

## December 2025 Subrogation Newsletter

### Throwing Subrogation Under The Bus: The Hidden Tax of California's Senate Bill 487

California just detonated a major shift in workers' compensation subrogation—and the aftershocks will hit far beyond the insurance world. With the signing of SB 487, Governor Newsom has capped employer and insurer recoveries in peace officer and firefighter cases at just one-third of liability limits and eliminated future credits in many claims. Marketed as a benevolent boost for first responders, the bill in reality dismantles a century-old cost-control framework and hands trial lawyers one of their biggest victories in years. The economic truth is simple: when recoveries vanish, costs surge—and municipalities, carriers, and risk pools will feel the squeeze immediately.



And here's the part lawmakers didn't advertise: those rising costs don't disappear—they land squarely on California taxpayers. SB 487 threatens higher premiums, weakened underwriting assumptions, depleted public-entity reserves, and the slow unraveling of workers' compensation's delicate financial balance. If the state is willing to gut subrogation protections for an entire class of workers today, it raises a chilling question: how long before traditional workers' compensation subrogation disappears altogether?



### Oh, What A Tangled Web They Weave: When New Mexico Comp Carriers They Deceive!

New Mexico's workers' compensation subrogation scheme is a perfect storm—and trial lawyers know exactly how to exploit it. Because § 52-5-17 gives the employee alone total control over the third-party case, trial lawyers can omit medical bills and wage loss, label settlements as "non-economic only," and wipe out the carrier's lien in one stroke. Courts like Gutierrez and Hartnett have tried to rein things in, but without early subrogation involvement, the tort file is often built to be empty—and the carrier never stood a chance.

And the consequences reach far beyond any single case. When medical expenses and wage loss vanish from civil pleadings by design, the lien disappears with them—leaving employers and carriers holding the bag for losses caused by negligent third parties. Premiums rise, experience modifiers spike, and municipalities and businesses end up subsidizing windfalls for employees and discounts for tortfeasors. New Mexico's statutory structure doesn't just allow these outcomes, it practically invites them. The only defense is an aggressive offense: early monitoring, early discovery, early objections, and early pressure on plaintiff's counsel and liability carriers to acknowledge the economic reality of the injury. In New Mexico, if subrogation counsel isn't involved from day one, they're already several moves behind in a game designed to make the lien disappear.



### Aviation Losses Are Soaring. Don't Let Your Recoveries Crash

Aviation losses are skyrocketing, and with them, the subrogation challenges that insurers can't afford to ignore. From deadly international crashes to a U.S. air traffic control system pushed to the brink, the past few years have shown just how fragile global aviation safety has become. With more accidents, near-misses, and system strain, catastrophic losses are inevitable—and every one of them brings a tangle of multimillion-dollar claims, technical investigations, sovereign immunity hurdles, GARA roadblocks, and defendants ranging from manufacturers to the federal government. Aviation subrogation is where massive recovery potential meets the most hostile legal terrain in the industry.

And the work is anything but simple. FTCA administrative traps, GARA's unforgiving 18-year bar, NTSB-controlled evidence, Daubert battles, competing insurer interests, rental-pilot complications, and international treaties all create a maze that only experienced aviation subrogation counsel can navigate. The cases require deep technical expertise, early expert involvement, and relentless front-end screening to determine whether a viable path to recovery exists. However, when the facts align and the right targets survive GARA and sovereign immunity, recoveries can be substantial, justifying the time, cost, and complexity. Aviation subrogation isn't assembly-line work; it's high-stakes litigation in the most turbulent corner of the industry, rewarding only those willing to dig in and fight through the chaos.

### Fresh From the Mic: The Subrogation Support Network's Latest Episode



In this special crossover episode, host Ashton Kirsch sits down with **Jerrod Fussnecker**, Army veteran, former JAG officer, and host of the **Military Veterans in Law** podcast, for a powerful conversation about service, career transitions, and the surprising ways military experience aligns with insurance and subrogation work. They also break down what subrogation really is, why it matters, and how veterans looking for mission, teamwork, and purpose can find all three in this corner of the legal world.

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