



EL PASO BAR JOURNAL

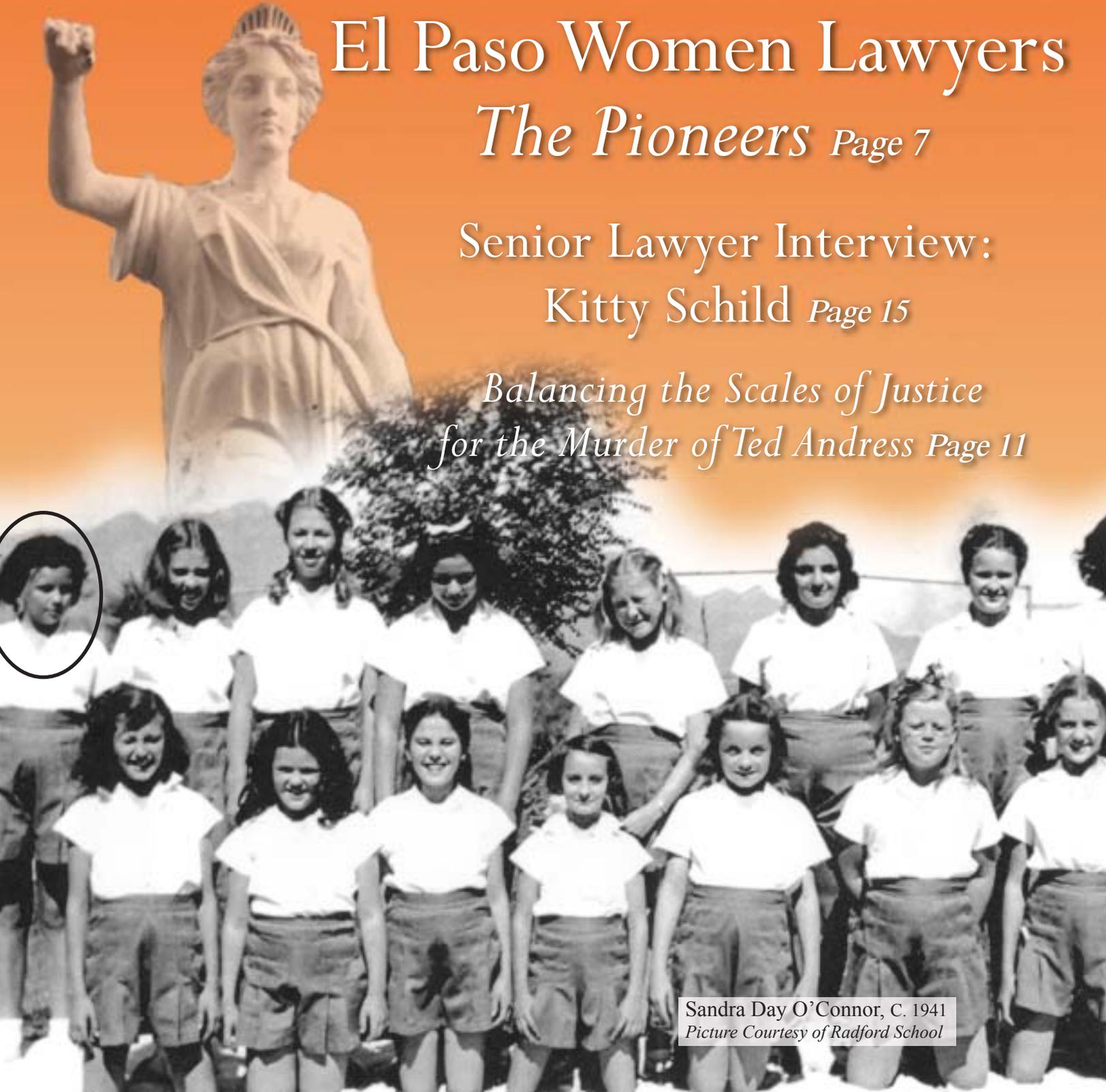
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October/November 2008

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for the Murder of Ted Andress* Page 11



Sandra Day O'Connor, C. 1941
Picture Courtesy of Radford School

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State Bar of Texas

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“The El Paso Bar Journal is a bi-monthly publication of the El Paso Bar Association. Articles, notices, suggestions and/or comments should be sent to the attention of Nancy Gallego. All submissions must be received by the Bar office on or before the 10th day of the month preceding publication. Calendar listings, classified ads, display ads, and feature articles should not be considered an endorsement of any service, product, program, seminar or event. Please contact the Bar office for ad rates. Articles published in the Bar Journal do not necessarily reflect the opinions of the El Paso Bar Association, its Officers, or the Board of Directors. The El Paso Bar Association does not endorse candidates for political office. An article in the Bar Journal is not, and should never be construed to be, an endorsement of a person for political office.”

THE PRESIDENT’S PAGE

As I write this column, I am headed to my hometown of Liberty to assist with the clean-up efforts after Hurricane Ike blew through the small southeast Texas town at a reported 110 miles per hour. My childhood home was demolished by a beautiful oak tree that stood in our backyard. That grand old shade tree is now in our front yard and underneath it is our kitchen, den, laundry room, living room, a bedroom, my mom’s vehicle and all of the childhood mementos of mine and my brother, which our mother lovingly stored in our attic. Luckily, my mother made it out safely, escaping with a bump on her head and a few scratches to her body. But the realization of what could have happened weighs heavily on my mind. The early reports are that they were very few deaths and for that we can all be thankful.



However, as we learned after Hurricanes Katrina and Rita, it will take many, many months and billions of dollars to rebuild along the Gulf Coast and throughout southeast Texas after the devastation that Ike left behind. Obviously not everyone is in a position to assist in the clean-up and rebuilding efforts. So what can you do to help? You can always donate to the American Red Cross Disaster Relief Fund - 1-800-HELP-NOW or www.redcross.org. You can also volunteer for the State Bar of Texas’ disaster hotline (800-504-7030), which was established after Katrina and Rita to help assist with basic legal questions following a disaster. Sign up to assist at www.texasbar.com. The State Bar of Texas also created a disaster relief resources page for federal and state agencies that can help. In addition, the Federal Emergency Management Agency (FEMA) has a contract with the American Bar Association Young Lawyers Division pursuant to which the ABA YLD mobilizes young lawyers in a state where a disaster is declared to organize the provision of free civil legal services to disaster victims. In Texas, the ABA YLD acts in coordination with

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EL PASO BAR ASSOCIATION

October Bar Luncheon

Tuesday, October 14, 2008

El Paso Club. 201 E. Main, 18th Floor, Chase Bank

\$15 per person. 12:00 Noon

Judicial Candidates Forum

Please make your reservations by Monday, October 13, 2008 at noon
by calling Nancy at 532-7052 or via email at nancy@elpasobar.com

November Bar Luncheon

Tuesday, November 11, 2008

El Paso Club. 201 E. Main, 18th Floor, Chase Bank

\$15 per person. 12:00 Noon

Salute to Veteran's

Please make your reservations by Monday, November 10, 2008 at noon
by calling Nancy at 532-7052 or via email at nancy@elpasobar.com

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the State Bar of Texas and the Texas Young Lawyers Association to provide these legal services. Although young lawyers organize the provision of legal services, volunteers can be lawyers of any age and experience level and I encourage you to volunteer. Finally, for those of you with opposing counsel from the affected areas, please extend

professional courtesies without hesitation.

You may recall that after Katrina, about 450 hurricane victims arrived in El Paso. The EPBA came together and assisted those individuals by donating money, securing apartments, donating household goods and furnishings, and donating backpacks and school

supplies for the children. While we may not be hosting many evacuees this time, your donations of time and money will certainly make a difference in the lives of those affected.

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CALENDAR OF EVENTS

OCTOBER/NOVEMBER 2008



PLEASE NOTE: Please check the Journal for all the details regarding all above listed events. If your club, organization, section or committee would like to put a notice or an announcement in the Bar Journal for your upcoming event or function for the months of December/January, 2008/2009, please have the information to the Bar Association office by Friday October 10th, 2008. In order to publish your information we must have it in writing. **WE WILL MAKE NO EXCEPTIONS.** We also reserve the right to make any editorial changes as we deem necessary. Please note that there is no charge for this service: (915) 532-7052; (915) 532-7067-fax; nancy@elpasobar.com - email. If we do not receive your information by the specified date please note that we may try to remind you, but putting this journal together every month is a very big task and we may not have the time to remind you. So please don't miss out on the opportunity to have your event announced.

