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# The Bar Bulletin

*A Monthly Update of Events and Information,*

January 2007

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50

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

## THE PRESIDENT'S PAGE

### PUTTING THE PROFESSIONAL BACK IN THE PROFESSION

# “E” Is For Example

**H**appy New Year! It's January and I have already announced my New Year's resolutions. The usual list continues – lose weight, eat healthy, exercise more, be patient, give generously. You know the drill. This year, though, I've added a new one: set a good example. My chil-



dren are adults now and I'm very proud of both of them. But the time for teaching them manners has, for the most part, come and gone. I trust they will remember, as I remember, the early lessons I was taught as a child: don't run with scissors, keep your elbows off the table, chew with your mouth closed, and play well with others. My mother wanted to raise a well-mannered daughter. How ironic that we need to be reminded even in our adult years.

We as members of the legal profession must set a good example. What do I mean? Whether you are a judge, attorney, court coordinator, court reporter, bailiff, paralegal, legal assistant, investigator, secretary, or receptionist, you are a legal professional. Wear the badge proudly because it causes you to become instantly recognizable and publicly identifiable. It happens to me when I put on my robe. Sadly, many individuals whose lives we touch will seldom consider their encounter to be pleasant. They are victims, witnesses, suspects, jurors. They are parties to a lawsuit, litigating personal freedom, damages for their injuries, custody of their children. They may not even be voluntary participants. One thing is certain, though – they will judge us by our conduct.

Professionalism must start at the top. Judges should be role models for attorneys and we must set the bar high. We must control the behavior in the courtroom because lawyers and juries are watching. Judges who berate, belittle and demean lawyers, and those who lose their tempers, do little to encourage civility. Behavior on the

*Continued on page 4*

EL PASO BAR ASSOCIATION  
**January Bar Luncheon**  
 Tuesday, January 9, 2007

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

*We will be honoring our  
 50 year attorneys*

Please make your reservations by Monday, January 8, 2007 at noon by calling  
 Nancy at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)

## “E” Is For Example

bench is frequently called judicial demeanor or judicial temperament. Judges who lack these qualities are often sanctioned by the Judicial Conduct Commission. One trial judge drew a public reprimand for his treatment of an assistant district attorney. He had called her “sneaky and surreptitious,” “treacherous,” and ascribed to her the “compassion of an Auschwitz prison guard.” Another judge was removed from the bench for his inappropriate sexual comments and gestures to female assistant district attorneys. The opinion of the review tribunal detailed the explicit nature of the

misconduct and reads like a tabloid. Misbehavior of the trial judge is a frequent complaint on appeal. And then there are examples of uncivil appellate opinions. Some would say that many appellate opinions not only encourage unprofessionalism, they actually demonstrate incivility. We can agree to disagree and we can disagree without being disagreeable.

Have we become an oxymoron? See Justice Eugene A. Cook, Professionalism and the Practice of Law, 23 Tex.Tech L.Rev. 967 (1992), citing Justice Arthur Gilbert, Civility, Trial, April 1991, at 106 (“The

phrase ‘civil law’ is becoming an oxymoron.”); Jeanette Ahlenius, Do We Toss Them or Teach Them?, 57 Tex.Bar J. at 1090 (November 1994) (“What is really at the root of the public’s perception that ‘professional lawyer’ is an oxymoron?”). Perhaps we should focus as much on “courtesy” as we do “professionalism” and “civility.” Believe it or not, courtesy counts.

Yes, I’m happily empty-nesting. Does that mean I don’t have to set a good example any more? Of course not.

ANN McCLURE  
 President

# CALENDAR OF EVENTS



## January, 2007

### Monday, January 1

EPBA Closed, New Year's Day

### Tuesday, January 2

EPBA Board Meeting

### Thursday, January 4

WBA's Monthly Meeting

### Tuesday, January 9

EPBA Monthly Luncheon

### Friday, January 12

EPCLSA Monthly Meeting

### Monday, January 15

EPBA Closed, MLK Day

### Thursday, January 18

EPPA Monthly Meeting

### Thursday, January 18

FBA Brown Bag Luncheon

### Friday, January 26

EPYLA Monthly Meeting

## Upcoming Events

### February 2 & 3, 2007

EPYLA High School Mock Trial Competition

### February 9 & 10, 2007

11th Annual Civil Trial Seminar

**PLEASE NOTE:** Please check the Bulletin for all the details regarding all above listed events. If your club, organization, section or committee would like to put a notice or an announcement in the Bar Bulletin for your upcoming event or function for the month of February, 2007, please have the information to the Bar Association office by Wednesday, January 10, 2007. In order to publish your information we must have it in writing. **WE WILL MAKE NO EXCEPTIONS.** We also reserve the right to make any editorial changes as we deem necessary. Please note that there is no charge for this service: (915) 532-7052; (915) 532-7067-fax; [nancy@elpasobar.com](mailto:nancy@elpasobar.com) - email. If we do not receive your information by the specified date please note that we may try to remind you, but putting this bulletin together every month is a very big task and we may not have the time to remind you. So please don't miss out on the opportunity to have your event announced.

# Meet the Directors

## The Class of 2009



ANN WARD



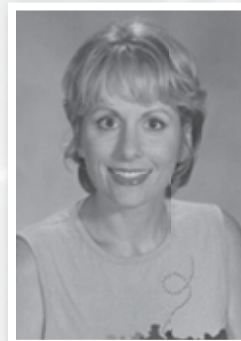
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It's your Bar and your opinion matters. Give us your input!

# Your Honor, Be An Example Of Professionalism !

■ By JUDGE OSCAR G. GABALDÓN JR.

**A** young man was very disappointed with his first court experience, not because of the outcome, since he prevailed, but because of the judge's callous and rude manners. Even though the judge did not treat this man inappropriately, it was this man's impression that the judge was aloof and patronizing to the other side. The judge embarrassed the other party in front of all the people present in the courtroom. "This was unnecessary. It seemed to me that the judge simply wanted to flaunt his authority over others," said the man. He then went on to say that "These kinds of judges must be an embarrassment to our system of justice. I am convinced that we have tons of judges who are not qualified to serve on the bench, because they lack the right temperament and other important qualities; but, I guess many voters don't realize that when they throw in their votes, and that is such a disgrace...it is so sad."

