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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