

Oregon's high court backs pickup owner over insurer

by ASHBEL S. GREEN

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The Oregon Supreme Court on Thursday sided with an automobile policyholder who said his insurance company should pay not only for repairs, but also the loss in value his vehicle suffered as a result of an accident.

The class-action lawsuit could end up including most insurance-covered auto repairs in Oregon since 1993, said Dan Gatti, the lead plaintiff's attorney.

"It's huge," Gatti said.

The lawsuit is against Farmers Insurance, but Gatti said he has class-action cases pending against the three other big insurance companies -- Allstate, State Farm and Progressive.

Gatti said the damages against Farmers alone could top \$30 million.

A Farmers representative couldn't be reached for comment.

The decision applies to insurance policies that do not explicitly exclude payment of what's called "diminished value." Gatti said no policies excluded diminished value until 2003, and most still do not.

The lead plaintiff is Jose Gonzales, whose insured pickup was involved in an accident in 1998. The repairs totaled \$6,993. The insurance company paid Gonzales for the repairs minus the deductible.

Gonzales argued that the repairs did not restore his truck to its pre-accident value and said the insurance company should pay him the difference. Farmers refused. Gonzales and another motorist filed a class-action lawsuit in 1999. A Multnomah County judge dismissed the case, agreeing with Farmers Insurance that it was not responsible for diminished value.

The Oregon Court of Appeals reinstated the lawsuit. The Supreme Court agreed, saying it was not enough simply to pay for the repairs if Gonzales' pickup was worth less as a result of the accident.

"He remains entitled to either a genuine repair of the vehicle, as we have discussed, or compensation for the diminished value of the un-repaired vehicle," the court said.

Ashbel S. (Tony) Green: tonygreen@news.oregonian.com