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# EL PASO BAR JOURNAL

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*A Monthly Update of Events and Information*

April 2007

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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

# “I” Is For Integrity

**W**hat is integrity? Character. Decency. Honesty. Honor. Principled. Moral soundness. Incorruptibility. Some have defined integrity as “doing the right thing when nobody’s looking just because it’s the right thing to do.” Surfing the Internet for enlightenment, I came across an article that sums it up quite well. Stratford Sherman, “Rethinking Integrity” *Leader to Leader*. 28 (Spring 2003): 39-45. Sherman decries “the recent epidemic of corporate fraud, as top-level executives are led away in handcuffs, trusted accounting systems fail, multibillion-dollar bankruptcies abound, and as suspicions spread that markets are rigged, public faith in corporate leaders continues to deteriorate in a seep of corruption.” He suggests Eight Steps Toward Integrity:



- **Doing what we say we will do:** This is a pragmatic definition of integrity and a basic practice. It includes keeping promises and meeting deadlines. Succeeding at this requires careful consideration -- and often, tough negotiation -- prior to making commitments.

- **Doing the right thing:** With the awareness of what’s right comes the obligation of right action. That means embodying our convictions – and accepting the consequences.

- **Taking responsibility:** Acknowledge our complete, sole responsibility for every one of our actions. No more seeing other people and outside events as the cause of our problems. Blame no one, accept the behavior of others and the circumstances of our lives as givens, and proceed from there. When we see something in the world that we don’t like, we recognize our personal responsibility either to change or accept it.

- **Supporting our own weight:** Harking back to structural integrity, this means functioning as a whole, being able to support all the elements of our own lives. Examples include being physically fit and financially sound.

- **Holistic thinking:** Since integrity is a quality of wholeness, an appreciation of wholeness in the world supports its practice. There’s nothing wrong with compartmentalization or reductionist thinking, but don’t let that obscure the big picture.

- **Respecting others:** Invoke integrity in other people by treating them with respect – even when they do not live up to our expectations. Acknowledge that our own standards are always subject to question, while affirming that the errors of others do not diminish our own integrity. We get the best from others in an atmosphere that supports doing right.

*Continued on page 4*

EL PASO BAR ASSOCIATION

## April Bar Luncheon

Tuesday, April 10, 2007

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

\$14 per person 12:00 Noon

*Presentation on the  
EPISD Bond Issue*

Please make your reservations by Monday, April 9, 2007 at noon by calling Nancy at 532-7052 or via email at [nancy@elpasobar.com](mailto:nancy@elpasobar.com)

## “I” Is For Integrity

• **Checking the mirror:** When we err – as we will, again and again – the best response is to pause for reflection. We can ask ourselves, Is this what I really want? Is this who I am?

• **Defining the rules and values:** Explicit agreement about these basics enables groups of people, from couples to business organizations to nations, to benefit from the integrity of members. Absent consensus, personal integrity can lead dissenting individuals to subvert the group. Among people sharing the same intentions, by contrast, disagreements can help to refine and improve ideas for the benefit of all. *Id.* And then I came upon another approach. It caught my eye because I was one of the evidently 200,000 folks who had looked

up the definition of “integrity”:

“Not sure what a word means? You might be one of millions of Americans who turned to Merriam-Webster to find a definition. And Merriam-Webster’s top 10 most looked-up words of 2005 reveal that Americans are looking for the definition of integrity.

The word “integrity” topped the company’s top ten Words of the Year for 2005, being looked up over 200,000 times.

The other words appearing on the list were tsunami, refugee, levee, filibuster, contempt, conclave, pandemic, insipid, and inept.

I have to wonder why so many people don’t know what integrity is”. Michael Hampton, Americans Don’t Know What

Integrity Is, [www.homelandstupidity.us](http://www.homelandstupidity.us). Is that because it means different things to different people? The blogs that follow are equally interesting.

• “Dictionary definitions of basic words are usually looked up for nuances of the term rather than ‘what on earth does that mean?’”

• “Hm, those supposed “nuances” of integrity explain a lot.”

• “There are no nuances to integrity. It is a simple concept that has grown more and more difficult for many to live by.”

Food for thought.

ANN McCLURE  
President

# CALENDAR OF EVENTS

## APRIL, 2007



**Tuesday, April 3**  
*EPBA Board Meeting*

**Thursday, April 5**  
*WBA Monthly Meeting*

**Sunday, April 8**  
*Easter Sunday*

**Tuesday, April 10**  
*EPBA Monthly Luncheon*

**Thursday, April 19**  
*EPPA Monthly Meeting*

**Thursday, April 19**  
*EPYLA Monthly Meeting*

**Thursday, April 19**  
*EPYLA Happy Hour*

**Thursday, April 19**  
*FBA Seminar*

**Saturday, April 21**  
*Law Day Chess Tournament*

**Saturday, April 21**  
*Doing Business in Mexico Seminar*

**Friday, April 27**  
*EPYLA Golf Tournament*

**Saturday, April 28**  
*Law Day Dinner & Awards Banquet*

*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 May, 2007, please have the information to the Bar Association office by Tuesday, April 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 - 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.*

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pre-law student.

THE EIGHTH COURT OF APPEALS  
proudly announces the investiture ceremony of  
**DAVID WELLINGTON CHEW**  
as the 13th Chief Justice in the court's 96 year history.

The oath of office will be administered by  
**Chief Justice Wallace Jefferson**  
of the Texas Supreme Court  
**at 11:30 on Tuesday, April 3,**  
in the Ceremonial Courtroom.

A reception sponsored by the Appellate Section  
of the El Paso Bar Association will follow.

# INTEGRITY: The Prince Of Virtues

■ BY JUDGE OSCAR G. GABALDÓN JR.

“If you have integrity, nothing else matters. If you don't have integrity, nothing else matters.” This quote from Alan Simpson speaks volumes about integrity in just a few simple words. Integrity is all-encompassing, for its presence infers an array of other virtues, such as honesty, righteousness, and trustworthiness. Its absence, on the other hand, implies the absence of those, and other virtues.

Integrity is considered by many to be synonymous with “moral.” However, philosophically, it is possible for a person with integrity to behave in a manner that is not moral in that the person may have incorrect or mistaken beliefs about what is moral; therefore, the person could unknowingly engage in immoral conduct. While the term “integrity” has other meanings depending on usage, for example, artistic integrity, the integrity of a finance computer system, professional integrity, and so forth, it is usually used in the context of a person's general character.

