

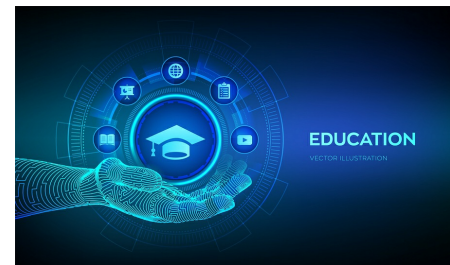


"Do not withhold good from those to whom it is due, when it is in your power to act."

Proverbs 3:27

Greetings from Mike Shipman

We are all hopeful and confident that the worst of COVID-19 is behind us. Having said this, it remains important for us all to stay diligent and continue safe practices in our everyday lives. There is no question that the quarantine we have been faced with the past few months has been challenging for all of us. It is also true that the quarantine has had, and will have, a significant effect on the practice of law for many months to come. Over the past few months we have gone from attending mediations, depositions, and hearings in person, to having them held on Zoom. Some have found this to work well, others not so well. We have also now been told by the Texas Supreme Court that, for the most part, there will be no jury trials until at least August, 2020. Throughout it all, we at Fletcher Farley have continued to be successful in representing our clients and will continue doing so. I hear some people say that this is the new normal. I hope this is not the case. I want to believe we will get past this. I realize everyone's normal might not be the same and so, whatever your normal is, I hope you are back to it very soon. We truly appreciate your continued faith in our firm and the relationship we have with each of you. Stay safe and enjoy your summer!!



17th Annual Advanced Insurance Law Course

[Craig Reese](#) recently spoke on construction liability and coverage cases along with co-presenter Travis Brown at the State Bar of Texas Advanced Insurance Law Course.

You can register for the webcast replay on July 23-24, 2020 [here](#).

Behind the Scenes



Behind the Scenes

Our new barrier is up in the reception area of the Dallas office to keep our employees and

clients safe. Anne Meadows, our Dallas office receptionist, is the smiling face behind the glass.



[Craig Reese](#) is in the office working hard on his presentation while keeping safe with his Fletcher Farley bandana.

Late to the Party

Ashley MacNamara

The Texas Supreme Court has recently had the chance to again consider the timing of a defendant's designation of responsible third parties. A responsible third party is "any person who is alleged to have caused or contributed in any way the harm for which recovery of damages is sought." TEX. CIV. PRAC. & REM. CODE § 33.004. When a defendant properly designates a responsible third party, a jury is allowed to consider whether that party caused or contributed to the injury, potentially shifting or decreasing the liability placed on the defendant. Regarding the timeliness of the designation of such a party, the rule states that the motion for leave must be filed more than 60 days prior to trial. The rule also states that a defendant cannot designate a person as a responsible third party if the statute of limitation has past, if the defendant failed to comply with its obligations, if any, to timely disclose that person. *Id.*



In the recent case of *In re Mobile Mini, Inc.*, 596 S.W.3d 781 (2020), a construction worker's hand was injured when wind blew the door to a construction office trailer shut on his hand. The Plaintiff sued the construction contractor and the owner of the trailer, Mobile Mini. In its initial responses to disclosure, Mobile Mini identified the property owner, Nolana, as a potential responsible third party. Plaintiff amended his petition and named the property owner as a defendant. The next day Mobile Mini filed a motion to designate Nolana as a responsible third party. Because Plaintiff had waited until days before the statute of limitations to file suit, Mobile Mini's responses to disclosure were due after the statute of limitations had passed. Therefore, while Plaintiff immediately amended his petition to add the property owner, the property owner was eventually granted summary judgment based on the statute of limitations.

The trial court in this matter went on to deny Mobile Mini's motion to designate Nolana. In support of its decision, the trial court agreed with the Plaintiff's argument that the Defendant *should* have disclosed Nolana in the 16 days it had between filing its answer and the statute of limitations passing.

Fortunately, the Texas Supreme Court rejected this argument, stating it was "contrary to that statute's plain language" because "under the Texas Rules of Civil Procedure, it was not obligated to disclose potentially responsible third parties until its discovery responses were due." *Id.* at 784. While the Court in its opinion does say that plaintiffs who wait until right before the statute of limitations do so at their peril, it is clear that had the defendant not disclosed the responsible third party in its initial disclosures but done so later in the case, things may have turned out very differently.

This case is a reminder that identifying potential

Welcome Joe Harrison



We welcome [Joe Harrison](#) to the firms' Dallas office. He focuses his practice on transportation, construction, premises liability and personal injury.

Behind the Scenes



Ed Velez, one of our great file clerks, not only works hard but works safely in his Fletcher Farley bandana!

NEW DATE

THE
**TEXAS
LAW★UPDATE**
2020

A new date has been set for our Annual Texas Law Update! Please save the date for Friday, September 11th, 2020 at the DoubleTree by Hilton at Campbell Centre in Dallas.

More info coming soon!

Subscribe to our
Newsletter!

responsible third parties as soon as possible is critical. It should also be noted that the defendant moved forward with filing a motion to designate even though the plaintiff had already brought them in as a party. Had Mobil Mini not done so, had they waited until after Nolana's motion for summary judgment was granted, they may have been out of luck. Indeed, plaintiffs armed with this opinion will now have further ammunition, and defendants who are less diligent than Mobile Mini was in this case may well find themselves on the losing end of future motions to designate.

Conflicts Resolved

Fletcher Farley Obtains Summary Judgment in Premises Liability Case

[Mike Shipman](#) and [Craig Reese](#) obtained a summary judgment in favor of their clients on a premises liability case. The Plaintiff was at the house for a Sunday School event. She was in the backyard taking pictures with a number of other women when she slipped and fell on some stairs near the pool. The evidence established that the Plaintiff was a licensee because she was a social guest. There had been no prior problems with the steps and Plaintiff could not establish that anything the homeowners did or allegedly failed to do was a proximate cause of her injury.

If you want more information or have questions, please contact:

Doug Fletcher
Firm Managing Partner
214-987-9600
[Doug's email](#)

Joanna Salinas
Austin Office Managing Partner
512-476-5300
[Joanna's email](#)



Fletcher Farley Shipman & Salinas LLP

fletcherfarley.com

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