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The Texas Docket

Contents

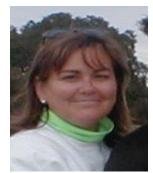
OCTOBER 2013 VOLUME 11 ISSUE 2

Features

Can Your Employer	9
Labor Day Laborers	13
More Words	19
Things to Think About	4
Texas Paralegal's Creed	6
Texas ALP	

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PRESIDENT'S MESSAGE



Patti Heaney, PLS Texas ALP 2013-2014 President

Everyone I know is busy. Busy at work, busy at home, busy on the weekend. Weekends used to be reserved for winding down from the week, going to sporting events for your children, grocery shopping, church and watching the New York Giants on television whenever they are on. ^(C) Now we try to cram so much in those two days, Sunday night rolls around and we're dreading how much we didn't accomplish. Surely this isn't just me. It is hard to stay positive in this fast-paced world we live in. Can you stay positive and motivated? Do you think if you just say, "I'm going to be positive and have a great attitude," that will do it? I think you have to work at staying motivated and positive – every day. I read an article about steps toward keeping positive and here are some of the tips:

- ✗ Don't fall into the "misery loves company" syndrome. This is an easy trap to fall into. Don't join in the pity party. Politely excuse yourself from the situation. This is easy to do at work − not so easy to do at family functions!
- ★ Avoid poison people. You know who they are. They are the ones who are always complaining, always negative, and are quick to criticize. Most of the time you cannot avoid them totally, so just arrange your schedule so you deal with them in small doses. Also make sure you're not the poison person people are avoiding!
- ✗ Spend time with your kids, family, and friends. There's nothing to make you feel better than laughter. There's a reason that "laughter is the best medicine." Schedule a lunch with friends you haven't seen in a while. If you can't swing lunch − schedule breakfast. A friend and I just had breakfast together on a work day and all it involved was getting up and going a little earlier than normal and making the time to go. It was a great way to start the day and we still got to work on time.

The biggest key to staying positive is to take action at the worst moment. You might have to force yourself to exercise or to read something motivational, but you know - no matter how badly you feel when you start, it helps. Did doing those things solve your problems immediately? Of course not, but they help maintain the positive attitude, so you need to keep trying.

Take a deep breath and remember - "this too shall pass."

- * Accept the fact that some days you're the pigeon, and some days you're the statue!
- * Always keep your words soft and sweet, just in case you have to eat them.
- * Always read stuff that will make you look good if you die in the middle of it.
- * Drive carefully... It's not only cars that can be recalled by their Maker.
- * If you can't be kind, at least have the decency to be vague.
- * If you lend someone \$20 and never see that person again, it was probably worth it.
- * It may be that your sole purpose in life is simply to serve as a warning to others.
- * Never buy a car you can't push.
- * Never put both feet in your mouth at the same time, because then you won't have a leg to stand on.
- * Nobody cares if you can't dance well. Just get up and dance.
- * Since it's the early worm that gets eaten by the bird, sleep late.
- * The second mouse gets the cheese.
- * When everything's coming your way, you're in the wrong lane.
- * Birthdays are good for you. The more you have, the longer you live.
- * Some mistakes are too much fun to make only once.
- * We could learn a lot from crayons. Some are sharp, some are pretty and some are dull. Some have weird names and all are different colors, but they all have to live in the same box.
- * A truly happy person is one who can enjoy the scenery on a detour.
- * Have an awesome day and know that someone has thought about you today.

AND MOST IMPORTANTLY

*Save the earth..... It's the only planet with chocolate!

~Author unknown.

***Previously printed in a federal justice publication, issue unknown.

NALS CODE OF ETHICS

MEMBERS OF NALS ARE BOUND BY THE OBJECTIVES OF THIS ASSOCIATION AND THE STANDARDS OF CONDUCT REQUIRED OF THE LEGAL PROFESSION.

