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# The Bar Bulletin

*A Monthly Update of Events and Information,*

December, 2006

*It is the Season  
for Giving*

**El Paso Women's  
Bar Charities:**

Big Brother/  
Big Sister of El Paso  
Girl Scouts of the Rio Grande  
The El Paso  
Holocaust Museum

**El Paso Bar  
Association and  
El Paso Women's Bar  
Association:**

Suits for Success  
and Flood Relief

**El Paso Family  
Law Bar  
Association:**

Child Visitation  
Center

**El Paso  
Young Lawyers  
Children's Party:**

Hope for  
Christmas

*Happy Holidays!*

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The El Paso Bar Bulletin is a monthly publication for the El Paso Bar Association. Articles, notices, suggestions and/or comments should be sent to above address to the attention of Nancy Gallego. All the submissions must be in the office on or before the 10th of the month preceding publication. You may either fax or email your submission. Articles published in the Bar Bulletin do not necessarily reflect the opinions of the El Paso Bar Association, its Officers or the Board of Directors. Calendar listing, classified ad, display ad, and feature articles should not be considered an endorsement of any service, product, program, seminar or event. Please contact our office for ad rates.

**THE PRESIDENT'S**

**PUTTING THE PROFESSIONAL BACK IN THE PROFESSION**

**“F” Is For Fraternity**

**T**his article is the fourth in a series designed to focus attention on professionalism and what it means to the legal profession. [In case you missed the first three, “P” is for Pride, “R” is for Relevance, and “O” is for Outreach]. Many of you will read the headline and pause to remember your Greek experiences on campus,



from recruitment/rush to bid night to fraternity/sorority parties. [Yes, I’m Greek]. The Merriam-Webster Online Dictionary defines fraternity as (1) a group of people associated or formally organized for a common purpose, interest, or pleasure such as a fraternal order or student organization formed chiefly for social purposes, having secret rites and a name consisting of Greek letters; (2) the quality or state of being brothers; and (3) persons of the same class, profession, character, or tastes. We, as lawyers, fall into the third category – we are the legal fraternity. And just to be sure we don’t get hung up on gender,

“fraternity” is a gender-neutral word. In fact, my sorority was the “first Greek-letter *fraternity* for women.” See <http://www.kappaalphatheta.org>.

My husband and I recently visited our son for parents’ weekend at his fraternity. [Okay, we’re all Greek]. The manor house has been gutted for expansion and renovation. The perimeter facade is still standing, but the inside is bare bones – no walls, no electricity, no plumbing. So they rented an old building with a ramshackle kitchen and several dozen picnic tables. They fired up a few Old Smokeys and grilled some burgers. The grandeur was lacking, but the spirit was not. The pledge class sang the university fight song. The newly elected officers introduced themselves. The alumnae advisor welcomed us. The comradery, friendship, loyalty, and pride were clearly evident. The smiles, jokes, and slaps on the back told the story – these guys really care about each other, as friends, as brothers, and as part of a national organization.

Are we that focused? Do we see one another as friends working for the common good? Do we even have a common goal? As members of a “fraternal” organization, we too can come together in the spirit of friendship, honor, and tradition, recognizing the values that bind us.

*Continued on page 4*

EL PASO BAR ASSOCIATION  
**December Bar Luncheon**

Tuesday, December 12, 2006

El Paso Club, 201 E. Main 18th Floor, Chase Bank  
 - \$14 per person, 12:00 Noon

*Guest Speaker: Dick DeGuerin*

*“Tales from a Texas Trial Lawyer”*

Approved for 1/2 hour of MCLE

Please make your reservations by Monday, December 11, 2006 at noon by calling Nancy at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)

## “F” Is For Fraternity

We all occupy our unique niches of practice and many of us actively support specialty bar organizations. But we must remember that the universal umbrella of the law envelopes us all. It doesn't matter whether you are Republican or Democrat, whether you represent plaintiffs or businesses, whether you prosecute or defend, whether your practice is litigation or transactional, whether you are a practitioner or a judge. The legal profession is greater than the sum of its parts – much greater. And we as individual components need our counterparts to complete the process.

The judicial branch of government is designed to offer peaceful resolution of

conflict, remedies for legal wrongs, protection of society, and judgment by one's peers. Our own opinion of the system is manifested to the public in subtle ways – the way we treat each other, the way we speak about a particular judge, the way we behave in court, the way we behave on the bench. Do we care that other people form opinions about the profession as a whole based on our individual conduct? We should, because they are watching. Clients, party opponents, jurors, witnesses – they judge us by our actions.

Coming next month: “E” is for Example.

ANN McCLURE  
 PRESIDENT



Letters to the Editor

*Ann and Rob,*

I just got my copy of the El Paso Bar Bulletin for October. I was so pleased to read the content of the President's Page! Congratulations on an excellent issue! If there is anything I can do to continue to support El Paso's efforts and to help in the CLE process this spring, please don't hesitate to ask.

Thanks for all that you do!

Sincerely,  
 Ann Foster,  
 Executive Director, TLAP

# CALENDAR OF EVENTS



DECEMBER, 2006

**Friday, December 1**

*Joint Holiday Party*

**Tuesday, December 5**

*EPBA Board Meeting*

**Thursday, December 7**

*WBA's Monthly Luncheon*

**Friday, December 8**

*EPCLSA Monthly Meeting*

**Tuesday, December 12**

*EPBA Monthly Luncheon*

**Thursday, December 14**

*EPPA Attorney/Paralegal Luncheon*

**Thursday, December 14**

*EPYLA Monthly Meeting*

**Thursday, December 14**

*EPYLA Happy Hour*

**Friday, December 22**

*EPBA Closed, Christmas Eve*

**Monday, December 25**

*EPBA Closed, Christmas Day*

**Friday, December 29**

*EPBA Closed, New Year's Eve*

UPCOMING EVENTS

**Monday, January 1**

*EPBA Closed, New Year's Day*

**February 2 & 3, 2007**

*EPYLA High School Mock Trial Competition*

**February 9 & 10, 2007**

*11<sup>th</sup> Annual Civil Trial Seminar*

**PLEASE NOTE:** Please check the Bulletin 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 Bulletin for your upcoming event or function for the month of January, 2007, please have the information to the Bar Association office by Friday, December 8, 2006. 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 bulletin 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.

## Meet the Directors THE CLASS OF 2008



LAURA GORDON



BRUCE KOEHLER



SCOTT MANN



OSCAR ORNELAS



AMY SANDERS

It's your Bar and your opinion matters. Give us your input!

