



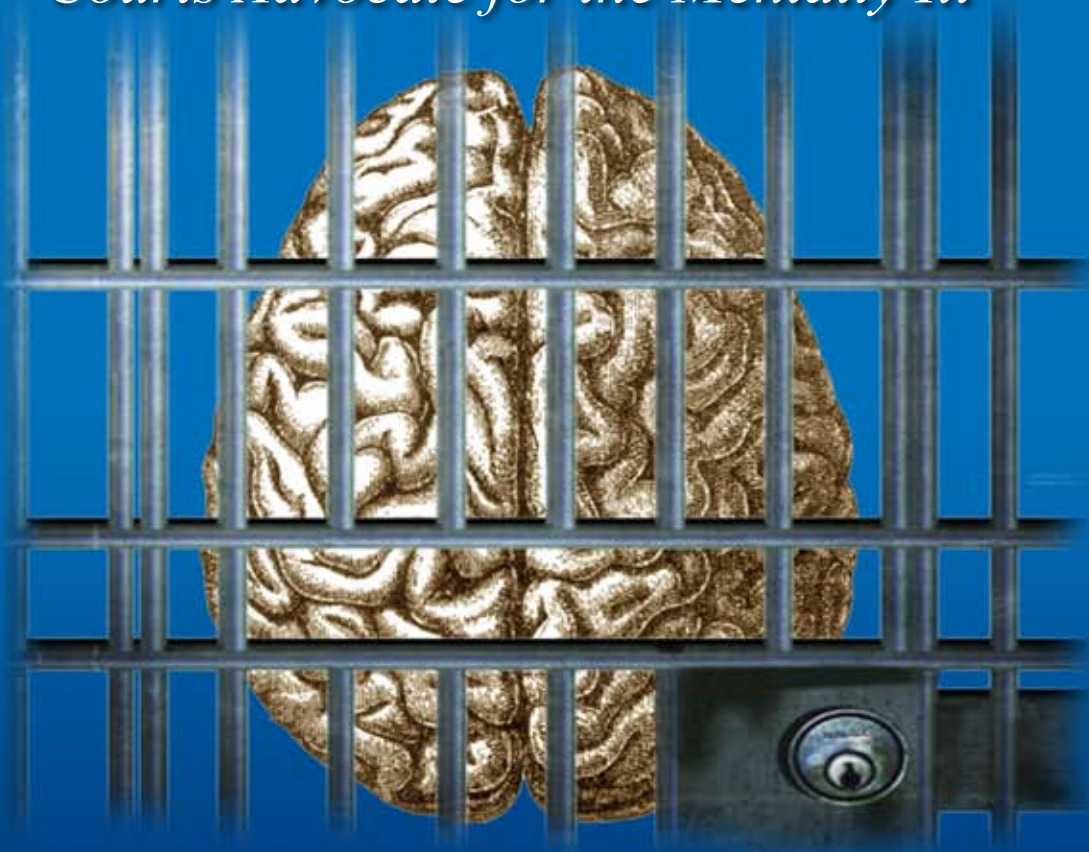
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*An Update of Events and Information*

# EL PASO BAR JOURNAL

June 2009

# Silent Citizens

*Courts Advocate for the Mentally Ill*



Prevention and Treatment through El Paso's Courts / Page 6

Senior Lawyer Interview: SAM MOORE JR. / Page 16

*The Story of El Paso's Second Mayor, Melton A. Jones*

by Ballard Shapleigh / Page 11

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

## THE PRESIDENT’S PAGE

**T**HANK YOU. Those words seem so inadequate to truly convey how appreciative I am for the opportunity I’ve been given to serve. I have thoroughly enjoyed my year as President. It has been a rewarding and enjoyable experience, much more so than I ever anticipated. For that, I thank all of you. As I told you in September, I was both thrilled and humbled that the Officers and Directors had faith in me to lead this organization. I hope that I have not disappointed and I hope that you all will continue to support EPBA and its mission. I am confident we will continue to flourish under the able leadership of Carlos Cardenas and the officers who will follow.

So in closing, thank you! Thank you to the legal community and our many sponsors for supporting EPBA and its programs, seminars and events. Thank you to the Officers and Directors for your dedication to EPBA. Thank you to the Editorial Board: Clinton Cross, Judge Oscar Gabaldon, Donna Snyder, Ballard Shapleigh, Stephanie Townsend Allala, our publisher, Del Pueblo Press, and everyone who contributed to making this year’s Journal a top-notch publication. Thank you to the Law Day Committee, and especially Ann Ward for spearheading this year’s Law Day Dinner. Thank you to the Holiday Party Committee, especially Cheryl Lay, Diana Valdez and Judge Maria Salas-Mendoza for both making the party a fun event and for organizing a successful auction to benefit The Calamia Project. (See page 19 for an update on these efforts.) Thank you to Chantel Crews for making the monthly luncheons informative and entertaining. Thank you to Paco Dominguez for organizing the Vegas CLE. Thank you to Carlos Cardenas for standing in for me on numerous occasions and offering much appreciated advice. Thank you to Bruce Koehler for keeping us within our budget during these tough economic times and always keeping such a positive attitude. Thank you to Judge Maria Salas-Mendoza for not only accurately recording our minutes, but also for volunteering at every request to assist. Thank you to Judge Bobby Anchondo, Justice Ann McClure, Mark Hedrick and Steve James, the past presidents under whom I served. I learned so much from each of you and I thank you for your guidance and words of wisdom. And last but certainly not least, a HUGE thank you to Nancy Gallego. Without you, this organization would not function as smoothly as it does, and quite frankly, would likely cease to exist. You are the heart and soul of EPBA and we are lucky to have you!



*Thank you! ¡Muchas Gracias! Merci!*

*Cori*

# EL PASO BAR ASSOCIATION

## June Bar Luncheon

Tuesday, June 9, 2009

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

**\$20 per person. 12:00 Noon**

*Discussion on Cybercrimes by the Office of the Attorney General*

*We will also have the Election and Swearing in of the 2009-2010  
Officers and Directors of the El Paso Bar Association*

**Please make your reservations by Monday, June 8, 2009 at noon by calling Nancy  
at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)**

## CALENDAR OF EVENTS

### JUNE 2009



**Tuesday, June 2**  
EPBA BOD Meeting

**Friday, June 5**  
MABA Monthly Meeting

**Tuesday, June 9**  
EPBA Monthly Luncheon

**Wednesday, June 10**  
EPWBA Monthly Meeting

**Wednesday, June 17**  
TRLA Legal Clinic

**Thursday, June 18**  
EPPA Monthly Meeting

**Friday, June 19**  
EPBA & Courthouse Closed  
– Juneteenth Day

**Sunday, June 21**  
Father's Day

### July, 2009

**Friday, July 3**  
EPBA & Courthouse Closed  
– Independence Day

**Thursday, July 16**  
EPPA Monthly Luncheon

### August, 2009

**Monday, August 3**  
September Journal  
Submission Deadline

**Thursday, August 20**  
EPPA Monthly Luncheon

*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 September, 2009, please have the information to the Bar Association office by Monday, August 3, 2009. 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; [mancy@elpasobar.com](mailto:mancy@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.*

## COUNTY COURT AT LAW NUMBER ONE

# Mental Health Court

## *Prevention and Intervention Treatment Program*

■ BY CESAR F. PRIETO

*Program Director*

Each day, individuals with mental illness cycle through the felony and misdemeanor Courts of El Paso, County. Many of the offenders are suffering serious mental illness and have not been properly diagnosed. Before arriving in the criminal justice system, these individuals have basically fallen through the “safety nets” of families, hospitals, and community-based treatment providers. Once they reach the courts, they pose significant challenges for the criminal justice system.

Because of a system based on incarceration rather than rehabilitation, judges typically lack the tools necessary to perform meaningful assessments. In addition, they are ill-prepared to link offenders with the appropriate mental health providers. Given their concerns for the public safety, welfare of the community, and with so few options, courts often surmise that the safest choice is to sentence a mentally ill offender to jail or prison. Complicating matters even further is perhaps the presence of co-occurring disorders, or more than one illness. Simply put, mental health patients often abuse drugs and alcohol in a vain effort to self-medicate.

In order to more effectively address the underlying causes for anti-social behavior, courts in recent years have begun to explore the use of drug and mental health courts. These courts attempt to link the offender who suffers from mental illness and substance abuse to long-term treatment programs as an alternative to incarceration. The County Court at Law No. 1 Mental Health Court was established on November 17, 2007. The first official participant was placed in the program on March 6, 2008.



*Mentally ill individuals are arrested more frequently and spend more time in jail than mentally healthy individuals.*

The Mental Health Court caseload utilizes an individual, tailor-made approach to address each specific mental health case. Judicially supervised and community-based treatment plans are developed for each participant. Court staff and mental health professionals are responsible for designing and implementing these very unique plans - a one size fits all approach is impractical.

Status hearings are routinely held. Treatment plans and other conditions are reviewed for the participant's progress or lack thereof. Sanctions may be imposed for non-compliance; however, the main objective is to see participants move forward and hopefully without further re-arrests.

