial of the insured's right of an appraisal has now barred the carrier of the right to seek appraisal! Isn't it interesting to now see the unlawful carrier's defense team scurrying around to find a defense to limit its court-sanctioned damages due to its self-righteous attitude and greed!? As the age old saying goes, "Once you turn the light on, you will see the rats run!"

After just a few of these hearings, it is now evident justice is in sight and these unlawful carriers that maliciously deny their policyholders' rights of relief will now be punished and held accountable for their wrongdoing. There are many more court cases lined up across Texas in the fight to force the rest of the bad apples among carriers to cease and desist from denying the policy right of appraisal. As these work their way through the judicial process, I will continue to provide updates to the readers.

I expect as monetary punishment forces some carriers to reluctantly reform, others will fall in line to avoid the same inevitable fate. In fact, it is already happening. The very next day after the court granted the insured's policy right of appraisal in the face of strong opposition from the defense representing the insurance carrier in the aforementioned case, we submitted the Plaintiff's Motion to Compel Appraisal, the carrier's Opposition of Motion to Compel Appraisal and the Court's verdict to one of the other unlawful carriers we identified to TDI where we have clients who have initiated judicial intervention to seek relief against their unlawful actions. The same day, seeing the writing on the wall, **the defendant carrier moved each of our client's claims to an independent third-party appraiser and subsequently changed its position to grant the insured right of an appraisal!**

The spirit of the **Appraisal Clause** is to resolve loss disputes fairly and to do so in a timely and cost-effective manner. The invoking of the **Appraisal Clause** removes inexperienced and biased carrier appraisers and claims handlers from the process, undermining their management's many tricks to undervalue the loss settlement and under-indemnify the insured. Through the **Appraisal Clause**, loss disputes can be resolved relatively quickly, economically, equitably and amicably by unbiased, experienced and independent third-party appraisers as opposed to more costly and time-consuming methods, such as mediation, arbitration and litigation.

When the carrier issues a total loss settlement, an improper or unsafe repair plan or a dispute concerning the repair or replacement of the loss vehicle, the insured almost always has a policy option to invoke their right to appraisal in a contest of the proposed loss settlement. State Farm policyholders are an unfortunate exception; they only have the policy right under the appraisal clause to contest the actual cash value (ACV) in a loss dispute.

The under-indemnification in total loss and repair procedure claims in Texas is rampant. We have been increasing the total loss settlement for the eight out of 10 contacts we end up retaining as clients an average of 28 percent. We have also reduced clients' out-of-pocket expenses an average of 35 percent on repair procedure disputes. These under-indemnification percentages are staggering and harmful to Texas citizens.

In today's world regarding motor vehicle insurance policies, frequent changes in claim management and claim-handling policies and non-standardized GAP Addendums, we have found it is always in the best interest of the insured or claimant to have their proposed insurance settlement reviewed by an expert before accepting. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or proposed settlement and give their professional opinion as to the fairness of the offer.

Please call me should you have any questions relating to the policy or covered loss. We have most insurance policies in our library. Always keep in mind a safe repair is a quality repair, and quality equates to value. I thank you for your submitted questions and hope you are finding value in the answers provided.

Sincerely,  
Robert L. McDorman

TXA

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# President's Message



## “YOU DON'T KNOW WHAT YOU DON'T KNOW”

Last month, I asked our readers to reach out to me with what they were doing to offset the changes in their businesses from the hardships of COVID-19. I thought I would share with each of you a game-changing call I made many years ago that has impacted my business and helped us thrive today. Each of you who knows me has heard me say many times, “You don't know what you don't know.” The following is a great example of the truth behind this saying.

A little over five years ago, I received an email from Robert L. McDorman with Auto Claim Specialists. The email subject line said, “If You Want to Fix More Cars Call Me.” The body of the email only said, “If you are interested, please call me at (409) 790-4378. Sincerely, Robert L. McDorman.” Responding to this email has changed the way we do business.

