

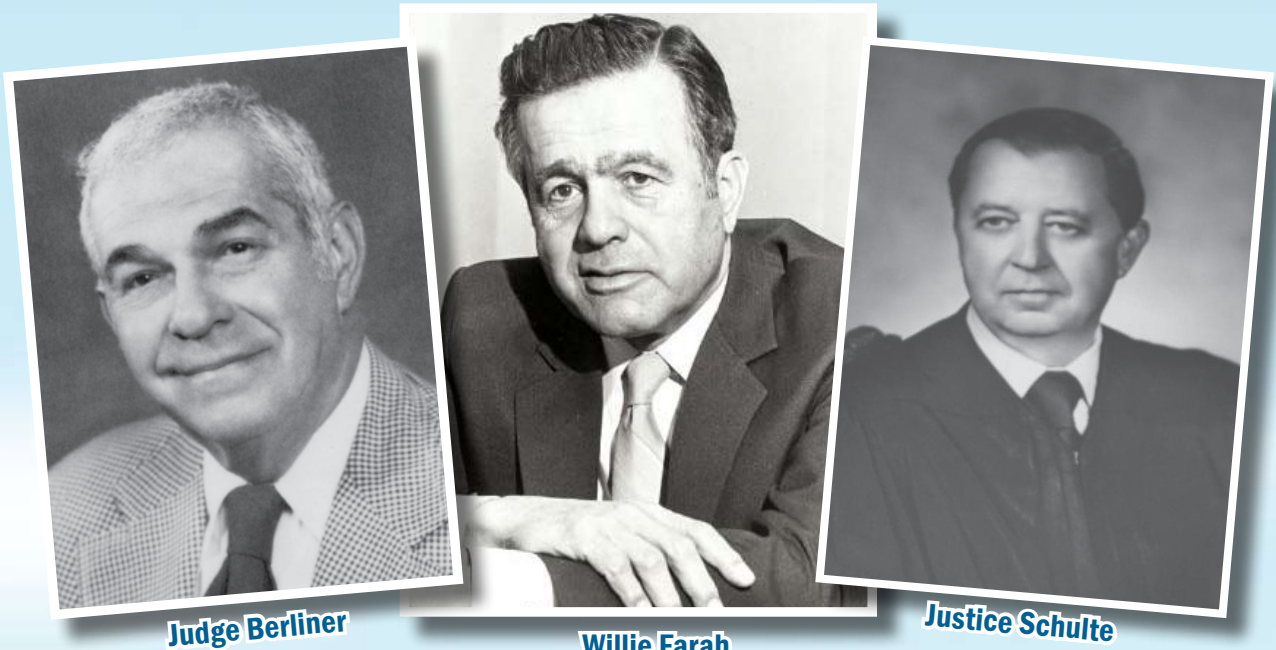


# EL PASO BAR JOURNAL

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*An Update of Events and Information*

April / May 2011



Judge Berliner

Willie Farah

Justice Schulte

## EL PASO vs. THE WORLD

*How an El Paso manufacturer brought the lending world to its knees*

**By Stephanie Townsend Allala Page 7**

Senior Lawyer Interview

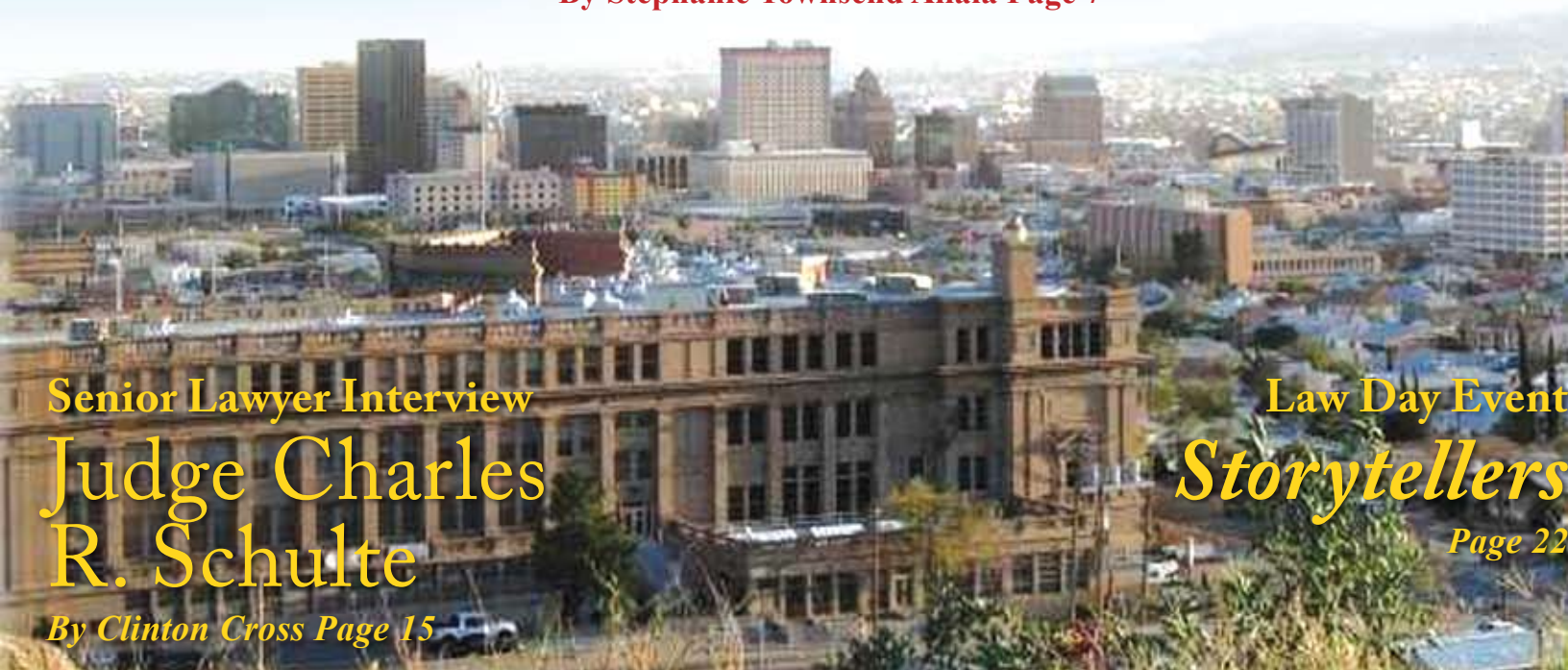
Judge Charles  
R. Schulte

By Clinton Cross Page 15

Law Day Event

*Storytellers*

Page 22



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State Bar of Texas  
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2003 – 2005 – 2006 – 2007 – 2008 - 2010  
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## THE PRESIDENT’S PAGE



### The Year of the Storyteller

*Do not tell fish stories where the people know you, but particularly, don't tell them where they know the fish.*

Mark Twain

**N**o whopper fish stories to tell here because you all know the fish! You should know, though, that the El Paso Bar Association will be recognizing some big fish in the legal profession and in the community.

In the next few months, we will honor our past, celebrate our present, and look forward to the future.

Starting with the celebrating the future, congratulations to the Mock Trial team from Americas High School for winning the 32nd Annual Texas High School Mock Trial Competition in Dallas! These very talented and smart young people, Enrique Esparza, Edwin Felix, Zach Fields (Texas Top Advocate), Joshua Monarez, Nayell Palomino, Jacob Parsont, Texas Quezada, Chris Ramos, Savannah Rappe, and Annabella Tarango, were coached and mentored by Teresa Candelaria, District Attorney Jaime Esparza, and Assistant District Attorney Robert Almonte. The team, the first from El Paso to win at the state level, will compete at the National High School Mock Trial Competition in Phoenix, Arizona on May 5-7, 2011. The El Paso Bar Association will honor these students and their coaches at the May 10 monthly meeting. Please send them your very best in anticipation of the National competition!

Skipping to celebrating the past, we are also nearing the Centennial Celebration for the Eighth Court of Appeals! Articles in this edition of the Bar Journal include information on the history of the Court of Appeals, and the June Bar Journal will be dedicated to the Centennial Celebration of this venerable court. Mark your calendars now for a special celebration of the court’s 100 years on Saturday, June 11.

Now to the present (mixed with a little past and future). On May 1, we celebrate Law Day and reflect on the role the law and legal profession has played in the foundation and continuation of our country. Two events will help us celebrate Law Day and our profession.

On May 10, the Law Day awards will be presented at the EPBA monthly luncheon. Those who have made a difference in the legal community and legal profession and who were nominated by their peers will receive well-deserved awards for their service to the legal profession. Please come celebrate the great accomplishments of your colleagues!

And last, but not least, the EPBA’s Law Day celebration will take place on Saturday, May 7 at the Scottish Rite Temple Theater. This exciting event benefitting the El Paso Bar Foundation will be the culmination of The Year of the Storyteller and will truly be an experience unlike any other. Three famous and successful singer/songwriters are set to come to El Paso to perform their very famous songs and share the stories behind their music. This unique performance should be a great way to celebrate Law Day and the legal profession, raise money for the El Paso Bar Foundation, and swap some stories while we’re there. Tickets are on sale now, but only a limited number are available. See the story on page 22 and the back cover for more information on the event.

The past, present, and future of our profession collide in the next few months – you know the fish in this pond...be sure to be at these great events so you can share the stories!

*Chantel Crews*

**Chantel Crews, PRESIDENT**

## EL PASO BAR ASSOCIATION

**April Bar Luncheon**

Tuesday, April 12, 2011

**El Paso Club • 201 E. Main, 18th Floor, Chase Bank - \$20 per person, 12:00 Noon**

**Guest Speaker** *Judge Patrick Garcia*  
*and Maggie Morales-Aina who will speak on*  
*“Mental Health Issues: Resources and Attorney Obligations”*

**Approved for ½ hour of Participatory Ethics**

**Please make your reservations by Monday, April 11, 2011 at noon**  
**at [nancy@elpasobar.com](mailto:nancy@elpasobar.com) or [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)**

## EL PASO BAR ASSOCIATION

**May Bar Luncheon**

Tuesday, May 10, 2011

**El Paso Club • 201 E. Main, 18th Floor, Chase Bank - \$20 per person, 12:00 Noon****Law Day Awards will be presented**

**Please make your reservations by Monday, May 9, 2011 at noon**  
**at [nancy@elpasobar.com](mailto:nancy@elpasobar.com) or [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)**

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# CALENDAR OF EVENTS

*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 month of June, 2011, please have the information to the Bar Association office by Friday, April 22, 2011. 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.*

## APRIL, 2011

**Friday, April 1**  
EPBA Office Closed  
Cesar Chavez Day  
**Tuesday, April 5**  
EPBA BOD Meeting  
**Tuesday, April 12**  
EPBA Monthly Luncheon  
**Thursday, April 21**  
EPPA Monthly Luncheon  
**Friday, April 22**  
EPBA Office Closed  
Good Friday  
**Saturday, April 23**  
Law Day Chess Tournament  
**Sunday, April 24**  
Easter Sunday

## MAY 2011

**Tuesday, May 3**  
EPBA Board Meeting  
**Saturday, May 7**  
The Storytellers  
Presented by EPBA  
**Tuesday, May 10**  
EPBA Monthly Luncheon  
Law Day Awards to be presented  
**Wednesday, May 11,**  
Swearing in Ceremony  
**Thursday, May 19**  
EPPA Monthly Luncheon  
**Monday, May 30**  
EPBA Office Closed  
Memorial Day

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the  
Date

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*El Paso Bar Association  
Law Day Fundraiser  
for  
El Paso Bar Foundation*

*Storytellers*

*Saturday, May 7, 2011  
\* Scottish Rite Temple Theater*

**Save the Date**

SATURDAY, JUNE 11, 2011

**CENTENNIAL  
CELEBRATION**

**Eighth Court of Appeals**

# The Chief Justice of Texas visits El Paso

## In honor of Black History Month

■ BY: TODD K. HULSEY

*Chief Division Counsel of the El Paso Division of the FBI.*

February was designated by Congress as Black History Month. In its honor, the 28th chief justice of Texas, Wallace B. Jefferson, visited employees of the FBI and DEA here in El Paso where he delivered remarks titled, "A slave, a battle, and the promise of America." He was accompanied to El Paso by his staff attorney, Rachel Ekery, a native El Pasoan.

