

# **Fact: Auto glass replacement companies that are TPA claims processors and install auto glass funnel 85% of the claims to their own shops**

June 1, 2007

## **Leveling the glass playing field**

By Tim Sramcik (attached article)

*Independent glass installers take aim at third party claims administrators*

Safelite/Belron's general counsel Mark Smolik

Smolik also noted that the high percentage of claims funneled to Safelite shops can be explained by the fact that in the vast majority of cases, claimants don't request a repairer. "Only 15 percent have preference," he stated. "If they do not, that claim will go to a Safelite shop. If we can't service the claim, then it goes to a network shop."

As for the poaching allegation;

Smolik said these incidents may be the products of simple misunderstandings between customers. He noted, "What does happen sometimes is that an appointment is set up with the husband. He doesn't know it's a bad time. The wife calls back to change it and says, 'I don't care who you send me just have someone here at this time.' The original appointment is considered cancelled and a new appointment is made. They don't communicate; nobody calls the glass shop."

### **“Misunderstanding” or a \$3.4 Billion Dollar conflict of interest?**

**USAA and GIECO are using Safelite as adjusters to conduct inspections prior to work authorization**

### **Many States across the nation are addressing this problem.**

**New York- s2144-2011**

**South Carolina-HB3638**

**Massachusetts- SD 864 HB 3339**

**Arizona-SB1238**

# The Commonwealth of Massachusetts

2011

Senate Docket #864 & House Docket #3339.

AN ACT PROHIBITING AUTO GLASS INSURANCE CLAIMS THIRD PARTY BILLERS FROM PARTICIPATING AS VENDORS OF AUTO GLASS REPLACEMENT AND/OR REPAIR SERVICES FOR THE SAME INSURANCE CARRIER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any provisions of any general or special law to the contrary, no company which serves as a third-party biller for a particular insurance company, whether a carrier or an agency, may additionally provide auto glass replacement and/or repair services for such insurance company, whether under its own business entity that it is related to, by either stock ownership, license agreement, franchise agreement, or such ownership by any direct family relative. A third-party biller shall be defined as any person or company who processes, pays or monitors the payment of auto glass claims on behalf of an insurance carrier or insurance agency.

SECTION 2 All third-party billers of auto glass claims, or any other party that answers telephone calls from telephone numbers advertised or prescribed by insurance carriers or agents for the purpose of reporting auto glass claims by policyholders or glass companies, must disclose, either by recorded message or live voice from a script at the outset of each telephonic interaction, that the person is not a direct employee of the insurance carrier or insurance agent, and that such third-party biller company is not a subsidiary or division of the insurance carrier or insurance agent.

SECTION 3. All third-party billers of auto glass claims must ask in clear language if the policyholder or caller would like to use a particular auto glass company. Such question must be asked before the name of any auto glass service provider company shall be mentioned. If the policyholder or caller mentions the name of any auto glass service company, such mention shall constitute "customer choice," and the name of no other auto glass service company shall be introduced by the person or automated voice during the entirety of the telephonic interaction. In the course of, or following a policyholder's call to report an insurance claim for auto glass loss or damage, no third-party biller may authorize any employee or independent contractor to forward any information gathered during such call, including but not limited to the name of the policyholder, the year, make and model of the

policyholder's vehicle, and the location of said vehicle, to any glass company other than the glass services company with which the claim fulfillment has been agreed to and scheduled with, between the policyholder and the third-party biller. Such methods of forwarding policyholder information shall include, but not be limited to, telephonic links, direct telephone calls, transmission by facsimile, transmission by electronic mail, or any other method.

#### SECTION 4. Privacy of Proprietary Customer Information.

No third-party biller and/or auto insurance carrier shall forward to any policyholder any letter or notification that said policyholder's claim for auto glass loss or damage was settled for a price that exceeded the expressed or inferred price, by any auto glass service company, unless such price, in fact, did exceed said expressed or inferred price in effect at the time of such claim settlement. Further, no auto glass service company shall receive and/or utilize any information gathered by a third-party biller, in the administration of its responsibilities to issue verification of auto glass loss or damage claims, for its use in any marketing efforts, to discredit and/or disparage any trade practices of any other auto glass service company, expressed or implied, and enter into its database any vital information of any claimant for any future use.

SECTION 5. No employee or independent contractor of any third-party biller of auto glass claims, insurance carrier, and/or insurance agency shall offer any information regarding the quality of workmanship, warranties and/or guarantees, or any possibility of additional costs to the insured during any telephonic interaction, unless the employee or independent contractor holds a permanent license as an insurance adjuster or auto damage appraiser in the Commonwealth of Massachusetts, and that such license is in full force at the time of the telephonic interaction. In the event that such employee or independent contractor holds a permanent license as an insurance adjuster or auto damage appraiser in the Commonwealth, and duly discloses the license number to the caller, the information concerning workmanship, warranties and/or guarantees, or the possibility of additional costs to the insured by any specific auto glass service provider must be based on verifiable facts, duly noted, held in electronic information systems, and accountable for substantiation to the person holding such license.

