

Subrogation and Contribution

Subrogation is a fundamental principle in insurance law that allows an insurer to step into the shoes of the insured after the insurer has paid a loss. By exercising subrogation, the insurer acquires the right to pursue any third party who may be responsible for the loss, thereby recovering the amount it has disbursed. This doctrine serves two primary purposes: It prevents the insured from receiving a double recovery (from the insurer and the responsible third party) and it helps to keep insurance premiums at a reasonable level by shifting the cost of loss back to the party at fault.

Insured refers to the person or entity that holds an insurance policy and is protected against specified risks. The insured may be an individual, a corporation, a vessel owner, or any party named in the policy. When a loss occurs, the insured files a claim with the insurer, who then evaluates the claim and, if it is covered, pays the indemnity.

Indemnity is the compensation paid by the insurer to the insured for a loss that falls within the scope of the policy. Indemnity is typically measured by the amount of the loss, subject to policy limits, deductibles, and any applicable sublimits. The principle of indemnity is designed to restore the insured to the financial position they occupied before the loss, without providing a profit.

Loss in the context of insurance is any damage, injury, or liability that triggers coverage under the policy. Losses can be physical (such as damage to a ship's hull), financial (such as loss of cargo value), or legal (such as liability for third-party injuries). For subrogation purposes, the loss must be quantifiable and must have been compensated by the insurer.

Third-party is any person or entity other than the insured and the insurer who may bear responsibility for the loss. In maritime contexts, third parties often include port authorities, cargo owners, charterers, salvage operators, or other vessels whose actions contributed to the incident.

Rights of subrogation are the legal entitlements that the insurer acquires after paying the claim. These rights typically include the ability to sue, to recover from the third party, and to enforce any security interests or liens that the insured held against the third party. The insurer may also be entitled to any proceeds from a settlement or judgment obtained by the insured.

Assignment of claim is a mechanism by which the insured transfers its rights against the third party to the insurer. While subrogation can arise automatically by operation of law, many policies contain explicit subrogation clauses that require the insured to assign its rights to the insurer. Assignment is usually a contractual arrangement and may be subject to statutory limitations.

Waiver of subrogation is a clause in an insurance contract where the insurer agrees to forgo its subrogation rights, typically in exchange for a lower premium or as part of a broader risk-management agreement. Waivers are common in commercial contracts, joint-venture agreements, and shipbuilding contracts, where

parties wish to avoid potential disputes over who bears the cost of loss.

Contribution is a related doctrine that comes into play when more than one insurer is liable for the same loss. Under contribution, each insurer who is liable for part of the loss may seek to have the other insurers share the burden proportionally. Contribution ensures that the insured does not receive more than the total loss amount and that each insurer pays its fair share.

Co-insurance is a contractual arrangement in which two or more insurers agree to share the risk of a single policy. Co-insurance can be structured as a proportionate share (each insurer bears a percentage of the loss) or as a non-proportionate arrangement where one insurer may be primary and the others secondary. Contribution applies when the loss exceeds the primary insurer's limit or when the primary insurer refuses to pay.

Primary insurer is the insurer that has the first responsibility to pay a loss under the terms of the policy. In many maritime contracts, the hull insurer is the primary insurer for damage to the vessel, while the cargo insurer may be primary for loss of cargo. The primary insurer's obligation is often limited by policy limits and deductibles.

Secondary insurer is an insurer that steps in after the primary insurer's limits have been exhausted or after the primary insurer has declined to pay. Secondary insurers may also be called excess insurers. Their liability is usually subject to the same terms as the primary policy, but they are only called upon when the primary coverage is insufficient.

Excess is the amount that must be satisfied by the primary insurer before the secondary insurer becomes liable. Excess can be expressed as a monetary amount (e.g., \$100,000) Or as a percentage of the loss. The excess is not a deductible payable by the insured; rather, it is a threshold that determines when the secondary insurer's coverage is triggered.

Policy limit is the maximum amount that an insurer will pay for a particular loss under a given policy. For hull insurance, the limit may be the agreed value of the vessel; for cargo insurance, it may be the total value of the cargo. When a loss exceeds the policy limit, the insurer is not obligated to pay beyond that ceiling, and contribution or excess policies may be engaged.

