



110th Anniversary

EL PASO BAR JOURNAL

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A Bi-monthly Update of Events and Information

March/2008

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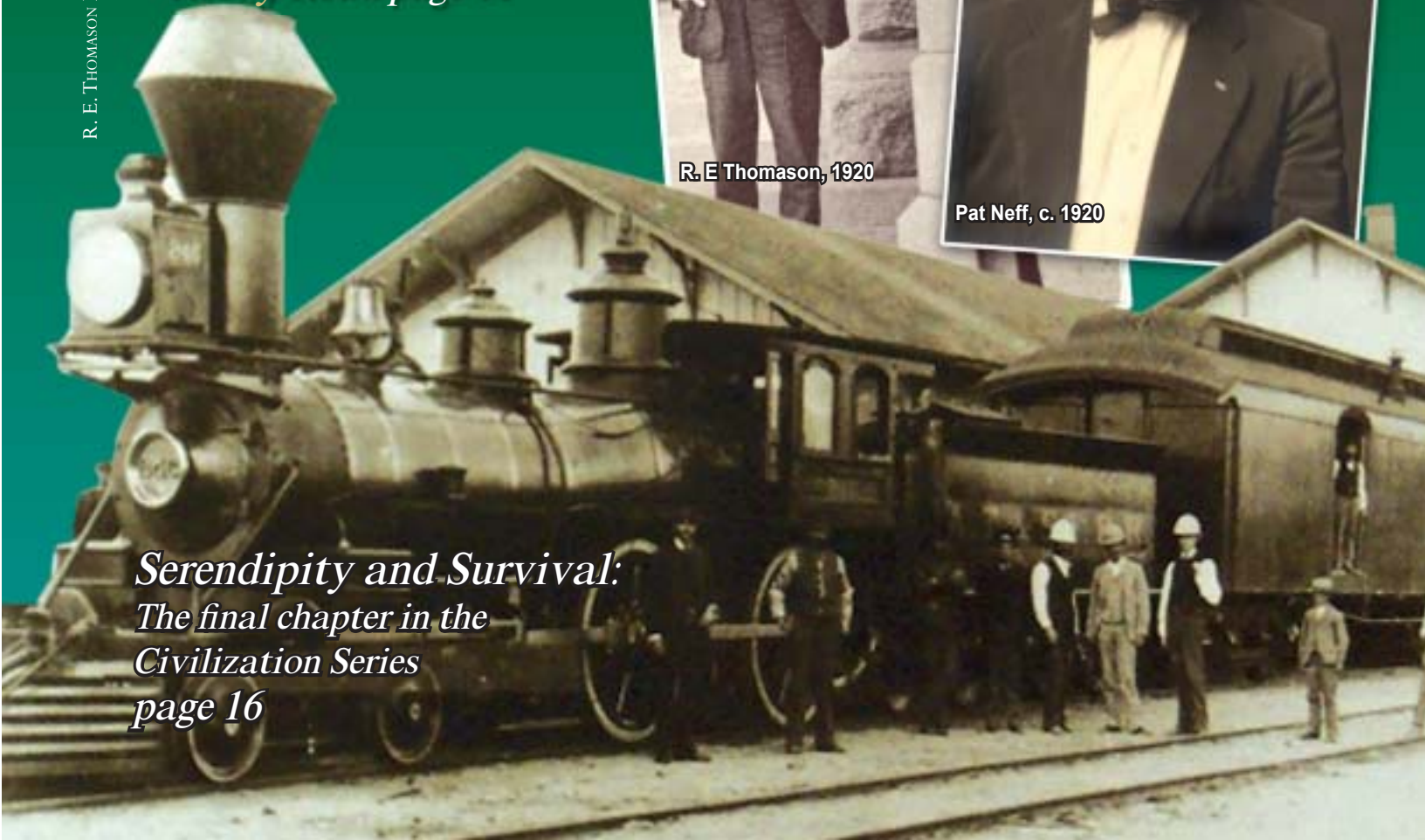


R. E. Thomason, 1920



Pat Neff, c. 1920

R. E. THOMASON PICTURE COURTESY OF EL PASO PUBLIC LIBRARY



*Serendipity and Survival:
The final chapter in the
Civilization Series*
page 16

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THE PRESIDENT'S PAGE

On The Border Of Opportunity

The Rule of Law Bi-National Commission

As a legal community located on the border of the United States with Mexico, we are dealing on a daily basis with judicial and cultural differences with our counterparts on the other side of the border. The integration of the Rule of Law Bi-National Commission in the year 2007 gave us an historical opportunity to exchange experiences, understand differences, and improve communication among the judges, attorneys and other law enforcement agencies which form the international border legal system. Since we are celebrating 110 years of history, it seems only fitting that history provide a continuum for chapters to be read by including those cultural differences with our counterparts.

The benefits derived from this interaction are that at the end of the day, a judge in El Paso can easily interchange opinions without protocol through a direct telephone communication with that judge's counterpart in the other country. Attorneys and other law enforcement agencies can do the same with their respective counterparts.



The Commission was founded last year through the efforts and cooperation of judges, attorneys and investigators in Juarez, Mexico and El Paso, Texas. They have had several successful collaborations that allowed these professionals to interact with each of their counterparts on a first name basis. That interaction paved the road to accomplish the goal of the Commission, which is “the preservation of a diverse, competent, ethical and independent system of justice.”

Why now? Historically, there have been several attempts to bring together members of the two legal communities. However, effective January 1, 2008, radical changes were made to the Constitution, more specifically, the penal system of the state of Chihuahua. These changes now permit oral trials before panels of three judges. This new system has many similarities with the common law system of El Paso, Texas, and is the main reason for the great interest by the entire legal community of the state of Chihuahua to learn from our experiences with our legal system.

On December 14, 2007, during the regular monthly meeting of the Bi-National Commission, the guest speaker was the Attorney General of the State of Chihuahua, Patricia Gonzalez, who welcomed the working programs that our Bi-National Commission has for the year 2008. Our dialogue and efforts continue, and the Commission met on January 18, 2008 at the University of Texas at El Paso where our guest speaker was the president of the University of Texas at El Paso, Diana Natalicio. We look forward to continuing our noble mission of building opportunities and professional connections with our colleagues in our sister city of Juarez, Mexico and the city of Chihuahua, Mexico and at the same time strengthening our legal community in El Paso, Texas through information, opportunity and shared experiences.

Judge Robert Anchondo

PRESIDENT

EL PASO BAR ASSOCIATION March Bar Luncheon

Tuesday, March 11, 2008

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

Guest Speakers will be candidates for President-Elect of the State Bar of Texas, Claude Ducloux, Austin and Roland K. Johnson, Ft. Worth

We will also hear from the candidates for President-Elect of the Texas Young Lawyers Association

Please make your reservations by Monday, March 10, 2008 at noon by calling Nancy at 532-7052 or via email at nancy@elpasobar.com

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.

BAR POLL WINNERS



Justice, 8th Court of Appeals District, Place 3:	Guadalupe "Lupe" Rivera
District Judge, 41st Judicial District:	Mary Anne Bramblett
District Judge, 65th Judicial District:	Felix Saldivar, Jr.
District Judge, 388th Judicial District:	Patricia A. Macias
District Judge, 409th Judicial District:	Sam Medrano, Jr.
District Judge, 448th Judicial District:	Chris Anticliff
Criminal District Judge, Court No. 1:	Don W. Minton
Judge, Courty Criminal Court No. 4:	Jesus R. Herrera
District Attorney, 34th Judicial District:	Jaime Esparza



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CALENDAR OF EVENTS



MARCH 2008

Tuesday, March 4
EPBA Board Meeting

Tuesday, March 4
Primary Day

Thursday, March 6
EPWBA Monthly Meeting

Friday, March 7
Coffee & Donuts in Bar Office

Friday, March 7
MABA General Meeting

Tuesday, March 11
EPBA Monthly Luncheon

Thursday, March 13
EPYLA Monthly Luncheon

Friday, March 14
Federal Court Practice Seminar

Monday, March 17

*EPBA Office Closed –
 St. Patrick's Day*

Thursday, March 20

EPPA General Meeting

Friday, March 21

EPBA Office Closed – Good Friday

Monday, March 31

EPBA Office Closed – Cesar Chavez Day

UPCOMING EVENTS

Friday, April 25, 2008

EPYLA Golf Tournament,

Saturday, April 26, 2008

EPBA Law Day Dinner

April, May and June will be monthly issues.
 Contact the Bar Office if you have any
 questions regarding this schedule.

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 April, 2008, please have the information to the Bar Association office by Monday, March 10, 2008. In order to publish your information we must have it in writing. WE WILL MAKE NO EXCEPTIONS. We also reserve the right to make any editorial changes as we deem necessary. Please note that there is no charge for this service: (915) 532-7052; (915) 532-7067-fax; nancy@elpasobar.com - email. If we do not receive your information by the specified date please note that we may try to remind you, but putting this 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.

FEDERAL COURT PRACTICE SEMINAR

Friday, March 14, 2008 • 12:00 – 5:45

(Registration Start at 12:30 and Welcoming Remarks Begin at 1:00)

The Federal Bar Association – El Paso Chapter is sponsoring the Federal Court Practice Seminar. The seminar has been approved to satisfy the requirements of Local Rule AT-1(b)(2) concerning Attorney Admissions. See Standing Order for El Paso Division Re: Attorney Admissions, signed January 30, 2008.

