

LOCAL SERVICE LOCAL VALUES

THE INDEPENDENT INSURANCE AGENTS AND BROKERS OF LOUISIANA MATTER TO US.

That's why Imperial PFS®, the leading source of funding for the IIABL membership, has been located in Louisiana for more than 30 years. In addition to a strong local presence, we shape our business around the things that will benefit you the most - Service, Technology, Reliability, and Affordability.

Our stable and experienced team finds creative solutions to help address your needs and grow you books of business. For more information on how Imperial PFS® can help you, contact:

Jamie Renton | 504.616.4931 | jamie.renton@ipfs.com Lyle LeJeune | 504.228.6152 | lyle.lejeune@ipfs.com Baylie Babin | 504.228.7160 | baylie.babin@ipfs.com



Visit us online at **ipfs.com**, download our mobile app, or call **800.838.2350**

IIABL STAFF

Jeff Albright
Chief Executive Officer
jalbright@iiabl.com

Francine Berendson

Director of Communications & Events fberendson@iiabl.com

Karen Kuylen Director of Accounting kkuylen@iiabl.com

Rhonda Martinez, CIC Director of Insurance rmartinez@iiabl.com

Jamie Newchurch Insurance Services jnewchurch@iiabl.com

Lisa Young-Crooks Executive Assistant Iyoung@iiabl.com

In this issue:

IIABL Top 10 Legislative Bills	- 4-6
ACORD & IIABA Announce Partnership	- 8-9
Agency Nation and TrustedChoice.com	- 10-11
Changes In Producer of Record	- 12-13
Member Benefits: Frequently Requested Statutes	- 13
Cyber 2.0	- 14-16
IIABL Fights United Healthcare Net Commission Plan	- 17-18
New IIABL Consumer Website	- 19-21
Sell More Business w/Trusted Choice Resources	- 21
Supreme Court Rules on WC Collateral Source	- 22-28
Calendar	- 29
Beginning Point of the Budget	- 30-31
Password Management Solution	- 32-34
Insurance is Not a Commodity	- 34-35
Rate & Rule Filing	- 36-37
IIABL Partners	- 39
IIABL Board	- 40

117th IIABL CONVENTION



ITABL Top 10 Bills of the 2019 Legislative Session

		I
<u>HB 51</u>	Huval, Mike(R)	Provides relative to the admissibility of evidence for failure to wear a safety belt.
		This important common-sense auto/tort reform passed the House 86-7 but was killed by the Senate Judiciary A Committee.
		Bill History: 05-07-19 Senate Deferred in Committee Senate Judiciary A
<u>HB 213</u>	<u>Huval, Mike(R)</u>	Provides relative to expedited jury trials.
		Several states have expedited 6-person jury trials with the approval of both parties. The House failed to pass.
		Bill History: 04-25-19 House Failed to pass (Vote: Y: 40/N: 45)
HB 229	Huval, Mike(R)	Provides with respect to the use of a wireless telecommunications device while operating a motor vehicle.
		Distracted driving is a major problem for highway safety and auto insurance rates. Legislators just don't have the political will to tell citizens to put their phones down while driving. The bill is stuck on the House calendar.
		Bill History: 05-23-19 House Returned to the calendar - subject to call
<u>HB 371</u>	Talbot, Kirk(R)	Establishes an independent dispute resolution process for certain out-of-network health benefit claims.
		This effort to solve the problem of health insurance balance billing met strong opposition and did not get out of the House Insurance Committee.
		Bill History: 05-01-19 House Deferred in Committee House Insurance
HB 372	Talbot, Kirk(R)	Enacts the Omnibus Premium Reduction Act of 2019 relative to automobile insurance.
		The most important bill of the 2019 Legislative Session passed the House 69-30 but was killed in the Senate Judiciary Committee
		Bill History: 05-14-19 Senate Involuntarily Deferred Senate Judiciary A

<u>SB 75</u>	Lambert(R)	Provides for changes in the producer of record upon written request of the policyholder or first named insured. IIABL strongly opposed SB 75 changes to the producer of record statute. Thank you to Commissioner Donelon for not moving the bill forward. Bill History: 03-26-19 Senate Referred to Senate Committee or Senate Insurance	
SB 89	Luneau(D)	Prohibits insurance providers from using credit reports and gender as basis for rate setting. IABL and others in the insurance industry strongly opposed SB 89 and were able to kill the bill in the Senate Insurance Committee. Bill History: 05-01-19 Senate Involuntarily Deferred Senate Insurance	

Continued page 6

DISCOVER WHAT MAKES US DIFFERENT. Experience. Knowledge. Performance.



Access Home Insurance Company is a privately owned, admitted insurance company. It was founded in 2011 by insurance professionals with over 100 years of combined experience in property and casualty insurance. The company is based in Baton Rouge.

Access Home distinguishes itself from other carriers by offering innovative residential insurance options. Unlike most carriers, Access Home makes coverage possible for homes with the following characteristics*: homeowners with any dog breed (including pit bulls), saddle animals, exotic pets, homes with trampolines, pools with diving boards or slides, and unfenced pools, hot tubs or bodies of water on the premises. Furthermore, porches or decks without handrails are now eligible*; entrances with 3 or more steps without handrails are now eligible*; and Central A/C is no longer required. We will cover homes on up to 15 acres and we aren't daunted by homeowners with up to a 90 day lapse in coverage, either.

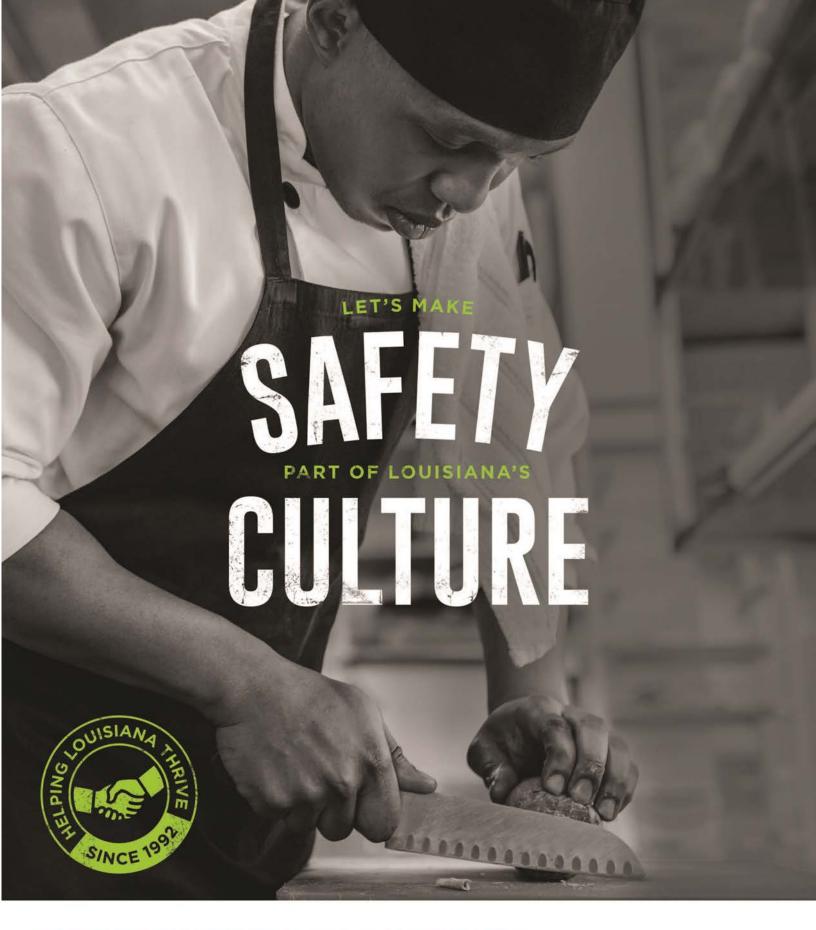
*Excludes liability coverage associated with these features.