SECTION 6. All third-party billers providing any auto glass claims-related services to insurance companies that offer policies of insurance in the Commonwealth of Massachusetts shall file annually on March 31st with the Office of the Insurance Commissioner, all auto glass claims-related contracts in force with each specific insurance company, either carriers or producers, which delineate the provisions of the business relationship, excluding the amount of payment and/or consideration provided for third-party billing services. The Commissioner of the Division of Insurance shall

promulgate rules and regulations for the administration and enforcement of this section, and shall create and make available all required forms for such reports.

SECTION 7. Each violation of Section 1 of this act shall result in a fine of \$1,000.00, to be paid by the insurance carrier or insurance agency that utilizes the services of a third-party biller. Each glass claim completed in contradiction with the letter and/or intent of Section 1 shall constitute one violation. Allegations of violations shall be reported to the Office of the Insurance Commissioner who shall have the authority to levy such fine(s). Such fines shall be collected by the Division of Insurance and deposited in a retained revenue account to be used by the division to carry out the enforcement of this act. Furthermore, the Division of Insurance shall create and make available forms for reporting such violations of this section. Any violations Section 1 are subject to the provisions of Chapter 93A.

SECTION 8. Each violation of Section 2, Section 3, and/or Section 5 of this act, shall result in a fine of \$500.00, to be paid by the third-party biller or other offending company or person. Each glass claim completed in contradiction with the letter and/or intent of Section 1 shall constitute one violation of Section 2, Section 3, and/or Section 5 of this act. Allegations of violations shall be reported to the Office of the Insurance Commissioner who shall have the authority to levy such fine(s). Such fines shall be collected by the Division of Insurance and deposited in a retained revenue account to be used by the division to carry out the enforcement of this act. Furthermore, the Division of Insurance shall create and make available forms for reporting such violations of each of these sections. Any violations Section 2, Section 3, and/or Section 5 are subject to the provisions of Chapter 93A.

SECTION 9. Each violation of Section 4 shall result in a fine of not less than \$1,000.00, to be paid by the insurance carrier or insurance agency that utilizes the services of a third-party biller. Each glass claim completed in contradiction with the letter and/or intent of Section 4 shall constitute one violation. Allegations of violations shall be reported to the Office of the Insurance Commissioner who shall have the authority to levy such fine(s). Such fines shall be collected by the Division of Insurance and deposited in a retained revenue account to be used by the division to carry out the enforcement of this act. Furthermore, the Division of Insurance shall create and make available forms for reporting such violations of this section. Any violations Section 4 are subject to the provisions of chapter 93A.

SECTION 10. Each violation of Section 6 of this act shall result in a fine of not less than \$5,000.00 per incident. Failure to file the statement of ownership shall constitute one incident. Failure to file an agreement and/or agreements with one insurance company or insurance agency also shall

constitute one incident. Failure of any third-party biller to file three or more statements of ownership and/or agreements during one filing period may be deemed a pattern of non-compliance, at the sole discretion of the Commissioner of Insurance. In the event the Commissioner deems that a pattern of non-compliance exists, then the Commissioner shall forthwith send notice of such pattern of non-compliance to the third-party biller and send an additional copy of such notice to any insurance company and/or insurance agency that is known to utilize the services of such third-party biller. During the thirty (30) days immediately following such notice to the third-party biller, such third-party biller shall have the opportunity to submit all filings listed in the notice. If the third-party biller does not submit appropriate and conforming filings within such thirty (30) day period, then the Commissioner of Insurance shall levy a fine of not less than \$25,000.00 in addition to the fines for each filing not submitted in a timely manner. Such fines shall be collected by the Division of Insurance and deposited in a retained revenue account to be used by the division to carry out the enforcement of this act.

S T A T E O F N E W Y O R K

**S2144-2011: Authorizes the superintendent of insurance to promulgate regulations relating to the replacement of automobile glass**

**Sponsor:** BONACIC

**Committee:** INSURANCE

**Law Section:** Insurance Law

**S2144-2011 Summary**

Prohibits insurer from recommending a particular repair facility for replacement of auto glass unless expressly requested by the insured person to do so.

