

Erisa And Health Insurance Subrogation In All 50 States 3rd Edition

Unlike most other books in the field, which slant toward either policyholder or insurer counsel, Stempel and Knutsen on Insurance Coverage takes an even-handed nonexcess and umbrella aking it useful to attorneys from all sides. Moreover, it's designed for practitioners from all professional backgrounds and insurance experience. Written in clear, jargon-free language, it covers everything from the basic insurance concepts, principles, and structure of insurance policies to today's most complex issues and disputes. The authors, Jeffrey W. Stempel and Erik S. Knutsen, are well-known authorities on the law of insurance coverage, and this new Fourth Edition of Stempel and Knutsen on Insurance Coverage is completely up-to-date on every aspect of its subject. This one-stop resource provides both a sound historical, theoretical and doctrinal grounding in insurance, as well being practice-oriented and packed with practical guidance. After providing information about insurance policies and issues in general, it focuses on specific types of policies and coverage such as property coverage, liability coverage, automobile coverage, excess and umbrella coverage, and reinsurance, plus such vital areas as employment, defective construction, and terrorism claims...Dandamp;O liability...ERISA...bad faith litigation...and much more. Plus, you'll find extensive examination of the commercial general liability (CGL) policy, the type of insurance involved in most major coverage cases. Among the most important CGL issues covered in Stempel and Knutsen on Insurance Coverage are: Pollution-related coverage Trigger of coverage Apportionment of insurer and policyholder responsibility Business risk exclusions Coverage under the andquot;personal injuryandquot; section of the CGL Coverage under andquot;advertising injuryandquot; Nowhere else will you find so much valuable current information, in-depth analysis, sharp insight, authoritative commentary, significant case law, and practical guidance on this critically important area. With its clear explanations and thorough, even-handed coverage, Stempel and Knutsen on Insurance Coverage is unlike any other resource in its field.