Upon the departure of then-Justice Alberto Gonzalez to Washington, Chief Justice Jefferson was appointed as a justice on the Texas Supreme Court by Governor Rick Perry in March 2001, making him the first African-American Texas supreme court justice in history. He was elected state-wide to a full term in November 2002.

Upon the retirement of Chief Justice Thomas R. Phillips, Governor Perry nominated Justice Jefferson as chief justice in 2004. Justice Jefferson's nomination was unanimously confirmed by the Texas Senate during the next legislative session, making him the first African-American chief justice of Texas. He was elected to fill the remainder of the term in November 2006, then re-elected to a full term in November 2008.

During Chief Justice Jefferson's remarks, he recounted two stories, one noteworthy to the nation, the other to his family, and to Texas, history. Recounting the case of *Sweatt v. Painter*, the profound 1950 U.S. Supreme Court case that overturned the "separate but equal" doctrine established in the 1896 U.S. Supreme Court case *Plessy v. Ferguson*, Chief Justice Jefferson detailed how one of his

predecessors, Joe R. Greenhill, then an assistant state attorney general, represented Texas in the case. Thurgood Marshall, the NAACP attorney who would go on to become the first African-American justice on the U.S. Supreme Court, was opposing counsel representing Heman Sweatt.

Heman Marion Sweatt was an African-American applicant to the University of Texas School of Law, who was turned down for admission to the school on the basis of race. Sweatt sued the State of Texas, which in accordance with the then-existing doctrine of "separate but equal," established a separate law school for African-Americans in Austin, Texas (which was later moved to Houston). Sweatt continued his lawsuit against Texas, and after winding its way through the Texas courts, landed in the U.S. Supreme Court.

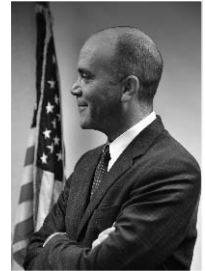
NAACP attorney Thurgood Marshall and Assistant Texas Attorney General Joe Greenhill squared off in the Supreme Court. Greenhill, while not himself a segregationist, dutifully argued that Texas was following the law of the land when it established a separate law school for African-Americans. Marshall argued that the doctrine of "separate but equal" was patently unconstitutional. The U.S. Supreme Court agreed, and overturned its own precedent established in *Plessy v. Ferguson*, ruling that "separate but equal" was inherently unequal and thus unconstitutional. *Sweatt v. Painter* paved the way for the seminal decision in the 1954 case, *Brown v. Board of Education*.

In telling part of his own story, Chief Justice Jefferson discussed his being the descendant of a slave who was owned by a Waco, Texas judge before the Civil War. When war broke out, that judge, N.W. Battle, left Texas to fight with Robert E. Lee, winning several commendations from him. After the war and upon his return to Texas, Battle resumed his judicial duties. His former slave, Shedrick Willis, was, of course, now a freeman.

Shedrick Willis didn't let being a former slave deter him from success. He became an accomplished Waco, Texas businessman. He also went on to serve two terms on the Waco City Council. The community leader who endorsed him for election? None other than Judge N.W. Battle, who once owned him. Chief Justice Jefferson noted the social progress made over the last 150 years in America. He himself, descending from a man once owned as a slave by a Texas judge, is now the highest-ranking judge in the State of Texas.

Joe Greenhill went on to become the longest serving chief justice in the history of the Texas Supreme Court. Thurgood Marshall went on to become the first African-American justice on the U.S. Supreme Court. Joe Greenhill and Thurgood Marshall became friends during *Sweatt v. Painter*, remaining so until Justice Marshall's passing.

And that law school that Texas established in Houston in response to Heman Sweatt's lawsuit? It is the Thurgood Marshall School of Law of Texas Southern University.



Photos: Lionel Huizar

*Texas Chief Justice Jefferson*



*Chief Justice Jefferson with his staff attorney, Rachel Ekery, a native El Pasoan.*



*The Chief Justice addressing FBI and DEA employees at the El Paso Federal Justice Center.*



*5. The Chief Justice with Texas Ranger Roger Dixon.*

# EL PASO vs. THE WORLD

## *How an El Paso manufacturer brought the lending world to its knees.*

■ BY STEPHANIE TOWNSEND ALLALA

It began as a small clothing manufacturer fighting three banks that were meddling in management. When Willie Farah sued State National Bank for improperly interfering in his business, *Farah Manufacturing Co. v. State National Bank* became the most important lender liability case in the nation, still cited in banking literature nearly three decades later.

The two lead lawyers in the case, Bob Blumenthal and Tom Thomas, both of Dallas, say that despite a nine-week jury trial before Judge Edwin Berliner in the 171st District Court, followed by two more weeks of deliberation, emotion as much as fact led the jury to award Farah \$18 million.

“Legally, we got completely off track,” Blumenthal said. “The case changed from a legal matter to a personal matter. It became ‘El Paso against the World.’ When the State National Bank employee took the stand, the jurors actually turned their backs to him. It was weird.”

Willie Farah was heavily in debt when the banks he owed decided he wasn’t the right man to run the company founded by his grandfather. The bank’s contract with Farah said, essentially, it could call the loan if there were a change in management that the banks didn’t like.

Still, that didn’t account for the \$18 million judgment. The banks’ shuffling of directors on the Farah board, under the threat of loan acceleration, was the foundation of their loss in a searing appellate decision. *State National Bank v. Farah Manufacturing Co., Inc.*, 678 S.W. 2d 661 (Tex. App.—El Paso 1984, writ dismissed by agr.).

The banks also held the right to appoint directors and, since they didn’t believe in Willie Farah, they did just that, in the process inadvertently helping build the case against them. In upholding the jury award of \$18 million dollars, the judge held that *their* actions,



Tom Thomas

*Eighth Court of Appeals Justice Charles R. Schulte wrote the unanimous opinion that shook the banking world. He had to set aside all other cases for months in order to produce the 68-page opinion. It became, as he recalls, the most consuming case of his appellate career.*

not Willie Farah’s, damaged the company. That idea, that the banks were liable for their actions, forever loosened their grips on local business

by making them think twice about the consequences of intervention.

Eighth Court of Appeals Justice Charles R. Schulte wrote the unanimous opinion that shook the banking world. He had to set aside all other cases for months in order to produce the 68-page opinion. It became, as he recalls, the most consuming case of his appellate career.

“It was challenging and utterly consuming,” Schulte said. “There were so many points and cross-points, and partial points, and you had to respond to each point individually. That became prolonged, consuming work. I was relieved to get it out, frankly.

“I really didn’t think about how it would affect people. I just followed what law there was and got the opinion out based on Texas law. Of course, there were some relatively new laws on the Texas books that had never been applied to banks before.”

In order to understand the case, Thomas says, you need to understand the prevailing attitudes at the time.

“The big banks in town ran the show. Banks had a special place not only in the community, but in the courts as well. Laws that applied to merchants didn’t apply to banks. What would be negligence from a store owner wasn’t negligence coming from the banks.”

In the 1970s, Thomas had already established a career holding lenders liable against corporate borrowers. *Farah* became his dream case. “About 10 years before the *Farah* case, we got wind of a change in attitudes. We began taking bankers to court to prove common business torts. I had done a handful of bank cases before the *Farah* case matured, and we were able to see a chance at success.

“We took the attitude head-on that these people were just people, and if they tear up your business, they should be held accountable. Banks had always been ‘Big Daddy.’ Truth is, they are not. We put on 29 witnesses, and they

didn't call one."

Blumenthal was already respected for his 'bad acts' suits against banks. Still, nothing in his previous work prepared him for what happened in *Farah*. "Legally, we got completely off track. What I thought was important, wasn't important at all.

"The bank wanted to run the company, said it was their right. They claimed Willie Farah was doing a bad job and that they had a right to run it. Ultimately, the jury decided Willie was doing a good job."

Bankers were not the only ones surprised by the appellate decision; El Paso's legal community was also shaken. What the national financial institutions and media didn't know was Schulte was considered a mild-mannered, thoughtful and unassuming jurist. His even-handed, fair minded approach kept him under the radar. Local lawyers would not have guessed he would deliver a case that would forever change lender liability law.

When told that he was considered to be one of the fairest and hardest working judge in El Paso, he said, "I'm surprised. If that's their evaluation, I accept it. I just tracked the law

and wrote it."

Both Blumenthal and Thomas agree this was the most important case of their careers. Not a small statement, given that they have more than 100 years of combined experience.

"This case meant everything to me. I made more than 100 speeches about it in the years following. I suspect that for many years, there was not a major lending case that I did not get a call on," Thomas said.

It was a confluence of factors. "It was the right point in time, the right locale, the right client, and some very egregious acts."

It was also the first case in El Paso in which attorneys hired psychologists to help with jury selection, including the use of a mock Courtroom. "I hired psychologists and people like that to do some work to see if there were matters I should be aware of with the Hispanic make-up of the jury," Thomas said. "They came up with a lot of things, including the proposition that certain demographic groups of Hispanics might oppose each other.

"What we found was that certain groups were more likely to vote with each other, or against each other. That allowed us to draw a

working hypothesis as to which group would be the most influential on the jury so that we could try to tailor our presentation to that group more than others."

He added, "We never had that dynamic on cases in Dallas and Houston--only El Paso."

Thomas says the turning point came while he was having lunch on the final day of testimony. "I always look for the human element in every case. I hadn't been able to find it in this case until the last day of testimony. Turns out one of the bank officers who made the decision to commit improper acts against the company had actually worked for Farah, had been fired, and had a true hatred for Willie," Thomas said.

He said the bank manager took the stand, and "pretty much put the cap on our victory."