October, 2008

Friday, October 3
Coffee & Donuts in Bar Office

Friday, October 3
MABA General Meeting

Monday, October 6
FBA Luncheon

Tuesday, October 7
EPBA BOD Meeting

Wednesday, October 8
EPWBA Monthly Meeting

Thursday, October 9
EPYLA Monthly Meeting

Thursday, October 9
EYPLA Happy Hour

Friday, October 10
DRC Event for Judges

Tuesday, October 14
EPBA Monthly Luncheon

Wednesday, October 15
*Positive Role Model
Ice Cream Social*

Wednesday, October 15
TRLA Night Clinic

Thursday, October 16
EPPA Monthly Luncheon

Friday, October 17
Coffee & Donuts in Bar Office

Thursday, October 23
EPBA Ethics Seminar

Wednesday, October 29
– **Friday, October 31**
Advanced PI Video Seminar

November, 2008

Tuesday, November 4
EPBA BOD Meeting

Friday, November 7
Coffee & Donuts in Bar Office

Friday, November 7
MABA General Meeting

Tuesday, November 11
EPBA Monthly Luncheon

Wednesday, November 12
EPWBA Monthly Meeting

Thursday, November 13
EPYLA Monthly Meeting

Thursday, November 13
EPYLA Happy Hour

Monday, November 17
TRLA Legal Clinic

Thursday, November 20
EPPA Monthly Luncheon

Friday, November 21
Coffee & Donuts in Bar Office

Thursday, November 27
& Friday, November 28
Thanksgiving Holiday

Upcoming Events (mark your calendars)

Thursday, December 4
Holiday Party

Friday, January 23, 2009
*Wills, Estate Planning
& Probate Seminar*

**Friday & Saturday,
February 20 & 21, 2009**
*13th Annual Civil Trial Seminar,
Las Vegas, NV*

Coffee & Donuts at the Bar Office:

<i>Friday, October 3</i>	Sponsored by Cori Harbour
<i>Friday, October 17</i>	Sponsored by Cheryl Lay
<i>Friday, November 7</i>	Sponsored by Naomi Gonzalez
<i>Friday, November 21</i>	Sponsored by Regina Arditti

Canon Law's Influence On The Diversity Of Western Law

BY JUDGE OSCAR G. GABALDÓN, JR.

The history of law is the history of our race, and the embodiment of its experience. It is the most unerring monument of its wisdom and of its frequent want of wisdom. The best thought of a people is to be found in its legislation; its daily life is best mirrored in its usages and customs, which constitute the law of its ordinary transactions.^[1]

A significant amount of law throughout western nations has its roots in that of the Roman Catholic long-lived legal system. The international, national, and other political subdivisions throughout much of the Western world now enjoy a diversity of laws, which have developed to accommodate the individual needs of nations, but still largely rooted in those principles the Roman Catholic Church treasures. Socio-economic, cultural, educational, political, and other dimensions of a nation frequently keep the status of laws in a constant state of change. Adjustments, deletions, additions and other modifications are a reality of law, for it is the circumstances of humanity that usually provide the impetus for such change.

Known as the inventor of the university system, the developer of the free-market economy, the birthplace of modern science, and the patron of master artists and musicians, the Roman Catholic Church is credited by historians as being the institution where the foundation for the Western rule of law emerged.^[2]

The oldest continuously active legal system in the Western countries is that of the Roman Catholic Church, which is governed by the Holy See in the sovereign city-state commonly known as the Vatican, the smallest independent country in the world. The Roman Catholic Church's legal system, which has been in existence long before common and civil laws in Europe were even conceived, began with the formulation of rules (canons).^[3] Gradually, these Church canons developed into a massive and intricate system of laws that incorporated numerous traditions of law. The diversity of traditions, such as Celtic, Saxon, Hebrew, Roman, Visigothic, and many others, brought into existence a rich compilation of laws



that addressed a wide spectrum of legal subjects and issues, particularly as they interfaced with the conditions and needs of humanity.

Within the Roman Catholic legal system, full and complete legislative, executive, and judicial authority rests with the Supreme Pontiff, more commonly referred to as simply the Pope. In the early days of the Church, the first laws were enacted by bishops, in conjunction with councils called by the Emperor, with the consent of the Pope. Whenever some of the laws were deemed to be ambiguous, the Pope would settle those ambiguities, and the matter was laid to rest. The traditional controlling maxim in this regard was "Rome has spoken, case closed".

In time, the Code of Cannon Law, which was promulgated by Pope Benedict XV in 1918, presented more clearly recited and defined laws than had previously been the case. Before this, systematic compilations of laws, such as the Gratian's Decree, the Corpus Juris Canonici, the Bullaria, and many other systematic collections, involved some divergent, incongruous, or otherwise irreconcilable canons, partly due to the ever changing circumstances of the human condition and the day-to-day activities of people.

The need to further revise the Code became

a pursued objective in order to accommodate the changes of the Second Vatican Ecumenical Council (closed in 1965). Tedious work went into the eventual promulgation of the revised Code of Canon Law for the Western Catholic Churches, which contains 1572 canons. Pope John Paul II promulgated these in 1983. The same pope later promulgated the canon law for the Eastern Catholic Churches in 1990.

The Roman Catholic Church's strong and historical emphasis on developing laws based on solid reasoning and sound legal philosophy is something that has continued to be the adopted practice throughout Western civilization's political and governmental institutions. Many of the legal principles of current laws throughout the world, based largely on Catholic legal philosophy, are centered on a strong sense of human rights and freedoms and a firm belief in the ideal and virtue of charity.^[4]

Today, we enjoy some of the greatest masterpieces of law, such as the Constitution of United States of America. With a firm focus on the importance of human dignity and the value of the individual, freedom, life, and other treasured aspects of human existence, mankind's ability to develop and maintain its systems of law will undoubtedly continue to serve it well. Still, for all the beauty and justice found in our laws and the systems they dwell in, and all the benefit they may bring us, they will always have their limitations, as observed by John Quincy Adams: "The laws of man may bind him in chains or may put him to death, but they never can make him wise, virtuous, or happy." The dimension of wisdom, virtue, and happiness is beyond law. Nonetheless, the good and just law can help bring us closer to the realm of such a dimension, for law is an ordinance of reason for the common good.^[5]

[1] "History of Law," historyoflaw.info.

[2] Woods, Thomas E. *How the Catholic Church Built Western Civilization*.

[3] "Canon Law." Wikipedia.

[4] *Ibid*.

[5] Partly based on a quote from St. Thomas Aquinas (1225-1274).

El Paso Women Lawyers

The Pioneers

BY LIZ ROGERS

Assistant Federal Public Defender Alpine, Texas

Liz Rogers, the immediate past State Bar director for District 17, has held a number of legal positions in El Paso, including with the U.S. Attorney's office and the City Attorney's office. She also worked at the firm of Peticolas, Luscombe, Stephens and Windle, a successor to the Andress law firm. - Clinton Cross

Introduction

Women lawyers are so common today that one can barely remember what it was like when we were a rarity. This article lists some of the women lawyers who in El Paso pioneered by breaking into a profession that was for hundreds—indeed thousands—of years dominated by men. Imagine, if you can, what the earliest women were up against!

The Early Ones

Ethel Shirley Abbott, was born in 1887 to George Scarborough.¹ Mrs. Abbott married W.G. Abbott in 1909. They later moved with their two children to Tennessee to study law, enrolling in Cumberland University in 1917. When she and her husband completed their legal educations, they came back to their home town of El Paso to open an office. She continued in private practice when he became an Assistant County Attorney. When he died in 1921, she received the appointment in his place. She left the practice of law to become a plat clerk for the County, resigning in 1945 to move to Abilene to live with her eldest son. She was told she was the only woman lawyer west of Dallas, but for sure, she was the only woman lawyer in El Paso. In a Herald-Post article from 1959, she was quoted: "They treat me just fine." Although a member of the El Paso Bar Association, she was never invited to attend a bar association banquet. "(T)hey passed the word to me that it might be 'rough' and I didn't go."

Both her sons became lawyers: Dan Abbott, who practiced in Abilene and Justice William G. Abbott of the 8th Court of Appeals. Ethel's grandson, and William G. Abbot's son, Robert Patrick ("Bob"), was a briefing attorney for the Eighth Court of Appeals in 1981.



Ethel Shirley Abbott. 1959 - the only woman shown on the 1926 Bar Composite of member's photographs

Elisa Fernandez-Campos (Juan Stockemeyer's aunt; Bernard Panetta's mother-in-law). She attended both undergraduate and law school at the University of Chicago in the 1930s. She was one of three women (and the only Mexican) in her law school and graduated in the top 10% of her class. She married to Dr. Leopoldo Villareal.

Mary Vance Guinn, a fourth generation El Pasoan, never attended law school. However, she managed to study law while working with her husband, Judge Ernest Guinn, when he was City and County Attorney and she was a housewife and mother of six. She was admitted to the bar in 1950 and to the federal bar in 1951 by the late Judge R.E. Thomason. Her obituary states that she was the second El Paso woman to be accorded the privilege.² At least two of her children became lawyers: Ernest Guinn, Jr and Mary Kate Guinn Gonzales. Her grandson, Bill Putnicki, is a lawyer and the long time Clerk of the U.S. Courts for the Western District of Texas. Ms. Guinn died in 1976.

Ruth Kern started her practice at the age of

54 in the mid-60s, although she graduated from law school much earlier and worked first as a legal secretary. She was a co-founder and first president of El Paso Women's Bar Association. Although she became legally blind in the late 1970s, she never quit working. Ruth was very involved in community affairs. Her children David and Suzan both became lawyers.

For many years before her death, John Karr, Melvin Strauss and Ruth (the collective heart, soul and brains of the American Civil Liberties Union) met at her house on Hawthorne Street in Sunset Heights to plan their next move. She would most definitely define herself as a radical and an activist.

Equal Rights Amendment: Legal Barriers Begin to Fall

In 1970, the introduction of the federal equal rights amendment in Congress gave the state Equal Rights Amendment a boost since Gus Mutscher, the speaker of the Texas House had refused to let it out of committee the previous year. The Texas Federation of Business and Professional Women hired a lobbyist friend of Mutscher's to shepard it through the House for the 1971 legislative session. Congress passed the federal ERA in 1972, and the Texas legislature ratified it in a special session in March 1972. Texas voters endorsed the state ERA in November 1972.

