



DIMINISHED VALUE CLAIMS: MASSACHUSETTS

SUMMARY Massachusetts Claims

Statute of Limitations: 3 years

Third Party Diminished Value Claim: No, most insurance policies in MA written after 2018 have changed and narrowed coverage for third-party diminished value claims

First Party Diminished Value Claim: No, most insurance policies will exclude diminished value

Massachusetts Property Damage Minimum Limits: \$5,000

Uninsured Motorist Coverage for Diminished Value: No coverage

Underinsured Motorist Coverage for Diminished Value: No coverage

Massachusetts Small Claims Court Limit: \$7,000 attorney representation is permitted. Massachusetts law doesn't allow a plaintiff or defaulting defendant to appeal.

Currently, most insurance companies are denying diminished value claims in Massachusetts due to unfavorable policy language under Part 4 of the 2016 Edition of the Standard Massachusetts Insurance Policy. There are several cases still being litigated, but as of now, Massachusetts isn't a solid diminished value state.

MASSACHUSETTS DIMINISHED VALUE LAW

Massachusetts is a state that allows drivers to file a diminished value claim if the accident wasn't their fault. The statute of limitations for diminished value claims in Massachusetts is three years from the date of loss. Diminished value claims are filed with the at-fault driver's insurance company.

Generally, a victim of property damage is entitled to be placed in the position he or she would have been in if the defendant's wrong had never occurred. Tort Law § 13.11, at 429 (3d ed. 2005). A fundamental principle on which the rule of damages is based is compensation. Compensation is that amount of money that reasonably will make the injured party whole. Compensatory damages may not exceed this amount. Anything beyond that amount is a windfall. *Kattar v. Demoulas*, 433 Mass. 1, 15 (2000).

Jarrett McGilloway et al. v. Safety Insurance Company and the Commerce Insurance Company COMMONWEALTH OF MASSACHUSETTS SUPREME JUDICIAL COURT

The Supreme Judicial Court differentiated part 4 from part 7 (a first party claim for collision coverage) of the 2008 Edition of the standard Massachusetts auto policy, and held that inherent diminished value is recoverable under a third party claim for damages under part 4 of the 2008 Edition of the standard policy. The Supreme Judicial Court noted that not every automobile that is involved in a collision and is subsequently repaired has suffered diminished value. "Rather, individualized proof is required to demonstrate that a given automobile has sustained some form of diminution in value due to a collision or vehicular accident, even after repairs are made." A Plaintiff would still need to prove (1) that his or her vehicle has suffered inherent diminished value damages and (2) the amount of diminished value damages at issue.

Massachusetts policies written after January 1, 2018 are based on the 2016 Edition of the Standard Massachusetts Automobile Insurance Policy and those policies contain the unfavorable wording that goes against diminished value compensation for third-party accident victims.

HOW TO FILE A DIMINISHED VALUE CLAIM IN MASSACHUSETTS

Step 1. Gather proof of your car's diminished value. Crucial in filing any insurance claim is having the correct paperwork and supporting documentation prepared professionally.

Step 2. Submit a diminished value appraisal and demand letter for review.

Typically, diminished value claims are brought against the at-fault driver's insurance company.

Step 3. Settle your claim.

Negotiate until they get firm with their offer. Because of the MA policy wording and ongoing legal battles concerning diminished value in MA, you should be prepared to go to court if you decide to pursue a diminished value claim in Massachusetts.