

CASTEN & PEARCE NEWS

On June 24, 2014, Theodore J. Casten was invited to join the prestigious Claims and Litigation Management Alliance. The CLM is a nonpartisan alliance comprised of thousands of insurance companies, corporations, Corporate Counsel, Litigation and Risk Managers, claims professionals and attorneys. Through education and collaboration the organization's goals are to create a common interest in the representation by firms of companies, and to promote and further the highest standards of litigation management in pursuit of client defense. Selected attorneys and law firms are extended membership by invitation only based on nominations from CLM Fellows. For more information on the Claims and Litigation Management Alliance, click [here](#).

In May 2014, Theodore J. Casten was appointed by Louisiana Commissioner of Insurance Jim Donelon to the Louisiana Surplus Lines Advisory Council. For more information on the Louisiana Surplus Lines Association, click [here](#).

The Second Circuit Court of Appeal recently upheld the granting of a Motion for Summary Judgment filed by Casten & Pearce. The case involved a plaintiff who slipped and fell in the parking lot of a gas station. The Court found that plaintiff had offered no proof regarding whether the gas station or its employees knew or should have known about the oil slick in the parking lot. The Second Circuit upheld the trial court's decision to dismiss all defendants from the case based on the successful arguments of attorney Marshall Pearce. The complete opinion can be found [here](#).

In a medical malpractice case in which our firm represented the State of Louisiana, a Medical Review Panel found that the State breached a standard of care. A mediation was scheduled to try to resolve the case so as to minimize the exposure of the State. This case involved personal injuries to the plaintiff which required a second back surgery, and a considerable amount of related medical expenses. At the mediation, Claude Bookter took a strong position concerning the causation of some of the plaintiff's damages and argued that they were attributable to pre-existing problems rather than the malpractice. He also successfully reduced related medical expenses. The final settlement reached at the end of mediation saved the State over \$500,000.00. These are the type of results you can expect from our firm and its excellent attorneys, like Claude Bookter.

On December 12, 2013, D. Brennan Hussey obtained a 9 to 3 jury verdict in favor of his client, LSU Health Sciences Center. After a four day trial, beginning on December 9, 2013, Mr. Hussey successfully convinced the jury that LSU-HSC had not breached the standard of care owed to the plaintiff. He conducted both direct and cross-examination of ten witnesses and successfully used demonstrative aids to enhance the testimony elicited. He was able to prevent the application of an "adverse presumption" which would have been unfavorable to his client. His dedication and hard work demonstrate the high level of commitment at Casten & Pearce, APLC.

In May 2013, Judge Roy Brun in the First Judicial District Court for Caddo Parish denied expert status to Mr. Charles Jackson, physical therapist, finding that his office was nothing more than a "litigation mill." Judge Brun further found plaintiff's testimony regarding his injuries to be disingenuous and denied liability. See the full transcript of the judge's ruling [here](#). This case is an excellent example of the importance of having a highly skilled, devoted attorney like Ted Casten on your side!

Judge Scott Crichton of the First Judicial District Court recently opined that "low level laser" treatment performed by a chiropractor on plaintiff was not sufficiently peer reviewed so as to be deemed "medically necessary" and would be excluded from plaintiff's award. He further reduced the award of chiropractic fees by 25% finding that plaintiff did not show that all of the treatment rendered was "reasonable, necessary and causally related to the accident." Judge Crichton specifically noted that Ted Casten, attorney for the defense, put on a "well-articulated" defense regarding the chiropractic treatment and billing practices. See the full Opinion [here](#).

Pursuant to LSA-C.C.P. art. 4843(G), the jurisdictional limit in Shreveport City Court has been raised to \$35,000, effective August 2013.

The United States District Court for the Eastern District of Louisiana recently granted a Motion for Summary Judgment regarding bad faith claims when an insurer had undertaken a timely investigation which revealed multiple inconsistencies, eventually resulting in the denial of the claim. In the same opinion, the Eastern District denied expert status to Robert Painter, an alleged “auto theft expert, forensic locksmith expert and vehicle fire expert,” regarding his testimony as a “vehicle fire expert.” They further prohibited his testimony to the extent that it did not provide any affirmative conclusions regarding the theft and his assertions were “speculative theories.” See the full text of the Order [here](#).

An Ethics Advisory Opinion in Louisiana recently found that court reporter contracting is prohibited under Louisiana law. The Opinion clearly provides, based on LSA-C.C.P. art. 1434, that a court report may not simultaneously be an employee of the party litigant retaining their services. Thus, court reporters are not permitted to contract with an entity that has a contractual relationship with a party litigant, nor can they contract with the party directly. See the complete Opinion [here](#).