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MONTHLY ELECTRONIC SUBROGATION NEWSLETTER AUGUST 2009

TO CLIENTS AND FRIENDS OF MATTHIESEN, WICKERT & LEHRER, S.C.:

This monthly electronic subrogation newsletter is a service provided exclusively to clients and friends of Matthiesen, Wickert & Lehrer, S.C. The vagaries and complexity of nationwide subrogation have, for many lawyers and insurance professionals, made keeping current with changing subrogation law in all fifty states an arduous and laborious task. It is the goal of Matthiesen, Wickert & Lehrer, S.C. and this electronic subrogation newsletter, to assist in the dissemination of new developments in subrogation law and the continuing education of recovery professionals. If anyone has co-workers or associates who wish to be placed on or removed from our e-mail mailing list, please provide their e-mail addresses to Rose Thomson at rthomson@mwl-law.com. We appreciate your friendship and your business.

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INSURANCE SUBROGATION

STATE OF WASHINGTON WEIGHS IN ON DEDUCTIBLE REIMBURSEMENT

New Regulation Mandates Deductible Reimbursement Demands

Just six months ago, we talked with the Washington Department of Insurance to inquire about any upcoming administrative regulations dealing with deductible reimbursements for subrogating insurance companies and were told none were in the works. How quickly things change.

Effective August 21, 2009, Washington Administrative Code § 284-30-393 was promulgated by the Insurance Commissioner, requiring subrogated insurance companies to include their insured's deductible in any subrogation demands. The new regulation is part of Washington's Unfair Claims Settlement Practices Regulations. Previously, Washington had no regulations and gave no guidance with regard to the duties of a subrogated insurer vis-à-vis its insured's deductible. It applied the skewed and poorly-premised philosophy that a subrogated carrier had no rights of subrogation until the insured's deductible was repaid in full, as a function of the made whole doctrine. Section 284-30-393 now leaves little room for doubt as to what an insurer's duties are with respect to a deductible. It reads as follows:

__284-30-393__. Insurer must include an insured’s deductible in its subrogation demands.

The insurer must include the insured’s deductible, if any, in its subrogation demands. Subrogation recoveries must be allocated first to the insured for any deductible(s) incurred in the loss. Deductions for expenses must not be made from the deductible recovery unless an outside attorney is retained to collect the recovery. The deduction may then be made only as a pro rata share of the allocated loss adjustment expense. The insurer must keep its insured regularly informed of its efforts related to the progress of subrogation claims. “Regularly informed” means that the insurer must contact its insured within sixty days after the start of the subrogation process, and no less frequently than every one hundred eighty days until the insured’s interest is resolved.

Washington’s new regulation allows the insured to recover all of its deductible before the carrier can recover any of its subrogation interests. It does not allow for a pro rata deduction for costs unless subrogation counsel was retained to effect the recovery, whereupon a pro rata deduction can be made for any “allocated loss adjustment expense.”

Subrogation professionals should also be aware that the new regulation requires that the insured be notified within 60 days after the start of any subrogation process and kept informed regarding the recovery effort. Additionally, the carrier must keep the insured notified of progress and status at least every 180 days, until the insured’s interest is resolved.

Washington’s new regulation is an effort to apply the made whole doctrine to the insured’s rights to recover its deductible. While the new regulation is in place and must be adhered to, it’s interesting to note that this is a misapplication of the doctrine. Subrogation professionals sometimes assume that if a state employs or recognizes the “made whole doctrine”, then the insured must be totally reimbursed for its out-of-pocket deductible and any uninsured losses, before a carrier can subrogate. Unfortunately, this over simplistic view and application of the made whole doctrine is not only erroneous, but also results in reduced subrogation recoveries for carriers across the country. Surprisingly, the obligation of an insurer to reimburse some or all of its insured’s deductible has little to do with the made whole doctrine in most states.

