



EL PASO BAR JOURNAL

A Monthly Update of Events and Information

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110th Anniversary

June/2008

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

THE PRESIDENT'S PAGE

In 1965, Mary Guinn, one of El Paso's first women lawyers, welcomed 110 new citizens in U.S. District Judge D.W. Suttle's court. She said:

"The word 'chain' is used in many ways. Sometimes we hear of chains that bind and hold men against their will.

"There is a wonderful, strong chain with which free men unite themselves for the good of all.

"Our country is no stronger than the rights of its weakest citizen. If we stand by silently while the rights guaranteed by our Constitution are denied to even one citizen who may be impoverished, ill, timid, or afraid, we are denying the courage, valor and brilliance of those who

worked and fought and those who died to give us these rights."



Then she said:

"Bring us your cultures, your ideals, your skills, your knowledge and yourselves as active citizens."

This message should be conveyed to every new lawyer entering our profession.

Today we lawyers are a diverse group. We have our differences. We come from many places and backgrounds. We fuss and fight. But in spite of our differences, the promise of "justice for all" (contained in the Pledge of Allegiance to the American flag) is a promise we lawyers must try to realize and then preserve for the American people. It is our duty and our never-ending challenge. Our profession is, after all, a "work in progress."

It has been a pleasure serving you as your Bar Association President. Good-bye, and good luck.

JUDGE ROBERT ANCHONDO,
PRESIDENT

EL PASO BAR ASSOCIATION

June Bar Luncheon

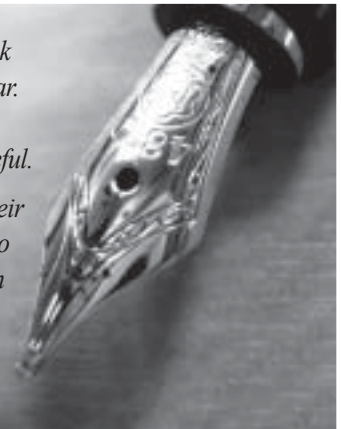
Tuesday, June 10, 2008

El Paso Club 201 E. Main, 18th Floor,
Chase Bank - \$14 per person 12:00 Noon*The swearing in of officers and directors
will take place at this luncheon*Please make your reservations by Monday, June 9, 2008 at noon by calling
Nancy at 532-7052 or via email at nancy@elpasobar.com

This issue of the El Paso Bar Journal marks my last as editor. I would like to thank the exemplary writers who contributed to a phenomenal series of journals this year. It has been an honor and a joy to work with you. Judge Bill Moody and Ballard Shapleigh, in particular, devoted much time and creativity, and for that I am grateful.

I especially want to thank Clinton Cross and Judge Oscar G. Gabaldón, Jr. for their outstanding work as co-editors. Also Reyes Mata and Edgar Rincon at Del Pueblo Press, for their creativity and patience. Without them, the job would not have been as high quality or as much fun! Finally, thanks to Judge Robert Anchondo for his leadership and inspiration.

STEPHANIE TOWNSEND ALLALA



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CALENDAR OF EVENTS

JUNE 2008



Tuesday, June 3

EPBA Board Meeting

Wednesday, June 4

Past President's Luncheon

Thursday, June 5

EPWBA Monthly Meeting

Friday, June 6

Coffee & Donuts in Bar Office

Friday, June 6

MABA General Meeting

Tuesday, June 10

EPBA Monthly Luncheon

Thursday, June 19

EPPA General Meeting

Thursday, June 19

Juneteenth Day, EPBA & County

Courthouse Closed

Friday, June 20

Coffee & Donuts in Bar Office

Thursday, June 26

& Friday, June 27

SBOT Annual Meeting in Houston

JULY, 2008

Friday, July 4

Independence Day, EPBA

& County Courthouse Closed

PLEASE NOTE: Please check the Journal for all the details regarding all above listed events. If your club, organization, section or committee would like to put a notice or an announcement in the Bar Journal for your upcoming event or function for the month of September, 2008, please have the information to the Bar Association office by Friday, August 8, May 9, 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 journal together every month is a very big task and we may not have the time to remind you. So please don't miss out on the opportunity to have your event announced.

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2008-2009 MEMBERSHIP DUES

The 2008-2009 Membership Dues
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Please note that the new bar year begins on July 1,
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contact our office at 532-7052 or go to our website.

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Migratory Streams *Part II*

■ BY CLINTON F. CROSS

In the previous article, we traced the history of Spanish, Mexican, and Anglo-American attorney migrations to the El Paso community. We learned that the Spanish arrived in this community in 1598, but no trained lawyers of European origin came to the pass until after the Compromise of 1850.

This month we continue to explore the origins of lawyers whose ancestors migrated to El Paso as members of identifiable sub-cultural groups, and how those lawyers contributed to our legal history. We will also explore the immergence of female lawyers as a part of our professional community.



Frank Feuille, Jr.

By the early 1900's the ethnic and cultural background of the Bar began to change. A Mexican, Ambrozio Larrazolo, began practicing federal and Texas state law in El Paso. In 1904 Elfego Baca, the first Mexican-American attorney in El Paso, advertised for business in the city directory, and opened an office here.

In 1904, Abe Goldstein also listed his name in the city directory. He was the first Jewish lawyer to practice in El Paso. He grew up in Waco, Texas. He chose to practice here because he married a woman from El Paso, Emma Ullman. Abe Goldstein was one of the organizers of the El Paso National Bank, and served not only as its attorney, but also as one of its directors and vice-presidents. For a time, at least, he represented the Popular, a store much like the department store (Goldstein-Miguel) owned by his father. Goldstein practiced with Jones, Goldstein, Hardie (Bill Hardie's grandfather) and Grambling (Randy Grambling's grandfather) from 1929-1933, when he died. Following his funeral, Judge P.R. Price announced that all El Paso courts would be adjourned in respect to Mr. Goldstein.

In 1912, Frank Feuille, Jr. began practicing in El Paso. He was the first lawyer of French descent to practice in this town. His father was born in Cuba, but migrated to the United States and became a naturalized citizen. Frank Feuille the first (there have been five) served our nation well. President Teddy Roosevelt appointed him to positions in Puerto Rico (superior judge, attorney general, member of the Executive Council, and a member of the Island's Legislative Assembly). Secretary of War Taft asked him to go to Cuba, where he drafted the Organic Law of the Executive (which remained in effect until Fidel Castro came to power). He also served as acting governor of the Panama Canal Zone for three months during World War I. After returning to El Paso, he became an active member of the El Paso Bar Association and rarely failed to attend its Bar luncheons and dinners.

Frank Feuille, Jr. (the second) was the

father of attorney Richard Feuille, and the ancestor of El Paso attorneys Frank Feuille IV, Robert Feuille, and Margaret Feuille Leachman. Frank Feuille, Jr. graduated from the University of Texas Law School in 1912 and came to El Paso to join the law firm of Tom Lea and R.E. Thomason. He also worked as an Assistant County Attorney before joining the army during World War I. When the war ended, he joined a New York law firm. The firm sent him to Mexico City where his son Rickie was born, and then to Caracas, Venezuela. He died suddenly in 1926, leaving his widow, Margaret Levy Feuille, and six children. Margaret and her children returned to El Paso in 1927.

Esber (Sam) Abraham was the father of attorney Atta (Art) Abraham and he and his brothers and sisters are progenitors of many El Paso lawyers of Syrian/Lebanese descent. He was born in Jwekhet, Syria. He first migrated to Pennsylvania. While there he made contact with Esau Malooly, who had settled in El Paso. Sam moved to El Paso around 1915 and went into business as a peddler with Esau. Thereafter, he formed a partnership with uncle Leon Ekery to run a grocery store and bakery. After World War I, and also after an absence of more than a decade, Sam returned to his home town in Syria and brought his wife, his children and his brothers and sisters and other relatives to México and settled in Juárez. During the Mexican Revolution of 1910, he and his family migrated to El Paso, as they were legally able to do so.

We now have many lawyers in El Paso of Syrian/Lebanese descent, including Mickey Esper (Esber Abraham's grandson), Sib Abraham (son of one of Esber's brothers), Will Elias (son of one of Esber's sisters), Gary and Russell Aboud (grandsons of one of Esber's sisters), Tony Safi and Leila Safi Hopson (grandchildren of another one of Esber's sisters), and George Al-Hanna (a grandson of another one of Esber's sisters). The mothers of George and Milad Farah (who are brothers) and Mark Salloum (their first cousin) also came from Jwekhet, Syria. They are not descended from Esber Abraham,

but they are related to some of the lawyers mentioned above--but not through the Esper Abraham family. Sib was the first person in Esber Abraham's family to be licensed to practice law. He was licensed on September 8, 1961, and he still trying cases that take months to conclude!

Joe Calamia was the first lawyer of Italian descent to practice law in El Paso. In 1898, his grandfather (a former priest, who also fought with the great liberator of Italy, Giuseppe Garibaldi) immigrated with his wife through Vera Cruz, México to El Paso, Texas. (Incidentally, Garibaldi's grandson commanded Francisco Madero's artillery--one cannon--during the first battle for Juárez in 1911.)