**S2144-2011 Actions**

- REFERRED TO INSURANCE

**S2144-2011 Committee Meetings**

**S2144-2011 Calendars**

**S2144-2011 Votes**

**S2144-2011 Memo**

BILL NUMBER:S2144

TITLE OF BILL: An act to amend the insurance law, in relation to

the

replacement of automobile glass

PURPOSE:

To ensure a level playing field in the area of auto glass installation and repair.

**SUMMARY OF PROVISIONS:** Amends section 2610(b) of the insurance law. The bill seeks to prohibit insurers from attempting to recommend or suggest that auto glass repairs be made at a particular place or shop.

**EXISTING LAW:** Allows insurers to recommend their insured use particular auto glass repair shops. Current law, however, prohibits insurers from making such recommendations for general auto repair (unless expressly requested by the insured).

**JUSTIFICATION:**

Insurance companies are attempting to steer their own insured to particular auto glass repair facilities

- some of which have corporate relationships with the insurer. There is no reason that the repair of auto glass, an essential safety component of a vehicle, should be treated differently than the repair of other safety mechanisms such as brakes. Consumer choice and safety should be the premier concerns when it comes to auto glass installation.

**LEGISLATIVE HISTORY:**

S.2895 of 2009: Referred to Insurance

S.477 of 2007: Referred to Insurance

S.3429 of 2005: Referred to Insurance

**FISCAL IMPLICATIONS:** None to State.

**LOCAL FISCAL IMPLICATIONS:**

None.

**EFFECTIVE DATE:**

Immediately.

**S2144-2011 Text**

S T A T E O F N E W Y O R K

2144

2011-2012 Regular Sessions I N S E N A T E January 18, 2011

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be

committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the replacement of automobile glass

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subsection (b) of section 2610 of the insurance law is amended to read as follows:

(b) In processing any such claim [(other than a claim solely involving window glass)], the insurer shall not, unless expressly requested by the insured, recommend or suggest repairs be made to such vehicle in a particular place or shop or by a particular concern. S 2. This act shall take effect immediately. EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted. LBD01912-01-1

**REFERENCE TITLE: auto glass repair**

**State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011**

# **SB 1238**

**Introduced by  
Senator McComish**

**AN ACT**

**AMENDING SECTIONS 20-441, 20-463.01 AND 20-469, ARIZONA REVISED STATUTES; RELATING TO  
AUTO GLASS REPAIR.**

**(TEXT OF BILL BEGINS ON NEXT PAGE)**

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-441, Arizona Revised Statutes, is amended to read:

**20-441. Purpose of article; definitions**

A. Among the purposes of this article is the regulation of trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945, 59 Stat. 33, by defining, or providing for the determination of, all such practices in this state that constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

B. For the purposes of this article:  $\tau$

1. "Insurance company" or "insurer" means any:

1: (a) Stock, mutual, reciprocal or title insurer.

2: (b) Fraternal benefit society.

3: (c) Health care services organization.

4: (d) Hospital, medical, dental and optometric service corporation.

5: (e) Prepaid dental plan organization.

6: (f) Mechanical reimbursement reinsurer.

7: (g) Prepaid legal plan.

8: (h) Lloyd's association.

9: (i) Service company as defined in this title.

10: (j) ~~Any~~ Other entity licensed under this title.

2. "THIRD PARTY ADMINISTRATOR" MEANS ANY PERSON WHO COLLECTS CHARGES OR PREMIUMS FROM OR PAID ON BEHALF OF, OR WHO PROVIDES ADMINISTRATIVE SERVICES TO OR ADJUSTS OR SETTLES CLAIMS BY, RESIDENTS OF THIS STATE IN CONNECTION WITH MOTOR VEHICLE INSURANCE COVERAGE.

Sec. 2. Section 20-463.01, Arizona Revised Statutes, is amended to read:

**20-463.01. Unlawful practices; auto glass repair; policyholders; insurers**

A. It is an unlawful practice for a person who sells or repairs auto glass to knowingly:

1. Submit a false claim to an insurer for auto glass repair or replacement or for related services:

(a) If the services were not provided.

(b) Showing work performed in a geographical area that in fact was not the location where the services were provided and that results in a higher payment than would otherwise be paid to the person by the policyholder's insurer.

(c) Not authorized in writing by the owner or lessee of the vehicle.

(d) Showing work performed on a date other than the date the work was actually performed and resulting in a change of insurance coverage status.

2. Advise a policyholder to falsify the date of damage to the auto glass that results in a change of insurance coverage for repair or replacement of the auto glass.

3. Falsely sign on behalf of a policyholder or another person a work order, insurance assignment form or other related form in order to submit a claim to an insurer for auto glass repair or replacement or for related services.

4. Misrepresent to a policyholder or other person:

(a) The price of the proposed repairs or replacement being billed to the policyholder's insurer.