Blumenthal believes the inappropriate maneuverings of the banks were a major factor, but not the only factor, in Farah Manufacturing's eventual demise. "Farah was going south. But it had nothing to do with management. It had to do with the fact no one wanted to buy leisure suits anymore," he said, his candid reflection evoking the bygone days of Sans-a-belt.

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## HOW CIVILIZATION CAME TO EL PASO

# ¡Viva Los Licenciados!

*El Paso Lawyers in the Sagebrush and Chaparral Days of the Mexican Revolution*  
Part IV

■ BY BALLARD COLDWELL SHAPLEIGH

Revolution in Mexico did little to dampen the social scene in El Paso. In fact, it probably added a little spice. An item in the “society” pages of the *El Paso Herald* on Saturday, May 20, 1911, ten days after the Battle of Juárez, reported that “a number of the younger social set” was entertained at a dance held a night earlier in a private home on Magoffin St. The guests included Raul Madero and one of his sisters (the siblings of Francisco I. Madero), Col. Giuseppe Garibaldi, and young, single ‘twenty-something’ lawyers like Robert L. Holliday, Ballard Coldwell and Gunther R. Lessing.

Robert Holliday, a 1909 graduate of the law department at the University of Texas, eventually became a member of the U.T. Board of Regents as well as a president of the El Paso Bar Association. Holliday Hall at UTEP, sitting adjacent to Kidd Field and presently housing the offices for the track and field team, bears his name. It also served as the basketball gym and as a venue for school dances.

Revolutionary history remembers Gunther R. Lessing, if at all, as the attorney who represented Pancho Villa in negotiations with Frank Thayer and the Mutual Film Corporation for a movie about Villa’s life. The parties signed the contract in Lessing’s fifth floor office in the Caples Building on January 5, 1914, an event presaging Lessing’s later career as an entertainment lawyer with a national reputation.

In 1929, after the Revolution, in the early days of Mickey Mouse, Walt Disney and his brother Roy hired Gunther Lessing to protect their film rights in cartoons like the Silly Symphony series, *The Skeleton Dance* and *Mickey Mouse* from an unscrupulous, predatory New York distributor. When deciding to hire Lessing, Walt Disney reportedly exclaimed, “If he could help Pancho Villa, he’s just the man we need!”

Lessing eventually ascended to general counsel, vice-president and vice-chairman of the board of Walt Disney Productions. Until his retirement, corporate observers often described



*Gunther R. Lessing (second from left), with Walt Disney (seated) and executives from General Electric taken in Walt Disney’s office in 1939 - ©Disney.*

him as the third most powerful individual in the Disney organization behind only Walt and Roy Disney.

Studio insiders credit Lessing with suggesting to Walt Disney that he trademark his name to create a brand. Disney also demonstrated his trust in Lessing by naming him as a co-executor of his will in 1951, together with Disney’s wife Lillian and brother Roy. Disney, who encouraged a laid-back atmosphere, used to say that, “The only ‘Mister’ we have at the studio is our lawyer, Mr. Lessing.” A window above the Disneyana Shop on Main Street U.S.A at Disneyland bears the name, “Gunther R. Lessing, Esq.”

Disney, it was rumored, sometimes referred to Lessing as the “Old Red-Headed Bastard,” as might be inferred from a gift Disney gave to Lessing. It was a 1939 manuscript recording the development of the film *Pinocchio*, bearing Walt Disney’s handwritten inscription reading: “To Gunther Lessing, Old R.H.B. himself.” The moniker was a reference to the low opinion of Lessing held by many Disney employees, particularly the artists, because of his repeated attempts to bust their trade unions.

Lessing died in Los Angeles on September 28, 1965, at the age of 80. He is buried at Forest

Lawn-Hollywood Hills.

However, as a young, twenty-five-year-old lawyer in El Paso, Lessing attended many banquets and gatherings with Francisco Madero. This was at the outset of the Mexican Revolution, before Lenin’s Russia and Mao’s China.

On Thursday, June 1, 1911, a little more than ten days after the dance on Magoffin Street, the *El Paso Herald* ran a headline — “Victor and Vanquished Toasted” — which referred not to anyone’s state of sobriety, but to the banquet at the Toltec Club the night before. The banquet was held in celebration of Madero’s victory in the fight for Cd. Juárez. The “victor,” Francisco I. Madero, did not imbibe. His *compadres*, Pancho Villa and Pascual Orozco, were not invited. And the “vanquished,” Gen. Juan J. Navarro, though paroled to El Paso, was still Mr. Madero’s prisoner.

Lessing noted a recurring pattern, “that while Madero raised a glass of champagne in order to respond to toasts, the glass never found his lips.” Pancho Villa did not drink either. During one celebration in Chihuahua, amidst five magnums of champagne, Lessing observed a bottle of Welch’s grape juice where Villa had been sitting at the table.

Lessing first met Francisco Madero at Madero's camp several weeks before the Battle of Juárez. Madero had summoned him to the adobe hut to discuss the ramifications of American law on the ongoing negotiations for peace with representatives of Porfirio Díaz. He remembers also being introduced to brothers Raul, Julio and Gustavo Madero, Pascual Orozco, as well as Pancho Villa who had not yet achieved notoriety. Lessing had earned Madero's confidence by defending several cases alleging violations of U.S. neutrality laws.

In his first case, U. S. authorities arrested an elderly Mexican colonel possessed of a rifle, two pistols and two bandoliers of ammunition, and charged him with mounting an expedition on U.S. soil against a sovereign nation (Mexico) which was at peace with the U.S. The man confessed. He was enroute to Mexico to join the revolution, but Lessing successfully defended his client on the ground that a military expedition had to consist of a minimum of three people. The next case involved three men accused of smuggling a wagonload of bread into Mexico. Lessing defended again, successfully, on the basis that a supply of bread was not an "expedition."

Lessing described his early days as an El Paso lawyer, when he was living at 1016 Brown Street (near the old Turney mansion on Montana Ave., now housing the International Museum of Art) and the day that the Battle of Juárez broke out this way:

I was getting quite a kick out of this kind of litigation, but it was not very good for my pocketbook. ...One morning I was awakened by gunfire which had started up in Juárez and the insurrectos were attacking and all hell broke loose. I put a mattress up between me and the noise and dressed myself and immediately went to the roof of the Caples Building. I could see some of the fighting through binoculars.

Prior to Madero's departure for Mexico City after the fight for Juárez, Gustavo Madero met with Lessing to ask how much Lessing was owed for his legal services. Lessing replied that all services had been rendered with an understanding that the revolutionary junta had no money, as communicated to him by Abraham Gonzalez, so nothing was owed. Gustavo wrote out a check to Lessing for \$10,000 and invited him to accompany the Madero family on the



Gunther R. Lessing in 1959 ©Disney

special train to Mexico City via Eagle Pass and Piedras Negras, which departed from El Paso's Union Station on Friday, June 2, the morning following Madero's fall at the Juárez Customs House.

Despite the objections of his sister and brother-in-law, Lessing accepted the offer. He shared a "stateroom" with Eusebio Calzado in the rail coach next to Francisco Madero's. Calzado owned coal mines near Piedras Negras. Their coach was followed by two cars of soldiers and a car transporting the press, including David Lawrence of the *New York Times*, James Redding of the *El Paso Herald* and perhaps Damon Runyon. Other passengers on the train included Madero sisters, Angelita and Mercedes, and brothers Gustavo, Raul and Julio, Eduardo Hay and Guiseppe Garibaldi.

In Mexico City, Lessing spent most of his time at the Madero residence, which he remembers as being located at Berlin No. 12. Lessing claims to have been standing only a few feet behind Francisco Madero when he

delivered his speech from the presidential balcony in the National Palace at the Zócalo. He also remembers that Madero gave him a book on the "science of yogi" when Lessing tried to excuse himself from a Madero meeting. Madero told him to stay saying, "You won't understand us anyway."

Gunther Rudolph Lessing was born in Waco, Texas on July 20, 1885, three years after his sister, Hannah. His father, Rudolph Lessing, came from the state of Hessen in Germany. Rudolph was a prominent merchant and cotton factor in Waco doing business with three partners under the name of Lessing, Solomon and Rosenthal.

Rudolph Lessing was a charter member of the Temple Rodef Sholom congregation founded in Waco in 1879, and reputed to be the oldest Jewish reform congregation in central Texas. He was also that congregation's first president.

Rudolph died when Gunther was age 10. Gunther's mother, Bertha Bouger, was also a native of Hessen but nine years younger than her spouse. She died in El Paso in 1911 and was apparently interred briefly at Evergreen Alameda Cemetery.

Gunther's sister Hannah married Dan Marion Jackson in 1900. Dan M. Jackson (whose portrait is one of nine presently hanging over the jury box in the 34<sup>th</sup> District Court, beginning with that of T.A. Falvey and ending with Jerry Woodard) had graduated from the University of Texas law department between 1895 and 1899.\* He began his legal career as the city attorney for Marlin, Texas.

In 1903, the Jackson and Lessing families were still living in Waco. A news brief in the *Marlin Daily Democrat* on July 3, 1902 reported that "Gunther Lessing who has been visiting Mr. and Mrs. Dan Jackson has returned to his home in Waco." They moved to El Paso sometime prior to early 1905. Both families found room and board at 500 E. Rio Grande.

Dan M. Jackson opened a solo practice on the fourth floor of the new Trust Building (constructed in 1902 and now the Gateway Hotel.) His brother-in-law, Gunther Lessing, nine years younger at age 19 or 20, found employment with the law firm of Turney and Burges as a stenographer. Jackson later entered into a law partnership with Tom C. Lea, Jr.

\* The University of Texas has yet to confirm the dates of Dan Jackson's matriculation, though this information was requested in early October, 2010. He is said to have attended UT, though the dates are unknown. See, J. Morgan Broaddus, *The Legal Heritage of El Paso* (El Paso: Texas Western Press, 1963). In contrast, Yale University furnished the date of Gunther Lessing's graduation, June 1908, within 24 hours of the request.

Tom C. Lea, Jr. had graduated from the Kansas City Law School in 1898. In 1902, at age 25, Lea, Jr. moved to El Paso and took a job as a bookkeeper for Powell Stackhouse, Jr., another coal mine operator and one of the founders of the Toltec Club. His father, Tom Lea, Sr., apparently lived in El Paso at that time as well.

Lea, Jr. was born in Independence, Missouri, into a family accustomed to the possession and exercise of political influence. His grandfather was a physician for whom Lee's Summit is named, though misspelled due to a railroad worker's inattention. His father, who died in 1910, had been a commissioner in Jackson County, Missouri and knew Harry Truman, who was actually six-and-a-half years younger than his son. President Truman later appointed another of his son's law partners, R.E. Thomason, to the U.S. District Court bench in El Paso.

In 1877, his father's younger brother, Captain Joseph Calloway Lea, spearheaded the family's purchase of most of the land in and around Roswell, NM. Captain Lea had been an officer in the Confederate army during the Civil War. Lea, Jr.'s uncle was also Roswell's first mayor and is considered the father of the New Mexico Military Institute. He died in Roswell in 1904, and is the individual for whom Lea County, N.M. is named.

