

AUTOMOBILE INSURANCE SUBROGATION

In All 50 States

THIRD
EDITION

New!
Third Edition



"Med Pay and PIP subrogation, No-Fault laws, uninsured motorist consent and substitution, seat belt defense, negligent entrustment, deductible reimbursement regulations, bailment issues, collateral source, made whole rules, and statutes of limitations. This book has everything a subrogation professional will need and is never out of arm's reach."

- **Bradley K. Johnston**, Risk Management Services Company, Director of Subrogation, Louisville, Kentucky

"The book is amazing. It universally covers even the most obtuse subrogation issues interwoven into or even remotely connected with the business of auto insurance subrogation. If you insure motor vehicles and want to increase your subrogation recoveries, get this book!"

- **Karen Birks-Pace**, Erie Insurance Group, Subrogation Specialist, Waukesha, Wisconsin

NEW - THIRD EDITION AVAILABLE NOW!

- Updated To Include All The Newest Case Law!
- Direct Action Statutes
- Imputed Contributory Negligence
- Criminal Restitution Laws
- Seat Belt Laws and Defenses

ILLINOIS

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BY
**GARY L.
WICKERT**

Automobile Insurance Subrogation – In All 50 States, Third Edition

US \$425. 2,342 pages. 1 Hardcover Volume. Table of Cases. Table of Statutes. Appendices. Published December 2017. ISBN 978-1-57823-518-6

Author: Gary Wickert is an insurance trial lawyer and is regarded as one of the world's leading experts on insurance subrogation. He is also the author of several subrogation books and legal treatises and is a national and international speaker and lecturer on subrogation topics. After 15 years as the youngest managing partner in the history of the 30-lawyer Houston law firm of Hughes, Watters & Askanase, L.L.P., Mr. Wickert returned to his native Wisconsin in 1998 and co-founded the subrogation firm of Matthiesen, Wickert & Lehrer, S.C. He oversees a National Recovery Program which includes a network of contracted subrogation law firms in all 50 states, Mexico, Canada, and the United Kingdom and boasts over \$500 million in recoveries and credits for more than 250 insurance companies. Licensed in both Texas and Wisconsin, Mr. Wickert is double board-certified in both personal injury law and civil trial law by the Texas Board of Legal Specialization. He is also certified as a Civil Trial Advocate by the National Board of Trial Advocacy, for whom he has both written and graded the product liability questions contained on the NBTA national certification exam taken by trial lawyers around the country. For 30 years, Mr. Wickert has served as an expert witness and insurance consultant on subrogation and insurance-related issues and has been consulted by insurance carriers, lawyers, and legislative bodies from several states. He is a licensed arbitrator and has attended more than 750 mediations in more than 30 different states. He has represented subrogated insurance carriers in every

state, and has been admitted pro hac vice in 17 states. He has worked with the Texas Legislative Oversight Committee in rewriting their workers' compensation subrogation statutes, has served on the Board of the National Association of Subrogation Professionals, and has been cited as an authority on workers' compensation subrogation by several appellate courts, including the Texas Court of Appeals. Mr. Wickert is one of only a few lawyers to have ever represented a subrogated carrier before the United States Supreme Court. He also writes a monthly column for the *Claims Journal* entitled "The Road To Recovery."

What's new in the Third Edition?

The *Third Edition* of *Automobile Insurance Subrogation In All 50 States* has been expanded to include several new areas of law which affect auto subrogation. New case law has been added throughout the book. The new edition breaks ground in a very confusing area – the rule of imputed contributory negligence. When an owner entrusts his or her vehicle to a bailee, it is important to know when, whether, and how the bailee's negligence can be imputed to the owner to bar the owner's action against a tortfeasor for injuries or damage to the vehicle. It covers the history of imputed contributory negligence and gives examples to aid the claims handler and practicing attorney alike, in understanding this confusing area of law and applying it to real life fact situations. The new

praise continued from pg. 1

PRAISE FOR

"Automobile Insurance Subrogation – In All 50 States"

"Automobile Insurance Subrogation In All 50 States is the most ambitious subrogation treatise I've ever seen. Matthiesen, Wickert & Lehrer has done it again!"

- Gary Uhl, Sedgwick CMS, Operations Manager/Assistant Vice President, Des Moines, Iowa

"This book is the 'bible' on auto subrogation. Any insurance company with an auto line - personal or commercial - needs this book."

- Jacqueline Guffin, Motors Insurance Company, Subrogation Manager, Atlanta, Georgia

"An indispensable guide to some of the most complicated legal issues plaguing subrogation today."

- Megan Aloisi, Fleet Response, Auto Subrogation Supervisor, Cleveland, Ohio

"Automobile Insurance Subrogation In All 50 States is like every subrogation or insurance-related resource I've ever wanted, tediously compiled, organized, and explained, in one convenient place."

- Jon Coscia, Latitude Subrogation Services, Chief Operating Officer, Bloomfield Hills, Michigan

edition also summaries the many changes that have occurred over the past few years with seat belt laws and the application of the seat belt defense in all 50 states. The new edition includes and explains the changes made to PIP subrogation in Oregon, where a 2015 amendment changed the time-honored "Made Half Rule" into a full blown Made Whole Rule. Also covered are direct action statutes, which allow plaintiffs to sue liability carriers directly, summarizing their requirements and applications in all 50 states. The new edition also takes an in-depth look at the law of criminal restitution as it applies to insurance subrogation. The restitution laws of every state are covered in depth, explaining the basic restitution rights of a direct crime victim, as well as the restitution rights of an indirect victim such as a subrogated insurance company.

