

TO: Members of the Senate Committee on the Judiciary

FROM: Janice Meliza

DATE: January 19, 2015

RE: K.S.A. 40-908 and S.B. 16

Dear Representatives:

My name is Janice Meliza. I live in Marion, Kansas, and I am employed as an accountant in McPherson, Kansas. Please consider this my written testimony in opposition to S.B. 16.

On April 15, 2006 I purchased a new, 2006 Chevrolet Cobalt from Lubbers Chevrolet for approximately \$18,000. On May 25, 2006 (when the car was only 40 days old), it was involved in a collision. My son had taken a date to the Warren theater, and someone drove into the side of my car in the parking lot. My son's date was pinned in the car, and she had to be extracted by the Wichita Fire Department. Fortunately, no one involved was seriously injured. However, my new car was severely damaged. The total damages were more than \$11,000.

I had full coverage insurance on my car with Farm Bureau. Over my objection, it made an election to have my car repaired, and it instructed a body shop in Cheney, Kansas, to proceed with certain repairs. It did not share its estimate with me.

When I did speak with Farm Bureau's adjuster at the body shop, he was belligerent, and he even cursed at me. When he did that, the body shop owner became uncomfortable and walked away. I began to cry. During those discussions, Farm Bureau's adjuster told me that Farm Bureau would not pay to repair certain damage to the interior of my car (e.g., scratches and gouges in the hard plastic and headliner), and I should look to the Wichita Fire Department for reimbursement for those repairs, because the firefighters caused the damage when they extracted the passenger.

When the body shop completed the repairs it was capable of making, my car had not been restored to its pre-collision condition. There remained additional, substantial damage that would need to be addressed by the franchise dealer or other facilities. For example, the automatic shift control in the floor console was leaning, and the dash did not fit. The body shop owner said he could not repair this type of damage.

Farm Bureau steadfastly refused to pay the body shop for the work performed on my car at its instruction unless and until I signed a broad policy holder's release that would, by its terms, release Farm Bureau from any further responsibility to complete the repairs or pay for the remaining damage to my car, even though Farm Bureau acknowledged the car needed additional work.

Farm Bureau's refusal to pay for the repairs it authorized caused the body shop owner to assert a mechanic's lien on my car, and he refused to deliver the car to me or to Farm Bureau until his repair bill was paid. Caught in a "catch 22," I sought legal advice and was directed to an experienced, prominent, Wichita trial attorney who assessed my situation and informed me that to unravel the difficult situation Farm Bureau created, I would have to file a lawsuit and hire expensive expert witnesses to testify on my behalf. He told me I would have to pay for his services at a rate of \$220 per hour, and he required an initial \$2,000.00 fee deposit. It was not possible for me to meet these requirements, so I sought help elsewhere.

Eventually, an attorney acquaintance of mine referred me to Jacob Graybill and Russell Hazlewood, of Graybill & Hazlewood L.L.C. Mr. Graybill and Mr. Hazlewood advised me that Farm Bureau had mistreated me and breached its insurance contract. They said Farm Bureau's handling of my claim involved unfair claim handling practices prohibited by Kansas regulations. They told me there was a statute, K.S.A. 40-908, that would allow me to recover my attorneys fees and expenses from Farm Bureau if I prevailed in a lawsuit. Consequently, they were able take my case under an arrangement I could afford.

Graybill and Hazlewood filed a lawsuit for me, and a they made a complaint with the Kansas Insurance Department, in September of 2006. A little more than a month later, Farm Bureau offered to confess a judgment to me. (By that time, I had been without a vehicle for more than five months). Farm Bureau agreed to total my car, which it ultimately purchased from me for its pre-collision value, and pay me interest from the date of the accident. It also agreed to pay my attorneys fees and expenses.

In many instances, and certainly in my case, a factor that motivates a consumer to purchase collision insurance is the realization that if his or her car is destroyed, the bank would still have to be paid, and it would be difficult or impossible to acquire replacement transportation. When a person purchases collision insurance, he or she expects that the insurance carrier will settle a claim promptly and get the insured into another vehicle as soon as is reasonably possible. That did not happen in my case.

If K.S.A. 40-908 were amended as proposed by S.B. 16, it would have been of no help to me, and I would have been at Farm Bureau's mercy. Even with the statute, it was difficult for me to find attorneys who would help me on a contingency basis. I urge you to make no change that would limit the scope of K.S.A. 40-908. If the statute is amended, it should be expanded to encompass all insurance coverages.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Janice Meliza".

Janice Meliza