Workers' compensation subrogation continues to change and adapt, as trial lawyers prod its weak points and capitalize on confusing areas of the law. There have been numerous changes in workers' compensation statutes and case law in many states since the last edition. This edition includes an exhausting survey and detailed explanation of the crazy status of employer contribution in Illinois, which includes a step-by-step exposition of how contractual indemnity and the "Kotecki cap" play a role in expanded employer liability in Illinois workers' compensation subrogation cases. It covers the many nuances of Naig and Reverse-Naig settlements under Minnesota law, including an analysis of who has what burdens of proof and the effect such a settlement has on the remaining third-party case tried to a jury. In light of the landmark Missouri Court of Appeals decision in Robinson v. Hooker, the liability of co-employees in Missouri and surrounding states have been covered in greater detail. The concept of co-employee liability for acts which are intentional or committed outside of the course and scope of employment has been added in several states. New case law and explanations were added to the Texas chapter with regard to subrogating against UM/UIM policies, including arguments with regard to the efficacy of UM/UIM exclusionary policy language and the ability to subrogate against a UM/UIM policy actually issued by the same carrier insuring for workers' compensation coverage. West Virginia completely revised their subrogation statute and created a new statute relating to the "statutory employer" status of primary contractors and subcontractors on construction sites, limiting when and how primary contractors can become legitimate third parties for purposes of subrogation. Chapter 7, "Contractual Limitations to Subrogation" has been completely overhauled to include new statutes and case law for every state to assist practitioners in determining the law applicable when there is an alleged applicable waiver of subrogation which might otherwise destroy subrogation. A new Chapter 12 has been added, which focuses on jurisdiction of workers' compensation third-party actions taking a broad look at 28 U.S.C. § 1441, which prohibits removal of cases "arising under" state workers' compensation laws. A carrier now has the ability to prevent cases from being removed from favorable venues in state court to less favorable federal court venues - an attractive option for plaintiffs' attorneys with whom subrogated carriers can negotiate with for stipulations and concessions on their subrogation interests in exchange for maintaining a case in state court. This edition also expands on which states do and do not hold workers' compensation to be primary. Combined with more than 100 new case decisions, this Fifth Edition is the most complete and up-to-date edition yet. Workers' Compensation Subrogation is the most complete and thorough treatise covering workers' compensation subrogation ever published. There are very few areas in which the laws of each state vary more and are applied as differently, then in the area of workers' compensation subrogation. This book is intended to introduce the workers' compensation claims handler, in-house counsel, and subrogation professionals to some of the more esoteric and complex subrogation issues encountered in today's workers' compensation insurance subrogation marketplace. It covers the following issues in all 50 states: • Allocating Third Party Recoveries • Attorney's Fees • Borrowed Servant Doctrine • Conversion of Workers' Compensation Liens • Costs and Expenses • Dual Capacity Doctrine • Equitable Subrogation/Contribution • Exclusivity Rule Barring Action Against Employer • How To Calculate Your Credit/Advance and How It Is Applied In Each State • Intentional Acts • Joint Ventures • Made Whole Doctrine As Applied To Workers' Compensation Subrogation • Necessity of Intervention • Lien Reduction Statutes • Staff Leasing Services and Temporary Employment Agencies • Statutory Subrogation Rights • Subrogating Against UM/UIM Benefits • Subrogating In Medical Malpractice Cases • Subrogating In Legal Malpractice Cases • Waivers of Subrogation • Who Qualifies As A Third Party • Other Workers' Compensation Subrogation-Related Issues In addition to being an excellent primer on workers' compensation subrogation, suitable for both the new subrogation professional and the seasoned veteran, the book also contains a detailed synopsis of the workers' compensation subrogation laws in each of the 50 states. It is a must for anyone with multi-state subrogation responsibilities. Complete with diagrams, references and thousands of footnotes, this is the most ambitious workers' compensation subrogation project ever undertaken. The following issues and topics are covered in detail for each of the 50 states: Statutory Subrogation Rights • Identifies the statutory authority for workers' compensation subrogation in that state. • Discusses the purpose/legislative intent of the statute. • Is an election necessary by the worker? • Who can bring a third party action (plaintiff, carrier, employer, or all of the above)? • When and must a third party action be brought? • What are the rights of a carrier to intervene in an existing third party action filed by a worker? • Will a worker's compensation carrier's subrogation interest be barred if not brought timely? Third Parties • Who can be sued as third parties in a third party action? • Can a co-employee be sued and under what circumstances? • Can an uninsured/underinsured carrier be a "third party" under the laws of that state? • Is there a dual capacity or borrowed servant doctrine which somehow affects the ability of a worker's compensation carrier to effectively subrogate? • What is the state's workers' compensation bar? • Are there any specific restrictions regarding subrogation against a subcontractor or an employee of a subcontractor in a construction situation? • Under what circumstances can the employer be sued? • Can a carrier subrogate to the benefits of a recovery in a legal or medical malpractice action? Allocation of Third Party Recovery • How and when does the carrier recover its subrogated interest? • Does the carrier recover past benefits only or also the present value of future benefits which it owes under the Workers' Compensation Act of that state? • Is there a formula used to determine how a third party recovery is allocated? • What happens to the total recovery and how is it applied? • Can a carrier recover benefits paid by a third party or recovered in a third party action which relate to loss of consortium, or non-economic damages such as pain and suffering, mental anguish, or punitive damages? • Does the employer's negligence reduce the recovery by the worker or carrier? Attorneys' Fees/Costs • Can the plaintiff's attorney recover attorneys' fees and/or costs out of the carrier's subrogated recovery and under what circumstances? • How are attorneys' fees and costs handled if the carrier is also represented by subrogation counsel, intervenes into the third party action and actively represents its interest? • What if the carrier isn't represented? • Can a plaintiff's attorney recover attorneys' fees based on the value of past benefits only or will he be able to recover attorneys' fees based on the future benefits/credit recovered by the carrier? • Must a carrier bear its proportionate share of expenses as many states require, and what does that really mean? Credit/Advance • Can a carrier take a vacation from paying workers' compensation benefits once a worker makes a third party recovery? • How is the credit calculated under state law? • Does the carrier have to do anything special to obtain the credit, such as filing with the Workers' Compensation Commission? • Does the carrier get a credit toward future compensation benefits it owes or does it actually get to collect the present value of the future benefits it owes and still be obligated to pay the scheduled benefits in the future? Statutes of Limitation • What are the applicable statutes of limitation or statutes of repose that may be applicable to third party subrogation actions? Related Subrogation Issues • Are there any other issues or statutes which affect a worker's compensation carrier's right of subrogation, such as the made whole doctrine, common fund doctrine, or anti-subrogation statutes? • Are there any lien reduction statutes, such as those existing in Indiana, which affect a worker's compensation carrier's right of recovery? • Does the state have any no-fault laws which complicate workers' compensation subrogation involving an automobile accident, such as exist in Michigan and Colorado? • What are the carrier's options if the worker and his attorney simply refuse to repay a worker's compensation carrier's lien after settling a third party action? • If the worker fails to repay the carrier, is there a cause of action for conversion of a carrier's subrogation interest or may the carrier still proceed against the third party tortfeasor to recover its subrogation interest?