Joe began practicing in El Paso in 1949. His contribution to our jurisprudence is legendary, and has been reported at length in previous editions of this publication. For instance, he was closely associated with several McCarthy-era cases that arose out of the prosecution of Clinton Jencks for false swearing and the federal government's attempts to suppress filming of the movie *Salt of the Earth*.

Ethel Shirley Abbott was perhaps the first woman lawyer in El Paso. On March 31, 1923, she became a member of the El Paso Bar Association.

Mary Guinn was also one of the first female lawyers to practice in El Paso. She was licensed in 1950. At first, she practiced from her home at 1901 N. Kansas St., where only women clients were allowed. It is reported that she saved more marriages than she dissolved. A few years later, while carrying her fifth child, she opened a downtown office where she practiced alone until her husband, Ernest Guinn, who retired as county attorney and joined her.

Shortly thereafter another woman to practice law in El Paso was Lena Alfman. She began practicing in 1954 with Harold Long and Ward Koehler. Although she advertised as an attorney in the city directory, she did a lot of "secretarial" work for Harold Long. The "secretarial" work may have included drafting wills and other documents for some of Mr. Long's clients.

The first female judges in El Paso were Kitty Schild and Janet Ruesch, both of whom became associate municipal court judges in 1970's. Later, Janet became the first female federal magistrate in El Paso; Kitty became the first county court judge.

When Susan Larsen was elected to the Eighth Court of Appeals, she was the first female associate justice to serve on that court.

Mary Anne Bramblett is the first female



*Esber (Sam) Abraham and his wife,
50th wedding anniversary*

to serve as an El Paso District Court judge. Margaret Feuille Leachman is the first female to serve as Chief of the El Paso Division of the U.S. Attorney's office. She manages the largest territorial U.S. Attorney's office in Texas.

People of Chinese extraction first came to El Paso in significant numbers with the arrival of the railroads in the 1880's. A survey of El Paso's first city directory, published in 1885, lists many individuals with Chinese surnames. Almost all of the individuals listed worked in the laundry business. For many years, Chinese citizens suffered significant discrimination in this and other communities throughout the United States.

Wellington Chew was the first lawyer of Chinese extraction to practice law in El Paso and in the State of Texas. Wellington was born in Juárez, México. When he was one year old, in spite of obstacles posed by the Chinese Exclusion Act, his parents immigrated with him to the United States. When he was sixteen, both his parents died, leaving Wellington and his siblings with the responsibilities of caring for each other. In 1943, he became a naturalized United States citizen. He served in the army during World War II. He fought in four campaigns and was awarded the Bronze Star. After the War, he attended Southern Methodist University Law School. He graduated and was admitted to the State Bar in 1951. He was the first Chinese-American lawyer in Texas. He was a highly regarded trial lawyer, and held numerous public positions. He was named as one of the Legal Legends of Texas of the 20th Century by the Texas Lawyer magazine. He also fathered El Paso lawyers David Chew,



Wellington Chew

Linda Chew, and Patricia Chew.

Wellington's son, David Wellington Chew, is the first lawyer of Chinese descent to serve on the Eighth Court of Appeals in the State of Texas; his daughter, Linda Chew, is the first lawyer of Chinese descent to serve as a District Court judge in El Paso.

The first African-American lawyer to practice in El Paso was L. Clayton Rivers, who began practicing in El Paso in 1962. When he went to lunch at the Hilton Hotel with the County Treasurer Pierce Atwater, Richard Marchland, Richard Marshall and others, he was not served. After waiting for forty-five minutes and receiving no service except water, the group went to Mac's Delicatessen where they probably ordered beer and began plotting to draft a city ordinance to prohibit discrimination in public facilities within the city. In any event, an ordinance was drafted and proposed. The Chamber of Commerce and a number of prominent lawyers supported the ordinance. After much controversy and two vetoes, Mayor Seitsinger finally approved the measure and it became law.

Donald Williams is the first African-American lawyer to serve as (get ready for this): an Assistant County Attorney in Travis County, Austin, Texas; Senior Defense Counsel, Fort Bliss, Texas; President and Chairman of the El Paso Family Law Bar Association; Advanced Family Law Mediator; Associate Municipal Court Judge; Criminal Law Magistrate; Family Court Judge; Visiting Associate Family Court Judge.

In conclusion, in the last hundred years our legal culture has become more diverse. There have been many "firsts" since the turn of the century, and there will be many more. Never-





Incitement To Kill

The Tribulations of Harold Eidinoff, M.D.

■ BY BALLARD C. SHAPLEIGH

The greatest incitement to crime is the hope of escaping punishment, or so many people think. But Harold Eidinoff said he was incited to kill lawyer Ted Andress, not by the hope of getting away with murder, but by publication of photographs showing him in the nude. In fact, the surgeon told reporter Art Leibson after his examining trial:

To deliberately, with force and malice, strip a man – or woman – naked to public view is a sin and a crime of the greatest magnitude, a form of mental punishment and torture beyond description. You can't imagine the torture I've gone through since those pictures were first displayed. While I was operating - and doing a good job of it – they were haunting me. I withdrew from my lodge, from the medical society and from social life because I didn't know who had seen the pictures and imagined everyone was laughing at me.

What Eidinoff left unsaid was his plan to escape the penitentiary, a plan he began to put in place well before his homicidal rendezvous with Andress at the airport on the evening of January 28, 1959. Eidinoff said his incitement to kill was sparked by the introduction of the photos five years earlier. The only question was, given his adversaries in the bar and his wives, who would he kill?

His focus began to narrow. Seven weeks prior to the murder, Eidinoff quietly announced to a Ft. Worth journalist that he was going to have to shoot a man to death, whom he obliquely referred to as Andress. He ate breakfast two successive mornings in Angleton, Texas with



Ted Andress hoped the \$110,000 verdict would "end an unhappy episode," but it may have been the real motive for his murder.

Blair Justice, a reporter for the *Ft. Worth Star-Telegram*, who was there to cover a murder trial. Eidinoff expressed no interest in that trial, telling Justice he was only there to consult with his lawyer, Percy Foreman. This consultation later left Foreman having to answer the district attorney's pointed insinuation that if Eidinoff was truly insane why Foreman took no steps to restrain him at that time.

The reporter said he had not been with Eidinoff more than 10 minutes when the doctor produced a photograph of a nude man from his wallet. The photo was of him taken by his first wife Sylvia while the two were on their honeymoon, the doctor said. When the reporter asked how the photo happened to be made, the nonresponsive answer was, "what's wrong with a man's wife taking such a picture?" This was the photo, the doctor said, that the El Paso attorney had "shown around town" and so humiliated him that he was forced to leave El Paso. He also said the lawyer was determined to kill him. He said, "I have it on good authority that he is carrying a gun and said that as soon as I return to El Paso he is going to kill me." He paused before adding, "I can't let that happen."

This story begins with first wife Sylvia. Press accounts say that Sylvia Eidinoff was one of the most successful and popular piano accordionists in the country as a young woman. She sprained her wrist and went to Harold Eidinoff, M.D. for treatment in New York. Eidinoff "was attracted by her beauty and charm" and a romance developed followed by marriage. Around the time of their marriage in 1937 nude photographs of the couple were taken. At least one of the photos, say some people familiar with the case, depicted Eidinoff in what doctors refer to as the anatomical position, that is, standing upright and with a priapism. But this photo may have been an edited or manipulated version of the original.

Eidinoff had at least two conflicting stories how they were made. In one account, he said that he and Sylvia were honeymooning in Canada or New Hampshire and took some snapshots of each other in the nude while in

the woods alone. In the other story, given while testifying at his libel trial, he maintained the photos had been taken prior to his marriage to Sylvia whose Finnish family, he said, was accustomed to swimming in the nude in mixed company after taking a communal steam bath. They had gone to a camp with a Finnish steam bath Eidinoff could only identify as "Max's," and "some practical joker," he said, "wanted to take pictures of the men after swimming, and some women took pictures of the women, and they gave everyone his own picture."

The Eidinoffs moved to El Paso in 1952 "for his health"- a skin problem. Soon after, Sylvia filed for divorce. She hired attorneys Leo Jaffe and John Hawley. When her attorneys demanded a \$5000 fee as part of the settlement, the doctor sought to avoid payment by persuading his wife to dismiss the suit and agree to his action using another lawyer. The suit was refiled nine days later on December 31st through his lawyer, and a property settlement was effected in which she received jewelry, a car and \$35,000 cash.

Eidinoff soon married Ruth Grace Lutz, who divorced her spouse to marry him. Ruth Grace, incidentally, had been a defense witness in the Robert Huff smuggling trial prosecuted by Assistant U.S. Attorney Robert Pine and carried prominently on the front pages during the same week of the Andress murder. Ruth first consulted her lawyer, Leo Jaffe, only three months after the marriage. The doctor even more quickly filed for divorce. He was represented briefly by John Grambling. When Eidinoff advised Ruth in writing that he intended to charge her with immorality, Ruth took the nude photos to Jaffe. Jaffe alerted Grambling to their existence. Grambling testified that he "warned Eidinoff that, as a professional man, he could not afford to have the pictures brought out as they would ruin him." Sometime later Grambling withdrew as Eidinoff's lawyer. Eidinoff and Ruth divorced ten months later, and he and Sylvia came full circle. They remarried in El Paso in June, 1955.