Deductible (or retention) is the portion of the loss that the insured must absorb before the insurer's liability begins. Deductibles are a risk-management tool that encourages the insured to take preventive measures and reduces the frequency of small claims. Deductibles affect the calculation of subrogation and contribution because they are subtracted from the loss before any insurer's payment is determined.

Proximate cause is the legal concept that identifies the primary cause of the loss. In insurance, a claim is payable only if the proximate cause is a covered peril. When multiple causes are present, the doctrine of proximate cause helps determine whether the loss is within the scope of the policy and therefore whether subrogation rights can be triggered.

Negligence is a failure to exercise reasonable care, resulting in damage or injury to another party. In maritime law, negligence can arise from the actions of ship owners, captains, crew, or third parties such as

port operators. When a loss is caused by negligence, the negligent party may be liable for the loss, and the insurer may pursue subrogation to recover the amount it paid.

Strict liability is a legal standard that imposes liability regardless of fault. Certain maritime activities, such as the operation of a vessel in navigable waters, may attract strict liability for damages caused by the vessel. In such cases, the insurer's subrogation claim may focus on the strict-liability principle rather than proving negligence.

Marine insurance is a specialized branch of insurance law that covers ships, cargo, freight, and related maritime risks. Marine insurance policies often contain unique clauses, such as "all risks" coverage, "constructive total loss," and "general average," each of which has implications for subrogation and contribution.

All risks clause is a provision that provides coverage for any loss unless it is expressly excluded. This broad coverage expands the insurer's right to subrogate because the insurer can assert that any third party who contributed to the loss is potentially liable.

General average is a principle of maritime law that requires all parties with a financial interest in a sea venture to proportionally share the costs of sacrificing part of the cargo or vessel to save the whole. The costs incurred under general average are recoverable from all interested parties, and insurers often pay their share and then seek contribution from other insurers or the shipowner.

Constructive total loss occurs when the cost of repairing a damaged vessel exceeds its insured value, or when the vessel is abandoned because it cannot be recovered. In such cases, the insurer may declare a total loss and pay the insured the agreed value. The insurer may then pursue subrogation against any responsible third parties, such as a salvage operator who caused the damage.

Salvage is the act of rescuing a ship or cargo from peril. Salvage operators are entitled to a reward based on the value of the property saved. However, if a salvage operation results in additional loss, the insurer may have subrogation rights against the salvors.

Collision liability arises when a vessel collides with another vessel or a fixed object, causing damage. Maritime collision rules allocate fault and liability based on factors such as breach of navigation rules, speed, and watchkeeping. The insurer of the damaged vessel may pursue subrogation against the at-fault vessel's insurer.

Charter party is a contract between a shipowner and a charterer that outlines the terms of the vessel's use. Charter parties often contain clauses allocating risk, such as "freight prepaid" or "freight collect," and may include provisions that affect subrogation, such as "hold harmless" clauses that waive the shipowner's right to sue third parties.

Hold harmless clause is a contractual provision whereby one party agrees to assume responsibility for certain losses, protecting the other party from liability. In maritime contracts, a hold-harmless clause may limit the insurer's ability to pursue subrogation against the party that has been indemnified.

Indemnity clause is a contractual provision that obligates one party to compensate the other for losses arising from specified events. Indemnity clauses are common in shipbuilding contracts, charter parties, and cargo agreements. They can intersect with subrogation when the indemnifying party's obligations overlap with the insurer's right to recover from a third party.

Reinsurance is the practice whereby an insurer transfers a portion of its risk to another insurer (the reinsurer). Reinsurance arrangements often involve "quota share" or "excess of loss" treaties. When a primary insurer pays a claim, it may seek contribution or subrogation from its reinsurer, depending on the terms of the reinsurance contract.

Quota share treaty is a form of reinsurance where the reinsurer assumes a fixed percentage of each risk and receives the same percentage of premiums. In the event of a loss, the primary insurer and reinsurer share the loss proportionally. Contribution mechanisms are built into quota-share arrangements.

Excess of loss treaty is a reinsurance agreement where the reinsurer covers losses that exceed a specified amount (the "attachment point"). The primary insurer retains losses up to the attachment point, and the reinsurer pays the excess. The reinsurer's right to contribution may be triggered if multiple excess-of-loss treaties are in place.

