

THOUGHT LEADERSHIP

News

U.S. DISTRICT COURT HOLDS THAT INSUREDS' BREACH-OF-CONTRACT CLAIMS FOR ALLEGED IMPROPER CALCULATION OF "ACTUAL CASH VALUE" FOR TOTAL-LOSS VEHICLES IS NOT A VIABLE CLAIM

Newsbrief

09 FEB 2021

Last week, the United States District Court for the Northern District of Texas concluded that there was no support under Texas law or in the relevant insurance policy mandating the insurer to use the "Cost Approach" or "Comparable Sales Approach" in calculating the "actual cash value" of total-loss vehicles. Accordingly, the court held that Plaintiffs' claims of breach of contract were not viable and dismissed the claims. In *Cody et.al. v. Allstate Fire and Casualty Ins. Co. and Allstate Cty. Mutual Ins. Co.*, No. 3:19-CV-665-1935-K, 2021 WL 389768 (N.D. Texas [Dallas Division], Feb. 3, 2021), Plaintiffs were insured under separate but materially identical automobile policies issued by Allstate Fire and Casualty Insurance Company and Allstate County Mutual Insurance Company. Coverage for losses under the Policy was limited to "the actual cash value of the property . . . at the time of the loss." The term "actual cash value" was not defined in the Policy.

The insureds were each involved in separate motor vehicle accidents, and they subsequently filed claims with Allstate for property damage. For each claim, Allstate concluded that the automobile was a total loss. In calculating the "actual cash value," Allstate did not include tax and/or full title, registration, or inspection fees. Unsatisfied with Allstate's valuation method, the insureds filed a class-action suit against Allstate alleging breach of contract. The insureds alleged that "actual cash value" should be measured by either (1) the "Cost Approach": replacement cost, including all fees and taxes related to replacing a vehicle (e.g., sales tax and registration fees), less depreciation, or (2) the "Comparable Sales Approach" which uses comparable sales data showing the amount for which comparable vehicles were sold in the counties of residence during the month the loss occurred.

Allstate filed a motion to dismiss, which the United States District Court granted. The court held as a matter of law that the requested compensation was not required, and that the insureds' claims were not viable under Texas law. The court reasoned that there was no support under Texas law or in the Policy mandating the Cost Approach or Comparable Sales Approach in the car-insurance context. "[N]o Texas law set[s] forth how insurers must calculate ACV or market value in this context outside the definition of market value (i.e., "the price property will bring when offered for sale by one who desires to sell, but is not obliged to sell, and is bought by one who desires to buy, but is

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under no necessity of buying.”). The court further reasoned that although the Policy was silent on how “actual cash value” was to be calculated, the Policy was not ambiguous because “ACV can be given a definite legal meaning under well-established Texas law” defining the term. Lastly, the court reasoned that if it were to conclude that either valuation approach was required in calculating “actual cash value,” the court would improperly be inserting an additional requirement into the Policy.