

MATTHIESEN | WICKERT | LEHRER, S.C.

A FULL SERVICE INSURANCE LAW FIRM

1111 E. Sumner Street, P.O. Box 270670, Hartford, WI 53027-0670

(800) 637-9176 (262) 673-7850 Fax (262) 673-3766

<http://www.mwl-law.com>

QUARTERLY ELECTRONIC INSURANCE DEFENSE NEWSLETTER

SUMMER 2010

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

This quarterly electronic insurance defense newsletter is a service provided exclusively to clients and friends of Matthiesen, Wickert & Lehrer, S.C. The vagaries and complexity of insurance defense and insurance coverage issues have, for many lawyers and insurance professionals, made keeping current with changing laws an arduous and laborious task. It is the goal of Matthiesen, Wickert & Lehrer, S.C. and this quarterly insurance defense newsletter, to assist in the dissemination of new developments in insurance law and the continuing education of insurance 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.

IN THIS ISSUE

Workers' Compensation Defense Expert Joins Matthiesen, Wickert & Lehrer, S.C.	1
Another Workers' Compensation Defense Attorney Joins Matthiesen, Wickert & Lehrer, S.C.	2
Changes In Wisconsin Automobile Insurance Coverage for 2010 and Beyond.	3
Purchase of Automobile Insurance Made Mandatory In Wisconsin.	6
Wisconsin Changes In Proving Medical Expenses At Trial.	6
Employer Immunity and Urban Legends: Maryland Court Confuses Wisconsin's Exclusive Remedy Rule.	7
Upcoming Events.	9

NEW ADDITION TO MWL

WORKERS' COMPENSATION DEFENSE EXPERT JOINS MATTHIESEN, WICKERT & LEHRER, S.C.



Renowned workers' compensation defense attorney, Peter M. Silver, has joined the insurance litigation team at Matthiesen, Wickert & Lehrer, S.C. ("MWL"). As a result of several clients asking for handling of workers' compensation defense matters tangential to the large book of workers' compensation subrogation we handle, MWL has bolstered its workers' compensation defense team with the addition of one of Wisconsin's leading workers' compensation defense attorneys. Peter was formerly a partner with Kasdorf, Lewis & Swietlik in Milwaukee, Wisconsin and brings with him a long list of familiar names, including Cincinnati Insurance Companies, State Farm Fire & Casualty Company, Western National Insurance, United Heartland, Acuity Insurance Company, Broadspire, Gallagher Bassett Services, Inc., Speciality Risk Services, Inc., Travelers Insurance Company, Liberty Mutual Insurance Company, Accident Fund Insurance Company, and Chartis Insurance Company, most of which are current subrogation clients of MWL.

Peter was admitted to the Wisconsin Bar in 1987 and has had an AV Rating with Martindale-Hubbell since 2003. He represents the workers' compensation defense needs of self-insured employers, insurance carriers and third-party administrators throughout Wisconsin and has successfully appeared and litigated before every Administrative Law Judge with the Wisconsin Department of Workforce Development and has handled countless appeals before the Labor and Industry Review Commission ("LIRC"), Wisconsin Circuit Courts and



Wisconsin Court of Appeals. He was in-house counsel for CNA from 1994 to 2001. Peter brings a great deal to the already-formidable insurance experience at MWL. He has been hired as an expert witness for both applicants and the defense on workers' compensation bad faith cases and is a frequent lecturer and speaker at seminars around the state, including Lorman Education Services, PESI and the Wisconsin State Bar. Peter looks forward to joining the roster of attorneys presenting insurance CE-approved webinars to thousands of clients and friends of MWL. Peter brings considerable experience to bear on a growing need in subrogation and workers' compensation defense matters - Medicare Secondary Payer liability, coordinating with the Center for Medicare & Medicaid Services (CMS), and Medicare Set-Asides.

"I am no smarter than the next lawyer," Peter humbly says. "But I do provide excellent results at a reasonable price for my clients by doing a combination of things other lawyers do not. I tap into a vast resource of medical and vocational experts that I have developed a good working relationship with in order to build honest and credible defenses to claims. I know many of these experts on both a professional and personal basis." Peter fits in well with the mind set and philosophy of insurance litigation at MWL by employing creative, "out-of-the-box" solutions and techniques in his practice. "I have many years of experience in crafting unique settlements favorable to the respondent, both limited compromises and full and final compromises. No two claims are alike so no two settlements should be alike," he says. Peter also utilizes annuity and structured settlements when called for, getting his clients the most leverage possible for their claim dollars.