Mentally ill individuals are arrested more frequently and spend more time in jail than mentally healthy individuals. The vast majority of offenses committed involve non-violent, low-level quality of life transgressions. More often than not, due to their legal histories, mentally ill offenders have considerably more trouble securing treatment services, jobs, and housing thus, making it more likely that they will inevitably come back into contact with the police and the courts.

We are hopeful that with the creation of our Mental Health Court, and with the development of unique treatments plans for each individual and with the proper treatment services, mentally ill offenders will no longer be serviced primarily through the criminal justice system. By addressing the offenders' underlying mental health problems, we hope that some offenders, perhaps many offenders, will learn to function appropriately and constructively in our community, and that they will be able to do so without the stigma associated with mental illness.

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# DWI Drug Court Intervention and Treatment Program

■ JUDGE ROBERT ANCHONDO,  
*Judge of County Criminal Court at Law No. 2.*

*On November 03, 2004, Judge Robert Anchondo created the first DWI Drug Court Program in the State of Texas. The DWI Drug Court Intervention and Treatment Program is the first dedicated specialized court in the region to handle adults convicted of DWI offenses.*

*The program applies the principles of the traditional Drug Court Program to alcohol dependent adults.*

**E**l Paso County is the westernmost county in the U.S. State of Texas. According to the 2008 U.S. Census population estimates the county to have a population of 742,062 residents.

DWI Drug Court Programs are specialized courts designated to handle adults convicted of Driving While Intoxicated (DWI) offenses. DWI Drug Court Programs demand offender accountability by requiring judicial monitoring, mandatory treatment, and intensive supervision. While many Drug Court Programs have expanded their programs to include individuals with DWI offenses, there are few courts that have established programs dedicated solely for the DWI offenders. The mission of the DWI Drug Court Program is to reduce recidivism among adult DWI/Drug offenders in El Paso County.

The program uses a multi-faceted approach. Offenders are required to attend mandatory alcohol/drug treatment counseling and AA meetings or other support groups, complete community service hours, and to submit to of random alcohol/drug testing and intense supervision by a Community Supervision Officer and Surveillance Officer.

The majority of the participants that the DWI Drug Court Program serves are Hispanic men in their early twenties to their mid fifties. 42% of the 159 participants that have been admitted into the Drug Program are between the age group of 21 and 30. The second leading age group at 32% is 41 and over. Third age groups at 22% are between 31 and 40, followed by 3% between ages 19 and 21. Among participants alcohol is the primary drug choice at 84%, second choice is



Illustration by M. Augusta Cross

*Our goals and objectives are to reduce recidivism among adult DWI/Drug offenders in El Paso County.*

marijuana 7%, followed by cocaine at 3% and the remainder being another drug of choice.

As of April 2009, the DWI Drug Court Program has admitted 164 participants. Of those 164 participants, 80 of those participants have successfully completed the DWI Drug

Court Program. Currently there are 57 active participants in the program. Every year the amount of graduates has gone up gradually, in 2006 (20 graduated), 2007 (22 graduated), and 2008 (28 graduated) and currently in 2009 (9 graduated) with that number increasing within the next months.

In view of the county's current financial crisis, it is even more important that the drug court team develop new sources of revenue through public education, partnership with local and national businesses that can provide resources both in terms of goods and employment opportunities for drug court clients. The DWI Drug Court team will also need to lobby opinion makers and legislators about the importance and the value of the program.

The DWI Drug Court Program is a very successful operation, and its success is due in large part to the different components that form the DWI team (District Attorney, Public Defender, Police Department, Community Supervision Department, Treatment provider, and all the alcohol anonymous centers). Without their goodwill, the cooperative give-and-take that occurs during every team meeting would not happen, and the program could not operate as successfully.

*In Chambers*, the official publication of the Texas Center for the Judiciary, recently republished Judge Oscar Gabaldon's article *A Partnership of Hope*, originally published in the April/May issue of the El Paso Bar Journal. Today, a judicial publication of the National Council of Juvenile and Family Court Judges, has requested permission to do the same. Congratulations, Judge Gabaldon!

# The Art of Balancing Life with Zest

■ BY JUDGE OSCAR G. GABALDÓN, JR.

*“The best and safest thing is to keep a balance in your life, acknowledge the great powers around us and in us. If you can do that, and live that way, you are really a wise man.”*

EURIPIDES (484 B.C.-406 B.C.)

The stories are many and usually share a commonality. They revolve around the challenge of needing to work to survive, while also needing to get away from work, also to survive. Food needs to be placed at the table, kids need clothing, mortgages need to be paid, and bills need to be taken care of. By the same token, your spouse or significant other needs your time, your gentle touch, a lovely whisper and your focused attention. Your children need to bond with you. They need your embrace and encouraging words. They need your presence, your guidance, and your story telling. Your family needs to do things with you to maintain a sense of togetherness. They want to create memorable moments with you that can be cherished for years to come. You need time alone by the beach, a park, or some other special place. You need to relax by enjoying an interesting book, chatting with a close friend, or perhaps enjoy some laughs watching a comedy show. The list go on and on.

The central question in all this is “How?” How do I balance all these things? How do I balance my work with my family and with my life? Let’s be candid. There is no boiler plate answer. People are individuals and, therefore, that in itself calls for all sorts of balancing approaches to meet individual balancing needs. There are, however, general principles or ideas that we can consider and take into account when searching for “The Balance.” The responsibility is ours to find the way to a balanced life, for as psychiatrist Francis J. Braceland wisely observes, “We can be sure that the greatest hope for equilibrium in the face of any situation rests within ourselves.”



*In order to find some level of balance, it is essential that we recognize the importance of our own efforts as a necessary ingredient.*

In order to find some level of balance, it is essential that we recognize the importance of our own efforts as a necessary ingredient. We cannot simply seat idly and let balance magically appear. One has the responsibility to cultivate and support one’s own efforts in the pursuit of attaining a desired level of balance. At work, employers and employees need to collaboratively advocate for and develop programs that help to bring balance, such as employee assistance programs that often times serve as wonderful conduits to address stress issues that filter into both the work and home environment. Other initiatives, such as arranging opportunities for personal time off, fitness programs, flex time, opportunities to participate in workshops or seminars, occasional pot luck meals, routine celebration of birthdays, and child care are but a few of the popular and trendy options that some employers are affording their employees. These practices should not be practices that

are occasionally exercised. There should be an ongoing ambience, perhaps even a culture, which starts from the top and filters down to everyone, that supports the balance of work and life for all employees. However, it is incumbent on everyone to assume responsibility and accountability to make sure that such programs and opportunities are not only used, but that they are not abused, lest they lose their intended benefit.

Once away from the work environment, we need to have the courage, prudence, and good sense to enjoy the time away from work. Yes, that means that we engage in things that are good for our overall well-being. We exercise, eat with the family, enjoy some conversation time with the kids, spent quality time with our spouse or significant other, call a good friend to catch up on things, pursue a hobby, have loved ones visit, have a barbeque, jog around the neighborhood, learn to play an instrument or take dance classes, read a book, write poetry,

play with the pets, engage in a game of chess or some other fun activity with our son or daughter, or perhaps sit outside and enjoy the beauty of all that surrounds us. There is no end to the list of things we can do away from work which can bring us joy, happiness, serenity, and a sense of great comfort; but, we have to make that choice and stick to it. We need to persevere and not give into the often present temptation to bring our jobs to the home. For some, this is very challenging; however, it is doable. It is a matter of really wanting to experience the joy of a balanced life.

For those of us that have a difficult time with balancing work, family, and life in general, it is important to be proactive in developing creative ways as to how we will approach the challenges. Let us not be afraid to seek the support of others to help us have a fulfilling and satisfying balance. This may call for strategic planning and the implementation of other organizational and time skills in order to balance our home life with our work life. That is perfectly fine. This will also involve getting rid of possible guilt feelings of breaking away from our traditional day-to-day living practices. I submit that if we are to feel guilt, it should be guilt for denying ourselves the right to pursue and maintain a balanced living.

Balancing our lives also requires that we define boundaries. That is, we need to factor in time for ourselves so that we may curtail tensions, lessen stress, and bring a greater level of relaxation to ourselves. This re-energizes us

in ways that can prove to be very worthwhile for ourselves and our loved ones. Boundaries also include drawing the line between the time to work and time to play. There is a time for everything, and we need to set those boundaries with firmness, but always allowing for flexibility because change happens. We never know when something will spring up on us, and we need to be ready to adjust.

Let us observe a caveat. When we speak about balancing our lives, we are not speaking about "equal" balancing.<sup>1</sup> In other words, balance is not about rigidly structuring our lives so that we set two hours for a hobby, two hours for conversation with our spouses, two hours for dining with the family, and so forth. Life does not work that way. Life is often in a state of flux. Balance-living changes almost daily. Maybe today our children are living at home, but tomorrow they are away in college. Maybe today we have a certain job, and tomorrow we have a different job.