TOPICS WILL INCLUDE:

- Introduction and Orientation to CM/ECF
- Federal Rules of Criminal Procedure, Local Rules Highlights, Recent Changes
- Criminal Motions Practice
- Federal Civil Jurisdiction, Venue, and Removal
- Federal Rules of Civil Procedure, Local Rule Highlights, Recent Changes, and E-Discovery
- Civil Motions Practice
- Nuts and Bolts: District Court Practice and Standing Orders, Magistrate Court Practice

LOCATION:

The Seminar will be held at the Grand Jury Assembly Room, Fifth Floor, United States Federal Courthouse, 511 E. San Antonio Avenue, El Paso, Texas 79901

MCLE:

This Seminar has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 4.0 credit hours, including 1.0 hours of legal ethics/professional responsibility credit.

REGISTRATION:

To register for the Seminar, contact Selena N. Solis, Federal Public Defender's Office in El Paso at (915) 534-6525 or Selena_Solis@fd.org. While walk-ins are welcome, they are subject to availability of space. Course materials will be available on site in CD format.
 Federal Bar Association – El Paso Chapter

COST:

\$100 - FBA Members & \$200 Nonmembers

EL PASO'S LEGAL HISTORY REVEALED



The Chamizal Arbitration hearings were held in El Paso in 1911. Seated at the bench in background are, from left, Anson Mills of the United States, Eugene LaFleur of Canada, and Fernando Beltran y Puga of Mexico

EL CHAMIZAL (May, 1911)

International Arbitration & The Mexican Revolution

■ BY J. SAM MOORE JR.

The long running and acrimonious Chamizal international boundary dispute between the United States and Mexico, centered in the city limits of south El Paso and Cd. Juarez, had its origins in southerly shifts in the course of the Rio Grande in the 19th century and was only settled through diplomacy in the 1960s. For those interested in more detail reference should be had to the highly regarded Handbook of Texas Online (<http://tshaonline.org>) and *Border, The U.S.-Mexican Line* by Leon Metz (Mangan Books, 1989, soon to be reprinted by the TCU Press). This article will focus on the Chamizal International Arbitration hearing held in El Paso in May, 1911, at the height of the beginnings of the Mexican Revolution and the Battle of Juarez.

May, 1911 found El Paso and Cd. Juarez on the front pages of newspapers worldwide.

The revolutionary forces under Francisco Madero, Pancho Villa and Pascual Orozco were encamped in Mexico near present Boundary Marker No. 1 just across the Rio Grande from the ASARCO smelter. Negotiations with the existing government under President Porfirio Diaz collapsed and was followed by the Battle of Juarez on May 8 through May 10, 1911 won by the Madero forces. By the end of May President Diaz had abdicated and gone into exile in France. Juarez was established as the provisional capitol of Madero's revolutionary government. The Mayor of El Paso and the Chamber of Commerce did not take long to determine a winner and tendered a banquet in honor of Madero in late May with William H. Burges of the El Paso Bar being the keynote speaker.

At this most inauspicious of times came on to be heard the Chamizal Arbitration case

before the International Boundary Commission United States-Mexico then sitting at El Paso in the Federal Courthouse located across from the southwest corner of the Plaza downtown. The arbitration hearing was held before three Commissioners acting as arbitrators under a convention between the two countries signed in June, 1910. The arbitrators were General Anson Mills, the United States Boundary Commissioner, Eng. Fernando Beltran y Puga, the Mexican Boundary Commissioner and by agreement as Presiding Commissioner, the Hon. Eugene Lafluer, K.C., of Montreal, Canada. As agent before the tribunal the United States chose W.C. Dennis of Washington, D.C. and as counsel and associate counsel, Walter B. Grant of Boston and Richard F. Burges (brother of William H. Burges) of El Paso with Mexico through the Diaz regime choosing as agent Lic. Joaquin D. Casaus, a leading member of the Mexican Bar

and a trusted Diaz associate of many years. He was assisted by W. J. White of Montreal, Canada as counsel and A. S. Thurmond (grandfather of Bill Thurmond) as associate counsel. An El Paso newspaper editorial termed the arbitration important, while another implied that Mexico had hired Mr. White as counsel since he was a friend of Presiding Commissioner Lafleur. It should be noted that the Mexican participants as Diaz appointees did not choose to return to Mexico at the end of the proceedings, but chose to remain in the United States or go abroad.

The first meeting of the Chamizal tribunal was set for May 15, 1911 in El Paso. Up to that time the El Paso newspapers had treated the arbitration as a back page item, since the front pages had been reserved for the Mexican Revolution and the recently concluded Battle

of Juarez (May 8-10, 1911). That skirmish was fiercely fought with dynamite, cannons and other weapons in full view of the citizens of El Paso, with some American citizens being killed by stray shells. By Sunday, May 14, all of the out-of-town arbitration participants had arrived for the hearing in El Paso. Their arrival, probably delayed due to chaotic local conditions, was reported on page 8 of the next day's El Paso Times (the media maxim "if it bleeds, it leads" was in force) immediately under an article concerning a local bicycle theft.

The arbitration hearing continued in El Paso through May and June, 1911 and resulted in a split decision not accepted by the United States which divided the Chamizal tract in South El Paso between the United States and Mexico. While the terms of the Chamizal arbitration

seemed to call for the tribunal to decide title to the whole area in dispute, the Mexican Commissioner chose to side with the Presiding Commissioner in dividing the tract (General Mills dissenting). El Chamizal remained a thorn in the side of USA-Mexico relations until it was settled through diplomatic means in the 1960s through relocating the Rio Grande, dividing part of the disputed tract and awarding part of upper Cordova Island to the USA (the Chamizal National Memorial administered by the National Park Service [www.nps.gov/cham] and Bowie High School are now located there). Of current interest and worthy of study relative to the present Downtown Redevelopment Project, the Chamizal settlement also involved a rather massive acquisition and relocation of homes and businesses.

EL PASO YOUNG LAWYERS ASSOCIATION'S "Christmas of Hope"

BY CORI HARBOUR

On December 15, 2007, the El Paso Young Lawyers Association ("EPYLA"), together with the American Cancer Society and Las Palmas Medical Center, sponsored a "Christmas of Hope". The "Christmas of Hope" benefited children whose parents are suffering from cancer and cancer treatments which prevent the families from providing their children with the type of holiday atmosphere that many take for granted. In some cases, the parents of the "Christmas of Hope" children are able to provide only the most basic necessities of life, and in other cases the parents are virtually unable to interact with their children because of the parents' condition.

The American Cancer Society sent invitations to over 150 families in the far west Texas area. The families responded with the age and gender of the children who would participate. Members of EPYLA then purchased the age and gender appropriate gifts and held a "wrapping party" to wrap the gifts and assemble the gift bags.

More than forty children attended the "Christmas of Hope" event at Las Palmas



Lifecare Center. Santa was on hand for photos and gave each child his or her specially selected gift. Thanks to the generous donations from the El Paso legal community, each family was presented with a \$100 Wal-Mart gift card. Copies of Texas Young Lawyers Association's *Legal Guide for Cancer Patients* were supplied

to all in attendance. Lunch was also provided to the children and their families, and each child was sent home with a gift bag full of candy, Christmas ornaments, toys and other goodies.

EPYLA is already planning for the next "Christmas of Hope" event with aspirations of bringing joy to even more children in 2008.

EL PASO'S LEGAL HISTORY REVEALED

Texas Governor Pat Neff and The El Paso Connection

Or Why El Pasoan Ewing Thomason Should Have Been Elected Texas Governor In 1920

■ BY TERRELL BLODGETT*

Central Texan Pat Neff, who served as Texas governor from 1921-1925, got off on the wrong foot with El Pasoans before he ever moved into the Governor's Mansion. In his race for governor, Neff took on El Pasoan R. Ewing Thomason, who was then serving as a very effective Speaker of the Texas House of Representatives. Although a resident of El Paso for only seven years, Thomason had already become very popular in the West Texas city. Two others got into the governor's race in 1920: Joe Weldon Bailey, a well-known former U. S. Senator from Texas and former Texas attorney general, Ben F. Looney.

The four men's entry into the governor's race followed then Texas Governor William P. Hobby signaling in 1919 that he wanted to go back to Beaumont to his newspaper business. With that announcement, the governor's race became a wide-open affair. The ensuing race then became arguably the costliest and dirtiest up to then in Texas politics. Waco attorney Pat Neff became the first to announce, followed by the other three and the fun was on. Very quickly, the state's leading newspapers started running editorials stating "Anyone but Bailey" in response to Bailey's stand against Prohibition, woman suffrage, the League of Nations, and a new Progressivism in the Lone Star State.

Bailey clearly had more governmental experience than his more youthful contenders. He had served almost twenty years in the U. S. House and Senate and had retired from the Senate in 1911 to go into private law practice. The other three had somewhat similar backgrounds. Looney had served in both the Texas Senate and House and then Attorney General, and Neff had been in the House and then County Attorney in McLennan (Waco) County. Thomason was not



Patt Neff (lower left), O. H. Cross (upper right), and friends

only the youngest contender but also had the least experience. He had served as a district and county attorney but had really made his mark as a state legislator. He was elected to the Texas Legislature in 1916 and reelected in 1918. In January, 1919, he became one of the very few House members to be elected speaker of that body in their second legislative term - and without opposition at that. "Newspapers in the spring of 1919 gave Thomason the same high marks for fairness and a businesslike attitude in the speaker's chair that they had given Pat Neff sixteen years before."¹ In his autobiography, Thomason boasted of his key role in the impeachment of Jim Ferguson, and support of bills establishing the State Highway Commission, providing compensation

for workers injured in industrial accidents, and providing for woman suffrage. Clearly, he was a force to be reckoned with in the 1920 gubernatorial campaign.