When analyzing the virtue of integrity as to a person's character, there are several observations that come into play. For example, there is the integrity of self-integration. “On the self-integration view of integrity, integrity is a matter of persons integrating various parts of their personality into a harmonious, intact whole.”<sup>1</sup> This entails that a person must sort out those things he desires in a hierarchical scheme. Thus, if a person desires to study for an upcoming test, but also desires to go to a football game tailgate party, he or she would have to rank those desires in a manner that will give priority to the desire that common sense, reasonableness, and prudence would dictate needs priority consideration. In doing this, the person is said to have acted with self-integrity.

Another observation is that integrity calls for a person to stand his or her ground when making his or her best judgment on a given matter. Doing this necessitates critical reflection. Even if a person knows what he or



*Even if a person knows what he or she must do, the act of integrity is incomplete until it is actually done.*

she must do, until it is actually done, the act of integrity is incomplete. To put it another way, David Star Jordan states: “Wisdom is knowing what to do next; virtue is doing it.”<sup>2</sup> Moreover, when seeking to arrive at the best possible judgment, it should be done with consideration for the judgment of others. That is, the respect for others is something that a person of integrity will always factor in when making his or her best judgment. The judgment will be unwavering in the face of what is or is not in line with political correctness. In this regard, Anthony J. D’Angelo states: “Transcend political correctness and strive for human righteousness.”<sup>3</sup>

It probably goes without saying that integrity involves open-mindedness to the fact that others can disagree with a person's belief of what is moral without having to question

another's moral character. Thus, if a person disagrees with the belief that Catholic priests should be permitted to marry, it does not mean that the persons that hold to that belief are people that lack integrity. They can be people of solid integrity who hold different moral beliefs. That's all.

With integrity in our hearts, minds, and very souls, we can live life more peacefully and enjoy the many wonderful things it gives us. There is a French proverb that brings to mind the serenity of a good conscience: “There is no pillow so soft as a clear conscience.”

<sup>1</sup> “Integrity.” Stanford Encyclopedia of Philosophy, 2005.

<sup>2</sup> Jordan, David Star. *The Philosophy of Despair*.

<sup>3</sup> D’Angelo, Anthony J. *The College Blue Book*.

# Law Day, 2007

## Origins of law day: a chronology

**1957** American Bar Association President Charles S. Rhyne, a Washington D.C. attorney, envisions a special day for celebrating our legal system

**1958** President Dwight D. Eisenhower establishes Law Day U.S.A. to strengthen our great heritage of liberty, justice and equality under law.

**1961** May 1st is designated by joint resolution of Congress as the official date for celebrating Law Day U.S.A.

Every year, Law Day is an opportunity to expand awareness of our laws and justice system and their valuable impact on our lives. More than just a single day to reflect on our legal heritage, it is a call to action that often encompasses weeks of programs and activities. Law Day gives us tools to build citizenship and a shared concept of justice. To maintain the strength and vitality of our legal system, we need to understand the law and believe in its ability to protect our individual rights, settle disputes and bring us together. The vitality of our legal system depends on the vigor with which Americans can pursue the rights and duties of citizenship. Through special presentations and educational activities, Law Day can help citizens focus on their rights and responsibilities.

The El Paso Bar Association hopes that you will participate in the Law Day Activities that have been planned, including the Law Day Chess Tournament, the EPYLA Law Day Golf Tournament and the Law Day Dinner to be held on Saturday, April 28, 2007 at 6:30 p.m. at the Santa Teresa Country Club.

## Law Day Chess Match

■ BY CLINTON CROSS

You are invited to participate in the Law Day Chess Match to be held this year on April 21st at St. Clements Episcopal Church, 810 N. Campbell St., from 9:00 a.m. to 2:00 p.m. You can register by contacting Clinton Cross, Assistant County Attorney, at 546-2050.

We expect more than one hundred children from approximated fifteen elementary and middle schools to participate (children first playing children to determine the city-wide champion in their class, and the right to play the El Paso Bar Association team in the final round).



This tournament is open for all children (including your children) in grades one through eight.

It takes some courage for the children to play older and presumptively successful lawyers and judges. Nevertheless, Felipe Guzman, coach of the Guillen Middle School team, told me the kids have no fear. They want to know, "When are we going to play the lawyers?"

We need your participation, even if your skill level is marginal. Mark your calendar today for a day with the children on Saturday, April 21, 2007. It's a Law Day Project.

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### INTERNATIONAL LAW SECTION OF THE EL PASO BAR ASSOCIATION AND CENTER FOR LAW AND BORDER STUDIES, UTEP

Presents

## Doing Business in Mexico Seminar & Conference

Naomi R. Gonzalez, Chair,  
International Law Section  
**Saturday, April 21, 2007**

