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SOS appeals to dealers to help replace defective license plates

Dealerships have been asked to help the Illinois Secretary of State's office rid the roads of state license plates that have rusted or are otherwise illegible.

Ernie Dannenberger, director of the office's vehicle services department, said the plates will be replaced at no cost to the vehicle owner, under a warranty by the plate manufacturer.

"When transferring a plate for a customer, please verify the plate shows no sign of rust," Dannenberger

said. "If it does, please tell the customer to go to www.cyberdriveillinois.com and complete the customer information online, or to call (217) 785-3000.

"Your assistance will provide an additional service to the customer as well as this office."

The secretary of state has for the last several years tried to replace license plates that have a manufacturer's defect which causes them to rust, lose reflectiveness, or otherwise wear prematurely.

Dealers learn to navigate recession

During this recession, dealers have learned to focus on alternative revenue streams to survive. Here are some successful strategies:

- Reaching out to fleets and other high-volume customers. Zip Cars and other fleet vehicles all boost service volume. Dealer Bud Smail, Smail Automotive

Group, Greensburg, Pa., also maintains solid relationships with a host of insurers that send him body shop customers. And he includes information about his body shop in advertisements for his 10 franchises and in dealer information to customers.

- Investing in employee

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CATA: Working for you

Part of your CATA annual membership dues funds the association's lobbyists and political action committee, to make sure your voice is heard at the state and local levels.

Call the CATA about concerns that you want to see addressed.



Small Business Admin. asked to improve dealer floorplan initiative

A more effective dealer floorplan pilot program was the focus of commercial lending executives from four major national banks, when they joined the National Automobile Dealers Association March 11 for a meeting with the Small Business Administration.

"The SBA clearly recognizes the importance of helping the retail auto industry. But significant changes need to be made to the agency's dealer floorplan program to make it work," said NADA

Chairman Ed Tonkin, who participated in the meeting with other NADA representatives.

"We appreciate the opportunity to meet with the SBA to discuss potential modifications to this program, which could lead to improvements that will benefit both lenders and borrowers," Tonkin said.

The bankers and the NADA urged the SBA to make permanent the pilot program, to simplify the pro-

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Temporary total disability benefits remain intact even after termination for conduct unrelated to the injury

By **SCOTT CRUZ, ATTORNEY**
FRANCZEK RADELET P.C.

The Illinois Supreme Court recently held that if following a work-related injury an employee returns to work on a light-duty assignment, but is subsequently terminated for conduct unrelated to the injury, an employer must continue paying temporary total disability (TTD) benefits to the employee. *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Commission*.

In *Interstate Scaffolding*, following a work-related injury, the claimant returned to work on a light duty assignment and began receiving TTD benefits to make up the difference in income between his pay as a carpenter and his light duty pay. After terminating the claimant for misconduct, the Company stopped paying him TTD benefits. The claimant subsequently filed an application for adjustment with the Workers' Compensation Commission (the "Commission").

At the hearing, the claimant submitted into evidence his medical records and testified that he continued to experience pain as a result of the work-related injury. The arbitrator held that the claimant was entitled to TTD benefits. On review, the Commission modified the arbitrator's ruling and found that the claimant was only entitled to TTD benefits for the five weeks between his termination and the arbitration hearing. The circuit court affirmed the decision.

On further appeal, the Illinois Appellate Court reversed the Commission, reasoning that to allow an employee to continue collecting TTD benefits following a "for cause" termination did not advance the goal under the Workers' Compensation Act (the "Act") to compensate employees for work-related injuries.

The Illinois Supreme Court reversed the holding of the Illinois Appellate Court, concluding that the Act does not permit the denial, suspension or termination of TTD benefits to an employee who remains injured, yet has been discharged for misconduct unrelated to his injury.

According to the Court, therefore, the test for determining if an employee is entitled to TTD benefits is whether the employee's condition has stabilized (i.e., reached maximum medical improvement) such that the employee is capable of returning to work. That, the Court emphasized, is the decisive factor, even when injured employees have been discharged by their employers.

This decision reaffirms and establishes several important principles of Illinois law. First, it remains the law in Illinois that an at-will employee may be discharged for any reason or no reason, so long as the discharge does not violate any law or public policy.

Second, whether an employee has been discharged for a valid cause, or whether the discharge violates some public policy, are irrelevant in workers' compensation cases. Finally, an injured employee's entitlement to TTD benefits is a completely separate issue and may not be conditioned on the propriety of the discharge.

For questions about this article, please contact William R. Pokorny, Scott Cruz or any Franczek Radelet attorney, at (312) 986-0300.

