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# Toyota Recall A Subrogation Issue? Allstate Looks At Cases

- By [DANIEL HAYS](#)

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Big auto insurers will be examining past auto accident claims involving Toyota vehicles for possible subrogation action, an insurance arbitration executive predicted, as Allstate said it has a case review underway.

Mark Bunim, president and chief executive of Case Closure--a New York-based insurance arbitration and mediation firm--said large auto insurers are "going to amalgamate their serious claims involving Toyotas over the past five or six months, and see how many of them are tied to or could be tied to the gas pedal recall."

"Then they are going to try and subrogate. And why not?" added Mr. Bunim.

At Allstate spokesman, Mike Siemienas, said cases are being examined, but it is too early to discuss whether the company will be involved in subrogation activity. "We will wait and see," he noted.

“Allstate has processes in place because vehicle recalls occur regularly,” Mr. Siemienas added. “Allstate is in the early stages of reviewing claims involving Toyota’s recalled vehicles. The results of this investigation will help Allstate determine the appropriate next steps to take on behalf of our customers.”

In the past after such reviews, the company has instituted subrogation actions, according to Mr. Siemienas.

Since last November, at least 10 negligence lawsuits have been instituted seeking class-action status against Toyota in the United States and Canada, according to the Web site, [www.attorneyatlaw.com](http://www.attorneyatlaw.com).

Those cases seek compensatory damages for medical bills and other out-of-pocket expenses associated with the defective car parts and also punitive damages.

Mr. Bunim, who is an attorney, said it “may be a stretch,” but some plaintiffs with only one vehicle may sue the automaker for out-of-pocket costs and rental costs while they are unable to drive their own vehicle.

“Is Toyota insured for that?” he wondered, adding that “the consumer is going to go after the dealer. Does the dealer carry his own coverage? Is the dealer going to have to sue Toyota? That’s another insurable issue. A lot of issues are going to have to get flushed out.”

Toyota, Mr. Bunim said, will pay for the first few millions of dollars in claims itself, and then the firm’s insurance layer would take over. “The worldwide market is involved in this--it is not a U.S. insurance question per se,” he remarked.

With all the publicity and notice surrounding the recall, Mr. Bunim said that an insurer could argue it has a right to deny a claim by someone who failed to bring in the auto for dealer repair.

“That’s a valid defense. Clearly you [the car owner] were on notice. You are contributorily negligent. That’s a basis for denial of coverage.”

According to Mr. Bunim, in addition to its other woes brought on by the recall, Toyota will now see warranty insurers charging Toyota more, because there are indications the firm knew of the gas pedal risk for some time.

There is one facet of the situation for which Toyota has no coverage, according to Mr. Bunim. The company is “not insured for loss of good will,” he said. “Toyota has lost a lot of good will.”

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