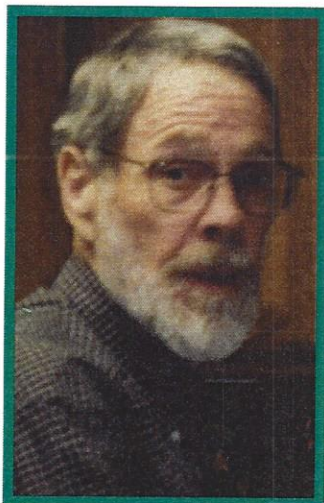


## Special Edition In Memory of Paull Mines

August 27, 1942-August 29, 2002

This special issue of the MTC Review is in remembrance of Paull Mines. Paull passed away on August 29, 2002 after a long and difficult struggle with several illnesses, including cancer. His grace, humility and humor will never be forgotten, just as the legacy of his brilliant intellect will guide and inform tax professionals for years to come. To those of us who worked most closely with Paull, he was much more than MTC General Counsel. He was a guidance counselor, a moral and ethical barometer, a willing listener, a teacher, a light to new



ideas and forgotten ideals, a voice of unlimited wisdom, a friend. He won the admiration of us all because he treated each individual with respect and dignity. We loved Paull in his life and we will always love the spirit he has left us.

Although we celebrate Paull's professional achievements with this publication, we know that the person Paull was—the individual we so painfully miss—had less to do with his great legal accomplishments and almost everything to do with his quiet, persistent humanity.



# Compendium of His Writings

During his time with the MTC, Paull described his professional passion to be "Preserving 'Our Federalism' by developing state tax systems that are understandable, administrable and fair for taxpayers and States alike, with the view to avoiding post-transactional assessments." Paull expressed his passion for these issues in briefs, articles, uniformity proposals and in speeches and presentations before various interest groups. Presented below is a list of many of his writings on state and local taxation.

## Articles

- Co-author, *Designing a Combined Reporting Regime for a State Corporate Income Tax: A Case Study of Louisiana*, Louisiana Law Review (Summer 2001)
- *Explanation of the Recently Enacted Mobile Telecommunications Sourcing Act*, MTC Review (September 2000)
- *Should States Tax E-Commerce? The Role of States in the Federal System*, ABA Section of Taxation Newsletter, Vol. 19, No. 3 (Spring 2000); reprinted, State Tax Notes (August 9, 2000)
- Member of Drafting Committee for NTA Report on Taxation of Electronic Commerce, published by State Tax Notes (November 1, 1997)
- *Commentary Conversing with Professor Hellerstein: Electronic Commerce and Nexus Propel Sales and Use Tax Reform*, Tax Law Review (NYU School of Law) (Summer 1997)
- Co-author, *MTC: FCC Lacks Jurisdiction to Hear Telecommunications Petition*, State Tax Notes (September 18, 1996)
- Co-author, *Why the States are Right in Issuing Nexus Bulletin 95-1*, State Tax Notes (March 25, 1996)
- *Supreme Court Decisions in Allied-Signal and Kraft Push States to Consider Combined Reporting*, MTC Review (December 1992); reprinted, State Tax Notes (March 29, 1993)
- *Transactional Taxation of Interstate Commerce*, MTC Review (December 1992)
- *Congress Disrupts State Taxation of Air Carriers Through Passage of 49 U.S.C. § 1513(f)*, MTC Review (March 1991)
- *MTC Considers Endorsing Modified MoSCITA*, MTC Review (March 1991)
- *IRS Continues to Finalize Regulation Under IRC Section 861*, MTC Review (March 1990)
- *MTC Uniformity Proposal Dealing with Sales Taxation of Drop Shipments Based on Transactional Nexus*, MTC Review (March 1990)

