



# DAMAGE REPORT

Volume 3 - Issue 1

February 2020

## SAVE THE DATE:

### Wednesday, April 29

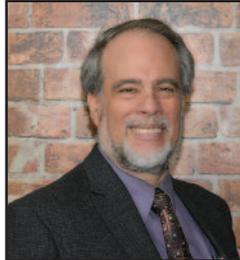
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## Annual Spring Meeting

### Featuring Aaron Schulenburg of SCRS

### DoubleTree by Hilton Hotel, Westborough

Watch your inbox for registration information



#### If It Ain't Broke...

By Lucky Papageorg  
AASP/MA Executive Director

There are so many pearls of wisdom out there.  
 "A stitch in time saves nine."  
 "A penny saved is a penny earned."  
 "If you always do what you have always done, you will always get what you have always gotten."

"Fool me once, shame on you; fool me twice, shame on me."

I think you get my point. These are cute little quips offered as solutions or as ways to avoid addressing a situation full on. At the most recent ADALB meeting, one such "cute" pearl of avoidance was used: "If it ain't broke, don't fix it." Thank you very much for making it abundantly clear that all is right in the world. That is to say, if, and only if, your world is the world of insurance!!!!

Yes, all you need to do is go to our webpage, [aaspma.org](http://aaspma.org), and enter your password to gain access to the *Members Only* portal. You will be able to view multiple episodes of "As the ADALB World Turns," by clicking on the ADALB video link. You will see firsthand just how broken things really are!!! The non-too-subtle way a Board, which was created as a consumer protection entity, has been eroded and bastardized into nothing more than a place where insurers can openly mock the regulations put in place to govern ALL licensed auto damage appraisers. A place where actions were once taken in an open meeting forum and light was shed upon questionable activities and actions by appraisers. It has devolved into a Board that lacks any true transparency or accountability for its decisions and actions.

The culmination of this degradation was at the meeting held January 21, 2020. Several issues were raised; one issue regarding the estimate writing process was met with what has become an expected response along "party" lines. A response where the insurance representation on the Board felt there was no issue with an insurance appraiser accepting a sublet bill from a repair and manipulating it. By "manipulating it," I mean to say the appraiser did not follow industry standards. The accepted method is to make a line item entry labeled "sublet" and add the item to this estimate or supplement. Instead, the insurance appraiser took the amount of the sublet and "converted" it to a few hours here at the insurance rate, a couple of hours there, again at the insurance rate. When the amount did not match the total of the sublet invoice, the appraiser added a third line for "additional labor differences" in the amount of \$303!!!! All's right with the world according to two ADALB insurance members! No, it is NOT, not by a long shot!!!!

Predictably, the two insurance representatives saw nothing wrong or unusual about this process. Curiously, the process was done by one of their very own appraisers. Nope, nothing wrong there. It would appear that from the standpoint of the insurance side of the Board, no harm, no foul, all the money was there. But

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## President's Message by Molly Brodeur

### *The Power of One*

*"I am only one, but still I am one. I cannot do everything, but I can do something, and because I cannot do everything, I will not refuse to do the something I can do."*

- Edward Everett Hale

As we close in on the one-year mark of the birth of the idea to launch the first-ever, independent Labor Rate survey in Massachusetts, I want to highlight how the power of one individual has made a huge impact on the collision industry in our state. Many of you have seen him present at our chapter meetings and perhaps even received a personal phone call inviting you to take part in the survey or join the National AutoBody Research's (NABR) BillableGenie program.

In February 2019, Jack Lamborghini of Total Care Accident Repair in Raynham attended our Board meeting. He was frustrated, as we all were, about the rate issue here in Massachusetts. He came prepared with an idea and the beginnings of a plan. By the end of the meeting, we had assembled a committee to assist Jack. The committee, led by Jack, met and in a month's time, there was a plan to engage NABR as the third-party facilitator of the survey. The strategy was laid out, FinishMaster stepped up and sponsored the survey to the tune of \$4,200 and we were off and running.

Jack, along with his partner Brian, pulled together compelling presentations that were shared at our chapter meetings. They both spent countless hours canvassing the state, spreading the message and engaging shops to participate in the survey. At this very moment, one year later, we've had 346 shops take the Labor Rate survey and Jack has engaged dozens of shops to participate in BillableGenie with reported successes.

The effort has not slowed down. As a matter of fact, it's ramped up to new levels with the call to action letter addressed to Insurance Commissioner Gary Anderson, which will be shared with other regulatory and legal bodies in the Commonwealth. And again, Jack is on the move attending chapter meetings and informing members of the importance of these activities and steps they can take in their own shops to help us create a solution, instead of continuing to be part of the problem.

