



Montana Automobile Dealers Association

DECEMBER 2018 NEWS BULLETIN

PRESIDENT'S MESSAGE:

A look back on 2018

With the 2017 legislative session wrapped up, 2018 offered a little reprieve. Our focus for this year was to build our Internship Program, host our 2nd annual Clay shoot and BBQ, and to have an exceptional Family Convention. Of course, it was not all fun and games; we also established contracts with multiple MT Hospitals, and gained new insight on electronic titling for 2019 and we also attended the NADA conference in Washington.



Eric Henriksen
MTADA President

Each year, NADA hosts the Washington Conference, which is attended by more than 400 participants, including NADA's most politically active members, national board members and state association leadership. In attendance from Montana were: Jim

Stanger, Don Kaltschmidt, Dan Wallin, Bruce Knudsen and myself. While we were there, we were able to meet with our legislative officials and discuss regulatory issues facing dealers and we also attended Montana Coffee, where every Wednesday morning all of our Montana officials – Senator Tester, Senator Daines and Congressman Greg Gianforte gather in one room, giving us a chance to drink coffee and engage in conversation affecting our industry.

With our first year underway, we have 2 apprentices participating in the Apprenticeship Program. This program is a way that you can invest in both your community and your industry. When bringing an apprentice up through a registered apprenticeship program, you are offering a career rather than just another job by creating both employee retention and community retention. Our new Dealer Services Coordinator will be working on this next year. Heather will be reaching out in the months to come.

In May we hosted the 2nd Annual Clay Shoot & BBQ. With over 40 people in attendance, including many of our Legislators and Lobbyists, it was a great time to network and bond with some of the MTADA Associate Members over guns and BBQ. We also had 3 of the candidates for the open senate seat come out and join us! We hope to make this a much larger event next year so please be on the lookout for the invite!

How much fun did we have in Big Sky this year for the Family Convention?! First of all, it's Big Sky, and who doesn't love it there. We had amazing speakers from our industry; Eric Chase, Wes Lutz and Jason Volny. We also enjoyed a great round of golf, a family BBQ and s'mores by the pool! If you missed out on this year's fun, just wait for the convention next August in Kalispell. The folks at the MTADA office are busy organizing a fabulous and fun family event which will include a dinner cruise on Flathead Lake with live entertainment, the Presidential dinner followed by poker, and a guided Glacier tour. I also heard a rumor about a giveaway – and you are going to want to be there for your chance to win! Registration will begin the middle of January.

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and more!



DIRECTOR'S MESSAGE:

NADA Forecasts 16.8 Million New-Vehicle Sales in 2019

The National Automobile Dealers Association, a trade group representing U.S. franchised new-car dealerships, today released its annual sales forecast for new light vehicles in 2019.

"We're forecasting sales of 16.8 million new cars and light trucks in 2019," said Patrick Manzi, NADA senior economist, at an industry briefing. "This would represent a falloff in sales of about 1.1 percent compared to 2018."

Based on a strong November, new-vehicle sales are expected to reach 17 million units in 2018, which would mark the fourth straight year of U.S. auto sales above 17 million units.

"This was unexpected. We were expecting sales to fall off a little more than they have this year, but then the new tax law was passed which put more money in the pockets of consumers and they certainly purchased new vehicles at dealer showrooms," Manzi added. "The majority of these sales, following the trend of past years, have been light trucks, such as crossovers, pickups and SUVs."

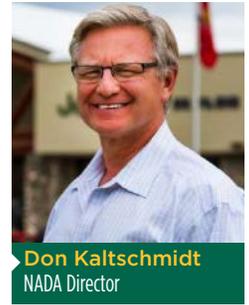
NADA Chairman Wes Lutz, president of Extreme Dodge-Chrysler-Jeep-Ram in Jackson, Mich., who provided a dealer perspective on the state of auto retailing during the briefing, added that sales of 16.8 million new vehicles would still be

a robust year in 2019 but was concerned about "price creeping" that could take some consumers out the market.