1-888-671-AHIC(2442) www.accesshomeinsurance.com



<u>SB 148</u>	Hewitt(R)	Provides relative to safety belts.			
		SB 148 would have repealed the "seat belt gag rule" and would allow judges and juries to consider the failure of the plaintiff to wear their seatbelt. Once again, the Senate Judiciary killed this good bill. Bill History: 05-07-19 Senate Deferred in Committee Senate Judiciary A			
<u>SB 212</u>	Appel(R)	Requires insurers to report certain commercial vehicle information.			
		SB 212 was amended in the House Insurance Committee, inserting the language from Rep. Kirk Talbot's, R-River Ridge, Omnibus Premium Reduction Act, HB 372. The amended bill would reduce the jury trial threshold to \$5,000, limit direct action against insurers, repeal the collateral source rule, extend the prescription period for delictual actions from one-year to two-years, and require mandatory LDI rate reviews for three-years to make sure that cost savings to insurers are passed on to consumers as rate reductions. Bill History: 05-22-19 House Returned to the calendar - subject to call			
SCR 37	Long(R)	Requests the Louisiana Supreme Court and the Louisiana State Bar Association review rules governing solicitation advertising by attorneys.			
		Attorney advertising is out of control. SCR 37 requests the Louisiana Supreme Court and the Louisiana State Bar Association to review their rules for attorney advertising. The bill has received widespread support in the legislature and is waiting on final passage on the House floor.			
		Bill History: 05-20-19 House Passed to third reading			



IN THE LAST DECADE, LOUISIANA HAS MADE GREAT STRIDES TO BECOME ONE OF THE SAFEST STATES TO WORK IN THE U.S. And through a strong safety culture and strategic approach to planning, LWCC is making it a point to continue this trend. Learn how LWCC goes beyond providing workers' comp coverage—with online safety training, on-site evaluations and more—by contacting an agent at LWCC.com.



ACORD and The Big "I" Announce Partnership To Develop Digital Standards In Support Of Independent Agent Community

Industry organizations to extend ongoing collaboration in order to effectively meet the needs of agencies for efficient next-generation data exchange

ACORD, the global standards-setting body for the insurance industry, today announced that it will be aligning its efforts to develop new Digital Standards for efficient data exchange with members of the independent agent distribution channel via a partnership with the Agents Council for Technology (ACT).

The ACORD Digital Standards will complement existing ACORD standardized forms and electronic messages, enabling streamlined data exchange capabilities which are

optimized not only for mobile devices, but also the "Internet of Things," distributed ledger technology, and other emerging technologies. ACT, a Big "I" program, will provide an additional forum for independent agents and other ACT members to participate in the development of the ACORD Standards.

"ACORD and ACT have always shared the mission of facilitating fast, accurate data exchange for insurance agencies and their business partners,"





said ACORD CEO Bill Pieroni. "Agents are a critical link in the insurance value chain, and bring a unique perspective to our standards development process. With ACT as the voice of the agent community, we will be able to more effectively meet the needs of the industry."

In addition to contributing to the development of ACORD Standards, ACT will collaborate with ACORD on education and advocacy on behalf of the agent community. ACORD will offer discounted registration to independent agents at its annual conference, ACORD Connect, taking place October 29th-30th in Boston.

"We recognize the critical need for our independent agents, insurance

companies, and technology vendors to provide guidance on needed standards changes as technology evolves," said Big "I" President and CEO Bob Rusbuldt. "Having an additional platform for submission of Standards Enhancements requests is one way ACT can help amplify the voice of IA stakeholders."

Malou August (SVP of Standards & Membership, ACORD) and Ron Berg (Executive Director, ACT) will be presenting more details on this collaboration and the standards development process at the ACT meeting to be held May 20th-21stin conjunction with Accelerate 2019 in Cincinnati.



PROFESSIONAL COVERAGE IS OUR MIDDLE NAME.

Only Burns & Wilcox has the depth and breadth of experience to deliver the right solutions right away.



burnsandwilcox.com

New Orleans, Louisiana | 504.838.9941 toll free 800.442.8621 fax 504.834.3615

Baton Rouge, Louisiana | 225.295.7588 toll free 866.710.5484 | fax 225.295.3150

Monroe, Louisiana | 318.807.6028 fax 225.295.3150



Commercial | Professional | Personal | Brokerage |

Binding | Risk Management Services

Agency Nation and TrustedChoice.com

As we reflect on a successful Elevate Conference, we are gratified that so many old and new friends chose to take time out of their busy schedule to spend a few days with us in New Orleans.

It was an information-filled for all. From general sessions featuring nationally known speakers to the break-out sessions led by agents providing creative and unique marketing insights, good tips and tricks were flowing. In addition, the trade show was filled with information sharing, and people learning about new solutions to the insurance puzzle.

Trusted Choice was the lead sponsor of Elevate, which makes sense because both Agency Nation and Trusted Choice focus on helping insurance agents remain competitive

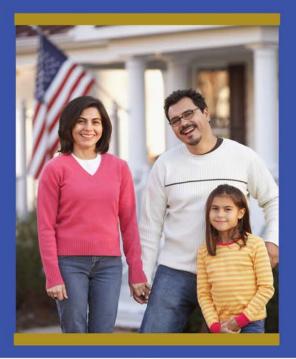
as the insurance environment evolves. As natural as that relationship is, how the organizations work together can still be confusing.

Different Approaches, Same Goals

Both Trusted Choice and Agency Nation help independent insurance agencies attract and write new business with innovative marketing. The ways they do this however are different.

The short hand we use to describe the difference is Do-It-Yourself vs. Done-For-You marketing.

As evidenced by Elevate, Agency Nation helps agencies learn how to effectively





We know you have a lot of choices when selecting a trusted partner for your customer, we are committed to Louisiana, our agents and our customers. We want your first choice to be MAISON!

Products: Manufactured Home , Homeowners, Dwelling Fire, & Flood

Licensed to write property insurance in Louisiana, Texas and Florida

Prompt professional 24/7 claims service

Established in 2012 & domiciled in Baton Rouge, Louisiana

Managed by a trusted team of Insurance Professionals



844.9.MAISON (844.962.4766) (A) maisonins.com



market themselves and their producers. Whether that is via social media, or using video to spice up marketing and sales proposals, the experts at Agency Nation help an agency's staff get the job done right.