The campaign actually began in late 1919, but then reached its peak in the spring of 1920 before Thomason had reached his 41st birthday. The battle raged back and forth across the state as the four threw verbal punches at each other. Although Bailey had lost the support of the state's leading newspapers and many Texans because of his stand on numerous issues, he was still the leading contender. The three concentrated their fire on him until midway in the campaign when all three suddenly realized that this was the first statewide race

in Texas which would require a run-off if one candidate did not receive a majority of the vote. Thomason, Neff and Looney then conceded Bailey the lead position and began attacking each other to try to obtain the second position on the run-off ballot.

In mid-May, Thomason received the warm endorsement of the *Houston Post*.² On May 30, the *Houston Chronicle* editorialized that either Thomason or Neff would be satisfactory and stated that Texas would not lose with either of them in the statehouse.³ In addition, woman suffrage was an important issue, not just to women, but to many civic-minded citizens. Thomason received support from two of the leading suffragists in the state: Jessie Daniel Ames and Minnie Fisher Cunningham.

But then came what one Capitol correspondent - more than a quarter of a century later - called a fatal blow. Raymond Brooks, veteran Austin political writer in a column penned in 1954, referred back to the 1920 election in discussing the 1954 gubernatorial race of the then Speaker of the House, Reuben Senterfitt. Senterfitt bowed out of a race at that time because of a special session in March-April, 1954. In making the comparison, Brooks wrote:

Ewing Thomason, who was a candidate, would have been elected governor according to those who recall that campaign, had not a May special session been called. The El Pasoan was considered well out in front on his way to the nomination, when suddenly he was frozen in the speaker's chair for a full 30 days, just in the crucial stages of the state race. Issues built up during the month that bypassed him. His campaign sagged and never got up steam again. Pat Neff, the white maned ex-speaker from Waco . . . came on to take the nomination and the office.⁴

The session had been called by Governor Hobby to deal with a pink boll worm crisis and to a lesser extent a school funding problem. Thomason could ill afford to abandon his presiding role to campaign for governor and undoubtedly lost much of his momentum because of the session.

In his autobiography, Thomason wrote that if Bailey had stayed out of the race, he could have defeated Neff.⁵ Thomason went on to become an icon in El Paso. He was elected mayor of El Paso in 1927 and as mayor, built the first El Paso airport and served as president of the League of Texas Municipalities. In 1930, he was elected to Congress and served with distinction in that body for sixteen years. In 1947, President Harry S. Truman appointed him to the federal bench

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R. E. Thomason

where he served until 1963. "Thomason General Hospital in El Paso was named for him. He died on November 5, 1973."⁶ It could be said that Pat Neff owes his governorship - at least in good measure - to Governor Hobby for calling of the special session which derailed the campaign of the youthful, charismatic Thomason.

Governor Neff has at least two other interesting connections to El Paso. Both involved court cases originating in El Paso. The first concerned the so-called "white primary" bill, which passed the Legislature in 1923. African-Americans in Texas had been effectively excluded from participating in the Democratic Party primary elections for many years, but they were increasingly challenging their status. In 1923, Representative Douglas Davenport of Bexar County introduced a bill to legally prevent blacks from voting in those elections.⁷ State Senator Richard M. Dudley, later mayor of El Paso, successfully derailed it in the Senate in the regular session and it could have died there. However, for reasons unknown to Neff's biographers, he revived it in a message to the

second called session of the legislature in 1923, saying that it was a part of the State Democratic Party platform. Dudley was unsuccessful in defeating it this time and the House of Representatives passed it overwhelmingly. It was presented to the governor on May 10 and although he had defended his including the bill in his call for the second called session, he refused to sign the bill and allowed it to become law without his signature.

A little over a year later, Dr. Lawrence A. Nixon, a respected African-American physician in El Paso, decided to challenge the law and presented himself at the proper polling place in El Paso and was denied the right to vote. Nixon and the City of El Paso had been selected carefully by the National Association for the Advancement of Colored People as the individual and the city to challenge the act. The story of Nixon's legal fight to vote is grippingly told in a book by Conrey Bryson entitled *Dr. Lawrence A. Nixon and the White Primary*, first published in 1974 and subsequently reissued in 1992.⁸

Nixon's suit wound its way through the courts and finally reached the U. S. Supreme Court. On March 7, 1927, almost 3 years after his attempt to vote, the Supreme Court, in an opinion by Oliver Wendell Holmes, unanimously declared the white primary statute unconstitutional.

The Texas Legislature responded to the decision by passing a new law authorizing the Democratic party in executive session to limit party membership to whites. Nixon and the NAACP persisted and in 1932, the U. S. Supreme Court again ruled against the Texas Democratic Party. However, the opinion by Justice Cardozo (who had only recently replaced Holmes on the court) was written in such a way that the Democratic party was able to avoid the consequences of the decision by thereafter meeting in full convention and then limiting membership to whites.

During this time, at least one other suit was filed by an African American, without success. In 1944 the United States Supreme Court in the case styled *Smith v. Allwright* finally gave

blacks the unqualified right to participate in party elections. On July 22, 1944, almost twenty years after he had first been turned away from a Democratic party primary, Dr. Nixon and Mrs. Nixon walked to the polling place, presented their poll tax receipts, and voted.

The third connection of Governor Neff to El Paso concerns the famous three member female Texas Supreme Court appointed by Governor Neff. The lawsuit which precipitated this "first of its kind" court in the country came out of an El Paso case, *Johnson v. Darr* (114 Tex 516). Neff's biographers give a brief background of the lawsuit which involved a well-known fraternal organization of the day - the Woodmen of the World (WOW). At that time, the WOW membership included virtually all public officials and many, if not most, of the attorneys in the state. This meant that they were proportionate owners of the assets of the organization and had an impermissible interest in cases involving the organization. The substance of the case is unimportant; needless to say, the case wound its way through the system and reached the Texas Supreme Court. On March 8, 1924, the three justices then serving on the Court notified Governor Neff that they were disqualified from hearing the case because they were members of the WOW.

The mystery through the years has been why Neff waited almost ten months - just three

The mystery through the years has been why Neff waited almost ten months - just three weeks before he went out of office - before he made the appointments. Whatever the reason, and lawyers and law students have ascribed various motives to his delay, Neff, claiming that he could not find any male attorneys who did not have a conflict, appointed three women to the Supreme Court to hear the case.

weeks before he went out of office - before he made the appointments. Whatever the reason, and lawyers and law students have ascribed various motives to his delay, Neff, claiming that he could not find any male attorneys who did not have a conflict, appointed three women to the Supreme Court to hear the case. Then it turned out two of the three did not have the required seven years of practice to serve on the Court and the Governor had to make two fresh appointments to hear the case. The most recent and thorough discussion of the case and Neff's reasoning was presented to the annual meeting of the Texas State Historical Association in 2004 by Dallas attorney Jeffrey D. Dunn.⁹ In his paper, Dunn reviews the arguments set forth by several writers as to Neff's thinking and concludes that Neff did not make the appointments for any political advantage, but simply to advance the

status of women. Dunn's argument is buttressed by the fact that Neff was already known for his appointment of women, having appointed the first woman to the University of Texas and to the Texas A & M University boards of regents, as well as the first female chief of staff to a Texas governor.

El Pasoans can be proud that they have played an important role in the tenure of Governor Pat Neff, even if part of that role was also seeing one of its own defeated in 1920 because of his devotion to his duties in the Texas Legislature at the time.

Mike Hogg Professor Emeritus, LBJ School of Public Affairs, UT-Austin and Co-author, **The Land, The Law, And The Lord: The Life Of Pat Neff*

NOTES

1. Dorothy Blodgett, Terrell Blodgett, and David L. Scott, *The Land, The Law, and The Lord: The Life of Pat Neff* (Austin, Texas: Home Place Publishers, 2007), p. 72.
2. *Houston Post*, May 13, 1920, Neff Papers, Texas Collection, Baylor University, Waco, Texas.
3. *Houston Chronicle*, May 30, 1920, Neff Papers.
4. *Austin American*, August 3, 1954, as quoted in Blodgett,

Blodgett, and Scott, p. 84.

5. Robert Ewing Thomason, *The Autobiography of a Federal Judge*, ed. and ann. by Joseph M. Ray (El Paso, Texas: Texas Western Press, University of Texas at El Paso, 1971), p. 24.
6. Handbook of Texas Online, s.v. Thomason, Robert Ewing, <http://www.tshaonline.org/handbook/online/articles/TT/ft47.html> (accessed January 31, 2008).

7. Blodgett, Blodgett, and Scott, p. 138.

8. Conrey Bryson, Dr. Lawrence A. Nixon and the White Primary (El Paso, Texas: Texas Western Press, 1992).
9. Jeffrey D. Dunn, "The Legacy of Johnson v. Darr: The 1925 Decision of the All-Woman Supreme Court," paper presented at the annual meeting of the Texas State Historical Association, Austin, Texas, March 6, 2004.

Property Tax Exemptions And Life Estates

BY ILA LARSON*

There are a growing number of seniors who want to ease the burden of transferring property to their intended heirs by distributing their real property in advance of their demise. However, many seniors are not aware of how this "early conveyance" impacts their property tax liability for the following year on those properties carrying homestead and Over-65 or Disability exemptions. In accordance with Section 11.13 of the Texas Property Tax Code, unless the Grantors have retained a Life Estate or are conveying to a

Trust, the Appraisal District will remove all exemptions effective January 1, following a name change due to a conveyance. This causes the property taxes to be calculated without any exemptions.