Loss adjusting is the process of investigating, evaluating, and quantifying a loss to determine the insurer's liability. Loss adjusters collect evidence, assess damage, and calculate the indemnity payable. Their reports are crucial when the insurer prepares a subrogation claim, as they document the cause and extent of loss.

Proof of loss is a formal statement submitted by the insured that details the amount of the loss and the circumstances surrounding it. The proof of loss is required for the insurer to pay the claim and to establish the basis for any subsequent subrogation action.

Assignment clause is a provision in the insurance contract that requires the insured to assign any rights it may have against third parties to the insurer after a loss has been paid. This clause streamlines the insurer's ability to pursue subrogation without needing the insured's separate consent.

Legal subrogation is the statutory or common-law right of the insurer to step into the shoes of the insured. Legal subrogation may arise automatically upon payment of the claim, even if the policy does not contain an explicit subrogation clause. However, the insurer must still comply with any statutory limitations on the exercise of that right.

Equitable subrogation is a doctrine based on fairness, allowing an insurer to acquire the insured's rights even when legal subrogation is unavailable. Equitable subrogation may be invoked when the insured has transferred its rights to the insurer by contract or when the insurer has acted in reliance on the insured's representations.

Statutory limitation refers to a law that imposes a time limit within which a subrogation claim must be filed. In many jurisdictions, the insurer must bring a subrogation action within a specified number of years after the loss or after the insurer's payment. Failure to comply can result in a loss of subrogation rights.

Notice of claim is a formal communication sent by the insurer to a potential third-party defendant, informing them of the claim and the insurer's intention to pursue recovery. Proper notice is often required by contract or statute to preserve subrogation rights.

Counter-claim is a claim filed by the third party against the insurer in response to the insurer's subrogation suit. The counter-claim may allege that the loss was not caused by the third party, that the insurer's claim is barred, or that the insurer is liable for additional damages.

Set-off is a legal principle allowing the insurer to deduct any amounts owed by the third party to the insured from the amount the insurer seeks to recover. For example, if the third party owes the insured \$50,000 for unpaid freight, the insurer may set-off that amount against the subrogation recovery.

Contribution clause in an insurance contract specifies the circumstances under which an insurer will seek contribution from other insurers. The clause may define the method of calculation, the order of contribution (primary, secondary, excess), and any procedural requirements.

Pro rata contribution is a method of allocating loss among multiple insurers based on each insurer's share of the risk or premium. Under pro rata contribution, each insurer pays a proportionate amount of the loss relative to its participation in the policy.

Non-pro rata contribution is a method where the contribution is not based on the proportion of risk but on other agreed-upon criteria, such as the order of policies, the limits of each policy, or contractual stipulations.

Order of contribution determines which insurer pays first and which insurers are called upon later. The order may be established by the terms of the policies (e.g., Primary versus excess), by the chronological order of policies, or by statutory rules.

Joint and several liability is a legal doctrine that makes each party liable for the entire amount of a loss, regardless of their individual share of fault. In maritime cases, joint and several liability can arise when multiple parties are found responsible for a collision or environmental damage. Insurers may seek contribution from each other or from the responsible parties.

Apportionment is the process of dividing a loss among several parties based on their degree of fault. Apportionment is often required when the parties share liability and the insurer wishes to recover only the portion attributable to the third party.

Fault allocation is the determination of each party's percentage of responsibility for a loss. Fault allocation is central to contribution and subrogation because it influences the amount recoverable from each responsible party.

Marine salvage law governs the rights and obligations of salvors, shipowners, and insurers when a vessel or cargo is rescued. The law includes concepts such as "salvage award," "contract salvage," and "tort salvage," each of which may affect the insurer's subrogation rights.

Salvage award is the monetary compensation granted to a salvager for services rendered. The award is usually calculated as a percentage of the value of the property saved. If the insurer has paid the insured for loss, the insurer may be entitled to a portion of the salvage award through subrogation.

Contract salvage arises when parties enter into a salvage contract before the rescue operation. The contract may specify the terms of payment and the rights of the parties, including any subrogation provisions.

Tort salvage occurs when a salvager acts without a contract but is still entitled to a reward for preventing loss. The insurer's subrogation claim may target the tort salvager if the salvager's actions caused additional loss.