## Briefs (Date of Court's decision indicated.)

### United States Supreme Court - On the Merits

- Co-author, United States Supreme Court Brief of Amicus Curiae of the Multistate Tax Commission in Support of Petitioner in the matter of *Director of Revenue v. CoBank ACB, as Successor to the National Bank for Cooperatives* (2001)
- United States Supreme Court Brief of Amicus Curiae of the Multistate Tax Commission in Support of Respondent in the matter of *Hunt-Wesson, Inc. v. Franchise Tax Board* (2000)
- United States Supreme Court Brief of Amicus Curiae of the Multistate Tax Commission in Support of Petitioner in the matter of *Arkansas v. Farm Credit Services of Central Arkansas, PCA* (1997)
- Co-author, United States Supreme Court Amicus Brief of Multistate Tax Commission in Support of Respondent in the matter of *General Motors Corporations v. Tracy, Tax Commissioner of Ohio* (1997)
- Co-author, MTC Amicus Curiae Brief in Support of Respondent, *Barclay's Bank PLC v. Franchise Tax Board* (1994)



- Co-author, MTC Amicus Curiae Brief in Support of Respondent, *Associated Industries of Missouri, et al. v. Lohman, Director of Revenue* (1994)
- Co-author, United States Supreme Court Brief Amicus Curiae of Multistate Tax Commission in Support of Respondent on Reargument in the matter of *Allied-Signal Inc. v. Director, Division of Taxation* (1992)
- United States Supreme Court Brief Amicus Curiae of the Multistate Tax Commission in Support of Petitioner in the matter of *Wisconsin Department of Revenue v. William Wrigley, Jr., Company* (1992)
- Co-author, United States Supreme Court Brief of the Multistate Tax Commission as Amicus Curiae in Support of Petitioners in the matter of *Franchise Tax Board v. Alcan Aluminum* (1990)

#### United States Supreme Court - On Petition for Writ of Certiorari

- Co-author, MTC Amicus Curiae Brief in Support of Petitioner, *Franchise Tax Board v. Hyatt, et al.* (Petition pending)
- Co-author, MTC Amicus Curiae Brief, *Goldberg v. Ellett* (2001)
- MTC Amicus Curiae Brief in Support of Petitioners, *Rylander, et al. v. Dow Chemical Company* (2001)
- MTC Amicus Curiae Brief in Support of Petitioner, *Montana v. Crow Tribe* (1998)

#### State Cases

- MTC Amicus Curiae Brief, *Franchise Tax Board v. Nevada Supreme Court and Gilbert P. Hyatt* (NV Supreme Court) (2002)
- Co-author, MTC Amicus Curiae Memorandum in Support of Plaintiff, *Comptroller of the Treasury, Maryland v. Furnitureland South, Inc. and Royal Transport, Inc.* (Md. Circuit Court) (1999)
- Co-author, MTC Amicus Curiae Brief, *Polaroid Corporation v. Offerman* (NC Supreme Court) (1998)

## Biography

### Education

University of Washington (B.A. 1964)  
Harvard Law School (LL.B 1967)  
New York University (LL.M (Tax) 1985)

### Professional Experience

General Counsel

Multistate Tax Commission  
1989 to 2002

Adjunct Professor

State and Local Tax,  
Georgetown University Law Center  
1991-1992

Assistant Attorney General in charge of  
Tax Unit, Navajo Tribe of Indians  
1986-1989

Member, commercial law firm  
Albuquerque, NM  
1971-1986

Instructor in Military Law and  
Trial Counsel, (prosecuting attorney)  
U.S. Navy (JAGC), 1968-1971

### Writings & Presentations

Written articles on, and presented public discussions of, issues involving multijurisdictional taxation in various settings. Drafted or assisted significantly with developing MTC uniformity proposals including: *Uniform Principles Governing State Transactional Taxation of Telecommunications* (MTC Reg. Adopted 1993); *Constitutional Nexus Guidelines for Application of a State's Sales and Use Tax to an Out-of-State Business* (deferred); *Definition of Business/Nonbusiness Income* (under development); and *Definition of a Unitary Business* (under development).



Memorial Tribute  
to  
Paul Mines



# *Multistate Tax Commission*

In Celebration of the Life and Contributions of

**Paull Mines**

August 27, 1942 ~ August 29, 2002

## **Memorial Tribute**

Wednesday, October 16, 2002, 6:00 PM  
Shiloh Baptist Church  
1500 Ninth Street, NW  
Washington, DC

Officiating:  
René Blocker

~~~~~

Tribute in the Sanctuary

~~~~~

Refreshments will be served afterwards in Heritage Hall South



From: June Summers Haas  
Honigman Miller Schwartz & Cohn LLP, Lansing, MI

## Paull Mines, Multistate Tax Commission General Counsel Dies

On August 29<sup>th</sup> Paull Mines, General Counsel for the Multistate Tax Commission, passed away in Denver, Colorado after a long battle with several illnesses and cancer. He was sixty years old.