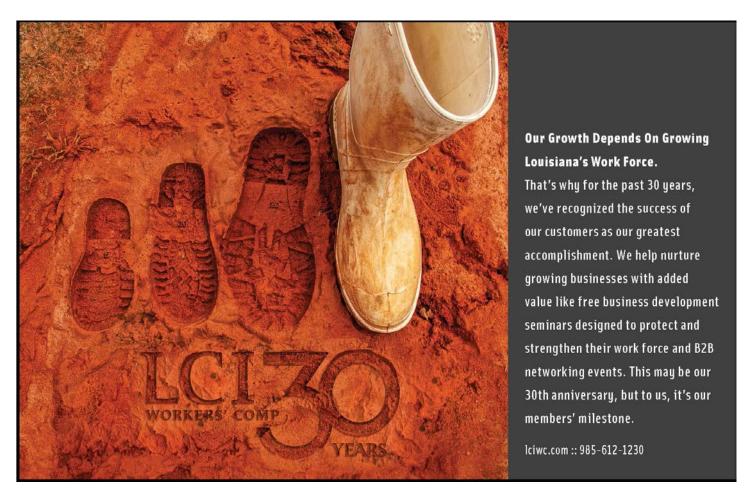
They do this by informing agents via written and video blog posts, and short focused educational 'sprints' that impart timely marketing techniques. Any agency that is serious about marketing should have one or more employees who participate both in the educational offerings and in the Agency Nation community. The value of conversation between peers across the country is unparalleled.

On the other hand, participation in <u>Trust-edChoice.com</u> allows your agency to leverage the efforts of trained marketing professionals while you focus on running the agency.

Although every member of the Big I has a basic listing on the Trusted Choice website, paid listings provide your agency with the ability to differentiate your agency from others in your area.

With an Advantage subscription, your listing is prominently featured on the site, but only when you want to market to that specific prospect. You also market to a larger area, and can have your customers provide ratings and reviews for your agency and personnel.

With all of these benefits, shouldn't you consider an Advantage subscription today? Please call us at 855-372-0075 to discuss your options.



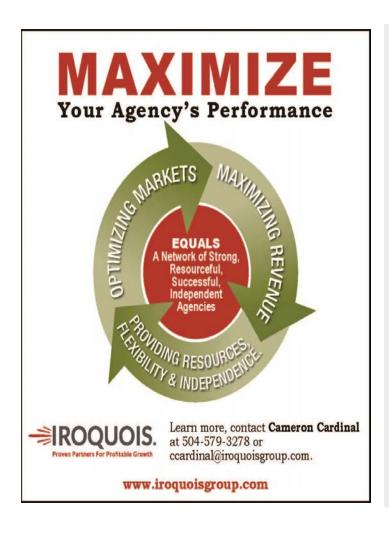
Changes In Producer of Record

IIABL receives more inquiries about the Producer of Record statute than any other topic. The Producer of Record Statute can be found <u>HERE</u>.

One frequently asked question by both producers and insurers is, "Does the new producer of record have the right to the applications and other records of the previous producer of record?"

The statute specifically provides that the new producer of record must submit new applications, as provided for in R.S. 22: 1564.B.(1)(b):

(b) If the insurer receives a producer of record letter for an application, the insurer shall provide the new producer of record with a <u>quotation or proposal based on new</u> applications submitted by the new producer of record regardless of any other outstanding quotations or proposals. If the quotation or proposal is accepted by the insured, the insurer shall issue the policy with the designated producer of record. If the insurer receives a written request by the insured to change the producer of record on an application, the insurer shall give the initial producer of record written notice ten calendar days in advance





of the change or removal. If the insurer receives a request to change a producer of record on an application within ten calendar days of the policy inception, the insurer shall provide the required ten- calendar day notice; however, any required change of producer shall be effective on the inception date of the policy.

The original applications and records submitted by the original producer of record are the work product of that agency. A competing producer of record has no rights to that work product.

In addition, from an E&O loss control / best agency practices standpoint, a new producer of record should not rely on the work of a previous agency. The new producer of record should gather information, evaluate the risk and make coverage recommendations based on their own professional skills and standards. Blindly accepting a policy on a producer of record letter without evaluating the risks and coverages exposes the agency to potential E&O loss if the previous agency did not properly underwrite the account.



ADVOCACY

Frequently Requested Statutes

When you login to the IIABL website you have access to member only content. One of the benefits of membership is the section on our website for Louisiana statutes.

Subjects covered include:

- Automobile Cancellations
- Automobile: Consideration of Nonfault Incidents Prohibited
- Cancellation by Insured & by insurer
- Claims
- Commercial Insurance:

Cancellation & Nonrenewal

Rate Deregulation

Premium Increase Notice Required

- Homeowner: Cancellation & Non renewal
- Producer of Record
- Rate Approval
- Workers Comp

These are just a few of the areas covered in this comprehensive reference section. Additionally, you can download the seminar manual on Frequently Louisiana. Requested Statutes.

Take Advantage of your Association Membership!

Cyber 2.0 Lightning Learning Wrap-up

Independent agents have a twofold concern about cyber risk and security: their own and their clients'. To assist with this, ACT has produced a three-part Lightning Learning series, Cyber Challenges and IAs," that familiarizes viewers with the threats and solutions.

In Session 1, we learn important facts about the origination of cyber threats. Initially, the biggest companies worldwide were targeted for privacy breaches and data theft, but as these enterprises got smarter and more hackers turned their sights to smaller businesses. With limited budgets, these smaller organizations often don't have the capability to keep up with software enhancements and other security measures needed to make systems safe from increasingly sophisticated bad actors.

While the financial services industry comprises only about 7.25% of the total number of data records stolen or lost to cybercriminals, there were almost six million records exposed from independent agencies in 2017. The costs of responding to and rectifying such losses typically run between \$84,000 and \$148,000 per attack and have, in some cases, reached nearly \$700,000. In about 60% of cases, a small-business victim of a cyber incursion folds within six months of the attack.

Session 2 builds on this theme, pointing to the additional costs of penalties and the mandatory actions agencies and other companies must take to comply with various state and federal laws. The Gramm-Leach-Bliley Act remains in force nationwide and

Continued page 15





Boat, Motorcycle and RV coverages are powerful tools that help with customer acquisition and retention. To learn why Progressive is a leading underwriter of recreational products in the nation, or to become a Progressive appointed agent, visit **ProgressiveAgent.com**.

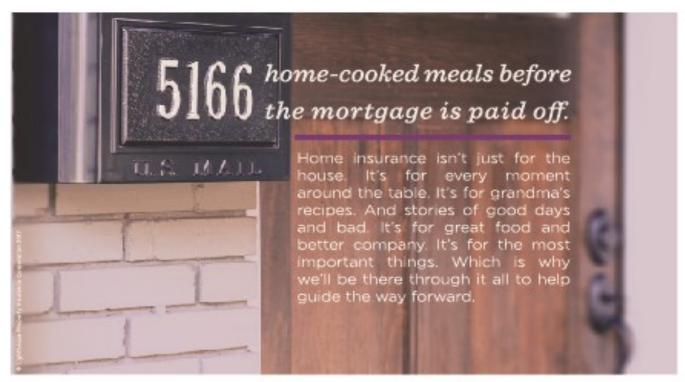


requires a written information-security plan and other privacy protections. New York, Ohio, South Carolina and California are among states that have specific, additional cyber requirements. And the National Association of Insurance Commissioners has produced a model cyber law for states that affects many in the insurance industry. These state-based initiatives are part of the webinar's content.

Spotlighting helpful steps from the Agency Cyber Guide 2.0," Session 2 provides an at-aglance checklist of measures agencies and their clients can take to build up cybersecurity.

Session 3 of the Lightning Learning webinar discusses specific resources to help agencies develop their knowledge and plan of action. It also offers a vendor matrix that gives a great example of service items cyber vendors cover as well as a breakdown of vendors that offer those services.

