



# EL PASO BAR JOURNAL

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*A Update of Events and Information*

Dec 2008 / Jan 2009

## Race, The Law, and Bar Associations

Judicial Humility:

*The Goliath Of Judicial Virtues*

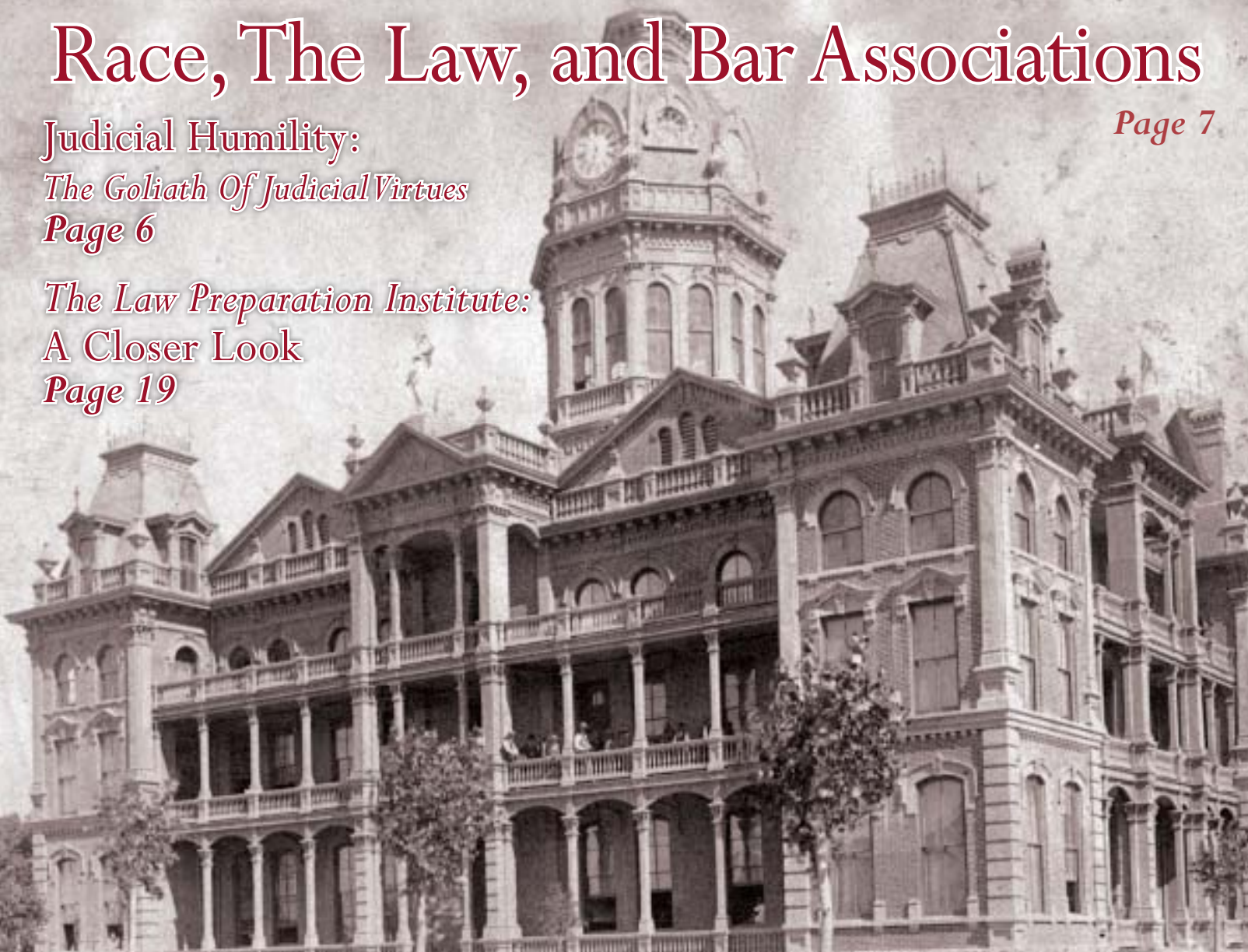
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YEAR  
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*“The El Paso Bar Journal is a bi-monthly publication of the El Paso Bar Association. Articles, notices, suggestions and/or comments should be sent to the attention of Nancy Gallego. All submissions 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

The holiday season is upon us and the El Paso Bar Association is ready to celebrate! Please make plans to join us on December 4th for the Joint Holiday Party, co-sponsored by the El Paso Women’s Bar Association, the Mexican-American Bar Association, the Federal Bar Association and the El Paso Young Lawyers Association. The event will be held at the beautiful International Museum of Art on Montana Avenue from 5:30 to 7:30 p.m. Entertainment will be provided by the Coronado High School String Quartet and there will be plenty of delicious food and drinks.



This year, the party has a purpose beyond that of celebrating the season with colleagues...the EPBA will hold a silent auction to benefit the Joe Calamia Project. Local attorney and legal legend, Joe Calamia continuously fought for the rights of minorities, the economically disadvantaged, the disenfranchised, and the innocent. Throughout West Texas and the border region, his efforts have changed the face of justice. The EPBA, together with the El Paso Bar Foundation, is raising money to help publish “My Demons Were Real” by Bob Ybarra, a fascinating look at Mr. Calamia’s life, and his contributions to the legal community and the justice system. The drafting of the book was made possible by grants from the EPBA and the Texas Bar Foundation. It is my goal to raise enough funds to have the book published in 2009.

Some of the fabulous auction items include a football and a jersey autographed by Mike Price, a hand-blown glass vase, crystal pieces, gift baskets, gift certificates, and more. Plan to do some holiday shopping all in the name of charity! All contributions are tax-deductible and will support a worthwhile project.

I look forward to seeing all of you at the party. Warmest wishes for this holiday season~

*Cori*

Cover picture: The Courthouse in 1890, courtesy El Paso Public Library, BorderHeritage Collection

# EL PASO BAR ASSOCIATION

## December Bar Luncheon

Tuesday, December 9, 2008

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

\$15 per person. 12:00 Noon

*Salute to our 50-Year Attorneys*

Please make your reservations by Monday, December 8, 2008 at noon  
by calling Nancy at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)

## January Bar Luncheon

Tuesday, January 13, 2009

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

\$20 per person. 12:00 Noon

*Guest Speaker will be Harper Estes,  
President of the State Bar of Texas*

Please make your reservations by Monday, January 12, 2009 at noon  
by calling Nancy at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)



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# CALENDAR OF EVENTS

## DECEMBER 2008/JANUARY 2009



*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 February/March, 2009, please have the information to the Bar Association office by Tuesday, December 23, 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.*

### December 2008

Tuesday, December 2  
*EPBA BOD Meeting*

Thursday, December 4  
*Joint Holiday Party*

Friday, December 5  
*Coffee & Donuts in Bar Office*

Friday, December 5  
*MABA General Meeting*

Tuesday, December 9  
*EPBA Monthly Luncheon*

Wednesday, December 10  
*EPWBA Monthly Meeting*

Thursday, December 11  
*EPBA Annual Attorney/Paralegal Luncheon*

Wednesday, December 24  
*EPBA/Courthouse Closed*

Thursday, December 25  
*EPBA/Courthouse Closed*

Friday, December 26  
*EPBA/Courthouse Closed*

Wednesday, December 31  
*EPBA/Courthouse Closed*

#### *Coffee & Donuts at the Bar Office*

**December 5** - sponsored by Ann Ward

**January 9** - sponsored by Anna Perez

**January 30** - sponsored by Anna Perez

#### **Upcoming Events (mark your calendars)**

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

### January, 2009

Thursday, January 1  
*EPBA/Courthouse Closed*

Friday, January 2  
*EPBA/Courthouse Closed*

Tuesday, January 6  
*EPBA BOD Meeting*

Wednesday, January 7  
*EPYLA Monthly Meeting*

Friday, January 9  
*Coffee & Donuts in Bar Office*

Tuesday, January 13  
*EPBA Monthly Luncheon*

Wednesday, January 14  
*EPWBA Monthly Meeting*

Thursday, January 15  
*EPBA Monthly Luncheon*

Monday, January 19  
*EPBA/Courthouse Closed*

Wednesday, January 21  
*TRLA Legal Clinic*

Friday, January 23  
*Building Blocks of Wills Seminar*

Friday, January 30  
*Coffee & Donuts in Bar Office*

#### **Journal News**

Please note that our next issue will be a double issue (February/March) so if you have any news or an announcement, please send it our office by Tuesday, December 23, 2008.

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# Judicial Humility: The Goliath Of Judicial Virtues

■ BY JUDGE OSCAR G. GABALDÓN, JR.

*If you approach the world's complexities, both its glories and its horrors, with an attitude of humble curiosity, acknowledging that however deeply you have seen, you have only just scratched the surface, you will find worlds within worlds, beauties you could not heretofore imagine, and your own mundane preoccupations will shrink to proper size.<sup>1</sup>*

It has been said that humility is the foundation of all other virtues, so that if the virtue of humility is not possessed by an individual, that individual possesses no other virtue except in appearance.<sup>2</sup> Augustine of Hippo, in contemplating this thought, touched on a very pivotal point regarding humility. All virtues, such as the virtues of charity, patience, prudence, and compassion, are hollow if humility is absent. Humility is at the essence of those, and all other, virtues. Hence, when we speak about judicial humility, we necessarily imply that a judge can be most effective and successful in administering justice when he or she allows humility to be the foundation and the spring board from which all judicial action is given birth.