"If incentives continue to go down and interest rates go up, it will put tremendous pressure on consumers with rising monthly payments," Lutz added. "The level of interest rates moving forward will be a wildcard."

In 2018, consumers continued to abandon car segments. Light trucks are on track to account for about 70 percent of sales, while cars will account for nearly 30 percent of sales. In 2017, the ratio was 64.5 percent light trucks and 35.5 percent cars. About 10 years ago, the sales mix consisted of 48 percent light trucks and 52 percent cars.

"One of the main factors for this shift has been continued low oil and gasoline prices and the fact that crossover utility vehicles are nearly as fuel efficient as their sedan counterparts. And we've seen fuel economy increases across the board, not just on crossovers but also traditional SUVs and pickups," Manzi said. "We also expect gasoline prices to remain relatively low in 2019, not as low as present but still low enough not to cause a panic and a consumer shift back to



Don Kaltschmidt
NADA Director

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CHAIRMAN'S MESSAGE:

Auto Press Must Keep Digging on 'Mobility'

Despite how our industry issues change and challenges arise, the reporting on our industry should be rooted in reality and facts. And the fact is that people will continue to purchase cars, and auto dealers will continue to serve the car-buying public for the next century to come.

Last month, I had the privilege of addressing the Automotive Press Association in Detroit. I told the leading journalists covering our industry that they have an important job to do: challenge every assertion they come across, especially as it relates to personal vehicle ownership, ride-hailing services, autonomous vehicles, and even electric vehicles. Because as dealers know directly from our own customers, personal vehicle ownership is not going away. Ever.

The past few years have been truly eye-opening for the global auto industry, as electric vehicles are now mainstream, vehicles with semi-autonomous features are currently on the road, and ride-hailing services are more popular than ever. But let's not lose sight of the picture—the accurate picture—of how these entities will truly shape our landscape. I shared some critical facts with the press in hopes that it captures a more complete narrative for the retail auto industry. One of these facts is based on a AAA Foundation for Traffic Safety study, which found that the cost of relying on ride-hailing services as a primary mode of transportation—in 20 of the biggest metro areas in the U.S.—was at minimum more than twice as much as the cost of owning a personal vehicle. This is at odds with what Silicon Valley, mobility think tanks and Wall Street venture capitalists have been purporting. However, after looking at a quarter of a million economy-level, single-rider ride-hailing trips in these urban areas (the bulk of the trips that are being taken by real people), AAA found that the average cost of relying on these services as a primary mode of

transportation was \$20,118.

In comparison, the average annual cost to own and operate a new vehicle in these same urban areas—the only setting in which using ride-hailing services are a practical full-time transportation option—was \$10,049. And that includes the cost of parking.

I urged the men and women of the press to take note of these enlightening stats, because they disprove one of the central pillars of the argument that people are going to stop buying cars. The truth is, it's not cheaper to use ride-hailing services. And furthermore, dealers understand a cardinal truth about vehicle ownership: people equate it to personal freedom. The American car-buying public enjoy having the ability to go where they want, when they want. They value the freedom, flexibility, convenience

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Wes Lutz
2018 NADA Chairman



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LEGAL UPDATE

Review Your Salesforce Texts

As dealers, I'm sure you all have language in your buyers' order disclaiming all warranties particularly on used units. (If you don't, you are overdue getting your buyers' order reviewed by your counsel). As dealer lawyer Shelley B. Fowler of Hudson – Cook, noted in a recent article in Spot Delivery it's easy to do, with only a couple of words. Management sometimes forgets that their employees can use language that constitutes an express warranty and won't be disclaimed. A recent case in Arkansas that Shelly reported on demonstrates how a sales associate text can create a nightmare for the dealer.

Silverstar Automotive, Inc., d/b/a Mercedes-Benz of Northwest Arkansas, was looking to sell a used 2007 Ferrari F430. Silverstar hired Boardwalk Ferrari to conduct a pre-purchase inspection of the car. Boardwalk provided the dealership with a list of recommended repairs, and Silverstar approved some of the repairs but declined others, including an exhaust header repair.

