



EL PASO BAR JOURNAL

www.elpasobar.com

An Update of Events and Information

Fall 2016

All-Women Supreme Court case began in El Paso

BY DAVID A. FURLOW

PAGE 6

SENIOR LAWYER INTERVIEWS

YOUNG LAWYER SPOTLIGHTS

Merwan Bhatti
Michael Adrian Gomez

BY KIRK COOPER

PAGES 10 & 11

BOBBY PEREL

BY CLINTON F. CROSS

PAGE 8

RICHARD MUNZINGER

BY KIRK COOPER

PAGE 14

EFFECTIVE & EFFICIENT DISPUTE RESOLUTION



ANTCLIFF MEDIATION

MEDIATION WORKS

Chris Antcliff is an efficient and effective neutral whose goal is to assist litigants and their counsel along a reasonable path to resolution of their dispute.

His 20 years of legal experience coupled with his service as a former **District Court Judge** and former **Justice on the 8th Court of Appeals** ensures that all voices are heard during the conflict resolution process as he strives to help the parties craft their own agreements.

221 N. Kansas, Ste. 1201
El Paso, TX 79901
www.antcliffmediation.com
(915) 533-1221

Schedule your mediation today:
antcliffmediation.com/calendar





State Bar of Texas Awards
 Award of Merit
 Star of Achievement
 Outstanding Partnership Award
 Outstanding Newsletter
 Publication Achievement Award
 NABE LexisNexis Awards
 Community & Education Outreach Award
 -2007, 2010 & 2012
 Excellence in Web Design – 2007
 Excellence in Special Publications – 2008

Christopher Antcliff, President
Mark Dore, President-Elect
Jennifer Vandenbosch, Vice President
Daniel Hernandez, Treasurer
Jeff Ray, Secretary
Myer Lipson, Immediate Past President

2016-2017 Board Members

Kristina Voorhies Legan
 Aldo Lopez
 David Mirazo
 Janet Monteros
 Philip Mullin
 Bill Hicks
 Jessica Kludt
 Charles Ruhmann
 Judge Laura Strathmann
 Jed Untereker
 Gary Aboud
 Judge Anne Breton
 Judge Penny Hamilton
 Monica Perez
 Danny Razo

Ex-Officios

*SBOT Director, District 17, EPYLA,
 MABA, EPWBA, ABOTA, FBA, EPBF,
 EPFLBA, EPPBA, EPALP*

Executive Director

Nancy Gallego

Editorial Staff

*Kirk Cooper, Carlos Miranda, III
 Carlos Maldonado, Clinton Cross,
 Nancy Gallego*

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

PRESIDENT'S PAGE



Late last year, El Paso lost two legal giants when Mike Hutson and Milton Colia passed away. Their calm professionalism has been sorely missed by everyone who know or came into contact with either Mike or Milton. They were always there, always ready to help and to give back, always the consummate gentlemen. Both of them were always smiling, even in the face of adversity. They were each truly a lawyer's lawyer.

This past summer, with the untimely passing of Michael Stell, we lost another local legend. Michael went out of his way to mentor young lawyers and to teach them the necessity of research and the value of always being prepared. He showed them how important it was to give back. Michael too, will be sorely missed.

The deaths of three of my (and your) friends and colleagues caused me to consider the fleeting nature of life and the outstanding example of professionalism they each left behind. Each of them routinely gave of their time to the town they loved and to the El Paso legal community. I think that all of us have a responsibility, perhaps even an obligation, to do the same. That "giving back" is a significant part of what makes up the heart of the El Paso Bar Association.

This year, we will all have the opportunity to give back a little bit. On October 29, 2016 the EPBA held its bi-annual, State Bar award-winning Access to Justice (ATJ) Fair at the Valle Verde Campus of the El Paso Community College. We are grateful to George Andritsos for taking the lead in making this clinic happen. The most common inquiries deal with family and criminal law, but there will be people in need of advice from almost every legal discipline.

On November 19, 2017 the EPBA will host its bi-annual, State Bar award-winning El Paso for Patriots (EPP) Veterans Clinic at the Trans-Mountain Campus of the El Paso Community College. Much like the ATJ Fair, we will need help in almost all areas of the law, but particularly family law, wills and trusts and bankruptcy. This event is co-sponsored by the EPBA and the 346th Judicial District Court's Veteran's Program. We are thankful for all that Judge Angie Juarez Barill does to support this event. Each of these clinics will require only an hour or two of your time. I invite you all to come out and help.

On November 7, 2016 at 12:00 noon in the 8th Court of Appeals courtroom the EPBA and the ADR Section (chaired by Mr. Lonnie Schooler) of the State Bar will co-host a free 2 hour CLE on alternative dispute resolution. You are all invited to attend.

As you will recall, the EPBA hosts a monthly luncheon at the El Paso Club on the second Tuesday of each month. Last month, U.S. District Judge Kathleen Cardone gave us a federal court update which was very well attended. Everyone present was able to claim a free ½ hour of ethics CLE – thank you Judge! On Tuesday, October 11, 2016, our guest speaker was County Judge Veronica Escobar, who spoke with us about the state of El Paso County. In November, we will salute all of our veterans and in December, we will recognize those among us who have reached their 50th anniversary in the practice of law – they include Ray Caballero, John Greenfield, Dean Hester, Richard Munzinger, and Thomas Niland. I hope to see you at each of these luncheons.

The EPBA Holiday Party and silent auction will take place on Thursday, December 1, 2016 at the El Paso Community Foundation Room. It will be an excellent, catered event with a live band. Come celebrate the holiday season with us!

Continued on page 4

Finally, as you all know, the EPBA is in the 21st year of hosting an annual Civil Trial Practice Seminar. It has almost always taken place in Las Vegas. This year, the Seminar will take place at the Hotel Monteleone in New Orleans on February 9, 10 and 11, 2017. Thanks to Laura Enriquez and the CLE Committee, we have a wonderful lineup of speakers including 5th Circuit Court Chief Justice Carl Stewart, Texas Supreme Court Justice Debra Lehrmann, MG (USA Ret.) and Dean Emeritus Walt Huffman from the Texas Tech University School of Law, Ruben Robles and Kurt Paxson, Texas Court of Criminal Appeals

Justice Bert Richardson, Judge Stephen Ables, Larry Hicks, Judge Sue Kurita, and Cori Harbour. U.S. Magistrate Judge Mike Torres will interview local legends Judge David Briones and Judge Carlos Villa over cocktails and hors d'oeuvres Thursday evening. Please visit www.elpasobar.com to book your room in the Hotel Monteleone. A big thank you goes out to our current sponsors for their support of this Seminar – the Law Office of Daniela Labinoti, Mounce, Green, Myers, Safi, Paxson, & Galatzan, P.C., Express Records, Antcliff Mediation, Law Office of James Kennedy and George Andritsos. If you are interested in

sponsoring a part of this excellent event, please contact me or Nancy Gallego at 532-7052.

As you can see, the El Paso Bar Association is a community of lawyers desiring to advocate the highest ideals of our profession. We are committed to giving back to our community, and we are determined to follow the example of those who have gone before us, like Milton Colia Mike Hutson and Michael Stell. Please join the EPBA and renew your membership today.