Judicial humility involves the recognition that mundane things like the gavel, the judicial robe, or the distinction of being addressed as "Your Honor" do not a great judge make. Yes, these temporal and symbolic things have a purpose. At some level, they help to facilitate the judicial process, and they help to remind us that the judicial and legal processes are solemn processes worthy of our respect, insofar as they concern the rights of people and the noble administration of justice. However, those things do not make the good judge. They are wholly immaterial and irrelevant to what makes a good judge. The judge that truly values the purity of wisdom and the selfless pursuit of what is just and right for others is probably a judge that strives to be consistently humble. Such a judge is enamored with truth, and he or she can best see that truth in its purest form through the microscopic lens of humility.

A proud judge is a liability to the judicial system. According to the religious leader Ezra Taft Benson, "Pride is concerned with who is right. Humility is concerned with what is right." Though a proud judge may disguise his or her pride well, often times he or she slips and says

something, or does something, or even fails to do something that reveals that pride. A lack of humility is clearly seen when a judge embarrasses or humiliates an attorney, a witness, a party, or one of his or her staff members. That same lack of humility is evident when a judge demands or even expects to be given deference by virtue of his or her judicial position. If a judge feels superior to others by virtue of his or her status as a judge, that is a red flag that the judge is wanting in humility and hungers for self-esteem.

A judge that practices judicial humility will place the needs of the greater good first and foremost. For example, if a federal judge is going to schedule a court hearing at a certain day and time for a relatively minor proceeding, and an attorney in the case informs that federal judge that he is already scheduled in county court for a trial or a hearing of a more serious nature than the federal matter, the federal judge has the choice to either humbly yield to the county court's setting or grab onto the idea of federalism to justify denial of accommodating the county court. In this scenario, reasonable people can probably conclude that the greater good is to yield towards the more serious court proceedings in the county court. However, that federal judge, if wanting in judicial humility, will be more concerned with his or her rank as a federal judge than with serving the needs of the greater good, and he will probably trump the county court's setting.

Illinois Supreme Court Justice Rita B. Garman spoke at a conference luncheon on judicial independence at the Loyola University School of Law, and elaborated on five essential traits of a judge, namely, wisdom, humility, conscientiousness, competence and ethicalness. When speaking about humility, Justice Garman said that "A humble judge gives deference to other decision makers when it is appropriate, and treats everyone who comes into contact with the court system with courtesy and respect." Justice Garman explains that "Humility is not an expression of self-doubt. It is an acknowledgement that, in certain circumstances, another entity or person is in a better position to make a certain decision. We, therefore, give deference to legislative fact-finding. We read and apply our Constitution and statutes as they are



written. We do not find ambiguity where there is none, and we resolve ambiguity, as best we can, consistently with the intent of the legislature." Once in a while, we learn of a judge that wants to usurp the role of the legislature or the executive branch of government and make his or her own rules and laws, where it is not his or her place to do so. This shows a deficiency in humility. Likewise, as has been touched upon, some judges demonstrate their lack of humility by how they treat others. "The public has the right to expect judges to act with the humility befitting a public servant. This requires us to be polite and patient with counsel, litigants, witnesses and jurors. It requires a recognition that while the office we hold is deserving of respect, that respect is owed to our function and not to ourselves.<sup>3</sup>

For the most part, our nation is fortunate to have a judiciary that puts forth great effort to do what is right within the parameters of the law. Most will try to proceed cautiously and humbly in their quest to bring justice to those before them. Occasionally, a judge here and there will falter on account of his or her human condition. However, the beauty of it all is that they can change so long as they can still breathe. "Humility is the only true wisdom by which we prepare our minds for all the possible changes of life."<sup>4</sup> Judges, and for that matter anyone, can possess this purest of flowers. For many of us, it may be difficult because, as humans, there is a propensity to want to be given recognition and to be acknowledged. We want people to speak well of us. However, humility is an attainable virtue. It is at the core of all that is good, so that the lawyer St. Thomas Moore poetically proclaims: "Humility, that low, sweet root from which all heavenly virtues shoot."

#### (Footnotes)

- 1 Quote from American philosopher, Daniel Dennett.
- 2 Based on a quote by St. Augustine of Hippo.
- 3 Wisdom, humility head Garman's list of basic judicial hallmarks  
<http://www.isba.org/association/may07bn/Wisdom.htm>.
- 4 Quote from Academy Award-winning actor, George Arliss (1868-1946).

# Race, The Law, and Bar Associations

BY NAOMI R. GONZALEZ

*President, El Paso Mexican American Bar Association*

*The United States is a nation of immigrants. From its birth, the United States has struggled with racial, cultural, and ethnic division. Although the national motto was once “E Pluribus Unum,” out of many one, assimilation was a long time goal. America was to be a melting pot where cultures would assimilate and melted into one culture; but the melting pot never really became a reality. In recent times, a new goal, “diversity,” has replaced the old hope of “E Pluribus Unum.”*

Living in El Paso, at times it can be difficult to contemplate that our city was also subjected to cultural and ethnic conflict. The cultural and economic conflict in El Paso perhaps began with the Spanish intrusion of 1598. For over two hundred years the Spanish rulers attempted to control the region. Although no Spanish lawyers actually lived in El Paso, Spanish law was applied by *alcaldes* and *jueces de paz*. In 1848, Anglo-Americans entered into the region in more significant numbers, but Hispanics still held positions of power and Mexican law remained influential. In 1881, the railroads came to town, connecting El Paso to the rest of the nation and to Mexico. Through the railroads the face of El Paso would change, shifting demographics and accelerating changes in the legal community. It was not until after World War II that Hispanic attorneys began to re-enter the legal marketplace and advocate for community change.

In *American Law Comes to the Border: Law and Colonization of the U.S./ Mexico Divide, 1848-1890*, a Ph.D. dissertation thesis available at the Robert J. Galvan Law Library, Allison Tirres, paints an important picture of the events that shaped our community in the nineteenth century. What is now known as El Paso became a part of the United States in 1848 (although not clearly a part of the State of Texas). Anglo-American law, however, did not begin to be adopted in our community until after the Compromise of 1850—and only then in slow, inconsistent, incremental steps.

Before 1882, for instance, the majority of the county judges were of Mexican descent. With the arrival of the railroads in 1881, the



*This photo of “Commissioner’s Court of 1877” hangs in the Commissioner’s Courtroom. The caption reads “These men were the first county officials to preside over the courthouse after its removal from Ysleta in 1883. TOP ROW: (L to R) Jose M. Gonzalez, County Commissioner; Ysleta; Gregorio N. Garcia, County Commissioner; San Elizario; Marshall Rodgers, County Judge; John Julian, County Treasurer; Juan Armendariz, County Commissioner; Socorro; FRONT ROW: (L to R) James H. White, Sheriff; M. Lowenstein, County Commissioner, Ysleta; John Dean, District Attorney; T. Falvey, District Judge; Manuel Flores, District and County Clerk; Robert Burney, Deputy District and County Clerk”*

Anglo-American population in El Paso boomed. Hispanics and other non-whites began to lose the power and influence that they had exercised in the region for hundreds of years. For more than 100 years after 1882 no judges of Mexican descent presided over any El Paso courts.

## Treaty of Guadalupe Hidalgo

In 1848, the Treaty of Guadalupe Hidalgo was signed and a new border between Mexico and the United States was formed. The Rio Grande/Rio Bravo was used to help partition the two countries. At that time the twin cities of El Paso and Juarez were conceived. One community was divided into two communities with the stroke of a pen. North of the Rio Grande, efforts to forge a legal system that acknowledged, respected and honored the traditions of both the Hispanic and Anglo-American cultures proved to be more difficult.

As Tirres points out, in the years after the Treaty, a hybrid form of English and Spanish law was practiced. We are today beneficiaries of some aspects of this hybrid system. For example, the Spanish brought with them the doctrine of community property. The concept of community property permeates the Texas Family Code. The

Anglo-Americans were deeply committed to the jury system; indeed, the Mexican government’s failure to give Texas immigrants jury trials was one of the excuses set forth in their Declaration of Independence for rebelling against the Republic of Mexico. Under the Texas Constitution there are few exceptions where a litigant cannot request a jury in his or her legal proceedings.

In short, the blending of two colonizing forces resulted in the creation of a uniquely new legal system, containing both English and Spanish roots.

However, after 1882, shifts in the region’s demographics created significant shifts in the local power structure, bringing with it concomitant adjustments in the legal system that affected the rights of different segments of the larger community.

## Railroads

Although El Paso became part of the United States in 1848, Hispanic influence over the region’s political and legal systems continued to be significant until the arrival of the railroads. Prior to 1881, it was common to have men of Mexican descent as litigants, serving on jury



panels, and working in various staff positions at the courthouse. Further, men with Spanish surnames were county commissioners and justices of the peace. In fact, Anglo-Americans adapted to the culture of El Paso by learning Spanish and using it in the courtroom.

In the late nineteenth century Anglo lawyers lobbied to move the county seat from Ysleta, a largely Mexican-American populated town, to El Paso, a largely Anglo town. The county courthouse in Ysleta was moved to El Paso. Symbolizing the more profound changes to the legal system, the Mexican adobe courthouse in Ysleta was replaced by a brick courthouse in El Paso.

By the end of the nineteenth century, El Paso had changed. The railroads ushered in this change, and by 1900 the population of El Paso had grown exponentially. As a result of this growth, more and more Anglo-Americans began living in El Paso, and they began to gain prominence. It is through this change in demographics that a process of racial segregation and discrimination began to take place.

The segregation and discrimination that occurred did not usually take place as a result of official legislation; it was accomplished in other ways. For example, in 1874 the Texas Supreme Court required that one must speak English to sit on a jury. By enacting an English only requirement, Hispanics and other non-English speaking minorities were, as a practical matter, excluded from participation in the community's dispute resolution processes.