In order to avoid this situation, a property owner can convey the property to their intended heirs and still preserve their homestead for the remainder of their lives by retaining a life estate. The life estate must be specified in the conveyance instrument.

The El Paso Central Appraisal District wants to bring awareness to all of you in the legal profession who are involved in preparing

deed documents and Estate Planning. Please make property tax exemptions a factor when advising your clients. If you would like more information on property tax exemptions, please contact the El Paso Central Appraisal District, or you can email your requests to me at [HYPERLINK "mailto:ilalar@epcad.org"](mailto:ilalar@epcad.org) ilalar@epcad.org.

Ila Larson, Deeds and Exemptions Supervisor, El Paso Central Appraisal District, (915) 780-2000

**Deeds and Exemptions Supervisor, Central Appraisal District*

SENIOR LAWYER INTERVIEW

WARREN PULNER

BY CLINTON CROSS



Warren Pulner recently celebrated his 80th birthday.

Since he was a year or two older than I, he was in my mind a "Senior Lawyer" and an appropriate candidate for an interview. One day last week I cornered him in the Courthouse cafeteria and asked him a few polite questions about his life experiences.

CROSS: Warren, have you got a minute. I'd like to ask you a few questions.

PULNER: I'm not sure I should let you.

CROSS: Well, I just want to know a little bit about your life. You don't have anything to hide, do you?

PULNER: No.

CROSS: O.K., let's sit down here. I have to write this column for the Bar Journal, and I just want to know a little bit about your life so other lawyers will realize you are human.

PULNER: I don't know how I should take that. What do you want to know?

CROSS: Where did you come from?

PULNER: Your question was very poorly worded, but I'll try to answer. My parents both came from Odessa, Russia. My father (Morris Pulner) worked for two of his cousins in Rhode Island for two years. For his efforts, he got a place to live above a stable. When he asked his cousin to pay him some money for his work, his cousin called him an ingrate and then kicked him out of his room. Anyway, Morris survived this somewhat unpleasant experience and became a successful businessman. Unfortunately, he passed away when I was only nine months old.

CROSS: So you had a pleasant childhood?

PULNER: Not really. After my father died, the depression hit. My mother lost the business and our home. Then I got terribly sick. No father, no house, and poor medicine. But here I am.

CROSS: What was the next big event in your life?

PULNER: At the time, we were at war with Japan. I wanted to help. So on August 14, 1945, I joined the Navy. On the same day in the afternoon, the Japanese

surrendered. Maybe they heard I'd signed up.

Anyway, the war ended, I went to Corps school in the Navy and my first duty station was at Bethesda, MD to do ward duty, and that was not for me. So I went to the Naval Medical School at Bethesda, Maryland for six months and became a laboratory technician. This was far better. No Navy nurses to contend with.

CROSS: Family?

PULNER: I married Theresa (Tery) Bloomfield on September 8, 1951. We had three children, Ellen, Charlie and Rachel. In August, 1968, Tery came down with breast cancer. Miraculously with the aid of MD Anderson, she survived until April, 1981.

Ellen (Jody) Pulner Hunt, my oldest daughter, lives in Austin and has two teenage daughters. She has a MA in Architecture from the University of Austin.

My son Charlie was a genius but very much his own person. He was graduated from New Mexico State. He passed away on November 1, 1995. His widow, Gay Pulner, is an Assistant DA here in El Paso.

My youngest child, Rachel Pulner Grossman (Allen) lives in Buffalo Grove, a suburb of Chicago and has two small children. She has a MA in Social Work from the University of Chicago.

I married a second time in June, 1988, to Claire Heller. She has one child, Doug Scheiner, who is a financial planner and lives in Florida. He recently became a father. Claire has taken on Grandmotherhood with full enthusiasm.

CROSS: How did you end up being a lawyer?

PULNER: When I was aboard ship, one of my shipmates was taking the correspondence law course from La Salle in Chicago. I would read the materials

and found the subjects interesting and a lot of good old common sense. When the Korean conflict started, I was recalled and was once again sent to Bethesda, MD for duty. While there, I attended George Washington University at night. Upon my discharge from the Navy, my wife Tery and I attended the University of New Hampshire. After that I went to Boston University Law School and was graduated in 1955.

CROSS: Did you practice in Yankee-land?

PULNER: After graduating, I clerked for six months, and then I took the Bar exam. I practiced with a sole practitioner for about two years. After that, I associated with three other attorneys and I developed a very successful practice. I left Rhode Island in the early 70's and came to El Paso because my daughter Rachel was a severe asthmatic. She prospered here, having only one attack from age five until she graduated from high school. After she graduated, she went to the University of Texas and then moved to Chicago. I'm still here and enjoying the practice of law.

CROSS: Any interesting cases?

PULNER: While practicing in Rhode Island,

I left Rhode Island in the early 70's and came to El Paso because my daughter Rachel was a severe asthmatic. She prospered here, having only one attack from age five until she graduated from high school. After she graduated, she went to the University of Texas and then moved to Chicago. I'm still here and enjoying the practice of law.

we represented "the Beatles" in a common law trade mark case. That was fun. Also, in Rhode Island I worked on a number of Public Issues, including Underinsured Motorist Coverage and Deceptive Trade Practices litigation.

CROSS: Would you like to comment on how the profession has changed since you started, if it has?

PULNER: When I started, a lawyer's word was his bond. Now we have to put almost everything in writing. I feel that is a bad sign.

I value honesty and integrity in my private

life and in my work. My secretary, Tammy De Shazo has been my right hand since July, 1981 when she walked into my office soaking wet from the rain interviewing for a job. She shares my values.

Henry Aguirre, a bright and capable young attorney, also offices with me. I'm proud to be associated with him.

By the way, I have to be in court in a few minutes. Can I leave now?

CROSS: Oh, I'm supposed to be in County Court 2 right now. See 'ya.

Legal Aid & Legal Clinic for the Homeless Merge to Serve El Paso's Homeless

■ BY CARMEN RODRIGUEZ

The Legal Clinic for the Homeless, formerly a program of the Opportunity Center for the Homeless in El Paso, is now a project of Texas RioGrande Legal Aid (TRLA), the leading provider of legal aid in Texas. The merger of the Legal Clinic into TRLA will expand the free legal services available to the city's homeless community.

Started in 2003, the Legal Clinic for the Homeless is funded by the United States Department of Housing and Urban Development (HUD) and the Texas Access to Justice Foundation. In its four years of operation, the Legal Clinic has served more than 1,000 homeless individuals in El Paso. Legal services provided to the homeless include representation in civil legal matters such as divorce actions, child support, child custody, housing rights,

employment, and public benefits.

According to clinic director and TRLA attorney Jamye Boone Ward, "TRLA's reputation for helping the El Paso community made the partnership a natural fit. The Legal Clinic for the Homeless is looking forward to continuing our legal services under TRLA."

The El Paso Coalition for the Homeless estimates that more than 10,000 people are homeless in the area each year. More than half of the city's homeless community is comprised of women and children. It is estimated that nearly 60% of the clients served by the Legal Clinic suffer from disabilities, primarily mental illness.

TRLA Executive Director David Hall added, "The Legal Clinic for the Homeless has been a major asset in El Paso for nearly five years. TRLA is proud to be a part of their work and to continue to serve the El Paso community."



Are Lawyers Easy Marks?

BY DAVID FERRELL

“elpasolaw.com” is ten years old, I created it in March of 1998. The main reason I went through the trouble and expense was because of the inadequacies of the major legal publishers who provided very poor, buggy internet legal research services and yet they charged huge fees. The straw that broke the camel's back was when I asked my research publisher to upgrade my CDROM legal research library (approximately \$500 a month, \$6,000 a year) with the internet version of the exact same material. I was told that I certainly could upgrade for another \$500 a month or \$12,000 a year. When I complained that I should receive the internet version for the same \$500 a month I was already paying or maybe just be given a discount for the exact same material, I was dismissed without any concern by my legal research publisher. I cancelled my CDROM contract as soon as possible and began researching alternatives.

What I discovered was the existence of enormous legal databases that were on the internet and were public domain; **that means free**. But in 1998, many lawyers were not aware of these databases, so I created a website “elpasolaw.com” and put approximately 15 links to the best “legal” public domain materials I could find for my use as a lawyer. Since 1998 I have added approximately 650 law related links and I share my links free with whoever wants to use them.

My old major legal research publisher approached me sometime later and tried to woo me back into the fold with some great offers and

I went back for about two years. The internet service was less buggy and they dropped the price quite a bit. But then, again, a renewal contract attempted a gouge and I refused to renew. That is when the second tier predatory salesman called. I was not interested in their new plan, I could get by with public domain legal research material and I could buy their legal materials on a piece by piece basis. Why should I pay a yearly fee for something I may use once or twice a week, and the public domain material I could use as many times a day as I wished for ZERO dollars? Well, the predator told me there was “NEW” and “BETTER” material and that tech support would be immediately available to help with any problems of the new system, and, I could try the system at a huge discount for a month. I was interested in the “NEW” and “BETTER” so I agreed to the one month. The contract was faxed to me, I read it and it said it was for a year. I called the predator and he said “Oh, that's the standard contract and they don't have any others.” So, we agreed that I would cross out the one year term, append the one month language with a one time fee and then I would sign the agreement, initial the changes, and that is what I did.

