



# EL PASO BAR JOURNAL

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*An Update of Events and Information*

December 2010/January 2011

## ¡Viva Los Licenciados!

*El Paso Lawyers and the Mexican Revolution-Part II*

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*Law West  
of the Pecos*

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*Senior Lawyer Interview*

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State Bar of Texas  
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1996 – 1997 – 1998 – 1999  
2000 – 2001 – 2006-2010  
Star of Achievement 2000 - 2008 - 2010  
State Bar of Texas  
Best Overall Newsletter – 2003, 2007, 2010  
Publication Achievement Award  
2003 – 2005 – 2006 – 2007 – 2008 - 2010  
NABE – LexisNexis Community  
& Educational Outreach Award 2007 - 2010

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## THE PRESIDENT’S PAGE



### The Year of the Storytellers

*“If history were taught in the form of stories,  
it would never be forgotten.”*

RUDYARD KIPLING

As another calendar year comes to a close, now is a good time to reflect and celebrate what has happened in our personal and professional lives. The past may be different depending on who is remembering it. If your past as a lawyer were retold as a story, would it be memorable?

On December 14, 2010 at the El Paso Bar Association’s December monthly meeting, we will honor those El Paso attorneys who have been practicing law for fifty years. What an amazing legacy these attorneys have – and think of the stories they could tell from their years practicing law! Please join us for this special celebration; you will be treated to some unforgettable stories.

How has the practice of law changed in the past fifty years? Is the practice better now with technology, more rules, and more attorneys? Have we lost something in the hustle and bustle of the profession? When was the last time you talked – really talked – to a colleague or a judge about something other than casual pleasantries or the details of a case? For most of us, it has been far too long. Take the opportunity to reconnect with your fellow attorneys and judges at the Joint Bar Association Holiday Party on Thursday, December 7 from 5:30 – 7:30 p.m. at The Garden.

Speaking of history, the El Paso Bar Association has celebrated several triumphs in just the past few months. The 2nd Annual Access to Justice Fair on October 30 drew a great crowd of close to 400 El Pasoans needing pro bono assistance. Thirty-seven attorneys provided one-on-one consultations to nearly 290 needy people. Ten agencies were on hand to provide assistance and information as well. Although there was not enough time to consult with all of the persons at the Fair, those who did not get to speak with a lawyer were routed to Texas Rio Grande Legal Aid for assistance. Congratulations to co-chairs Laura Enriquez and Jaime Sanchez, TRLA, and all of the attorneys who participated.

The El Paso Lawyers for Patriots event on November 6 was also an amazing success. We were thrilled with the turnout of great speakers, dignitaries, twenty veterans’ agencies, and veterans and their families. The event competed with three different veterans’ parades, but we were still able to provide seventy one-on-one legal consultations with veterans. Thirty-seven attorneys, several of which had also participated in the ATJ Fair the prior weekend, were there to aid veterans and their families with legal issues. The vision and passion of Donald Williams and the EPLP committee were evident throughout the day, and will continue as more veterans’ clinics take place in 2011.

As this year closes and the next approaches, remember the stories of what a difference attorneys can make in the lives of others – that is the kind of history which should never be forgotten.

*Chantel Crews*

**Chantel Crews, PRESIDENT**

## EL PASO BAR ASSOCIATION

**December Bar Luncheon**

Tuesday, December 14, 2010

**El Paso Club • 201 E. Main, 6th Floor, Chase Bank • \$20 per person • 12:00 Noon***Guest Speaker will be***Tom Diamond who will speak on the Changes in the Practice of Law over the last 50 years.***We will also be honoring our 50 year attorneys.***Please make your reservations by Monday, December 13, 2010 at noon  
at [nancy@elpasobar.com](mailto:nancy@elpasobar.com) or [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)**

## EL PASO BAR ASSOCIATION

**January Bar Luncheon**

Tuesday, January 11, 2011

**El Paso Club • 201 E. Main, 18th Floor, Chase Bank • \$20 per person • 12:00 Noon***We will have a panel on the Lions  
of Litigation featuring Enrique Moreno.**Pending approval of 1/2 hour of Participatory Ethics***Please make your reservations by Monday, January 10, 2011 at noon  
at [nancy@elpasobar.com](mailto:nancy@elpasobar.com) or [ngallego.epba@sbcglobal.net](mailto:ngallego.epba@sbcglobal.net)**

Articles published in the Bar Journal do not necessarily reflect the opinions of the El Paso Bar Association, its Officers, or the Board of Directors. The El Paso Bar Association does not endorse candidates for political office. An article in the Bar Journal is not, and should never be construed to be, an endorsement of a person for political office.

# 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 Feb/March, 2011, please have the information to the Bar Association office by Friday, January 15, 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.*

## DECEMBER, 2010

**Tuesday, December 7**

EPBA Board Meeting

**Wednesday, December 8**

EPWBA Meeting

**Thursday, December 9**

Joint Holiday Party, The Garden

**Thursday, December 9**

Annual Attorney/Paralegal Luncheon

**Saturday, December 11**

EPYLA Christmas of Hope

**Tuesday, December 14**

EPBA Monthly Luncheon  
Guest Speaker – Tom Diamond  
Honoring 50 year attorneys

**Thursday, December 16**

EPYLA/MABA Christmas Party

**Friday, December 24**

Christmas Eve  
EPBA/County Closed

**Friday, December 31**

New Year's Eve  
EPBA/County Closed

## JANUARY, 2011

**Tuesday, January 4**

EPBA Board Meeting

**Tuesday, January 11**

EPBA Monthly Luncheon

**Thursday, January 13**

EPYLA Board Meeting

**Monday, January 17**

Martin Luther King Day EPBA/  
County Closed

**Thursday, January 20**

EPPA Monthly Luncheon

**Friday, January 28**

Building Blocks of Wills,  
Estates and Probate

## UPCOMING EVENTS

15th Annual Civil Trial Seminar Inn of the Mountain Gods  
February 18 & 19, 2011

EL PASO BAR ASSOCIATION  
Presents

### 12<sup>th</sup> Annual Building Blocks of Wills, Estates and Probate Course

**Friday, January 28, 2011**

8:00 a.m. – 4:00 p.m.

El Paso County Courthouse

6.75 hours of MCLE including 3.75 hours of Ethics

**Cost is \$225 – members of EPBA  
\$250 – nonmembers**

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El Paso Bar Association  
500 E. San Antonio, Room L-112  
El Paso, Texas 79901

THE MEXICAN AMERICAN BAR ASSOCIATION OF EL PASO  
would like to recognize its 2010 award winners for their  
contribution to the El Paso judiciary and our community:

**Outstanding Judge**

HON. SAMUEL MEDRANO JR.

**Outstanding Member**

MS. CYNTHIA CANALES

**Outstanding Attorney**

MR. ADOLFO 'DOLPH' QUIJANO JR.

**Outstanding Community Advocate**

HON. GARY A. ABOUD

**Albert Armendariz Lifetime Achievement Award**

ENRIQUE MORENO

**Diversity Award**

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# Access to Justice Fairs Highlight Dedication to Community

■ BY ALBERTO MESTA

Autumn brought two signature events for the El Paso Bar Association, the Access To Justice Fair and the El Paso Lawyers for Patriots' legal clinic. Both highlight the Bar Association's dedication to the El Paso community.

The Access to Justice Fair is part of the National Pro Bono Celebration sponsored by the American Bar Association (ABA) Standing Committee on Pro Bono and Public Service held from October 24-30. The Celebration is a coordinated national effort to meet the ever-growing needs of this nation's most vulnerable citizens by encouraging and supporting local efforts to expand the delivery of pro bono legal services, and by showcasing the great difference that pro bono lawyers make to the nation, its system of justice, its communities, and most of all, to the clients they service.

The Second Annual Access to Justice Fair was held on October 30<sup>th</sup> at the Valle Verde campus of El Paso Community College. Last year's fair generated tremendous publicity for the Bar Association and was the subject of state and national awards, including the National Association of Bar Executive's 2010 LexisNexis Community and Educational Outreach Award given at the ABA's annual meeting Aug. 6 in San Francisco. This award honors bar associations and bar foundations for commitment to public service.

This year's fair had more than 300 individuals seeking legal assistance. Thirty-seven attorneys volunteered their Saturday and provided one 152. The fair had 12 workshop presentations by attorneys on a wide array of legal topics from bankruptcy to employment rights. Nine agencies attended and set up informational tables disseminating their information. The reception from the public was very positive and grateful for the opportunity to obtain guidance on their legal problem.

In celebration of Veterans Day, the El Paso Lawyers for Patriots legal clinic was conducted on November 6 at the Transmountain campus of El Paso Community College. El Paso Lawyers for Patriots aims to develop a solid network of local lawyers assisting veterans, active duty military and their families who otherwise could



*One important aspect of this initiative is hosting legal clinics where the military community can seek information and services. Earlier this spring, the El Paso Lawyers for Patriots held its initial legal clinic, whose success attracted the attention of the Texas Access to Justice Foundation (TAJF). Subsequently, TAJF awarded El Paso Lawyers for Patriots a \$40,000.00 grant to continue and expand its legal clinics.*

not afford or don't have access to legal services. This is part of the Texas Lawyers for Patriots initiative by the State Bar of Texas.

One important aspect of this initiative is hosting legal clinics where the military community can seek information and services. Earlier this spring, the El Paso Lawyers for Patriots held its initial legal clinic, whose success attracted the attention of the Texas Access to Justice Foundation (TAJF). Subsequently, TAJF awarded El Paso Lawyers for Patriots a \$40,000.00 grant to continue and expand its legal clinics.

The El Paso Lawyers for Patriots' legal clinic received a tremendous positive response from the military community. The latest legal clinic attracted 74 individuals from the military community seeking legal assistance. 36 attorneys conducted more than 49 legal consultations ranging on topics such as veterans'

benefits to probate matters. 26 agencies, most of who specialize in the military community, such as the Texas Veterans Commission, attended the legal clinic.

Apart from the legal consultations, a number of dignitaries gave presentations, such as Judge Eduardo Gamboa from Probate Court No. Two, and Judge Yahara Gutierrez of the 65<sup>th</sup> District Court, whom provided an overview of their courts and their interaction with military issues. The keynote speaker was Col. Thomas Palladino, the executive director of the Texas Veterans Commission.

The Access to Justice and El Paso Lawyers for Patriots events highlights the El Paso Bar Association's dedication to El Paso community. It is a dedication that has been recognized at the local, state, and the national level via awards and grants, which will likely continue.

