

Arizona Supreme Court Rules That Insurer May Not Depreciate Labor Costs In Calculating Actual Cash Value (Insurance Law Alert)

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As discussed in previous Alerts, several state supreme courts and federal appellate courts have addressed whether an insurer may depreciate labor costs in calculating actual cash value (“ACV”). See [May](#) and [October 2021 Alerts](#); [March](#) and [April 2020 Alerts](#); [April 2019 Alert](#); [March 2017 Alert](#); [January](#) and [February 2016 Alerts](#). The Arizona Supreme Court recently weighed in, ruling that labor costs may not be depreciated in the ACV calculation. *Walker v. Auto-Owners Ins. Co.*, 254 Ariz. 17 (2022).

An Arizona district court certified two questions to the Arizona Supreme Court:

- (1) When a homeowner’s insurance policy does not define the terms “actual cash value” or “depreciation,” may an insurer depreciate the costs of both materials and labor in determining the actual cash value of a covered loss?
- (2) Is the broad evidence rule applicable in Arizona such that an insurer and/or fact finder may consider labor depreciation as a pertinent factor in determining actual cash value?

The Arizona Supreme Court answered both questions in the negative with respect to the policy at issue. The court noted that the highest courts in Illinois, Tennessee, Arkansas and Mississippi have not permitted the depreciation of labor costs in calculating ACV and emphasized that under Arizona law, an insurer seeking to limit its liability under a policy must “clearly and distinctly” do so through policy language. With respect to the broad evidence rule, the court held that while the rule was not applicable in the present case, it could potentially apply in interpreting other property policies.

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