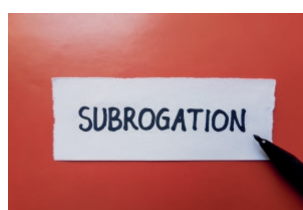


JANUARY 2025 SUBROGATION NEWSLETTER

SUBROGATING THE UNKNOWN: Undecided or Imponderable Issues Subrogation Professionals Face

One of the characteristics of multi-state or nationwide subrogation experienced by claims professionals, lawyers, and judges alike is the frequency with which we run into subrogation issues or questions which seemingly have no clear answers. Quite often we receive uneducated opinions, best advice, or likely answers to these issues, but there are no clear-cut case decisions on point and no solid precedent to guide us in dealing with these irresolute and/or nascent issues. This could be true even when there are significant amounts of subrogation dollars hanging in the balance. Built into the DNA of subrogation professionals is the notion that there is an answer to every legal and factual situation they run across—it's simply a matter of discovering it. But as the years tick by we soon realize that there are lots of situations where there simply isn't an answer and we must rely on our experience, training, and wits to craft an argument in favor of a position we must take on behalf of a subrogated insurance company. [Read more...](#)



GAPS, TRAPS, AND CAPS: The Confusing Nature of Uninsured Motorist Coverage in Oklahoma

Oklahoma's uninsured motorist (UM)/underinsured motorist (UIM) statute is found at § 3636 of the Oklahoma statutes. It mandates UM coverage in Oklahoma to protect insured persons from monetary loss due to personal injury or property damage resulting from an accident caused by another who carries no liability insurance or who is otherwise underinsured. An insured may waive this coverage in writing. There is a presumption that the owner of an automobile has recourse to some UM benefits. If a carrier does not offer UM coverage or fails to secure a written waiver from the insured, UM coverage is implied as a matter of law. So far, so good. But when you drill down deeper, and take into consideration UM and UIM subrogation, and exactly what happens when a claimant accepts less than the liability limits in settling a tort case and then wants to make a UIM claim, things become much less clear. [Read more...](#)



AVOIDING SPOILIATION WHEN CONDUCTING PROPERTY LOSS SUBROGATION INSPECTIONS: *Encompass Insurance Co. v. Norcold, Inc.*, 2025 WL 241174 (W.D. Wash. 2025)

Recognizing, investigating, and aggressively pursuing subrogation potential is a very important part of claims and subrogation professionals' day-to-day responsibilities. But doing so carelessly is not without its traps, pitfalls, and consequences. Claims handlers who also wear a subrogation hat must delicately balance the exigent need for an insured to get his burned dwelling or structure demolished and rebuilt with the obligation of investigating, protecting, and pursuing any third-party liability opportunities that may exist. It is difficult to serve both masters, but it must be done—and it must be done right.



In today's complex world of insurance, the pitfalls include subrogating in made whole jurisdictions like Washington or Montana, without properly vetting and determining whether the insured was made whole. Trial lawyers are drumming their fingers on their desks waiting for you to make that mistake. The pitfalls include failing to properly or timely investigate third-party recovery potential—failing to give proper notice to a governmental entity, overlooking contracts which contain indemnity, or angering an important insured due to the length of time it takes to get their property rebuilt and back online. [Read 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](#), [YouTube](#), and [Instagram](#) 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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