In early 1954, after Jaffe and Hawley sued for the \$5000 fee incurred in the first Eidinoff divorce, the case went to jury trial with Andress as their lawyer. During his cross-examination



Wife Sylvia (l) and daughter Dolores (r) - Sylvia would file for divorce again in 1968, alleging the couple had been separated since 1957

of Eidinoff, Andress introduced two of the three nude photos taken in 1937. Two were nude photos of Eidinoff, a front view and a profile, the third was of his wife. All were authenticated by Eidinoff. The doctor claimed they had been "stolen" from a trunk containing Sylvia Eidinoff's belongings in his basement at 2701 N. Kansas by second wife Ruth Lutz. The trunk was awaiting removal after Lutz had married the proctologist.

The jury returned a verdict of \$4500 for the lawyers. Eidinoff made no secret of his determination to "get even" though he later settled the judgment for \$3000. He began a continual barrage of lawsuits, more often than not as his own lawyer, and dissemination of libelous communications in the form of letters, both signed and anonymous, including in one instance a two page simulated newspaper account containing seven columns with the heading, "The Truth, the Whole Truth and Nothing but the Truth" charging that the introduction of the nude photos of he and his wife was "the most perverted, degenerate, vicious and criminal action that has ever been perpetrated in the courts of Texas."

His lawyer later said that Eidinoff went

through the phone book with hired assistants, first sending copies of this publication to every fifth name, then every fourth name, until more than 50,000 had been mailed out. Members of the El Paso Bar, especially, were bombarded with these and other materials aimed at the principals of the fee dispute case, alleging that the photo of himself had been retouched, that it was being shown around clandestinely, and had not been returned. In a letter dated Oct. 31, 1956, Eidinoff wrote, "They should realize by now that I will not give up as long as I have two fingers, a typewriter, papers and carbons, and the small fees required to file suits."

Then a month prior to the murder, another letter from "A Friend" went out to members of the El Paso Bar which referred to the 1924 Leopold and Loeb murder case about the two wealthy University of Chicago students who killed a 14-year-old out of a desire to commit the perfect crime. Enclosed were photographs of a nude male with the face obliterated. Eidinoff's use of the mails eventually attracted the

attention of U.S. Postal Inspectors who began an investigation concerning his sending of obscene photographs and literature through the post office. But it came too late to save Andress, and the investigation was never completed.

After the trial to collect attorney's fees for the first divorce case, between 1956 and 1958, Eidinoff and his two wives were involved in nineteen lawsuits. More often than not, Eidinoff was the party filing the suits, sometimes joined by first wife Sylvia. He often filed within a few days of losing an earlier suit. His targets were always the same: Ted Andress; Leo Jaffe; John Hawley; and Ruth Grace Lutz and her first husband. The allegations always involved the same themes. The Eidinoffs claimed that Andress, Jaffe and Hawley "humiliated" them by having the photos admitted into evidence. They claimed that the lawyers had "retouched" the photos and caused the photos to be put into general circulation. They claimed that Jaffe and the Lutzes used the "stolen" photos for extortion and blackmail. They claimed Jaffe and the Lutzes failed to return the originals once the attorney's fees suit was settled. They typically asked for \$100,000 in damages, sometimes as little as \$70,000, and on one occasion sought \$1



Foreman (left, top & bottom) takes charge-retained in 1957 to appeal the libel verdict, he escorted his client to Houston for psychiatric examination & came back to El Paso to argue his client's insanity before the Eighth Court of Civil Appeals one week after the murder.



million. In January 1958, in response to Eidinoff's deluge of mailings and lawsuits, the besieged parties – the Lutzes, Andress, Hawley and Jaffe - filed for an injunction against Eidinoff in the 41st District Court in a futile attempt to curb further harassment.

A year earlier, on March 15, 1957, Eidinoff was indicted for misdemeanor criminal libel, a crime held over from the days of chivalry and no longer on the books, after spending 2 ½ hours before the grand jury. On the same day, Andress filed a libel suit against Eidinoff for \$125,000. William C. Peticolas, Andress' partner, tried the case. He argued that Eidinoff admitted "he had \$400,000 to spend to blacken Andress' reputation." Judge Jim Langdon was brought in from McCamey to preside, once all district judges in El Paso disqualified themselves. In an October 1957 deposition, Eidinoff tried to claim the 5th Amendment 41 times in refusing to answer questions about the authorship of the widely-circulated libel, but Judge William E. Ward ordered him to answer. Eidinoff, acting *pro se*, claimed he was handicapped because no El Paso lawyer would represent him. He failed to mention that for two years he showered members of the bar and other citizens in El Paso with his libelous material, including copies of the nude photos which he claimed were only sent to men. Eidinoff's excuse after he lost at trial was, "We couldn't get a lawyer with enough background to handle it right." When reminded that there were a lot of good lawyers in the state, he said "Under the circumstances it just couldn't be done."

On December 14, 1957, a jury awarded Andress a verdict against Eidinoff of \$100,000 in actual damages plus \$10,000 in exemplary damages. The trial court required Andress to file a remittitur of all exemplary damages and \$20,000 of actual damages. Andress, according to Peticolas' later trial testimony, had carried a gun into court to receive the verdict. Afterwards, Eidinoff told the press, "I don't understand how the jury came to that conclusion – that is, in view of the evidence and the

circumstances. We feel the judgment unwarranted and excessive."

Peticolas initiated garnishment proceedings to tie up \$105,000 that Eidinoff was seeking to remove from Southwest National Bank in 21 cashier's checks payable to Sylvia in the amount of \$5000 each.

With the entry of judgment, Eidinoff finally got legal help from Percy Foreman. But Foreman's \$25,000 retainer was at that moment lost because of the garnishment. Coincidentally, four days after the judgment, Sylvia was appointed temporary guardian and checked her husband into the psychiatric ward of the Harris County jail. Eidinoff told an El Paso psychiatrist that he had carried a gun to court during the libel trial, intending to kill Andress and Jaffe. He also told a Houston psychiatrist he "owed a debt to humanity to expunge Andress and Jaffe from the face of the earth." According to this Houston psychiatrist, Foreman took the gun from Eidinoff when he escorted Eidinoff to Houston for examination and treatment. In February, 1958 Eidinoff was committed to the Austin State Hospital. After he was moved to another ward in the state hospital, he learned he would be given electro-convulsive shock treatments. So Eidinoff arranged to be released to a private sanitarium a month later, in April. A short time after that, he slipped away from the private facility in the dead of night and was discovered in Grants, N.M. building apartments with an acquaintance from New York. No effort was made to return him to Texas.

The appeal of the libel judgment augured his later murder defense and was one more step in Eidinoff's unceasing attempts to "get even" and get free. His lawyers, Percy Foreman of Houston, Luther Jones of Corpus Christi and Ernest Guinn of El Paso (who later became a U.S. district judge) claimed error because: (1) Eidinoff was obviously insane when he committed the libels and should not be held responsible; (2) he was insane at the time of trial and unable to protect himself *pro se*, and; (3) he was not appointed a legal guardian. They admitted that the nude photos had been properly introduced by

Andress in the fee case, but insisted the incident triggered mental illness in the form of latent paranoia.

In their motion for new trial, Eidinoff's lawyers attached affidavits from three psychiatrists, again conveniently all from Houston, who had been treating Eidinoff since entry of the \$110,000 judgment, saying he was a victim of the rare disorder "true paranoia," that it was incurable, and that he had been mentally incapable for three to five years. In response, Peticolas called Dr. Louis Breck who knew Eidinoff as member of the staff at both Hotel Dieu and Southwestern Hospitals and had socialized with him. When asked to give an opinion of the killer's sanity over Foreman's objections, Breck stated, "he appeared of sound mind to me." Foreman argued that Eidinoff's insanity rendered him incapable of representing himself in the libel case and, in particular, that the court erred in allowing testimony from Ruth Lutz that Eidinoff said he "had \$450,000 and would spend it all to smear Andress and run him out of town." The court denied a new trial.

The oral arguments, no doubt pregnant with emotion, took place in the Eighth Court of Civil Appeals on Wednesday, February 4th, just a week after the murder. With the recusal of Chief Justice James Langdon, arguments were directed to associate justices Allen Fraser and W.G. Abbott. Bill Peticolas told them, "There was no whisper of insanity until the \$110,000 was rendered against him." Peticolas described Eidinoff as someone who knew what he was doing during the jury trial, saying that he was a "capable, intelligent, vengeful and malicious man".

Foreman countered that Eidinoff was not only insane at the time of the trial, but insane in 1955 when he started his libel campaign against Andress. He said the judgment was the largest of its kind in history. He likened Eidinoff's *pro se* defense "to a lawyer removing his own appendix." But he never mentioned that Eidinoff had counterclaimed for \$1 million or that his client told reporters he "couldn't get a lawyer anywhere in the state with enough background to handle it right." Foreman noted that Andress was well liked in El Paso, and said he doubted if Eidinoff could have retained a competent attorney. "I only took the case to try and save a lawyer's life," Foreman said.

