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What is a Waiver of Subrogation?

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Often when one party (A) requests another party (B) to name it as an additional insured, it may also request the other party to grant a **Waiver of Subrogation** to it.

What is the purpose of the Waiver of Subrogation? In short it protects A from B's insurance company attempting to get the A to reimburse B's insurance company for losses it has paid out on behalf of A's liability due to the fact A was an Additional Insured on B's policy.

Example: B is a Sub-Contractor working with A, a General Contractor(GC). The GC asks the Sub-Contractor to place a Waiver of Subrogation on Sub-Contractor's General Liability, Commercial Auto and WC policies. Sub-Contractor requests their carrier to grant this and it is approved.

Meanwhile, on the jobsite, a GC employee drops a tool while on the second level and it falls and strikes the Sub-Contractor employee on the head. The Sub-Contractor employee is rushed to the hospital for a head injury. The Sub-Contractor's WC policy responds by paying for the medical bills and lost wages of the injured employee.

Under normal circumstances the Sub-Contractor's WC carrier would then pursue the GC's General Liability policy for reimbursement of the \$185,000. This process is referred to as Subrogation.



Because Sub-Contractor agreed to have a Waiver of Subrogation added to their policies, the WC carrier, in this case, **may not pursue** reimbursement. Therefore the GC's insurance program is spared having to pay for what one of the GC's employees did to the Sub-Contractor's employee and the Sub-Contractor's carrier is saddled with the loss.

The GC's loss runs stay clean while the Sub-Contractor's WC loss runs retain the loss. So Sub-Contractor will have to pay increased premiums for 3 years due to the loss while the GC has the benefit of a loss free track record.

A Waiver of Subrogation is a powerful tool for those requesting it and represents additional risk for those granting it.

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