To make his fit even more perfect, Peter brings considerable experience in handling workers' compensation subrogation matters under Wis. Stat. § 102.29, and will be assisting in editing our best-selling book, "*Workers' Compensation Subrogation In All 50 States*." On behalf of the partners, associates, legal assistants, and support staff here at MWL, we would like to welcome Peter to our firm. We would also invite our clients and

friends to introduce themselves to Peter and give him a call or e-mail if you have a particular problem or question you would like addressed. As Jeremy Bentham once said, "The power of the lawyer is the uncertainty in the law." At MWL, we strive to make sure that every uncertainty in the law is decided in favor of our clients. Peter understands that as well as anyone here at MWL. He can be reached at psilver@mwllaw.com. Give him a call or send him an e-mail with regard to handling some of your workers' compensation defense or subrogation needs in Wisconsin, and you'll see exactly what we mean.

NEW ADDITION TO MWL

ANOTHER WORKERS' COMPENSATION DEFENSE ATTORNEY JOINS MATTHIESEN, WICKERT & LEHRER, S.C.



Only weeks after announcing that renowned workers' compensation defense attorney Peter Silver had joined the firm, Matthiesen, Wickert & Lehrer, S.C. ("MWL") is proud to welcome the addition of another attorney with significant workers' compensation defense experience, Melissa M. Stone, as an associate. Melissa received her Bachelors of Science Degree in Criminal Justice from Carroll College, Magna cum Laude in May 2003. She received her J.D. from Marquette University Law School in May 2007. Melissa has been practicing in the areas of workers' compensation insurance defense, personal injury insurance defense and coverage general practice, subrogation and civil litigation. While attending Carroll College, Melissa had an internship with the office of the Public Defender in Waukesha County, Wisconsin, where she prepared sentencing reports for convicted offenders. She spent the last five years working with the Anderson Group law firm in Lake Mills, Wisconsin, and comes highly recommended to MWL.

Melissa has already begun handling subrogation and workers' compensation defense work for our clients and, like Peter, has a keen insight into the important relationship between the defense of claims and the aggressive pursuit of third-party subrogation potential. "As Abraham Lincoln said, 'The leading rule for the lawyer is diligence - leave nothing for tomorrow which can be done today'," she says - an adage reflected

by her work ethic. She firmly believes that the only limits on the successful defense of contested claims or recovery of subrogation interests are the ones we place on ourselves, and she has become quite adept at helping clients work through some of those limits. Melissa can be reached at mstone@mw-law.com.

We welcome Melissa and the insurance clients she has brought with her. If you have the opportunity to work with Melissa, please welcome her and take a moment to get to know her. We know you'll be as pleased and excited as we are that she chose MWL as her professional home.

AUTOMOBILE INSURANCE

CHANGES IN WISCONSIN AUTOMOBILE INSURANCE COVERAGE FOR 2010 AND BEYOND

By Douglas W. Lehrer



The 2009-11 State Budget (2009 Wisconsin Act 28), which Governor Jim Doyle signed into law on June 29, 2009, repeals a 14-year statutory provision that allowed insurance carriers to include anti-stacking and reducing clause language in uninsured and underinsured motorist coverage policies. The Act also makes several other far-reaching changes to state laws governing auto insurance that will affect all automobile insurance policies issued to or delivered in the State of Wisconsin. This article will outline the changes made and how these changes will alter automobile insurance coverage in the future.

CHANGES IN MANDATORY LIABILITY COVERAGE LIMITS

Wis. Stat. § 344.01(2)(am), now defines “minimum liability limits” as follows:

Wis. Stat. § 344.01(2)(am): “Minimum liability limits” means, with respect to a motor vehicle policy of liability insurance, liability limits, exclusive of interest and costs, in the following amounts:

(1) Before January 1, 2010, \$25,000 because of bodily injury to or death of one person in any one accident, and subject to such limit for one person, \$50,000 because of bodily injury to or death of two (2) or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident.

(2) From January 1, 2010, \$50,000 because of bodily injury to or death of one person in any one accident, and subject to such limit for one person, \$100,000 because of bodily injury to or death of two (2) or more persons in any one accident, and \$15,000 because of injury to or destruction of property of others in any one accident.