Sara Weddington argued *Roe v. Wade* on December 13, 1971 before the Supreme Court of the United States.³ For countless women who sought to control their own reproductive choices, the world did change in 1973 when *Roe v. Wade* became the law of the land.

Title IX of the Education Amendments of 1972, was enacted by the United States Congress on June 23, 1972: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

And not to be overlooked was attorney Sissy Farenthold's historic run for the Democratic

nomination for Governor in both 1972 and 1974. Regardless of whether one was for her or against her, she clearly carved out a big chunk in the ceiling of possibilities for women.

Ann Richards exorcised the ghost of Ma Ferguson when in 1991 she was elected Governor of Texas.

The Surge of the Seventies

Wanda Creamer worked for Bart Boling as an Assistant D.A in 1971. Reporter Jane Pemberton profiled her in a *Herald Post* article after she gave chase to an intruder (her neighbor) in her home, and later struggled with him over a loaded gun. Not surprisingly, he was indicted on two felony counts: burglary and assault with a deadly weapon.

Janet Ruesch started working for Mark Howell in September 1970 and then Malcolm McGregor. When she tried to sit for the Texas bar in 1971, she was living in Las Cruces, New Mexico. She went to Austin for six weeks to take a bar review course, and when questioned by the Board of Bar Examiners, she allowed that she did not live at the office in the Southwest National Bank Building. Texas law at the time mandated that a woman's residence was where her husband lived, and the Board required that in order for her to sit for the Texas bar, her husband would be required to establish residency in Texas. Ultimately, the Board released her grade when everyone else got theirs, even though they threatened to hold it until her husband at the time established Texas residency!

Janet and Kitty Schild were the first women on the bench in El Paso (1977) when Mayor Ray Salazar appointed them to be part-time Municipal Court judges. Janet went on to achieve many historic "firsts" when she joined the U.S. Attorney's office in February 1978, and in December 1979 was sworn in as U.S. Magistrate, the first woman in the federal judiciary in the Western District of Texas. Also in the 1970s, Janet was the first woman President of El Paso Trial Lawyers' Association. In 1984, she became the first woman elected President of El Paso Bar Association. She followed Ruth Kern as President of the El Paso Women's Bar Association.

Fifty years after Mrs. Abbott was pointedly not invited to a bar association gathering, Janet changed all that forever when she became the first woman to attend an El Paso Bar banquet. Who could imagine a Bar Banquet today without the many women that make it happen?

Alice Dwyer graduated from Southern Methodist University in 1970 and went into private practice. She was the subject of a "Senior Lawyer Interview" in the May, 2005 El Paso Bar Bulletin. Her brothers, Sam and Pat, were



Doris Sipes, 1972

also lawyers.

Doris Sipes graduated from University of Texas and passed the Texas Bar in March, 1970. She worked for Steve Simmons at the District Attorney's office. She won her first jury case she tried when she was pregnant with her son Chris, convicting the head of the juvenile detention facility of theft. Thereafter, when offered more pay than she could make as an Assistant District Attorney, she became the first court administrator to serve in the El Paso county courthouse.

In a *Herald-Post* article from October, 1972, "Mini-Skirted Lawyer Fulfills Goals," Jane Pemberton quotes Doris with this statement: "But I don't believe all that part about equality in sharing chores. I feel taking care of the children and the home are my responsibilities, as well as having first priority. They come first." Doris, in her inimitable way, insists she still holds these beliefs.

Anita Ashton was reported in the *El Paso Times* to be the only woman attorney in the District Attorney's office in El Paso in the fall of 1973, where she handled felony appeals. She was quoted as saying: "I liked El Paso a lot when I was going to college here. It is hard work in this city, but there is also great opportunity in El Paso. I have found no prejudice, either for or against me."

Kitty Schild moved from Austin to El Paso in January 1974 to work for EP Legal Assistance Society and became the first woman to be elected to the bench in El Paso. She served 12 years as a Municipal Judge, and then seven years as the judge of County Court Number Four. Kitty was a founder of Rape Crisis Center; Outstanding Woman of the Year in Law (1978); Outstanding Woman of the Year-Elected Official (1981), and as the Outstanding Jurist of the Year by EP Young

Lawyers (1997). She was the third President of the EP Women's Bar Association.

Edelmira Navarro (surely the first Latina lawyer in El Paso) served in the mid-1970's as a staff attorney of El Paso Legal Assistance Society and thereafter as acting director.

Susan Perry grew up in North Carolina and New Jersey, and was educated at Antioch College in Ohio. She graduated law school in 1975 from Northeastern University in Boston. She came to El Paso in August 1976 on a Reginald H. Smith law fellowship and landed at El Paso Legal Assistance Society. She was identified in at least two stories in the press as an "arch-liberal radical" and a "firebrand." She said: "I'm not sure I've ever been treated badly by judges because I'm a woman. I've been treated badly because I'm from Legal Aid."

Unlike so many of us that found our way to El Paso, Ms. Perry was not enchanted by our city. "The apathy here, the racism, is astounding. I haven't seen anything like it since I was in Mississippi in 1964," she told Tom Butler in a story he wrote about her in the *El Paso Times*.

Susan Munder Urbietta moved from New Jersey to El Paso in 1976 to join El Paso Legal Assistance Society, and then went into private practice.

Barbara Wiederstein began her career as a staff attorney with El Paso Legal Assistance Society, then worked with Ray Caballero in the early years before opening her own law office.

Carol Mason, a native El Pasoan, joined the child support division of the county attorney's office in 1976. At that time, public enforcement of child support collection claims was a relatively new phenomenon. The United State's Congress initiated the innovation by passing a law ordering states to enforce child support orders. Texas opted to establish child support unites in the Department of Public Welfare, with priority to be given to collection of child support for parents receiving governmental assistance. In El Paso, Arne Schonberger was hired to establish the office. Shortly thereafter, the Department of Public Welfare contracted with County Attorney George Rodriguez to perform the work.

Ruth Tone was a private practitioner in the 1970's.

Susan Bradshaw worked for the City Attorney's office (left in fall 1977); she then went into private practice.

Monica Cunningham came to El Paso around 1976, practiced with Victor Arditti (father of Regina), and then went to work for then County Judge Udell Moore. She later moved to the City Attorneys office.

Taffy Bagley joined Kemp, Smith in 1977,

making her the first woman hired by one of El Paso's major law firms. *Linda Kirby*, *Margie Christian* and *Susan Jeans* joined the firm in the late 1970s and *Stancy Stribling* came on board around 1981.

Terry Wyrick moved to El Paso in 1977 or 1978, joining first Ratliff, Haynes & Stading.

Betsy Hall and *Geri Mary* were Judge Sessions' law clerks from around 1977 to 1979, but both left El Paso when they completed their clerkships.

Judy Sanders went head-to-head with some of the best criminal defense lawyers in town during her days as an Assistant District Attorney for Steve Simmons. She was a protégé of Gary Weiser's and he had a great deal of respect for her trial skills.

Maxine Shaprow was the first black woman to serve as an assistant district attorney in El Paso. She graduated from the University of Michigan in 1978, and came to Texas with her husband who worked for El Paso Natural Gas Company. They had two children at the time.

Carol Pennock, who was a nurse before she was a lawyer, was hired in the DA's office to head the Rape Unit; she later was promoted to First Administrative Assistant. In 1982 she gained some notoriety for a dust-up because she was pregnant and was the assigned prosecutor on a rape case. The defense lawyer (Scott Segall, as I recall) filed a motion to have her recused because she was pregnant and he asserted that a jury couldn't be fair to his client because of her condition. Judge Paxson convened a hearing, and several men who were in the courthouse foyer were called to testify. There was a unified outcry from the El Paso Women's Bar and others, and Judge Sam Paxson resolved the issue by continuing the trial until she

delivered her child. Carol had her baby, came back to work, and convicted the defendant.

Debra Kanof went to work in 1980 for Judge Pena in the Juvenile First Offender Program, then for George Rodriguez as an Assistant County Attorney. To continue her march through all the prosecutorial offices, she moved upstairs to Steve Simmons' office as an Assistant District Attorney in September 1982. She became an Assistant United State's Attorney in 1987, where she is today. In May and June, 2007, she was the subject of two "Senior Lawyer Interviews" in the El Paso Bar Journal. She is presently responsible for prosecuting "corruption" cases involving numerous public officials.

Yvonne Puig joined Grambling, Mounce in 1978; when Risher Gilbert completed her clerkship with the 8th Circuit Court of Appeals around 1980, she went there as well.

Chris Kelso came to El Paso from Florida in January 1978 with the Department of Justice as an immigration trial attorney by way of South Carolina. She attended Duke and the University of South Carolina Law School, and only expected to stay a short time. But El Paso worked its magic, and in 2006 she retired from the Federal Public Defender's office in El Paso.

Becky Westfall, was an Assistant United States Attorney in El Paso; she then became an administrative law judge in Dallas.

Cathy Barnes and *Vicki Byrnes* were both Assistant City Attorneys when I joined Wade Atkins' office January 1979. For a number of years, Cathy was Director of El Paso Legal Assistance Society.

Keith Gorman first went to work for Dudley &



Susan Perry, 1977



Name:

Kathleen Cardone

Court:

United States District Court for the Western District of Texas

Years on the bench:

5 years on the federal bench, 25 years of judicial experience

Education:

B.A. Binghamton University; J.D. St. Mary's College of Law

Court Coordinator:

Ruben Cabrera

Pet Peeve:

None to speak of

Favorite Place to Vacation:

Upstate New York

Last book I read:

The Brief Wondrous Life of Oscar Wao by Junot Diaz

Last movie I saw:

Giant, at the Plaza Theater

If I wasn't a judge I'd be:

A celebrity chef

Dudley and then started her own firm.

