

If a windshield cracks on the freeway, would an adjuster indemnify it?

By Reed Hardesty

Mr. Smith received his car back from his body shop with a broken windshield. The shop told him while it was test driving his repaired vehicle on the freeway, rock debris fell off a City flatbed truck and broke his windshield. The shop provided a license plate number of the city vehicle. Mr. Smith filed a claim seeking the cost of his windshield.

The City provided comments from the primary user of the city truck; the employee that used it on the day in question. The City employee noted his routine that he always walks around the truck before his use to inspect for safety issues including loose items. He noted he did not drive on the freeway that day and also that he rarely operated the truck on the freeway as he usually only attended to sewer manholes in city streets. The truck usually only carries manhole lids and a broom.

WCIA denied the Smith claim. Mr. Smith hired an attorney who threatened litigation and attorney fee costs in addition to the windshield replacement. The RCW that allows collection of attorney fees in small value court claims is a double-sided sword, so we notified Mr. Smith's attorney that if the City prevailed we would seek the attorney fees we incurred and that likely Smith's insurer would not cover those costs. Mr. Smith nor his attorney pursued the claim further.

That is a lot of claim furor over a small dollar amount, but it illustrates those following inspection requirements under [RCW 46.61.655](#) can create viable legal defenses of dubious road hazard windshield claims.

WCIA's Liability Resource Manual's Fleet Section (FLT 4) has routine inspection and maintenance record samples that may assist your truck drivers with documenting daily risk management controls. The Liability Resource Manual is available through the Member Resources page on the WCIA website: <http://www.wciapool.org/member-resources>.