



EL PASO BAR JOURNAL

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Spring 2017

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PRESIDENT'S PAGE

As I reflect on this past year as your Bar Association president, I keep coming back to the number of our colleagues and contemporaries who have passed away in the last 12 – 18 months. I'm not sure if it is simply that I am getting older (and I admit that I now read the obituaries every day) or that the legal profession in El Paso is just experiencing a difficult period in our

history, but during my tenure as president, we have lost some giants of the legal profession including Judge Robert Galvan, U.S. Magistrate Judge Mike McDonald, Larry Baskind, Milton Colia, Mike Hutson, Dale McCleary, Michael Stell, J. Sam Moore, Jr., Robert B. Wales, Rick Zamora, and just a couple of weeks ago, my dear friend Gary J. Hill. Like many of you, I was close to several of those lawyers who are no longer with us, but I was particularly close to Mike McDonald and Gary Hill.

Mike was a true mentor to me. I met and worked with him when he was an Assistant Federal Public Defender and later a United State Magistrate Judge. He taught me a great deal about compassion in the practice of law and speaking to clients in such a manner that they were able to truly understand what was in their best interest. Gary, on the other hand, was profane, crotchety, loud, and often, obnoxious. Mary Stillinger and I handled many, many cases with Gary and we can both tell you that all of the stories you've heard about him are true. But, at a difficult period in my life, when I called upon him for help, he did not hesitate and I will be forever grateful.

Each of us entered this profession to help others, and sometimes those "others" are lawyers. Please remember each of these local legends as you read this column, and then perhaps share some of your memories of their lives with the younger members of the El Paso Legal Community.

Notwithstanding the loss of so many of our own, it has been my privilege to serve as your president. As many of you know, this year we moved the El Paso Bar Association's Annual Civil Trial Practice Seminar to New Orleans – and it was a resounding success! I am incredibly grateful to all of our speakers, who are directly responsible for the success of the Seminar. A huge thank you to all of our sponsors, including: The Law Office of Daniela Labinoti; Ray McChristian & Jeans, P.C.; Mounce Green Myers, Safi, Paxson & Galatzan, P.C.; Express Records; Delgado, Acosta, Spencer, Linebarager & Perez, P.C.; Flores, Tawney & Acosta, P.C.; Glasheen, Valles & Indermann, P.C.; Antcliff Mediation, PLLC; James B. Kennedy, PLLC; and George P. Andritsos. I am also very grateful to Judge Mike Torres for his very entertaining interview of two of our Legal Legends, Judge David Briones and Judge Carlos Villa.

Near the end of May, the EPBA will host its bi-annual, State Bar award-winning El Paso for Patriots (EPP) Veterans Clinic at the Trans-Mountain Campus of the El Paso Community College. We will need help in almost all areas of the law, but particularly family law, wills and trusts and bankruptcy. This event is co-sponsored by the EPBA and the 346th Judicial District Court's Veteran's Program. We are thankful for all that Judge Angie Juarez Barill does to support this event. This clinic will require only an hour or two of your time and I invite you all to come out and help.

As you will recall, the EPBA's monthly luncheon at the El Paso Club on the second Tuesday of each month continues and your attendance is definitely on the rise. In January, Mary Kipp, President of El Paso Electric was our speaker. In February, our speaker was Bob Bielek, TXDOT District Engineer, and in March our speakers were the candidates for State Bar President. On April 11, 2017 our speaker will be Jonathan Smaby, Executive Director of the Texas Center for Legal Ethics. Everyone present will receive 45 minutes of ethics CLE. In May, Ruben Robles, Sylvia Borunda Firth, and Estella Escobar, the District 17 Director, the Minority Director and the Public Member Director will present the State Bar Board of Directors Update. All of the past programs were well received and very informative and I have no doubt but that that will continue in April and May. I hope to see you each of you at the banquet.

Finally, our Law Day Banquet and Awards Ceremony is scheduled for Saturday, May 13, 2017 at 6:00 p.m. at the El Paso Country Club. The theme is Transforming American Democracy and our emcee will be Judge Carlos Villa. If you have any nominations for the various EPBA and Young Lawyer's Association awards, please submit them to Nancy Gallego or Kirk Cooper as soon as possible. Please plan on attending. Dress is business casual.

It has been my honor to serve as President of the El Paso Bar Association this past year and I am grateful for all of the support that I have received. I specifically want to thank President-Elect Mark Dore and our Executive Director Nancy Gallego. This year would not have turned out as well as it did without Mark's assistance and calm guidance. And, everyone knows that Nancy really runs the Bar Association anyway – at least she did for me. Have a wonderful summer!

Chris Antcliff,

PRESIDENT

EL PASO BAR ASSOCIATION
May Bar Luncheon
 Tuesday, May 9, 2017

El Paso Club • 201 E. Main, 18th Floor,
 Chase Bank - cost \$20 per person, 12:00 Noon

Guest speakers will be Ruben Robles, Sylvia B. Firth and Estrella Escobar, the District 17 Director, the Minority Director and the Public Member Director. They will be giving the "State Bar Board of Directors Update"

approved for 1.0 hour of MCLE by the State Bar of Texas

Door prizes will be given out

Please make your reservations by Monday, May 8, 2017 at 1:00 p.m.
 at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

EL PASO BAR ASSOCIATION
June Bar Luncheon
 Tuesday, June 13, 2017

El Paso Club • 201 E. Main, 18th Floor,
 Chase Bank - cost \$20 per person, 12:00 Noon

Swearing in of the 2017-2017 Officers and Directors of the El Paso Bar Association.

Door prizes will be given out

Please make your reservations by Monday, June 12, 2017 at 1:00 p.m.
 at nancy@elpasobar.com or ngallego.epba@sbcglobal.net

EL PASO PARALEGAL ASSOCIATION

General Membership Meetings
 3rd Thursday of each month
 All meetings are held at the
 El Paso Club, 201 E. Main, 18th Floor

El Paso Lawyers for Patriots Veterans Legal Clinic

Saturday, June 3, 2017
 9:00 a.m. to 1:00 p.m.
 El Paso Community College

If you can volunteer for the clinic, please contact Nancy at
nancy@elpasobar.com or ngallego.epba@sbcglobal.net

A View from the Bench

Municipal Appellate Judge Remembers (Almost) Playing Basketball for UTEP the Year They Won It All

BY KIRK COOPER

Odell Holmes has a story he needs to get off his chest. It's a parable, really, about the nature of Fate.

Holmes, 72, is married. He has three children and six grandchildren. He maintains his own general civil legal practice as a lawyer, and part-time, he serves as judge of the El Paso Municipal Court of Appeals, where he reviews a stream of cases brought by people with the temerity enough to challenge their municipal convictions and traffic tickets after trial. He's held that job for almost three decades after the Texas Legislature created the special court at his behest to alleviate the then-clogged county courts from some of their appellate responsibilities.

But Holmes doesn't want to talk about these things this February morning. He's done interviews with the El Paso Bar Journal on legal topics before, but now, he has a *story* to tell. He's told it to friends and family. He's told it to the Kiwanis. And now, in the conference room of his office on North Mesa Street, he's going to tell it to me. It's the kind of story that goes down better with beer or maybe some tequila, but seeing as how it's 10 a.m. on a Thursday, a stiff drink is out of the question. So I sip on water and listen.

He smiles. "What I'm going to tell you---it's part fact, part fiction. All of which is diminished by the passage of time." And so it begins.

You see, over fifty years ago, before Odell Holmes sat over the El Paso Municipal Courts System, before he was a mediator, a city prosecutor, or an attorney at all, years before his children called him Dad and litigants called him Your Honor and his colleagues called him counselor, he says people just called him Jimmy. He was the power forward and co-captain of Austin High School's basketball team. And in 1962, he accepted a scholarship to play basketball for Coach Don Haskins at Texas Western University—now the University of Texas at El Paso.

The sixties were a big time for basketball in this city, and every true El Pasoan knows the legend by heart. In 1966, Don Haskins led the unknown Texas Western Miners basketball



team out from the desert to win the NCAA tournament in a 27-1 season, fielding a disciplined team of black, white, and Hispanic players during a time when the dying embers of segregation still burned brightly in the South. Texas Western won the game by shutting down the University of Kentucky, a basketball juggernaut led by powerhouse coach Adolph Rupp. What made the upset victory even more historic was Haskins' decision to play only his black players during the final game. Before that time, no NCAA coach had ever decided to start an all-African American team like that, and the Texas Western v. Kentucky game is now viewed by many as a watershed civil rights moment in sports.

But you won't see Odell Holmes show up in *Glory Road*, the Disney movie commemorating Texas Western's NCAA finals victory. You'd notice him if he did. Holmes is 6'5"—and white. Yet some quick math shows that if Holmes started as a freshman on Texas Western's basketball team in 1962, then in 1966, Holmes would have been a senior. He logically should have been on that team, even if he was benched for that final game.

So where was Holmes?

"I would have played on the 1966 team," he assures me, before adding cryptically, "had I not been dismissed."

Those words loom in the air. *Had I not been dismissed.* Where once there were only two presences in this room, now there are three: myself, Judge Holmes, and the ghost of his dismissal from the Texas Western basketball team the year before they took it all and pulled off the biggest upset in NCAA history. I try to stick with the questions I had prepared for this interview, but instead, all I can think is: *should I ask him?* It turns out I don't need to ask. Holmes is eager to tell me, and it soon becomes clear that the reason for his dismissal is why I was summoned here today.