Judges are usually regarded as possessing an even temperament and a good dose of prudence when conducting the business of the courts. They are expected to be polite at all times, without exception. They are expected to adhere to professionalism in how they speak and how they act, both in the courtroom and outside the courtroom. There is an assumption that a judge is "fit," to serve on the bench; however, we all know that in the judicial ranks, in all communities, there are some judges who are not fit, and they tend to believe that they are the center of the world and that they are entitled to have their every whim served. A pontifical or imperial mentality about themselves dominates their minds, their hearts, and their very souls, which brings them comfort to their insecurities. These maladjusted judges, and thankfully there are relatively few, thrive in grandiose self-perceptions when their egos are stroked, get a false sense of self-confidence by bullying others while hiding behind the gavel and the robe, throw tantrums when they are not given the



deference they believe they are entitled to, and do not quite understand that true respect and power lies in humility and in a sincere commitment to serving others. Here is where the true greatness of a judge lies. The greater a judge's devotion is to the ideal of servitude, the greater the judge becomes. This type of judge recognizes that every human being, no matter who that may be, be it a farmer, an elected official, a professor, a store clerk, a child, an elderly person, a pauper, an entrepreneur, a drug addict, a salesperson, or a lawyer, is entitled to be treated with dignity and respect, not on a part-time basis, but on a full-time basis, without exception

Most people would agree that a "positive example by action" is a very powerful method of teaching others to abide by similar behaviors. How can we expect and demand that others conduct themselves in a certain way when we do not? That is why some judges lose the respect of lawyers, of other legal professionals, of the public in general, and even of other judges. They are not nice people, but they want others to treat them nicely. They are not compassionate, yet seek compassion. They are no giving, but will not

hesitate to take. They will demand respect, yet fail to give it. This is inconsistent wishful thinking!

Under Canon 3 of the Code of Judicial Conduct, "a judge is expected to be a dispassionate, reflective decision maker – objective, self-critical, and able to distance personal needs from those of the justice system."<sup>1</sup> This expectation, of being a person that strives to maintain a professional demeanor, carries over to the judge's extrajudicial activities, as well. After all, a judge is not to engage in any conduct that might even give the appearance of impropriety. The judge should be an example of professional demeanor on a 24-7 basis.

Let us, therefore, be constantly aware of our thoughts and actions, for as Frank Outlaw observantly tells us: "Watch your thoughts; they become words. Watch your words; they become actions; Watch your actions; they become habits; Watch your habits; they become character; Watch your character; it becomes your destiny."<sup>2</sup>

<sup>1</sup> Greenstein, Marla. "Judicial Fitness and the Code of Judicial Conduct." *The Judges' Journal*, 2006.

<sup>2</sup> Bits and Pieces, Vol. R/No. 12, 1997.

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Western District of Texas

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**November 17, 2006**

Mr. Jim Curtis  
Kemp, Smith  
P. O. Drawer 2800  
El Paso, TX 79999-2800

Dear Jim:

I understand that the Eighth court of Appeals will have a memorial service for Bill Duncan on November 29. May I share a few thought about Bill for those in attendance?

Bill Duncan was one of the three smartest lawyers I have ever known up close. Leighton Green, who passed way several years ago, was one. The other is Tad Smith, who is now retired. Watching Bill practice was both inspiring and scary. It was inspiring because he epitomized what a lawyer should be: knowledgeable in the law, always in command of the facts, superbly prepared, the epitome of civility and possessed of almost perfect judgment. It was also scary to watch Bill practice because he was so good that you feared you could never measure up, no matter how hard you tried.

Bill was a master in the courtroom. I observed one of his trials in front of the late Judge George Rodriguez. After a particularly skillful cross-examination, Judge Rodriguez announced, with the jury in recess, that Bill's cross-examination was the best he had ever witnessed. The same could be said of almost any of Bill's cross-examinations. Every case Bill tried was a textbook in how to litigate. He never ducked the hard cases and he won more than anyone could have expected. In victory and defeat, he was always the same, however: gracious and self-effacing.

For those of us who practiced with Bill, there was another thing about him that we marveled at – his work ethic. His routine never varied. He was in the office every business day from 8:00 a.m. to 6:00 p.m. and then on Saturday until around 3:00 in the afternoon, always at his desk, typing on his Selectric typewriter. In today's world of computers, there is no telling how much work he could have turned out. It was a daunting task to keep up with Bill and most of us never quite managed to do so.

Finally, Bill was the master of the written word. His memoranda to the file did Hemingway proud. His language was direct and his style was full of grace. He could also turn a phrase. Examples are "slack-jawed disbelief," "a heart easily made glad," "damnation by faint praise," and "the triumph of hope over experience." He was a master.

Bill Duncan practiced law in the grand style. He was a counselor to his clients, a mentor to his firm, a friend to his fellow lawyers, a leader of his community and a comfort to his family. He set the bar high. We can hope to emulate him. We can never match him.

Very truly yours,  
ROYAL FERGUSON

## LAW FIRM MERCHANT ACCOUNTS

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## EPYLA'S DECEMBER STARS OF THE BAR

# Katari Buck

It is hard to keep up with everything Katari Buck does. Amongst her many roles, she is an attorney, director, volunteer, and wife. Katari has been kind enough to lend her talents to EPLYA. Currently, Katari is EPLYA's Secretary. Katari has served as a Director since 2005. Katari has generously donated countless hours of her time and her keen design skills to various EPLYA projects, including the annual golf tournament and membership development.

As the current President of the El Paso Women's Bar Association, Katari is kept on her toes. She has chaired the WBA's annual charity bash for the past three years. The proceeds from this year's bash, the Moonlight Masquerade, will benefit the Rio Grande Girl Scout Council, Big Brothers, Big Sisters, and the El Paso Holocaust Museum.