9:00 a.m. – 12:00 noon

Tomas Rivera Conference Room  
UTEP Campus  
Cost is **\$60.00**

Schedule and Speakers

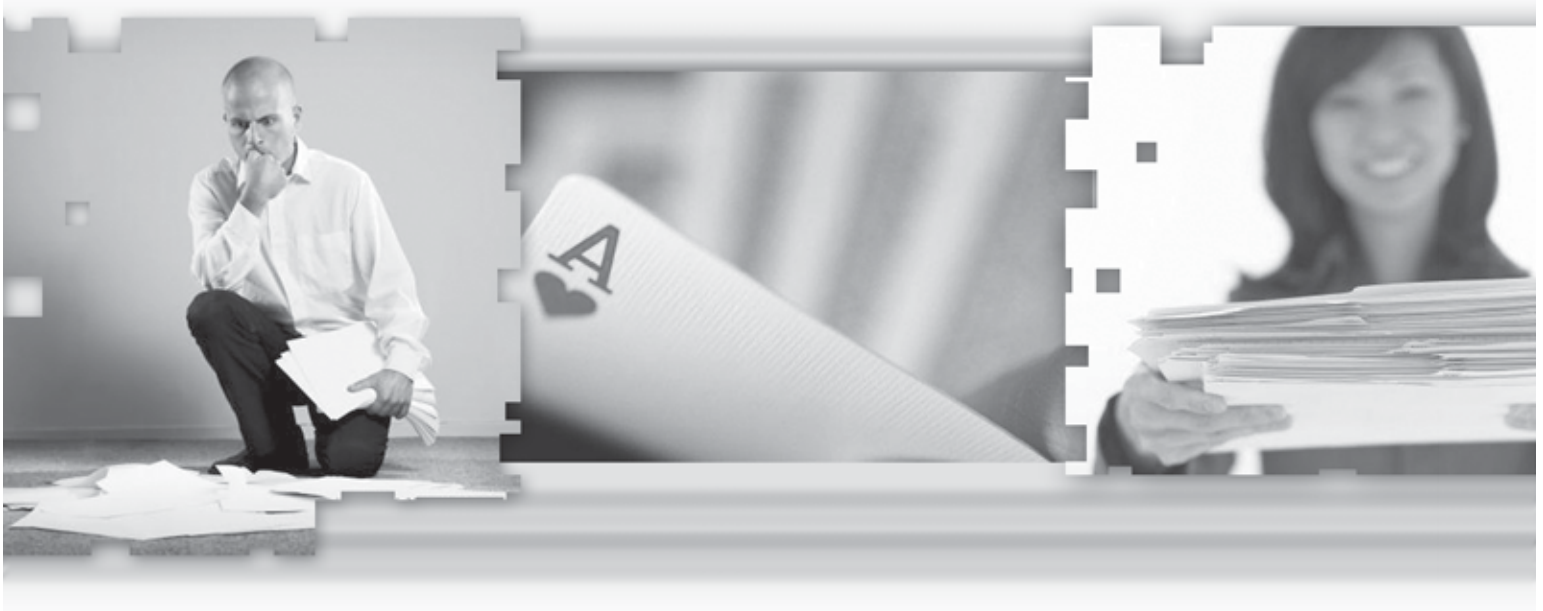
MR. CARLOS ANGULO, BAKER & MCKENZIE, CD. JUAREZ  
*Legal Aspects of Doing Business in Mexico*

RENE ORDONEZ, DELGADO, ACOSTA, BRADEN & JONES, P.C.  
*Enforcement of a U.S. Judgment in Mexico*

HECTOR DELGADO, DELGADO, ACOSTA, BRADEN & JONES, P.C.  
*Points to Consider When Creating Business Structures  
Along the U.S. Mexico Border*

**Registration begins at 8:00 a.m.**

Send your checks to the Center for Law and Border Studies,  
Benedict Hall, room 104, U.T.E.P., 500 W. University Ave., El Paso, Texas 79968.  
For early registration or if you have any questions,  
please call Naomi R. Gonzalez at 544-9997



# The “Ace in an Attorney’s Pocket”

BY KELLY PIERCE-GONZALES,  
RN, MSN, LNC-Csp

It is Monday morning and the attorney sits at his desk reading his email and sipping a cup of coffee. Occasionally he glances at a large medical case, in boxes, sitting in the corner of his office. This case potentially could bring a large settlement to one of his clients and he is worried about the numerous medical issues involved in it. Are there any hidden factors in this case? He thinks of the details of the case as they race around and around in his mind like a dog tirelessly chasing its tail.

The case on his mind involves a 40-year-old woman who was 42 weeks pregnant when she presented to a local hospital in labor. When she arrived she was admitted at 5 cm dilation and had ruptured her membranes. She had meconium-stained fluid that had ruptured at home. She was able to feel the baby move until then, but had not felt much movement after that. She was placed on an external fetal monitor and the nurse did not appear to be concerned with the tracing, which reassured the woman. Labor

*These specialized services saves the savvy attorney time, money, and can give the attorney the edge he needs to win his case.*

progressed slowly, and 12 hours later, the doctor came in to check on her at his first rounds of the morning. He only stayed a minute and he never looked at the monitor strip. He ordered Pitocin to be started at 2 mu/min and to be increased 2 mu/min every 10-15 minutes until an “effective labor pattern” was reached. The patient’s nurse started the Pitocin at 20cc/hr on the IV pump and the Pitocin concentration was 20 u in 1000cc of Lactated Ringers. Unbeknownst to the patient, the nurse miscalculated the amount of Pitocin to give. Approximately 2 hours later, after the nurse had come in and presumably raised the

medication a few more times, the patient was taken to the operating room for an emergency cesarean section delivery due to fetal distress and the baby was born with Apgars of 1, 3, and 5, very low. The infant is now a year old, as the case sits in particular attorney’s office, and the child has severe Cerebral Palsy with numerous medical issues and a poor prognosis.

Obstetrical malpractice cases are often complicated ones for attorneys. These cases have many technical issues that are not easily understood, even to those who are familiar with this area of medicine. An attorney may be left to wonder whether or not the standards of care were breached, and who exactly is ultimately responsible, if anyone, for the poor outcome of a client’s medical treatment. In the case above, if this attorney had no knowledge of any standards of care for labor and delivery, no knowledge of external fetal monitoring, and no knowledge of the medication calculations of Pitocin, this attorney would be at a severe disadvantage when taking this case to mediation or to trial. In all probability, the nurse and/or doctor named in this lawsuit will have experts on their side reviewing these records to come up with evidence to show that exemplary care was



given and why the poor outcome of this baby was in no way related to the care the mother received. The attorney of this case would be wise to hire his own expert, such as a Legal Nurse Consultant, to review the medical records of this case in order to make sure that nothing vital to his case is missed.

Legal Nurse Consulting is a relatively new field that has become popular in the last two decades. A Legal Nurse Consultant holds a Registered Nurse license and provides many valuable services to attorneys regarding all medical cases. A Legal Nurse Consultant typically interviews clients, reviews medical records, researches and summarizes medical

literature, helps evaluate liabilities and damages, assists with depositions, prepares exhibits, and identifies and retains expert witnesses at a minimum. These specialized services saves the savvy attorney time, money, and can give the attorney the edge he needs to win his case.

In the case above, a Legal Nurse Consultant would be able to use his/her medical knowledge and background to review this obstetrical case, point out exactly where the standards of care were breached, prepare a chronological summary of the case, point out strengths and weaknesses of the case, find medical research to support the case, and educate the attorney on all medical aspects of the case. This would prove

to be an invaluable service to the attorney as he is trying to build a case against the medical team who did not live up to their vows to "do no harm" and, because of this, a child was affected by a permanent disability. Legal Nurse Consultants can be an invaluable asset to any attorney and can be the "ace in the attorney's pocket", so to speak.