This webinar series is a good place to begin your cyber-security journey. It's also a solid tool for checking your progress if you are already underway on building a cyber-risk program. It may help you hone your approach to ACT's Agency Cyber Guide 2.0" so you can get the most out of its rich content. View the webinar here at your convenience. The ACT Agency Cyber Guide 2.0 can be found here to assist with taking action on a cyber strategy.



Learn more at www.lighthouse.insurance Homeowners | Condo | Renters | Dwelling Fire | Flood



ITABL Fights United Healthcare Net Commission Plan

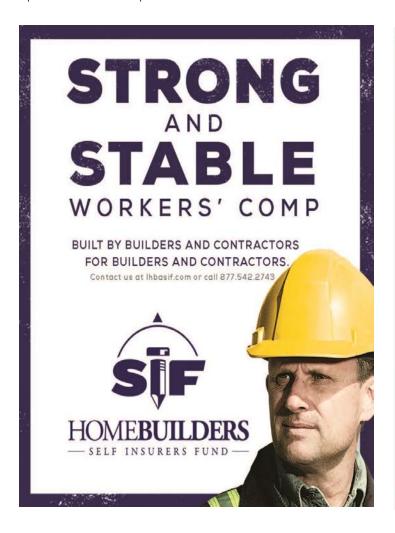
United Healthcare recently announced plans to sell all 100+ group health insurance plans net of commission effective September 1, 2019. Once the plan was fully implemented, United planned to expand the program to 50+ groups.

IIABL CEO Jeff Albright, along with representatives from Health Agents for America, Professional Insurance Agents, Louisiana Association of Health Underwriters, and National Association of Insurance and Financial Advisors met with Insurance Commissioner Jim Donelon, appropriate LDI staff and four representatives of United Healthcare.

The United Healthcare representatives presented their plan.

Jeff Albright responded that the Louisiana agents' associations had addressed this issue in 2013 when we passed Act 283 which created R.S. 22: 1568. The statute states in part:

§1568. Producer compensation for sales of health and welfare plans A. A health insurance issuer shall establish one or more schedules of commission for the sale of each health insurance product by an insurance producer. Such schedules of commission shall be uniformly applied to all producers within the same schedule and shall be payable to all insurance producers licensed and





appointed to sell the health insurance products of the issuer. The provisions of this Subsection shall not apply to any employee welfare benefit plan exclusively regulated by the United States Department of Labor pursuant to Section 514 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1144, or Section 4 of the same act, 29 U.S.C. 1003.

B. In addition to a commission for a health insurance product, a health insurance producer may negotiate a charge, fee, or any other form of compensation directly with the plan sponsor or employer group.

Albright suggested to Commissioner Donelon that a 0% net commission was a clear violation of R.S. 22: 1568. 0% is not a commission and is not payable to an insurance producer.

Commissioner Donelon responded that his staff had researched this issue in advance of the meeting and had come to the same conclusion. Various sections of Title 22 refer to commissions in health insurance and that net commission sales were not contemplated or permissible under Louisiana law.

A long discussion/debate ensued between the United Healthcare representatives and the agent groups. In the end, Commissioner Donelon told United that the net commission plan was not permitted under Louisiana law.

IIABL would like to thank Commissioner Donelon and his staff for the meeting and for upholding Louisiana law.

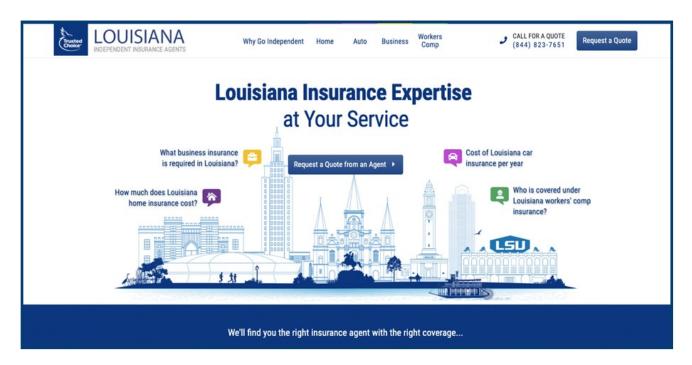


The place you call home is not only one of your most important assets - its where you and your family live. You need insurance coverage that protects not just your home, but your quality of life.

Homeowners | Dwelling Fire | Condominium | Tenants | Flood centauriinsurance.com

Visit Your New ITAB Louisiana Consumer Website

One of the benefits of our continuing partnership with TrustedChoice.com is that together we have built a new website for insurance buyers here in Louisiana. Just <u>click this link to take a peek</u>.



Continued page 20



This website features insurance content that appeals to residents of Louisiana and connects them to our membership. As consumer behavior changes, having a 'store' where they are shopping is vital. Your agency profile serves as a great way to differentiate your capabilities from your competition.

Now your agency has another location on the internet where you can be found in addition to your website and TrustedChoice.com. Not only that, but your existing profile on TrustedChoice.com automatically transfers to the LAI ndependentAgents.com website and any changes that you make on one are automatically replicated to the other.

Best of all, if your agency has an Advantage subscription, your enhanced profile is also on our new website at no additional cost to your agency. Both of these websites are optimized for Google and other search engines which helps your agency profile to show up high in a generic Google search like "Business Insurance Louisiana".

Why does that matter?

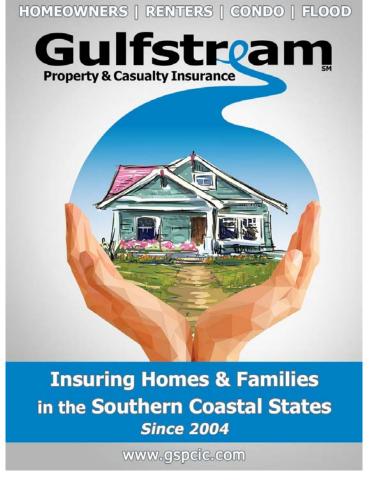
The ultimate goal is to get one or more listings for your agency on to page one of a search. First, it provides an opportunity for the searcher to contact you. Second, it provides one less opportunity for your competitors to be listed along with your agency.

To optimize performance with both search engines and prospects, there are a few items upon which you should focus, such as:

A Sponsor and
Partner of
Independent
Insurance
Agents & Brokers
of Louisiana

AccidentFund.com





- Add a unique 'About Us' statement that differentiates your agency from your competitors
- Include local terms like Monroe Business Insurance or Lake Charles Auto Insurance in your profile
- Upload your agency logo or a picture of one or more staff members
- Add customer testimonials

Our new website leverages the technologies that power TrustedChoice.com. That means that insurance companies that write business in Louisiana are presented to buyers in the recommendation engine. The recommendation engine also takes agency preferences into account, and prominently presents those agencies who want to write that type of business.

If you would like to take your digital marketing to the next stage, the launch of our website adds one more benefit and reason to upgrade your profile. Whether you are interested in upgrading to a Member Plus profile for free, or an inexpensive Advantage subscription that adds even more value, the quick Return on Investment makes the decision easy.

<u>Email</u> or call 855-372-0075 to get more information about your options.

Sell More Business with Trusted Choice Marketing Resources

Selling insurance in a competitive marketplace is difficult. You need every resource possible to distinguish your agency from the competition.

Please click on the following link to see a short video that describes the power of the Big I Trusted Choice marketing brand to boost your agency marketing.

https://youtu.be/uQZYFHNiPVs

Trusted Choice has many FREE marketing resources, an exclusive benefit for Big I members.

You can find all of these Trusted Choice marketing resources at the following link.

https://agentresources.iiaba.net/

TrustedChoice.com has partnered with Hiscox Insurance to provide more small business opportunities for ITABL members.