Paull Mines had become a fixture in the state and local tax community. He joined the legal staff of the MTC in 1989. Over the years he has become well known for his defense of federalism, worldwide unitary taxation, and a two-factor business income test.

Dan Bucks, Director of the MTC, stated, "We have lost a great friend and colleague. There is much that needs to be remembered about Paull: his great talent, his intellect and integrity – his deep commitment to and tireless work on behalf of federalism and tax fairness—his wry wit and humor – his selflessness and humility. For those of us who worked closely with Paull, we will remember him as a kind and gentle spirit who supported and nurtured each person around him."

Paull worked on developing uniformity proposals for the MTC and drafted numerous U.S. Supreme Court amicus brief on behalf of the states. Paull noted in this most recent biography that his current professional passion was preserving "Our Federalism" by developing state tax systems that are understandable, administrable and fair for taxpayers and States alike, with a view to avoiding post-transactional assessments. Paull was respected and appreciated even though professional views were not always popular with the business community.

"He had an absolute passion about state and local taxation," Diann Smith, General Counsel for the Council on State Taxation observed. "Although we disagreed with about 90% of the conclusions he reached, Paull Mines was such an honest, diligent scholar you knew that every position he took was thoroughly researched and backed-up. He made us better at what we did. He was a formidable advocate for the states and he added a lot of fun to our job. He will be missed."

"Paull Mines was a scholar and a gentleman," said Paul Frankel. "He passionately argued his position but he never got angry and he never took opposition personally. He was a terrific lawyer and it's a loss for the field."

Many of those who worked with Paull noted that he was truly committed to making state taxing systems work better. "He really saw the legal issues and broad policy contexts of what the laws were trying to implement," said Michael Mazerov a former co-worker now at the Center on Budget and Policy Priorities.

Paull Mines was graduate of the University of Washington who received his law degree from Harvard Law School and a Masters in Taxation from New York University. He began his professional career in the courtroom for the U.S. Navy as member of the JAGC. He spent 15 years in private practice and then was tax counsel for the Navajo Tribe of Indians prior to joining the MTC. Paull was an adjunct professor of State and Local Tax at Georgetown University in the early nineties. "He never stopped teaching those around him," said Sheldon Laskin, MTC Nexus School Director observed. "He would have a conversation with you and teach you three things you didn't know before then thank you for giving him new things to think about."

Paull was fluent in spanish and an avid bicyclist in his free time. At the memorial service held in Denver, CO a long-time friend of Paull's commented that he always believed that Paull cycled to relieve the stress of writing tax briefs. Michael MacIntyre, Professor at Wayne State University, responded that he always thought Paull turned to state tax analysis to relieve the stress of bicycle racing. Paull Mines with his wry sense of humor would have appreciated that comment.

From: Kinkead, Joyce, General Counsel, Arizona Dept. of Revenue  
Sent: Wednesday, October 02, 2002 2:34 PM  
To: 'Bucks, Dan'  
Subject: RE: Memorial Tribute for Paull Mines

We will really miss Paull, and I wish I could attend the memorial service. My husband and I, however, have a vacation to Italy planned for that time. As much as Paull enjoyed travelling, I am sure he would say "go for it." Just a thought---Paull helped me tremendously with unitary and business/nonbusiness issues when I was in Revenue Legal Counsel in Arkansas. I started to work in October 1990, with little or no knowledge of unitary and business/nonbusiness issues, and had difficult issues to argue in the Arkansas Supreme Court within about 6 months. Without Paull's help and constructive criticism, I would never have made it. I'm sure there are many, many more instances such as mine of which you have become aware since Paull left us. I can only hope that I can leave a legacy that is a small portion of what Paull has left us. Let me know of other activities planned to honor Paull. Thanks!