# LAW WEST OF THE PECOS

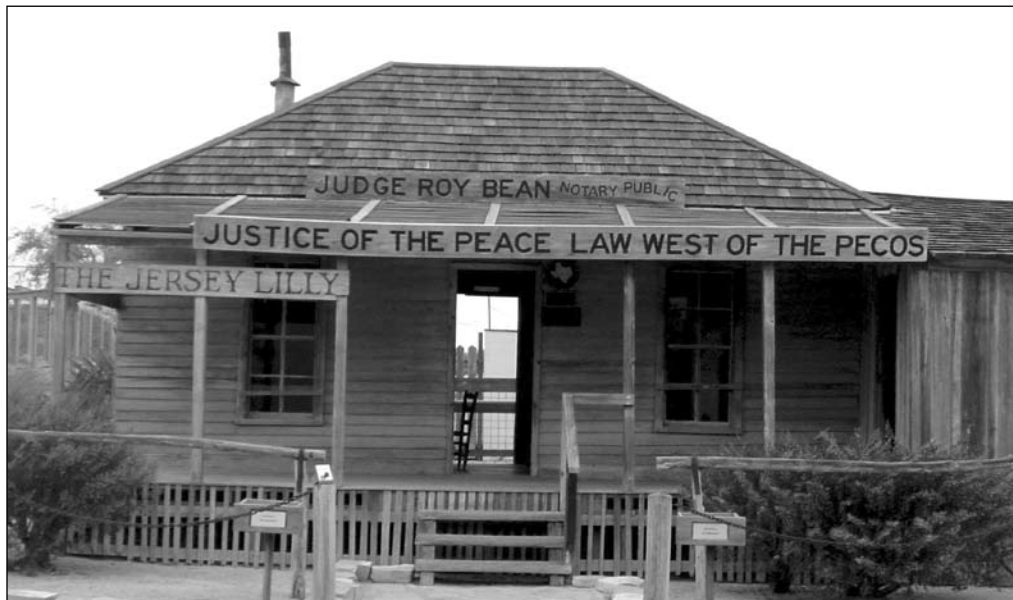
■ BY LANDON SCHMIDT

*Staff Attorney for Justice Guadalupe Rivera*

***In re Estate of Rogers*, No. 08-09-00249-CV, — S.W.3d —, 2010 WL 2959486 (Tex. App. — El Paso July. 28, 2010, no pet.) (not yet reported)**

Following William Rogers' death on August 31, 2006, Appellees, Melissa O'Rourke (Rogers' common-law wife), Dorothy Brock (Rogers' sister), and Joseph Rogers (Rogers' brother), filed an application for determination of heirship and appointment of independent co-administrators on October 3, 2006. The trial court appointed an attorney *ad litem* to represent any unknown heirs, and on November 6, 2006, it heard evidence on the parties' application. The trial court then determined that Rogers died intestate and entered a judgment declaring heirship to O'Rourke, Brock, and Rogers, and an order granting the application for independent co-administration. On June 5, 2007, the trial court approved the co-administrators' inventory, appraisal, and list of claims.

Subsequently, on March 20, 2009, Appellants, Bob Carter, Barbara Carvajal, Jane Hackett, and Lee Ann Sullivan (friends of the deceased), not only filed an application to set aside the order granting independent administration, but also to probate a copy of a written will executed in 1999, and to issue letters of testamentary. They also filed a cause of action for breach of fiduciary duty, fraud, and civil conspiracy, alleging the co-administrators failed to disclose Rogers' written will. After denying the allegations, Appellants moved for summary judgment, claiming that Appellees' applications and causes of action constituted attacks on the probate court's judgment and were, in essence, bills of review that were brought outside the two-year limitations period for challenging heirship determinations. Appellees responded that Section 73(a) of the Probate Code, which provides for the filing of a will within four years of the death of the testator, and Section 16.004(a) of the Civil Practices and Remedies Code, which allows for causes of action based on fraud to be brought within four years, conflicts with Section 31 of the Probate Code, which sets out a two-year limitation for attacking judgments in the probate court. After a hearing, the trial court entered summary judgment in favor of Appellees and dismissed Appellants'



applications and causes of action.

On appeal, Appellants contested the trial court's summary judgment order, contending that their application to set aside the order granting independent administration and to file a copy of the will was timely filed in accordance with Section 73(a) of the Probate Code, despite Section 31's requirement that they were required to challenge the trial court's determination of heirship within two years. The Court noted that although Section 73(a) of the Probate Code generally provided that a will could not be admitted to probate after four years from the death of the testator, the statute did not address situations where, as here, a final judgment was already entered declaring heirship following the death of an individual.

According to the Court, when a trial court enters an order determining heirship, it is a final judgment that may be appealed or reviewed within the same time limits and in the same manner as any other judgments in probate matters. And when the appellate deadlines have expired, the interested person may attack that judgment by bill of review. However, Section 31 of the Probate Code limits the time for filing that bill of review to two years from the date of the judgment. Thus, the statutory provisions that allow a person to attack a judgment act as statutes of repose, limiting the time in which he may bring his cause of action after the trial

court determined heirship and extinguishing any causes of action after that passage of time even though it might not have yet accrued. As a result, the Court held that Appellants, having filed their pleadings outside the two-year window, failed to timely attack the judgment.

Nevertheless, Appellants cited *Estate of Morris*, 577 S.W.2d 748 (Tex. Civ. App. — Amarillo 1979, writ ref'd), to argue that a will should always be admitted to probate in accordance with Section 73(a) regardless of any judgments previously entered by a court so long as the will is filed within the requisite four years. In *Morris*, the testatrix died April 1, 1975. *Id.* at 751. She had executed a 1965 will leaving her property to her surviving husband, the named independent executor, who offered the will for probate, and on April 29, 1975, an order was entered admitting the 1965 will to probate. *Id.* Two years and five months later, the testatrix's daughter filed an application for probate of a 1968 will that contained a clause revoking all prior wills. *Id.* In response, the executor of the 1965 will argued that the two-year statute of limitations for will contests barred the probate of the 1968 will. *Id.* However, the Amarillo Court of Civil Appeals found the daughter's action was not a direct attack on the 1965 will as the later will's revocation clause automatically revoked the prior will. *Id.* at 752. Applying settled law, the court reasoned that the timely

application for probate of a subsequent will containing a revocation clause within four years from the death of the testator is neither a contest of the validity nor barred by the probate of an earlier will “because the probate of the last will, revoking all others, has the incidental effect of revoking the former probate, whether there is any pleading to that effect or not.” *Id.* Therefore, the court reasoned that the 1968 will was not foreclosed by the two year statute of limitations for will contests. *Id.*

This Court, however, distinguished *Morris* from the instant case, noting that the present case did not involve an application to probate a second will that contained a revocation clause. Rather, the Court pointed out that Appellants’ pleadings simply sought to set aside an earlier judgment that determined heirship so that they may probate the written will. As that earlier judgment was final, the Court held that Appellants actions constituted a direct attack on the trial court’s previous judgment. Thus, Appellants were required to file their pleadings within two years of the order determining heirship. Having failed to do so, their applications were time barred. Accordingly, the Court found no error in the trial court’s order granting summary judgment in favor of Appellees.

***Sandoval v. State*, 310 S.W.3d 73 (Tex. App. – El Paso 2010, pet. ref’d)**

In the early morning hours on March 17, 2007, Eduardo Sandoval was traveling at about 65 miles per hour in his truck when he ran a red light at the intersection of Cincinnati Street and Mesa Street, struck two pedestrians, and sped off. When the police located him shortly thereafter, they detected a strong odor of alcohol emitting from his person. At 4:35 a.m., his blood sample was taken, and subsequent analysis revealed an alcohol content of 0.23. Sandoval later provided a written statement, admitting to drinking and to striking the two victims.

The State indicted for two counts of felony murder, with both counts alleging driving while intoxicated third or more as the underlying felony, and for two counts of failure to stop and comply in an accident involving personal injury or death. The jury found Appellant guilty on all counts and assessed sentence at forty years confinement for each count of felony murder, and five years confinement for each count of failure to stop and comply.

At issue on appeal was whether the charged driving while intoxicated offense, a felony, could serve as the underlying felony for the felony-murder charge. Sandoval alleged that

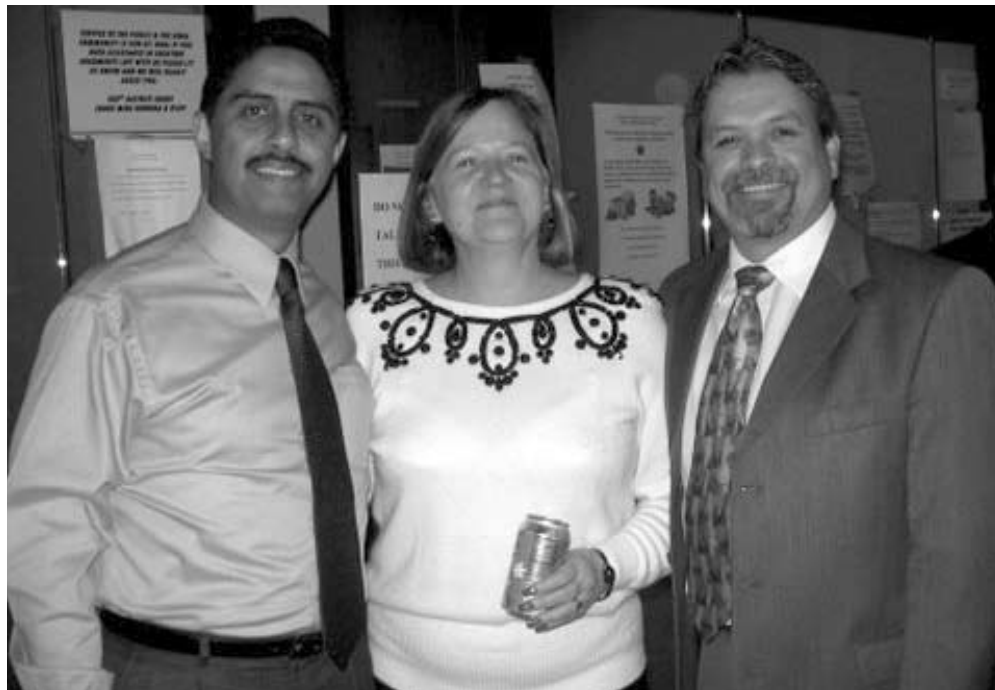
all driving-while-intoxicated offenses are misdemeanors at the time they are committed even if the driver had been previously convicted of driving while intoxicated twice before, and therefore, his driving while intoxicated at the time he struck the victims could not support the underlying felony for felony murder. The Court disagreed, noting that a driving-while-intoxicated offense third or more is not merely a misdemeanor with an enhanced punishment. Instead, the offense is a felony, and the prior intoxication offenses are simply necessary elements to prove the charged offense. The Court determined that the felony offense of driving while intoxicated third or more is committed and completed when the offender drives while intoxicated, while having two prior convictions for driving while intoxicated. It is not completed later at trial when the prior driving while intoxicated convictions are proven. Accordingly, the Court held that the felony offense of driving while intoxicated third or more was completed at the time Sandoval, having two previous convictions for driving while intoxicated, drove while intoxicated. Therefore, Appellant’s felony driving-while-intoxicated offense properly satisfied the requisite felony for felony murder. The trial court’s judgment was affirmed.