I tried the “NEW” and “BETTER” for about three days and discovered it was not all the predator told me it was. So, I e-mail a cancellation to the predator and quit using the material.

Well, I began getting bills and I didn't pay. I wrote a simple letter explaining the amended contract and that I had cancelled it. The bills kept coming and soon I was in debt for several thousand dollars and my staff was receiving regular collection phone calls. I called the



company and talked to a representative who said she would investigate my assertions. She called back when my staff was at lunch and left a lengthy voice mail message that basically said “Yes, you are right, and we have cancelled the back debt and we are offering you” I ignored the new offer, I did not want anything to do with a company that did business that way.

Three months later I received a demand letter from the company's law firm for several thousands of dollars and several thousands of dollars in attorney's fees. I responded with a DTPA letter, attached all my documents as amended and initialed and I enclosed a tape of the voice mail message from the company representative. That's when the harassment quit, but I still get calls, letters, etc. from the major legal research publisher with OFFERS too good to be true. I trash everything from this company.

I have lawyer colleagues who have had numerous problems with the major legal research publishers and it seems we are less able to protect ourselves that we are able to protect our clients. I know there are many new lawyers beginning their practice and I know many government lawyers are starting their private practice. CAVEAT EMPTOR!!!

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WISDOM: *Humanity's Noblest Quest*

■ BY JUDGE OSCAR G. GABALDÓN, JR.

“There is a foolish corner in the brain of the wisest man.”¹ Many would consider the speaker of these words to have been anything but foolish. Yet, even the renowned Greek philosopher, Aristotle, was well aware that when he spoke these words of wisdom, he himself was subject to the traps of foolishness. His humanity, in and of itself, made this great man of wisdom subject to the occasional error. Yet simply recognizing the reality that all men and women, no matter how intellectually brilliant they may be, can succumb to moments of imprudence, is itself a wise consideration.

Throughout the ages, wisdom has been sought out as a priceless jewel or as if it was a holy grail, for the fruits of wisdom bring tranquility, understanding, and overall goodness to men and women. Still others have avoided the quest for wisdom, believing that they already possess it. Even in ancient times, great thinkers like Plato realized that it was the folly of some men to think that they were wise by virtue of their high rank or privilege. Plato seizes this sentiment by saying “The truth is this: no one of the gods loves wisdom or desires to become wise, for he is wise already. Nor does anyone else who is wise love wisdom. Neither do the ignorant love wisdom or desire to become wise, for this is the harshest thing about ignorance, that those who are neither good nor beautiful nor sensible think that they are good enough, and do not desire that which they do not think they are lacking.”² These are not prudent men and women, for prudence is practical wisdom, which is a wisdom whereby men and women are able to deliberate well about what is good and advantageous for them as a means to the good life in general. Wisdom, in a manner of speaking, is the highest form of knowledge, concerned with matters that go beyond just the mundane sphere of basic human affairs.³ Matters regarding human motivation, growth, virtue, justice, and good will are among the concerns of the truly wise person.

Most people would probably agree that



wisdom involves the ability to apply knowledge, experience, or understanding with common sense and insight.⁴ This view of wisdom would also suggest the ability to be prudent and sensible, as well as the ability to discern or judge what is true, right, or lasting.⁵ In our day and age, we are experiencing an extremely fast-paced accumulation of knowledge, which is doubling every several months. Middle school children are being taught things that previously were introduced at the college level. Michael C. Catt, a prominent clergyman, puts it this way: “Learning and comprehension are exploding all around us.”⁶ However, all the technology and learning that surround us will bring more meaning, value, and excellence to our lives

only if they help to increment our central values and principles; otherwise, knowledge and the human sources of knowledge, if they fail to help refine our core values, risk becoming stale and stagnant to our humanity and our very souls. Hence, our lives will not be as orderly, and the possibility of chaotic occurrences will increase. Looking at this from another perspective the German modern philosopher, Immanuel Kant, succinctly puts it this way: “Science is organized knowledge. Wisdom is organized life.”

When reflecting on the importance and usefulness of knowledge, Catt cautions us that “... knowledge without discernment is dangerous. You can be intellectually advanced and be morally depraved or emotionally

It is through wisdom that we recognize the beauty of compassion towards others and ourselves. It is through wisdom that we come to realize what truly is worthwhile in life and what is of minor consequence and irrelevant. It is through wisdom that we come to recognize that sometimes sacrificing our personal wants and preferences for the sake of others is the ultimate attainment of human dignity, courage, nobility, and goodness.

immature. As our kids grow up too fast and too soon, they have more ‘knowledge’ than their grandparents, but lack the maturity they need. While they can decipher math problems, they still struggle with insecurities. They can solve various scenarios in the classroom, but don’t have a clue how to manage their allowance.”⁷ In spite of this, many people still callously hold on to the belief that just the knowledge of things is what makes them wise. They feel that those that know more than others are wiser. Even if they are reminded time and again that this proposition is not accurate, they fail to listen. This failure to listen is itself indicative of a deficiency of wisdom, for according to Proverbs, a wise man listens to counsel.⁸

Many of us may recall meeting persons with power, prestige, or ivy-league educations, and who might be considered captains of industry, movers and shakers, or power brokers, but who are anything but wise. In fact, these superficially or apparently successful people are many times morally bankrupt, starving for an ounce of integrity or a morsel of good character. By the same token, we may recall persons that lack the traditional temporal symbols of apparent success, such as money, status, and the like, but who have flooded our existence with wonderful and insightful values and teachings founded on wisely thought-out principles. These people can be everyday people like a grandmother, a best friend, or a colleague, or they can be a larger than life personage like Mohandas K. Gandhi, regarded by many as a champion of change through non-violence, or the humble Francis of Assisi, who discovered great riches in living a life of poverty. It is through wisdom that we are better able to find serenity in our lives. It is through wisdom that we recognize the beauty of compassion towards others and ourselves. It is through wisdom that we come to realize what truly is worthwhile in life and what is of minor consequence and irrelevant. It is through wisdom that we come to recognize that sometimes sacrificing our personal wants and preferences for the sake of others is the ultimate attainment of human dignity, courage, nobility, and goodness.

The noted theologian, Dietrich Bonhoeffer, shares some of his insights on some of the characteristics of

the person that values wisdom: “To understand reality is not the same as to know about outward events. It is to perceive the essential nature of things. The best-informed man is not necessarily the wisest. Indeed there is a danger that precisely in the multiplicity of his knowledge he will lose sight of what is essential. But on the other hand, knowledge of an apparently trivial detail quite often makes it possible to see into the depth of things. And so the wise man will seek to acquire the best possible knowledge about events, but always without becoming dependent upon this knowledge. To recognize the significant in the factual is wisdom.”

We have but this lifetime to work on perfecting our quest towards growing in wisdom, a journey whose ultimate object becomes man’s highest attainment. Granted, some will always be wiser than others. Our success in the pursuit of wisdom will largely depend on our willingness to accept the truth of matters for what they are and not for what we would like them to be. To do this, we must proceed with humility and modesty, for it takes a humble and modest soul to truly pierce through the veil of the secular in order to behold truth in its purest form. “Modesty is a shining light; it prepares the mind to receive knowledge, and the heart for truth.”⁹ A sincere desire for possessing wisdom in its splendor is the beginning point from where a fire is ignited in one’s mind and heart to passionately seek what is true, and thus seek the essence of wisdom itself. Only then can one be rightfully given the distinction of being called a true philosopher...a lover of wisdom.

1 Quote from Aristotle (384-322 B.C.E.).

2 Plato, Symposium, 203E-204A.

3 “Wisdom, Prudence, and Goodness.” <http://www.friesian.com/wisdom.htm>.

4 “Wisdom.” WordNet 3.0, Princeton University, 2006.

5 “Wisdom.” American Heritage Dictionary, Dictionary of the English Language, Fourth Edition, 2006.

6 Catt, Michael C. “Don’t Be a Foolish Thinker.” The Friar, Volume 46, Edition 16, April 16, 2000.

7 Ibid.

8 Proverbs 12:15.

9 Quote from Madam Guizot



Name:
Javier Alvarez

Court:
County Court at Law
No. Three

Years on the Bench:
Since October 19, 1994

Education:
UTEP 1973;
Texas Tech Law 1979

Docket type:
Civil

Court Coordinator:
Georgina Enriquez

Pet Peeve:
Lawyers that are unprepared

**Favorite place
to go on vacation:**
Mexico

Last book I read:
“Slavery and the Founders”
by Paul Finkelman

Last movie I saw:
“No Country for Old Men”

**If I wasn’t a judge,
I would be a:**
Teacher



The Cradle of Civilization – El Paso Street at the corner of Overland Street in the early 1880s

How Civilization Conquered El Paso

Serendipity and Survival in the Sage Brush and Chaparral Days

■ BY BALLARD COLDWELL SHAPLEIGH

According to Mark Twain, one goes to heaven for the climate and hell for the company. But Emerson was probably closer to the mark, about El Paso anyway, when he said “to different minds, the same world is a hell, and a heaven.” The premonitory shock of the railroads’ arrival in 1881 and 1882 announced the awakening of civilization, and depending on one’s point of view it was either heaven or hell. Wealth and turbulence grew proportionately with the population which jumped from a few hundred inhabitants to over 10,000 in the ten years between 1880 and 1890, almost doubling in each decade after that for some time.