Kelly Pierce-Gonzales,  
RN, MSN, LNC-Csp  
Legal Nurse Consultant  
KPG Medical-Legal Consulting, Inc.  
www.kpgmlc.com  
915-252-3044

# Raise the Bar with Access to Justice Contribution

BY LAURA FIGUEROA,

*Texas Equal Access to Justice Foundation*

Texas ranks a distant 42<sup>nd</sup> in the nation for per capita legal aid revenue. With limited resources, legal aid must turn away half of all qualified applicants who may be in danger of losing their homes, trapped in abusive relationships, or unable to access public benefits. But you can help.

Every year, Texas lawyers are given the opportunity to make a voluntary Access to Justice Contribution when paying their State Bar of Texas dues. This donation helps to underwrite legal aid services for indigent Texans, a growing population. The suggested contribution is \$100, but you are welcome to donate more!

Voluntary Access to Justice Contributions are instrumental in helping 100,000 low-income Texans each year with their basic civil needs. For example, the donations help to ensure victims of domestic violence obtain protection from their abusers and that elderly Texans do not fall victim to consumer scams.

These donations have become especially crucial in assisting victims of Hurricanes Katrina and Rita. After Hurricane Katrina hit

the Gulf Coast, more than 200,000 people evacuated Louisiana and came to Texas, increasing the state's poverty population significantly. Texas legal aid providers continue to work on hurricane cases, some expected to remain unresolved until 2008.

Texas lawyers are already very generous with their contributions of both time and money to worthy causes. But so much more is needed. Legal aid groups depend on Access to Justice Contributions to respond to the growing demand for legal assistance.

When you pay your State Bar of Texas dues, remember to donate \$100 or more for access to justice. Your help can make justice a reality for more low-income Texans. And you can help your bar association or young lawyer association win the prestigious Hankinson Award. The Texas Access to Justice Commission presents the Hankinson Award, named after former Supreme Court of Texas Justice Deborah Hankinson, to the large-city and small-city bar associations and young lawyer associations with the highest percentage of members who make the voluntary Access to Justice Contribution via the bar dues statement.

Pay your dues and make your contribution at [www.texasbar.com](http://www.texasbar.com) beginning May 1. For more information about legal aid, visit the



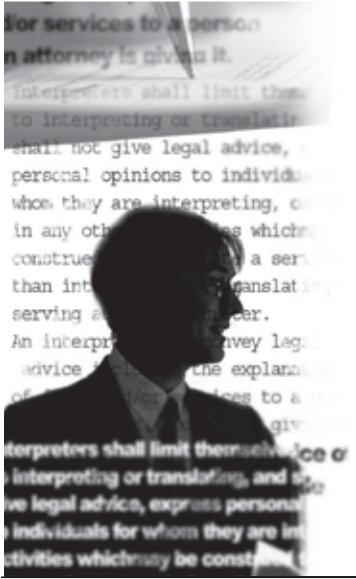
*For example, the donations help to ensure victims of domestic violence obtain protection from their abusers and that elderly Texans do not fall victim to consumer scams.*

Texas Access to Justice Commission Web site at [www.texasbar.com](http://www.texasbar.com) and the Texas Equal Access to Justice Foundation site at [www.teajf.org](http://www.teajf.org)

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# COURT INTERPRETER LICENSING IN TEXAS - Whys And Wherefores

BY RAFAELA G. GRAFFOS,  
*US Courts Certified Court Interpreter*



Santos Ojeda<sup>1</sup> leaned forward and listened intently while his defense attorney and the prosecutor loudly argued their motions before the Court. He struggled to catch a familiar word here and there, but his English was inadequate for anything but the most rudimentary communication. Next to him, the court-appointed interpreter also listened and occasionally nodded or shook her head, her lips, however, were motionless. Every once in a while Ojeda glanced at her nervously but her eyes remained fixed on the action at the front of the courtroom. Finally, he whispered in Spanish, “What is going on?” Annoyed at the interruption, the interpreter answered impatiently, “¡Cállese! They’re working out a deal for you. It’s a good deal. Take it!” True story.

Obviously, Ms. Court-Appointed Interpreter had never read Canon 1 of the Texas Code of Ethics<sup>2</sup> which

states in part: “Interpreters shall render a complete and accurate interpretation...without altering, omitting or adding anything to what is stated...” Neither was she familiar with Canon 6 that details the scope of practice for Court Interpreters:

*Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter. An interpreter may convey legal advice including the explanation of forms and/or services to a person only<sup>3</sup> while an attorney is giving it<sup>4</sup>.*

Even to the most casual reader, the above example describes patently inappropriate Court Interpreter behavior, yet, the use of unlicensed and uncertified Court Interpreters continues in many cities in Texas, in

spite of House Bill 2735, passed by the 77<sup>th</sup> Legislature in 2001, which requires a court, in a county with a population of 50,000 or more, to appoint licensed court interpreters for court proceedings if a motion is made requesting an interpreter and the judge determines that an individual’s level of English requires the use of an interpreter. The Texas Department of Licensing and Regulation (TDLR) considers the following to be court proceedings under this law: civil and criminal trials, depositions, mediations and arbitrations<sup>5</sup>.

Court Interpreting, as is true in any profession, has practitioners who have varied levels of skill and proficiency. However, the selection of Certified or Licensed Interpreters offers the assurance that, at a minimum, the skill and vocabulary of the interpreter has been tested through a standardized exam which includes vocabulary, written and oral proficiency and an overall familiarity with the prescribed Canons of Professional Responsibility<sup>6</sup>

<sup>1</sup> Name has been changed. 1

<sup>2</sup> 16 TAC 80.100. Code of Ethics and Professional Responsibility.

(Effective April 1, 2003, 28 TexReg 2742)

<sup>3</sup> Emphasis is the author’s.

<sup>4</sup> 16 TAC 80.100. Code of Ethics and Professional Responsibility.

(Effective April 1, 2003, 28 TexReg 2742) 4

<sup>5</sup> <http://www.license.state.tx.us/court/lcifaq.htm#g2>

<sup>6</sup> To review the roster of Texas Licensed Interpreters go to:

<http://www.license.state.tx.us/LicenseSearch>.

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# SANDRA DAY O'CONNOR ACADEMY Prepares Students for Careers in Criminal Justice and Public Service

BY KATARI BUCK

The Sandra Day O'Connor Criminal Justice / Public Service Academy is making a name for itself as a premiere magnet program in El Paso. The Academy, located at Austin High School, is a four year high school program open to students in El Paso County. Students must maintain a grade point average of 80 or above to be considered for admission to the Academy.