Katari's endeavors don't end there. She also helped prepare the El Paso Bar Association's Flood and Disaster Relief Information packet. From 2004 to 2006, Katari served on the CASA of El Paso Board of Directors, including as Secretary. In 2005, Katari participated in a half marathon to benefit the Leukemia & Lymphoma Society.

Katari has practiced with Scott & Hulse, PC, since 2003. She is a proud graduate of the University of Texas School of Law. While attending UT Law, Katari was the Public Relations Director for the Board of Advocates, the Networking Chair for the Women's Law Caucus, and Staff Editor for the Texas Journal of Women and the Law. She also taught Legal Research as a Teaching Quizmaster.

Katari is also kept busy by her family of pets. She has three dogs - Majitabel, Petey, and Slaw, all of whom she and her husband rescued, and two cats- Thelmo and Louise.



## Congratulations To Our Texas Monthly "Super Lawyers"

### APPELLATE LAW

- Steven L. Hughes
- Joseph L. Hood, Jr.
- Ken K. Slavin

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- Harrel L. Davis III
- H. Christopher Mott

### BUSINESS LITIGATION

- E. Link Beck
- Clyde A. Pine, Jr.

### CIVIL LITIGATION: DEFENSE

- Eric M. Brittain
- Milton C. Colia
- Carlos Rincon
- Stephen B. Tatem, Jr.

### CRIMINAL DEFENSE

- Joseph "Sib" Abraham, Jr.
- Jim Darnell
- Dolph Quijano, Jr.
- Gary B. Weiser

### CRIMINAL DEFENSE:

- #### WHITE COLLAR
- Mary Stillinger

### EMPLOYMENT & LABOR

- George P. Andritsos
- Kenneth R. Carr
- Charles C. High, Jr.
- David L. Kern
- Michael D. McQueen
- Enrique Moreno
- Thomas A. Spieczny
- John A. Wenke

### ESTATE PLANNING AND PROBATE

- Karin A. Carson
- David P. Hassler
- Leila S. Hobson
- Carl E. Ryan

### FAMILY LAW

- David R. McClure
- Larry H. Schwartz
- Eugene M. Semko

### GENERAL LITIGATION

- Jim C. Curtis
- Steven C. James
- Jeffrey T. Lucky

### IMMIGRATION

- Kathleen C. Walker

### PERSONAL INJURY DEFENSE:

#### GENERAL

- Richard A. Bonner
- Carl H. Green
- H. Keith Myers
- Kurt G. Paxson
- Ruben S. Robles
- Darryl S. Vereen
- Mark C. Walker

### PERSONAL INJURY DEFENSE:

#### MEDICAL MALPRACTICE

- Frank Feuille, IV
- Larry W. Hicks
- David S. Jeans

### PERSONAL INJURY PLAINTIFF:

#### GENERAL

- Ben H. Langford
- Roberto Oaxaca

### PERSONAL INJURY PLAINTIFF:

#### MEDICAL MALPRACTICE

- Michael D. Volk

### REAL ESTATE

- Michael F. Ainsa
- Marc P. Bernat
- John s. Birkelbach
- Risher S. Gilbert
- Timothy D. Johnson

### SCHOOLS & EDUCATION

- S. Anthony Safi

### TAX

- Guy N. Fields III
- Gene Wolf

### UTILITIES

- Norman J. Gordon



## SENIOR LAWYER INTERVIEW

■ by Clinton Cross

## Sib Abraham

*I often relive those years and I remember them with clarity and fondness, because there was such a profound unity of family; a unity which was so strong that I believe it made me a better person for having been a part of that experience.*

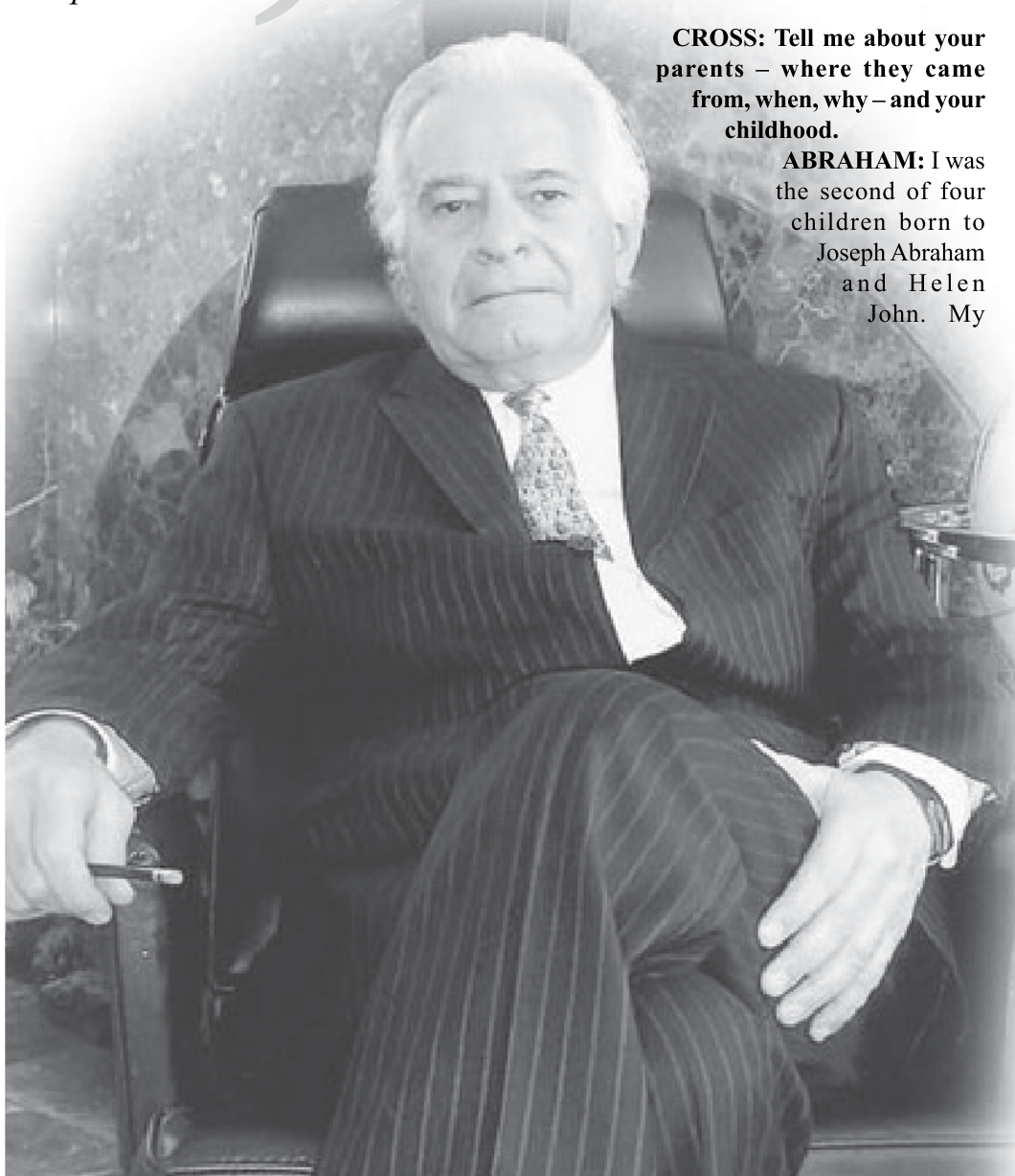
**L**ast month criminal defense lawyer Dick DeGuerin addressed the El Paso Bar at its monthly meeting. It is perhaps appropriate that this month I interview El Paso's senior criminal defense lawyer, Sib Abraham.

