MWL

MATTHIESEN, WICKERT & LEHRER, S.C.
ATTORNEYS AT LAW

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 Jamie Breen at jbreen@mwl-law.com. We appreciate your friendship and your business.*

In This Issue:

HEALTH INSURANCE SUBROGATION

U.S. SUPREME COURT AGREES TO TAKE UP THE MEANING OF "APPROPRIATE EQUITABLE RELIEF" UNDER ERISA § 502(a)(3)

US Airways, Inc. v. McCutchen, U.S., No. 11-1285

By Ryan L. Woody

On June 25, 2012, the U.S. Supreme Court announced that it will be taking up yet another case that looks at the scope of equitable relief under § 502(a)(3) of the Employee Retirement Income Security Act (ERISA).

This case stems from a tragic car accident in which a young driver lost control of her car, crossed the median of the road, and struck a car driven by 51-year-old James McCutchen. The truck traveling behind McCutchen also slammed into his car. The accident killed one person and left two others with severe brain injuries. McCutchen himself was grievously injured and survived only after emergency surgery. He spent several months in physical therapy and ultimately underwent a complete hip replacement. Since the accident, McCutchen, who had a history of back surgeries and associated chronic pain, has also become unable to effectively treat that pain with medication. The accident has rendered him functionally disabled. McCutchen's Health Benefit Plan, administered and self-financed by US Airways, paid medical expenses in the amount of $66,866 on his behalf.

After the accident, McCutchen, through his attorneys at Rosen, Louik & Perry, P.C., filed an action against the driver of the car that caused the accident. Because she had limited insurance coverage, and

because three other people were seriously injured or killed, McCutchen settled with the other driver for only $10,000. However, with his lawyer's assistance, he and his wife received another $100,000 in underinsured motorist coverage for a total third-party recovery of $110,000. After paying a 40% contingency attorney's fee and expenses, his net recovery was less than $66,000. US Airways demanded reimbursement for the entire $66,866 that it had paid for McCutchen's medical bills. Soon after, Rosen, Louik & Perry, P.C. placed $41,500 in a trust account, reasoning that any lien found to be valid would have to be reduced by a proportional amount of legal costs. The record on appeal does not establish what amount was disbursed to McCutchen.

When McCutchen did not pay, US Airways, in its capacity as administrator of the ERISA Benefit Plan, filed suit in the District Court under § 502(a)(3) of ERISA, seeking "appropriate equitable relief" in the form of a constructive trust or an equitable lien on the $41,500 held in trust and the remaining $25,366 personally from McCutchen. US Airways claims that this language permits it to recoup the $66,866 it provided for McCutchen's medical care out of the $110,000 total that he recovered regardless of his legal costs. It argued that *"[t]he Plan language specifically authorized reimbursement in the amount of benefits paid, out of any recovery."* Conversely, McCutchen argued that it would be unfair ergo not "appropriate" for the Plan to be reimbursed without paying its fair share of attorney's fees. The District Court held in favor of the Plan and McCutchen appealed.

On appeal, the Third Circuit framed the case as presenting the question that *Sereboff* left open: whether § 502(a)(3)'s requirement that equitable relief be "appropriate" means that a fiduciary like US Airways is limited in its recovery from a beneficiary like McCutchen by the equitable defenses and principles that were "typically available in equity," including the Made Whole Doctrine and Common Fund Doctrine.

The Third Circuit went ahead and agreed with McCutchen and held that the phrase "appropriate equitable relief" means something less than all available equitable relief. Essentially, courts are free to exercise their discretion to limit the requested relief to what is "appropriate" under traditional equitable principles. Accordingly, the Court went on to hold that US Airways would be unjustly enriched were it to retain its entire lien without paying attorney's fees and costs. The Court deemed this a "windfall" for US Airways.

Of course, this panel's analysis squarely throws out over a decade's worth of authority within the Third Circuit that held that a Plan was not "unjustly enriched" where its Plan Document requires full reimbursement. After all, the Plan pays the benefits and the member does not object despite the fact that the benefits, a product of collective bargaining, are conditioned on reimbursement where the member goes out and seeks recovery from a third party for the same loss. The opinion, if upheld, will throw out the consistency and certainty of the Plan Document. Members would presumably be able to argue that benefit exclusions do not apply where it is unfair for that individual and, accordingly, a suit for "appropriate equitable relief" would reinstate those excluded benefits. Moreover, a member could argue that they should not be required to even pay premiums where that would provide a hardship. In the end, the Third Circuit has tossed out the entire basis for a written Plan Document where it can be modified based upon the exigencies of individual circumstances.

