

# SUBROGATION NEWSLETTER

JUNE 2012



*In this issue of our subrogation newsletter, we will examine some interesting decisions involving subrogation cases from the Texas Supreme Court and Courts of Appeals. Our office handles workers' compensation and property subrogation for our clients, and would enjoy working with you on your subrogation claims. Please give us a call. We will be happy to answer any questions you may have involving subrogation or any other workers' compensation matter.*

## ***Texas Health Insurance Risk Pool v. Sigmundik, 315 S.W.3d 12 (Tex. 2010).***

Thomas Sigmundik was injured in an oilfield explosion, suffered severe injuries from the explosion, and died after spending 52 days in the hospital. Texas Health Insurance Risk Pool (Risk Pool) paid \$336,874.71 in medical expenses resulting from the accident. After his death, Mr. Sigmundik's wife filed a negligence lawsuit, and the lawsuit settled for \$800,000.00. The Risk Pool intervened and sought reimbursement of \$336,874.71 based on a subrogation provision in the Sigmundik health-insurance policy. A bench trial was held, and the trial court awarded the entire settlement to the Sigmundik family and did not award any of the settlement funds to the Risk Pool, although the Risk Pool had rights to subrogation under the health-insurance policy. The trial court stated that the Sigmundik family was not "made whole" (fully compensated) by the settlement, and so awarded all of the money to the family.

After appeal to the court of appeals and Texas Supreme Court, the Texas Supreme Court held that the "made whole" doctrine did not apply and that the trial court was wrong in cutting the health insurer out of a settlement. The Supreme Court found in favor of the Risk Pool because the "made whole" doctrine did not apply when "the parties' agreed contract provides a clear and specific right of subrogation." The Supreme Court sent the case back to the trial court to determine how the settlement funds should be divided.

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***Leyva v. Ace American Insurance Company, 330 S.W.3d 6 (Tex. App. – El Paso 2010).***



Margarita Leyva was working for a temporary services company when she was assigned to work at a client company. She fell while working for the client company and filed a lawsuit against the client company. The workers' compensation carrier paid the claimant workers' compensation benefits and had a subrogation interest. The claimant filed a bad faith lawsuit against the workers' compensation carrier, claiming that the comp carrier did not "provide information for the claim as required by the Texas Workers' Compensation Act and Rules." After reviewing the Act and the Rules, the court of appeals concluded that the comp carrier did not commit bad faith because there's no law that requires the comp carrier to provide claim information regarding its subrogation interests.

***Reliance Insurance Company v. Hibdon, 333 S.W.3d 364 (Tex.App. – Houston 2011).***

After the comp carrier(s) paid medical and indemnity benefits to an injured employee, the comp carrier(s) were reimbursed all the money they paid out to the injured employee. The comp carrier(s) still pursued subrogation against defendant Hibdon, but the court of appeals denied their claims for further reimbursement because they had been paid in full already.



**QUESTIONS? COMMENTS?** Have questions or comments about any of the stories in the newsletter or general questions about a workers' compensation matter? Drop us a line at [questions@rickygreen.com](mailto:questions@rickygreen.com), or give us a call at (512) 280-0055. We look forward to handling all of your workers' compensation needs.

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