

AUGUST 2022 SUBROGATION NEWSLETTER

Marina Boat Storage Subrogation: Navigating Storage Agreement Exculpatory Clauses

On August 19, a huge fire ripped through the historic and family-owned Mattapoisett Boatyard in southern Massachusetts, destroying five buildings, three dozen cars, and countless expensive boats. Continuous explosions and fuel from the boats left the property a complete loss, making subrogation efforts difficult for the countless insurers. There will be subrogation. Mattapoisett Fire Chief Andrew Murray and State Fire Marshal Peter Ostroskey told us that the fire was most likely caused by the ignition of gasoline vapors during the replacement of a boat's gas tank. However, recovery of the damages for the expensive boats stored at the boatyard might not be that simple. The biggest obstacle we come across when subrogating large marina fires isn't the difficulty of sifting through tons of debris to find a cause—it's the storage agreement the boat owner signed years ago and has long since forgotten.



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Idaho Federal Court Rejects Suit Against Defective Water Supply Line Manufacturer Based On Economic Loss Doctrine



Safeco Ins. Co. of Illinois v. LSP Products Group, Inc., **12022 WL 3101577 (D. Idaho 2022)**. On August 4, 2022, Judge David C. Nye issued an order which creates significant subrogation obstacles when defective products are involved and breaks from the majority rule followed across the country that a strict product liability cause of action is allowed when a defect in one component part of a home causes damage to other component parts of the residence without damaging persons or property separate from the structure. Judge Nye has made it more difficult to subrogate damage in Idaho thanks to the Economic Loss Doctrine.

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Illinois Legislature Battles Dog Discrimination

With Illinois dog bite claims on the rise, the Illinois legislature decided to act. On August 9, 2021, Governor J.B. Pritzker signed Senate Bill 1672, amending 510 I.L.C.S. § 5/16, mandating effective January 1, 2022, that insurance companies offering liability insurance for renter's or homeowner's insurance must report all dog-related claims to the state for the next two years. While the Illinois dog bite database is intended to provide information and statistics regarding the dog bite tendencies of various breeds of dog, one significant byproduct of the initiative will be a healthy database for subrogation counsel to draw from when attempting to subrogate such claims.



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Matthiesen, Wickert & Lehrer, S.C. Welcome Brice V. Dodson To The Firm



Matthiesen, Wickert & Lehrer, S.C. ("MWL") is pleased to welcome **Brice Dodson**, a new litigation associate, to the firm's Austin, Texas branch office. Brice's practice focuses on property and casualty, workers' comp, and auto subrogation cases throughout Texas—our busiest state for subrogation litigation. On behalf of the partners, associates, legal assistants, and support staff, we welcome Brice and invite our clients and friends to introduce themselves to Brice, who can be reached at bdodson@mwllaw.com.

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Unified and False NASP Data Being Used to Promote Subro Analytics Providers

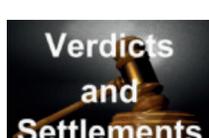
MWL has been notified by the National Association of Subrogation Professionals (NASP) that certain industry reports, articles, websites, and speakers are making false claims that "missed subrogation is costing insurers \$15B annually and 32% of recoverable claims are not pursued." These groups are falsely using the name of NASP without permission and erroneously citing NASP as the source. These claims are untrue. The data is also false and does not represent the true metrics of the subrogation industry.



Insurance companies and subrogation vendors have a hard enough time trying to make subrogation and recovery decisions in a competitive market without inadvertently relying on false data and information. NASP urges you to contact them and utilize their own accurate benchmarking reports—a trusted and verified source of accurate and timely subrogation data. See <https://subrogation.org/benchmarking> or contact NASP's CEO Leslie Wiernick at (800) 574-9961 if you have any questions.

Verdicts and Settlements

Rich Schuster represented an uninsured homeowner against the manufacturer of a dehumidifier. The home was appraised as worth \$210,000 at the time of the fire and the homeowner, who did not live in the home, had an estimated contents loss of \$50,000, and the figures were both disputed by the manufacturer. Rich's client refused to consider any confidentiality clause on any potential resolution and Rich was willing to try the case over the issue. The case settled in suit, without confidentiality, for \$350,000, demonstrating implicit recognition by the manufacturer of the value of punitive damage claims homeowners have against certain dehumidifier manufacturers. If you have any questions regarding these types of claims, contact Rich Schuster at rschuster@mwllaw.com.



Webinar | Medicare Advantage Primer and Update

In this webinar, we will be discussing several recent decisions involving the rights of Medicare Advantage Organizations (MAOs) and their enforcement rights under the Medicare Secondary Payer Act – up to and including penalties when an adverse or Plaintiff's counsel refuses to comply, and the unique issues surrounding set-asides for ongoing medical care. It will also focus on MAO's rights against both primary plans and the enrollee and provide practical guidance for steering your MAO case through litigation to a successful resolution.



Date: September 27, 2022
Time: 11:00 - 12:00 p.m. (CST)
Presenter: **Ryan Woody**
Presenter: **Nancy Case**
Presenter: **Catherine Dowie**
Cost: Complimentary

[Click HERE To Register](#)

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.