In higher mathematics, there is a concept known as chaos theory. It involves the attempt to predict the unpredictable and map out how small events can lead to unforeseen seismic shifts in things. Little did I know that Holmes' story would turn out to be a master class in chaos theory and the unpredictable effect of small events. Kingdoms are lost for want of a nail. Hurricanes are caused by the flapping of a butterfly's wings halfway around the world. And at least the way he tells the story, Odell Holmes, in a weird way, may have been the domino that needed to fall for Texas Western to make history.

To fully understand Holmes' role in this se-

A Salute To Basketball



Texas Western's varsity roster includes, from left, top row, Bobby Joe Hill, Ron Shockley, Jim Barnes, Ted Sterrett, Danny Vaughn and Ernest Campbell. Bottom row, from left, Willie Brown, Bobby Lesley, Steve Tredennick, Bryan Carpenter, Bill Maddox, Tony Toren, Dickie John and Nolan Richardson.

ries of events, you must first understand who Bobby Joe Hill was.

Bobby Joe Hill was a hero, so much so that he recently had a street named after him in Far East El Paso. Hill was a point guard from the Detroit area, standing somewhere between 5'9" and 5'10" tall. He was one of a handful of out-of-town basketball players that Haskins managed to lure to Texas Western with promises of scholarships and NCAA glory. In a 1991 retrospective on the '66 team, *Sports Illustrated* described Hill as "the leader of the Miners--their spirit, their soul, and. . . their 'steering wheel[.]'"¹ Hill was a strong defensive player and a great asset to the Miners, but the tension between Hill and Haskins was legendary. Theirs was a relationship driven both by mutual respect and mutual antagonism. Both men were portraits in stubbornness. Yet, even as Haskins would admit, Hill was gifted.

Hill wasn't the only top player that Haskins managed to recruit. There was also David "Big Daddy" Lattin. Jim "Bad News" Barnes. Togo Railey. Willie Cager. Harry Flournoy. Willie Worsley. Nolan Richardson. Holmes says that he played on the team with all of them, and that even though he had been on a star on Austin High School's basketball team, he was unprepared for the level of athleticism and talent he saw from the out-of-town players.

"When I first show up to play at Texas Western, nearly everybody on that team, they played above the rim. I'm watching people stuffing the ball and having dunking contests. Quite frankly, my game was somewhere below the net. So I was realizing it was going to be

a difficult challenge, because they were such unbelievably talented, capable athletes," Holmes tells me.

Holmes admits that in three years on the Miners basketball team, Haskins only played him rarely and mostly late in the game—long after the Miners were already ahead score-wise. Still, Haskins expected Holmes and all the players to show up for practices. Holmes described the practices as "extremely punishing" and he says that his purpose was mostly to "play three or four hours as canon fodder for the first team."

Holmes adds, "I think Haskins had in mind that I would be perfect for the team because my butt was so big I could warm two seats at one time."

Still, Holmes says that he learned a great deal in the three years he spent on the Texas Western basketball team.

"I played with great athletes, both white and black. We played as a team. My blood, sweat, and tears mixed with everybody else's on the court. We were all competing for the privilege of playing in the game. What I learned is what Martin Luther King said years later, and I didn't know that was the lesson I learned, but I knew it. I played against other guys not based on whether they were black and white, but on the content of their character and their ability."

Holmes remembers Don Haskins as a demanding force of nature.

"He was The Bear. He was rough, tough, competitive, and wanted to win. It was like having a real tough teacher in law school, but when you got out, you look back and you respected them and you realized how great it was that they were your teacher, because you learned

something. He was an iconic coach." Holmes continues, "when everybody showed up at the fiftieth anniversary party, there were comments from everybody about just how much they hated the guy. But they all love him, too."

For three years, Holmes played on the Texas Western team without incident. At worst, when Haskins would finally play Holmes, Holmes would sometimes disregard orders to pass the ball to David Lattin or Barnes and would instead try to make the shots himself "to show off for mom and dad." Had Fate not intervened, Holmes says he would have likely continued on to play for Texas Western his senior year of college.

All that changed one fateful day in 1965.

Every coach has his superstitions and rituals, and according to Holmes, Don Haskins was no exception. Every time Texas Western had a game, Haskins would require all of his players to eat a meal together as a team. Bobby Joe Hill was notorious for always showing up late to these meals. Haskins, who was not a patient or forgiving man, soon became angry with Hill, taking his lateness as a sign of disrespect. So one day, Haskins told the team that if anybody showed up late to the next pregame meal, that person would be cut from the team. Everyone knew the threat was aimed at Hill. But unbeknownst to Haskins, his threat would actually work for once. That day, Bobby Joe Hill showed up to the pregame meal on time.

It was Holmes who was running late.

Haskins acted without pity. The guillotine fell. Holmes was cut from the Texas Western

basketball team his senior year. Bobby Joe Hill would live to fight another day.

Of course, Bobby Joe Hill was one of the five starters in the famous 1966 game versus Kentucky. During that game, Hill had two steals and ended up scoring 20 points. The game ended with a 72-65 score in Texas Western's favor. Hill had also been an integral part of string of victories that had led Texas Western to the Big Dance. In a very real way, but for Bobby Joe Hill, Texas Western would not have won that game, and 1966 would have been just another year of obscurity for the university and for El Paso. Those 20 points are what made the incident in the cafeteria all that much more pivotal. And those what-ifs are where Holmes' rumination on the nature of Fate begins.

Holmes tells me that had it been Bobby Joe Hill who drew Haskins' wrath that day and not him, Hill would have never played in the '66 game, and history may never have been made. The way he tells the story, Odell Holmes took a bullet with Bobby Joe Hill's name on it. And because Bobby Joe Hill played on, Texas Western won it all. But Holmes, freshly cut from the basketball team, hung up his jersey for good, too proud to ask for his place back. He graduated early from Texas Western, and went on to Baylor University to embark on a new career in law. Ultimately, things worked out well for Holmes. But had Holmes stayed on the team, he says, who knows where he would have ended up?

The mark of a good storyteller is the ability to make a claim that is a little outlandish but that ultimately can't be disproven—the fish may have been huge, but it was also the one that got away. For a moment, that's what this story starts to sound like to me. The sources who could vouch for Holmes are long gone now. Bobby Joe Hill died in 2002. Don Haskins died in 2008. In 2017, there just aren't many people readily available to verify this tall tale by press time.

But Holmes, lawyer that he is, has his proof. He waves a dog-eared copy of Don Haskins' autobiographical book *Glory Road* in the air. It is tabbed. Page 131 is highlighted. This is his Exhibit A. He instructs me to read, like a witness being impeached on cross-examination. As I read on, I see that while the details of Judge Holmes' story may be part fact, part fiction, at least when it comes to this part, the evidence bears his claim out. In *Glory Road*, the Bear wrote about his biggest regret of the 1964-65 season—back when His Honor Odell Holmes was just a kid named Jimmy:

One of the most stubborn mistakes I ever made was during the same year. I was tired of



guys coming late for pregame meals, especially Bobby Joe Hill. He had my ass so chapped that I finally told the team, "The next player who shows up late is kicked off the team. Gone. Cut. No appeals. I don't care who it is." Think that is a bit severe? Well, the guy who shows up late is a kid named Jimmy Holmes, who was from El Paso and had never once been on my bad side. Just a great kid and a great student. Bobby Joe is there ten minutes early and Jimmy Holmes is late. He even had a good excuse for being late, he was in class. But I had boxed myself in and I kicked him off the team anyway. I almost renegeed on that, but I had vowed that I would not put up with that crap anymore. That was over forty years ago and to this day I feel bad about that. It was bad judgment. But maybe Jimmy learned something about judgment from me. He graduated, went to law school, and wound up becoming a judge. . . .²

(When I asked him what class he was in that day, Holmes demurred. Maybe he was in class. Maybe he was flirting with a girl. Who remembers? "These things, they get a little foggy after a while.")

Holmes says that in the years after he got cut, he never really spoke to Haskins beyond mere pleasantries. But shortly before Haskins' death in 2008, Holmes was sitting in office when he received a call from his friend, Jim Paul. Holmes says that Paul then passed the phone to Haskins, who apologized for cutting him from the team, calling it a mistake. Holmes says he and Haskins had a long talk and told him that he respected Haskins for apologizing, but that Haskins had nothing to worry about.

"Basically, I talked to him about how it moved me in a different direction. If he had any doubts of whether he was going kick Bobby Joe Hill off instead, I would have been right up there calling that a bad decision. And guess what? I couldn't play defense. God was looking after him and me too."

I ask Holmes if he is bitter about not having had the opportunity to play on the famous '66 basketball team, now that all these years have passed.

"No," he says. "It basically worked out for the best. I told Haskins that I had no hard feelings about it." He pauses for a second, then walks it back a little. "Well. Do I have hard feelings about not being on that championship team? Yeah. But I don't have any regrets."

So, I ask Holmes, after that experience, did he gather any sort of life lessons from what could have been?

Holmes laughs.

"I did learn one thing. Don't miss any meetings."

