

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

Proverbs 3:27

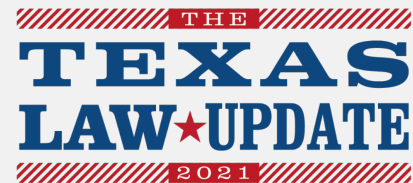
## Greetings from Doug Fletcher

Well, it is already August and summer has flown by. Speaking of time going by rapidly, our firm just celebrated its 29<sup>th</sup> anniversary. It is hard to believe that it has been 29 years since Fletcher & Springer opened its doors. There are a lot of great memories, including our first offices at 4245 N. Central Expressway. We leased the premises "as is" and Steve Springer and I spent the week before we opened the doors with paint and roller brushes repainting the entire office interior. The year 1992 was the year of Bush vs. Clinton. That's George H.W. Bush, the father. Although we did not appreciate it then, looking back it seems to have been "simpler times." We would watch sporting events in which the only controversy was an occasional bad call by a referee. Mediation was just starting to become a practice in Dallas. If someone mentioned a Zoom deposition, you would have merely assumed that it would indicate a deposition conducted at a fast pace. Work days were normally from 8:00 a.m. to 5:30 p.m. and everyone worked at their respective offices. Amazon was a river, Google described a funny pair of eyes and Facebook was a high school yearbook. Cell phones were the size of a World War II walkie-talkie and electric cars were manufactured by Mattel and raced around a plastic track.



Time marches on and everything seems to change, but the one thing that has not changed for our firm is our commitment to our great clients and our deep appreciation for all of their help in keeping our doors open for the last 29 years. So, on that note, we decided to celebrate our upcoming 30<sup>th</sup> anniversary with a contest. Our firm has always been known for its great tee-

## The Texas Law Update Seminar is Back!



Registration is open  
for the Annual  
Texas Law Update  
in DALLAS!



Don't miss our Annual Texas Law Update in **Dallas** on Friday, October 29th, 2021, at the Double Tree by Hilton - Campbell Centre.

For more information and to

shirts handed out at seminars and other events. (I actually have a special drawer at my house that contains every one of the tee-shirts that we handed out over the years.) The contest will award prizes for the clients who send us photographs of the earliest tee-shirts. Who knows, some of you may still be wearing some of those tee-shirts. We will start accepting photographs June 1, 2022, and will announce the winner on our 30<sup>th</sup> anniversary, August 2, 2022.

In the meantime, I hope everyone has a wonderful fall and we look forward to in person visits with many of you.

## Increasing Use of Forensic Cell Phone Inspections in Lawsuits

by Joe Harrison

What we gain in convenience from technology we can lose in privacy, and nowhere is this truer than with the smart phones we take with us everywhere. The law can sometimes take a while to catch up to technology, but increasingly smart phones and the information they contain are critical evidence that can make or break a case for either side.



A data analyst has the capability to download a forensic image from a modern phone which can reveal every process the device has performed, potentially since it was first turned on. This can include not only records of every call or message sent through the phone, but also every cell tower the phone has been near or Wi-Fi link the phone has ever tried to connect to, with time stamps associated with every one of these interactions. Courts will allow discovery of this information, including the location data, if a party can show a relevance to an issue in the case. However, courts generally prefer subject matter and time limitations on what data is turned over, as they rightly consider it an invasion of privacy to hand over everything available from a person's phone.

We are seeing an increasingly common trend of plaintiffs seeking forensic inspection of our clients' cellular devices in trucking accident cases. Plaintiffs use location data from driver's personal cell phones to compare locations with the driver's logbooks and look for inconsistencies. They also look at the phone usage and claim any activity that implies a driver is looking away from the road at his phone is negligent activity. As knowledge becomes more widespread of the information available from mobile devices, we expect the request for and use of forensic inspections of these devices to expand beyond the

register, [click here](#).

## SAVE THE DATE for Texas Law Update in CHICAGO



Save the date for the 2021 Texas Law Update Seminar in **Chicago** on Thursday, November 18th, 2021, at the Swissotel.

More information coming soon!

## AROUND THE FIRM

### It's Our Anniversary!

Fletcher Farley celebrates 29 years this month! We are thankful to all our clients and friends for this milestone.



We had a handy (attorney) tools-themed celebration with everything one would need to respond to a RapidResponse call.

trucking cases we've seen them in.

Inspection of mobile devices does not have to be a tool for plaintiffs only. It can be equally useful for the defense. We believe courts will be open to requests for inspection of plaintiffs' phones where there are questions of where the plaintiff was and what they were doing around the time of an accident. In some cases, it may be possible to convince the court to allow inspection of post incident phone activity to investigate the extent of a plaintiff's medical recovery and dispute claims of impairment. However, we anticipate courts will require some showing of evidence to support these suspicions before allowing such invasive discovery.

We remain committed to defend our clients and their privacy from intrusive discovery, while also using the technological tools available to us to investigate cases and plaintiffs' claims.

## Conflicts Resolved

### Fletcher Farley Obtains Summary Judgment

After considering a motion prepared by [Fred Arias](#), [Richard Harwell](#), and [Meredith Livermore](#), a Harris County judge dismissed all claims against one of the Firm's clients, a concrete manufacturer. Plaintiffs argued that the client was liable for negligently hiring a broker and the hauler engaged by the broker to haul materials from suppliers to the client's plant. As the hauler was on the way to deliver materials to the client's plant, a third-party driver recklessly pushed plaintiffs' vehicle underneath the side of the hauler's trailer, allegedly causing serious injuries to plaintiffs. Through written and oral discovery, we established that the client had never directed or controlled the details, means, or methods by which the broker, the hauler, or the driver performed their deliveries. Our lawyers argued that the client could not be liable for negligent hiring because the broker, hauler, and driver were not the client's agents since it did not direct or control the performance of their work. The court agreed and granted summary judgment to the client.



Plus it's always good to celebrate with pie and ice cream!



We look forward to another year together and can't wait to see what this next one brings.

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