**CROSS:** Tell me about your parents – where they came from, when, why – and your childhood.

**ABRAHAM:** I was the second of four children born to Joseph Abraham and Helen John. My

father, along with his parents and nine siblings, immigrated from Jewkiat, Syria, to Mexico in the early 1920's, with intentions of eventually immigrating to the United States. It took almost nine years for all of the Abraham clan, including my father, to enter the United States because of quotas for Syrians. During that nine year period, my father made a living as a merchant selling tapestries, linens, shawls, silk scarves and other expensive accessories, a profession which he not only naturally excelled in but would become the etiology of his ultimate success as a businessman and real estate developer/investor. When he finally entered the United States, he had already amassed a small fortune, even though he had no formal education and could not at the inception speak either Spanish or English. In 1932, my father and grandfather, along with Retired Judge Henry Pena's father, drove to Pennsylvania to visit relatives. There he met my mother Helen, and after a short courtship (which was customary in those times), they married in 1932. They lived in an apartment "complex" known as Abraham Market at 501 N. Piedras, which was owned by my father's oldest brother Sam. My two sisters – Geraldine "Haifa" Malooly and Joanne Chagra – and my brother Eddie and I grew up there, along with aunts, uncles and cousins who lived in the other apartments located above Abraham's market.

Those were very special times for me. I often relive those years and I remember them with clarity and fondness, because there was such a profound unity of family; a unity which was so strong that I believe it made me a better person for having been a part of that experience. It was during those years that my father and his brother Solomon opened the Oriental Furniture Company at 212-214 S. Stanton. They worked hard and were successful. My father also began his



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career as a real estate developer and investor, and in the early 1940's he sold his interest in the furniture business to Uncle Solomon in order to totally concentrate on his rapidly growing real estate ventures.

My father built a beautiful home on Pittsburgh Street in the Highland Park area – a home which symbolized his success and later built their home on Rim Road. Yet, despite his success, he always remained humble – a trait I always admired in him and one which I tried to duplicate throughout my life.

I went to Houston Elementary School and then El Paso High School, where I graduated in 1953. I went to high school with many of my cousins and friends who would later become my peers and successful contemporaries – Mickey Esper (who was born ten days before me), Attorney William Elias, the late Lee Chagra (who later became my brother-in-law and law partner), Norman and Dr. Fred Ekery, Jimmy Salome, Attorney Mario Martinez – the list is endless. When I graduated from El Paso High School in 1953, I had plans to attend the University of Southern California, but my cousin, Billy Abraham, convinced me to follow him to Texas A & M. I am grateful to him now for having done so because at Texas A & M I learned the values of self-discipline, hard work, dedication and “teamwork”. These traits would serve me well for the next fifty years, not only in my law practice but in life. I left Texas A & M after my junior year in order to marry my high school sweetheart – Margaret Ann Caples. We had met while I was working at the Bronco Drive-In Theatre, a state-of-the-art facility that my dad's youngest brother (Elias Abraham) built. I was thirteen years old then. We celebrated our 51st year of marriage in August 2006. My son Billy was born in 1956 and I graduated from Texas Western College in 1958.

**CROSS: After you graduated from college, what led you into a career in law?**

**ABRAHAM:** My cousin Mickey Esper had always wanted to be a lawyer and was to start law school at the University of Houston in the fall of 1958. He suggested that I should come with him. I had never thought about that until that very moment. I am eternally grateful to him for his suggestion. Mickey, Retired Judge Henry Pena, Travis Johnson, Carlos Escobar and I enrolled and ultimately graduated from the Bates College of Law. While we were there, Mickey and I discussed the idea of opening a law firm, along with my brother-in-law,

Lee Chagra (who was attending law school at the University of Texas) and naming it the “ACE” (Abraham/Chagra/Esper) Law Firm. I can't remember why it did not reach fruition – although Lee and I ultimately became law partners for many years. In 1961, I opened my practice at the Caples Building and a year later, Lee joined me.

**CROSS: Did you ever have thoughts about pursuing a political career?**

**ABRAHAM:** Before my third year of law school, law student friends suggested that I run for President. I won and vowed that I would never run for a political office again. I never felt that I had the temperament nor “makeup” to be a politician.