About the Book: *Automobile Insurance Subrogation:*

In All 50 States is the most thorough, comprehensive, and ambitious anthology of subrogation-related legal information and insurance resources ever put to paper. It is the last and most anticipated of the subrogation trilogy, and a book which will serve as the "bible" for any insurance company writing personal lines or commercial auto.

Every year there are more than 7 million auto accidents in the U.S. with a financial toll of more than \$300 billion. Nearly 3 million people are injured and 42,636 people are killed. In the overwhelming majority of these accidents there is at least one party at fault. For virtually every one of these accidents, a policy of automobile insurance provides some sort of claim payments or benefits. In the vast majority of those claims, one or more insurance policies and/or applicable state law grants the insurer a right of subrogation against a negligent third party whose carelessness caused the accident. This book is the bible on subrogating those claims.

This book covers the nuts and bolts of auto subrogation in all 50 states, covering every topic imaginable, including PIP, Med Pay, UM/UIM, property claims, deductible reimbursement, no-fault subrogation, suspension of driver's licenses, and more. It surveys the laws of every state and provides descriptions of every type of auto coverage imaginable, as well as the statutory, case law, and regulatory authority governing every aspect of auto subrogation. If you have subrogation responsibility involving auto claims, you need this book. It universally covers issues which are indelibly interwoven into the business of auto insurance, including a complete treatment of the laws of all 50 states and the District of Columbia relating to:

- Basic and Statutory Subrogation Rights
- Mandatory vs. Optional Insurance Coverage
- No-Fault Laws, PIP, Mini-Torts, and Loss Transfer Laws
- Tort Limitations
- Medical Payments Coverage and Subrogation
- Uninsured/Underinsured Motorist Coverage and Subrogation
- Collision/Property Subrogation
- Release of Tortfeasor by Insured
- Accord and Satisfaction: Accepting Partial Payments from Tortfeasor
- Made Whole Doctrine
- Common Fund Doctrine
- Economic Loss Doctrine
- Deductible Recovery and Reimbursement
- Collateral Source Rule
- Contributory Negligence/Comparative Fault
- Seat Belt Laws and Defenses
- Rental Cars, Loaner Vehicles, and Test Drivers
- Bailment/Parking Lot Liability
- Negligent Entrustment
- Facing Multiple Claims In Excess of Liability Policy Limits
- Conflict of Laws/Interstate Subrogation
- Recovery of Attorney's Fees and Costs
- Statutes of Limitations
- Arbitration of Auto Subrogation Claims
- Direct Action Statutes
- Criminal Restitution

It is a complete treatment -- A to Z -- of virtually every issue which the insurance claims or subrogation professional will face in the area of automobile insurance. It is like no legal treatise ever written and promises to be the most used reference in any insurance company.

With billions of dollars in claims dollars annually, automobile insurance subrogation represents by a factor of ten the most active area of insurance subrogation, and the area with the most unanswered questions. Auto insurance subrogation also presents one of the industry's greatest subrogation challenges, with 51 different jurisdictions each harboring a confusing array of ever-changing statutes, regulations and case law which the subrogation professional has no choice but to become familiar with. No two states handle any one of the above-referenced subrogation topics alike. With the mobility of vehicles and the ease of interstate transportation, most subrogation professionals must be familiar with or have

continued >

access to resources detailing these laws and regulations in every jurisdiction or suffer reduced recovery opportunities at best and bad faith allegations in more egregious situations.

The myriad of subrogation topics addressed and receiving thorough treatment in this treatise were carefully selected by the author and affiliated local subrogation counsel in all 50 states over the past 30 years as the most frequently-asked-about areas of automobile insurance subrogation. The book is 18 months in the making, and had to be edited several times during its writing to keep up with small changes in the law in several states. If the question has been asked about or inquired into on claims association or subrogation list-serves over the last three decades, it will find treatment and discussion in this book. Easy-to-find and easier-to-understand answers to difficult questions are the hallmark of *Automobile Insurance Subrogation In All 50 States*. Even the confusing no-fault, PIP and Med Pay laws governing no-fault claims and subrogation in several states which have mandatory or add-on no-fault laws receive thorough treatment and lengthy discussion even non-lawyers can understand. It is the one-stop resource for auto

subrogation. This book has it all - accuracy, thoroughness, understandability, and reliability. There is no other book like it.

The final chapter of the book is entitled *Suspension of Driver Licenses*. Subrogating against uninsured drivers is one of the less glamorous aspects of auto insurance subrogation and could easily be featured on the Discovery Channel series, *Dirty Jobs*. However, it can be a lucrative and rewarding subrogation endeavor if handled appropriately and in volume. For that reason, the author has compiled and set forth the detailed laws, rules, and form requirements in every state which allow a subrogated insurance company to effect a suspension of the driver license or vehicle registration of an uninsured owner or operator whose vehicle caused damage which the insurance carrier wishes to collect on. It is unlike any resource found anywhere, and details when and how a subrogated carrier can be instrumental in getting the license of the uninsured tortfeasor suspended, so that he or she will be forced to satisfy the debt owed or at least begin making installment payments. This chapter alone is worth the price of the book.



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