

## **DIMINISHED VALUE (PART 2)** by Dick Strom

What you don't know can put you out of business...

My article last month presented some insight into how courts of law and jurors generally view automotive repair-related diminished value, and some suggestions from Mark Olson owner of Future Forensics, an automotive damage investigation business. The information Olson here continues, gleaned from his personal knowledge of the insurance and collision industry, plus his testimony in nearly 50 trials to date, is so pertinent to shop survival that it was thought best to continue it this month.

“In the next five to ten years the number of collision shops remaining in business is estimated to be half the present number of around 50,000 shops. You can significantly increase your chances of survival by performing repairs that don't attract diminished value (DV) claims and attorneys. If you don't already do so, assign someone to monitor on-going repair 'quality checks' of every vehicle before the customer picks it up.

“In the collision industry we pass off so many things with 'that's how the industry runs', or 'that's an industry standard'. But try to convince a jury that when you charged the full crash-program time allowance to install a quarter panel, yet sectioned it in at the sail panel, you didn't commit fraud. Not accurately documenting exactly what you did and did not do may be innocent fraud, but it's still fraud in the eyes of the law. Read and understand the 'P-pages'! Any parts you charge for on the repair order that weren't installed is fraud. And often it's these seemingly small things, which instigate a DV claim. Lack of 3-dimensional measuring, lack of repairing the vehicle in a craftsman-like manner, charging for parts not replaced, and the like, is what gets shops into DV trouble. You must document (by adding clarifying wording, such as 'section in panel', in your estimate) every time you don't fully replace a complete panel. When a crash program allows a certain number of hours to replace a quarter panel, in most cases that is figured as time to section in at the sail panel, not to completely replace the entire panel, because most quarter panels have no roof seam. You'd have to remove the roof to install the complete quarter panel, so crash program P-pages generally indicate something along the line of 'if you can't replace the whole panel, time is figured as welding in at the sail panel approximately 6 to 12 inches below the roof line'. The problem is that your crash-program printout says only 'replace the quarter panel'. So, in the eyes of a jury composed of people with no technical understanding of the intricacies of your business, you've committed fraud in not replaced the entire panel.

“Few collision repairers have had any formal welding training; we learned to weld from someone, who learned it from someone else. So let me remind you that seam sealer was never intended to make welds look good. Install the same number and location of welds as you drilled out. If they aren’t replaced in exactly the same locations as those drilled out, technically you could be changing the way the car is put together. Saturn uses their spot-weld spacing as their crush collapse zones; if you replace the spot welds in locations different from the OEM, the potential is there for the airbags to not deploy correctly when needed. Weld quality and weld-location are extremely important.

“To those of you here who are painters I’m telling you, if the welds coming into your department aren’t done right, don’t paint over them; sealing and painting over improper welds is not doing anyone any favors. To you body technicians, I’m saying don’t put a car back together which hasn’t been properly refinished; installing trim over improperly installed / repainted panels isn’t doing anyone any favors in this litigious age. You technicians are bottom-line responsible for the condition of that repair; you have to work together, pointing out and correcting mistakes before they become DV-susceptible.

“How many of you would be comfortable with having some other shop take apart every repair you made and make a report on it? None of us would, myself included, because we all have those repairs out there that we really wouldn’t want someone else to scrutinize. Car owners don’t scrutinize new cars, because they trust auto manufacturers. But few trust insurers and collision repairers, and so they’re going to look. There are businesses across the country profiting from DV claims.

One such in the Northwest reportedly spends around \$50,000 per month in radio, TV and newspapers ads in a slick campaign to tell consumers about quality of repairs and DV, and that insurance companies may owe consumers millions in DV. They’re planning to eventually spread this program across the nation. Do I have your attention? This started happening a couple months ago, and here’s the scenario: The consumer sees or hears of the offer from this shop and calls the toll-free number. He or she is told there will be no out-of-pocket expenses, even for rental car; just bring the final billing from the repair shop and let this shop check the car over for DV. The first thing this shop will look for is to see if you wrote a true and accurate report of repairs performed. Next they’ll look for rust, for instance, where the new quarter panel you installed meets the inner panel. Then they’ll be looking for seam sealing, say, where you replaced a frame rail, because if you didn’t replace the seam sealant, the car will eventually start to corrode. [They’ll also be scrutinizing the consistency and quality of your welds, and any number of other things; many re-inspection shops are thriving on re-repairing improperly executed work.]

“You may have performed every procedure your work order lists - corrosion protection, undercoating and all. But if you didn’t list on your work order everything you did perform (‘undercoat’, ‘seam-seal’, ‘bag auto’ and such) it doesn’t exist. I’m not saying someone has to pay you for it; I am saying that you have to verify in writing that you actually did the operation. It makes no difference to jurors that your DRP contract specifies you won’t charge the insurer for these and other operations; if it’s not on your estimate, in a court of law it doesn’t exist. I’m telling you that even if your DRP-partner won’t pay for some or all of these operations, include them in your estimates anyway with the notation, ‘no charge’ or ‘included’. The July 2002 issue of Body Shop Business (pg. 70) [other shop publications offer a similar list] includes a list of ‘372 Items Most Shops Don’t Charge For’... and subsequently don’t write on their estimates, leaving them open to a DV claim [and lost revenue]. In some instances on your work order the list of things you didn’t charge for may be longer than the list of things you were paid for.

