



# *The Firm Line*

January 2013

Welcome to *The Firm Line*, a newsletter designed to inform our clients and friends about developments at the firm, legal issues that may impact your lives and businesses, and other items of interest. Our intention is to keep the information we provide to you in this newsletter concise. We welcome any further discussion on the topics addressed herein and hope that *The Firm Line* will provide you with interesting and noteworthy information about the law and our firm.

## **Discovery Abuse By Chevron, Texaco and UNOCAL Jury Verdict of \$5 Million in Compensatory Damages and \$12 Million in Punitive Damages**

In *McWilliams v. Exxon Mobil Corp.*, 121288 (La. App. 3 Cir. 4/03/13), 111 So.3d 564, the Third Circuit Court of Appeal reviewed the trial court's sanctioning of Chevron, Texaco, and UNOCAL ("defendants") for discovery abuses which led to a jury award of \$5 million in compensatory damages and \$12 million in punitive damages.

Plaintiff, Monte McWilliams, alleged that he developed acute promyelocytic leukemia as a result of exposure to benzene while gauging barges during twenty-seven years as a petroleum inspector. 111 So.3d at 567. According to the court, throughout the course of the case, "Defendants were at best, uncooperative in discovery." *Id.* Defendants refused to respond to plaintiff's requests for 1442 depositions for six months. After plaintiff unilaterally set the depositions, defendants filed a motion for protective order. The trial court denied defendants' motion for protective order and ordered them to comply with discovery. Defendants did not adequately comply; thus, plaintiff filed a motion to compel and for sanctions. As a result of plaintiff's motion for sanctions, the trial court invoked La.C.C.P. art. 1471 and struck all of the defenses asserted by defendants "leaving only the issue of damages." *Id.* at 568.

According to the Third Circuit, "the record reveals that there was a consistent history of the Defendants impeding discovery." *Id.* at 572. While there was no "order to compel" in place at the hearing on sanctions, "the trial court had previously made certain verbal orders pertaining to discovery." *Id.* Defendants' abuses not only included the failure to timely comply in providing dates for 1442 depositions but also

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### **Suggestions**

Please provide us with ideas and suggestions for topics that you would like to read about in the future, as well as any thoughts you may have that will help us deliver better, more insightful information to you.

### **Contact Us**

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#### **NEW ORLEANS**

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#### **BATON ROUGE**

the failure to timely provide specific documents in response to discovery requests. *Id.* Defendants provided plaintiff with "eighty to ninety boxes of documents and information to go through a few short days before the depositions, none of which were organized in a manner consistent with actually answering Mr. McWilliams' discovery requests." *Id.* "The trial court felt this document dump was an attempt to 'sandbag' Mr. McWilliams." *Id.* Further, once the 1442 depositions began, "it became clear that [the deponents] had not been prepared in any meaningful way, having not brought or even reviewed some of the requested documents." *Id.*

The Third Circuit affirmed the trial court's judgment regarding sanctions and awards of compensatory and punitive damages. Only limited relief was obtained by defendants in the form of a reduction in the amount of future medical damages, not allowing the assessment of prejudgment interest on the loss of future earning capacity, and a reduction in the amount of past medical expenses.

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### JSHG in Baton Rouge

As a reminder, Jones Swanson is now in Baton Rouge with the addition of [Bernie Boudreaux](#) to our firm.

Above we have included our Baton Rouge contact information. Please remember to update your contacts with that information.

### ABA Member Spotlight - Andy Jacoby



Jones Swanson attorney, [Andy Jacoby](#), was recently featured in the January 2014 ABA Section of Environment, Energy, and Resources newsletter as a Who's Who in the "Member Spotlight." Andy is an active ABA section member that serves as a vice chair for the Constitutional Law committee and the Special Committee on Public Service (One Million Trees).

For more about Andy and to read the full description in the newsletter, please click [here](#).

### ABOUT THE FIRM

Jones, Swanson, Huddell & Garrison, LLC, is a boutique litigation law firm based in New Orleans, with a newly opened second office in Baton Rouge, Louisiana, which primarily handles complex commercial and environmental/property disputes. In the commercial and environmental litigation arenas, the firm has and continues to represent many of Louisiana's and the Southeast's largest and most active business entrepreneurs and landholders, while also retaining a sharp focus on the representation of smaller businesses and individuals. Jones Swanson has served as lead counsel in New York, Connecticut, Massachusetts, California, and Texas, as well as in Mississippi, Alabama, Florida, and Louisiana.



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