CHRIS ANTCLIFF,
President

Save the Date:

21st Annual Civil Trial Practice Seminar
February 9, 10 & 11, 2017
Hotel Montelone, New Orleans, LA

EL PASO PARALEGAL ASSOCIATION

General Membership Meetings
3rd Thursday of each month
All meetings are held at the
El Paso Club, 201 E. Main, 18th Floor



Mediations - Aggressive and creative

Arbitrations - Evidence based awards

HardieMediation.com

Bill Hardie

See our [online calendar](#)

Wells Fargo Bank Plaza / 915.845.6400 / info@hardiemediation.com

EL PASO BAR ASSOCIATION
November Bar Luncheon

Tuesday, November 8, 2016

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

Salute to Veterans

Guest Speaker will be LTC Casey Z. Thomas

Door prizes will be given out

Please make your reservations by Monday, November 7, 2016 at 1:00 p.m.
 at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

EL PASO BAR ASSOCIATION
December Bar Luncheon

Tuesday, December 13, 2016

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

Honoring our 50-Year Attorneys

We will be honoring our 50-year attorneys

Raymond Caballero

John Greenfield

Dean Walter Hester

Richard Munzinger

Thomas Niland

Robert "Bobby" Perel

Door prizes will be given out

Please make your reservations by Monday, December 12, 2016 at 1:00 p.m.
 at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

Texas' All-Woman Case Began in Old El Paso

BY DAVID A. FURLOW

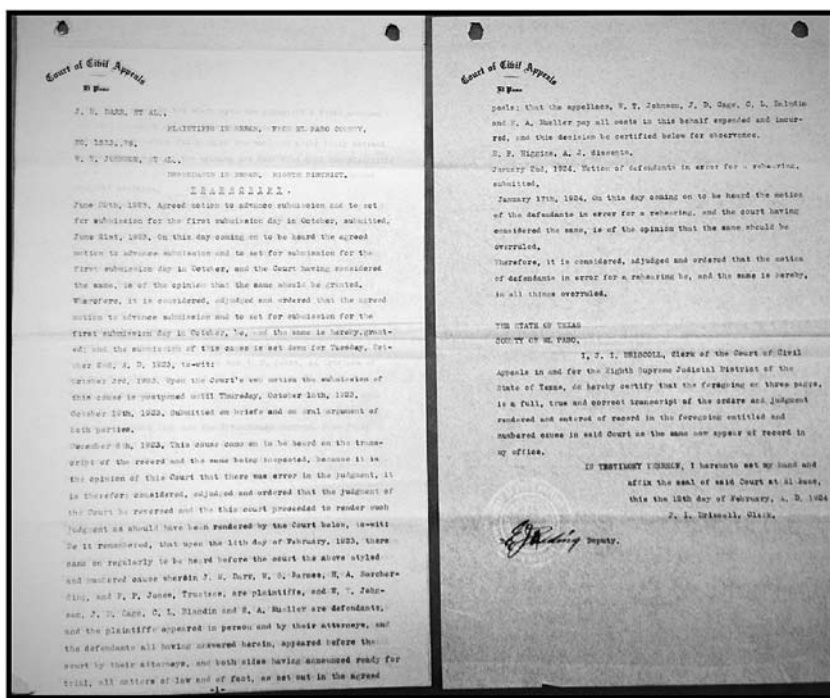
El Paso attorneys, parties, and judges played a critical role in one of the Texas Supreme Court's most famous cases: *Johnson v. Darr*, 1923 Tex. App. LEXIS 1084 (Tex. Civ. App.—El Paso 1923), *aff'd*, 114 Tex. 516, 272 S.W. 1098 (1925, reh'g. denied), the first case decided by an all-woman state supreme court panel in the Anglo-American legal world. This article traces the All-Woman Court case back to early twentieth century El Paso. One of Texas' most famous appeals began as a dispute over two parcels of El Paso real estate, statutory construction, and the language of two trusts.

Plaintiffs J.M. Darr, *et al.* held two tracts of land as trustees of the Woodmen of the World, an all-male, fraternal organization. The Woodmen sold burial-policy insurance to men. Purchasers of Woodmen policies automatically became members of a Woodman lodge entitled to earn a Woodmen funeral monument to place atop their graves. See James L. Haley, *The Texas Supreme Court: A Narrative History, 1836-1986* (Austin: Univ. of Tex Press, 2013), 168.

The Darr Plaintiffs went to court to vindicate their right to the ownership of two tracts of land in a dispute with creditors represented by W.T. Johnson. They sued to win judicial recognition of a trust, remove cloud upon their title to two tracts of land, and enjoin the Johnson creditors' foreclosure on those two lots. The key issue was whether a trust had to be recorded to be legally effective. The Woodmen said that a trust was legally effective whether recorded or not. W.T. Johnson's creditors disagreed.

Plaintiff Darr and the Woodmen won a partial-victory judgment granting them ownership of one tract of land in an El Paso district court. In a 1922 trial, the 41st Judicial District Court of El Paso County granted Woodmen's trustees clear title to one of the two tracts following a bench trial based on an agreed statement of facts and memorialized in findings of fact and conclusions of law. See, Brief for Plaintiffs in Error J. M. Darr, et al., Trustees, filed August 8, 1923 in the Eighth Court of Appeals in El Paso, Statement of the Nature and Result of the Case, p. 1. W. T. Johnson, *et al.*, as the Woodmen's trustees, appealed to the Eight Court of Civil Appeals in El Paso to recover the other tract of land. The court of appeals filed the case under Cause No. 13371

and in 1923, after due deliberation and oral argument, reversed the 41st District Court's decision and rendered judgment for the Woodmen, holding that the Woodmen were entitled to both tracts. The Johnson creditors appealed to the Texas Supreme Court on February 18, 1924. See Cover, case file from the Clerk's Office, Court of Civil Appeals, El Paso, available in the Lorenzo de Zavala Texas State Library and Archive in Austin, Texas. Texas Supreme Court Chief Justice Cureton, Justice Pearson, and Justice Greenwood refused to avoid an appearance of impropriety because they owned Woodmen policies that gave them a financial interest in the case's outcome. Governor Pat Neff, an early proponent of women's rights, named the members of the All-Woman Court early in 1925. After the three male justices disqualified themselves, Governor Neff, an early proponent of women's rights, appointed three women as special justices of a Texas Supreme Court panel convened to take the place of three justices compelled by law to recuse themselves from deciding the case. But Governor Neff's staff failed to do their homework. Representatives of the State Bar of Texas soon informed Governor Neff that two of his first three special



El Paso Court of Civil Appeals papers, 1924.

Photo of original court records taken by David A. Furlow at the Texas State Library and Archive.



Photo of the Johnson v. Darr case file at the Texas Supreme Court taken at the Texas State Library and Archive by David A. Furlow.

appointees—Nellie Robertson of Granbury and Edith Wilmans of Dallas—lacked the seven years of legal experience the Texas Constitution required of justices serving on the Texas



From left, Hattie L. Henenberg, Hortense Sparks Ward and Ruth V. Brazzil comprised the “All-Woman Court” of 1925. Photo courtesy of the Texas State Library and Archives.



The Texas Supreme Court Historical Society’s re-enactment of the All-Woman Court at the 2016 State Bar Annual Meeting in Fort Worth featured an all-star cast. \ Left: Texas Supreme Court Justice Eva Guzman. Center: Fifth Circuit Judge Jennifer Elrod. Right: Texas Supreme Court Justice Debra Lehrmann. Photo by David A. Furlow.

Supreme Court. The third appointee, Harriett Sparks Ward of Houston, had enough years of experience serving as one of Texas’s first licensed female attorneys to serve on the special panel. After Ms. Robertson and Ms. Wilmans withdrew, the Governor appointed two new special justices: Ruth V. Brazzil of Galveston and Hattie L. Henenberg of Dallas. Houstonian Hortense Ward became Special Chief Justice.

A decade before the All-Woman Court convened in January 1925, Chief Justice Ward led the successful movement to enact Texas’s first Married Woman’s Property Act and spearheaded the suffrage movement in Texas. Special Justice Henenberg was the first Jewish member of the Texas Supreme Court. Special Justice Brazzil showed that women could play a major role in the insurance industry.

The three special justices first decided to hear the *Johnson v. Darr* case, then listened to oral argument. On May 23, 1925, the All-Woman Court affirmed the El Paso Court of Civil Appeals’ decision. See *Johnson*, 114 Tex. at 527, 272 S.W. at 1102; Haley, *Texas Supreme Court*, 167-68. Special Chief Justice Harriett Sparks Ward wrote the opinion, while her colleagues Associate Justices Brazzil and

Henenberg wrote concurring opinions. See *Johnson*, 114 Tex. at 527-28, 272 S.W. at 1102-03 (Judge Brazzil’s Concurrence); 114 Tex. at 528, 272 S.W. at 1103 (Judge Henenberg’s Concurrence). In June 1925, the court overruled a motion for rehearing.

The three special justices of the All-Woman Court discharged their responsibilities well. Subsequent panels of the Texas Supreme Court and intermediate appellate courts have cited what some newspapers called the “Peticoat Court’s” *Darr* decision in more than thirty cases, including a 2009 decision written by Texas Supreme Court Associate Justice Nathan Hecht. See, e.g., *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 447 n. 11 (Tex. 2009), *reh’g. denied*, 2009 Tex. LEXIS 385 (Tex. June 5, 2009) (Hecht, J.) (“The most famous exercise of the designation power was surely Governor Pat Neff’s appointment of a Special Supreme Court consisting of three women, Mrs. Hortense Ward, Special Chief Justice, and Miss Ruth Virginia Brazzil and Miss Hattie L. Henenberg, Special Associates Justices....”); *Second Injury Fund v. Keaton*, 162 Tex. 250, 254, 345 S.W.2d 711, 714 (Tex. 1961). See also Haley, *A Narrative History of*

the Texas Supreme Court, at 168.