1. Curry Kirkpatrick, *The Night They Drove Old Dixie Down*, Sports Illustrated (April 1, 1991), available online at <https://www.si.com/vault/1991/04/01/123894/the-night-they-drove-old-dixie-down-in-1966-an-all-black-lineup-from-texas-western-beat-all-white-kentucky-for-the-ncaa-title-college-hoops-hasnt-been-the-same-since>

2. Don Haskins, *Glory Road* 131 (Hyperion 2005).

KIRK COOPER is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Eighth Court of Appeals. He is an editor of the El Paso Bar Journal.

Young Lawyers Association, District Attorney's Office Host High School Mock Trial Competition

BY KIRK COOPER

The El Paso Young Lawyers and the 34th Judicial District Attorney's Office teamed up again this year to host the annual El Paso-area high school mock trial competition. Headed up by tournament directors Erica Rios, of the Law Office of Erica Rios, and assistant district attorney Nicole Anchondo, the tournament was held on Saturday, February 11. Competitors from 14 area high schools competed for a chance at the local championship. More than 35 local attorneys volunteered as judges and team coaches.

High school students tried their cases in real courtrooms at the El Paso County Courthouse, and the finalists argued their cases before three jurors with actual experience on the bench: Judge Linda Chew of the 327th District Court; Bill Hicks, managing partner of Ortega, McGlashan, Hicks & Perez and former judge of the 243rd District Court; and Justice Yvonne Rodriguez of the Texas Eighth District Court of Appeals.

Each team consisted of seven to ten students playing the roles of attorneys and witnesses. Teams prepare criminal and civil cases alternate years, and must examine witnesses, give opening and closing statements, and make objections based on the Rules of Evidence. This year, competitors tried a fictional murder case involving a pop star named "Pauper," who died of a drug overdose. The case—a "ripped-from-the-headlines" scenario—borrowed elements from the O.J. Simpsons murder trial, the inquest against Michael Jackson's personal doctor following the pop singer's death from a propofol overdose, and life of the recently-deceased legendary recording artist Prince.

Teams had to learn how to argue the case from both sides, prosecution and defense. Pros-



A courtroom sketch of a round of the high school mock trial competition, submitted by a competitor from Hanks High School

ecuting teams argued that the defendant "Houston Whit," the pop star's manager, intentionally overdosed the pop star with opiates in order to inherit millions of dollars. Defense teams tried to lay blame on the pop star's doctor (who earned his medical degree in the Caribbean and was practicing on a suspended license) and the pop star's Kato Kaelin-esque roadie.

Teams from Coronado High School, Americas High School, Cathedral High School, and Franklin High School advanced to the Final Four. Following a contentious final round, Franklin High School took the championship.

This year, in addition to the trials, the competition added a courtroom sketch artist compo-

nent, where students sat in the jury box and used drawing pads and colored pencils to sketch out various rounds. El Paso High School's sketch artist took home first place.

EPYLA's mock trial tournament also served as the regional qualifying competition for the statewide Texas High School Mock Trial Competition, organized by the Dallas Bar Association. The winners of this competition advanced to the state competition in early March.

KIRK COOPER is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Eighth Court of Appeals. He is an editor of the El Paso Bar Journal, and is president of the El Paso Young Lawyers Association.

HELP!



The editors of the El Paso Bar Journal solicit your contributions dealing with substantive legal subjects or issues. We believe the interests of El Paso lawyers and law firms will be advanced by the publication of at least one or two articles in every Journal issue dealing with legal subjects and issues.

Articles should be submitted by e-mail to **Nancy Gallego, Executive Director of the El Paso Bar Association**, at nancy@elpasobar.com. They must be submitted at least one month prior to the proposed publication date, and they should not exceed 2,500 words unless the article is to be published in more than one issue.

SENIOR LAWYER INTERVIEW:

DEAN HESTER

Ainsa Hutson Hester & Crews, L.L.P.

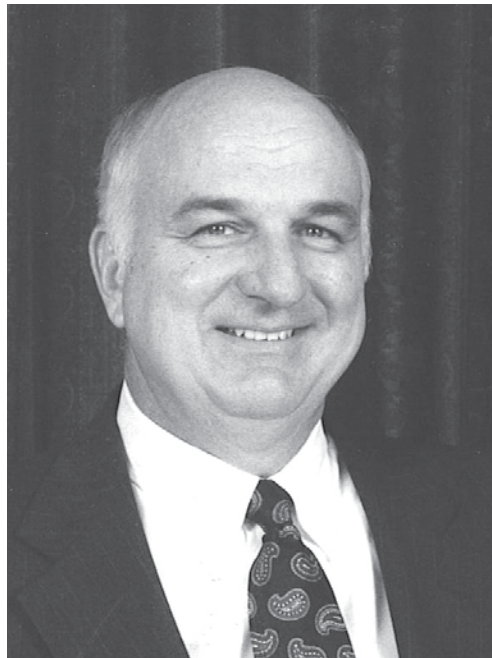
BY KIRK COOPER

Dean Hester was born on September 20, 1941, in Washington, D.C. He graduated from the University of Texas in 1963 with a bachelor of arts in mathematics and a minor in Russian. He attended the University of Texas School of Law, graduating with his law degree in August 1966. He sat down with the El Paso Bar Journal to talk about his career, the practice of law in El Paso, and the city's history.

What first brought you out to El Paso?

My first year out of law school, I clerked for U.S. District Judge for the Western District of Texas named Jack Roberts. It was in the course of that work that I encountered, Sam Sparks. He was the older brother of my fraternity brother Joe Sparks. Sam had been a clerk for Homer Thornberry. The Western District encompasses everything from Austin all the way to El Paso. Sam first explained to me what he thought the benefits of practicing law in El Paso were. He told me, "when you finish, if you don't stay in Austin, you should think about going to El Paso. It's a really good place to practice law." At that time, there was about one lawyer for every 225 people in Austin, there was 1 lawyer for every 925 people roughly in El Paso. So the metrics looked good.

That, and I wanted to get out of Austin. My first wife and I both had family there, and I was practicing in my father-in-law's firm Heath, Davis, and McCalla. It was a very successful firm that did administrative practice before the state agencies. There wasn't anything bad about that law firm, but the move was partly due to the fact that my father-in-law was senior partner. It was hard to leave the office behind. We agreed that we should look for some fresh air and different light. We visited Baton Rouge, Little Rock, Oklahoma City, Albuquerque. The biggest advantage of El Paso: it was far from Austin but I was still in Texas. I moved to El Paso



Dean Hester

in 1972.

When I moved out here, I was told I should apply to the law firm Hardie, Grambling, Sims & Galatzan. I tried looking it up in the phone book, but I couldn't find it. I then found out the name had changed to Grambling, Defebach, Mounce, Sims, Hardie & Galatzan. I used to joke with people that we had more syllables in our name than any other law firm in Texas.

What was the practice of law like in El Paso when you first started?

This had been forecast by Sam Sparks, but I recognized that the quality of lawyers and law practice in El Paso was very high, much higher than you would have expected if you thought El Paso was a dusty little border town. The lawyers in town could have gone anywhere, Washington, Chicago, L.A., you name it. They were very skilled. You had to pay careful attention. You had worthy opponents and colleagues that had a high level

of expectation.

I did a little bit of trial work because that was firm policy: everyone should try a case or two every year, even if you were a business lawyer, so you would understand the relationship between business problems, accidents, injuries, and how they get resolved in the courthouse. There's no point in trying to advise the pros and cons of taking cases to the courthouse if you've never been. It was a good education.

What sort of business matters did you work on?

On the business side, I worked on cross-border transactions. One of the clients of the firm was El Paso National Bank. They were making loans to families and businesses that owned assembly plants in Juarez, in the maquiladora industry.

I met a lot of members of the Juarez Bar who were also very intelligent and highly skilled. Most came from Mexico City to get away from the smog and the crushing numbers of people there. I became acquainted with the phenomenon of having documents partly in Spanish and partly in English. Each contract was called a "pagaré"—"I will pay." It was essentially a promissory note. It had the necessary formalities for Mexican law down the left hand side, and there was the corresponding English words on the right. The utility was that it could be enforced and recognized as collateral in either country.

So you worked on a lot of legal issues when the maquiladora industry in Juarez was first getting started?

There was a lot of interest in Juarez at that time. I met a man from South Carolina who ran a plant in Juarez for Sangamo Electric, and I asked him, during a lull in a meeting over some of these documents, "tell me why you're out here doing this work in this location, it's a long way from South Carolina."

“Yes, the reason is very simple. We have a plant in South Carolina, same size as the one here. The people in Juarez work on a piece-work basis.” They were assembling electric components that had semiconductors in them. The big headline was easy to grasp. He said the plant here in Juarez is twice as productive in South Carolina.

This would have been in 1973 or 1974. It had been going on for a while, but it was still relatively new. I believe that in the mid to late '60s, the first plants began to open. They were taking advantage of some changes in American law, the treaty with Mexico and so forth, that permitted goods to go into Mexico under bond, be assembled over there, and then returned to the United States for worldwide distribution. There was a waiver of import-export duties that would have made it expensive to do so otherwise. It provided good jobs for people in Juarez.

What other kinds of issues did you work on?