The *McCutchen* decision is a clear win for trial lawyers and changes the landscape of ERISA subrogation. It allows plaintiff's attorneys to back door into the equitable defenses which had previously been preempted by an ERISA Plan with clear language.

US Airways filed a **cert petition** in April seeking U.S. Supreme Court review. It argued that review of the Third Circuit's decision was warranted because the Third Circuit decision conflicted with those of at least five other federal appeals courts. In addition, just days before the Supreme Court was set to rule on the US Airways petition, the Ninth Circuit came out and added to the circuit split when it decided *CGI v. Rose*, 11-35127, 11-35128 (June 20, 2012). The Ninth Circuit adopted the Third Circuit's approach and held that equitable defenses could be applied to override the contractual provisions in the Plan.

Matthiesen, Wickert & Lehrer, S.C. (MWL) provided assistance to the National Association of Subrogation Professionals (NASP) in its Amicus Brief in Support of US Airways' **cert petition**. Should you or your organization be interested in weighing in on this important issue through an Amicus Brief, please contact Attorneys Ryan Woody at **rwoody@mwl-law.com** or Gary Wickert at **gwickert@mwl-law.com**, both are admitted to practice before the U.S. Supreme Court.

HEALTH INSURANCE SUBROGATION

THE NINTH CIRCUIT FOLLOWS *MCCUTCHEN* AND ALLOWS EQUITABLE DEFENSES TO TRUMP ERISA PLAN PROVISIONS TO THE CONTRARY

In a 2-1 decision in *CGI v. Rose*, 11-35127, 11-35128 (June 20, 2012), the Ninth Circuit decided to follow the Third Circuit's decision in *McCutchen* that the federal courts can consider equitable defenses notwithstanding clear Plan language disclaiming those defenses:

> *"Contract terms should be considered by the court in assessing what is the proper scope of equitable relief. But notwithstanding the express terms of the Plan disclaiming the application of the Make-Whole Doctrine and the Common Fund Doctrine, it is within the district court's broad equitable powers under § 502(a)(3) not to give those provisions a controlling weight in fashioning 'appropriate equitable relief'."*

This decision allows the district court to consider traditional equitable considerations in adjudicating a claim for ERISA reimbursement. The opinion states:

> *"The Circuits have split on whether strict adherence to the terms of an ERISA plan that disclaims the application of traditional equitable defenses constitutes 'appropriate equitable relief'. Several circuits, and notably the Eleventh, Eighth, Seventh and Fifth Circuits, have stressed the primacy of an ERISA plan's express language, and have decided that in balancing the equities, simple contract interpretation that provides for full reimbursement per the plain terms of a plan that disclaims the application of traditional equitable defenses such as the Make-Whole Doctrine and the Common Fund Doctrine, constitutes 'appropriate equitable relief' under § 502(a)(3)."*…
>
> *"We agree with the Third Circuit that under § 502(a)(3), the district court, in granting 'appropriate equitable relief,' may consider traditional equitable defenses notwithstanding express terms disclaiming their application. [US Airways v. McCutchen, 663 F.3d 671, 679 (3rd Cir. 2011)] Id. at 679 (stating that in equity, 'contractual language was not as sacrosanct as it is normally considered to be when applying breach of contract principles at common law . . . [and] equitable principles can apply even where no one has committed a wrong'). While a weighing of the equities, including the consideration of equitable defenses, might support that full reimbursement per the Plan's terms is 'appropriate equitable relief,' like the Third Circuit we disagree with the other circuits to the extent that they have held that § 502(a)(3) categorically excludes the application of traditional equitable defenses where the plan disclaims their application and requires reimbursement as set by the plan. Id. at 678."*

However, the Court did not rule out cases where 100% reimbursement to the Plan would be appropriate:

> *"While a weighing of the equities, including the consideration of equitable defenses, might support that full reimbursement per the Plan's terms is 'appropriate equitable relief,' like the Third Circuit we disagree with the other circuits to the extent that they have held that § 502(a)(3) categorically excludes the application of traditional equitable defenses where the plan disclaims their application and requires reimbursement as set by the plan. Id. at 678."*

