



EL PASO

A Monthly Update of Events and Information

BAR JOURNAL

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September 2007



“WE ARE FAMILY”



*El Paso County
And The State
Of Texas*

Senior Lawyer Interview
Ellis O. Mayfield

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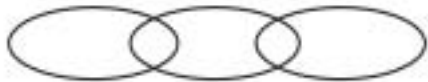
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2003 – 2005 – 2006 – 2007

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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

Happy 110th Anniversary

I would like to welcome all bar members of this great, diverse organization to your new bar year. As you have probably read about or heard in some form or fashion, this year marks the 110th anniversary of the existence of the El Paso Bar Association.

The legal profession for many years prior to the inception of the bar was largely a de facto organization. Then on June 7, 1897, various members of the legal profession met in a district courtroom to establish a permanent bar association. A resolution was prepared which, in essence, established the bar's dues, officers and its continued existence which has evolved today, 110 years later, as your bar association.

From the beginning of the bar association, lawyers insisted that the real objectives of the bar should stress the advancement of the legal profession and the relationship of lawyers with the public. I suspect that we still echo those sentiments at present.



Recently, an article from a 1938 Texas Bar Journal was brought to my attention. The article was entitled "Have lawyers slipped as leaders?" In that article, the following quotes were mentioned: "Is the position in which the lawyers of Texas find themselves today an enviable one? Do we have just cause to be proud of the reputation we enjoy among the laity generally? Do we, as members of an ancient and (formerly) honored profession occupy the status of trust, honor and leadership that our forefathers did? If these inquiries must be answered in the negative, who is to blame for conditions as we find them, and what, if anything, can be done about it?" (TX. Bar J.1938. F. E. Knetsch.)

After pondering the above-mentioned article, I think we can all agree that we have some work to do. It will be an honor and a highlight for me this year to lead the El Paso Bar Association, along with an energetic cast of officers and board of directors who have committed themselves in continuing the tradition of excellence in attaining the trust, honor and leadership we so strongly strive for on a daily basis.

The hard work of those who have previously lead this organization remain supportive of the mission of what it stands for. In my travels during the course of this year throughout the great state of Texas and across this great nation, I hope to encounter many bar presidents, and I look forward to boasting about the accomplishments of the El Paso Bar Association, as I believe we stand out as one of the hardest-working bars committed to excellence in accomplishing our mission.

This year, our committees and sections of the bar will meet regularly to debate issues appropriate to that particular area of the law that is not only vital but also necessary to our members' success. Each section and committee will develop and provide CLE programs for its members, which will create dialogue among that group and administer education.

To better serve our community, the bar will participate in the free night clinics with TRLA and the El Paso Housing Finance Corporation. Your support and partnership in these clinics will enable the public to discuss problems with an attorney

Continued on page 4

EL PASO BAR ASSOCIATION

September Bar Luncheon

Tuesday, September 11, 2007

El Paso Club, 201 E. Main, 18th Floor,
Chase Bank - \$14 per person. 12:00 Noon*Guest speaker will be: Rep. Joe Pickett**Topic: Legislative Update*

Approved for 1/2 hour of MCLE

Please make your reservations by Monday, September 10, 2007 at noon by calling Nancy at 532-7052 or via email at nancy@elpasobar.com

Happy 110th Anniversary

on a one-on-one basis.

We will be asking our seasoned lawyers -- senior lawyers who have practiced 25 or more years or have reached the age of 55 or older -- to create their own section and discuss issues such as the sale of a law practice, pro bono, mentoring, file retention, insurance and staying connected with the practice of law. Our seasoned lawyers represent approximately 1/3 of the Bar locally.

Some of our members will embark to provide public forums to educate our public on the rule of law and our system of justice.

Our own El Paso Bar Foundation, through the leadership of Al Wisenberg and his group, have energized the Foundation to create fellows and provide the necessary intent to see that the organization is

committed to supporting, promoting and encouraging programs to enhance the administration of justice, ethics in the legal profession, legal assistance to the needy, public education on law-related issues, and legal research and scholarships.

From the State Bar's perspective, Elizabeth Rodgers, who is our representative on the Texas Bar board, will be concluding her term in June 2008, and we will all need to acknowledge and congratulate her for her commitment in serving our needs and providing a voice for us on the board. Thank you, Liz. Moreover, should any attorney in our district feel the desire to serve on the State Bar board, please feel free to contact her. It truly is an honor to serve.

I firmly believe that if we work together in unison, as a group, and continually strive

to practice what we preach, we can consistently provide a quality service to our members and begin the work of remedying our image to be one of honor, trust and leadership.

Last, but by no means least of our accomplishments, I want to thank Justice Ann McClure for providing our Bar the utmost in professional leadership and compassion this past year. As they say, I have some big shoes to fill, but I gladly accept the challenge.

In closing, I look forward to working with each and every one of you individually and collectively throughout this bar year. And, as the two placards on my bench read, remember: Character and courtesy do count.

JUDGE ROBERT ANCHONDO

CALENDAR OF EVENTS

SEPTEMBER, 2007



Monday, September 3

Labor Day, EPBA closed

Tuesday, September 4

EPBA Board Meeting

Thursday, September 6

EPWBA Monthly Meeting

Friday, September 7

Coffee & Donuts at the Bar Office

Friday, September 7

EPBA Membership Party

Friday, September 7

EPBA Monthly Luncheon

Wednesday, September 12

110th Anniversary Photos - Make Up

Friday, September 21

Coffee & Donuts at the Bar Office

Saturday, September 22

EPWBA Rummage Sale

UPCOMING EVENTS

Saturday, October 20

EPBA 110th Anniversary Dinner & Party

Friday, February 15

& Saturday, February 16, 2008

12th Annual Civil Trial Seminar, Paris Hotel, Las Vegas, NV

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 October, 2007, please have the information to the Bar Association office by Monday, September 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.

2007-2008 BAR ASSOCIATION MEMBERSHIP DUES

If you have not sent in your 2007-2008 Bar Association Membership Dues please do so. Please go to our website, www.elpasobar.com to download the statement and send to our office.

This year we will be doing our 110th Anniversary Photo Composite which will be unveiled at our 110th Anniversary Dinner Party on Saturday, October 20, 2007.