EVERY MEMBER SHALL:

- ENCOURAGE RESPECT FOR THE LAW AND THE ADMINISTRATION OF JUSTICE;
- OBSERVE RULES GOVERNING PRIVILEGED COMMUNICATIONS AND CONFIDENTIAL INFORMATION;
- PROMOTE AND EXEMPLIFY HIGH STANDARDS OF LOYALTY, COOPERATION, AND COURTESY;
- PERFORM ALL DUTIES OF THE PROFESSION WITH INTEGRITY AND COMPETENCE; AND
- PURSUE A HIGH ORDER OF PROFESSIONAL ATTAINMENT.

INTEGRITY AND HIGH STANDARDS OF CONDUCT ARE FUNDAMENTAL TO THE SUCCESS OF OUR PROFESSIONAL ASSOCIATION. THIS CODE IS PROMULGATED BY NALS AND ACCEPTED BY ITS MEMBERS TO ACCOMPLISH THESE ENDS.



TEXAS PARALEGAL'S CREED

I work with, and under the supervision of, a lawyer who is entrusted by the People of Texas to preserve and improve our legal system. I realize that unethical or improper behavior on my part may result in disciplinary action against my supervising attorney. As a Paralegal, I must abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A Paralegal owes to the administration of justice personal dignity, integrity, and independence. A Paralegal should always adhere to the highest principles of Professionalism.

- 1. I am passionately proud of my profession. Therefore, "My word is my bond."
- 2. I will work with my supervising attorney to educate clients, the public, and other lawyers and Paralegals regarding the spirit and letter of this Creed.
- 3. I will always be conscious of my duty to the judicial system.

II. PARALEGAL TO CLIENT

A Paralegal owes to the supervising attorney and the client allegiance, learning, skill, and industry. A Paralegal shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by self interest.

- 1. With, and under the direction of, my supervising attorney, I will endeavor to achieve the client's lawful objectives in legal transactions and litigation as quickly and economically as possible.
- 2. I will be loyal and committed to the client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my ability to be objective.
- 3. I will inform the client that civility and courtesy are expected and not a sign of weakness.
- 4. I will inform the client of proper and expected behavior.
- 5. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
- 6. I will inform the client that my supervising attorney and I will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
- 7. I will inform the client that my supervising attorney and I will not pursue tactics which are intended primarily for delay.

III. PARALEGAL TO OPPOSING LAWYER

A Paralegal owes to opposing counsel and their staff, in the conduct of legal transactions and pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a Paralegal's conduct, attitude, or demeanor toward opposing counsel or their staff. A Paralegal shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

- 1. I will be courteous, civil, and prompt in oral and written communications.
- 2. I will identify for other counsel and parties all changes made by my supervising attorney in documents submitted for review.
- 3. I will attempt to prepare drafts for my supervising attorney's review which correctly reflect the agreement of the parties and not arbitrarily include provisions which have not been agreed upon or omit provisions necessary to reflect the agreement of the parties.
- 4. I will notify opposing counsel, and, if appropriate, the Court, Court staff, or other persons, as soon as practicable, when hearings, depositions, meetings, conferences, or closings are canceled.
- 5. I can relay a disagreement without being disagreeable. I realize that effective representation by my supervising attorney does not require antagonistic or obnoxious behavior. I will not encourage or knowingly permit the client to do anything which would be unethical or improper if done by me or my supervising attorney.
- 6. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel, nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony toward opposing counsel, opposing counsel's staff, parties, and witnesses. I will not be influenced by ill feelings between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel or other Paralegals.
- 7. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
- 8. I will assist my supervising attorney in complying with all reasonable discovery requests. I will not encourage the client to quibble about words where their meaning is reasonably clear.

IV. PARALEGAL AND JUDGE

Paralegals owe judges and the Court respect, diligence, candor, and punctuality. Paralegals share in the responsibility to protect the dignity and independence of the Court and the profession.

- 1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
- 2. I will conduct myself in Court in a professional manner, and demonstrate my respect for the Court and the law.

