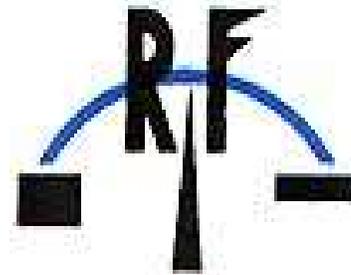


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Fall 2019

Welcome to the Fisher's Law Office Newsletter, providing you with legal information you can use in your everyday life. In this issue, I discuss legal issues my clients have encountered so far this year in 2019.

Our client was hit while stopped at a red light on County Road 611 in Pinellas County. Fortunately, despite his checkered driving record, the other driver (a 19-year old male), was driving his father's car. The father had \$100,000 of personal injury liability coverage, which we were able to recover for our client after filing a lawsuit. Our client's damages were arguably greater than \$100,000, but she failed to carry "uninsured motorist" coverage. This is important coverage to have because it pays when crash victims are hit by uninsured drivers..

Anyone over age 15 who lives at your home can accept lawsuit papers from a process server. We've had several cases of family members getting served and not telling the client. We always advise clients who are expecting suit papers to warn family members to be on the lookout, and to tell them if a process server drops off a lawsuit at the house!

"Spoliation" of evidence is when the insurance company is told to "hold the black box" and they discard of the same. It's a sign of bad faith and can make a black mark on the party who commits this litigation sin. The jury is usually given an "instruction" on what the Defendant did. Moral? There is an affirmative duty to preserve evidence under Florida Law if litigation is expected.

NEW TRAFFIC LAWS IN 2019

As of July 1st, texting while driving is now a "primary offense," punishable by fine and 3 points against a driver's license. This means the cop can stop you for texting, even if you're not violating any other driving law.

Current Florida law requires you to move over a lane for any EMS, police or tow truck. If you can't move over — or when on a two-lane road — slow to a speed that is 20 mph less than the posted speed limit.

Slow down to 5 mph when the posted speed limit is 20 mph or less. Violating the "Move Over" Law can result in a fine, fees, and points on your driving record. For more information, see §316.126, Florida Statutes.

This was advice we posted on our website many years ago. It still holds true...

“LEGALLY STUPID MOVES YOU CAN MAKE TO EASILY SCREW UP YOUR LIFE.”

- Loan your car to a friend who drinks a lot.
- Loan your hard-earned money to a close friend to start a business or pay bills.
- Don't wear your seatbelt when you drive.
- Drive while impaired.
- Sign a Durable Family Power of Attorney with dishonest relatives.
- Give your credit card number out to people who call you on the telephone.
- Keep a dog that bites and don't have homeowners' insurance or renter's insurance.
- After your first divorce, get married immediately to someone with a lot of problems.
- Buy a house from a friend and don't buy title insurance and don't see a lawyer about the transaction.
- Don't write a Will and hope it all works out for the best.
- Fail to pay child support and think that it will just "go away".
- Fail to title your house in the name of you and your spouse.
- Don't save for retirement and just assume social security will take care of you.
- Have the minimum amount of car insurance (personal injury protection) and just hope that you won't get into a car wreck; or that if you do, the other party won't be hurt and won't sue you.
- When you change your oil in your car, just dump the oil on the ground and assume that nothing will happen because the government never checks this sort of thing.
- If you own a small business, don't register it under Florida Statutes

Our client came in with a final judgment dated last week granting attorney's fees against him. We were suspicious because under the "American Rule," attorney's fees are only awarded under a contract or a statute and the contract attached to the complaint did not have a clause providing for attorney's fees. We pointed this out to the opposing counsel (who works for a major Tampa law firm) and he sheepishly agreed his affidavit was false. We prepared an agreement to set aside the fraudulent Final Judgment and the judge vacated the judgment against our client.