(b) That the insurer has approved the repairs or replacement unless the auto glass repair or replacement facility has verified coverage or obtained authorization directly from the insurance company or any other third party administrator contracted with the insurance company and the evidence has been confirmed by fax, e-mail or other written and recorded communication.

5. Represent to a policyholder or other person that the repair or replacement will be paid for entirely by the policyholder's insurer and at no cost to the policyholder unless the insurance coverage has been verified by a person who is employed by or is a producer contracted with the policyholder's insurer or is a third party administrator contracted with the insurer.

6. Add to the damage of auto glass before repair in order to increase the scope of repair or replacement or encourage a policyholder or other person to add to the damage of auto glass before repair.

7. Perform work clearly and substantially beyond the level of work necessary to repair or replace the auto glass to put the vehicle back into a safe pre-damaged condition in accordance with accepted or approved reasonable and customary glass repair or replacement techniques.

B. It is unlawful for a person who sells or repairs auto glass to intentionally misrepresent the relationship of the glass repair facility to the policyholder's insurer. For the purposes of determining whether a person intended the misrepresentation, it may be presumed that the person intended the misrepresentation if the person was engaged in a regular and consistent pattern of misrepresentation.

C. IT IS UNLAWFUL FOR AN INSURER OR AN INSURER'S THIRD PARTY ADMINISTRATOR OR AGENT TO CAUSE A DELAY IN THE INSPECTION OF A POLICY HOLDER'S AUTO GLASS CONDITION IN THE HANDLING OF A POLICY HOLDER'S CLAIM REGARDLESS OF WHICH REPAIR FACILITY THE POLICY HOLDER CHOOSES.

~~C~~: D. A violation of this section is subject to enforcement under this article.

~~D~~: E. For the purposes of determining whether a defendant knew of any particular element of the prohibited activity, it may be presumed that the person had knowledge if the person was engaged in a regular and consistent pattern of the prohibited activity.

Sec. 3. Section 20-469, Arizona Revised Statutes, is amended to read:

20-469. Motor vehicle loss; choice of glass repair facility

A. Unless otherwise prescribed by contract, a person in this state has the right to choose any glass repair facility for the repair of a loss relating to motor vehicle glass. If an insurer OR THIRD PARTY ADMINISTRATOR ACTING ON BEHALF OF AN INSURER recommends or provides information about a glass repair facility, the insurer OR THIRD PARTY ADMINISTRATOR shall inform the person of this right at the same time as making the recommendation or providing the information. THE INSURER OR THIRD PARTY ADMINISTRATOR SHALL NOT IN ANY MANNER COERCE OR INDUCE AN INSURED TO USE A GLASS REPAIR FACILITY OTHER THAN THE INSURED'S CHOSEN FACILITY, IF THE INSURED HAS CHOSEN A FACILITY.

B. A MOTOR VEHICLE INSURER THAT USES THE SERVICES OF A THIRD PARTY ADMINISTRATOR IS RESPONSIBLE FOR THE THIRD PARTY ADMINISTRATOR'S ACTS THAT ARE WITHIN THE SCOPE OF THE MOTOR VEHICLE INSURANCE POLICY OR UNDER THIS ARTICLE.

C. AT THE TIME A CLAIM IS AUTHORIZED FOR REPAIR, THE INSURER MUST NOTIFY THE POLICY HOLDER WHETHER THE GLASS TO BE USED WILL BE ORIGINAL EQUIPMENT GLASS OR PREVIOUSLY USED GLASS, WHERE THE GLASS WAS MANUFACTURED AND WHETHER THE GLASS WAS SPECIFICALLY MANUFACTURED FOR USE IN THE CLAIMANT'S VEHICLE.

D. AN ADJUSTER FOR AN INSURANCE COMPANY, AN AUTOMOTIVE PHYSICAL DAMAGE APPRAISER OR A THIRD PARTY ADMINISTRATOR THAT PROCESSES CLAIMS FOR AUTOMOTIVE GLASS REPAIR OR REPLACEMENT WORK SHALL NOT HAVE A FINANCIAL INTEREST IN OR BE AN AFFILIATE OF A BUSINESS THAT INSTALLS OR REPAIRS AUTOMOTIVE GLASS.

E. IF AN INSURER OR THIRD PARTY ADMINISTRATOR DETERMINES THAT A CLAIMANT'S MOTOR VEHICLE MUST BE INSPECTED BEFORE APPROVING A GLASS CLAIM, THE INSPECTOR MUST BE A DIRECT EMPLOYEE OF THE INSURER OR AN INDEPENDENT PARTY WHO IS UNRELATED AND UNAFFILIATED WITH ANY GLASS REPAIR FACILITY. FOR THE PURPOSES OF THIS SUBSECTION, "INSPECTOR" MEANS A PARTY WHO IS ENGAGED IN THE PHYSICAL INSPECTION OF A CLAIMANT'S VEHICLE FOR THE PURPOSES OF ADJUSTING A CLAIM.