Students at the Academy, known as "Cadets," may pursue one of three career pathways, police, fire and EMT, and the legal profession. Cadets are taught the basics of all three professions in their freshman and sophomore years before choosing a career track at the end of their sophomore year. They are then able to concentrate on completing the requirements for advancing in their chosen occupational field. During their senior year, Cadets who have completed the requirements for graduation will be given the option to work a portion of the school day in their chosen profession.

The Academy has partnered with both El Paso Community College and the University of Texas at El Paso to allow Cadets classified as juniors and seniors to enroll in dual credit classes for which Cadets receive both high school and college credit. Cadets must pass a college entrance exam to participate in the dual credit program.

There are currently 17 Cadets who are interested in pursuing careers in law. In February, a team from the Academy participated in the Texas High School Mock Trial competition, sponsored by the EPYLA. The Academy team has also been invited to participate in a mock trial program hosted by the United States District Court for the Western District of Texas, El Paso Division.

Two classrooms are currently being remodeled to house a functional courtroom with prosecution and defense tables, a jury box, a judge's bench, a witness box, and a court reporter's desk. The courtroom will also include a gallery for observers. This facility will be used for mock trial, courtroom



Academy mock trial team at the Texas High School Mock Trial Tournament.



Diana Valdez, Stephanie Townsend Allala, and Katari Buck with Justice Sandra Day O'Connor.

procedure classes, and Teen Court for Austin High School and neighboring schools.

In addition to their academic requirements, Academy Cadets are required to perform 50 hours of community service during the school year. Through community service, Cadets become involved in the community and develop a passion for service. Community service activities include the Amigo Air Show, the Thanksgiving Sun Bowl Parade, the Sun Bowl 5k Run, the El Paso Marathon, and activities for school functions.

The Academy is supported by several local, state, and federal agencies, including the El Paso Women's Bar Association, the

Federal Bureau of Investigation, American Legion Law Enforcement Post # 74, the El Paso Police Department, the El Paso County Attorney's Office, the U.S. Customs and Border Protection, El Paso Community College, the El Paso County Sheriff's Office, El Paso County Court No. 6, the El Paso Fire Department, the U.S. Marshals Service, the Department of Homeland Security, El Paso County Juvenile Probation, and the National Park Service.

There are 161 Cadets currently enrolled in the Academy, including 75 males and 86 females. There are 14 juniors, 90 sophomores, and 57 freshmen in the program. The Academy will graduate its first senior class in 2008.

# SARAH T. HUGHES: A Biographical Note

■ BY CLINTON CROSS

**S**arah Tilghman Hughes (1896-1985) was important in the history of Texas jurisprudence—and not just because she was the first woman to administer the oath of office to a President of the United States. Briefly, this is her story.

She was born in Maryland, attended an all-girl high school in Baltimore, and graduated from Goucher College in Baltimore. She taught science at Salem Academy in North Carolina for several years.

In 1919 she enrolled in George Washington University Law School. She attended classes at night and during the day worked as a police officer. She lived in a tent home near the Potomac River and each evening commuted to the campus by canoe.

She married George Hughes in law school. She moved to Dallas in 1922, where for eight years she practiced law. She then ran for the House of Representatives, and was elected. In 1935 Governor James Allred appointed her to be a state judge for the Fourteenth District Court in Dallas. She was the state's first woman district judge. In 1936 she was elected to the bench, and then re-elected six more times and remained in that job until 1960.

In 1961, President John F. Kennedy appointed her to the federal bench. She was the first woman to serve as a federal district judge in Texas. She administered the oath of office to President Lyndon B. Johnson two years later. She was a member of the three judge panel that heard *Roe v. Wade*; the panel's decision was reaffirmed by the Supreme Court.

Sarah T. Hughes worked as a judge with senior status until 1982.



Sarah T. Hughes, U. S. District Judge, Northern District of Texas, administering oath of office to Lyndon B. Johnson in the Conference Room aboard Air Force One at Love Field, Dallas, Texas, November 22, 1963  
Lyndon Baines Johnson Library and Museum, Austin, Texas



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## SENIOR LAWYER INTERVIEW

■ BY CLINTON CROSS

## WARD KOEHLER

*This month I interview Judge Ward Koehler, a man who I believe should be remembered in El Paso's legal history as a "profile in courage." If you read his answers to my questions, I think you will know why.*

**E**very month I ask whoever I'm talking to more or less the same questions. Although the questions may be similar, the answers are always different and I believe interesting.

This month I interview Judge Ward Koehler, a man who I believe should be remembered in El Paso's legal history as a "profile in courage." If you read his answers to my questions, I think you will know why.

**CROSS:** I'd like to begin with your parents. Who were they?

**KOEHLER:** My dad was born in Van Wert, Ohio, graduated from Ohio State University and served in France in World War I. My mom was born in Alma, Michigan and graduated from Alma College with a teaching degree. They were married in 1920 and gave birth to five sons of which I was in the middle.

**CROSS:** I understand you served in the army during World War II. In the course of my interviews, I've talked to a number of World War II alumni: Joe Calamia, Judge (and Justice) Albert Armendariz, Rick Feuille, Julian Bernat, Judge Robert Galvan, Judge (and Justice) Bob Schulte. On reflection, it's interesting that many of you became judges.

**CROSS:** What was your experience?

**KOEHLER:** When I turned eighteen, I volunteered for the draft (I had had an agricultural deferment). I did my basic army infantry replacement training in Florida along with some large diamond back rattlers and some small coral snakes (I never figured out which were the more dangerous).

While in training, I narrowly missed being sent prematurely to fill depleted infantry ranks during the Battle of the Bulge. With the luck of the draw at the end of my training cycle, I was ordered to the Philippines by way of Leyte Island and Manila. The remnants of the Japanese army were still fighting and retreating into remote areas of northern Luzon. While we were engaged in hunting down the remnants and also training for the assault on Japan, the war ended abruptly as a result of the bombings of Hiroshima and Nagasaki. Needless to say, I am one of many who were and continue to be eternally grateful for President Truman's decision to drop the first A-bombs.

**CROSS:** How did those experiences during World War II shape you as a person?

**KOEHLER:** Along with thousands of other servicemen, I quickly lost a good bit of my naiveté and learned to deal with adversity on a very basic level.