The Act thus raises mandatory automobile liability insurance limits from \$25,000 per person/\$50,000 per accident/\$10,000 for personal property to \$50,000 per person/\$100,000 per accident/\$15,000 for property damage for all accidents that occurred on or after January 1, 2010.

MEDICAL PAYMENTS DEFINITIONS

Wisconsin Stat. § 632.32(2)(am) now defines “medical payments coverage” as follows:

Wis. Stat. § 632.32(2)(am): “Medical payments coverage” means coverage to indemnify for medical payments or chiropractic payments or both for the protection of all persons using the insured motor vehicle from losses resulting from bodily injury or death.



As such, a person claiming med pay coverage must be “using” the insured motor vehicle at the time of the accident.

CHANGES TO MANDATORY UIM COVERAGE



Wisconsin legislature also amended Wis. Stat. § 632.32(4), which concerns mandatory coverages in automobile insurance policies. Specifically, the legislature amended this statute to include “underinsured motorist coverage” as a mandatory coverage. Prior to these changes, the statute read as follows:

WIS. STAT. § 632.32(4): REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES. Every policy of insurance subject to this section that insures with respect to any motor vehicle . . . against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto the following provisions:



(a) **Uninsured motorist**

(b) **Medical payments**

However, with the amended changes, Wis. Stat. § 632.32(4) currently reads as follows:

WIS. STAT. § 632.32(4): REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND MEDICAL PAYMENTS COVERAGES. (a) Every policy of insurance subject to this section that insures with respect to any motor vehicle . . . against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto provisions **for all of the following coverages:**

- 1. . . . **uninsured motorist coverage . . .**
- 2m. . . . **underinsured motorist coverage . . .**
- * * *
- 3m. . . . **medical payments coverage . . .**



In summary, UM, UIM and medical payments coverage are now mandatory coverages in all automobile liability insurance policies issued to or delivered in the State of Wisconsin.

CHANGES TO UIM, UM AND MEDICAL PAYMENTS LIMITS COVERAGE

In addition to making UIM coverage mandatory, the legislature also changed the limits for UIM, UM and medical payments coverage. Specifically, Wisconsin statutes now mandate at least \$100,000 per person and \$300,000 per accident in UM and UIM coverage and at least \$10,000 in medical payments coverage.

CHANGES IN ANTI-STACKING CLAUSES



Prior to 1995, Wisconsin law generally permitted an insured to stack coverage limits under more than one auto policy. That changed when the legislature passed 1995 Wisconsin Act 21, which permitted insurers to write policies that prohibited stacking. Prior to the 1995 Act, policyholders could rely upon the sum of all their paid-for policies to cover proven damages. However, §§ 3168 and 3169 of the new state budget, renumbered Wis. Stat. §§ 632.32(5)(f) and 632.32(5)(g) as Wis. Stat. § 632.32(6)(d) and § 632.32(6)(e),

respectively, bans insurers from inserting anti-stacking provisions in auto policies, as long as the number of vehicles owned by the insured is three or less. With the changes, the legislature renumbered Wis. Stat. § 632.32(5)(f) to § 632.32(6)(d) and amended it to permit stacking language. The old statute read as follows:

WIS. STAT. § 632.32(5)(f): PERMISSIBLE PROVISIONS.

* * *

(f) A policy may provide that regardless of the number of policies involved, vehicles owned, persons covered, claims made, vehicles or premiums shown on the policy or premiums paid the limits for any coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine the limit of insurance coverage available for bodily injury or death suffered by a person in any one accident.

However, with the amended changes, the current statute now reads as follows:

WIS. STAT. § 632.32(6)(d): PROHIBITED PROVISIONS.

* * *

(d) No policy may provide that regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy or premiums paid the limits for any uninsured motorist coverage or underinsured motorist coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine the limit of insurance coverage available for bodily injury or death suffered by a person in any one accident, except that a policy may limit the number of motor vehicles for which the limits for coverage may be added to three (3) vehicles.



Wisconsin statute now prohibits the inclusion of anti-stacking clauses in automobile policies, except that the policy may limit the number of motor vehicles for which the limits of coverage may be stacked to three vehicles per UM/UIM coverage. However, note that the statute only relates to UM and UIM where the insured is using a motor vehicle. In cases where an insured is injured while not using a motor vehicle, legislature now limits the stacking of UM and UIM coverage to three vehicles by making the following changes:

WIS. STAT. § 632.32(6)(e): PROHIBITED PROVISIONS.

