



\*\*\* MONDAY'S MEETING\*\*\*

May 10, 2010 Meeting @ \*NOON\*

Front Ballroom (Franciscan) at the Hotel Albuquerque

## MONDAY'S PROGRAM



# DOLPH BARNHOUSE

## “Arguing Before the U.S. Supreme Court”

Randolph “Dolph” Barnhouse is a partner in the Albuquerque, New Mexico law firm of Luebben Johnson and Barnhouse LLP. He holds both a JD (*cum laude*) and an MBA (*summa cum laude*) from the University of New Mexico and has over 25 years’ experience in federal Indian law, commercial transactions and business litigation. After law school, he served as law clerk for then Chief Justice William Federici of the New Mexico Supreme Court, following which he practiced with the Phoenix law firm of Brown & Bain PA in large case litigation and business matters. He left Brown & Bain to serve as executive director of DNA-People’s Legal Services, the largest Indian legal services program in the country. Dolph practiced law in Gallup as a partner in Rosebrough & Barnhouse P.C. until moving to Albuquerque to run 1000 Friends of New Mexico. He joined Luebben Johnson and Barnhouse in 2004 where he represents Native and tribal clients in state and federal courts in Alaska, Arizona, California, Illinois, New Mexico and Texas. Mr. Barnhouse has presented argument before the United States Supreme Court, the United States Courts of Appeal for the Second, Seventh and Ninth Circuits, and the Navajo Nation Supreme Court.

Mr. Barnhouse served eleven years as an officer in the United States Naval Reserve, and taught international law for a semester at Wuhan University in the People’s Republic of China. He received the 2003 Courageous Advocacy Award from the State Bar of New Mexico, and the 2001 Zia Award from the University of New Mexico Alumni Association. He is a past member of the Bureau of Land Management’s New Mexico Resource Advisory Council and served as an appellate judge on the Southwest Intertribal Court of Appeals.

AND

# Here is an article from the *Journal* about Dolph's experience!

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URL: <http://www.abqjournal.com/news/state/272338194266newsstate01-27-10.htm>

Wednesday, January 27, 2010

## Attorney Wins in Supreme Court

By Scott Sandlin, *Journal Staff Writer*

Albuquerque attorney Randolph "Dolph" Barnhouse was chastised by Supreme Court Justice Antonin Scalia within minutes of launching into his oral argument in November in a New York City tax case involving a New Mexico vendor of cigarettes via the Internet.

Scalia jumped on Barnhouse over his use of the word "choate," which Scalia said was not a word, although "inchoate" is — like "disgruntled" is a word when "gruntled" is not.

The transcript of the high court arguments notes "laughter" at several places during their exchange.

Monday, Barnhouse had the last laugh when the Supreme Court ruled in his favor in the case of Hemi Group v. The City of New York.

As the transcript notes, Barnhouse acknowledged, that although he might be wrong on the usage, "I think I am right on the law, your honor."

New York City used the federal Racketeer Influence and Corrupt Organizations Act to go after the Internet sales by Hemi Group, alleging Hemi's failure to file information about purchasers constituted mail and wire fraud that caused the city to lose "tens if not hundreds of millions" of dollars in taxes.

The 5-3 Supreme Court opinion by Chief Justice John Roberts said the city couldn't show it lost the tax revenue because of the alleged violation, and reversed an opinion by the Court of Appeals.

New Mexico was among a group of 21 states filing a friend of the court brief in support of New York's position. The New Mexico Attorney General's Office has filed a lawsuit against Hemi in state District Court in a case involving cigarette sales. The state contends Hemi's products are contraband because they didn't comply with state regulations regarding tobacco. One case is pending in 2nd Judicial District Court.

Hemi is no longer in business. It has contended it operated from Jemez Pueblo, but state seizures of cigarettes occurred in Albuquerque.

Barnhouse said the primary similarity between the New York and New Mexico cases is a view by government "that because it involves cigarettes it must be bad, and we as government must win, even though cigarettes are legal. When you read the transcript of the city's argument, the primary argument is we must be doing something wrong. ... And that's just not the law."

He said previous Supreme Court rulings have held that the user — meaning the consumer — is responsible for paying the tax for online purchases from an out-of-state seller with no presence in the state where the buyer resides.

