

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

Proverbs 2:27

## Greetings from Paul Bennett



Winter and spring were busy for our attorneys this year, with many conflicts resolved for our clients through successful trials, appeals, summary judgments and mediations. Our Austin office successfully completed a move to beautiful new offices and Joanna and her team invite you to stop by and say hello when you are next in town. Summer is now here and off to a warm start in Texas. We are beginning to enjoy longer days, baseball, swimming and other outdoor pursuits. The Texas Rangers continue to disappoint, but we can always hope for next year, right? We hope that each of you stay safe as you spend time with family and friends away from the office this summer. Even on nights and weekends this summer, please remember that we are just a phone call away to assist you with the investigation and defense of serious accidents and claims through our Rapid Response program. Thank you for your continued support and please call upon us whenever we can be of service.

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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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# When Time is of the Essence

## Kevin Curley

For many years, Fletcher Farley has provided a "Rapid Response" service to our clients. When activated, the Rapid Response Team dispatches engineering, accident reconstruction, and other experts to a catastrophic accident scene. Time and time again, we have found that arriving on scene early is the number one way to preserve critical evidence-forensic evidence that is often lost in days or even hours after an accident. A couple of recent Rapid Response assignments demonstrate the importance of arriving on scene early.



Our Rapid Response team was recently dispatched to a head-on accident between two 18-wheelers. The accident occurred at 1:00 a.m. in a rural area along a major interstate and involved multiple fatalities. Fletcher Farley's Rapid Response Team was activated and promptly arrived on scene. At the scene, the investigating officer believed that the insured's driver avoided an accident on his side of the highway, but during his evasive action crossed the median and struck the other 18 wheeler head-on. Tragically, the known witnesses died in the accident. However, the retained accident reconstructionist on site was able to obtain measurements and other specific details about the accident. The forensic evidence revealed that the insured's 18 wheeler had actually been hit in the earlier accident and suffered mechanical damage that caused the insured's driver to cross the median. Fortunately, we were able to document the favorable evidence-evidence that dissipated within a matter of days due to its location on the interstate.

Another recent Rapid Response assignment involved a late night accident between a motorcycle and an 18 wheeler. Upon arriving on scene, the Rapid Response Team used state of the art technology and the forensic evidence on scene to reconstruct the accident. The expert on site was able to reach conclusions favorable to the insured pertaining to the motorcyclist's excessive speed and the vehicles' lines of sight. The evidence that the expert relied on would have naturally disappeared within a matter of days, and would not have been preserved by the investigating officer.

Again, these are just a couple of examples of how the Rapid Response program has allowed our firm to arrive on scene and conduct a thorough investigation before critical evidence is lost. In addition to forensic evidence, arriving on scene shortly after an incident has allowed our firm to identify witnesses that would

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## Supporting our Community

### Senior Source

Fletcher Farley is dedicated to supporting our neighbors and making a difference in their lives. We are proud to continue partnering with the Senior Source in providing a monthly fresh fruit delivery to a local nursing home. We met them at Christmas and wanted to continue to be a part of their lives. It is our privilege to give back!

not have otherwise been known and identify and obtain relevant photographs and video recordings that would have been lost. As you can imagine, often the information learned and preserved through early arrival on scene ends up being the critical evidence in a subsequent lawsuit.

If you have utilized the Rapid Response program, we trust that you found the early investigation and expert conclusions to be beneficial in evaluating your claim. If you have not yet used the service, please consider our Rapid Response program the next time you have a catastrophic accident claim in which an early investigation could assist. You can activate the firm's Rapid Response Team, at any time, by calling 1-877-273-7766.

## Conflicts Resolved

### **Fletcher Farley Obtains Summary Judgment**

[David Colley](#) and [Alex Bell](#) recently obtained a summary judgment in favor of a homeowner who was sued for personal injuries. The Plaintiffs alleged that while a mother was on a neighborhood walk with her two young children, they were swarmed by Africanized bees that had taken up residence on the homeowner's property. All three were treated at the hospital for serious reactions and injuries from the incident. The bees had been discovered by a contractor during some home repairs and the homeowner had called contractors to remove the bees. While the homeowner was away, the pest control company attempted to remove the bees just before they swarmed the Plaintiffs.

Fletcher Farley moved for summary judgment, arguing that Texas law does not hold a property owner responsible for the acts of wild animals that have taken up residence on their property (with a very limited exception where the property owner has tried to domesticate them). Ultimately, the trial court agreed and dismissed the homeowner from the case entirely.

Fletcher Farley attorneys have extensive experience representing homeowners in all manner of cases and stand ready to assist you and your insureds on these matters.

### **Fletcher Farley Ensures Summary Judgment Upheld on Appeal**

The team of [David Colley](#), [Paul Bennett](#) and [Alex Bell](#) ensure that a summary judgment in favor of client is upheld on appeal. The Second Court of Appeals in Fort Worth, Texas recently affirmed a summary judgment ruling in favor of a roofing contractor for alleged negligence during a roofing repair. Plaintiff's lawsuit

alleged that he slipped and fell in ankle-deep water on the premises of his employer during a significant rainstorm, resulting in head and shoulder injuries. Defendant U.S. Certified had been hired to replace the roof of the facility, but had been ordered to stop work and tarp the roof due to an incoming storm. U.S. Certified advised that it should be allowed to complete its work, as any method of tarping was likely to fail. Despite Defendant's warnings, Plaintiff insisted on the tarping. Water entered the facility and Plaintiff fell while trying to clean it up. The trial court granted summary judgment in favor of U.S. Certified, finding no negligence on its part. On appeal, the Second Court of Appeals also found no evidence of negligence on the part of U.S. Certified and affirmed the trial court's ruling.

If you or your insureds need assistance with construction claims, litigation, or appeals, FFSS stands ready to handle them from intake through appeal.

### **Fletcher Farley Secures Summary Judgment**

[Jeff Smith](#) and [Lorin Subar](#) secured summary judgment for a building owner and manager in a premises liability lawsuit filed by an electrician who shocked himself while installing lights. While working on a hot electrical wire to install lights, Plaintiff experienced an electric shock, fell from a ladder, and was injured. Plaintiff sued the general contractor, the tenant for whom the work was being performed, and the building owner and manager. Plaintiff admitted that he was a licensed electrician apprentice and fully aware of the risks of working with hot electrical wires. Our clients moved for traditional and no-evidence summary judgment on the grounds that Plaintiff's claims were barred under Chapter 95 of the Texas Civil Practice & Remedies Code and because Plaintiff was fully aware of and specifically retained to work on the allegedly dangerous condition of which he was complaining. The trial court agreed and granted summary judgment dismissing all claims against our clients.

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