Marine pollution liability is the legal responsibility for environmental damage caused by oil spills or hazardous substances. Many jurisdictions impose strict liability on vessel owners and operators. Insurance policies covering pollution liability may include subrogation clauses that allow the insurer to recover from parties who contributed to the spill, such as a faulty pipeline or a negligent port authority.

Pollution insurance provides coverage for clean-up costs, third-party damages, and legal expenses arising from marine pollution. The insurer may pursue subrogation against manufacturers of faulty equipment, contractors, or any party whose negligence contributed to the incident.

Hull insurance covers physical damage to a vessel's structure, machinery, and equipment. Hull insurers often have extensive subrogation rights because many hull losses are caused by third parties, such as collisions, grounding, or fire caused by nearby vessels.

Cargo insurance protects the cargo owner against loss or damage to goods in transit. Cargo insurers may subrogate against parties responsible for the loss, such as the shipowner, the charterer, or the port operator. When cargo loss is caused by multiple parties, contribution among insurers may be necessary.

Freight insurance covers loss of freight revenue due to the inability to deliver cargo. Freight insurers may have subrogation rights against parties who caused the non-delivery, such as a shipowner that failed to provide a seaworthy vessel.

War risk insurance provides coverage for loss caused by acts of war, terrorism, or civil unrest. War risk policies often contain specific subrogation provisions because the causes of loss are complex and may involve multiple state actors.

Marine indemnity is a broader term that encompasses all forms of insurance protecting maritime interests, including hull, cargo, protection and indemnity (P&I), and freight. Subrogation and contribution principles apply across the spectrum of marine indemnity.

Protection and indemnity (P&I) insurance is a type of liability coverage for shipowners, covering third-party claims for bodily injury, property damage, pollution, and other maritime liabilities. P&I insurers frequently exercise subrogation to recover from parties whose negligence caused the loss, such as a faulty crane at a dock.

Loss of hire is an indemnity for the income a shipowner loses when a vessel is out of service due to damage. The insurer may subrogate against the party responsible for the damage to recover the loss of hire payments made to the insured.

General average contribution is the share of the general average loss that each interested party must pay. Insurers that have compensated their insureds for the general average contribution may seek reimbursement from other insurers through contribution.

Seaworthiness is the standard that a vessel must meet to be fit for its intended voyage. Failure to maintain seaworthiness can be a breach of contract, leading to liability and subrogation claims. Insurers may subrogate against shipbuilders, repair yards, or equipment manufacturers if lack of seaworthiness caused the loss.

Surveyor is a professional who inspects a vessel, cargo, or damage to assess condition and estimate repair costs. Surveyor reports are often used as evidence in subrogation and contribution disputes, establishing the cause of loss and the extent of damage.

Marine loss is any loss that occurs in the maritime environment, including physical damage, environmental damage, and liability. The definition of marine loss is critical for determining the applicability of subrogation and contribution doctrines.

Loss allocation refers to the method by which a loss is divided among various parties, insurers, or claims. Effective loss allocation requires understanding the underlying policies, contractual provisions, and legal principles governing subrogation and contribution.

Policyholder is synonymous with insured, but the term emphasizes the relationship to the insurance contract rather than the broader legal rights. The policyholder's rights may be transferred to the insurer through subrogation.

Legal capacity is the ability of a party to enter into a binding contract. In the context of subrogation, the insurer must have legal capacity to enforce the rights it has acquired from the insured.

Equitable remedy is a court-ordered action that compels a party to act in fairness, such as an injunction or specific performance. Subrogation may be enforced through equitable remedies when monetary damages are insufficient.

Remedy is the legal means of enforcing a right or redressing a wrong. In subrogation, the remedy is typically monetary recovery from the responsible third party.

Contract of insurance is the legal agreement between insurer and insured that defines the scope of coverage, premiums, conditions, and rights, including subrogation and contribution provisions.

Doctrine of subrogation is the overarching legal principle that allows an insurer to assume the insured's rights after indemnification. The doctrine is rooted in both contract law (the insurance contract) and tort law (the right to sue a third party).

Doctrine of contribution is the principle that obliges multiple insurers who are jointly liable to share the loss proportionally. The doctrine prevents the insured from receiving a double recovery and promotes fairness among insurers.