We search for ways to achieve balance, but why do we want to do that? Why do we want a balanced life? Crucial to the effective meaning of what a work-life balance involves are the ideas of achievement and enjoyment. Both of these are necessary to get the full value of life. "Achievement and enjoyment are the front and back of the coin of value in life. You can't have one without the other, no more than you can have a coin with only one side. Trying to live a one-sided life is why so many 'Successful' people are not happy, or not

nearly as happy as they should be." We want to achieve things every day. We also want to enjoy things every day. When we reach out every day to have meaningful achievements and enjoyments, we often times want it to happen at work, with family, and with others we care about, including with ourselves. It is within our control to decide that we will approach our jobs with a commitment to seek the joys that exist there. Likewise, we come home with our minds made up that we will open the door to our home and find joys waiting for us. What do we want to achieve at work today? We will do our job, and we will do it well. What do we want to achieve at home? Whatever that is, we will do that well too. This will surely increase the chances of experiencing not just a balanced life, but a balanced life with zest. By doing this, others will want us around them, and they too may want to do as we do. It can create a ripple effect that may bring about enhanced balanced-living for many.

In the end, it is a harmonious and integrated existence that comes to fruition. It all starts with a choice... a personal choice to bring balance to our work, our families, and our lives. It all starts with us. It all starts from within. José Ortega y Gasset (1883-1955) states it like this: "Order is not pressure which is imposed on society from without, but an equilibrium which is set up from within."

<sup>1</sup> "Work-Life Balance Defined-What it really means!" WorkLifeBalance.com, 2003.

## EL PASO COUNTY DISPUTE RESOLUTION CENTER MEDIATION:

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# SILENT CITIZENS

## *Probate Court Two Helps Families in Crisis*

BY STEPHANIE TOWNSEND ALLALA

Twice a week, El Paso County Probate Court Judge Eduardo Gamboa presides over commitment hearings, in which decisions are made as to whether adults with mental illness should be confined in a psychiatric facility. Some are facing short-term, situational crisis. Others suffer deeply rooted mental illness and this court appearance is just one stop in a long history of incarcerations.

"Our penal institutions in Texas are the largest providers of care for the mentally ill," said Judge Gamboa. He is witness to the declining state of mental health care in Texas, as the number of mental health commitment hearings has skyrocketed.

"We have had a spike in recent months. We used to have eight to ten cases on Tuesdays and Fridays (the days of the hearings.) Last Friday there were 17, and today (Tuesday) there were 12." The Texas Department of Human Services says it no longer has funds to house the mentally ill. So the patient is discharged from a safe environment, tries to manage on his/her own, and ends up in crisis, at the El Paso Psychiatric Center. The Judge said the cycle of crisis is much more expensive than it would be to properly treat these citizens.

"You spend more money hospitalizing individuals with mental health problems," said Judge Gamboa.

Alfonso Chacon, ombudsman for MH/MR El Paso, said the lack of funds for mental health is "like a bubble getting ready to burst." He says El Paso, with a population of more than



Judge Eduardo Gamboa

750,000, is only intended to serve a population of 3,000 adults; however, it is currently serving more than 4,000 adults with illnesses such as schizophrenia, bi-polar disease, and other mental illness. "We're stretching all our services across the board. If our population is unstable, it has a huge ripple effect on the community."

"It's much cheaper to provide quality outpatient care," said Judge Gamboa. "That's what the State has failed to recognize. Thousands of people currently in jail are in desperate need of psychiatric care, but they get none in the penal institution."

Some may argue that criminals should be punished, even if the roots of their criminal activities lie in mental illness. Judge Gamboa has a broader view. "The worst thing you can do to a schizophrenic is lock them up in a

small space. Confinement hurts them. They're eventually going to be released back into society. So it's the citizens of Texas who lose out if these individuals don't get help."

The Probate Court is charged with handling any commitments of adults who may or may not want to be confined for treatment. It also appoints Guardians to care for those who may have diminished mental capacity due to mental illness, retardation, or dementia. "My court handles civil commitments. If someone needs help, and have deteriorated to a point where they pose a danger to themselves or others, a family member, or police may ask for an evaluation."

"I've seen individuals come through the psychiatric center since 1996 when I started. The hardest part is forcing individuals to be medicated. Because once they are stabilized, they go back out into the community. Then they don't like the side-effects of the medication, or they don't like the way they feel, and they stop taking their medications. Then the cycle continues, where they go into crisis, and end up back before the court again."

When asked what the number one question he is asked when he explains his job, Judge Gamboa said many people wonder why there are so many people walking the streets who appear to be mentally ill. "We can't just pick people up. There has to be probable cause, and we have to assign an attorney to represent the interests of the person, and we have to have a final hearing within 72 hours. So it's not a simple task."

## 110TH ANNIVERSARY DVD'S FOR SALE

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## Kemp Smith partner Cezy Collins awarded 2009 Sarah T. Hughes Women Lawyers of Achievement Award

**K**emp Smith attorney Jeanne “Cezy” Collins is the 2009 recipient of the Sara T. Hughes Women Lawyers of Achievement Award. The award was established in 1992 by the State Bar Women and the Law Section to honor the accomplishments of women who have achieved outstanding recognition in their professional area and have paved the way for success for other women attorneys. Ms. Collins is a partner in the firm’s Litigation Department where her practice focuses on commercial litigation, trademark, and copyright matters.

The award criteria specify a female attorney who has influenced other women to pursue legal careers, or opened doors for women lawyers in a variety of job settings that historically were closed to women, or advanced opportunities for women within a practice area or segment of the profession, or have otherwise served their profession or community in a manner that has benefited the legal profession. Ms. Collins serves on the Texas Access to Justice Commission, was recently elected State Bar Director for District 17, is Vice President to the Board of National Conference of Women’s Bar Associations, President of the

National Foundation for Women’s Bar Associations, and Vice President of the El Paso Bar Foundation. Ms. Collins also co-chairs the El Paso Women’s Bar Association’s Positive Role Model Program which teaches the importance of education to 5th grade students. In the past, Ms. Collins has served as the President of Texas Women Lawyers and the El Paso Women’s Bar Association and a Commissioner to the El Paso County Civil Service Commission. In 2002-2003 she was voted Outstanding Lawyer of El Paso by the El Paso Young Lawyers Association. In 2009 she was appointed to the Texas Minority Counsel Program Steering Committee for its 17th Annual Meeting.

This award is given at the section’s annual meeting held during the State Bar Annual Meeting every June. Past recipients include Harriet Miers (1993), Barbara Jordan (1995), and Justice Ann McClure (2000).



## Padalino Receives Appointment

**K**emp Smith associate John Padalino has received an appointment by the Obama Administration to serve as a Special Assistant at the United States Department of Agriculture in the Office of the Under Secretary for Rural Development, Rural Utilities Service (“RUS”). RUS works to bring modern utilities like electricity, water, sewer, storm drainage, solid waste disposal, and telecommunications to rural America by working with rural cooperatives, nonprofit

associations, public bodies, and for-profit utilities. RUS has been allocated over \$7 billion in stimulus funding to help rebuild and revitalize rural communities as well as help stimulate local economies and create jobs throughout the country. Mr. Padalino will be working on programs to expand opportunities for broadband loans and grants to rural communities and to expand funding opportunities to develop water and waste facilities. He will begin his work in Washington DC in mid-June.



HOW CIVILIZATION CAME TO EL PASO

# The Rise and Fall of El Paso's Second Mayor, Melton A. Jones

■ BY BALLARD COLDWELL SHAPLEIGH

The 2009 mayoral election on May 9th pitted an incumbent, Mayor John Cook, 63, against five challengers: Alexander "AlFrank" Catucci, 42, a businessman; Lee Mendez, 28, a sales associate and university student; Leo Gus Haddad, 57, a mortgage broker; Carlos Rivera, 58, a retired federal employee; and David E. Henderson, 62, a lawyer. The incumbent won.

But the lawyer, as history and recent headlines attest, usually carries the heaviest burden.

Long ago - well before there was a debate over an equal rights amendment - it was said that more lawyers (considering the large number who play the game intensely) had been ruined by politics than by liquor, women, or the stock market.

Local examples seem to abound, but the validity of this maxim can also be measured against the recent case of Illinois Governor Rod Blagojevitch (J.D., Pepperdine 1982). On the other hand, one might query ex-presidential candidate John Edwards (J.D., North Carolina, 1977) or former governor Eliot Spitzer (J.D., Harvard 1984) about ruination. In these cases, one might well question which came first - the politics or the woman.

Regardless of the answer, the lawyer usually finds himself on the horns of a dilemma. Will it be resignation or removal, or a "suspension of office?" Given what little is known about their destinies, it is difficult to figure where those involved in the administration of law and order in early El Paso - men like Melton A. Jones, an El Paso lawyer and politician, and John Evans, the Justice of the Peace in Precinct 2 - fit into this equation.

