

Collision Week
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Shops Win \$15 mil Verdict against The Hartford for DRP Abuses

Association now seeks injunction to stop unfair practices designed to suppress labor rates.

A Connecticut jury on Wednesday awarded \$15 million in damages to a group of auto body repairers led by the Auto Body Association of Connecticut (ABAC) after determining that The Hartford Insurance Co. committed unfair business practices to suppress labor rates.

The class action lawsuit, filed by the ABAC and three of its members, alleged that the insurance company engaged in a pattern of unfair practices that violated Connecticut law.

The jury found that The Hartford artificially suppressed body shop labor rates by not allowing appraisers to conduct independent appraisals. The jury agreed that The Hartford improperly forced independent auto body shops to accept lower labor rates than general market conditions would otherwise allow, by relying exclusively on its own service representatives to perform appraisals so the company could control the appraisals, including labor rates.

The case was heard in Stamford Superior Court by Judge Alfred J. Jennings Jr., who will hear more pleadings in the case.

Attorney David Slossberg, of Hurwitz, Sagarin, Slossberg and Knuff, of Milford, said the plaintiffs will now ask the judge to award punitive damages and attorneys fees over and above the \$15 million jury award. He also said they will seek injunctive relief, which is a court order to force The Hartford to change its business practices.

Slossberg, who is co-counsel for ABAC with Alan Neigher, of Bylas & Neigher in Westport, CT, said "The next step is to ask the court for immediate injunctive relief." He declined to give details on what form of injunctive relief they will seek from the judge.

"That's what this case is really about: the injunctive relief," said Slossberg, commenting on the verdict. "We knew we would have to go to trial with this case, because it was never about the monetary award. That's why I said we were gratified by the money award, but, for our guys, we want to change how they do business.

Slossberg explained, "We need to have injunctive relief in place that is going to stop the unfair trade practices that allow them to suppress the [labor] rates. Whatever injunctive relief they put in place has to address that. This is about changing the Hartford's practices.

"One of the allegations, and the evidence showed, that the whole mechanism of suppressing labor rates involves them directing work to their smaller network of direct repair shops, and getting concessions from those shops. Then they send appraisers into the independent shops and use the concessions they got from the DRP shops as a hammer to force the independent shops to work at the lower labor rate," Slossberg explained.

When asked about how this decision may affect other insurance company practices, Slossberg said, "I believe this is the first verdict of its kind in this industry. I think this is a situation that other insurers are paying attention to. They need to be paying attention to this verdict. The verdict is saying that insurers that use their DRP and their appraisers to suppress and deprive auto body shops from receiving a fair labor rate are committing an unfair trade practice.

"Now the Hartford is going to try to minimize this as much as they can," Slossberg continued.

"That is, to say that they will eventually be vindicated or that this decision only applies to Connecticut. They can continue to say whatever they want, but we now have a jury of regular people that said they are wrong and that they have committed an unfair trade practice.

"And there are a lot of states that have unfair trade practice laws that are very similar to Connecticut. In those states, of course the verdict would have more resonance. In other states, it may mean something different. But if you ask me as a general matter, I think there is more similarity out there than there is difference," said Slossberg.

"If a company is doing business in 50 states, and in 35 of them there are similar laws, then if you are the insurance company I would assume that this is something you would certainly have to take into consideration," Slossberg speculated.

I don't think it's any secret that many of the insurance companies that have DRP shops are doing the exact same things as the Hartford. We still have a similar case pending against Progressive in the federal court. I think now that this case has concluded, the Progressive case will start moving along.

Slossberg credited his clients' persistence for the win. "These are hardworking determined guys who really are proud of what they do. They are all family owned businesses. We've been at this for six years. You don't often have clients like this. A lot of guys have been waiting for this verdict for a long time.

The Auto Body Association of Connecticut filed the original lawsuit in 2003.

Thomas Hambrick, company spokesman for The Hartford, told the Connecticut Law Tribune that his company plans to appeal the verdict. "We remain confident that our auto body repair program is fully consistent with Connecticut law and provides outstanding service to our customers."

Slossberg is confident however. "We had a really wonderful trial. I think it is unlikely the Connecticut Supreme Court would overturn this verdict. Ultimately, we will be vindicated," he concluded.