

## JUNE SUBROGATION NEWSLETTER

### Recovery of In-House Repair Costs and Loss of Use for Damage to Fleet/Commercial/Dealership Vehicles

One of the most heavily contested types of subrogation cases we encounter involves recovery of the reasonable cost of repairs performed in-house by a commercial fleet, trucking company, auto dealership, or rental car company whose vehicle has been damaged due to the negligence of a negligent third party. The liability carrier for the tortfeasor frequently balks at paying the commercial fleet owner's reasonable repair costs simply because they were able to take advantage of its own in-house employees and replacement parts rather than incurring the cost of a third-party repair shop. This article will discuss the proper standard for determining the measure of damage to a repairable fleet or commercial vehicle, especially when the commercial vehicle is repaired in-house by its owner. [Read more....](#)



### Automobile Third-Party Diminution in Value Claims



When an automobile is damaged in an accident and then repaired, the resale value may be less than a comparable automobile that has not been damaged. In other words, the damage results in a reduction or "diminution" in the resale value of the automobile. An insured's claim for this reduction in value may be made against a third party that negligently caused the damage to the insured's automobile, or it may arise from a first-party claim against the insured's own physical damage coverage. The term "diminished value" can be confusing. There are three types of diminished value: *Immediate Diminished Value*, *Inherent Diminished Value* and *Repair-Related Diminished Value*. [Read more....](#)

### Verdicts and Settlements

Springtime brings dehumidifier claim time. With recalls by Midea, Gree, and most recently New Wide Tech impacting over 5 million dehumidifiers sold over the past decade, it is inevitable claims will persist for years. However, this spring has also been one of recoveries on dehumidifier claims at MWL. In the past ~60 days, Attorney **Richard Schuster** has secured settlements, verdicts, and judgments of more than \$6,000,000 on claims involving defective dehumidifiers. No firm has done more to hold dehumidifier manufacturers accountable than MWL. Attorney Schuster, supported by a steadfast client, recently forced the public production of hundreds of thousands of documents documenting Gree's failures to timely alert the CPSC of defects and its crimes in covering up defects for the better part of a year. Their production limits the games Gree can play in discovery aimed at stalling payment of meritorious claims. If you have a dehumidifier implicated fire, please let us help you achieve the strongest recovery to which you are entitled.



### 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.

**Ski-Doo Snowmobiles:** The fuel injector hose retainer screw can loosen and cause a fuel leak, posing a fire hazard.

**Polaris 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 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@mw-law.com](mailto:gwickert@mw-law.com).

### MWL Defeats Made-Whole in Georgia!

Georgia has long been the bane of a subrogation professional's existence. The State features both an anti-subrogation law and a complete compensation ("made-whole") statute. The combination of these two laws have led many insurers to simply write off the hope of any recoveries on their subrogation claims. If you've given up all hope of recovering in Georgia, we've got good news for you! MWL has been working for a decade on developing arguments around these anti-subrogation laws for our clients. We are happy to report that this work has finally paid off. On May 11, 2023 the federal district court for the Northern District of Georgia ruled that our client, Atlantic Specialty Insurance Company's was entitled to full reimbursement of \$219,255.76 out of the plaintiff's \$500,000 settlement without regard to whether the plaintiff was made-whole. [Read more....](#)



### The Subrogation Support Network Podcast



Tune in to the latest episode on the Subrogation Support Network Podcast as **Ashton Kirsch** is joined by Valorie Steibeck, Team Manager for Inland Marine/Cargo at Crawford & Company, to discuss Cargo Claims in Subrogation. You can listen to all of the latest podcast episodes [HERE](#).

#### Host Ashton T. Kirsch

Ashton T. Kirsch is an insurance litigation attorney and shareholder with the law firm of Matthiesen, Wickert & Lehrer, S.C. Ashton has been with MWL's Hartford office since 2015, concentrating his practice on litigation of subrogation cases involving large loss casualty, commercial auto, transportation and cargo, and workers' compensation. He has built and grown the MWL commercial auto and cargo/transportation group into the thriving sector of our firm's subrogation practice.



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#### Special Guest Valorie Steinbeck

Valorie Steinbeck is a third party loss adjuster at Crawford & Company. She handles cargo and subrogation losses as well as downtime claims. Her passion is cargo claims because unrecovered claims have a direct impact on the bottom line of a company and transportation carriers need much assistance when navigating cargo losses. Valorie's focus is helping to identify innovative partners in claims processing to better serve commercial transportation and the moving of freight.



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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 Group: Subrogation Support Network

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](#), [Instagram](#), [Facebook](#), [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.

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