However, in an unexpected twist, the panel overruled its prior decision in *Hotel Employees & Restaurant Employees International Union Welfare Fund v. Gentner*, 50 F.3d 719 (9th Cir. 1995). Pursuant to

Gentner it had been the law of the Ninth Circuit that an attorney could not be joined in an action under ERISA § 502(a)(3) unless that attorney was a signatory to the Plan through a reimbursement agreement. However, following U.S. Supreme Court authority in *Harris Trust and Savings Bank v. Salomon Smith Barney*, 530 U.S. 238 (2000), the panel held that an attorney can be named as a defendant in a § 502(a)(3) action where that attorney disburses funds to himself prior to adjudication of the ERISA lien:

> *"By contrast, an attorney who before adjudication pays himself out of the disputed funds, effectively reducing the available amount to less than the plan's claim, would be an appropriate defendant under Harris Trust. See Wal-Mart Stores, Inc. Assocs.' Health and Welfare Plan v. Wells, 213 F.3d 398, 401 (7th Cir. 2000) (describing as 'clearly wrongful' the action of a beneficiary's attorney in actual possession of the disputed funds who diminishes the disputed funds by paying himself)."*

Finally, unlike the Third Circuit's decision in *McCutchen*, this decision included a dissenting opinion from The Honorable Ralph R. Beistline, Chief District Judge for the U.S. District Court for Alaska, sitting by designation. Judge Beistline agrees that the majority reaches a "fair" decision but disagrees that such fairness is allowed where it is contrary to the unambiguous terms of the Plan:

> *"While the majority reaches a fair result under the facts presented, it does so at the expense of the plain language of the Plan and effectively usurps the role of Congress in establishing restrictions on how such Plans may manage themselves. In my view, the District Court granted 'appropriate equitable relief' when it enforced the reimbursement provision of the Plan. The majority expresses no opinion as to whether CGI is entitled to reimbursement, but simply states that, in the interest of eliminating unjust enrichment, the District Court should have considered the Make-Whole Doctrine and the Common Fund Doctrine in its determination of what constituted an appropriate equitable remedy under 29 U.S.C. § 1132(a)(3). Yet, in reaching its conclusion, the majority disregards the fact that both doctrines are disclaimed in the language of the Plan. By expressly abandoning both doctrines, the Plan precludes their application. While I can understand the merits of these doctrines, I do not believe that we can now inject principles into the Plan that the Plan purposefully and specifically excluded. I do not view the 'appropriate equitable relief' provision as a mechanism for courts to rewrite ERISA plans. Such an interpretation invites litigation and unnecessarily complicates management of these plans. If Congress intended ERISA plans to include these equitable defenses notwithstanding the express terms of the Plan disclaiming them, it certainly could have said so."*

In conclusion, the *CGI v. Rose* decision applying equitable defenses to override contractual subrogation provisions may not be on the books for very long now that the U.S. Supreme Court has agreed to take up the Third Circuit's decision in *McCutchen*. However, the question of whether an attorney can be joined as a defendant on a § 502(a)(3) claim is not presented in *McCutchen* and therefore should remain good law in the Ninth Circuit regardless of what happens at the U.S. Supreme Court. We advise subrogation practitioners in the Ninth Circuit to weigh the options carefully in light of the decision in *CGI v. Rose*. We can expect a decision from the U.S. Supreme Court, hopefully overruling the Ninth Circuit's decision within a year. As such, if you should have cases that need to be litigated now within the Ninth Circuit, we expect that the applicable law will be in significant flux before any newly-filed cases get decided by the district courts.

If you should you have any questions about handling cases within these jurisdictions or other questions related to the *CGI v. Rose* case, please feel free to contact Attorney Ryan Woody at **rwoody@mwl-law.com**, who authored the National Association of Subrogation Professionals (NASP) Amicus Brief in *CGI v. Rose.*

SUBROGATING MED PAY IN NEW JERSEY? NOT SO MUCH

By Gary L. Wickert

We see a lot of questions related to possible subrogation and/or reimbursement rights of carriers paying Med Pay benefits in New Jersey. Rarely do states proscribe subrogation rights so inarticulately, but New Jersey has. New Jersey Med Pay benefits may not be subrogated against a third-party tortfeasor, reimbursed from a tort recovery by the insured, or sought through a pending workers' compensation claim. Understanding why this is the case is the confusing part.

