The Connecticut Supreme Court Permits a Workers’ Compensation Insurer to Sue Third Parties for Reimbursement

by Terence J. Brunau

In a decision to be officially released on September 27, 2016, the Connecticut Supreme Court holds that a workers’ compensation insurer can maintain an equitable subrogation claim against third-party tortfeasors to recover benefits it has paid on behalf of a policyholder employer to an injured employee. Equitable subrogation is a cause of action that allows an insurance company that has made a payment to its insured to step into the shoes of its insured and sue the responsible third party.

In Pacific Insurance Co. Ltd. v. Champion Steel LLC, an employee of Reliable Welding, LLC, was working at a construction site in 2011 when the retractable lifeline he was wearing failed, causing him to fall and sustain injuries. Reliable’s insurer, Pacific Insurance, paid workers’ compensation benefits to the employee. In 2013, Pacific Insurance brought an action against several parties that had also worked on the construction project, alleging that their negligence in failing to provide an adequate fall arrest system caused the injuries to Reliable’s employee. The trial court had concluded that Pacific Insurance lacked standing to bring the action, whether under the Workers’ Compensation Act or the common law doctrine of equitable subrogation, and dismissed the claim. The Supreme Court reversed.

The Court noted that it has long recognized an insurer’s broad common-law right to bring a subrogation action when it has paid its insured for a loss caused by a third-party. Finding nothing in the Workers’ Compensation Act that has abrogated that right to subrogation, the Court concluded that it was appropriate to allow workers’ compensation insurers to assert equitable subrogation claims. The Court reasoned that subrogation in the workers’ compensation context is consistent with public policy goals, including containing the costs of workers’ compensation insurance and preventing the unjust enrichment of third-party tortfeasors that may otherwise escape liability.

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