There are many good books and articles that describe this fascinating part of El Paso’s legal history. See, e.g., Justice Eva Guzman and Kent Rutter, “Women and the Texas Supreme Court,” *State Bar of Texas—History of Texas Supreme Court Jurisprudence 2013* (Austin, April 11, 2013); David A. Furlow, “Taking the Law into their Own Hands: Hortense Sparks Ward, Alice S. Tiernan, and the Struggle for Women’s Rights in the 1910 Harris County Courthouse,” *Houston Bar Ass’n Appellate Lawyer* (Sept. 2013), <http://www.hbaappellatelawyer.org/2013/09/taking-law-into-their-own-hands.html>.

The Texas Supreme Court Historical Society’s e-journal has published articles about the All-Woman Court, including one written and illustrated by Chief Justice Hortense Sparks Ward’s great-granddaughter, Linda Hunsaker. See Linda Hunsaker, “Family Remembrances and the Legacy of Chief Justice Hortense Sparks Ward,” 4(4) *Texas Supreme Court Historical Society Journal* 51-64 (Summer 2015), <http://texascourthistory.org/Content/Newsletters//TSCHS%20Journal%20Summer%202015.pdf>.

The Texas Supreme Court Historical Society’s recent re-enactment of the All Woman Court at the 2016 State Bar Annual Meeting in Fort Worth

The Texas Supreme Court Historical Society re-enacted oral argument before the 1925 All-Woman Texas Supreme Court at the 2016 State Bar Annual Meeting in Fort Worth. Under the direction of Fellows Chair David Beck, Fellow Warren Harris, and *Journal* editors David Furlow and Lynne Liberato, the Society reenacted the “All-Woman Court” case on Thursday morning, June 16, 2016 at the Fort Worth Convention Center.

Fifth Circuit Judge Jennifer Elrod, Texas Supreme Court Justice Eva Guzman, and Texas Supreme Court Justice Debra Lehrmann portrayed the three justices. Former Justice (ret.) David Keltner and former Society President Doug Alexander portrayed the El Paso attorneys who argued the case. They used archival copies of *Johnson’s* appellate record, original briefs, and contemporary correspondence provided by Texas Supreme Court Archivist Tiffany Shropshire Gilman and David Furlow to prepare for oral argument. The program was a great success.

DAVID FURLOW is the Executive Editor of The Texas Supreme Court Historical Society Journal.

SENIOR LAWYER INTERVIEW

BOBBY PEREL

BY CLINTON F. CROSS

CROSS: To begin, I'd like to know something about your family background. Who were your grandparents, your parents?

PEREL: My paternal grandfather Nathan Perel and grandmother Dora Perel came from Lithuania. They moved to Houston. My grandfather worked for a steel company and sold steel all over the world.

My maternal grandfather Sam Rosenfield was a farmer and merchant who lived in Clarksville, Texas around the turn of the century. He met and married a woman from England, who for love of her husband moved to Clarksville and claimed she liked it.

From the stories I heard from my grandfather, I think it must have been a bad time to be Catholic, Mexican, Jewish or Black and live in Clarksville at that time. My grandparents employed a Black woman whose mother was mentally ill. They built a room for their employee's mother so she would have a safe place to live. The Ku Klux Klan objected and burned a cross on their yard. My grandfather also told me about witnessing a Black man being tied to a pole and burned alive.

CROSS: So what about your parents?

PEREL: In the course of his work, my father happened to travel to Clarksville where he met my mother. They married and began their life together in Houston. After a few years, my father moved to Victoria where he established several sporting and retail merchant goods stores.

CROSS: Education?

PEREL: I went to high school in Victoria. I then attended the University of Texas where I majored in English. Finally, I went to the University of Texas School of Law and graduated and obtained my law license in 1966.

CROSS: Then what?

PEREL: I went to the University of London and studied International Law. I didn't find it very interesting. I began exploring Europe.

CROSS: How long were able to get away with that?

PEREL: Not very long. I traveled all over Africa and then returned to the United States. I



Bobby Perel, India 1962

got a job with the Interstate Commerce Commission. I was responsible for overseeing approval of commercial trucking routes.

I found this routine job quit tiresome so I quit and went to East Africa.

CROSS: How long did that last?

PEREL: It lasted until I ran out of money. I came back to the United States and got a job working for the Dallas City Attorney's office.

CROSS: Finally found your life's calling?

PEREL: Not really. I quit and traveled again. Your readers may not remember, but this was the sixties. Have guitar, will travel. I started in England, then I went to Asia—Iran, Afganistan, Pakistan, India, Burma, Thailand, Malaysia, Singapore, Timor, Australia.

CROSS: Ever need money?

PEREL: When I entered Australia I immediately got residency status so I could work. I taught high school in Sydney for nine months. I then went to Dunedin, New Zealand and worked as a newspaper reporter.

CROSS: How did you end up in El Paso?

PEREL: I had a friend who was at the time working for legal aid in El Paso. At the same time, I wanted to get a teaching certificate so I could teach in New Delhi. I applied to the

University of Texas at El Paso but the school refused to admit me. I was not allowed to "practice teach" with a beard and I had to be able to "practice teach" to get the degree I needed. I had a beard. I didn't think I should have to cut off my beard to go to school. I threatened to sue the school. Resolution of the dispute was taking a long, long time. I began practicing law with Clarence Moyers. Moyers was a civil rights lawyer who is perhaps remembered by some of the older lawyers in El Paso for challenging the El Paso School District's rules requiring its male students to wear short hair allegedly because it might create a safety hazard when attending chemistry lab. Of course, the girls could wear long hair while attending class.

CROSS: Finally settle down?

PEREL: Sort of. I developed a general practice, handling criminal cases, civil rights, school law, workers' compensation, some personal injury. I got a law partner, Ken Powell, who allowed me to continue my exploration of far away places.

CROSS: Where did you go?

PEREL: Since settling down in El Paso, I've traveled to China, Tibet, Kilimanjaro, South America, Indonesia, and other places.

CROSS: Any particularly interesting experiences that you would be willing to share with us?

PEREL: Hard to say. I'll mention two that come to mind immediately. Once when in Guayaquil, Ecuador I got to know a college professor and we decided to take a cattle boat from Guayaquil to the Galapagos Islands. We were only supposed to stay there three days while the boat unloaded and loaded cattle. During this time, the United States boycotted importation of Ecuadoran bananas. Perhaps angry about the boycott, the boat captain left early without notifying us. We stayed for six weeks. During the six weeks we met numerous fishermen who were kind enough to take us to a lot of the nearby islands. Finally the Ecuadorian navy came and rescued us.

On another trip, I decided to explore the Amazon River. I went with a friend to Leticia,

Columbia, which is located at the corner of Brazil, Columbia, and Peru. There we met a met a Brazilian trader who would go into the back waters of the Amazon and trade many types of cheap merchandise for emeralds. He had a small boat that would navigate the shallow streams of the Amazon where he went to trade goods with the native tribesmen.

On one of these trips we went several miles into the jungle but when we arrived we found the Indians had moved. It began to rain and without any Indian guides the trip back to the boat was both unpleasant and dangerous. The ground was

wet. The ants ate up our mosquito nets. There were snakes slithering around the jungle.

CROSS: Family?

PEREL: I am happily married to Linda Chew. In case some of your readers do not know, Linda is judge of the 327th District Court. Her sister Patricia Chew is judge of Probate Court #1. Her father Wellington Chew was a prominent trial lawyer here. Her brother was Chief Justice of the Eighth Circuit Court of Appeals. We have no children.

CROSS: Still practicing?

PEREL: Yes, I have a general office practice. My office is located at 1013 Montana.

CROSS: Still traveling?

PEREL: I am planning a trip to Antarctica with Dennis McCarthy, brother of the writer Cormac McCarthy. We will be taking a Russian icebreaker, visiting isolated places on the Antarctic peninsula. Among other things, we

CLINTON F. CROSS is a retired Assistant El Paso County Attorney.

Advance Sheet, circa 1483 A.D.