# The El Paso Bar Association: Fraternity of Legal Professionals

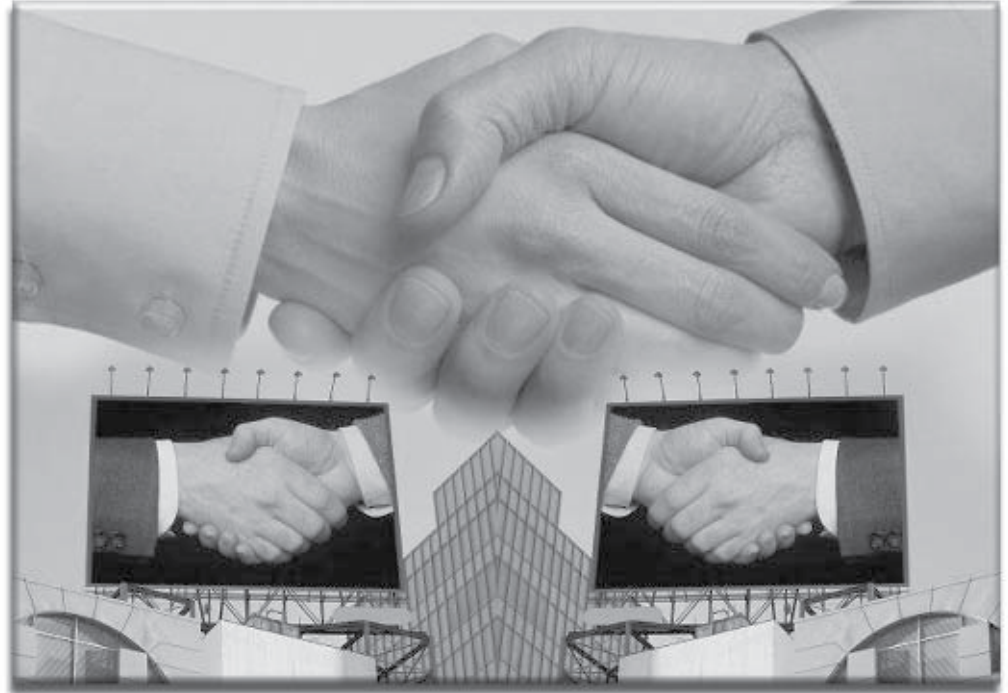
■ By JUDGE OSCAR G. GABALDÓN JR.

The concept of fraternity denotes brotherhood, and on a wider scale, friendship and camaraderie. This is precisely part of what the bar associations generally strive for, namely, the collaborative efforts of attorneys, judges, and others who serve in the legal professions, to bring about a stronger bonding among its membership, and in solidarity make a difference for the better. Networking and partnering, among the bar members, can foster a sense of solidarity and team spirit in the membership that can serve as a wonderful resource to bring about many good things.

The El Paso Bar Association is fervently committed to embracing all attorneys, judges, and other legal professionals in the community to bring a true sense of proactive togetherness in pursuing new and better ways to improve the quality of legal services, the quality of assistance to its members, and the overall quality of justice for all. This entails active participation in the bar association. It entails a commitment to the philosophy of excellence in the law. It entails a sincere desire to help those in need, especially helping to facilitate, refer, or provide direction to those in need of legal services.

The voluntary association of people for a common cause has traditionally been one of the most powerful avenues for positive change. The El Paso Bar Association has consistently been a prime mover in bringing about positive changes in the community. Not only has the bar association helped to bring about changes that enhance the best practices of the local bar in providing legal services, but the association has helped to bring about changes that positively impact the everyday needs of the community, such as sponsoring community-based efforts, school and other educational initiatives, relief undertakings, and many other public assistance needs.

Becoming a member of the El Paso Bar Association is saying “yes” to quality legal



*Becoming a member of the El Paso Bar Association is saying “yes” to quality legal services. It is saying “yes” to excellence in continuing legal education. It is saying “yes” to initiatives to help those in need.*

services. It is saying “yes” to excellence in continuing legal education. It is saying “yes” to initiatives to help those in need. In short, it is saying “yes” to a vision, a vision of solidarity in upholding our basic constitutional principles that support the idea that everyone is entitled to life, liberty, and the pursuit of happiness under the law.

To me, the El Paso Bar Association is like a true friend, for like a true friend, even if it comes to know my weaknesses, “...it shows you your strengths; feels your fears but fortifies your faith; sees your anxieties but frees your spirit; recognizes your disabilities but emphasizes your possibilities.”<sup>1</sup> Moreover, the bar association is an excellent forum for the exchange of ideas that are centered on helping to bring good will towards others. This

opportunity for the exchange of ideas, in and of itself, is a productive undertaking. For as someone once noted: “If you have a penny and I have a penny and we exchange pennies, you still have one cent and I still have one cent. But if you have an idea and I have an idea and we exchange ideas, you now have two ideas and I now have two ideas.”

The El Paso Bar Association welcomes you with open arms. It invites you to be part of a caring, dedicated, positive-minded, visionary, and good-willed brotherhood of men and women loyal to the idea that “people helping people” is one of the highest and noblest of all virtues to strive for.

<sup>1</sup> *Bits and Pieces* (Sample Issue).

# DWI Drug Court Intervention Program Receives State Grant

Judge Robert S. Anchondo, of County Criminal Court at Law Number Two, celebrated the second anniversary of his Driving While Intoxicated (DWI) Drug Court Program. The DWI Drug Court Program currently has 60 participants enrolled in the program, and has graduated sixteen participants thus far.

The general concept of the DWI Drug Court program is taken from the model of a "drug court" and applied to DWI offenders who struggle with an alcohol problem. The success of the drug court requires a team effort dedicated to the concept of reducing recidivism, rehabilitating the offender and releasing participants to become productive members of society.

The team consists of the judge and members of local city, county and

*The success of the drug court requires a team effort dedicated to the concept of reducing recidivism, rehabilitating the offender and releasing participants to become productive members of society.*

community agencies, including the District Attorney's Office, El Paso Public Defender's Office, El Paso Police Department, El Paso County Sheriff's Department, West Texas Community Supervision Department,

Aliviane and others. Each team member represents an integral part of the DWI Drug Court Program and provides essential input into the combined process of treatment, supervision and accountability.