He helped this Board of Directors see a new path to address the Labor Rate, he helped an industry that has felt abused and battered, realize we are worth it and he did it because this was the something he could do.

The power of one. Thank you, Jack.

# "All for one and one for all!"

Dear members,  
Would you be willing to host a membership drive at your facility or welcome a legislative visit by your Senator or Representative so they can see firsthand what it means to repair a collision damaged vehicle?

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# Johnson Drives Industry Discussions at January ADALB

By Joel Gausten

At their January 21 meeting at the Division of Insurance in Boston, the Auto Damage Appraiser Licensing Board (ADALB) explored various topics introduced by Board member and collision repair industry representative Bill Johnson (Pleasant Street Auto; Belchertown/South Hadley), who began with a request for a discussion on the proper documentation of sublet bills on estimates.

To illustrate the need for the Board's attention on this topic, Johnson noted situations where insurance estimates create a "mystical, magical maze" by not including a slip for a vehicle that had been sent to a dealership or other business for sublet work. Instead, the estimates note this work as "three hours here, two hours there" without the direct inclusion of a definitive monetary sublet charge.

"That's not a true representation of repairs as it was supposed to go down," he observed. "That slip is getting altered from what the actual repairs were."

**"As I look at something like that, I just can't help but think there could be subrogation played down the road."**

Board member and collision industry representative Rick Starbard (Rick's Auto Collision; Revere) echoed this concern.

"I think the appraisal should reflect what was done with the car."

ADALB insurance industry

representatives Samantha Tracy (Arbella) and Peter Smith (MAPFRE) offered insights into possible motivations behind the trend.

"Maybe that was how the appraiser thought he should make sure it was included in the appraisal," opined Tracy. "I don't know; I haven't talked to the appraiser, and I don't know exactly what was happening. Clearly, nobody was trying to deny the payment."

"As I look at something like that, I just can't help but think there could be subrogation played down the road," explained Smith. "It could be the appraiser's way of trying to break down what the detailed charges are so that when [they are] presented further down the line for subrogation, it doesn't get presented as a \$500 bill that requires further explanation – it's right there."

Addressing the Board from the audience, AASP/MA Executive Director Evangelos "Lucky" Papageorg questioned the real-world application of this practice.

"If I were taking the [appraisal] exam and [did] that, what would the end result of my answer be?"

Starbard responded to Papageorg's inquiry by giving a thumb's-down.

With no direct complaint filed on the matter, the Board elected to simply include a record of the conversation into the minutes for the meeting.

Johnson also brought up the topic of estimating manuals,

insisting that there was nothing in the current regulations that directly required their use. This led to a lengthy discussion during which it was revealed that Audatex may not have been formally approved by the ADALB for use in Massachusetts. For clarity, Chairman Michael Donovan instructed ADALB Legal Counsel Michael Powers to investigate the history of the Board's estimating manual approval process to confirm Audatex's official status in the state and report back on the question at the next meeting.

Lastly, Johnson reiterated his request from the previous meeting for the Board to consider implementing greater "transparency" in their executive session process by providing a brief explanation during the public session of the nature of the complaints being heard. The request received negative feedback from the Board's insurance industry representatives.

"If it ain't broke, don't fix it," commented Smith. "No disrespect to any of the Board members, but I think the procedures are compliant and appropriate the way they are."

"I'm not certain that I'm comfortable with, prior to going into executive session, talking about the [complaint] we're going to be discussing," added Tracy. "Some people are lingering back [in the other room], so it obviously pertains to them. I think that lacks the level of privacy they're entitled to, because all the people are going to hear – before we go into [executive] session – the accusation. That doesn't seem fair. It's like me putting your name on a poster and saying, 'You're accused of x,' without the opportunity to defend that."

Starbard agreed with Johnson's position on the matter.

"I don't see the problem in letting folks know the kind of things that we're taking up."

Chairman Donovan instructed Powers to "flush out" a recommendation on executive session protocol for future meetings. In related news, Powers read a letter from the Office of Attorney General Maura Healey into record regarding a recent Open Meeting violation complaint filed against the Board by an ADALB complainant who alleged his rights were violated when he was not allowed to attend an executive session on his complaint against an appraiser. According to the letter, the Attorney General's Office determined that no violation took place.

Before going into executive session, the Board set their next meeting for March 24. Audience member Jack Lamborghini (Total Care Accident Repair Service; Raynham) questioned if it would now be "typical" for the Board to host bi-monthly meetings moving forward.