Make sure that your dues are paid to be a part of this Composite. We will have one final opportunity to have your photos taken on Wednesday, September 12, 2007 from 8:00 a.m. to 5:00 p.m. at the Bar Office.

If you have any questions please contact the Bar Association office at 532-7052 or via email at nancy@elpasobar.com

110TH ANNIVERSARY COMPOSITE PHOTO



Make sure that your photo appears in the 110th Anniversary Composite Photo by paying your membership dues.

You will have one final chance to have your photos taken on **Wednesday, September 12, 2007** from 8:00 a.m. to 5:00 p.m. at the Bar Office.

The photos will be taken in alphabetical order.

Please contact the Bar Association office if you have any questions.

Peacemakers: The Forgotten Role Of Lawyers

BY JUDGE OSCAR G. GABALDÓN, JR.

Throughout the ages, thoughtful and caring minds have inspired many of us to pursue and cherish noble ideals. We value the wisdom of those who have earned our confidence through their focused and persistent search for truth and understanding. Among the ideals that most every man and woman cherish throughout their lives is the ideal of peace...lasting, unperturbed peace.

In the quest for peace, the thoughts of respected people, like Lord Baden-Powell, bring us sustained hope for a better tomorrow where men and women live each day more harmoniously than the day before. Lord Baden-Powell counsels: "We should take care, in inculcating patriotism into our boys and girls, that it is patriotism above the narrow sentiment which usually stops at one's country, and thus inspires jealousy and enmity in dealing with others...Our patriotism should be of the wider, nobler kind which recognizes justice and reasonableness in the claims of others and which lead our country into comradeship with...the other nations of the world. The first step to this end is to develop peace and good will within our borders, by training our youth of both sexes to its practice as their habit of life, so that the jealousies of town against town, class against class and sect against sect no longer exist; and then to extend this good feeling beyond our frontiers towards our neighbors." Baden-Powell's proposes a solution to the ill will that we sometimes, advertently or inadvertently, help to foster within our own communities and beyond. He suggests that we teach and encourage others to prize peace and good will, to make the consistent and continual pursuit of peace a habit. We do this by beginning with ourselves and with our families, and then we move outward to the world at large.

Peace can only become a reality with effort. The effort starts with a desire and a willingness to embrace peace. The desire for peace to flourish in our lives is the initial spark that ignites our relentless pursuit of such peace. The search and obtainment of peace comes from our



Let us take to heart the premise that it benefits our well-being to bring peace to our minds, hearts, and souls. Only then will we be able to successfully spread peace onto others.

willingness to seek to understand others. It is by understanding others that we can appreciate the feelings, motives, and considerations others entertain in their own search for peace. Once found, peace, like a fragile precious child, must be carefully monitored, nourished, and maintained. Albert Einstein wisely observes that "Peace cannot be kept by force. It can only be achieved by understanding." He discerns that understanding others is a critical component in the efficient and worthwhile pursuit of serenity.

Understanding is an ongoing process that calls for the involvement of other virtues such as patience, compassion, open-mindedness,

and self-reflection. Thus, when we are self-indulging and into ourselves to the exclusion of others, we lose the opportunity to draw from the experiences, observations, and otherwise beneficial contributions of others. This weakens our ability to better capture the essence of peace and all it entails. Complacency with the absence of peace is unacceptable, because everyone has a human and moral duty to contribute towards the goal of bringing peace to their own lives and the lives of others.

Some possess certain skills, experiences, and abilities towards peacemaking more so than others. Lawyers are among the group of professionals that are in a position to exert a positive influence on peacemaking. A former dean of a Texas law school once had to judiciously remind a group of law students that: "We have forgotten that the role of the lawyer is to be a peacemaker." The celebrated lawyer and former U.S. President, Abraham Lincoln, was not one of those lawyers that needed such a reminder. He knew all too well that lawyers have a duty to be peacemakers. "His slander cases show that he often took advantage of opportunities for mediation and compromise."¹ He was sensitive to the needs of others. He understood the connection between good faith dialogue in settling disputes and the benefits of this towards helping maintain social order. "Lawyers were not simply courtroom advocates for their clients; they also served a mediating role."² Lincoln once gave a law lecture where, according to the Lincoln scholar, Mark E. Steiner, he wrote: "Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man."³

Steiner also mentions other distinguished champions of the law who were avid adherents of the premise that lawyers are to be peacemakers. For example, Steiner quotes Simon Greenleaf, a professor at the Harvard Law School, who declares that a lawyer "concerns himself with the beginnings of controversies, not to inflame them

but to extinguish them...He is a peacemaker; - a composer of dissensions; - a blessing to his neighborhood." Steiner also quotes from a 1845 issue of the New-York Legal Observer:

"...the respectable attorney...is almost always a peace-maker and a settler of disputes, without litigation, where it is practicable." Yet, how many lawyers actually have the good sense to recognize their obligation at peacemaking? How many of us allow our pride to interfere with this noble undertaking? How many of us let our emotions or uncontrolled passions dictate our adversarial tendencies, sometimes to our client's detriment? What should the prudent alternative be? What should the lawyer's role be? "He should never advise a suit unless it is the interest of his client to 'go to law.' If the case

be frivolous, or the right doubtful, he should advise forbearance or compromise. He should never encourage litigation."⁴

Let us take to heart the premise that it benefits our well-being to bring peace to our minds, hearts, and souls. Only then will we be able to successfully spread peace onto others. Some will be mindful of this. Sadly, others will not. We are not alone in this endeavor of peace searching. Let us learn from the great peacemakers. "One of the most persistent ambiguities that we face is that everybody talks about peace as a goal. However, it does not take sharpest-eyed sophistication to discern that while everybody talks about peace, peace has become practically nobodys' business among the power-wielders. Many men cry Peace! Peace! But they refuse to do the things

that make peace."

Therefore, let us have the determination, the valor, and the charity to make a sincere effort to change the void that the absence of peace creates. "This is the way of peace: Overcome evil with good, falsehood with truth, and hatred with love."⁵

1 Steiner, Mark E. "The Lawyer as Peacemaker: Law Community in Abraham Lincoln's Slander Cases," *Journal of the Abraham Lincoln Association*, Volume 16, No. 2, Summer 1995.