## The El Paso Family Bar Association

■ BY LISA HAYES

At least one Wednesday a month, you will find a group of attorneys and judges huddled together on the 11<sup>th</sup> floor in a conference room, speaking a language few others desire to understand. The conversation will go something like this, “Doug, what do you think about a CLE for UCCJEA/UIFSA issues?” “Has anybody handled a case for grandparent possession and access since September 2009? Judge Anderson, are these getting granted anymore?” “Is there any more economic contribution or are we strictly limited to reimbursement claims now?” “Phil, do you think it is time for another seminar on the Hague Convention?” “Is anyone noticing a surge in military clients? Should we dust off our Family Law and the Military CLE and offer an update?”

The folks sharing a take-out lunch are the members of the El Paso Family Law Bar Association (EPFLBA). Ask the senior members of the organization and they will



*Judge Jesus Rodriguez, Judge Kathleen Anderson and Claudio Flores*



tell of a time that the EPFLBA was a political body, endorsing candidates in local elections and lobbying for changes to the Texas Family Code. No longer quite the political activist, the EPFLBA is now known for its provision of home-based CLE, donations to and sponsorship of community organizations – particularly those that service families, and the annual 11<sup>th</sup> floor Christmas Party.

The EPFLBA is a basically humble group. There aren't a lot of records kept about its origin, nor its past leadership. Though the list of sponsored CLE events is long (it is typical to offer at least two CLE opportunities a year), there is not a bound and embossed catalog that trumpets our glory. Our cues are given every year after the Advanced Family Law CLE, held in late summer in San Antonio or Dallas, when we gather again and brainstorm... What was redundant? What was boring? What is do-or-die and how soon can we offer a brown bag luncheon to pass along the information to our colleagues? What area of our practice has been so battered and bruised by the legislature that it is time for a comprehensive review? Our interests thus determined, the CLE chair (Doug Smith – our indentured servant – for more terms than I know of), puts the wheels in motion and enlightenment is offered to all.

Key to the practice of family law is access to local organizations that assist families. We are fortunate to have such an organization in the bellows of the courthouse, the Domestic Relations Office (DRO). The DRO is a one-stop shop, providing community assistance in the collection of child support; supervision of delinquent payors; home and social studies for adoptions and custody disputes; co-parenting classes, including interpretations of possession and access schedules; supervised exchanges of possession (for those parents who just can't be in the same room...ever). El Paso can be proud of the range of services that may be offered to our clients by the DRO. In combination with or as an alternative to the DRO, family law practitioners will tell you about the services provided to their clients by (and this list is by no means exhaustive) the Texas Attorney General, Child Crisis Center of El Paso, Family Service of El Paso, Center Against Family Violence, Child Protective Services, YMCA, El Paso Adoption Services, MHMR, CASA, and the variety of therapists, counselors, social workers, psychologists, psychiatrists and physicians who practice in our field. Hillary Clinton said, "it takes a village..." to raise a child. In the worst of family law cases, it takes an entire community, and all the resources it

*The practice of Family Law is emotionally exhausting. You are called when your client's car doesn't start (it is the fault of their worthless spouse who never took it in for maintenance); you are called when the dog gets sick (worthless spouse left the house and didn't take the dog with him or her – and WHO is going to pay the veterinarian?); you are called when the mortgage payment is missed, the child support is late, the insurance is allowed to lapse. You are the first point of contact when the holidays are upon us and a parent decides that attending the Thanksgiving Parade with their child is more important than complying with a court order for possession and access.*

has to offer, to keep a family from falling apart at the seams.

I have had the privilege of serving the EPFLBA on the executive committee for 4 years and I plan to stick around as long as they will have me. My commitment is not warranted by the Costco sandwiches or delivery pizza we share once a month. It is, for me, the touchstone that reminds me that no matter how ugly the courtroom battles may be, at the end of the day, we respect each other's advocacy, we collectively hope for peace and closure for our clients, and we (frankly) enjoy each other's company.

The practice of Family Law is emotionally exhausting. You are called when your client's car doesn't start (it is the fault of their worthless spouse who never took it in for maintenance); you are called when the dog gets sick (worthless spouse left the house and didn't take the dog with him or her – and WHO is going to pay the veterinarian?); you are called when the mortgage payment is missed, the child support is late, the insurance is allowed to lapse. You are the first point of contact when the holidays are upon us and a parent decides that attending the Thanksgiving Parade with their child is more important than complying with a court order for possession and access.

I can only speak for myself when I say that my sanity in these situations is preserved by the fact that I know at some point, after we have displayed the photos of husband and that "cheap trick" he's dating, after we have scrutinized the bank statements for evidence of wife's shoe addiction, and certainly after we have made our passionate and well-reasoned argument for attorney's fees, we will gather together and laugh about the client who listed his wife's breast implants as a community asset

on his inventory (true story).

Any commentary on the EPFLBA would be lacking without mention of our social calendar. Christmas is our time to gather with our worn staff on the 11<sup>th</sup> floor and place bets on which family law practitioner will offer their karaoke rendition of "Santa Baby." Each summer Claudio Flores (and his kind and tolerant wife) hosts our annual barbeque and our worn staff silently pleads for someone to fall in the pool. At the Advanced Family Law CLE, our family law judges host the very-early-in-the-morning Judge's Breakfast; our worn staff often left behind to mind the fort, we are alone to ponder which attorney will sport the best track suit/hair scrunchie combination. When joining our ranks you are forewarned, Don Williams WILL be taking your picture and sharing it with all of your colleagues...so put on a little lipstick, tuck in your shirt and please chew with your mouth closed.

It is the mission of the EPFLBA to remain a resource for the local bar, a conduit between the family court judges and the practitioners, and a fraternity for those who are called to practice family law. Membership is open to all.

*The 2010 ELBA slate of officers are: Phil Mullin - President, Lisa Aceves Hayes – Vice President, Claudio Flores - Treasurer, Carlos Quinonez – Secretary, Don Williams – Chairman of the Board, Ruth Reyes – Court Liaison, Marlene Gonzalez – Membership/Community Relations Chair, Doug Smith – CLE Chair, Carlos Quinonez and we are honored to have Judges Kathleen Anderson (Legislative Chair) and Jesus Rodriguez (Judicial Representative at Large). For membership/dues information please email Lisa Aceves Hayes at [lhayes@aceveshayeslaw.com](mailto:lhayes@aceveshayeslaw.com)*

# CHERYL S. LAY:

## *A Lawyer of Principle and Commitment*

■ BY JUDGE OSCAR G. GABALDÓN, JR., CWLS

**B**orn and raised in our delightful Sun City of El Paso, Texas, El Paso Bar Association board of director Cheryl S. Lay has seized the opportunities to also live in other interesting and faraway places, such as the Netherlands. Happily married to Kirk Davis, Head Strength and Conditioning Coach at UTEP, Lay has a son, James, who will soon experience his second deployment to Afghanistan, three step-children and three grandchildren.

A 1977 graduate of Coronado High School, Lay later went on to graduate from UTEP in 1994. Thereafter, it was off to Texas Tech School of Law, where she received her law degree in 1997. Law license in hand, Lay has gone on to enjoy a wonderful law career that has included clerking for Justice Ann C. McClure, who Lay describes as being "the smartest, most honorable person I have had the pleasure of knowing and working with." Licensed to practice law in Texas and New Mexico, Lay is board certified in Consumer Bankruptcy Law. She has also been serving our border community as an associate Municipal Court Judge since 2002.

Encouraged by former El Paso Bar Association President, Cori A. Harbour, Lay joined the bar association, something she claims "has turned out to be a blessing." Being a member of the El Paso Bar Association has given Lay the opportunity to network and socialize with other members of the El Paso bar. She said that this has also afforded her "the opportunity to meet attorneys outside of my area of law." Through the association, she has been able to impart to others some of her bankruptcy knowledge, as is the case when she spoke at a conference in Las Vegas,



*Cheryl S. Lay*

Nevada, which was sponsored by the El Paso Bar Association.

Lay is committed to reaching out to members of the legal community that are not active in the bar. She states, "I regularly email members of the Bankruptcy Bar with information on bar events and encouragement for those that have not already joined to do so." Stepping out of her bankruptcy world "comfort zone," Lay especially feels that through the bar association, younger attorneys are able to learn from the experiences of the more experienced attorneys. Reaching out to the younger lawyers, encouraging proactive involvement of lawyers in the bar, and consistently seeking ways to enhance the quality of the profession are things that fall right in with one Lay's treasured principles: "The most important thing is always to do the right thing no matter how hard it is."

### ***The El Paso Bar Association Offices will be closed as follows:***

***Friday, December 24 - Christmas Eve***

***Friday, December 31 - New Year's Eve***

***Monday, January 17 - Martin Luther King, Jr. Day***

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## SENIOR LAWYER INTERVIEW

## WILLIAM ALFRED THURMOND

■ BY CLINTON F. CROSS

*Bill Thurmond's life personifies  
commitment to family and  
firm—  
one wife, one job.*

**CROSS:** Before I ask you about your life, can you tell me a little bit about your grandfather? I understand he was an El Paso lawyer.

**THURMOND:** My grandfather was Alfred Seymour Thurmond, an El Paso lawyer who represented Mexico during the 1910 Chamizal dispute arbitration. There were three arbitrators, Anson Mills, Fernando Beltrán y Puga, and the Canadian Eugene Lafleur. The arbitrators pronounced a decision in 1911, but the United States government refused to abide by the decision.

The dispute was finally settled in 1963, when Presidents Johnson and Adolfo López Mateo signed the Chamizal Treaty agreement. Ironically, the Treaty for the most part followed the terms of the 1911 arbitration award.

**CROSS:** O.K.; now can you tell me a little bit about your parents and your childhood.

**THURMOND:** I was born March 14, 1929 here in El Paso at Hotel Dieu. At the time, my mother Loucile and my father Benton S. Thurmond lived at 602 Upson in Sunset Heights. The house, incidentally, is still there.

My mother was a school teacher, and she taught at Aoy School. As you know, the school was originally established by a Spaniard by the name of Olives Aoy for the benefit of Spanish speaking children in El Paso. At the time only English was spoken in the other El Paso schools.

Shortly after I was born my mother and father moved to Hatch, New Mexico. My grandfather Alfred Seymour Thurmond had already moved to Hatch to build a hotel. There my parents homesteaded, farmed, and built a two bedroom adobe house. My parents were in their thirties when they moved to Hatch, and I was their only child.



*William Alfred Thurmond*

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

**THURMOND:** I attended elementary, middle and three years of high school in Hatch. I then went to New Mexico Military Institute my last year of high school and then two years of college. In 1948 I transferred to New Mexico A & M in Las Cruces, where I majored in psychology, met my future wife, and graduated.