New Jersey Insurance Coverage Requirements

Every owner or registered owner of an automobile registered or principally garaged in New Jersey must have automobile liability insurance coverage insuring against loss resulting from liability for bodily injury, death and property damage sustained by any person arising out of the ownership, maintenance, operation, or use of an automobile. N.J.S.A. § 39:6A-3.

There are three types of automobile insurance policies in New Jersey, each with different requirements and minimum limits:

1. *Standard Automobile Insurance Policy (Non No-Fault)*. Standard automobile insurance policies must provide bodily injury liability coverage with minimum limits of $15,000 per person and $30,000 per occurrence. *Id*. Also mandatory is $5,000 for damage to property in any one accident.

2. *Basic Automobile Insurance Policy (No-Fault)*. The Automobile Insurance Cost Reduction Act mandated that a Basic Policy be available to all drivers in addition to the Standard Auto Insurance Policy. N.J.S.A. §§ 39:6A-1.1 to 32 (1998) ("AICRA"). The Basic Policy was designed to cost less than a Standard Policy, but provides limited benefits. The Basic Policy includes the Limited Right to Sue option (Limitation on Lawsuit option). N.J.S.A. § 39:6A-3.1. The Basic Policy pays medical expenses of the insured, regardless of fault. However, it prevents an injured person from filing suit against a negligent driver. If elected, the bodily injury coverage requirements of the Standard Policy do not apply. Instead, the insured gets a Personal Injury Protection (PIP) policy, which pays the insured, those riding with him or her, and pedestrians for injuries, regardless of fault. PIP covers medical expenses of $15,000 per person, but cannot exceed $250,000 per person for medical treatment for permanent/significant brain injury, spinal cord injury, disfigurement, or treatment of any other permanent or significant injuries. It limits property damage coverage to $5,000. *Id*. The insured can then choose whether he wants to purchase an optional bodily injury coverage policy of $10,000 per person. N.J.S.A. § 39:6A-3.1(c). Without this bodily injury liability coverage, the insured may be subject to liability for non-economic damages which are not covered by the Basic or Special Policy. This coverage is not available to motorcycle owners. Election of a Basic No-Fault Policy must be in writing and signed by the insured. N.J.S.A. § 39:6A-3.2(a). In addition, the Basic Policy offers no collision or comprehensive coverage for damage to one's own vehicle.

3. *Special Automobile Insurance Policy*. The Special Automobile Insurance Policy (SAIP) is an initiative to help make limited auto insurance coverage available to drivers who are eligible for Federal Medicaid with hospitalization. N.J.S.A. § 39:6A-3.3 (2003). Such drivers can obtain a medical coverage-only policy at a cost of $365 a year.

Liability Coverage Options. Under the Basic Policy, bodily injury liability of $10,000 may be purchased. This liability coverage pays damages to others arising out of a drivers' own negligence. For a Standard Policy, this liability coverage is offered in various amounts beginning at $15,000 per person and $30,000 per occurrence. Both Basic and Standard Policies offer liability insurance of $5,000 for property damage negligently caused to other vehicles. As with bodily injury liability, the Basic Policy has only one choice, but Standard Policies offer various coverage limits. The Basic Policy offers no Collision or Comprehensive coverage for damage to the insured's own vehicle.

Uninsured/Underinsured Motorist (UM/UIM) Coverage. In New Jersey, uninsured/underinsured (UM/UIM) coverage is optional for Basic Policies, but required in the amount of $5,000 for all Standard Policies. N.J.S.A. § 17:28-1.1(a)(2). However, additional UM/UIM optional coverage must be offered to those purchasing Standard Automobile Insurance Policies. N.J.S.A. § 17:28-1.1(b). If purchased, the coverage must be at least $250,000 per person injured in any one accident, $500,000 for all persons injured in any one accident, and $100,000 for property damage. *Id*. There is exclusion for the first $500 of damage to property for each accident, a deductible of sorts. However, UM/UIM limits may not exceed the insured's liability limits in the Standard Policy. *Id.*

Motor Bus Coverage (Bus-PIP). New Jersey has enacted a statutory scheme for the payment of no-fault medical expense benefits for motor bus passengers. N.J.S.A. § 17:28-1.6. This coverage has been referred to as "Bus-PIP." Section 17:28-1.6 provides as follows:

