

September 2025 Subrogation Newsletter

Vermont Finally Sets the Record Straight on Legal Malpractice Subrogation

For years, everyone from claims professionals to subrogation lawyers in Vermont has been stuck in a legal limbo: If a worker's attorney botches a third-party claim, can the worker's compensation carrier still recover benefits paid? On July 18, 2025, the Vermont Supreme Court delivered a long-awaited ruling that pierces through decades of uncertainty. The short answer: No—a carrier cannot sue on behalf of the injured worker because it lacks standing. This landmark decision rewrites subrogation strategy, reshapes expectations, and raises urgent questions about how future legal malpractice and medical malpractice claims will play out in Vermont's insurance landscape.



Nebraska Lawmakers Take on "Fair Share" Subrogation Chaos in Hopes to Bring Balance Back

Nebraska's finely tuned workers' compensation system has lately veered off course, as sweeping court decisions introduced ambiguity and unpredictability into how insurers recover benefits from third-party settlements. But now, a powerful legislative countermove is underway:

MWL drafted Bill 313 to replace the vague "fair and equitable" standard with a clear, structured formula inspired by Wisconsin law—where one-third of net proceeds go to the injured worker, the carrier recoups its payments, and any surplus reverts to the worker. Although the effort was folded into LB 455 and ultimately died before final enactment, the fight has laid the groundwork for reform, highlighting why subrogation fairness matters not just for insurers but for every business and worker in Nebraska.

Texas Supreme Court Clarifies Rules for Suing Non-Subscriber Employer

In a pivotal new decision, *In re East Texas Medical Center Athens*, the Texas Supreme Court clarified how lawsuits can proceed when an employer opts out of the state's workers' compensation system. Known as non-subscribers, these employers lose key common-law defenses such as contributory negligence, but the Court confirmed they can still use the "responsible third party" process to shift fault to others when appropriate. The ruling reshapes how liability is assigned in workplace injury suits, bringing added complexity but also greater fairness, and gives insurers, employers, and injured employees clearer guidance on navigating Texas's unique non-subscriber landscape.



Attorney Spotlight: MWL Welcomes Joseph N. Schimp!

Joseph comes to MWL with an impressive list of achievements and honors. A May 2025 graduate of Marquette University Law School, he served as Editor in Chief of the Marquette Law Review—one of the oldest and most prestigious law reviews in the country—while earning top academic distinctions and actively engaging in the law school community. At MWL, Joseph will work closely with Rich Schuster, reuniting with a former professor, as he explores a wide range of subrogation matters and charts a path to flourish. We are fortunate to welcome Joseph and look forward to clients experiencing the difference the right lawyer can make.



[Learn More About Joseph](#)

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



From the bright lights of Nevada to the cornfields of Nebraska, subrogation is getting a legislative shake-up. In this episode of the Subrogation Support Network, Ashton Kirsch and Gary Wickert break down Nevada's shift from one of the toughest states for comp subrogation to one with clearer rules, and Nebraska's court rulings that could block recovery altogether—revealing what these changes mean for claims professionals, insurers, and employers alike.

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