I assisted Bill Deffebach in trying a bank antitrust case against the United States government. Some Lower Valley families—the Lettuniches, the Lutiches, the White family (related to Zack White), the Hardys, Sam Young, and others—had formed several banks in the area. El Paso National Bank was one. There was Border City Bank. There was First State Bank out at Five Points, about five or six in all. What they wanted to do was bring them all together under a holding company that would control all of them. When they filed an application with the Fed to do that, under the law, you have to submit certain materials to the Department of Justice for antitrust review. When that submission was made, the Department of Justice came back and said, “no, we think this merger will have deleterious effect on competition. We think it will reduce potential competition.”

So after a lot of discussion, there was a lawsuit filed. It went to trial, and the government lost. It was the first bank antitrust case the government lost under the Clayton Act in June of 1973. It had some historic value. That paved the way to recreate Trans Texas Bancorporation. At about the same time, the other two large banks were State National Bank and El Paso National Bank. State National Bank created a holding company Pan-National Group, and both of them have been very successful. They were sold to other large

holding companies from out of town. El Paso was sold to National Bank of Houston, which became Chase, then J.P. Morgan Chase, and down a similar winding path, State National Bank became Wells Fargo.

There was a time when the best business to be in was bank signs, because almost yearly, the signs would change.

You told me you also studied Russian a little in college. What made you want to learn? Do you still speak it?

I was a mathematics major, and I thought that if the math leads into science or physics—well, rocket ships and Sputnik were big at that time. I knew that Russians had done a lot of good work in math and physics, and I thought I would be able to read the papers in the original Russian. I still once in a while will have an occasion to speak it. I took a trip to Croatia and some people there also speak Russian. Sometimes at business dinners with vodka flowing, the Russian would come bubbling up to the surface. But now the main use of my Russian has been to explain to my wife the signs in Doctor Zhivago.

You said you're 75. What keeps you practicing law?

I'm not sure of the answer to that really. I guess it's because I don't have something else beckoning me. I like golf and I like tennis, but I'm pretty sure that after one month of playing golf I'd get tired of it. I went to Scotland for two weeks to play golf, and by the end of the trip, I was done with golf. I am lucky enough to still have decent health and my wits about me. That could always be changed any day, of course. I get most of my business from other attorneys. A lot of times I help them that have corporate or business securities problems. It's interesting work. Maybe sometimes they want planning, so we'll suggest to people how they can do a business.

For example, let's say you're running two business and you want to run them under the same roof. One is refrigerated trucking and one is arts and crafts. The trucking creates tremendous liabilities. In general, you don't want to mix high-risk and low-risk profits in the same business, because one bad occurrence can take two companies down the drain instead of one. So you caution them about that.

Any advice for lawyers just starting off in the profession?

Yes. First, the metrics are still good. In Austin, there is one lawyer for every 160 people, out here it's still 1 lawyer for every 635 people. The statistics are on your side. I think the hardest thing—and I don't know how you solve this—but the hardest job you have as an attorney is mediating between the need to help people with what they can legitimately do and at the same time steer them away from things they might have the impulse to do but can't under the law. Over and over again, lawyers hear clients say, “I want to do this or that.” But some of the laws that regulate businesses are designed to stop things that are in human nature to do. Everyone wants a tip on a stock that nobody else has, or they want to gobble up all the competitors. If you work in the business law, you have to learn to help your clients get used to the harness. It gets very complex. In that sense, I'm in favor of what Donald Trump said he wants to do, which is reduce the amount of regulation. Most small business people tell me, “taxes are high, but the regulations really are what's killing me.”

I think the other advice is humdrum. You have to tell the truth to everybody, including your clients, and you have to insist that they tell you the truth. And when you find out your clients aren't telling you the truth, that's the time to make them ex-clients.

Any final thoughts?

Yes. I would say I have always felt blessed to practice law in El Paso. All the glittering generalities are subject to exceptions, but in general, the quality of attorneys I've worked with and against has been very high. I haven't had to put up with the kind of mau-mauing, abusive tactics that you encounter in large cities and other parts of the country. El Paso judges have dealt pretty shortly and effectively with that kind of stuff. They won't tolerate it. I also love the weather here, the dry climate, the wide-open spaces, the desert sunsets. Whenever I leave town, the moment I walk out the front door of the El Paso airport and get the sunshine again, I'm so glad I returned.

KIRK COOPER is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Eighth Court of Appeals. He is an editor of the El Paso Bar Journal.

YOUNG LAWYER SPOTLIGHT:

FELIX VALENZUELA

BY CARLOS G. MALDONADO.

Were you born in El Paso?

I was born in El Paso, Texas.

Where did you go to school?

I went to Andress High School. And then, I really never thought about going anywhere else but UTEP. Since I was little, my father raised me as a UTEP Miner. We used to go to the UTEP Basketball games during the Don Haskins era. Tim Hardaway, Antonio Davis... I loved going to the games with my father. In fact, I always wanted to be on the UTEP Basketball team... though I knew that was impossible because I was not good enough. But, in any event, since those days, I knew I wanted to go to UTEP. So, when I graduated from Andress, I applied to UTEP and was admitted.

What year did you graduate from UTEP?

I graduated in 2003 from UTEP with a Major in Political Science and Minor in Philosophy.

Did you go to the Law School Preparation Institute (LSPI) when you were at UTEP?

Yes, it really changed my life. Dr. Webking and Dr. Weaver, they were a paradigm shift for me. And the, after the LSPI, I had the opportunity to be Dr. Webking's intern and help teach LSPI during 2003 before I went to Law School.

What Law School did you go to?

I went to a small Law School in the East Coast, nothing big, just a regular law school.

Come on Felix. We know better than that, small law school really doesn't describe it, does it?

(Laughing) Ok ok, I went to Yale Law School.

Coming from El Paso, did you feel any culture shock?

Yes, definitely. First, starting with the weather. It was really, really, really, cold. Not something that you can prepare for growing up in the desert. Second, and most importantly, it was amazing to be surrounded by, and learning from, people that received international recognition.

Tell me one memory of your time in Yale Law?

Once, I was talking to the Dean of Admissions and she mentioned that Yale had received an application from a guy that had won a bronze medal in the Olympics. I said, "Wow, that is amazing!"

Did you even meet him?

No, the Dean actually told me that they had we rejected the guy; when I asked why – she said, "We already have the gold medalist; why do we need the bronze medalist?"

What did you do after Yale?

I went to Notre Dame to get my Masters in Political Science, focusing on constitutional theory.

Why did you go to Notre Dame?

I wanted to teach in a law school. But, while at Notre Dame, I started practicing law in Indiana and realized the good that can be accomplished through the practice of law. So, I decided to become a full-time lawyer, and part-time teacher. That's when I was finally able to return to El Paso.

What did you do when you came back to El Paso?

I started clerking for Federal District Judge Philip Martinez for two years, where I learned a lot about federal civil and criminal law.

What did you do after Clerking?

I continued teaching for LSPI, and was eventually involved in the LSPI for about ten years. I used to come back every summer during school to help teach in the program.

In 2006, you had your favorite LSPI student correct?

2006? I am trying to remember. I've had a lot of great students. I'm not sure I can name just one that was my favorite.

What do you mean? Let me give you a clue. One student is conducting this interview with you.

Felix Valenzuela

(Laughing) Yeah that is true - there were some troubling students in LSPI.

As far as your practice goes, what areas are you focusing on?

Considering the invaluable experience I received while working as a clerk, I am primarily focusing on criminal defense (white collar) and appellate work, which forms the majority of my law practice.

Were you recently involved in a significant appeal?

Yes. I was actually given the opportunity to help in the Hernandez v. Mesa case (the Border Patrol shooting), that was recently argued recently at the US Supreme Court. I was part of the appellate team representing the Border Patrol agent.

How was that experience for you?

It was an incredible experience; nothing can compare to being in the Supreme Court. It was amazing.

Tell me about your family.

I have three beautiful daughters: 5, 10, and 14; they are everything for me and fulfill my life. They keep me very busy on my off time. I enjoyed them very much.

Where are you currently employed?

I am in private practice at the Valenzuela Law Firm; we are located in the Wells Fargo building downtown.

CARLOS MALDONADO is a partner in the firm of Miranda & Maldonado, P.C. and an editor of the El Paso Bar Journal.

El Paso's Drug Courts Celebrate National Impaired Driving Prevention Month

Hundreds of lives have been saved by El Paso's drug courts. Never heard of a drug court or a "problem-solving" or "specialty" court? They are, essentially, the same thing and you are going to be hearing more and more about all of them. Last year, President Obama gave several speeches acknowledging that the criminal justice system, especially as it pertains to individuals with substance abuse issues, is in need of some serious tweaking. He called for new innovative and effective tools to combat crime. He asserted that "there's got to be a better way to do this" because locking up drug offenders and throwing away the key, though a very simple solution, does not work. Ten El Paso judges were finding a "better way" to approach criminal justice long before President Obama's speech. For over 12 years, El Paso criminal offenders with serious substance issues have been offered the opportunity to participate in

drug courts. Drug court programs that not only help them beat drugs; they offer the offender the chance to become a better person. Simply stated, a drug court is an intense program that lasts about a year and is divided into four phases. An entire team of professionals meet weekly to discuss the participant's progress and offer its expertise to the judge. There are unannounced visits from law enforcement, random drug-testing, and, most importantly, accountability for the defendant. There are currently 10 treatment courts in El Paso County that treat various populations including juveniles, prostitutes, veterans, and DWI offenders. The common denominators are that these courts treat individuals with substance abuse issues in a proven evidence-based manner and with an eye toward not incarcerating these individuals but helping them. To be clear, reducing crime and saving money by reducing needless incarcerations are bipartisan goals. Governor Ab-

bott and the Texas legislature are strong supporters of drug courts. In fact, the governor's office oversees a Specialty Courts Advisory Council to ensure that Texas's courts are adhering to proven drug court principles. Judge Robert Anchondo invites El Paso to celebrate National Impaired Driving Prevention Month and see the power of drug courts firsthand. On December 29th at 6:00 p.m. in County Criminal Court Number Two, Judge Anchondo and his team will be celebrating several participants' graduation from his DWI Drug Court Program. The participants' words regarding their growth through the program will convey the power of drug courts far better than this invitation ever could. President Obama has stated that "Justice and redemption go hand in hand." Please join us and celebrate a program that, for over 12 years, has provided hundreds of El Pasoans both.