The City of El Paso, as every school child knows, was incorporated on May 17, 1873. The first man to be elected mayor was Ben S. Dowell. Every school-aged student also

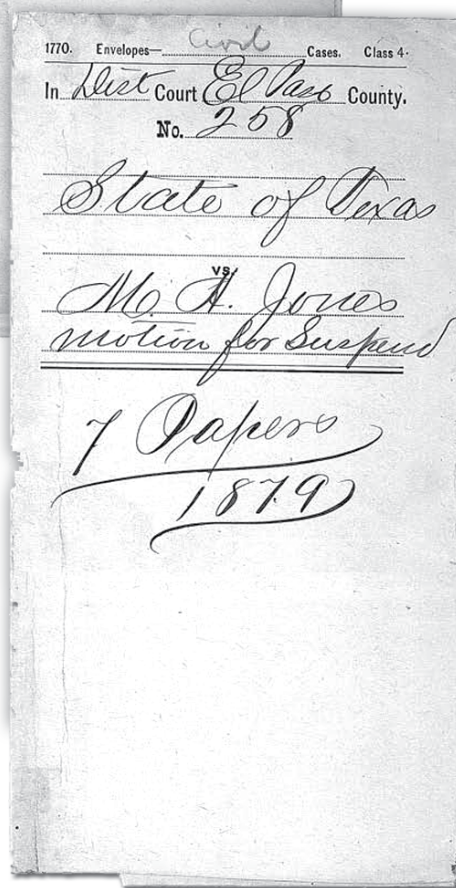
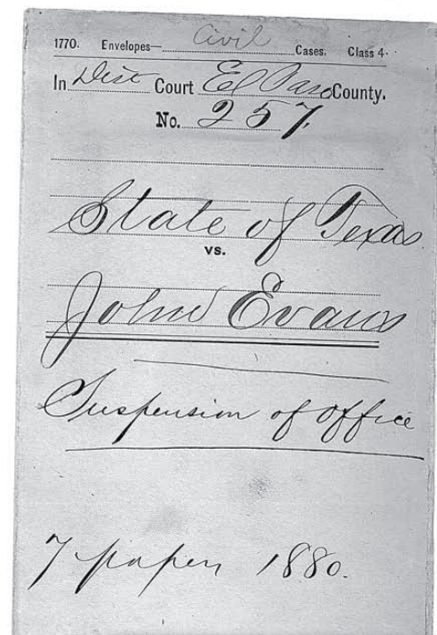
knows that, on September 16, 1888, the city on the south side of the river was renamed Ciudad Juarez having previously been called El Paso del Norte. But, to their everlasting shame, El Paso school kids - and most of their parents - probably do not know about Melton A. Jones, the second mayor of El Paso.

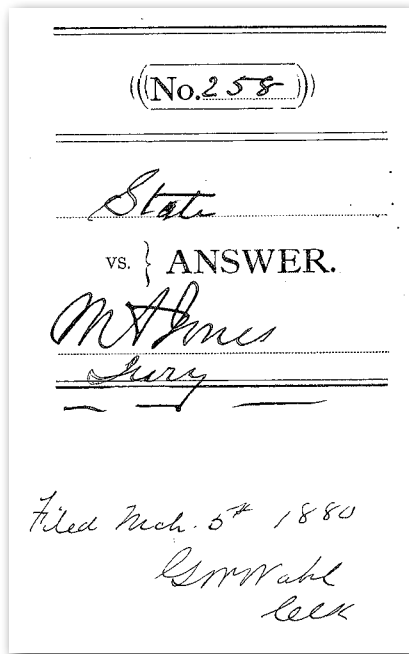
Jones was the mayor of El Paso from 1875 to 1876. City government then crumbled. He had succeeded Ben Dowell, the saloonkeeper, *comerciante* and *éminence grise*. No other lawyer would hold that office until Joseph U. Sweeney's election in 1907. In fact, since the date of El Paso's incorporation, 47 individuals have held the office of mayor.

Only six mayors have been lawyers: Melton A. Jones (1873-1875), Joseph U. Sweeney (1907-1910), Tom Lea Jr. (1915-1917, father of the artist), Robert Ewing (R.E.) Thomason (1927-1931), Bert Williams (1971-1973), and Ray Caballero (2001-2003).

Melton A. Jones, El Paso's second mayor, thus holds the distinction of being the first lawyer to be mayor. In *The Legal Heritage of El Paso* by the late J. Morgan Broadus, the best and most indispensable reference about the history of the bar in this corner of Texas, the lawyer who became El Paso's second mayor is introduced this way:

While not overlooking the dominant influence of scalawags or carpetbaggers during the period of Reconstruction, we should not pass over the part played by ex-Confederates in re-establishing legal processes in El Paso County, which had all but vanished during the Civil War. The role of the Confederates should be considered because they soon won political supremacy in Texas. A good example of an ex-rebel lawyer at the Pass was Melton A. Jones, who was born about 1835 in Endicott's Mills, Maryland. His parents were large landholders and provided him with a sound education and the usual advantages of the wealthy.





According to Broaddus, Jones arrived in El Paso in 1866. He came by wagon train bound for Santa Fe. Early on, he had forsaken the comfort and privileges of wealth, and wound up in Louisiana. He farmed and practiced law before the local courts. Before the Civil War, he was elected judge of the parish where he lived.

With war on the horizon, his family urged Jones to return to Maryland. Instead he joined the Confederate army. He was deployed to the lower Rio Grande Valley where he managed the sale and export of Southern cotton to markets in Europe through Mexico. After the war, Broaddus writes, he could not return home to Maryland because he had defied his parents' wishes by joining the Confederacy, so Jones ventured into Mexico and eventually heard about the attractions of El Paso.

Jones, an ex-Confederate in the era of Reconstruction, was not permitted to practice law in El Paso County. So he taught school at first, but in 1867 he received a pardon and opened a law office. By 1868, he was being named to bar committees appointed to consider the applications in the courthouse at San Elizario of lawyers-to-be like W.M. Coldwell, and moving for the admission to local practice of other already-licensed lawyers like Gaylord Judd Clark.

Jones' difficulties were compounded, says Broaddus, because W.W. Mills (who, as a son-in-law, is buried in Governor A.J. Hamilton's family plot at Oakwood Cemetery in Austin) and Albert Jennings Fountain shut him out politically due to his service to the Confederacy. But when the Democrats came into power, things got better. By 1874, he was advertising his services as a lawyer in the *Mesilla News*. He became El Paso county attorney, serving from 1876 to 1877. He also served as special judge of the District Court on one occasion.

Broaddus says that Jones was elected county attorney again in December, 1878, and occupied that office until his death. But did Broaddus get it right - did Melton Jones really occupy the county attorney's office until his death?

Jones' political career in El Paso started in 1873 when he was elected as an alderman in Mayor Ben S. Dowell's administration in the first city election. But in 1875 Jones opposed Ben Dowell in his re-election bid. Jones won by 16 votes. The tally was thirty-

three votes to seventeen. According to Leon Metz, the election turned on the issue of restraining dogs with Jones supporting license fees and restraining leashes. Ironically, one of the most contentious issues in the 81st Legislative Session this year has been a measure to forbid the tethering of dogs state-wide.

But the election was really all for naught because, by all accounts, city government went into deep hibernation from 1875 to 1880 due to a lack of civic interest. City government would not regain effectiveness until the arrival of the railroads in 1881 and 1882.

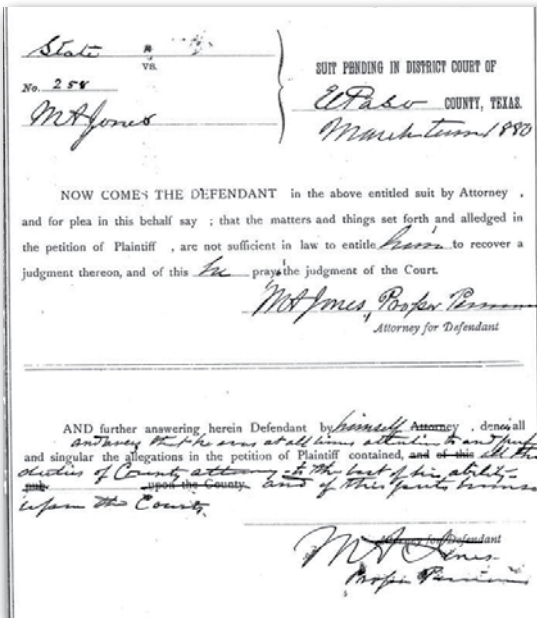
Although he lived in El Paso County for only 14 years, as Broaddus discovered, Melton A. Jones nonetheless made sufficient contributions to be eulogized at his death by members of the legal profession with the following resolution:

He was a pioneer lawyer of this distant frontier and the oldest member of the bar since the late war; he came as a result of the war, to El Paso County where anarchy and chaos ruled as the results of the war in this area and there were no courts and practically no law. It was by his and others' actions in their profession that the law came back into this area. (Minutes of District Court, Minute Book B-2, 85-87)

Jones' efforts to suppress the "anarchy and chaos" by bringing the rule of law back to El Paso must have been mythological in proportion. "One would think," historian C.L. Sonnichsen speculates, "that in this isolated village common problems and common dangers would have welded the citizenry into a tight little unit, but they were actually divided and torn by personal and political differences and by competition for the meager resources of that barren countryside." Sonnichsen also notes that the Indians raided and robbed and the criminal element had to be controlled.

It is sometimes not convenient to leap a twenty-foot chasm in two ten-foot jumps, as Mayor M.A. Jones learned about the Texas tradition of bifurcated criminal trials and, in particular, the evidentiary and procedural gulf between the guilt and punishment phases of trial.

In 1875 or 1876, Mayor Jones was directly involved in the trial of a murder case with multiple defendants. The trial probably took place in Ben Dowell's saloon



*Jones waited almost six months to answer the petition filed for his removal with the District Court in Ysleta.*



Ysleta Courthouse 1873 - 1879

on El Paso Street, located on the spot where the Camino Real Hotel is today.