- 3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
- 4. I will be punctual and will assist my supervising attorney in being punctual.
- 5. I will not engage in any conduct which offends the dignity and decorum of proceedings.



Can Your Employer Demand Your Social Media Passwords?

By Donna Ballman

You might remember in early 2012 the report of an employer who was demanding that applicants turn over social media passwords. Suddenly, employees came forward with similar stories, prompting Facebook to threaten suit against employers who violate user privacy. Since then, states have jumped into action. Depending on where you live, an employer who demands your password, or even asks about your social media use, may be breaking the law.

So far, six states have passed laws banning employers from demanding their employees' passwords. Eleven more have legislation pending. Unfortunately, a proposed federal law failed miserably. In a majority of states, employers and potential employers can still invade your privacy in this way.

The states that have acted to protect the privacy of social media passwords are:

- Maryland -- Maryland enacted the first law passed, which became active in 2012: It prohibits an employer from requesting or requiring that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through specified electronic communications devices; bars an employer from taking, or threatening to take, specified disciplinary actions for an employee's refusal to disclose specified password and related information; and bans an employee from downloading specified information or data; etc.
- Illinois -- The state law, passed in 2012 and enacted Jan. 1, 2013, also prohibits employers from demanding passwords from applicants and employees.
- California -- Like Illinois, its new law went into effect at the beginning of the year.
- Delaware -- Although many news outlets have reported that Delaware has a similar law, they tried to pass one and failed. The law that did pass prohibits educational institutions from demanding student passwords. Employees are not protected in Delaware.
- Michigan -- Michigan's social media privacy law, which became effective at the end of 2012, contains exceptions for workplace investigations, theft of trade secrets or confidential information, employer-owned devices, and information that goes through the employer's network. This law also applies to educational institutions.
- New Jersey -- New Jersey's new law, also effective as of December 2012, is so broad that it even prohibits employers from asking if employees use social media. Huzzah!

Laws pending: Delaware, Massachusetts, Missouri, New York, Ohio, Pennsylvania, South Carolina and Washington all saw bills introduced in 2012 that are in various stages of passage. 2013 already has seen more states introduce or re-introduce legislation to prohibit employer demands for passwords. California has a bill pending that would apply the prohibition to the public sector. Colorado, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New York, Oregon, Texas and Vermont all have legislation pending in the 2013 legislative session on this important issue.

What About Everyone Else?

The rest of us have to wait for either Congress to pass a law (I won't hold my breath) or for our state legislatures to wake up and address this issue for their constituents. I don't expect anything to happen anytime soon in my home state of Florida, which continues to be one of the worst states in the nation for employee protections.

There's still some hope for those of us who are left out though. Employers who overreach may well be breaking one of these laws:

- National Labor Relations Act -- If your company's social media policy says that you aren't allowed to discuss or disparage the company in social media that may well violate your right to complain about working conditions with co-workers. Recent cases before National Labor Relations Board have addressed illegal firings due to Facebook postings and other social media issues. Policies that prohibit "offensive," "demeaning," or "inappropriate" comments may well be over-broad.
- Stored Communications Act -- This law offers some limited protection if your employer accesses your private messages on Facebook or other social media. Courts have pretty well gutted employee protections under this law. For instance, an employee who checked email on a company computer and forgot to log out had no protection. Twitter lost a fight to challenge a subpoena of a user's stored tweets. When a co-worker snooped a cell phone, the law didn't protect the employee's privacy because a court found that the law didn't apply to phones.
- Americans With Disabilities Act -- If an employer's snooping reveals the existence of a disability, then any actions they take against the employee may violate disability discrimination laws.

More: Why You Need A Social Media Makeover

- Equal employment regulations -- If a snoopy employer discovers that an employee or prospective employee is pregnant, has a genetic disorder that runs in the family, is older than they thought, or is of a specific race, national origin or religion, then the employer risks getting slapped with a discrimination suit when they reject an applicant, take disciplinary action or deny a promotion.
- Whistleblower protections -- If the employer discovers that the employee blew the whistle on another employer, the employer may end up in hot water under one of the many whistleblower protection laws.