In 1905, Tom C. Lea, Jr. opened a law office in suite 404 of the Trust Building. Dan Jackson was down the hall in suite 427. In 1906, Lea, Jr. and Jackson formed a law partnership that lasted for five years. The partnership included lawyers named Victor Moore and W. B. Ware. W.B. Ware later served as city attorney when Lea was elected mayor in April, 1915.

Another attorney who was toiling in the legal vineyards around town at the time, coincidentally, was forty-year-old Elfego Baca who was born in Socorro, NM in 1865. He had an office at 211½ San Antonio Ave. Baca had practiced law in El Paso since 1902 or '03, living at 709 Wyoming Ave. His name would be made famous by a 1958 anthology television series called *The Nine Lives of Elfego Baca*, produced for "Walt Disney Presents" and later "Walt Disney's Wonderful World of Color," a Western based loosely on Baca's life as a self-made lawman in the 1880's in the area of present day Reserve, NM. The series was also made into a 1962 feature film entitled "Elfego Baca: Six Gun Law," starring Annette Funicello.

In 1906, Gunther Lessing enrolled in the law school at Yale. When he graduated in



*Dan Marion Jackson, ca. 1912 – 1916, this Stout-Feldman portrait hangs in the 34th District Court. Jackson died in 1939 and is buried in Arlington National Cemetery.*

June, 1908 with a Bachelor of Laws, the *Yale Law Journal* noted that, "Gunther R. Lessing has been admitted to the bar of Texas. The examination extended over a period of seven days. Mr. Lessing stood highest in the examination."

After graduating and taking the bar exam, Lessing and his mother returned to El Paso. They resumed residence with the Dan M. Jackson family at 1016 Brown Street. Lessing's mother died in El Paso in 1910 and in 1913, he took a room at the YMCA at Mesa and Missouri. Two years later, he moved to 315 ½ Mills Ave. where he lived for the next three years. In 1918, he moved to 2601 Grant Ave. A year after that he was living in a house at 3009 Tularosa near the Five Points area, in what was then the far eastside of town.

His first law office was in the Trust Building after his brother-in-law Dan M. Jackson had taken him into partnership. He practiced law there for almost five years. When Jackson was elected to the judgeship of the 41<sup>st</sup> District Court in 1912, Lessing moved his office another block west to the fifth floor of the Caples Building, suite 514-16, in 1913.

Lessing shared the floor with, among others, another young lawyer named Ballard Coldwell who had also earned his law license in 1908 from the University of Texas and who spent his free time coaching the El Paso High School football team. The team sometimes played their games at Cowboy Park in Juárez, a battleground during the Revolution. The *Morning Times*,

reported on June 5, 1908 that, "the young man has the distinction of being the first young man born in El Paso to graduate from the law class of the state university."

It was in Lessing's fifth floor office of the Caples Building, on January 5, 1914, that Lessing executed the contract with the Mutual Film Corporation on behalf of Pancho Villa for the exclusive right to make a film about the campaign of Villa's army on its way to Mexico City. The result was *The Life of General Villa*, a movie that one film historian describes as "one of the oddest episodes in film history."

Lessing says he entered into the contract in his own name and arranged to employ Homer Scott as the main cinematographer. Lessing confirms the oft-told story that Pancho Villa delayed the beginning of one battle to permit the camera operators to set up their equipment. He also relates that in another battle, Villa agreed to commence the attack from the south, instead of the north, because of favorable lighting for the camera work.

According to Lessing, the movie produced no profits for Villa. When the situation was explained to the commanding general of *la División del Norte*, says Lessing, Villa threw Homer Scott in jail and only released him on payment of \$5000.

An ammunition contract was also taken out in Lessing's name. Lessing protested, so Villa had the contract assigned to his financial agent. World War I had just broken out and, according to Lessing's belief, the financial agent, Lazaro de la Garza, sold the contract for millions to the Germans or the French on his own account and absconded to Los Angeles. This enraged Villa. Lessing writes that de la Garza used the money to build the Mediterranean-style Pantages mansion, but according to the *Los Angeles Times*, de la Garza bought the 1906 mansion for \$100,000 and installed sophisticated fortifications. Lessing encountered de la Garza several years later. He appeared as if "he were a very, very sick and frightened man."

In 1915, Lessing moved down to the fourth floor of the Caples Building. For the next three years, he went into partnership with attorney Oscar L. Bowen. During this period, Lessing was representing a downtown landlord named Frank Spence and others who had sued to restrain another nearby landlord named W.H. Fenchler from renting the premises at 214 Broadway (now Mesa St.) to Bess Montell for the purpose of maintaining "a bawdyhouse." The defendants were represented by Beall, Kemp & Parker, Joseph U. Sweeney, Turney & Burges (Lessing's old bosses), and T.A. Falvey.

Lessing's clients argued that the nearby brothel was a nuisance that seriously damaged and depreciated the value of their buildings and rendered the property "unfitted for occupancy by respectable people." Lessing reflected on his early days as a young El Paso lawyer, using a layover here to refresh his memory about this lawsuit and other experiences, as follows:

[Let's] start with a description of one of the El Paso sandstorms when the dust seeps through all the crannies and cracks and visibility is approximately fifty yards. ...I could see the old red-light district from my window, with the old parlor houses and the place where the girls in cribs would accost the passerby and call them "Blondie" or "Come on in, baby." I could see the roof of Salvini's old saloon in this red-light district. It had been a tough place by any standard. The street was called Utah Street in those days, but subsequently, when the red-light district was abolished, they renamed it Broadway. I personally carried this red-light district case to the highest courts, having lost it because of the power of the political ring in every court until I got to the Supreme Court. It was frequently said in a jocular manner – but true – that the streets of El Paso were paved from license fees collected under the guise of fines from prostitutes. However, as I look back on it now, it was a very picturesque situation.

When I was a kid, I remember how they had gambling right on the streets, in every saloon and in many other places. There was the old Coney Island saloon run by McCoy where many shootings occurred. Manny Clements, the constable in El Paso in those days, who himself was a bad man, and at one time had been a member of the Hardy gang of cattle rustlers and bandits, was killed by Joe Brown (a bartender) in the Coney Island saloon. We defended Joe Brown. Prior to that, we defended Manny Clements for killing an Army sergeant in the Coney Island Saloon. ...Then I passed by City Hall. In the grass plot which adjoins City Hall – an old yellow building, there are two cannons. These pieces of artillery have a history. ...

Altman Collection, El Paso Public Library



*Caples Building, ca. 1911 – originally five stories tall, two additional stories were added between 1915 and 1920.*

Next I went to the Caples Building to the fifth floor where my office had been and the tenant very kindly permitted me to sit there awhile. ...My memory took me back to that day when I first occupied that office. My brother-in-law, Dan M. Jackson, who to my way of thinking, was one of the greatest trial lawyers of criminal cases before juries I have ever come into contact with, took me into partnership. I had just taken my bar examination which I passed with flying colors. I was immediately involved in some very important lawsuits and learned about the law and trial of cases the hard way and faster than is usual with young lawyers.

The case that Lessing carried to the Texas Supreme Court, *Spence, et.al. v. Fenchler, et.al.*, 107 Tex. 443, 180 S.W. 597 (1915), found its way to Austin through a brand new Eighth Court of Civil Appeals created by the 32<sup>nd</sup> Legislature in 1911, the product of intense lobbying by El Paso's mayor and city council in the winter and spring of that year.

As the *Morning Times* reported, Mayor Kelly made the same shopworn argument to Governor Colquitt which is being heard in the corridors of the Capitol during this year's 82<sup>nd</sup> Legislature: "I called attention to the fact that at present it cost members of the El Paso bar twice as much time and money to get to a court of appeal as it costs the attorneys of any other town in the state on account of this city's remoteness from the higher courts of the state." The *Times* also

reported on February 4, 1911, that "while the returning delegation would not discuss the matter, there is no doubt but that Judge W. M. Coldwell [father of Ballard Coldwell] will be one of the judges named by the governor to the new court of appeals." That didn't happen.

On April 11, 1911, the *Times* ran an article headlined, "Judges of New Court Named by Governor – All Three are Young Lawyers of Learning and Ability." Gov. Colquitt appointed W.M. Peticolas of El Paso, age 37, E.F. Higgins of Alpine, age 35, and J. F. McKenzie of Pecos, about age 40, as judges of the El Paso court of civil appeals. The article reported that the court would probably organize in June, but not hold its first session until October.

In 1918, Lessing moved into offices on the sixth floor of the Martin Building, returning to a partnership with Dan M. Jackson (who would again resign, this time to join the Judge Advocate Corps in Washington, D.C.) and S.J. Issacks, the latter having arrived in El Paso in 1917 after having served as a state representative, mayor of Midland and judge of the 70<sup>th</sup> District Court.

By May 1925, the State Bar of California had granted Gunther Lessing a license to practice law in that state. He attracted more notoriety by representing Mexican actress Dolores del Rio in various matters and later suing her under her married name for unpaid fees - *see, Lessing v. Gibbons*, 6 Cal. App.2d 598 (1935) – at the same time that he obtained a publicized divorce from Lolla Lessing. She accused him of being a poor sport at bridge, of throwing a glass of cold water in her face and of grabbing her ear to lead her out of a room of card-playing guests, all because he was angry at losing.

Before his legal career took him to California, Lessing was asked by Venustiano Carranza after Madero's assassination to remain as legal advisor for Pancho Villa's *División del Norte*. As a result, Lessing found himself involved in a variety of new legal situations such as, for example, the drafting of contracts for the purchase of munitions, the prosecution of counterfeiters of Revolutionary money, and the handling of injunctions against shipments of cattle and iron ore by rail. In one case, *Ives v. Lessing*, 168 P. 506 (Az. Sup. Ct. 1917), Lessing hired an Arizona attorney to represent two men charged with smuggling six bars of bullion across the border into Arizona, to recover the gold and to defend against a forfeiture action by the government, only to have the Arizona lawyer bring a suit against him for more attorney's fees.

Villa also named Lessing as general counsel

to the railroads. Lessing used this position to escort members of the press to the battle zones. On one of those occasions, Lessing persuaded Villa to grant an interview to a New York reporter named Jane Dixon. She asked Villa about Theodore Roosevelt's derogatory comments about him appearing in a national publication to which, as Lessing remembers, Villa replied more or less as follows:

Well perhaps Mr. Roosevelt is right. Maybe I am a bandit, but I was never given an education. I am trying to carry out the principles of Francisco Madero. Mr. Roosevelt, on the other hand, did something that I would never do. He went to Africa and killed a lot of animals when he wasn't hungry and he didn't need those animals in order to eat. I would never have done that.

According to Lessing, Villa remained "very patient and was quite amused" throughout the

long interview. Before he sat down with the reporter, Villa entertained Lessing and all the reporters by leading a tour of his private rail car, formerly belonging to the president of the railroads. Lessing related that Villa was most proud of the bathroom. He was enchanted with the chain-operated toilet in particular, flushing it over and over again.