BY CHARLES GAUNCE

JUSTICES IN EXCHEQUER CHAMBER RIGHTS OF THOSE WHO TAKE SANCTUARY

Trinity Term, in the twenty second
year of Edward IV

Of course, upon reading the quoted passage, I deemed it necessary to look up the definition of sanctuary in everyone's preferred scholarly source: Wikipedia. There I found the following – "A sacred place, such as a church, in which fugitives formerly were immune to arrest (recognized by English law from the fourth to the seventeenth century). While the practice of churches offering sanctuary is still observed in the modern era, it no longer has any legal effect

and is respected solely for the sake of tradition." Clearly the current understanding of taking refuge in sanctuary was something far different than the English jurists understood it.

While the modern practice of sanctuary may be to respect the tradition until such time as the apprehending authorities simply take charge and enter the sanctuary premises to nab the offending scofflaw, usually to the critical glare of the press, (and at this point I should probably point out that not even in England did a wildlife refuge come close to being a criminal sanctuary), the ancient practice was more in tune with a limited right against self-incrimination.

The felon could claim sanctuary but did not need to tell anyone what he had done. If

the coroner appeared before the felon, then the felon had to fully admit the felony and the coroner would pass judgment. If the felon refused to admit the felony, then there was no right to sanctuary and he could simply be removed by anyone and subsequently tried upon the evidence. It thus appears that the benefit of sanctuary was not to prevent a person from being tried while in the sanctuary, but to gain forty days within which to get his affairs in order before the judgment (usually death) was executed.

CHARLES GAUNCE is the Legal Reference Librarian at the University of Texas at El Paso

Providing Valuation, Economic Consulting And Litigation Support for El Paso and Las Cruces

John R. Battle, CPA, CVA, MAFF, CM&AA

Business Valuations:

Estate, Trust and Gifting
Shareholder Disputes
Marital Dissolution
Loss of Value in Business
Buying or Selling Business

Economic Consulting:

Economic Damages – Commercial Lost Profits
Economic Damages – Permanent Injury and Wrongful Death
Litigation Support/Expert Witness

Mergers and Acquisitions:

Sell Side and Buy Side Advisor
Exit Planning

780 South Walnut Street, #6 – Las Cruces, NM 88001
575.527.2067(Office) 575.921.7578 (Cell) 866.305.1492 (Fax)
jbattlecpa@hotmail.com

John R. Battle, CPA – (Texas Firm ID C09200)



21ST ANNUAL CIVIL TRIAL PRACTICE SEMINAR

February 9, 10 & 11, 2017

Hotel Monteleone
New Orleans, Louisiana

Registration information is on page 18 of this bar journal.
You can also go to www.elpasobar.com or www.elpasobarcl.com
to book your hotel room.

YOUNG LAWYER SPOTLIGHT:

MERWAN BHATTI

BY KIRK COOPER



Merwan Bhatti

First question: where did you go to undergrad and law school?

I went to UT Austin for undergrad, my degree was in economics. Then I went to law school at Texas Tech in Lubbock.

Are you originally from El Paso?

No, I am not. I tell people I'm from Austin—that's where I went to high school and I went to UT—but actually, I grew up and lived around several different places. I was born in Salt Lake City, Utah, and then I moved to Saudi Arabia and lived there until I was 14. And then I lived in Eugene, Oregon, and then I moved to Austin. So when people ask where I'm from, that's the long answer.

So how did you end up in El Paso?

My first job as a lawyer was actually at the District Attorney's Office in El Paso, and I just stayed here ever since. That was about eight years ago.

What was it like to work at the District Attorney's Office?

I met some interesting characters. I had a number of trials. I think I did over 20 trials when I was at the D.A.'s office, and so I got to try cases against all sorts of different personalities. I was a misdemeanor attorney for about two and a half years. I worked with some great mentors when I was there, John Briggs, who's still there, he was my trial chief at some point. Bill Hicks, who was subsequently appointed to district court, so he was Judge Bill Hicks.

Any good stories?

I had a trial partner at the D.A.'s Office one time who had a dog who would assist him, a service dog. And I went to trial one time, and the service dog was there in trial with us, and he got up and he walked around in the middle of trial. He was a black Lab and really well-behaved. The other side thought it was unfair that we had a cute dog and thought that the jury would like the prosecutors more because we had a cute dog. I can't remember if they objected or not.

There was another time I went to trial, and

the defendant did not want his appointed attorney, he wanted the public defender. The judge tells him, "I'm not going to just do whatever you want to do, you have a great attorney that I've appointed to you." And then the judge asks him, "well, what do you do as a profession?" And the defendant was a nineteen-year-old kid. He says, "well, I live at home with my mom. But I dance." And the judge is like "what? You dance?" And the defendant says, "yeah. I battle." The judge says, "what do you mean, you battle?" The defendant says "I dance-battle." And he showed us in the courtroom before the trial. I think the jury was ready to come in, or the panel was ready to come in. And so he did a little dance, and at the end, he takes his hand, and he shoves it in the appointed defense attorney's face in like a you-got-served motion. We were just there, asking can he do that? The judge thought he was really good, actually.

I do not believe that story.

It happened! We did try that case, and I think it came out as a not guilty. I think the jury felt bad for the guy.

So you were at the D.A.'s Office for two and a half years and then you came to Mounce Green?

I went first to Ray McChristian Jeans, at the time it was Ray Valdez McChristian Jeans. That was my first change over from criminal law to civil law, and I did insurance defense for a year. I worked with Dan Hernandez, Jeff Ray, they were great mentors. But then I decided again to switch up practice areas for some reason and moved into business and real estate law, and commercial litigation.

I take it that's what your focus is now? Business and real estate law and commercial litigation?

Yes. I like it. It's great. I've been working at Mounce Green now for almost four and a half years. Most of the clients I represent are small to medium-sized businesses. It's a very interesting practice.

Why did you make the switch from crimi-**nal law to civil law?**

You know, I always had an interest in business law and civil litigation, but I graduated 2008, the economy was horrible. I made a very practical decision to find a good job that would give me great experience, and the District Attorney's Office did not disappoint. They throw you into trial the minute you get in there. It's trial by fire and you learn very quickly. I hated public speaking before, I was always the person in the back of class who did not want to get called on, and professors wouldn't call on me either because they were afraid to pronounce my name, and so I got by that way. But when I had to pick juries at the D.A.'s office and speak in front of people and do a trial, you get over that shyness really quickly.

What made you want to go to law school? Why did you want to be a lawyer?

I wanted to challenge myself. I thought the law was fascinating. Kind of having grown up outside the country, I noticed a difference between other countries and how the U.S. really respects the rule of law, so that's what fascinated me. I guess I should have mentioned somewhere, probably in the "where I'm from" section—my parents are originally from Pakistan, but I never lived there.

I saw on your firm's bio page that you speak three languages?

Right. I speak Urdu and Punjabi, which are languages from Pakistan. Urdu is the national language, Punjabi is a dialect. And as far as I know, I'm one of four South Asian attorneys in El Paso. There's Gabe Sarang at the District Attorney's Office. Ron Banerji at the U.S.

Attorney's Office, he's Pakistani. And Vivek Grover, he's Indian, he has his own firm.

Tell me about your family.

So my family is all kind of spread out, they all used to live in Austin. My dad lives in Pakistan, my mom lives in D.C., a couple brothers live in Chicago, my sister lives in Virginia, all spread out. I'm the only attorney in my family.

And you're married?

I'm married. My wife, Meredith, and I met when we were at UT Austin. She and I moved out here, we got engaged, we got married. We have two kids.

Is she an attorney?

She's not an attorney, she's a pediatric nurse at Providence Children's Hospital.

What are your kids' names?

My daughter's name is Alia, and she's about to turn four. My son's name is Zain, and he's about to turn one year old. Interesting tidbit: both of my kids' middle names are Merwan, my

first name. So it's Alia Merwan Bhatti and Zain Merwan Bhatti. It causes a lot of confusion at airports because they see three Merwan Bhattis on three different tickets.

Any reason why they have your name as their middle names?

It's one way that Pakistanis name their kids, is they carry the dad's name as some part of their name.

Do you have any hobbies? What do you do when you're not being a lawyer?

I'm a big Laker fan. Huge basketball fan. I love tennis. Love to travel. Me and my wife have been all over New Mexico. We love going up into the Rocky Mountains in Colorado, too. Me and my wife, we're really adept travelers with kids. (Laughing) Me and her used to travel so much before we had kids, so you'd think you'd slow down when you've got kids. You'd think "oh, you've got kids, it's slow to get the stroller in." But we're faster than ordinary people that have no kids. We go through security, and I just slam the stroller upside

down, take the wheels off in one motion. We'll get everything off, and there will be people behind us with nothing still struggling. We're experts with kids.