DWI Courts Unite for National Impaired Driving Prevention Month

December is National Impaired Driving Prevention Month, and more than 700 DWI courts across the nation are uniting to mark the importance of putting a stop to one of the most significant threats to public safety in the United States: driving while impaired by alcohol or other drugs. The goal of Impaired Driving Prevention Month is to educate Americans about the dangers of driving while impaired and what can be done to prevent this nationwide problem.

Across the country, there are more than 2 million drivers who have three or more DWI convictions on their record; a staggering 400,000 have five or more. Research has shown that these drivers pose the greatest risk of causing fatalities on our roadways. We all should be concerned that these repeat offenders are driving among us every day.

Clearly, the traditional response of the justice system has not had the desired effect for many Americans. Repeat offenders continue to get behind the wheel after consuming drugs or alcohol, and our communities continue to waste

valuable resources by focusing on traditional sentences. Incarceration or probation alone do not work for repeat offenders because these sentences do not address the underlying cause of this dangerous behavior: addiction.

DWI courts are the most effective solution for individuals who repeatedly endanger themselves and others on the road due to an underlying substance use disorder. These specialty courts use a team of treatment providers, the judge, and other court and law enforcement professionals to hold participants accountable for their actions, supervise them closely, and provide intense treatment for substance use disorders, mental health issues, and other needs.

This combination of court supervision and evidence-based treatment has been proven to get repeat DWI offenders to drop driving under the influence of alcohol and other drugs. In fact, top DWI courts have been found to reduce recidivism by as much as 60%. And repeat offenders who have participated in a DWI court program are 19 times less likely to drive while impaired than those in traditional

court settings.

In addition to protecting our communities from impaired drivers, DWI courts also save valuable taxpayer dollars. The cost of alcohol-impaired crashes in the U.S. in 2010 was \$44 billion; by contrast, for every \$1 invested, DWI courts save communities \$3.19. Not only that, but the ripple effect of fewer impaired drivers means fewer crashes and fewer people hospitalized, exponentially increasing cost savings over time.

Texas is now home to 12 DWI courts, and this December, County Criminal Court at Law #2 will celebrate 12 years of existence in helping those afflicted with alcoholism and will join with millions of voices across the country to say: no more. Together, we can end impaired driving. We don't have to choose between our citizens and our budgets; by investing in smart justice reform, like DWI courts, we can save resources and save lives.

Join us for our graduation ceremony at 500 E. San Antonio, Suite 704 on December 29, 2016 at 6 pm. To learn more about DWI courts in the US, visit DWIcourts.org.

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Making A Difference On Indifference

BY OSCAR G. GABALDÓN, JR., CWLS

“I wish I was a small child again, and that you could be my father.” The Honorable William Fierro was momentarily stunned by Manny’s unadorned, yet cogent words. Judge Fierro had already served thirteen years as a drug court judge for parents with substance abuse issues whose children were caught up in the maze of the child welfare system. Though he had the resolve to make a difference by reaching out to help revive the hearts, minds, and spirits of “his” drug court parents, he also wondered if his efforts were more like spinning wheels that get one nowhere. Was the belief in changing hearts and minds only an enticing, yet fleeting illusion and nothing more?

Often at the end of a day laden with a kaleidoscope of judicial business, he would go to his backyard porch, rest his weary body on his favorite lawn chair and gaze at the night heavens in contemplative awe. Transfixed with the myriad presence of mother Big Bang’s offspring, the soon-to-retire judge wondered... sighed... and wondered again.

“Perhaps I partly want to embrace these struggling lives in order to meet some inner personal need... maybe to feel that I am of some worthwhile use to others,” he soliloquized. Manny’s words lingered in his head... words he believed had come from the deepest regions of a searching and mourning heart that even now clung to a thread of hope. Those fifteen simple words reached out and clasped the judge’s enrobed soul. They managed to snuggle themselves deep into the judge’s soul, where they made their home, a forever home.

Judge Fierro smiled pensively as the image of his first encounter with Manny hauntingly came to him, much the same as Marley’s unexpected ghostly visit to a bewildered Scrooge. It was November 23rd, an easy date for the judge to remember, because twenty nine years previously on that month and day the judge had celebrated the birth of his first born, his precious bundle of joy.

“All rise!” The honorable judge walked into that most solemn of chambers nestled in the imposing labyrinth people call the halls of justice. Once settled in his throne-like cushioned swivel leather chair, the contemplative, yet eager judge surveyed the nervous and expectant faces of men and women that had come together for their weekly gathering.

“How long have you been clean?” he asked



one of the parents. This question was followed by an answer, and the answer was often followed by the clapping of hands.

“Please tell me about your two-hour visit with your baby at the foster home this past weekend.” The questions, the answers, the dialogue, and the off and on clapping continued throughout the hour.

Everyone had a personal vision of the weekly gatherings: a customized version of a camp fire Kumbaya meeting, a soul-searching conclave, a guilt trip session, a sobering chance for self-introspection and discovery, a confidence booster, or maybe just a waste of time.

“Oh, a new face in the crowd,” the judge whispered to himself. The new face, though young, was nonetheless a haggard phantom face whose youth appeared to be fading away. The face he studied was that of a man whose silence loudly proclaimed his indifference to the assemblage and its business. Slouched with arms spread out, in crucifixion style, he rested them on the wooden back of the long worn out bench on which he also rested an unmistakable tired body. His upwards, concentrated gaze surveyed a man-made mahogany sky devoid of endless open space, the sun, the moon, a star, a cloud, or other heavenly visitors.

Even the faded pair of old jeans torn at the knee, dull and ill-tucked blue cotton shirt with a couple of missing buttons, and unlaced and deeply scratched tan work boots could not fully cloak an evidently drug-ravished body.

Judge Fierro’s curiosity was aroused. “What will we find in this solitary man’s bag of collected secrets?” asked the judge to himself.

Manny was the last of seven children. His advent was not a celebration, especially considering that he was a White Elephant surprise child. If words could describe Manny’s early childhood upbringing, it surely would not be “snuggles and more snuggles.” They would be “struggles and more struggles.”

A widowed single father of three young children, Manny was a magnet of misfortune. Jobs eluded him, as if he was cursed to depend on the generosity of others for his measly existence. Devoid of even a rudimentary education and opportunities many others take for granted, Manny felt like a shell of a man lingering in solitary confinement.

Manny, though, did not grow up alone. He grew up befriended by devoted companions, Loneliness and Scarcity among them. Manny’s yearning to belong and be acknowledged sparked the beginning of his long wayward and twisted path towards perdition. The lighted match ready to ignite the fuse that would eventually awaken the dormant barrel of explosives within him had been that first marijuana joint; the one that Manny held in his 10-year old unsteady hand, twenty five years ago, compliments of your trustful local high school distributor of false gods and hopes.

Round and round, like a Merry Go Round,

names were summoned, and each person that was called out apprehensively brought to the table unique confessions and tribulations for all to hear. In the end, the judge called out for Manuel Omar Roux. Manny, however, remained suspended in time, with half-way opened eyes, like an accidental saint in complete ecstasy and oblivious to the world.

The time was now. His name had been called, but not heard. Very soon, with a little prompting from Bailiff Ward, the poker face, watchful sentinel, whose sole mission is to assure that order and safety always reigns within his purview, had Manny seating up soldier-like. His disconnected daydreaming and momentary raptures immediately departed like a flock of scattered frightened birds. The Budweiser cap was now off his disheveled raven black hair, which complemented his pronounced and unkempt facial black stubs.

Cautiously, Manuel Omar Roux rose and reluctantly approached the awaiting flimsy podium that summoned him to the center of the court room. He managed to somehow shove out his words in a hoarse whisper, "Hello Sir, Your Honor. I am Manny, and this is the first time for me in drug court." Judge Fierro remained silent for a couple of seconds and then sympathetically said to the nervous man, "I am glad to meet you, Manny. I see in your file that you originally came from the Mexican town of Hidalgo del Parral, Chihuahua, when you were a young boy. They say it is the capitol of the world because of its legendary silver mines. My abuelitos (grandparents) on my mother's side are from Parral, and the family that lives next door to them, by the callejón (alley), is the Roux family. Do you by any chance have relatives in Parral?"