After a potential buyer decided not to purchase the car and notified Silverstar that individuals on a Ferrari forum described the exhaust header as a potential safety problem, Silverstar began negotiating with Hamid Adeli, who expressed an interest in buying the car. During phone calls and text messages, Silverstar employees described the Ferrari as being in "turnkey, excellent condition" and told Adeli about the inspection and that all necessary repairs had been made except for an issue with the car's tire pressure monitoring system. There was no mention of the exhaust header issue.

Adeli decided to buy the car, and he and his wife signed a Buyer's Guide acknowledging that the car was being purchased "as is," an invoice stating that "the dealership hereby expressly disclaims all warranties, either express or implied," an odometer disclosure

statement, and a notice that Arkansas has no cancellation period for used car purchases. Shortly after buying the car, Adeli smelled gasoline emitting from the car. He had the car towed to a mechanic who made numerous repairs, including one to a leaky exhaust manifold. Adeli sued Silverstar for breach of express warranty, fraud, and violation of the Arkansas Deceptive Trade Practices Act. Silverstar moved for summary judgment, and the U.S. District Court for the Western District of Arkansas denied the motion.



R. J. "Jim" Sewell, Jr.
MTADA General Counsel

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Chairman’s Message CONTINUED FROM PAGE 3

and control that only owning their own car or truck can provide.

Another assertion I asked the press to challenge is that self-driving vehicles are immeasurably safer than humans behind the wheel. We don’t know if this is true, because there just isn’t enough data to prove it one way or the other. But we do have this data: there were 37,000 fatalities on the roads last year, and 94 percent of those fatal accidents were the result of human error. But Americans drove more than 3.2 trillion miles. So even with fatalities considered, those are not bad safety odds when humans are behind the wheel. Humans are phenomenal drivers.

This is just a small piece of the larger pie I served up in Detroit. (Read more about my speech.) Despite how our industry issues change and challenges arise, the reporting

on our industry should be rooted in reality and facts. And the fact is that people will continue to purchase cars, and auto dealers will continue to serve the car-buying public for the next century to come. ■

Lutz is 2018 NADA chairman and president of Extreme Chrysler-Dodge-Jeep-Ram in Jackson, Mich

President’s Message

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In addition to all this fun, Bruce, Cori Cook, and Mary Kay Puckett, have been busy working with the hospitals and attaining signed contracts for our Health Care Trust. We now have contracts with 11 hospitals, and two more are close to being finalized. Their focus for 2019 will be to work with some of the smaller town’s hospitals. Bruce has also been working with Vitu – a company creating a new way to manage electronic vehicle transactions across the nation. MTADA is developing a strong relationship with Vitu, and will be helping to introduce Electronic Titling into MT. There are going to be some big changes in the next couple years, and I’m excited to see the efficiencies. This is a fun time to be a dealer in Montana. Thank you to all the staff for your hard work.

Lastly, it is with a heavy heart that this year ended with a loss of one of our very own. Leslie Oakland passed away on December 10th. A celebration of life will be December 29th at 11am at the Mansfield Theater in Great Falls. I have included her full obituary in this newsletter. MTADA has decided to donate \$1000 to the Great Falls Special Olympics on behalf of Leslie, and we ask that each dealership also donate \$100 to this charity.

Thank you for a wonderful year! ■

Eric Henriksen is the owner of Don Aadsen Ford in Ronan, Montana

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In Memoriam of Leslie Oakland

Surrounded by her family, Leslie Oakland, 61, passed away peacefully on December 10, 2018 after a courageous battle with cancer.

Leslie was born May 26, 1957, in Great Falls, Montana, to Bob and Gladyce (Campbell) Oakland. The youngest of two children, Leslie made Great Falls her home her entire life. Leslie loved the high plains and the hard-working salt of the earth people who also called Montana and Great Falls home.

