

## WHEN A DEALER PROVIDES A LOANER CAR, WHOSE INSURANCE COVERS IT?

According to an e-LERT from Cassels Brock & Blackwell LLP, a recent Ontario Superior Court decision regarding insurance liability on loaner vehicles may be of interest to dealers. In Ontario Superior Court of Justice, *Coachman Insurance Co. v. Lombard General Insurance Co. of Canada (2011)*, the court considered the case of a customer who had been given a loaner car by a dealer while the customer's car was in for warranty repairs. Unfortunately the customer was involved in a collision, and an action was commenced naming both the customer *and* the dealer. The dealer, and the dealer's insurance company, believed the customer's insurance should pay any damages however the customer's insurance company disagreed. It argued the loaner was not a leased or rental vehicle and therefore the dealer's insurance company should pay for repairs. The court agreed and found the dealer's insurance provider would be required to respond to the claim.

This may be an important decision for dealers who routinely loan vehicles to customers. Dealers may want to consider utilizing a formal loaner agreement which spells out insurance liabilities. OMVIC recommends dealers contact their trade associations or independent legal counsel if they have further questions.

### **CONTACT**

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