This was the icebreaker, the beginning of Manny's departure from a slow-but-steadily forged life of constant uncertainty and let downs to a resurrected life of empowerment and hope, where the stubborn chains of self-loathing would be broken. He would be gifted with tools that he could use to gradually chip away, piece by piece, the unforgiving cold and hardened walls of his life's hollow crypt.

The beginning was here...now. Recovery and healing was within reach, not only for his drug addiction, but also as to his other demons, which had already created an abyss of Grand Canyon proportions between his three young children and himself.

The judge knew all too well that, as a caring father does, he must be tenacious and unwavering in holding the line firmly with Manny, but without demeaning Manny's

dignity even for one iota.

There were promising milestones and setbacks in Manny's journey towards his recovery and rebirth. There were stable times. There were also times when Manny just did not want to get out of his restless bed of denial. He wanted to stay covered in his cozy cocaine-laced blankets and just slumber in his fragile life of addiction.

When he was halfway done with his recovery program, Manny had left the courthouse and decided to reward himself for this milestone with his all-time favorite meal. A few more downtown city blocks and he would be enjoying his long-awaited feast.

Manny was unexpectedly assaulted by a violent thunderstorm. He ran, cradling his McDonald's quarter-pounder, small fries, and medium size Coke as if he was carrying the finest China. Running to seek refuge from this abrupt onslaught originating from the hovering and forbidding angry sky, Manny slipped and fell on a rising puddle of water. Helpless as he lay looking up at his pounding aggressor, with his meal scattered for the vigilant vermin to ravish, Manny desperately yelled at the top of his lungs in his native language, "¡Ya estoy harto! ¡No vale la pena! ¡Soy la mala suerte encarnada!" ("I am fed up! It is not worth it! I am bad luck incarnate!").

Luckily, the only thing he was not spared with was his pride and embarrassment at being seen by a couple of passersby as he lay temporarily flat on the muddled sidewalk. Highly frustrated, this shameful episode nudged him towards the direction of his welcoming addiction. He got up and ran again, not to escape the relentless onslaught of cascading water, but to look for his security blanket, the one laced with cocaine and adorned with some of cocaine's other tag along cousins.

Try as he may, Manny was unable to find his soothing blanket, so in desperation he began to succumb to the alluring counsel of the dark whisperer who tempted him to run back to his tomb, but this time, to permanently seal it in darkness. Thankfully, that thought was not long-lived, because such an abased idea could not co-exist nor reconcile itself with the endearing thought of his children, who danced in his mind, slept in his heart, and lived in his soul.

It was Manny's turn to speak at the weekly session. He had anxiously been waiting his turn. He wanted so badly to share his ordeals, failures, triumphs, and dreams with the group, but more so with the judge. Manny now considered Judge Fierro to be his steadfast beacon of all things good, a tower

The judge knew all too well that, as a caring father does, he must be tenacious and unwavering in holding the line firmly with Manny, but without demeaning Manny's dignity even for one iota.

of hope, a source of truth, and a fountain of encouragement. Manny no longer questioned the authenticity of the judge's kind and caring humanity. He now appreciated Judge Fierro as a fatherly man who genuinely cared about his weekly visitors, the ones the judge often referred to as his "other family".

"Manny, you are a man of endless great value, as are all those present here. You must make the decision to live meaningfully, with purpose and with trust in the reality that you are good by virtue of your existence. It is, however, your choice to decide how you will live out that existence. That you own." These words resonated over and over in Manny's head that day and throughout the remainder of his life.

Unbeknownst to the judge, Manny, like so many before and after him, would leave Judge Fierro's court room with a replenished decanter of hope for a better tomorrow. It was in that austere-looking place that Manny finally uncovered the magic key he searched for all his life; the key that opens the doors leading to the garden in which its spring waters would quench his yearnings for a sense of assured belonging and unyielding noble purpose.

After a rather long day at the courthouse, Judge Fierro read from his Reader's Digest while he enjoyed a piece of honey glazed grilled chicken, a small serving of buttered green beans, some scattered chunks of roasted potatoes, and his customary glass of water. Forty-five minutes later, he walked over to his back porch, sat on his lawn chair, and contemplated the night sky. Deep in reflective thought he asked himself, "I wonder if I am really making a difference."

OSCAR GABALDÓN is an assistant City Attorney and former Associate Judge of the 65th District Court responsible for overseeing the trial of Child Abuse and Neglect cases. He is certified by the National Association of Counsel for Children and the American Bar Association as a Child Welfare Law Specialist (CWLS)



Program Helps Non-Custodial Parents in El Paso County

El Paso, Texas—April 1, 2017—Workforce Solutions Borderplex (WSB), The Texas Workforce Commission and the Child Support Division of the Texas Office of the Attorney General (OAG) collaboratively provide assistance to noncustodial parents (NCPs) who are required to pay child support, through the NCP Choices Program.

According to the U.S. Department of Health and Human Services Administration for Children and Families Office of Child Support Enforcement, almost one in four children are in the U.S. child support system, and among low income custodial parents who receive child support, the average amount received accounts for more than half of their average household income.

The NCP Choices Program is designed to help NCPs overcome substantial barriers to employment and career advancement while becoming economically self-sufficient and making consistent child support payments.

“The child support system plays a critical role in reducing poverty for children, and while compliance with child support is automatic for steadily employed noncustodial parents, for the 20 to 30 percent of noncustodial parents with limited or unstable employment, providing for their children can be an uphill climb,” said William Minor, manager of Father and NCP Involvement Projects for the Texas Office of the Attorney General.

The OAG partnered with IV-D courts and the Texas Workforce Commission to implement

NCP Choices to address root causes of non-support by NCPs through a mix of employment and supportive services. The OAG identifies unemployed or under-employed NCPs who are unable to meet their court-ordered obligation, and the Texas Workforce Commission eliminates barriers by providing NCPs with workforce ready tools to find and keep stable employment, while earning enough to support themselves and their children.

“We are committed to the partnership with Workforce Solutions Borderplex as it continues to provide key resources and programs to our community,” said Veronica Escobar, County Judge and Lead Chief Elected Official to the Workforce Solutions Board.

NCPs typically face a hard time making payments when they are out of work or earning less than they need to support themselves and their families. The program helps custodial parents get their support by helping noncustodial parents find and keep work.

“NCP Choices is a cost effective and collaborative way to offer noncustodial parents choices and a new direction forward—parents move from ‘nonpaying status’ into more frequent, more consistent payers of child support, and meet their obligations as parents,” said Joyce Wilson, CEO for Workforce Solutions Borderplex.

How the Noncustodial Parent Choices Program Works

Initiated in August 2005, the Noncustodial Parent (NCP) Choices Program is a collaborative effort of the Texas Workforce Commission (TWC), the Office of the Attorney General (OAG) of Texas, Workforce Solutions Borderplex (WSB), and Title IV-D Child Support Court. The program targets low-income unemployed or underemployed NCPs who are behind on their child support payments.

Once enrolled, NCPs receive job leads, job search guidance, and job retention monitoring provided by the Workforce Solutions Borderplex staff. Any parent needing employment assistance can voluntarily access workforce services through his or her workforce center.

Funded primarily with TWC’s Temporary Assistance for Needy Families (TANF) funding, NCP Choices participants are ordered into the program by the court system and either participate willingly in the program or are subject to consequences determined by the court.

To be eligible for the NCP Choices program, an NCP must:

- have an open child support case
- be unemployed or underemployed
- reside in El Paso County
- be legally able to work in the United States
- have been ordered by a Title IV-D court to participate in the program

If you would like more information on the requirements of participating in the NCP Choices Program, please contact our Program Specialist Larry Acuña at (915) 887-2453.

JUSTICE FOR ALL: Putting Words Into Action

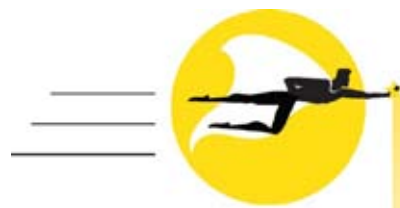
Millions of Texans cannot afford legal representation. Their circumstances are desperate, their needs are dire, and their only lifeline is legal aid. The Justice for All Campaign was created by the Texas Access to Justice Commission to support local legal aid organizations, and give these vulnerable Texans a measure of relief. As a lawyer and member of the El Paso County Bar Association, your commitment to justice is as inspirational as it is vital. That's why we urge you to contribute to our statewide campaign; funds raised support organizations in your community and around the state. The success stories are a continual reminder of the needs – and especially of the needs met – of our fellow Texans, like Beth.

Beth was the victim of her husband's constant abuse, which often took place in front of their three children. Beth left when her husband grabbed a gun and threatened to kill both of them. Even after they separated, the abuse and harassment continued. When Beth learned that her husband had also been sexually molesting their daughter, she sought help from legal aid to get a divorce and a protective order. Soon after the divorce was filed, her husband's family began to threaten Beth and her children until she felt she had no choice but to move from her own home.

Her legal aid attorney was able to get orders in place to stop the abuse and harassment. Beth was awarded sole custody of the children and their jointly owned home. Her husband was eventually sent to prison and is no longer allowed near her children. By the end of the process, Beth had started a new job and her children were thriving.

Peace of mind settled upon Beth and her children in a way they had never known - thanks to legal aid.