She attended Great Falls High School and continued her education at the University of Montana before becoming a realtor for a short time. During this time she was the youngest broker in the state. Leslie married the love of her life, John Thomas, June 14th, 1986, and raised the pride and joy of her life, two wonderful children, Cooper and Bailey. She also had the honor of being a stepmom to John's daughter, Aja. Her family was her life, and nothing made her happier than being with them.

Following her father's footsteps, Leslie was drawn to the family business in 1985, where she spent time working and learning all she could about the car business. She then served as General Manager and President of City Motor Company for the past 15 years. With her guidance and leadership, and with the support from dedicated City Motor Company employees, Leslie maintained the hallmark of quality service. Over the years the company received numerous accolades and awards including the Toyota President's Award, the Time Magazine Quality Dealer Award for the State of Montana, and Quality Truck Dealer Award for Montana.

Leslie had a light-hearted and playful side that was present especially during "girls' trips" to Seattle and Scottsdale, and family vacations to Bigfork, Hawaii and Disney World. She loved planning and organizing family and community events that brought joy to others. Hosting the Special Olympics Montana Summer Games Dance and Carnival was one of her annual highlights. Family and friends enjoyed orbiting around Leslie's welcoming personality and caring nature.

While challenged in her final days, Leslie had nothing but good humor and grace. It's been said that "Angels can fly because they take themselves lightly". Selfless as she was, Leslie is one of those angels who opened her wings to lighten everyone's day.

Though she was never one who cared to be the center of attention, Leslie championed many causes and charitable

organizations. As a servant leader, one could find Leslie being among the first to raise her hand and lead by example, giving generously of her time, talent and treasure. Whether fighting for the rights of battered women, helping marginalized people with intellectual disabilities find their voice and rightful place in our communities, funding science research to cure disease, or creating opportunities for school-aged children to discover, learn and grow, Leslie was there to see the opportunities and be part of the solution.



A few organizations Leslie helped enrich and transform included Special Olympics Montana, the Great Falls Public Schools Foundation, McLaughlin Research Center, Mercy Home, Easter Seals/Goodwill, Eagle Mount, Benefis Sletten Cancer Institute, Montana State University - Northern, United Way, Great Falls Development Authority, Montana Auto Dealers Board and the First Interstate Bank Great Falls Advisory Board. Wherever there was a need, Leslie could be found at the epicenter of all that was good. She inspired many to be their best selves.

Leslie is survived by her husband John Thomas; children Cooper and Bailey Thomas, stepdaughter Aja Thomas; parents Bob and Gladyce Oakland; sister Kris Houtonen; niece Ashley (Richie) Whitney; brother in law Bob (Lynette) Thomas; brother in law, Bill Thomas; and various nieces and nephews. Leslie was preceded in death by her uncle Lester Oakland, her husband's parents William and Francis Thomas, and her sister-in-law Valerie Belden Thomas.

A celebration of life is scheduled for Saturday, December 29, 11:00 a.m. at the Mansfield Theater, Great Falls, followed by a reception at the Meadow Lark Country Club in Great Falls.

During this season of reflection and renewal, we're reminded what a gift Leslie was and how much "Joy to the World" she brought to so many lives. There couldn't be a more appropriate time of year to celebrate Leslie's life than Christmas. This was her favorite time of year.

Our family extends a profound heartfelt thank you to Patty Rice who has been an intimate part of our family for nearly 20 years, providing around the clock support during Leslie's final challenge, and to Benefis Grandview and Peace Hospice staff who provided dignified care during Leslie's final days. In lieu of flowers, memorials may be made to a charity of your choice. ■

Director's Message CONTINUED FROM PAGE 2

the car market.”

Incentive spending, on average, per unit was down in November 2018 compared to the same month a year ago, according to industry sources.

“We’ve seen more discipline from auto manufacturers with their production this year. They have properly aligned production with demand and as a result have relied less on incentives, although some incentives applied on less popular segments may spike in December 2018 as well as fleet sales at the end of the year,” Manzi added. “We expect incentives to continue to fall and automakers to remain disciplined in 2019.”