**CROSS: Tell me about your legal career and its evolution into success as a criminal defense lawyer.**

**ABRAHAM:** When I first opened my practice in 1961, my intentions were to develop a practice geared towards real estate and business law because of my family's involvement in real estate and business. When Lee joined me a year later, my legal career suddenly took a different path. Lee had always wanted to practice criminal law and he convinced me to try criminal cases with him, so I did. Lee and I went to Judge William Ward in the 34th District Court and asked him to appoint us to as many criminal cases as possible, even though in those days the appointed cases were strictly pro bono. We even had to pay the expenses out of our pockets. Judge Ward accommodated us and our criminal law business took off – especially since we achieved remarkable success in defending those accused of committing crimes. In the mid-to-late 1960's, conspiracy law became the new “darling” of prosecutors. Consequently, Lee and I often found ourselves wanting to be hired by multiple defendants indicted in the same case. Obviously, multiple representation created a conflict of interest, so Lee and I mutually and amicably agreed to terminate our partnership, primarily in order to maximize effective legal representation in the criminal law area. Thereafter, both of our careers as criminal defense lawyers went beyond our wildest dreams.

**CROSS: Tell me about your professional involvement.**

**ABRAHAM:** I am a member in good standing of the United States Supreme Court, the State Bar of Texas, the United States Courts

of Appeal for the Second, Third, Fifth, Seventh, Ninth, Tenth and Eleventh Circuits, the United States District Courts for the Western, Eastern, Northern and Southern Districts of Texas, and the District of Arizona, Colorado and Michigan. I am a member of the Texas Criminal Defense Lawyers Association and the National Association of Criminal Defense Lawyers. I have handled cases in over thirty different states and federal jurisdictions across the United States. In doing so, I have had the good fortune to be involved in cases with some outstanding criminal defense lawyers, an experience which I believe definitely made me a better lawyer. Lawyers like Billy Marchiondo (Albuquerque), Michael Pancer (San Diego), David Chesnoff and Oscar Goodman (Las Vegas), Larry Kazan (Phoenix), Michael Nasitir (Beverly Hills), Lee Ginsberg (New York), Dick DeGuerin (Houston), Tony Brooklier (Los Angeles), Joseph St. Veltri (Denver), Robert Driscoll (Denver), Jack Leon (San Antonio), Paul Brayman (Chicago), Lee Shalgos (Chicago), George Milner (Dallas) and Chic Kazen (Austin) not only were great advocates, but they became my very close friends. This list is by no means exhaustive as there are many other fine lawyers with whom I have been privileged and honored to work with and learn from during my career.

**CROSS: Your most interesting cases?**

**ABRAHAM:** The most interesting and certainly the most rewarding case I handled was my successful representation of the Honorable Enrique (Henry) Pena. Retired Judge Pena was not only a great jurist who devoted his legal career to public service, but he was a close friend and contemporary. I felt it was an honor that he chose me to represent him against the federal charges which had been filed against him. The Not Guilty verdicts returned by the jury in January of 1995 were the most satisfying ones of my career, because they vindicated a man who was truly innocent of the charges levied against him. Representing innocent individuals is the most frightening of all situations. A federal cocaine case in Los Angeles was another interesting case I handled in the late 1980's, early 1990's. It was the largest cocaine seizure in U.S. history (21 tons of cocaine and \$12,000,000.00 cash), and although the final outcome was not what I had hoped, the legal issues involved and the lawyers I worked with were extraordinary.

**CROSS: How has the “culture” and practice of law changed?**

**ABRAHAM:** When I first started practicing

law in 1961, life was simple and uncomplicated; so was the practice of law – your “word was your bond”. The times quickly changed beginning in the late 1960’s, some of it for the better, some of it for the worse. So did the practice of law. Everything became complicated, extremely competitive, and practicing law with “integrity and honor” became more difficult to find. Like our culture, much of the practice of law attached itself to the “ends justify the means” concept. It is not a concept I embraced. I believe the legal profession is a noble one and too often, many lawyers have lost sight of that tenet. I have tried not to be one of them.

**CROSS: How does what you do contribute to the public interest as a whole?**

**ABRAHAM:** Since I first started practicing criminal defense law over 45 years ago, I am constantly asked, “How can you represent people who are guilty of committing crimes?” The answer is simple – it’s an oath I took as a lawyer in 1961 and an oath I will not betray. By illustration, I can remember when Lee Harvey Oswald was shot by Jack Ruby in 1963. At

*The most interesting and certainly the most rewarding case I handled was my successful representation of the Honorable Enrique (Henry) Pena. Retired Judge Pena was not only a great jurist who devoted his legal career to public service, but he was a close friend and contemporary. I felt it was an honor that he chose me to represent him against the federal charges which had been filed against him.*

the time, Oswald was probably the most hated person in this country since it was widely believed that he had assassinated our beloved President Kennedy a few days earlier. When Oswald was rushed to the hospital, the doctors and nurses on duty used all their skills, training and experience to save his life. They did it because they, like criminal defense lawyers, took an oath which is part of their profession. Strangely, no one criticized those doctors or nurses, nor were they pilloried in the press like criminal defense lawyers. Every human being, no matter how guilty or innocent, is entitled to an effective lawyer when they are accused of committing a crime. To deny them that right

is to deface our constitution.

Being a criminal defense lawyer is very much like being an oncologist. Having an adversary as powerful and formidable as the federal or state government is much like having an adversary as powerful as cancer. It is a daunting task – sometimes the results are favorable, some times they are not. However, when you work hard, use all your God-given talents, and utilize your valuable training in trying to keep a person’s life from being totally destroyed, it is very fulfilling. I feel I have lived a blessed life by being able to have represented those whose lives were in shambles and on the verge of destruction.