Overall, I think employers really messed up when they started this extreme invasion of privacy. I expect employees to strike back with new laws, lawsuits against employers under many legal theories, and possibly more unionization and employee activism.

Or maybe we'll let them get away with it. Next thing we know, employers will be demanding our house keys, safe combinations, and bank account passwords. Then will come credit card statements, keys to private clubs, and wanting to know your weekend itinerary.

Go to a bar? Go on a date? Take a vacation? Expect your employer to want details if we don't stop them. How much snooping by employers is too much? I think social media passwords are a good place to draw the line. If we don't halt them here, expect even more intrusion in your private life by busybody employers.

About the Author:

Donna M. Ballman. An honors graduate of Wellesley College, Attorney Ballman received her J.D. from the University of Miami, also with honors, in 1986. She has received many awards and honors from her peers in the legal profession, including being named in 2000 as a member of Leading Florida Attorneys voted on by members of the Florida Bar. She is a member of the Million Dollar Advocates Forum since 2006, has been named a Top South Florida Attorney in 2002, by South Florida Legal Guide in 2002, 2003, 2005, 2007, 2008, 2009, 2010 and is listed in Who's Who in American Law. Donna M. Ballman is AV-rated and has received the highest peer review rating under Martindale Hubbell's Peer Review Rating process. She has built a reputation as skilled and knowledgeable attorney in all of the aspects of labor and employment law, and commercial litigation. She is also the author of *Stand Up For Yourself Without Getting Fired*.







Do you have a new employer? Did you change your name? Have you moved? Did you pass a certification exam? Did you change your preferred e-mail? Want to receive e-mail from Texas ALP? Please provide changes to: Rita Alesi, PP, PLS, TSC at ralesi56@yahoo.com



Austin LPA, Inc. received its charter on October 28, 1960. Corpus Christi ALP received its charter on October 30, 1953. Dallas ALP received its charter on November 2, 1952. El Paso County LSA received its charter October 19, 1968.



Labor Day Laborers

Matthew Harris Law's Blog

Oh the Irony!

Labor Day marks the unofficial end of summer, and retailers always mark this occasion with deals, sales, and savings. After all, federal holidays are best spent shopping.

While you are shopping, you give pause to consider the irony of what is happening. By shopping, you are requiring other people to work on Labor Day, which by definition is a holiday for laborers.

Is it fair to ask those in the retail industry to work on Labor Day? Are you a retail worker that is being forced to work on Labor Day? Do retail workers have any protections under the law?

Day of Rest Statute

You remember from your days working at the grocery store in high school that there were laws that specifically protected retail employees, or so you were told. Is there a law that governs how many days a retail employee may work?

The so called Day of Rest statute specifically addresses the issue of how many consecutive days an employer may require a retail worker to work. This statute only applies to those employees who work in retail. According to the Day of Rest statute, when an establishment is in the business of selling merchandise at retail, the employer may not require the employee to work seven consecutive days in that establishment.

-See Tex. Lab. Code § 52.001(a)

Why Require a Day of Rest?

As the nickname of the statute implies, the intention of the law may be to protect the religious interests of the employees. The employer cannot deny an employee at least one period of twenty-four consecutive hours off work for rest or worship in each seven-day period.

The employer must also accommodate the religious beliefs and practices of the employee, unless it would constitute an undue hardship on the conduct of the business.

-See Tex. Lab. Code § 52.001(b)-(c)

Basically, this means that if you work in the retail industry, and you inform your employer that you go to church every Sunday, absent extenuating hardship on the business, you should be given the time to go to church. However, be aware that there are requirements that must be followed and you should speak with an employment attorney if you are considering a lawsuit.

Does this Law Apply to all Employees?