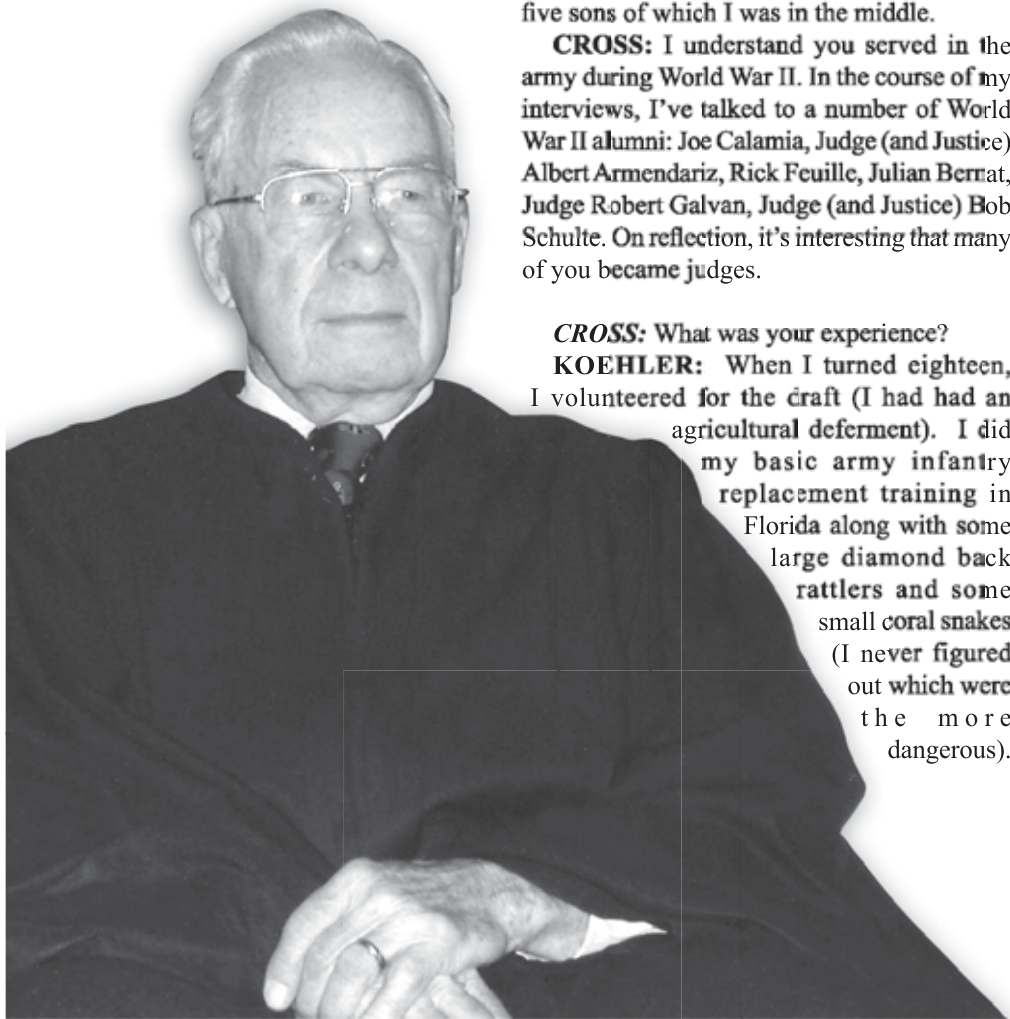
**CROSS:** O.K., let's spend a minute talking about your formal academic education. Where did you go to school?

**KOEHLER:** After graduation from high school and discharge from the army, I attended Illinois College, a small liberal arts college in Jacksonville, Illinois, graduating in 1950 with an A.B. degree and Phi Beta Kappa. From there, I went to University of Michigan Law School, receiving a J.D. degree in 1953.

**CROSS:** What did you do after that?

**KOEHLER:** After passing the Illinois and Michigan bar exams, I moved to Dallas where a classmate and I decided to set up law practice after surveying a number of cities in the Southwest and concluded that Dallas had a great future.

At that time (1954), Texas required out-of-state law graduates to establish a one year residency before taking the bar exam. In order to have a decent income while establishing residency, I committed to working for two years as a claims adjuster with U.S.F. & G. Co., covering an area south of Dallas. Shortly after making that commitment, the Texas legislature reduced the residency requirement to three



months so I immediately took and passed the exam which at that time was only held in Austin, and was duly sworn in by District Judge Sarah T. Hughes (the same Judge who later as a federal judge administered the oath of office to President Johnson, following President Kennedy's assassination).

**CROSS:** Tell me about your legal career.

**KOEHLER:** I began practicing law in Dallas and after three years, in the meantime having married a lovely El Paso girl, we decided to move to El Paso, which in those days had a relatively small number of lawyers for a city of some 325,000.

There wasn't much decent office space available but I finally found some space in Harold Long's offices in the old Caples Building, commonly referred to by lawyers as "robbers' roost" because of the reputation of some of the lawyers who officed there.

However, Harold Long was a learned lawyer of the old school with an excellent reputation. He had as his secretary Lena Alfinan, who was one of only two or three licensed female lawyers in El Paso at the time. Harold would dictate pleadings, wills, deeds and other documents to Lena from his head and Lena would get it all typed, probably correcting or adding from what she knew, which was considerable.

The office itself was a sight, looking a bit like something out of a Dickens' novel, except that instead of candles or gas lanterns, there were bare light bulbs hanging down from the high ceiling. Harold had a good law library, composed mostly of leather-bound books housed in glass-doored shelves to protect them from the dust. Air conditioning consisted of opening wide the double-hung windows in warmer weather.

About the same time I moved in and set up what purported to be a law office, Larry Welsh, a relatively young former district attorney and sometime municipal judge, joined Harold and me in partnership. After a year or two together, Larry and I convinced Harold that we should move our offices to the almost finished El Paso National Bank Building (now the Chase Bank Building). We became the first non-bank tenants in the building to open our doors.

The three of us had a general practice with the usual ups and downs in profitable business and lots of charitable work in and out of state and federal courts. For a long time during our practice together, there were no provisions for payment of attorney's fees or expenses in appointed criminal cases or family law cases.