F. This section does not create a private right or cause of action to or on behalf of any person. This section provides solely an administrative remedy to the director for any violation of this section.

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Auto Glass and Insurance Industry News



Recommend

## South Carolina House Bill on Claims Practices Referred to Committee

February 10, 2011

A South Carolina bill, HB 3638, which addresses improper claims practices has been referred to a House committee for discussion. The bill would make it illegal for an insurer to require a consumer to use a specific repair service for an estimate or repair of a covered claim and it prohibits insurers from intimidating or threatening.

The bill, introduced by Rep. Herbkersman (R), also states it will be considered an improper claims practice if an insurer, "unilaterally and arbitrarily disregards a repair procedure or repair cost identified by an estimating system to which the insurer and an automobile repair facility have agreed to use to determine the cost of a particular automobile repair."

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June 1, 2007

## Leveling the glass playing field

By Tim Sramck

### *Independent glass installers take aim at third party claims administrators*

Consider the fallout if body shops worked in the following environment:

A nationwide repairer with hundreds of outlets along with a repair network it oversees handles claims administration for over 100 insurers. When policyholders call in a claim, their calls go directly to this repairer who can then recommend its own shops for the work. In the event a policyholder requests a non-network shop, a claims representative for this repairer warns the policyholder that he or she may be stuck with out-of-pocket fees and might not receive service equal to that offered by its network. As a result of this setup, this repairer and its network receive considerable business while independent repairers close their doors as business dries up. In this situation, would shops cry foul?

**What does it all mean?**

What does it all mean? This is a question that many independent glass installers are asking. They are concerned about the way that third party claims administrators (TPCAs) are operating. They feel that TPCAs are not acting in the best interests of policyholders and are instead acting in the interests of the repairers they are working for. They are also concerned about the way that TPCAs are handling claims and the way that they are communicating with policyholders. They feel that TPCAs are not providing the same level of service that they would expect from a repairer. They are also concerned about the way that TPCAs are handling out-of-pocket fees and the way that they are communicating with policyholders about these fees. They feel that TPCAs are not being transparent about these fees and are not providing the same level of information that they would expect from a repairer. They are also concerned about the way that TPCAs are handling claims and the way that they are communicating with policyholders about these claims. They feel that TPCAs are not providing the same level of service that they would expect from a repairer. They are also concerned about the way that TPCAs are handling out-of-pocket fees and the way that they are communicating with policyholders about these fees. They feel that TPCAs are not being transparent about these fees and are not providing the same level of information that they would expect from a repairer.

Independent glass repairers say this is exactly the situation they face, and they don't like it. Led by the trade groups such as the Independent Glass Association (IGA), a Harmont, Ill., -based organization with over 1,600 member shops, independents have produced a litany of unfair trade practice accusations at repairer/claims administrator Belron US Inc. (which recently merged with Safelite). Independents are taking their case to courts and state legislatures in what some see as possibly their last chance to save their sinking businesses.

### **A question of language**

IGA members, along with other independents, accuse Belron of a number of wrongdoings, most notably misrepresentation and steering, which they link to the scripts Belron claims reps read when policyholders report a claim. Belron has agreements with approximately 140 insurers to handle glass claims. This involves taking claim calls made by policyholders, handling invoices and making payments to repairers. Independents say their problems with Belron begin the moment a policyholder calls and receives one of the following greetings from a Belron claim rep: "Thank you for calling the [insurance company name] glass program" or "Thank you for calling the [insurance company name] glass program with services provided by Safelite."

Independents say both greetings give callers the impression they're dealing directly with their insurance companies, when in fact they're not. Because policyholders believe they're dealing directly with the insurer, independents say policyholders allow claims reps to practice undo influence on them.

"Making this even worse," says Rick Rosar, an IGA board member and owner of Rapid Repair in Coon Rapids, Minn., "A lot of times the policyholder is calling a 1-800 number printed on their insurance cards that simply states, 'For glass claims call 1-800....' "

Following this greeting, the claims rep asks the policyholder if he or she prefers a particular repairer. If not, the rep suggests nearby Belron network shops. If the policyholder requests a repairer outside the network, the claims rep reads from a script similar to the following: "You have the right to have the work performed at any glass shop you choose, but they may charge you more than what [insurance company name] is willing to pay and may not provide the total service offerings of the [insurance company name] glass program."

