

College News & Notes

The Collegiality Newsletter of the ACCL

ACCL

The American College of Construction Lawyers

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PRESIDENT'S UPDATE

I began my previous update noting that fall in the Upper Midwest is one of my favorite times of the year. As I look out my window at the raw, wind-swept and snow-covered landscape, my thoughts wander to the swaying palm trees, cool ocean breezes, and warm sand of Key Biscayne, Florida. I look forward to seeing everyone there at our Annual Meeting on February 19-22, 2015.

If you haven't already done so, I encourage you to look over the brochure as an interesting educational program, coupled with exciting social events, awaits you. One item on the brochure to which I wish to draw particular attention is the Long-Range Planning Session on Sunday, February 22, 2015. You are asked to indicate whether you will either (1) attend and participate; (2) attend but only observe; or (3) not attend. Please take time to respond to this inquiry as it is important for us to have a good idea of how many people are planning to attend and participate in the Long-Range Planning Session. I encourage all of you who can to attend and participate, but I understand that this is not always possible. If you neglected to respond to this inquiry, and wish to attend and participate in the program, please send an email to **Donna Passons** at donna@clesolutions.com.

Our long-range planning efforts are proceeding quite well. The Long-Range Planning Committee, as well as a number of other Fellows, participated in a full-day planning session in San Francisco on December 12, 2014. We were fortunate to have

John Heisse's firm host us. This session involved a good deal of lively discussion about such critical issues as the College's core purpose, core values, vision, and mission as well as its goals, objectives and strategies. This session, and the work that will be done as a result of it, will lay a solid foundation for moving the process forward during Sunday's session at our Annual Meeting.

The day following our Long-Range Planning Session, the Board met and addressed a number of subjects. Of particular significance is the work that the Policies and Procedures Committee has been engaged in over the last few years. This Committee, consisting of **John Bulman**, **Deb Ballati**, **Tim O'Brien** and **Larry Harris**, has been hard at work putting together a manual of policies and procedures to serve as a guide for future College leadership. **John Bulman**, on behalf of the Committee, presented the current draft of the Policies and Procedures Guide and discussed the process by which it was prepared. After a good deal of discussion, including suggested changes to the Guide, the Committee agreed to submit a revised guide at the next Board Meeting. Once completed, this will serve as an invaluable resource for future leadership. I wish to express my appreciation to all committee members for their hard work on this effort.

Allen Gibson gave a brief presentation on the planning for the 2016 Annual Meeting. We are returning to one of my favorite venues, the Montage in Laguna Beach. Allen will be having much more to say about this in future newsletters. **Holt Gwyn** reported on the planning for the 2017

Annual Meeting. Finding suitable venues during the third week of February on the East Coast can be a great challenge. I was fortunate that Donna was able to work some magic so that we could return to Key Biscayne, but hotel rates in Florida in the third week of February for quality properties can be quite high. Therefore, after surveying the College Fellows, Holt is looking at the second and third weeks of March as well as the second week of February in addition to the customary third week of February for the 2017 Annual Meeting. Enlarging the time window for the meeting is one of the few ways to manage hotel costs.

I am pleased to report that your Nominating Committee, consisting of **Larry Harris, Anne Gorham, and Dean Thomson**, have nominated **Holt Gwyn for President-Elect, Doug Oles for Secretary, and Jim O'Connor, Deb Griffin, Andy Ness and Charles Sink for Board of Governors** members. The Board of Governors nominees are for three-year terms. The Secretary is a two-year appointment and the President-Elect is a one-year appointment. The nominees will be submitted to the membership for election at our 2015 Business Meeting on Sunday, February 22. I wish to thank the Nominating Committee for its fine effort and congratulations to all nominees. I wish to also thank those Board of Governor members who will be stepping down as of February 2015. They are: **John Heisse, Tim O'Brien, Kyle Gooch, and Mike Tarullo**. Their counsel has been of great value to me over this last year and it has been a pleasure to have served with them.

As I approach the twilight of my term, I wish to say it has been an honor and privilege to serve as your President. An organization such as ours is only as good as its people and we are blessed by an abundance of caring and engaged professionals committed to bettering our profession. It is a great honor to be a part of that tradition. My time as your President is certainly one of the highlights of my career. I will look back fondly on my time as

President and look forward to seeing all of you for many years to come.

Pat O'Connor
President

FUTURE MEETINGS OF INTEREST

HOLD THESE DATES for future ACCL meetings:

February 19-22, 2015
ACCL Annual Meeting
Ritz Carlton, Key Biscayne, FL

February 18-21, 2016
ACCL Annual Meeting
Laguna Beach, CA

NEW FELLOWS

Brian G. Corgan – One of the more difficult questions I am asked is “Where are you from?” I was born in California, and before I was eighteen I had lived in California (twice), Pennsylvania, Massachusetts, Kansas City, New Jersey (twice) and New Mexico. No, my father was not in the military. Instead, he worked for AT&T, and every promotion brought with it a move.



