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ABSOLUTE LIABILITY IN MOTOR VEHICLE LIABILITY POLICIES

The Division of Insurance has received multiple complaints regarding automobile insurers denying third-party liability claims based on the insurers' inability to verify the loss through their insured.

NRS 485.3091(5)(a) states that every motor vehicle liability policy is subject to the provision that the liability of the insurance carrier becomes absolute whenever injury or damage covered under the policy occurs and that no violation of the policy defeats or voids the policy.

Furthermore, in *Torres v. Nevada Direct Insurance Company*, 131 Nev. Adv. Op. 54 (2015), 353 P.3d 1203 (2015), the Nevada Supreme Court held that no post-injury violation of a policy will release the insurer from the absolute-liability provision set forth in NRS 485.3091(5)(a). More specifically, in *Torres*, the insured's noncompliance with the notice and cooperation clauses of the policy did not void the insurer's indemnity obligations.

It is the Division's position that denial of a claim based on the inability of an insurer to verify a loss through its insured within a reasonable period of time would be a violation of NRS 485.3091, as well as an unfair claims settlement practice pursuant to NRS 686A.310.

Insurers are hereby reminded that liability of the insurer is absolute when a covered injury or damage occurs, and insurers may not deny a third-party claim because they are unable to obtain a statement from their insured. Remedies available to the insurer are cancellation of the policy due to a violation of a policy condition which substantially and materially increases the hazard insured against, and/or subrogation against the uncooperative insured.



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