Independents say this wording leaves policyholders believing that going to a non-network shop definitely will mean incurring extra expenses and receiving a reduced level of service (for example, work with no warranty or work not equal to the standard of network shops).

"Sometimes they'll read this script several times," says Rosar, "Each time a customer repeats that he wants someone else to do the work, the rep will refer to that script."

"The service from other shops is just as good if not better," Rosar continues. "They make it sound like you're not going to get a warranty or that you're getting a warranty from the insurer by going to one of their shops. That's not true. Insurers don't even offer warranties on these repairs. The shops do."

Independents have charges apart from the script. Some say that even when they are part of the Belron network, claims reps show preference to Belron shops. At times, IGA members charge, Belron sends its own repairers to perform work policyholders have requested other repairers do. Independents also say Belron frequently delays authorization of payment and bills insurers for fees that were not part of the repair invoice.

Rosar says he and others have viewed clue reports — reports detailing the charges applied to a repair — that show Belron attaching \$25 fees on top of each repair. "That's money the insurer ends up paying to Belron," he says. "We have no idea why it's there."

Rosar says he recently had an insurance company query him over why the fee had been added to an invoice. "They said it shouldn't be on there," he says.

Independents recently brought many of these accusations to light during testimony over proposed anti-steering legislation, Senate Bill S236, in South Carolina. During testimony, Chantelle Smith, a claimant and part-time employee of Southern Glass and Plastic in Charleston, S.C., (and a former employee of Safelite), recounted how she had asked for a particular glass company and was told by a claims rep that Hartford could not refer her to the shop. When Smith later attempted to acquire a tape recording of that conversation, she was told only her insurance agent could request it. Smith said her agent was similarly denied.

Smith said she then contacted Hartford and discovered that the repairer she wanted was a preferred vendor. She also discovered that the entire time she believed she was speaking directly to Hartford, she actually was speaking to Safelite. "I feel like I was misled and lied to," says Smith.

In her testimony, Julie Vaparis, an office manager for Southern Glass and Plastic, reported, "We are told [by the networks] to wait two days for authorization. We wait two to three days. When we finally get the authorization, Safelite is already there installing the glass."

Independents believe a Nationwide insurance rep, who reported that 80 percent of its claims go to Safelite shops, may have supplied some of the most damning testimony. Rosar and others say that number is proof that other shops aren't being given a fair shake by Belron and consumers aren't being given a choice.

Independents expect this situation to worsen since the merger between Safelite and Belron in April expanded their presence in the market. The merger combined Safelite's 212 locations and 2,200 mobile service and repair vehicles to Belron's 90 branches and 500 mobile service units

(which operate in 11 states under the trade names Auto Glass Specialists, GlasPro, Elite Auto Glass, Windshield Pros and Maverick Glass).

Rosar says the market access given to Belron due to its administration services makes it far cheaper for them to conduct business. "They don't have to advertise like we do. Their cost of acquiring customers is far lower than ours," he says.

Independents say these factors have created an environment where they are prevented from competing. "All we want is market access," says one IGA member. "We're not even worried about prices at this point. If you can't run a business profitably, you shouldn't be in business in the first place. All we're looking for is an opportunity to fairly reach potential customers."

### **The Belron position**

Belron denies any wrongdoing and says its call centers are simply part of a business it has every right to run. Belron Executive Vice President and Chief Client Officer Thomas M. Feeney tells *ABRN* the accusations of steering, adding hidden fees and poaching are not true.

Feeney defends the claim center scripts, saying that they are in place to "educate and inform insured's of their preference rights and the various service options available to them."

Feeney adds, "We educate and inform insured's in accordance with the requirements of our insurance company clients." Should policyholders request an out-of-network shop, Feeney says Belron complies with their wishes. "Simply put, we honor customer preference." he says.

Feeney defends his company's claim service operations by saying they are a response to market changes and offer important cost savings to consumers. He says, "Over the course of the past 15 years, the U.S. auto glass industry has undergone significant changes, which have brought about efficiencies that ultimately benefit consumers."

During the S.C. testimony, Belron's general counsel Mark Smolik made the same argument: "There is no doubt the auto glass replacement industry has gone through significant change. The old way of doing business to get two or three estimates...is gone. It has been for a long time."

Smolik also noted that the high percentage of claims funneled to Safelite shops can be explained by the fact that in the vast majority of cases, claimants don't request a repairer. "Only 15 percent have preference," he stated. "If they do not, that claim will go to a Safelite shop. If we can't service the claim, then it goes to a network shop."

Feeney says the majority of claims Belron handles go to network and non-network shops.