In 1950, I was also drafted. I served in the Second Armored Division as a lieutenant, platoon leader and tank commander, and for most of the time I was stationed in Germany.

After I got out of the army I married my wife. Then from 1953 to 1955 I attended the University of Texas School of Law.

It was an interesting time to be in law school. I was there shortly after the U.S. Supreme court decided *Sweatt v. Painter*; the case that in 1950 integrated U.T. There were still a lot of racial issues. Page Keeton had just become the dean.

**CROSS:** Any classmates that ended up in El Paso?

**THURMOND:** Gerry Smith and Bill Mounce were both there at the same time. Actually, I first met Gerry when I was a child. My father and Gerry's father used to race horses against each other.

**CROSS:** After graduation from law school, what did you do?

**THURMOND:** In 1956 went to work for Burges, Scott, Rasberry and Hulse, getting paid \$325.00 a month. I handled family law cases. I also represented insurance companies whose insured were in car wrecks. I had defenses in those days that defense lawyers no longer have. For instance, contributory negligence was a complete defense to any negligence claim. If someone was run over by a negligent driver and the victim was outside the crosswalk then the defendant won. Also, special issues had to be framed correctly or cases got reversed. Professor Gus Hodges at U.T. taught us how to get it right.

I retired in 1993, still working for the same firm—although thirty-seven years later the firm had a slightly different name. That type of relationship is seldom seen today. We live now in an era of disposable relationships.

**CROSS:** Any interesting cases?

**THURMOND:** I represented Lloyds of London in some of the Billie Sol Estes litigation. Lloyds insured grain stored in grain elevators. Claimants who purchased grain claimed some of the grain was missing, and claimed my client had to pay for the missing grain. But it turned out the grain was there. So at the end of the day we did not have to pay.

**CROSS:** That simple?

**THURMOND:** What happened is that Billie Sol would buy wet grain from the farmers that they liked very much. Then after it dried out he would weigh the grain and sell it, but now it did not weigh as much. He also claimed he had fertilizer tanks that he leased to farmers. There were no tanks, but there was grain...just

grain that weighed more than it should have weighed when he bought it and less when he sold it when it was dry.

**CROSS: Weren't you also involved in the Civic Center litigation?**

**THURMOND:** Yes, Bert Williams was Mayor and John Ross was the City Attorney.

The City of El Paso sued the contractor Robert E. McKee and a number of his subcontractors because there was lamellar tearing of the steel girders making the sombrero affect of the building. The architectural plans called for steel that was too thick for pressures due to

welding and the welding pressures tore the steel apart at the welded connections, making the girders unsafe. The City refused to allow it to pass inspection. I represented Darbyshire Steel. Darbyshire welded one portion of the ring girders together. Another company from Lubbock welded the other end of the girders. There were other defendants.

In the end the lawyers and court reporters made so much money that all the parties felt it was best to settle—if they had not settled the case might still be in litigation because the their positions were “set in stone.” I liken the situation to that of two farmers arguing over the ownership

of a cow, one farmer pulling on her head and the other farmer pulling on her tail with the lawyers in the middle happily milking away.

**CROSS: Your family?**

**THURMOND:** I have three children, Stafford, Elizabeth, and Lou Ann. I am fortunate. Elizabeth and Stafford live in El Paso. She is the manager of Events and Design at the University of Texas at El Paso. Stafford manages Edi Financial and Security Company. The firm that provides independent financial planning and advice for those who think they need it.

## ADVANCE SHEET, *circa 1200*

BY CHARLES GAUNCE

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

Question: When is a breach of the peace not a breach of the peace?

Answer: When it is an officially sanctioned event.

Our case of interest comes to us from the Michaelmas Term of 1200:

“Thomas de Baskerville appeals Roger, William’s son, for that he in the king’s peace, wickedly and by night, slew his father Ralph in his house; and this he offers [to prove] etc. as one who saw it while under age and who when he became of age began his appeal.

And Roger comes and defends the felony and death against him as against one who is his lord and to whom he has done homage.

And Thomas comes and denies that [Roger] is his man or has ever done homage

to him since he attained full age, but says that he [Thomas] while and infant was in ward to his mother, and what she may have made him do, he cannot say.

And Roger says nothing to the contrary.

It is considered that there be battle between them. Let Roger give gage to defend himself. He has waged. So has Thomas. Roger’s pledge, Roger Mortimer. A day is given them, on the morrow of Trinity octave, and then let them come armed.”

This case is a fairly straight-forward dispute between two men who had a relationship in that when he was a youngster, Thomas saw Roger kill Thomas’ father. Now that he is of age, Thomas wants his revenge, and is seeking it through the courts. Roger’s defense is that

he is Thomas’ lord, and is therefore immune from suit by his underling. Thomas asserts that he may have been indentured while he was a minor as a result of his mother’s interference, but he was not responsible for his actions (or obligations) as an infant. Since the judges clearly can’t resolve this dispute, it’s time for a party, at which anyone who is interested can watch Thomas and Roger try to kill each other. Thus, we have government-sponsored mayhem between opponents whose positions on what is right cannot be adequately determined by the courts.

While most of us today don’t profess to believe in this kind of activity to resolve our disputes, I submit that we do it all the time, and that it is even encouraged by all three branches of the government, state and federal. Think elections.



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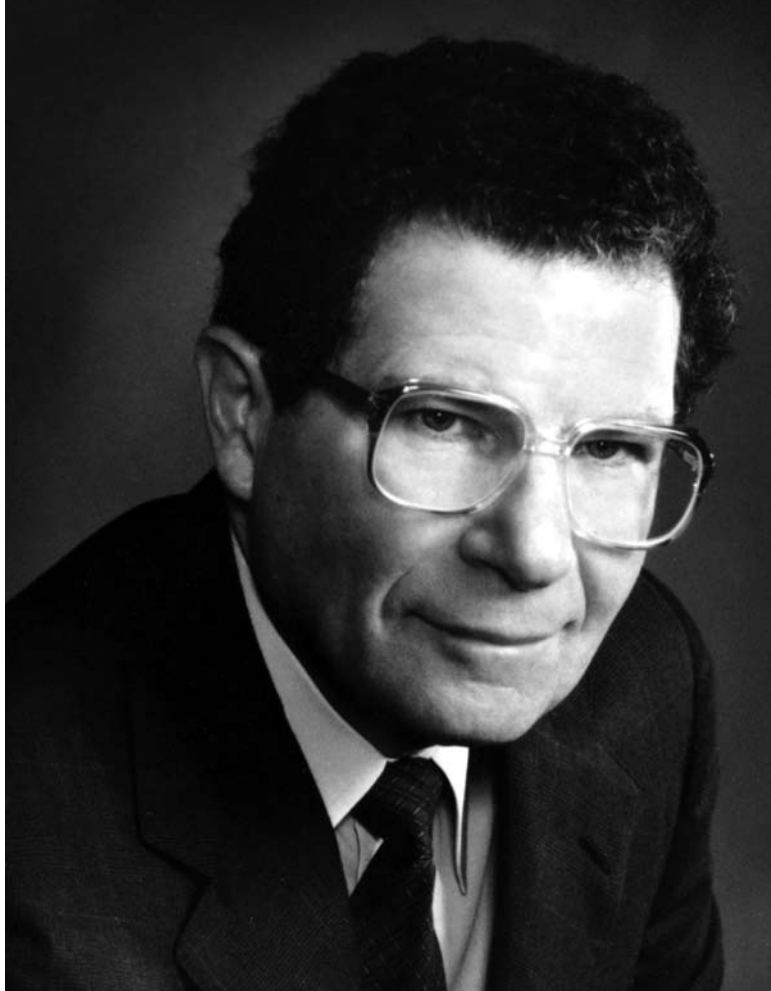
# JIM SCHERR'S STORY

*As Told to Stephanie Townsend Allala*

## *Part II*

**I**n the previous issue, Jim Scherr set the stage for the conclusion of this story by introducing the parties to this tragic story – Dr. Juana Mendoza, her younger sister Lorena, who died working for Contico in Mexico, and the manager of Lorena's employer, Gandara.

Jim Scherr agreed to take the case, seeking damages for the conduct of Contico, which he alleged led to Lorena's death in Mexico. He asked University of Texas Law professor Russell Weintraub to assist him with the conflicts of laws issues in the case. He asked Roberto Oaxaca and A.B. Bernal to help him in trial. John McChristian with Ray, Valdez, McChristian, and Jeans represented Contico.



*Russell Weintraub*

### **MS. TOWNSEND ALLALA:**

What happened in the five years between 1992, when the case was filed, and 1997, when the case settled, that made you realize that this might be the only case of its kind that you would ever handle during your lifetime?

**MR. SCHERR:** A lot of things happened, Stephanie. Every step of the way, we were -- we were fought, and fought hard.

**MS. TOWNSEND ALLALA:** But why is this case different?

**MR. SCHERR:** It was one of the first times that a U.S. company was held responsible in the United States for its actions in a foreign country. The basic theory is, if we set off a rocket in the United States and that rocket lands in a foreign land, causing damage, the U.S. company that fires the rocket should not be exculpated and immune under U.S. law.

There were many, many motions that were filed. The Defendant filed a motion to apply Mexican law.

Had they won, there would have been no recovery whatsoever for the family. Under

Mexican law, the Mexican Social Security system is the sole recovery for damages. That was the law at that time, which meant that the family of this single lady, burned alive, would receive zero compensation.

Let me tell you the facts of the case.

We took the deposition of the -- I think it was captain of the Mexican state police. Contico hired him to be their consulting expert in the case. When he left the Mexican judicial police, he took the file, including photographs, with him.

It took his deposition in our case and we learned that on the way from Juarez to Palomas the alleged drug dealer Dario Figueroa was with a bunch of his friends and blocked the car about

40 miles outside of Palomas.

They took Lorena Mendoza and the security guard driver out into the desert, both alive, and they tried to do something with Lorena. The security guard driver tried to interfere and they shot him. The security guard driver was still alive, when they shot him.

They put Lorena and the security guard driver in the trunk of the car, closed the trunk, poured gasoline on the trunk, set it on fire. Dario Figueroa told the police, that one of the drug dealers was dancing on the roof of the car as they poured gasoline on the car. They left it burning out in the desert. It was burned beyond recognition. The paint was gone, the tires were melted; it didn't look like a car.

A farmer walking along the roadway saw smoke a day or 2 later and notified the judicial police. The police went out at night, and they had a video camera. You can see them take a jack and put it in where the lock was supposed to be because the lock was gone. You can see with the light on it, like a scene from

the Blair Witch Hunt movie. The police pop the trunk open and all of a sudden you see these ashes flying out from the trunk.

The camera shows the police looking around and they reach into the trunk, and then the police raised up something from the trunk.