Years later, the business agent for the Brotherhood of Painters, Decorators and Paperhangers, Herbert Sorrell, testified before a Congressional subcommittee on labor relations in the movie industry that:

Gunther Lessing was Mr. Disney's attorney, and all of the dealings I had had were with Gunther Lessing. I had never met Disney but once. Gunther Lessing was a red-headed attorney who bragged that he was counsel for Pancho Villa. I told him, of course, I never had heard of Pancho Villa ever winning a legal victory. I thought it was the other

kind, and I did not see where he got any glory out of it, but he still brought it up to everyone who met with him.

Lessing had reason to brag. He knew his client well. He was probably proud that Pancho Villa could display more couth than, say, another fabled leader like LBJ. Villa never received visitors while sitting on a toilet. He merely showed them how the apparatus worked.

*The "Civilization" series is written in appreciation of the 114<sup>th</sup> anniversary of the El Paso Bar Association with assistance and encouragement from historians Pat Worthington, Claudia Rivers, Laura Hollingsed, Richard Bussell, historian/angling consultant J. Sam Moore, Jr. and the poet Edgar Rincón Luna. Due to space limitations, the resources which have been consulted will be listed in the last part. 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.*

## ADVANCE SHEET, circa 1181

BY CHARLES GAUNCE

*Legal Reference Librarian The University of Texas at El Paso*

"We hold these truths to be self-evident, that all men are created equal..."

We like to point to the writings of Thomas Jefferson as the foundation cornerstone of the nation. And the fact that he was subject to the penalties of treason sort of underlines the fact that change in the old order was being contemplated. But the fact remains that, at the time he wrote those words, not all men were created equal – even if you politely ignore the entire issue of slavery.

From the Chester Charter, § 3 (1181 – 1232 A.D.) comes some instruction as to the unequal treatment accorded to men who were clearly not created equal to others:

"If a citizen make a purchase by daylight and before witnesses and suit be made by Frenchmen or Englishmen reasonably laying claim to the said purchase [as stolen], the citizen who made that purchase shall be quit as against me [the lord] and my bailiffs, and shall merely lose the goods bought, if he cannot satisfy the claimant otherwise.

But if suit be brought by a Welshman reasonably laying claim to the said purchase [as stolen from him], he must pay the citizen such price as the citizen can prove that he paid for the purchase."

The remedy set forth is in the nature of what today is called a local court rule. It states that if you bought goods that the seller stole from a Welshman, you will be required to pay the Welshman the value of the goods to the extent that you paid. Thus, the more steeply the goods were discounted by the thief, the less whole you will have to make the true owner of the goods. On the other hand, if the goods were stolen from an Englishman or a Frenchman, you may be required to return the goods to the true owner, regardless of what you paid for them, thereby assuring that the victim will be made whole. The only distinction in the remedy is the parentage of the victim, and the local court in Chester would take care to assure that Frenchmen and Englishmen were more likely to receive justice.

The process due a Welshman was not designed to necessarily result in a fair result, but was designed to inflict less burden on a local citizen taken in by a thief.

Jefferson was admitted to the Virginia bar in 1767, so it is probably fair to accuse him of being an attorney. By asserting all men being created equal as a self-evident truth, he was merely engaging in a practice that survives to this day: Have you ever been stuck researching a point of law that you consider to be painfully obvious, but you just can't seem to find supporting authority for? It is not unusual in such circumstances to simply give up, assert that the point is axiomatic, and hope that neither the Court nor opposing counsel ask for supporting authority. Most of the time, neither will. Sometimes this approach is used by a trial court (or more frequently, a trial court law clerk) in the hope that neither counsel, the court, nor the appellate court will notice.

The point remains that at the time he wrote the Declaration of Independence the law was fairly well settled that not all men were created equal, and Jefferson's assertion that they were was a truly revolutionary statement.

|| EPYLA STAR OF THE MONTH ||

# ALEX ACOSTA

|| BY ELLIC SAHUALLA

This month, the El Paso Young Lawyers Association would like to recognize someone who has always passionately worked for the betterment of his community and his profession: Alex Acosta. Alex has been involved in numerous projects with EPYLA, but he generally prefers to quietly contribute his time, efforts, and expertise without any fanfare or special recognition. That humility is exactly why EPYLA is delighted to shine a light on this dedicated young attorney as this month's EPYLA Star of the Month.

Alex was born in Phoenix, Arizona and raised in a house that included five rambunctious children, two devoted parents, and zero dull moments. Although he preferred basketball to academics early on, Alex's natural curiosity did fuel an interest in science and history as he explored how things worked and what things meant. That love of learning eventually took him to St. Mary's University in San Antonio, which Alex graduated from in 2004. It was there that Alex truly became serious about his education and started pushing himself to achieve. He also learned the importance of community involvement through student organizations, which remains a cornerstone of Alex's life today.

That budding desire to give back to the less fortunate is what led Alex to consider a career in law, and soon enough he was attending Arizona State College of Law. There Alex had the opportunity to participate in Arizona State's renowned Indian Law Program, working with tribal courts and real litigants navigating the complex intersection of the United States and Indian legal systems. When Alex graduated in 2008, he put the skills he had learned there to work as a clerk for Justice Ann McClure of the Eighth Court of Appeals here in El Paso. In turn, that experience broadened Alex's already formidable legal knowledge, which he brought to his current position as an associate with Scherr & Legate.

Alex spends much of his spare time continuing to serve both the legal community and El Paso as a whole. He's been involved in numerous charitable events and fundraisers



*Alex Acosta*

and is part of the United Way Young Leaders Society, a diverse organization of young professionals dedicated to volunteering and promoting community interests. Alex is also part of the State Bar's LeadershipSBOT program, a group of attorneys from around the state who have each been selected to help develop and implement state-wide community development programs, such as the public education project that Alex is working on. Through all of that, Alex still finds time for family, friends, and EPYLA, which he continues to serve as a member of our board of directors. Alex Acosta is a bright star among young lawyers here in El Paso. EPYLA extends its appreciation for everything that he has done for the community and we look forward to even more in the years to come.

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## SENIOR LAWYER INTERVIEW

## JUDGE CHARLES R. SCHULTE

■ BY CLINTON F. CROSS

**S**ix years ago I met with and interviewed Charles R. Schulte, former Municipal Court judge, former Judge of the 41st District Court, and retired Associate Justice of the Eighth Court of Appeals at his home in Horizon City. My interview was published in April, 2005 issue of the Bar Bulletin.

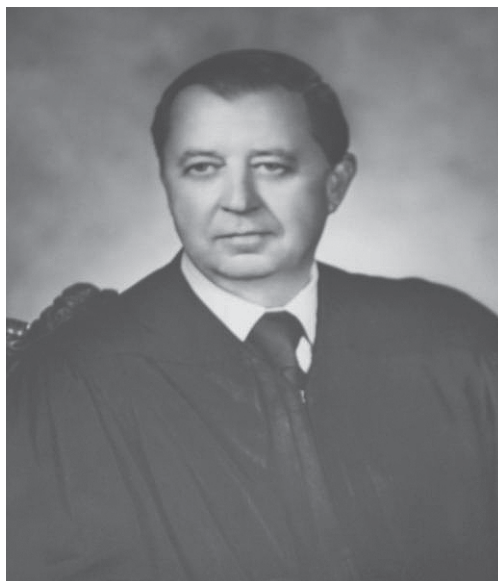
The interview is republished at this time not only to honor Judge Schulte for his life of public service, but also in honor of the 100th anniversary of the creation of the 8th Court of Appeals. A banquet celebrating the creation of the court will held on June 11th at the Currey Adkins Conference Center, 200 Alto Mesa, in El Paso.

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

**SCHULTE:** I was born in St. Louis Missouri. My father was an architect. When I was eight, he brought the family to El Paso. I went to Rusk Elementary, entered Austin High School. My family moved too and I transferred to Ysleta. I was student body President at Ysleta High School. I was also Vice President of the El Paso Interschool Council. Eddie Feuille-Ricky Feuille's brother--was the President. Alice Stovall was the Student Body Secretary at Ysleta. I ended up marrying Alice fifty seven years ago. During our college days, Alice's work for the telephone company kept food on the table. Things were tight and at Thanksgiving Alice would stuff a turkey leg. We couldn't afford the whole turkey.

When I graduated from High School and finished one year at Mines, my father was Chief of Army Engineers for the Atlantic side of the Panama Canal Zone. He put me to work there first in the warehouse, then on the France Field Airport and then as a foreman dispatcher in the motor pool. On the lighter side, during this period, I took part in the Canal Zone Theater and announced in Spanish and English on a Panamanian radio station at times.

I then joined the Army Air Corps, served a little over two years guarding the jungle emplacements and moved to administrative



Justice Charles R. Schulte

work. I was discharged as a sergeant in 1946.

**CROSS:** Siblings? Children?

**SCHULTE:** I have four surviving brothers and a sister. I was the oldest. Brother Jack is a retired pediatrician, George a retired engineer from Howard Hughes. Brother Harry is a retired accountant and lives here as does my sister Barbara who is married to Stanley Stephenson, retired from Phelps Dodge.

Our children, Perry Kay, Bob Jr. and Don Park are all in education. Perry and Don both have doctorates. Bob Jr., a veteran of the Air Force, has his Masters.

**CROSS:** Why did you decide to pursue a legal career?

**SCHULTE:** My high school science teacher, Frances Means, who is still in El Paso, held mock trials in her class. I had to play lawyer, and I decided I'd like to keep it up.

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

**SCHULTE:** After my discharge from the Air Force, I returned to the College of Mines, and then went to the University of Texas School of Law in Austin. With the help of the "lap back" program I was able to graduate from Mines in

1949 and the School of Law in 1950. I was in Senor ROTC during law school and finished that as a "Distinguished Military Graduate". The day after I got my lawyers degree I was commissioned as a second lieutenant. Later I was named as first lieutenant, JAG.

**CROSS:** What happened next?

**SCHULTE:** I went into practice in El Paso with Thor Gade in the Caples Building. Together we paid \$25 a month for the office and the secretary to answer the phone. Since we had only one office, when one of us had a client the other one had to run errands to attend to other business outside the office. Unfortunately, this lucrative arrangement came to an end when I was called to active duty during the Korean Conflict as an officer in the Air Force Judge Advocate Corps. I was sent to England as the legal officer for the 97th Bomb Wing, then assigned to Biggs Air Force Base here in El Paso where I completed my tour of duty.

I returned to law practice, ultimately with Richard White. I also served during 1959-60 as an alternate City Judge. When Woodrow Bean resigned as County Judge, I was appointed Interim County Judge by Governor Price Daniels and served in that post until Glenn Woodard was elected County Judge.

When Richard White ran for Congress I was his campaign chairperson. Richard got elected and I was most fortunate to have Fred Morton join me in the Bassett Tower. I continued serving in the Air Force Reserve as legal services attorney at Biggs until Biggs was closed. After that I was assigned to another Reserve Unit covering most of West Texas and became its commanding officer.