Civilization, like beauty, is in the eye of the beholder and, as historian C.L. Sonnichsen saw it, El Paso was not much more than a village in 1880. But by 1885 it was beginning to be a big town. Having lived through this hurly-burly, W.M. Coldwell finally realized why W.H. Burges asked him to give the keynote address at the first bar banquet on January 13, 1902. So with considerable pride and characteristic humility he announced to the 60 or so lawyers assembled:

Mr. President, Honored Guests and Professional Brothers:-

With a natural modesty, so unobtrusive and retiring that it has never ventured to expose itself to the observation of my oldest acquaintances, and which has been increased by many years connection with the most diffident of professions, I was at loss to conjecture the reason why I was elected to respond to any toast on this occasion, but at last the truth dawned upon me – not at once – not with one burst of assuredness and splendor, as the tropic sun sweeps out of the mid-Pacific, but slowly, painfully, and with infinite reluctance, as the consciousness of error upon an Appellate Court during the argument of a motion for rehearing. Bacon has said: “Some men are born great, some achieve greatness, and some have greatness thrust upon them”; but Bacon’s genius, universal as it seems, was not broad enough to grasp all the limitless possibilities of nature. Some men acquire greatness by some one or the other of the paths he mentions – *some men*, gentlemen, but *some* is a collective word, implying plurality; and, what is more to be noted, equality among its members, while one man, and one alone, has practiced

law for nearly thirty years without following the majority to the grave or his clients to Huntsville. With proud modesty, I confess it – I am that man! Sieyes, when asked: “What memorable thing did you do in the time of Robespierre?” answered: “I survived”; and I adopt that answer as a sufficient explanation of my present honors.

Survival was an elusive strategy. The railroads brought not only the bustle from increased commerce but the hustle from the *pistoleros* as well. Their gunplay was lively. Actual gravestones, in places less sophisticated and urbane than El Paso, depicted the basic elements of survival with rhymes like *Here lies a man named Zeke/Second fastest draw in Cripple Creek*; or *Here lies George Johnson/Hanged by mistake in 1882/ He was right/ We was wrong/ But we strung him up/and now he’s gone*, or *Here lies Lester Moore/ Four slugs from a .44/ No Les/ No More* (for Wells Fargo station agent Lester Moore, in Naco, AZ.)

In El Paso, W.M. Coldwell described an April 1880 incident in his diary as follows:

Passing Brinkerhoff's quarters, I heard the report of a pistol, the howl of a dog and immediately felt a sharp concussion on the right side of my abdomen. The bullet passed through the dog, glanced from the ground and struck me in the lower vest pocket where its force was deadened by a Mexican dollar.

An 1879 entry reads, "Lee Campbell was murdered last night which I greatly regret as he died owing me the price of eight drinks. We might have spared a viler man." Another passage records that a man rushed into the law offices of Hague & Coldwell and fired a pistol, fortunately missing him. His youngest son, Harold Coldwell, recalled yet another encounter in which the editor of the *El Paso Herald* incurred the wrath of a prominent gambler. "The editor," he said, "was threatened with a drawn pistol in front of the newspaper office, and W.M. Coldwell covered the hasty retreat of the editor up the steps of the newspaper office to the second floor."

Survival in the sage brush and chaparral days concerned other El Pasoans as well. Charles Morehead, who was a founding stockholder of the State National Bank in 1882 with O.T. Bassett, A. F. Shapleigh, Joseph Magoffin and Ynocente Ochoa among others, described the perils of travel to El Paso on a Southern Overland Stage coach trip with Bassett. The trip began in Ft. Worth on February 5, 1880. When they arrived in Ft. Davis, they found that nothing was talked about except "Victoria (*sic*), the great leader of the Mescalera (*sic*) Apache Indians." "Every passenger in those days carried a Winchester rifle as well as pistols", he said. The stage drivers pointed out the many graves along the road, the occupants having been victims of the Indian raids, and advised passengers to get their guns ready and keep them on their laps. In this recollection, Morehead added:

The curtains were rolled up so we could be ready to jump out in case of an attack and take to the tornillo bushes. It was understood that we should stick together and make the best fight we could in case of an attack. The driver was also provided with a Winchester rifle. ...A short time after this, the eastbound stage, with General Burns as the only passenger, left Quitman Station, and had not gone far when the driver discovered Victoria's band of raiders in the road ahead of him. The driver turned his team to go back to the station. As he turned the Indians opened fire on them and shot one of the horses through the top of the mane. General Burns, with a Winchester, opened fire on them from the rear



Santa Fe Depot 1881 in the vicinity of present day 805 S. Santa Fe Street

of the coach. The Indians also fired upon him and shot him through the chest. He lived three hours after they reached the station.

W.M. Coldwell also tells in his diary of watching the notorious gunfighter, writ writer, pardoned ex-convict and self-taught-in-the-penitentiary lawyer, John Wesley Hardin, drunkenly challenging anyone in a bar who might wish to test his courage and skill at arms, and his taunt getting no takers. Hardin is said to have killed 42 men. His lust for blood was born when he killed as a fifteen-year-old in 1868 and was nurtured by the minatory bullying and strong-armed chaos of the Reconstruction era. In 1871, Hardin reputedly killed a man in Abilene, Kansas simply for snoring. The story goes that Hardin began shooting at the hotel wall because the man in the next room was making so much nocturnal noise. The first shot just woke the offender, but the second shot killed him. Hardin's last days and final moments in El Paso, in 1895, at the age of 42, epitomize the vicissitudes of the era and are summarized in Jesse Sublett's review of a biography of Hardin's life, *The Last Gunfighter* by Richard C. Marohn, this way:

Toward the end of the 19th century, as the rest of the state began to mellow and become more civilized, El Paso just got wilder. It was no place for an aging gunfighter to go straight. Hardin took up drinking again. He got involved in local intrigues, had an affair with a notorious prostitute, and held up several saloons after complaining that their games were fixed. He paced back

and forth in his room, practicing his fast-draw in front of a mirror. He handed out autographed playing cards he'd shot holes through. He beat up his girlfriend. He broke down and cried in front of his landlady. He bragged in public that he'd hired a local lawman to kill someone, then had a retraction printed in the paper, saying he'd been drunk at the time. Somehow, he also found the time to finish his autobiography.

Witnesses say the actual shooting went down like this: Around 11pm the evening of August 19, 1895, John Wesley Hardin was playing dice with grocer H.S. Brown in the Acme Saloon [at the corner of San Antonio and Mesa] in El Paso. A shadow darkened the doorway at Hardin's back. The shadow belonged to Constable John Selman, himself a notorious mankiller with a dark past. The other patrons in the saloon quit talking. The only sounds came from the two men throwing dice, at 25cents a throw.

"Hoss piss on you," said Hardin.

"Shake again," said the grocer.

Selman pointed his six-shooter at the back of Hardin's head. Four cubes danced across the felt and came to rest.

"You have four sixes to beat," Hardin said to the grocer.

Selman pulled the trigger. Hardin spun around to face his killer, a hole showing at the corner of his left eye - the exit wound of the bullet that had passed through his brain. Witnesses said Hardin reached for his six-shooter as he fell to the floor. Selman kept shooting, even as Hardin lay prostrate, his life fluids rapidly forming a gooey lake on the barroom floor. Selman's son, John, Jr., ran into the bar and took his father by the arm and pleaded: "Don't shoot him anymore. He's already dead."

The unsettled times also brought Dallas Stoudenmire to town in April 1881, another man who had a deadly reputation in his day. Some say he was involved in more gunfights and possessed more expertise with the six-gun than most of his better-known law enforcement counterparts, including John Selman, Wyatt Earp, Bat Masterson, and Doc Holliday.

When Stoudenmire sought and obtained the position of marshal from city council, it was left to city attorney W.M. Coldwell to prepare the necessary papers and have him sworn in before Justice James Tays, after which, according to Sonnichsen, the following exchange took place. "Do you know what you are expected to do?" asked Coldwell. "Yes, and I will do it," replied Stoudenmire. Then, writes Sonnichsen, "he stepped out of Coldwell's office, crossed the footbridge over the acequia which still flowed occasionally through the Little Plaza [where the Pioneer Plaza and the Fray Garcia de San Francisco statue stand today] and headed down El Paso Street."

Stoudenmire was the sixth marshal in eight months for El Paso when he took the job. Only three days into his new position, on April 14, 1881, Stoudenmire became involved in one of the most famous shoot-outs in Old West history, called the "Four Dead in Five Seconds Gunfight." This gunfight was well publicized in newspapers as far away as San Francisco and New York City and made Stoudenmire a legend. But by September 1882, he too was killed in a shoot-out at a saloon on El Paso Street with the Manning brothers.

In describing 'How Civilization Came to El Paso' in the 1902 bar address, Coldwell looked back at the '80s and summed up the emerging zeitgeist for law and order this way:

Slight premonitory shocks announce the earthquake's awakening. Tom Falvey came to the county as district attorney. He had limitless methods of expenditure, and only one of acquisition -- fees for felony convictions! From the Conchos to the Rio Grande and back again, he ravaged in our midst, like a wolf in the fold, or the Court of Criminal Appeals among the precedents. The road to Huntsville was one long procession of downcast convicts. The hillsides resounded with the flying footsteps of those who fled to escape contributing their labor to the State and \$30 to the District Attorney. Arizona and New Mexico date their growth from Falvey's District Attorneyship. The population of Ft. Stockton fled in a body. Fort Davis became nothing but a stage stand; San Elizario lost 200 in a single night, and the population of the county as shown by the census, decreased twelve hundred.