## Trivia Quiz

The El Paso Bar Association Historical Committee will give a Holiday REWARD to the first person who attends the next Bar luncheon on Tuesday, January 9 and correctly identifies the legal document (promulgated during the 13th Century in Europe) that states by way of introduction that:

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

*“Laws ought to be made with the advice of intelligent, impartial men, versed in the science of jurisprudence. They ought to be free from error; and*

*carefully revised before they are published, that they may do honor to the legislator; and promote the welfare of the people whom they are intended to govern...”*

*“The advantages arising from Laws are that they teach men to know, to fear, and love God: to be obedient and faithful to their prince, and to love their neighbors, so that they will not do to others what they would not that others should do to them. Also, by observing the Laws, men live*

*in peace, flourish and become rich: population increases, the kingdom is aggrandized and wickedness repressed...”*

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

### El Paso Bar Association Holiday Schedule

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

**Monday, January 1, 2007**

NEW YEAR’S DAY

**Monday, January 15, 2007**

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# PDA - Palm v. Pocket PC(Windows)

BY DAVID J. FERRELL

djf@elpasolaw.com

I get asked all the time, "WHICH PDA SHOULD I BUY?". I am biased towards the Palm OS type of Personal Digital Assistants since I have used that system for ten years. The other most used PDA handheld hardware device OS (operating system) that is being used by attorneys and others is the Windows Palm PC devices.

Up until now, Palm is the reigning champ of PDA OSs, but Windows Mobile is gaining ground fast. Let's see how the PDA operating systems compare.

Microsoft rules the desktop world, but in the war for handheld supremacy, it is still anybody's game. Found in handhelds from PalmOne, Sony, and other manufacturers, the Palm operating system has held a market-share advantage since the beginning, but Windows Mobile 2003 (Pocket PC) is no longer just nipping at its heels; it's nipping away at its sales, as well. But if you compare the Palm OS with Windows Mobile, which PDA operating system is superior?

To find out, let's review eight essential uses of the handheld devices focusing on operating systems - Palm OS v Microsoft Pocket PC.

## Categories of Comparison

1. Ease of use and Entering Data
2. Core applications.
3. Desktop compatibility.
4. Email.
5. Microsoft Office compatibility.
6. Multimedia capability.
7. Available software.

## Ease of Use and Entering Data

Palm OS and Windows Mobile PDAs are very similar when it comes to capturing data. With nothing more than a plastic tipped pen, you can enter information by tapping or writing on the screen. The tapping aspect is pretty much a wash—an on screen keyboard lets you "type" letters, numbers, and symbols—though on most Palm OS models, the keyboard consumes half the screen.

With writing, disparities emerge. The Palm OS has long relied on Graffiti, a handwriting-recognition system primarily based on standard block characters. But with the release of Palm



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OS 5.2 came Graffiti 2.0, based on a more natural character set. For newcomers, it's a breeze to learn, but it's a major hassle for Graffiti veterans because it's so different from the old system. There are third party software packages that also help with handwriting input. I have purchased and use JOT and it works both in Graffiti mode and its own more intuitive mode.

Windows Mobile offers three handwriting-recognition options. The first, Block Recognizer, is a letter-perfect clone of the original Graffiti, making for an easy transition from the Palm OS camp. The second, Letter Recognizer, is based on Communication Intelligence's Jot, which also was the basis for Graffiti 2.0. Finally, there's Transcriber, which allows you to write anywhere on the screen (rather than in a designated input area) and in cursive, no less. Transcriber works well, as long as you write fairly legibly.

The Windows Mobile keyboard, Block Recognizer, and Letter Recognizer are all virtual input areas, meaning they appear and disappear as needed. Most Palm OS PDAs come with a permanent Graffiti area that reduces screen real estate. But recent higher-end models, such as the PalmOne Tungsten T3 and the Sony CLIE

PEG-NX80V/G, have virtual input areas, just like Windows Mobile.

## Core Applications

For most lawyers, the allure of the modern PDA isn't the ability to play games. It's the basics: looking up phone numbers, managing appointments, logging to-do items, e-mails and jotting memos.

Windows Mobile is the better contact manager, offering a lot more data fields than Palm OS and an easier method of searching large lists. Tapping address-book-like tabs brings you to names starting with those letters. Even if you have a thousand contacts, you usually can find the one you're looking for with just two or three taps.

The Palm OS employs a "Find" field in which you write one or more letters of the name you're after; it drills further into the list with each letter. This can be just as fast and efficient for sifting through massive contact databases, assuming Graffiti accurately recognizes your input.

As for calendars, the two contenders are about even. You can set alarms for appointments, hearings, depositions, etc; view your calendar by day, week, month, or year; and create events

that recur automatically at a set interval, such as weekly docket calls, meetings or your spouse's birthday.

The Palm OS offers a superior to-do list, because it organizes everything more logically. At a glance, you can see each task's priority, category, due date, and status. Windows Mobile provides the same basic features, but it's awkward in both look and operation.

It's worth noting that all Windows Mobile devices let you record voice memos—a core function of the OS—while only some Palm OS models do.

### Desktop Compatibility

For a handheld, the interaction between its core applications and the personal computer is vital. After all, much of a handheld's power lies in synchronization, which keeps data current on both your PDA and your PC.

As you might expect, Windows Mobile synchronizes exclusively with Microsoft Outlook. Indeed, its core applications were designed as mobile extensions of Outlook's calendar, contacts, tasks, and notes modules. As a result, more of Outlook's data fields are copied during synchronization than with the Palm OS. Pocket PCs absorb both home and work addresses, for instance, while Palm OS devices limit you to just one address per contact. At least, that was the case before Palm OS 5.2.1. The Palm Contacts app (formerly Address Book) now supports three separate addresses instead of just one. But Windows Mobile still supports more Outlook fields, such as Assistant, Birthday, and Spouse. Palm OS PDAs offer two desktop-synchronization options. Thanks to a third-party utility bundled with most models, you can synchronize with Outlook. If you don't use Outlook, you can opt for Palm Desktop, a

powerful information manager that's far more novice-friendly. The latest version includes a photo module for easily copying digital pictures to your PDA.