In 1966 Governor John Connally appointed me to the 41st District Court where I served for fifteen years until 1981. At that time, Governor William Clements named me the fourth justice on the Eighth Court of Appeals, which was given criminal jurisdiction as well as civil at that time. I retired from the appellate court at the end of 1988.

**CROSS:** Any community service work during your legal career?

**SCHULTE:** I have served as Chairman for the March of Dimes of El Paso. I also have been a member of the board of directors of R.E. Thomason Hospital. After retirement, I taught Legal Ethics in Adult Education at UTEP for four years. For eight years I served as a member of the Department of Defense committee for the Employer Support of the Guard and Reserve, from 1990-98. I also have chaired committees for the State Bar of Texas, served as lecturer at West Texas and state Judicial conferences.

**CROSS: Church?**

**SCHULTE:** Alice and I are Methodist. I have in the past served on the Church Board of Stewards and Board of Trustees.

**CROSS: Awards:**

**SCHULTE:** After leaving the County

Judge's post, I was pleased to receive the Conquistador Award from the City of El Paso, and I was an Admiral in the El Paso Navy. The Young Lawyers Association recognized my work on the district court and although they forgot to invite me to the banquet where the award was made I did receive the "George N. Rodriguez Sr. Memorial Award for Outstanding Service."

I was fortunate to receive a diploma from the Air War College, Air University in March 1978. After completing all reserve requirements, and over thirty years service, the Air Force retired me as a colonel in 1980. I was then awarded the Meritorious Service Medal and Exceptional Service Award. I was also honored to be named as a Fellow in the Texas Bar Foundation.

**CROSS: What was the most interesting or important cases that you ever worked on?**

**SCHULTE:** I presided as a trial judge over one of the earliest pollution cases in the country and the resulting lead poisoning cases that followed. In the mid 1970's, the State of Texas and the City of El Paso brought suit in the 41st District Court against ASARCO. The proceedings began in February and continued until May with experts from throughout the USA. As a result major injunctive relief was granted and substantial penalties assessed. Smelertown was abandoned. The case was a pioneering case at the time and was covered by Paul Harvey and many others.

**CROSS: You have an opportunity to advise a young lawyer about to begin practice. What do you say to him?**

**SCHULTE:** Integrity. Integrity, in the long run, it's more important than anything else.

# THE LAW WEST OF THE PECOS

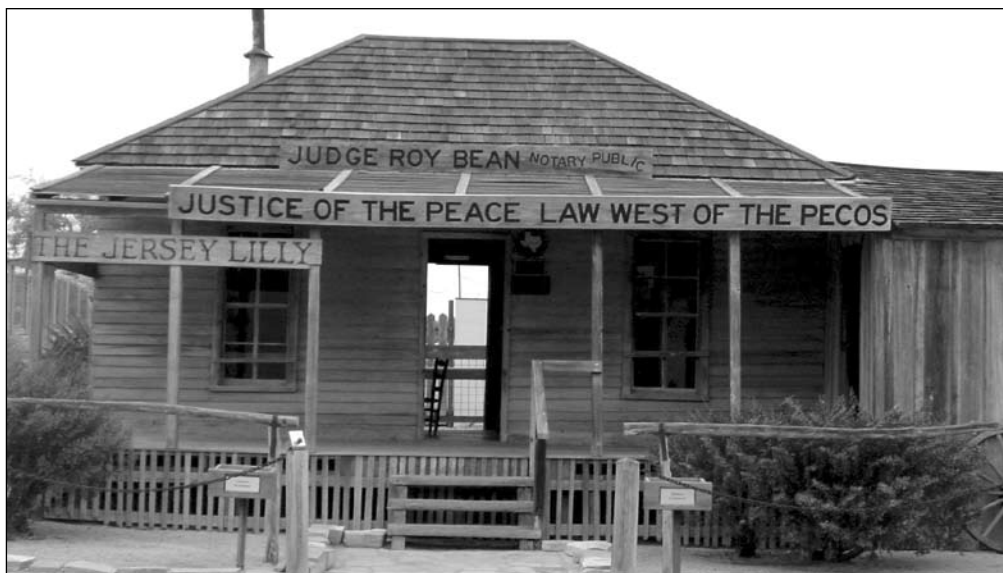
BY JACQUELINE SHI

*Law Clerk for Chief Justice David Chew*

*Edward Alexander Romo v. Danny Payne, Commissioner of the Texas Department of Savings and Mortgage Lending, and the State of Texas (No. 08-08-00043-CV, Feb. 9, 2011, 2011 WL 458215)*

The State of Texas and the Commissioner of the Texas Department of Savings and Mortgage Lending ("the State") brought action against Edward Alexander Romo, a mortgage broker, alleging violations of state Broker License Act and Deceptive Trade Practices Act (DTPA).

At trial, the State moved for summary judgment, asserting that Romo employed Melisa Simpson as an unlicensed loan officer from September 2002 to May 2004, and that he employed Alin Blanchet as an unlicensed loan officer in 2004. Romo received \$82,785.28 in profits as a result of employing Blanchet, and the State sought a judgment of up to three times this amount. The State also asserted that Romo failed to notify the Commissioner of all the business names and addresses he used, and that he charged unreasonable fees in relation to his services. The State argued it was unreasonable for Romo to charge more than three-to-five percent of the loan amount, and sought judgment for the amount of fees he charged in excess of three percent, or five



percent, of the loans he brokered from May 2002 through June 2005. The State sought to enjoin Romo from employing unlicensed loan officers, from operating under assumed names or addresses not disclosed to the Commissioner, and other injunctive relief. The State requested up to \$20,000 for each DTPA violation, and an award of attorney's fees.

In response to the State's motion, Romo challenged its summary judgment evidence

regarding the amount of his profits, and argued that his fees were reasonable. He argued there were reasons to justify his delay in notifying the Commissioner of two of his business names. He admitted Simpson worked under him as an unlicensed loan officer, but asserted she was not required to have a license. As for Blanchet, he claimed she was only a loan processor. He filed a summary judgment motion asserting the State had no evidence to support its claims that



Simpson was required to have a license, or that he charged unreasonable fees.

The trial court ruled that: (1) Romo violated the Broker Act by failing to notify the Commissioner of the names and addresses of his businesses; (2) Romo violated both the Broker Act and the DTPA by employing Simpson and Blanchet as unlicensed loan officers; and (3) Romo earned \$82,785 through his employment of Simpson. The court rejected the State's other claims, including its claim that Romo charged unreasonable fees. The court permanently enjoined Romo from: (1) conducting business as a mortgage broker under any assumed name without first notifying the Commissioner of the name; (2) failing to notify the Commissioner of any new business address; and (3) failing to obtain a license certificate for any new address. The court ordered Romo to pay the following amounts: (1) \$82,785 as restitution to consumers who paid him fees as a result of his employment of Simpson; (2) \$7,500 as a civil penalty for violating the DTPA; and (3) \$5,000 as attorney's fees.

On appeal to of the Court of Appeals of the Eighth District of Texas, Romo raised seven issues: (1) the State relied on inadmissible hearsay to establish he earned \$82,785 by employing Simpson; (2) Simpson was not required to be licensed as a loan officer under the Broker Act; (3) the State failed to establish the requirements for permanent injunctive relief; (4) employing Simpson as an unlicensed loan officer was not a DTPA violation because she was not required to be licensed under the Broker Act; (5) the State failed to establish the requirements for a civil penalty under the DTPA; (6) Blanchet was a loan processor, rather than a loan officer; and (7) the State was not entitled to recover attorney's fees.

The main issue in this case was whether the Broker Act required loan officers to be licensed between 2002 and 2004, which was when Romo employed Simpson and Blanchet. If not, Romo could not have violated the Act

by allowing Simpson to work as a loan officer, and there would be no basis for requiring him to disgorge the \$82,785. Similarly, if licenses were not required, it was irrelevant whether Blanchet acted as a loan processor or a loan officer. If Romo did not violate the Broker Act by employing unlicensed loan officers, he also did not violate the DTPA because the DTPA violation was premised on the conclusion that the Broker Act required licensing. Without the DTPA violation, the \$7,500 civil penalty could not stand.

The Court of Appeals first looked at the Broker Act, which was part of the Texas Finance Code. The Court concluded that under the statute, licenses were not required for loan officers who were sponsored by and acting for a licensed mortgage broker during the period relevant to this suit, and so neither Simpson nor Blanchet needed a license. Using canons of construction, the Court determined the State provided no compelling reason to deviate from the plain statutory language. The Court also found the statutory language allowing unlicensed loan workers to work for the mortgage brokers not to be absurd. Therefore, the Court sustained Romo's second and fourth issues, and concluded it was unnecessary to address his first, fifth, and sixth issues.

In addition to its conclusion that Romo violated the Broker Act by employing Simpson and Blanchet as unlicensed loan officers, the trial court also concluded that Romo violated the Act by failing to notify the Commissioner of the names and addresses of his businesses. The court thus permanently enjoined Romo from conducting business as a mortgage broker under any assumed name without first notifying the Commissioner of the name, failing to notify the Commissioner of the name, failing to notify the Commissioner of any new business address, and failing to obtain a license certificate for any new address. In his third issue, Romo attacked the injunctive relief on the basis that the State offered no evidence of imminent or irreparable

harm or of the lack of an adequate remedy at law. The State argued it did not have to establish those elements to be entitled to injunctive relief under the DTPA. However, the Court of Appeals determined the arguments on both sides of the issue were misguided because the trial court did not determine that Romo violated the DTPA by failing to notify the Commissioner of the names and addresses of his businesses, and so the DTPA cannot provide authority for the injunctive relief. The trial court concluded Romo violated the Broker Act by failing to notify the Commissioner of the names and addresses of his businesses. The Broker Act authorizes the Commissioner of Savings and Mortgage Lending to sue to enjoin a violation of the Act. The Act expressly provides that "it is not necessary to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result..." Because the Broker Act dispenses with the requirements of irreparable harm and inadequacy of legal remedies, the lack of evidence on these elements did not invalidate the injunctive relief, and as such, the Court of Appeals overruled Romo's third issue.

Romo's seventh and last issue concerned the \$5,000 award in attorney's fees. He argued the State was not entitled to the attorney's fees because it did not prevail under the DTPA, and the Broker Act did not provide for the attorney's fees. He also pointed out that the State failed to segregate its attorney's fees. As the Court of Appeals previously concluded, the State was not entitled to recover the civil penalty, and so there was no basis for the trial court to award the attorney's fees. Accordingly, the Court sustained Romo's seventh issue.

The Court of Appeals reversed and rendered the trial court's judgment to the extent it stated that Romo violated the Broker Act and the DTPA by employing unlicensed loan officers, and ordered him to pay \$82,785 as restitution, \$7,500 as a civil penalty, and \$5,000 in attorney's fees. The Court affirmed all other respects of the judgment.

## Law Professor Featured Speaker at Court of Appeals Celebration

DePaul University law professor Allison Brownell Tirres will be the featured speaker at the June 11th event celebrating the 100th anniversary of the creation of the El Paso Court of Appeals.