During the time of my practice, the El Paso

*"I don't know whether it would be considered a "contribution" or not but I enjoyed my relationship with almost all attorneys, court personnel that served with me and my contemporaries on the bench."*

Bar was much smaller than it is now. In a time before board certified specialization, most solo and small firm practitioners took whatever legal business came along. There was a real feeling of camaraderie among most of the lawyers in El Paso, the matter of trust when a lawyer gave his word and a genuine feeling of loss when a lawyer or judge died as shown by the large turnout at the funeral services, for example.

**CROSS:** I understand you ran for office as a Republican, and that you won. How did you manage to do that?

**KOEHLER:** As far as my political and judicial careers are concerned, I got started early on working in the struggling local and state Republican Parties in various capacities, believing as I did and do that viable competition in politics is vital to a successful, thriving democracy. Before being appointed judge, I ran unsuccessfully for county judge and commissioner. Prior to those occasions, I had served as precinct chairman, county party chairman and state committee-man, which explained in part how I first got appointed judge of the 168th District Court.

In 1980 Governor Bill Clements appointed me judge of the 168th District Court, replacing Judge George Rodriguez, Sr. I won a contested election in 1982, was re-elected in 1986 without opposition. I also ran successfully in 1988 for justice to the Eighth Court of Appeals, replacing the retiring Justice Bob Schulte.

I never made any secret of my party affiliation, of which everyone was aware. Unfortunately, I am still the only Republican to win any county-wide office in El Paso County.

Despite my party affiliation, I strongly believe that candidates and incumbents for

judicial office should not run in partisan elections. The questions in judicial elections should be how much experience a person has had as a lawyer, and whether that person has shown over the years that he or she is knowledgeable in the law and is basically a fair-minded and honest individual. Party affiliation has nothing to do with the answers to those questions.

**CROSS:** What do you consider to be your most important contributions?

**KOEHLER:** As a lawyer, when serving as Law Day Chairman for two years, I inaugurated the "Lawyer to Students" program, which is still going. As a new judge, I convinced the Commissioner's Court first that judges needed what amounted to a legal secretary which shortly thereafter became the Court Coordinator program, with adequate compensation and training, and second that we needed to be equipped with the latest in the early computers. It was not easy.

On the Court of Appeals, I convinced the other judges of that court and the powers that be that the beautiful paneling and the impressive granite-topped counsel tables of the old courtroom should be transferred and installed in the new courtroom for all to enjoy.

I don't know whether it would be considered a "contribution" or not but I enjoyed my relationship with almost all attorneys, court personnel that served with me and my contemporaries on the bench.

**CROSS:** Any suggestions for young attorneys entering the practice?

**KOEHLER:** Yes; always be honest and above-board with your clients, opposing counsel and judges, promptly return phone calls from these people; and be diligent in your practice. Also, give as much of your time and effort as you can to the improvement of your community. If you do these things, you most likely will be successful.

**CROSS:** Tell me about your wife and family.

**KOEHLER:** My wife, Kathryn, much better known as "Kopy," an El Paso native, has been and continues to be a wonderful counselor and helpmate. She was for many years a private piano teacher and has always contributed time and energy in various civic endeavors.

We have four children, two of whom are practicing lawyers, and a total of twelve grandchildren at this time, all of whom are happy and healthy.

# Internet Time Wasters - A Thorny Issue

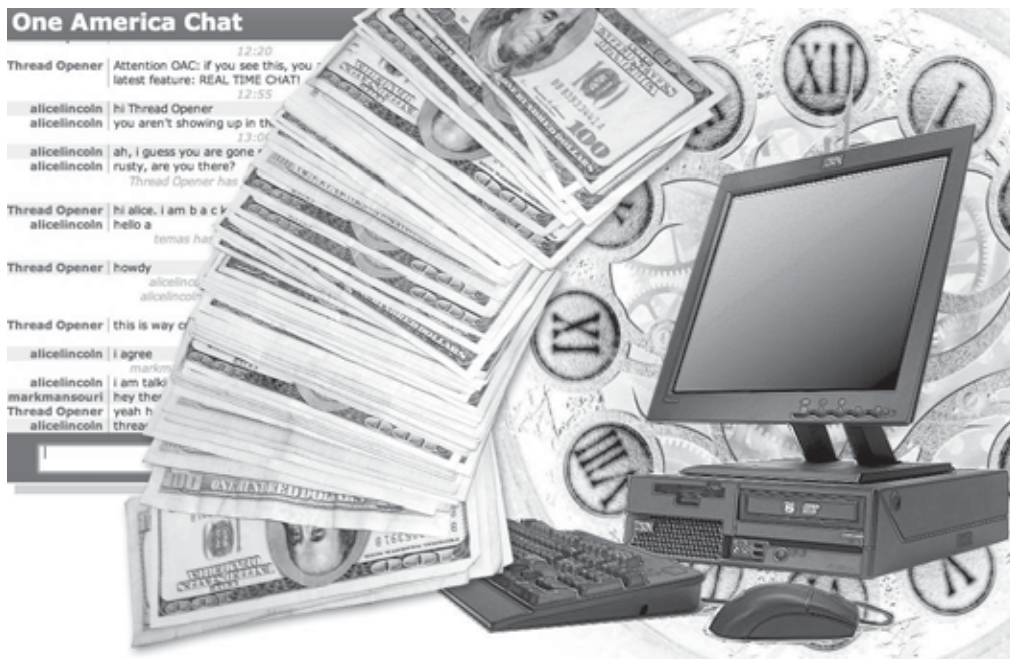
BY DAVID J. FERRELL

djf@elpasolaw.com

**H**ypothetical: One of your paralegals, legal secretaries, associate attorneys, etc. is spending a lot of time in computer chat rooms like MySpace during business hours. When approached about this behavior, he states that he does it only during breaks and lunch periods. However, other observant employees say he is on chat sites for most of the day and quickly exits when anyone approaches his desk. Other employees have had to take on extra work due to the chatter's preoccupation with chatting online. And, if he only chats 1 hour a day during business time what does that cost. \$8.00 per hour = \$8 a day, \$40 a week, \$2,000 a year (50 weeks per year); \$16.00 per hour = \$16 a day, \$80 a week, \$4000 a year; \$50 per hour = \$50 per day, \$250 per week, \$12,500 per year, etc. If the chatting occurs 2 hours a day double the above.