It is not clear if Jones actually presided over the case. And never mind that the county seat and the courthouse were then located in Ysleta, about a half-day's horseback ride away. After the four defendants were found guilty, Jones helped carry out their sentences – immediately – by taking part in their execution as a member of the firing squad. As a matter of law, the defendants apparently waived their pre-trial rights to severance, that is, to be tried individually. And they obviously waived their rights to appeal as well.

The murder trial resulted from a killing in front of Ben Dowell's saloon by a gang of bad guys who "started to run the town," then known as Franklin. A first person account written by Mormon missionary Daniel Webster Jones, subtitled "Justice in the Early Days" in his diary *Forty Years Among The Indians*, erroneously infers that Melton A. Jones was the first mayor of El Paso.

Otherwise, the missionary well describes the many hats of government worn by M.A. Jones in those days. The incident is recounted by missionary Jones as follows:

I will give you a short account of the actions of the first authorities of Franklin as given to me by the main actor, that the "tenderfeet" of the present day may know a little of the experiences of early days.

When Franklin first established itself as a town, Judge Jones was elected mayor and Ben Dowell marshal. Soon after organizing a number of roughs came in and started to run the town, defying the officers. This would have been all right and possibly admired a few days before the organization, but now order must be kept and the laws vindicated.

A warrant was issued and the marshal and the posse approached the rioters. A man was killed, but the outlaws kept possession of the street and defied the officers. Something had to be done.

The dockets show that these men were arrested, brought to trial and found guilty of murder in the first degree; that the court sentenced them to be shot; that Ben Dowell and others were ordered to execute the orders.

Accordingly, the orders were duly executed, and Dowell and his assistants, the judge being one of the party, proceeded to shoot four of these condemned men on the street in front of the main saloon of the town. They were buried, as the records show [in the desert near today's downtown Public Library, according to Leon Metz], and the costs of court and all proceedings were duly recorded.

Judge Jones showed me the record and explained how it was done. I never heard any complaint about the proceedings but, on the other hand, Judge Jones and Ben Dowell were very much respected by the average citizens of the country.

While city government was disintegrating, county government was alive and kicking. Maybe this was the reason why in June, 1876, the District Court for the Twentieth Judicial District convened for the first time with Allen Blacker as presiding judge and Nathaniel Colbert Coldwell (not the father, but the brother of W.M. Coldwell) serving in the position of "combined county and district attorney," which is unusual for El Paso but not in other areas of Texas.

When Commissioner's Court for El Paso County met three months later on September 18, 1876, M.A. Jones - El Paso's second mayor - was oddly and inexplicably "present as the County Attorney." In any event, the uncertainty of the times presaged the final months of Melton A. Jones' legal career and his life, both natural and political.

Shortly after his re-election as county attorney in 1878, Jones found himself facing a petition for removal filed September 19, 1879 in the district court for the 20th Judicial District with Judge Blacker presiding.

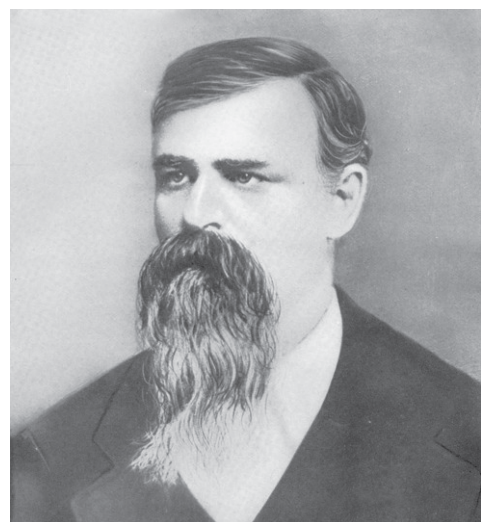
The petition was signed by James Marr and filed with G.M. Wahl, clerk of the District Court, under cause number 258. It was a two-page instrument written entirely in the handwriting of some unknown person as were most if not all the pleadings of the day, written perhaps by the clerk or the deputy clerk or maybe the petitioner. Marr was the U.S. Postmaster in El Paso, and the fifteenth individual to occupy that office since its creation in 1852.

As further evidence that El Paso was 'No Country for Old Men', the petition reads as it is drafted, in a style which is spare and utterly free of punctuation:

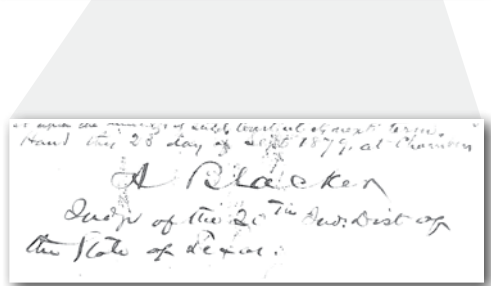
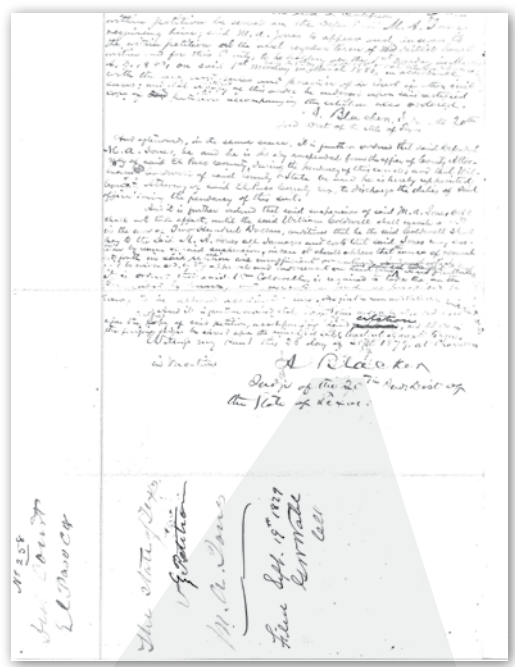
State of Texas § El Paso Dist  
 County of El Paso § Court March Term  
 § A.D. 1880

To The Hon. Allen Blacker Judge of the District Court of said County

The State of Texas by her Relator James Marr shows that he is a resident of the said State and County: and that M.A. Jones also a resident of said State and County was duly elected to the office of County Attorney for the County of El Paso in said State on the fifth day of November, A.D. 1878



Judge Allen Blacker (above) entered the order suspending Jones on the backside of the petition (below) just three days after James Marr filed to seek his removal.



Allen Blacker's order and signature

and was afterwards to wit on or about the fifth day of December 1878 duly qualified as such officer and pretending to do the duties thereof from the date of his qualification up to the present time.

Your Relator avers and states the facts to be that said M.A. Jones was at the time of his qualification an habitual drunkard and has continued such during said time & is now at the time of filing this petition an habitual drunkard.

Your Relator avers that he is so much affected from the excessive use of intoxicating liquors that he is often entirely incompetent to do and perform the duties of his said office of County Attorney.

Wherefore your Relator prays that the said M.A. Jones be removed from said office and that citation issue commanding the Sheriff to summons said M.A. Jones to appear and answer the allegations in this petition at such time as may be assigned by the court and that upon final hearing said M.A. Jones be removed from said office of County Attorney and that he be adjudged to pay all costs of this suit laid out and expended.

(s) James Marr  
Sworn and subscribed  
before me this 19th day of  
September, A.D. 1879

(s) G.W. Wahl  
Clerk D.C. EP Cty

Although the court was in vacation, Judge Blacker acted swiftly. Blacker was not one to suffer fools gladly. He was a Civil War veteran and participated in twenty-seven battles,

including those of Fort Henry, Fort Donelson, Pittsburg Landing (or Shiloh), the siege of Vicksburg, and Arkansas Bluffs before arriving in El Paso in 1869. He was never wounded, but in one of those battles his life was saved from a piece of shell by a picture of his wife which he carried in the breast pocket of his coat. While he was with the army, he also acted as war correspondent for the New York Herald.

On September 22, 1879, Judge Blacker ordered Jones suspended and appointed an attorney *pro tempore* as successor county attorney, conditioned on the deposit of a bond in the amount of \$200 for any damages that might be incurred by Jones if the allegations were deemed unfounded.

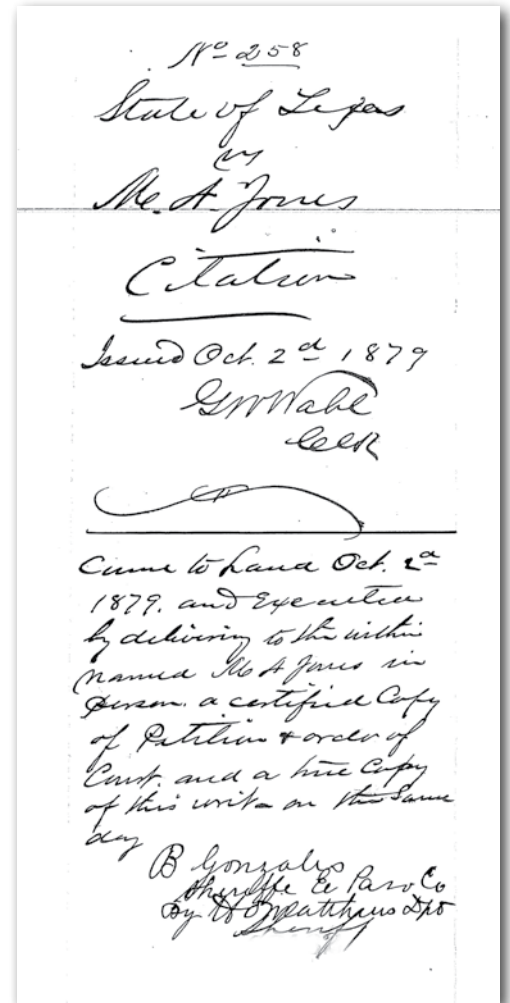
The sureties on the bond were James Marr and Joseph Magoffin. Citation was issued, and Jones was served with a certified copy of the petition on October 2, 1879, but only after Marr made a motion for service.