> ***17:28-1.6. Owner or operator of motor bus required to maintain no-fault medical expense benefits for passengers.***
>
> *(a) Every owner, registered owner or operator of a motor bus registered or principally garaged in this State shall maintain medical expense benefits coverage, under provisions approved by the commissioner, for the payment of benefits without regard to negligence, liability or fault of any kind, to any passenger who sustained bodily injury as a result of an accident while occupying, entering into or alighting from a motor bus.*
> *(b) Medical expense benefits coverage shall include the payment of reasonable medical expenses in an amount not to exceed $250,000 per person per accident. In event of death, payments shall be made to the estate of the decedent. Id.*

Medical Payments (Med Pay) Coverage. PIP benefits are generally limited to accidents involving an "automobile" as defined by § 39:6A-2. "Automobile" is defined in § 39:6A-2 to include private passenger automobiles (including mini-vans and SUVs) as long as they are not used as a taxi or rented with a driver (livery). It also includes pick-up trucks, cargo vans, etc., only if they are used for recreational purposes and owned by an individual or husband and wife and are not used for work (other than farm work). When determining whether or not a vehicle is an "automobile," look first at the type of vehicle involved, and second at the use of the vehicle. A regulatory provision, found at N.J. A.C. § 11:3-7.3(b), requires some Med Pay benefits to be provided for injuries resulting from accidents not otherwise qualifying for PIP medical expense benefits. Therefore, New Jersey law provides for some Med Pay coverage to an injured party who is otherwise ineligible for PIP benefits. *Ingersoll v. Aetna Cas. & Surety Co*., 649 A.2d 1269 (N.J. 1994). Pursuant to N.J. A.C. § 11:3-7.3(b), every automobile policy must "include excess medical payments coverage, (colloquially known as 'Med-Pay') corresponding to Section II, Extended Medical Benefits Coverage of the standard personal automobile policy." N.J.A.C. 11:3-7.3(b). The regulation further states:

> *(b) Each policy form or endorsement covering an automobile as defined at N.J.S.A. 39:6A-2 shall include excess medical payments coverage, corresponding to Section II, Extended Medical Expense Benefits Coverage of the personal automobile policy. Insurers must include a minimum coverage of $1,000 and may offer coverage of $10,000.* Id.

Thus, Med Pay benefits are a creature not of statute but of a regulation promulgated under legislative authority by the Commissioner of Insurance. Med Pay benefits are expressly not available in cases where a party is entitled to basic PIP benefits or where other PIP coverage applies. *Id*. As an example, optional UM and UIM, PIP, and tort limitation are not available to motorcycle owners. *Gerber v. Allstate Ins. Co*., 391 A.2d 1285 (N.J. Super. 1978). Med Pay benefits represent a very narrow window of coverage to a limited class of persons who are ineligible for PIP benefits. *Warnig v. Atlantic County Special Services,* 833 A.2d 1098 (N.J. Super. 2003) (*unreported decision*).

*Med Pay Subrogation Rights. A*s described above, PIP benefits are generally limited to accidents involving an "automobile" as defined by § 39:6A-2. A regulatory provision, found at N.J.A.C. § 11:3-7.3(b), requires some medical payment benefits to be provided for injuries resulting from accidents not otherwise qualifying for PIP medical expense benefits. N.J.A.C. § 11:3-7.3(b). For example, Med Pay benefits are often owed when a motorcycle is involved. Med Pay covers up to $10,000 of medical expenses in qualifying circumstances. Med Pay benefits represent a very narrow window of benefits available to a limited class of persons who are otherwise ineligible for PIP benefits. *Warnig,* supra.