Justice for All is not just a nice phrase, it's a powerful, life-changing marching order. Please donate today!



JEANS DAY

ATJ CONTRIBUTION

FIRM COMPETITION

JUSTICE FOR ALL CAMPAIGN

➤ **Don't miss the Champions of Justice Firm Competition April 10-21, 2017!**

Firms with the highest overall contribution and the highest overall percentage of contributing attorneys will be recognized in the *Texas Bar Journal* and at the Justice for All reception in October.

Firm size categories are as follows:

- boutique (1-10 attorneys);
- small (11-25 attorneys);
- medium (26-75 attorneys); and
- large (75+ attorneys).

Few causes are more worthy than Access to Justice. Firms raised more than \$170,000 to support civil legal aid through the competition last year!

➤ **Justice for All Jeans Day April 14.**

Slip on those denim duds and strut your stuff for ATJ!

➤ **ATJ Contribution – You're On Time Anytime.**

Make an ATJ contribution on your dues statement through your [MyBarPage](#), the Commission's Donation page, in person or by mail.

Your contribution can mean security for survivors of domestic violence, protection from exploitation for the elderly, medical benefits for children with special needs, and so much more.

Last year, the Justice for All Campaign raised more than \$1.3 million to help low-income Texans with their basic civil legal needs. Contributions are distributed to civil legal service providers across the state that help low-income Texans.

Justice for All - It's not just a phrase. It's a real thing you can be part of!



2017 GENERAL MEMBERSHIP MEETINGS**May 18, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**June 15, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**July 20, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**August 17, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**September 21, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**October 19, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**November 16, 2017** Time: 12:00 p.m.Location: El Paso Club, 201 E. Main Street,
El Paso,
Texas 79901Speaker: To be announced, visit El Paso Paralegal
Association Website for information on
speaker and topic: www.elppa.org**December 6, 2017** Attorney/Paralegal Luncheon
Time: 12:00 p.m.Location: To be announced, visit El Paso Paralegal
Association Website for information on
location, speaker and topic: www.elppa.org**El Paso Paralegal Association's****Individual Entry Fee: \$95.00****4 Player Teams: \$380.00**

Fee includes: Green fee, Cart fee, Range balls,
Refreshments (Beer and Unlimited Water),
Continental Breakfast and Lunch,
Goodie bag and one ticket to our door prize drawing
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Register and pay online at: <http://www.butterfieldtrailgolf.com/> Or
Visit our website at www.elppa.org for more information and registration forms.

DEADLINE TO REGISTER: April 14, 2017

Proceeds from our tournament go toward our EPCC scholarship fund, providing quality CLE to our members and to our adopted charity.



Social Media...A game changer in the way substituted service of process is done in the future

BY: RACHEAL L. ADKINS

Change is the law of life. And those who look only to the past or present are certain to miss the future.

John F. Kennedy

Pursuant to The Texas Rules of Civil Procedure, service of process can be accomplished by personal service or mail. In the event the respondent cannot be located, a court may authorize service in a manner which is reasonably effective to give the respondent notice of the suit. Sometimes, the manner in which the court determines service will be effective involves publication in the local newspaper, or the engagement of a private investigator; both costly endeavors. But what if the respondent can be located via social media? Indeed, it seems that these days, almost everyone has a social media presence.

Fortunately, Judge Laura Strathmann and Associate Judge Reed Leverton of the 388th District Court in El Paso County have been paving the way for the use of Facebook as a form of substituted personal service.

I was recently involved in a matter where I attempted for over six months to serve a Mexican

national who had been deported from the United States. I attempted service via certified mail, waiver of citation and personal service, all to no avail. Thereafter, I moved the court to permit citation by publication via Facebook. The motion was granted and the process server was able to serve the respondent via Facebook.

This method of substituted personal service is effective because when someone logs into their Facebook account and receives a message, the sender of the message receives an indication from Facebook that the recipient received the message because a checkmark appears next to the message indicating receipt. The process server only needs to send a private Facebook message with the citation and, after the message is received, save a picture of the message with the checkmark indicating the message was received. The Respondent has now been personally served.

Under the current rules, courts have always had the authority to direct service through creative methods, such as social media. It is not clear why it took us so long to test this method, but given the frequency with which El Paso attorneys confront difficulties in serving out-of-state and international persons, this new development could be a

game changer.

On the other hand, few good ideas come without difficulties. For example, what if the recipient of service via Facebook shares his or her account with a spouse? What if the account has recently been hacked or made available to third-parties? What level of confidence must a court have in the fidelity of the Facebook account to be sufficiently confident that the citation was received by the correct person? If a read receipt on a private Facebook message is sufficient for service of process, what about a read receipt on an email or text message? Perhaps a case-by-case application of this new procedure is most appropriate for now.

However courts come out on these issues, there is little doubt that the benefits of service of process via social media outweigh the costs of making rules to ensure that such methodology is effective. As a community of lawyers who will benefit from this change, we would do well to engage in a conversation aimed at solidifying this methodology.

RACHAEL ADKINS is a Solo Practitioner.

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MICHAEL D. STELL

JULY 18, 2016

Michael D. Stell was born in Lubbock, Texas and lived a full and happy life in El Paso. Michael served his clients, the legal community, and the El Paso community as a lawyer and partner at Scott Hulse, P.C. for 26 years. Michael was passionate about the law, passionate about his clients, and passionate about always learning something new. Michael was active in the community and gave back to others through his service in several community and professional boards, notably Sunrise Rotary Club, the El Paso Library Association, and the Coronado High School cheerleaders. Michael was an avid skier, cyclist, and runner. He was also an avid reader, a wonderful mentor, and a consummate intellectual. Michael is survived by his wife of 25 years, Amy Stell.

JUDGE JOSE B. JUAREZ

JULY 13, 2016

Judge Juarez was graduate of Bowie High School and the University of Texas Law School. Judge Juárez practiced law for many years and served as Judge in Family Law Court until 2014. Judge Juárez was a beloved husband, father, brother, and son. He is survived by his wife, Yolanda; two sons and grandchildren, Alex (Carolyn), Riley, and Scott, and Joe (Danielle); his mother, Concepcion; sisters Teresa, Irene, and Rose; brothers Ruben and Rudy; and nieces and nephews.

JUDGE ROBERT GALVAN

SEPTEMBER 24, 2016

Judge Galvan was a graduate of Cathedral High School, attended Texas College of Mines (UTEP) and received his Law Degree from Southern Methodist School of Law in 1949. Judge Galvan also served in the United States Air Force from 1943-1946 prior to attending law school. Judge Galvan was in private practice with the law firm of Galvan & Galvan with his brother, Frank Galvan from 1949-1974. He was later appointed to serve the City of El Paso as First Assistant City Attorney in 1957 through 1964. He was elected as Judge of the County Court at Law #1 in 1969 and served until his retirement in 1990. During his judicial career, Judge Galvan served on the El Paso

County Courthouse Law Library Committee and was ultimately honored by the dedication of the Robert J. Galvan Library. Judge Galvan was predeceased by his wife, Emma Valencia Galvan. He is survived by his two children, Robert L. Galvan of El Paso and Victoria Galvan Hess of Helotes, Texas; grandchildren John K. Galvan and Cassandra York, both of El Paso, Rebecca S. Hess and Sam Hess, both of San Antonio, as well as two great grandchildren Sarin Galvan and Marie Galvan.

LARRY BASKIND

NOVEMBER 13, 2016

Larry Alan Baskind was born in San Antonio, Texas. Larry practiced law in El Paso, Texas for over 40 years. He was preceded in death by his parents Louis and Nina Baskind. He is survived by Sandra Baskind, his wife of 47 years, his daughter Lisa Baskind, his son Matthew (Brooke) Baskind and his brother Stephen (Denise) Baskind. He is also survived by his five grandchildren Hannah, Joshua, Remy, Caleb, and Wesley.

RICHARD ZAMORA

NOVEMBER 29, 2016

Born in Holland, Michigan, he earned a Bachelor of Business Administration from the University of Texas 1986 and a Juris Doctor from the University of Texas School of Law 1991. Licensed in Texas, Nevada, California and New Mexico he lived in El Paso, Texas and Venice, California. Attorney at Law with his practice The Zamora Law Firm in El Paso, Texas. Loved to watch the sunset each night and was compassionate about the wellbeing of animals.

U.S. MAGISTRATE MICHAEL McDONALD

FEBRUARY 9, 2017

Born in Russell Kansas, he served in the U.S. Army for three years, completed his undergraduate studies at Wichita State University, and went on to receive a law degree from Texas Tech Law School. Mike moved to El Paso in 1973 and began his career in the County Attorney's Office (1973-1978). He then served

as an Assistant U.S. Attorney (1978-1989) and as an Assistant Federal Public Defender (1989-1996). In 1996, Michael was appointed to a Federal Magistrate Judgeship by the 5th Circuit Court. He retired as a Federal Magistrate Judge in June of 2010. He enjoyed golfing, reading, and traveling. His greatest passion was spending time with his family.

