

SUBROGATING WILDFIRES, WINTER STORMS, AND OTHER NATURAL DISASTERS SPECIAL EDITION

Subrogating Texas Freeze Damage Claims

Successful subrogation against power companies is not a given. In determining whether the Electric Reliability Council of Texas (ERCOT) may be sued for its clear negligence in failing to properly winterize power production facilities and the power grid that it runs in Texas, the issue is currently in limbo. A favorable ruling will open the door for subrogation claims to proceed forward. An unfavorable ruling will shut that door completely. Given the six-month notice requirement, insurance companies will need to act fast in putting ERCOT on notice of their claims, so as to protect any potential right they might have in the future. As would be expected from the most expensive natural disaster to ever strike the U.S., hundreds of lawsuits have already been filed. MWL will be exploring every possible avenue of recovery and aggressively pursuing recoveries on behalf of our clients.



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Wildfire Subrogation In California Is A Hot Topic

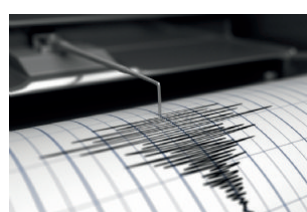


In 2020, there were 9,917 fires, in which an estimated 4,257,863 acres burned throughout California, with 33 fatalities and 10,488 structures damaged or destroyed, according to the California Department of Forestry and Fire Protection (Cal Fire). Although most Californians are aware when wildfire season begins and ends, the utility companies continue to cause the majority of wildfires due to their negligence in adhering to issued weather service warnings or failure to trim brush around their power lines among other reasons. Currently, Southern California Edison is facing suits for the Bobcat Fire and Silverado Fire that occurred in October 2020, in Los Angeles, San Bernardino, and Orange County. There are several other fires still under investigation, but there are signs that indicate that the utility companies are to blame. It would behoove insurers to run through their claims to determine if there are any losses, as many have subrogation potential.

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Earth-Shaking Subrogation Recoveries

MWL takes pride in our efforts to constantly innovate and use creative legal theories to facilitate recoveries for our clients. Our firm has been actively involved in the pursuit of investigation and litigation of claims against oil/gas fracking companies related to their causing earthquake related damages which have historically gone unrecognized and unpursued. However, this past April, Farmers Insurance agreed to pay \$25 million to settle allegations that it underpaid or denied over 1,000 earthquake damage claims relating to a spike in seismic activity in the wake of fracking in the Woodford Shale. MWL has developed relationships with experts who specialize in seismology and can directly relate certain fracking activities with the increase in earthquakes—especially in states like Ohio, Pennsylvania, West Virginia, Oklahoma, and Texas.



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Subrogating Against God: Recovering Claim Dollars When Natural Disasters Strike



When God sends a hurricane, tornado, flood, or naturally occurring fire, the resulting losses can be enough to put many insurance companies into receivership. With no third parties or obvious subrogation potential, these mammoth claim payments often disappear permanently. Acts of God such as these reveal a celestial tortfeasor who is both judgment proof and beyond reach by summons and subpoenas. However, rather than throwing in the towel, these losses present tremendous recovery potential for the proactive claims professional. It is said that opportunity is missed by most because it is dressed in overalls and looks like work. Nowhere is that adage truer than when it comes to subrogating natural disasters. If a carrier is willing to invest the time and effort necessary to investigate third-party potential in the face of disaster, it is possible to turn tragedy into triumph.

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The Ten Worst Natural Disasters In U.S. History

In the casino-like world of underwriting, insurance companies wager against catastrophic natural disasters big enough to put them into receivership. Insurance is the thin white line that separates us from destitution and anarchy when God sends a hurricane, tornado, flood, wildfire, earthquake, or other natural disaster. Aggressive subrogation practices ensure that insurance companies are not left standing alone when devastation takes place. Damage which could have been prevented but for the negligence of a person or company should be borne by the wrongdoer. That is the function and purpose of subrogation. In the context of subrogation and with relevance to the insurance industry, for purposes of this list, weight is placed on physical property damage, although both loss of property and loss of life affect the insurance industry. Ranking the “deadliest” natural disasters would undoubtedly result in a slightly different list.



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Happy Thanksgiving From Matthiesen, Wickert & Lehrer, S.C.

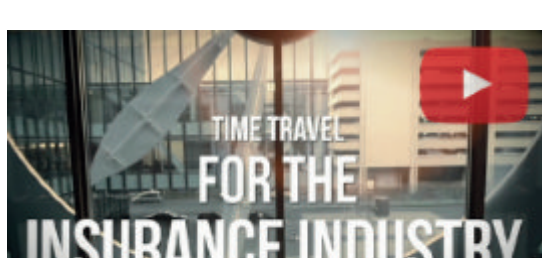


Thanksgiving has its historical roots in religious and cultural traditions, and has long been celebrated in a secular manner as well. In Ephesians 5:20 it reads, “*Giving thanks always and for everything to God the Father in the name of our Lord Jesus Christ.*” Life wasn’t meant to always be pleasant or easy. Yet we have so much to be thankful for. America is blessed. For everyone at Matthiesen, Wickert & Lehrer, Thanksgiving is far more than a special day on the calendar. We are each reminded to live a life of thanksgiving each day we are given, thankful to God for all of His blessings. Even in the midst of misfortune we can find time and reason to give thanks. Join us this Thanksgiving in giving thanks in the words of Ralph Waldo Emerson: “*For each new morning with its light, for rest and shelter of the night; For health and food, for love and friends; for everything Thy goodness sends.*”

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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 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.

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