Professor Tirres received her bachelor's degree magna cum laude from Princeton

University in 1996 and then studied at the Universidad Nacional Autonoma de Mexico in Mexico City. In 2001, she received a master's degree in history from Harvard University. In 2004, she was awarded a doctor of jurisprudence degree, also from Harvard University, where she was editor and treasurer of the Harvard Law

Review. In 2008, she obtained a doctorate in history from Harvard. She is currently working on a book on the legal history of the U.S.-Mexico border.

At DePaul University Professor Tirres teaches Property, Legal History, and Immigration Law and Policy.



## Legal issues affecting veterans, retirees, active duty military and their family members

*"A proposed course to train and orient the legal community to counsel & represent veterans, active duty/retired military and their family members personally and through pro se legal clinics"*  
Friday, May 20, 2011

*Tentative Outline*  
May 20-21, 2011  
**Centennial**  
**Conference Center**  
Biggs Army Airfield,  
Ft. Bliss, Texas

### 8:00am-8:30am Registration

### 8:30am-8:45am Welcome

Commanding General of Ft. Bliss, Texas or his designee (Deputy CG); Colonel Francis P. King, Ft. Bliss Staff Judge Advocate, Chantel Crews, El Paso Bar Association and, Philip Mullin, President, El Paso Family Law Bar Association

### 8:45am-9:15am Purpose & Mission Of The Bar Assisting Veterans/Military

Donald J. Guter, RADM JAGC USN (Ret.), Chair, ABA Standing Committee on Legal Assistance for Military Personnel; Terry Tottenham, President of the State Bar of Texas; and, Col.(ret) Bryan Spencer, State Bar of Texas LAMP Program or (Kay Perry, President, Military Law Section, SBOT)

### 9:15am-9:30am Ft. Bliss Veterans And Military Demographics & Legal Services

Col. Francis P. King, Staff Judge Advocate, Ft. Bliss, Texas

### 9:30am-10:00am State & Local Veterans/Military Pro Bono Programs

Donald L. Williams, Chair, El Paso Lawyers for Patriots Committee, Chair, Texas Lawyers for Texas Veterans Family Law Subcommittee; and, the Veterans Legal Initiative and Assistance Office

### 10:00am-10:15am Break

### 10:15am-10:45am Jurisdiction & Service Of Process

Douglas E. Smith and Daniel Jordan or OSJA Designee

### 10:45am-11:15am Special Appearance Donna Herron and Daisy Everhart

### 11:15am 12:00pm Servicemembers Civil Relief Act (SCRA)

Col.(ret) John S. Odom, or LTC (ret) Professor Greg Huckabee, University of South Dakota or

### 12:00pm Lunch

12:15pm-1:15pm Resources Available To Serve Veterans, Servicemembers & Their Families (Aos, Acs, Va, Tvc, Fb-Mental Health, Dro.

### 1:15pm-2:00pm Military Financial Responsibilities To Families

AR 608-99, Establishing, Calculating and Enforcing Military Child Support OSJA and Donald L. Williams

### 2:00pm-2:30pm Part 2 Child Support Review, Reducing Support When Activated Or Incarcerated, Enforcement & Uifsa

Member of the OAG and Judge Antonio Rodriguez

### 2:30pm-3:15pm Military Retirement Issues (Uifspa)

The Law; DFAS Requirements and Establishment  
Col.(ret) Mark E. Sullivan, Larry Schwartz, Philip Mullin, Justice Ann C. McClure, Judge Kathleen Anderson

### 3:15pm-3:30pm Break

### 3:30pm-4:15pm Military Retirement Issues (USFSPA)

Calculating, Drafting, Applying: Clarification and Enforcement  
Justice Ann C. McClure, Judge Kathleen Anderson and Fredrick X. Walker, Attorney at Law

### 4:15pm-5:00pm When Conservators Are Deployed-Changes in duties, responsibilities, possession and access and conservatorship

by Judges Kathleen Anderson, Jesus Rodriguez, Gary Aboud and Former Judge Robyn Bramblett

## Saturday, May 21, 2011

### Track 1

### 8:30am-9:15am Domestic Violence-The Effect of Deployments on the Needs of Children and Domestic Violence; Military Response and Regulations

Judge Michele Locke, OSJA or WBAMC Clinical Staff, Chief Family Violence Section of the County Attorney's Office, Defense Attorney

### 9:15am-9:45am Family Court Programs That Directly Affect & Serve The Military

Judges Yahara Lisa Gutierrez and Judge Oscar Gabaldon

### 9:45am-10:15am Pro Se Divorce

The VLLAO will establish procedures to assist those not qualified for pro bono representation that will include drafting pleadings, having settlement conferences and legal sufficiency certificates.

Donald L. Williams or SJA Legal Assistance Staff

### 10:15am-10:30am Break

### 10:30am-11:00am Probate Court

Serving the Needs of Those with Diminished Capacity by Judge Eduardo Gamboa and Judge Patricia Chew & Staffs; and, Stephanie Townsend-Allala, Attorney at Law

### 11:00am-11:30am Landlord/Tenant, Bankruptcy & Consumer Affairs-Tbd

### 11:30am-12:15pm Usera Overview (Uniformed Services Employment and Reemployment Rights Act)

Col(ret) John Odom, Chris Borunda, EPLP Labor & Employment Lawyers, Armand Escalera, Assistant State Director (DOL) Veterans' Employment and Training Service, Mano Bonilla, Texas Veterans Commission, Veterans Employment Representative

### 12:15pm Lunch

### 12:30pm-1:30pm National Legal Services Program, Washington D.C.-Trains Lawyers to represent Veterans

## TRACK 2

### 8:30am-9:15am How Attorneys Can Recognize Ptsd In Their Clients/Ptsd 101

Captain Evan R. Seamone, U.S Army, JAGC

### 9:15am-10:15am Veterans Mental Health Treatment Courts

Judge Marc Carter, District Court, Houston, Texas, Judge Ricardo Herrera, County Court #1 (Judges of the first (Houston) and the second (El Paso) such courts established in Texas Jaime Esparza, El Paso County District Attorney

### 10:15am-10:30am Break

*continued on page 19*

10:30am-11:30am *Va Disability Appeals Process Overview*

Chief Judge William (Bill) Green, Veterans Court of Appeals  
Allan K. Dubois, Attorney at Law, Carlos Cardenas, Attorneys at Law

11:30am-12:15pm *Wounded Warriors Program/ Meb/Peb Board Representation*

Patrick Ball, William Beaumont Army Medical Center,  
Patrick J. McClain, Attorney at Law

12:15pm *Lunch*

12:30pm-1:30pm *National Legal Services Program, Washington D.C.-Trains Lawyers to represent Veterans*

1:30pm-3:00pm *The Role Of Community And Bar-Related Associations In Delivering Pro Bono Legal Services To Veterans & Active Duty Military Personnel*

Kay Sim, Executive Director of Houston

Bar Association, Kelley Jones King, Deputy Executive Director of the State Bar of Texas, J Judy Marchman, Communications Project Manager for the State Bar of Texas, Prof. Kenny Hegland, University of Arizona School of Law Nancy Gallego, Director, El Paso Bar Association, Graciela Martinez, Texas Rio Grande Legal Aid (El Paso), Kay Perry, President, Military Law Section, SBOT

# Juan Duran and The Eighth Court Of Appeals

BY CLINTON F. CROSS

The problem of providing equal justice for all, irrespective of social or economic status, has challenged the law from the beginning of recorded time. This month's Advance Sheet by Charles Gaunce focuses on a moment in the past when an English court confronted the issue.

The problem never ends. Humans tend to be egocentric, ethnocentric, and selfish. Education and an enlightened legal system provide an antidote against the excesses resulting from human instincts. El Paso has made progress in dealing with irrational prejudice, racism and favoritism for the rich and well connected which are often viewed as ever-present threats to our justice system.

The case of *Duran v. the State*, 14 Tx. Ct. App. 195 (1883), illustrates the problem, and perhaps in the context of time it also illustrates our progress. In 1883 Juan Duran, a Hispanic of apparently diminished capacity, was tried for the murder of a Chinaman of unknown identity. After a trial in Presidio, Texas, before Judge T.A. Falvey (later a judge of the 34th District Court in El Paso), the jury sentenced the Defendant to death by hanging. The Defendant appealed to the Texas Court of Appeals, an appellate court created by the Texas Constitution of 1876 which eventually morphed into the Court of Criminal Appeals.

After argument of counsel, the Court wrote:

After careful examination we find no error in this conviction. One ground of the defendant's motion for a new trial is that



the punishment assessed is excessive. We cannot say that it is. True, the deceased was a Chinaman, a foreigner and a heathen, and of a race of people for which the civilized world has but little regard, but still he was a human being, and in the estimation of the law his life was as precious, and as much entitled to protection, as that of the most exalted and best beloved citizen of our own State.

We can take pride in the appellate court's opinion. But it is worth noting that at the time of the trial only people who could speak English could serve on the jury.

The rule that only people who spoke English could serve on a Texas jury was established in a murder case from El Paso - *Lyles v. State*, 41 Tex. 172 (1874) - based on argument for the defendant by former associate justice of the Supreme Court of Texas (1867 - 1869), Colbert Coldwell, who at the time was Collector

of Customs and James A. Zabriskie, a former District Attorney of El Paso County. Actually, it is probably more accurate to say that the *Lyles* case is the foundation for art. 36.15(a)(11) Tex. Code Crim. Proc., which allows jurors to be challenged for cause if they "cannot read or write." Case law continues to stipulate that English is the language to be read or written in Texas in the interest of due process. See, *Pineda v. State*, 2 S.W.3d 1, 8 (Tex. App.—Houston [1st Dist.], March 26, 1999).

In any event as a result of the *Lyles* decision, there were probably few Hispanics who sat on the jury when Duran was tried for murder. Although the appellate court rejected the defense counsel's argument (that his client should not be hung for killing a Chinaman), it is possible that a jury of Hispanic-Americans might not have sentenced the mentally impaired Juan Duran to death—but probably not because he was mentally impaired or because he had killed only a Chinaman.

In the years since this case was decided, El Paso has elected and appointed Hispanics, African-Americans, women and other minorities—including one chief appellate court justice and two lower court judges of Chinese descent—to judicial posts in this community.

The problem, however, remains. My grandfather put it to me this way: "I have witnessed during my lifetime the invention of the telegram, the telephone, the bicycle, the automobile, the airplane, movies, television, air conditioning, atomic bombs and submarines and many other things. I have also benefited from great advances in health care. Unfortunately, human nature never changes"

# Are You Ready For the Next Step in Business Conference Calling?

BY DAVID J. FERRELL  
djf@elpasolaw.com

Telephone communication over computer networks has an acronym - VOIP (Voice over Internet Protocol). There are several commercial providers but today I will discuss only one, Skype.

Skype has many FREE features and the paid features are inexpensive. Making your computer a Skype computer requires you to go to Skype.com and download the free software, then install it on your computer. There are many plugins that can be used with Skype.

