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The Court of Appeal authorizes an insurer to institute a subrogatory recourse as a preventive measure

June 1, 2009

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On May 14, 2009, the Court of Appeal put an end to a controversy in the case law on the interpretation by Article 216 C.C.P. concerning the procedural means available to the insurer to protect its subrogation rights.

The Court considered the following question: “Can an insurer, who is being sued by its insured for refusing to pay the indemnity, force the intervention of a third party who is potentially liable for the loss?”

After thoroughly reviewing the controversial case law on the issue, the Court answered the question in the affirmative, and allowed the insurer to implead the potentially liable third party in the litigation between the insurer and its insured.

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