



PA Supreme Court Slams The Door Shut On Direct Lawsuits By Workers' Compensation Insurers

The Pennsylvania Supreme Court's decision in *Chen v. Kamara* (Hartford Ins. Grp. on Behalf of Chen v. Kamara, No. 24 EAP 2017, 2018 WL 6070474, Pa. Nov. 21, 2018), closed the door for workers' compensation insurance carriers to file direct subrogation actions against liable third parties, regardless of how the complaint is captioned. The Court held that the carrier's subrogation rights against a third-party tortfeasor remain "in the injured employee" unless the injured employee "assigns her cause of action or voluntarily joins the litigation as a party plaintiff." *Chen* makes it clear that, in Pennsylvania, even a straightforward liability case with straightforward subrogation potential *must* be run through the injured worker. The Court did leave the door open for insurance carriers to potentially pursue a direct claim under an assignment of rights. Unfortunately, the Court did not clarify how or why this is a viable option, so any pursuit under an assignment of rights is likely to be challenged.

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