It is with the effort of the team that the program has been able to achieve success with the graduation of participants who have worked at overcoming their addiction to alcohol. The DWI Drug Court has received recognition not only by the El Paso County Commissioners Court, but also by the Governor's office.

Judge Anchondo believes that with the continued help and support of all those involved, including the outside community, the program will benefit and achieve greater success in reaching its goals. Congratulations on your continued efforts.

EL PASO BAR ASSOCIATION

CONGRATULATES

CHANTEL CREWS,

RECIPIENT OF THE

2006  
PRESIDENT'S  
AWARD

FROM THE TEXAS ASSOCIATION  
OF DEFENSE COUNSEL



## SUITS FOR SUCCESS

Do you have a suit, pants suit or dress that you no longer use or wear but is still in good condition? How about a pair of pants, shoes, shirts, ties, blouses, skirts, belts? The El Paso Bar Association and the Women's Bar Association are partnering to gather business clothes that are in good condition for the Coalition of the Homeless and the Battered Women's Shelter. Please bring your clothes, suits, shoes, etc to the Bar Association Office by Friday, December 8<sup>th</sup>

## EPYLA'S DECEMBER STARS OF THE BAR

# Walker and Jennifer Crowson

Both have made important contributions to EPYLA. Walker, our Immediate Past President, held multiple officer positions and Jennifer served as a director. With Jennifer by his side, Walker lead EPYLA in many projects, including Tailgating with Judiciary, the Holiday Party for Unaccompanied Minors, and the High School Mock Trial Competition. In 2005, Jennifer was awarded EPYLA's award for Outstanding Young Lawyer of the Year.

In addition to their contributions to EPYLA, the Crowsons have a long history of helping children. Jennifer is the current President of CASA of El Paso. Her work to support trained volunteer advocates for abused and neglected children in El Paso is vital to our children. Additionally, she chaired Junior League's Independence House committee; Independence House provides supportive housing to homeless women and children who have suffered domestic violence. Walker's history of dedication to children includes his service as the Philanthropy Chairman for Sigma Alpha Epsilon, which included

coordinating a Christmas Party for children in East Austin.

Additionally, Jennifer is an active member of Junior League and recently took a leadership role in the annual Christmas Fair. Walker also serves as the legislative chairman of the El Paso Society for Human Resource Management. He is also a member of the host committee for the State Farm Sun Bowl Basketball Tournament.

Jennifer and Walker share a love and talent for law. They met in law school at Texas Tech and both graduated cum laude. They practiced with Kemp Smith, LLP until 2005. Both are licensed in Texas and New Mexico. Walker, who specializes in employment law, currently enjoys practicing with his father. Jennifer is general counsel for Trans-Expedite and recently passed the customs broker license exam.

Longhorn football and golf are Walker's other passions. Jennifer, a former member of the Holy Cross cross country track team, enjoys running.



Jennifer and Walker Crowson share many things: sharp legal reasoning, a dedication to community and children, and two beautiful daughters, Charlotte (4) and Ella (2).

## El Paso Bar Association Holiday Schedule

The El Paso Bar Association office and the El Paso County Courthouse will be closed on the following days:

**Friday, December 22**

Christmas Eve

**Monday, December 25**

Christmas Day

**Friday, December 29**

New Year's Eve

**Monday, January 1, 2007**

New Year's Day

## Trivia Quiz

**The El Paso Bar Association Historical Committee will give a Holiday REWARD to the first person who attends the next Bar luncheon on Tuesday, December 12 and correctly identifies the legal document (promulgated during the 13th Century in Europe) that states by way of introduction that:**

*"Laws ought to be reasonable; compiled with great care, and founded upon what happens in the common course of things. They should be free from all contradiction; expressed in a language correct, simple, and clear, so that they may be understood and retained with ease..."*

*"Laws ought to be made with the advice of intelligent, impartial men, versed in the science of jurisprudence. They ought to be free from error, and carefully revised before they are published, that they may do honor to the legislator, and promote the welfare of the people whom they are intended to govern..."*

*"The advantages arising from Laws are that they teach men to know, to fear, and love God: to be obedient and faithful to their prince, and to love their neighbors, so that they will not do to others what they would not that others should do to them. Also, by observing the Laws, men live in peace, flourish and become rich: population increases, the kingdom is aggrandized and wickedness repressed..."*

*"A Legislator ought to be actuated by the love of God, that the laws he makes may be just and perfect. He ought to cherish justice, and look solely to the public good. He ought to be able to discover right from wrong, and not to be ashamed to correct an unjust Law that he had made, when he discovers his error..."*



## SENIOR LAWYER INTERVIEW

by Clinton Cross

# Richard Marshall

*“I remained active in the American Trial Lawyers Association, and was elected National Secretary of that organization in 1969.”*

This month I interview an octogenarian Richard Marshall, who came to El Paso to practice law before I entered high school.

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

**MARSHALL:** My Mother was born in Omaha, Nebraska, raised in Philadelphia, and lived in New York beginning with her teen years. During World War I, she was in uniform as an ambulance driver for the Motor Corps of America, an all-woman corps of ambulance drivers. In 1917 and 1918, through all sorts of weather, at all hours, she drove to the docks in New York harbor to help transport wounded soldiers from hospital ships to local area hospitals.

My Father was brought to this country as a three-year old from a mountain town in what was then Austria-Hungary, and is now part of the Ukraine. He attended City College of New York, and made his career as a manufacturer of ladies' handbags. At the age of 76 he retired to begin a new career as a realtor.

**CROSS:** What was your childhood like?

**MARSHALL:** As a child I was the younger of two sons, was a bit of a nerd in high school, and was always conscious of the fact that my brother was better looking than I. At age eighty-three he has joined me in El Paso, now as my ward instead of my big brother.

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

**MARSHALL:** I went to Far Rockaway High School in Queens, N.Y., class of 1942.

I then attended Queens College

in Flushing, NY.

My local draft board called me up in my sophomore year, and I ended up spending two and one half years in the Army, most of it as a radio technician in the Signal Corps.