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From: Robert Landau, Chairperson  
The Wireless Tax Group

Date: September 9, 2002

Re: Paull Mines

On behalf of the members of The Wireless Tax Group, I would like to extend our deepest sympathies on the passing of Paull Mines. Many of our members have had the privilege of working with Paull over the years in various capacities. The most remembered of which will be his direct participation in the drafting of the Mobile Telecommunications Sourcing Act. He was a dedicated member of the working committee and his contributions to that effort will never be forgotten by our industry. Regardless of whether the work relationship with Paull was that of partner or opponent, his participation always resulted in a high quality product and always inspired other people to work at their best. Paull was a true professional of the highest quality, and everyone who had the opportunity to work with him greatly benefited and learned from his dedication and experience in the area of state and local taxation. But most of all, Paull will be remembered by many of us as a genuinely nice guy and one whom we were proud to call a friend. We are all saddened by the news of his passing, and we will miss him a great deal.

Please extend our condolences to the entire MTC organization as well as to Paull's family and friends.

Sincerely,

Robert Landau, on behalf of the Wireless Tax Group



From: MATT TOMALIS, Attorney, Federation of Tax Administrators  
Sent: Wednesday, October 02, 2002 2:59 PM  
To: Dan Bucks; Rene' Blocker

Subject: on Paull

Dan, Rene' -

I understand that Harley will be sending a note regarding Paull's death on behalf of FTA, but I thought I would add a short personal note of my own.

From the time I met Paull in early 1998, when I joined FTA, he had a huge impact on me. He welcomed me aboard, and treated me as an equal (when I was nowhere near that), with a respect I hadn't earned. Back then, our offices were working on what became the Mobile Telecommunications Sourcing Act, and, while my memories of that work are not entirely pleasant, I will always be glad that that assignment required me to spend a lot of time working with Paull. I've often said that, in that endeavor, and in anything else he and I worked on together, I was just his caddy, that he was that superior to me professionally, but I quickly learned that his professional brilliance was not even his best attribute. More importantly, he was good man, defined by qualities such as honor, kindness and humor.

Paull was a model attorney, conducting himself with integrity and treating his opposition with respect, all the while contributing a lightheartedness that reminded us to keep what we were doing in perspective. He was open and kind and more than generous with his time and advice. And, as much a pleasure as it was to work with him, he was even more fun after hours. I think the last time I saw him was at a Streamlined meeting in New Orleans in January, when a bunch of us went out to eat and then to Pat O'Brien's, and Paull got one of the piano players to play some song that none of us had heard of, but turned out to be some risqué little ditty that tore the place up. That kind of day, with the work group meetings all day and the socializing at night, might be a nice snapshot of Paull at his best: a brilliant attorney who brought an unparalleled knowledge and expertise to everything he worked on, who also brightened everyone's day with his spirit and humor. I am very grateful for the time I had to get to know him, and I will miss him greatly.

Sincerely,  
Matt Tomalis  
FTA

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From: DEBORAH MAYER, Illinois Dept. of Revenue  
Friday, August 30, 2002 11:41 AM  
Subject: Paull Mines' Passing

Dear Dan, Bill & Renee:

I was shocked and saddened to learn of Paull's death. Frank emailed me. I hadn't been apprized of his illness, although I had been in communication with him in June or July. Paull represents the best in people: he was a scholar a gentle and kind person, who brought out the best in everyone he worked with or knew.

Please let me know if there will be any organized donations, etc. I should like to be included.

Thank you very much and my condolences to his widow and daughters.



From: VERENDA SMITH    \*\*\*\*TaxExPRESS\*\*\*\*Sept. 3, 2002

TRAGIC LOSS. Paull Mines, General Counsel of the Multistate Tax Commission and one of the country's preeminent state tax attorneys, died last week. He had suffered from several illnesses in recent years. A memorial service was held in Denver on Monday; details on other services or family wishes are not yet available. Paull had been with the MTC since 1989. His legal colleagues who want to recall his crisp legal thinking can refer to any of his clearly written opinions. Those who want to remember Paull's wry and self-deprecating sense of humor will enjoy this classic, taken from a biography he wrote last year as part of a speaker's introduction: "Education (Perhaps proving that too much education is not a good thing): University of Washington (B.A. 1964); Harvard Law School (LL.B. 1967); New York University (LL.M. (Tax) 1985); Self-taught in use of word processing (never has had any computer training)." Paull leaves us with this vision of his life's work: "Preserving 'Our Federalism' by developing state tax systems that are understandable, administrable and fair to both taxpayers and state and local government and avoiding post-transactional assessments. (This perspective has been derived from fifteen years of private law practice and over fifteen years of governmental service that has provided exposure to both sides of voluntary compliance tax systems.)"

