

JULY 2021 SUBROGATION NEWSLETTER

11th Circuit Announces Expert Doesn't Need Experience With Specific Product To Testify

On April 22, 2021, the 11th Circuit Court of Appeals decided the case of *Moore v. Intuitive Surgical, Inc.* holding that the surgeon/medical expert was not automatically disqualified under the *Daubert* expert admissibility standard due to his lack of experience using the tool in prior surgeries. The use of expert witnesses has become an integral and indispensable aspect of American litigation, and it is often the side with the best expert who wins the day. Familiarity with the standards for expert testimony is necessary for effective subrogation investigation and inspections because an expert who cannot testify is not going to help the subrogation effort.



[Read More](#)

Beware Of Little-Known Workers' Compensation Lien Waiver Trap In Oregon



Claims and subrogation professionals must be alert to the inadvertent waiver of important subrogation and lien rights when settling a workers' compensation claim in Oregon. A tragic, but all-too-frequent claims handling mistake in Oregon is the inadvertent waiver of a large workers' compensation lien when the underlying claim is settled through a Claim Disposition Agreement (CDA). It is recommended that specific language be included in any CDA entered into in Oregon, where there is third-party subrogation potential and even where subrogation isn't apparent.

[Read More](#)

Montana Supreme Court Confirms Insurer Is Victim Entitled To Restitution

Court-ordered restitution to be paid by a criminal to a subrogated insurance company has become a major source of revenue for carriers. An often-overlooked area of recovery for subrogated carriers is the possibility of obtaining court-ordered restitution from a criminal defendant as part of their sentencing. On June 29, 2021, the Montana Supreme Court sounded off on this issue, granting a subrogated carrier "victim" status when they are required to pay benefits due to the criminal activity of a, well, ... criminal.



[Read More](#)

Matthiesen, Wickert & Lehrer, S.C. to Present Webinar for The Institutes CPCU Society



Gary Wickert
Partner
Matthiesen, Wickert & Lehrer S.C.



Mark Solomon
Partner
Matthiesen, Wickert & Lehrer, S.C.



Ashton T. Kirsch
Partner | Matthiesen, Wickert & Lehrer, S.C.



Elizabeth K. Hernandez
Partner
Matthiesen, Wickert & Lehrer

[Click HERE For More Information or to Register for This Webinar](#)

Verdicts and Settlements

Eric Goelz recently settled a Wisconsin third-party worker's comp lien claim without the participation of the employee in mediation after suit was filed. We made a substantial recovery despite adverse liability facts and a quick and complete recovery by the employee who had no interest in pursuing the case on his own. The case was litigated through discovery which revealed that the employee was injured when he struck a delivery truck from behind on the freeway. The delivery truck had entered the freeway knowing that they could only travel at reduced speeds due to a malfunction in the rear adjustable suspension. Despite this they claimed to have been traveling at the minimum posted limit. The defense was adamant that the rear end nature of the matter precluded any recovery but we were able to persuade them otherwise.



Industry News



Insurtech Investing Explodes in 2021. Insurtech is the use of technology innovations designed to make more "traditional" insurance models more efficient through cutting edge technology such as data analysis and AI. The premises is that Insurtech allows insurance products to be priced more competitively. The term is a portmanteau of "insurance" and "technology." Its goal is to improve customer experience, simplify policy management, and increase competition.

According to an [article in Insurance Journal](#), Insurtech investing in the first half of 2021 has reached a record \$7.4 billion. As venture capitalists continue to learn as they go about the trends regarding funding for new sectors of business, InsurTech NY—the largest Insurtech community in North America—is initiating a study on corporate capital so that the entire industry has more insight into investing in a sector of the insurance industry that is less than a decade old.

Their names often give them away. Some newer Insurtech companies you may be familiar with include Next Insurance, Zipari, Hippo, MetroMile, Corvus, Kin, Policygenius, Clearcover, and Lemonade. MWL welcomes its new Insurtech clients and notes that while the technology and approach to underwriting, coverage, and claims might be new, the challenges to effective subrogation remain as old as time. MWL remains ready to assist the Insurtech niche within the insurance industry with all its insurance subrogation needs, just as it has for the insurance industry dating back to the days before computers. For more information, contact Gary Wickert at gwickert@mwllaw.com.

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](#), [Instagram](#), 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.

MATTHIESEN, WICKERT & LEHRER, S.C.
Hartford, WI ❖ New Orleans, LA ❖ Santa Ana, CA ❖ Austin, TX
Jacksonville, FL ❖ Boston, MA
Phone: (800) 637-9176
www.mwl-law.com

[View Online](#)



[Update my Preferences](#) | [Forward to a friend](#) | [Unsubscribe](#)