Windows Mobile may have an edge when it comes to Windows PCs, but Microsoft originally offered zero support for Macintosh systems. All PalmOne models—even the \$199 Zire 21—ship with a Mac version of Palm Desktop, so they were ready to roll, right out of the box. To synchronize a Pocket PC with a Mac, you needed additional software. This may have recently changed.

### Email

For as long as I can remember, Palm and Pocket PC handhelds have offered e-mail via synchronization so that messages received on your desktop system are transferred to the PDA for on-the-go reading. You also can reply to messages and compose new ones; the outbound mail is sent via your desktop the next time you sync.

As you might expect, Windows Mobile's e-mail client supports synchronization with Outlook only. That's not a bad thing—unless you use Outlook Express, Microsoft Exchange, or Lotus Notes on your PC. In contrast, Palm VersaMail 2.5 supports those and other apps, including Outlook, Gmail and Eudora as mentioned above.

Pocket Outlook and VersaMail aren't limited to e-mail via synchronization, as both programs can use any available wireless connection (such as Bluetooth, GPRS, or Wi-Fi) for direct access to POP3 and SMTP servers. VersaMail goes a step further, with support for Web mail accounts such as Yahoo Mail and Gmail. Both clients can download file attachments, and

both allow you to tap HTML links to view Web pages in a browser.

As for the clients themselves, Pocket Outlook has a rudimentary look and feel, much like Windows Mobile's Pocket Word and Pocket Excel, but it's functional enough so that few users will need to seek third-party alternatives. VersaMail offers a lot more features, including filters and automatic message retrieval, and it's more intuitive (though marginally so) than Pocket Outlook. It's important to note, however, that VersaMail isn't part of the Palm OS but rather a Palm-built application that's bundled with most PalmOne models. If you want to add it to, say, a Sony CLIE, you'll have to fork over \$Dinero.

### Microsoft Office Compatibility

By definition, PDAs are designed to be mobile extensions of your desktop. That means you should be able to carry not only your appointments and contacts but your vital documents too. Which platform fares better with your spreadsheets and virtual paperwork?

On the surface, Pocket PC would appear to have the edge when it comes to Microsoft Office compatibility. After all, Microsoft built the Windows Mobile OS and outfitted it with Pocket Word and Pocket Excel. But these apps are mere wisps of their desktop counterparts, and files lose their formatting when copied between PDA and PC. In addition, you have to drag a file into the Sync folder yourself for it to automatically update every time you work on your PC.

While the Palm OS offers no out-of-box support for Office files, many of the latest models, such as the Tungsten E, come bundled with a compelling third-party solution. THE BEST is DataViz's Documents To Go and it enables you to view and edit desktop documents on your PDA without converting them first to a PDA-specific format, and the latest version offers native support for Word and Excel. You also can view Word and Excel documents received as e-mail attachments—a major plus for wireless-PDA users. Best of all, Documents To Go provides seamless synchronization between Palm OS and Windows, so any changes are updated automatically, which is the way it should be. Adobe PDF files are now useable in the latest DataViz version 9 (I just bought it).

### Multimedia Capability

Originally, when it came to playing games, watching movies, and listening to music, Pocket PCs outperformed Palm OS PDAs because the core Microsoft hardware included a relatively





fast processor, a high-resolution (320x240 pixels) screen, and digital audio capabilities. Indeed, the mobile version of Windows Media Player enabled audio and video playback right out of the box.

Until the arrival of Palm OS 5, Palm users mostly were stuck with slow processors, low-resolution screens, and Apple II-quality audio. Now Palm OS supports the same Intel XScale processors used in Pocket PCs, as well as 320x320-pixel (and higher) screens and MP3 playback courtesy of RealOne Mobile Player and PocketTunes. In short, Palm OS has caught up with—and, in cases such as screen resolution, surpassed—Windows Mobile.

Yet not all Palm OS handhelds take advantage of these newly supported capabilities. All Pocket PCs, on the other hand, feature the same core capabilities they've had for years and now carry faster processors to boot. In fact, several third-party Windows Mobile media players enable you to view native MPEG movie files, no conversion required. At press time, Palm OS users enjoyed no such privilege. BUT, with third party software, you can now convert any DVD and other video media to a Palm OS and/or Windows Pocket PC format using Pocket-DVD Studio. An average 1.5 hour movie takes up about 150 megabytes of space, so on a 1 gig chip you can store about 6 ½ movies.

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On my Treo 600 I installed a program that provides the “viewer” for these converted DVDs (MMPLAYER).

#### Available Software

Given the enormous amount of software available for Windows, you might expect to find the same abundance for Windows Mobile. While there are indeed several thousand third-party programs for Microsoft's handheld OS, it's a drop in the bucket compared with the 20,000-plus written for Palm OS. This is not to say that software available for the Palm platform is better, only that there's more of it. And more software means more potential functionality.

Any PDA you buy today is guaranteed to be powerful, practical, and more capable than a mid-'90s desktop system. In many respects, the playing field is level, regardless of which platform you choose.

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## ASSOCIATION NEWS

### ■ El Paso County Legal Support Association

■ The EPCLSA will hold its next meeting on Friday, January 12, 2007 at 12:00 noon at the El Paso Club, 201 E. Main, 18th Floor. Cost is \$14.00 per person. To make your reservations please contact Tammy Schoemer-Castillo at 533-4424.

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

### ■ El Paso Paralegal Association

■ The El Paso Paralegal Association will hold its next meeting on Thursday, January 18, 2007 at 12:00 noon at the El Paso Club, 201 E. Main. Cost is \$14.00 per person. Call Lynda Camacho, 546-8311 to make your reservations.

### ■ El Paso Women's Bar Association

■ Please join the El Paso Women's Bar Association for an Evening of Relaxation with 'N Dulge Salon & Spa, Thursday, January 4, 2007 at 5:30 p.m. at 1315 Rim Road, featuring stress relief techniques and complimentary chair massages.

