



Nebraska Autobody Association

News Capsule

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Questionable insurance practices for settling Hurricane Katrina claims have resulted in an action under RICO, the federal Racketeer Influenced Corrupt Organization Act. "We have proof that (the insurer) and its partners conspired to cheat policyholders out of rightful payments worth millions of dollars," said attorney Don Barrett from the Scruggs Katrina Group. These actions under RICO outline the dangers of insurance partners who conspire with insurers to deprive claimants of the benefits promised under a policy of insurance. "This action should be a wake-up call", said National Collision Industry Alliance founder, Norbert Zaenglein. "An insurer's encouragement or promotion of certain standards or practices does not protect service providers against charges of conspiracy or fraud. If a claimant does not receive the coverage promised in the policy, then someone committed fraud. It does not matter that the insurer tacitly accepted or even promoted the fraud, either directly, indirectly or through various incentives including preferred referrals. Insurers are not the shops customers and the RICO allegations are a potent reminder of the inherent risks and repercussions of providing services that do not fully indemnify policyholders."

North Dakota Insurance Commissioner, Jim Poolman, levied a hefty fine against Farmers Insurance Group for allegedly establishing incentives that rewarded adjusters for underpaying and denying claims. Poolman said, "This action is a result of a comprehensive examination that uncovered systemic claims handling practices that were at best unfair and at worst, abusive to the policyholder." Poolman's market conduct examination, which began in August 2004, reviewed Farmers' claims handling practices from January 1990 through August 1, 2004. The report describes incentive programs and slogans, such as the "Bring Back a Billion" campaign, which encouraged employees to work to rebuild surplus and utilized "pledges" that employees signed. Also detailed are company action plans that set goals that were unfair and arbitrary. For example, examiners found that company forms included goals that bodily injury claims be settled within a predetermined range rather than on each claim's merits. In addition, Farmers allegedly instituted a goal to close a set percentage of claims without payment. "Farmers needed to reduce expenses and may have done so on the backs of their policyholders by requiring their adjusters to pay as little on claims as possible," Poolman added. Farmers Insurance Group denied any wrongdoing but agreed to a \$750,000 settlement.

Connecticut shops are suing Progressive Insurance over alleged steering and suppression of hourly labor rates, according to an article in Contact.com. The lawsuit alleges that the insurer, through in-house appraisers, imposed labor rate caps ranging from \$44 – 46 per hour where non-insurance work exceeds \$70 per hour. "We're talking about a class of highly-skilled workers who are trying to make a living and are getting squeezed by Progressive," according to the attorney representing the shops. Progressive denies any wrongdoing.

Attorney Erica Eversman from Vehicle Information Systems has developed a form to determine if insurer demands are covered by your garage keepers liability policy. The form can be filled out and printed online and sent to your insurance agent. This simple act allows shops to determine if certain insurer demands are actually covered by the policy or if shops are assuming the full liability for demands by the insurer. The form has been posted to the 'What's New' section of the NABA web site at the following link. <http://www.nebraskaautobody.com>

Improvements in the quality and reliability of modern automobiles are good news for consumers but not so for mechanical repairers or new car dealers. According to a J.D. Powers survey of 3-year-old cars, the number of problems per 100 vehicles fell from 273 to 227 during the last four years. Fewer repairs are resulting in layoffs and it's not only independent repairer that are feeling the squeeze. Dealer repair shops are also witnessing a decline due to greater vehicle reliability and fewer maintenance schedules. The improved reliability of motor vehicles has also resulted in a moderation of parts sales.

Geico is among the top advertising spenders, which increased brand recognition and propelled the insurer to the top spot in acquiring new customers. Market giants such as State Farm have noted Geico's success and are boosting their own marketing budgets. Industry analysts are predicting a softer market, one in which insurers will compete for customers by discounting premiums. The result will increase competitive pressures on collision repairers for both price and performance.

Nitrogen promises to be a clean technology with numerous advantages over traditional air-propelled paint applications. According to Michael Haydell of Haydell Industries, "Using heated nitrogen instead of compressed air improves transfer efficiency for both waterborne and solvent-based paints, cuts flash times, and reduces materials by 20 percent to 30 percent." Nitrogen paint systems are compatible with a variety of air compressors, paints, and spray guns. The process assures that each coat adheres to the surface quickly, eliminating sags, runs, drips and orange peel. Heightened political sensitivity of environmental issues will compel more legislation for cleaner technologies and that may give nitrogen-based paint systems a clear advantage.

LKQ Corporation in June signed a merger agreement to acquire Keystone Automotive Industries. The merger, which is subject to approval by Keystone shareholders, is expected to close early 2007. According to LKQ, the merger would create a more comprehensive alternative parts business. The impact of the merger might also create closer alliances with insurers through new parts distribution models for collision repair.

Industry analysts are predicting a worldwide rise in the demand for oil along with a decrease in oil production through the year 2012, according to the International Energy Agency. World oil demand "will rise faster than expected to 2012 while production lags, leading to a supply crunch." While some are seeking solutions via the development of biofuels, carmakers are betting on hybrid technology. Toyota is planning its future on hybrids, predicting that all of Toyota's vehicles will be hybrids by 2020 when the profit margins on new cars will equal those of autos powered by gasoline.

The National Conference of Insurance Legislators (NCOIL) is among numerous insurance entities opposing legislation to repeal the antitrust exemptions granted to insurers under the McCarran-Ferguson Act. Under McCarran-Ferguson insurers are granted limited antitrust exemptions, which permit collaboration only for purposes of data collection and rate-and-form development. Nothing in McCarran-Ferguson gives insurers the right to set or manipulate repair prices or establish repair methods and procedures. The American Insurance Association (AIA) also said it would oppose amendments to McCarran-Ferguson.

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