

MATTHIESEN, WICKERT & LEHRER, S.C.

ATTORNEYS AT LAW

JULY 2018 SUBROGATION NEWSLETTER

WHY MOLTEN LAVA AND INSURANCE DON'T MIX: Subrogating Pele and the Goddess of Fire

On May 1, 2018, Pele spoke, and Hawaii's Big Island was rocked with the first of more than 50 earthquakes, representing the collapse of the crater floor at Puu Oo, the open vent below Kilauea's summit crater and lava lake. Rivers of lava destroyed over 600 homes, making it the most destructive eruption in modern times. Even before the lava had cooled to form a tomb of solid rock over the once thriving neighborhoods, many escaped from their homes with their most valuable possession — their homeowner's policy. There is no such thing as volcano or lava flow insurance, but it is possible for an all-risk homeowner's policy to provide some coverage. [Read More...](#)



Another State Bans Hand-Held Devices While Driving

Georgia has joined fifteen other states which have outlawed the use of hand-held cellphones and mobile devices while driving. A new law signed by Governor Nathan Deal makes watching movies, shooting video, and even the mere "holding" of hand-held devices while in the vehicle—even while stopped—illegal. House Bill 673 allows drivers to talk on the phone or text if they use hands-free technology. It was signed May 2 and took effect on July 1. [Read More...](#)



Subrogation Adjusters Can Now Sign Texas Medical Expense Affidavits

A generation ago, subrogation professionals were almost unheard of. Over the years, however, as prudent businesses and insurance companies began to insist on their statutory and contractual rights of subrogation, the profession has grown. On February 8, 2018, the Texas Supreme Court issued an opinion that grants subrogation adjusters and claims handlers the ability to sign medical expense affidavits under § 18.001 of the Texas Civil Practice and Remedies Code. [Read More...](#)

Auto Insurer Doesn't Have To Reimburse 100% Of Deductible In Order To Make Its Insured Whole

Subrogation professionals often 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 it also results in reduced subrogation recoveries for carriers across the country. The obligation of an insurer to reimburse some or all of its insured’s deductible has very little to do with the Made Whole Doctrine in most states. *Daniels v. State Farm Mut. Auto. Ins. Co.*, 2018 WL 3424941 (Wash. App. 2018), a brand-new decision by the Washington Court of Appeals affirms this. [Read More...](#)

Verdicts and Settlements

Attorney [Eric Goelz](#) recently obtained a \$130,000 settlement for more than 100% of a defendant’s calculated damages. The loss occurred in a vacation home where the HVAC was replaced over the summer. Issues with the system caused it to shut off in winter. The water was shut off and the unit was repaired. After the home warmed up, the water was restored and the contractor, not seeing any leaks, left the home.

However, there was a broken pipe that ended up flooding several rooms. The contractor returned the pump that he claimed to be defective to the manufacturer after which it was lost.



Time Travel For The Insurance Industry

See [HERE](#) for a provocative 60-second video explaining why Matthiesen, Wickert & Lehrer views the handling of your subrogation claims - large and small - as time travel for the insurance industry. We help turn back the hands of time and attack the enemy of our industry - claims - utilizing our experience and expertise. Check it out!



Matthiesen, Wickert & Lehrer, S.C. Launches A Subrogation Support Network Group In LinkedIn!

We welcome you to join our LinkedIn [Subrogation Support Network](#) Group! It is a community managed by Matthiesen, Wickert & Lehrer, S.C., that offers insurance professionals a place to interact, discuss subrogation insurance-related topics and issues, ask subrogation questions, and keep abreast of new developments and/or changes in the subrogation law for all 50 states. If you would like to join this LinkedIn group, please click [HERE](#).

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We are asking our clients and friends to help us expand our social media presence by following our firm’s [LinkedIn](#), [Facebook](#), [Twitter](#), and [YouTube](#) pages. The legal face of insurance litigation in our industry seems to change almost daily. Following our social media pages will assist you in keeping up-to-date and informed on developments and changes in the law that effect the industry, which is key to obtaining the best results.

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MATTHIESEN, WICKERT & LEHRER, S.C.

Wisconsin ✦ Louisiana ✦ California

Phone: (800) 637-9176

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