

## Are Consumers Entitled to Have Their Vehicles Repaired According to OE Recommendations?



“Is the vehicle owner, on insurance-paid repairs, entitled to have the repairs done according to the vehicle manufacturer’s repair recommendations?” – Steve Piispanen, owner, Keene Auto Body, Keene, New Hampshire

Question answered by Erica Eversman

If the procedures involve (potential) safety items, then a repairer must follow the recommendations of the manufacturer, and the state department of insurance (or the state administrative agency that oversees insurers) should hold insurers accountable for proper indemnification of insureds and payments to third parties.

As a jury recently confirmed in the *Seebachan v. John Eagle* case in Texas, the failure of a collision repairer to follow a manufacturer’s recommended procedures that affected the safety of the vehicle constituted actionable negligence on the part of the shop and resulted in a \$31.5 million damage award to the injured plaintiffs.

In other words, John Eagle’s failure to repair the Honda Fit according to Honda’s roof repair procedure was irresponsible and the cause of severe harm to Mr. and Mrs. Seebachan.

An insurer has an obligation to an insured to pay an amount necessary to safely and

properly repair any vehicle they insure. This is not expressly defined in auto insurance policies, but is clearly an implied requirement – because failure to provide enough money for a safe, proper repair would negate laws prohibiting the operation of unsafe vehicles on roadways and would violate public policy. Therefore, failure to pay sufficiently to safely and properly repair would be a breach of the insurance contract with the insured.

Similarly, a third party is entitled to be “made whole” after an accident. That means the third party has the right to be put back in the position they were in immediately before the accident. Being put back into the position held immediately before the accident must include sufficient payment for a safe, proper repair. Additionally, a third party is not bound by the limitations the insured may have agreed to in the insurance policy because they recover under the legal theory of negligence. As a result, third parties typically are not required to have their vehicles repaired with imitation crash parts as may be called for in the insurance policy (unless those parts were already on the third party’s vehicle at the time of the accident and continue to be appropriate for this particular repair).