This partnership helps drive new business opportunities to agents and brokers who, in turn, will have the ability to quote and bind policies with **Hiscox via xagent's Universal Submission App.**

Check it out here!

Supreme Court Rules on WC Collateral Source

The Louisiana Supreme Court recently issued an important decision in favor of Workers' Compensation insurers and employers with regard to the application of the collateral source rule. Following are excerpts from the Supreme Court Decision.

SUPREME COURT OFLOUISIANA No. 2018-CC-0735

KERRY SIMMONS VERSUS

CORNERSTONE INVESTMENTS, LLC, ET AL.

ON SUPERVISORY WRITS TO THE NINTH JUDICIAL DISTRICT COURT, PARISH OF RAPIDES

CLARK, Justice

At issue is whether, in a tort case against a third-party tortfeasor, the lower courts erred in prohibiting a plaintiff from introducing the full amount of medical expenses billed and allowing only evidence of the amount actually paid by the employer through workers' compensation. We granted this writ application to determine the applicability of the collateral source rule to the instant facts. For the reasons that follow, we conclude the amount of medical expenses charged above the amount actually incurred is not a collateral source and its exclusion from the purview of the jury was proper.



FACTS AND PROCEDURAL HISTORY

Kerry Simmons, ("Plaintiff'), was employed by Cintas Corporation No. 2, ("Cintas"), at its warehouse in Pineville, Louisiana. Plaintiff was working in the course and scope of his employment when he was injured on October 12, 2011, while attempting to close a roll-up rear bay door that had become jammed. Plaintiff received workers' compensation benefits from Cintas, including disability and medical expenses. The medical bills charged by Plaintiffs healthcare providers totaled \$24,435; this amount was reduced to \$18,435 in accordance with the Louisiana Workers' Compensation Act Medical Reimbursement Schedule. Thus, there is a "written off' amount of \$6,000 at issue.

Subsequently, Plaintiff filed suit against Cornerstone and its insurer ("Defendants"),

as the owner of the builder. Plaintiff alleged the warehouse's rear bay door was defective, and that, but for this unreasonably dangerous defect his accident would not have occurred. Cintas and its workers' compensation carrier intervened, asserting its right to reimbursement. Plaintiff settled with Cintas, waiving his claims for additional workers' compensation benefits in consideration of Cintas waiving its intervention claim for reimbursement. Thereafter, Defendants filed a motion in limine seeking to exclude evidence of the amount of medical expenses "written off' due to workers' compensation payments and include, as evidence, only the medical expenses that were actually paid by workers' compensation. Plaintiff filed a competing motion in limine seeking to have the entire amount in medical bills admitted



Experience & Financial Stability

SafePoint is a premier provider of insurance protection in the state of Louisiana.

Comprehensive Online Benefits

Complete Online Quoting & Binding Available.

Protecting With Exceptional Resources

We are rated "B" by A.M. Best and "A" Exceptional by Demotech.

Specializing In These

Commercial Coverages

Property & Crime

Habitational

General Liability











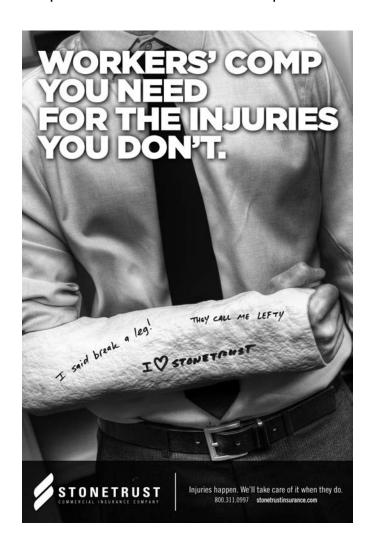
For more information contact * Jason Dimaggio * LA Agency Relations Manager * 813-575-1118 * jdimaggio@safepointins.com * safepointins.com

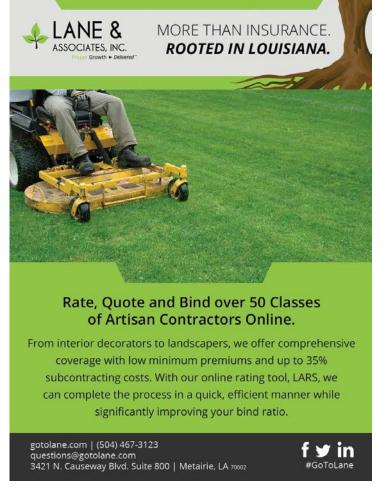
into evidence as a collateral source.

The trial court granted Defendants' motion. Specifically, it prohibited evidence of the amount of medical expenses "written off" due to workers' compensation payments and found that the only evidence of medical expenses to go to the jury would be the amount paid by workers' compensation. The trial court also denied Plaintiffs motion in limine. The Court of Appeal, Third Circuit, denied the writ in a 2-1 decision. The dissent found that the application of the collateral source rule furthers the policy goal of tort deterrence and the trial court abused its discretion in granting Defendants' motion in limine. Plaintiff then applied to this court. We granted the writ application to determine the applicability of the collateral source rule to medical expenses "written off' pursuant to the Workers' Compensation

reduced fee schedule. *Simmons* v. *Cornerstone Investments, LLC,* 18-735 (La. 9/21/18), 252 So.3d 491.

The "written off' amount, however, is a phantom charge that Plaintiff has not ever paid nor one he will ever be obligated to pay. In fact, such payment by Plaintiff is expressly forbidden by law. Louisiana Revised Statute 23:1034.2(D) states: "Fees in excess of the reimbursement schedule shall not be recoverable against the employee, employer, or workers' compensation insurer." (emphasis added). Accordingly, the healthcare provider is statutorily prohibited from recovering from the injured employee any expenses over the reduced rate. Any charge over that amount, then, is merely speculative, not reflective of actual healthcare costs, and is merely speculative, not reflective of actual health care costs and









NEW LOW RATES

Best-in-Class Customer Service
Complimentary Safety Services
Local Claims Handling
Dividend Potential

And great commissions too!

For a quote, contact us at (504) 454-2277 or lrasifquote@lra.org.

is often intentionally inflated for negotiating purposes. *See, e.g., Haygood v. DeEscabedo,* 356 S.W. 3d 390, 393 (Tex. 2012). Thus, it cannot be said Plaintiff's patrimony was diminished in any way when he did not actually incur these fictional expenses. In *Hoffman,* we found "a discount is not a payment or benefit that falls within the ambit of the collateral source rule." *Hoffman,* 14-2279, p. 7, 209 So.3d at 706.

As pointed out in an Amicus Curiae brief to this court, the U.S. Fifth Circuit reached the same result in a legally indistinguishable case. In Deperrodil v. Bozovic Marine, Inc., 842 F.3d 353 (5th Cir. 2016), the court was faced with the issue of whether a plaintiff can recover the inflated amount charged for medical treatment versus the statutorily reduced amount paid by the Longshore and Harbor Compensation insurer. The court held that the "LHWCA medical-expense payments are collateral to a third-party tortfeasor only to the extent paid; in other words, under those circumstances, plaintiff may not recover for expenses billed, but not paid." Id. at 361 (emphasis added). While we acknowledge that such jurisprudence has no precedential effect, we cite with approval the federal court's approach to interpreting the collateral source rule, which has its basis in common law.