The made whole doctrine really serves a totally different purpose. Generally, it provides that under the common law subrogation principle of equity, an insured is entitled to be "made whole" before a subrogated insurer can participate in a recovery from a tortfeasor. *Insurance Company of North America v. Lexow*, 602 So.2d 528 (Fla. 1992). Insureds may argue that the made whole doctrine prevents an insurer from subrogating or recovering anything on its subrogated interest whenever the insured has not been fully reimbursed for its deductible, but that isn’t really the purpose of the made whole doctrine. Unfortunately, although observed and recognized by a large number of subrogation professionals throughout our industry, and apparently even the State of Washington, this view is incorrect. Although the specific law involved may change from state to state, the general consensus is that the made whole doctrine does not give an insured an affirmative right or cause of action against its insurer to be “made whole”, beyond the payment of the insurance policy proceeds involved. *Schonau v. Geico General Ins. Co.*, 903 So.2d 285 (Fla. App. 2005). Rather, the made whole doctrine may be used only as a defense by insureds to protect the insured’s direct recovery from a tortfeasor, where the insured also lays claim to a limited amount of third-party proceeds based on subrogation. *Florida Farm Bureau Ins. Co. v. Martin*, 377 So.2d 827 (Fla. 1979).

Decisions from across the country applying the made whole doctrine essentially hold that where an insurer and insured simultaneously attempt to recover all of their damages from a tortfeasor who cannot (because of insolvency, limited insurance coverage, or other reasons) pay the full value of damages, the insured has priority of recovery over the insurer’s subrogation interest. This is far different from an insured claiming it is

entitled to 100% of its deductible before an insurer can subrogate on its own. Even the leading case in the country on the made whole doctrine involved a dispute over limited third-party insurance proceeds between an insured and its insurer. *Garrity v. Rural Mut. Ins. Co.*, 253 N.W.2d 512 (Wis. 1977). An insured always has the right to pursue a tortfeasor independently for its deductible, and that right alone is sufficient to allow the subrogee insurance company to keep its settlement, even if the insured is not made whole. *Paulson v. Allstate Ins. Co.*, 665 N.W.2d 744 (Wis. 2003). Even one of the leading treatises on insurance, in its very first statement on the made whole rule, raises the threshold issue of insufficient funds: "In many instances, the insurer and insured both have rights of recovery against the third party primarily liable for the loss, if the amount recoverable from the third party is insufficient to completely satisfy the claims of both." *Couch on Insurance*, § 223.133, at 223-145 (3d Ed. 2000).

A chart detailing the statutory, case law, and regulatory law in all 50 states applicable to a carrier's duty to reimburse an insured's deductible can be found at our website at www.mwl-law.com or by clicking on the following link: **DEDUCTIBLE REIMBURSEMENT LAWS IN ALL 50 STATES**.

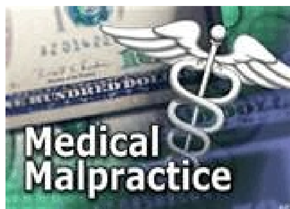
WORKERS' COMPENSATION SUBROGATION

5TH CIRCUIT DENIES TRIAL ATTORNEY'S FEES BASED ON ETHICS OPINION SOUGHT BY MWL

***Gray Law, LLP v. Transcontinental Ins. Co.*, 2009 WL 388945 (5th Cir. 2009)**

Our firm strongly believes that striking deals with the plaintiff's attorney in workers' compensation subrogation third-party cases is only rarely advisable. Far too often, limited third-party insurance, difficult liability, or other realities of litigation put trial lawyers between a rock and a hard place when it comes to serving two masters: the injured worker and the subrogated employer or compensation carrier. In those limited instances, it is recommended that care must be taken to carefully wordsmith the agreement in order to protect the subrogation and reimbursement rights of the compensation carrier. On February 18, 2009, the 5th Circuit Court of Appeals decided the Texas case of *Gray Law, LLP v. Transcontinental Ins. Co.*, revealing that there are significant financial risks to carriers that allow trial lawyers to represent their subrogation interests and that trial lawyers will only be able to collect a fee from the compensation carrier when it fully complies with § 417.003(b) of the Texas Act. The court also relied on a Texas Ethics Opinion requested by Gary Wickert in 2004 to admonish the attorney for double-dipping on the attorney's fees.