In rebuttal, Peticolas brought up the fact



Andress was not armed, but Foreman (l) explored self-defense because his client anticipated he would meet Andress "in open gun battle." Foreman allowed his his client to talk to the press but not to testify.

that Foreman accepted a \$7,500 promissory note with 65 shares of Medical Center stock as collateral and the fees tied up by the garnishment. Peticolas said the doctor "did not have counsel because he chose not to." He also said that Eidinoff, immediately after the judgment, removed \$105,000 from the bank to get it out of the court's jurisdiction, and that the doctor's libelous actions were "systematic, deliberate, knowing character assassination". He likened the tactics to Nazi Joseph Goebbels' "big lie" technique, asserting that the doctor told falsehoods about Andress over and over again hoping to get many people to believe the lies.

Pointing in the direction of the county jail, Peticolas argued, "He's up there right now chuckling to himself. Oh boy, I'm gonna get off. I'm going to say I'm insane." But the astute Peticolas, a former editor-in-chief of the law review at U.T. Law School who later mentored and partnered with El Paso lawyers like Jack Luscombe, Harry Lee Hudspeth, Mark Howell, Colbert N. Coldwell, Wayne Windle, Charlie McNabb, Liz Rogers, Eliot Shapleigh and Morgan Broaddus, probably sensed how the issue of Eidinoff's criminal culpability would turn out in the end. "Had

the libel verdict gone his way, there would have been no question of insanity," Peticolas said, adding "he would have gone around telling everyone, 'See, I was telling the truth.'"

Even Foreman, in an interview with the *El Paso Times* on the same day of the appellate arguments, presciently predicted his client would never stand trial for murder. "If he [Eidinoff] is indicted, he shouldn't be tried but sent to a mental institution. Under no circumstances should he face trial," Foreman said. Eidinoff's condition was incurable, Foreman added, and "he should be committed to eternal, perpetual, until death confinement in a hospital for the insane." And if the murder case were to reach the docket, Foreman said he would "first have to run a survey on public opinion" in El Paso before seeking a change of venue. On the issue of changing venue, Foreman claimed he had tried murder cases in every major county in Texas and always assumed he "could get a fair hearing until shown the contrary." In a *per curiam* opinion handed down Feb.

18, 1959 - less than 3 weeks after Andress was murdered - the Eighth Court of Appeals affirmed the judgment and the \$110,000 award less the remittitur.

But why were the nude photos ever shown to a 41st District Court jury in the first place? And how were they relevant in a suit to collect attorney's fees? The answer became clear, as Leibson noted, by Andress' own testimony in his 1957 suit for libel. As mentioned, even Eidinoff's attorneys later conceded the photos had been properly introduced.

In the libel case, Andress read from a transcript of testimony in the earlier fee case, and quoted the testimony of Eidinoff, his stepmother, and a housekeeper who had lived with the family. Eidinoff took the position that the \$5000 attorney's fee was unwarranted. The doctor contended that his ex-wife Sylvia, whom he had since remarried by the time of the libel suit, had not needed and was not entitled to pricey legal representation in the divorce case, at his expense, because of her own idiosyncrasies and misconduct. He and his two witnesses described at length some of her behavior. Andress then cross-examined the doctor, as follows:

At this point, Leibson reports, Andress had the

Q (by Andress): Is it true, as testified to by two of your witnesses, that a part of the trouble between yourself and Sylvia Eidinoff was your objection to her running around nude exhibiting herself?"

A (by Eidinoff): I certainly didn't think it was very nice for anybody to take all their clothing off and not close the blinds. It annoyed me to no end.

Q: It annoyed you to no end? And as between you and she, just the two of you, she was the exhibitionist and not you?

A: That is correct sir.

court reporter mark three photos as exhibits, all lying face down on her desk according to press reports. He was then permitted to introduce and publish the photos to the jury "to counteract the evidence introduced by Harold Eidinoff that Sylvia was all these things, that she was an exhibitionist, ran around without clothes on, and that embarrassed him." After publication, the photos were sealed in an enveloped and kept locked up by Judge David Mulcahy until the fee case was settled, and then returned to the doctor, along with the photo of his wife that was never offered into evidence. Not until two years later, Andress testified, did Eidinoff begin making the charge that the photos had been altered. Often

overlooked is the fact that during the libel case in 1957, Eidinoff admitted to having a Los Angeles photographer "experiment" with the photographs of himself.

Nobel Peace Prize winner Oscar Arias says it is essential that justice be done, and it is equally vital that justice not be confused with revenge, for the two are wholly different. Justice is defined as the fair and proper administration of laws. Since most of the relevant facts and circumstances surrounding the killing and the previous relationship between Eidinoff and Andress have now been explored, it remains to be seen whether there was a fair and proper administration of Texas law in this case.

The *Ted Andress Assassination* series is written in appreciation of the request to commemorate the 110th anniversary of the Bar Association with assistance and encouragement from Stephanie Townsend Allala and Clinton Cross for which the author is very grateful. The following resources have been used: *Eidinoff v. Andress*, 321 S.W.2nd 368 (Tex. Civ. App. - El Paso 1959, writ ref. n.r.e.); the Paul Freund Collection, Harvard Law School Library; *The El Paso Times* and *The El Paso Herald Post* archives of the El Paso Public Library; and personal interviews. 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.

SENIOR LAWYER INTERVIEW

SANFORD COX

■ BY CLINTON F. CROSS

I decided to interview Sanford Cox for this month's edition of the Journal. He's the father of two El Paso attorneys, Chris Cox and Sanford Curtis Cox III. I know both his sons, and decided I'd try to find out why they turned out to be decent folk. One Friday afternoon, I headed to his office in Coronado Tower and found him hiding behind his desk.

CROSS: *Sanford, I know your sons pretty well and they seem to have turned out to be good human beings. 'Course I could be wrong about Chris. Just kidding, Sanford. Anyway, the purpose of this interview is to find out who you are. That way, maybe I will learn how lawyers can be both good lawyers and successful fathers.*

COX: Marry the right woman.

CROSS: *O.K., let's start with your ancestors. Who were they?*

COX: I'm descended from Robert Cox of Massachusetts, who was born in 1670. Massachusetts' Bay Colony, you know, was founded by a lawyer. My great-grandfather was Reverend Leonard Cox, and he moved from Massachusetts to Virginia.

CROSS: *With that background, I can see you working in the "temple of justice." So let's get current. Who were your parents?*

COX: My father was from Virginia; my mother from W. Virginia. They moved to El

Paso in 1925, and purchased a home at 3660 Douglas. Ted Andress lived a few houses down the street, and as I will explain later that turned out to be good luck for me.

CROSS: *Where did you go to school? And did you take any "parenting" classes?*

COX: I went to Crockett Elementary and Austin High. I graduated from the Texas College of Mines (UTEP) in 1951, and I got a Masters degree in 1952. I bet you don't have one of those, do you?

CROSS: *I'm asking the questions, and I still don't have the answers I want. Ever do any work along the way?*

COX: I worked at White Sands Proving Grounds in 1952; took basic training at Camp Chafee, Arkansas and served in the Counter Intelligence Corps in Germany.

CROSS: *Law school?*

COX: I entered the University of Texas Law School in the fall of 1954 and graduated in 1957.

CROSS: Then what happened?

COX: I came back to El Paso and went to work for Andress, Lipscomb, Peticolas and Fisk. They gave me an office in the library.

CROSS: Who did you marry? And when?

COX: I married Holly Thurston, daughter of El Paso artist Eugene B. Thurston. We got married in 1958.

CROSS: Next major event?

COX: Ted was murdered. I then moved out of the library into his office.

CROSS: The firm didn't survive for long, did it?

COX: Around 1961, Bill Peticolas and Grover Stevens left the firm. They went into practice with Jack Luscombe.

CROSS: What happened to you?

COX: In 1961, I joined the firm of Lipscomb, Fisk and Cox. We moved into new office space at the El Paso National Bank Building (now Chase) when Sam Young, Sr. (Abe Lipscomb's brother-in-law) opened the bank building. When Abner retired in 1974, Bradley Fisk and I formed the firm of Fisk and Cox. Bradley retired in 1979.

CROSS: At this point you're a solo practitioner?

COX: Yes, but Harold Long and Ward Koehler shared offices with me for some time. Ward became a judge, and Harold retired.

CROSS: So what did you do?

COX: In 1980, I moved to Coronado Tower. 'Been there ever since.



Sanford Cox & Sons, Chris, (left) Sanford (center) and Curtis (right)

CROSS: Still no "parenting" classes?

COX: No, but I had some "on-the-job" training. Curtis was born in 1962, and Chris was born in 1966. I've been getting more parenting training since 1993, since Chris joined me in my law practice at that time.

CROSS: What kind of practice do you have?

COX: Mostly civil law. I was "board certified" in Civil Trial Law in 1977, and in Estate Planning and Probate Law in 1978. I've

had those certifications for 30 years now.

CROSS: What do your sons do?

COX: Curtis is an assistant district attorney. Chris is trying to save families. He does a lot of work with the Child Protection Court. Must be his religious genes. He practices with me, and so he also does probate and general civil litigation.

CROSS: So what's the secret to being both a good lawyer and a successful father?

COX: A good wife. And a little luck.

EL PASO BAR ASSOCIATION WINS AT STATE BAR OF TEXAS

The El Paso Bar Association will receive the following awards and recognition at the Bar Leaders Recognition Luncheon at the State Bar of Texas Annual Meeting on June 26, 2008 in Houston.

