



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

March 7, 2019

Mr. Aaron Schulenburg
Society of Collision Repair Specialists
P.O. Box 909
Prosser, WA 99350

Mr. Shulenburg:

You previously wrote asking that I provide responses to seven (7) questions pertaining to collision repair centers. Please understand that some of the issues in your survey do not fall under my jurisdiction and others are difficult to provide the detail you request due to the unique statutory laws we have in Louisiana that cross over numerous titles and involve multiple agencies, not just the Louisiana Department Insurance (LDI). With this understanding, here are my responses:

1. QUESTION – 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?

ANSWER—Yes.

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

ANSWER—Yes.

3. QUESTION— 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 evidence 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.

ANSWER—What is the question?

4. QUESTION— 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?

ANSWER— *There is no Louisiana statutory law that addresses or mandates that OEM recommended repair procedures be followed. Among other related matters, La. R.S. 51:2421 et seq addresses the notice that a repair facility is required to provide to a vehicle owner with regard to whether an OEM or non-OEM part is being used in the repair of the vehicle. However, in answer to your question, there is no Louisiana statute that specifically addresses vehicle repair methods or procedures.*

5. QUESTION—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?

ANSWER—There is no specific Louisiana statutory law that addresses or mandates that an OEM recommended repair procedures be followed. However, if a vehicle manufacturer outlines a specific recommended repair procedure for a vehicle repair the LDI does recommend that insurers recognize that procedure as it relates to repair methods only, and not specifically as it relates to the use of specified OEM parts due to the fact that Louisiana law currently allows for the use of non-OEM parts in the repair of the vehicle. See La. R.S. 51:2421, et seq.

6. QUESTION—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?

ANSWER— An insurance policy is a contract between an insurer and a policyholder. As it relates to insurance related automobile repairs that may be either first party or third party, the LDI expects the policy to comply with any statutory provision or case law which may apply to the obligations of the insurer to pay for the repair of the vehicle. See answer to questions 4 and 5 above. In addition, the LDI has published a consumer brochure entitled “Consumer’s Guide to Auto Insurance After an Accident” to assist repair shops as well as Louisiana citizens who are involved in an auto repair claim either as the first party or the third party. The LDI has provided this brochure to the Louisiana Collision Industry Association (LACIA) for them to disseminate to their members to use in dealing with any customer involved in a repair covered by insurance. This is part of our LDI public awareness and education campaign. Additionally, the LDI purchases television and radio spots as part of our media campaign aimed at public awareness and education of Louisiana policyholders who are involved in the repair of an automobile pursuant to an insurance claim.

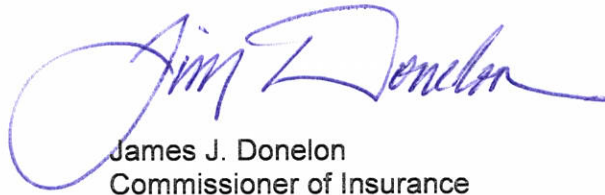
7. QUESTION—If there is a dispute between a consumer and their insurance carrier over the cost to restore their vehicle to pre-loss condition in accordance with manufacturer documented procedures, is your department the correct one to address issues and provide consumer protection?

- a. If yes, please explain.
- b. If not, who is the appropriate consumer protection body to do so?

ANSWER—If the dispute is in regard to the actions of the insurer or the work of a direct repair facility working on behalf of a vehicle owner/ insurer, then the LDI is the agency to handle that dispute. If the dispute is in regards to the actions of a non-direct repair facility hired by the vehicle owner, then the Louisiana Department of Justice, Office of Attorney General, Division of Consumer Protections, is the agency to handle that dispute.

The LDI has been proactive in making Louisiana citizens aware of their rights when their vehicle has been involved in an accident that requires repairs and will be the subject of a claim, either first party or third party, that will be filed against an automobile insurer. The LDI has also been steadfast in educating the collision repair industry in Louisiana about their rights and obligation vis-à-vis the vehicle owner and the insurer within the claims process when an automobile insurer is involved. If you have any further questions, or need any clarification, please feel free to contact me.

Very truly yours,

A handwritten signature in blue ink, reading "Jim Donelon". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

James J. Donelon
Commissioner of Insurance