



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

Proverbs 3:27

Greetings from Fred Arias

The most common catch phrase of 2020 - "The New Normal." Instead of in-person schooling, children can attend online. Instead of eating at restaurants, we are eating at home - laughing and joking around in a more intimate setting. Instead of exercising at our favorite gyms, we have been walking, cycling, and running more - to the point that it is hard to find a bicycle at the local Academy or Walmart. Litigation and trial practice are no different. Microsoft Teams, Zoom, and Google Hangouts have become preferred avenues for depositions, mediations, and hearings. While some aspects of this New Normal are very welcomed, some of these changes, I believe, lessen the effectiveness in which we represent our clients. Cross-examining a plaintiff is not the same over teleconference. There is something to be said about a plaintiff feeling uncomfortable in a conference room, as opposed to the comforts of his or her own house (and while in pajamas). The mediation process is enhanced when your defense counsel walks around the halls, privately talking to the mediator and opposing counsel. Not to mention, part of the process is about wearing out the other side - especially in a full-day mediation. (I can't even stomach the thought of a Zoom trial where the rapport with the jury is built upon a detailed and choreographed presentation). Through these difficult times, we consider ourselves blessed that we can so easily adjust to this New Normal. However, when this pandemic passes, I do hope that we do not forget about the "Good Ole Days."



Handling Claims in the Oil Industry

[Doug Fletcher](#) and [David Colley](#) will be presenting a webinar on handling claims in the expanding oil industry in Texas on Tuesday, September 29th, from 12:00PM to 1:30PM.

Become familiar with the various laws and statutes in Texas that provide defenses to liability, and also learn about the actual operations in the oil patch.

This webinar is pending approval for 1.0 general credit hour by the Texas Department of Insurance.

Click on the button below reserve your spot.

REGISTER HERE

DJ Hardy

With in-person jury trials suspended through at least October 1, 2020 (we expect the Supreme Court to issue a new order in the coming weeks further extending this suspension), Courts in Texas have experimented with different ways to proceed with jury trials, both civil and criminal. Some counties have begun conducting voir dire (jury selection) in school auditoriums, convention centers, and even NRG Stadium in Harris County. Other courts are attempting to conduct jury trials via video conferencing applications, such as Zoom. While the zoom trials have provided entertainment, convenience for the jurors, and gave at least one cat its 15 minutes of fame, they have also proven difficult.



In May, Collin County conducted a non-binding civil trial. Jurors were selected, heard evidence, and delivered a verdict all through Zoom. While there were some technical issues, and at least one delay due to a juror failing to promptly return from a personal phone call, most of the jurors reported the process was an efficient use of time. The jurors enjoyed not having to wait around for their juror number to be called, and the screen allowed them to see evidence up close.

A Travis County Justice of the Peace Court conducted the nation's first virtual criminal jury trial in August, which was live streamed on YouTube. The defendant was contesting a citation for speeding in a construction zone. As expected, voir dire was initially filled with technical issues from the jurors not familiar with the Zoom platform. Voir Dire took almost five hours to complete for this six-person panel (the audience on YouTube was excited when juror 18 and her cat were selected). The judge had to repeatedly tell jurors to not look at their phones or other screens during the process. As the seven panelists were being sworn in, one juror's laptop froze, and he was dismissed from the panel. Evidence was presented via screen-sharing capabilities, and each side had several attorneys and staff assisting lead counsel with the technical requirements. After 15 minutes of deliberation, and a full day of jury duty, the jury found the defendant guilty of speeding, but not guilty on the construction zone enhancement. The defendant will not have to pay the

Labor Day Celebration

We had fun celebrating Labor Day even though we were socially distanced!



Matthew Skidmore is a good sport for the official "How Many Hot Dogs Can You Eat?!" contest.



Picnicking down the hall with Sophia Lopez in the forefront and Doug Fletcher and Julia Sinor in the

\$50.00 fine if she does not accrue any additional moving violations in the coming months.

Last week, the Texas Office of Court Administration (“OCA”) released its observations and recommendations relating to jury trials during the COVID-19 pandemic. The OCA notes that prior to the pandemic, Texas courts averaged 185 jury trials per week (representing 0.11% of all dispositions). Since June, 85 jury requests have been made, and 20 trials have been conducted. While I will not recite the entire packet, the OCA recommends each county’s administrative district judge be required to submit a plan for conducting jury trials consistent with the guidelines proposed by the OCA, and each judge wishing to conduct a jury trial seek approval for the trial from the county’s administrative district judge and regional presiding judge. Additionally, the court should ensure no court participants have tested positive for COVID-19 in the preceding 30 days. The OCA also provided recommendations for grand juries, trials, voir dire, and the need for a “technically savvy bailiff.” The OCA’s Observations and Recommendations can be found here: [click here](#).

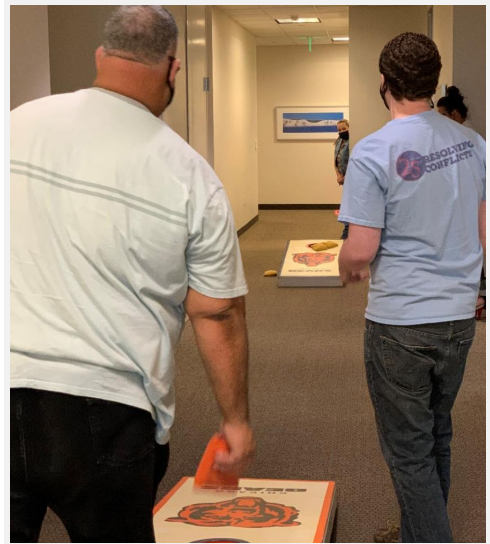
While virtual hearings, depositions, and mediations have proved to be mostly successful, the jury selection and trial process is still very difficult over Zoom. These test cases have shown that it is difficult to fully monitor jurors’ (and sometimes the parties’) attention and compliance with the rules. The jurors may like the convenience, and we enjoy the entertainment, but Zoom jury trials in serious matters are not yet practical.

Conflicts Resolved

Fletcher Farley Obtains Dismissal in Premises Liability/Breach of Contract Claim

[Doug Fletcher](#) and [Jeff Smith](#) obtained dismissal for a gym in a premise liability/breach of contract claim. Plaintiff was reportedly injured when a shower seat broke from under him. However, Plaintiff filed suit more than two years after the incident; thus, blowing limitations. To try to defeat limitations, Plaintiff sued the gym in district court asserting a breach of contract claim. After discussing with Plaintiff’s counsel our intent to file a motion for summary judgment, Plaintiff voluntarily non-suited his claim dismissing all claims against our client.

background.



Ed Velez (R) and Walker Agathon (L) play cornhole.



Wild About Harry's hot dog line, 6 feet apart of course.

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

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