By referring our clients to Auto Claim Specialists in the last 60 days, we have safely repaired six additional vehicles the carriers had deemed an economic total loss for an estimated repair cost of \$180,000. Our clients have been able to recover more than \$58,000 in under-indemnification of their total loss settlements and more than \$23,000 in under-indemnification of repair related losses. On top of this, Auto Claim Specialists has helped our clients recover over \$25,000 in diminished value.

Several times daily, we refer our clients to Auto Claim

Specialists to assist with their motor vehicle claim issues. We have seen many of our clients retain them over the years and have never received anything but the highest appreciation and gratitude from them. There is never an upfront fee for Auto Claim Specialists to review a motor vehicle claim or settlement and offer its professional opinion as to how to proceed.



**Burl Richards**  
*ABAT President*

Auto Claim Specialists' company website ([autoclaimspecialists.com](http://autoclaimspecialists.com)) has a wealth of information relating to your clients' claim issues. Auto Claim Specialists' subsidiary, Vehicle Value Experts, can be found at [vehiclevalueexperts.com](http://vehiclevalueexperts.com). At the top of the homepage, there are two short videos: “What Is Total Loss?” and “What Is Diminished Value?” These videos have helpful information concerning common important issues faced by your clients.

In today's world regarding motor vehicle insurance policies, claims management and the frequent changes in insurance carrier claim-handling policies, Burl's Collision, from time to time, will

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## President's Message

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consult with a public insurance adjuster licensed by the Texas Department of Insurance to help explain and assist with complex insurance claim issues faced by our clients. Over the years, we have learned it is always in our clients' best interest to seek the advice of a professional public insurance adjuster who is licensed to watch over the public interest regarding motor vehicle insurance claims.

When there is a dispute over the covered loss, we always advise our clients as follows:

*It has been brought to our attention the insurance carrier currently overseeing your claim has failed to properly indemnify you for your loss. As a loyal customer of Burl's Collision, we would respectfully like to extend some advice and suggestions that could help you prepare, understand and deal with the next steps of your claim.*

*Following this is information about the appraisal process and how a public insurance adjuster can be of help in receiving a fair insurance settlement.*

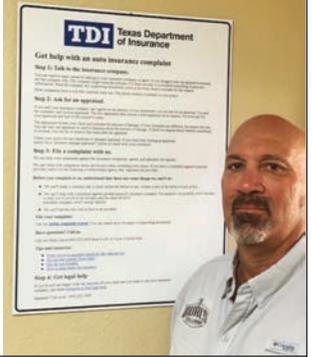
As an additional way to help our clients, we have placed an informative marquee in our customer waiting lounge with information from the Texas Department of Insurance (TDI) to help them get assistance with an auto insurance complaint. This four-step advice directs the insured to:

1. talk to the insurance company;
2. ask for an appraisal;
3. file a complaint with TDI; and
4. get legal help.

We have found steps two and four to be the most effective manners for our clients to protect themselves from the predatory practices of the insurance carriers.

If you want to fix more cars and see to it your clients are properly indemnified for their loss, refer them to a licensed public insurance adjuster specializing in motor vehicle claims. Also, you can refer them to Auto Claim Specialists, as we have done in the past, and have them take the advice of the Texas Department of Insurance to "ask for an appraisal."

ABAT President Burl Richards with the consumer information from the Texas Department of Insurance (TDI) that he has prominently displayed at his shop.



A successful business in our industry is one that puts the customers' safety and best interest first. Remember, when you are always taking care of and looking out for your customers' best interests, everything else takes care of itself. Please check out the Ask the Expert feature in this month's issue for more insight and information on this topic.

In closing, thank you to Jerry McNee at Ultimate Collision Repair in Edison, NJ for being the first person to show me, "You don't know what you don't know." **TXA**

*Burl Richards*  
burl@burlscollision.com