Of course the railroad, like the Rio Grande, created another physical divide: most of the Hispanics in El Paso lived south of the railroad; the Anglos lived north of the tracks.

These changes, and others, some large, some small, all acted in concert to create more boundaries, more borders, and to divide the Mexican-American community and the Anglo-American community.

### The G.I. Bill

The cultural and legal divisions continued for many years. At the end of World War II we begin to see some ethnic changes in the legal community. In 1945, World War II ended, and with the end of the war soldiers had an opportunity to go to college with the G.I. Bill. Hispanics began to take advantage of the G.I. bill, and attorneys like Albert Armendariz, Sr., Armando Peralta, Mario Martinez, Joe Rey, Sr., Mauro and Tom Rosas, Frank and Robert Galvan, obtained law licenses and began to gain prominence.

While Hispanics were able to increase their presence in the courtroom, scars remained from



**OLD COUNTY JAIL**  
THIS STRUCTURE WAS BUILT ABOUT 1850 OF ADOBE BRICKS (SUN-DRIED MUD AND REEDS) AND COTTONWOOD LOGS AROUND STEEL CELL BLOCKS. IT SERVED AS OFFICIAL COUNTY JAIL 1850-66 AND 1868-73, WHEN SAN ELIZARIO WAS THE FIRST AND THEN THIRD EL PASO COUNTY SEAT. IT HOUSED BOTH JAILS ("CARCEL" IN SPANISH) AND COURTROOM ("JUZGADO"), ACCORDING TO LEGEND, WILLIAM BONNEY, FAMED OUTLAW BILLY THE KID, FREED THE ONLY MAN EVER TO ESCAPE FROM THIS JAIL. HIS COHORT MELQUIADES SEGURO.  
RECORDED TEXAS HISTORIC LANDMARK-1970

the segregation that had developed during the Gilded Age. Schools were segregated. Many Hispanic attorneys felt that the El Paso Bar Association, dominated by Anglo attorneys, applied grievance procedures in ways that discriminated against Hispanics.

Organizations like MALDEF, LULAC, and the Mexican-American Bar Association were formed to give the Mexican-American/Hispanic population a voice and to attempt to redress these real or apparent grievances.

### Shifting Demographics, Changing Cultural Values, and the Future

In 1979 the Mexican-American Bar Association of El Paso was formed. At that time there were only sixty attorneys of Mexican-American or Hispanic descent in El Paso--yes, only sixty. By 1997 it was estimated that 25% of the one thousand lawyers practicing in El Paso were Hispanic. In 2006 the State Bar of Texas published a report stating that Hispanics made up approximately 6.5% of the Bar.

The numbers of Hispanic lawyers are growing locally and statewide. These growing numbers will necessarily provide more opportunities for leadership, but with these new opportunities will come great responsibilities.

As minority attorneys have increased in numbers, many have chosen to "self-segregate" and participate in only those bar associations with which they feel they are most closely identified. On the other hand, some minority attorneys feel that the "playing field has been leveled," and that there is no longer any need to support a minority bar association.

MABA El Paso was formed as a way for Mexican-American attorneys to network, address social injustices both inside and outside the legal system, and to help Hispanic politicians become elected. The sixty Hispanic attorneys at the time the organization formed felt that they had not been welcomed by the "big bar." The sixty founders of MABA, in effect, segregated themselves from the El Paso Bar, organizing a separate bar association

for both social and political purposes.

As president of MABA, I firmly believe that MABA El Paso is still relevant, even thirty years after its formation. With issues like the border fence, bilingual education, and access to legal services affecting so many Hispanics, it only makes sense that MABA attempt to address resolution of these issues.

On the other hand, my participation in MABA does not absolve me of my responsibility to mainstream bar associations like the El Paso Bar and the State Bar of Texas. It is my duty to maintain a constant dialogue between the bar associations I belong to, not only to see that the needs of the Hispanic community are met, but to advance the interest of justice for all El Pasoans.

El Paso's culture is constantly changing. Based on the results of our most recent election, people with Spanish surnames are once again successfully competing for political and judicial office. We also see from the results of the national election that voters are increasingly becoming color blind.

But as minorities rise to power we must not forget that we are human, subject to the same instincts and temptations of all other human beings. At times human nature is flawed. It is tempting to subjugate and oppress groups different from our own.

With the coming of the railroad in 1881, segregation and discrimination came to the Pass. Let us hope that with our global economy, with respect for the concept of "diversity" modifying the old motto of "E Pluribus Unum," and in a more "enlightened age," that the new faces in our El Paso political and legal community will avoid the mistakes made by others in the past.



# Sam Moore Honored

**J**. Sam Moore Jr. was named to the Hall of Honor by the El Paso County Historical Society at its annual Hall of Honor Banquet on November 2 at the El Paso Country Club.

Sam graduated from the University of Texas School of Law with honors in 1957, and joined the firm of Burges, Scott, Rasberry and Hulse (now ScottHulse PC), where he remained throughout his career until his retirement in 1994. Throughout his life, he has supported the community in many ways, such as serving as President of the El Paso Museum of Art Association, as an Advisory Director of the Foundations of the El Paso Museum of History and the El Paso Museum of Art, serving as President of the Philosophical Society of Texas (founded in 1837),



being a member and Chair of Humanities Texas and the Friends of the UTEP Library and persuading the Texas State Historical Association to hold its annual convention in El Paso in 2003 (it will return to El Paso for its annual meeting in 2011). He is a member of the El Paso Bar Association, El Paso County Historical Society, Texas State Historical Association and the Kansas State Historical Society.

In recent years, Sam has continued to support the El Paso Bar Association's efforts to preserve this community's legal history, most recently by having his law firm give the Hon. Robert J. Galvan County Law Library books relating to our community's legal history including *Texas Lawyer*, *The Life of William H. Burges* by the late James F. Hulse.



## El Paso County Courthouse Wireless System INCOMPATIBLE with Windows Vista

BY DAVID J. FERRELL  
[djf@elpasolaw.com](mailto:djf@elpasolaw.com)

**S**ince April, 2005 we have all been privileged to have free broadband internet access at the courthouse and it has revolutionized the way we communicate and try cases. Now, a caveat! When you buy that new notebook computer in anticipation of using the broadband system at the courthouse, you may like to know that the courthouse "blue socket" software that connects our notebooks to the Internet IS NOT COMPATIBLE with the Vista operating system. So, if you have a Vista notebook you will not get on the system. I have already discussed this with the Information Technology Department and I have been told that they are updating the antennas and software so Vista will work along with Windows XP. One ITD technician told me it may be April 2009 before the new system is up and running.

## EPYLA's Christmas of Hope Honoring the memory of Lorenza Lugo

BY DANNY RAZO, EPYLA President

**T**he Christmas of Hope is a Christmas wish that "HOPE" never be lost to the battle of cancer. In the past the El Paso Young Lawyers Association hosted a Christmas Party for children, but in 2005, the story of a mother and her five children changed the focus of this project.

In 2005, Lorenza Lugo walked into an El Paso legal aid nonprofit and asked for help protecting her from her physical abuser. At the time, Ms. Lugo was not only fighting off her abuser, she was also battling cancer. Her strength to overcome cancer came from her five children, who she hoped to see grow up. Ms. Lugo was a strong woman and mother, determined to better the lives of her children and beat the cancer she had been battling for three long years.

Unfortunately, Ms. Lugo was unable to provide Christmas gifts for her children because of the cost of medical treatment. When the El Paso Young Lawyers heard Ms. Lugo's story, they reached out to Las Palmas Life Care Center and the American Cancer Society who, together, created the Christmas of Hope.

Sadly, in April of 2008, Ms. Lugo lost her battle



to cancer, but the Christmas of Hope continues on in memory of her. This year's "Christmas of Hope" will be held Saturday, December 20 at the Las Palmas LifeCare Center from 10:00 a.m. to 2:00 p.m. Donations can be sent to Charlie Madrid at ScottHulse, 201 E. Main, 11th floor, El Paso, Texas 79901. Please make checks payable to EPYLA.

# Crime and Punishment

(Part I)

## The Path Of Justice For The Murder Of Ted Andress

Leads From Lubbock To Cherokee And Smith Counties

■ BY BALLARD C. SHAPLEIGH

This is the fifth in a series describing the brazen killing of Ted Andress, the prominent lawyer for whom Andress High School is named who was shot to death by Harold Eidinoff, M.D. at the El Paso International Airport in front of dozens of onlookers in 1959. The series began in the May, 2008 issue of the Bar Journal with a profile of the victim and the facts of the homicide. The June, September, and October/November 2008 issues discuss various aspects of the case, including the relationship of the parties and the legal proceedings that followed. As the story moves to a conclusion, Mr. Eidinoff has been found insane by a Lubbock jury and has been committed to Rusk State Hospital from which he wishes to be liberated. — Clinton Cross

Ed Peticolas still remembers, he says, “how upset I was as a young boy when I got a telephone call from someone threatening to kill my dad because of the Eidinoff mess.” The memory of an icy horripilation recalls the old adage that every unpunished murder takes away something from the security of every man’s life. Many others in El Paso were worried as well. As one newspaper article put it, “it is no secret that a number of El Pasoans have a fear for their safety if [Eidinoff] were freed.”

Early on, their fears were fed by alarming news reports emblazoned with headlines like “Eidinoff Threatens Attorneys” which appeared on June 10, 1959. The doctor was being transported to Lubbock for his trial, an early 5:00 a.m. car trip accompanied by Sheriff Bob Bailey, Deputy Dick Gonzalez and, surprisingly, an unnamed newspaper reporter. Eidinoff insisted on having his bullet-proof vest. He was afraid they would be ambushed on the road. He also said, “I would like to get out of jail just long enough to settle a few things with other lawyers in El Paso.” People had reason to believe he had unfinished business and, perhaps, other scores to settle.