"If there are complaints brought up before the Board, a lot of those things need to be handled in a timely fashion. If we're not getting in front of the Board for 60 days, that can have a really negative impact on a complaint situation relative to what has to go on for those next 60 days."

Chairman Donovan responded that the frequency of the Board's meetings will now be based upon the volume of complaints it receives.

"We'll basically play it by ear."

Following the meeting, it was announced that the Board had postponed their next meeting to April 7.

Complete video of the January 21 ADALB meeting is available in the *Members Only* section of [aaspm.org](http://aaspm.org).

## Executive Director's Message

continued from page 1

when asked how this answer on the exam would have been treated, a thumbs down answer was given. The real question is what is the insurer, in this instance, trying to hide or guard against??? It seems like a slippery slope leading to condoning "fraudulent-like" estimate writing, or at least the writing of an estimate which is even more confusing to the consumer. Once again, the same consumer that the ADALB is in place to protect!!!

Things went downhill when the conversation shifted to the issue of adding a layer of transparency to the complaint process, as it pertains to the Board going into executive session. This was not the first or even second time there has been an attempt by a Board member to clear up the "mystery" of executive session. When it was suggested that the nature of the complaint(s) to be discussed in very general terms (as in no mention of appraiser, shop or insurance company), quick opposition was raised! "If it ain't broke, don't fix it." Apparently, things are just fine in the view of Peter Smith (MAPFRE insurance). Well, they are, if you are benefiting from all the delays on issues primarily raised by the company you work for. Take the after-market blackballing issue, which took all of a year to resolve. Delay after delay was created through manipulation and maneuvering by some obvious, and maybe not so obvious powers. Powers, which when push came to shove, were none too subtle.

It is no wonder that so many have lost faith in a system that had its flaws, but never to this manipulated degree!!! To add insult to injury, the "new" chairman, Mr. Donovan, when requesting to set a date for a future meeting, suggested a date two months away!!!! He cited the reason being as the low number of complaints!!! He did not

seem to be in the least bit phased, when it was pointed out to him that there were already four complaints in the pipeline. It was apparently not important to him. Even when it was explained that delaying hearing these complaints would cause continued financial harm to the shop and to the consumer who was ultimately going to be held responsible for the additional costs; costs associated with an insurance company refusing to comply with advisory ruling 2019-1. (By all means, let's ignore the very consumers the ADALB was created to protect.) Advisory ruling 2019-1 simply stated says, "If a shop is not able to obtain a part listed on an appraisal through no fault of their own, then the part is unavailable. If a part is unavailable, the insurer is responsible for locating an alternate source from which the shop may obtain the part and be able to exercise their rights against the insurer should the part be found to be unfit for use."

"Just to throw some salt in the wound," (to use another one of those wonderful quips) since announcing the March 24 date for the next ADALB meeting and having checked his calendar, the chairman has now forced a two week delay. The next ADAB meeting will be held on April 7, or will it????

PLEASE listen. The only way to fix this situation is to put in complaint after complaint. DO NOT let them wear you down! AASP/MA is here to help file those complaints. I will gladly review them and assist you to make sure they are viable, noteworthy, and most importantly, that they are actionable complaints.

DO NOT BELIEVE THE WORDS SPOKEN BY PETER SMITH, "If it ain't broke, don't fix it!"

# Where's Lucky?

## AASP/MA Chapter Meeting Schedule

In the first week of March, Lucky will be visiting shops in the Midstate region.

During the second week of March, he will be in the Boston/Southeast region and hosting a chapter meeting on the 11th at the Bristol-Plymouth Regional Technical School in Taunton.

In the third week of March, he will be visiting the Boston/Northeast region.

He will be visiting shops in the Western region in the fourth week of March and hosting a chapter meeting on the 26th at Smith Vocational and Agricultural High School in Northampton.

In the first full week of April, Lucky will be visiting shops in the Midstate region and hosting a chapter meeting on the 8th. (Location TBA.) (Note: An ADALB meeting will held on the 7th at the Division of Insurance in Boston at 10am.)

During the second full week of April, he will be visiting shops in the Southeast region.

He will be visiting shops in the Western region in the third full week of April and will be hosting a chapter meeting on the 22nd. (Location TBA.)

For the fourth week of April, he will be visiting shops in the Western region.

AASP/MA will be hosting a General Membership Meeting on April 29 at the DoubleTree by Hilton Hotel, Westborough.

Lucky and AASP/MA President Molly Brodeur will be attending the AASP National Board Meeting in Minnesota April 30-May 1.

Subject to change. Everyone should keep an eye out for meeting notices in their area.



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