In 1997, Daniel Huckabee sustained a neck injury at work that required surgery. Complications from that surgery resulted in permanent brain damage. Transcontinental (CNA) paid $1.8 million in workers' compensation benefits to Huckabee to cover his medical expenses and lost wages. That figure was later reduced to $1,646,000 to reflect a reduction for benefits paid before the negligent surgery and later reduced to $1.4 million at mediation. Meanwhile, Huckabee retained Gray Law to file a medical malpractice action against the medical providers who performed the surgery. The malpractice case was tried to a hung jury, but subsequently settled for $4.2 million at mediation. The proceeds were divided as follows:



$4,200,000	Gross recovery
205,000	Less expenses
1,603,180	Less 40% attorney's fees
2,391,820	Net recovery before lien reimbursement
1,400,000	Lien reimbursement to Transcontinental
991,820	Net recovery (future credit waived by carrier)

While the lawsuit was pending, correspondence was exchanged between Jay Gray, of Gray Law, and Jeffrey Lust, Transcontinental's subrogation attorney. On February 20, 2002, Gray wrote to Lust:

> *It is my understanding that it is CNA's wish to have our firm represent their interest in this matter. To that end, we will receive a fee of one-third of the insurance carrier's recovery and a proportionate share of expenses. Please acknowledge CNA's agreement, by signing in the space provided below and returning it to me.*

Upon receipt of the letter, Lust discussed the proposed attorneys' fees with William Pratt, Gray's co-counsel. Lust then signed the February letter as requested and returned it on March 8. Lust, however, also wrote in a cover letter:

> *Attached is the letter that you sent regarding our agreement on fees and expenses in the above referenced matter. Per our discussion of March 4th, it is understood that my client's agreement to reduce its lien by 1/3 represents the 1/3 fee mentioned in the attached letter. Further, we agreed that my client's share of proportionate expenses will be calculated based on what percentage that my client's actual recovery bears to the total settlement amount or verdict (i.e., if the total settlement or verdict is $10 million and CNA recovers $1 million, then CNA will pay 10% of the expenses). In that regard, please provide a detailed account of what the expenses are to date.*

When the case settled, neither Gray Law nor Transcontinental brought their prior correspondence to the court's attention. For some reason, the lien was not reduced by 1/3 per the above exchange of letters, possibly because there was confusion with regard to the agreement and no meeting of the minds. More importantly, Gray Law didn't disclose its correspondence with Transcontinental to his client, Huckabee. Three months later, out of the clear blue, Gray Law sent a letter to Transcontinental demanding 1/3 of Transcontinental's subrogation recovery as an attorney's fee which read as follows:

> *Demand is hereby made upon CNA/Transcontinental Insurance Company to pay the previously agreed upon attorney's fees and pro rata expenses for the recovery of the subrogation amount in the above-referenced cause. The total sum due and owing by CNA/Transcontinental Insurance Company's share of the expenses is $534,424.94 which constitutes $466,200.00 for attorney's fees (33.3% of $1,400,000.00) and $68,324.94 for expenses (1/3 of the total expenses of $205,180.00).*

Upon Transcontinental's refusal to pay, Gray Law filed suit in state court, alleging breach of contract. Transcontinental removed the case to federal district court, and the district court granted summary judgment for Transcontinental. Gray Law appealed.

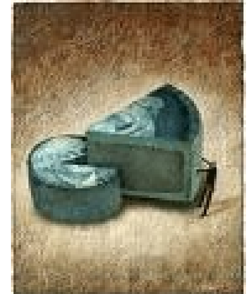
Section 417.003 of the Texas Act governs the recovery of attorney's fees by plaintiffs' attorneys in third-party cases. Texas courts have interpreted § 417.003 to permit the recovery of attorneys' fees in three distinct situations based on its three subsections:

(a) where insurer has an attorney but he does not actively represent it;
(b) where worker's attorney represents both the worker and the insurer; and
(c) where insurer has attorney who actively represents it and participates in obtaining recovery.