Some of the features/plugins include calling Skype-to-Skype conference calls, Skype To Go phone number, video calling, group video calling, screen sharing, instant messaging, text messaging, Facebook news feed, etc. Even Oprah uses Skype on her television show.

If you are calling from a Skype computer to another Skype computer the service is free. If you want to call from a Skype computer to land lines or non-Skype cell phones there is a fee. Go to the above referenced website for a thorough discussion on fees and features.

This article will focus on a March 1, 2011 announcement by Skype that asserts

that it is entering the conference calling business which means it will compete with Cisco System's WebEx and Microsoft's Live Meeting. Skype is partnering with CITRIX ie. GoToMeeting and GoToMyPC.

Skype announced that about 40 percent of Skype users already use Skype's paid and free services for business purposes. I have a paid service that costs me \$25 a year, and I can use Skype on any internet

connected computer and on my HTC EVO Android cell phone if I am connected to any WiFi server (which includes at home, at work, the courthouse and many other locations). Skype's cell phone application will not work on a 3g connection.

Skype conferencing will cause a shift in the business of communication and as technology modifies and simplifies this process, most of us will benefit.

The price and name of Skype's conferencing program has yet to be determined. Skype has filed for an initial public offering, which is expected to take place sometime later this year.

Go to <http://en.wikipedia.org/wiki/Skype> for a thorough discussion about Skype.



## Judicial Spotlight

**Name:** David Wellington Chew

**Court:** Court of Appeals, Eighth District of Texas

**Position:** Chief Justice

**Education:** B.S., United States Naval Academy, 1971; Doctor of Jurisprudence, Southern Methodist University, 1978

**Judicial Experience:** Justice, Eighth District Court of Appeals, 1995 to 2006; Chief Justice, Eighth District Court of Appeals, 2006 to present  
**Staff Attorneys:** Nita Ledford; Kim Anderson; Jacquie Shi

**Legal Assistant:** Gloria Gravalos

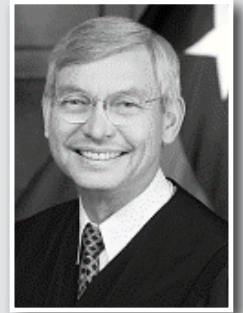
**Clerk:** Denise Pacheco

**What are your goals as Chief Justice?** My goals have been to maintain and build upon the institutional reputation of the Court and to continue to foster collegiality among all the justices who have served during my tenure. The Eighth Court of Appeals is celebrating its centennial this year, having been established in 1911. I am very honored to serve as the thirteenth Chief Justice during this special year.

**As an Asian-American jurist, you have experienced a couple of "firsts" for the State of Texas. What are they?**

I am the first Asian-American appellate judge in Texas, as well as the first Asian-American Chief Justice, and first to serve on the Texas Supreme Court. I was honored to have the Asian Pacific Islander Section of the State Bar create an award in my name to recognize an outstanding Texas Asian-American lawyer each year. I am also the proud older brother of two other jurists in El Paso: District Court Judge Linda Chew and Probate Court Judge Patricia Chew. We owe much of our success to our father, Wellington Yee Chew, who was the first Chinese-American lawyer in the entire state and was a Legal Legend in El Paso bar.

**Do you have any advice for the appellate bar?** Know your rules of appellate procedure, keep your briefs short, clear, and to the point, and if you ask for oral argument, don't waive at the last moment and deprive another party that opportunity. In my opinion (by virtue of my election, I am entitled to have opinions), we have some of the finest appellate attorneys in the state here in El Paso.



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*Invitation to participate in*  
**LAW DAY CHESS TOURNAMENT**

Any student in grades one through eight (even one of your children) can participate in the Law Day Chess Tournament sponsored by the El Paso Bar Association as part of its Law Day celebration.

Lawyers and paralegals are invited to participate, competing first against each other, and then against the children. Trophies are awarded to the most successful children for winning in their grade category and again if they are able to defeat a participating lawyer or judge.

The tournament this year will be conducted on Saturday April 23 at St. Clements Anglican Church, 810 N. Campbell Street, corner of Campbell and Montana, from 9:00 a.m. until about 1:00 p.m.

The Bar Association needs lawyers, judges and paralegals to participate in this event for it to be successful. If you would like to volunteer, please contact Omar Carmona at **929-9555** or at [carmonalaw@gmail.com](mailto:carmonalaw@gmail.com); or Clinton Cross at **546-2050**, ext. **3084** or at [clinton.cross@epcounty.com](mailto:clinton.cross@epcounty.com).

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# STORYTELLERS

*"A song ain't nothin' in the world than a story with music wrote to it."*

HANK WILLIAMS

Stories resonate with each one of us as human beings. We want and need stories to escape, to learn something new, to preserve history, to laugh and cry with the characters, and to be changed.

In celebration of the El Paso Bar Association's "The Year of the Storyteller" and in celebration of Law Day 2011, you are invited to "The Storytellers" performance on Saturday, May 7, 2011 at 6:30 p.m., at the Scottish Rite Temple Theater, 310 Missouri (fronts Santa Fe Street).

At this performance, three famous singers/songwriters of multi-platinum, multi-Grammy award winning songs will tell the stories behind their incredibly famous songs and perform those songs for the audience. This is an amazing opportunity to hear straight from the songwriters the meaning and the stories behind their music - you'll never hear their music quite the same way again.

The songwriters performing are:

**Don Schlitz** – Academy of Country Music's 2010 Poet's Award recipient for lifetime achievement who wrote such classics as "The Gambler", "The Greatest" (Kenny Rogers), "I Feel Lucky" (Mary Chapin Carpenter), "Rockin' to the Rhythm of the Rain" (The Judds), "Forever and Ever Amen" and "When You Say Nothing at All" (Randy Travis), and many other hits.

**Scotty Emerick** – Wrote numerous Toby Keith hits such as "Beer for My Horses"

(Willie Nelson/Toby Keith), "I Love This Bar", "As Good as I Once Was", and "I'm Just Talkin' about Tonight" (Toby Keith), as well as many other hits. He has travelled with Keith on USO tours numerous times to play for the troops.

**Allen Shamblin** – "He Walked on Water" (Randy Travis), "Life's a Dance" (John Michael Montgomery), "I Can't Make You Love Me" (Bonnie Raitt), and many other hits including "The House that Built Me" (Miranda Lambert) which was the 2010 CMA Song of the Year and nominee at the 53rd Grammy Awards for Song of the Year and Best Country Song.

More information on these performers and this event can also be found at [www.elpasobar.com](http://www.elpasobar.com).

The proceeds of this evening of songs and storytelling will benefit the El Paso Bar Foundation, a 501(c)(3) organization which supports, promotes and encourages programs to enhance the administration of justice, ethics in the legal profession, legal assistance to the needy, public education on law-related issues, and legal research and scholarship.

Tickets are available for \$100/each (checks only, please), and can be purchased by contacting Nancy Gallego at the El Paso Bar Association, (915) 532-7052 or (915) 532-7664 or by e-mailing Nancy at [nancy@elpasobar.com](mailto:nancy@elpasobar.com) or [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net).

**See you there!**

## ASSOCIATION NEWS

### The El Paso Paralegal Association

#### ◆ APRIL 2011

The El Paso Paralegal Association will hold its April meeting on Thursday, April 21, 2011 from 12:00 noon to 1:00 p.m. at the El Paso Club, Chase Tower, 201 E. Main St., 18th floor. Speaker: Honorable Yahara Lisa Gutierrez of the 65th Judicial District Court. Topic: Children and the Courts. The cost for lunch, which is optional, is: \$16.00 buffet or \$10.50 salad bar. Please RSVP for the luncheon with Peggy Dieter at Kemp Smith: 546-5267.

#### ◆ MAY 2011

The El Paso Paralegal Association will hold its May meeting on Thursday, May 19, 2011 from 12:00 noon to 1:00 p.m. at the El Paso Club, Chase Tower, 201 E. Main St., 18th floor. Speaker: Chris Borunda. Topic: Overview of Employment Law. The cost for lunch, which is optional, is: \$16.00 buffet or \$10.50 salad bar. Please RSVP for the luncheon with Peggy Dieter at Kemp Smith: 546-5267.

## CLASSIFIEDS

**EXPERIENCED ATTORNEY** desires office sharing, work overflow, arrangement with small or medium size law firm. Have general practice experience including personal injury, worker's compensation, civil litigation, family law, bankruptcy, and federal agency law. If interested, contact Attorney JJ at **915/203-0006**.

### Central Office Space for Lease:

Office space available, receptionist, runner, conference rooms, parking, etc.  
**NO LEASE OR DEPOSIT REQUIRED**  
Call Bob Earp or Larry Schwartz at 542-1533.

## **El Paso Federal Bar Association Law School Scholarship Application**

The El Paso Federal Bar Association Law School Scholarship is a \$2000 scholarship awarded to an outstanding student from El Paso who will begin law school at an ABA-accredited law school in Fall 2011. The scholarship is awarded based on the applicant's academic achievements, community involvement, and dedication to the study of law. To apply, submit your application electronically to EPFBAstudents@gmail.com on or before June 3, 2011.

### **Contact Information**

**Full name:** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_

**El Paso permanent address:** \_\_\_\_\_

### **Undergraduate Information**

**School:** \_\_\_\_\_

**Major:** \_\_\_\_\_ **Minor:** \_\_\_\_\_

**GPA:** \_\_\_\_\_ **Date of graduation:** \_\_\_\_\_

### **Law School Information**

**Law school will attend in Fall 2011:\*** \_\_\_\_\_

### **Application**

1. Attach a copy of your resume, including any work history, extra curricular activities, and honors you have received during college.
2. Attach a copy of your transcript.
3. Answer each of the following questions in 250 words or less per question.
  - a. Why do you want to go to law school?
  - b. What is an obstacle you have encountered, and how did you overcome it?
  - c. What do you most appreciate about El Paso?

Finalists for the EPFBA Law School Scholarship will be contacted by mid-June 2011 to schedule an interview. A final decision will be made by mid-July 2011. The scholarship will be disbursed in Fall 2011, after the recipient has begun law school. If you have any questions, please email EPFBAstudents@gmail.com.

---

\* If you do not know which law school you will attend, please list the law schools to which you have been admitted and are considering attending.



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*You are invited to  
The Storytellers  
El Paso Bar Association's  
Law Day Event*

**You are invited to**  
**The Storytellers**  
El Paso Bar Association's  
Law Day Event

**Saturday, May 7, 2011**  
Preshow reception starts at 6:30 p.m.  
Show starts at 7:30 p.m.  
**Scottish Rite Temple Theater,**  
301 W. Missouri, El Paso TX 79901  
Ticket price: \$100

To purchase tickets or for  
more information contact  
Nancy Gallego  
at the El Paso Bar Association  
(915) 532-7052 or (915) 532-7664  
nancy@elpasobar.com  
[www.elpasobar.com](http://www.elpasobar.com)

Proceeds benefit  
El Paso Bar Foundation,  
a 501(c)(3) organization

*Don Schiltz  
Scotty Emerick  
Alan Schmitt*