This can be a huge problem and this behavior can be hidden fairly easily. And, Internet misuse at the office is not limited to "chatting" alone. Employees are playing online games, shopping, balancing their checkbook and visiting a multitude of web sites, pornographic and otherwise, and these sites can and do deposit "cookies" on the browsing computer and additionally viruses and spam can infiltrate that computer and perhaps even the whole office if that computer is networked.

I have an office policy that prohibits employees from erasing "cookies" and "history" items from their computers. They also cannot change the cookie and history settings that I have set on each computer (Internet history is maintained for 30 days). The main reason for this precaution is to be able me to trace where a spam or virus element comes from if we get attacked and to isolate and remove it. My employees legitimately use the Internet quite a bit for research, communication, etc., and they can have a virus sneak in through my Trend Micro PC-cillin web security system. But, if an employee is erasing cookies and web history we lose an important path to uncovering



And, if he only chats **1 hour** a day during business time what does that cost. **\$8.00 per hour = \$8 a day, \$40 a week, \$2,000 a year** (50 weeks per year) **If the chatting occurs 2 hours a day double the above.**

pernicious code and its origin. Also, employee "erasing" behavior is a good indication that the employee doesn't want me to know where they've been on the Internet. Just knowing that I make spot checks on their computers, looking at their cookies and Internet history file keeps them from unreasonable personal use of the Internet.

Now if that isn't enough there are other measures that can be taken that are more drastic and can dig deeper into employee computer and Internet usage. Key logging is an effective method to compile EXACTLY what is going on on a computer. However, when an employee knows that you have installed key logging software on their computer it may stifle their productivity since they know every keystroke is being recorded for surveillance. And, if you don't disclose that their computer usage is being recorded I wouldn't blame them for being upset when they find out. This issue is beyond the scope of this article and would require an entire article on its own and perhaps a series

of articles.

Anyway, probably the best selling internet monitoring and surveillance software is Spector Pro and it monitors and records every detail of PC and Internet activity including chats, instant messages, emails, the web sites visited, what is being searched for, what is being done on MySpace, pictures posted and looked at, the keystrokes typed, the programs etc. You see not only WHAT is done, but the EXACT order in which it is done, step by step. The software at Spector Pro can even send you an e-mail of what's happening on any given computer. To see what they offer and their pricing go to <http://www.spectorsoft.com/>. Also, you can google "key logging" for other choices.

If you intend to use monitoring software MAKE SURE to tell employees in your written office policies that computers are the property of the employer, and that employees waive their right of privacy when they use those machines. Also explain what key logging is and that it is installed on the employers computers.

## EPYLA'S APRIL STAR OF THE BAR

## Casey Stevenson

As a true Aggie, Casey Stevenson is a passionate man. This passion extends to his wife, his church, his job, his community, and, of course, Texas A&M. Since 2003, Casey has been contributing to El Paso and the legal community.

Casey became involved with EPYLA upon arriving in El Paso. He has been a director since 2004. In 2004 and 2006, Casey chaired the committee overseeing the annual holiday party for disadvantaged children; these parties assisted children in state protective custody in Juarez and children whose parents were suffering from cancer. Casey has also assisted in the Wills for Heroes Clinic. In addition to being an active director of EPYLA, Casey is also a member of the Texas Association of Defense Counsel and the Transportation Lawyers Association.

Focusing on commercial and consumer collections, creditors' rights, bankruptcy, cargo loss and freight-charge claims, and personal injury defense, Casey has been an associate with Scott, Hulse PC for four years. In Spring 2005 and 2006, he co-authored *Overcoming Evidentiary Defenses* for the Collections and Creditors' Rights Course.



After graduating from Texas A&M with a bachelor degree in Philosophy, Casey attended Texas Tech for law school. While at Texas Tech, Casey was active in the moot court program. He also clerked with the Lubbock City Attorney's Office, Mullin, Hoard, Brown, Langston, Carr, Hunt & Joy, L.L.P., and Crenshaw, Dupree & Milam, L.L.P.

He graduated with honors.

Outside of the law and community, Casey's interests include football and the outdoors. He is a kind owner to Spock, his cat, and Seven, his dog.

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## ▶▶▶ ASSOCIATION NEWS

### ■ El Paso Paralegal Association

■ The El Paso Paralegal Association will hold its next meeting on Thursday, April 19, 2007 at 12:00 noon at the El Paso Club, 201 E. Main. Cost is \$14.00/buffet or \$8.50/soup & salad. Call Denise Flynn, 546-8318 to make your reservations. We would like to announce that the EPPA's charity for the year is Candlelighters of El Paso. You may drop off your donation at any of the monthly meetings. Some of the items that are needed are: Wigs; gift cards (especially McDonald's) of any kind, restaurants, movies, etc.; video games (Ninendo 64 & PlayStation 2); non-perishable food and board games. If you would like to volunteer, please go to [www.candlelightershelp.org](http://www.candlelightershelp.org) or call 544-2222. We will also be collecting your loose change at our meetings.

### ■ El Paso Women's Bar Association

■ The El Paso Women's Bar Association will host a CLE program on Law Practice Management and Client Development on Thursday, April 5, 2007 at 12:00 noon at Original Jaxon's, 4699 N. Mesa. The CLE will consist of a panel discussion by Amy Sanders of Ryan & Sanders, Cori Harbour of Schydlower & Harbour and Stacy Zavala of Rincon, Mounts. Participants will receive 1.0 hours of MCLE.

### ■ El Paso Young Lawyers Association

■ The El Paso Young Lawyers Association will hold its next meeting on Thursday, April 19, 2007 at 12:00 noon at Fuddrucker's, 5030 N. Desert Blvd. The Board meeting begins at 11:30 a.m. Guest speaker will be County Commissioner Veronica Escobar. We will have a Happy Hour from 5:30 – 7:30 p.m. at the Chama Lounge, 500 N. Oregon St.

If you are interested in running for an officer or director position in EPYLA, please contact Morgan Hazelton at 845-1354 or [morgan.hazelton@gmail.com](mailto:morgan.hazelton@gmail.com)

### ■ Federal Bar Association

■ The Federal Bar Association will sponsor a seminar by the United States Sentencing Commission on the Federal Sentencing Guidelines on Thursday, April 19, 2007 from 12:15 – 5:00 p.m. at the Camino Real Hotel. Approved for 4.0 hours of MCLE. A No-Host Reception will follow. Please contact Gerry Howard at 533-4424 to sign up or for any questions.



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