Bring this newsletter for a free consultation good thru 3/31/2020. (half hour, in office)



- Chapter 865 with the State of Florida and just assume that no one will ever catch you for failing to comply with Florida's Fictitious Name Act.
- If you have employees, just assume that it's okay not to pay employment taxes on them.
- Title your house to your spouse in a divorce and assume that the mortgage company will never sue you when your spouse fails to make payments on the former marital home.
- File a joint tax return with a spouse who worked "under the table".
- Hope your nagging medical issue will just "go away."

If your ex files for and receives social security disability, your minor child has a right to "derivative benefits," which are paid in addition to the money paid your ex. Be aware of your rights if you hear of your ex applying for social security benefits and you share a minor child.

Fisher's Law Office
Prices for 2019

Consultation (Legal Advice) - \$150

Last Will & Testament - \$250

Durable Family Powers of Attorney- \$75

Healthcare Surrogate - \$75

Living Will - \$75

Simple, Uncontested Divorce - \$3,500 plus costs

Contested, involved Divorces - \$350 an hour, plus costs

General litigation - \$350 an hour

Personal Injury - Percentage of Recovery plus costs.



Financial Decisions that Come back to Haunt You....



Our client was a stay at home mom who purchased a \$500 couch on a furniture store credit card.

The debt, with outrageous 29% interest, grew to \$1,600. The credit card company sold the debt to a debt collector. The debt collector then sued our client for \$1,600. We raised defenses of “usury” and “stale debt,” (called “latches”)—saying that the new owner of the debt is not allowed to try to collect over 18% interest in Florida. The case was settled with the creditor forgiving the entire debt, and our client got to keep the couch. But the message is clear: If you are sued on a credit card debt sold to a debt collector, see an attorney to discuss any possible valid defenses.

Sometimes it pays to pay your taxes. I recently encountered a case in which a man turned 63 and applied for “social security disability,” only to discover that the benefit was almost nothing because of his failure to pay social security and Medicare taxes over his lifetime. The law requires that you must work at least 40 quarters to get benefits and if you don’t, you receive little later in life from the social security administration if you retire or apply for disability benefits.

If you ever overdraw your bank account, it could prevent you from opening a bank account with other banks in the future since banks communicate with each other through ChexSystems, a consumer reporting agency for banking activity. This company helps banks identify consumers who present a risk considering their history of handling accounts. Do not bounce a check and fail to make it good. And never let someone else use your bank PIN code/debit cards – potentially affecting your right to open a new bank account.

Our client’s mother had to go to a nursing home due to declining health. Medicaid—a federal program—paid the bill; but when she died, her family discovered the Medicaid program made a claim against her estate exceeding \$100,000 for her care! (Under the law, your estate must pay back Medicaid but NOT Medicare for care received after age 55.) The family was worried her home would have to be sold to pay back the government for her Medicaid benefits. Solution? We filed a “Petition to Determine Homestead Real Property” which uses the Florida Constitution (Article X, Section 4) to give her home to her son free of all claims by Medicaid. Our client received the home free and clear.

WILLS



In the event that you neglected to prepare a Will, **Florida Statutes provide for who gets what when you die.** For example, a married man’s wife with no children automatically inherits his estate if he dies without a Will. If the couple has children, the wife gets the first \$60,000 and the balance is split between the wife and the couple’s children. We always advise client’s to write a Will to clarify intention in the case of death.

Warning: Your Florida land can be handled in a Florida probate; but land in other states must go through “Ancillary Administration” in the other state to be transferred to your loved one when you die.

Our client was going in for surgery and wanted it made clear that if something went wrong, he did not want to be left on life support. Answer? He signed a “living will,” which states that if 2 doctors found him to be in a persistent vegetative state, all life support measures except water and nutrition will be withheld.

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Degree in Accounting,
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1978

License Issued
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(Currently Inactive)

1983

Juris Doctorate Degree in Law,
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Memberships:

- Florida Bar Association www.flabar.org
- BV rated by Martindale Hubbell
- Gaucho Association
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