Contractual subrogation arises when the insurance policy explicitly grants the insurer the right to subrogate. Most modern policies contain a subrogation clause that is enforceable as a contractual term.

Statutory subrogation is a right created by legislation, often to protect public policy or to ensure that insurers can recover from third parties. Some jurisdictions codify subrogation rights, providing clear procedural rules.

Limitation period is the time frame within which a subrogation claim must be filed. The limitation period may differ from the limitation period for the insured's original claim against the third party.

Notice of subrogation is a formal notice sent by the insurer to the third party, informing them that the insurer has assumed the insured's rights and intends to pursue recovery. Proper notice is often required to preserve the insurer's right to recover.

Third-party beneficiary is a person who, although not a party to the insurance contract, benefits from its performance. In subrogation, the insurer becomes a third-party beneficiary of the insured's rights against the responsible party.

Assignment of benefits is the transfer of the insured's right to receive insurance proceeds to another party, typically the insurer. This assignment facilitates subrogation by giving the insurer direct control over the claim.

Reinsurance recoveries are payments made by reinsurers to primary insurers for losses covered under reinsurance contracts. The primary insurer may seek contribution from the reinsurer if multiple reinsurance treaties are triggered.

Loss mitigation is the set of actions taken to reduce the severity or frequency of loss. Insurers may require the insured to engage in loss mitigation as a condition of coverage, which can affect subrogation rights if the insured fails to mitigate.

Risk allocation is the process of assigning risk among parties through contracts, insurance, and other mechanisms. Subrogation and contribution are tools that help allocate risk after a loss has occurred.

Joint venture is a collaborative business arrangement where two or more parties share risks, profits, and losses. Joint-venture agreements often include subrogation waivers and contribution clauses to manage post-loss liabilities.

Indemnitor is a party who promises to indemnify another party. In a maritime contract, a charterer may act as an indemnitor to the shipowner, and the insurer may subrogate against the indemnitor for losses paid.

Indemnitee is the party who receives indemnification. The indemnitee may be the shipowner, cargo owner, or any party protected by the contract. The insurer steps into the indemnitee's shoes when it pays the claim.

Loss causation is the analysis of how a loss occurred, identifying the chain of events that led to the damage. Accurate loss causation is essential for both subrogation and contribution claims.

Legal causation is the cause-in-fact and proximate cause required to establish liability. Courts examine whether the loss would have occurred “but for” the third party’s actions and whether the loss was a foreseeable result.

Foreseeability is a test used to determine proximate cause. If the damage was a foreseeable consequence of the third party’s act, the insurer may have a stronger subrogation claim.

Damages are the monetary compensation awarded for loss, injury, or breach of contract. In subrogation, the insurer seeks damages equal to the indemnity it paid, plus any additional costs incurred in pursuing the third party.

Compensatory damages are intended to make the injured party whole. The insurer’s subrogation claim is typically limited to compensatory damages that the insured would have received from the third party.

Punitive damages are awarded to punish especially reckless conduct. Generally, insurers cannot recover punitive damages through subrogation unless the policy expressly provides for such recovery.

Legal costs are expenses incurred in the course of litigation, including attorney fees, court fees, and expert witness fees. Some subrogation clauses allow the insurer to recover its legal costs from the third party.

Expense recovery is the right to recover costs associated with the claim, such as loss adjusting fees, investigation costs, and court expenses. The insurer may seek expense recovery as part of the subrogation judgment.

Excess loss reinsurance is a form of reinsurance where the reinsurer covers losses that exceed a specified amount. The primary insurer may pursue contribution from multiple excess loss treaties to spread the liability.

Pro rata share is the proportion of loss each insurer pays based on its participation in the risk. Pro rata sharing is a common method of contribution in quota-share reinsurance arrangements.

Non-pro rata excess is a contribution method where the excess insurer pays only after the primary insurer’s limit is exhausted, regardless of the proportion of risk retained.

Loss reserve is an accounting estimate of the amount the insurer expects to pay for outstanding claims. The reserve may be adjusted when the insurer recovers subrogation proceeds, reducing the net loss.

Net loss is the loss amount after deducting any subrogation recoveries, contribution payments, and other offsets. The net loss reflects the true financial impact on the insurer.