Furthermore, we reject the notion that Plaintiff "paid consideration" in the form of being subjected to the Workers' Compensation scheme in the first place. The Workers' Compensation Act, as set up by the legislature, represents a compromise between the interests of *both* the employer and the employee. Accordingly, to give any preferential weight to the fact that the employee statutorily waived tort recovery against his employer would be to ignore the benefit the employee simultaneously obtains in receiving medical care free from consideration of his own contributory fault and free from the burden of undergoing litigation. *Deshotels v. Guichard*

Operating Co., Inc., 03-3511 (La. 12/17/04), 916 So.2d 72. Moreover, Hoffman makes clear that we take a strict view of the requirements for diminishing a plaintiff's patrimony. Thus, such an indirect diminution, i.e., the loss of the employee's right to file a tort suit particularly when there are reciprocal benefits to the employee, is insufficient to satisfy the stringent definition that is being jurisprudentially developed.

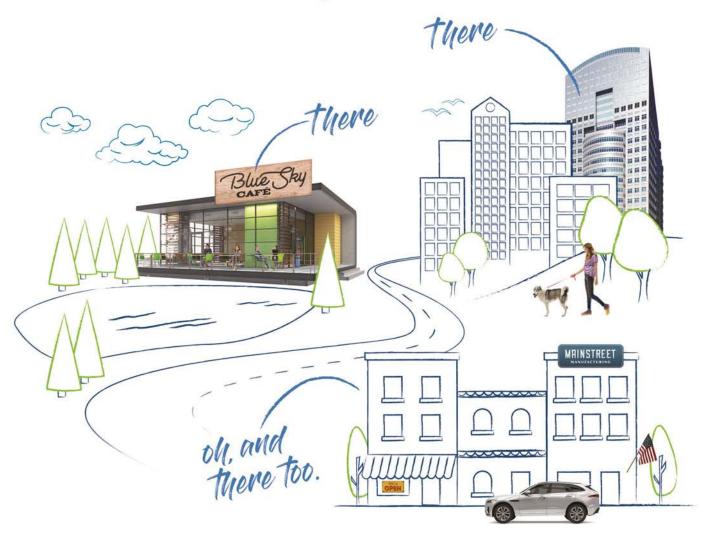
Last, we find if Plaintiff prevails on the merits, a recovery of the reduced amount of medical bills will make him whole, which is an important consideration of both tort recovery and the application of the collateral source rule. La. Civ. Code art. 2315. The plaintiff was never obligated to pay more than the discounted amount and under our civilian code of liability, Plaintiff should not profit from a tortfeasor in the absence of the availability and proof of punitive damages. In *Chauvin v. Exxon Mobil Corp.*, 2014-0808, p. 10 (La. 12/9/14), 158 So.3d 761, 768, this court stated:

The general public policy in Louisiana is against punitive damages.

Ross v. Conoco, Inc., 02-0299, p. 14 (La. 10/15/02), 828 So.2d 546, 555. Thus, punitive or other penalty damages are not allowed unless expressly authorized by statute. And even when a statute does authorize the imposition of punitive damages, it is strictly construed. *Id.*

Plaintiff places much emphasis on tort deterrence, essentially arguing that it, as a public policy factor, overrides competing concerns regarding double recovery. We

Count on us to be there, there ...



A strength that sets EMC apart from other insurance companies is the local service we provide. We cover policyholders in more than 40 states and we have **20 offices strategically located around the country**. So when you partner with us, you not only get the stability of one of the country's top insurance organizations, but you also get a familiar face close to home.

We look forward to seeing you soon.





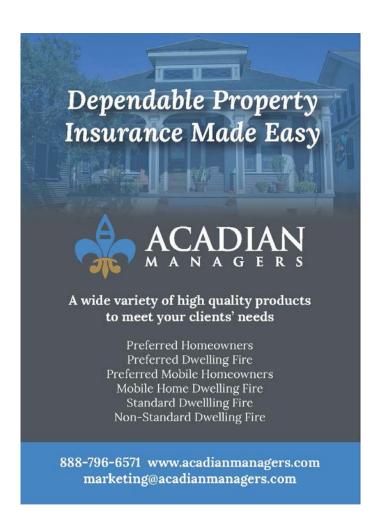
acknowledge the important role of tort deterrence within our tort system; however, to stretch the argument to include the award of un-incurred medical expenses, in addition to those actually paid, is to effectively authorize the assessment of punitive damages in the absence of statutory authority. Thus, in this case, we find there is no true deterrent effect to allowing Plaintiff to recover expenses over and above what was actually paid.

CONCLUSION

To conclude, there is no basis to differentiate between the "written off" amount created by a reduced reimbursement fee under the Workers' Compensation Act and those of a Medicaid program or an attorney-negotiated medical discount. (See Bozeman, supra and Hoffman, supra). The bottom line is that the plaintiffs in each of these situations did not actually incur, and need not repay, the "written off' amounts at issue. Such amounts are illusory in that they are never statutorily susceptible of being paid by the plaintiffs. In the instant case, Plaintiff did not contribute to his employer's workers' compensation insurance premiums nor did he otherwise pay any consideration for the benefits. The healthcare providers, by law, cannot charge him for more than what the fee schedule allows. La. R.S. 23:1034.2(D). This reduction is not the benefit of some bargain struck by Plaintiff; rather, in much the same way that medical expenses covered by Medicaid are limited by statute, so too are the medical expenses limited purely by operation of the Workers' Compensation Act. Thus, Plaintiffs patrimony was not diminished. Therefore, any recovery in addition to the reduced amount of medical bills would be a windfall to Plaintiff and against the rationale behind the collateral source rule. The discounted rate accurately

reflects Plaintiffs compensatory damages, and anything beyond that rate would amount to punitive damages. Plaintiffs ability to fully recover and to be made whole is adequately represented by the availability of the reduced medical bills. Accordingly, we find the collateral source rule does not apply and the lower courts' rulings on the motions in limine are affirmed.

AFFIRMED.



ITABL EDUCATION & EVENTS CALENDAR

Webcasts			
E&O Risk Management Click above for schedule Available on Demand	Ethics Click above for schedule Available on Demand	Flood Click above for schedule Available on Demand	Commercial & Personal Lines Courses Click above for courses & dates for 2019
Listed are a few of the June webcast. For the 2019 webcast calendar click here. 6/3—Cyber Security & Risk Mgmt. 6/11—Drones: Problems, Solutions & Insurance 6/12—Rules for Developing the Correct Premium	6/18—Everything's Soaked and My Stuff Stinks: The Water Damage 6/19—Business Income, Extra Expense, Off Premises Utility Failure 6/19—3 Keys to Getting the Named Insured Correct 6/24—Agency Management Based Ethics and E&O	A New Agent Training Solution INTENTIONAL TRAINING to Prepare For TOMORROW Pick & Play Your Professional Bundle: Basic & Beyond CLICK HERETO GET STARTED!	BIG 1
Seminars			
Events June 16 –19	E&O Risk Management September 24 - Bossier City September 25 - Lafayette September 26 - Metairie September 27 - Covington Louisiana/Mississippi		
Annual Convention Destin, FL On-Demand Webcasts	Young Agents Conference August 8-11 Beau Rivage		
On-Demand Webcasts	Pre-Licensing		
Click here for the course catalog of all of the on-demand webcasts. Reminder—all of the IIABL online courses do not require a test for CE Credit	Online prelicensing 3 optional study packages <u>Click here</u> for additional information		
			Louisiana Agent 29

The Beginning Point of the Budget

The story is told that Brown & Brown's founder Hyatt Brown once asked management consultant Roger Sitkins how his company could generate a 40% profit margin. Without missing a beat, Roger replied: "just spend sixty cents out of every dollar of revenue you generate." Profound.