AIADA's 4th annual Auto Industry Summit May 19-20

Registration is underway for this year's Auto Summit, May 19-20 in Washington, D.C., hosted by the American International Automobile Dealers Association.

The location is the same as last year: the St. Regis Hotel. Tickets are \$350 each. To register, go to www.aiada.org.

Members of the AIADA are encouraged "to fly to Washington for these two riveting days of political players, industry panels, and dealer advocacy visits on Capitol Hill.

Marketplace

Office Manager 20 years' dealership experience, including four years with GM Business accounting professional model. Oversee all office duties; execute payroll, financials, taxes; hire all office staff. Cynthia Hillebrand, (815) 444-8294. Résumé on file at the CATA.

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Review past editions dating to 1998 or search by subject at www.cata.info.

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Dealer Tonkin takes the wheel as new NADA chairman

By RAY SCARPELLI SR.

METRO CHICAGO NADA DIRECTOR

Oregon dealer Ed Tonkin started his term as 2010 NADA chairman at the association's convention and exposition in Orlando on Feb. 15. With the industry expected to make modest improvements this year, Tonkin said the NADA must help ensure the recovery is unencumbered, so that dealers can get back to business.

That means keeping a close eye on federal legislation and regulations affecting the auto industry, making sure credit is flowing, and fostering open communications with members and manufacturers.

"It's our job to make sure dealers are well represented in Washington and nationwide so we can get back to selling cars and trucks and making our customers happy," Tonkin said.

The new NADA chairman is the second in as many years to follow in his father's footsteps. Tonkin's father, Ron Tonkin, led the organization in 1989. Outgoing chairman John McEleney's father, Warren McEleney, was the leader of the NADA in 1971.

Safety is paramount

The nation's Toyota dealers are playing a crucial role in remedying Toyota's unintended acceleration recall situation, NADA representatives said in written testimony to the House Subcommittee on Oversight and Investigations.

"For America's dealers, the safety of our customers is paramount. While vehicles today are safer and cleaner for the environment than ever before, they also are more complicated, requiring a nationwide network of qualified dealership technicians to service the nation's fleet," the NADA wrote. "The value of such a network is never more apparent than when there is a large recall over safety concerns."

The dealer association pointed out to the subcommittee, which is part of the House Energy and Commerce Committee, that as soon as Toyota began providing service directives and the parts necessary to address the problem, dealers nationwide moved forward as quickly and conveniently as possible to make the necessary repairs—working overtime and, in many cases, seven days a week to fix the problems.

The nation's 1,468 Toyota dealers employ 116,575 people across the country.

"We urge the subcommittee to carefully examine the facts related to this recall and help diminish any unsubstantiated rhetoric or shrill alarmism regarding the Toyota brand," the NADA said in the statement.

Full written testimony is at <http://newsmanager.commpartners.com/nadah2/downloads/02-23-10%20NADA%20Written%20Testimony%20on%20Toyota%20Recall.pdf>

In legislative and regulatory news . . .

A Feb. 25 Congressional Oversight Panel hearing on the Troubled Asset Relief Program (TARP) highlights the ongoing need to provide more liquidity for **auto business lending**.

"This hearing underscores a much larger problem: lenders are still too often unwilling to lend to auto dealers to buy cars and trucks for sale to their customers," said Andy Koblenz, NADA vice president for legal and regulatory affairs.

During the hearing, Ron Bloom, from the President's Automotive Task Force, emphasized the need for action, saying that the future of the U.S. auto industry hinges on the ability of policy makers to restore the free flow of credit to auto retailers and car buyers.

By extending the Federal Reserve's successful Term Asset-backed se-

curities Loan Facility (TALF) and expanding the government's small business loan guarantee programs, we create the best environment for banks and finance companies to be comfortable lending to dealers again," Koblenz said.

In a Feb. 24 meeting with the Federal Reserve Bank of New York, Koblenz outlined the need to continue TALF for wholesale or floorplan loans past the program's March deadline. TALF has been successful in getting consumer credit transactions moving again.

Credit cards, consumer vehicle loans and home mortgages, among others, have rebounded. Yet wholesale credit for dealers is still "stymied" for some reason, Koblenz added. "It doesn't make sense. Floorplan credit is traditionally one of the lowest risk loans a lender can make," he said.

The Fed meeting is part of a two-pronged approach by the NADA: In addition to its TALF efforts, the other is to boost lender interest in government-backed loans. Already successful in lifting an outdated ban on floorplan lending guarantees by the Small Business Administration, the NADA is urging Congress to increase the amount of funds that the government will guarantee.