Reinsurance treaty is a formal agreement between a ceding insurer and a reinsurer that outlines the terms of risk transfer, including limits, premiums, and contribution provisions.

Retroactive date is a date in a claims-made policy after which any loss must occur for coverage to apply. The retroactive date can affect subrogation because the insurer may only have rights to recover for losses occurring after that date.

Claims-made policy provides coverage when a claim is made, regardless of when the loss occurred, as long as the loss is after the retroactive date. Subrogation rights in claims-made policies may be limited to the period of coverage.

Occurrence policy provides coverage for losses that occur during the policy period, even if the claim is made later. Subrogation rights under occurrence policies are generally broader because the insurer's liability is tied to the occurrence date.

Maritime liens are privileged claims against a vessel for services rendered or damages caused. Maritime liens can be enforced in admiralty courts, and insurers may assert subrogation rights against lienholders who caused the loss.

Ship mortgage is a security interest in a vessel granted to a lender. The mortgagee may have priority over other claimants, affecting the insurer's ability to recover through subrogation.

Priority of claims determines the order in which creditors and claimants are paid from the assets of the vessel or insurer. Subrogation claims must respect the established priority hierarchy in maritime law.

Admiralty jurisdiction is the legal authority of courts to hear maritime cases. Subrogation and contribution disputes involving ships are often litigated in admiralty courts, which apply specialized maritime doctrines.

Choice of law is the determination of which jurisdiction's law governs a contract or dispute. In international maritime contracts, the parties may select a governing law that influences subrogation and contribution outcomes.

Forum selection clause specifies the court or arbitration venue where disputes will be resolved. A well-drafted forum clause can streamline subrogation proceedings by designating a favorable jurisdiction.

Arbitration clause requires parties to resolve disputes through arbitration rather than litigation. Many maritime contracts include arbitration clauses, and subrogation claims may be subject to arbitration under those provisions.

Arbitration award is the decision rendered by an arbitrator. An insurer may enforce an arbitration award against a third party to recover subrogation amounts.

International Convention on Maritime Liens and Mortgages (MLC) establishes uniform rules for maritime liens, mortgages, and related rights. The convention may affect the insurer's ability to enforce subrogation against lienholders.

International Convention for the Safety of Life at Sea (SOLAS) sets safety standards for ships. Failure to comply with SOLAS can be evidence of negligence, supporting an insurer's subrogation claim.

International Convention on Civil Liability for Oil Pollution Damage (CLC) imposes strict liability on shipowners for oil pollution. Insurers covering oil pollution liability may subrogate against parties whose negligence contributed to the spill.

Marine salvage convention provides a uniform framework for salvage operations and awards. The convention influences the calculation of salvage awards, which may be part of the insurer's subrogation recovery.

General average bond is a guarantee that the shipowner will pay the general average contribution. Insurers may require the bond as security before advancing indemnity, and they may subrogate against the bond issuer if the contribution is not paid.

Shipowner's liability is the legal responsibility of the shipowner for damage caused by the vessel. The shipowner's liability may be covered by hull insurance, P&I insurance, or both, each with distinct subrogation rights.

Charterer's liability arises from the charterer's obligations under the charter party, such as providing a seaworthy vessel or paying freight. When a charterer's breach causes loss, the insurer may subrogate against the charterer.

Freight forwarder's liability is the responsibility of a freight forwarder for loss or damage to cargo in its care. Cargo insurers may subrogate against freight forwarders who are at fault.

Port authority liability can arise when port facilities or operations cause damage to vessels or cargo. Insurers may pursue subrogation against a port authority for losses resulting from faulty infrastructure or negligent operations.

Shipyards liability relates to defects or errors made during construction, repair, or conversion of a vessel. Hull insurers often subrogate against shipyards when a construction defect leads to a loss.

Equipment manufacturer liability is the responsibility of manufacturers for faulty equipment that causes loss. Insurers may subrogate against manufacturers for defective engines, navigation systems, or safety equipment.

Insurance fraud is the intentional deception to obtain unwarranted insurance benefits. Fraudulent claims can nullify subrogation rights, as the insurer may be barred from recovery if the loss was caused by the insured's fraud.

Bad faith refers to the insurer's unreasonable refusal to settle a claim. While bad-faith claims are generally brought by the insured, they can affect subrogation if the insurer's conduct prevents timely recovery from a third party.

