



Case Study

Compensation for Diminished Value Required Under Automobile Policy

— by Jeffrey D. Eberhard

Is compensation for diminished value required in first-party claims where repair does not completely restore a vehicle to its pre-loss condition? According to a recent Oregon Court of Appeals case, the answer is “yes” unless the policy includes a specific exclusion for diminished value. In Gonzales v. Farmers Ins. Co., --- P.3d ---, WL 3735344 (December 20, 2006), Jose Gonzales’ 1993 pickup, which was insured by Farmers, was damaged in a collision resulting in \$6,993.40 in repair costs. Farmers paid the repair costs, less Gonzales’ collision deductible. Gonzales filed a complaint against Farmers alleging that under the terms of the policy they were obligated to pay not only for the cost to repair the pickup, but also to compensate him for any “inherent diminished value” (IDV) the vehicle may have suffered as a result of the collision. The language of the policy limited the insurer’s liability to “the amount which

it would cost to repair or replace damaged property with other of like kind and quality...” The trial court awarded summary judgment for Farmers finding that the term “repair”, as used in the policy, was not ambiguous and that Farmers’ liability was limited to the actual cost of repairs and did not require compensation for diminished value. Gonzales appealed the trial court’s decision.

Reversing the trial court, the Court of Appeals found the term “repair” to be ambiguous and included a definition that required compensation for diminished value in cases where repair does not completely restore the vehicle to its pre-loss condition. Construing the ambiguous term against insurer, the Court found that the policy required Farmers to compensate Gonzales for the diminished market value to his vehicle that was caused by the collision. ❖

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Claims Pointer

The term “repair” in an automobile policy may be ambiguous and if so, compensation for diminished market value required when repair of the vehicle does not completely restore the vehicle to its pre-loss condition. The best way to avoid a first-party diminished value claim is a specific policy exclusion.