2 Ibid

3 Ibid

4 Robertson, George W. "Scrap Book on Law and Politics, Men and Times," 1855.

5 Quote from Peace Pilgrim (1908-1981).

Do You Need to Upgrade to Microsoft Office Suite 2007?

BY DAVID J. FERRELL

(djf@elpasolaw.com)

Lawyers are word merchants. We sell words orally, on paper or in computer generated presentations. How we create, modify and distribute these words makes us completely dependent on technology that has preempted the typewriter, the foam board and the large paper pads of yesterday. Some of us still use the chalk board or one of its newer cousins in trial.

If you have seen Microsoft Office Suite 2007, you are probably impressed with the amazing functionality of this major upgrade. But, you are probably also amazed at the price of the professional version which sells for \$299.00. If you have more than one computer to upgrade you may want to keep your earlier version of "Office" that probably works fine. You can buy cheaper versions of "Office 2007" like the "Home and Student" edition for \$199.00, which will allow you to install it on 3 computers. The Home and Student programs are supposed to be for "non-commercial use". The first draft of this article was written with the Home and Student edition and I can assure you that this endeavor is "non-commercial". I did migrate the text to my "commercial" version of WordPerfect X3 for tender to the publisher. Anyway, you can find Microsoft Office at lower "street" prices if you google "Microsoft Office Suite 2007".

There are several "Office" type competitors to Microsoft Office Suite 2007. The one I am writing about in this article is a prime



software alternative that performs well and uses many, if not most, of the same Microsoft Office keystrokes and is downloadable over the internet. Using this product will be easy for you, your staff and your children if you/they are already accustomed to Microsoft Office. Oh, by the way, the price for this alternative package is 0.00 (zero, free, gratis). You can download "Open Office.org" at <http://www.openoffice.org/>. There are extensive help resources at that same website and most of the material there is understandable.

The free package provides:

Writer – a word processor you can use for anything from writing a quick letter to producing an entire book (Like Word).

Calc – a spreadsheet with all the tools you need to calculate, analyze, and present data in numerical reports or graphics (Like Excel).

Impress – a powerful way to create effective multimedia presentations (Like PowerPoint).

Draw – lets you produce everything from simple diagrams to dynamic 3D illustrations (Like Microsoft Publisher).

Base – lets you manipulate databases seamlessly. Create and modify tables, forms, queries, and reports (Like Access).

Math – lets you create mathematical equations with a graphic user interface or by directly typing your formulas into the equation editor (Like Microsoft Equation Editor).

OpenOffice works with Linux, Microsoft Windows, MacOS X, Solaris, FreeBSD, OpenVMS and IRIX. It supports the OpenDocument standard for data interchange.

OpenOffice.org is based on StarOffice, an office suite developed by StarDivision and acquired by Sun Microsystems in August 1999. The source code of the suite was released in July 2000 with the aim of reducing the dominant market share of Microsoft Office by providing a free, open and high-quality alternative.

OpenOffice.org aims to compete with Microsoft Office and emulate its look and feel where suitable. It can read and write most of the file formats found in Microsoft Office, and many other applications. OpenOffice.org can open files of older versions of Microsoft Office and damaged files that newer versions of Microsoft Office itself cannot open. However, it cannot open older Word for Macintosh (MCW) files.

LETTER TO EL PASO BAR OFFICERS

JULY 27, 2007

My friend, Judge Anchondo,

I want to congratulate you, as the new local bar president, and I want to also congratulate the newly elected officers of the El Paso Bar Association board of directors. Please be so kind as to forward this congratulatory communication to those good people.

I am very happy for you and for the people I know you will continue to serve. The people have in you a group of professionals that are committed to the spirit of servant leadership. It is in the humble service of others that we can truly make a more significant and lasting difference. It is this commitment to service that defines a person's greatness. You do not have to be a king or a pope to make a lasting contribution to the betterment of others. Look at people like the humble St. Francis of Assisi, a mendicant who possessed no noticeable material or political power, yet he contributed much more benefit to others than a hundred kings or a hundred popes put together. It is not the position one is placed in which qualifies one as important or great. It is how one lives out that position day in and day out. Mis queridos amigos, it is, in fact, a privilege and an honor to be afforded the opportunity to serve rather than be served.

Judge, you and the officers, by virtue of your office and the fact that you are attorneys, will continue to be tempted, no doubt, to act in accordance with political correctness at the risk of sacrificing noble principles. Your honor and dignity will be tempted to blind themselves to humility and charity. You will be tempted to react in anger and impatience at times, and ignore basic common courtesy. You will be tempted, by the praise and deference given to you by virtue of your respective positions, to not value humility. This is part of the human condition we all find ourselves with. Yet, your true fiber as a person, as a human being, and as a judge or attorney will reveal itself in how you deal with such temptations. Undoubtedly, you are possessed of an array of virtues. You are kind-hearted. You are presumed to be persons of noticeable fairness. You have solid common sense. You surely have a beautiful kindred spirit. You are intelligent and knowledgeable about many things. You are probably regarded as being value-based in your decisions. You hopefully are aware of the importance of having a strong spiritual foundation. You have unique experiences from which you can learn and grow. In short, you have been blessed many times over, and now you have been called by name to share those blessings with others, to use the blessings to better the world and the plight of many in need.

Stop and reflect a little on this point, dear friends and colleagues: You have been given the special opportunity to serve so many and do a lot of good for others. Is that not awesome? To serve...Oh, Holy Service!

Some, when putting on the judicial garments or their lawyer hats, connect that with power and self-importance. Remember every time you put on your judicial robe or you gaze at your license to practice law that those things are also a symbol of servitude. You are a servant in the administration of justice. You are a servant of the people. Wear the robe and hold on to your law license humbly and with appreciation...appreciation for being extended the privilege of serving people.

You do not have to be perfect. As the writer Anna Quindlen once remarked: "The thing that is really hard, and really amazing, is giving up on being perfect and beginning the work of becoming yourself." Be yourself. A wonderful new world awaits you, my cherished colleagues. There is much to do. There are many to help. The sky is the limit. Go, therefore, my good friends, and bring comfort to many, a sense of fair play in all your actions and dealings, and a fervent commitment to the ideal of justice for all. Use your love of the law to preside over the bar association, or your court, or your law practice in a manner that earns the people's trust and their full confidence. Use your God-given gifts and talents, as well as your skills and experiences, to embrace your responsibilities in such a way that the fruit of your labors will flourish in vast abundance. Keep in mind the great Gandhi's wise words: "The best way to find yourself is to lose yourself in the service of others."