Collateral is an asset pledged to secure a debt or obligation. In subrogation, a third party may offer collateral to satisfy the insurer's claim, especially when the third party lacks sufficient liquid assets.

Security interest is a legal claim on property used as collateral. Insurers may acquire a security interest in the

insured's claim against a third party, providing priority in repayment.

Equitable lien is a non-statutory lien imposed by a court to secure a claim. An insurer may obtain an equitable lien on the proceeds of a third-party settlement to ensure payment of its subrogation recovery.

Set-off and netting are mechanisms that allow parties to offset mutual obligations. Insurers and third parties may agree to net their respective claims, simplifying the settlement process.

Settlement negotiation is the process of reaching a mutually acceptable agreement without trial. Insurers often prefer settlement to avoid costly litigation, and settlement discussions may involve contribution and subrogation considerations.

Litigation strategy outlines the plan for pursuing a subrogation claim in court, including choice of forum, evidence gathering, expert testimony, and anticipated defenses.

Expert witness is a specialist who provides opinion evidence on technical matters, such as ship construction, cargo handling, or marine salvage. Expert testimony is crucial in establishing causation and fault in subrogation cases.

Damages quantification is the process of calculating the monetary value of loss, including repair costs, loss of use, and consequential losses. Accurate quantification underpins successful subrogation and contribution claims.

Proof of causation is the evidentiary burden to show that the third party's conduct caused the loss. Insurers must demonstrate a direct link between the third party's act and the damage for subrogation to succeed.

Defence of contributory negligence is a claim that the insured's own negligence contributed to the loss, reducing the third party's liability. The insurer may have to account for contributory negligence when recovering through subrogation.

Comparative negligence allocates fault percentages between parties and reduces the recoverable amount by the insured's share of fault. Subrogation recoveries are adjusted accordingly.

Mitigation of damages obliges the injured party to take reasonable steps to reduce the loss. Insurers must show that the insured acted prudently; failure to mitigate may limit subrogation recoveries.

Joint charterers are multiple parties who share a charter agreement. Joint charterers may be jointly and severally liable for losses, and insurers may pursue contribution among the charterers' insurers.

Multiple losses occur when a single incident causes several distinct losses, each covered by different policies. Coordination of subrogation and contribution across multiple policies is essential to avoid double recovery.

Loss stacking is the practice of adding together multiple losses that stem from the same cause. Stacking can be limited by policy language, and insurers must be careful not to exceed the total loss when pursuing subrogation.

Policy stacking is the aggregation of coverage from multiple policies covering the same risk. Many policies contain anti-stacking clauses to prevent the insured from receiving more than the actual loss.

Anti-stacking clause is a provision that prohibits the insured from using multiple policies to receive duplicate compensation for the same loss. The clause may affect the insurer's ability to claim contribution from other insurers.

Loss of profit is an indemnity for the earnings that would have been generated had the loss not occurred. Insurers may subrogate against third parties for loss of profit if it is covered under the policy.

Business interruption insurance provides coverage for lost income due to a covered event that halts operations. Subrogation in business interruption claims may target parties responsible for the interruption, such as utility providers.

Marine liability insurance covers a shipowner's legal liability for third-party claims. The insurer may subrogate against parties whose negligence caused the liability, such as a faulty navigation system.

Under-insurance occurs when the insured's coverage limits are insufficient to cover the full loss. In under-insurance situations, the insurer may seek contribution from other insurers or from the insured's assets.

Over-insurance is the situation where coverage exceeds the value of the risk. Over-insurance can lead to moral hazard, but it does not affect subrogation rights directly.

Policy exclusion is a provision that eliminates coverage for certain perils or circumstances. Exclusions determine whether the insurer has a duty to pay and consequently whether subrogation rights arise.

Insurable interest is the legal right to insure a property or risk. The insured must have a financial stake in the subject matter; otherwise, the policy may be void, and subrogation rights will not arise.

Loss prevention is the set of measures taken to avoid loss before it occurs. Effective loss prevention reduces the frequency of claims, thereby limiting the need for subrogation.

Risk management is the systematic identification, assessment, and mitigation of risks. Subrogation and contribution are components of a broader risk-management strategy, allowing insurers to recover losses from responsible parties.