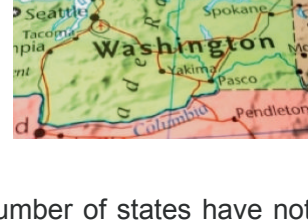


MARCH 2023 SUBROGATION NEWSLETTER

Washington Court Allows Recovery for Residual Diminished Value Following Vehicle Repairs

One by one, states have begun to recognize a vehicle owner's third-party claim for residual diminished value damage, or "stigma damage", which is the loss of value of an automobile that remains after it is completely and professionally repaired. It is the loss of value that results from the simple fact that the vehicle has been in an accident. Given two identical vehicles on a car lot, the one never damaged is preferable to the one that has been damaged and repaired, and is, therefore, worth less. But despite this, a surprising number of states have not yet decided on whether they will allow recovery of this residual damage from a third-party tortfeasor. [Read more....](#)



Total Loss Claims Skyrocket as Vehicle Technology Makes Even Slight Damage More Severe



The increase in total loss claims is playing a key role in the rise of auto insurance premiums. Together with the overall rise in the cost of doing business, labor shortages, supply chain disruption, and inflation—which are being experienced across all industries and areas of business—a sharp rise in the cost of total loss claims has become a key contributing factor in sky-rocketing auto insurance rates. And the increasing complexity of today's vehicle technology is playing a key role in the burgeoning frequency of total loss claims. This is bad news not only for the insurance industry and the declining percentage of insured drivers, but for the entire vehicle repair industry as well. [Read more....](#)

South Carolina Supreme Court Says Passenger/Employee May Not Recover UM Benefits From Driver/Co-Worker Auto Carrier

South Carolina's Exclusive Remedy Rule has prevented an employee from collecting \$350,000 in uninsured motorist benefits for injuries she sustained in an automobile accident she was in while a passenger in a vehicle owned and driven by a co-employee. Stephany Connelly and a co-worker named Freya Trezona were traveling in a vehicle owned and driven by Trezona. In a case which for the first time defines the intersection between the South Carolina uninsured motorist statute and that state's workers' compensation statute, Connelly began receiving workers' compensation benefits but also made a claim for bodily injury and UM benefits with her own insurance carrier and with Trezona's carrier. Both companies denied the claim, maintaining Connelly's sole remedy lay with the Workers' Compensation Act. Both carriers denied the claims, so Connelly filed a declaratory judgment action. [Read more....](#)



Upcoming Events & Webinars



Ethics for Adjusters in the Claims Handling Process

Join Partner, Mark Solomon, on March 15th at 11:00-12:00 PM (CST) as he teaches the basic ethics that attorneys are expected to be held to and how to apply those standards to insurance adjusters. Focus in on unfair settlement practices and the implications of failing to pursue subrogation on auto losses in Texas.

[Learn More](#)


On the Road with Autonomous Vehicles

Join Shareholder, Ashton Kirsch, on March 29-31st at the CLM Annual Conference at the JW Marriott in Tampa, Florida as he speaks on how autonomous vehicles will improve road safety and reduce injuries but how simple auto accidents will now become infinitely complex product defect cases involving possible product defects.

[Learn More](#)

MWL Welcomes Muhammad Qasim to the Firm



MWL is pleased to welcome **Muhammad Qasim** (goes by "Qasim") as a new Associate Attorney who will be joining the subrogation litigation team in our Santa Ana, California office. Qasim brings a wealth of litigation experience to our California branch office. He began his career as a litigator and an assistant to the Advocate General in his native country of Pakistan, and has most recently handled litigation with the Huntington Beach, California law firm of Osborn & Plasse, LLP. Please join us in welcoming Qasim to the MWL family!

WHEN PRODUCTS FAIL: Monthly Product Recall Updates



According to the U.S. Consumer Product Safety Commission (CPSC), defective or unsafe products cause 29.4 million injuries and 21,400 deaths every year, resulting in an estimated \$700 billion in injuries, deaths, and property damage. Every one of those claim dollars 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 claims and consultants worldwide—to assist in the recognition of subrogation potential for our 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.

Samsung Top-Load Washing Machines: The washing machines can short-circuit and overheat, posing a fire hazard.

Vanessa and Lily Pond 42-inch Fire Tables: The gas hose can come into contact with the heat shield, melting the hose and igniting the fire table, posing a fire 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 gwickert@mwllaw.com.

Verdicts and Settlements

Jim Busenlener, managing partner of MWL'S New Orleans office who is also licensed to practice law in Pennsylvania, recently settled a Pennsylvania case for \$92,500. The claimant did not file his own tort suit, Pennsylvania bars workers' compensation carriers from filing subrogation suits against third parties, and liability was questionable. Jim was able to file on behalf of the carrier in Pennsylvania by arguing that Nebraska benefits were paid and, therefore, Nebraska subrogation law controlled the carrier's right to file. Then, Jim had to obtain the claimant's consent to the settlement, per Nebraska law. Despite these obstacles, Jim was able to recover 70% of the workers' compensation benefits paid. If you have any questions regarding these types of claims, contact Jim Busenlener at jbusenlener@mwllaw.com.



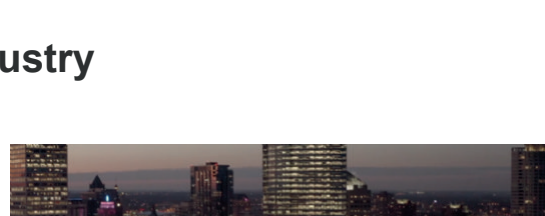
MWL Partner Eric Goelz Retires



MWL partner **Eric J. Goelz** has retired from MWL after thirty three years of practice. Eric graduated cum laude from Marquette Law School in 1989 and practiced in insurance defense litigation and subrogation in both private practice and as in house counsel. His marriage of thirty-six years has blessed him and his wife Colleen with two sons, a surgeon and a nuclear pharmacist. They are expecting their first grandchild in May who will be living just six blocks away from his or her grandparents. Eric says that he has enjoyed his time at MWL, particularly the open and supportive environment in which there was a great deal of individual responsibility coupled with extensive and comprehensive group resources. In retirement he plans to travel, enjoy being a helpful and handy grandparent as well as pursue his numerous hobbies which include home brewing, sausage making and cooking. MWL thanks Eric for all of his hard work over the years and wishes him well in this new chapter of life.

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!



MATTHIESEN, WICKERT & LEHRER, S.C.
 America's Subrogation Law Firm



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](#), [Instagram](#), [Twitter](#), 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.mwllaw.com

[View Online](#)


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