Manzi, who agreed with Lutz, added that a significant headwind for consumers is rising interest rates for new-vehicle financing.

“Depending on what source you look at, average interest rates on new-vehicle financing have risen 60 to 70 basis points from 2017 through the third quarter of 2018. That has really driven up the cost of borrowing,” he said. “We expect interest rates to continue to rise. There has been some speculation that the frequency of rate increases may slow.”

The Federal Reserve Board is expected to raise rates at its meeting in December 2018. One or two more rate increases are likely during the early half of 2019 and then rates are expected to hold steady.

A positive trend for both consumers and new-car dealerships has been the growth in manufacturer-backed certified preowned (CPO) sales. CPO sales are up 2.2 percent through November 2018.

“The price gap in average monthly payments between new and used vehicles is widening. Consumers, even those with stellar credit, are doing the math and many will choose to buy used vehicles from new-car dealerships, which are uniquely positioned and qualified to sell CPO vehicles,” Manzi said. “Off-lease returns to dealerships are expected to peak in 2019 following record leasing in 2016. That means more CPO sales for franchised dealers.”

Lutz, who sells two used vehicles for every new model sold at his dealership, added that rising transaction prices in the new-vehicle market will result in more consumers shopping for used vehicles.

“There’s an abundance of late-model, off-lease vehicles returning to dealerships, which offers consumers an alternative to higher monthly payments on a new vehicle,” Lutz said.

Manzi also provided an outlook of the macroeconomic factors that will impact auto retailing in 2019.

“The tax cuts signed into law in 2018 provided a significant boost to the overall economy. It likely resulted in GDP growth of 3 percent for the year, pushed average employment growth up to 206,000 jobs per month and unemployment down below 4 percent, and increased new-vehicle sales,” he said. “We’re not going to have that again in 2019. That’s one of the main reasons we’re expecting new-vehicle sales to fall off slightly.”

NADA expects GDP growth of about 2.5 percent in 2019 and then a return to a long-term trend growth rate of about 2 percent or slightly lower.

“We expect the rate of job growth to slow to between 150,000 to 170,000 jobs per month,” Manzi said. “And there’s still more room for the unemployment rate to fall and wages to rise.”

Lutz added that new-car dealers are generally optimistic about 2019 and excited about changes in technology from advanced safety features, improved fuel economy and especially vehicle electrification.

“There are 270 million vehicles on the road today with gasoline combustion engines,” Lutz said. “New-car dealers would like to replace all of them.” ■



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IT Security Tip: How Often Should I Reboot My Computer?

If a survey was taken that asked the question, “how often do you reboot your computer?”, answers would probably range from “Every few days” to “I don’t remember the last time I rebooted”. Some people only reboot when there is a problem, such as their computer is running very slow.

So how often should you reboot? We recommend that you reboot your PC at least once per week. The reason being that this routine keeps your PC running smooth and also applies important security patches. Microsoft releases patches on the second Tuesday of each month but will on occasion release more than once per month. It is very important that the PC is rebooted to make sure that the critical security patches are applied!

If you are a managed client of ours, we take care of the patching for you. At the end of the day on Wednesday, log off your PC but leave it running. We’ll do the patching; a reboot will be required Thursday morning. You may see a notification on your screen that your PC needs to be rebooted, with an option to “snooze” the reboot for 60 minutes. If you see this message, it might be a good time to grab a cup of coffee or a snack. Just reboot your PC before you leave your desk. ■



Erin Dickey
IT Services Director
DIS Technologies



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Time and Ally Financial Honor Billings Dealer

Steve Zabawa Wins National Recognition for Community Service and Industry Accomplishments at NADA Show

(New York, NY, October 22, 2018) – The nomination of Steve Zabawa, dealer at Rimrock Subaru in Billings, Montana, for the 2019 TIME Dealer of the Year award was announced today by TIME.

Zabawa is one of a select group of 51 dealer nominees from across the country who will be honored at the 102nd annual National Automobile Dealers Association (NADA) Show in San Francisco on January 25, 2019. The announcement of this year's 50th annual award was made by Jorg Stratmann, publisher, TIME, and Doug Timmerman, president of Auto Finance for Ally Financial.

