

MATTHIESEN, WICKERT & LEHRER, S.C.

ATTORNEYS AT LAW

JANUARY 2019 SUBROGATION NEWSLETTER

How To Get Paid For Being Use-Less: Understanding Loss of Use Claims

Recovery of loss of use is a key element of auto property subrogation. Loss of use coverage usually provides a replacement (rental) vehicle or transportation reimbursement while the insured's vehicle is being repaired or replaced following a covered loss. States differ as to whether and when a vehicle owner is allowed to recover the value of loss of use of a vehicle during the time a damaged vehicle is being repaired or replaced. Whether you're a vehicle owner, fleet



manager, or insurance claims professional looking to enforce subrogation rights, thoroughly understanding the ramifications and parameters of loss of use claims in all 50 states can make the difference between a large recovery and no recovery at all. This article links to our new 50-state reference chart on *Loss of Use In All 50 States*. [Read More...](#)

Subrogation Victory And The Battle Of Marathon

It seems strange to suggest that one of history's greatest military battles would have anything in common with modern insurance subrogation, but modern claims and subrogation handling require a symbiosis similar to that utilized by the Greek hoplites. Especially in companies with separate claims and recovery departments, subrogation victory depends on cooperation and the ability to depend on others in the claims



chain. Successful subrogation recoveries heavily depend on the protection provided by the claims soldier standing to their left. There must be open and frequent communication between insurance professionals with the single objective of a successful subrogation victory in mind. [Read More...](#)

Texas Workers' Compensation Subrogation Dealt Blow

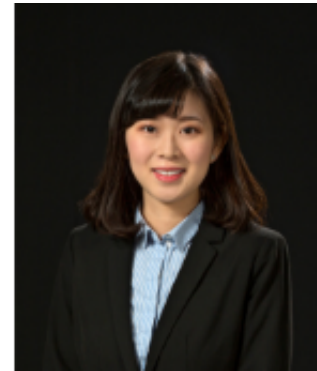
On January 11, 2019, the Texas Court of Appeals issued an opinion that will have a profound effect on Texas workers' comp subrogation. Until now, alleged employer negligence hasn't been a factor in negotiating workers' comp liens in Texas. Not only does this ruling run contrary to the clear language of the statutes, it opens the door for Texas plaintiff's attorneys to concoct theories of employer negligence and argue that your "lien" can now be eliminated based on employer negligence. If the decision stands, Texas will join the ranks of



other states whose laws allow the carrier's lien to be reduced when the employer is at fault. [Read More....](#)

Matthiesen, Wickert & Lehrer Welcomes Mingmei Zhu To The Firm

Matthiesen, Wickert & Lehrer, S.C. is pleased to announce that **Mingmei Zhu** has joined our insurance litigation team as an associate attorney in our Wisconsin office. Mingmei is licensed to practice in California. Her practice will focus on insurance litigation, especially nationwide insurance litigation involving product liability relating to foreign manufacturers, and health insurance subrogation. She is from Changsha, China, a "small" town of 7.5 million people in central China's Hunan province. She is fluent in Mandarin and brings her skills and experience to bear on MWL's insurance litigation and product liability cases against foreign manufacturers. [Read More....](#)



Verdicts and Settlements

Attorneys **Richard Schuster** and **Stephen Smith** settled a large trucking subrogation claim involving a multi-commercial vehicle accident in Minnesota resulting in property damage to our client's tractor and trailer and workers' comp benefits paid to our client's Nebraska employee. Suit was filed against our client by one of the other parties. MWL handled defense of those claims, as well as subrogation for our client's property damage and workers' comp benefits paid. The disputed issues were the applicability of the sudden-emergency doctrine due to snowy conditions, law applicable to the employer's right of subrogation for Nebraska comp benefits paid, and the standard of care to commercial drivers driving on slippery roads during inclement weather. The defense portion resolved and MWL prepared for a jury trial. Pretrial submissions were already filed when a settlement was obtained in excess of \$100,000. Diligent and zealous advocacy turned a complicated multiple-vehicle accident into sizable recovery for the client.



Join MWL For A Webinar On MCS-90 Claims Against Uninsured Operators

Ashton Kirsch, an attorney at MWL, will be presenting a live webinar on "*Subrogation Magic: Creating Something Out of Nothing - MCS-90 Claims Against Uninsured Operators*" on March 5, 2019 at 10:00 to 11:00 a.m. (CST). As with all MWL live webinars, they are free to attend and provide Texas CE credits. To learn more about this webinar and/or register for it, click [HERE](#).

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](#).

Follow Matthiesen, Wickert & Lehrer, S.C. on Facebook, LinkedIn, Twitter, and YouTube!

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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