As time went by, Eidinoff dismissed the public’s apprehension as “political pressure” to keep him locked up. He favored the conception that insanity was a temporary phenomenon. To support his view, he cited a then-recent news event in which a psychiatrist, whom he did not identify, testified for the defense in an El Paso courtroom. That doctor, he said, expressed an opinion that the

accused was insane for only a few minutes during a criminal episode, and this testimony apparently resulted in an acquittal.

By 1968, however, Harold Eidinoff was alone. His coterie of support had faded away. Eidinoff wife No. 1, Sylvia, filed for divorce - again - this time for keeps. Woodrow Bean was her lawyer. She alleged that she and the doctor had been separated since 1957. This was a curious allegation since it was a date two years before he killed Andress, and yet after the murder she was a regular jail visitor and an ever-present fixture by the killer’s side during the trial in Lubbock. Eidinoff’s trials and tribulations were now being covered by United Press International instead of the familiar Art Leibson and the *El Paso Times*. Even his old antagonists from the district attorney’s office, William E. Clayton and Edwin F. Berliner, were gone; W. Barton Boling had inherited the “Eidinoff mess” for the state.

Percy Foreman had long since moved on to other cases, like the sensational 1966 murder trial of Candace Mossler in Miami. Foreman’s newest and most notorious client was James Earl Ray, charged with assassinating Dr. Martin Luther King, Jr. on April 4, 1968. Because of the work he had done for Eidinoff in El Paso and Lubbock, Foreman felt he could offer any future service to the doctor only as a witness. Given the insanity defense he asserted against the murder charge, Foreman advised Eidinoff that it would be ethically improper for him to now try and secure the doctor’s release as a sane man. Any other approach, Foreman



Eidinoff makes headlines again – the sidebar and lede read that the “Slayer Wants to ‘Settle’ A Few Things” and “Talks Constantly During Journey to Lubbock.” Photo at lower right is of Eidinoff and Deputy Dick Gonzalez through car window.





*Eidinoff's original legal defense team – (L to R) lawyers Ernest Guinn of El Paso (future U.S. District Judge); Jim Bowmer of Temple (future State Bar President); Percy Foreman of Houston; and Luther E. Jones, Jr. of Corpus Christi (friend and former secretary to LBJ, appellate attorney for Warren Burnett and father of El Paso's former county judge)*

purportedly wrote to Eidinoff on May 20, 1966, would harm not only Eidinoff's case but all other cases in which Foreman's clients might have an insanity defense.

He worried about his law license with good reason. During Eidinoff's trial in 1959, Foreman's bar dues fell delinquent because his secretary had eloped leaving his records "in a confused state."

In 1966, Eidinoff began looking in earnest for professional help from people other than Foreman and his court-appointed lawyers. He had been writing constantly to journalists like Art Leibson and Ed Pooley, editor of the *El Paso Herald-Post*, to express his outrage about the DA continuing to "prosecute" him despite his acquittal.

His letters were usually hand printed in blue ink on ordinary tablet paper. As one psychiatrist described him in 1962, "Dr. Eidinoff is a most voluminous writer and the man floods my desk and his writings reveal an abiding hostility."

In June, 1963, Eidinoff wrote the *Herald-Post* complaining of what in his view was an essential, paradoxical truth about his case, and one which he repeated often. The district attorney, he said, "vigorously contended in 1959 that I never had any mental illness. Now he contends that I haven't recovered from the mental illness which he insisted that I didn't have." The DA at the time, Berliner, replied succinctly that his office was duty-bound to keep Eidinoff confined in view of the overwhelming medical evidence of insanity,

saying "though we didn't go along with the psychiatrists then, and Eidinoff escaped a murder trial, we'll go along now."

Three years later, in 1966, he was writing individuals like prominent El Paso lawyer Richard T. Marshall and Paul A. Freund, the distinguished constitutional law professor at Harvard Law School, complaining that if only he could get a sanity hearing he could easily prove himself sane. He also corresponded with the ACLU of Texas voicing the same grievance, adding that all of his petitions for a sanity hearing had been denied. But Eidinoff never disclosed that he had been afforded three jury trials. In his view, if the term "sanity" was never mentioned, then it did not constitute a sanity hearing.

He insisted that he had started another hunger strike "to protest being denied a sanity hearing," though hospital administrators described it as a self-imposed, non-fat diet similar to one he tried earlier. He purportedly wrote U.S. District Judge Joe M. Sheehy asking the judge to remember a 1963 ruling in which the judge had concluded that Eidinoff was entitled to a sanity hearing. Eidinoff claimed that he had still not gotten that hearing and complained that he had been wrongfully imprisoned for six years. He described himself as a political prisoner. He questioned whether his confinement had anything to do at all with the issue of sanity or mental illness.

Thus, while he had gotten even, nothing would stop Eidinoff from trying to get free. As soon as he was ordered into Rusk State

Hospital in November 1959, he began looking for ways to get out. In later testimony, the killer described his experience at Rusk with poignant agony, saying "I'm locked up with a lot of psychotic people and I can't possibly live a normal life."

He started his public relations campaign to get out just ten months after the verdict in Lubbock, in August 1960, explaining to reporters through his wife Sylvia that he was now sane and wanted out. She was unsure where she would find a psychiatrist to testify as to his good mental health in view of the medical testimony in Lubbock that Eidinoff "was suffering from an incurable form of insanity which would eventually cause his death."

A year later, in 1961, Eidinoff wrote the *Herald-Post* that he was sane and that he wanted to forget the feud. He claimed that "Mr. Berliner well knows that I am now sane, and that I have never suffered from any specific organic or psychotic mental illness." Eidinoff also wrote that since he had been acquitted, Berliner should know it was morally and legally wrong to keep him "imprisoned" in a mental hospital, and importuned:

It has been my hope and desire that the feud between the late Mr. Address and myself be ended, forgotten, and its sordid details be relegated to oblivion. But it seems that Mr. Berliner feels that it should be continued. There will be but one question to decide at my coming sanity trial, namely...my present sanity... Mr. Berliner seems inclined to bring into this trial the events of this past feud. If he insists on doing that, I am fully prepared to reveal all of the details of this feud, and present them to the jury. I am prepared to prove that the shooting of my late opponent was an act of self-defense, that it was the direct result of my late opponent's direct threat to 'shoot me on sight.' I have evidence to substantiate my contention.

I am also prepared to prove that it was my late opponent who provoked this feud to greater bloodshed. I am prepared to prove that my former attorney, Percy Foreman, and I did everything humanly possible to bring this feud to a sane, peaceful and reasonable ending.

By law, he had to wait twenty-four months after the verdict in Lubbock was rendered to begin the legal process of getting out, but he filed his initial hand-printed *pro se* petitions many months earlier, first in El Paso and then in Cherokee County in September, 1961. He went to trial in December. That trial ended ominously, especially for El Pasoans worried about their safety, in a hung jury.

Thus, in August 1962, Eidinoff found

himself asking a second jury composed of five men and one woman to find him sane and release him from Rusk. It was an opportunity for the doctor to try new tactics as well - like offering a confession. Confession is good for the soul, or so people say. And the urge to confess is as old as time with perhaps biblical origins:

Then the LORD God said to the woman, "What is this you have done?" The woman said, "The serpent deceived me, and I ate." - Genesis 3:13

For the first time since stalking and shooting Ted Andress on January 28, 1959, Harold Eidinoff, M.D. was ready to confess - to say how he had been deceived and why he had committed his sin. Of course, he was struck by the urge to spill his guts *only* after he had received a jury's verdict that he was insane which Eidinoff knew of course, the moment it was rendered, was his insurance against ever having to stand trial for murder. Sin is not harmful because it is forbidden; it is forbidden because it is harmful, and Eidinoff's sin was certainly harmful to Andress. But now it was harming Eidinoff personally as well, particularly his ability, as he said, to spend his money and resume his practice of medicine. So Eidinoff began his redemption with a written confession on January 30, 1960, just twelve months and two days after killing Andress (a mere 367 days to be precise).

The confession, in the form of a letter, was addressed to a doctor on the Rusk Hospital staff "to disclose information not previously made public." Eidinoff wrote that "the matter of the nude photographs" allegedly circulated by Andress was not responsible for the killing. Rather the killing resulted from his efforts to save the fortune he had accumulated and against which Andress had a \$110,000 libel judgment. He asserted that, "the nude photos had become only an annoyance" at the time he shot and killed Andress on January 28, 1959 at the El Paso International Airport. He said he was simply trying to save his financial accumulations of a lifetime.

Eidinoff contended that he was "sane but mentally upset." He only feigned insanity, he said, on the advice of his attorney, Percy Foreman.

In his second sanity trial, Eidinoff was on the witness stand for three-and-a-half hours. This was the first time he had made any statements or had given any testimony about the shooting. He was cross-examined about his letter to the Rusk Hospital doctor by District



*Eidinoff (middle) confers with Foreman (l) and Sheriff's Deputy Noe Fernandez (r) in the El Paso County courthouse for his examining trial in March, 1959. Eidinoff said he made the visor out of cardboard and string to shield his eyes during jailhouse poker games. The editor's crop lines were made in red crayon.*

Attorney Edwin Berliner. Berliner became DA when William Clayton was appointed to fill a vacancy on the Eighth Court of Civil Appeals in June, 1961, created by the death of William G. Abbott, a son of El Paso's first female lawyer, Ethel S. Abbott. Abbott, ironically, was on the appellate bench for Percy Foreman's arguments about Eidinoff's insanity during the appeal of the Andress libel case.