Then they lift out the skeleton of two carcasses where you can see the ribs and the -- the spine and the skull, and they lay them on a tarp on the ground. The neck of the driver was broken. From inside the security guard driver had tried to break open the trunk because the trunk had a dent on the inside and his neck was broken.

Contico knew what happened but they didn't tell the family what occurred.

The videotape was put into evidence at trial. That's an important fact.

We went together with Russell Weintraub into the courtroom to argue the case. At that time Jack Ferguson was the judge of County Court 3. Judge Ferguson was pretty conservative.

Russell Weintraub argued the case and somebody from Ray McChristian argued for them. I think it was John McChristian. Russell Weintraub argued why Texas law applied, and he was spectacular. He started saying, "And in my Supreme Court case of this. . . ." and "My Supreme Court case of that. . . ."

**MS. TOWNSEND ALLALA:** Arguments he had made in the United State's Supreme Court.

**MR. SCHERR:** Yes. "And this case says that. . ." and, "you know there's no question that Texas law applies."

And John McChristian came in with, "This case says this," and "This case says that," and so on.

The courtroom was packed. You could feel the tension.

After all the lawyers argued, Judge Ferguson said, "I find Texas law applies."

We came over to my office after Judge Ferguson's decision. Dr. Weintraub's daughter was with him. He gave me a huge hug and he told me this was one of the most important case he'd ever done in his lifetime.

When Russell retired from U.T.Law the University held a function for him, giving him many honors and awards. He called me and asked me if I would come as his guest --

**MS. TOWNSEND ALLALA:** It must have been right after I took his Conflicts of Law class at the University.

**MR. SCHERR:** -- and he asked me if I would be a guest with him at his table because it meant so much in his lifetime to participate in that case.

**MS. TOWNSEND ALLALA:** Okay. Keep going.

**MR. SCHERR:** So I hired Pete Palmer. Former head of CIA Central America as an expert and got the case lined up to go to trial. I asked my friends Roberto Oaxaca and A. B. Bernal to try the case with Sam and I because we wanted Roberto and A. B. to represent Lorena Mendoza the victim, her estate. Sam Legate and I represented the parents.

So we got a photograph, blown up to 24 by 36, of Lorena. She looked like an angel, with a pink shirt that her parents had kept, and we put it in the chair next to Roberto where it stayed

the whole time during trial.

I asked my client, "What do you want for this case, Mr. Mendoza?" He said, "There's nothing's going to bring my daughter back. I want it to never happen again. Never to happen again. It's not money that matters to me; it's my daughter that I care about."

Before the trial began, Judge Javier Alvarez had succeeded Judge Ferguson as the judge of County Court 3, and so Judge Alvarez presided over the trial of this case. It was one of his first complex litigation case as a Judge. And he will tell you that this was probably one of the most important cases ever tried in his court.

Well, we went to trial. I put on Contico Regional Manager Gandara as the first witness. I went through his story. I went through and presented how they covered up, how they presented things, how they really did wrong by this woman, by this family and by our society.

When we finished putting on our evidence, McChristian called his first witness to the stand. In so many words he said, "You know, this is the way business is done. We didn't know this would happen."

I've had never been in a trial where I saw a jury laughing at that point. With the first witness, they were laughing at what the company was saying. I knew then that jury was going with us.

McChristian quit calling witnesses, and rested after the first witness.

We then broke to prepare for argument.

And that day or the next day, McChristian came to me -- I don't remember, I lost track of time -- and he said, "What do you want, Jim?"

I said, "I want a verdict."

He said, "Well, my clients are here and they are willing to settle the case." Which meant they were willing to pay a lot of money.

So then Roberto and Sam and A.B. told me that we needed to discuss settling the case.

**MS. TOWNSEND ALLALA:** They wanted you to take the money.

**MR. SCHERR:** Yeah, they did. So I said, "Well, I'm going to go talk to Mr. Mendoza and see what he wants."

I walked into the courtroom. I asked Mr. Mendoza, "What do you want? They are willing to pay whatever you want, whatever you want, to settle this case."

He said, "I want justice. I want my daughter never to be forgotten. And I don't want this to happen to anyone else."

I said, "You know, Mr. Mendoza, we can't

-- we can't get that in a settlement or court case."

And then finally -- Mr. Mendoza said just tell them I want a judgment.

And the other lawyers on our team talked money with our client. But our client said, "I don't want just money. I want more than money."

I talked with Mr. Mendoza. He said, "What I want is a statue built in the honor of my daughter in Ciudad Juarez, and a fund for maquila workers to educate them so they can have a better future."

I conveyed this to McChristian."

Mr. McChristian said, "Jim, we can pay money. We can't build a statue. We can't do that, that's not something the insurance company or my client can do."

I said, "Well, you call the owner of Contico on his boat in the Caribbean" -- he had one of the largest boats in the Caribbean -- "and tell him that's what our client wants."

Mr. McChristian said, "You know, we can set aside a fund for you all to have that occur."

My client wasn't really sure that he wanted that. He wanted to make certain that they took care of building the statue.

We reached an agreement on a monetary amount to settle the case that was satisfactory, and after lengthy discussions, we agreed to a sum of additional money to establish a fund to build the statue in memory of Lorena.

The settlement was announced to the Court and Judge Alvarez dismissed the jury.

But in spite of the settlement we still wanted to make our final arguments.

Sam Legate and Roberto Oaxaca were going to make the beginning arguments on behalf of the parents and on behalf of Lorena's estate. After they argued, the defense would argue. Instead of doing a rebuttal, I planned to do something I'd never done before: I would walk up to the VCR, turn on the tape, say, "Your Honor, this is my final argument."

And I would play the video.

It didn't happen because the case got settled.

But Judge Alvarez let me make my final argument anyway. We took the video and all the equipment to the Ceremonial Courtroom on the top floor of the Courthouse, and people came in to watch the final argument. The courtroom was packed. We played the video with the jury and with everybody there. It was a powerful, powerful case, and tearful.

Transcription of interview courtesy of Sharon Cardon & Co., Court Reporters.

## HOW CIVILIZATION CAME TO EL PASO

## ¡Viva Los Licenciados!

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

■ BY BALLARD COLDWELL SHAPLEIGH

If it didn't bleed, it wouldn't lead as Sam Moore says. On a back page of the *El Paso Herald*, Tuesday, May 9, 1911, during the thick of the Battle of Juárez, it was reported that a title suit – *W. J. Fewel vs. Simon Kinsellar* – was being tried before a jury in the 34<sup>th</sup> District Court with Judge Walthall over a strip of dirt 12 inches wide and 80 feet long on the corner of El Paso and San Antonio streets.

According to the newspaper, all of the 34<sup>th</sup> District Court personnel – the attorneys, the jurors and the court staff – wanted to watch the battle in Cd. Juárez, so the case was continued. They weren't alone. The entire courthouse closed down for two days “on account of the battle in Juárez and the consequent danger and excitement.”

The courts did not reopen until Thursday morning. Schools near the river, like Aoy, Vilas, Beall, San Jacinto (closed in 1976) and Alamo, cancelled classes. The *Herald* reported that no lawsuits were filed for three days.

On the same page was the announcement that “the International Court of Arbitration,” (e.g., the International Boundary Commission) would convene six days later to commence “final arguments” in the Chamizal controversy, another territorial dispute between the U.S. and Mexico which eventually took 100 years to decide, from 1864 to 1964.

Although the panel of fact-finders consisted of an American, a Mexican, and a Canadian, both sides apparently also required local counsel. One of the attorneys for the government was El Paso's Richard F. Burges, younger brother of W.H. Burges who had studied law both with his brother and with J.D. Guinn in New Braunfels. His home in Sunset Heights now houses the El Paso Historical Society. One of the attorneys for Mexico was another El Pasoan named Alfred Seymour Thurmond, the grandfather of Bill Thurmond of the Scott Hulse firm. (See, J. Sam Moore, Jr., *International Arbitration & The Mexican Revolution*, *El Paso Bar Journal*, March 2008.) On Friday, May 12, two days



*View of San Jacinto Plaza looking southwest. L-R, facing the plaza on Mills St. with approximate dates of completion are: Roberts-Banner Bldg. (1910), Federal Bldg. (1890), and Sheldon Hotel (1888). The Mills Building (1911) is at right. The stretch of Mesa, bottom center, is reputedly the first street in El Paso to have been paved in 1906.*

after the Battle of Juárez concluded, when “a few armed rebels” were still around and General Navarro was still being hunted, the *Herald* reported that the Chamizal arbitrators had begun to arrive.

The next day, the *Herald* editorialized that “if Mexico had owned the Chamizal strip, the shooting would have been that much nearer home. Better acquire another five miles or so, rather than talk of letting the border be moved north.”

By Tuesday, May 16, after the fighting was well over, the Chamizal dispute moved to the front page under the headline, “TRYING TITLE TO PART OF EL PASO - Commission Begins Sessions to Decide Ownership of Land Worth \$7 Million.” The newspaper reported that the international tribunal had convened the day before at 3:30 p.m., simply to hear arguments on the point of whether the U.S. or Mexico should be the defendant.

The U.S. argued that it had held possession of *La Chamizal* since 1848 and, because Mexico was the claimant in all of the previous sessions of the commission, Mexico should be considered the plaintiff once again. As the moving party, Mexico should also be required to produce the evidence to support its claim.

One of the attorneys for the government named Walter Grant argued that the case was analogous to one brought under the Texas law of trespass to try title. Mexico, on the other hand, contended that it was the real party-defendant because the U.S. did not have good title.

But back to the blood and gore of the Mexican Revolution. If the difference between involvement and commitment is like ham and eggs – with the pig being committed and the chicken being involved – then many people were committed to the revolution but not El Paso lawyers. However, a few like Dan M. Jackson and Gunther R. Lessing were more



involved than others.

Their level of involvement seemed to depend largely on factors like office location, luck in attracting walk-in business, the degree of personal interest and a taste for adventure. El Paso lawyers ran the gamut, from being something akin to in-house counsel embedded with the revolutionary junta to being mere innocent bystanders and onlookers.

Their revolutionary clients sought legal advice on all kinds of questions, from matters of state and foreign relations to negotiation of movie rights. Revolutionary zeal also spawned criminal cases.

And ordinary citizens needed lawyers to recover damages for personal injury, wrongful death and destruction of property, the latter also occurring with the recent troubles. This past summer large-caliber rounds thought to be fired in drug war gun battles in Juárez struck City Hall and Bell Hall at UTEP. El Paso police told the *Times* that seven rounds struck City Hall in June and that one round hit Bell Hall in August.

In the City Hall incident, a gun battle broke out near a riverside supermarket in Juárez killing a Mexican federal police officer and wounding two others. Forty AK-47 rounds were found at the scene. No one was injured on this side of the river. Mayor Cook said that, "It's OK if people take political shots at us, but this is unacceptable."