For each of the three situations, a separate condition applies. Gray Law argues that § 417.003(a) applies here because Lust did not actively represent Transcontinental. Section 417.003(a) contemplates that the worker's attorney and the insurer may form an agreement as to attorneys' fees on the subrogation claim.

Gray Law points to its agreement with Transcontinental, and argues that Transcontinental entered it with § 417.003(a) in mind.

Transcontinental argues that § 417.003(c), and not § 417.003(a), applies because, as the district court held, Lust actively represented its interests and participated in obtaining recovery. Under § 417.003(c), a court may still award attorneys' fees, but must apportion them between the insurer's attorney and the worker's attorney, based upon the contribution of each.



Alternatively, and not without some contradiction, Transcontinental argued that, because Gray Law represented both Huckabee and Transcontinental, § 417.003(b) might also apply. Under § 417.003(b), an attorney who represents both the worker and carrier must make full written disclosure of the representation of the carrier to the worker and obtain the worker's consent. Transcontinental argues that because Gray Law did not make full written disclosure to Huckabee, under § 417.003(b) it may not collect attorneys' fees from Transcontinental.

The district court agreed with Transcontinental that Lust had actively represented Transcontinental's interests and thus determined that § 417.003(c) controlled the case. The district court then held that § 417.003(c) does not contemplate that parties will form an agreement and, consequently, whether Gray Law and Transcontinental had an agreement was not important. The district court also refused to apportion attorneys' fees because it held that § 417.003(c) does not envision that a worker's attorney will collect fees from both the worker and the carrier on the same recovery. The district court further held that Gray Law had already recovered "the maximum amount." Although Lust had attended only a couple depositions out of 40 or so taken in the case, the federal judge decided that Lust had "actively represented."

If Transcontinental had merely agreed to pay Gray Law attorneys' fees equaling 1/3 of Transcontinental's subrogation recovery, Gray Law alone would have benefitted from the agreement. But here both Gray Law and Huckabee stood to benefit from the agreement, since Transcontinental agreed to reduce its subrogation claim on Huckabee's gross recovery by 1/3, of which Gray Law would receive 40%.

The 5th Circuit noted with some sarcasm that Gray Law collected as its contingency fee 40% of Huckabee's gross recovery (less expenses), which included money that should have first gone to pay Transcontinental's lien and on which there should have been no contingency owed by Huckabee to Gray Law. In other words, by trying to collect both 40% on the gross recovery (less expenses) and another 1/3 from the $1.4 million reimbursed to Transcontinental, Gray Law was, in essence, double-dipping on its fees.

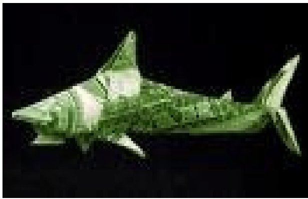
As a result, the 5th Circuit agreed that Gray Law was not entitled to attorneys' fees from Transcontinental. Their rationale was that § 417.003(b), and not § 417.003(c), controlled this case. Accordingly, they did not decide whether Lust's participation in the litigation constituted active representation within the meaning of § 417.003(c). Instead, they concluded that § 417.003(b) controlled and because Gray Law did not make full written disclosure of its representation of Transcontinental to Huckabee, Gray Law did not comply with § 417.003(b), and it may not collect attorneys' fees from Transcontinental. Thus, an attorney who deducts his contingency fee before the gross recovery has been reduced by the carrier's lien walks away with a share that is greater than that to which he is entitled. Here, Gray Law deducted its 40% contingency fee from the gross recovery (less expenses) and walked away with $1,808,180, including expenses, in first money, and then tried to obtain additional attorney's fees from Transcontinental.

