



## News

### Appellate Spotlight: Hinshaw Legal Team Defeats Creative Attempt to Recalculate the New York Property Damage Formula

September 27, 2024

A Hinshaw legal team, led by Al Angelo, Brent Reitter, and Hayden Farmer, recently defeated a creative and determined attempt to modify New York's common-law rule on automobile damages and expand the number of available damages to include post-accident depreciation.

#### What Was at Stake?

For more than a century, New York courts have consistently reaffirmed that the measure of damages to personal property caused by negligence is the difference in the market value immediately before and immediately after the accident or the reasonable cost of repairs necessary to restore it to its former condition, depending on whichever is lesser.

Plaintiff sought to set aside this approach, arguing that the law was antiquated and an outlier among sister state laws. Had he succeeded, the resulting expansion of available damages would have had far-reaching and costly implications for all motor vehicle insurers. The value of every automobile property damage claim would have immediately increased.

With over 100,000 motor vehicle accidents in New York each year, those costs would likely be in the tens or hundreds of millions of dollars. In addition, litigation concerning automobile property damage claims would have become more expensive and prolonged due to the need for valuation experts to opine on pre and post-accident valuation.

#### The Facts of the Case

Five days before the accident at issue, plaintiff obtained a quote to trade in his vehicle for \$22,500. Ten days after the accident, the same car dealership reduced its quote by \$3,000 due to the intervening accident. The value reduction occurred despite the plaintiff's insurer paying over \$8,000 for repairs. Plaintiff sued to recover the \$3,000 difference.

#### Attorneys

Albert C. Angelo  
Hayden B. Farmer  
Brent M. Reitter

#### Service Areas

Appellate  
Complex Tort & General  
Casualty



## Decision Affirmed on Appeal

Hinshaw successfully moved to dismiss plaintiff's claim before the Supreme Court, Erie County (Donna M. Siwek, J.S.C.) since plaintiff had been fully compensated for all repairs by his insurance carrier. Following plaintiff's appeal, Hinshaw obtained a unanimous affirmance of Justice Siwek's opinion before the New York State Supreme Court, Appellate Division, Fourth Department, and successfully opposed plaintiff's motion for leave to appeal to the New York State Court of Appeals.

The cases were: *Freitas v. Ahmed*, Mo. No. 2024-350 (Sept. 19, 2024) (Ct. of Appeals), and *Freitas v. Ahmed*, CA 20-00367 (Mar. 22, 2024) (Appellate Division, Fourth Dep't).