

**From:** [Patrick Merkel](#)  
**To:** [Aaron Schulenburg](#)  
**Cc:** [Patrick Merkel](#); [Michael Humphreys](#); [Rachel Jrade-Rice](#); [Brian Hoffmeister](#)  
**Subject:** RE: SCRS - Follow up to our conversation  
**Date:** Friday, October 19, 2018 11:17:33 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[FW Society of Collision Repair Specialists Letter.msg](#)

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Aaron,

A few of your questions below seem more specific than the ones we discussed over the phone. Please see below in RED the answers to your questions.

Patrick

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**From:** Aaron Schulenburg <[aaron@scrs.com](mailto:aaron@scrs.com)>  
**Sent:** Thursday, October 11, 2018 12:14 PM  
**To:** Patrick Merkel <[Patrick.Merkel@tn.gov](mailto:Patrick.Merkel@tn.gov)>  
**Subject:** SCRS - Follow up to our conversation

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Patrick,

It was a pleasure to chat with you earlier. Here were the questions posed:

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

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**

4. 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? **The terms of the policy would control. I cannot opine further on this hypothetical. If you would like a formal legal interpretation that can be requested.**
  
5. 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? **The Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, TCA 56-8-101 et seq. would apply. I cannot opine further on this hypothetical. If you would like a formal legal interpretation that can be requested.**
  
6. 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? **The terms of the policy would control. The Department has a complaint mediation process, but that does not replace the role of the courts in a contract dispute.**
  - a. If yes, please explain?
  - b. If no, who is the appropriate consumer protection body to do so?

### **Aaron Schulenburg**

Executive Director | Society of Collision Repair Specialists (SCRS)

302.423.3537

877.435.6028 Fax

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

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