Southern Pacific Depot 1884 – Looking northwest toward Sunset Heights from the present-day block bounded by Main, Franklin, Stanton and Kansas streets

Tom Falvey came to the county as district attorney. He had limitless methods of expenditure, and only one of acquisition -- fees for felony convictions! From the Conchos to the Rio Grande and back again, he ravaged in our midst, like a wolf in the fold, or the Court of Criminal Appeals among the precedents. The road to Huntsville was one long procession of downcast convicts. The hillsides resounded with the flying footsteps of those who fled to escape contributing their labor to the State and \$30 to the District Attorney.

The second ward had but three voters left; the rattle of Chuzas balls was no longer heard in the land; grass grew rankly on the dirt floor in front of Ben Dowell's bar.

Then came the reaction. Patience was exhausted. The few survivors assembled and gave the too-zealous District Attorney the choice of a vigilance committee or the district judgeship. He chose the latter, took sanctuary on the bench and remained there for fifteen years, until the lapse of time and the advent of a new generation enabled him to descend with comparative impunity. For a time, there was an attempt to resume the ancient life, but half-heartedly and dejectedly. For two months there was but one man killed between here and Limpia; and he was an overland passenger, who took a drink from his flask without first inviting the stage driver. Ben Dowell died. The next day Roy Bean crossed the Pecos bringing with him the law and the latest bill of costs. Then came the avalanche of railroads, telegraph lines, high five democratic primaries, ward heelers, and all the other paraphernalia of civilization and metropolitan society.

Congress, never slow to recognize the needs of civilized society, finally passed a bill authorizing the Western District of Texas to hold federal court terms in El Paso. The first session was convened on April 6, 1885, with E.B. Turner presiding as district judge. The local attorneys who were admitted to federal practice were Zeno B. Clardy, Frank Hunter, A.G. Foster, Wyndham Kemp, W. M. Coldwell, Allen Blacker and C.Q. Stanton. But Congress would not create a court or authorize a resident judge for El Paso until 1916.

W.M. Coldwell's partnership with J.P. Hague, the lawyer at the center of the effort to bring the railroads to El Paso, ended in 1886 after their success in the "Courthouse Steal" case. (See, El Paso Bar Journal, Sept. 2007) But J.P. Hague and W.M. Coldwell were more than ex-law partners. Hague was his senior partner and mentor as well as his brother-in-law; they had married the sisters Flora and Stella Brinck, respectively. Stella Brinck and W.M. Coldwell were married in 1884 in the original framed structure of the Church

of St. Clement. (See, El Paso Bar Journal, Sept. 2007) The exact cause of the breakup of Hague and Coldwell is unknown but, like all such events, was probably rooted in money. Aunt Mattie said that her brother “received not one cent from his relationship with J.P. Hague.” When Hague died though, he named W.M. Coldwell and Judge Thomas A. Falvey as his co-executors demonstrating the continued trust he had for his brother-in-law notwithstanding the end of their formal partnership. Coldwell later entered into a law partnership with Joseph U. Sweeney that lasted for 22 years. Sweeney was elected to the offices of both county judge in 1902 and mayor in 1908.

When W. M. Coldwell spoke to the first bar banquet, says the editor’s introduction, “the El Paso of the 1870s when Governor Richard Coke was re-asserting the principles of civilization had passed forever beyond its historic age into the monotony of the telephone and the self starting patrol wagon.” So it was fitting that Coldwell conclude with this lamentation:

Some of you gentlemen came in on the flood. From your influence and example, we pre-Adamites derived unspeakable benefit. All things die; poetry and romance; song and saga disappear in the presence of Bradstreet’s Agency and real estate brokers’ commissions. There are golf links in the plain of Marathon; summer hotels at Delphi; a switchboard railroad on the Roman forum; a national bank on the site of the saloon where Conklin died in the prettiest gun fight ever seen in El Paso; nightly the Salvation Army lassies pass the hat on the very spot, where Studenmeyer (sic) demonstrated the superiority of the hip shot.

Some may think that I have taken advantage of the absence of witnesses to exaggerate the occurrences of other days. I indignantly deny the imputation. I have adhered to the rigid record of the facts, with all the conscientiousness of the attorney for the plaintiff in his closing address to the jury in a suit for personal damages against a railroad company. The past has gone and has left me as its most precious legacy to the present. I do not regret it but occasionally I have melancholy reminders of vanished and irrevocable days. Only last year I saw Roy Bean lionized and treated by a carload of Pullman passengers, while I sat unnoticed and thirsty in a corner. I have my compensations: I am the survivor of my generation, and have generally had trousers that enabled me to wear short coats, while only gallantry prevented me from turning my back on a lady. The elders of the House of Jacob perished in the desert on the exodus from Egypt. A favored few were allowed to climb some Nebo of expectation and take a glance across Jordan at the goal of Hope; but I, like Joshua, have crossed its waters, and have been permitted to dwell for a

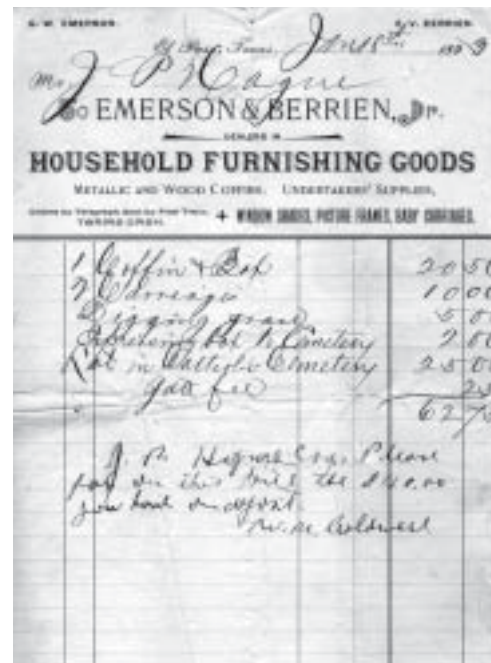
season in the land of promise. As I look around me, I compare the present with the past. I see sixty lawyers seated at a banquet board, loaded with the products of many countries and irrigated with the choicest vintages of France, California and the rectifier (procured on credit; the caterer is a new-comer and not well acquainted with the El Paso Bar) while thirty years ago it was a matter of extreme difficulty, without cash equivalent, to procure frijoles, tortillas, and the indispensable tequila for one.

William Michie Coldwell’s survival is a commentary on the raw age in which he lived and a testimonial to his influential friends, including the consummate lawyer Maj. W. H. Burges, and his law partners James Price Hague and Joseph Sweeney. His survival may have been due to his sense of humor as shown in another story recounted in the December issue of the 1947 Texas Bar Journal as follows:

One day W. M. Coldwell, for many years the dean of the El Paso Bar, was walking from the courthouse after having made an argument in a case before his son, Judge Ballard Coldwell, in which his son rendered judgment against him. Someone asked Mr. Coldwell “how it came out,” and his response was, “I told that fellow years ago not to be a lawyer and evidently he took my advice.”

Or perhaps he survived because he kept his own counsel. In another address he delivered to the El Paso Bar Association in 1909 entitled “The Bar and the Public”, W.M. Coldwell advised that every lawyer is a public man. The lawyer, he said, in addition to being related to the judiciary was in some way working with all the departments of government. He noted that people entrust their hopes, confidence, prosperity and lives to their lawyer, and he or she in turn should represent them with profound devotion to the duty of serving others. That goal should prevail “from the day he receives his first client to that when he gathers up his papers and leaves the courtroom never again to appear before an earthly tribunal.”

The British historian and essayist Thomas Carlyle said “it is a strange trade that of advocacy. Your intellect, your highest heavenly gift is hung up in the shop window like a loaded pistol for sale.” Maybe so but, like Mark Twain said, clothes make the man; naked people have little or no influence in society. Without the benefit of well-dressed and well-trained counsel the *pro se* defendant is unfortunately prone to ask, “Did you get a good look at my face



The Wages of Sin, 1893 – Hague and Coldwell settle funeral and burial costs for an unknown decedent

when I took your purse?” In a suitably dressed lawyer the client gets the benefit of cutting edge, first-rate examination like “Were you alone or by yourself?” With an abundance of heavenly gifts hanging in various shop windows around town for well over 110 years, lawyers exert an undeniable and profound influence on the course of civilization in El Paso and on the art of living in a town of such size that everyone does not know everyone else. No other learned profession can make that claim.

The four-part “Civilization” series was written in appreciation of the request of El Paso Bar President, the Hon. Robert Anchondo, to commemorate the 110th anniversary of the Bar Association with much assistance and encouragement from Clinton Cross for which the author is extremely grateful. Besides family papers and diaries, the following resources have been used: C.L. Sonnichsen, *Pass of the North-Four Centuries on the Rio Grande*; J. Morgan Broadus, *The Legal Heritage of El Paso*; Ida W. Coldwell, *William Michie Coldwell*, 34 *Password* 121 (Fall 1989); Richard C. Marohn, *The Last Gunfighter*, Creative Publishing Company (College Station,; 1st ed edition (June 1995); William E. Connelly, *Doniphan’s Expedition* (Topeka, 1907); Samuel Rubin, *The Influence of the Bar in the Advance of Civilization*, 20 *Am. Inst. Crim. L. & Criminology* 448 (1929); William Vincent Bryars, *Lone Star Edition of the World’s Best Orations* (Ferd. P.Kaiser Publishing Co., Chicago, Ill. 1923). All railroad photographs courtesy of Public Library of El Paso. Wagon train photo courtesy of Wells Fargo. 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.