As for the poaching allegation, Feeney says they've been investigated and found to be untrue. "We addressed these types of allegations with the appropriate regulators in South Carolina, who investigated them and the Federal Court in our filings in the Diamond Triumph litigation. They are without merit," he says.

Smolik said these incidents may be the products of simple misunderstandings between customers. He noted, "What does happen sometimes is that an appointment is set up with the husband. He doesn't know it's a bad time. The wife calls back to change it and says, 'I don't care who you send me just have someone here at this time.' The original appointment is considered cancelled and a new appointment is made. They don't communicate; nobody calls the glass shop."

### **An uphill battle for independents**

Independents scoff at Belron's defense of its business practices and say the weight of evidence against Belron — the sheer volume of work it feeds into its facilities along with the number of steering and poaching allegations made against it — supports their allegations of unfair

business practices. For now, however, independents are having a tough time making their point in courts and statehouses.

In July 2006, Judge James M. Munley of the U.S. District Court for the Middle District of Pennsylvania, dismissed nearly all of the claims laid against Safelite by Diamond Triumph, a competing repairer, in a case originally filed in March 2002. Kingston, Pa., -based Diamond Triumph had been a part of the insurer networks Safelite provided claims administration for before leaving the networks on April 1, 2002. Diamond Triumph laid the same allegations against Safelite the IGA continues to make — namely steering customers through its claim centers and poaching work intended for other repairers.

In the case of the latter allegation, Diamond Triumph sent out a press release declaring: "When this first began, we thought these might have been isolated incidents of overzealous Safelite customer service representatives making mistakes. As the behavior continued — and even worsened — we came to the realization this was an issue beyond mere mistake."

In all, Diamond Triumph filed five claims against Safelite in their suit; most centering on the language used in claim center scripts Diamond Triumph said were intentionally misleading. Judge Munley disagreed and dismissed all claims involving the scripts. Munley based his decision on his finding that the scripts were *literally* true.

Munley noted that Safelite had formed agreements with insurers and thus was accurate in representing itself as an insurer representative. Munley said the scripts describing possible repercussion for going outside the repair network were also literally true, since the scripts only state that "pricing may be higher" and the "insurance company could not guarantee the work."

Feeney points to the judgment as proof that Belron does not steer customers. "For more than four and a half years, our business model has been under the scrutiny of a Federal District Court judge," he says. "Our business model has been validated and the allegations that we improperly direct business to our shops has been proven to be without merit."

In 2005, the U.S. District Court in Minnesota dismissed similar claims against Safelite in a suit filed by the IGA and two policyholders who also claimed Safelite used its claims centers to steer customers. In court papers, the IGA stated it supplied Safelite with a list of shops that would not charge customers out-of-pocket fees. The IGA says Safelite claims reps continued to tell policyholders they might be responsible for these fees.

Judge Ann Montgomery dismissed IGA's claims from the case in August 2005, based on her finding the IGA could not file suit because it lacked "associational standing." To file suit, the IGA had to establish that the scripts misrepresented all of its member shops. IGA could not since its court papers indicated that "many" of its shops would not charge customers additional fees. The court did permit claims by the other plaintiffs of false advertising and deceptive business practices to continue.

Independents similarly have had mixed results on the legislative front. Belron was able to convince South Carolina legislators to amend language in S236 that would have barred third-party administrators (TPAs) from performing work. The current bill simply bars TPAs from steering and using consumer information to obtain work.

Legislation in Washington underwent a similar transformation. In its original form, Senate Bill 5052-S would have prevented insurers from contracting work to TPAs that also performed repairs. That language was stripped out. Signed into law on April 18, the legislation now offers a series of anti-steering measures similar to anti-steering laws applied in the collision industry.

The new law reasserts the rights of policyholders to choose any glass repair facility and requires insurers and TPAs to verbally inform customers of this right. Insurers and TPAs also must visibly post signs in facilities they own declaring their ownership. TPAs must inform customers that they are not a part of the insurance company, but a separate company with a financial relationship.

The law arguably doesn't have much teeth since it fails to identify actual penalties for violators. Instead, it creates a process for customers to file official notices of violations with the state insurance commissioner.

Final word: Independents forge on

Despite these shortfalls, independents still have reason to remain optimistic. Some positive things have grown out of their efforts. For one, Diamond Triumph may continue pursuing Belron on its claims that the company poached its customers. IGA President Dave Zoldowski called the Minn. court decision to move forward on the false advertising and deceptive business practices claims "huge" and noted that the decision gives the industry a chance to change the Safelite scripts.

The IGA also notes that the Minn. court criticized a Belron argument that its services necessarily provide a "public benefit" to insurers and policyholders. Montgomery wrote that while insurers and policyholders might hypothetically face higher costs if the suit were successful, both parties would benefit from increased competition that could drive prices down.