On March 5, 1880, a *pro se* answer was filed by "M.A. Jones, *Propia personem.*" He responded, "that the matters and things set forth and alleged in the petition of Plaintiff are not sufficient in law to entitle him to recover a judgment thereon...and further answering herein Defendant by himself denies all and singular the allegations in the petition of Plaintiff contained, and avers that he was at all times attentive to the and performed duties of County Attorney to the best of his ability and of this puts himself upon the Court."

Less than two weeks later, on March 18, 1880, Melton A. Jones died at Ysleta.

And that's only part of the story.

The "Civilization" series is written in appreciation of the 112th anniversary of the Bar Association with assistance and encouragement from Clinton Cross and the poet, Edgar Rincón Luna, for which the author is grateful. The following resources have been used: W.W. Mills, *Forty Years at El Paso, 1858-1898* (El Paso: Carl Hertzog Publisher, 1962); C.L. Sonnichsen, *Pass of the North-Four Centuries on the Rio Grande*; J. Morgan Broaddus, *The Legal Heritage of El Paso*, B. B. Paddock, *History and Biographical Record of North and West Texas, Vol. 1* (Chicago: Lewis Publishing Co., 1906), the records of the El Paso District Clerk's office, and family papers. 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.



Jones was served with a copy of the petition by El Paso County Sheriff Benito Gonzalez on October 2, 1879, the same day citation was issued.

## El Paso Elder Law and Disability law firm is seeking a part-time or full-time legal secretary/receptionist.

Experience in a law office is preferred Successful candidate must be proficient with all office machines and familiar with Microsoft Word, Microsoft Excel, Quickbooks and Outlook.

Candidate will be required to accurately and professionally complete daily front office duties such as billing and managing payables. Strong verbal and written communication skills and a clean driving record are a must. Please send resume via e-mail to [elpasoelderlawfirm@yahoo.com](mailto:elpasoelderlawfirm@yahoo.com).



(l-r): Lee Shapleigh, Sib Abraham, Ray Velarde, Judge Enrique Peña, Judge Sam Medrano, Carlos Hernandez, Charlie Madrid, Selena Solis, Omar Maynez, Matt Watson & Mike Torres

## LAW DAY AWARDS

The El Paso Bar Association celebrated Law Day on Saturday, May 9th at the Coronado Country Club. The Albert Armendariz Award, which was created to recognize the recipient's dedication to equality of Justice, Principles of Humanity, and Spirit of Public Service, was presented to the Hon. Enrique Peña and posthumously to Ray Pearson. Justice Ann Crawford McClure presented the award to the family of Ray Pearson and Bruce Koehler presented the award to Judge Peña. Cori Harbour, EPBA President, and Danny Razo, EPYLA President, presented Law Day Awards to the following:

OUTSTANDING YOUNG LAWYER  
Carlos "Charlie" Madrid

OUTSTANDING LAWYER  
Raymundo "Ray" Velarde

OUTSTANDING SENIOR LAWYER  
Joseph "Sib" Abraham, Jr.

OUTSTANDING JURIST  
Hon. Samuel Medrano, Jr.

OUTSTANDING FEDERAL ATTORNEY  
Selena Solis, Federal PDs Office

OUTSTANDING STATE ATTORNEY  
Lee Shapleigh,  
El Paso County Attorney's Office

OUTSTANDING PRE-LAW STUDENT  
Carlos Hernandez

MEDIATOR OF THE YEAR  
Hon. Enrique Peña

PROFESSIONALISM AWARD  
Miguel "Mike" Torres

PRO BONO AWARD  
Watson & Maynez

LIBERTY BELL AWARD  
Maria Del Carmen Guerrero



Mike Torres, Sib Abraham & Ray Velarde



Maria del Carmen Guerrero & Danny Razo



Selena Solis & daughter, Olivia



Carlos Hernandez & Cori Harbour

## SENIOR LAWYER INTERVIEW

# JAMES SAMUEL MOORE JR.

■ BY CLINTON F. CROSS

*This month I had the pleasure of crossing paths with Sam Moore, Jr. His legal career was exemplary. However, after talking with him I concluded community and family may have been even more important priorities.*

**CROSS:** *I'd like to know a little bit about your family history.*

**MOORE:** I was born July 8, 1930 to James Samuel Moore and Martha Quinlin Moore.

My family settled in Lawrence, Kansas in 1859. My paternal great-grandfather, Horace Ladd Moore, following service in the Union Army in the Civil War, was a businessman in Kansas, Colorado and New Mexico, and also served in Congress. After his retirement, he traced the family history in America back to Andrew Moore, who migrated from England to Connecticut in 1680.

My parents married very young, attending the University of Kansas. The Great Depression, coupled with the arrival of my brother Jack, forced them to drop out of school. My father entered a family business. My mother stayed home to raise the children. Although family resources were limited, I had a happy childhood.

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

**MOORE:** I grew up in Lawrence, home of the University of Kansas. The city had an excellent public school system, and also a good public library. I was blessed with a good education in my formative years.

During the summers, I'd work construction. My favorite uncle talked me into working in Riverton, Wyoming as a stake-puncher on a Bureau of Reclamation survey crew. One hot Kansas summer I worked as a member of a roofing crew. During that long hot summer, I began to give serious thought to going back to school and seeking a university education.

In 1952 I obtained a Bachelors of Science degree from the University of Kansas. I then



*Sam Moore Jr. and his wife Greta Karlbom*

joined the Army, and served in Korea. I went back to school after my discharge in 1954 and graduated from the University of Texas School of Law with Honors in 1957.

**CROSS:** *How did you end up in El Paso?*

**MOORE:** I came to El Paso to practice law in January, 1957 as an associate with the firm of Burges, Scott, Rasberry and Hulse. The firm was founded in 1889, and is now known as Scott, Hulse P.C. I remained with the firm until my retirement in 1994. I still have an office there, although I no longer practice law.

At first my practice was a general one, even trying a few jury cases, but later evolved into a commercial, tax and probate practice.

**CROSS:** *Your family?*

**MOORE:** In 1960, I married Greta Karlbom, a Swedish citizen. She later became a naturalized U.S. citizen, because as she put it she wanted to be able to vote. Judge R.E. Thomason presided at her naturalization ceremony. We both remember his courtesy in inviting us into his chambers for a visit before the ceremony.

Our family consists of our son, Samuel Adams Moore; a daughter-in-law, Elsie Moore; and a fourteen year old granddaughter, Mia Moore.

**CROSS:** *Having concluded your career, what are your thoughts about the practice of law?*

**MOORE:** Any lawyer worthy of the name should balance the practice of law with service to his community and also to himself and his

family. The late Christopher Morley, a noted American author, best said it: "There is only one success, to be able to spend your life in your own way." This is tempered by Kierkgaard's statement that "Life can only be understood backwards, but it must be lived forwards."

It should be remembered that a lot of the practice of law and its accompanying skills takes place outside the courthouse by facilitating and softening relationships between all parts of our society. I have spent a great amount of time over the years in assisting with pleasure, and adding to my own education, our museums and libraries and educational institutions in El Paso and in Texas.

I have also made a special effort, both while working and in retirement, to travel and fly fishing all over the world, often with my family. Since 1969, thanks to the understanding of my law partners, I was able to take at least a month or more off each year and thus traded money for that more precious commodity, time off and away.

Justice Brandeis said that he could get a year's work done in eleven months, but not twelve. Attorney Arnold Zach said, "No-one ever said on his deathbed that he wished he had spent more time at the office."

*Sam Moore has throughout his career served his community in a variety of capacities, such as serving as Chair of the Texas Council for the Humanities, as President of The Philosophical Society of Texas, President of the Friends of the UTEP Library, and as President of the Board of Trustees of the El Paso Museum of Art.*

*Sam Moore is a member of the El Paso County Historical Society, the Kansas State Historical Society, and the Texas State Historical Association. He is also a member of the Board of Trustees of the El Paso Museum of Art Foundation and of the El Paso Museum of History Foundation.*

*In 2008 Sam Moore was inducted into the El Paso County Historical Society Hall of Honor. In 2009 he received the Stewart Randal Trustee Award from the Texas Association of Museums.*





## The Book Review

John Marshall Harlan was a justice on the United States Supreme Court during a period of time when the court validated segregation of the races, denied citizens of American territories Constitutional rights, and restricted the government's power to regulate business. In important cases in each of these areas, Justice Harlan often stood against the popular views of his generation and the legal opinions of his associates on the court.