Go in peace, champions and advocates of the law, and do wonders in the spirit of charity, truth, hope, and justice for all.

Oscar

Oscar G. Gabaldón, Jr.

A FELLOW SERVANT IN THE SERVICE OF OTHERS

Ensuring Interpreter Proficiency

■ BY: RAFAELA G. GRAFFOS
Advocacy Chair, EPITA

Earlier this year, it was reported that an interpreter was sent home during a hearing “after a painful hour of miscommunication.”¹ How does that happen? In any proceeding, the mission of a court interpreter is to facilitate immediate and faithful communication between people who employ different languages. How is it that interpreters are often seen as stumbling blocks rather than stepping stones to precise communication?

Even in the best of situations, the use of an interpreter can slow down the process. Many attorneys feel that they lose control over witness testimony, their rhythm is compromised and often, an interpreter unconsciously alters the pragmatics of questions that the attorney is using to direct the interrogation. Additionally, users of interpreter services frequently do not know how to address the various pitfalls that surge in interpreted proceedings.

One important determinant to effective and accurate communication is to ensure that steps are taken to determine the level of competency and skill of the interpreter. To this end, *Voir Dire* questionnaires may be used to qualify prospective interpreters. The questions address experience, training and certification: “Have you taken a test to qualify you as an interpreter?” “This trial involves ‘street slang’. Do you have the required vocabulary?” Other questions focus on their



knowledge and understanding of the interpreter’s Code of Ethics: “Do you understand that you must interpret everything and you may not summarize or paraphrase any testimony?” The answers to these questions are critical because a defendant has the right to an interpreter who has the ability to render a precise interpretation and who, at minimum, is fully versed in court terminology and is able to communicate these concepts from one language to the other.

One needs to be familiar with research regarding the effect of interpreter renditions of witness testimony. For example, Susan Berk-Seligson² found that interpreters often inadvertently raised the formality of a witness’

response and this created a more positive impact on mock jurors regarding the witness’ intelligence, competence and trustworthiness. Changes in linguistic presentation and excessive interruptions of witness testimony have been shown to impact the credibility of the witness.

To facilitate interrogation through an interpreter, the following suggestions are offered:

1. Ask short questions. Use short sentences;
2. Speak clearly and at a moderate speed;
3. Avoid pronouns;
4. Avoid double negatives;
5. Monitor the level of understanding of the witness and clarify, repeat or rephrase.

The Federal district courts alone recorded 210,336 interpreted events in 2006.³ These increasing numbers strongly indicate that attorneys take a more active role in ensuring proficient interpretation for their non-English speaking clients.

1. Sumner, J. 2007 May 15. Defense continues to hammer on USADA’s Landis charges. 1 VeloNews.com. [Http://www.velonews.com/news/fea/12259.0.html](http://www.velonews.com/news/fea/12259.0.html), Accessed 2007 May 16.
2. Berk-Seligson, Susan. 1990. *The Bilingual Courtroom: Court Interpreters in the 2 Judicial Process*. Chicago: University of Chicago Press.
3. Admin. Office of the U.S. Courts. *Judicial Business of the United States Courts: 2006 Annual 3 Report of the Director 27(2006)*



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We Are Family

■ BY CLINTON CROSS

We lawyers are all members of a family. That's silly, you say, because we are not all biologically related to each other.

Because El Paso is an oasis wedged between two deserts and is somewhat isolated, many lawyers in this community are biologically connected. For instance, this month I interviewed Ellis Mayfield. Ellis' wife was from a family of lawyers, Kemp and Beall.

Ellis' law partner for 28 years was Francis Broaddus. Let's take a moment to explore his family ties.

Francis Broaddus' grandfather was Judge Walter D. Howe. Judge Howe was judge of the 34th District Court for thirty-three years. Judge Howe came to El Paso because he needed a job, and his uncle, El Paso Judge Frank Hunter (not to be confused with his grandson, also an attorney named Frank Hunter), needed some help. Judge Howe was a very important person in El Paso's legal history. I hope you remember his name.

Francis Broaddus' uncle was Maury Kemp, of the Kemp/Smith law-firm. You should know the name of the firm.

Another uncle was Richard F. Burges. He pioneered establishment of the firm known as Scott, Hulse, Marshall and Feuille. My guess is you've also heard of Scott/Hulse.

Richard Burgess' grandson was Burges Perrenot. Burges was a partner in a law-firm known as Mayfield, Broaddus, and Perrenot. If you haven't heard of this firm, be sure to read my "senior lawyer interview" with Ellis Mayfield.

Francis Broaddus' second cousin is (note I said "is," not "was") Morgan Broaddus. Morgan practices with Gordon and Mott. Gordon and Mott is a firm of relatively recent origin, but obviously has ties to El Paso's historical past.

Judge Walter Howe's grand-daughter "Nita" Rogers married Crawford Kerr, partner in the Edwards, Belk, Hunter (remember Frank Hunter?), and Kerr law-firm. In the future,



I will do a "senior lawyer interview" with Crawford Kerr.

Crawford's son is Jay Kerr, presently with the Edwards/Belk firm. By the way, the "Belk" refers to Bates Belk, father of El Paso Bar Board Director Robert Belk.

Richard Burges' great-granddaughter is married to Greg Pine, another El Paso attorney.

I hope this brief example illustrates how some lawyers in this town are biologically connected to each other, and to the past.

As any adoption lawyer can tell you, though, there is much more to family than biology. There can be "family" without biology.

How are we all members of an extended family of lawyers?

In the first place, "family" is a part of the psychology of the courtroom. The judge is a parent figure, sitting on a bench that is higher than the other tables in the courtroom. As a symbol of his moral authority, the judge wears a priestly robe. The judge controls the space in the courtroom, much as our parents controlled the space in our homes when we were children. We must ask permission to approach the bench, the witnesses, or the jury. Just as our parents could confine us to our room, judges have the power to put people in jail. Just as our parents

could "ground" us, judges can give people probation.