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From: Scott Brian Clark, Esq.  
At the Summit  
The Summit Partners Group  
300 Park Avenue, Suite 1700  
New York, NY 10022

Dear Dan

I was very sad to hear about the recent passing of Paull Mines. Paul was a fabulous personality and a significant contributor to and educator on tax issues. He will be dearly missed. Please keep me in the loop on any efforts to memorialize his efforts or his passing. Please stay in touch.

Best regards,  
Scott

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Excerpt from David Brunori's article on Paull in "State Tax Notes"  
Monday, September 09, 2002 8:02 AM

## Remembering Paull Mines

Paull Mines passed away last week after a long illness. As readers of *State Tax Notes* are aware, he served for many years as general counsel to the Multistate Tax Commission (MTC). He was one of the giants in the field. His contributions to the work of the MTC are beyond dispute. He helped make the MTC an organization with immense influence on state tax policy issues. And his ideas helped shape the field of state taxation and fiscal federalism.

Moreover, even those who did not agree with his views on state tax policy admired his work. No doubt his keen intellect was a reason for this admiration; he was by all accounts brilliant. Indeed, many people, myself included, held him in awe. But much of the admiration for Paull Mines stemmed from the fact that he was intellectually honest. And that attribute is what made him respected.

But what I liked about Paull Mines was that he was funny, in a wry, sly sort of way. And, in the few instances in which we were together, I found him to be a genuinely nice guy. Brilliant, funny, and nice? No wonder people liked Paull Mines and will miss him terribly.



From: Timothy Catts

Tax Analysts

Paull Mines, general counsel to the Multistate Tax Commission (MTC) and a highly respected expert on state tax issues, died on August 29 after a long struggle with cancer and other illnesses. He was 60.

Mines was a key figure in the MTC's efforts to preserve the taxing authority of states under the World Trade Organization, and his work was instrumental in developing telecommunications and streamlined sales tax policy, colleagues said.

"He really saw the legal issues and broad policy contexts of what the laws were trying to implement," said Michael Maserov, senior policy analyst with the Center on Budget and Policy Priorities, Washington, and Mines' former colleague at the MTC, to State Tax Notes.

"Paull was dedicated not just to being an advocate for the states," Walter Hellerstein, University of Georgia School of Law, told State Tax Notes. "He also had an ecumenical view of state taxation."

"The state tax world needed him a lot, and it will remember him," Hellerstein said.

Prior to joining the MTC in 1989, Mines worked as an assistant attorney general for the Navajo Indian nation beginning in 1986. Previously he had been in private practice after teaching military law in the U.S. Navy.

A 1964 graduate of the University of Washington, Mines received law degrees from Harvard Law School in 1967 and New York University in 1985.

In addition to his work on policy issues, Mines was well known as an author of amicus curiae briefs in important cases heard before the U.S. Supreme Court, such as Hunt-Wesson and Allied-Signal.

Hellerstein, who represented the taxpayer before the Supreme Court in the Hunt-Wesson case and worked with Mines on the National Tax Association's Telecommunications and Electronic Commerce Tax Project, praised Mines's brief, calling him a "more-than-capable defender of his position," even when the two disagreed.

"Paull believed in state government," Hellerstein said. "He had a scholarly, policy-oriented approach that one always had to take seriously."

"He was a brilliant lawyer who retained so much of what he'd ever learned," said Frank Katz, MTC deputy general counsel, to State Tax Notes. "He'll be missed."

★★

From: Amy Hamilton, Tax Analysts  
Dear Dan & Staff,

I was so sorry to hear of your loss. Paull was always so wonderfully patient with me in explaining the law, his enthusiasm contagious. He will be missed terribly.