Berliner confronted Eidinoff with a blow-by-blow chronology of his feud with Andress that climaxed in the shooting. Eidinoff was also confronted with the printed 16-column newspaper-like document, purporting to give Eidinoff's side of the quarrel with Andress entitled "The Truth-The Whole Truth," that he prepared and published by mailing a thousand or more copies to people in El Paso. Eidinoff admitted the mailing list was taken from the El Paso telephone directory. He also admitted making 100 copies of the nude photographs of himself, with his face blacked out, and mailing them from Grants, N.M. to people in El Paso. But he said he mailed them to men only, though he also testified that he mailed them "to members of the jury that awarded Andress \$110,000 judgment in the libel suit."

Berliner reminded him that there were women on that particular jury, and asked if Eidinoff had mailed the photos to them.

Eidinoff answered, "I mailed them to their husbands. I did that so the husbands could explain what a cruel thing it was for Andress to show these photos around." Eidinoff admitted that he had spoken of attorney Leo Jaffe, Andress, his second wife Ruth Lutz, and DA Clayton in derogatory terms, but justified his behavior by saying, "I was mentally ill when I mailed this material. I had lost my practice, had been run away from my home town, and Andress had made a threat he would shoot me on sight."

Berliner saved the best - Eidinoff's letter to the Rusk doctor - for last. But Eidinoff made no effort to spin, twist, or change any of its contents. He did not withdraw or contradict anything. The letter was published to the jury without objection. He affirmed that his pretended insanity was a masquerade stage directed by Percy Foreman, that he was simply trying to save his nest egg, and that the nude photos were no more than a petty annoyance.

However, Eidinoff was also at cross purposes. He undercut the notion that his insanity was all a charade because he also attested that he was facing emotional pressures due to the embarrassment caused by the displays of the pictures, his disappointment over losing a \$110,000 libel suit, and being possessed by anger and hatred. "All of these



can add up to temporary insanity in the so-called normal individual. A normal person can become temporarily insane if he has fear of his life, embarrassment and a sufficient emotional reaction to add up these things," he testified. He added that if released he would never go back to El Paso to live or work, but would return to New York.

With his appearance as a witness, Eidinoff's lawyers rested his case. The state's case consisted of three psychiatrists – Langston and Castner from Rusk, and Baskin from Tyler – all of whom concurred that Eidinoff was still a paranoid nut case who should stay confined in the hospital. The jury agreed with them, but not before hearing from District Attorney Berliner in closing argument that Eidinoff killed a man with five shots and admitted that he had faked insanity.

The doctor's lawyer, John McDonald of Palestine, argued that Berliner was attempting to re-try the murder case. This was a recurring complaint. In fact, Berliner was so effective at "re-trying the murder case" that Eidinoff's next lawyer, the court-appointed Willis Jarrell, filed a motion to bar Berliner from the courtroom. Jarrell claimed that the state was adequately represented by the Smith County district attorney. The appearance of Berliner, he argued, would prejudice the case, and cause the jury to believe the case was actually criminal in nature instead of civil. Furthermore, Jarrell argued, since the civil case originated in Smith County, Berliner was without jurisdiction and Eidinoff would be placed in double jeopardy if Berliner appeared, as the jury would be trying him for murder instead of for the issue of sanity.

This jury was out for fifty-six minutes. When the verdict was announced returning him to the hospital, Eidinoff bowed his head and folded his hands over his face until he regained his composure. Later, he told reporters, "I can only say that I know in my own mind I'm certainly well enough to return to my profession of medicine and to live a normal life. I believe

courtesy UTEP Library, Special Collections Dept. Herald-Post Records, MS 348

HAROLD EIDINOFF MD, MD 10, PO BOX 210, EL PASO, TEX 79902  
MR. ED PAULEY, EDITOR  
EL PASO HERALD POST  
DEAR ED:  
LAST WEEK'S HERALD POST REPORTED THAT EL PASO COUNTY WAS GOING TO PAY THE EXPENSES FOR A REPEAT SANITY HEARING, IN MY CASE. ON DECEMBER 18TH, 1961, THE HERALD POST QUOTED JUDGE WINDROW BEAN AS SAYING THAT "THE TIME HAS COME WHEN EL PASO COUNTY SHOULD NOT BE CALLED UPON TO BEAR ANY MORE EXPENSE IN THE EIDINOFF CASE. OTHER COMMISSIONERS, WHO COMMENTED, AGREED WITH JUDGE BEAN THAT EIDINOFF NOW IS A RESIDENT OF CHEROKEE COUNTY, THAT WHATEVER LEGAL MATTER DEVELOPS IN HIS CASE IS THE BUSINESS OF CHEROKEE COUNTY, OR IN ANY EVENT, IT IS NO LONGER THE BUSINESS OF EL PASO COUNTY."  
IT SHOULD BE OBVIOUS TO EVERYONE THAT A FEW PEOPLE IN EL PASO, USING POLITICAL INFLUENCE, ARE ENGAGED IN A CRUSADE TO KEEP ME ILLEGALLY IMPRISONED IN THE RUSK STATE HOSPITAL, AND THAT THEY ARE TRYING TO MAKE THE TAXPAYERS OF EL PASO PAY THE COST OF CARRYING ON THIS PERSONAL CRUSADE. IT IS NOW TIME TO ELIMINATE POLITICS FROM THIS PURELY PERSONAL FEUD, THAT STARTED IN 1954, AND SHOULD HAVE ENDED A LONG TIME AGO.  
I AM REQUESTING THAT YOU INITIATE A CAMPAIGN TO PROTECT THE USE OF EL PASO COUNTY PUBLIC FUNDS TO CARRY ON THIS CRUSADE, WHICH IS MOTIVATED BY HATRED AND THE DESIRE FOR VENGEANCE, ON THE PART OF A FEW INDIVIDUALS.  
THIS SANITY HEARING IS A PURELY CIVIL MATTER, ENTIRELY UNRELATED TO THE OFFICIAL DUTIES OF ANY PUBLIC OFFICIAL OF EL PASO COUNTY.  
SINCERELY YOURS,  
Harold Eidinoff MD  
P.S. YOU CAN PUBLISH THIS LETTER IF YOU WISH

*A voluminous letter writer, Eidinoff used his typewriter and letterhead before the murder; after the murder, letters were handwritten on plain notebook paper like this undated letter from late 1961 or early 1962*

it will be just a matter of time."

In November, 1963, Eidinoff tried for release again, taking the stand once more, and repeating his contention that he was now sane enough to be freed. This time he had an expert on mental illness first testify that he had regained his sanity.

Then Eidinoff stepped up and for the second time explained that, "I felt that Mr. Address and I had to meet face to face and see if he was going to shoot me." Throughout the years, Eidinoff repeated the assertion over and over again that Address was going to shoot him on sight as if a premonition justified a claim of self-defense – or preemptive murder. About the actual shooting, Eidinoff said he travelled from Grants, New Mexico to El Paso and checked into a motel (but not the Hawaiian

Royale, which he owned.) He said that he had seen in the newspaper that Address was due back in El Paso by airplane, so he put on black trousers, a black leather jacket and a cap and went to the airport. He testified:

I just saw him standing there about fifty feet away. As far as I can recollect, I was fairly calm until I saw Mr. Address. When I saw Mr. Address, I just lost all reasoning. I went up to Mr. Address and tapped him on the shoulder. I said, 'I understand you are going to shoot me on sight.' We just stood there facing one another. I took a pistol from my pocket and shot him. I remember throwing the pistol on the ground and walking away.

About his problems with Address leading up to the killing, he testified, "For about a year I thought about it in the daytime. I thought about it when I went to bed at night. I thought about it when I got up in the morning." He recounted losing the libel suit to Address and being advised by Percy Foreman to leave El Paso as "quickly as possible." He described how his wife tried to transfer \$80,000 in cashier's checks to Houston, and how the effort failed because of the garnishment which also tied up \$25,000 in checks for Foreman's retainer and fee.

He testified that he underwent treatment for mental illness on Foreman's advice, and was then transferred to the Austin State Hospital, and later to a private institution. About the nude photographs, Eidinoff testified that two were of him and one was of his wife, all taken on their 1937 honeymoon. They divorced and wife No. 2 [Ruth Lutz] found them in a trunk left by wife No. 1 [Sylvia]. In a divorce action ten months later, wife No. 2 presented them to her attorneys.

Ignoring some inconvenient details, including the fact that he lost a jury verdict for \$4500, Eidinoff said he "settled the attorney's fees [for the divorce from wife No. 1] for \$3000 on the understanding the pictures would be returned" to him. Later, after he remarried wife No. 1, he found out that copies of the photos had been made and were being circulated. Despite what some observers

took to be honest and forthcoming testimony, Eidinoff was returned to the hospital again.

In January, 1966, seven years after the murder, the *El Paso Times* ran a story about the continuing expense of the Eidinoff case, reporting it as the costliest criminal case in the county's history – "in cash outlays, close to \$10,000." The story concluded that El Paso County now found itself on "the horns of a legal and financial dilemma," seemingly adopting many years of Eidinoff propaganda. The story noted that the prosecution had originally argued that Eidinoff was sane when he killed Andress. Now the District Attorney was periodically forced to travel to Cherokee County at great expense to argue the opposite - that Eidinoff should not be released because he was found insane and had not recovered. The story also mentioned that Eidinoff had carefully planned the killing, "including a disguise with a beard."

Eidinoff was seized by the article; he had to reply. He wrote a letter to the editor the following week repeating his usual meme, that "it would be more correct to say that [the prosecutors] Mr. Clayton and Mr. Berliner...argued that I was sane. Then, after I was acquitted, Mr. Clayton and Mr. Berliner began arguing that I was not sane. When were they telling the truth?" Despite the overwhelming evidence to the contrary, Eidinoff declared that the careful planning, the disguise and the beard were all "lies cut of the whole cloth."