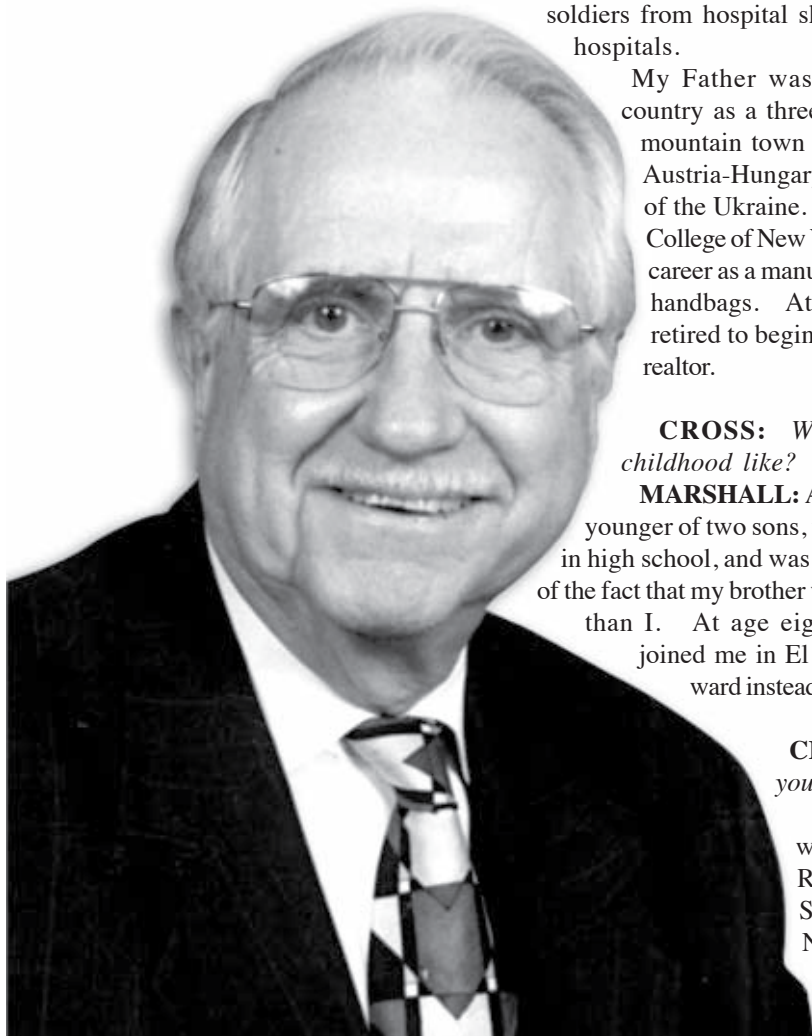
After the war I completed college at Cornell University, earning a B.S. in Industrial and Labor Relations. I then attended Yale Law School.

**CROSS:** After you graduated from Yale, what did you do?

**MARSHALL:** Unlike my classmates who for the most part went into Wall Street firms or clerkships with federal judges, I came to El Paso. I had married an El Paso girl, Dorothy Goodman, while in law school. Her family lawyer, W. H. Fryer, had a position waiting for me. Dorothy and I had two children, Abigail and Stanley. Abigail is a retired lawyer who is public relations director for Davis Dyslexia Associates, and administers their Web site, [www.dyslexia.com](http://www.dyslexia.com). Stanley works in San Francisco. I have two grandchildren, Ethan and Elise Bergerson, who both attend college at this time. Dorothy died in 1978, and the following year I married Sylvia Kelley, a pioneering woman financial planner; who refuses to retire and is still winning laurels as a recognized leader in her field.

When I first came to El Paso, Texas required a year's residence before one could take the bar examination. At that time, in 1951, the Korean War was still with us, and Ft. Bliss was much more a major part of our community than it is today. Since membership in the State Bar was not a requirement for practice in military courts, Mr. Fryer kept me busy as outside defense counsel in handling courts martial cases.

In one court martial I defended an African-American soldier (who was the only non-white in his barracks), beside whose foot locker someone found a marijuana butt. A year or two before the incident, Harry Truman had integrated the armed services and racial



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feelings were still fairly strong. The court martial took place during Easter week. My client's name was Private Justice. Sadly, but not surprisingly, my client was found guilty. He was sentenced to ten years in Leavenworth Disciplinary Barracks. He also received a Dishonorable Discharge.

I left Fryer & Milstead in 1952 to set up my solo practice, and have been a solo practitioner most of the time ever since. I first leased an office that was vacated by Hugh McGovern, when he was elected County Judge, and I shared space with Harold Long, another mentor.

Harold's long time legal assistant, Lena Alfman, took the bar exam with me in 1952, and we both passed. In 1960 I was appointed co-chairman of Texas Citizens for Kennedy. We worked independently but in tandem with the Democratic Party campaign, headed by Richard White and Frank Hunter. I recall that my Northeast El Paso captain was Wellington Chew. I was rewarded with Inaugural Tickets for 36 couples. We all enjoyed the inauguration. Some of us got to the Gala on a chartered bus, and enjoyed a hilarious ride through the snowstorm. Woodrow Bean on the bus regaled the likes of Sarah McClendon and others with tales of El Paso.

**CROSS:** *Professional activities?*

**MARSHALL:** I attended my first American Trial Lawyers convention, in 1962. Shortly thereafter, Don Cotton, Ronald Calhoun and I organized the El Paso Trial Lawyers Association. Don was first president, and I succeeded him. This group functioned for about twenty years.

During this time I edited and published a monthly newsletter called "Ready for the Plaintiff." I also founded and published as editor-in-chief the "El Paso Trial Lawyers Review." The ABA Journal took note of our little law review and gave us favorable mention in a column. This law review featured articles by local authors, including Judge Henry Pena.

I remained active in the American Trial Lawyers Association, and was elected National Secretary of that organization in 1969. I also was active in the Texas Trial Lawyers Association, and wrote a column reviewing appellate rulings for a year or two, in their magazine.

**CROSS:** *Most interesting cases?*

**MARSHALL:** I'd say all of my cases were

interesting. For instance, I remember defending a security guard who had been accused of murder in the shooting of a teenager whom he thought was reaching for a weapon. The victim of the shooting was a gang member, and my client and his entire family had to move out of El Paso for their own safety. I had to hire bodyguards for them when they returned to El Paso for trial. Fortunately, I obtained an acquittal.

In another case I obtained a verdict of over \$2.6 million for a child who suffered brain damage due to obstetrical negligence on the part of both the doctor and the hospital.

I handled a medical malpractice case involving a heart attack victim who lost his leg due an embolism which was overlooked by the treating cardiologist. I handled a case involving a bulldozer operator who suffered a heart attack while operating his equipment in a thunderstorm. I was hired to secure his workers compensation benefits, which the insurer had denied. Our pretrial offer from the defense was \$100,000. The verdict in 1987 of over \$800,000 represented a high-water mark in such cases.

