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Illinois Appellate Court: No Recovery for Diminished Value of Vehicle Following Accident

By Jennifer N. Pahre

In *Sims vs. Allstate Insurance Co.*, 2006 ILL. App. LEXIS 436, the Fifth District Court of Appeals found that an Allstate insurance policy did not permit an insured to recover for the diminution in value of the vehicle following an accident.

This was a class action filed against Allstate by plaintiffs Tiffany and Michael Sims on behalf of themselves and other members of the class for breach of contract against Allstate. The plaintiffs argued that the terms of their insurance policy with Allstate required Allstate to pay them for their damaged but repaired vehicle's diminished value following an accident.

The Allstate policy provided collision coverage "for direct and accidental loss to your insured auto from a collision with another object or by upset of that auto or trailer." Under the auto comprehensive insurance, the policy stated: "Allstate will pay for direct and accidental loss to your insured auto not caused by collision." Finally, under the payment of loss section, the policy provided: "Allstate may pay for the loss in money, or may repair or replace the damaged or stolen property."

Prior to the trial in the lower court, Allstate had moved to dismiss the action on the basis that these provisions did not require it to pay for diminished value. The trial court, however, determined that the insurance policy was ambiguous and denied Allstate's Motion to Dismiss. The case was tried and the jury rendered a verdict in favor of Allstate. The plaintiffs then appealed.

On appeal, the plaintiffs argued that the diminished value of an adequately repaired vehicle was a loss that Allstate was required to compensate under the policy. They alleged that the phrase "Repair or replace with

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This case is a victory for auto insurers as it finds that the diminished value claim will not be allowed if a vehicle is repaired following an accident. Once again, the Illinois Appellate Courts are sifting through and eliminating many class action cases and providing favorable interpretations to insurers.

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other of like kind and quality” in the limits of liability section of the policy included an inherent concept of value that required Allstate to pay for the diminished value.

On appeal, the court found that the policy did not contemplate the repair or replacement of property or parts plus an additional payment of money for unrepairable diminished value. Although the court noted that some jurisdictions have reached the opposite conclusion, the appellate court found that the policy’s “clear and unambiguous language” compelled “Allstate to restore the insured’s vehicle to pre-accident mechanical function and condition” but “does not require Allstate to compensate its insured for the repaired vehicle’s loss in market value due to the fact that it suffered damage.”

A dissenting opinion was filed by Justice Welch, who found that the policy would require Allstate to return the vehicle owner to the same financial position he was in prior to the accident, which would include payment.

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We welcome your questions and comments.

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