Years earlier, Eidinoff had seen his lawyer, Percy Foreman in a panel discussion on TV. One of the other panelists was Paul A. Freund, the eminent Harvard Law professor. Such was Freund's stature that President Kennedy initially favored Freund for the post of Solicitor General as well as for the U.S. Supreme Court benches eventually occupied by Byron White and Arthur Goldberg in the early Sixties. In April, 1966, probably feeling that his connection to Foreman provided him with sufficient entrée to Professor Freund, Eidinoff fired off a handwritten letter asking for guidance in getting out of Rusk State Hospital, noting Freund's appearance with Foreman on TV. Freund responded briefly and politely - he was reputed to never have said an unkind word about anyone nor even raise his



*Foreman persuaded James Earl Ray to plead guilty for a 99-year sentence after Foreman became Ray's lawyer 36 hours before he was scheduled to go on trial for killing Dr. Martin Luther King, Jr. Jack Ruby also asked Foreman to represent him but Ruby's family balked at the fee, which was four times more than Foreman's customary fee*

voice- but he was not sure if he could be of any help and suggested the proctologist consult with his lawyers.

Eidinoff took this reply as an invitation. He wrote Freund again in June, September and December, 1966, to vent his frustration with the Texas legal system and, basically, to ask for free legal advice. Again, Eidinoff complained that he had never been afforded a sanity hearing, despite at least three jury trials. And he neglected to mention that his 1965 hearing came to an abrupt halt when his attorneys filed a motion for non-suit with his blessing.

Each letter to Professor Freund was accompanied by "exhibits," like the *Times* news story about Eidinoff's case being the most expensive in county history, and purported copies of letters written to Eidinoff by individuals like Percy Foreman and El Paso lawyer Richard T. Marshall. It was the age before Xerox machines and instant copies, so Eidinoff very laboriously recreated his exhibits by pecking them out on an old-fashioned, ribbon-equipped typewriter.

Dick Marshall arrived in El Paso in 1950. Though he was originally from the state of New York, he came to know both Andress and Eidinoff. In those days, it was difficult for a

new lawyer to gain a foothold or to simply obtain a Texas law license, even for a graduate of Yale Law School like Dick Marshall. Andress acted as a mentor to him.

Marshall says Andress was a leader and calls him one of his heroes especially for his successful effort in leading the school board to ensure that El Paso schools were desegregated before any other city in Texas after the U.S. Supreme Court decision in *Brown v. Board of Education* in 1954. And Marshall knew Eidinoff as a savvy property investor from having been involved in real estate negotiations with him. When Eidinoff wrote Marshall in November, 1966, and asked him to take his case, Marshall politely declined. Marshall indicated he had personal feelings that might get in the way of effective representation, and referred Eidinoff to the ACLU for any constitutional violations he may have suffered.

So Eidinoff was back to square one, operating in and out of the same state and federal courthouses in Cherokee and Smith counties, with the same lawyer - Willis Jarrell. Whether in the end they succeeded or failed will be discussed in the next, and hopefully, last issue. *Más vale tarde que nunca*, but *hasta no ver no creer*.

The *Ted Andress Assassination* series is written to commemorate the 110th anniversary of the Bar Association with assistance and encouragement from Edgar Rincón Luna and Reyes Mata for which the author is grateful. The following resources have been used: Sonnichsen Special Collections Department, University of Texas at El Paso Library, *El Paso Herald-Post* records, MS 348; *The Paul Freund Papers*, Eidinoff, Harold 1966 Box 13, Folder 7, Harvard Law School Library; *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.); *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

# JUDGE DAVID BRIONES

■ BY CLINTON F. CROSS

*Federal Judge David Briones, the first Hispanic to be appointed a federal judge in the Western District of Texas, recently announced that he was accepting senior status.*

*I thought this might be the right time to interview the judge.*

**CROSS:** *Tell me about your childhood.*

**JUDGE BRIONES:** Both of my parents were first generation Americans. My father graduated from Cathedral High School, and my mother graduated from Bowie High School. When I was born, we lived in my grandfather's house which was near the corner of S. Campbell and Paisano. Ironically, years later, I had a law office at 550 E. Paisano which was within, what was at one time, my grandfather's back yard. Before I started school, we moved to the Alamito projects. Later, we moved to Sunset Heights.

**CROSS:** *Where did you go to school?*

**JUDGE BRIONES:** When we moved to Sunset Heights, I attended Vilas Elementary and then on to El Paso High School. In high school, I played several sports. My senior year, I made the All-District Football Team in both offense (right guard) and defense (middle guard), even though I was the smallest player on the line. I graduated in 1961, and I started college at Texas Western; but, after a year and a half, I dropped out and moved to California.

**CROSS:** *So, let me see if I understand. At this point, you're a poor Hispanic kid who grew up in the projects without much of a future, and a college drop-out. When did you start to "get it together"?*

**JUDGE BRIONES:** The draft caught up with me. After two years in the army, I returned to El Paso and went back to what was by then the University of Texas at El Paso (UTEP). I graduated from UTEP in January of 1969 with a degree in Political Science. In the spring of that same year, I had the good fortune to return to work at the Texas legislature. I had worked the 1967 session with Representative Paul Moreno and he allowed me to take classes at UT so I would not lose out on one whole semester.

When the session was over in June of 1969,



*I preside over interesting cases every week—drug conspiracies, bank robberies, medicare and insurance fraud, murders and conspiracies to commit murder, alien smuggling and alien smuggling conspiracies, and so on. We also have a general mix of civil cases, with an occasional patent or copyright case. The work is often interesting, but it is also sometimes almost overwhelming.*

I enrolled at the University of Texas School of Law. I graduated from the law school, and took the Bar exam, all in the relatively short time of twenty-seven months. I got my bar results in September of 1971.

After graduation, I formed a partnership with Paul Moreno. We engaged in the general practice of law under the firm name of Moreno & Briones. We practiced together for more than twenty years before I entered the judicial service. Paul and I did just about everything, including criminal, civil, and probate. I spent all my time practicing law; Paul practiced law, but he also spent a lot of time working in the political arena.

**CROSS:** *Ever have time to find a wife and raise a family?*

**JUDGE BRIONES:** In 1988, I married Delia Briones, who is now our El Paso County Clerk. Between us, we have four sons, all grown and out of school. Adan David Briones, our youngest son, graduated from the University of Texas Law School last year. He is now an associate with Vinson & Elkins, a world-wide firm, in Houston.

**CROSS:** *So I suppose he's now making more money than you are?*

**JUDGE BRIONES:** Maybe. You'd have to ask him.

**CROSS:** *How did you first get elevated to the bench?*

**JUDGE BRIONES:** In November 1991, County Judge Alicia Chacon asked me if I would be interested in an appointment as judge of County Court at Law No. One, which had been vacated when the Governor appointed Judge Philip Martinez (who had been at that time a county court judge for less than a year) to preside over the 327th District Court. I eventually received the appointment.

In 1992, I had to run in the general election for the unexpired term of County Court at Law No. One. I won the Democratic primary and retained my office as there was no Republican opponent. In 1994, I had to run for the regular

term of the court. At that time, I was pursuing my present position, but my nomination and my Senate confirmation were both pending and while not problematic, I had no idea when I would be scheduled for my confirmation hearing before the Senate Judiciary Committee. So, I had to run again for the court. I did not have a Democratic opponent, but a Republican, hoping that I would no longer be a county court judge by the time of the general election, filed against me.

On October 7, 1994 I was confirmed for my present position as a United States District Judge, too late to be taken off the November ballot. I stopped my campaign, but I went on to win the election anyway. Naturally, I declined to accept the county office.

Ricardo Herrera was eventually appointed as my successor, where he continues to serve.

**CROSS: What about the future?**

**JUDGE BRIONES:** I have notified the President that I will be taking "retirement" from active judicial service to senior status in February, 2009. I am required to use the term "retirement," but I will continue to serve as a district judge and will continue to take my regular share of both criminal and civil cases. When my replacement is confirmed by the Senate, which will probably take several years, I will continue to take my regular share of cases.

I preside over interesting cases every week—drug conspiracies, bank robberies, medicare and insurance fraud, murders and conspiracies

to commit murder, alien smuggling and alien smuggling conspiracies, and so on. We also have a general mix of civil cases, with an occasional patent or copyright case. The work is often interesting, but it is also sometimes almost overwhelming.

I anticipate we will have another Magistrate Judge by next year. I believe we will have another District Judge within a couple of years. Even with the addition of these new judges, I will continue to take my regular share of cases as there will be plenty of work for all of us.

Fortunately, we will soon move into the new Federal courthouse where we will have chambers for five District Judges, five Magistrate Judges and two Senior Judges. That should hold us for a few years.

## EPBA TO HONOR 50-YEAR ATTORNEYS

Join us at our December Bar Luncheon to honor our 50-year attorneys:

50  
YEAR  
ATTORNEYS

SANFORD C. COX, JR.	ROBERT H. HOY, JR.
THOMAS M. DIAMOND, JR.	ROBERT MAYHALL
WILLIAM DUDLEY	FRED J. MORTON
WAYNE S. GERBER	RICHARD REEP
FRANK HART	JOHN C. STEINBERGER
DON STUDDARD	

**The luncheon is on Tuesday, December 9, 2008 at 12:00 noon, El Paso Club, 201 E. Main, 18<sup>th</sup> Floor. Cost is \$15.00 per person.**

Please RSVP to Nancy at 532-7052 or at [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)

*We hope to see you there!!!*



**CORRECTION:** The Oct/Nov 2008 issue misidentified Sandra Day O'Connor. She is the individual at the top left on the cover photo.