In a concurring opinion, Justice Jolly noted that the Texas Supreme Court Professionalism Committee has called the first-money deduction for attorneys' fees attempted unconscionable, citing Rule 1.04(a) of the Texas Disciplinary Rules of Professional Conduct which states:

A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

The Court then cited Texas Commission on Professional Ethics Opinion No. 549, which was promulgated by the Commission in response to a request by Gary Wickert for clarification on this area of the law back in 2004. The 5th Circuit noted that, when read in conjunction with § 417.002, Rule 104(a) meant that:

[The worker and his attorney] have no right to the funds due to the compensation carrier. A fee that includes in its calculation funds to which [the worker] has no rights is unconscionable and violates Rule 1.04(a) of the Texas Disciplinary Rules of Professional Conduct. A competent lawyer could not form a reasonable belief that the fee charged under the proposed division is reasonable. Tex. Comm. on Prof'l Ethics, Op. 549 (2003).



In a rapidly growing number of Texas workers' compensation files, Matthiesen, Wickert & Lehrer, S.C. has been seeing plaintiffs' attorneys take a 40% attorney's fee "off the top" of a third-party recovery, and then simply reimburse the carrier's lien, less a 1/3 fee. This effectively nets the plaintiff's attorney a larger fee than if he had reimbursed the carrier first and then taken a fee off the remaining amount, which is the proper way to do the accounting in such a situation. In 2004, Gary Wickert asked the Professional Ethics Committee for the State Bar of Texas to issue a formal opinion to cover this subject, as there was no case law to guide us. In response, the Professional Ethics Committee issued Opinion 549, declaring that under the Texas Disciplinary Rules of Professional Conduct, a lawyer representing a worker's compensation claimant in their third-party action pursuant to a contingent fee arrangement may not collect a fee from the client/claimant based on the gross recovery, part of which is required to be paid to the worker's compensation carrier.

In the final analysis, the 5th Circuit agreed with Gray Law that the exchange of correspondence between it and Transcontinental did actually form an agreement, but disagreed that it entitled Gray Law to 1/3 of Transcontinental's subrogation recovery, because Gray Law did not get the consent of its client as the statute required. If it had, the result might have been Transcontinental recovering only $1 million of its lien plus a waiver of its future credit – a less than desirable result.

MED PAY/PIP SUBROGATION

NEW MED PAY/PIP SUBROGATION CHART NOW AVAILABLE!

Perhaps no area of insurance subrogation has been the subject of more confusion, discussion, dissension, and conflicting answers and resources than Med Pay and PIP subrogation. Automobile insurance carriers seeking information on whether or not such benefit payments can be subrogated in one state or another have been left staring at obscure and conflicting charts depicting a simple "Yes" or "No" column for each coverage. Not only have most of the charts in the public domain been inaccurate about whether or not subrogation is available in various instances, but the question of whether Med Pay or PIP benefits can be subrogated most frequently cannot be answered with a simple "Yes" or "No".

In response to numerous requests from clients, Matthiesen, Wickert & Lehrer, S.C. has finished compilation of the most complete and definitive Med Pay/PIP Subrogation Chart to be found anywhere. Many of the older charts found elsewhere are not kept current with the latest changes in the law and none of them provide statutory and case law authority for a carrier's ability, or inability, to subrogate - our new chart does. Below are some sample states pulled from our chart.