So you've been all these different places—Saudi Arabia, Eugene, Houston, Austin—you chose El Paso. Why did you choose to stay in El Paso?

It's a great place to practice law, for young attorneys especially. There's a lot of opportunities for young attorneys. That's why I came here. That's why I stayed. The bar is great to work with, people are cordial, you get to know people around town. I'm at my current firm right now because they're some of the best lawyers that I've seen, all the partners are Super Lawyers, it's just a great place to learn. There's a great sense of community in El Paso.

KIRK COOPER is editor of the Fall/Winter 2016 Issue of the El Paso Bar Journal. He is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Court of Appeals for the Eighth District.

YOUNG LAWYER SPOTLIGHT:

MICHAEL ADRIAN GOMEZ

BY KIRK COOPER

COOPER: Where did you go to high school, college, and law school?

GOMEZ: Franklin High School, UTEP, and DePaul Law School in Chicago. I graduated from UTEP *cum laude*.

COOPER: Did you do the Law School Preparation Institute (LSPI) when you were at UTEP?

GOMEZ: Yes, it was great. Without it, I don't think I would have ever made it into law school, to be honest with you. They provided very good guidance with regards to preparation for the LSAT, all the way up to helping out with the applications, personal statements, and all that stuff. When I started, the program was already in place being directed by Dr. Weaver.

COOPER: So after UTEP you went to law school in Chicago at DePaul. Why did you choose DePaul?

GOMEZ: Through the LSPI, they talk to



Michael Adrian Gomez

you, they sort of get to know you and your personality. They came to the conclusion that I had a very “eccentric” personality—that was the word that they used—and that I needed a big city to sort of fulfill that eccentric lifestyle, go to museums, stuff like that. I guess it’s kind of important to say, I wanted to be an artist before a lawyer. I wanted to be a painter or a photographer. Anything having to do with art, I love. So LSPI knew that and they wanted to send me somewhere artsy.

I did not apply to any schools in Texas. They told me “you need to get out of Texas,” and they told me I should go to New York or California, Chicago, maybe somewhere in Florida, but stick to a bigger city. So I actually only applied to schools in New York, schools in Chicago, and I think a couple of schools in California. And I picked DePaul even though I’d never been to Chicago because first of all, they were the first ones to contact me. And they actually called me and they asked me, “do you need help moving? We can help you find a place. We’ll get a place set up for you, we’ll help you find roommates. Just tell us what you need.” And they also offered me the most money, so it was just a really easy pick for me, in that sense. Caveat to that is if I could do it all over again, I would pick the cheapest school.

COOPER: How did you like Chicago?

GOMEZ: Chicago was awesome. If it weren’t for the weather, I think I would have stayed there. It’s my second favorite city, after El Paso.

COOPER: So what brought you back to El Paso? Was it just the weather?

GOMEZ: My Hispanic heritage—I’m very close with my family. I didn’t have anybody over there. I missed my family. That’s one of the big things. Also, I met with [County Attorney] JoAnne Bernal the Thanksgiving break of my first year of law school, and so I decided to clerk here for the summer. After clerking here for the summer, I just fell in love with the whole idea of becoming a lawyer here in El Paso and just giving back to my community. That’s really what did it.

COOPER: Did you do any other internships in law school?

GOMEZ: In law school, I worked an externship for a personal injury firm on the defense side. I did a family law clinic. And a criminal appeals clinic.

COOPER: What made you want to go to

law school?

GOMEZ: When I was younger, my mom was one of the first providers of Internet in Juarez. And over in Juarez, there’s a lot of corruption, even with regards to businesses and whatnot. So through very shady business tactics, she was forced to close her business. To me, it was just unbelievable that there was not an avenue of relief for something like that. She couldn’t go to court or anything. Everything was bought. That was my first exposure to all that, and so I felt like I wanted to fight for the little person. Then, after after my senior year, I was in Arizona, where I ran into Arizona politics with Sheriff Joe Arpaio. I was very against his policies, just the way he carried himself out, the way he treated people, and so that was another reason why I was like, I want to be an attorney.

At first I wanted to be a defense attorney, but then when I started clerking here, that’s when I decided to change to be a government attorney.

COOPER: So you work at the County Attorney’s Office. What does your caseload look like on a day-to-day basis?

GOMEZ: I’m in the Criminal Unit, which consists of taking care of any deceptive business practice cases that come in, any theft by check cases, illegal dumping cases, special prosecution cases, juvenile prosecution cases that come in directly to the 65th District Court, and civil matters relating to bond forfeitures. As prosecutors here in the unit, we’re not assigned to a particular court, so my case load really depends. It could be 28 cases a day or just two cases a day. You also handle your own criminal appeals.

My first year of law school I clerked here, my second year I clerked here in the winter and in the summer, my third year I clerked here in the winter. And after I took the bar I started clerking here again, and right after I passed the bar I got an interview for a job and I started out in the Family Violence Unit. I was there for just under a year and a half, and I’ve been in the criminal unit for a year and a half. So I’ll have three years in November.

COOPER: Any interesting cases that you’ve worked on?

GOMEZ: The most interesting ones involve the juveniles, and unfortunately I can’t really give details because they are juveniles. With regards to deceptive business practices, there’s lots of cases involving people’s homes, because there are a lot of people here in El Paso that get scammed by contractors. More recently, I’ve

started seeing people that say that they buy houses and they sell houses engaging in wrap-around mortgage scams. We’re trying to find some sort of way of tackling the legal issues that arise from those.

COOPER: So when you’re not being a lawyer, what do you do in your spare time?

GOMEZ: I’m probably out on a soccer field somewhere. I like playing soccer. If not soccer, I’ll be biking—mountain biking and road biking. I haven’t really gotten back into art, I haven’t painted or photographed in forever, there’s just not much time to do that anymore. I also like traveling and going to music festivals.

COOPER: Do you have any advice for people who want to go to law school? And do you think that it can sometimes be a challenge for people from here to move away and come back?

GOMEZ: I think like with any other business, law requires networking. So I would say to any future lawyers or people who are thinking about coming back, I would say start talking to lawyers, start making friends. The way that I got my clerkship was because I met JoAnne at an LSPI mixer. I got a business card from her. Later on, I literally e-mailed any attorney I could find in the phone book, including JoAnne, for a job. She remembered me, so I was lucky enough to get an interview with her. More than anything, it was just getting my name out there. I don’t think it’s impossible to get a job here. I think quite the contrary, if you have the contacts, it’s pretty easy to start out your legal career in El Paso.

As far as any advice, I love the practice of law. I like everything that comes with it, including all its challenges. I would say that if you’re interested in being a lawyer, you’ve got to do it because you love the challenges and you’re not doing it so much for a paycheck. I think the practice of law is no longer something that guarantees you a six-figure salary as soon as you graduate, and so you have to consider that, especially now that school is so expensive, I think you have to consider whether you’re doing it because you love it, or because you were thinking about med school but now you’re going to be a lawyer.

KIRK COOPER is editor of the Fall/Winter 2016 Issue of the El Paso Bar Journal. He is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Court of Appeals for the Eighth District.

OPINION:

New initiative seeks to bring law school to El Paso

BY JANET MONTEROS

[EDITOR'S NOTE: The following is an editorial submitted to the Bar Journal by the El Paso Law School Initiative. The opinions expressed in this piece do not necessarily reflect the views of the El Paso Bar Association, its board, or its members. However, given that this proposal is of interest to local lawyers, we have decided to publish this editorial to open up the discussion on the topic among members of the legal community. We invite responses, and hope to explore this topic more in-depth in our next issue.]



The Texas State Bar's Mission, in part, assures all citizens of equal access to justice, to educate the public about the rule of law and to promote diversity in the administration of justice and the practice of law.

The El Paso Law School Initiative Business incorporates those elements of the State Bar's mission while establishing the necessary components for a successful venture. Our hope is to bring a law school to El Paso. We are currently working with local lawmakers to secure funding. The Initiative welcomes all to its planning process and meets every other Saturday from 9:30 a.m. to noon Saturday at the El Paso Community College Administrative Service Center, Building B, Room B445, 9050 Viscount Blvd. For more information, call 532-2444.

El Paso has only 1.45% of all the lawyers in Texas, where El Paso has one lawyer for every 656 people (the other five largest average one lawyer for every 256 people). In El Paso, the largest single percentage of lawyers come from out-of-state law schools.