This reminds me of a lesson I learned 30 years ago when I first read The Wealthy Barber, a classic money management text. In it, the author encourages a novel personal budgeting approach. Instead of figuring out what percentage of income to spend each month on food, dry cleaning, gasoline, etc., figure out in January what percentages of income you intend to save and give to charitable causes that year. Then, every month, save and give the appropriate percentage on the front-end and then feel free to spend the remainder

however you choose, on whatever you choose. But ... if you run out of money before you run out of month, too bad. You're done spending for the month.

When developing your agency's budget, likewise begin with the end in mind. If you intend to generate an 18% profit, build a budget with an expense load that totals 82% of the budgeted revenue. Want to drive a 25% bottom line? Budget to a 75% expense load. And then live with it.

This amazingly simple (and remarkably uncommon) budgeting principal will do for your agency what the budget should do in the first place: it will create a healthy competition for available expense dollars, while at the same time ensuring that your





manage and pay your employees.

It's how we built our business. Now we'd like to help build yours. Shareholders will generate an acceptable investment return. It will require you and your leadership team to allocate scarce resources among competing alternatives strategically. It will require you, many times, to say "no." It will require you to stop spending money when the available dollars are no longer there to spend.

In a world with an almost unending cry for more and more resources and more and more hiring, this discipline of beginning with the required bottom line in mind may be more important than ever.

Stuck with a 15% profit margin when you know you should be at 20%? Have your CFO deliver a budget each year for the next five years that improves the bottom line by 1%. Then, do the hard work of leading to

ensure the result is achieved. Meet monthly to track progress and set course correction if necessary. Five years later, your business will have been fundamentally transformed.

Begin with the end in mind.

Tom Doran
Partner/Reagan Consulting



Businessowner's Policy | Commercial Auto Commercial Umbrella | Workers' Compensation

See full product list & state availability at www.guard.com



The Security You Need. The Name You Trust.

Why Your Office Needs a Password Management Solution

How to effectively manage all passwords for all agency employees continues to be a source of questions. I have written a couple of times over the

last ten years about potential solutions.

I think it's time again to remind everyone of the importance of controlling nefarious access to the wide variety of platforms every agency uses every day.

Managing the plethora of passwords that agency staff has to maintain continues to be challenging. There are several options available to an agency of any size that will help agency management and staff secure and manage password information.

Several management system platforms have built-in password management for a limited number of carrier agency portal sites. Transformation Station is a service provided to Applied Systems users (as well as a few other vendors who have licensed this service). TransactNow is a service provided to Vertafore users that helps manage and store password information within the agency management system platforms.

A few other agency management system vendors have their own versions of password management built into their systems. These systems, when set up correctly, provide an easy way for agency staff to access a carrier's agency portal



website by storing the website address, as well as the user ID and password. Access to

the carrier site then is simply a click away.

I wrote about the importance of a new industry initiative called ID Federation in 2012. Progress is being made to encourage insurance companies to use this framework, but development is not nearly as fast as it

needs to be. I encourage you to understand how ID Federation will help your agency and to have conversations with your insurance company representatives as often as possible. streamline password management, they

are not a universal solution. As you well know, your agency maintains passwords for many other websites that you and your staff need to access. For the management of these user ID and passwords, I recommend an enterprise password management software program. There are

quite a few programs available.



SAFE ABOVE ALL

Strong and steady, constantly raising the bar. All great accomplishments have a certain level of hazard involved, but AMERISAFE has workers' comp down to the detail. It's a large part of why we retain 90% of our policyholders. The best protection is being proactive.



amerisafe.com - 800.897.9719

folicyholder retention rate based on voluntary business that we elected or renewal quote: 95.6% in 2016, © 2019 AMERISAFE, Inc. AMERISAFE a registered trademark of AMERISAFE, Inc. SAFE ABOVE ALL and the

Password Management Software Programs

I have used RoboForm for several years as my password management program.

This program installs as part of your web browser (it supports all browsers) and manages login and passwords for you. When you log into a website, RoboForm offers to save the login information into a Passcard. This card is kept in a fully encrypted file that requires a master password to access.

Once the login information is safe, true one-click login is available by clicking on the website name in the Passcard list. The program automatically navigates to the website's login page, fills the stored login information into the form, and clicks the submit button for you.

RoboForm is available as an individual standalone program as well as an enterprise version that provides additional administrator capabilities for larger organizations. One agency with over 300 users uses the RoboForm Enterprise version to allow all users to manage passwords.

A couple of other options include LastPass, 1Password, and Dashlane.

One of the functions I use often is the Password Generator. An excellent random password is the most secure. However, they are hard to remember. With a password management platform, you don't need to remember. It allows you to set the length of the password (longer is better), what characters are included (upper and lower alpha, as well as number and special characters), and paste it to the clipboard so you can use it anywhere.

There are many reasons to make sure your agencies are managing password well. If you currently don't have a password management process in place, then the above services are an excellent place to start your research.

Insurance Is NOT a Commodity...Real Life Example #8,215: Auto Business Exclusions



Bill Wilson, CPCU, ARM, AIM, AAM A risk management consultant shared the following claim with me:

"An employee was running to the store to get some milk for some sort of work party or activity and was involved in an at-fault accident. Now, the employee's personal auto carrier is denying the claim on the basis that the insured was engaged in "business use" at the time of the auto

accident and, therefore, not only is the liability claim excluded, but so is the physical damage claim.

"It is downright disgraceful that an insurer would include such a broad exclusion and that any department of insurance would approve that policy form. I wonder if the California financial responsibility laws will require that coverage apply for the \$15K-\$30K-\$5K minimum limits for third party liability.

"Traditional insurance agents arranging coverage should know that at some point in time most everyone uses their vehicle in business whether to run an errand, go to a class or meeting, etc. Insurance agencies should ban the sale of policies like this one.

"There is a good chance the policyholder purchased the coverage online or via a direct sales representative and might have answered honestly that he did not use his car in business – of course until he did."

The liability exclusion in the personal auto policy in question reads:

"Bodily injury or property damage resulting from the ownership, maintenance, or use of a vehicle or trailer by a person while in the course and scope of employment, or engaged in any business. This exclusion includes use of a vehicle for delivery of goods or services arising out of any business. This exclusion does not apply if business use of the insured auto has been declared and a premium charged prior to the loss."

A similar exclusion applies to physical damage claims.

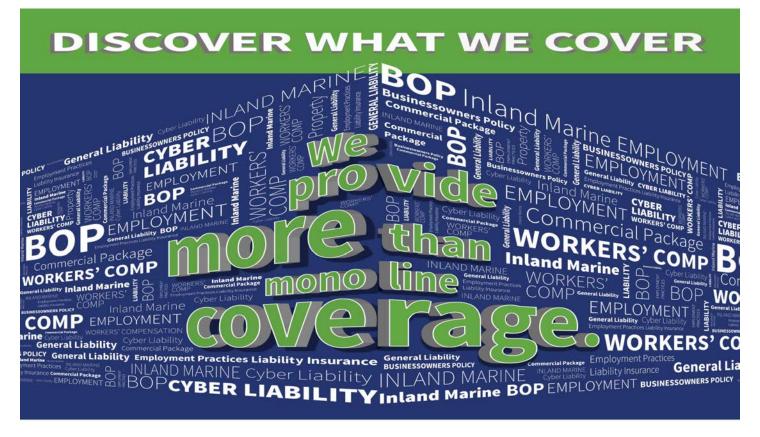
I have written about this for years. Insurance is NOT a commodity. You will not find an onerous business use **exclusion like this in an "ISO standard" personal auto** policy nor in the proprietary policies of most insurance companies. At policy inception, an insured can answer truthfully that they do not use the vehicle for any business purpose, but later begin to do so, unaware of the restrictiveness of this type of exclusion.