In other NADA news . . .

- The NADA has launched an ambitious new online magazine, **NADA Front Page**, featuring comprehensive and timely coverage of the automotive industry. "This takes NADA communications to an entirely new level," says David Hyatt, NADA vice president for public affairs. NADAFrontPage.com is designed as a one-stop source for all the latest news affecting the auto industry.

Feature sections include: Top Stories, NADA-TV reports, NADA in

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NHTSA ponders need for 'black box' in cars

Event data recorders, or "black boxes," should be required in all vehicles sold in the United States, said the administrator of the National Highway Traffic Safety Administration.

David Strickland spoke March 11 after the House Energy and Commerce Committee's Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled, "NHTSA Oversight: The Road Ahead." The subcommittee is examining the operations of NHTSA and its handling of the recent Toyota recalls.

Black boxes likely would track actions that occur in the seconds before and after a car crash. Since 2006, event data recorders have been encouraged

for automakers but not required, leaving the technology by which to record such information up to the manufacturer.

Various considerations are under review by NHTSA and certain Congressional committees that have jurisdiction over the agency. Future oversight for automakers could include, but would not necessarily be limited to, ruling that brake-override technology is mandatory; requiring the data from EDRs be easily accessible by regulators; and increasing funding for additional staff to augment NHTSA's investigative efforts.

The NHTSA evaluation marks the beginning of a process that officials say will take shape in the coming months.

Scarpelli

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the News, People, Politics, Issues and Opinion, plus Automaker News, Automotive Technology, as well as a special section, Cars of the Future.

ADAFrontPage.com premiered at the association's 2010 convention. The online magazine is a hybrid site, combining news aggregation with original reporting. NADAFrontPage.com features expanded coverage of auto industry news, quotes from industry leaders and auto stock quotes.

NADAFrontPage.com will complement the association's daily e-newsletter, NADA Headlines, which has become a must-read for thousands of dealers.

- U.S. light-vehicle sales will reach just short of **12 million units in 2010** as credit becomes more available and consumer confidence improves with rising

employment, predicted Paul Taylor, NADA chief economist. Taylor said sales of crossover utilities and small and midsize cars improved in January compared to the same month last year. January sales of crossovers, the only vehicle segment whose sales improved in 2009, were up about 14 percent compared to January 2009, Taylor said.

Jonathan Banks, senior director of editorial and data services for NADA Used Car Guide, reported that all used-vehicle segments posted double-digit percentage increases year-over-year in January, compared to the low points experienced during 2009. He said that values on most segments are in line or above pre-recessionary levels.

- **NADA University**, unveiled exclusively to attendees of the NADA convention in Orlando, was the subject of vast interest and enthusiasm as dealers, allied industry and manufacturer reps and other

convention attendees flocked to the NADA University booths.

Dealers who did not enroll during the convention are encouraged to visit www.NADAUniversity.com to enroll and begin taking advantage of the six free online courses, new online Driven publications and the many other member benefits available exclusively at NADA University.

- NADA University's Academy will be graduating its **161st Dealer Candidate Academy** class, its 77th General Dealership Management Class, and its 21st ATD Academy class since the Academy's inception 30 years ago. The Academy has revised its curriculum to meet today's industry challenges. Limited spaces remain—two DCA, one GDM, one ATD—for classes that begin in May and June for the 11-month program. For more information and to enroll online, go to www.NADAUniversity.com.

SBA

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program so that it is more user-friendly, and to allow loan advances of up to 100 percent of inventory value with the maximum SBA guarantee.

"We appreciate the valuable input provided by the banking representatives and the receptiveness to their ideas on the part of the SBA," Tonkin said.

In order to enhance the eligibility of dealerships for SBA programs, the NADA also stressed the importance of shifting from a gross receipts-based dealership size standard to one based on the number of dealership employees.

Tonkin said he expects the SBA will render a decision later this year.

Recession

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training.

"Now, dealers are getting serious about training and the follow-up process," said Don Groppetti, head of Groppetti Automotive in Visalia Calif. "They realize this is a way to add value and differentiate themselves from competitors."

- Pointing out posh interiors. If consumers believe they are buying higher-end products, they'll look for fewer incentives, says consultant Tony Allison of Crowe's Retail Dealer.

- Finding new ways to operate. Ryan Johnson, general manager of Johnson Auto Plaza in Brighton, Colo., invested in two 750-gallon gas wagons (one diesel, one regular).

Now, the dealership saves by buying gas in bulk, and employees don't have to drive cars to the gas station for fill-ups.