## Congratulations to New Attorneys

Join us as we congratulate the new attorneys sworn in on Wednesday, November 12, 2008, they are:

Alejandro Acosta, III	Jorge Diaz	Larry H. Phifer
Robert Almonte, II	Antonio Ernesto Castillo Flores	Joshua W. Snider
Lynn Brooks	Shalena Cook Jones	Oscar D. Teran
Michael Cintron	Oscar Mendez, Jr.	Joseph Robert Veith
Echo Estelle Coleman	Daniel Ortiz	Todd A. Wayne
	Manual Parra	

*May each of you have many joys in your life as you start on your legal journey.*

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## Legal Literati

*This month the El Paso Bar Journal literary page presents a Bobby Perel poem*

### I REMEMBER YOU

On a low hill at sundown,  
Remember looking up at you,  
Backed by the sun, the light  
Glittering around you,  
Remember thinking of how you  
Were a woman and a jewel  
At the same time. And  
Later, thinking of you,  
A light came into my mind.  
And that set it.  
After that, the world was divided  
Into ordinary people and those  
Who were jewels at the same time  
The people who brought light with them.

**Bobby Perel** has been practicing law in El Paso, Texas for 40 years. He is an intrepid world traveler, voracious reader and devoted Texas Longhorn fan.

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](mailto:donna.snyder@ca.epcounty.com).**

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## 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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## Do you have legal worries?

Come to our free legal clinics and help yourself to peace of mind.

Date	Clinic Title	Date	Clinic Title
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?		

Absolutely no cost to receive legal advice!

**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](mailto:receptionistelp@trla.org) for more info.

On the web visit: [www.trla.org/teams/cli.php](http://www.trla.org/teams/cli.php)

Individuals are seen on a first come, first serve basis. Legal clinics are made possible by Texas RioGrande Legal Aid, a nonprofit organization that provides free legal services to low-income and disadvantaged clients.



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# The Law Preparation Institute: A Closer Look

■ BY VIVIAN NAVA,  
LSPI Alum 2007

There are significant disparities in admission of Hispanics all over the country and with Latino representation in the bar. For example, Hispanics make up only 3.3 percent of the total number of attorneys nationwide, yet account for 15 percent of the total population. In Texas, Hispanics make up 35 percent of the population but account for only about 6 percent of the bar. In the fall of 2007, only 600 Mexican-Americans matriculated at ABA accredited law schools; the lowest yearly number reported for the eleven years of publicly available data.

The local bar has taken steps to help remedy these disparities. For example, The Judge Enrique H. Pena Endowed Scholarship was established at the University of Texas at El Paso in August 2008, to provide annual scholarships for students enrolled in the Law School Preparation Institute (LSPI). The scholarship, funded mainly by members of the bar, was endowed at an amount in excess of \$30,000. Through contact with the bar, the availability of scholarships, and through guidance via the "LSPI", many students are quickly realizing that the dream to attend law school is not so much a dream at all, rather an attainable reality that takes but hard work and commitment.

As another school year begins, most college students are just beginning to ease their way into the new semester. Getting through each semester in itself is often times more than enough to handle. Although numerous students choose to participate in extra-curricular activities throughout their undergraduate careers, such as clubs and community service organizations, student government, or Greek life, there are a distinct few who feel that the college experience at the University of Texas at El Paso is not complete without participation in programs that clearly pave the way for future professional and educational opportunities. The most well known program amongst numerous outstanding academic opportunities at UTEP is the "LSPI". UTEP undergraduate students of all majors with a 3.0 GPA or higher who have completed at least twenty-four hours of coursework may apply for admission to the program.

The "LSPI" enables college students to comprehensively prepare for the law school application process and for the rigors of law school. Pursuing a career in the legal profession

is a series of steps, steps that are often daunting to the average applicant. The "LSPI" has shown that with the careful guidance of faculty, advisors, and through substantive instruction, students are able to increase their chances of admission to law school. In 2007, the LSPI alone accounted for three percent of all Mexican Americans matriculated at ABA accredited law schools.

Also, through vetting of applications and Law School Admission Test (LSAT) instruction, "LSPI" students have gained admission to the finest law schools in the country. Our students have been admitted to over ninety different law schools, and attended approximately 65 different law programs around the country. Originally founded by professors William Weaver, Robert Webking and Dennis Soden, the LSPI is the first program of its kind in the country, and is still the most rigorous and successful program of its kind. The program was created as a result of the overwhelmingly scarce possibilities for Mexican-American students to be admitted into law school.

Through persuasive writing, critical textual analysis, training in logic, preparation for the "LSAT" and familiarization with the application process, "LSPI" students are given the tools to gain admission and succeed in that critical first year of law school and beyond. Ms. Adria Franco sounds a common theme when she noted that:

Participation in "LSPI" was a very rewarding experience. The intensity of the program forced me to maintain focus and to develop academic discipline that I will carry with me. Having so many respectable people committed to our success is incredibly motivating. My participation in "LSPI" has given me the opportunity to develop academically. However frightening law school might have seemed before, I am now prepared and excited for the challenge.

The "LSPI" is composed of two Phases taken in the months of June and July during two consecutive years. And in the senior year, "LSAT" preparation and preparation of applications and personal statements fairly much takes up the time between September and February. For example, each Saturday morning leading up to the actual "LSAT" students take practice tests under realistic conditions to better prepare for the exam. Recent

"LSPI" Graduate Arthur Ybarra stated, "The Institute is more than an opportunity to get into law school. It has become an institution for students to be able to network and function for the rest of their careers in the legal profession." These kinds of activities enable preparation for law school to become a process, rather than a quick review of application requirements. And exposure to the legal profession continues throughout the academic year with field trips to courts, observation of trial proceedings, internships, clerkships, and guest speakers from various areas of the legal profession.

Many former "LSPI" students have returned to Texas and El Paso after law school and have taken up various jobs with government, nonprofit organizations, and the private sector. The Institute has also created an internship program for its students as well as a summer clerkship program for law school students after the summer of their first or second year. Both the internships and the clerkships come with stipends, and students are placed in offices such as those of federal judges, general district court state judges, the El Paso County Prosecutor, Las Americas, Texas Rio Grande Legal Aid, and the Eighth District Court of Appeals. There have been a number of Institute graduates who have also chosen to return to the Institute itself as "LSAT" instructors, tutoring throughout the summer, fall, and spring semesters. A 2007 LSPI Alumni and Political Science major, Mark Daube, decided to come back to the Institute for the 2008-2009 school year as an experienced "LSAT" test taker, and now tutor and mentor. "The reasons for me seemed simple: I wanted to come back and help students in the ways I was helped by previous Institute graduates." Mark Daube felt so connected to the Institute and the experience it has provided for him that he postponed graduation until December 2008.

I am also a graduate of the Institute and have benefitted greatly from its guidance, intellectually advancing curriculum, and networking prospects. The next chapter in my life will lead me to pursue a graduate degree with the University College at UTEP, followed by applying to law school in fall 2009. As a product of the Institute, I feel that I am in a position to be a competitive applicant to law school. The Law School Preparation Institute helps students better themselves, the surrounding El Paso community, and the legal profession; it is a life-changing program for those who participate in it.

## 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:

J.F. Hulse,

*Texas Lawyer: The Life of William H. Burges*  
(Mangan Books, 1982).

[William Burges was the founder of the Scott, Hulse, Marshall, Feuille law firm].

J. Morgan Broaddus,

*The Legal Heritage of El Paso*

(Texas Western College Press, El Paso, 1963).

[This book is a primary resource regarding the history of the El Paso Bar and the El Paso Bar Association].

Robert K. DeArment,

*George Scarborough: The Life and Death of a Lawman on the Closing Frontier*

(University of Oklahoma Press, 1992).

[George Scarborough was a U.S. Marshal, the father of Ethel Shirley Abbott--the first woman to practice law in El Paso--and the grandfather of Justice William G. Abbott of the El Paso Court of Civil Appeals].

Helen Schrecker,

*Many are the Crimes: McCarthyism in America*

(Princeton University Press, Princeton, New Jersey, 1998).

[This book contains a chapter ("How Red Is A Valley") about Clinton Jencks, the movie Salt of the Earth, and the Jencks case—which, as we have previously reported, was tried in El Paso before Judge R.E. Thomason, and with which retired El Paso attorney Joe Calamia was very much involved].

## EPYLA STAR OF THE MONTH

# Carlos "Charlie" Madrid

By: PATSY LÓPEZ,

EPYLA Board of Directors

Carlos "Charlie" Madrid is an associate at ScottHulse PC where his practice areas include litigation and labor and employment.

Charlie is a native El Pasoan. He attended the University of Texas at El Paso where he participated in the Law School Preparation Institute, was a member of various honor societies, and from which he received a Bachelor of Arts degree in 2004. Upon graduation, he was recognized as a UTEP Top 10 Senior. He continued his education at Yale Law School, where he was involved with various student organizations including the Latino Law Students Association, The Initiative for Public Interest, and was a member of the Yale Journal of Law and the Humanities.

Charlie graduated from Yale Law School in 2007 and returned to El Paso to practice law. Since his return to El Paso, he has been actively involved in the local legal community. He is a member of the El Paso Bar Association, Women's Bar Association, and is the vice-president of the El Paso Young Lawyer's Association. He also serves as the current president of the UTEP Law School Preparation Institute Alumni Affinity Group.

Currently, Charlie is co-coordinating "Christmas of Hope;" a collaboration between the American Cancer Society,



Las Palmas Medical Center, and the El Paso Young Lawyer's Association. This annual event provides a Christmas party and gifts for children from the El Paso/Juarez community whose parents are suffering from cancer and cancer treatments that prevent these parents from providing their children with the type of holiday atmosphere that many of us take for granted. Charlie is enthusiastic about working on community-based projects such as "Christmas of Hope."

