

Consumer Counselor

Insurance Information for Michigan Consumers

Mini-Tort: An Exception to "No-Fault"

What Is "Mini-Tort?"

Under no-fault auto insurance, a driver can only be sued under certain circumstances, such as:

1. If he or she causes an accident in which someone is killed or seriously injured, or
2. If he or she is involved in an accident in Michigan with a non-resident who is an occupant of a motor vehicle not registered in Michigan, or
3. If he or she is involved in an accident in another state where lawsuits are permitted.

The limited property damage liability, or "mini-tort," provision of the no-fault law creates another situation in which you can sue or be sued. Under "mini-tort," if you are 50% or more at fault in an accident, and damages to the other driver's car are not completely covered by his or her insurance, you may be sued and may have to pay up to \$1,000 in damages. This also means that you may sue the other driver for damages to your car which are not covered by your insurance if the other driver is 50% or more at fault.

For example, if you have standard collision insurance with a \$100 deductible, and are involved in an accident for which you are less than 50% at fault, you can sue the other driver to recover your deductible.

Which Court Will Handle These Lawsuits?

A lawsuit brought under the "mini-tort" provision should begin in a small claims court, or a municipal court, but either party may have the case moved to a higher court. However, the party who asks for the case to be moved may have to pay court costs if he or she does not win the case.

How Will Damages Be Awarded?

The amount the person being sued will have to pay will be based on the amount of fault. For example, if the damage is \$100 and the person being sued is 75% at fault and loses the case, he or she may have to pay the other driver \$75.

Does My Insurance Cover This New Liability?

The mandatory no-fault insurance coverages, which are required by law and which include some liability insurance designed to protect you in suits involving serious injury or death, do not cover this additional \$1,000 liability. Insurance companies usually offer this coverage as an optional coverage which you may purchase for an extra cost. Insurers often call this coverage "limited property damage liability." Check with your agent to find out how your company handles this liability and what is available to you.

If you have a question about your insurance, ask your agent or company. If they cannot answer your question, contact the Department of Insurance and Financial Services (DIFS) at the address or telephone number below. DIFS is the state department that regulates insurance in Michigan.