The TIME Dealer of the Year award is one of the automobile industry's most prestigious and highly coveted honors. Recipients are among the nation's most successful auto dealers who also demonstrate a long-standing commitment to community service. Zabawa, 61, was chosen to represent the Montana Automobile Dealers Association in the national competition – one of only 51 auto dealers nominated for the 50th annual award from more than 16,000 nationwide.

"I have worked relentlessly to make Rimrock Auto Group the best in delivering an awesome customer experience and improving the skills and talents of the 200-plus employees at our company," nominee Zabawa said.

Zabawa is a 1975 graduate of Creighton Prep in Omaha, Nebraska. He earned a degree in business from the University of Nebraska Omaha in 1979, where he was president of Pi Kappa Alpha (Pike) fraternity, vice president of the

interfraternity council, treasurer of Phi Kappa Phi honor society and chairman of the homecoming celebration.

A natural in sales with an affinity for finance, Zabawa started in the car business in Phoenix, Arizona, in 1987. There, he met his future business partner, John E. Soares Jr., and the two moved their families to Billings, Montana, in 1993, to build an auto group.

"For our first 15 years, we developed dealerships and acquired franchises," Zabawa said. "For the last 10 years, the focus has been on building state-of-the-art, best-of-class facilities that are image compliant and customer friendly." Today, Rimrock Auto Group, encompasses five dealerships in Billings and Laurel, Montana, representing brands Cadillac, Chevrolet, GMC, Kia, Mercedes-Benz, Subaru and Volkswagen.

"We have built a reputation for helping customers find the right vehicle for all the best reasons – to make them happy and a customer for life," he said.

Zabawa's passion for technology has put him at the forefront of incorporating the latest advancements into his dealer operations. In addition, he worked with a team to design WebBuy, a fully integrated car-buying app that brings consumers a click away from dealers and lenders. The app allows customers to trade-in their vehicles, lease or buy new or pre-owned cars and find financing, all in one easy-to-use app.

"I've always been inspired by technology, which led me to this end-to-end car-buying app that is changing the way cars are bought and sold in America," Zabawa said. "We are rolling out WebBuy to dealers across the country."

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CONGRATULATIONS
Steve Zabawa

**Montana's 2019 Time Magazine
Dealer of the Year Nominee**



Zabawa has been a strong advocate for his community and is director of Safe Montana, a non-profit organization committed to protecting the state from illegal drugs and narcotics. He has raised money for Family Service, a Billings group that fights hunger and homelessness and works to alleviate poverty in Yellowstone County.

“Our Subaru dealership raises more than \$25,000 a year for Family Service through our Share the Love Event,” he said. “Family is very important to me, as I have been blessed with seven children and nine grandchildren, and to help others is very rewarding.”

He also supports the Boy Scouts of America Montana Council by holding an annual breakfast to raise funds to send underprivileged Scouts to summer camp and pay their yearly fees. In addition, Zabawa has contributed to the American Heart Association; Toys for Tots; Make-A-Wish; American Cancer Society (Relay for Life); Billings Symphony Orchestra & Chorale; Boys & Girls Clubs of Yellowstone County; Meals on Wheels America; Wounded Warrior Project; as well as area schools.

“The great car dealers I’ve known share qualities of persistence, meeting life’s challenges head on, and love of family,” Zabawa said. “I’d like to count myself among that group.”

Dealers are nominated by the executives of state and metro dealer associations around the country. The award is sponsored by TIME in association with Ally Financial, and in cooperation with NADA. A panel of faculty members from the Tauber Institute for Global Operations at the University of Michigan will select one finalist from each of the four NADA regions and one national Dealer of the Year. Three finalists will receive an additional \$5,000 for their favorite charities and the winner will receive an additional \$10,000 to give to charity.

