



**Association of California
Insurance Companies**

*An affiliate of the National Association
of Independent Insurers*



PERSONAL INSURANCE FEDERATION
OF CALIFORNIA

April 11, 2007

Honorable Justices
California Court of Appeal
Fourth Appellate District, Division Three
925 N. Spurgeon Street
Santa Ana, California 92701-3724

Re: *Levy v. State Farm Mutual Automobile Insurance Co.*
Docket No. G035677

Honorable Justices:

Pursuant to California Rules of Court No. 8.1120, the Association of California Insurance Companies (ACIC) and the Personal Insurance Federation of California (PIFC) respectfully request publication of this court's opinion in the referenced matter.

ACIC and PIFC are non-profit insurance trade associations dedicated to representing their member companies before governmental bodies in California, including the legislature, Department of Insurance and courts. ACIC is an affiliate of the Property Casualty Insurers Association of America and represents more than 300 property/casualty insurance companies doing business in California. PIFC's members account for approximately 48% of all personal lines insurance premiums sold in California.

ACIC and PIFC believe that the decision, if published, will significantly contribute toward resolution of an ongoing dispute regarding the obligation of insurers under automobile insurance policies to restore vehicles to their pre-accident condition. Specifically, this continuing dispute revolves around the rates to be paid to auto body repair shops for work performed on vehicles. Auto body repair shops demand that insurers pay whatever rate is demanded by the shop chosen by a claimant. Insurers believe that their obligation to claimants is to restore their vehicles to pre-accident condition which ordinarily can be accomplished by paying rates that are generally prevalent and competitive in the area where the work is performed.

To establish basic rates that will be paid, many insurers conduct "Labor Rate Surveys" in different geographical areas throughout the state. Under Insurance Code §758, such surveys must be reported to the Department of Insurance, but the statute neither specifies what rates must be paid nor prohibits insurers from determining a "prevailing rate" based upon auto body repair shops that meet insurer criteria for participation in an insurer's direct repair program.

As recently as Dec. 29, 2006, the Office of Administrative Law (OAL) disapproved – in their entirety – regulations submitted by the Department of Insurance dealing with insurer payment for services provided by auto body repair shops. The Department of Insurance currently is undertaking a review of the proposed regulations to determine what provisions are to be proposed by a future date [Aug. 8, 2007] when the regulations must be re-submitted to OAL in order to avoid expiration under the Administrative Procedure Act [Gov. Code §11349.4(a)].

ACIC and PIFC believe that this court's opinion – the first written on this narrow subject – warrants publication so that it may serve as guidance for all parties interested in auto body repair claims filed by consumers.

Personal Insurance Federation of California

Association of California Insurance Companies



Rex D. Frazier
President



Jeffrey J. Fuller
Executive Vice President and General Counsel

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PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 1201 K Street, Suite 1220, Sacramento, CA 95814.

On April 11, 2007, I served the foregoing document on all interested parties in this action by placing a true copy of each document, enclosed in a sealed envelope addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

- (X) **BY MAIL:** as follows: I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Sacramento, California.
- () **BY PERSONAL SERVICE:** I delivered such envelope by hand to the above addressee(s).
- () **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to an overnight courier service (DHL), for delivery to the above addressee(s).
- () **BY FACSIMILE TRANSMISSION:** I caused the above-referenced document(s) to be transmitted to the above-named person(s) at the telecopy number(s) following the names on the service list.

Executed on April 11, 2007, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


Gwen Walker

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