



### **Massachusetts Federal Court Holds Automobile Insurers Not Obligated to Pay for Diminution in Value of Repaired Vehicles**

In Martins v. Vt. Mut. Ins. Co., the United States District Court for the District of Massachusetts recently issued an opinion on an open question under Massachusetts law: does Part 4 of the Standard Massachusetts Automobile Policy obligate automobile insurers to provide coverage for inherent diminution in value of vehicles that have been damaged and repaired? The court, in resolution of cross-motions for summary judgment, answered that question in the negative.

The court began its analysis by recognizing that automobiles that have been involved in accidents typically suffer an "inherent diminution in value," which has been defined as "the difference between the market value of the automobile immediately before the accident and its market value post collision after it has been fully repaired." The court explained that the concept of inherent diminution is based on the theory that a stigma attaches to vehicles that have been involved in a collision, even though the physical condition of such vehicles has been restored.

The court then reviewed the insurance policy, the applicable statutory and regulatory framework, the case law most closely addressing the issue, and the guidance from the Commissioner of Insurance and concluded that Massachusetts law does not permit the recovery of tort damages based on the inherent diminished value of personal property and, therefore, automobile insurers are not obligated to provide coverage for such damage.

The issue of an insurer's obligation to pay for the inherent diminution in value of damaged vehicles is also the subject of two cases currently before the Business Litigation Session of the Massachusetts Superior Court, Ercolini v. Commerce Ins. Co. and McGilloway v. Safety Ins. Co. In an October 2018 decision, the Massachusetts Superior Court denied Safety Insurance Company's motion to dismiss in the McGilloway case and declined to "prematurely" rule on the legal issues due to the "absence of any clear Massachusetts precedent." It will be interesting to see if these cases are resolved in the same manner as Martins.

## About OCM

OCM is boutique litigation firm based in Burlington, Massachusetts, whose clients include Fortune 500 companies as well as closely held businesses and astute individuals. OCM's attorneys help their clients not only resolve disputes but also avoid them altogether. Whether you are facing a courtroom battle, arbitration, mediation, or negotiation, OCM can help.



[Connect with us on LinkedIn](#)



OCM Law 1 Van De Graaff Dr. Burlington, Massachusetts 01803 United States (781) 359-9000