“The bottom line of all this is who is going to lose this game and who will win? The consumer is going to win through improved quality of workmanship, but that’s a few years down the road. What will happen is that as an increased number of cars are processed through DV re-inspection shops like this one in Oregon, collision shops will be scrambling to get their quality level up to where they’ll fare well in re-inspections. Those shops doing good quality repairs will be the ones who aren’t going to be laid away by the program. If all they can find wrong is one weld that isn’t exactly perfect on a repair, it’s unlikely the shop will get called on the carpet. But if they discover a pattern, say, where a number of weld are bad, that’s when a shop will get hit with a DV claim. Looking over every job to make sure operations, such as welds, are the same on the repaired panel as on the original is extremely important.

“This message has to go out to every technician and every shop that isn’t here tonight. Every technician needs to take a corrosion protection class (from ICAR or whomever). Are you still using self-etching primer? Discontinue using it because it doesn’t do the job as well as epoxy primers, and you can’t use self-etching primer underneath plastic filler, windshield pinch welds, or seam sealer. And you can’t put seam sealer over bare steel - read the can! - you have to put it over primer. If you put the seam sealer over self-etching primer the acid in the primer may eat the sealer; it may also eat the urethane holding windshields and other glass in place. Also, if you paint the inside of the frame rail, the acid may possibly get such a concentration down in the corners [Olson passed around a sample] that it is possible it could eat through the frame rail. Ask your paint representative. Actually you can use it under seam sealers, but it has to be fully cured (cycle-time on some sealers is up to 60 days!). In corrosion protection tests, epoxy primer is a better scenario; perforation levels are about 50% less than with self-etching primers, and most of it you can put over bare steel.

“So what I’m presenting to you is this: If you don’t know how the cars in your shop are being repaired, and you haven’t kept up with the rules, the rules have changed. Not long ago ICAR put a lot of money into their Uniform Procedures for Collision Repair (UPCR) repair information [available free of charge at [www.i-car.com](http://www.i-car.com)]. UPCR will tell you when you put, for instance, a core support on a car; here is exactly how you do it, step by step. UPCR tells you how to do proper corrosion protection, and what are the steps involved when you do ‘setup and measure’. In a court of law, among other things the merits of your case will be judged by your adherence to UPCR repair procedures, Tech-Cor [[www.tech-cor.net](http://www.tech-cor.net)] where they’re doing crash tests, and information from the vehicle manufacturer. By the way, did you know that Toyota says to put plastic filler only over epoxy primer... never on bare metal? Understanding that the rules have changed is more important than ever; you are now being held to the rules that are currently on the books, not the rules of five years ago.

“Too often technicians are making the judgment calls on what is and is not worth being concerned about. The shop owner sees many of your judgment calls as lost sales, but the incentive behind technician judgment calls is usually a matter of cycle-time and an upset boss because he didn’t check his parts, or start the job on time. So the technician rationalizes ‘nobody will ever see that small, hidden crack in the bumper’. The customer should always be number-one here; doing the right thing has to take precedence over your personal schedule, or embarrassment, or whatever. You can’t make a judgment call based on the supposition, ‘I don’t think this small crack that nobody can see will affect the next accident’, because from now on it’s highly possible somebody is going to be looking. Every shop has issues with cars they’ve repaired that could result in a DV claim... every shop! Though we can’t do much to make right many things we’ve done in the past, tomorrow is a new day; maybe things in your shop will change for the better and maybe not.

“And remember that nothing lasts forever, that eventually even factory welds will rust, which is why they put a time/mileage/‘until you sell this vehicle’ warranty on their product. So you shops should write your guarantees up along the lines that you ‘guarantee your quality in workmanship’. When you offer the usual broad ‘we guarantee everything for as long as you own the car’ you just guaranteed the manufacturer too. So, guarantee ‘quality of workmanship’ and also include the line, ‘warranty repairs can only be done at our repair facility’. Most DRP agreements say something along the line of ‘the shop must offer a warranty equal to the warranty on the vehicle at the time of loss’. So if a five-year-old car with a seven-year warranty came to your shop, you have only two years warranty left to worry about.

Olson closed by reading from a paragraph in his handout. “Collision repair shops can only have an effect on the repairs that are done on the vehicle. This means acting as a consumer advocate to ensure that all necessary repairs are done to the vehicle.

This means putting the vehicle back into the same state and shape so that it performs in the next collision the same way it did in this collision, and is cosmetically correct.”

“If you repair vehicles by this mantra, it gets around all that ‘it’s covered by the battery so nobody will ever see the damage’ mentality. It has to be right, because from now on people will be looking for your shortcomings, and those looking have an agenda in that they want to re-repair cars because ‘DRP shops are taking away my work’. Whatever the motivation, chances are the car isn’t coming back to your shop. And if you have another shop’s bad repair in your shop, give that shop the courtesy of informing them and of allowing them the opportunity to re-repair it, because you’d appreciate that courtesy from them.”

Olson then made the very generous offer to come to any of our shops, free of charge, and inspect repairs in progress to point out deficiencies we may not realize we’re making, based on his experience and knowledge of the issues (making sure structural repairs are being done correctly, our painters are using the right primers and seam sealers, that corrosion protection is being properly applied, and the like). He also is willing to address shop associations and other groups across the country on how to stay out of DV hot water. If interested, contact Olson at his web address, [www.futureforensics.com](http://www.futureforensics.com) .

Olson told us “It takes a shop with pretty broad shoulders to call me out to take a look, but I’m willing and available to point you and your technicians in the right direction, to let you know where you may be falling down. But first, tell your techs my interest is in picking them up, not beating them up... to get them to a certain level.”

I’m not sure how broad my shoulders are, but my shop is planning on taking him up on his offer before the end of this year. One thing I know and appreciate about Mark Olson is that he doesn’t play any favorites... he’s strictly by the book, which should make for a very interesting, and personally revealing, article... or two. Stay tuned!

Dick Strom  
Modern Collision Rebuild  
[moderncol@aol.com](mailto:moderncol@aol.com)