Ironically, the gun play occurred a short distance from the site of the "Peace Grove" where Francisco Madero signed the Treaty of Ciudad Juárez with Porfirio Díaz on May 21, 1911, formally concluding the revolutionary battle and stipulating that Díaz would resign.

In terms of damage, the rounds fired during the summer of 2010 were similar to the shots fired from Juárez in May 1911. Back then, bullets "hit the sidewalk in front of J.C. Wilmarth's house at 600 Upson" in Sunset Heights. There were rounds "almost striking Mrs. F.P. Blair." A stray bullet "struck the post office building [then in the Federal Building at the southeast corner of Oregon and Mills, across from San Jacinto Plaza] in the heart of El Paso and tore out a chunk of the brick," this being the same building in which the Chamizal hearings were to be held five days later.

Thus far, there is no comparison between then and now. After the Battle of Juárez, a *Herald* editorial opined that "hardly a large building in El Paso escaped being hit by bullets; some of the bullets must have carried three miles, and hundreds from one to two miles. Many shrapnel shells cast their heavy brass caps

over into El Paso when they exploded."

The *Times* and the *Herald* kept a running tally of the killed and wounded, with box scores on the front pages, updating the figures with each extra edition. On May 11, the day after Navarro's surrender, the *Herald* reported five people dead and sixteen wounded. The *Times* said that the casualties had resulted from the "rain of Mexican bullets that struck in El Paso."

Florentino Espinoza "was basking in the sun on the Mills street side of San Jacinto Plaza at 4 o'clock in the afternoon when a bullet struck him in the left leg just above the knee." J. L. Crumley was standing in San Jacinto Plaza when a bullet creased his hat. An eleven-year-old girl named Jesus Barela was shot in the head while lying in her bed at 819 Seventh Street, but survived. A barber identified as Vicente Pereda or Peseda was killed instantly by gunshot at Fifth and El Paso Streets. Delmonica Alarcón, who resided near Washington Park, died after being shot in the small of the back, while walking up an alley between 8<sup>th</sup> and 9<sup>th</sup> streets.

The *Herald* reported that "Mrs. Joe Morehead, living at 610 W. San San Antonio street, while out in her yard this afternoon [May 8] was shot in the wrist and in the body by the same bullet. She is seriously wounded."

Ynez Morales, 84 years-old, standing at the corner of Kansas and 8<sup>th</sup> streets, was shot in the head while on her way to church at 10:00 a.m.. Wong Gong living at 106 S. Oregon was shot in the jaw while sitting on his porch, though the paper reported his injuries were "not serious, other than breaking jaw."

Mrs. Jennie Preston was shot in the leg while sitting on the porch of her home at 1304 E. Overland. A man named Dominguez was shot through the right eye. Josefa Rosendes living on 8<sup>th</sup> street was struck in the eye and cheek by flying glass caused by a bullet breaking an overhead window. An unidentified woman at 104 Kansas street was shot through the back while in front of her home, but refused to go to the hospital, though the newspaper said "her condition was considered serious."

Journalists needed lawyers too. On Sunday, May 14, Gerald Brandon, a correspondent for "El Diario" of Mexico City, was arrested at the Sheldon Hotel on orders of Mayor Kelly. When other reporters in the lobby asked why he had been locked up, they were told to "beat it." The incident reached newspapers all over the country, raising questions about "police methods in El Paso."

The mayor said that he had Brandon arrested

on a charge of disorderly conduct arising out of Brandon's efforts to see Gen. Navarro. Brandon had interpreted for Navarro when Kelly picked Navarro up at the Popular Dry Goods store. Navarro had given the journalist a note addressed to the mayor asking that Brandon be permitted to see Navarro at anytime. When Brandon attempted to see Navarro, he was refused. He approached the mayor and reminded him of Navarro's note. The mayor told him, "I'm tired of your four-flushing." Brandon replied, "I am not four-flushing. I know who is and I am merely calling your hand."

Some of the other reporters present continued to query the mayor about the nature of the "disorderly conduct," and Kelly replied that he would not answer until he had conferred with his legal advisor. The *Herald* reported that after consulting with city attorney W. M. Coldwell and Alfred Henry Lewis, a correspondent representing the Hearst newspapers, Brandon was released to Lewis' custody.

Brandon said that when he was taken to jail, he asked not to be locked up, "but they told him the orders from the mayor were to lock him up and no bond would be accepted." When Brandon asked to see a lawyer, he said he was told, "You may see an attorney in the morning," and he was put behind bars.

The mayor told assembled reporters that, "Gen. Navarro is in El Paso and it is the duty of the city to protect him." He offered no further explanation. The reporters understood, however, that the mayor feared that assassins would trail Brandon to Navarro because Brandon was known to be Navarro's friend of long standing having campaigned with him west of Chihuahua and having been wounded with Navarro's army.

The arrest of a correspondent in the Sheldon Hotel should have been front page news. It drew the interest of other reporters and several spectators in the hotel, but it was anticlimactic compared to the spectacle of the Battle of Juárez four days earlier.

Joseph U. Sweeney, a prominent lawyer, former mayor and county judge, who had taken a perch atop the El Paso Laundry building at 901 Santa Fe, described the spectacle in a letter to his brother this way: "It was a beautiful sight to see the shrapnel bursting up in the air and scattering its death-dealing missiles on the hills and the valleys surrounding."

Before the battle, attorney William H. Fryer, three years out of law school, was visiting Madero's camp when Pancho Villa arrived with his 700 men, one hundred of them mounted.

Fryer, a New Yorker, originally came to El Paso on a stretcher.

According to Jack Luscombe, who became his associate and law partner, the Brooklyn-born Fryer, like another prominent lawyer twenty years earlier, was carried off a west-bound train in El Paso on July 8, 1904, suffering from typhoid fever contracted in New Orleans. (Leigh Clark, who served as county attorney and district attorney, and became a partner of A.B. Fall and W.M. Peticolos, decided to move west in 1884, also became ill on the train and was removed unconscious in El Paso. He too decided to stay.)

The 24-year-old Fryer had been on a vacation to see the newest national park – Yosemite. On doctors orders, he stayed in El Paso for a year to recover, getting a job working with the engineering department of the El Paso and Southwestern Railroad. He then entered the University of Texas to study law.

In Austin, Fryer also worked as a secretary to the dean of the law school, John W. Townes. He graduated in 1908, the same year that other young lawyers like Gunther R. Lessing, Cleveland W. Croom and Ballard Coldwell graduated from law school. When Fryer returned to El Paso to begin his legal career, he associated with Patrick H. Clarke, reputedly the best trial lawyer west of the Pecos.

Fryer also served as the court reporter in the 41<sup>st</sup> District Court so as to observe the top lawyers in action. He was appointed assistant county attorney. He won election to that office in 1916. During prohibition, he closed a number of private liquor clubs, earning enemies. Failing to win re-election, he was appointed as an assistant U.S. district attorney.

Like his mentor Clarke, Fryer developed a reputation as one of El Paso's best trial lawyers. In one case, he won a two-year sentence for a woman who had killed her mother with a hammer and scissors.

In the years immediately after the Mexican Revolution, Fryer led the successful struggle to rid the El Paso School Board of Ku Klux Klansmen. In 1922, he filed an injunction in the 65<sup>th</sup> District Court to remove the names of four candidates from the election ballots, alleging that those individuals had foresworn allegiance to the Constitution and to the laws of the State of Texas by taking an oath of loyalty to a foreign power – the Invisible Empire.

Fryer then subpoenaed the Klan roster and every prominent Klansman to ask them under oath, in open court, whether they had personally observed any candidate taking the secret Klan oath. As he entered the courtroom, he was

greeted with hisses and boos. According to Luscombe, Fryer knew his case was shaky and he dismissed it before the judge could rule. But he had exposed the local Klan leadership to the public, sending them into decline.

Luscombe joined Fryer's firm in 1951, after Luscombe graduated from Rice and U.T. Law School. The firm eventually became known as Fryer, Milstead & Luscombe. Later, Fryer was of counsel to the firm of Peticolos, Luscombe & Stephens.

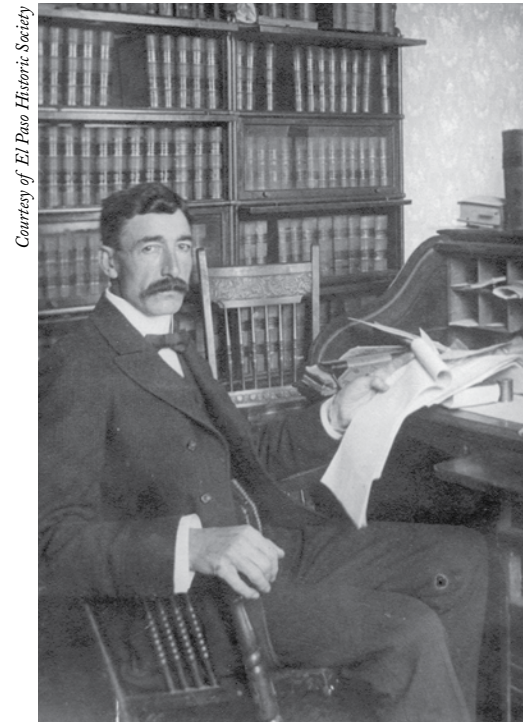
His clients included the Muñoz and Terrazas families, clans which had extensive ranching interests in Chihuahua. Fryer was a devoted Catholic. When Cathedral High School was built in 1925, he was instrumental in getting the Christian Brothers to send members to El Paso to teach there. He served on Cathedral's first board of directors.

Fryer was an exceptional mimic and known for acting in local theater productions. He sometimes came to court in theater costume wearing, for example, a top hat and tails and carrying a cane. But when he walked into a courtroom, Luscombe says, there was no doubt in anyone's mind who was in charge, or who was the real star. The judge, the prosecutors, the bailiffs were all supporting cast, and the jury was the audience.

Luscombe says that "with no television his trials were truly standing room only. Fryer played to the crowd while [Coyne] Milstead, in argument, picked out the one or two strong jurors and spoke to them, speaking so softly the court reporter had to move to the jury rail to pick up his argument." Luscombe recounts this tale about Fryer:

The first murder case I tried with him, I walked into the courtroom and found him sitting in the second chair saying -- "Go ahead, you can try it." The defendant was a woman accused of killing her new-born baby. She got five years. One of [District Attorney William E.] Clayton's political enemies in the legislature who had run against him twice, went to the woman and said that he could get her out if she would sign a statement to the effect that after each day's trial she was taken to the Hilton Hotel [now on the site of the old Sheldon Hotel] where she was forced to have sex with Clayton and Fryer. He didn't like Fryer either.

