

Repairer Driven News

From: Roarke Ponce <roarkep@excelautobodykf.com>
Sent: Tuesday, June 04, 2019 2:51 PM
To: Repairer Driven News
Subject: FW: Body Shops "practicing law" by negotiating claims

John,

Here is the reply from the state on my question below

From: CHENG Alexander S * DCBS <Alexander.S.Cheng@oregon.gov>

Sent: Monday, June 3, 2019 12:20 PM
To: 'roarkep@excelautobodykf.com' <roarkep@excelautobodykf.com>
Subject: RE: Body Shops "practicing law" by negotiating claims

Dear Mr. Ponce,

Thanks for your inquiry and your patience as we were looking into this issue. If an auto repair shop is actively representing the interest of the insured individual (the car owner) in negotiations with the insurance company, this may constitute the work of an insurance adjuster, for which a license is required.

The Oregon Legislature recently passed a new law ([Senate Bill 251](#)) clarifying the definition of an "adjuster." Under the law, an "adjuster" is defined as "a person that receives a fee, a commission or other compensation to investigate, negotiate or settle first party or third party losses that arise as claims under the terms of an insurance contract that insures a domestic risk." There is an exemption for "a person that provides, without compensation, an estimate for repairs that the person will perform, even if the person receives compensation for the repairs under the claim."

If a repair shop is engaging in a back-and-forth with the insurer regarding the amount the insured individual (or, more precisely, the shop) is going to be paid, this can be considered compensation for negotiating and an adjuster license would be required.

Representing the insured individual in a negotiation with an insurance company could constitute the practice of law in some situations; however, the Department of Consumer and Business Services is not in a position to provide an opinion on the subject. The Oregon State Bar is the authoritative body in deciding what is and is not the practice of law.

I hope this information is helpful. Please let me know if we can be of additional assistance.

Alex Cheng

Senior Policy Analyst

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Sent: Tuesday, May 28, 2019 3:14 PM

To: DCBS INS CP * DCBS <Cp.INS@oregon.gov <<mailto:Cp.INS@oregon.gov>> >

Cc: [REDACTED]

Subject: Body Shops "practicing law" by negotiating claims

To Whom It May Concern,

The following article and video has raised some concerns and prompted me to contact you.

https://www.repairerdrivennews.com/2017/08/25/is-your-shop-negotiating-with-insurers-on-behalf-of-customers-in-many-states-it-might-be-illegal-attorney-says/?fbclid=IwAR2_oOx-nFKRboCEbEmd7OvZc8YF8KuKdjdt6MT1RSsgCR1bhTczCkCyO5A

<https://www.youtube.com/watch?v=e26vBU0XEJU>

In light of the information contained in the article and video, can I please get your help in finding out the following:

Is a body shop practicing law by negotiating the claims settlement for the repair of a vehicle with an insurance company employee or agent in the State of Oregon?

- Example: I write a estimate for a 2009 BMW X5. I submit my photos and estimate to [REDACTED]. I receive an email from [REDACTED] with a file attached labeled "[REDACTED]" with the expectation that I will make the changes listed and resubmit my estimate back to [REDACTED] for approval. By accepting these changes as demanded by [REDACTED], I am reducing the amount paid to the vehicle owner. If I attempt to "negotiate" any of the items on [REDACTED], [REDACTED] will delay payment of the claim to the vehicle owner (insured in this case) until I capitulate to their demands (Claim [REDACTED]). [REDACTED] states that Oregon is a [REDACTED] state and they will not settle with the insured or claimant by writing their own estimate. The delay can go on for quite some time ([REDACTED]). Also, [REDACTED] blames the delay on my shop's non-acceptance of [REDACTED]'s offer.

If a shop has a direct repair agreement with an insurer, how does that affect the repair claims settlement on behalf of the vehicle owner in the State of Oregon?

- With Direct Repair Programs, there are rules placed by the insurance on the shop that are not part of the policy language (at least to my knowledge, I have never seen any DRP repair shop rules included in the language of my own policies or the policies that my customers have shared with me). So in effect those rules were "pre-negotiated" with the insurer. Often the settlement payment for the repairs goes directly to the shop bypassing the vehicle owner. The vehicle owner has no real say in how the car is repaired or what parts are used in that repair at most DRP shops. Often when I inform customers of their rights in Oregon, insurance adjusters make comments about "we do not need to involve the vehicle owner" indicating to me that it is out of the norm for other shops and insurance companies to "involve" the vehicle owner in the repair negotiation process.

Thank you for your time,

Roarke Ponce – Owner

Excel Auto Body

ASE Master Collision Technician

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