In its eighth year as exclusive sponsor, Ally will recognize dealer nominees and their community efforts by contributing \$1,000 to each nominee’s 501(c)3 charity of choice. Nominees will also be recognized on AllyDealerHeroes.com, which highlights the philanthropic contributions and achievements of TIME Dealer of the Year nominees.

“It’s an incredible honor to recognize these dealers for their business accomplishments and their unwavering commitment to ‘Do It Right’ by helping others in their communities,” Timmerman said. “They are extraordinary auto leaders who care and go the extra mile to give of themselves to make their communities stronger. Ally is proud to support and celebrate their achievements.”

Zabawa was nominated for the TIME Dealer of the Year award by MTADA. He and his wife, Susan Sullivan, have seven children. ■

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Welcome to an improved EBMS!

In November, the Montana Automobile Dealers Association will see an upgrade in their miBenefits portal!

As part of our rebranding project, and in an effort to ensure we're delivering the best service – even in self-service, we've revamped the way that members engage with EBMS.

Soon you'll receive an introduction to our new miBenefits portal where you'll be able to view claims, take a look at EOB's, and order yourself new ID cards. You can set up notifications for pending and approved claims and receive up to the minute updates on things you want to track. On the main page you can view individual and family deductible accumulators and get a quick snapshot of where you're at for the year. Our new portal allows you to easily manage your health plan and provides quick and seamless access to all the data that belongs to you, as a member!

In addition to our marketing and service upgrades, we're focusing more than ever on transparency in an often translucent industry. EBMS will continue to lead the way in helping to reshape and eventually change the landscape of how healthcare is paid for in the United States. We'll offer the best in



By Emma Passe
Account Executive
EBMS

Educating Your Members Begins with You

The Montana Automobile Dealers Association has partnered with EBMS to provide you and your employees with a variety of resources to keep you physically and financially well on your journeys. So pass it on! Consider sharing this information with your employees so you can empower them to be their healthiest selves. After all, a healthy workforce means a healthy business.

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technology and analytics to project real cost saving results for employers that they can pass on to all employees. We'll continue to blaze a trail into reference based pricing, direct contracting, and bundled pricing for surgical services. Our miChoice program continues to grow as we seek out and attract new and preferred providers of care that share our same goals and mission for the future.

Our goal is, and always has been, to ensure that all members with an EBMS ID card are receiving the highest quality care at the lowest cost, which we know leads to far better individual outcomes. We would like to thank you, the Montana Automobile Dealers Association, for being a long-term, fellow trail blazing partner in this field.

Together, we can keep improving lives. ■

Legal Update CONTINUED FROM PAGE 4

Although the court found that Silverstar disclaimed all warranties, it noted that a genuine issue of material fact existed as to whether the text messages were intended to be part of the parties' final written agreement. If the text messages were intended to be incorporated, then the final written agreement included a written express warranty that could not be disclaimed, and a genuine issue of material fact existed as to the scope of the warranty and whether the cracked manifold was included.

Addressing Adeli's fraud claim, the court found that genuine disputes existed as to whether Silverstar's statements concerning the extent of repairs made to the car and its condition were material misrepresentations and whether Silverstar's failure to disclose the issue Boardwalk found with the exhaust header was a material omission. Further, the court noted that a genuine dispute existed as to whether Adeli's reliance on Silverstar's statements and representations was justified, given that he knew he was buying a car "as is," he has a history of buying Ferraris and other high-performance cars, and he knew the car was underpriced. The court also found that Silverstar was not entitled to summary judgment on the deceptive practices act claim considering the genuine disputes as to whether the statements or omissions were deceptive or misleading and whether they were material.

It remains to be seen whether the dealership or the buyer will be successful on the various claims that the buyer alleged. However, dealerships should take note of the court's concerns over whether the text messages about the car's condition might be deemed part of the final written agreement and, therefore, not subject to the disclaimer. In this day of less face-to-face contact and more contact by text message or email, the words that your sales associates write to buyers will be scrutinized if they turn out to be false. Maybe it's time to consider developing, with your lawyer, policies about written communications with potential buyers. ■

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