The road is, and will continue, to be difficult, but the law school initiative is a positive vision for El Paso and indeed the entire Paso del Norte region of El Paso, Las Cruces, Juarez, and the sister adjacent counties for this area.

Yes, in contrast to some opinions, we believe there is plenty of work here and plenty of need, and through the El Paso Law School Initiative, El Paso has the vision to capture this and actualize the potential with the El Paso School of Law. Below are some interesting statistics dealing

with lawyers in El Paso from the State Bar of Texas Department of Research and Analysis, which lists the El Paso Metropolitan Statistical Area as having a population of 838,972 as of 7/1/2016:

How do the top 5 Texas Metropolitan Areas compare in the ratio of attorneys to the population?

- Houston-The Woodlands-Sugarland: 1 attorney per 236 people [3 law schools in area]
- Dallas-Fort Worth-Arlington: 1 attorney per 265 people [2 accredited law schools, 1 law school in process of being accredited]
- Austin-Round Rock: 1 attorney per 170 people [1 law school]
- San Antonio-New Braunfels: 1 attorney per 353 people [1 law school]
- El Paso: 1 attorney per 656 people [no law school]

What are the largest sources for El Paso law school graduates?

- El Paso lawyers from out-of-state law schools = 32%
- El Paso lawyers from the University of Texas at Austin = 22%
- El Paso lawyers from Texas Tech Law School = 17%

El Paso also has only a handful of board-certified attorneys:

Given the increased impetus to develop a

stellar healthcare industry in the El Paso area, how many attorneys in El Paso have a certification in the practice of Health Law?

Answer: Zero

How many lawyers in El Paso possess a certification in Immigration and Nationality Law?

Answer: Two

How many lawyers in El Paso possess a certification in Workers Compensation Law?

Answer: Zero

How many lawyers possess a certification in construction law?

Answer: Zero

How many lawyers possess a certification in criminal appellate law?

Answer: One

How many lawyers possess a certification in juvenile law?

Answer: Two

In closing, your presence at any one of the Law School Initiative Saturday meetings is welcome, come join in.

JANET MONTEROS is an attorney with the Texas Health and Human Services Commission, and is a member of the El Paso Law School Initiative.

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.

PEOPLE SKILLS: Indispensable Qualities For Successful People

BY OSCAR G. GABALDÓN, JR., CWLS

“Your career success in the workplace of today—independent of technical expertise—depends on the quality of your people skills.”

— Max Messmer Jr.,

Managing Your Career for Dummies

Whether we are involved in the practice of law, the art of teaching, the healing arts, the sciences, or some other career pursuits, most people would agree that an academically-inclined mind is a very useful means to a more successful career. While this may be true in many cases, it is usually undisputed that intellectual ability often defers to the quality of our “people skills” as being a more promising indicator of our potential to better succeed professionally, as well as succeed in our everyday personal relationships.

Good people skills are unlike other desirable career attributes. Attributes, such as comprehension skills, creativity, and technical literacy are highly valued in the work place; however, no matter how much we may excel in developing these kinds of qualities, if we are lacking in good people skills, the odds are that our career progression and our efforts to maintain healthy personal relationships may face a challenging uphill battle.

Perhaps at the center of our commitment and perseverance in seeking to grow and flourish in our people skills is to have the insight that allows us to recognize and embrace the dignity

and value of human beings. The more we respect the dignity and value of others, the better we are able to intensify our overall people skills.

We can develop and improve our people skills. The more people skills that we can nurture and master, the more “doors of opportunity” will open up for us on our trek towards our professional and personal aspirations and successes. Jacquely Smith, who worked for Forbes as a Leadership Reporter, and who is the coauthor of “Find and Keep Your Dream Job: The Definitive Careers Guide from Forbes,” wrote an online article entitled, “The 20 People Skills You Need to Succeed at Work.” Those vital skills are (1) the ability to relate to others, (2) strong communication skills, (3) patience with others, (4) the ability to trust others, (5) knowing how and when to show empathy, (6) active listening skills, (7) genuine interest in others, (8) flexibility, (9) good judgment, (10) the ability to persuade others, (11) negotiation skills, (12) the ability to keep an open mind, (13) a great sense of humor, (14) knowing your audience, (15) honesty, (16) awareness of body language, (17) proactive problem solving, (18) leadership skills, (19) good manners, and (20) the ability to be supportive and motivate others. Most of us already possess some of these skills. A few possess all of them. Regardless, these skills are obtainable and can always be enhanced.

We must keep in mind, though, that it is more difficult to develop our people skills if we do not

first learn to be more accepting of ourselves and regard ourselves in a more positive light. How we feel about ourselves has a significant effect on how well we can more genuinely reach out and relate to others. Wilfred Peterson, an American author who wrote a monthly column for Science of Mind magazine, explains this idea by saying that “The art of being yourself at your best is the art of unfolding your personality into the man you want to be. Be gentle with yourself, learn to love yourself, to forgive yourself, for only as we have the right attitude toward ourselves can we have the right attitude toward others.”

It is often the case that our ability to embody an array of admirable people skills is proportionate to our sincere desire to reach out to our fellow men and women. The more we are concerned about the happiness, betterment, and well-being of others, the more we aspire to grow and mature in our people skills. After all, it is part of our mission in life to gently touch hearts, especially sad, somber, or forgotten hearts that are in need of reassurance and hope, for as the saying goes, “No one needs a smile as much as a person who fails to give one.”

OSCAR GABALDÓN is an assistant City Attorney and former Associate Judge of the 65th District Court responsible for overseeing the trial of Child Abuse and Neglect cases. He is certified by the National Association of Counsel for Children and the American Bar Association as a Child Welfare Law Specialist (CWLS)

EPYLA hosts annual golf tournament, gets grant funding

On Monday, October 10, 2016, the El Paso Young Lawyers Association held their annual golf tournament at Butterfield Trail Golf Course. Thirteen teams from across the borderland competed in this event, and EPYLA raised more than \$4,000 to benefit its professional and charitable activities, including the upcoming annual Christmas of Hope Project. Congratulations to the team from Capital Bank, who won first place. Special recognition also goes out to Ramiro Gutierrez for longest drive, and Gary Thomson and Geoffrey Borschow for being closest to the pin. EPYLA thanks all of its sponsors and

participants, and hopes to see everyone out again next year!

In addition to this golf tournament and our preparations for the upcoming Christmas of Hope toy drive, EPYLA has also engaged in numerous other projects since starting its new year in July. EPYLA’s Summer Bash brought together judges, attorneys, law clerks, summer interns, and pre-law students to network on the rooftop deck of the newly-renovated Hotel Indigo, overlooking Downtown El Paso. In late August, EPYLA executive board members, using materials provided by our parent organization (the Texas Young Lawyers

Association), gave several presentations about the Voting Rights Act and how to register to vote to high school seniors at Montwood High School. In September, we greeted several new law graduates awaiting bar results at the grand opening of the International Bar at San Jacinto Plaza. Finally, in October, EPYLA was able to secure several hundred dollars in grant funding from the Texas Young Lawyers Association to implement EPYLA’s Fresh Start Initiative, a pilot program consisting of informational booklets and a CLE training course teaching general practice attorneys everything they need to know about a client’s juvenile records.

SENIOR LAWYER INTERVIEW

RICHARD MUNZINGER

BY KIRK COOPER

In the offices of ScottHulse on the eleventh floor of the Chase Building, Richard Munzinger talks to the El Paso Bar Journal about local history, family, defamation law, and the importance of vetting your witnesses before trial.

COOPER: First question—are you originally from El Paso?

MUNZINGER: Yes, I was born and raised here. My folks moved to the Lower Valley in 1941. I went to St. Joseph Catholic grade school on Waco Street, Ysleta High School, UT for undergrad, and UT for law school. I spent two years in the Army between my undergraduate and my law school.

COOPER: Where did you serve?

MUNZINGER: Fort Belvoir, Virginia, and Fort Bliss, Texas. I was an officer in the military police. It was an education for a guy coming out of college, not knowing anything but nice people, and all of a sudden, here you are and you see life as it's lived. It was an education for sure.

COOPER: What made you decide to go to law school?

MUNZINGER: People encouraged me to do so. When I was kid, they'd jokingly call me "Senator" and said I ought to go to law school. So not knowing anything better to do, I went to law school.

COOPER: Did you start off your career here at Scott Hulse?