The IGA also is taking an optimistic approach to the Wash. legislation, calling it a "major victory." "This is just the first step in our legislative agenda," says Zoldowski. "Watch for much more activity throughout the coming year." The IGA also promises to push for new legislation if it feels the law has no effect.

The IGA and Belron are working together to reach some common ground. Recently, IGA Executive Director Deb Levy asked Belron CEO Dan Wilson and senior executive Rich Harrison to speak at an upcoming IGA conference.

Even with this progress, some independents see themselves in a race against time to save their businesses. "We're losing a lot of shops," says Rosar. "I spend a lot of time on the phone trying to add members, and I hear quite often shop owners say, 'We'd like to help, but we don't expect to make it through the winter.' "

Other IGA members say their workload has dropped off dramatically.

"We're going to move forward," says Rosar. "I'm encouraging anyone in the industry who sees what's going on to write or call their representatives or insurance companies."

Other independents say they're in the fight till the end. Says one, "We're going to keep battling till someone tells us we're crazy or flat-out wrong."

## What does it all mean?

Independent glass repairers, led by the Independent Glass Association (IGA), are claiming that repairer/claims administrator Belron US Inc. (which recently merged with Safelite) is guilty of unfair trade practices.

What collision repairers need to know about the debate:

- ✦ Belron is accused of misrepresentation and steering, based on the scripts claims reps read when policyholders report a claim.

- ✦ Independents say the greetings on the scripts give callers the impression they're dealing directly with their insurance companies, when in fact they're not. Because policyholders believe they're dealing directly with the insurer, independents say policyholders allow claims reps to practice undue influence on them.

- ✦ Following the greeting, the claims rep asks the policyholder if he or she prefers a particular repairer. If not, the rep suggests nearby Belron network shops. Independents also say some wording of the scripts leaves policyholders believing that going to a non-network shop will definitely mean incurring extra expenses and receiving a reduced level of service (for example, work with no warranty or work not equal to the standard of network shops).

- ✦ Independents charge that even when they are part of the Belron network, claims reps show preference to Belron shops.

- ✦ Independents also charge that Belron sends its own repairers to perform work policyholders have requested other repairers do.

- ✦ Independents also say Belron frequently delays authorization of payment and bills insurers for fees that were not part of the repair invoice.

- ✦ Safelite and Belron merged in April, combining Safelite's 212 locations and 2,200 mobile service and repair vehicles with Belron's 90 branches and 500 mobile service units (which operate in 11 states under the trade names Auto Glass Specialists, GlasPro, Elite Auto Glass, Windshield Pros and Maverick Glass).

- ✦ Belron denies any wrongdoing and says its call centers are simply part of a business it has every right to run. The company also says the accusations of steering, adding hidden fees and poaching are not true, and that the claim center scripts are in place to educate and inform insured's of their preference rights and the various service options available to them.

- ✦ The battle continues, but independents are having a tough time making their point in courts and statehouses.

- ✦ The IGA and Belron are working together to reach some common ground. Belron CEO Dan Wilson and Rich Harrison, a Belron senior executive, have been asked to speak at an upcoming IGA conference.

What does it all mean?



Reprinted from SEARCH-Autoparts.com, in the "Collision Repair" section.

**GEICO**

■ Government Employees Insurance Company  
■ GEICO General Insurance Company  
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■ GEICO Casualty Company

Regional Office:  
One GEICO Center ■ Macon, GA 31295-0001

Tuesday, January 26, 2010

Attention SHOP MANAGEMENT/TECHNICIANS/CSR's:

When our insured files a glass claim with us, and advises us that your shop will be performing a windshield repair or replacement, pursuant to our insurance contract, we may require an inspection of the windshield prior to authorizing the completion of work. Based on the outcome of the inspection, we will proceed accordingly.

Our goal is to provide excellent service to both our policyholders and service providers. Should you have any questions or concerns, please contact us.

Glass Claims Department  
1-800-510-2291

VIA FACSIMILE



Tuesday, January 4, 2011

**Attention: GLASS SHOP MANAGEMENT / TECHNICIANS / CSRS:**

When a member files a glass claim with USAA and advises us of a potential windshield replacement or repair, we may require an inspection of the windshield prior to authorizing the work. If we choose to inspect a vehicle, the inspection must be completed before we will approve any payment for glass replacement or repairs. Any work performed without proper notification and authorization may impede the term of settlement. We will proceed with the claim based on the outcome of the inspection.

We strive every day to provide superior service to our members as well as service providers. If you have any questions or concerns, please contact us.

**USAA Corporate Glass Unit  
1-800-531-8622**