Outstanding Partnership Award -

"110th Anniversary Celebration" by Judge Robert Anchondo

Best Feature Story -

"The Real Law of the West: Judge Thomas Falvey" by Judge Bill Moody

Best News Article -

"El Chamizal, International Arbitration and the Mexican Revolution" by Sam Moore

Best Series of Articles - General Interest -

"El Paso's Legal History Revealed" by Ballard Shapleigh and Colbert N. Coldwell



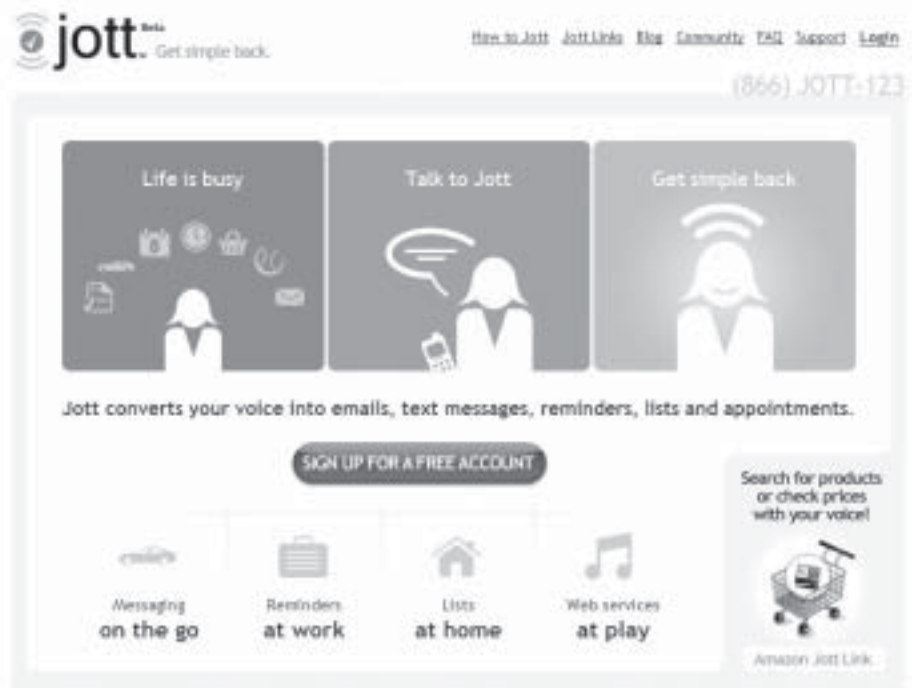
Free Voice-to-Text Information Assistant

■ BY DAVID J. FERRELL
djf@elpasolaw.com

Every now and then a simple internet application comes along that is very useful for a busy person on the move. That is the definition of “JOTT” (go to elpasolaw.com and click on JOTT for a quick link to the site or type in the <http://jott.com> in your web browser).

I have setup a JOTT account (Free) and now I have a personal voice to text assistant that I access using my cell phone (any phone will do). Calling myself is my most-used JOTT function. I call a toll free number (866) JOTT-123 / (866) 568-8123 (which I have on my cell phone’s speed dial), then I say “ME or MYSELF”, then leave a message at the beep. By the time I get back to my office my voice message has been converted into a text message and it is waiting for me in my e-mail inbox. I can then cut and paste it to any place I need the information (i.e. my calendar) or forward it to whomever, etc. Sometimes I have to correct a word that the text recognition function missed, but JOTT is surprisingly accurate. If you don’t recognize your thought in that e-mail you have the option to listen to your original recording if the translation doesn’t come out quite right.

Next, I send my staff text messages. I have created on the JOTT website a contact list by entering the email address for each of my staff members. You can also use peoples’ text capable cell phones as the recipient of your JOTT message. I call the toll free number; the system asks “What do want to JOTT?” I say the first name of my staff member and the system responds with the first and last name of that staff member and asks “Is this correct?” I say “Yes”. Then I hear a “beep” and I dictate the message that can be no longer than 30 seconds. I am then told that I can send or cancel the message. I make that choice and then I am given the option to send more messages to whomever without hanging up, etc. Another great feature is once you’ve finished leaving your JOTT message you can wait a couple seconds and you’ll be asked if you want to create a reminder with the message. Give it a day (“tomorrow”, “June 10?”, etc.) and a time and you’ll get an email and an SMS message a few minutes before the time you provided. Even though my calendar keeps me on time, redundancy is nice.



There is a thorough explanation of how JOTT works and how to set it up on the JOTT Website that I have referred to above and provided a link below. However, I have copied a few FAQs from the JOTT Website to get you started, i.e.:

Q: How do I add contacts?

A: If you are just getting started with JOTT, click the Add Contacts button that appears on the right hand side of your Inbox page. You will then be prompted to either enter your contacts, or import them from an email client.

If you have already added contacts once and would like to add more, click on the Contacts link on the right side of the Inbox. From there you will see options to add a contact, import contacts, or delete contacts.

Q: How do I delete contacts?

A: Click on the Contacts link in the right on the right side of the Inbox page. Select the contact you’d like to delete and then click the “Delete” button.

Q: How do I edit someone’s contact info?

A: Click on the Contacts link on the right side of the Inbox page. Select the contact you

would like to edit by clicking on it. The contact info for that person will pop up and you can change that person’s email address and/or phone number in the text boxes provided. Remember to save your changes!

Q: How do I create a group?

A: If you haven’t created a group yet, you will see an Add Group button on the right hand side of the Inbox page. Click that button and you will be prompted to create a group name, and then add the contacts you would like in that group.

If you’ve already created a group and would like to create another, click the Groups link on the right side of the Inbox page. Then click the “Add a Group” link that appears at the top of the Groups page. You will be prompted to name the group, and then add the contacts you would like to include.

Q: How do I edit who is in my groups?

A: Click the Groups link on the right hand side of the Inbox page. Select the group you would like to edit, and click and drag the contacts you would like to remove from the group to the “Remove” trash icon on the left hand side, by grabbing the orange tab that appears when you scroll over the contact.

R.E. Thomason

El Paso's Greatest Leader. *Part III*

BY FREDERICK J. MORTON

As a highly competitive trial lawyer and later as a federal district judge, Thomason loved the “show” put on by able, energetic, and passionate advocates. After he retired, he was present in the Federal Courthouse at an informal gathering of lawyers in chambers when visiting US District Judge Leo Brewster from Ft. Worth asked the famous plaintiff’s lawyer from Odessa, Warren Burnett, what he thought about the new discovery rules, which were apparently designed to eliminate surprise and ambush. Burnett replied: “Judge, I think you and I come from the same old ‘school’, which enjoyed trying cases when neither side called their best witness until after each had rested at least three times!” Thomason laughed as loud as anybody.

After developing a hugely successful private law practice, the public-speaking bug compelled him into political races. He was elected to his first Legislative session in 1917 at the age of 38, and unanimously elected Speaker of the House of Representatives two years later. This led to his race for Governor, which he lost. Thomason commented: “One friend jokingly said I was defeated by ‘a large and enthusiastic majority.’ He consoled himself by returning to a profitable law practice. In 1927, he was elected Mayor, running on what was called an “anti-Ring” ticket, which the town’s elite were known. They bore some resemblance to the KKK in their waspish makeup. As Senator Yarbrough said, he was an enormous success as Mayor, bringing various important industries to El Paso, including, El Paso Natural Gas, Standard Oil, Nichols Copper Refinery, later taken over by Phelps Dodge, and the opening of the first airport.

Thomason ran for Congress and won the seat in what was then the largest district geographically in the country, consisting of 38 counties and stretching from El Paso to Fredericksburg. Among his accomplishments in the U.S. Congress: establishment of Big Bend National Park and expansion of Fort Bliss, as well as authorship of the Thomason



R. E. Thomason and wife Abbie

Act, which enabled graduates of universities in ROTC to obtain commissions as officers in the regular army.

By the time Thomason left congress 17 years later, he was the number two man on the House Military Affairs Committee and generally recognized as its most influential, effective and capable member. During these years, which covered the Depression and the period

leading up to and through World War Two, Thomason dined with the nation’s prominent public officials and top brass in the armed forces. When Chief of Staff General George C. Marshall came to Thomason’s committee to seek a huge appropriation on a secret project, Thomason vigorously supported him. The world later learned the appropriation was for the research and development of the Atomic bomb.

Thomason said later he voted for a number of measures he might have otherwise opposed in more prosperous and peaceful times.

As El Paso's Federal District Judge, Thomason presided over a huge docket here, in Pecos and in Del Rio, and tried several cases which gained national attention, including the Jencks case, one of the first hijackings of an airplane, the so called "Love Birds" case, and his last contested jury trial, Billie Sol Estes. Several of these cases went to the Supreme Court and, with the exception of Jencks, were affirmed.

Of equal importance to the cases themselves were stories which arose out of his conduct of the cases.