When in trial, the parties to the dispute are, like children, not allowed to speak unless spoken to. A response to a question that wanders from the question asked is either non-responsive or not relevant to the question asked.

The attorneys are, like teen-agers, frequently testing limits—often pushing the rules of evidence and the limits of argument.

Some lawyers question their parents' values. Doesn't every generation question the one before? As proved by cases like *Brown v. Board of Education*, it must be conceded that sometimes the critics are right. Constructive criticism carries society forward.

The parallels to the family experience, however, do not stop with trial courtroom decorum. When confronted with a difficult issue, a judge often consults reported cases, decisions by his or her professional ancestors. "A man's education begins with his grandfathers," said Oliver Wendell Holmes. We consult the past to determine how we should resolve today's problems. As Oliver Wendell Holmes once noted, in trying to understand the law "a page of history is worth a volume of logic."

We study our parents' and grandparents' values. We reject some of those values (we don't always see "eye to eye"), and we reaffirm our commitment to those values that we believe are today in the best interest of our community. We are, as Richard Neely, former Chief Justice of the West Virginia Supreme Court pointed out, all members of a "secular priesthood." We are caretakers of our community's moral values.

In the past, incidentally, our El Paso lawyer ancestors did not always fight fair. Sometimes fist fights settled cases. Sometimes lawyers killed each other. Fortunately, we have abandoned gunfights and duels as a form of dispute resolution. When we litigate, we should fight fair, with courtesy and respect for each other.

In short we lawyers are all members of a spiritual family, even if we are not biologically related to each other.

The El Paso Bar Association's Bar Bulletin is proudly designed and published by DEL PUEBLO PRESS, INC. We are located on 203 Mills in the historic Cortez Building in Downtown El Paso. Contact us at (915) 545-1598 or pueblo@ureach.com.

ATTENTION ATTORNEYS:

The Bail Bond Board is charged by law with regulating the bond companies in El Paso County. All the rules are found in Chapter 1704 of the Occupations Code.

The Board is a deliberative, regulatory body consisting of members defined by the Legislature at 1704.053 that includes a District Judge, County Court at Law Judge, a Justice of the Peace, Presiding Municipal Judge and others. The Legislature added a provision to include a Criminal Defense Attorney:

(13) a criminal defense attorney practicing in the county and elected by other attorneys whose principal places of business are located in the county and who are not legally prohibited from representing criminal defendants or the designee of the criminal defense attorney.

If you are interested and wish to nominate yourself or another attorney, please send the name to Nancy at the El Paso Bar Association office in the lower level of the courthouse before October 8, 2007 before 5:00 p.m.

If you have any questions about the work of the Board or if you are nominated, and feel you may have a conflict of interest, please feel free to call the attorney for the Bail Bond Board, Arne Schonberger, at 546-2050 or Judge Regina Arditti at 351-7037 to discuss the matter.

Submit names by October 8, 2007 by 5:00 p.m. and please, if you are practicing in El Paso County and are not legally prohibited from representing criminal defendants, come vote between 12 noon and 2:00 pm on October 22, 2007 at the El Paso Bar Association office on the Lower Level of the County Courthouse room.

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Judge Patricia A. Macias

Named President-Elect of National Council of Juvenile and Family Court Judges

Judge Patricia A. Macias, Presiding Judge of the 388th Family District Court was elected President-Elect of the National Council of Juvenile and Family court Judges during the organization's 70th Annual conference held on July 22-26, 2007 in San Francisco, California.

She is slated to become the organization's
President in July, 2008.

12TH ANNUAL CIVIL TRIAL SEMINAR

February 15 & 16, 2008

Paris Hotel and Casino, Las Vegas, Nevada

**We have a block of rooms available beginning
on February 14, 2008 at the rate of \$199 per
night. Please check our website for complete
details and registration information.**



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SENIOR LAWYER INTERVIEW

■ BY CLINTON CROSS

ELLIS O. MAYFIELD



I interview this month Ellis O. Mayfield, who at age ninety-two is one of our truly senior lawyers. He started with a law license, served in World War II, started over again, was recalled to duty during the Korean War, started over again, founded a great law firm, and gave much to our profession and to our city of El Paso.

Cross: *Tell me about your parents.*

Mayfield: My uncle, Tom Mayfield, moved to El Paso from South Carolina around 1906 for health reasons. My father, James Davis Mayfield, moved here the following year. My mother, Anna Grace Ellis, came from Uvalde, Texas. I was born here. My father and my Uncle Tom built homes here, lots of them.

Cross: *Where did you go to school?*

Mayfield: I attended Austin High School, Texas College of Mines and Metallurgy, and the University of Texas at Austin. I graduated from U.T. Law School in 1939.

Cross: *Why did you go to law school?*

Mayfield: Both my grandfathers were lawyers, and my wife's grandfather was also a lawyer.

Cross: *After you graduated, what did you do?*

Mayfield: I returned to El Paso after law school and began practicing law with four other young men.

After the attack on Pearl Harbor, I decided to enlist in the Army and was given the rank of Private. I was twenty-four years old at the time. I served with the 29th Infantry Division in Europe on

D-Day, landed on Omaha Beach on the second day and I survived.

After the War, I was discharged with the rank of Captain but I remained in the reserves. I was called back during the Korean War, but fortunately I did not have to go overseas.

Cross: *After returning from the War, what did you do?*

Mayfield: I had to start my law practice all over again. As a matter of fact, I also had to start over again after the Korean War. The "getting started" over and over again was challenging.

Cross: *What happened then?*

Mayfield: I finally succeeded in building a pretty good law-firm. Some of the older lawyers still remember the firm, "Mayfield and Perrenot."

Cross: *Ever get involved in politics?*

Mayfield: When I first got out of law school I ran for the legislature. I ran against Marvin Whittenton and another fellow by the name of Woodrow Bean. I lead after the first election, but we had to have a runoff. My friends told me I'd be a shoo-in, and not to worry about the runoff. They didn't worry either, and went golfing on the day of the election. I lost by 50 votes. That was the end of my political career.

Cross: *As a result, did you give up on serving El Paso?*

Mayfield: You don't have to be an elected official to make a difference, and to give back to your community.