"What this really was (about) is a city frustrated by citizens who aren't paying their taxes, so they ginned up this RICO case," he said.

On a personal level, Barnhouse said it was fascinating to argue a case mere feet from Supreme Court justices, with his children in the audience.

"It was like the haunted house ride at Disneyland, where the pictures start talking to you," he said.

So far, the case has gotten him press in the form of Ben Zimmer's "On Language" column in the New York Times earlier this month discussing the exchange with Scalia.

**And there's also an invitation to talk about the experience from the Albuquerque Rotary Club.**

AND

**our club's next BLOOD DRIVE (Alvarado A)**

AND

**2009-2010 Directories** are here! Pick up [your personalized copy](#) on Monday!

AND



**RON SALLEY** will be awarded the **MAY** Rotarian of the Month!

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COMMITTEE MEETINGS NEXT WEEK

Mon, May 10:

1pm Charity Selection Cte (*Potters*)  
Great Books (*Turquoise*)

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### *Joe Scaletti's Memorial*

*In case you missed it, [Joe Scaletti's informative obituary](#) appeared in the ABQ Journal on Sunday & Monday March 14 & 15*

*→→→ The memorial service is this Saturday, May 8<sup>th</sup> at 5pm at the Pete Domenici Center on the UNM North campus.*

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**Upcoming Rotary Club Service Opportunities**

**Saturday May 15**

**Pinon Canyon Center**

**Get the details from Deborah Gullo or Dick Brackett!**

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UPCOMING ROTARY CLUB PROGRAMS

**Breakfast Fellowship**, Every Thursday; 7 AM; Weck's (Louisiana & Montgomery)

Plan now to bring a potential new member *or two* to these future meetings!

Monday, May 17: and our club's COMMITTEE FAIR



**KIRK Meyer!**  
**TONY Fernandez!**  
**BRUCE Davis!**

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**Have you done a Make Up?** Committee chairs & individuals please send into the office your committee meeting attendance *asap* so it will help our club's monthly attendance figures reported to District!

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**25th Annual Governor's Awards for Outstanding New Mexico Women**

**Tonight 2 of our members will be honored...**

Margaret Moses Branch and Wanda Easley-Small

They will be honored during the 25th Annual Governor's Award for Outstanding New Mexico Women banquet on Friday, May 7, 2010 at the Hotel Albuquerque in Old Town. For more information or tickets, please call the Commission at 222-6600.

**And in our membership, we have another Governor's Lifetime Awardee...**

Julia Seligman



***Rome on the Rio!***

*A food and wine tasting event to benefit Soroptimist International of Albuquerque Opportunity Awards for Women and Girls*

To purchase tickets: [www.siabq.org](http://www.siabq.org)

Sunday, May 23, 2010

12:30 – 3:00 pm

Vivace Italian Restaurant

3118 Central Ave.

Albuquerque, NM 87106

\$45 per person

(Allowable charitable tax deduction is \$20)

*Join our Italian celebration! Sample wines paired with fabulous food and learn about Italian regions and culture.*



SOROPTIMIST  
INTERNATIONAL

Soroptimist is an international women's organization for business and professional women who work to improve the lives of women and girls, in local communities and throughout the world.

From: Joan Punt

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**Way Out West**

# Texas Book Festival

July 29-31

Rotary Club of Alpine, TX

[www.wowtxbookfestival.com](http://www.wowtxbookfestival.com)

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## You CAN Talk about Your Business at a Rotary Meeting!

For many years, our Club exacted a fine from any member that mentioned his or her business during a meeting. Part of the logic was that no one should address our meeting, for a non-Rotary purpose, for free. Your Board of Directors has decided to move a little further along that logical path—and at the same time avoid raising the dues or other costs to members—by offering a “Business Minute,” actually 3 minutes during a meeting, at an appropriate rate, for any member that would like to speak to the Club. Here are the guidelines:

- A member may speak, or present a video, for 3 minutes, and may speak from the podium or from the floor. You may be seated at the headtable if you wish.
- A table will be provided near the door for a display, and brochures may be placed on the tables in the dining room.
- Time will be available when other parts of the program permit. Arrangements should be made with Ann at least two weeks in advance.
- The cost will be \$250 per meeting. This amount is payable to the Club as a contribution to operating expenses, and is not a charitable deduction.

*President John Shomaker*

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