Therefore, New Jersey law provides for some Med Pay coverage to an injured party who is otherwise ineligible for PIP benefits. *Ingersoll v. Aetna Cas. & Surety Co*., supra. Such Med Pay benefits are not subject to the Collateral Source Rule found in § 2A:15-97. *Warnig*, supra. However, Med Pay benefits are considered "first party" medical benefits for which an insurance carrier is probably not entitled to subrogate. *Walsh v. Starr Transit,* 2008 WL 199740 (N.J. Super. 2008); *Perreira v. Rediger,* 778 A.2d 429 (N.J. 2001). This is because § 39:6A-9.1 speaks of the right of recovery for an insurer *"paying…personal injury protection benefits in accordance with § 4 or § 10 of P.L. 1972, c. 70 (C. § 39:6A-4 or § 39:6A-10)."* N.J.S.A. § 39:6A-9.1. Section 39:6A-4 covers regular PIP and § 39:6A-10 covers Additional Personal Injury Protection (APIP). This means that claims paid under a New Jersey APIP policy will be recoverable in the same situations that PIP is recoverable, and the same rules of recovery will apply (for example, the requirement to arbitrate if the tortfeasor is insured). So, while PIP and APIP have reimbursement rights under the statute, Med Pay benefits are provided for in the above-referenced administrative code. It is unlikely that Med Pay can be similarly subrogated or reimbursed under § 39:6A-9.1. *Warnig*, supra. Any existing insurance regulations permitting subrogation and lien clauses for Med Pay in insurance policies are probably invalid as being in violation of § 2A:15-97.

In addition to the inability to subrogate or seek reimbursement of Med Pay benefits from a third-party tortfeasor, it appears that Med Pay benefits can also not be recovered from a workers' compensation carrier. *Warnig*, supra. Med Pay benefits are not provided for directly from § 9:6A-4 or § 39:6A-10, but from an administrative code. N.J.A.C. ll:3-7.3(b). There appears to be no case law authorizing recovery of Med Pay benefits from torfeasors in the same manner as PIP and APIP. A carrier's right to recover PIP benefits from a workers' compensation carrier under § 39:6A-6 is similar to § 39:6A-9.1, which allows for recovery from a worker's compensation carrier of *"benefits pursuant to §§ 4 and 10 of P.L. 1972, c. 70 (C. § 39:6A-4 and § 39:6A-10), medical expense benefits pursuant to § 4 of P.L. 1998, c. 21 (C. § 39:6A-3.1) or benefits pursuant to section 45 of P.L. 2003, c. 89 (C. § 39:6A-3.3) it has paid . . ."*

Understanding that Med Pay carriers cannot recover or seek reimbursement of Med Pay benefits in New Jersey is fairly simple. Understanding and explaining why that is the case? Not so much.

If you should have any questions regarding this article or subrogation in general, please contact Gary Wickert at **gwickert@mwl-law.com**.

MWL NEWS

MATTHIESEN, WICKERT & LEHRER. S.C. WELCOMES RICHARD SCHUSTER TO THE FIRM

Matthiesen, Wickert & Lehrer, S.C. is pleased to announce that Richard Schuster has joined the firm as a senior associate and an experienced international insurance litigator. Rich is a Wisconsin attorney with seven years of experience litigating claims nationally. He has participated in the representation of clients from California to Florida, Washington to New Jersey, and spent three years in Asia (Taiwan) working on U.S. legal problems for global insurers and manufacturers. Rich brings with him a wealth of knowledge and experience on insurance litigation and subrogation matters and we are fortunate to have him join our firm.

UPCOMING EVENTS

July 18-19, 2012 – MWL exhibited at the *32nd Annual National Workers' Compensation and Occupational Medicine Conference* in Hyannis, Massachusetts. Jamie Breen enjoyed meeting all the attendees at our exhibit booth. Congratulations to Elaine Lochem, with Hamilton Sundstrand, and Elizabeth Kellie Sylvia with MAC Risk Management (Ahold USA), who each won a free copy of our *ERISA and Health Insurance Subrogation In All 50 States* book through a drawing at our exhibit booth.

August 9, 2012 – Ryan Woody will be presenting a live webinar on *"2012 ERISA and Health Insurance Subrogation Updates*" from 10:00 - 11:00 a.m. (CST). This webinar is approved for 1.0 Texas CE credits and is free to clients and friends of MWL. A registration link will soon be on our website homepage, but you can click on the "Register Now" button to the right to register.

November 11-14, 2012 – MWL will be exhibiting at *NASP's 2012 Annual Conference, "Cirque du Subro",* in Las Vegas, Nevada. Jamie Breen will be at Exhibit Booth 103 so stop by our booth if you plan on attending this conference and introduce yourself. Also, Timothy Pagel, with MWL, and Heath Sherman, with Leahy, Eisenberg & Fraenkel, Ltd., will be presenting a session on *Workers' Compensation and Employer Contribution*. For more information on this conference, please go to **www.subrogation.org**.