One of Thomason's favorite stories is related in *The Saga of Era* as follows:

I cannot but enjoy the humorous incidents that happen in my court. Two years ago I was assigned by my old friend Chief Justice Fred Vinson of the Supreme Court to hold court for a month in San Diego, California, to help dispose of an overcrowded docket. I had been there only a few days when the marshal informed me that the bailiff, who is the court crier, was sick. He is the person who officially opens the court. I told the marshal to get the best man available and I would appoint him for temporary duty. The marshal said he could not get any man with experience, but there was an old retired farmer and ex-constable from Iowa pitching horseshoes on the courthouse lawn, and he thought he would be satisfactory. He called the old man to his office and explained to him the dignity and formality of the federal court procedure. The marshal explained to him that in California the judges wore long, black robes, and that as the judge approached the door of the courtroom, he was to rap his gavel on the small table just inside and ask everybody to rise. He then was to follow the standard procedure set by the rules for opening all federal courts and say in stentorian tones, "Hear Ye! Hear Ye! Hear Ye! The Honorable United States District Court in and for the Southern District of California is now in session pursuant to adjournment. God Save the United States and this Honorable Court!" The marshal asked the old farmer if he thought he could memorize that overnight. He replied he "shore" could.

The next morning exactly at ten o'clock I emerged in flowing robe from the robing room. Our new court crier began hammering with his gavel and ordered all persons in the court room to stand. I could tell he was excited and confused. He hesitated a second,

then stammered two seconds, then said in a loud, clear voice, "Here he comes! Here he comes! Here he comes! God save the United States!" It took some time to restore order.

Gabriel Nahas was one of the more colorful criminal defense lawyers to appear before Thomason over the years. We were first exposed to him in Del Rio when I clerked for the judge and I prosecuted a case in El Paso several years later against his client, Tillman Overstreet, who at one time had been a member of the Harlem Globetrotters basketball team.

The El Paso case involved charges against Overstreet with smuggling large amounts of marijuana by trunks and suit cases shipped from El Paso to his home in the Harlem District of New York City. One of the other defense lawyers in the case representing a co-defendant who pled guilty was now prominent congressman Charles Rangel, current chairman of the House Appropriations Committee. US Customs agents and detectives with NYPD had executed a search warrant of Overstreet's apartment in Harlem, in which they found several suit cases and trunks, still containing small amounts of marijuana and to their surprise, some heroin. The latter resulted in his being indicted in the Southern District of New York on the heroin charge only. Prior to the trial, we had instructed the witnesses to make no mention of the heroin as we felt it would be highly prejudicial to the defendant on trial in El Paso for marijuana charges only. One of the witnesses I put on the stand was Finbar J. Murphy with the local New York law enforcement, and he dodged volunteering the information about the heroin on several questions about what they found in the apartment, which Nahas kept asking him.

From time to time, I would join Judge Thomason for lunch at various places and it invariably took us a long time to get to our designation because he knew everybody in town, most of whom had voted for him and supported him in his various political races. Once in a while he would describe somebody we ran into as one of his "fighting friends." I asked him what he meant by that and he said: "Those were the ones who were for me, even when I was wrong." Having been elected to every office he ever ran for but one, he obviously had a lot of those "fighting friends".

This prompted me to ask the court if we could approach the bench which we did. I advised Judge Thomason, US Attorney Ernest Morgan and Defense Attorney Nahas of the situation about the evidence concerning heroin. Nahas made no comment and we promptly returned to our places at counsel table only to hear Nahas ask once again: "What else did you find in my client's apartment?" At that point Thomason could not resist. He said in a loud clear voice to the witness: "He asked for it, let him have it!"

Nahas had some theory that the prosecutions in New York and in El Paso violated his client's rights under the Double Jeopardy Clause of the US Constitution, which contention neither I nor anyone else on the planet understood, including Judge Thomason. Needless to say Overstreet was convicted and the Fifth Circuit affirmed.

Even though Thomason sentenced a number of defendants to hard time in the penitentiary, many of them thanked him, apparently convinced that what the judge did was the best thing for them. He understood human nature and could size someone up pretty quickly during a discussion about the defendant's offense and prior history, which the judge always handled with dignity and respect. The first time Thomason had a huge courtroom full of defendants in the immigration cases commonly called "wetbacks," he addressed them in a friendly fashion. He told them through the interpreter that our country was complimented that they wanted to come here, and that he knew they did not enter with intent to violate any of our laws or commit any crimes, but that they needed to go through the processes with the immigration service to enter legally, which he encouraged them to do. At the conclusion of his remarks, they all stood,

applauded and gave him a standing ovation!

Shortly after the conclusion of the Billie Sol Estes trial, Judge Thomason announced his retirement, effective on his 84th birthday, May 30, 1963.

Judge Thomason did not believe in writing opinions. I believe he had written only one in the years before I clerked for him, and he never asked me to help him draft one. His basic philosophy went along the lines of the old saying that if you keep your mouth shut, although people may have doubt about your ignorance, all doubt may be removed if you speak. He felt that if the court of appeals liked him or the result that had been achieved in his court, they would look for ways to affirm, while he believed there was a genuine risk of them picking the opinion to pieces if they disagreed with it for any reason and would reverse it. He said, "Don't give them any ammunition!"

Sometimes, Judge Thomason did share opinions which he liked or enjoyed and gave them for me to read. One time he handed me an opinion by another federal district court judge and said, "I think you ought to read this; you might learn something from it." It seems that an elderly gentleman had a warm romance with a young lady, on whom he had showered many expensive gifts during their friendly days, only to become involved in litigation when the romance cooled. In support of her position that the items of value were all gifts, she offered numerous letters from the old boy to her, all expressing his undying devotion and appreciation of her many fine qualities and his generous favoring of her with various gifts. The opinion ruled in her favor, at the end of which the judge said the case reminded him of the old saying: "Do right and fear no man; don't write and fear no woman."

From time to time, I would join Judge Thomason for lunch at various places and it invariably took us a long time to get to our designation because he knew everybody in town, most of whom had voted for him and supported him in his various political races. Once in a while he would describe somebody we ran into as one of his "fighting friends." I asked him what he meant by that and he said: "Those were the ones who were for me, even when I was wrong." Having been elected to every office he ever ran for but one, he obviously had a lot of those "fighting friends".

What was his record on Civil Rights? My belief is it was outstanding. His position on repeal of the poll tax is a leading example. Although the poll tax was not finally repealed until the enactment of the 24th Amendment to the US Constitution in 1964, Thomason voted on and campaigned on numerous occasions for its repeal, although such was not popular in his race for Governor in 1920 and perhaps others. When he first voted in 1939 to repeal the poll tax, which was defeated in the House, he was

congratulated by a young congressman named Lyndon B. Johnson, who acknowledged to him privately that he wished he had the courage to vote for repeal himself, but conceded with Thomason's concurrence that if he had done so he would have been ridden out of town on a rail in Austin, which he then represented in Congress. Another outstanding example of Thomason's stand on civil rights was that when first afforded the opportunity in 1955 to integrate schools after *Brown v. Board of Education*, he ordered Texas Western College to admit Thelma White, a young black into the school upon the next registration, which happened. Finally, his role in recognizing the fight of Mexican Americans for places on the ballot is demonstrated by the pride he expressed in being asked to swear in Raymond Tellez upon his election and re-election as Mayor. Even though Judge Thomason was pretty generally recognized by the Bar as being pro-prosecution in criminal matters in his court and pro-plaintiff in civil matters, his rulings were keenly balanced by his firm understanding of and respect for the rights of the accused and the difficult role of defense counsel in defending federal criminal cases and in following the law in denying Plaintiff's recovery if the law provided more. When all was said and done after his final hotly contested case was tried and appealed to the 5th circuit, their opinion expressed their unique admiration for the successful conclusion to his great career in the Billie Sol Estes case in 1964 by stating:

"From beginning to the end this case was hard fought. The ingenuity of counsel was matched only by the skill of the trial judge and his patient endeavor to avoid error and to insure appellant a fair trial. In each he succeeded well."

Judge Thomason lived ten years after the Estes trial, when he took Senior Judge status in 1963. In April 1973, the Fifth Circuit had their annual conference here in El Paso for the only time in its history – and dedicated and named it for him. The resolution they adopted read:

"That the 1973 Fifth Circuit Judicial Conference be, and the same is hereby, dedicated to the honor of and shall be known as the 'Robert Ewing Thomason Fifth Circuit Judicial Conference', in hopes that we can bring to our tasks, as we convene in his beloved home town, the same ability to do what is right and just, the humility and warmth to work with our fellow man, and the wisdom and foresight to improve our world for those who follow after us, as R.E. Thomason has done for us, his City, State and Nation."

Ewing Thomason died in El Paso seven months later at the age of 94 years in November of 1973. Let our memory of him live on, as we strive to restore the level of professionalism he brought to us.



Name:

Linda Yee Chew

Court:

327th Judicial District Court

Years on the Bench:

6 years

Education:

Bachelor of Science in Elementary Education; Masters in Educational Administration; Doctorate of Jurisprudence

Docket type:

Civil

Court Coordinator:

Virginia (Jeanny) McGrath

Pet Peeve:

Dishonesty

Favorite place to go on vacation:

Punta del Este, Uruguay or Akumal, México

Last book I read:

This Much I Know by Wally Lamb

Last movie I saw:

"The Bank Job"

If I wasn't a judge,

I would be a:

marathoner

The Simple Road I've Traveled

■ BY JUDGE OSCAR G. GABALDÓN, JR.

A child's world is a vast and awesome ocean of discovery and wonder. Every new encounter with new experiences in life many times becomes a child's heaven. From the beginning, a child is naturally inclined to be self-centered, but with caring and loving parents the child can quickly come to appreciate and care about others.