Pro Bono Program Evolving To Meet Community Needs

■ BY CARMEN RODRIGUEZ

El Paso's system for providing legal services for those in need is truly one of a kind. Its uniqueness is derived from the fact that the Council of Judges made pro bono service mandatory back in 1982. All of the District Court Judges issued an Order establishing the program and requiring that El Paso attorneys accept two pro bono cases per year. Some don't like the fact that it is mandatory. Others see its merits and have pushed to make it a model for others.

In recent years the scope of the program has expanded from focusing on simple domestic cases to assigning cases in other areas of need among our low income population such

as consumer law, immigration, preparing wills or simple probate matters and ad litem representation of children. We have found that attorneys appreciate the opportunity to practice in more familiar areas or even delve into new areas, especially when we have provided free CLE training as an incentive.

Other opportunities for pro bono service exist, including providing training or mentoring to legal aid lawyers, assisting in Pro Se Clinics, or participating in community legal education presentations. For example, this year the program is participating with a number of community partners and hosting monthly legal clinics as part of the city's Don't Borrow Trouble Campaign. Bar members and all other attorneys are invited to assist with

providing free consultations to individuals with consumer finance problems. If you are interested in participating or discussing other ways to meet your pro bono obligation, please contact Gracie Martinez at 585-5100 or GMartinez@trla.org.

The El Paso Pro Bono Program was originally instituted by the El Paso Bar and administered by El Paso Legal Assistance Society (EPLAS) for 20 years. Since the merger of EPLAS and Texas RioGrande Legal Aid (TRLA) five years ago, it has come under TRLA's administration. The staff, however, is virtually unchanged; Gracie Martinez and Yolanda Davila have been running the program almost since its inception. They welcome any questions, concerns, or ideas.

David H. Meier Passes

For Many years David Meier coordinated the El Paso Bar Association Chess Tournament with El Paso school children.

On January 16, 2008 David Meier, 74, passed away. He will be missed.

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THE EL PASO YOUNG LAWYERS ASSOCIATION

is soliciting nominations for Outstanding Young Lawyer, Outstanding Jurist, Outstanding Senior Lawyer, Outstanding Lawyer, Outstanding Pre-Law Student, the Liberty Bell Award, the Professionalism Award, the Pro Bono Awards and the Mediators of the Year Awards for 2007-2008.

Please submit your written nominations to Kenneth Krohn, 1009 Montana Avenue, El Paso, Texas 79902, or kkrohn@elp.rr.com, by Friday, April 4, 2008.

THE AWARDS FOR WILL BE PRESENTED AT THE LAW DAY DINNER ON SATURDAY, APRIL 26, 2008.

Please make your nominations as complete as possible. Describe your nominee's background, qualifications, and his or her activities or contributions, which will be considered when selecting the award recipients.

Please also include his or her address and phone number in the nomination.

▶ OUTSTANDING YOUNG LAWYER:

Please consider the following criteria: The nominee must be licensed to practice in Texas and must be 36 years of age or younger, or is in his/her first five years of licensure, regardless of age, on June 1, 2007. In addition, while all outstanding qualities are considered, particular attention is given to exemplified professional proficiency, service to the profession, and service to the community.

law after graduation. In addition, while all outstanding qualities are considered, particular attention is given to service to the community, service to the profession, academic ability, maturity, and integrity.

▶ THE LIBERTY BELL AWARD:

The award is given to a non-attorney who has made a contribution to the legal community.

▶ OUTSTANDING JURIST:

Please consider the following criteria: The nominee must be currently serving as an active Administrative, Federal or State Judge. The nominee cannot be standing for election or re-election during the year in which the award is given. In addition, while all outstanding qualities are considered, particular attention is given to exemplified professional proficiency, service to the profession, and service to the community.

▶ PROFESSIONALISM AWARD:

Please consider the following criteria: The nominee must be licensed to practice in Texas. He or she is a person who best exemplifies by conduct and character, truly professional traits that others in the bar seek to emulate. The nominee should be an inspiring role model for the bar, respected by his or her peers, and someone who makes us proud of the legal profession. Nominations can be based on a lifetime, or a specific occurrence of professionalism. In addition, attention is given to service to the profession and service to the community.

▶ OUTSTANDING SENIOR LAWYER:

Please consider the following criteria: The nominee must be licensed to practice in Texas. The nominee must have practiced law for 30 years or be over the age of 60 and have practiced law for 15 years. In addition, while all outstanding qualities are considered, particular attention is given to exemplified professional proficiency, service to the profession, and service to the community.

▶ PRO BONO AWARDS:

These awards honor individuals and law firms (large and small) for the volunteer work they do. Please consider the following criteria: Number of hours of pro bono work done, as well as, the volunteer attitude and effect of the nominee's pro bono work. In addition, attention is given to service to the profession and service to the community. These awards will be selected by the Pro Bono Committee of the El Paso Bar Association to honor those who have given so much to the El Paso community during the 2007-2008 Bar Year.

▶ OUTSTANDING LAWYER:

Please consider the following criteria: The nominee must be licensed to practice in Texas. The nominee must be Aged out@ of the Young Lawyer category (i.e., over 36 years of age on June 1, 2007), but not yet eligible for the Senior Lawyer category. In addition, while all outstanding qualities are considered, particular attention is given to exemplified professional proficiency, service to the profession, and service to the community.

▶ MEDIATORS OF THE YEAR AWARDS:

These awards honor an attorney and a non-attorney mediator for their work in 2007-2008. Please consider the following criteria: Effectiveness in mediation, allowing all sides to be heard in the mediation process, and contribution to promoting use of alternative dispute resolution as an alternative to litigation. In addition, while all outstanding qualities are considered, particular attention is given to exemplified professional proficiency, service to the profession, and service to the community. These awards will be selected by the ADR Committee of the El Paso Bar Association.

▶ OUTSTANDING PRE-LAW STUDENT (THE CORI A. HARBOUR AWARD):

Please consider the following criteria: The nominee must be a student enrolled in an institute of higher learning who plans to study

Your nominations are sincerely appreciated and will help us recognize and give credit to deserving judges, lawyers and others who have made a positive impact on our profession and community.

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▶▶▶ ASSOCIATION NEWS

■ El Paso Women's Bar Association

■ The El Paso Women's Bar Association will have its next meeting on March 6, 2008 at 5:30 pm at 3813 Hillcrest Drive (located between Sun Bowl Drive and Executive). We will be having a short meeting and wine tasting to follow. Come join us and "Wine About the Law." The Women's Bar Association is also having a personal hygiene products drive to benefit Dame La Mano Crisis Pregnancy Center, which is a homeless shelter for pregnant women. The drive will last until May 1, 2008. Please bring your donations to our next meeting or call Diana Valdez at 546-8208 or Yvonne Acosta at 832-7200 to arrange pick up. For more information on the El Paso Women's Bar Association, please contact Diana Valdez at dval@scotthulse.com.

■ El Paso Young Lawyers Association

■ The El Paso Young Lawyers Association will be hosting their annual Golf Tournament on Friday, April 25, 2008 at 1:00 p.m. The Law Day event will be held at Butterfield Trail Golf Course and will feature drinks, food, contests and door prizes. Four person teams at \$100 per player and Hole Sponsorships that start at \$150. For more information, please call Carlos Quinonez at 533-0009 or email at cmq@lawyer.com

Find your teams and reserve your space!!

■ The EPYLA will hold its next luncheon on Thursday, March 13, 2008 at 12:00 noon at the Stateline. CLE will be offered.

■ El Paso Paralegal Association

■ EPPA's next general meeting will be on Thursday, March 20, 2008 at 12:00 noon at the El Paso Club, 201 E. Main, 18th Floor. Guest speaker will be Mark Dore who will speak on "What every Legal Assistant Should Know about Employment Law". Buffet: \$14.00; Salad Bar: \$8.50. Please RSVP to Lynda Camacho at 546-8311.

The El Paso Paralegal Association inducted their 2008 Board at the January meeting. They are: Linda Gonzalez, President; Laura Mendez, President Elect; Lynda Camacho, Treasurer; Louise Elloreaga, Secretary; Tamara Greaves, Parliamentarian; Rachel Magdeleno, VP Publications; Belinda Scott, VP Legal Education; Jessica Arteaga, VP Advertising; Denise Flynn, VP Public Relations; Tammy Diaz, VP Membership; Mary LaRue, NALA Liaison.

■ Immigration Law Committee

■ The El Paso Bar Association Immigration Law Section, Diocesan Migrant and Refugee Service, El Paso Young Lawyers Association and the Law Office of Danny Razo will be sponsoring "Practicing Law on the Border: What Every Attorney Should Know About Immigration Law" on Friday, April 11, 2008 at the El Paso County Courthouse, 3rd Floor. Seminar begins at 8:30 a.m. - 4:00 p.m. Registration is \$199 for private attorneys and staff; \$99 for non-profit attorneys and staff and walk-ins add \$50. If you would commit to taking one (1) pro-bono case - FREE. For information call 532-3975 and ask for Michelle Martinez.

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The Bar Association needs your financial support to restore the Lady Justice statue, which adorned the 1886 Courthouse, and return her to the courthouse.

Removed from her place of honor in 1917, the first piece of public art in El Paso



County, now stands at Ascarate Park.

The El Paso County Commissioners Court has unanimously approved the request of the Bar Association to restore the Lady Justice Statue and return her to the Courthouse at no Public expense.

Your donation to this project is tax deductible. Please make your contribution to the:

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