### ■ El Paso Young Lawyers Association

■ The El Paso Young Lawyers will have its monthly meeting on Friday, January 26, 2007 at the El Paso Club at 210 E. Main. The Board of Directors will meet at 11:30 am. The General Meeting will begin at Noon. Free 1 Hour CLE: TexasOnline eFiling for Courts Presentation. Please RSVP to Katari Buck at 546-8209 or [kbuc@scotthulse.com](mailto:kbuc@scotthulse.com).


■ EPYLA Courthouse Tour: EPYLA invites all attorneys licensed in the last two years to join them for EPYLA's Courthouse tour on Friday, January 12, 2007 at 11:30 a.m. Make sure to start your career on the right foot! Join us for lunch and learn all about the inner workings of the El Paso County Courthouse! It's a career move you can't afford to miss. Contact Kenneth A. Krohn at 351-1414 to make reservations.

■ On January 26, 2007, the EPYLA will join the EPBA in hosting a reception for the State Bar of Texas Board of Directors and the Texas Young Lawyers Association Board of Directors. The reception will be held at Uptown's at the Camino Real from 5:00 – 7:00 p.m. Please join us.

■ Have Teenagers Care What You Think! Volunteer as a judge for the High School Mock Trial Competition on February 2 and 3, 2007 at the El Paso County Courthouse. Please contact Morgan Hazelton at 845-1354 or [morgan.hazelton@gmail.com](mailto:morgan.hazelton@gmail.com) for details

### ■ Federal Bar Association

■ The Federal Bar Association will hold its January Brown Bag Luncheon CLE on Thursday, January 18, 2007 at 12:00 noon at the Federal Courthouse.




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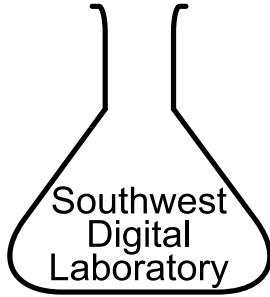
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- 10:00 – 10:15 a.m. **Welcome and Introductions**
- 10:15 – 11:00 a.m. **Arbitration Agreements in Texas: History and Enforceability**  
Milton Colia, Kemp Smith (Tab A)
- 11:00 – 11:40 a.m. **The Role of Judge & Jury: What Reasonable Jurors Can Believe**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

**Saturday, February 10, 2007**

- 7:30 – 8:30 a.m. **Breakfast**
- 8:30 – 9:00 a.m. **Medical Malpractice**  
Michael Volk, Volk, Poulos & Coates (Tab J)
- 9:00 – 9:45 a.m. **Employment Law Update**  
Francisco X. Dominguez (Tab K)
- 9:45 – 10:30 a.m. **Jury Selection**  
George Andritsos, Law Firm of George Andritsos and Kurt Paxson, Mounce, Green, Myers, Safi & Galatzan, P.C. (Tab L)
- 10:30 – 10:45 a.m. **Morning Break**
- 10:45 – 11:30 a.m. **Using and Striking Expert Witnesses**  
Joseph Hood, Scott Hulse, Marshall, Feuille, Finger & Thurmond, P.C. (Tab M)
- 11:30 – 12:00 noon **“Texas Supreme Court Update”**  
Steven L. Hughes, Mounce, Green, Myers, Safi & Galatzan, P.C. (Tab N)
- 12:00 – 12:30 p.m. **Automobile Collision Litigation**  
Stace Williams, The Law
- 12:30 – 1:00 p.m. **Playing Well With Others: Simple Professional Courtesy**  
The Honorable Ann, McClure, 8th Court of Appeals (Tab P)

► Door prizes will be given throughout the Seminar

Course Materials will be provided to all attendees

\*Seminar will be held in the Versailles Room, Paris Conference Center

\$250.00 – Members of EPBA ~ \$275.00 – Non-Members

\$200.00 – Legal Assistants/Paralegals

► We will have a golf outing on Thursday, February 8th. We will be playing at the Royal Links course, cost will be \$135. If you are interested in playing please call Judge Dick Alcala @ 915/204-3807 or Chris Anteliff @ 915/532-1150

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

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

**REGISTRATION FORM****Name:** \_\_\_\_\_**Address:** \_\_\_\_\_**Telephone:** \_\_\_\_\_**Fax:** \_\_\_\_\_**E-mail:** \_\_\_\_\_**SBN:** \_\_\_\_\_**If paying by credit card:****Credit Card #:** \_\_\_\_\_**Type:** \_\_\_\_\_**Expiration Date:** \_\_\_\_\_**Send your registration form and check to:**

El Paso Bar Association	<b>\$250</b> – EPBA Members
500 E. San Antonio, L-115	<b>\$275</b> - Nonmembers
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**If you have any questions, comments or would like to be a sponsor, please contact the Bar Association Office at (915) 532-7052 or go to our website, [www.elpasobar.com](http://www.elpasobar.com) or send an email to [nancy@elpasobar.com](mailto:nancy@elpasobar.com)**

**El Paso Bar Association***Join us for a Weekend of Fun & Education***11<sup>TH</sup> ANNUAL CIVIL  
TRIAL SEMINAR***February 9, 10, 2007 Paris Hotel\**  
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**Speakers include:**

*Professor Richard Alderman, University of Houston*  
*Justice Scott Brister, Supreme Court of Texas, Place 9*  
*Judge Kathleen Cardone, U.S. District Judge*  
*Justice Ann McClure, 8<sup>th</sup> Court of Appeals*  
*Jose Reyes Ferriz of Universidad Autonoma*  
*de Ciudad Juarez*  
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To make your reservations, please call the Paris Hotel  
at (800) 634-3434 or (888) 266-5687 by January  
9, 2007 and let them know you are with the El Paso  
Bar Association Group/Seminar, reservation code,  
“SPEPB7” to get our special rate.

Go to our website, [www.elpasobar.com](http://www.elpasobar.com)  
to download our registration form.

**Call Nancy at 532-7052 for any  
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