

DEPARTMENT OF INSURANCE

CONSUMER SERVICES AND MARKET CONDUCT BRANCH
CONSUMER COMMUNICATIONS BUREAU
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013
www.insurance.ca.gov



July 3, 2018

Aaron Schulenburg
P.O. Box 909
Prosser, WA 99350

Our File Number: CCB-8157315
Regarding: Automobile Collision Repairs

Dear Aaron Schulenburg:

Thank you for your letter of June 21, 2018 to Insurance Commissioner Dave Jones. He appreciates your taking the time to write regarding automobile collision repairs. Due to the nature of this inquiry, he has asked this office to respond.

Please see our answers in bold below to the questions and statement you have presented:

1. Is your department charged with consumer protection and the entity who serves as the regulatory agency to govern and supervise the business of insurance in your state? **Yes, we have the authority of enforcing the California Insurance Code and regulate how insurers and licensees conduct business in California.**
2. Are claims settlement practices a part of that regulatory oversight? **Yes, we have the authority of enforcing the Fair Claims Settlement Practices Regulations (FCRs) found under Title 10, California Code of Regulations Sections 2695.1-2695.14 which provide claim handling and settlement standards.**
3. In many cases, vehicle manufacturers provide specific instructions and documented procedures on how repair and replacement operations are to be performed to produce a safe and proper repair. As evidenced in the SEEBACHAN v. JOHN EAGLE COLLISION CTR case in TX, failure of the facility performing the repair to follow these procedures can result in catastrophic loss, and incur avoidable liability that negatively impacts garage insurers. Many state laws relevant to insurer claims settlement rely on subjective terms such as "reasonable" as a means of satisfying their obligations. **FCRs Section 2695.8(f) requires an insurer to prepare an estimate which will allow for repairs to be made in a workmanlike manner. A consumer also has the right of taking their vehicle to the shop of his/her choice including a vehicle manufacturer's repair shop.**
4. Is there anything that holds insurers and insurance policies sold in your state accountable to recognize manufacturer documented procedures as a basis for settling claims and loss

indemnification? **No, our insurance laws and regulations are silent on vehicle manufacturer documented procedures.**

5. Would your department consider it a "reasonable" expectation that if an OEM repair procedure or instruction existed, that the claim should cover the associated costs? **This one would need to be looked at on a case by case basis. Our regulations mandate that insurer estimates allow for repairs to be made in a workmanlike manner.**
6. Would your department expect consumers to be clearly notified through exclusions in the policy where costs associated with documented OEM procedures would not be covered; otherwise, allowing a consumer to reasonably assume they would be? **Again, our insurance laws and regulations are silent on documented OEM procedures. However, consumers are provided an Auto Body Repair Bill of Rights with several stipulations including but not limited to choice of repair shop and itemized written estimate for repairs.**
7. If there is a dispute between a consumer and their insurance carrier over the cost to restore their vehicle to pre-loss condition in accordance with manufacturer documented procedures, is your department the correct one to address those issues and provide consumer protection?
 - a. If yes, please explain? **Yes, we have a consumer complaint process in place where we review each claim based on its own merits and for compliance with our existing laws and regulations. In addition, we also refer consumer to the California Department of Consumer Affairs, Bureau of Automotive Repair that offers no-cost inspections of collision-related repairs to help ensure the safety of California motorists and their vehicles.**
 - b. If no, who is the appropriate consumer protection body to do so? **N/A**

Please note our primary function is to enforce existing insurance laws and regulations. Presently, our laws and regulations are silent on the issue of documented manufacturer repair procedures. Only through legislation can new laws be enacted for our office to enforce. For your consideration I have enclosed copies of our Fair Claims Settlement Practices Regulations, Request for Assistance Form (consumer complaint form), Auto Body Repair Shop Report Form (repair shop complaint form) and Auto Body Inspection Program brochure.

Again, thank you for writing. I hope this information will be of assistance to you. If we can assist you in the future with insurance problems or provide information, you may wish to access our website at www.insurance.ca.gov. You may also wish to contact our Consumer Hotline at 1-800-927-4357.

Sincerely,

Alex Avalos

Senior Insurance Compliance Officer

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Please refer to our file number when responding.