Kathleen Anderson came to El Paso to clerk for Judge Hudspeth in 1979. She first practiced with Jack Ratliff and Terry Wyrick. At the present time she is an associate family law judge.

Leila Hobson was the first woman hired by Scott & Hulse in 1979⁴. *Patricia Palafox* and *Carolyn Crinkley* joined the firm around 1980.

Christine Pacheco was an assistant County Attorney in the late 70s, and was promoted to George Rodriguez's First Assistant.

The 1980's: The Floodgates Opened

President Reagan appointed Sandra Day O'Connor to the United States Supreme Court in 1981. Women, in general, were thrilled, but El Pasoans, in particular, were beside themselves with joy. Justice O'Connor was from a ranching family in Arizona, and had attended both Radford and Austin High School, before getting her law degree from Stanford University. Many of El Paso's prominent women came to town in the early 1980s. Some of them are *Judge Bonnie Rangel*, *Guadalupe Gonzalez*, *Carmen Rodriguez*, *Judge Kathy Cardone*, *Judge Bertha Zuniga*, *Judge Lupe Rivera*, *Clara Hernandez*, *Lina Ortega*, *Lee Shapleigh*, former Justice *Susan Larsen*, Justice *Ann McClure*, Judge *Mary Ann Bramblett* and *Rita Rodriguez*. Their achievements are too numerous to mention in this



Carol Mason, 1976

short article, but as Sarah Weddington quipped: "Ours is a state now known as one where 'men are men, and women are elected officials.'"

Conclusion

Sarah Weddington also said that she is often asked about why Texas has produced such strong women. She says that Texas is a place where the basis for acceptance is never who your parents

are or where you come from. Instead what is important is a frontier ethic of individual worth and accomplishment. Women demonstrating those qualities are accepted. And I believe El Paso has been exceptionally good to women lawyers.

Footnotes

1 Deputy U.S. Marshal and former sheriff of Jones County, who brought his family to El Paso in 1893. He killed John Selman, the killer of the attorney, John Wesley Hardin. Mr. Scarborough later was killed in an ambush by Black Jack Ketchum's gang in New Mexico.

2 In the hardcopy edition of the May 2008 El Paso Bar Journal, we incorrectly identified Mary Guinn as the first woman lawyer in El Paso. We apologize for the error.

3 Kitty Schild, while a UT law student, put together a series of cases on the mootness issue: could Jane Roe challenge the abortion law if she was not pregnant?

4 Taffy, Yvonne, and Leila all made partner in their respective firms before leaving for other pastures.

My research for this article may be incomplete. I welcome your corrections, responses, and additional information regarding where these women are today.
My e-mail is elizabeth_rogers@fd.org

Advance Sheet, 1200 C.E.

BY CHARLES GAUNCE

Legal Reference Librarian University of Texas at El Paso



What therefore God hath joined together, let not man put asunder." Mark 10:9, KJV. Well, at least not until the probate starts.

I remember my Estates and Trusts professor making the point that when two children of the deceased are arguing over the remains of the estate, it is usually as a result of their respective spouses seeking to make sure that "That tramp!" (the daughter of the deceased) or "That lazy slug!" (the son of the deceased) is not going to receive a sizeable portion of the estate to the detriment of the in-law's spouse.

I share with you now a case reported in 1200 C.E. (prior to Magna Carta) during the second year of the reign of King John, with explanations of some of the archaic language included parenthetically. Consider the dinner table conversations that led up to, and followed, the following case:

The assize (court) comes to recognize if William, the brother of Galiena, was seised in his demesne (had possession of the property in his own right) as of fee of one hide (a parcel of land that could be worked with one plough) of land with the appurtenances in Morland the day that he died, and if he died within the assize (the jurisdiction of the court, ed.), and if the said Galiena is his next heir; which land William Torell holds; and he comes, and says that the assize (trial by jury) ought not to be made, because he is the brother of Galiena and of the aforesaid William. Galiena admitted this, and she says that the land descended to her from the side of her mother, and not from the side of the father of William of Torell; and she offers 40 shillings to the King for having a jury of lawful men [to say] whether the land ought to descend to her from her mother's side, or to William [Torell] from his father's side. Let the assize (trial by jury) be taken. The Jury say that the land ought to descend to Galiena in right of her mother to whom it was given in marriage. Let Galiena have her seisin (ownership) thereof.

Trial And Error

(Part II)

Balancing the Scales of Justice

for the Murder of Ted Andress

■ BY BALLARD C. SHAPLEIGH

This is the fourth in a series of articles describing the 1959 shooting and killing of Ted Andress, the prominent lawyer for whom Andress High School is named. The first article, contained in the May 2008 edition of the El Paso Bar Journal, details the facts of the homicide by Dr. Harold Eidinoff, M.D. The second article, in the June 2008 issue of the Bar Journal, explores the killer's motives and the previous relationship between the accused and the deceased and discusses the fallout, including a multitude of lawsuits, resulting from the admission of nude photographs in a suit to recover attorneys fees which had been incurred in a divorce case involving Eidinoff and his first wife, Sylvia. The third article, in the September 2008 issue, begins to examine the details of the various criminal proceedings on the charge against Eidinoff for murder. As the story continues, a jury could not be seated in El Paso, so the case has been transferred to Lubbock where Eidinoff is being first put to trial on his claim of insanity. He is being represented by the legendary Percy Foreman of Houston. Foreman was originally retained by the doctor two years earlier to appeal an \$80,000 libel verdict that Andress won against Eidinoff. — Clinton Cross

Poets and cynics alike will say that a jury consists of 12 persons chosen to decide who has the better lawyer. As good lawyers go, the example of the late Johnnie Cochran comes to mind. Cochran, though, had nothing over William E. Clayton, the lead prosecutor in the Eidinoff murder case. Cochran became well known for successfully defending O.J. Simpson in 1995. His catchphrase in the Simpson trial, "If it doesn't fit, you must acquit," is still quoted and parodied today. But Clayton beat him to the defensive punch, and maybe even to that incantation, about seventy years earlier.

Still, in 1959, despite a solid record of laboring in the vineyards of the law for thirty years, William E. Clayton was far less well known than his flamboyant counterpart, Percy Foreman. Clayton and Foreman both attended the University of Texas School of Law at the same time, Foreman graduating in 1927 and Clayton in 1928. But that is all they had in common.

Clayton, an El Paso native, came home and ironically went into private practice with the firm of Lea, McGrady, Thomason and Edwards. Clayton's father, Walter, was in the hay, grain and feed business and was an alderman in Mayor C.E. Kelly's administration. The hire was surprising because one of Kelly's strongest political opponents was Tom Lea. Yet, it was Tom Lea who gave Bill Clayton, the son of a political opponent just out of law school, his first start up the legal ladder which is as it was then and ever should be but, for petty grievances and personal vendettas, not always is in El Paso.

Clayton coupled his early career as a lawyer with election to the state legislature for two terms. He then

accepted appointments as an assistant county attorney, assistant district attorney and assistant U.S. attorney. When the war broke out, Clayton moved to Mexico City as an assistant to the U.S. Ambassador. Before he left for Mexico, Clayton prosecuted the first case in World War II in which a naturalized citizen, Dr. Wolfgang Ebel, who had been practicing medicine in El Paso, was stripped of his citizenship as an alien enemy. The doctor was later convicted of espionage in New York City.

After the war, Clayton, a classmate of Governor Alan Shivers, was appointed district attorney when Roy Jackson was elevated to the bench. A vacancy occurred on the 65th District Court bench in 1950 with the unexpected death of Judge Coldwell, the only judge to have occupied that position (and who, according to Judge William Moody, remains the longest serving district judge in county history). District Attorney Clayton was the top choice of the El Paso Bar Association as the replacement with 48 of 95 votes. But the appointment went to another Shivers' schoolmate, and Gary Weiser's future father-in-law, Morris Galatzan. Clayton went on to serve as district attorney for twelve years before being appointed to fill a vacancy on the Eighth Court of Civil Appeals in 1961 due to the death of W. G. Abbott, a son of El Paso's first female lawyer, Ethel S. Abbott.

In his first case as a young lawyer, Clayton defended a Yaqui Indian charged with stealing a pair of shoes. An El Paso police officer, whose testimony perhaps tracked that of a Los Angeles detective in the O.J. case many years later, described how he had taken the shoes from the defendant's feet.

Then, Clayton began his cross-



Prosecutor William E. Clayton was reported to be considered for the post of Assistant Attorney General of the U.S. in 1944 - at the same time, a funeral was held for A.B. Fall at his home, 1725 Arizona St., the name synonymous with the Teapot Dome scandal and sometimes associated with the phrase "fall guy" - courtesy El Paso Herald Post



William C. Peticolas, third in a line of five consecutive generations of Peticolas lawyers in Texas, was an editor of the Texas Law Review in 1933 and 1934 and a former special prosecutor for Department of Justice from 1940 to 1946 before joining in partnership with Ted Andress, Abner Lipscomb and Bradley Fisk.



With wife Sylvia, Eidinoff appeared in Lubbock district court each day for trial in late October, 1959, attired in the beard, western boots and striped sweater he had affected since shooting Andress Jan. 28, 1959; he told a doctor that he was a physical coward and arranged to be released from the Austin State Hospital to a private sanitarium when he learned that he would be given electro-convulsive shock treatments

examination. He asked if the officer was certain he had taken the shoes from this defendant's feet.