John Steinberger and I filed a suit against Phelps Dodge on behalf of the survivors of an employee who was dropped into a cooling oven when the platform he was standing on collapsed. The family collected workers compensation benefits, but John and I sought and obtained punitive damages. The verdict held up all the way to the U.S. Supreme Court.

In the late 1960's I filed a one billion dollar class action suit against ASARCO over air pollution. This case was later refiled in Federal Court in New York, after the Environmental Defense League assumed responsibility for the case. I gave my file to the City Attorney here and was glad to see the City and later the State of Texas follow up in going after ASARCO's action in pumping tons of sulfur dioxide and heavy metals into the air on the West Side. In those years, Mesita School had to keep the kids off the playground on days when the wind blew from the west.

**CROSS:** *What do you consider your most important contribution to the community?*

**MARSHALL:** Perhaps my participation in what resulted in the enactment of the El Paso Civil Rights Ordinance, which the City Council passed in 1962.

After my work in the Kennedy presidential

campaign in 1960, I kept in touch with folks in Washington. Early in 1962 Byron White referred to me an African-American lawyer who was relocating in El Paso. Along with two others, I took this newcomer to the downtown Hilton Hotel (later called the Plaza) dining room for lunch. After being seated by the hostess and having our water and place settings served, we were ignored for the next forty-five minutes. It became apparent that we were not going to get served. I had also recently represented two black Ft. Bliss soldiers who were refused admission to the Plaza Theater.

I then began working with a group called the El Paso Human Relations Council, composed of women, clergymen, and attorneys. Together with City Councilman Bert Williams (later to be one of our mayors) and Julian Horwitz, we crafted an ordinance which ensured equal admission to places of public accommodation, such as hotels, theaters and restaurants. The ordinance passed, but was vetoed by the Mayor; passed again, then vetoed again. On third reading, City Council had to meet in Liberty Hall. This time, with the support of the Greater El Paso Chamber of Commerce Convention Bureau (and its spokesmen Ellis Mayfield and Leonard Goodman, Jr.) the ordinance passed, and could not be vetoed.

**CROSS:** *How has the culture changed?*

**MARSHALL:** In 1952 El Paso was about one-third its present size, with no freeways. When I went to a restaurant or got on a plane, I almost always ran into an acquaintance. Texas did not permit "liquor by the drink," so we frequently went to Juarez for dinner.

Juarez was far different, too. I could park my car on the street while shopping, and not lock the doors. Upon returning an hour or two later, I'd give the retired policeman who had watched my car a quarter, which was gratefully accepted.

**CROSS:** *How has the practice of law changed?*

**MARSHALL:** Of course technology has changed everything

Also, the level of competence of the average lawyer is better than what I witnessed fifty years ago. Although there were quite a few really great lawyers in El Paso then, there were also a number about whom you'd wonder how they got through law school. Today's young lawyers are really sharp!

# The District Attorney's Response to Domestic Violence: The Assault Family Violence Unit

■ By AARON SETLIFF

Domestic violence in El Paso continues to be a serious problem. Too many El Paso women remain caught in a cycle of abuse, a cycle which includes emotional, economic and outright physical abuse. In our region, the average victim of the misdemeanor crime of assault family violence is a 25 to 30 year old woman with one to two children. Men can obviously be victims of domestic violence, but the overwhelming majority of abusers are men (87% in El Paso in 2005). In 2006, the District Attorney's Office handled almost 2,000 individual cases of assault family violence, which translated to over 300 cases in each of the criminal county courts.

For prosecutors, this kind of case presents special challenges. Domestic violence victims are often unable or unwilling to break the cycle of violence because of fear, lack of resources, lack of education, love, family, society, children or a combination of all of these. As a result, victims of domestic violence often refuse to, or are reluctant to, aid in the prosecution of their abusers; the same victims then undergo further abuse.

With these realities in mind, in the spring of 2005, District Attorney Jaime Esparza decided to change his response to the problem of domestic violence in El Paso. He created a unit of attorneys dedicated to the sole job of prosecuting assault family violence in the criminal county courts. The Unit seeks victim safety first and aggressor accountability second (a very close second - we are prosecutors after all). Mr. Esparza asked me to lead this unit. With his crucial support and guidance, I have been able to introduce innovative methods for fighting the good fight against domestic violence.

For instance, Mr. Esparza mandates that the Unit make early and often contact with each victim of assault family violence. He supplied cellular telephones to the Unit attorneys so that the attorneys can safely (the caller id does not read "DA's Office") and quickly (often from court) call victims



*It takes a special kind of prosecutor to handle these challenging cases, one with the mindset to persevere despite uncooperative victims and sometimes difficult circumstances.*

and so that victims can call the attorneys even after office hours. You would be surprised how much assistant district attorney contact empowers women to hold their abusers accountable. For DIMS cases, Unit attorneys are able to make contact with the victim as little as one to two days after the assault occurs. Hearing that someone cares during this crucial time often makes the difference between securing victim cooperation in prosecution and losing her back to the cycle of abuse. Also Unit attorneys receive special

training in issues that relate to domestic violence prosecution, such as using expert witnesses and excited utterances to go forward even when a victim refuses to testify.

It takes a special kind of prosecutor to handle these challenging cases, one with the mindset to persevere despite uncooperative victims and sometimes difficult circumstances. But attorneys within the Unit learn invaluable lessons that make them better attorneys and people, while making a difference in the lives of many of the most vulnerable El Pasoans.

# El Paso's Family Preservation Drug Court: *One of a Kind!*

By JUDGE OSCAR G. GABALDÓN JR.

In 1997, the National Council of Family and Juvenile Court Judges designated El Paso's 65th Family District Court's Child Protection Court (formerly known as the Children's Court) as a Model Court. Presently, Judge Alfredo Chávez is the Model Court Lead Judge, and I serve as the Deputy Lead Judge. To date, the court continues to be the only designated model court in the State of Texas. The concept of model court, however, does not mean that the court is a "perfect" or "exemplary" court.