J. SAM MOORE, JR.

MARCH 14, 2017

Sam practiced with the law firm of Scott, Hulse, Marshall, Feuille, Finger and Thurmond. Sam obtained a B.S. University of Kansas in 1952 and served overseas during the Korean War with the United States Army from 1952-1954; L.L.B. with honors, Sam then attended the University of Texas School of Law graduating in 1957. Married to Greta Karlbom Moore (1960) (after 51 years of our marriage she passed away at age 81 on December 11, 2011 as a result of pancreatic cancer), one son, Samuel Adams Moore (born October 26, 1963) and adored granddaughter, Mia Moore (born El Paso, Texas, October 31, 1995).

GARY J. HILL

MARCH 23, 2017

Gary was born in Jacksonville, Texas and grew up in Canton and Springhill, Texas. He went to Stephen F. Austin and East Texas where he received his Bachelors Degree in History and three Masters Degrees in History, English and Psychology. Gary received his law degree from St. Mary's University in San Antonio in 1973. Gary was preceded in death by his parents and his son Travis Hill. He is survived by his wife, Pam Hill, son Joel Hill, granddaughter Micaela Hill, and four men who were like his own sons, Matt and Paul Germany, Mark Meeks, and Darren Johnson. Gary loved all animals and especially horses.

DALE A. MCCLEARY

Dale McCleary was a long time El Paso attorney who passed away in November 2016.

ROBERT B. WALES

Robert Wales was a solo practitioner who retired and moved to Hawaii and passed away on January 17, 2017.

NEWS RELEASE

On January 19, 2017, El Paso Paralegal Association held its Annual Meeting of Members at the El Paso Club. The following members were elected as Directors and Officers for the 2017 year: President - Yolanda Garcia, CP; President Elect - Yolanda Pearson; Vice President of Programs - Jessica Lucero; Vice President of Membership - Marina Hammond; Vice President of Public Relations - Louise Elorreaga; Secretary - Michelle Pedroza; Treasurer - Estela Lopez; Parliamentarian - Peggy Dieter, BCP, TBLS and NALA Liaison - Olga Burkett. The following members were appointed as: Student Liaison - Celeste Sanchez and Editor of The Writ - Amanda Smith, ACP. The newly elected and appointed officers were sworn in by the El Paso Bar Association President-Elect, Mark Dore.

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Member FDIC LENDER

The Editors

Kirk Cooper

Kirk Cooper is the senior staff attorney to Justice Yvonne Rodriguez at the Texas Eighth Court of Appeals. For almost four years, he has served as legal counsel to the Court in more than 120 appellate cases involving employment law, personal injuries, oil and gas disputes, complex civil litigation, and criminal convictions ranging from traffic infractions to capital murder.

A native El Pasoan, a born-and-bred East Sider, and a proud Eastwood High School graduate, Cooper obtained his bachelor of arts degree in international studies with minors in journalism and Spanish from the University of North Texas in 2009. In college, he was named a U.S. State Department Critical Language Scholar in Arabic, and spent two summers studying and practicing the language in the North African nation of Tunisia. Cooper was also an editor of the university newspaper. He graduated with his juris doctor degree from the George Washington University Law School in 2013. In law school, he was vice president of the Hispanic Law Student Association and was a member of the Mock Trial Board, the Moot Court Board, and the GW Law Revue Comedy Show.

Cooper currently serves as president of the El Paso Young Lawyers Association, and is a member of the State Bar of Texas' Appellate Section. He is also active in the community, having been a volunteer with Pasodale Elementary School's Microsociety Program and having served as a board member of the El Paso Society for Musicians of Future, a local music education nonprofit. In his spare time, Cooper enjoys being a news junkie, writing, eating, swimming, weightlifting, Latin dance, watching Netflix, driving around in his ridiculous baby-blue Dodge Challenger, and spending too much time on social media.

Carlos A. Miranda, Esq.

Carlos A. Miranda is a Partner with Miranda & Maldonado P.C. Mr. Miranda was born in Chihuahua, Mexico. Mr. Miranda holds a Bachelor's Degree in English and History from Trinity University (San Antonio, Texas) in 1988. Mr. Miranda earned his Juris Doctorate Degree from Texas Tech University in 1991.

Mr. Miranda has been Board Certified in Business Bankruptcy Law since 2000 and Consumer Bankruptcy Law since 1997 by the Texas Board of Legal Specialization.

Mr. Miranda practices in the fields of Business and Family Immigration, Business and Consumer Bankruptcy, and Commercial Litigation focusing on representing Credit Unions, Landlords, and Small Businesses in collecting delinquent accounts.

Professional Memberships:

- Licensed by the State Bar of Texas.
- Licensed by the United States District Court for the Western District of Texas.
- Licensed by the United States District Court for the District of New Mexico.
- Member of the United States District Court for the Western District of Oklahoma
- Member of the Western District of New Mexico
- Member of Border Bankruptcy Bar Association.
- Member of El Paso Bar Association.

Languages Spoken:

- Spanish
- English

Carlos G. Maldonado

Carlos G. Maldonado is a Partner with Miranda & Maldonado P.C. Mr. Maldonado was born and raised in Quito, Ecuador. Mr. Maldonado moved to the United States at the age of 16. Mr. Maldonado holds a Bachelor's Degree in Business Administration from The University of Texas at El Paso in 2007. Mr. Maldonado earned his Juris Doctorate from Oklahoma City University's College of Law in 2010.

During his time at Oklahoma City University School of Law ("OCU"), Mr. Maldonado participated in OCU's Immigration Law Clinic; served as Founder and President of the Immigration Law Society at Oklahoma City University School of Law from 2007 to 2010.

Mr. Maldonado practices Business and Family Immigration, Removal/Deportation Defense, Consular Processing, as well as Commercial Litigation focusing on representing Credit Unions, Landlords, and Small Businesses in collecting delinquent accounts and matters involving Landlord/Tenant law.

Professional Memberships:

- Licensed by the State Bar of Texas
- Licensed by the State Bar of Oklahoma
- Licensed by the State Bar of District of Columbia
- Member of the Western District of Texas
- Member of the Western District of Oklahoma
- Member of the American Immigration Lawyers Association ("AILA")

Languages Spoken:

- Spanish
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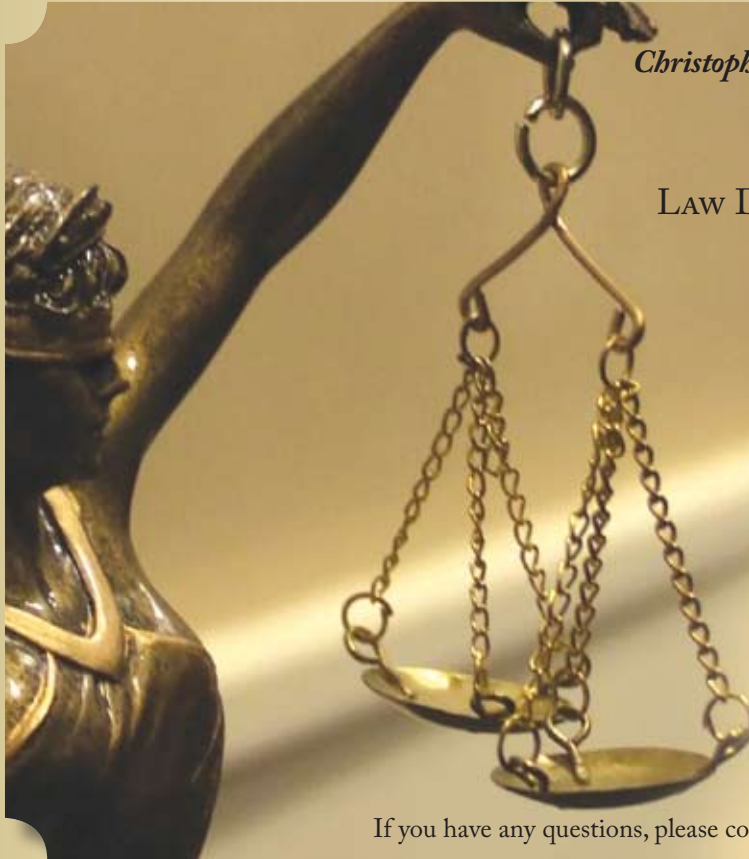


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LAW DAY DINNER AND AWARDS PRESENTATION

Saturday, May 13, 2017

El Paso Country Club
5000 Country Club Place

Judge Carlos Villa
Master of Ceremonies

Happy Hour 6:00 p.m. – 7:00 p.m.

Dinner 7:00 p.m.

Speaker 8:00 p.m.

Awards Presentation 8:45 p.m.

\$75 per person

\$750 table of ten

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**RSVP by Friday,
May 5, 2017**

If you have any questions, please contact Nancy at ngallego.epba@sbcglobal.net

The following are the El Paso Young Lawyers Association Awards:

Outstanding Young Lawyer

Kirk Cooper

Honorable Sam Paxson

Outstanding Jurist

Honorable Kathleen Cardone

Outstanding Senior Lawyer

Stuart Schwartz

Outstanding Lawyer

Concepcion "Connie" Flores

Outstanding Pre-Law Student

Perla Alvelais

Liberty Bell Award

Christina Garcia

The Following are El Paso Bar Association Awards

Duane A. Baker

Professionalism Award

Michael McQueen

Pro Bono Award

Janet Monteros

Outstanding Federal Attorney

Robert White

United States Attorney's Office

Outstanding State Attorney

Jeffrey Alley

8th Court of Appeals

President's Award

Sylvia Borunda Firth

City Attorney