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## DECEMBER 2022 SUBROGATION NEWSLETTER

## First Come, First Served: Subrogating Multiple Claims In **Excess Of Policy Limits In All 50 States**



Subrogation professionals are routinely faced with minimum limits scenarios which complicate otherwise straightforward subrogation cases. When a third-party liability carrier's insurance limits are insufficient to pay the claims of multiple claimants, the carrier must begin to assess the hierarchy of the claimants - how to slice the insured's pie. The carrier must also be familiar with the specific laws and procedures in their jurisdiction. Read More....

## **Fiction To Subrogation Cases** The ability of a landlord's property insurer to subrogate against a tenant for property damage caused by the negligence of the tenant

Illinois Supreme Court Limits Tenant "Implied Coinsured"

varies greatly from state to state and often hinges on the specific language of the lease involved. On November 28, 2022, the Illinois Supreme Court reversed the Court of Appeals, holding that the tenants were not insureds and, therefore, were not entitled to defense or indemnity. Read More.... Virginia Guts Ability Of Workers' Compensation Carrier To



## **Subrogate Via Special Arbitration** Nowhere in the subrogation world is the adage "power of knowledge" truer than in arbitrating workers' compensation subrogation



be knowledgeable on state specific issues, or work hand in hand with national recovery counsel to expedite arbitration of even these smaller claims. Read More.... MWL Welcomes Darin G. Tabor To The Firm

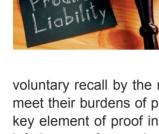
claims. For this reason, it is up to subrogation professionals to either

### MWL is pleased to welcome Darin Tabor, a new Sr. Associate Attorney, who brings a wealth of legal experience in the insurance

industry. He joins the litigation team in our Santa Ana, California branch office, handling subrogation matters involving workers' compensation, large loss property, auto insurance, and assisting with that office's large docket of pending wildfire subrogation. Darin is licensed in California and is currently preparing to take the bar examination in New Hampshire, where he will help MWL with its growing book of New England subrogation. Read More.... WHEN PRODUCTS FAIL: Monthly Product Recall Updates



#### defective or unsafe products cause 29.4 million injuries and 21,400 deaths every year, resulting in an estimated \$700 billion in injuries,



represents subrogation potential if we know where and how to look for it. When a defective or unsafe product is involved, the fact that the product is or was subject to a recall announced by the CPSC or a voluntary recall by the manufacturer almost always is a big step in helping subrogation counsel meet their burdens of proof in order to recover subrogation dollars. Such recalls help establish a key element of proof in strict product liability cases; viz., that the product was defective when it left the manufacturer's possession and control. MWL has partnered with Envista Forensics—a global, multi-disciplinary, and highly-skilled forensic engineering partner trusted by insurance

According to the U.S. Consumer Product Safety Commission (CPSC),

deaths, and property damage. Every one of those claim dollars

clients across the hundreds of new product liability subrogation cases entrusted to us each month. Below are some significant product recalls to be aware of. JBR Solutions Aduro Surge Protector: The Aduro surge protectors contain incorrect polarization and poorly soldered connections, posing shock and fire hazards. 2021 Polaris RZR Pro XP 4 Premium Recreational Off-Road Vehicles: A fuel leak can occur at the fuel pump assembly joint on the fuel tank in close proximity to a hot surface, posing a fire

claims and consultants worldwide—to assist in the recognition of subrogation potential for our

hazard. For information on additional product recalls, visit The Latest Product Recall Guide | Envista

Forensics. If you should need assistance with product liability cases or if you have any subrogation questions, please contact Gary Wickert at <a href="mailto:gwickert@mwl-law.com">gwickert@mwl-law.com</a>

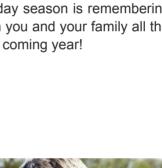
**Merry Christmas and Happy New Year!** Matthiesen, Wickert & Lehrer would like to thank our clients and local

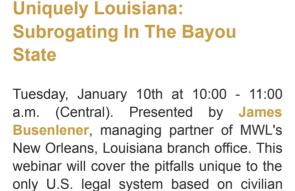
#### cheer shared with family and friends. For us at Matthiesen, Wickert & Lehrer, Christmas is just the beginning - a simple, yet wonderful

counsel for a wonderful year and wish you all a Merry Christmas, Happy Hanukkah, and a blessed Holiday Season. Regardless of what Christmas means to you, we hope your Christmas is full of holiday

reminder of Christ's humble beginning as a human child in this world. It's only a beginning because His birth merely set the stage for the

power, glory, and salvation that would be revealed in His life, death, and resurrection come Easter morning. An important part of the holiday season is remembering those who make the holidays meaningful to us. We would like to wish you and your family all the happiness this season can bring and may it follow you throughout the coming year! **Upcoming Webinars** 



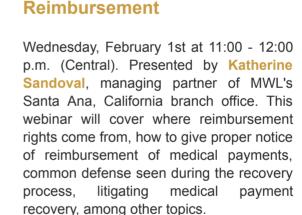


law and the Napoleonic Code and navigate

you through property, auto, and workers'

comp subrogation in the Bayou State.

**Verdicts and Settlements** Matt Fricker represented a workers compensation carrier with a lien of approximately \$286,000. The accident occurred during a building renovation and the insured was the general contractor. The employee was injured when an HVAC contractor failed to secure a section of duct that fell and landed on the employee. The employee sustained a



**California Medical Payment** 

**Learn More** 

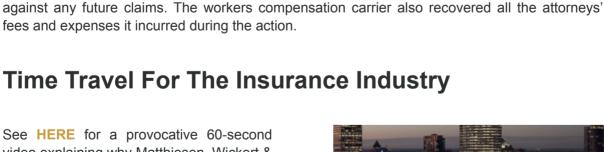
# **Learn More**

severe traumatic brain injury. Attorney Fricker worked closely with the employer and the employee's counsel to prove that the employer bore no fault for the accident. Following a trial in Dane County Circuit Court, the jury found the HVAC contractor 100% at fault for the accident and awarded \$8.8M to the employee. As a result, the

fees and expenses it incurred during the action.

See HERE for a provocative 60-second

industry, which is key to obtaining the best results.



Settlements

video explaining why Matthiesen, Wickert & Lehrer views the handling of your subrogation claims - large and small - as MATTHIESEN, WICKERT & LEHRER, S.C. 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!

workers compensation carrier will recover its entire lien and receive a multi-million-dollar cushion

#### 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

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

keep abreast of new developments and/or changes in the subrogation law for all 50 states. If you

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

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