

FOR THE DEFENSE

January 2018

"Do not withhold good from those to whom it is due, when it is in your power to act."

Proverbs 2:27

Greetings from Mike Shipman



Well, we have turned the page from 2017 to 2018. If you are like me, it is hard to believe another year has passed so quickly and yes, once again, it is time to make those New Year's resolutions. In looking at the internet I found one article listing the most popular New Year's resolutions: (1) Stay fit and healthy; (2) Lose weight; (3) Enjoy life to the fullest; (4) Spend less, save more; and (5) Spend more time with family and friends. If you are one of those that made a resolution, whether one of these listed or not, I wish you great success in keeping it. If you decided not to make a resolution, I understand completely!! 2017 was a great year here at Fletcher Farley and we owe that in great part to all of you, our clients. Throughout 2017 we hope to have provided you with cost effective and quality legal services. Our resolve in 2018 is to do even better and we always welcome your input on how we are doing! From all of us at Fletcher Farley, our wish is that 2018 is your best year ever!!!!

The Times They Are A-Changin'...or...What is Wrong with Dallas County?

Doug Fletcher



In the world of litigation as well as in life, everything continually changes. As defense counsel who represents clients, our job is to continually be aware of the changes and properly advise

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Welcome to the latest edition of Fletcher Farley's Newsletter, which we hope you find interesting and helpful.

If you have any comments, questions or would like more information from us, please contact Doug or Joanna.

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SAVE THE DATE



April 27, 2018

Save the date for the Texas Law Update 2018 in Dallas!

More information coming soon!

those clients. For the past few years we have seen a great increase in the number of very large verdicts from Dallas County juries. At first we thought some of these verdicts were basically a result of the facts of the case. However, the continued occurrence of unreasonably high verdicts has become a trend which has caused our firm to re-evaluate Dallas County from being the conservative, defendant-friendly venue that it has always been. In fact, we now believe that Dallas County is as plaintiff-friendly as many of the other venues that we believe to be dangerous. Traditionally, we always preferred to have litigation in the Dallas County venue and would file appropriate venue transfer motions to end up in Dallas County. In a very curious reversal, we now find ourselves filing motions to transfer venue in order to remove cases from Dallas County. Sadly, this mirrors what we are seeing as a state-wide trend: a number of venues which were traditionally defense friendly becoming more plaintiff-oriented. This disturbing trend has caused us to place the emphasis on our abilities to resolve conflict through negotiations.

Many of you who know me know that I love American history and I am finding in history a lesson which illustrates the change in our practice. In June of 1876, General George Custer sat atop a ridge overlooking the valley of the Little Big Horn River. Custer had made a reputation as a brash, very aggressive cavalry commander who very seldom considered the surrounding circumstances, but would blindly lead slashing cavalry charges into the enemy's camp. For years "Custer luck" held forth and this caused Custer to become known for his recklessness. On this date, overlooking a large Indian encampment he was advised by his Indian scouts not to go into the valley. As we all know from our history lessons, Custer ignored this wise advice and continued his reckless strategy which led to the episode known as Custer's Last Stand. Not trying to be overly dramatic, I do find that our role as defense counsel has started to change. While we still are proud of our ability to stand toe to toe with plaintiffs' attorneys in trial, we are now realizing that like those wise Indian scouts, we are sometimes in the position of advising our clients that in certain dangerous venues trial is not a safe alternative.

So, in the future, if you feel like we are being somewhat over-cautious and conservative in our evaluations of potential exposure in our cases, please understand that we always try to protect our clients' best interests and if settlement is the safe alternative, then we will use our skills to achieve it. One thing that will never change, Fletcher, Farley will always use all of our energy and skills for the best interests of our clients. I look forward to a great year in 2018 and, as always, we greatly appreciate every opportunity we have to provide our legal services to your fine companies.

Conflicts Resolved

Fletcher Farley Settles a Big One

[Doug Fletcher](#) and [Gene Rhee](#) recently settled a very serious case for a figure that included a lot of zeroes and a lot of commas. For reasons of confidentiality, we are precluded from sharing specifics. Suffice it to say, the total settlement sum was very large. You may now be wondering why this resolution is being shared in this newsletter. We do so to illustrate the point that not all "successes" take the form of a win at trial or a positive ruling following motion practice.

This matter arose from the burning death of a child in an apartment complex. The mother and father asserted wrongful

Honoring 25 Years with 25 Acts of Kindness

The Senior Source



A few Fletcher Farley folks, Senior Source reps and residents.

We wrapped up 2017 and our "Honoring 25 Years with 25 Acts of Kindness" on a high note.



Fletcher Farley Carders... Fred Arias; Torrey Shields aka Blinky the Elf; Ryan Curry and Ed Velez aka Santa Extraordinaire. (L-R)

The firm adopted The Senior Source again this year as its Annual Christmas Charity. We provided Christmas gifts, breakfast and even a few carols for the residents of a nursing & rehab facility in Dallas County on December 20th, 2017.



Fred Arias in the forefront and our other volunteers in the back making plates to hand to our seniors.

We wanted to make this Christmas one to remember for the nursing home residents and staff but we think they made it one to remember for us!

death claims as well as a survival action on behalf of the estate. Our firm defended the interests of the property's owner and management company. The Plaintiffs asserted that the fire was the result of a gas leak. Their theory regarding the cause and origin of the fire was a stretch, to state the least.

However, there were numerous other factors giving rise to an incredible amount of risk. The apartment complex lacked resources and generally, maintenance was a struggle. If evidence in this regard was to be admitted, the possibility of exemplary damages had to be considered. Coincidentally, the fire occurred on the same day that the complex's gas supply had been restored after having been shut off for some time in order to repair an unrelated gas leak. Shortly after the fire, debris from the fire which was left on the ground in front of the apartment in question was removed. Though this was done at the order of the local municipality, in the context of litigation, this created an issue of spoliation, as the debris was evidence that the experts were not able to consider in their respective investigations. Further, there were empathetic concerns as the mother was present and while she was able to escape the apartment, her child was not and she was forced to helplessly endure the event resulting in her child's death. Finally, this matter was pending in a venue which, as of late, has become very liberal resulting in very notable and enormous verdicts in other matters.

In short, though we could have presented a good defense on the science of event (which the jury would hopefully comprehend objectively), the risks in this matter far outweighed the potential reward from trying this matter. Though this matter was settled for a very large dollar amount, the risk of a verdict far exceeding the amount for which this matter settled was very real. In the end, that risk was avoided, the clients were overjoyed and the multiple carriers involved can close their files. Conflict resolved.



Santa is getting a hug from a resident while his elves look on. Torrey Shields; Ed Velez; and Debby Stick. (L-R)

The Senior Source provides care for seniors in many ways.

The vast majority of their clients have no family and the volunteers see to all their needs and social visits. To learn more, please [click here](#).



La'Teria Robinson prepping the breakfast goodies.