Though my early childhood begins in Ciudad Juárez, Chihuahua, in México, I was born a U.S. citizen, the oldest of five children. My parents wanted to afford their children a chance at the American way of life and the opportunities available in such a great country, while at the same time they wanted to help preserve for us the beautiful, rich, and unique culture of the noble Republic of México. Thus it is that my siblings and I have sought to embrace and incorporate the best of both worlds into our lives.

I have fond memories from my childhood. These, I immensely cherish, and will forever treasure. The richness in my early life is largely due to two very caring parents, as well as to two brothers and sisters, who I love dearly with all my heart. Though there was the sticking out of tongues at each other, the whining, and the petty things brothers and sisters normally fuss about, the ever present unconditional love we had for each other then, and which has never stopped growing, was the binding force that weaved us together, bringing harmony, respect, and a strong sense of belonging to each other.

A respect for life in general was something that my parents gifted to me. I remember one day I found a dead mouse. I felt very sad for the mouse. I went ahead and made a hole in the ground to bury the little creature. Recalling my parents' emphatic teachings to always care about all creatures big and small, I went ahead and placed a few centavos with the mouse, so that the mouse could buy things in heaven. Sure, I now chuckle at the thought of this; however, I then become reflective, and it comes to my mind the good fortune I've had by having been blessed with loving parents. Of course, there are limits that we must sometimes live with when trying to bring joy or help to others. I realized this one time when the family was getting ready for a 10-hour trip to my grandparents home in



“The drive to Houston, to go to law school, was a long drive, since besides having to travel a long distance, we also drove below the speed limit, making sure we remained safe as we drove in our little yellow Opel compact car, towing a small U-Haul trailer containing one old bed and a few other belongings.”

Hidalgo del Parral, Chihuahua. My father had the trunk of his light green 1954 Chevrolet sedan open in order to place the luggage. I took advantage of this situation to quickly put my “personal items” in the trunk too. Well, we are all in the car about to drive off, when all of the sudden we start to hear strange noises. Everyone, but I, was puzzled. My father gets out of the car, opens the trunk, and there he finds my concealed personal items----five tiny

kittens that my adopted alley cat had recently given birth to, and which I intended to bring along to enjoy the ride. Sadly for me, the kittens had to remain in the care of my cousins, who lived next door to us, while we took our trip to Parral, no pets allowed.

I was still quite young when my dad announced we were moving to El Paso, where my dad worked at the Farah Manufacturing Company. He maintained a strong and committed

work ethic at all times. I would observe my dad making sure his shoes were shined, his shirt and pants well pressed, and that everything else was in place every night before his new work day began. It was important to him to leave very early for work to allow for extra time in case of a flat tire or some other unforeseen obstacle that might risk him being late to work. He always maintained an impeccable all around work record. This immensely impressed me about my dad.

Now in El Paso, I was sent to Burlison Elementary School, which is near the El Paso Coliseum and the El Paso Zoo. It was a struggle for me to learn English. I mean, I knew nothing, absolutely zero, not even how to say the alphabet letter "A" in English. I still recollect my very patient and dedicated teacher working hard at helping me learn English. One time, she placed paper circles of different colors on the wall. She pointed to one of the colored circles and asked me to tell her what color it was that she was pointing to. After what seemed to me an eternity, I struggled to verbalize the word "red." She sighed, and said, "Well, it's yellow, but we will keep working on it." I went back to Burlison to try and give something back to it for all the good it gave me. I volunteered with the school's mentoring program, and can only hope that I gave some fraction of goodness back to my dear Burlison.

Time kept on, and we moved to what is known by many as the LULAC apartments near the Ascarate Lake area. I had to attend school at the Cooley school cottages. The cottages were separately located, but still part of the big Cooley Elementary School. The big school was only about a couple of miles away from the cottages. At the cottages, I got to be a patrol boy assigned to patrol the main crosswalk, and I was very proud of that. While waiting to help students cross the street, my partner and I would sing and hum the theme song of the then popular TV show Daniel Boone. I tell this to my son, and he gets a kick out of that story.

By the time I was in junior high, now commonly referred to as middle school, I started to think about studying to be a priest. I was an altar boy at Our Lady of the Light Church located not far from the Bridge of the Americas. So, when I graduated from Henderson Junior High, and with my parents' blessings, I went to live at St. Charles Borromeo Preparatory Seminary High School in the El Paso lower valley. I never forgot that first night after my parents dropped me off at my new home... a small bed, a desk and wooden chair, a small open closet space, a crucifix and a window. I looked out the window,



In May of 1982, I graduated from law school. It was an important highlight in my life. I gifted my diploma to my wife as a symbol of our partnership through thick and thin during the law school years.

and I saw my family drive down the road to leave the grounds. I was about fourteen years old. I felt so lonely. I missed my family. I cried that night.

Seminary life was a very different experience for me...rules, lots of studying, an array of religious activities, and plenty of new and exciting challenges and discoveries. These things were good. They had a purpose. They helped me develop not only spiritually, but also socially, academically, and emotionally. Yet, I still experienced loneliness at times. I did not go to a high school prom. I was somewhat out of touch with popular music, movies, and the dating scene. However, to me the benefits of seminary life outweighed the lost opportunities of other experiences. In time, I came to a very important crossroads. I met and fell in love with Martha, my wife. I never imagined that I would ever leave my studies for the priesthood on account of another person. I had already invested about

eight years in the seminary. In my mind, it was simply a fact that I was going to become a priest--period. I used to think that I would leave the seminary only if I died, or became seriously ill, or perhaps was expelled. I could think of no other possibility.

I met Martha in the summer of 1976. She was involved with the youth group and the youth choir at Our Lady of the Light Church. We became friends, and we began to get together to bicycle ride, go get on the Western Playland amusement rides, have fun at the bowling alley, talk for hours on the phone, and even have her accompany me to funeral homes when, as a seminarian, I was sent to lead rosary services. Other times we just sat together without speaking words. This too could be quite breathtaking, for it is said that when silence speaks of love, it has much to say. One time, perceiving Martha to not be more demonstrative and expressive with her emotions than I wished for her to be, I told her she was like a stone. Her witty and immediate response left me dumbfounded when she said, "But you have carved a heart on it."

The first time we went out to eat together is one of my favorite memories. Martha's parents allowed her to get involved with church-related youth groups, as that was seen as a healthy and positive environment for young people to be involved with. One day, I called her and told her that a group of us, from the church, was going out to eat together, and I wanted to know if she could join us. Of course, she was given permission to join a group of church going kids. I got to her house, rang the doorbell, and told her the bad news. At the last minute, no one was able to make it to go out to eat. However, since she was already dressed and ready, and so was I, why not the two of us go together. Martha has always suspected it was a set up on my part. I plead the fifth. All the same, I had saved up a hefty little amount of money for this day, and I told Martha that the sky was the limit and that any restaurant in town was fair game. I was expecting her to choose a steakhouse or some other fancy place. That evening, we had a grand and memorable time at Chicos Tacos, the taco eatery located by the Evergreen Cemetery in the Washington Park area.

After some months of becoming closer to Martha, I had a dream. In the dream, I was already a priest. One Sunday, Martha came to church with her husband, so that I could baptize their child. In the dream I thought, "That could have been me. That could have been our child." Talk about an eye opener. I woke up from that dream with a need to do a lot of thinking and reflection.

Three priests concelebrated our wedding mass. With a full wedding court, we had our reception in El Paso, a dance at the Ciudad Juárez's Lion's Club, with a complete orchestra, a discoteque to cover the orchestra's intermissions, an open bar, and lots of celebration and gaiety. A married couple now, we worked, and I also attended school, working hard to finish my undergraduate studies. I was accepted into law school. We could not even attend my college graduation ceremonies, because my law school classes were starting before the date for the graduation commencement exercises.

The drive to Houston, to go to law school, was a long drive, since besides having to travel a long distance, we also drove below the speed limit, making sure we remained safe as we drove in our little yellow Opel compact car, towing a small U-Haul trailer containing one old bed and a few other belongings. As we came into the city of Houston, it was pouring big time. We got to our apartment in the early afternoon, and being extremely exhausted from the long trip, we knocked out until the next day.

We did not have jobs, but we decided that was our problem to handle, and we would not place a financial burden on either one of our families. We had to assume responsibility and take full ownership of meeting our own needs as a married couple. We stuck to that. Oh, it was tough, but we hung in there.

My law school years were unlike any other I ever experienced. Those years were rough for us, since money was scarce. My wife worked at a local pharmacy store, while I did all sorts of odd jobs and studied. We had few possessions. I remember studying my law books on top of an ironing board, since we lacked furniture. Sometimes, we had to use ketchup when we could not afford to buy tomato sauce, or substitute milk with water for our mash potatoes, because we could not afford the milk. I did maintenance work, clerking jobs, and even worked two Christmases as a Santa Claus at a local credit union. Kids sat on my lap, and got their picture taken with Santa. Back then I needed to stuff myself with pillows under my red suit so I could at least look like a halfway decent Santa Claus. Nowadays, there is no need for pillows if I decide to dress up as Santa again.