MUNZINGER: I came to work here Monday, March 21, 1966, and have been here ever since.

COOPER: What was your first day like?

MUNZINGER: I opened my desk drawer, and I saw a briefing assignment for the County of El Paso that took me probably 90 days to complete. Remarkable issues on archaic law.

COOPER: What were the issues, do you remember?

MUNZINGER: Depository liability for



Richard Munzinger

fraud of a public officer. The County Auditor at the time had absconded with a couple million dollars. The County Judge was Travis Johnson. He hired our firm to review the question of whether any of the local banks as county depositories had liability for the fraud this fellow perpetrated. We found out they had a potential for liability, and the matter was settled with those banks without litigation being filed.

COOPER: I know that for a while you represented the El Paso Times in various capacities. Do you have any interesting cases that came out of that? I would imagine these are libel-type cases?

MUNZINGER: The first case I was involved in for them was a case called Trexler v. El Paso Times, and it went to the Texas Supreme Court. It was the first Texas case decided by the Texas Supreme Court following New York Times v. Sullivan. It had been a celebrated case at the time. A UTEP professor by the name of Richard Trexler appeared in a photograph carrying a sign saying "Would Jesus carry a draft card?" It was during the Vietnam War, and a person wrote a letter to the editor saying, "There was a time when rats paid the penalty for treason. Now they make them college professors."

Trexler filed a libel suit, which was prosecuted on the plaintiff's side by Warren Burnett,

a very prominent plaintiff's attorney in West Texas, for that matter in the state and nationally. He officed in Odessa. Trexler was also represented by a local El Paso lawyer by the name of Jesus B. Ochoa, Jr.

We won the case to the jury. I sat third chair, and I handled the appeal to the El Paso Court of Appeals and to the Supreme Court. I was allowed by my firm to argue the case before the Supreme Court, as an associate at the law firm.

COOPER: That's impressive.

MUNZINGER: It was very generous of them. They've always been very kind to me.

COOPER: So what was it like arguing your first case before the Supreme Court?

MUNZINGER: (Laughing) I was very nervous. But I got good advice from Scott and Marshall who said, "just be yourself and tell them the facts of the case, because the facts of the case are such that we ought to win." At the time, the difference between opinion and statements of fact had no as yet been articulated by the courts. There was no such thing as an opinion defense. That came many years later. In today's world, clearly, people would recognize that as hyperbole, and I don't think he would even pass a summary judgment motion—but in those days, there was no such law. It went to the jury, and the jury found for the El Paso Times. I think it was more of a political expression by the jury more than anything else. The Vietnam War really tore a rift in American society. It was very emotional and very confrontational.

COOPER: Any other interesting cases? Big cases that stand out in your mind?

MUNZINGER: I tried a capital murder case with Rob Junell, he's a federal judge who just took senior status. It was one of the first capital murder cases after the Supreme Court allow capital punishment and the Legislature amended the statutes. That was a hell of a case.

COOPER: I'm guessing you were on the defense side?

MUNZINGER: We were court-appointed. I represented this fellow, John Melvin Dorough,

CONFLICTS? RESOLUTIONS!

Solving Problems--Closing Cases

Patricia Palafox
*Bilingual Attorney
Mediator-Arbitrator*



**Celebrating 21 years of
Professional mediation &
Arbitration; 36 years of Legal
Representation**

TEXAS and NEW MEXICO
State & Federal Civil Cases
Employment • Personal Injury
Medical Malpractice
Family Law • School Law
Construction Contracts
General Business Law



Mediation, Negotiation
and Arbitration Training

Harvard Law School

The Attorney-Mediators Institute

Texas Wesleyan University
School of Law

The National Mediation Academy, Inc.

36 Years of Legal Representation



*Thank you for your support
and trust over the years*

8001-E North Mesa, PMB 345
El Paso, TX 79932
Phone: 915-833-6198
Fax: 915-833-7305
palafoxpatricia@sbcglobal.net

Jr. He killed a young man, shot him in the heart after he raped his girlfriend. We were in trial for maybe a month, picking the jury, trying the case. I didn't handle the appeal, but I handled the trial. He got life, he didn't get death.

In those days, you had three special issues before you could impose death, but the basic question was: is he likely to be violent again? And at one point the most extraordinary events happened in that case. So, he's found guilty and they have the punishment stage. Steve Simmons tried the case, Gary Wisner was first assistant. And they called this young girl to testify that the defendant had assaulted her, and that was their proof that he was likely to rape someone else again. The circumstances were quite unique. It was very early morning after this little girl had used a number of mood-altering substances, and it was like three or four in the morning, very dark. She claimed that my client had jumped from behind the wall and threw her on the ground. And in cross-examination, I pointed out that it was dark and the nearest streetlamp was about 50 to 100 yards away. I said, "under these circumstances, are you telling this jury—so help you God—that the person that assaulted you was John Melvin Dorough, Jr., the boy sitting over there at that table?"

She looked at me and she said, "Mr. Lawyer"—this is almost a direct quote—"Mr. Lawyer. You're right. This is a glass eye." (Laughing) I mean, nobody had any conception that she had a glass eye. Steve Simmons didn't know it, Gary Wisner didn't know it, none of us knew it.

COOPER: That's crazy.

MUNZINGER: You looked at her, and

you couldn't tell. She pointed to her right eye, and the guy had jumped her from behind—she's walking down this street, and there's a wall waist-high, and whoever it was jumped her from the right side, and she said "Mr. Lawyer, you're right. This is a glass eye." Isn't that remarkable? I guess God just didn't want this guy to die, I'm sure. Isn't that a hell of a story?

COOPER: Switching gears, let's talk about your family. You have a son who is also a lawyer?

MUNZINGER: Yes, he is. He's a lawyer in San Francisco. His name is Richard F. not Richard G., he's not a junior.

COOPER: Did you encourage him to go to law school, or did he come to that decision himself?

MUNZINGER: No, I did not encourage him to go to law school. He did that on his own. I wanted him to be a philosophy professor. He majored in philosophy at Notre Dame, he was Phi Beta Kappa, magna cum laude. I had practiced law, knew what it was like, and I thought it would be a much better life to be a philosophy professor at a nice university, and he didn't want to. He wanted to practice law. My son went to Stanford Law School. He practices out in San Francisco, and he loves it. I also have two stepdaughters. One is a schoolteacher here, and the other is a consultant in San Francisco.

COOPER: I understand that you've done a lot of CLEs, trainings, teaching about the law, things like that in your career?

MUNZINGER: I haven't done it in years

EL PASO LAWYERS FOR PATRIOTS VETERANS LEGAL CLINIC

Saturday, November 19, 2016

9:00 a.m. to 1:00 p.m.

Transmountain Campus
El Paso Community College

If you can volunteer for the clinic, please contact Nancy at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

because I'm 78 years old, and no one wants to hear a 78-year-old man talk, and I don't blame them. But I did it years ago. I got into law through the backdoor. I originally wanted to be a teacher. But you couldn't make any money back in those days as a teacher, it may be the same today. I didn't see how I could raise a family on a teacher's salary. So I went to law school, but teaching has always been something I've enjoyed. I was asked to teach trial advocacy at Harvard. So I did, I went to Harvard for several years and taught trial advocacy. They had a three-week program between semesters and each student has to take one of these practical courses. So I was out there around 1985, '86. I did it at UT, Harvard, Michigan. I did a lot of it and I enjoyed it very much. And I gave a lot of speeches on business litigation and antitrust law for many years with the State Bar. I enjoyed it very much. And it was very productive, I got hired for a lot of out-of-town cases—most of my practice over the years has been out of the city of El Paso. For that reason, I had a lot of antitrust cases in other cities, San Antonio, Laredo, Lubbock, different places.

“ I was blessed to have really bright, hard-working associates. So you could manage it if you had a staff of really good people, and I had some wonderful, brilliant young lawyers.”

COOPER: So managing a practice like that, trying to balance between here and there, how do you coordinate that?

MUNZINGER: You know, I was blessed to have really bright, hard-working associates. So you could manage it if you had a staff of really good people, and I had some wonderful, brilliant young lawyers. Brian Hall was one. Jeff Alley was one. Jim Cobb was one. Randy Lee was one. I could keep talking. Brilliant young people that came here, that were very loyal and hardworking. And that's how you did it. You had a staff of guys and girls that kept you out of trouble.

COOPER: Now let me ask you. You said you're 78. You're still practicing law. Why is that?