Cross: *So, what are some of the things that you were able to do?*

Mayfield: I'm willing to try to answer your question, but I want to be clear that the specifics of my life are not that important. What is important is that lawyers try to improve their communities. As members of the legal profession, we have the opportunity to be leaders, and we should try to be constructive and responsible leaders.

Anyway, to answer your question, I served as chairman of the citizens' committee to promote the construction of the Bataan Memorial Trainway through downtown El Paso. I headed an information program that won public support for relocating the train tracks that ran along Main Street and created serious traffic problems at the time.

I also served as one of five members on the Public Service Board, which dedicated itself to trying to assure El Paso a continuous supply of water for the future.

I supported UTEP. I served as president of the Downtown Touchdown Club, and chaired the President's Associates during a period when gifts to the University increased from \$249,278 to \$1.1 million. I was also a longtime member of the Matrix Society.

My wife, Susan, and I established a scholarship fund at UTEP to assist students who deserved help and needed it.

I'm willing to try to answer your question, but I want to be clear that the specifics of my life are not that important. What is important is that lawyers try to improve their communities. As members of the legal profession, we have the opportunity to be leaders, and we should try to be constructive and responsible leaders.

During my career, I served as president of the El Paso Bar Association, the Chamber of Commerce, the El Paso Symphony Orchestra Association, and the El Paso Country Club.

In these positions, I worked with the El Paso Industrial Development Corporation, Crime Stoppers, Hospice of El Paso, Southwestern General Hospital, and the El Paso Community Foundation. I chaired the City's Intergovernmental Relations Board. I served as junior and senior warden of the Church of St. Clement, and as chancellor of the Diocese of the Rio Grande (Episcopal). I played a role in the founding of St. Clement's Parish School.

I am also a Fellow of the Texas Bar Foundation.

Cross: *Did you ever get recognized for any of this work?*

Mayfield: Yes, but I did not do the work to get an award or to get recognized. I did the work because I wanted to help my profession and my community.

Cross: *What are your thoughts about the practice of law today?*

Mayfield: In some ways, I think we've lost our way. It used to be that a lawyer was the guy you trusted you trusted your lawyer, and your priest. We were and still are members of a "secular priesthood." We are trustees of our system of justice, and we should act like it.

The legal profession is more than a business. Advertising is debasing our role as professionals. And we should set high ethical standards throughout our lives, not just talk about it in law school.

Cross: *Your family?*

Mayfield: I married Susan Neff Ballantyne in 1951. We celebrated our 56th wedding anniversary this year. We have four children: Reverend Ellis O. Mayfield, Jr. of Sewanee, TN, Margaret Meyer of El Paso, TX, Carolyn Mayfield of Boulder, CO, and Blythe Larson of El Paso, TX. We have 10 grandchildren.

I have been blessed with a wonderful wife, family and law career.

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THE EL PASO BAR ASSOCIATION'S
*Welcome Happy Hour
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Friday, September 7, 2007, 5 pm to 7:30 pm

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THE COURTHOUSE STEAL CASE OF 1885

■ BY COLBERT NATHANIEL COLDWELL AND BALLARD COLDWELL SHAPLEIGH

With the smell of a major public corruption scandal wafting around the courthouse and the construction of a new federal courts building well underway, it is worth remembering the “Courthouse Steal” case of 1885 which, as noted by Dr. C.L. Sonnichsen in his seminal work *Pass of the North-Four Centuries on the Rio Grande*, revealed “the biggest scandal since the Salt War [of 1877] and gave the town one of the most dramatic moments in its early history.”

El Paso, having won a rarely held election over Ysleta to determine the county seat in 1883 (such elections could by law only be called once in any five year period), decided to cement the election results and build by many accounts the largest and finest courthouse in Texas. But in May, 1885, a group of concerned citizens asked commissioner’s court to investigate the building contractor who was believed to be cutting corners on the contract as the contractor, according to the pleadings, wanted “to obtain illegally a considerable amount of money” substituting stone instead of brick in the foundation for example, and failing to comply with the agreed plans and specifications in other respects. The contractor also tried to bribe the city officials to look the other way. The firm of Hague & Coldwell (consisting of J. P. Hague and W.M. Coldwell, who were brothers-in-law as they were married to the sisters Brinck) was hired to represent the county against the builder, Britton and Long Construction Company of Houston.



Their bid to build the courthouse and the jail for \$135,000 had been accepted over that of several other contractors.

Only a month earlier, Commissioner’s Court also selected from among several bids and fixed the site for the new courthouse on Block 209, San Antonio Street, where the present glass enclosed facility sits today, with the courthouse also to be facing north on San Antonio Street, east on Campbell Street, west on Kansas St. and south on Overland St., all for a price of \$10,000. Commissioners also selected an adjoining block to the west bounded by Stanton Street for the jail.

The drama came at trial when J. P. Hague testified that he was given \$2500 to appear against the county and in favor of the accused. Hague dramatically exhibited the money in court and stated, “I want the Court to know that Hague and Coldwell are not for sale”, which

El Paso, having won a rarely held election over Ysleta to determine the county seat in 1883 (such elections could by law only be called once in any five year period), decided to cement the election results and build by many accounts the largest and finest courthouse in Texas.

drew a cheer from the gallery for his honesty and loyalty to the county. Hague was reported to have donated to charity all the money intended as a bribe.

There are facts and circumstances of the Courthouse Steal case which are eerily similar to the reported details of the present scandal involving Commissioner’s Court. According to Dr. Sonnichsen’s history, “James P. Hague set a trap for the rascals, accepted the money offered him while concealed witnesses listened in, and made public exposure of the whole scheme the next day”,

that exposure apparently happening during the trial.

Despite the scandal, the suit was settled and the new courthouse was completed and formally dedicated on February 15, 1886. A replica of the 1886 courthouse by noted El Paso sculptor James Drake sits against the north wall of the third floor in the present courthouse.

In addition to the use of family papers and documents, the authors wish to acknowledge use of the following sources: *Pass of the North-Four Centuries on the Rio Grande* by C.,L. Sonnichsen and *The Legal Heritage of El Paso* by J. Morgan Broadus.