In *Plessy v. Ferguson* the Supreme Court upheld the right of a state to segregate people according to their race in spite of the Fourteenth Amendment's guarantees, establishing the infamous "separate but equal" doctrine. Justice Harlan dissented, passionately arguing that the Constitution was "color blind." In the *Insular* cases Harlan argued unsuccessfully for the extension of the traditional rights of citizenship to territorial residents. Finally, Harlan sometimes supported in economic cases the government's right to regulate business activities. For instance, in *Lochner v. New York* he dissented when the court struck down a New York statute regulating working conditions of people employed by bakeries.

In spite of these opinions, Justice Harlan did not always appear to hold "progressive" views. During the Civil War, he opposed the Emancipation Proclamation. In 1882 he voted with a unanimous court approving a law that punished an adulterous interracial couple more harshly than an adulterous couple of the same race. In 1897 he enthusiastically supported the Spanish-American War, in spite of significant anti-imperialistic public opposition, and then in the *Insular Cases* ruled to extend constitutional protections to the residents of the newly acquired American territories.

Could Harlan be trusted? Was he a "flip-flopper"?

After the U. S. Supreme Court decision in *Brown v. Board of Education* (which in effect embraced Harlan's dissenting opinion in *Plessy*), many writers began to lionize Harlan as a "justice ahead of his time." Certainly, *Brown* was an important decision — perhaps the most important U.S. Supreme Court decision in the last century. But was Justice Harlan really a "progressive" thinker? Was he really "ahead of his time"? In *The Republic According to John Marshall Harlan* (Chapel Hill: Univ. of N. C. Press, 1999), Linda Przybyszewski attempts to answer some of these questions.

She believes that Harlan was in many



## The Republic According to John Marshall Harlan

by Linda Przybyszewski

Reviewed by Clinton F. Cross

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ways a product of his time. She explains his decisions in terms of his family, religious, and national values. She argues that he was in fact a consistent thinker, not a self-serving "flip-flopper." Justice Harlan, she contends, can be understood by studying his commitment to certain "myths": his family values (for the most part revealed by his wife Malvina Harlan in her memoirs), his religious faith, and his belief in American "constitutional nationalism."

Justice Harlan's thinking was profoundly shaped by his family. His father, James Harlan, was a religious slave-owning Kentucky politician who believed in a structured society whose leaders should benevolently and responsibly care for citizens who were less fortunate and powerful. He also believed that owners of slaves should care for their property in the same way.

"(Justice) Harlan embraced a political party that championed revolutionary legal change in order to preserve some semblance of the paternalism he had learned in his father's house," states the author.

Like his parents and many of his earliest ancestors, Justice Harlan was deeply religious. His religious values were reflected in his opinions. Justice Brewer once commented that Harlan "goes to bed every night with one hand on the Constitution and the other on the Bible, and so sleeps the sweet sleep of justice and righteousness."

Although religious belief was almost universal among justices at the time, Harlan distinguished himself from the other justices by being committed to a particular brand of religion (perhaps a mixture of Quaker and Presbyterian values) that featured paternalism and fairness.

Harlan's family values blended with his belief in God and his belief that the United

States was a "providential nation." Harlan believed that God had established a moral foundation for law and that the United States was on a divinely appointed mission dating back to colonial times. "He used the same word — 'fathers' — when speaking of the founding fathers and the church fathers." Perhaps for these reasons, he believed after the Spanish-American War that residents of the newly acquired American territories should receive the benefits of American citizenship.

During his tenure on the court, most of the justices adhered to the idea of a ranking of rights: civil rights, political rights, and social rights. Most, including Harlan, agreed that the Constitution protected the first two. Przybyszewski contends that because of his commitment to his particular family, religious and national values, Harlan believed that access to public places (theaters, inns, railroads) fell into the category of civil rights and that right to access to these places was therefore protected. In the arena of economic regulation, Justice Harlan's belief in responsible paternalism and opposition to slavery of all kinds (including economic servitude) led him to advocate in some cases (such as *Lochner*) that the government had the right to regulate abusive business practices.

While it does not tell "the whole story," *The Republic According to John Marshall Harlan* by Linda Przybyszewski is an interesting, thought provoking, and well-written book.

Readers are invited to submit book reviews for publication in the El Paso Bar Journal. Books reviewed should be available for checkout in the Robert J. Galvan Law Library. Readers are invited to contribute books to the library, or recommend their purchase.

# MABA's Diversity Survey

■ BY CARLOS A. HERNANDEZ\*

The Mexican American Bar Association of El Paso (MABA) has been working for several months on a diversity survey. The survey will gauge diversity in El Paso County's law offices and provide solutions to increase diversity.

MABA has taken on this new initiative. Diversity comes when minorities are mentored and given a voice in leadership, recruitment, and management decisions within a law office. MABA seeks not only to empower young minorities returning home, but to also empower El Paso law offices in the recruitment and mentoring of minorities, so that this talent is not lost to other cities.

The MABA survey is based on the Dallas Diversity Task Force's survey which began in 2006. Since then three diversity reports have

been published. The Dallas Diversity Task Force has won several awards statewide, including the prestigious State Bar of Texas "President's Award", for outstanding contribution to the legal community. The Houston and Austin Bar Associations have similar surveys.

Research from around the United States shows that most minorities do not stay in large law offices due to a lack of mentorship by other minorities and a lack of leadership opportunities. MABA hopes to aid law offices with these diversity issues and to spotlight those law offices that are examples of diversity.

In late May, the twelve largest law offices in El Paso County will be receiving the diversity survey. Questions vary from: recruiting of minority attorneys, retention,

and communication within the firm. MABA El Paso's goal will be to distribute the survey annually, and work with the El Paso law offices in setting new diversity goals each year.

*\*Carlos A. Hernandez is a graduate of the University of Texas at El Paso and Law School Preparation Institute. Mr. Hernandez is attending Kansas University School of Law. Mr. Hernandez also won the prestigious Cori A. Harbour Outstanding Pre-Law Student Award 2008-2009, given by the El Paso Young Lawyer Association and the El Paso Bar Association. Mr. Hernandez worked with the Mexican-American Bar Association in researching and the creation of the diversity survey in spring 2009.*



## LAW DAY CHESS TOURNAMENT

■ BY OMAR CARMONA

**F**our lawyers and one paralegal played the winners of competition between children in grades one through eight, with two of the children taking home medals declaring that they had "beat a lawyer."

Approximately one hundred children improved their chess-playing skills in the event. First and second place winners in each grade level received a trophy memorializing their victory.

Most of the participating children

come from low income school districts. With the benefit of Title I funds, these districts maintain chess programs. Although invited, no children from high income school districts or private schools participated in the event.

Lawyers participating in the event were: Gerald Georges (Assistant County Public Defender and former Colorado State Chess Champion), Paul Kubinski (private practitioner), Clinton Cross (Assistant County Attorney), Omar Carmona (private practitioner), and Alex López

(Mediation Coordinator for Judge Oscar Gabaldon).

Because of low adult participation in this event, the lawyers and the one paralegal had to play four children simultaneously to determine which child or children received the "I Beat a Lawyer!" medal.

We hope you will consider playing in our Law Day Chess Tournament next year. By doing so, you can help lift a child's spirits and a child's self-esteem. Lawyers and paralegals who are "duffers" (i.e., half-baked chess players) are desperately needed!



### EL PASO BAR JOURNAL WINS AT THE STATE BAR OF TEXAS

*The El Paso Bar Journal has won big at the State Bar of Texas, Stars of Texas Bars*

- Awards for the following:
- ★ **Best News Article**
  - ★ **Best Human Interest Article**
  - ★ **Best Series of Articles**  
*Feature/General Interest*
  - ★ **Best Series of Articles**  
*Substantive Law*

The awards will be presented at the Bar Leaders Recognition Luncheon at the State Bar of Texas Annual Meeting in Dallas on June 25 at 11:30 a.m. at the Hilton Anatole.

***Our congratulations go out to our Editorial Staff, Clinton Cross, Judge Oscar Gabaldon and Donna Snyder.***

# ADVANCE SHEET, circa 1295

BY CHARLES GAUNCE

*Legal Reference Librarian University of Texas at El Paso*

## The case:

Be it remembered that John of Wells who married Idonea sister and heir of Richard of Beynville knight deceased did homage and fealty to the lord Abbot in the hall at Ramsey on Thursday the morrow of S. Thomas in the 23rd year of King Edward before William of Washingly and J. of Wistow, Roger of Barrow, William le Moyne, Thomas of Warwick, Ralph of Caster, John of Therfield and many others there assembled, and he be distrained for his relief.

## Comment:

This case comes to us by way of the Court of Broughton on Tuesday the morrow of S. Lucy A.D. 1294. I'll save you the calculations – this is the day after the feast of Saint Lucy in 1294, or December 14, 1294.

Do you remember those all important law school exams where every word written by the professor was believed to be all-important to your eventual response, and you believed if you could just determine how those words fit into the puzzle, all would be revealed to you? Do you still read all the orders you get from various courts with the same attention to details?

Why does the reporter find it necessary for us to know that John of Wells married the sister and

heir of a deceased hero? Why were witnesses specifically identified along with the phrase “and many others?” Why was this little memorandum of understanding even reported? What is going on here?