"Yes sir", the officer replied, "I cannot be more certain."

"Then would you please try fitting them back on his feet?" Clayton asked.

The officer did as he was told. He tried -- in fact he struggled -- and it was obvious the shoes were far too small to have ever contained the defendant's feet. Clayton had won his first jury trial.

The stakes were higher in the case against Harold Eidinoff, M.D for murdering Ted Andress. As court opened in Lubbock for a South Plains jury to consider Eidinoff's sanity, the killer spotted his victim's law partner, William C. Peticolas, and true to his adopted character, he created a scene by jumping to his feet. "I want that man searched for weapons. I demand that he be searched every time he comes into this courtroom" he shouted, before court security forced him back into his seat. Eidinoff then turned to newsmen at the rail and resumed his attack on the legal tactic of showing nude photos.

Foreman gave a long opening statement. He told the all-male jury that thirteen months before the murder he had warned Andress, Peticolas and Leo Jaffe that he "was certain one of them would be killed if Eidinoff were not confined in an institution." Foreman said that his client had spent a fortune in sending printed matter and photographs through the mail, remarking that it was "the most libelous matter it has been my misfortune to read." His client went through the El Paso telephone directory, Foreman said, with hired assistants first sending copies of a newspaper-sized publication to every fifth name, then every fourth name, and continuing until more than 50,000 had been mailed out. Foreman also read from affidavits of the El Paso jailers, reports by psychiatrists and official records of mental institutions all to the effect that his client was insane.

To begin his case, Foreman called the crime scene witnesses to describe the shooting, followed by Leo Jaffe who had represented Ruth Lutz and John Grambling who had represented Eidinoff to explore how the nude pictures became an issue. Leibson reported that the two lawyers differed sharply as to how the photos were brought into the settlement negotiations, the

contentions being that Eidinoff threatened immorality charges against Lutz and that Lutz sought to be unjustly enriched after a brief marriage.

Throughout Jaffe's testimony Eidinoff kept muttering, loudly enough for the newsmen to hear, "Liar. Filthy liar. Blackmailer." On cross-examination, as District Attorney Clayton addressed the use of the photos in the fee suit, specifically the point that Eidinoff and not his wife was the exhibitionist, Eidinoff shouted, "I'm no exhibitionist-and don't call me an exhibitionist." Calming down, he barked, "Filthy lawyers -- blackmailers. They're all insane." However, according to Grambling, Eidinoff had told him that Ruth Lutz was an "exhibitionist" as well as describing first wife Sylvia in that way.

Eidinoff disrupted the proceedings nearly every day. On one occasion he drew an admonishment by the judge when, after it was brought out that the doctor had himself introduced the nude photos to a mixed jury in the libel case, Eidinoff yelled out, "They weren't shown to the women on the jury. Let's keep that straight."

Jaffe told how he had taken the photos given to him by Lutz to the Morris Thurman studios where one copy of each photo was made. The only persons he showed them to, Jaffe said, besides Andress who was representing him in the fee suit, were Grambling and a former office associate, E. B. Elfers, explaining that he had consulted Elfers as to using the photographs in court. Jaffe was not sure whether he gave Andress the originals or the copies, but after the fee suit and the divorce were over, Ruth Lutz came to his office to pick up legal papers and Jaffe said he suggested to her that the photos be destroyed. Lutz agreed, so Jaffe tore up both prints and negatives and threw them in his office wastebasket, he testified.

After eight witnesses had been called over the first three days of testimony, Lubbock trial judge Robert H. Bean, who had previously indicated he might let jurors return home only over the weekends, decided that he would not lock up the jurors at all. Two witnesses, William C. Peticolas and El Paso City Attorney Travis White, would take an entire day's testimony. So the state was allowed to interrupt Foreman's presentation to call residents from Grants, N.M. to testify about Eidinoff's activities in the weeks leading

up to the murder.

A surveyor, who last saw Eidinoff ten days before the shooting, said Eidinoff built two apartment buildings and volunteered as the editor of the weekly Optimist club bulletin. While he admitted that Eidinoff talked about sex perversion and “looked odd”, he did not believe Eidinoff was insane. Another Grants witness who shared an apartment with Eidinoff and also managed the apartment building Eidinoff owned testified that, “[Eidinoff] talked to me about a gun fight with a lawyer. He said he had quarreled with Mr. Andress and was going to have to shoot it out with him if he ever went back to El Paso. He mentioned Andress quite a few times as most generally he liked to talk about it. He said the courts were crooked and it seemed to be an obsession with him.”

On Foreman’s cross-examination, the roommate said that Eidinoff told him he had seen Andress with a gun, that Eidinoff often talked about the nude photographs and that he had heard Eidinoff call Andress a “homosexual, a degenerate and a pervert.” But on redirect, Clayton got the roommate to agree that it was possible that Eidinoff, equipped with a medical background and armed with course work in psychiatry, was actually talking about his troubles because he was planning his defense long before he committed the murder.

On the first Wednesday of trial, October 28, 1959, Eidinoff heard the news that the Texas Supreme Court had sustained the \$80,000 libel judgment against him. He buried his head into his hands. As Travis White was being called to testify, Eidinoff turned to Leibson and asked, “So those guys own the Supreme Court, too?”

White testified that he saw the nude photos shortly before the Jaffe/Hawley suit for attorney’s fees. As he and Andress were leaving a night meeting of the City Charter Commission, preparing to part company under a street light at the corner of Stanton and Texas Streets, Andress produced the pictures “from somewhere in his person” and showed them to the city attorney. White opined that the photos were admissible “to show the jury which of the pair [Sylvia or the doctor] was an exhibitionist.” When Foreman asked why it was necessary to view the photos to give an opinion, White said “there might be a difference under the circumstances, depending on whether they were only nude photographs or were obscene.”

Bill Peticolas, who had been Ted Andress’ law partner and who had tried the civil libel suit brought by Andress against Eidinoff that yielded a \$110,000 verdict for damages, furnished the first opinion as to Eidinoff’s sanity. He told the



According to this article, the prosecution pounded at the defense as having rigged up a showing of insanity after Andress had obtained the \$110,000 libel verdict; there were sounds of heated argument from the jury room; and, at least two ballots were taken by the jury prior to the verdict.

jury that Eidinoff’s examination of witnesses in the libel suit, his objections and his final arguments were as reasonable and intelligent as could be expected of many practicing lawyers. Peticolas confirmed that Andress had carried a gun to court to receive the jury’s verdict. He also said that the proctologist was “perfectly sane and no different” from an occasion in 1953 when Peticolas and Eidinoff were involved in a dispute over payment for building materials.

Foreman then began calling his stable of psychiatrists, all of whom predictably said that Eidinoff was insane throughout this period. The prosecution hammered at the fact that although the psychiatrists knew Eidinoff was paranoid and dangerous, they did not move to restrain him when he went to a private sanitarium, or to return him when they knew he left that sanitarium for New Mexico. One of them - Alvin Cooper who had an office in the same unit with Eidinoff on Pill Hill - did say that “there must be several guilty consciences” over not having taken more drastic action when Eidinoff was in El Paso and after he slipped out of the mental institution and re-entered the apartment construction business in Grants, N.M. Three days after Andress had obtained his libel judgment, Cooper testified, Eidinoff told him, in Foreman’s presence, that he had carried a gun into court intending to kill both Andress and Jaffe and that Foreman said

he had taken the gun away from him.

Another Houston psychiatrist from the Baylor School of Medicine testified that Eidinoff was “completely convinced he was right” in killing Andress. He said that Eidinoff “actually thought Andress was a dangerous influence on the community and evil force in the world. He believed he was selected by the Lord to remove him.” The psychiatrist also testified that none of Eidinoff’s actions before or after the murder were inconsistent with the diagnosis of paranoia. He claimed not to have known that Eidinoff was turned loose at Austin until he read about the shooting. But on the issue of future dangerousness, the court would not allow the prosecution to ask the doctor whether he believed it better to make certain Eidinoff would be restrained in a penal institution rather than an asylum, where he could be released at any time by the superintendent.

As the trial headed into its third and final week, Eidinoff finally changed the filthy western shirt he had worn without washing since his time in the El Paso jail. District Attorney William E. Clayton announced that he expected to call only two witnesses: Lucille Andress and the superintendent of the Austin State Hospital, Dr. Sam Hoerster, who released Eidinoff, finding that he was not mentally ill and needed no further treatment. Hoerster also said that it was

possible for someone with Eidinoff's background to fake insanity.

Hoerster was the only expert witness to testify that Eidinoff was sane at all relevant times, and Percy Foreman was not happy about that. At one point in his cross-examination, Foreman resorted to badgering, saying, "I think, doctor, that you have to assume the responsibility for Ted Andress' death." But Hoerster insisted that he would have released Eidinoff even if he had not agreed to enter a private sanitarium.

In rebuttal, Foreman read affidavits from two more Houston psychiatrists that Eidinoff was crazy. He also called as his final witness a Lubbock psychiatrist and professor of psychology at Texas Tech who had first examined Eidinoff in the Lubbock County jail shortly before trial. And for the first time in any proceeding, Foreman allowed someone else to do the questioning: Travis Shelton, from Lubbock.

To rebut Foreman's contention that the head of the Austin State Hospital was responsible for Andress' death, Clayton pointed out in his cross-examination that Foreman had met Eidinoff in Angleton, Texas about month before the shooting and took no steps to restrain him at that time. But the Lubbock doctor's opinion remained unchanged.