The term "model court" refers to a court that works in partnership with the National Council of Family and Juvenile Court Judges' Permanency Planning for Children Department (PPCD), which is headquartered in Reno, Nevada. The model courts must adhere to certain identified expectations and requirements established by the council. Model courts are, in essence, laboratory courts willing to be innovative and proactive in pursuing best practices in the field of juvenile and dependency legal systems. A best practices bench book, called RESOURCE GUIDELINES, serves as a guide to systems reform. These courts "...identify impediments to the timeliness of court events and delivery of services for children and families in care, and then design and implement court-and-agency-based changes to address these barriers. With technical assistance and training from the PPCD, dependency practices and innovations are pilot-tested and refined as part of ongoing court and multi-agency systems change efforts."<sup>1</sup>

Every year, an all-sites conference of all the nation's model courts takes place. Among other things, these conferences serve as an opportunity for the model courts to receive continuing education in juvenile and permanency-related subjects, share and discuss court practices, assess and evaluate goals and the implementation of court programs, seek and receive meaningful feedback, examine collaboration efforts with agency and community stakeholders, access a wide array of resources, and investigate ways to enhance the quality of court services. Model courts are expected to be proactive in their continual search for better ways



*El Paso's Family Preservation Drug Court started with seven families in February 2006. Eight months later, there are approximately 65 families on board.*

to do business. In this spirit, El Paso's model court has embarked on numerous efforts to develop and implement programs and practices that have proven extremely valuable in addressing the needs of children and families in the dependency system.

One of El Paso's most recent model court initiatives is the Family Preservation Drug Court, also known as the Family Preventive Drug Court. It is believed that this drug court is the only one of its kind in the state, the nation, and possibly the world. The underlying philosophy behind the creation of this court was to find a way to provide the benefits of a drug court to families, identified with substance abuse issues in child protective services cases, prior to the removal of children and prior to the filing of a lawsuit with the Child Protection Court. All the services of existing family drug courts are made available only after a lawsuit has been instituted. Thus, the idea of having the full services of a family drug court prior to the institution of a lawsuit has been hailed as revolutionary and visionary. El Paso's Family Preservation Drug Court started with seven families in February 2006. Eight months later, there are approximately 65 families on board. The drug court provides comprehensive case management, drug and alcohol assessment,

treatment phases, and a whole litany of resources designed to help participants successfully complete the program, while ensuring the safety and well-being of children. The drug court continues to be a collaborative undertaking that involves child protective services, drug court staff, service providers, and other key players.

We have a duty, by virtue of our shared humanity, to consistently search for new and better ways to serve others in need. Thus, initiatives such as the Family Preservation Drug Court are but one example of people's commitment to try to make the world a little better for others. In order to succeed in improving things for others, and ourselves, we will encounter some failures along the way; however, these are part of the obstacles we will find scattered on the road towards our successes. Tom Hopkins, a sales trainer and writer, reminds us: "I am not judged by the number of times I fail, but by the number of times I succeed. And the number of times I succeed is in direct proportion to the number of times I can fail and keep trying."<sup>2</sup>

<sup>1</sup> Model Courts: Improving Outcomes for Abused and Neglected Children and Their Families, (2006). NCJFCJ, Reno, NV.

<sup>2</sup> Bits and Pieces, Vol. T, No. 6., 2002.

# The Dawning of the New 8<sup>th</sup> Court of Appeals

Governor Rick Perry has announced the appointment of David Wellington Chew as Chief Justice of the 8<sup>th</sup> Court of Appeals. The Governor also appointed Kenneth R. Carr as the new justice of the court, filling the seat vacated by Justice Chew.

Chief Justice Chew is the son of Wellington Yee Chew, a prominent attorney and civic leader, and Patricia M. Chew, an elementary school teacher and principal. He attended Irvin High School and the University of Texas at El Paso before accepting a congressional appointment to the United States Naval Academy. He graduated from the Academy with a Bachelor of Science in 1971 and was commissioned as an Ensign in the United States Navy. His first assignment was on the U.S.S. Claud Jones (DE-1033) as Communications Officer and later as Operations Officer. In 1975, then-Lieutenant Chew was assigned as the Flag Lieutenant/Personal Aide to Commander, Cruiser Destroyer Group Twelve, homeported in Mayport, Florida. He attained the rank of Lieutenant Commander. Chief Justice Chew was graduated from the Southern Methodist

University School of Law in 1978 and entered into the private practice of law in El Paso immediately afterwards. He was board certified by the Texas Board of Legal Specialization in Immigration and Nationality Law in 1985. He was also elected as the West-Central City Representative to the El Paso City Council and served from 1989 to 1991. Chief Justice Chew was listed in the 1994/95 and 1995/96 editions of *The Best Lawyers in America* before taking the bench on January 1, 1995. He is married to Mandy Chew and they have one son, Wellington Montgomery.

Justice Carr represented public and private employers in all aspects of labor and employment law for 40 years, practicing primarily in the areas of union-management relations, employment discrimination, and wage-hour matters. He is a member of the Fair Labor Standards Legislation Committee of the Labor & Employment Law Section of the ABA and is a contributing editor to the annual supplement of the Committee's seminar treatise, *The Fair Labor Standards Act*. He is also the New Mexico Chapter Editor of the Section's recently published volume entitled

*Wage and Hour Laws: A State-by-State Survey*. Justice Carr authored the chapter on Employment Agreements in the *Texas Employment Law Handbook* published by the Texas Association of Business and he has revised that chapter annually since its original publication in 1989. He has been board certified in Labor and Employment Law by the Texas Board of Legal Specialization since the certification program began in 1975, and he has been listed in the Labor and Employment Lawyers section of *Best Lawyers in America* annually since 1989. He has also been designated as a Texas Super Lawyer in the field of labor and employment law by *Texas Monthly Magazine* every year since the inception of the publication. Justice Carr is admitted to practice in Texas and Nevada and before numerous federal courts. He graduated *cum laude* from Rice University and earned his *juris doctor* degree from the University of Texas School of Law, where he was an editor of the *Texas Law Review*.

Justice Carr is married to Sharon Carr. They have two daughters, Tracy Carr and Kelly Snyder. They also have a grandson, Tanner Hudnell

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## Positive Role Model Pen Pal Program

### *One Can Make the Difference*

■ By JACKIE THOMAS

The El Paso Women's Bar Association has a new addition to its Positive Role Model Program called Pen Pals. With hectic schedules, it is often difficult to take the time to volunteer. The El Paso Women's Bar Association Positive Role Model Program wanted to find a way to provide an opportunity for service that was flexible enough to fit within the busy schedules of those in the legal profession. Thus, the pen pal program was created. The underlying basis of the program is simple--*One Can Make the Difference*; all it takes is one attorney who is willing to write a one page letter once a

month to a student for one school year.

