

## TABLE OF CONTENTS

Acknowledgments.....	iii
About The Author .....	iv
Notice .....	vii
Table of Contents.....	viii

## CHAPTER 1

### SUBROGATION GENERALLY

§ 1.01 Elements of Subrogation.....	1
§ 1.02 Origins of Subrogation.....	3
§ 1.03 Types of Subrogation .....	5
[1] Contractual (Conventional) Subrogation .....	6
[2] Equitable (Legal) Subrogation .....	7
[a] Difference Between Subrogation and Assignment.....	8
[b] Roles of Equity .....	9
[3] Statutory Subrogation.....	15
§ 1.04 Purposes of Subrogation.....	15
§ 1.05 Anti-Subrogation Arguments.....	18

## CHAPTER 2

### OVERVIEW OF LIVESTOCK/VEHICLE COLLISION SUBROGATION

§ 2.01 Historical Background.....	22
[1] History of Livestock .....	22
[2] Development of Livestock Laws.....	24
§ 2.02 General Principles of Livestock/Vehicle Collision Law .....	27
[1] Common Law .....	27

	[a]	Duty To Keep Animal Off Property of Others .....	28
	[b]	No Duty To Keep Animal Off Highway .....	28
	[2]	Statutes .....	29
§ 2.03		Open Range Laws.....	31
§ 2.04		Closed Range/Stock Laws.....	33
	[1]	Proof of Owner’s Negligence Required.....	36
	[2]	Proof of Owner Notice Required .....	37
§ 2.05		Strict Liability.....	38
	[1]	Strict Liability Rejected.....	38
	[2]	Negligence Per Se .....	38
§ 2.06		Presumption of Negligence .....	39
	[1]	Presumption Where Animal On Roadway .....	40
	[2]	No Presumption Exists.....	41
	[3]	<i>Res Ipsa Loquitur</i> .....	42
§ 2.07		Proving Negligence of Livestock Owner .....	43
	[1]	Cattle Previously At Large .....	45
	[2]	Cattle Not Previously At Large.....	46
§ 2.08		Escape From Confinement .....	47
§ 2.09		Fences .....	47
	[1]	History of Fencing .....	48
	[2]	Types of Fencing.....	51
	[3]	Fencing Failures .....	58
	[4]	Statutory Definition of “Legal Fence” .....	60
§ 2.10		Open Or Unlocked Gates.....	62
§ 2.11		Pursuit of Escaped Animals .....	63
§ 2.12		Vehicle Operator’s Contributory Negligence .....	63

### CHAPTER 3

#### LIVESTOCK/VEHICLE COLLISION SUBROGATION LAWS OF ALL 50 STATES

§ 3.01	Alabama .....	74
§ 3.02	Alaska .....	83
§ 3.03	Arizona .....	86

§ 3.04	Arkansas.....	96
§ 3.05	California .....	108
§ 3.06	Colorado.....	117
§ 3.07	Connecticut .....	131
§ 3.08	Delaware.....	137
§ 3.09	Florida .....	141
§ 3.10	Georgia .....	149
§ 3.11	Hawai'i .....	155
§ 3.12	Idaho .....	161
§ 3.13	Illinois.....	178
§ 3.14	Indiana .....	188
§ 3.15	Iowa .....	192
§ 3.16	Kansas .....	201
§ 3.17	Kentucky .....	217
§ 3.18	Louisiana.....	224
§ 3.19	Maine.....	245
§ 3.20	Maryland.....	249
§ 3.21	Massachusetts .....	257
§ 3.22	Michigan.....	260
§ 3.23	Minnesota.....	266
§ 3.24	Mississippi.....	273
§ 3.25	Missouri.....	289
§ 3.26	Montana .....	302
§ 3.27	Nebraska .....	320
§ 3.28	Nevada.....	331
§ 3.29	New Hampshire .....	339
§ 3.30	New Jersey .....	342
§ 3.31	New Mexico.....	348
§ 3.32	New York .....	367
§ 3.33	North Carolina.....	371
§ 3.34	North Dakota .....	378
§ 3.35	Ohio .....	388
§ 3.36	Oklahoma.....	395
§ 3.37	Oregon.....	403
§ 3.38	Pennsylvania .....	416
§ 3.39	Rhode Island .....	420
§ 3.40	South Carolina.....	425

§ 3.41	South Dakota .....	430
§ 3.42	Tennessee .....	443
§ 3.43	Texas.....	452
§ 3.44	Utah .....	472
§ 3.45	Vermont .....	480
§ 3.46	Virginia.....	486
§ 3.47	Washington .....	496
§ 3.48	West Virginia .....	502
§ 3.49	Wisconsin .....	510
§ 3.50	Wyoming.....	517

## CHAPTER 4

### HIRING SUBROGATION COUNSEL

§ 4.01	The Decision To Hire Counsel .....	530
§ 4.02	Choosing The Right Firm.....	535
	[1] Subrogation Counsel .....	535
	[2] Subrogation Vendors/Services .....	538
§ 4.03	Use of National Recovery Counsel.....	539
§ 4.04	Why Hire Matthiesen, Wickert & Lehrer, S.C.? .....	543