Unfortunately not. This provision does not apply to part time employees whose total work hours for this particular employer during a calendar week do not exceed thirty hours. Therefore, the part time high school workers you see at the grocery store do not have this protection (though they undoubtedly have others).

-See Tex. Lab. Code § 52.001(d)

But, I Need the Hours!

If a retail employer violates the seven consecutive day's law, that employer can be prosecuted for a Class C Misdemeanor.

HOWEVER, there is an affirmative defense to prosecution for the retail employer if the employee volunteered to work on the seventh day. If the employee volunteers to work on the seventh day, the employee must sign a written statement that the employee volunteered and the statement must also contain a provision, signed by the employer or the employer's agent, that the employer did not require the work.

-See Tex. Lab. Code § 52.003

Therefore, if you really need the hours, and your retail employer won't let you work on the seventh day, you can score mucho kudo points if you show up with this written statement with the required language. You'll show your boss that you want to protect his/her butt while also showing that you're a motivated go-getter. Motivated go-getters are management material!

Be Grateful

So as you go shopping on this holiday, please remember that this day is for all workers. Also remember that while the law does protect some aspects of the cashier's employment, it doesn't specifically protect him from having to deal with unruly customers. Be nice and thank those in the retail industry for working on what is, after all, their holiday too.

--Authored by Carrie A. Harris, BA

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Half Page Horizontal (4.5 h x 7 w)	Full = \$100 Half = \$75	Full = \$50 Half = \$35
Quarter Page Vertical (4.5 h x 3.25 w)	Quarter = $$50$	Quarter = 20

Note from the Editor:

I want to encourage members to provide feedback to me and the Executive Committee regarding any information or topics for articles that you would like to see in the Texas Docket. My email is <u>drea.griffin75@gmail.com</u>. Thank you Andrea

Thank you, Andrea



Leadership Puzzle Pieces By Trudy Rush

Every time a game producer releases a new game on the market, any kind of game – strategy, logic and ability, action, mind training, for children or grown-ups, be it a computer game or a standard one, people huddle together to buy them. Curiosity and exaltation cause the game-maniacs to start playing as quick as possible, without reading the guidelines.

If they keep on playing for hours in a row that means the game is captivating and entertaining, interactive, simple and well conceived. If not, it is likely that the game isn't a very good or spectacular one, but dull and exhausting. Studies revealed, uncountable times that people of all ages prefer games that resemble reality that involve a certain degree of thinking, certain abilities, curiosity and prospecting. Let's keep in mind that certain games contribute to brain training, and people can develop certain skills, like leadership through these games.

With that said, as part of Professional Development we are going to incorporate some fun leadership puzzles for you to partake in. Enjoy and learn!



Character and Leadership Vocabulary Word Puzzle

Directions: By using the Latin roots or word parts, the vocabulary definition, part of speech and the Character and Leadership word list you will solve the work puzzle.

Word Bank: Character and Leadership vocabulary word list:

caring, character, citizenship, cooperative, courage, discipline, education, empathy, fairness, honesty, integrity, kindness, loyalty, patience, punctuality, reliance, respect, responsibility, tolerance, trustworthy

1) To feel or show honor or esteem for; to care or show consideration for (verb) Root SPECT = look

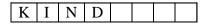
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2) Deserving of confidence or reliance on the integrity, strength or ability of a person; reliable (adjective)

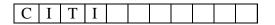
Root TROST = comfort, consolation

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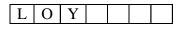
3) Friendly feeling; quality of a benevolent nature or disposition; state of being considerate or helpful (noun)Root KINDE = natural, well-disposed



4) The character of an individual viewed as a member of society (noun)Root CITE = city



5) Feeling of faithfulness or allegiance; state of being faithful to one's friend, oath or obligation (noun) Root LEGIS = law



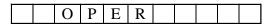
6) A fair and permissive attitude towards those whose race, religion, nationality or opinions differ; freedom from bigotry (noun) Root TOLER = to put up with