El Paso Bar Association President Judge Robert Anchondo, has proclaimed that during his year as president, special attention will be given to the legal history of El Paso County. As part of this project articles will be printed in the El Paso Bar Journal highlighting the rich and colorful legal history of some of El Paso's most famous lawyers, judges, trials and legal issues that have molded the character and reputation of our city and county.

We encourage all lawyers, judges, paralegals, law students, pre-law students, and anyone else with an interest and knowledge of the legal history of El Paso to contact Judge Anchondo, Judge Moody or Clinton Cross.

We hope to make this search of El Paso's legal roots to be entertaining and informative. The articles should be 500 to 1,000 words and be submitted to either Clinton Cross or Judge Moody.

THE LIST BELOW ARE SOME SUGGESTED BUT NOT EXCLUSIVE TOPICS:

1. The El Paso County Courthouses at 500 East San Antonio (1886, 1917, 1955, and 1990) the construction and politics behind them,
2. The Mexican Revolutions and El Paso lawyers involvement in the Revolutions,
3. The Tigua Indians: Their long struggle, the migration to El Paso and recognition by the U.S. and Texas along with their influences on El Paso,
4. Establishing the El Paso Bar Association and its early years and leaders,
5. The Birth of El Paso County: The Mexican-American War 1846-1848, the Treaty of Guadalupe Hidalgo, the Compromise of 1850, the Gadsden Purchase 1853, and the International Boundary Commission,
6. Military lawyers, the JAG, and Fort Bliss (Include Lt. Flipper),
7. The establishment of the U.S. District Court in El Paso, its Judges, and landmark decisions (Billie Sol Estes, Jencks, and the first airline hijacking case in the U.S.),
8. The 8th Court of Appeals: its judges and landmark decisions,
9. The El Paso State Judiciary (District, County Courts at Law and Probate Courts): their creation and famous judges,
10. Police and Municipal Courts,
11. The Chamizal Dispute,
12. El Paso's anti-discrimination ordinance (the first in a southern state since reconstruction),
13. Voting rights and Dr. Nixon's legal battles to the U.S. Supreme Court,
14. Water rights disputes in El Paso and the Rio Grande Compact Commission,
15. El Paso's reaction to Plessey v. Ferguson (1896) and Brown v. Board of Education (1954) and the Integration of Texas Western College, the Thelma White case,
16. Pioneer Asian, African, Hispanic, Jewish, Middle Eastern, and Mormon attorneys in El Paso,
17. Immigration in El Paso: the Germans, Italians, Chinese, other Asian groups, Mexicans and Central Americans and the founding of the Immigration Court and landmark immigration cases in El Paso from the Chinese Exclusionary Act to the present,
18. Pioneer female judges and attorneys and the suffrage movement in El Paso,
19. El Paso County Seat when located in San Elizario and Ysleta and the vote to change the county seat to El Paso,
20. The El Paso legal system under Spanish and Mexican rule including its modern influence,
21. Native American law in the Southwest prior to Spanish rule,
22. Lawyers who helped establish and perpetuate the churches in El Paso,
23. El Paso lawyers and the arts: those who helped found the El Paso Symphony, the Art Museum, the Ballet, Opera, Library, and the History Museum,
24. El Paso Bar Association Galas,
25. Juarez attorneys and the El Paso Bar Association,
26. El Paso's lawyer mayors,
27. Capital Murder cases and executions involving El Paso,
28. Famous El Paso murder cases (John Wesley Hardin, Ted Andress, the Patterson=s, Lee Chagra - only a few examples),
29. Famous El Paso lawmen: City police, Sheriffs, FBI, U.S. Marshals, Texas Rangers and their involvement in the El Paso legal system,
30. Pick any decade from 1850 through 1980 and develop prominent lawyers, judges, and cases of that period.

EL PASO COUNTY AND THE STATE OF TEXAS

■ BY HOWELL ("CHIP") COBB

After nine years as a Republic, Texas was annexed by the United States in 1845. Texas claimed that its boundaries included all lands east of the Rio Grande River; Mexico claimed that Santa Ana's recognition of the Republic of Texas was invalid (duress); in any event, Mexico claimed the Republic was limited to lands East of the Nueces River. The ongoing dispute concerning the boundary led to the Mexican-American War after annexation. After the United States prevailed, the boundary between the United States and Mexico was established by the Treaty of Guadalupe-Hidalgo in 1848. However, the Treaty failed to establish the territorial jurisdiction of either El Paso County or the State of Texas. Both were to come later.

Texas continued its claim to all lands east of the Rio Grande River, including El Paso.

By December, 1949, Governor Bell had already called for the organization of western counties and the extension of Texas's jurisdiction there. In December, the legislature created the counties of Presidio, El Paso, and Worth.

In January, 1850 Charles A. Hoppin, residing in San Elizario, wrote Governor Peter Bell of Texas regarding conditions in the county of El Paso. He wrote:

"Now we are in a region without law. Tis' true there is a prefect residing some miles above El Paso & there [are] in each of the small towns up on the island Alcaldes appointed by him. The Prefect rec[eive]d his appointment from the Governor of the Territory of New Mexico, but what laws govern the decisions the the Alcaldes I know



Governor Bell appointed Major Robert Neighbors to organize the counties and hold elections for county officers. On March 4, 1850 Charles Hopin was elected chief justice of the county, later called county judge. San Elizario became the county seat.

not. I presume each one selects such a code as best suits him. Here the Alcalde[,] a very worthy Mexican[,] is governed by Laws enacted by the state of Chihuahua. We have no magistrates.....An American has been arrested and now is in the Guard House here charged with the revolting crime of rape. How can he be tried[?] If he is brought before an Alcalde has he the power of punishing if the charge is not proven[?] An American citizen is entitled to a jury trial. Who can summons [sic] the jury [?] Who gives sentence [?] Who is authorized to execute the sentence if given [?] The People wish it and it is their right to ask it. If this is not a part

of Texas [.] then from New Mexico they must ask the protection of Civil Laws.

"The organization of a county with the appointment of Magistrates and Judges would have a highly beneficial effect upon the population here [.]...Let me ask you to confer upon me a great favor. I would be glad to receive a copy of the Laws of Texas...."