Before Eidinoff's case went to the jury, the trial judge admonished them not to read an item on the editorial page in the Lubbock Avalanche-Journal drawing attention to then-current law that allowed a murder defendant, claiming insanity, to have three separate jury trials before facing punishment. Eidinoff, who had read the article, tapped Leibson on the shoulder and asked him if "that law should be changed?" When Leibson replied in the affirmative, Eidinoff said, "I'm not arguing against it but while you're at it, why don't you work for a law to make it a felony to show nude pictures of anybody without his consent."

The jury in this case – the all-male body of twelve men chosen to decide who had the better lawyer – deliberated for three-and-a-half hours. They found Eidinoff was insane at the time of the shooting and insane at the time of trial. So



Lubbock County Courthouse - built in 1950 of limestone and granite at a cost of \$1,250,000 – courtesy of texascourthouses.com

Foreman's prediction was correct - the jury's decision eliminated any possibility of Eidinoff ever being tried for the murder of Ted Andress. As the verdict was announced, Eidinoff shouted he wanted to be heard, but Foreman sat him down. So he turned and told the newsmen sitting behind him, "God pulled the trigger on Ted Andress. They can't change the verdict now, can they?"

The order committing him to the maximum security unit at Rusk State Hospital, dated November 19, 1959, contained a recommendation that Eidinoff never be released. The trial judge also wrote the Rusk superintendent that, based on the evidence he heard, Eidinoff should be kept in the hospital for the rest of his life. The jury's verdict of insanity at the time of the act operated as an acquittal of the charge of murder; the verdict of insanity at the time of the hearing required that Eidinoff be committed to a state mental hospital until he became sane.

Even after winning in a manner the murder case that sent him to Rusk, it did not take long for Eidinoff to continue his determined effort to get free. On August 28, 1961, less than two years after the insanity verdict, Eidinoff filed his first petition to be reexamined and to have another trial to determine whether he required continued hospitalization as a mentally

ill person. In December, another six-person jury was impaneled in Cherokee County where Rusk State Hospital is located but, incredibly, it was unable to reach a verdict and a mistrial was declared. In August, 1962, another hearing was held on the 1961 petition. The new jury found that Eidinoff was mentally ill and in need in further hospitalization for his own protection and for the protection of others.

Two months later, on October 29, 1962, Eidinoff tried to enlist the federal courts in his cause to get free. He filed for a writ of habeas corpus in the U.S. District Court for the Eastern District of Texas saying he was not mentally ill and was being illegally confined in Rusk. The writ application was dismissed because he had not exhausted his state remedies. The ink was barely dry on

the dismissal when Eidinoff filed yet another writ application on April 24, 1963, alleging that the state remedies were inadequate to protect his constitutional rights.

No sooner was the second writ dismissed on June 20, 1963, than Eidinoff jumped back into the state courts. He tried to file another petition for reexamination and hearing in the Cherokee County court. But the Cherokee county judge, exercising his discretion, refused to accept the petition for filing on the grounds that it had been filed within two years of the previous petition. So the determined Eidinoff trudged back to federal court and filed another writ application on September 24, 1963. This writ was dismissed on October 16, 1964 on the ground that Eidinoff still had available a state court remedy in the form of a writ of mandamus to correct the wrongful action of the county judge in refusing to accept his petition for reexamination.

So was this, finally, the end of the road for Harold Eidinoff, M.D.? Would he spend the rest of his life in a mental institution, committed to "eternal, perpetual, until death confinement in a hospital for the insane," as Percy Foreman promised? Or would Eidinoff eventually win his freedom? Those questions will be examined in the next and, *si Dios quiere*, the last part.

The Ted Andress Assassination series is written in appreciation of the request to commemorate the 110th anniversary of the Bar Association with assistance and encouragement from Stephanie Townsend-Allala and Clinton Cross for which the author is very grateful. The following resources have been used: *Ex Parte Eidinoff*, 408 S.W.2d 540 (Tex. Civ. App.- Tyler, 1966, writ ref. n.r.e.); *Eidinoff v. Kreimeyer* 87 S. Ct. 898, 386 U.S. 905, 17 L. Ed. 2d 801 (1967); *Eidinoff v. Connolly*, 281 F. Supp. 191 (U.S. Dist. Ct.- N. Dist. Tex. 1968); *Connolly v. Eidinoff*, 442 S.W. 2d 415 (Tex. Civ. App.- Tyler 1969, d'm w/out juris.); the Paul Freund Collection, Harvard Law School Library; *Time Magazine*, March 18, 1966 and March 21, 1969, *The El Paso Times* and the *El Paso Herald Post* archives of the El Paso Public Library; and personal interviews. This presentation includes the creative work of others. This property is being used by permission or under a claim of "fair use" pursuant to 17 U.S.C. §107, and was created pursuant to fair use guidelines and further use is prohibited.

SENIOR LAWYER INTERVIEW

KITTY SCHILD

■ BY CLINTON F. CROSS

This month Kitty Schild shares with all of us a few of her life's experiences. Thank you Kitty.

CROSS: Tell me about your parents; your childhood.

SCHILD: My father Alfred was born in Istanbul, Turkey but his early education was in England. During World War II he was sent to Canada as a prisoner of war. He was paroled from the prisoner of war camp to go to school at the University of Toronto, where he earned his B.A. and Ph.D. That's where he met my mother who is Canadian.

When I was born my father had a postdoctoral fellowship at the Institute for Advanced Studies at Princeton. I've been told Albert Einstein chucked me under my chin when I was but a few months old.

Actually, my father was a pretty respected physicist. I invite you to "google" my Dad, if you don't believe me. I'm also told that my father's profile increased significantly in 2002 following the publication of the cult novel Schild's Ladder by Australian novelist Greg Egan.

Because of my father's position, the family traveled a lot, including a sabbatical year in Europe and summers in Copenhagen.

CROSS: Where did you go to school?

SCHILD: I attended a number of schools before I went to high school, including a boarding school in Switzerland. I graduated from Austin High School in Austin, Texas. I then went to Rice University, majoring in Political Science.

CROSS: Why did you go to law school?

SCHILD: Pure serendipity. I was a senior and I still didn't know what I wanted to do. I was waiting to talk to one of my professors about graduate school when another professor walked into the room and began complaining because I'd never taken one of his classes. He also wanted to know what I was doing. I told him and he then complained that I never asked him for his advice



about what to do with my life.

To make the professor happy, I asked him what he thought I should do. He handed me an LSAT application (which he had just gotten that day), and suggested I consider going to law school. I took his advice and took the test.

When the results came in, I scored in the top 99.6 percentile of all the people who took the LSAT that testing cycle. I decided the professor might be right and I ought to try law school.

CROSS: Where did you go?

SCHILD: U.T. Austin.

CROSS: Ever do anything at law school besides study?

SCHILD: Had fun; drank beer; took naps. After the rigorous study regime at Rice, law school was comparatively easy.

CROSS: Did you do any real-life legal work during law school?

SCHILD: I got to work with Sarah Weddington, assisting in preparing her for oral argument in Roe v. Wade. When the case was set for re-argument (because there were a couple of new justices on the court), I assisted her in writing a supplemental brief.

CROSS: After you graduated, what did you do?

SCHILD: I got a job working for the Texas Legislative Counsel.

CROSS: How did you end up in El Paso?

SCHILD: I didn't want to spend my life working for the legislative counsel, but there were few employment opportunities for women lawyers in Austin at the time. I heard about a job opportunity with El Paso Legal Assistance Society (EPLAS). I applied, I was hired, and I moved to El Paso.

CROSS: How long did you work there?

SCHILD: I worked for EPLAS for about two and half years.

CROSS: What happened next?

SCHILD: I left, took a vacation. I then opened my own office at 1011 N. Mesa, the "Ainsa House," located catty-corner across the street from St. Patricks.

CROSS: What was it like in the 70's being one of few women attorneys in El Paso?

SCHILD: One of my favorite stories is about the time Janet Reusch and I gate-crashed the annual Bar Banquet. The Bar had a rule that no women were allowed to attend the banquet. Apparently the male members of the Bar thought that the bar skit was too scurrilous for our tender sensibilities. Janet and I bought tickets from a sympathetic source. We showed up for the social hour with tickets in hand, much to the dismay of most of the men there. After the social hour we were asked to leave. We politely refused, pointing to our paid tickets. The Bar decided to proceed with dinner and the skit. Actually the skit was hilarious and I don't think either Janet or I blushed or had to cover our ears. After that year, the rule against female attendees somehow faded away.

CROSS: Were you the first female judge in El Paso?

SCHILD: As far as I know, Janet Reusch and I were the first two female judges to serve in El Paso. We both began as Associate Municipal

Court judges.

Janet then became an Assistant US Attorney and ended up being appointed a federal magistrate. I think she was the first female federal magistrate to serve in El Paso. I went on to be the first woman elected to the bench in El Paso.

CROSS: *How did you feel about your Municipal Court work?*

SCHILD: It was very interesting. We handled everything from parking tickets to examining trials on murder cases. I had to learn to make decisions quickly and firmly. I also had to teach the legal community and the law enforcement community to stop calling me "Sir" all the time. If I had a nickel for every time I was called "Sir", I'd be a rich woman today.