The pen pal program pairs attorneys in the El Paso community with thirty-one fifth grade students from Aoy Elementary School who participate in the Positive Role Model Program. In addition to writing letters, the attorneys, a.k.a. Pen Pals, must also attend two events: an Ice Cream Social and their student's graduation from the Positive Role Model Program on May 9, 2007. The goals of the program include improving the student's writing skills, providing them with further insight into the legal profession, and placing an emphasis on the importance of education. So far, the Pen Pals and their students have written one letter each and have had the

opportunity to meet at the Pen Pal Ice Cream Social on October 26. Both the students and the Pen Pals eagerly anticipated the opportunity to meet in person. Amid the chatter were conversations regarding topics such as favorite subjects in school, hobbies, television shows, sports, food, and family. It was a great opportunity to learn more about each other and to share personal and professional experiences. The hope of this new program is to teach the students the importance of staying in school. It also strives to provide encouragement and support to the students throughout the year and possibly years to come. With the success of our first event, we are looking forward to a great year because *One Can Make the Difference*.

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## ASSOCIATION NEWS

### • El Paso County Legal Support Association

The EPCLSA will hold its next meeting on Friday, December 8, 2006 at 12:00 noon at the El Paso Club, 201 E. Main, 18<sup>th</sup> Floor. Cost is \$14.00 per person. To make your reservations please contact Tammy Schoemer-Castillo at 533-4424.

The El Paso County Legal Support Association is currently working on putting together the 2007 Legal Directory. If you have any changes or updates please email [jboone@kempsmith.com](mailto:jboone@kempsmith.com)

### • El Paso Women's Bar Association

The El Paso Women's Bar Association will have its next meeting on Thursday, December 7, 2006 at 12:00 noon at The Original Jaxon's, 4799 N. Mesa. The meeting will feature a judicial panel discussion, "The Power of Professionalism" and has been approved for 1.0 hours of Participatory Ethics. Please RSVP to Jackie Thomas at [jthomas@8thcoa.courts.state.tx.us](mailto:jthomas@8thcoa.courts.state.tx.us) or 546-2240.

### • El Paso Young Lawyers Association

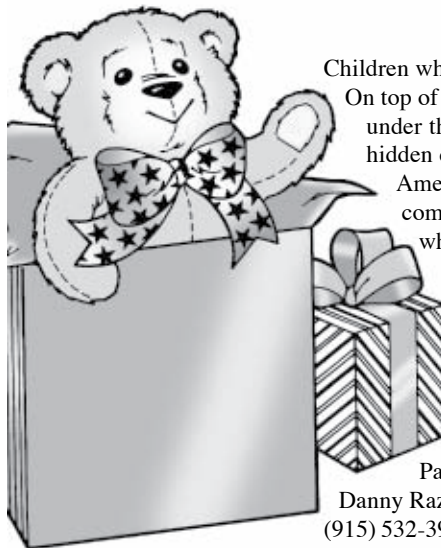
The El Paso Young Lawyers Association will hold its next meeting on Thursday, December 14, 2006 at The Original Jaxon's, 4799 N. Mesa at 12:00 noon, with the Board of Directors meeting at 11:30 a.m. There will be a one hour CLE: TexasOnLine eFiling for Courts will be making the presentation. Please RSVP to Katari Buck at 546-8209 or at [kbuc@scotthulse.com](mailto:kbuc@scotthulse.com) The monthly happy hour is sponsored by TexasOnLine eFiling for Court and will be at Rol, 2701 N. Stanton from 5:30 – 7:30 p.m. Everyone is welcome!!!

### SAVE THE DATE!!!!

This year's High School Mock Trial Competition will be held on  
**Friday, February 2 and 3, 2007** at the El Paso County Courthouse.

We will need attorneys and judges to judge the rounds. It is never too early to volunteer! (Time slots are on a first come, first serve basis) Also, we have a few teams left that need coaches. Coaches are essential to these teams being able to compete. Please contact Morgan Hazelton at 845-1354 or [mhazelton@abanet.org](mailto:mhazelton@abanet.org)

## CHRISTMAS OF HOPE



Children whose parents are battling cancer suffer with their parents. On top of the emotional costs, entire families suffer financially under the costs of treatment, loss of employment, and other hidden costs. This year the El Paso Young Lawyers Association, American Cancer Society and Las Palmas Medical Center are coming together to host a holiday party to benefit children whose parents have cancer and their families. At the party, the children will be given individualized gifts, visit with Santa, and have lunch. If funds allow, the families will be given gift cards to purchase groceries and other necessities.

Please help us bring hope for the Holidays!

For more information or to donate contact:

Casey Stevenson, 201 E. Main, 1100 Chase Tower, El Paso, Texas 79901: (915) 533-2493; [cste@scotthulse.com](mailto:cste@scotthulse.com) or

Danny Razo, 2400-A E. Yandell, El Paso, Texas 79903;

(915) 532-3975; [dannyrazo@gmail.com](mailto:dannyrazo@gmail.com)

# EL PASO YOUNG LAWYERS ASSOCIATION

## Sponsors its Third “Wills for Heroes” Clinic

On November 5, 2006, the El Paso Young Lawyers Association sponsored its third “Wills for Heroes” clinic for El Paso’s first responders—Fire Fighters, Police Officers, EMTs and Sheriff’s Deputies. The program was created by Anthony Hayes, an attorney in South Carolina, after he learned that many of the firefighters and police officers who died during the 9/11 terrorist attacks had no wills. Last year, EPYLA held the first “Wills for Heroes” clinic in Texas and has since held two more in an effort to provide wills to as many first responders as possible. The clinics provided attendees an overview of the probate process and taught the importance of having a will and a physician’s directive. Volunteer attorneys met with the individuals then drafted these documents at no cost to El Paso’s heroes. The El Paso County Legal Support Association provided paralegal support and notary services. In addition, students from UTEP’s Center for Law & Border Studies served as witnesses.

The event was co-sponsored by the El Paso Association of Fire Fighters, I.A.F.F. Local 51, which provided refreshments, hamburgers and hot dogs, and activities for the children of El Paso’s heroes, including a jumping balloon. Over 35 wills were drafted at the most recent clinic and EPYLA plans to hold another “Wills for Heroes” clinic next year. EPYLA wishes to thank the following:



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El Paso Bar Association website  
and tell us what you think.  
Go to [www.elpasobar.com](http://www.elpasobar.com)

## Annual Attorney/ Paralegal Luncheon

The El Paso Paralegal Association will have  
its Annual Attorney/Paralegal Luncheon

**Thursday, December 14, 2006**  
at the El Paso Club, 201 E. Main, 18<sup>th</sup> Floor  
from 11:30 – 1:00 p.m.

Cost is \$21.00 per person.