So the State Bar has closed door hearings in the Court of Appeals -- reporters all posted outside. Fryer goes in to testify and out comes all sorts of laughter. When he emerges, the



*Patrick Henry Clarke, an immigrant from Ireland, died in El Paso in 1914 at the age of 63. This portrait is inscribed: "Patrick H. Clarke, Lawyer, El Paso, Texas - Trust Bldg., 1904. This picture may be given to Wyndam White upon my demise. W.H. Fryer." Today the Trust Bldg. is known as the Gateway Hotel on the southeast corner of Stanton and San Antonio streets, one block west of the courthouse.*

reporters ask if he denied the statements against him and he replies, "Absolutely not. Why would I want to deny that I was about to be certified by the State Bar of Texas as a frequent and sexually active seventy five-year-old." And so the woman went back to finish her five years and Clayton got re-elected again.

The day he visited Madero's camp, Fryer stopped to ask one of Pancho Villa's men, who was drawing water from the river to make coffee, if the water was not too dirty. The fighter replied that if he drank too much of it, he would get a 'dobe brick in his stomach.

The opportunity to watch any of the actual fighting did not last long. Approximately, forty-eight hours after the Battle of Juárez began, the fighting stopped.

General Juan J. Navarro surrendered his *federales* to Madero's *insurrectos*, and he would have tendered his sword to Col. Giuseppe Garibaldi and Madero's younger brother Raul

except that, according to the account Garibaldi gave to the *Herald* on Friday, May 12, Navarro carried no sword. His blade and field glasses had been taken from his room earlier in the day.

Garibaldi also said that the handwritten note Navarro had dispatched to Toribio Esquivél Obregón seeking a conference with him and Oscar Braniff had fallen into Garibaldi's hands, which prompted Garibaldi to write back demanding immediate surrender but promising proper treatment under the rules of war.

The day after Navarro's surrender, when people were allowed to return to Juárez, the newspaper reported that the city had a bad odor and many battered buildings. People saw things "like a dead soldier, who would not look dead, and who would smell worse." It is hard to say if the newspaper was overstating "that fearful, sickening, overpowering odor of decay" amid the wreckage. Many of the dead were buried almost as quickly as they fell.

When the citizens of El Paso invited the winner Madero and the loser Navarro to have dinner together three weeks later, on Wednesday, May 31, Madero accepted but he pointedly declined to bring along his compatriots, Orozco and Villa.

As Madero's "guest," Navarro had little choice but to attend. Navarro was nonetheless grateful. He recognized Madero's peril and courage for interceding on his behalf and protecting him from the forces under the command of Orozco and Villa. In exchange for saving him from execution, Navarro gave his word to Madero that he would not try to escape.

According to the newspapers, Navarro was last seen on the back of borrowed horse attempting to ford the river to the United States. This was on Saturday, May 13, three days after the fighting stopped. His whereabouts remained unknown for about three hours.

In addition to Gerald Brandon, another reporter named Timothy Turner, assigned to the *El Paso Herald* and who was nicknamed the "Mexico Man" or the "Juárez Man," had developed contacts with Porfiriano authorities. He received a telephone call: "This is A.

Courtesy, the Luscombe Family



*L-R, William H. Fryer, Jack Luscombe and Fryer's longtime secretary, Jackie Shield's, also known as "Judge Shields," because an appointment with Mr. Fryer could only be obtained with her blessing and approval*

Schwartz speaking. General Navarro is here and he asks me to tell you to please come to see him. He is in Chinaware in the basement."

According to news accounts, Navarro "slipped up an alley from an El Paso department store into an automobile with Mayor Kelly and was whisked away to an [unknown] place of hiding."

In truth, an automobile pulled into the alley of Adolph Schwartz' Popular Dry Goods Store between San Antonio and Texas streets, a block and a half from the courthouse. Navarro slipped into the car and lowered his head, sliding down in the seat. He was hurried away to Hotel Dieu Hospital where he was admitted anonymously and remained for two-and-a-half weeks until the night of the Toltec banquet on May 31. To see him, one needed a "pass" from Mayor Kelly as Gerald Brandon found out.

According to Turner's account written twenty-five years later, Villa's forces wanted Navarro's head for showing no quarter and ordering the execution of *insurrectos* in Cerro Prieto five months earlier. Every man in Cerro Prieto had been brought before the mayor to prove his innocence. Thirty failed and were immediately taken out and shot by the *federales*.

In addition, Navarro took no prisoners nor cared for the wounded - it was against his express orders - so "the bayonet completed the work of the bullet" as the *New York Times* put it. Five *insurrectos* who ran out of ammunition and

surrendered were also bayoneted. One of the men bayoneted, who had additionally suffered a grazing bullet wound to the head, was left for dead. But during the night, he was able to escape. When the *New York Times* reporter related this story to Navarro, the general laughed "as if enjoying a joke on himself."

After the Battle of Juárez, Turner claims that he had crossed the river looking for Navarro, and ended up helping him escape from Cd. Juárez by taking Navarro to the home of Max Weber, the German Consul. To protect Weber, Turner did not report that Weber's wife, an equestrian, had procured the horse for Navarro.

While at the Popular, Navarro told Turner that after crossing the river, he was given a ride to a streetcar line. His first thought was to get to the city to available and allow easy communication with Madero. He told Turner that he could not leave El Paso, saying:

I am still a prisoner of Mr. Madero. I await his disposition. I had told him that if my protection embarrassed his position, that I was willing to be turned over to those who demanded me. "If I am the apple of discord," I told him, "let them kill me." But he would not listen to it. Madero? He is too honest.

U.S. officialdom began to arrive at the Popular, including those with the army, the secret service, the city police, and finally the mayor. While they displayed "much anxiety over their charge," there is no report that Navarro was arrested or charged with an offense like illegal entry or violation of neutrality laws as were later revolutionaries. Nor, apparently, was he provided with the benefit of counsel.

In 1876, Porfirio Diaz launched his own rebellion from Brownsville, and reigned over Mexico for thirty-five years. In referring to his constituents, he used to say, "a dog with a bone neither barks nor bites." Diaz' resignation and exile to Europe may not have been the bone that the Mexican people were looking for, but his departure was a boon for a few El Paso lawyers.

*The "Civilization" series is written in appreciation of the 113th anniversary of the El Paso Bar Association with assistance and encouragement from historians Pat Worthington, Claudia Rivers, David Dorado Romo, historian and 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.*

# CAVEAT EMPTOR - *Law Offices' Software Purchasers/Users*

BY DAVID J. FERRELL  
*djf@elpasolaw.com*

The first computer program that I used as a lawyer was a word processor program called "Wang Writer" (\$6,000 for software and hardware, 1980) that replaced my "IBM Memory Typewriter" (\$2,500). Then my law partners and I purchased an "IBM Displaywriter" (about \$11,000, 1981) that replaced the Wang. All of these initial systems did one thing, WORD PROCESSING. That was the first, perfect computer function for lawyers.

In 1982 we purchased an IBM PC XT (\$2,500) and IBM Displaywriter software for a PC to supplement our dedicated IBM Displaywriters, which we had increased to two units because of our workload. This new XT computer was actually purchased as a novelty and was located in my office for me to experiment with, one of my partners said I was "playing" with the device. Anyway, I did experiment with the XT. It did word processing BETTER than the dedicated Displaywriters, and there were a few DOS programs that a lawyer could use that could justify the "playing" I was doing.

I could produce spreadsheets that had the calculations embedded in the original document and I could change one field entry and all the calculations would reprocess giving me a way to analyze a mathematical scenario. To be more clear, my first spreadsheet function allowed me to create a loan amortization schedule on my screen. I could change the interest rate in a certain field and the whole amortization schedule would re-compute, ACCURATELY and immediately. Then I would print it out for review and distribution as necessary.

I began writing spreadsheets for many of my cases and for my law practice management duties. I started seeing where all of the law firm's money was coming from and where it was going. This was all facilitated by the SPREADSHEET, which was my first non-wordprocessor productive piece of software. I still had to set up the spreadsheet, make it do what I wanted, but I did not have to program the computer code that instructed the computer to perform the mathematical binary functions.



I did have to enter all the data that I wanted crunched. That took a lot of time, but, this justified my "playing" with the IBM PC XT in my office.

I started showing my partners and staff what the PC could do and they became amazed, and maybe I wasn't just "playing" with the computer after all, maybe the "firm" could benefit from this new power.

The firm's new attitude became evident when I came to the office one day and my XT PC was missing from my office. I thought we had been burglarized. But no, alas, our sharpest paralegal convinced one of the partners that she needed the IBM XT PC to increase law firm productivity and that is when I learned that some people in the firm still considered my programming/experimenting as "playing" with this new tool with infinite possibilities.

The firm almost broke up that day. I was an equal, general partner and another general partner gave permission to an employee to ROB me of my computer. The IBM XT was back in my office within five minutes of my arrival.

A fairly spirited general partner meeting ensued and the general partner who gave the paralegal license to remove the IBM PC XT from my office to the secretary pool area was clear in his perception that the law firm would benefit more if the paralegal had the PC rather than a lawyer who obviously could only "play" with the machine. I was offended! I was putting in my free time, discovering how this new, underutilized technology could benefit our law firm and my partner wanted the "typewriter" to go back to the staff.

What saved our firm that day was the other general partner, who could see the enormous utility of technology and suggested that the paralegal should get the IBM PC XT, but that the firm should purchase a new IBM computer

and place it in my office. I was satisfied. I knew that for the same price that we paid for the IBM PC XT, that was going to the paralegal, I could get an IBM PC AT, a much improved, faster and top of the line desktop computer that could move past the limitations that I had already perceived and accepted in the XT PC. We bought the AT PC and my experimentation increased, it was still "playing" to my one partner, but the superiority of this upgrade was obvious and by now there were many new and exciting DOS programs that were created for the business community, but could be easily adapted for a law firm.

Time tracking is synonymous with money making in the legal profession. I purchased Time Slips for DOS and installed it on the paralegal's XT and on my AT. This program was simple and it cut our monthly billing process enormously. It also encouraged us to be more conscious of our billable time and the billable time of our staff. We also gave our hourly clients a monthly accounting of what we were doing for them, and that a phone call would cost them. This helped us with the clients that wanted daily updates, etc.

The partners then realized that they also needed a computer in their office for word processing, spreadsheets and of course for TIME keeping/billing. So, we purchased new computers and the partners began needing less staff and our spreadsheets showed the enormous savings of in house partner/owner based technology.

Now that I may have bored you with that more than brief introduction I will continue with what I originally wanted to write about.

The next set of problems I conquered with software was accomplished with a popular popup program for DOS PCs, introduced by Borland in 1984. **SIDEKICK** included a calculator, notepad, calendar, phone dialer and ASCII table and popularized the concept of a "terminate and stay resident" (TSR) utility. It was later converted to Windows as a personal information manager (PIM) by Starfish Software. The most important module of Sidekick was the calendar program. I and my staff could enter my appointments, hearings, trials, etc in one place and everyone could know where I was and where I had to be. It

was amazing, but, we had no network and no way to share this information other than by printing my schedule(s) on paper. Later we added a network and this information was very easy to enter and retrieve.

