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Diminution of Vehicle Value Following Auto Accidents in New Mexico

In the typical car accident, the insurance company of the party who caused and is liable for damages associated with the accident pays for the repair of the other vehicle involved. The vehicle is examined by an adjuster for the insurance company and a determination is reached as to what damage was caused in the accident and what is to be repaired.

The determination is either to repair the vehicle or to offer compensation for a total loss. Assuming the car can be fixed, often the adjuster will provide a check from the company at the initial examination of the vehicle. Then, the owner of the vehicle can take the car to be repaired at a collision repair shop of his choice.

If the shop determines that there is "hidden" damage, meaning damage that the adjuster could not ascertain at the initial examination, the shop will provide a quote for the insurer and the insurance company will provide additional funds directly to the shop assuming there is no disagreement.

It is important to note, that although the owner may choose the repair shop, most insurers have preferred collision repair shops so that when a supplemental damage estimate is submitted, it is often helpful to have it come from a shop with whom the insurer has a relationship.

When there is significant damage to a vehicle, but the vehicle is worth more repaired than totaled, there is an issue of diminution of value. A vehicle that has been involved in a collision loses some value simply by virtue of the fact that it has been repaired. In theory, a vehicle that suffers body damage should not lose value because it has been fully repaired. However, it usually does. And if there has been significant structural repair, the vehicle may lose significant value.

Unfortunately, getting reimbursed for diminution of value is not easy. If you are the party that caused the accident, although your company will pay to repair the vehicle less your deductible, most insurance contracts do not provide for payment of diminished value. However, in third-party claims, that is where another party caused your damage, the insurer should pay diminished value.

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The law in New Mexico does provide for payment of damages for diminution of value based on the general tort law theory that the injured party should be restored to his or her position prior to the accident. The problem is that the injured party generally must prove the diminished value amount, which is usually speculative. It is difficult to know what a vehicle is worth had it not been repaired following an accident.

In these cases it is usually necessary to obtain some professional opinion that there is diminished value and that the diminution is measureable by a reliable method. The result can be a battle of wills and a battle of estimates between the innocent driver and the other driver's insurance company.

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