Such onerous exclusions have, I believe, dramatically increased in the past decade or two. I've seen exclusions for unlisted drivers where the insured reported all resident drivers at policy inception, but later a 'boomerang' kid moves back home and the insured fails to report this to the insurer. For other

examples of this, check out this article.

Allowing exclusions like this in the most common class of insurance policies is appalling. I can recall when state insurance departments rigorously reviewed policy forms and form revisions, disallowing such onerous exclusions that not only adversely impact the insured, but leave the public unprotected from negligent vehicle operators that would otherwise be insured in the absence of such exclusions.

Allowing such policy forms in the marketplace does not serve the public interest. This is especially true given that industry advertising is dominated by price-focused ads that imply that there's really no difference between insurance policies other than price. Regulators should regulate what is important.









Rate & Rule Filings

Company	Coverage Type	Overall % Impact:	Overall \$ Impact:	Number of Policyholders:	Changes
Shelter Mutual Ins Co Revised Rate & Rule	1—Property Personal Property (Fire & Allied) Dwelling	+15.4%	\$1,022,657	12,364	New: 5/15/2019 Renewal: 5/15/2019
Shelter Mutual Ins Co Revised Rate & Rule	4—Homeowners Form HO-5	+3.7%	\$282,849	3,723	New: 5/15/2019 Renewal: 5/15/2019
Shelter Mutual Ins Co Revised Rate & Rule	4—Homeowners	+9.0%	\$2,156,047	19,093	New: 5/15/2019 Renewal: 5/15/2019
Shelter Mutual Ins Co Revised Rate & Rule	3—Farmowners	+10.2%	\$180,598	567	New: 5/15/2019 Renewal: 5/15/2019
Encompass Ins Co Revised Rate & Rule USP	4-Homeowners	+4.5%	\$181,615	836	New: N/A Renewal: 6/28/2019
Continental Ins Co Revised Rate Only Commercial Umbrella & Excess	17—Other Liability	-24.0%	-\$1,201,315	248	New: 9/1/2019 Renewal: 9/1/2019
Wesco Insurance Co Revised Rate & Rule CGL, Sierra Madre Artisans	17—Other Liability	28.5%	\$130,612	492	New: 6/1/2019 Renewal: 6/1/2019
Nationwide Agribusiness	19—Commercial Auto	+18.2%	\$882,216	61	New: 8/1/2019 Renewal: 8/1/2019
State Nat'l Ins Co Loss Cost Adoption, NCCI Filing LA-LC-2018-01	16-Workers Comp	-5.20%	-\$101,597	349	New: 6/1/2019 Renewal: 6/1/2019
GuideOne Mutual Ins Co GuideOne Specialty Revised Rate & Rule	1—Property	+3.2%	\$486,665	2,007	New: 6/15/2019 Renewal: 10/13/2019



Rate & Rule Filings

Company	Coverage Type	Overall % Impact:	Overall \$ Impact:	Number of Policyholders:	Changes
Great Northern Ins Co Pacific Indemnity Co Vigilant Ins Co Federal Insurance Co. Revised Rate Only	19—Private Passenger Auto	+9.1%	\$248,178	482	New: 7/16/2019 Renewal: 8/30/2019
Automobile Club Inter- Insurance Exchange Revised Rate & Rule	19—Private Passenger Auto	+9.854%	\$2,796,942	12,175	New: 8/1/2019 Renewal: 8/1/2019
Property Insurance Assoc of Louisiana Revised Rule only Commercial Package Policy	5—Commercial Multiple Peril	+1.0%	\$1,8459,880	27,899	New: 11/01/2019 Renewal: 11/01/2019
Louisiana Farm Bureau Southern Farm Bureau Revised Rate Only Personal Umbrella & Excess	17—Other Liability	+9.898%	\$93,147	1,580	New: 6/1/2019 Renewal: 6/1/2019
Louisiana Farm Bureau Casu- alty Ins Louisiana Farm Bureau Mutu- al Ins Southern Farm Bureau Casu- alty Ins	17-Other Liability	9.796%	\$299,474	1,693	New: 6/1/2019 Renewal: 6/1/2019



PROMISE

Count on us at the time of greatest need.

Property and liability insurance you can count on from a company with a long track record of success in being here for property owners in their time of greatest need.

Financially stable and proven through 16 separate hurricanes and tropical storms. Products that work for agents and policyholders. Prompt and fair claims service. Ease of doing business. Competitive pricing.

UPC Insurance. Keeping the promise since 1999.



IIABL PARTNERS

GOLD LEVEL











SILVER LEVEL



























BRONZE LEVEL

ACADIAN MANAGERS	ACCIDENT FUND	ALLIED TRUST INS	AMERICAS INSURANCE
EMC INSURANCE	EMPLOYERS	FCCI GROUP	FOREST INSURANCE
GULFSTREAM P&C	HIGHFLYER HR	HOMEBUILDERS SIF	IROQUOIS SOUTH
LANE & ASSOCIATES	LIBERTY MUTUAL	LUBA WORKERS' COMP	RPS COVINGTON
STONETRUST INSURANCE	SUMMIT CONSULTING	WRIGHT FLOOD	

IIABL 2018-2019 **BOARD OF DIRECTORS & OFFICERS**

John L. Beckmann, III, President Assured Partners—New Orleans

Joseph A. O'Connor, III, President-Elect The O'Connor Insurance Group—Metairie

Brenda Case, Secretary-Treasurer Lowry-Dunham, Case & Vivien—Slidell H. Lee Schilling—National Director Schilling & Reid Insurance—Amite

Neil Record, Past-President Record Agency—Clinton

Brittany Mohr, Young Agent Representative Lewis Mohr Real Estate & Insurance-Baton Rouge

Joseph Cunningham, Jr.

Donna DiCarlo

Cunningham Agency—Natchitoches

Riverlands Insurance Services—LaPlace

Rob Eppers

Stuart Harris

Risk Services of Louisiana-Shreveport

McClure, Bomar & Harris—Shreveport

Ross Henry

Henry Insurance Service—Baton Rouge

Bret Hughes

Hughes Insurance Services—Gonzales

Harry B. Kelleher, III

Harry Kelleher & Co—Harahan

Brother Marine

Regions Insurance—Lafayette

Philip "Phe" McMahon

Paul's Agency—Morgan City

Lydia McMorris

Alliant Insurance Services—Baton Rouge

Eugene Montgomery

Community Financial Ins Services—Monroe

Joe King Montgomery

Thomas & Farr Agency—Monroe

Paul Owen

John Hendry Insurance—Zachary

Martin Perret

Quality Plus—Lafayette

Robert Riviere

Riviere Insurance Agency—Thibodaux

Armond Schwing

Schwing Insurance Agency—New Iberia

Michael D. Scriber

Scriber Insurance Services—Ruston

Donelson P. Stiel

David H. Stiel, Jr. Agency—Franklin