I left high school in Albuquerque, New Mexico to play football at Tulane University. That ambitious undertaking did not last through my first year, although Overton Currie would later introduce me as a four-year All American. Believe me, I corrected Overton about this slight exaggeration on a number of occasions but he continued to roll out the accolade selectively but repeatedly to the

point where I almost started to believe it. Unfortunately, my search for confirming press clippings has turned up nothing. When I graduated from undergraduate school in December 1975, I married the woman I had been dating since we were sixteen years old. For eight months, I worked as an apprentice brick mason in Albuquerque. The job consisted of either working ten hours in the blistering New Mexico sun, or upon detecting rainfall heading to a bar to drink beer and shoot pool often as early as 7:30 a.m. Both aspects of that experience provided ample motivation to study hard in law school. I attended law school at Tulane and graduated in 1979.

Upon graduation, I headed to Atlanta and started at Smith, Currie & Hancock. In 1998, five of my fellow partners and I moved to Kilpatrick Townsend, where we now have a large and vibrant construction practice. I have served as the head of our firm's Construction Practice Group, but stepped down after I found someone else naïve enough to take over the thankless job.

Mary Beth and I have four children, Brendan (33), Erin (30), Megan (28) and Kerry (24). Brendan is in pharmaceutical sales, and I am envious of both his lifestyle and his hours. Erin is married and a paralegal with King & Spalding. Megan is also married and about to deliver to us our first grandchild in January 2015. Our son Kerry is a financial analyst with GE in Cincinnati.

I am an avid baseball fan. I hold season tickets to the Braves and have sworn to give them up at the end of each season. The problem is that the next year's deposit is due at the end of August, before the Braves begin their perennial September slide. Thus, I never execute on my threats of disassociation. I played in a men's hardball league from age 40 to 54, when I retired as a 6'5" catcher after three knee surgeries and two back surgeries. Those injuries combined with a long life of general physical abuse due to persistent efforts to achieve a level of competence on the athletic field – and failing miserably at each endeavor – have relegated me to senior status as a dog-walker and bike rider.

The bulk of my practice is centered in the power, chemical and petrochemical industries. I have been honored to oppose a number of ACCL Fellows in litigation and arbitration. Many ACCL Fellows have served on arbitration panels or as mediators in matters where I represented one of the parties. Those experiences have allowed me to appreciate the standards of excellence and professionalism that are expected and maintained by members of the College. I am honored to have been selected for membership in the ACCL. I look forward to seeing old colleagues in Key Biscayne, having the opportunity to meet other Fellows, and helping to contribute to the College's profile and service to the industry.



Jeffrey R. Cruz – E. E. Cruz & Company, Inc.,

General Counsel – My parents, Roger and Aida, emigrated from the Philippines in the early 1960s and lived in Brooklyn when I was born. I grew up in a construction family. My sister Lisa is an architect. My dad is a civil engineer and worked as an



estimator at HRH in New York City, among other great companies, before opening his own general contracting business when I was in grade school. I got my first real look at the construction business while watching his triumphs and struggles running his own company. My brother Gerry and I worked for him after school and during the summer, and I always suspected that he gave us the most menial jobs (sweeping, pulling nails out of lumber and more sweeping) so that we would be persuaded to choose careers that didn't involve so much adversity. With me, it almost worked.

I got my second close look at the construction industry when I joined Postner & Rubin in New York City as a summer associate in 1987. I worked with Bob Rubin that summer, was instantly hooked on the practice of construction law, and haven't looked back. I also met Bob's beautiful cousin Lisa,

who was working as a bookkeeper at the firm while putting herself through college. She will claim that the summer associate working in the office next door spent way too much time talking about the Mets, but I remember it differently.

I proposed to Lisa on the subway as I believed there would be a greatly reduced chance of rejection in the presence of strangers. We have three terrific children, Benjamin (19), Ariel (17) and Sara (16). They are the highlights of our lives. We get dizzy thinking about what an empty nest will feel like in a few short years.

And my most recent close-up experience with the construction business has been as an in-house counsel with a heavy civil contractor. (By the way, E. E. Cruz started as a family business – but not my family). It is different from practicing in a law firm, with its own ups and downs, but it is very satisfying work and a lot of fun.

My off the field interests include music, woodworking and baseball. Listening to music and building furniture are the kinds of contemplative therapeutic pastimes sorely needed by fans of the New York Mets.

The greatest blessing in my professional life has been my association with many brilliant, creative and generous construction lawyers, but outstanding among them are my former partners and fellow Fellows Bill Postner, Bob Rubin and Robbie MacPherson.