MED PAY/PIP SUBROGATION IN ALL 50 STATES

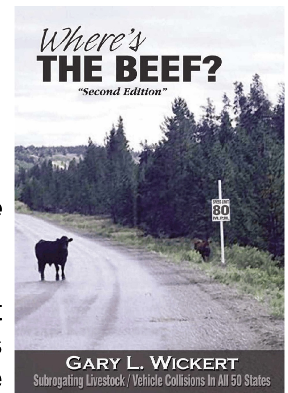
STATE	MED PAY	PIP	AUTHORITY/ADDITIONAL INFORMATION	STATUTE OF LIMITATIONS
Hawaii **+**	Y*	Y	**MED PAY**: Insurers aren't prohibited by law from providing PIP benefits. **PIP**: Haw. Rev. Stat. § 431:10C-307 (1999) allows PIP insurer to be subrogated to 50% of amount of no-fault benefits paid which are duplicated in 3P recovery. Cannot subrogate against optional additional coverages such as UM/UIM. See *Sol v. Hawaii Ins. Co.*, 875 P.2d 921 (Haw. 1994). 3P suit allowed against another insured vehicle only if death, loss of use of part or function of the body, permanent and serious disfigurement, or medical bills over $5,000. See Haw. Rev. Stat. § 431:10C-306 (1999). Any 3P recovery is reduced by PIP benefits amount paid, *i.e.*, $5K to $10K ("covered loss deductible"). See Haw. Rev. Stat. § 431:10C-301.5 (1999). 3P suits less than $5K not allowed. If med expenses between $5K-$10K, PIP benefits amount subtracted from verdict/recovery. See *State Farm v. Gepaya*, 80 P.3d 321 (Haw. 2003). **MADE WHOLE**: Applied only to UM cases to date. Subrogation rights determined by contract, not equity. *State Farm Fire & Cas. v. Pacific Rent-All*, 978 P.2d 753 (Haw. 1999). + No-fault state. Monetary and verbal thresholds. Enacted in 1974.	2 years from date of last PIP payment. Haw. Rev. Stat. § 431:10C-315(a)(1).
OREGON ○	-	Y	**MED PAY:** Coverage not applicable. **PIP:** Auto carrier has right of reimbursement for PIP benefits (known as "make-half provision") for amount of benefits paid exceeding insured's economic damages. O.R.S. § 742.544. Subrogation/reimbursement available under § 742.534 (inter-insurer reimbursement), § 742.536 (injured party must give insurer notice of claim/legal action, and insurer can give notice of election to seek reimbursement within 30 days - this constitutes a lien), or § 742.538 (if inter-insurer reimbursement not available and no lien election by insurer, insured must hold recovery in trust and insurer will be reimbursed, less share of costs and attys' fees). Eff. 1/1/08. § 742.520(6); *Gaucin v. Farmers Ins.*, 146 P.3d 370 (Or. App. 2006). **MADE WHOLE:** Doctrine applies generally to subrogation. *Koch v. Spann,* 92 P.3d 146 (Or. App. 2004). Under O.A.R. § 742.544 PIP subrogation/reimbursement not allowed until insured recovers his economic damages ("make-half rule"). ○ "Add-on" PIP state. $15,000 limits of PIP coverage required.	2 yr. personal injury SOL runs from date of accident. O.R.S. § 12.110(1)
UTAH+	Y	N*	**MED PAY:** Med Pay coverage can be offered in addition to PIP. **PIP:** *U.C.A. § 31A-22-309(6) (1994) confers "limited, equitable right to seek reimbursement in arbitration" against 3P's carrier only (includes disputes over fault and/or coverage), unless 3P carrier has tendered policy limits. Carrier receiving reimbursement might reimburse funds within 15 days after notice from at-fault carrier if reimbursement funds are needed to settle 3P liability claim. *Regal Ins. Co. v. Canal Ins. Co.,* 93 P.3d 99 (Utah 2004). **MADE WHOLE:** Can be overridden with policy language. *Hill v. State Farm Mut. Auto Ins. Co.,* 765 P.2d 864, 866 (Utah 1988); *Birch v. Fire Ins. Exch.,* 2005 WL 2298130 (Utah App. 2005). **+** No-fault state. Monetary threshold. $3,000 min. PIP limits. No 3P suit against another insured vehicle for non-economic damages allowed unless (1) death; (2) dismemberment; (3) permanent disability or impairment; (4) disfigurement; or (5) medical expenses more than $3,000.	4 yr. personal injury SOL limitation runs from date of accident. Utah Code § 78-12-25(3).

There is a lot of new law out there that isn't reflected in the old charts. Utah just amended vast sections of its Insurance Code, including portions dealing with PIP. Texas's optional PIP statute was revamped effective April 1, 2007. The Oregon PIP statute was rewritten effective January 1, 2008, with notice provisions and inter-insurer reimbursement procedures. And then there's Colorado, which just passed new Med Pay legislation dramatically affecting a carrier's ability to subrogate for Med Pay benefits.