MUNZINGER: I think because God wants me to be here, first. And second, it's so intellectually stimulating. What would I do if I sat at home and didn't do it? I'm blessed. God has blessed me beyond the telling, all my life. But in old age, it's nice that I get a chance to do what I'm doing. It's more than nice. It's a great blessing. The law is wonderful. You get into something, and you don't know anything about it, to get the answer is fun. My law partner Russell Hill and I, we comment frequently—we play golf together every Sunday—that what we miss the most about practicing law is that we can't do our own briefing anymore. That's more fun, to get down in there and dig and dig and dig, fight, distinguish, maneuver. It's a wonderful profession.

KIRK COOPER is editor of the Fall/Winter 2016 Issue of the El Paso Bar Journal. He is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Court of Appeals for the Eighth District.



UNITED BANK
OF EL PASO DEL NORTE

YOUR PRACTICE. OUR PURPOSE.

As an attorney, you work to fight for what's right. At United Bank, we take the same approach when helping our clients establish or grow their legal practice. Let us raise the bar, and put our skill and experience to work for you.

When you're ready to take the next step with your law practice, choose the bank that knows what it takes to win.

WEST 125 Mesa Hills Dr. at Mesa	DOWNTOWN 401 E. Main	EAST 9801 Gateway W. at McRae & 1726 N. Zaragoza Rd.
--	--------------------------------	---

(915) 231-2500 • elpasounited.com

Member FDIC LENDER

El Paso Bar Association
Presents
21ST ANNUAL CIVIL TRIAL PRACTICE SEMINAR
February 9, 10, & 11, 2017

Hotel Monteleone, New Orleans, Louisiana

Approved for 14.25 hours of MCLE, including 3.5 hours of Ethics by the SBOT
Pending Approval by the Louisiana Board of CLE and Pending Approval by the NM Board of MCLE

Mark Dore, *Moderator*

Laura Enriquez, *Seminar Course Director*

Schedule

Thursday, February 9, 2017

6:00 – 8:00 p.m. **Legal Legends, Live Interview**
by U.S. Magistrate Judge Miguel Torres
U.S. District Judge David Briones and Judge
Carlos Villa (Cocktails and Hors d'oeuvres)

Friday, February 10, 2017

7:00 – 7:45 am **Registration**
7:45 – 8:00 am **Welcome**
Mark Dore, Mounce, Green, Myers, Safi,
Paxson & Galatzan, P.C.
President-Elect of El Paso Bar Association

8:00 – 9:00 am **Appellate Advocacy in the 5th Circuit** Chief Justice
Carl Stewart, United States Court of Appeals for
the Fifth Circuit, Shreveport, Louisiana

9:00 – 10:00 am **Texas Supreme Court Update**
Justice Debra Lehrmann, Supreme
Court of Texas, Austin, Texas

10:00 – 10:15 am **Morning Break**
10:15 – 11:15 am **Defending a Personal Injury Case and the
Stowers Doctrine**
Kurt Paxson, Mounce, Green, Myers, Safi,
Paxson & Galatzan, P.C., El Paso
Ruben Robles, Robles, Bracken & Hughes,
P.C., El Paso

11:15 – 11:45 pm **ABC's of UAV's: Rules and Regulations of Drones**
Cori Harbour, The Law Office of Cori Harbour,
El Paso

12:00 - 1:00 pm **Luncheon Program – Social Media and Ethical
Considerations**
Judge Sue Kurita, County Court at Law #6,
El Paso, Texas

1:00 – 2:00 pm **Basics of Recusal and Contempt**
Judge Stephen Ables, Presiding Judge,
6th Administrative Region, Kerrville, Texas

2:00 – 3:00 pm

Ten Things Every Civil Attorney Should

Know About Criminal Law
Justice Bert Richardson, Texas Court of Criminal
Appeals, San Antonio, Texas

3:00 – 3:15 pm

Afternoon Break

3:15 – 4:15 pm

**The Servicemembers Civil Relief Act: Avoiding Pitfalls Under
the Federal Statute in Your Civil Practice**

Walter Huffman, MG (USA Ret.) and Dean Emeritus,
Texas Tech University School of Law, Lubbock, Texas

4:15 – 5:15 pm

New Mexico Plaintiff's Practice Tips

Humberto Enriquez, Law Office of Humberto Enriquez,
El Paso, Texas

5:30 – 6:30 pm

Sponsorship Happy Hour

Saturday, February 11, 2017

7:00 – 8:00 am

Breakfast

8:00 - 9:00 a.m.

Labor Law Update

Charles High, Kemp Smith, P.C., El Paso, Texas
Michael McQueen, Kemp Smith, P.C., El Paso, Texas

9:00 - 9:15 a.m.

Morning Break

9:15 - 10:45 a.m.

**Ethics in Communications with Opposing
Counsel & Panel Discussion**

H. Keith Myers, Mounce, Green, Myers, Safi, Paxson & Galatzan,
P.C., E; Paso, Texas

Mark Osborn, Kemp Smith, P.C., El Paso, Texas

Mary Stillinger, El Paso, Texas

10:45 - 12:00 p.m.

Medical Malpractice Update for Texas and New Mexico

Larry Hicks, Hicks & Llamas, P.C., El Paso, Texas

Door Prizes will be given throughout the seminar

Course Materials will be in the form of a flash drive

To book your room at the Hotel Monteleone, go to www.elpasobaracle.com
to get our rate of **\$229** for each night.

Cost: **\$375** – Members of EPBA; **\$475** – Nonmembers & **\$175** – Paralegals

IF YOU DO NOT ATTEND THE THURSDAY EVENING SESSION YOU WILL ONLY RECEIVE 12.25 HOURS OF MCLE

REGISTRATION FORM

Name: _____

Address: _____

Telephone: _____ Fax: _____ E-mail: _____

SBN: _____

You can also pay by credit card by going to our website, please add \$5.00 transaction fee:

https://elpasobar.com/make_a_payment

Send your registration form and check to:

El Paso Bar Association
500 E. San Antonio, Rm. 1204
El Paso, Texas 79901

\$375 – EPBA Members

\$475 - Nonmembers

\$175 – Legal Assistant/ Paralegals

If you have any questions, comments or would like to be a sponsor, please contact the Bar Association Office
at (915) 532-7052, (915) 532-7067 - FAX or go to our website, www.elpasobar.com or send an email to nancy@elpasobar.com

Settlement Trust...



More Than Just Taking Care of the Money

As a trustee, MEMBERS Trust Company develops an Investment Policy Statement that serves as a blueprint for managing the trust assets, monitoring investment return and risk, and meet with the beneficiary to access needs and any change in personal circumstances. We work to prudently manage assets in the trust as well as gaining the personal trust and confidence of the plaintiff. MTC believes every settlement should be **Structured** and should provide the optimum financial protection and security for the plaintiff.

- ◆ **Taxation of Settlement**
- ◆ **Net Worth of Settlement**
- ◆ **Plaintiff Circumstances**
- ◆ **Health Care Management Plan**
- ◆ **Special Needs Trust**
- ◆ **Medicare Set Aside Trust**



MEMBERS TRUST COMPANY
Owned by America's Credit Unions

915.774.4741

7227 Viscount Blvd.

El Paso, Texas 79925

Located at the GECU Branch on Viscount

Judy Monteleone
Vice President and Trust Officer

Linda Ontiveros - Senior Trust Officer

Ercilia Short - Trust Administrator

The El Paso *Trust Team...*



Nondeposit investment products available through MEMBERS* Trust Company are not deposits of or guaranteed by the trust company, a credit union or credit-union affiliate; are not federally insured or guaranteed by the NCUA, FDIC or any other government agency; and, are subject to investment risks, including possible loss of the principal amount invested. MEMBERS* Trust Company is a federal thrift regulated by the Office of the Comptroller of the Currency.



EL PASO BAR ASSOCIATION
500 E. San Antonio, Rm. 1204
El Paso, Texas 79901
(915) 532-7052

PRESORTED
STANDARD
U. S. POSTAGE
PAID
EL PASO, TEXAS
PERMIT NO. 2516



EL PASO BAR ASSOCIATION HOLIDAY PARTY

Thursday, December 1, 2016
5:30 – 7:30 p.m.

El Paso Community Foundation Room
333 N. Oregon

*Food, Fun, Drinks and a Silent Auction**

If you have any questions or would like to donate an item for the Silent Auction, please contact Nancy at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

**Silent Auction benefits the El Paso Bar Foundation*