With love,  
Amy Hamilton





**FEDERATION OF TAX ADMINISTRATORS**

444 North Capitol St., NW, Washington, D.C. 20001 • (202) 624-5890

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October 4, 2002

Mr. Dan Bucks, Executive Director  
Multistate Tax Commission  
444 North Capitol St., NW  
Washington, D.C. 20001

Dear Dan,

On behalf of the members and employees of the Federation of Tax Administrators, I would like to convey my sincerest condolences on the death of your general counsel, Paull Mines. The close working relationship between FTA and MTC allowed all of us at FTA to spend time with Paull, and it was always a thoroughly positive experience.

Paull was a brilliant attorney, a true giant in this field of state taxation, not only in the depth of his knowledge of the law, but also in his ability to apply that knowledge in the defense of states, sovereignty in this ever-changing context of what constitutes a federal system. From past projects involving the direct marketer negotiations, the National Tax Association project, and the Advisory Commission on Electronic Commerce, to more recent endeavors such as the Mobile Telecommunications Sourcing Act and the Streamlined Sales Tax Project, Paull's work on behalf of the states, and good government in general, was indispensable. It will have an impact for many years to come. We at FTA have also always been grateful for the advice he provided to us and to states on a regular basis, the amicus briefs he filed with the U.S. Supreme Court on behalf of states, and for his many presentations at FTA functions. States could not have had a better advocate than Paull Mines.

As good an attorney as he was, however, Paull was even a better person. In the many legal discussions I heard Paull involved in, he always treated the opposition with respect, and let them feel that their opinion was worthy of consideration, however misguided Paull would eventually, and gently, show that opinion to be. He was always kind, and generous with his time and advice. He was a gentleman that treated everyone well, and made them feel at ease and appreciated. And, he was a genuinely funny man, with a great sense of humor and wit.

It was a pleasure to know Paull and to have been able to work with him as much as we at FTA did. He will be greatly missed.

Sincerely,

Harley Duncan  
Executive Director  
Federation of Tax Administrators



## Quotes from Don Pablo

(a.k.a. Paull Mines)

Don Pablo was reflecting on the ease of modern life. In days of yore, if your neighbor knew you were laid up and weak, and he desired your land, he'd probably come over and bop you in the head to secure it. So even in illness, Don Pablo is reminded of the need for sufficient state and local revenues to keep the constabulary in force and thereby the dark side of humanity in check. When you commit yourselves to Our Federalism, Don Pablo says thanks.

Friday, April 27, 2001 3:08 PM

★★★★★★★★★★★★★★★★★★★★

With a 2.5 minute assignment for the Updates Teleconf, I have chosen to take lunch from a commercial establishment rather than make another peanut butter with banana sandwich. It is an avoidance mechanism to deal with stress. So I may be gone for as long as an hour, beginning approximately in 10 minutes from now. It will be pleasing to hear so many join the Updates Teleconf and reconnect with all of youse.

Thursday, May 24, 2001 1:52 PM

★★★★★★★★★★★★★★★★★★★★

(I am a bit lazy this Saturday night after cleaning the yard.) The yard looks good to me, but my spouse indicates that I spend too much time manicuring it. I guess the older men get, the more they retreat to the garden for coming to terms with everything that life holds for us.

Saturday, June 23, 2001 7:24 PM

★★★★★★★★★★★★★★★★★★★★

MTC-ites: You know the frustration. The e-mailer states she has attached a document, but it is no where to be found. Then you send a long, elaborate e-mail to the e-mailer, using gentle language, asking whether there was an attachment intended. I have groped for sometime to come up with a word to describe this circumstance, a single word that carries empathy but at the same time asks the e-mailer to get with the program. Use of this word would at least avoid the lengthy periods of having to compose a gentle inquiry. So the word I nominate is "to attacheate." Etymologically, this word means for the e-mailer/sender to eat her attachment preventing its arrival with the e-mail from which the attachment is found to be missing.

I use this word in context as a verb, a past participle adjective, and as a noun in the following circumstance that demonstrates that I too attacheate on occasion even when dealing with important e-mails to others in the agencies.

I hereby correct my attacheation, kindly brought to my attention by Mr \* \* \* [name excised to protect the innocent]. The attacheated documents were intended to be a part of III.C. of my previous e-mail. The document I attacheated contained hypos that I developed in two separate instances to raise issues of interpreting UDITPA's business income concept.

May your days be without frequent attacheations, whether as a sender or addressee.

Don Pablo

Tuesday, July 03, 2001 6:23 PM