The new Med Pay/PIP Subrogation In All 50 States chart can be found on our website at www.mwl-law.com on the left-hand sidebar of the home page, under Insurance Resources or, for your convenience, you can click on this link: **MED PAY/PIP SUBROGATION CHART**. This new chart provides an overview of subrogation rights for PIP and/or Med Pay-type benefits paid under the automobile insurance laws of all 50 states. A (**+**) symbol next to a state indicates a no-fault state, while a (○)symbol indicates a PIP or similar first-party benefit (Med Pay) add-on state. A "Y" for "yes" indicates there is some subrogation or reimbursement right available. An "N" for "no" indicates there is no subrogation or reimbursement right. An asterisk after the "Y" or "N" indicates that there are additional details or limitations which must be looked at in the column to its right. A (-) in the column indicates either that the insurers in that state do not routinely offer such coverage or that the coverage is unavailable. A (?) indicates that the law is unsettled as to whether the benefit can be subrogated, or that an argument can be made either way. It should be remembered that this chart addresses the right of subrogation only. Whether or not the insured must be made whole and/or the insured's attorney - if there is one - is entitled to reduce your subrogation interest based on his attorney's fees and costs incurred by him, are separate issues which must be addressed on a case by case basis and are subject to the laws of the particular state at issue and the wording of the insurance policy.

For specific questions on Med Pay or PIP subrogation in all 50 states, please contact Mike Sinnen at msinnen@mwl-law.com.

WHERE'S THE BEEF?
SUBROGATING LIVESTOCK/VEHICLE COLLISIONS IN ALL 50 STATES (SECOND EDITION) RELEASED!



The second edition of our very popular subrogation treatise entitled *Where's The Beef? Subrogating Livestock/Vehicle Collisions In All 50 States* has been released. The book is a summary of the laws of all 50 states dealing with open range, stock law, and fencing laws, as well as the burden of proof and statutory law, which will assist in making a *prima facie* subrogation case against cattle owners and/or landowners when vehicles collide with cattle allowed to roam onto local roads and highways. The book includes a primer on subrogation law generally, and gives the historical background and development of livestock laws, fencing laws and contributory negligence/comparative fault laws in all 50 states. The second edition includes updated statutory amendments affecting these laws, as well as recent case decisions explaining or interpreting the burdens which subrogation professionals and lawyers must meet in order to effectively and successfully subrogate property losses and personal injuries across the country. Additional details and purchasing information can be found on our website at www.mwl-law.com or, for your convenience, you can click on this link: **WHERE'S THE BEEF?** If you are interested in purchasing this book, which costs $49.95, you can contact Jamie Breen at jbreen@mwl-law.com.

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UPCOMING EVENTS........

November 1-4, 2009 - Gary Wickert and Ryan Woody will be at the 2009 NASP Annual Conference being held in Colorado Springs, Colorado. On November 2, Gary Wickert will be presenting *The Complete Guide To Taking A Future Credit In All 50 States* and, on November 3, Ryan Woody will be presenting *ERISA and The Wrongful Death Lawsuit.* MWL will also be exhibiting at this conference so if you plan on attending, please stop by our booth and see Gary Wickert, Ryan Woody and Jamie Breen. For more information on this conference, please go to www.subrogation.org.

May 11-14, 2010 - MWL will be exhibiting at the 5th Annual Claims Education Conference being held in New Orleans, Louisiana. Jamie Breen will be at our exhibit booth so stop by our booth if you plan on attending this conference. For information on this conference, please go to http://www.claimseducationconference.com.

This electronic newsletter is intended for the clients and friends of Matthiesen, Wickert & Lehrer, S.C. It is designed to keep our clients generally informed about developments in the law relating to this firm's areas of practice and should not be construed as legal advice concerning any factual situation. Representation of insurance companies and/or individuals by Matthiesen, Wickert & Lehrer, S.C. is based only on specific facts disclosed within the attorney/client relationship. This electronic newsletter is not to be used in lieu thereof in any way.