Perhaps the most interesting job I recall doing while in law school was working for a dating company. Oops! They called it a "social introduction" company. It was a company called Compatibility Unlimited, with a branch in Houston and headquartered in San Francisco,

California. My job was to interview prospective clients, and try to interest them in our available programs. I think the least expensive program offered entitled the client to at least twenty-five social introductions. I felt so bad sometimes for some of the clients. I interviewed senior citizens, adults still in their teens, divorcees, single people, widows, and so forth. I felt compassion for these people. I could sometimes get a glimpse of their pain. There was so much loneliness. Suffice it to say, being that this job was paid at 100% commission based on sales of the programs, I did not fair well at all.

Some of our time also went to volunteering with the youth at a church in a place called South Houston, Texas. My wife and I would give time to help organize the youth by helping to form a youth club and a youth choir. Even now, we are still in touch with some of these wonderful people, who are now married with children, living successful lives, and contributing productively to their communities. They will always have a special place in our hearts. Friendships should be cherished, for as Montaigne's enlightening words reveal, "Friendship is the highest perfection in society."

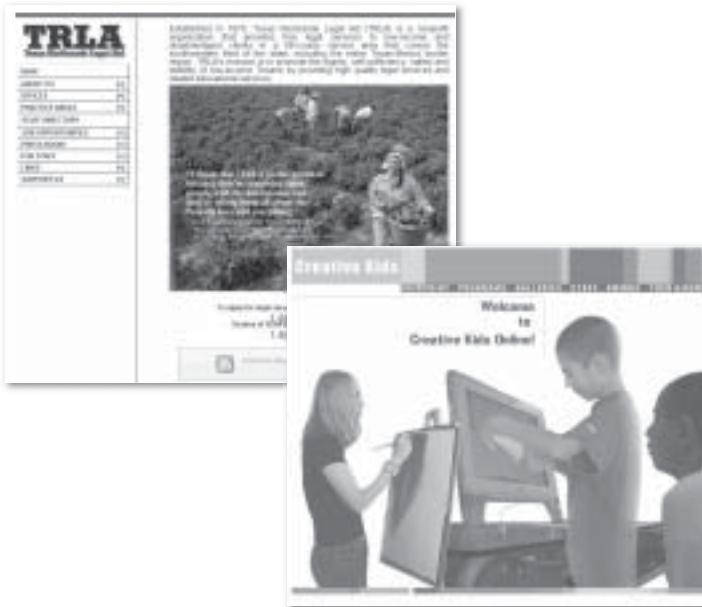
In May of 1982, I graduated from law school. It was an important highlight in my life. I gifted my diploma to my wife as a symbol of our partnership through thick and thin during the law school years. I unquestionably believed in my mind, heart, and soul the anonymously shared thought that marital love always involves being on the road, a road that never ends, a road that is an adventure, always new, always capable of enriching us.

Soon, we left back home to El Paso, where I went into private practice as a solo practitioner. Aside from criminal appointments, I began to take appointments to represent parents and children in child protective services cases. I fell in love with child protective services work. Then, a position became available for a state child welfare attorney. At the same time, I was offered a chance at a potentially lucrative private practice in partnership with another attorney. Loving your job is more important than getting paid a lot of money to do something that your heart is not invested in. Thus, I became a child welfare attorney. I prosecuted the civil cases of child abuse and neglect in this capacity, and later on in other capacities, such as an Assistant County Attorney, Assistant District Attorney, and as a Special Assistant Attorney General. However, when the Texas Department of Protective and Regulatory Services was created by our state

legislature in 1992, that new state agency took jurisdiction of the child abuse and neglect programs, and so I no longer worked child protective services cases. I remained with the Texas Department of Human Services, where I served as the Regional Attorney for the El Paso region, managing some staff and handling personnel cases, contract work, civil rights matters, and other of the state agency's legal business. I also engaged myself as a college instructor and a mediator. By this time in my life, I had four priceless jewels, namely, Martha, my daughters Marissa and Cynthia Ann, and my son, Osby. At one time, I wanted to become Father Gabaldon. Well, I guess in some respects I did achieve that goal, since I did become "father." When asked which role I most care about and love, without hesitation I always say, "Being a husband and a dad." There's nothing like family! It has been said that the family is the oldest of societies and the only one that is natural.

In May of 2000, I was given the welcomed opportunity to work again with child protective services cases. I was hired by the County Attorney's office as a trial attorney for the child protective services legal unit. This was, however, short lived, because seven months later, by the grace of God, I was given another opportunity to serve families and children as the judge of the Children's Court (now called the Child Protection Court) in El Paso. In the field of child welfare, there's no limit to the amount of good people can do for abused and neglected children if they don't care who gets the credit. Margaret L. Runbeck once remarked, "Of all the things of beauty in the world, nothing is more beautiful than a child when he gives something. Anything small the child may give you, the child gives you the world. The child opens the world to you, as if it was a book, which you have never been able to read. A child has so little to give, because he never knows that he gives you everything."

I see and experience a big, beautiful world. I want to keep being part of it, live in it, love in it, and simply keep growing in it. Probably, joy and serenity in this world can better be assured if we take to heart the words of the pilot Dick Rutan, who said, "No matter what age you are or what endeavor you're involved in, life is an opportunity and it's only limited by your imagination. What you want to do and what you can dream about...if you can conceive it, it's possible." I will continue to search out the beauty of this world. I know that the greatest beauty on earth will always be found in the hearts of those who love.



TRLA El Paso Office Emergency Housing Fund

■ BY CARMEN RODRIGUEZ


Texas RioGrande Legal Aid, Inc. and Creative Kids will host a joint fundraiser on August 21, 2008 at the Creative Kids' OLO Gallery located on 504 San Francisco Street. The \$30.00 entry-fee will include dinner, a voucher for a free CLE, and a live auction of art. Renowned documentary photographer Alan Pogue will also be signing copies of his book, *Witness for Justice*. Prior to the fundraiser, Creative Kids and Mr. Pogue will have a workshop for children who live in public housing and for children whose parents are farm workers. Photographs from the workshop will be auctioned at the fundraiser and will also be included in a calendar that can be purchased at the event. Proceeds from the event will benefit the TRLA El Paso Office Emergency Housing Fund and Creative Kids. The Emergency Housing Fund will provide one-time cash assistance to TRLA housing clients facing foreclosure, eviction, or emergency relocation. For more information, please contact Verónica Carbajal at (915) 585-5107 or at vcarbajal@trla.org.

TRLA's mission is to promote the dignity, self-sustainability, and stability of low-income Texans by providing free, high quality legal services and related educational services. Creative Kids' mission is to improve the educational development of children and youth who are disadvantaged, disabled, battling cancer and facing other conditions of marginalization by providing a varied array of art and technology classes.

Related links:


www.trla.org
www.creativekidsart.org
www.documentaryphotographs.com

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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.



Lady Justice atop the 1886 courthouse.

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

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▶▶▶ ASSOCIATION NEWS

El Paso Women's Bar Association

■ The El Paso Women's Bar Association will have its last meeting of the bar year on June 5, 2008 at Noon at The Original Jaxson's on Mesa and Castellano. We will be installing our new officers for 2008-2009. Don't miss out! For more information on the Women's Bar Association, please contact Diana Valdez at dval@scotthulse.com.

Cori Harbour, President-Elect Texas Young Lawyers Association

The El Paso Bar Association would like to extend its best wishes to Cori Harbour, President-Elect of the El Paso Bar Association on her recent election as President-Elect of the Texas Young Lawyers Association.

Way to go Cori, we are so very proud of you.

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EL PASO BAR ASSOCIATION NOMINATIONS FOR OFFICERS AND DIRECTORS

*The Nominating Committee of the El Paso Bar
Association nominated the following for the 2008-2009*

Cori Harbour, President

Carlos Cardenas, President Elect

Chantel Crews, Vice President

Bruce Koehler – Treasurer

Judge Maria Salas-Mendoza – Secretary

Board of Directors 3-year term

Francisco "Paco" Dominguez

Cheryl Lay

Judge Tom Spieczny

Diana Valdez

Donald Williams

They will be sworn in at the June Bar Luncheon on Tuesday, June 10, 2008.

We are pleased to announce...



Miguel A. Flores Receives Board Certification in Consumer Bankruptcy Law

Miguel A. Flores, an attorney with Tanzy & Borrego Law Offices, recently received his Board Certification in Consumer Bankruptcy Law from the Texas Board of Legal Specialization. Mr. Flores was the only attorney in Texas in 2007 to pass the certification exam to become board certified in consumer bankruptcy law. A native El Pasoan, he is a graduate of the University of Texas at El Paso and received his Law Degree from Texas Southern University, Thurgood Marshall School of Law. Mr. Flores has been an attorney since 2002 and has practiced with Tanzy & Borrego Law Offices since 2003.



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OUTSTANDING LAWYER	Clyde Pine, Jr.
OUTSTANDING SENIOR LAWYER	Fred J. Morton
OUTSTANDING JURIST	Judge Javier Alvarez
PROFESSIONALISM AWARD	Jim Curtis
CORI HARBOUR OUTSTANDING PRE-LAW STUDENT	Samantha Dominguez
PRO BONO AWARD	Briana Stone
OUTSTANDING STATE ATTORNEY	Dave Contreras
OUTSTANDING FEDERAL ATTORNEY	Maureen Franco
LIBERTY BELL AWARD	Graciela Martinez

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