* * *



(e) No policy may provide that the maximum amount of uninsured motorist coverage or underinsured motorist coverage available for bodily injury or death suffered by a person who was not using a motor vehicle at the time of an accident is any single limit of uninsured motorist coverage or underinsured motorist coverage, whichever is applicable, for any motor vehicle with respect to which the person is insured, except that a policy may limit the number of motor vehicles for which coverage limits may be added to three (3) vehicles.

CHANGES IN REDUCING CLAUSES

In addition, Wis. Stat. § 632.32(5)(i) to § 632.32(6)(g) effectively repeals the 1995 legislation permitting the application of reducing clauses to UM and UIM limits. Prior to recent changes in the law, the statute read:

WIS. STAT. § 632.32(5)(i) PERMISSIBLE PROVISIONS.

* * *

(i) A policy may provide that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from any one accident shall be reduced by any of the following that apply:

- (1) Amounts paid by or on behalf of any person or organization that may be legally responsible for the bodily injury or death for which payment is made.
- (2) Amounts paid or payable under any workers' compensation law.
- (3) Amounts paid or payable under any disability benefits law.



The amended statute now reads as follows:

WIS. STAT. § 632.32(6)(g): PROHIBITED PROVISIONS.

* * *

(g) No policy may provide that the limits under the policy for **uninsured motorist coverage** or **underinsured motorist coverage** for bodily injury or death resulting from any one accident shall be reduced by any of the following that apply:

- (1) Amounts paid by or on behalf of any person or organization that may be legally responsible for the bodily injury or death for which payment is made.
- (2) Amounts paid or payable under any workers' compensation law.
- (3) Amounts paid or payable under any disability benefits law.

In summary, no insurance policy is allowed to provide limits under the policy for uninsured motorist coverage or underinsured motorist coverage for bodily injury or death resulting from any one accident to be reduced by payments made by another source, including payments made by workers' compensation and disability insurance. If you should have any questions regarding this article or insurance defense or coverage issues in general, please do not hesitate to contact Doug Lehrer at dlehrer@mwl-law.com.

AUTOMOBILE INSURANCE

PURCHASE OF AUTOMOBILE INSURANCE MADE MANDATORY IN WISCONSIN



On June 1, 2010, Wisconsin joined 48 other states in mandating that drivers purchase automobile liability insurance, leaving New Hampshire as the last remaining holdout that does not require insurance. Act 28 § 2967(r) creates Wis. Stat. § 344.62, which provides that “. . . no person may operate a motor vehicle upon a highway in this state unless the owner or operator of the vehicle has in effect a motor vehicle liability policy with respect to the vehicle being operated.” The new law will require drivers to carry proof of insurance with them whenever driving, which must be provided upon demand to any traffic officer. It will be interesting to see if this change in law will reduce the number of underinsured drivers on the Wisconsin roads thus potentially reducing the number of UM claims.

AUTOMOBILE INSURANCE

WISCONSIN CHANGES IN PROVING MEDICAL EXPENSES AT TRIAL



The 2009-11 State Budget Bill, which was signed into law on June 29, 2009, changes the burden of proof for an injured party to seek recovery of medical bills at the time of the trial. Specifically, § 3285gh of the Act created Wis. Stat. § 908.03(6m)(bm), which now provides as follows:

Presumption. *Billing statements or invoices that are patient health care records are presumed to state the reasonable value of the health care services provided and the health care services provided are presumed to be reasonable and necessary to the care of the patient. Any party*

attempting to rebut the presumption of reasonable value of the health care services provided may not present evidence of payments made or benefits conferred by collateral sources.

Prior to this change in law, the law in Wisconsin provided that any party claiming damages, including medical expenses, must prove them to a reasonable certainty, by the greater weight of the credible evidence. Wis. J.I. - Civil 200 (2004). To satisfy this burden, they needed to show that the expense was reasonable and medically necessary for treatment of the claimed injury. Finally, Wisconsin courts held that the plaintiff had the burden of producing competent medical testimony as to the reasonableness of necessity of medical expenses, both past and future.