CROSS: *Since your municipal court work was part-time, you continued to maintain a private practice. How about sharing at least one "war story" from your private practice?*

SCHILD: One of my most interesting clients was boxing promoter Don King. He was sued locally by a local promoter and boxer for allegedly interfering with a bout they had planned to hold. I got the case through a referral from an old law school friend who represented some sports people in Houston. Don is a very smart, well-read man. His private persona is much different from his public image. I got to travel all over the US taking depositions of boxers and promoters. For awhile I could recite from memory 10 years of world heavy-weight champions in all three boxing leagues. And I had the experience of sitting next to the Reverend Al Sharpton at a birthday dinner for Don in New York City.

CROSS: *At some point you decided to run for election to County Court Four and that you won. When did you decide to do that?*

SCHILD: In 1989.

One of my most interesting clients was boxing promoter Don King. He was sued locally by a local promoter and boxer for allegedly interfering with a bout they had planned to hold. I got the case through a referral from an old law school friend who represented some sports people in Houston. Don is a very smart, well-read man. His private persona is much different from his public image. I got to travel all over the US taking depositions of boxers and promoters. For awhile I could recite from memory 10 years of world heavy-weight champions in all three boxing leagues. And I had the experience of sitting next to the Reverend Al Sharpton at a birthday dinner for Don in New York City.

CROSS: *How long did you serve?*

SCHILD: For 8 years, from 1991 though 1998.

CROSS: *Can you recall any particularly notable or interesting cases that you heard as a judge?*

SCHILD: I handled a wrongful death trial involving the tragic death of three family members in a train-car collision in the Panhandle. The venue rules were a lot looser then. The jury came back with what was then the largest plaintiffs' verdict in El Paso history. I think it was over \$50,000,000, including actuals, punitives and many years of pre-judgment interest. The court of appeals took away the punitive damages but affirmed the actual damages.

CROSS: *What did you do after you left the bench?*

SCHILD: I worked as a visiting judge and did mediation and arbitration. I also spent about 3 years working for a small firm. In 2003 I went to work at the County Attorney's Office, Civil Litigation Unit, and I've been doing that ever since.

CROSS: *What kind of work are you doing for the County Attorney?*

SCHILD: Everything from handling employee grievance hearings to writing US Supreme Court briefs. The majority of the cases we handle are employment cases, but I also handle civil rights cases, contract disputes and personal injury cases. I have learned a lot about representing a governmental entity. Many attorneys in private practice aren't familiar with the pitfalls of suing a county and are not knowledgeable about the various types of immunity a county has. The County also has its unique features because there are so many independently elected officials we represent.

CROSS: *I've heard that you're called "Kitty" because you love cats? True?*

SCHILD: True that I love cats, but untrue that's how I got my name. My mother called me Kitty from the day I was born. One day when I didn't want to work on anything on my desk, I had my secretary type out a name change petition, walked over to the Courthouse to file it and Judge Sam Paxson signed the order the same day, changing my legal name to "Kitty."

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Legal Literati

*This month the El Paso Bar Journal literary page presents lyrics written
by Judge Robert Anchondo to the tune by Bobby Fuller*

I FOUGHT THE BENCH (AND THE JUDGE WON)

Researching law at the break of dawn
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won
 I needed money cause I had none
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won
 I missed my hearing and I feel so sad I guess my case is done
 Well it's the best case that I ever had
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won
 Ambulance chasing for just little crumbs
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won
 I miss my money and I miss the fun
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won
 I missed my hearing and I feel so sad I guess my case is done
 Well it's the best case that I ever had
 I fought the Bench and the Judge won
 I fought the Bench and the Judge won

Robert Anchondo is Judge of County Criminal Court 2. He performed as a session drummer with rock bands and before that as a percussionist in the Jefferson High School Band. He loves jazz. Judge Anchondo is the Immediate Past President of the El Paso Bar Association.

Legal Literati call for submissions: The practice of law requires the ability to use the written or spoken word to provoke or prompt an intended result. Consequently, throughout history, lawyers have been known for creativity in the arts as well as in formulating arguments. The El Paso Bar Association wants to celebrate this aspect of the legal profession, and to encourage its members to recognize and cultivate their own creative impulses. We ask members or other law related professionals to provide their poems, lyrics, very short stories, or other creative expression. **Please submit your work for consideration to Poetry Editor Donna J. Snyder via email to donna.snyder@ca.epcounty.com.**



*Save the
Date!*

*The El Paso Bar Association's
Holiday Party
December 4, 2008, Location TBD*

2008-2009 MEMBERSHIP DUES

The 2008-2009 Membership Dues

Please note that the new bar year begins on July 1, 2008, so please send in your dues.

If you have not received the statement, please contact our office at 532-7052 or go to our website.

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July 16, 2008	Children's Rights and Resources	February 18, 2009	Trouble with the IRS?
August 20, 2008	Children's Rights and Resources	March 18, 2009	Trouble with the IRS?
September 17, 2008	Employee's Rights	April 15, 2009	Identity Theft
October 15, 2008	Help! My home is not in my name	May 20, 2009	Civil Rights
November 17, 2008	Consumer Rights	June 17, 2009	Expunctions
January 21, 2009	Am I in a common law marriage?		

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When: Third Wednesday of the month

Time: From 5:00p.m. to 7:00p.m.

Place: 1331 Texas

(Corner of Texas & Newman)

Call 585-5100 or email receptionistelp@trla.org for more info.

On the web visit: www.trla.org/teams/cli.php

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Blanco Ordoñez & Wallace, P.C. is pleased to announce the formation of its new Tax Litigation practice group. The Firm's Tax Litigation practice provides legal representation to individual and business clients involved in civil and criminal tax controversies regarding federal income tax matters. Our Tax Litigation practice concentrates on representing taxpayers in federal and state courts, the United States Tax Court and before the Internal Revenue Service Examination and Appeals Divisions. Jessica Perez Gomez, attorney and certified public accountant, is the chair of the Tax Litigation practice group at the Firm. Rene Ordoñez, head of the Firm's Commercial Litigation Practice, also represents client matters pending before the United States Tax Court.

NEED ETHICS CLE?

The Ethics Section of the El Paso Bar Association proudly presents

WILLIAM A. KORMAN ETHICS IN AN ERA OF INSTANT COMMUNICATIONS A. K. A. THE EMAIL THAT ROARED

Thursday, October 23, 2008
Noon to 1:00 p. m.

Registration begins at 11:30 a. m.
Ceremonial Courtroom, 12th Floor
Brown Bag Lunches Welcome

Approved for 1.0 Hour
Participatory Ethics

\$25 for EPBA Members
\$35 for non-members

For more information or to register, contact Nancy Gallego, 532-7052 or nancy@elpasobar.com

HON. ROBERT J. GALVAN COUNTY LAW LIBRARY NEWS

BY LYNN SANCHEZ

The Law Library has acquired the following materials of general interest, which are available for check out:

Allison Brownell Tirres,
American Law Comes to the Border: Law and Colonization on the U.S./Mexico Divide, 1848-1890
(PhD. Diss., Harvard University, 2008): 282 pp. in Proquest Dissertations and Theses 2008, Section 0084, Part 0337, Publication Number: AAT 3295944.

A.M. Gibson,
The Life and Death of Colonel Albert Jennings Fountain
(University of Oklahoma Press, 1965).

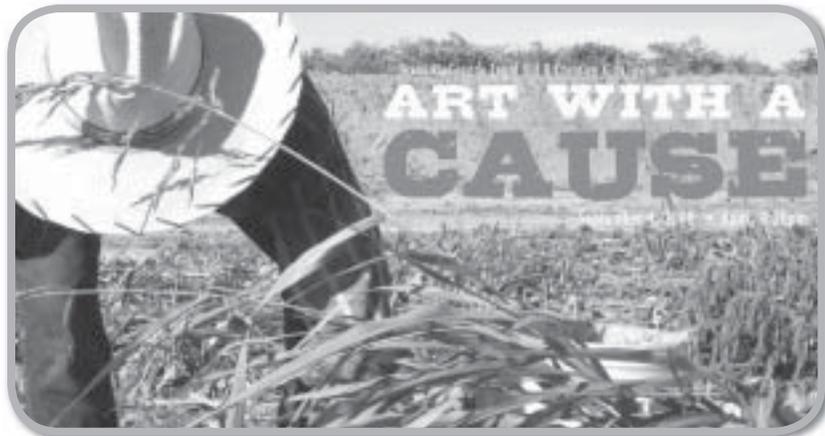
Jill Mocho,
Murder & Justice in Frontier New Mexico, 1821 – 1846
(University of New Mexico Press, 1997).

John H. Waller,
Colossal Hamilton of Texas: Andrew Jackson Hamilton, Militant Unionist and Reconstruction Governor
(Texas Western Press, 1968).

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Life on the Border (2009 Calendars Still Available)

■ BY VERONICA CARBAJAL

Texas Rio Grande Legal Aid and Creative Kids joined forces recently to sponsor Art With a Cause, a fundraising event for TRLA's emergency housing fund. A special photography workshop was held with local photographer Christ Chavez and the children of farm workers from Region 19 – Migrant Education Program to create the 2009 Life on the Border calendar. Farm workers are the theme of the calendar, as their struggles embody those of the working poor in this country. The calendars depict beautiful scenes of the El Paso region and its people including scenes of downtown. The calendars also reflect important dates in the civil rights and social justice history of this country. They make great gifts at \$20.00 a piece.

