

# SUBROGATION & LIENS Personal Injury Cases

UT LAW CLE

THE UNIVERSITY OF TEXAS

TEXASLAW

2020

## CAR CRASH SEMINAR

August 27–28, 2020

 Live Webcast

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Before handing over your client's money to health plans and hospitals ...  
learn the rules.



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## Rule 1. Read.



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## Rule 2. What kind of interest or lien asserted?

Subrogation vs Reimbursement vs Assignment

Case law: "no meaningful difference between the two." *Wausau v Wedel* TxSCt 06 08 2018. BUT:

BAM! Blue, Aldous and Malouf & \$114M jm for Hill.  
*Aldous v Darwin Nat'l Assurance Co* 5<sup>th</sup> Cir, 03/16/17:

"Darwin, get off your Nat'l Ass and sue the third party, because your subro interest vs 3<sup>rd</sup> party is not a right of reimb against your own insured."

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- **Rule 3. Who is the Plaintiff in relationship to the subrogation interest or lien asserted?**



child



Employee participant; or  
injured spouse; or  
derivative claimant



Wrongful death or estate

Start early. Be consistent. Be strategic.

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## Ch. 140 Civil Prac. & Rem. Code

For **insured** health, disability, occ injury; & **self-funded** state & local gov't plans (not self funded ERISA)

**Not** w/c, not M/Care, not M/Caid (see separate rules)

1/3 1/3 1/3 of 3<sup>rd</sup> party recovery if not enough \$

No subrogation to PIP

No subrogation to UM/UIM if ptf or family purchased it

No subro to children's or w/d recoveries (but yes to parents' and estate's recoveries)



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Title search: Subrogation and Liens

Also available as part of the eCourse

[Answer Bar: Taking on the Car Crash Client](#)

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2020 Car Crash Seminar session

"Subrogation and Liens"