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PRESS RELEASE

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**COUNTY ATTORNEY WINS CIVIL CASE THAT WILL
HAVE STATE-WIDE FISCAL AND LEGAL IMPACT**

El Paso County government will be able to collect thousands of additional dollars yearly from Bail Bond Companies, and District and County Judges all over the state will have better control of their criminal dockets, thanks to a legal argument brought forward by El Paso County Attorney José R. Rodríguez.

On November 30, 2006 the Court of Appeals of the Eight District of Texas declared unconstitutional a legal loophole approved in 2003 by the Texas Legislature that removes the financial incentives for bondsmen to keep track of defendants and make sure they appear in court.

The legal decision arose from a 2004 case, where Rocky Bail Bonds refused to resolve a bail bond case after its client failed to appear in court. Rocky Bail Bonds argued that Article 22.13 (a) (5) of the Code of Criminal Procedure exonerated him from having to pay the forfeited bond.

The law absolves bail bond companies from liability if the accused who missed court is re-apprehended by a law enforcement agency within a certain period of time (6 months in the case of a misdemeanor; 9 months in the case of a felony). The amendment was approved in 2003 during the 78th Legislative Session.

Assistant County Attorney Arne Schonberger explained that bail bond companies were using the loophole to refuse or delay payment of forfeited bonds, even though their

clients failed to appear in court. It is estimated that the County of El Paso failed to collect nearly \$200,000 since the amendment went into effect.

The County Attorney's Office successfully argued that, by not forcing bail bond companies to pay the forfeited bonds immediately after a defendant failed to appear in Court, the statute effectively limited the District Judges' control over their dockets. The statute also eliminated their ability to enter judgment amounts which reflected the evidence submitted in the case.

The constitutionality of the statute was first challenged by the El Paso County Attorney in a felony bail bond forfeiture case pending before the Honorable Yvonne Rangel of the 171st District Court. The bondsman appealed, but the Court of Appeals sustained the ruling of Judge Rangel.

The Eighth Court of Appeals held the Texas statute to be unconstitutional because it violated the Separation of Powers Doctrine. The result of the ruling is that trial court judges can once again set a bail bond forfeiture case for final hearing at any time which fits the Court's docket. Upon hearing the case, the judge can enter a judgment up to the full amount of the original bail bond.

However, the litigation involving this issue might not be over. It is expected that the Texas bondsmen will appeal the decision all the way to the Texas Court of Criminal Appeals, the equivalent to the Texas Supreme Court in criminal cases.

Assistant County Attorney Arne Schoenberger said "This decision helps courts protect the public by forcing bondsmen to do their job: making sure the defendants come to court to face justice."