Art With a Cause was created to fund TRLA's emergency housing fund for the benefit of clients who face homelessness. Such a client may be someone who is disabled and living with a child in an apartment. The family's income is \$637.00 per month in disability benefits. The client's identity was stolen and the Social Security Administration has terminated her disability check because, according to their records, the client has been working in Wyoming. The rent is due, and there is no money to pay it. Or, it may be a client who

has a gas leak in her apartment, the landlord will not fix the problem, and the client cannot move out because she cannot afford the security deposit for a new apartment.

At TRLA, we often see clients in these predicaments. As advocates, our job is to identify our client's legal rights and to seek legal remedies on their behalf. However, clients in such dire situations need more than staunch legal advocacy. They need immediate assistance in order to avoid the financial nightmare brought about by an eviction and ultimately, homelessness.

Creative Kids is a local non-profit whose mission is to improve the educational development of disadvantaged, and disabled children and youth by providing art and technology classes. It seemed natural for TRLA and Creative Kids to collaborate on the creation of this fund, as both organizations seek to promote the dignity, self-sustainability, and stability of low-income El Pasoans by providing quality services. **Please support these efforts by purchasing a calendar. Contact Verónica Carbajal, Attorney (TRLA) at (915) 585-5107 or at vcarbajal@trla.org.**

Related links:

www.trla.org
www.creativekidsart.org
www.documentaryphotographs.com

EPYLA STAR OF THE MONTH
VIRGINIA LOZADA

■ BY DANNY RAZO

El Paso Young Lawyers (EPYLA) is proud to present our Executive Assistant Virginia Lozada and someday a future El Paso young lawyer. Ms. Lozada was born and raised in El Paso, Texas. She graduated from Radford High School and while still in high school, she volunteered with the local non-profit immigration office of UNO. Currently, Ms. Lozada is a senior at The University of Texas at El Paso (UTEP), pursuing a major in Criminal Justice and minor in Translation.

Ms. Lozada is an officer of Chicana/o Pre Law Society and



Vice President of the Languages and Linguistics at UTEP. She is currently studying for the

law school admission test and researching which law school she would like to attend. She states that one of the greatest benefits in volunteering as an Executive Assistant to Young Lawyers is being able to ask its members about different law schools, law school experiences and different areas of law in which she may ultimately chose to practice.

Ms. Lozada spends most of her free time with her little sister from Big Brothers, Big Sisters of El Paso, whom she has grown to love and hopes to inspire by showing her that you truly can achieve your dreams if you try hard enough.

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Marc Jacobs, Esq. is a partner at Michelman & Robinson, LLP. Combining his professional and personal interests, in his spare time, Marc authors the "Above the Law" legal cartoons focusing on the humorous relationship between life and law. For more information on Above the Law, please visit www.marcjacobsllaw.com

**Advanced
 Personal
 Injury Video
 Seminar**

The El Paso Bar Association will sponsor the 2008 Advanced Personal Injury Video Seminar on Wednesday - Friday, October 29-31, 2008 to be held at the Bar Association Office, Room L-115, El Paso County Courthouse.

Approved for 16.5 hours of MCLE including 2.25 hours of Ethics.

Cost is \$450 for members of EPBA and \$500 for nonmembers.

Please send your check to:
 El Paso Bar Association,
 500 E. San Antonio, Room L-115,
 El Paso, Texas 79901.

If you have any questions, please call Nancy at 532-7052 or at nancy@elpasobar.com

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▶▶▶ ASSOCIATION NEWS

El Paso Women's Bar Association

- The El Paso Women's Bar Association will hold its monthly meeting on Wednesday, October 8, 2008 at 12:00 noon at the Percolator, 217 N. Stanton. There will be a presentation of the Texas Women Lawyers Maternity Leave Survey Report by Cezy Collins. Approved for 0.5 MCLE.
- November meeting will be on Wednesday, November 12, 2008 at 5:30 p.m. Location TBA. For more information about EPWBA, contact Sarah Snook at ssno@scotthulse.com or at 546-8270.
- The EPWBA Positive Role Model Program's Pen Pal Program's Ice Cream Social will be held on Wednesday, October 15, 2008 at the El Paso County Courthouse from 1:50 – 2:50 p.m. For more information on the Positive Role Model Program, contact Cezy Collins at 533-4424 or ccollins@kempsmith.com

El Paso Paralegal Association

- The El Paso Paralegal Association will hold its October meeting on Thursday, October 16, 2008 at 12:00 noon at the El Paso Club, 201 E. Main, 18th Floor. Cost is \$15.00 per person/buffet and \$8.50 for salad bar. Guest speaker will be Bobby Maddox, JD, CPA, Kemp Smith. RSVP to Lynda Camacho at 546-8311.
- The November meeting will be held on November 20, 2008 at the El Paso Club, 12:00 noon. RSVP to Lynda Camacho at 546-8311.
- Please remember your donations for our charity, Rescue Mission. Please see the Writ for items needed.

El Paso County Legal Support Association

- **2009 Legal Directory.** The El Paso County Legal Support Association will be updating names, addresses, phone numbers and email addresses in preparation for their 2009 Legal Directory which is scheduled to be published in early 2009. Please call Jerri Boon with any changes at 546-5342 or at jebo@kempsmith.com

El Paso Young Lawyers Association

- The El Paso Young Lawyers Association will have its October meeting on Thursday, October 9, 2008 at 12:00 noon at Barriga's on Sunland Park Dr. There will be a Happy Hour at 5:30 p.m. at the Loft.
- The November meeting will be on Thursday, November 13, 2008 at 12:00 noon, at the Great American on Mesa Hills. There will be a Happy Hour at 5:30 p.m. at the Shadow Lounge.

Federal Bar Association

- The El Paso Chapter of the Federal Bar Association is pleased to present Dean Erwin Chemerinsky from the U.C. Irvine Law School to speak in El Paso on Monday, October 6, 2008 at 12:00-1:30 p.m. at the El Paso Club. Cost is \$20 for members and \$25 for nonmembers, includes lunch. 1.5 hours of MCLE pending, including ½ hour of Ethics.

Mexican American Bar Association

- The Mexican American Bar Association will hold its October meeting on Friday, October 3, 2008 at 12:00 noon at Original Jaxon's, 4799 N. Mesa.
- The Mexican American Bar Association will hold its November meeting on Friday, November 7, 2008 at 12:00 noon at Original Jaxon's, 4799 N. Mesa.

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Journal News

Please note that our next issue will be a double issue (December/January) so if you have any news or an announcement, please send it our office by Friday, October 10, 2008.



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Regina B. Arditti

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PHOTO: LISA HENRY FOR REGINA ARDITTI CAMPAIGN. THANK YOU, MARIANO, MARIANO, IN COMPLIANCE WITH THE JUDICIAL CAMPAIGN FAIRNESS ACT.

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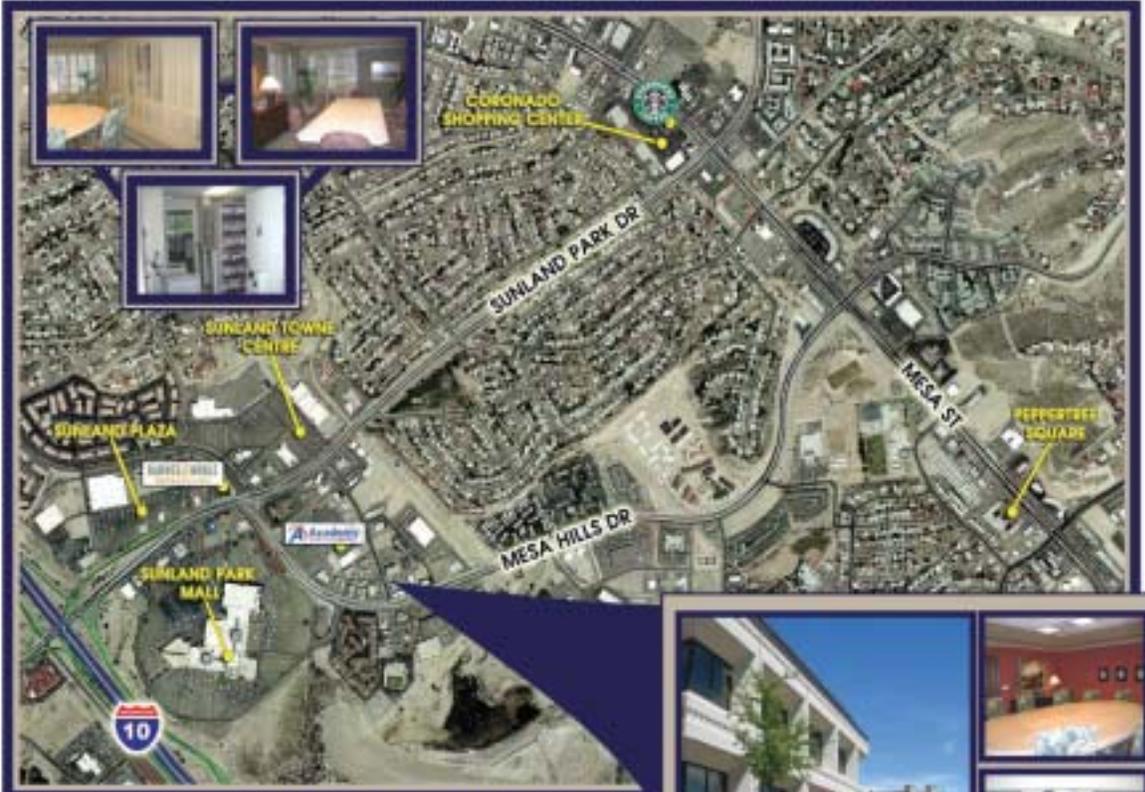
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