Fuja V. Benefit Trust Life Insurance Company

The Plaintiff's Guide to Defeating Subrogated Claims

Dissecting Health Benefits on a Company Level

Enforcing Recoupment Provisions in ERISA-covered Health and Disability Plans

Couch on Insurance 3d

The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter Rules of Professional Conduct are followed by numbered Comments that explain each Rule's purpose and provide suggestions for its practical application. The Rules will help you identify proper conduct in a variety of given situations, review those instances where discretionary action is possible, and define the nature of the relationship between you and your clients, colleagues and the courts.

The United States is unique among economically advanced nations in its reliance on employers to provide health benefits voluntarily for workers and their families. Although it is well known that this system fails to reach millions of these individuals as well as others who have no connection to the work place, the system has other weaknesses. It also has many advantages. Because most proposals for health care reform assume some continued role for employers, this book makes an important contribution by describing the strength and limitations of the current system of employment-based health benefits. It provides the data and analysis needed to understand the historical, social, and economic dynamics that have shaped present-day arrangements and outlines what might be done to overcome some of the access, value, and equity problems associated with current employer, insurer, and government policies and practices. Health insurance terminology is often perplexing, and this volume defines essential concepts clearly and carefully. Using an array of primary sources, it provides a store of information on who is covered for what services at what costs, on how programs vary by employer size and industry, and on what governments do--and do not do--to oversee employment-based health programs. A case study adapted from real organizations' experiences illustrates some of the practical challenges in designing, managing, and revising benefit programs. The sometimes unintended and unwanted consequences of employer practices for workers and health care providers are explored. Understanding the concepts of risk, biased risk selection, and risk segmentation is fundamental to sound health care reform. This volume thoroughly examines these key concepts and how they complicate efforts to achieve efficiency and equity in health coverage and health care. With health care reform at the forefront of public attention, this volume will be important to policymakers and regulators, employee benefit managers and other executives, trade associations, and decisionmakers in the health insurance industry, as well as analysts, researchers, and students of health policy.

Amicus Curiae Brief of Professors Miller and Shpiece

Health Benefits Coverage Under Federal Law--.

Letters from the Woods

New York Insurance Law (Chapter 28)

Regarding Health Insurance, Med-pay, ERISA, Medicaid, Medicare, Child Support, and Workers' Compensation

Automobile Insurance Subrogation: In All 50 States is the most thorough, comprehensive, and ambitious anthology of subrogation-related legal information and insurance resources ever put to paper. It is the last and most anticipated of the subrogation trilogy, and a book which will serve as the "bible" for any insurance company writing personal lines or commercial auto policies. It is destined to become the standard work and reference for attorneys, insurance companies, and subrogation industry professionals. Every year there are more than 7 million auto accidents in the United States with a financial toll of more than \$300 billion. Nearly 3 million people are injured and 42,636 people are killed. In the overwhelming majority of these accidents there is at least one party at fault. For virtually every one of these accidents, a policy of automobile insurance provides some sort of claim payments or benefits. In the vast majority of those claims, one or more insurance policies and/or applicable state law grants the insurer a right of subrogation against a negligent third party whose carelessness caused the accident. This book is the bible on subrogating those claims. This book covers the nuts and bolts of auto subrogation in all 50 states, covering every topic imaginable -- including PIP, Med Pay, UM/UIM, property claims, deductible reimbursement, no-fault subrogation and more. It surveys the laws of every state and provides descriptions of every type of auto coverage imaginable, as well as the statutory, case law, and regulatory authority governing every aspect of auto subrogation. If you have subrogation responsibility involving auto claims, you need this book. It universally covers issues which are indelibly interwoven into the business of auto insurance, including a complete treatment of the laws of all 50 states and the District of Columbia relating to: • *Basic and Statutory Subrogation Rights • Mandatory vs. Optional Insurance Coverage • No-Fault Laws, PIP, Mini-Torts, and Loss Transfer Laws • Tort Limitations • Medical Payments Coverage and Subrogation • Uninsured/Underinsured Motorist Coverage and Subrogation • Collision/Property Subrogation • Release of Tortfeasor by Insured • Accord and Satisfaction: Accepting Partial Payments from Tortfeasor • Made Whole Doctrine • Common Fund Doctrine • Economic Loss Doctrine • Deductible Recovery and Reimbursement • Collateral Source Rule • Contributory Negligence/Comparative Fault • Seat Belt Laws and Defenses • Rental Cars, Loaner Vehicles, and Test Drivers • Bailment/Parking Lot Liability • Negligent Entrustment • Facing Multiple Claims In Excess of Liability Policy Limits • Conflict of Laws/Interstate Subrogation • Recovery of Attorney's Fees and Costs • Statutes of Limitations It is a complete treatment -- A to Z -- of virtually every issue which the insurance claims or subrogation professional will face in the area of automobile insurance. It is like no legal treatise ever written and promises to be the most used reference in any insurance company.*