7) Identification with or vicarious experiencing of the feelings, thoughts, etc. of someone; sympathy (noun)Root PATH = feel, suffer

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8) Demonstrating a willingness to work or act together for a common purpose or benefit (adjective)Root OPER = work



9) Truthfulness, sincerity or frankness; freedom from deceit; trustworthiness (noun) Root HONOS = honor



10) Bravery; quality of mind or spirit that enables a person to face difficulty or pain without fear (noun)Root COUR = heart

C O U I	R
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More Words – Not My Own By Anne Hoover, PLS

At the close of the Professional Development Lunch in Austin last year I shared what I referred to as "closing words, not my own". Here are some more I would like to share. If you find that right now your life is in a puzzling place, I hope they will offer you encouragement toward putting the pieces together.

Believe in what you want so much that it has no choice but to materialize.

If every morning you can find a reason to say, "Yes, it's going to be a beautiful day." And every day you find a reason to say, "Yes, it is a beautiful day." And every night you find a reason to say, yes, it was a beautiful day." Then one day you'll look back and easily say, "Yes . . . it was a beautiful life."

Perseverance is not a long race; it is many short races one after another.

Never give up on what you really want to do. The person with big dreams is more powerful than one with all the facts.

You may not know what is going to happen when you try, but if you do not try nothing will happen.

The difference between perseverance and obstinacy is that one often comes from a strong will, and the other from a strong won't.

Keep away from people who try to belittle your ambitions. Small people always do that, but the really great make you feel that you, too, can become great.

And, of course, here are some thoughts "on the lighter side."

The Hokey Pokey Clinic is a good place to turn yourself around.

I know the voices aren't real, but man do they come up with some good ideas.

If we're not meant to have midnight snacks, why is there a light in the fridge?

I'd like to help you out. Which way did you come in?

Have you ever just looked at someone and knew the wheel was turning but the hamster was dead?



Texas Association of Legal Professionals Nomination for the Quarterly "Spotlight Piece"



President Patti Heaney's theme this year is puzzles and how **you** fit into the puzzle that is Texas ALP. The Texas ALP puzzle is made up of lots of "pieces" that do a tremendous job, not only at work, but also for our tri-level association. Texas ALP would like to recognize outstanding members throughout this year. We will have a quarterly "Spotlight Piece." So nominate away. If you have a member you believe is deserving to be featured for the Spotlight Piece, please complete the following nomination form and return it to this year's Membership Chair, Leatha Kopech, PP, PLS by the deadlines listed below. The Spotlight Piece will be published in the issues of The Texas Docket.

Nomination Deadlines are: October 1, 2013; January 1, 2014; and April 1, 2014. Nominations need to be emailed to Leatha at leathatalp@gmail.com and must be received by the deadline.

Winners will be announced October 15, 2013; January 15, 2014; and April 15, 2014.

Nominee's Name:		
Chapter Affiliation:		
Address:		
Phone Number:	Email:	
Employer:		
Title:		
Boss(es)Name:		
Employer Address:		
Nominated By:		
Chapter Affiliation:		
Address:		
Phone Number:	Email:	

I believe the above person should be the Texas Association of Legal Professionals Quarterly "Spotlight Piece" for the following reasons (250 words or less – please do not use nominees name in paragraph): "Spotlight Piece" Questionnaire for *The Texas Docket* feature:

- 1. What is it you like best about working in the legal field?
- 2. What do you enjoy most about being a "Piece" of your local chapter?

3. What do you enjoy most about being a "Piece" of the Texas ALP Puzzle?

4. What have you gained from being a "Piece" of the Puzzle?

5. Tell us anything you would like us to know about your family/personal life so that your Texas ALP friends will know you a little better? (Optional)

Please submit photo to be placed in *The Texas Docket*



Lubbock Legal Professionals Association

cordially invites you to the



59th Annual Texas Association of Legal Professionals Education Conference

May 1-3, 2014

at the Embassy Suites Lubbock.

We look forward to hosting the conference

and having you as guests in our city.