Then came document assembly programs. ProDoc was the best and it later added a timekeeping module called Small Office Suite - SOS. This small software company was based in Austin, Texas and tech support was FREE and good. I canceled my Timeslips account and SOS became my time keeper. The staff could easily learn and use the program. Timeslips was good BUT it kept updating and improving itself until my staff could not use it without asking me for help or calling TimeSlips tech support (Not Free). The simple Timeslips program was all I needed but I felt they wanted to justify charging me new fees by "improving" their product. The improved program became worthless to my firm.

So for timekeeping and billing, I changed to SOS. This program was GREAT. Then ProDoc and SOS was purchased by West (a Thomson Reuters Business). I was paying about \$120.00 a month for ProDoc and SOS and then West "improved" the programs. The old programs did everything my staff and I needed. Notwithstanding this, West "IMPROVED" the programs! One of the improvements made all my office computers go down and to rehabilitate the "improvements" I spent countless hours, as did my staff, and I even had to hire a professional

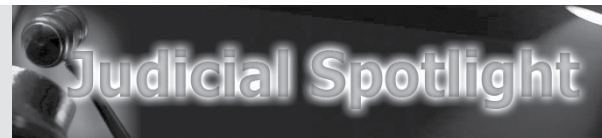
to work out the last bugs. THANKS WEST for the "improvements"! My monthly license fee is now close to \$200 for a product that I do not consider "improved". I have never appreciated the "big book" companies who seem to have profit as their main motivation, not utility.

You may have read my recent article on QuickBooks Online. It was a glowing review and I was extremely happy with my accounting program in the "cloud". I WAS HAPPY, until QuickBooks Online "IMPROVED" the program. The payroll module which worked GREAT was "improved" and my accounting program went down for days. After an enormous amount of time with Tech Support and with my and my staffs' time we got the program to function, BUT, it is still buggy and it will take many hours to get it back to where it was. And the motivation of QuickBooks Online . . . I am being billed separately now for the payroll module, so, MORE FEES for an inferior product.

These are but a few examples of disappointment I have with software companies. I guess this is the American way, profit trumps utility. Are we in greater danger from computer software vendors/developers than from spyware/trojan horse hackers? We can protect ourselves with hacker protection software, but who protects us from the software "improvers"? Let there be no doubt, even those who produce hacker protection software are predatory.

#### **ATTORNEY - Insurance Defense - REMOTE WORKER.**

Allstate seeks an attorney located local to El Paso, TX who is able to work remotely from home and handle a mixture of files from El Paso County and surrounding counties. The attorney will have 2 to 5 years litigation experience in personal injury, auto negligence and/or insurance defense. TX Bar admission required. Reliable vehicle for transportation to courts also a must. Ability to work remotely and independently with provided technology. Members of the Allstate Team enjoy a customizable benefits plan, generous paid time away, an excellent 401K plan, a defined benefit pension plan and much more! APPLY online at [www.allstate.jobs](http://www.allstate.jobs), reference job # search 000B78. EOE



**Name:** Mark Briggs

**Court:** Special Master, Probate Court 1 and 2. I preside over mental commitment hearings, including probable cause determinations and orders to administer psychoactive medications.

**Years on the Bench:** two

**Years in Practice:** sixteen

**Education:** Cathedral High School; B.A., History, U.T.E.P.;

Doctor of Jurisprudence, Baylor University

#### **What is your view of the role of a court in society?**

That's a pretty broad topic. The short answer would be that courts protect the rights of society and the accused or the parties in a civil matter, by assuring adherence to the rule of law. As a practical matter, it means courts have a huge but underappreciated role in our society because nobody loves a referee.

#### **What characteristics and qualities do you believe are important for a judge to possess?**

Patience, and when you run out of patience, try to find more. It's important to remember that attorneys and witnesses are people and not everyone is necessarily having a good day. A little humility doesn't hurt either. Being a judge entails a tremendous amount of authority but having everyone refer to you as "Your Honor" constantly doesn't absolve you of the need to earn that title every day.

#### **Describe a day when you, as a lawyer or a judge, felt particularly satisfied or proud.**

I have been very fortunate in my years in practice in that I have enjoyed many days. I remember my first jury trial verdict. I remember the first time I won a child removal hearing and I remember the first time I conducted a successful mediation. I walked out of my first day as a special master very satisfied and very proud. One day recently that sticks in my mind would be when I sat second chair in a Termination of Parental Rights bench trial. CPS sought to remove five children from a mother who had gotten clean and done some, but not all, of the services recommended for her by the department. It was my sister, Alison's, first trial. She represented the mother and she had asked me to help her. Unfortunately, my dentist decided there was an emergency and I had all four wisdom teeth removed earlier that morning. I sat with ice packs on each jaw and tried to assist as best I could. By late afternoon, I was feeling well enough to make the closing argument. Seeing the joy on the client's (and my sister's) face when the judge ruled in our favor made it all worth while and reminded me why I had become a lawyer in the first place.

SAVE THE DATE

# 15<sup>TH</sup> ANNUAL CIVIL TRIAL SEMINAR

**February 18 & 19, 2011**

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Mescalero, New Mexico

Plan on spending  
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per reservation NOT per night.**

Please make your reservations by calling 1/800/545-9011  
or 575/464-7067 (ask for Chris) specify that you are with  
the "El Paso Bar Association" to get our group rate.

Please make a note that this is a long weekend  
so you can make plans to go skiing.

## ▶▶▶ ASSOCIATION NEWS

### The El Paso Paralegal Association

♦The El Paso Paralegal Association will host their Annual Attorney/Paralegal Luncheon honoring local attorneys on Thursday, December 9, 2010 from 11:30 a.m. to 1:00 p.m. at the El Paso Club, Chase Tower, 201 E. Main, 18th floor. Guest Speaker will be Don Williams, who will also be presenting Attorney Awards. For ticket information and to RSVP, contact Peggy Dieter at Kemp Smith: 546-5267. Vegetarian plates available with prior notification.

♦The El Paso Paralegal Association will hold its January meeting on Thursday, January 20, 2011 from 12:00 noon to 1:00 p.m. at the El Paso Club, Chase Tower, 201 E. Main St., 18th floor. Speaker & Topic: TBA. The cost for lunch, which is optional, is: \$15.00 buffet or \$10.50 salad bar. Please RSVP for the luncheon with Peggy Dieter at Kemp Smith: 546-5267.

### El Paso Young Lawyers Association

- ♦Christmas of Hope - Saturday, December 11
  - EPYLA/MABA Christmas Party - Thursday, December 16
  - ♦January Board/General Meeting - Thursday, January 13
- Details regarding time and location will be distributed through the EPYLA listserv.

## 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.

15<sup>TH</sup> ANNUAL CIVIL TRIAL SEMINAR\*

February 18 &amp; 19, 2011

Inn of the Mountain Gods, Mescalero, New Mexico

Pending Approval by the State Bar of Texas  
& State Bar of New Mexico

10.25 hours of MCLE/1.5 hours of Ethics

Bruce Koehler, Moderator

Judge Linda Chew &amp; Francisco Dominguez, Course Directors

Join us for a Weekend of Fun &amp; Education

## SCHEDULE (Subject to change)

## Friday, February 18, 2011

- 7:30 a.m. **Registration begins & Breakfast on your own**
- 9:55 - 10:00 a.m. **Welcome by Bruce Koehler**
- 10:00 - 11:00 a.m. **Deposition Strategies and Technique**  
*Jeff Ray, Ray, Valdez, McChristian & Jeans, P.C., El Paso and E. Link Beck, Beck & Hall, P.C., El Paso*
- 11:00 - 11:45 a.m. **E-Discovery**  
*Carlos Rincon, Rincon Law Group, El Paso*
- 11:45 a.m. **Lunch (to be provided)**
- 12:00 - 1:00 p.m. **Keynote Speaker**
- 1:15 - 1:45 p.m. **Daubert**  
*Joe Hood, Windle, Hood, Alley, Norton, Brittain & Jay, LLC El Paso*
- 1:45 - 2:30 p.m. **Employment Law Issues for Lawyers**  
*Joleen Youngers, Santa Fe, New Mexico*
- 2:30 - 3:00 p.m. **Unique Issues in Federal Court Practice**  
*The Honorable James Parker, United States District Judge*
- 3:00 - 3:15 p.m. **Afternoon Break**
- 3:15 - 4:00 p.m. **Current Hot Topics in Immigration**  
*Iliana Holguin, Diocesan Migrant & Refugee Services, El Paso*
- 4:00 - 5:15 p.m. **Texas/New Mexico Law: Differences Every Lawyer Should Know**  
*Professor Emeritus Ted Occhialino, University of New Mexico Law School, Bob Trenchard, New Mexico*
- 5:30 - 6:30 p.m. **Sponsor Reception**

## Saturday, February 19, 2011

- 7:30 - 8:30 a.m. **Breakfast**
- 8:30 - 9:00 a.m. **Jury Selection Tips and Techniques**  
*Bob Slabin, New Mexico*
- 9:00 - 9:30 a.m. **Jury Charge/Preservation of Error**  
*Henry Paoli, Scott & Hulse, P.C., El Paso*
- 9:30 - 10:30 a.m. **State Supreme Court Update**  
*Texas: Justice Guadalupe Rivera, 8<sup>th</sup> Court of Appeals, El Paso New Mexico: Judge Sara Singleton*
- 10:30 - 10:45 a.m. **Morning Break**
- 10:45 - 11:15 a.m. **Collection of Judgments or Show me the Money**  
*Susan Forbes, Forbes & Forbes, El Paso*
- 11:15 - 12:15 p.m. **Trial Technology Issues**  
*David Jeans, Ray, Valdez, McChristian & Jeans, P.C., El Paso and Roger Miller, Altep, Inc., El Paso*
- 12:15 - 12:45 p.m. **Update/Status on the Rules of Disciplinary Conduct**  
*Steven C. James, El Paso*

**Door prizes will be given throughout the Seminar**  
**Course Materials will be in the form of a flash drive**  
**\*Seminar will be held in the Conference Center**  
**\$300.00 - Members of EPBA ~**  
**\$350.00 - Non-Members**  
**\$225.00 - Legal Assistants/Paralegals**

**\*\* Make your reservations directly to the**  
**Inn of the Mountain Gods at 1/800/545-9011 or at**  
**575/464-7067 (ask for Chris) and tell them you are with**  
**the El Paso Bar Association to get our room rate of \$109**  
**(single/double) occupancy.**  
**There is a two (2) night minimum stay.**  
**Please note that you will be charged a one time**  
**Resort Fee of \$10.00**

## REGISTRATION FORM

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