ERISA and Health Insurance Subrogation In All 50 States is the most complete and thorough treatise covering the complex subject of ERISA and health insurance subrogation ever published. NEW TO THE FIFTH EDITION! • *Updated To Include All The Newest Case Law!* • *Updated To Include Medicaid Subrogation and Preemption of FEHBA !* • *New Plan Language Recommendations!* • *Complete Health Insurance Subrogation Laws In All 50 States* • *Covers The Application of ERISA In Every Federal Circuit* The Fifth Edition of ERISA and Health Insurance Subrogation In All 50 States has been completely revised, edited, and reorganized. This was partly to reflect the new direction recent case decisions have taken regarding health insurance subrogation as well as the crystallization of formerly uncertain and nebulous areas of the law which have now received some clarity. An entirely new chapter entitled, "What Constitutes Other Appropriate Equitable Relief?" has been added and replaces the old Chapter 9, which merely dealt with Knudson and Sereboff. The new edition introduces new state court decisions addressing the issue of causation and whether and when a subrogated Plan seeking reimbursement must prove that the medical benefits it seeks to recover were causally related to the original negligence of the tortfeasor. An entirely new section was added concerning the subrogation and reimbursement rights of Medicare Advantage Plans, a statutorily-authorized Plan which provides the same benefits an individual is entitled to recover under Medicare. This includes recent case law which detrimentally affects the rights of such Plans to subrogate. Also added to the new edition is additional law and explanation regarding Medicaid subrogation, including the differentiation between "cost avoidance" and "pay and chase" when it comes to procedures for paying Medicaid claims. Significant improvements have been made to suggested Plan language which maximizes a Plan's subrogation and reimbursement rights. The suggested language stems from recent decisions and developments in ERISA and health insurance subrogation from around the country since the last edition. The new edition has been completely reworked both in substance and organization. Recent case law has necessitated consolidation of several portions of the book and elimination or editing of others. A new section entitled "Liability of Plaintiff's Counsel" has been added, which provides a clearer exposition on the laws applicable and remedies available when plaintiff's attorneys and Plan beneficiaries settle their third-party cases and fail to reimburse the Plan. Also new to the book are recently-passed anti-subrogation measures such as Louisiana's Senate Bill 169, § 1881, which states that no health insurer shall seek reimbursement from automobile Med Pay coverage without first obtaining the written consent of the insured. The new edition also goes into much greater detail on the procedures for and law underlying the practice of removal of cases from state court to federal court, and the possibility of remand back to state court. This includes the Federal Courts Jurisdiction and Venue Clarification Act of 2011, effective Jan. 6, 2012, which amended federal removal, venue, and citizenship determination statutes in very significant ways. The new edition also delves into, for the first time, the role which the federal Anti-Injunction Act plays when beneficiaries sue in state court to enforce the terms of an ERISA Plan, while the Plan files suit in federal court seeking an injunction against the state court action. New case law and discussion on preemption of FEHBA subrogation and reimbursement claims have been added to Chapter 10 in the wake of new decisions regarding same.