The Guest Speaker will be the  
**HONORABLE PHILIP MARTINEZ.**

For ticket information contact Lynda Camacho  
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## EL PASO COUNTY HISTORICAL SOCIETY

On November 5, 2006 the El Paso County Historical Society presented the Hall of Honor award to **Alice Lorraine Dwyer**, posthumously at the El Paso Country Club.

The award was presented by Michael Hutson, President and Clinton Cross. Michael and Clinton are members of the El Paso Bar Association and the Historical Society.

Dr. Nancy Harvey, daughter of Alice Dwyer graciously accepted the award.

The El Paso Women's Bar Association would like to thank the following sponsors and auction donors for this year's Charity Bash:

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# *Joint Association Holiday Party*

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## **2nd Annual Joint Bar Association Holiday Party**

*Friday, December 1, 2006*

*5:00 - 7:00 p.m.*

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***Come join your fellow attorneys and judges  
and kick off the holiday season in style!***

***Food, drinks, music!!***

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February 9 & 10, 2007, Paris Hotel & Casino, Las Vegas, Nevada\*\*

Approved by the State Bar of Texas & State Bar of Nevada

10.25 hours of MCLE/1.5 hours of Ethics

Judge Robert Anchondo, *Moderator*, Bruce Koehler, *Course Director*

*Join us for a Weekend of Fun & Education*

**Schedule**

Friday, February 9, 2007

- 10:00 – 10:15 a.m. **Welcome and Introductions**
- 10:15 – 11:00 a.m. **Arbitration Agreements in Texas: History and Enforceability**  
Milton Colia, Kemp Smith (Tab A)
- 11:00 – 11:40 a.m. **The Role of Judge & Jury: What Reasonable Jurors Can Believe**  
The Honorable Scott Brister, Supreme Court of Texas, Place 9 (Tab B)
- 11:40 – 12:30 p.m. **Immigration Issues All Civil Trial Attorneys Need to Know**  
Carlos Spector (Tab C)
- 12:30 – 1:30 p.m. **Lunch on your own**
- 1:30 – 1:50 p.m. **Electronic Discovery Issues**  
Roger Miller, Keith & Miller Court Reporters/ Altep, Inc. (Tab D)
- 1:50 – 2:20 p.m. **Cross-Border Litigation**  
Professor Jose Reyes Ferriz, Universidad Autonoma de Ciudad Juarez (Tab E)
- 2:20 – 3:00 p.m. **United States Supreme Court Update**  
The Honorable Kathleen Cardone, United States District Judge (Tab F)
- 3:00 – 3:20 p.m. **Afternoon Break**
- 3:20 – 3:50 p.m. **Working with In-House Counsel –**  
Gary Sanders, General Counsel, El Paso Electric Company (Tab G)
- 3:50 – 4:40 p.m. **Consumer Law Update –**  
Professor Richard M. Alderman, University of Houston Law Center (Tab H)
- 4:40 – 5:30 p.m. **How Civil Attorneys Can Assist Crime Victims**  
Jaime Esparza, District Attorney, 34<sup>th</sup> Judicial District (Tab I)
- 5:30 – 6:30 p.m. **Sponsor Reception**

Saturday, February 10, 2007

- 7:30 – 8:30 a.m. **Breakfast**
- 8:30 – 9:00 a.m. **Medical Malpractice**  
Michael Volk, Volk, Poulos & Coates (Tab J)
- 9:00 – 9:45 a.m. **Employment Law Update**  
Francisco X. Dominguez (Tab K)
- 9:45 – 10:30 a.m. **Jury Selection**  
George Andritsos, Law Firm of George Andritsos and Kurt Paxson, Mounce, Green, Myers, Safi & Galatzan, P.C. (Tab L)
- 10:30 – 10:45 a.m. **Morning Break**
- 10:45 – 11:30 a.m. **Using and Striking Expert Witnesses**  
Joseph Hood, Scott Hulse, Marshall, Feuille, Finger & Thurmond, P.C. (Tab M)
- 11:30 – 12:00 noon **How Not to Screw Up a Jury Charge**  
Steven L. Hughes, Mounce, Green, Myers, Safi & Galatzan, P.C. (Tab N)
- 12:00 – 12:30 p.m. **Automobile Collision Litigation**  
Stace Williams, The Law

► Door prizes will be given throughout the Seminar  
 Course Materials will be provided to all attendees  
 \*Seminar will be held in the Versailles Room, Paris Conference Center  
 \$250.00 – Members of EPBA ~ \$275.00 – Non-Members  
 \$200.00 – Legal Assistants/Paralegals

► We will have a golf outing on Thursday, February 8th, if you are interested in playing please call Judge Dick Alcalá @ 915/204-3807 or Chris Antcliff @ 915/532-1150

► We are planning a dinner on Thursday, February 8th for all attendees who will be in Las Vegas, if you would like to join the Executive Committee of the El Paso Bar Association, please call Nancy Gallego @ 915/532-7052 or nancy@elpasobar.com

►\*\* Make your reservations directly to the Paris Hotel & Casino at (800) 634-3434 and give them our meeting code, SPEPB7 to get our room rate of \$179 (single/double) occupancy. There is a two (2) night minimum stay.

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If you have any questions, comments or would like to be a sponsor, please contact the Bar Association Office at (915) 532-7052 or go to our website, [www.elpasobar.com](http://www.elpasobar.com) or send an email to [nancy@elpasobar.com](mailto:nancy@elpasobar.com)

**SAVE THE DATE**

El Paso Bar Association

*Join us for a Weekend of Fun & Education***11<sup>TH</sup> ANNUAL CIVIL  
TRIAL SEMINAR***February 9, 10, 2007 Paris Hotel\****Las Vegas, Nevada**Approved for 10.25 hours of MCLE,  
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*Justice Scott Brister, Supreme Court of Texas, Place 9*  
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*Justice Ann McClure, 8<sup>th</sup> Court of Appeals*  
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Go to our website, [www.elpasobar.com](http://www.elpasobar.com)  
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be in the December & January issues**Call Nancy at 532-7052 for any  
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