El Paso will continue to benefit from having a community-focused professional, such as Charlie, return to our area.

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# ADVANCE SHEET, CIRCA 1202

■ BY CHARLES GAUNCE

*Legal Reference Librarian University of Texas at El Paso*

The following case I find interesting for two reasons: First, the recent silly season caused the spillage of substantial amounts of printers' ink over someone called Joe the plumber. Lest we forget that prior to the adoption of surnames in England sometime in the 13<sup>th</sup> or 14<sup>th</sup> century, persons were generally described by their given name and occupation. Second, even the most mundane of debts tends to cause the debtor much aggravation when payment was ordered through a judgment of the court – for a debt of 35 shillings, the debtor have agreed, essentially, to post a bond of all real estate held by him.

The case is from the Pleas on the Octave of Michaelmas in the Fourth Year of the Reign of King John [A.D. 1202]. The

parties settled the case prior to trial, but I can't help but wonder if the plaintiff was concerned about his obligation to prove the debt, or if the defendant was giving much thought to outright denial of the debt.

John the vintner puts in his place Brian the clerk against Ralph the priest touching a plea of debt, etc.

John the vintner demands against Ralph the priest of Elmham thirty-six shillings and four pence; and they make a concord to the effect that Ralph shall give [John] two marks of silver [now], and shall pay him one mark within the octave of S. Edmond, and another [mark] within the octave of mid-lent; and in case he shall not have paid [them], he has put in pledge to [John] all the land which he holds as of lay fee in Suffolk.

## Above the Law



"I SWEAR YOU EMBEZZLE ONE TIME, AND EVERYBODY FREAKS OUT!!!"

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](http://www.marcjacobsllaw.com)



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## ▶▶▶ ASSOCIATION NEWS

### El Paso Women's Bar Association

■ The El Paso Women's Bar Association will hold its December meeting on Wednesday, December 10, 2008 at 5:30 p.m. at N'Dulge Day Spa, 3950 Doniphan Dr., with a focus on Stress Relief.

■ The January meeting will be held on Wednesday, January 14, 2009 at 12:00 noon at the Percolator, 217 N. Stanton at Texas. Guest Speaker will be Guadalupe Gonzalez, Chief Counsel, Department of Homeland Security, Immigration and Customs Enforcement.

■ EPWBA is collecting items during November and December for donations to Dame la Mano crisis pregnancy center. Dame la Mano is in need of all items for mother and baby, especially women clothing and hygiene items. Donate your unused travel shampoos and soaps! Contact Sarah Snook at [ssno@scotthulse.com](mailto:ssno@scotthulse.com) or at 546-8270.

For more information about EPWBA, contact Sarah Snook at [ssno@scotthulse.com](mailto:ssno@scotthulse.com) or at 546-8270.

### El Paso Paralegal Association

■ The El Paso Paralegal Association will hold its Annual Attorney/Paralegal Luncheon on Thursday, December 11, 2008 from 11:30 a.m. to 1:00 p.m. at the El Paso Club, 201 E. Main, 18th Floor. Tickets are \$21.00 each. Please contact Lynda Camacho at Scott Hulse at 546-8311 for tickets or more information.

■ The January Luncheon will be on Thursday, January 15, 2009 at 12:00 noon at the El Paso Club, 201 E. Main, 18th Floor. Cost of the luncheon is \$15.00 for buffet or \$8.50 for Salad Bar. Guest Speaker will be Dr. Manuel De La Rosa, Dean of Texas Tech University Health Sciences Center. At the end of the meeting, we will have the swearing-in ceremony of our 2009

Board Members. RSVP to Lynda Camacho at 546-8311.

### El Paso Young Lawyers Association

■ The El Paso Young Lawyers will hold its Holiday Party, Wednesday, December 17, 2008 at 5:30p.m.at Brick & Mortar LLC 115 S Durango St # C. For more information please contact Danny Razo at [dannyrazo@gmail.com](mailto:dannyrazo@gmail.com) or 881-7177.

■ The El Paso Young Lawyers will not have a General Meeting in December in lieu of the meeting members are encouraged to attend the wrapping party for the Christmas of Hope on Friday, December 19, 2008 at 6:00p.m.at 2000 Saul Kleinfeld (Food and Drinks will be served) and the Christmas of Hope Event on Saturday, December 20, 2008 at 10:00 a.m. at Las Palmas Life Care Center, 3333 North Mesa Street. For more information please contact the Danny Razo at [dannyrazo@gmail.com](mailto:dannyrazo@gmail.com) or 881-7177.

■ The El Paso Young Lawyers will hold its meeting on Wednesday, January 7, 2009 at 12:00 noon at Great American Land & Cattle Co, 701 S Mesa Hills Drive. The Happy Hour will be that day at Soho Cocktail Lounge, 500 N Oregon St. from 5:30 – 7:30p.m. For more information please contact the Danny Razo at [dannyrazo@gmail.com](mailto:dannyrazo@gmail.com) or 881-7177. Come learn about Texas Young Lawyers Association (TYLA) from TYLA President-Elect Cori Harbour and TYLA District Rep. Hector Beltran

## CLASSIFIEDS

### Central Office Space for Lease:

Office space available, receptionist, runner, conference rooms, parking, etc. Call Bob Earp or Larry Schwartz at 542-1533.

## El Paso Bar Association 10th Annual Building Blocks of Wills, Estates and Probate Course Video Replay

Friday, January 23, 2009

Registration begins at 8:15 a.m. Program from 9:00 a.m. – 4:45 p.m.

Cost of the seminar is **\$150** for members of EPBA & **\$175** for nonmembers.

6.75 hours of MCLE including 3.5 hours of Ethics

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You can pre-register by contacting Nancy Gallego @ 915/532-7052 or via email at [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)



EL PASO BAR ASSOCIATION *presents***13<sup>TH</sup> ANNUAL CIVIL TRIAL SEMINAR****February 20 & 21, 2009***Paris Hotel & Casino, Las Vegas, NV***Pending Approval for 10.25 hours of MCLE/1.5 hours of Ethics****Pending Approval by the State Bar of Nevada****Friday, February 20, 2009**

- 10:00 – 10:05 a.m. **Introduction** – Cori Harbour, President  
*El Paso Bar Association*
- 10:05 – 10:15 a.m. **Welcome** – The Honorable Oscar Goodman,  
*Mayor of the City of Las Vegas*
- 10:15 – 11:00 a.m. **Employment Law Update** – Mark Dore, Mounce,  
*Green, Myers, Safi, Paxson & Galatzan, P.C.,  
El Paso, Texas*
- 11:00 – 11:40 a.m. **Family Law & the Military Issues** –  
*Donald Williams, El Paso, Texas*
- 11:40 – 12:30 p.m. **Medical Malpractice Update** – Walter Boyaki,  
*Miranda & Boyaki, El Paso, Texas*
- 12:30 – 1:30 p.m. **Lunch on your own**
- 1:30 – 2:00 p.m. **Trial Technology** – Roger Miller, Keith & Miller  
*Court Reporters/Altep, Inc.*
- 2:00 – 2:30 p.m. **Deposition Strategies and Techniques** –  
*Lisa Elizondo, Elizondo & Hayes, El Paso, Texas  
& Walker Crowson, Crowson & Crowson,  
El Paso, Texas*
- 2:30 – 3:10 p.m. **The Jury System and Voir Dire** – The Honorable  
*Javier Alvarez, County Court at Law #3, El Paso,  
Texas; Jeff Ray, Ray, Valdez, McChristian, & Jeans,  
P.C., El Paso, Texas & Enrique Moreno, El Paso, Texas*
- 3:10 – 3:20 p.m. **Afternoon Break**
- 3:20 – 3:50 p.m. **Ethics and the Trial Lawyer** – Keith Myers,  
*Mounce, Green, Myers, Safi, Paxson & Galatzan,  
P.C., El Paso, Texas and Evelina Ortega,  
El Paso, Texas*
- 3:50 – 4:40 p.m. **Bankruptcy Effects on Litigation** – Cheryl Lay,  
*Leslie & Lay, P.C., El Paso, Texas*
- 4:40 – 5:30 p.m. **Advertising Review Update** – Gene Major, State  
*Bar of Texas Advertising Review Committee, Austin,  
Texas*
- 5:30 – 6:30 p.m. **Reception Happy Hour**

**Saturday, February 21, 2009**

- 7:30 – 8:30 a.m. **Breakfast**
- 8:30 – 9:05 a.m. **Appellate Issues** – TBA
- 9:05 – 9:45 a.m. **Consumer Law Update** – Steven C. James, Attorney  
*at Law, El Paso, Texas*
- 9:45 – 10:25 a.m. **Immigration Law Issues** – Susanna Visconti,  
*El Paso, Texas*
- 10:25 – 10:40 a.m. **Morning Break**
- 10:40 – 11:00 a.m. **White Collar Criminal Issues and Civil Litigation**  
– Mary Stillinger, El Paso, Texas
- 11:00 – 11:45 a.m. **Texas Supreme Court Update** – Gabriela Gallegos,  
*Vinson & Elkins, El Paso & Dallas, Texas*
- 11:45 – 12:30 p.m. **Judicial Round Table: Effective Trial Advocacy**  
– Hon. Linda Y. Chew, 327<sup>th</sup> District Court,  
*Hon. Maria Salas- Mendoza, 120<sup>th</sup> District Court &  
Hon. Tom Spieczny, County Court at Law # 7,  
El Paso, Texas*
- 12:30 – 1:00 p.m. **Attorney's Fee Awards: Proving them up and  
Collecting** – Enrique Chavez, Jr., El Paso, Texas

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