Workers' Compensation Subrogation In All 50 States - Fifth Edition

Pomeroy's Equity Jurisprudence and Equitable Remedies: A treatise on equitable remedies

Yerkovich v. AAA, 461 MICH 732 (2000)

Forensics of a Medical Plan

New Jersey Insurance Litigation

The Patient Protection and Affordable Care Act (ACA) was designed to increase health insurance quality and affordability, lower the uninsured rate by expanding insurance coverage, and reduce the costs of healthcare overall. Along with sweeping change came sweeping criticisms and issues. This book explores the pros and cons of the Affordable Care Act, and explains who benefits from the ACA. Readers will learn how the economy is affected by the ACA, and the impact of the ACA rollout.

112891

West's federal supplement. [First Series.]

a guide to federal and state regulation

Plaintiff-Appellee's Response Brief on Appeal

Martz V. Union Labor Life Insurance Company

ERISA and Health Insurance Subrogation in all 50 States - 5th EditionJuris Publishing, Inc.

Negotiating With Insurance Companies gives you an insider's edge in dealing with insurance adjusters. Packed with proven, practical advice, this book will help you establish coverage and liability, and present a compelling damages case.

Utah Auto Law

Index

ERISA Survey of Federal Circuits

NEPCO Employee Mutual Benefit Association, Inc. V. Allstate Insurance Company

Appendix - Appellees Michigan United Food and Commercial Workers Unions and Food Employers Health and Welfare Fund and Mary Jean Yerkovich

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA). This brief guide explains Section 1557 in more detail and what your practice needs to do to meet the requirements of this federal law. Includes sample notices of nondiscrimination, as well as taglines translated for the top 15 languages by state.

Utah Auto Law is the first and only comprehensive treatise on Utah's law of auto insurance and accident liability, covering every aspect involved in the settlement of an auto personal injury claim. Not only does this treatise discuss in great and meticulous detail the core legal issues of auto accident law (e.g., insurance coverage, bad faith, damages, traffic law); it also discusses in similar detail tangential issues (e.g., negligent entrustment, subrogation, exclusive remedy) that can arise in some cases. Utah Auto Law provides for both plaintiff and defense perspectives, and is designed to serve attorneys, judges, and claims adjusters. With its detailed table of contents and concise text, this single-volume treatise is as handy as it thorough -- readers will find it indispensable in both the office and the courtroom.

Economic Analysis of Accident Law

Health Cost Controls V. Skinner

Section 1557 of the Affordable Care Act

Health Care Benefits Law

Cutting V. Jerome Foods, Inc

"Hurley offers insights on life, faith and family as revealed in the wilderness experience. Traveling all over North America by canoe between 1995 and 2003, often with his young children in tow, Hurley reflects on his experiences in intimate, thought provoking vignettes."--Page 4 of cover.

This book is intended to be a practical guide for plaintiff attorneys. There is an enormous amount of literature and legal texts examining the nuances of healthcare reimbursement and subrogation law, especially in the context of the Employee Retirement Income and Security Act (ERISA). However, for purposes of a practicing attorney, tasked with determining when to pay a healthcare plan - and when not to pay ? a summary of the issues may be more helpful. This is a brief text which is intended to provide a quick reference and practical guide for plaintiff's attorneys and their staff.

The Consolidated Omnibus Budget Reconciliation Act

Negotiating With Insurance Companies

Automobile Insurance Subrogation in All 50 States - Second Edition

Brief on Appeal - Appellant AAA

ERISA Subrogation

This latest edition of LexisNexis New York Insurance Law is a complete unannotated text of New York Insurance Law (Chapter 28 of the Consolidated Laws). Published annually, this is the reference every New York insurance law practitioner needs at their side.

Accident law, if properly designed, is capable of reducing the incidence of mishaps by making people act more cautiously. Scholarly writing on this branch of law traditionally has been concerned with examining the law for consistency with felt notions of right and duty.

Since the 1960s, however, a group of legal scholars and economists have focused on identifying the effects of accident law on people's behavior. Steven Shavell's book is the definitive synthesis of research to date in this new field.

ERISA and Health Insurance Subrogation in all 50 States - 5th Edition

The Affordable Care Act

Healthcare Lien Resolution: A 5-Step Approach

Employment and Health Benefits

An Employee's Guide to Health Benefits Under COBRA