

The Newsletter[©]

A newsletter by the **Law Offices of J. Michael Hayes** devoted to relevant issues of negligence and insurance law.
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RENTAL CAR AGREEMENTS WHAT YOU DON'T KNOW CAN COST YOU MONEY

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DO YOU TAKE THE PROPERTY DAMAGE COVERAGE FROM THE RENTAL COMPANY?

If you are like most people, you answer no to the question "Do you want the collision damage waiver?". We all have been assured by our insurance agents and by our credit card companies that we have property damage coverage that protects us in an accident in a rental vehicle. Your assumptions and your agent's representations are correct – as far as they go!

The law is that either or both your personal automobile insurance and your credit card company will pay for property damage should you have an accident in a rental vehicle. This is old news. Everyone relies upon this knowledge and this standard. The law in New York is that your carrier and/or the credit card will pay to the owner of the vehicle that you damaged a) the fair market value of the vehicle prior to the accident if it is a total loss or b) the costs of repair, if it is not a total loss.

It is in the latter instance that problems have arisen and where you are vulnerable. There is a provision, I believe, all rental car agreements that you sign when you pick up the car at the hotel or airport, in which you agree to pay the diminished value of the vehicle should the rental company, at their sole discretion, decide to sell the vehicle rather than repair it.

With the ability to track the history of vehicles, a potential buyer can find out if the vehicle under consideration has ever been in an accident. Such vehicles sell for less than those that have not been in an accident. Consider that situation yourself: If you had a choice to purchase one of two identical used vehicles, one of which had been in an accident and repaired and the other looking the way it did coming from the factory, minus wear and tear, which vehicle would you choose? Most likely, if you did ultimately decide on the vehicle with the prior damage, it would be because you were able to obtain it at a reduced rate.

That is certainly the experience of the used car industry and auctioneers. It is also the experience of rental car companies. As a result, they inserted the provision in their contracts that the renter would assume responsibility for any difference or "diminished value" between the pre-accident value of the vehicle and its after accident and repair value.

What does that mean to you? Consider the example of a woman from Michigan. She rented a Ford with an estimated market value of \$26,500. She was in an accident and the cost of repairs were estimated at \$7,800. The rental car company elected to sell the unrepaired car at auction. They did so and recovered \$11,700. The woman's personal automobile carrier paid the "cost of repairs", that is \$7,800. The difference, nearly \$7,000, was considered the "diminished value" of the vehicle. The woman was billed and became personally responsible for that amount of money. Her personal coverage did not cover for that type of loss.

As a matter of fact, you can not obtain coverage for this particular item of damage through either your personal automobile insurance nor through your credit card. Also, if your car is damaged through the fault of another, you can only recover from that individual the cost of repair or the actual cash value. The carriers do not write coverage for this type of loss nor do the states recognize it.

RECOMMENDATIONS

There is a solution. You must purchase the "damage waiver" from the rental company. Then, if you are in a property damage accident, that insurance will cover all the costs. There is no deductible. There is no liability for the "diminished value" of the vehicle. The cost may be an extra twenty dollars a day or more. However, one would think that is better than owing \$7,000.