Permit me to translate: John of Wells and lord Abbot had a dispute of some sort. The parties reached an amicable settlement whereby John publicly declared before witnesses, and while the lord held John's hands in his own. “I become your man from this day forward, of life and limb and earthly honor, and to you will be faithful and loyal, and bear you faith, for the tenements that I claim to hold of you, saving the faith that I owe unto our sovereign lord the King, so help me God.” Whereupon all of John's personal property was given to the lord Abbot.

To me, this appears to be more than a simple real estate rental transaction. It appears that John of Wells managed to avoid being put to death because everyone in the community felt that this would be inflicting too great a punishment on his wife. It seems as though a modern parallel would be if Jerry Ford pardoned Richard Nixon because Pat Nixon had suffered enough. While we do not know what precipitated the dispute, clearly John of Wells was not held up as a model citizen, but his wife got to keep all of her stuff.



*Mark Calamia, Joe Calamia and Ann Crawford McClure.*

The Texas Bar Foundation recently awarded a \$10,000 grant for the editing and publishing of “*My Demons Were Real*,” a book chronicling the life and career of Joe Calamia.

## WHY BE A MEMBER OF THE EL PASO BAR ASSOCIATION

*Why be a member of the El Paso Bar Association? Because there are so many benefits to membership, including but not limited to:*

- Monthly Luncheons with great speakers
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- Law Firm Merchant Account Credit Card Program
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- Lawyer Referral Service
- Great Networking Opportunities
- Law Day Dinner
- Receptions & Social gatherings
- El Paso Bar Foundation

*There are many more benefits to membership but one of the most important is the fellowship you find with your fellow attorneys.*

*The Membership Dues Statements have been mailed out, so take a moment to fill it out and return it to our office.*



# Legal Literati

*This month the El Paso Bar Journal literary page presents a Mary Augusta Cross poem*

*Mary Cross (Waco, Texas 1913-El Paso, Texas 2002), was the mother of attorney Clinton F. Cross*

## ONE SHOULD BE BORN OLD

One should be born Old,  
 and grow toward Young  
 then Time  
 would indeed progress  
 and, having values properly assessed  
 Knowing,  
 would come early,  
 Naivete  
 would come late,  
 thus, having been born in wisdom's estate  
 one could plan accordingly  
 for advancing innocence  
 when things would come unstuck  
 and reason make less sense;  
 Then man would know, at last  
 the equation of his actions  
 as he moved from the 'Future'  
 through the 'Present' of his 'Past'  
 and if, perchance, he erred a bit  
 (as man is prone to do)  
 it wouldn't overburden him,  
 ---- Exchanging wisdom's learned Truth,  
 growing toward the joys  
 of the  
 'Ignorance of Youth'

Legal Literati call for submissions: The practice of law requires the ability to use the written or spoken word to provoke or prompt an intended result. Consequently, throughout history, lawyers have been known for creativity in the arts as well as in formulating arguments. The El Paso Bar Association wants to celebrate this aspect of the legal profession, and to encourage its members to recognize and cultivate their own creative impulses. We ask members or other law related professionals to provide their poems, lyrics, very short stories, or other creative expression. **Please submit your work for consideration to Poetry Editor Donna J. Snyder via email to [donna.snyder@ca.epcounty.com](mailto:donna.snyder@ca.epcounty.com).**

# HON. ROBERT J. GALVAN COUNTY LAW LIBRARY NEWS

By LYNN SANCHEZ

The Law Library has acquired the following materials of general interest, which are available for check out:

**Curriden, Mark, and Phillips, Leroy, Jr.,**

*Contempt of Court: The Turn of the Century Lynching that Launched a Hundred Years of Federalism*  
(Anchor Books, New York, 2001).

**Kens, Paul**

*Justice Stephen Field: Shaping Liberty from the Gold Rush to the Gilded Age*  
(University Press of Kansas, Lawrence, Kansas, 1997).

**Przybyszewski, Linda**

*The Republic according to John Marshall Harlan*  
(The University of North Carolina Press, Chapel Hill, 1999).

**Recko, Roey**

*Murder on the White Sands: The Disappearance of Albert and Henry Fountain*  
(University of North Texas Press, Denton, Texas, 2007).

**Yarbrough, Tinsley**

*Judicial Enigma, The First Justice Harlan*  
(Oxford University Press, New York, Oxford, 1995).

## Above the Law



"I'M AFRAID THAT HE'S EXHAUSTED ALL OF HIS ADMINISTRATIVE REMEDIES."

Marc Jacobs, Esq. is a partner at Michelman & Robinson, LLP. Combining his professional and personal interests, in his spare time, Marc authors the "Above the Law" legal cartoons focusing on the humorous relationship between life and law. For more information on Above the Law, please visit [www.marcjacobsllaw.com](http://www.marcjacobsllaw.com)

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*Appellate and Criminal Defense referrals appreciated!*

## EPBA Membership Dues

The 2009-2010 EPBA Membership Dues Statement have gone out. Please fill out your dues statement and return to our office by **July 1<sup>st</sup>**.

If you have any questions, please contact the Bar Office at  
[ngallego@epba@sbcglobal.net](mailto:ngallego@epba@sbcglobal.net) or  
[nancy@elpasobar.com](mailto:nancy@elpasobar.com)

## LITTLE YELLOW BOOKS ARE HERE!!!!

### EPCLSA 2009 Legal Directories

You may pick up your 2009 Legal Directories at Kemp Smith, LLP, 221 N. Kansas, 17<sup>th</sup> Floor, El Paso, Texas 79901 between the hours of 8:00 to 5:00 Monday – Friday.

If you have any questions, please call  
Jerri Boone at 546-5342.

Directory cost remains at \$10 each.

## SAVE THE DATE

MEXICAN-AMERICAN BAR ASSOCIATION  
OF EL PASO ANNUAL BANQUET  
*Saturday, October 10, 2009*

# CONFLICTS? RESOLUTIONS!

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## ▶▶▶ ASSOCIATION NEWS

### El Paso Women's Bar Association

The El Paso Women's Bar Association will hold its last meeting of the bar year on Wednesday, June 10th at 5:00 p.m. at Tres Mariposas. The meeting will feature a presentation by Tres Mariposas and the swearing in of new officers. Bring a friend and celebrate this year's achievement of the women's bar.

### El Paso Paralegal Association

♦The El Paso Paralegal Association will hold its June meeting on Thursday, June 18, 2009 at 12:00 noon at the El Paso Club. Guest speaker will be Lisa Sprinkle, CLAS, Independent Contract Paralegal who will speak on Ethics for Paralegals.

♦The July meeting will be held on Thursday, July 16, 2009 at the El Paso Club at 12:00 noon. Guest speaker will be John Valdez of Ray, Valdez, McChristian and Jeans, who will speak on Product Liability.

♦The August meeting will be held on Thursday, August 20, 2009 at the El Paso Club at 12:00 noon. Guest speaker will be Jeffrey J. Tasher, Office of the Staff Judge Advocate, Ft. Bliss who will speak on the Do's and Don'ts of Filing Tort Claims. Contact Laura Mendez at 546-5289 for more information.

### El Paso Young Lawyers Association

2009-2010 Officers of the  
El Paso Young Lawyers  
Association are:

Denise Butterworth – *President*

Carlos G. "Charlie" Madrid

– *President-Elect*

Patricia "Patsy" Lopez

– *Treasurer*

Selina Llaguno – *Secretary*

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## FEDERAL BAR ASSOCIATION EL PASO CHAPTER

### SAVE THE DATE

Join the Bar of the United State Supreme Court!

### U.S. Supreme Court Admissions Luncheon and Ceremony

Wednesday, October 21, 2009. El Paso Club  
Noon to 1:30 p.m.

The Federal Bar Association – El Paso Chapter is honored to have U.S. Supreme Court Clerk William Suter who will visit El Paso. Clerk Suter will provide an overview of the history of the Supreme Court and then conduct an admissions ceremony for attorneys who have applied to become members to the highest court. Don't miss the chance to join the bar of the Supreme Court. It's an experience you will never forget!

Please contact Selena Solis [selena\\_solis@fd.org](mailto:selena_solis@fd.org) for specific instructions on application materials. For general information on application process, visit [www.supremecourts.gov/bar/baradmissions](http://www.supremecourts.gov/bar/baradmissions)

**COMPLETED APPLICATIONS due to Selena Solis  
NO LATER THAN AUGUST 21, 2009.**

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



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Tickets: \$60 before June  
 15th; \$65 after June 15th;

Table \$500



*Remembering Our Roots, Building Our Futures*

## Fiesta Fronteriza

Paso del Norte Civil Rights Project Promotes racial, social, and economic justice through community education and litigation. We strive to foster equality, secure justice, ensure diversity, and strengthen communities. Our services include direct legal representation, community education, and advocacy on behalf of those who have historically been underserved or excluded from the justice system.

Please join us at our third annual Fiesta Fronteriza, honoring local leaders in civil rights and community service.

*This year's honorees include:*

- County Attorney José Rodriguez
- Bishop Johnnie Washington, Past President El Paso Branch NAACP
- Many other honored guests and distinguished speakers

**Location:**  
 EPCC Administrative Services Center  
 9050 Viscount Blvd.,  
 El Paso, TX, 79925

**For more information contact:**  
 Elvia Garcia,  
 Event Coordinator  
 915-532-3799 Ext. 16  
 elvia@texascivilright  
 sproject.org

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