However, under this newly enacted law, patient billing statements in civil actions are now presumed to state the reasonable value of the health care service provider. In addition, the services provided as reflected in patient billing statements are presumed to be reasonable and necessary to care for the patient. As such, a plaintiff may submit his or her medical bills to the jury to establish the reasonable value of the charges and the necessity of such treatment. The burden is now on the defendants to produce evidence in an

attempt to rebut the presumption. In an attempt to rebut the presumption, the defendant may not present any evidence as to payments made or benefits conferred by collateral sources. It will be interesting to see how courts apply this change in practice which appears to eliminate the necessity of the plaintiff producing any expert testimony as to the reasonable value of past medical services provided.

If you should have any questions regarding this article or insurance defense or coverage issues in general, please do not hesitate to contact Doug Lehrer at dlehrer@mw1-law.com.

WORKERS' COMPENSATION INSURANCE

EMPLOYER IMMUNITY AND URBAN LEGENDS

Maryland Court Confuses Wisconsin's Exclusive Remedy Rule

By Gary L. Wickert



For years now, lawyers, judges, and even courts in other states have been confused over the Exclusive Remedy Rule which exists here in Wisconsin. A clear example is the 1994 decision by the Maryland Supreme Court in *Hastings v. Mechalske*. *Hastings v. Mechalske*, 650 A.2d 274 (Md. 1994). In deciding the case, the Court said:

To reach that result, we adopted the Wisconsin approach to employer immunity. Under that approach, a corporate officer or supervisory co-employee is subject to liability for negligence if he breaches a duty of care which he personally owed to the plaintiff. The negligence must have been directed toward the particular plaintiff and the tortious act must have been outside the scope of the employer's responsibility. The co-employee is not liable for merely breaching a duty that the employer owed the injured employee. Id.



The only problem is that isn't the law in Wisconsin. Other courts and judges have further propagated the notion that Wisconsin somehow allows a third-party action to be filed against a corporate officer or supervising co-employee if that individual somehow steps outside of his role as a supervisor. That is not true and the record must be set straight.



In Wisconsin, recovery of compensation benefits is an injured worker's exclusive remedy against his employer for an on-the-job injury. Wis. Stat. § 102.03(2) (2000). As a general rule, employers have immunity from personal injury suits filed by their employees. A third-party tortfeasor also has no common law rights of contribution against an employer because the statute makes payment of compensation benefits the employer's exclusive liability for a work-related injury. *Id.*; *Houlihan v. ABC Ins. Co.*, 542 N.W.2d 178 (Wis. App. 1995), *review denied*, 546 N.W.2d 470. Wis. Stat. § 102.03(2) provides as follows:

(2) Where such conditions exist the right to the recovery of compensation under this chapter shall be the exclusive remedy against the employer, any other employee of the same employer and the worker's compensation insurance carrier. This section does not limit the right of an employee to bring action against any co-employee for an assault intended to cause bodily harm, or against a co-employee for negligent operation of a motor vehicle not owned or leased by the employer, or against a co-employee of the same employer to the extent that there would be liability of a governmental unit to pay judgments against employees under a collective bargaining agreement or a local ordinance. Wis. Stat. § 102.03(2) (2000).

As a result of this "Exclusive Remedy Rule", when a negligent third party is liable to an injured worker, it cannot require contribution from an employer, even if the employer was substantially more at fault than the third party. Wis. Stat. § 102.03(2) (2000). Note that if officers and directors of the employer somehow take on a different legal entity, such as a partnership which leases facilities to the employer, that can eliminate the partners' immunity as individuals under the exclusive remedy provision under Wisconsin law. *Couillard v. Van Ess*, 447 N.W.2d 391 (Wis. App. 1989), *review denied*, 451 N.W.2d 198. But this is far different from allowing an officer or supervising co-employee from being sued as a third party for donning the hat of a co-employee.



Despite the Exclusive Remedy Rule, Wisconsin recognizes the Dual Capacity Doctrine. *Henning v. General Motor Assembly Div.*, 419 N.W.2d 551 (Wis. 1988). This is the doctrine which states that an employer may be found liable while wearing a hat other than that of an employer. The classic example is an employee of Ford who sued Ford when he was injured in a defective automobile. The employee sued Ford because Ford manufactured the automobile, not because it was his employer. In order to be liable under the Dual Capacity Doctrine, the function in which the employer engages, which results in the injury to the employee, cannot be directly related to any other duty of the employer. If the function which a supervisor of the employer performs negligently is directly related to a duty of the employer, then the Dual Capacity Doctrine is not engaged and the employer cannot be held liable. *Id.* The Dual Capacity Doctrine applies only if the employer occupies "a second capacity . . . independent of those imposed on him as an employer." *Jenkins v. Sabourin*, 311 N.W.2d 600 (Wis. 1981). But this too is a far cry from allowing a third-party action against an officer or supervising co-employee.



