



Barbara D. Richardson  
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

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August 2, 2018

Aaron Schulenburg, SCRS Executive Director  
P.O. Box 909  
Prosser, WA 99350

Re: Assignment 18-036

Via Email: [aaron@scrs.com](mailto:aaron@scrs.com)

Dear Mr. Schulenburg:

I am responding to your June 21, 2018 letter addressed to Commissioner Richardson and received by the Division of Insurance ("Division") on June 21, 2018 via an email from Ms. Linda Atkins, SCRS Administrations. Below, please find specific responses to each of your questions which have been reproduced:

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?

*Response: Yes.*

2. Are claims settlement practices a part of that regulatory oversight?

*Response: Yes. Nevada Revised Statute ("NRS") 686A.310 is an unfair claims settlement practices law in Nevada. This allows the Division to take administrative or other action against an insurer if a business practice or a trend is identified that violates specific Insurance Code(s). The Division does*

*not have the expertise to get involved in individual claims settlement disputes outside of ensuring compliance with policy language and Nevada law.*

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.

*Response: No response requested. No response given.*

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?

*Response: The Division is not aware of any statutory requirements in the Insurance Code (Title 57) regarding manufacturer documented procedures. Please refer to [Division Bulletin 16-005](#) issued jointly with the Nevada Department of Motor Vehicles (DMV) on July 22, 2016. The Nevada DMV licenses and regulates repair/body shops. The DMV laws<sup>1</sup> do contain certain requirements for the repair/body shops to follow when repairing a vehicle, including performing the repairs in accordance with any specifications of the manufacturer (NRS 487.688).*

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?

*Response: Repair procedures and instructions are not within the Division’s purview. The terms and benefits stated in the policy would be reviewed.*

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?

*Response: The Division reviews and approves proposed insurance policies based on the existing Nevada laws. The Division is not aware of any statutory mandate in the Insurance Code (Title 57) pertaining to policy language containing reference to OEM parts. The Insurance Code’s trade practice*

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<sup>1</sup> <https://www.leg.state.nv.us/NRS/NRS-487.html> and <https://www.leg.state.nv.us/NAC/NAC-487.html>

*provisions in the NRS chapter 686A require that the terms and benefits of a policy not be misleading.*

7. If there is a dispute between a consumer and their insurance carrier over the cost to restore their vehicle to preloss 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?

*Response: The Division will, within its administrative regulatory jurisdiction and on a case-by-case basis, review consumer complaints to evaluate whether the claims-handling process is compliant with Nevada law and the underlying insurance contract. If there is a cost-related dispute, eventually the courts would be the proper forum to address any damages alleged and restitution to the consumer therefor.*

- b. If no, who is the appropriate consumer protection body to do so? *N/A*

Please contact me directly at (775) 687-0774 or [rjain@doi.nv.gov](mailto:rjain@doi.nv.gov) if you have further questions on this matter.

Sincerely,



Rajat Jain  
Chief Insurance Examiner  
Property and Casualty

Cc: Assignment file