

OCTOBER SUBROGATION NEWSLETTER

The 2024 Fall Season for California Wildfires



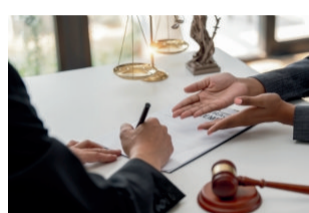
California is facing particularly severe wildfires this fall, with multiple fires raging across the state. These fires have led to widespread damage, including property loss, environmental destruction, and health hazards. On September 8, the Bridge Fire began in the Angeles National Forest. It exploded in size to over 50,000 acres, the cause of which is currently under investigation. The Line Fire began on September 5, and has been determined to be caused by arson. A suspect has recently been arrested and is currently being held without bail. That fire has burned more than 36,000 acres, threatening over 65,600 structures in its path. The Airport Fire started on September 9, and is burning in an area between Orange and Riverside Counties, having grown to over 22,000 acres in size. The Orange County Fire Authority has reported that the fire was most likely caused from government owned heavy equipment being used by road construction workers in the area. [Read more...](#)

Recovery of Increased Workers' Compensation Premiums by Employer

It is said that good judgment comes from experience, but experience comes from bad judgment. This pithy aphorism is generally true in life but is particularly true when a company sees significantly increased workers' compensation insurance premiums following a serious workers' compensation claim. The same is true even if the claim was not the employer's fault. Is it fair? Of course not, but neither is workers' compensation. Over a century ago, our society and the legislatures which reflect it determined that the risk of employee injuries and deaths should fall on the shoulders of small businesses struggling to make a profit. The great social bargain we made over 100 years ago saddles American employers with potentially unlimited strict liability exposure for medical expenses and lost wage replacement benefits when an employee is injured on the job. In exchange we gave these employers immunity from suit by the employee and granted the employer (or its workers' compensation carrier) the right to reimbursement should the employee make a large tort recovery from a tortfeasor (third party other than the employer) responsible for the injury. Sadly, we've forgotten the last half of that bargain. The trend today, unfortunately, is bad judgment shown by insurance companies and self-insured employers who do not aggressively strive to recognize and pursue third-party reimbursement for the benefits they have paid. [Read more...](#)



I SUE DEAD PEOPLE: When The Tortfeasor Dies, Your Subrogation Claim Doesn't Need to Die Also



When a person dies, including a tortfeasor, his or her estate usually passes through a legal process known as probate. In probate, a decedent's assets are inventoried, claims are valued, creditors and estate debts are paid, and any remaining property is transferred to the beneficiaries or heirs. Tort claims against the decedent are also resolved during this process, but once a debtor dies and the personal representative publishes a notice to the creditors, the creditors have a limited amount of time (varies by state) in which to file a claim against the estate or be forever barred from proceeding against the decedent's estate. Probate can take a month or two or drag on for years. As a victim of a fire caused by the decedent or as an insurer paying health or compensation benefits to someone injured by the decedent's negligence, you are a creditor of the estate. [Read more...](#)

Rotting Utility Pole Confirmed as Cause of Largest Wildfire in Texas History

A Texas House Committee confirmed last week that a rotting and decayed utility pole that broke, causing power wires to fall on dry grass in the Texas Panhandle on February 26, sparked the Smokehouse Creek Fire, the largest and costliest wildfire in Texas history, and the largest U.S. wildfire in 2024. This confirms our initial reporting on March 8, 2024 (See article [HERE](#)). Additionally, the committee announced that a paucity of air support, ineffective communication from faulty equipment and coordination among agencies exacerbated the on-the-ground efforts to contain the Smokehouse Creek Fire and others that ravaged the Panhandle earlier this year. [Read more...](#)



Verdicts and Settlements

Partner **Stephen A. Smith** recently helped a client recover over \$130,000 in a property damage case involving a leased commercial property in Minnesota. The case dealt with overlapping insurance coverage from both the landlord's and the tenant's insurers after significant damage occurred. By carefully reviewing the lease agreement and insurance policies, Stephen discovered that the tenant was required to have insurance and include the landlord as an additional insured. Using this information and relevant Minnesota laws, he argued that the tenant's insurer should contribute their share of the loss. This approach led to a successful recovery for the client, highlighting the importance of thorough legal analysis in insurance disputes.



MWL Welcomes Two New Attorneys!



Charles W. Kramer
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MWL is pleased to welcome Charles Kramer as a new Sr. Counsel Attorney in the firm's Hartford, Wisconsin office! His practice focuses on complex and large loss property, workers' compensation and insurance coverage. Charles has handled numerous subrogation, insurance defense and other cases throughout his career. The cases he argued before the Wisconsin Supreme Court (where he has a perfect record) have been subrogation cases addressing spoliation of evidence and the economic loss doctrine.

MWL is pleased to welcome Christopher Vandeventer as a new Associate Attorney in our Hartford, WI office! Chris's practice focuses on automobile, property and casualty and workers' compensation subrogation. Chris received his J.D. from Marquette University Law School in 2022, where he graduated *magna cum laude* in his class. During his time in law school, he interned for Wisconsin Supreme Court Justice Patience Roggensack and also served on the Editorial Board of the 105th Volume of the Marquette Law Review.

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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.



AirJet and HydroJet Spa Pumps:The recalled AirJet and HydroJet spa pumps can overheat causing the plastic housing to ignite, posing a fire hazard.

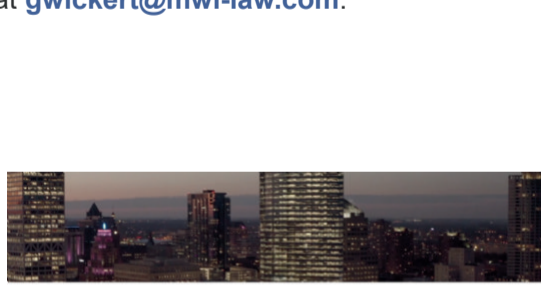
Cabinet Heaters: The crimp holding a wire in place in the cabinet heater is not properly finished and can result in the wire detaching, posing an electrocution hazard.

Model Year 2024 RANGER XD 1500 and Crew XD 1500 Recreational Off-Road Vehicles (ROVs):The winch wiring can overheat while in use, posing a fire hazard and risk of serious injury to the rider or passenger.

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.

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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