The confusion stems from the fact that prior to 1978, the Exclusive Remedy Rule did not apply to actions brought against co-employees. Both case law and the workers' compensation statute allowed an injured worker to sue a co-employee who was responsible for his injuries. However, in 1978, the Wisconsin Act was amended to make the Exclusive Remedy Rule applicable to an action against "any other employee of the same employer." *Lampada v. State Sand & Gravel Co.*, 206 N.W.2d 138 (Wis. 1973). The 1973 *Lampada* decision discussed the applicability of the Exclusive Remedy Rule to a co-employee and held that a co-employee could be sued at that time at common law. However, the portion of the Wisconsin Workers' Compensation Act which was relied upon in *Lampada* has been superseded by the legislature's subsequent amendment. Wis. Stat. § 102.03(2) (2000). Wis Stat. § 102.03 now applies the Exclusive Remedy Rule to "the employer, any other employee of the same employer and the worker's compensation insurance carrier. *Id.* The Act allows an employee to be sued when he commits an assault intended to cause bodily harm. *Id.* Therefore, where a co-employee commits an assault on the claimant, that co-employee may

become a third party for purposes of a third-party action or subrogation. *Jenson v. Employers Mut. Cas. Co.*, 468 N.W.2d 1 (Wis. 1991). The term “assault” means both a civil “assault” and a civil “battery”. *Id.*

In addition, Wis. Stat. § 102.03(2) unambiguously states that an injured employee is not limited to workers’ compensation benefits when he is injured by a co-employee’s negligent operation of a motor vehicle “not owned or leased by the employer.” Wis. Stat. § 102.03(2) (2000); *Gorzalski v. Frankenmuth Mut. Ins. Co.*, 429 N.W.2d 537 (Wis. App. 1988). Here, the term “leased” means a contract by which one owning such property grants to another the right to “possess, use and enjoy” the property for a specified period of time in exchange for a periodic payment of a stipulated price, referred to as rent. *Id.*



Decades after this legislative amendment and change in the law, we still see cases and lawyers referring to the “Wisconsin approach” to employer immunity. They claim that in Wisconsin, a corporate officer or supervisory co-employee may be subject to third-party liability for negligence if he breaches a duty of care which he personally owes to the injured plaintiff, provided the negligence is directed toward the particular plaintiff and the act is outside the scope of the employer’s responsibility. *Kruse v.*

Schieve, 213 N.W.2d 64 (Wis. 1973). While this was true prior to 1978, it is no longer the case, and the “Wisconsin approach” to employer immunity as set forth and propagated by decisions in other states appears to be a bit of an urban legend. Wisconsin currently does not allow third-party actions against co-employees or the employer, in the absence of an assault intended to cause physical harm.

If you should have any questions regarding this article or Wisconsin’s approach to employer immunity, please do not hesitate to contact Gary Wickert at gwickert@mwl-law.com.

UPCOMING EVENTS.....

Upcoming Events

July 21, 2010 - Gary Wickert will present a live webinar entitled “*Advanced Concepts of Workers’ Compensation Subrogation*” from 10:00 - 12:00 p.m. (CST). A registration link is on our website homepage but you can register now by clicking on the “Register Now” button to the right.



November 10-11, 2011 - MWL will be exhibiting at the 19th Annual National Workers’ Compensation and Disability Conference Expo in Las Vegas, Nevada. Jamie Breen will be at our exhibit booth so stop by if you plan on attending this conference. For information on this conference, please go to www.wcconference.com.

PLEASE NOTE.... We are now providing live webinars and, as we do so, we are putting the recorded versions of these webinars on our [Seminars/Webinars](#) page on our website at www.mwl-law.com. The recorded versions of these webinars can be viewed at a time most convenient for you and at no cost.

This quarterly electronic insurance defense newsletter is intended for 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 quarterly electronic newsletter is not to be used in lieu thereof in any way.