Governor Bell appointed Major Robert Neighbors to organize the counties and hold elections for county officers. On March 4, 1850 Charles Hopin was elected chief justice of the county, later called county judge. San Elizario became the county seat. On August

20, 1850, Hoppin was replaced by Archibald C. Hyde, who served two terms.

Unfortunately, Texas' claim to El Paso was disputed and the boundary between Texas and New Mexico remained unresolved. The establishment of the boundary between New Mexico and Texas would ultimately be determined by the Congress one year later.

The author wishes to acknowledge use of the following source: El Paso: A Borderlands History, by W.H. Timmons (Texas Western Press, 2004).

Next Month: The Compromise of 1850 and Defining Boundaries of the State of Texas



Name:
Patrick Garcia

Court:
384th Judicial District Court

Years on the Bench:
10

Education:
BA, Economics, San Francisco State University, 1982; JD, The University of Texas, 1985

Docket type:
Criminal & Civil

Court Coordinator:
Maureen "Mo" Bailey

Pet Peeve:
Lawyers who do not call to say they will be late.

Favorite place to go on vacation:
San Francisco

Last book I read:
"Lincoln's Moral Vision"

Last movie I saw:
"Transformers"

If I wasn't a judge, I would be a:
Chef



LAWYERS AND CHURCHES

■ BY RICHARD FEUILLE

Lawyers have always necessarily played a major role in the civic and governmental life in El Paso. Did you know that lawyers have also always played a major role in the charitable life in El Paso, and even in its religious life?

Did you know, for example, that a lawyer by the name of Gaylord Judd Clarke started the first Protestant Church in El Paso—St. Clement's Episcopal Church? St. Clement's was the first Protestant Church established between San Antonio, Texas, and Santa Fe, New Mexico. It was started by Judge Clarke in the late 1860's and the early 1870's, when El Paso was called "Franklin" and only had about 800 residents.

Judge Clarke arrived in the dusty village then known as "Franklin" in 1867. He began holding morning and evening services each Sunday, when he read the Episcopal services to whomever would join him

and his wife in the parlor in his house.

After a couple of years, he went to Austin, Texas to ask Episcopal Bishop Gregg to send an Episcopal minister to Franklin to establish a regular Episcopal Church in Franklin. In 1870, Bishop Gregg sent Parson Joseph Wilkin Tays to Franklin, at Judge Clarke's expense. When Tays arrived by wagon train, after nearly a month's travel, Judge Clarke rented a two room apartment in the center of the town with a small corner room, which provided a home for Pastor Tays and his family, while the larger rear room was designated as the Church's chapel.

On October 9, 1870, Parson Tays conducted the first formal service at the new church. The Church was "officially" named St. Clement's after Clement, the Third Bishop of Rome. "Coincidentally" it may have also been named in honor of Judge Clarke's son, Clement,

who had died as an infant from small pox.

Judge Clarke played a large role in getting other Franklin residents to become members of the church. St. Clement's is still operating today and is the largest Episcopal Church between San Antonio, Texas, and Phoenix, Arizona.

St. Clement's archives show that St. Clement's has always been heavily served in its governness and its church affairs and property management by members who are lawyers, as they have served as Lay Readers and Sunday school teachers and Vestrymen and as Wardens and as retreat leaders. Some ex-lawyers, such as the Rev. Philip Jones, its recent Rector, have even served as its ministers, and El Paso attorney Cynthia Anderson is an ordained minister, and she not only maintains a law practice as a partner in her husband's law firm, but she serves St. Clement's in her role as a minister of the Gospel.

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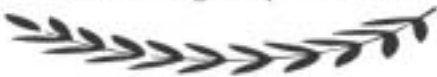
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▶▶▶ ASSOCIATION NEWS

■ El Paso Women's Bar Association

■ The El Paso Women's Bar Association will have its first meeting of the bar year on Thursday, September 6, 2007 at 5:30 p.m. at Tres Mariposas. Join us for a fashion presentation by Nan Napier, "You Are What You Wear". Members will also be given an introduction to the WBA and will have the opportunity to sign up for WBA committees. Find out what the Women's Bar Association is all about!

The Women's Bar Association will also be having a rummage sale on Saturday, September 22, 2007 at 8:30 a.m. at 1315 Rim Road. If you would like to donate any items, please contact Diana Valdez at 546-8208 or at dval@scotthulse.com

THE INTERNATIONAL LAW SECTION EL PASO BAR ASSOCIATION

Presents

What every US Attorney Should Know About Mexican Law

Thursday, October 4, 2007

1:00 p.m. – 3:00 p.m.

El Paso County Courthouse

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Cost is \$25.00 for members of EPBA

\$35.00 for nonmembers of EPBA

TOPICS TO INCLUDE:

Litigation, Corporate, Foreign Trade and Customs,
Tax Litigation and Labor.

Please send your check to El Paso Bar Association, 500 E. San Antonio,
Room L-115, El Paso, Texas 79901. If you have any questions, please
contact Nancy at 532-7052 or atnancy@elpasobar.com

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■ **Central Office Space for Lease:** Office Space available, receptionist, runner,

conference rooms, parking, etc. Call Bob Earp or Larry Schwartz at 542-1533.

■ **Great Address for Law Office:** For Sale: 1301 E. San Antonio St. Make your best offer. Contact: Fernando Cardiel at 612-8043.

■ **For Rent:** Well Appointed Law Office with Certain Share Amenities at The Commons, 4171 N. Mesa. Contact: Lane Reedman at 544-6646.

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Nancy Gallego, Executive Director and **Cori Harbour**, President Elect of the El Paso Bar Association accepting the 2007 LexisNexis Community Service and Outreach Award at the ABA/NABE Annual Meeting in San Francisco, CA on Thursday, August 9, 2007.



The El Paso Bar Association

Invites you to join us
to celebrate our

110TH ANNIVERSARY ANNIVERSARY DINNER

Saturday, October 20, 2007

Judson Williams Convention Center

Celebration and Dinner to begin at 7:00 p.m.
with a cocktail hour. Black Tie Optional

\$75.00 per person

*110th Anniversary Composite
Photo will be unveiled*

Composite Photos from
past years will be on display

For more information, please contact Nancy
at 532-7052 or at nancy@elpasobar.com



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