

NOVEMBER 2022 SUBROGATION NEWSLETTER

Confronting The Deer In The Headlights

In many insurance claims involving deer collisions, the insured is struck by the swerving vehicle or it comes upon wreckage in the road that resulted from the collision. Subrogating the vehicle that swerved to avoid the deer is often an after-thought. However, aggressive subrogation professionals should remember that prudent drivers who react appropriately when confronted with a deer in the headlights can usually avoid the devastation and carnage that results from acting inappropriately. [Read More...](#)



Huge Increase In Insurance Litigation Creates Demands For Qualified And Secure Insurance Litigation Counsel



Insurance companies themselves have been thrust into the forefront of a tsunami of cyber attack class action suits, necessitating them to be very particular when hiring subrogation counsel in order to maintain security of confidential and private health information. This, at a time when finding qualified and experienced subrogation counsel who have made a substantial investment into cybersecurity is harder than ever to accomplish. Insurance companies are now reluctant to entrust claim files and sensitive claim information to lawyers practicing from their back bedrooms. The message to insurance companies is, "Be afraid; be very afraid." [Read More...](#)

Oklahoma Opens Door To Recovery Of Nurse Case Management Fees

In addition to paying for medical expenses, death benefits, funeral costs and/or indemnity benefits for lost wages resulting from a compensable injury, workers' comp insurance carriers also expend considerable dollars for case management costs, medical bill audit fees, independent medical exam (IME) fees, expert fees, rehabilitation benefits, behavioral health or social worker support service fees, third-party vendor costs, nurse case management fees, workers' comp case attorneys' fees, and the like. They pay significant attorney's fees on permanency awards and incur other expenses in conjunction with the handling and adjusting of workers' comp claims. Which of these benefits are recoverable in workers' comp subrogation remains a point of considerable confusion and contention. [Read More...](#)



Verdicts and Settlements

Falling tree cases are tough, especially when they fall on the neighboring home during a hurricane in Louisiana. It is hard to convince a jury that the tree did not fall due to an Act of God, and often even harder to prove the tree owners knew the tree was diseased, weakened, or an imminent danger to their neighbors. However, **Jim Busenlener** of MWL's New Orleans office recently recovered \$420,000 in a property subrogation case, over 70% of the loss amount, from the tree owners' insurer after a large water oak fell on the adjacent home and destroyed it. Through public records requests, Jim obtained emails written by the tree owners before the loss, acknowledging they had been told the tree was probably termite infested and attempting to get the local municipality to remove the tree for them. Jim also lined up experts to opine that the tree was diseased, that anyone should have known the tree was diseased, and that it fell because it was diseased. The third-party insurer initially denied the claim based on the Act of God defense, but later settled after Jim filed suit in the U.S. District Court, Eastern District of Louisiana and obtained a prompt trial date.



Upcoming MWL Webinars



New Client Introduction to Matthiesen, Wickert & Lehrer

Monday, December 5th at 10:30-11:00 a.m. (Central). Presented by **Ashton Kirsch**, who will present a brief intro to MWL and outline the premier services that we provide to our clients, giving you an opportunity to get to know more about us.

[Learn More](#)



How To Win In Litigation and Evaluate Attorney Performance

Wednesday, December 7th at 10:00-11:00 a.m. (Central). Property Subrogation Series Part 2. Presented by **Richard Schuster**, who will provide strategies that work in litigation and assist in evaluating your attorney's performance.

[Learn More](#)

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.

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