

## JANUARY 2021 SUBROGATION NEWSLETTER

### New Maryland Law Encourages Drivers To Drive Without Insurance

Effective October 1, 2020, Maryland did the unthinkable, sending a signal to all Maryland residents that while obtaining liability insurance as a prerequisite of exercising the privilege of driving is the law, if you break that law there will be no consequences. Maryland's new House Bill 280 now eliminates the ability of the Motor Vehicle Administration to suspend a judgment debtor's driver's license at the request of a judgment debtor. But it does much more than that. [Read More....](#)



### Subrogating Workers' Compensation Death Benefits In Alabama



Given the confusing and unusual nature of Alabama wrongful death and survival actions, it is only natural for there to be confusion when the concept of workers' compensation subrogation in death cases enters the picture. Alabama approaches this somewhat differently than most states. It requires an understanding of the law regarding and the difference between survival actions and wrongful death actions. [Read More....](#)

### Delaware Workers' Compensation Subrogation Rights Do not Extend to PPD And Commutation Benefits

The Delaware Supreme Court recently affirmed a ruling which constitutes a potentially very dangerous and confusing opinion. Some might read the decision in *ACW Corporation v. Maxwell* as a major departure from both the Delaware workers' compensation subrogation statute and well-established subrogation law, interpreting it as declaring that lump-sum workers' compensation settlement payments are not recoverable via subrogation from a third-party tortfeasor, but this would be an overreaching and incorrect interpretation of the decision. Nonetheless, a thorough understanding of the ruling is necessary for any subrogation professional practicing in this jurisdiction. [Read More....](#)



### Webinar | Subrogating Data Breaches, Cyber Attacks, and Other Tech Losses

This webinar will discuss the basics of cyber claims and provide an introductory analysis of how these claims may appear in a day-to-day context along with a basic framework to identify subrogation potential. Additionally, we will analyze best procedures for maximizing recoveries on cyber subrogation claims and the best protocols for enhancing your carrier's security protocol and protecting key information. This webinar will benefit claims professionals in all levels of experience.



**Date:** February 10, 2021  
**Time:** 10:00 - 11:00 a.m. (CST)  
**Presenter:** [Ashton T. Kirsch](#)  
**Cost:** Complimentary

[Click HERE](#)  
To Register For Webinar

### Verdicts and Settlements

Attorney [Lee Wickert](#) recently settled a case in Galveston County, Texas involving a young employee who lost a leg in a work-related accident. MWL's client, the workers' comp carrier, had a lien just over \$700,000, which included significant medical payments made by a complex case management vendor, which raised debates over the nature of those payments and recoverability in the third-party case. The employee was represented by a well-known Texas trial lawyer who worked with Lee to achieve a third-party settlement of \$3.1 million. Plaintiff's counsel attempted to take his fee "off the top" or off the gross third-party settlement, which would affect our client's significant future credit. Lee advised him it was unethical in Texas to take his fee off the gross recovery instead of after the comp carrier's lien had been repaid – as Texas workers' comp law requires. Everyone at the mediation disagreed with Lee until he dug out the Supreme Court Ethics Opinion issued by the State Bar of Texas at the request of Attorney Gary Wickert in 2003 - Texas State Bar Comm. on Ethics, Op. No. 549 (Aug. 2003). MWL's client received a 100% recovery of their comp lien, along with a \$650,000 future credit. This 100% recovery was made despite the fact that Texas allows plaintiff counsel to seek a 1/3 reduction on the comp carrier's lien.



### 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!



### Join MWL's LinkedIn Subrogation Support Network Group!

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](#).

### We Are Social | Follow Us

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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