Eileen M. Diepenbrock – I grew up in Sacramento, California, the second of five children, all born a year apart. We were an extremely close family, spending much of our leisure time together, traveling, skiing or sailing on our father’s sailboat. My sisters and I went to high school at a Catholic girls’ boarding school in



Monterey, California, and our brothers and their friends happily made the trip down for every date dance or prom to escort us and our friends. I also happened to have been born into a long line of attorneys, dating back to the origins of Sacramento, many of whom, including my father, attended the University of Santa Clara. This foreshadowed two important things for me. First, my father had the same conversation with me my senior year of high school that he had the prior year with my older brother and would have in each of the three following years with my younger brother and sisters: he would support us going to any college we wanted, provided it was a Jesuit university, in California, south of San Francisco, and north of Santa Barbara. This meant that I always had at least one sibling at the University of Santa Clara also in attendance during my four years of college there and that, since my older brother graduated one semester late, all five of us attended Santa Clara together for that one semester. We had a wonderful time!

Second, I was clear throughout my life that I would be an attorney. Watching and listening to my father and my older relatives, I was always inspired by what they did, the passion they brought to their practices and their dedication to their clients’ issues. Construction law would become my particular field of practice due to my father’s focus on that area, the privilege I had as a young attorney to work at Pettit & Martin in San Francisco with extremely bright and interesting construction lawyers, and my own curiosity and enthusiasm with, especially, the tricks and nuances of public contracting, as well as my fascination with bridge and heavy highway construction projects.

Growing up, I was the quiet bookworm of the family. My favorite books were the Laura Ingalls Wilder “Little House on the Prairie” series of books. I read the entire series through many times. Although I met my wonderful husband, Gene Cheever, at a party in San Francisco, it was a happy coincidence to learn that he grew up in South Dakota, working on his family farms in the summer, and lived 40 miles from where Laura

Ingalls Wilder lived. I am blessed to have been married to him for 26 wonderful years. He too is an attorney. After spending some time in other places, including Philadelphia and San Francisco, we returned to Sacramento 20 years ago and have been practicing together for the last 19 years. For 7 of those years, we had the honor to practice with my father.

Gene and I have three incredible children. Our oldest, Sam, is going into the field of green energy; our daughter, Sarah, is a senior at the University of North Carolina at Chapel Hill and will be going on to graduate school in prosthetics; and our youngest, Ben, is a sophomore at the University of Oregon, studying economics and psychology. We have moved on from being soccer parents for 17 years to avid Ducks football fans and Tar Heel basketball fans. These days, I also spend my early mornings 4-5 days/week pushing or pulling 130 lb sleds, smashing tires with sledge hammers, carrying around 70 lb concrete stones, pulling 200 lb barbells from the floor, swinging kettlebells, doing handstands, pullups and pushups, and engaging in other similar nonsense as part of the CrossFit workout program. It helps with stress, and is just far enough out of the box for me to be great fun.

I am truly honored and excited to be invited to be a Fellow in the College.



Randy Nye – I was born and raised in Charlotte, NC. I grew up loving all sports, but have always especially enjoyed those activities that involved individual, rather than team, endeavors, such as hunting and fishing, tennis, motorcycle riding, skiing and scuba diving. Being a true Tar Heel, I attended the only school I wanted to attend and the only one I ever applied to, the University of North Carolina at Chapel Hill, for both undergraduate and law degrees.

Following law school, I practiced with a small real estate law firm in Charlotte for four years. It was at this point that I was introduced for the first time to the realities of the marketplace, as the bottom fell out of real estate, ultimately leading to the

break up of the firm. Blessings come in all sorts of disguises, however, because I wound up joining the Legal Department of J. A. Jones Construction Company in Charlotte, thus beginning a 33-year in-house career devoted entirely to construction. It has been a wonderful ride. I have been fortunate to be involved in many large and fascinating projects in such diverse public and private markets as heavy civil, industrial, marine, power, mining and building construction.

One of the most gratifying aspects of my career has been the ability to indulge my love of travel. I have traveled to every continent except Antarctica and, truth be known, I never had much of a hankering to go there anyway. My first international business trip came after joining J. A. Jones, when I was sent to Brunei, a country I had never even heard of, to negotiate a contract for the construction of an airport that Jones had been awarded, at which point the CEO discovered that no one in the Legal Department even knew of the project, let alone had reviewed the contract. It was a great introduction to crisis management.

After six years with J. A. Jones, I had the wonderful opportunity to join Guy F. Atkinson Construction Company in the California Bay Area, another blessing, as it uprooted my wife, Paula, and me from the East Coast where we grew up, and took us to the Western U.S., where we lived for some 27 years, immensely broadening our horizons in the process. My years as General Counsel for Atkinson Construction were some of the best of my career, as I got to be involved in many extremely large and complicated heavy civil projects. Following Atkinson's unfortunate and untimely demise, I moved on to the Metals division of Kvaerner E&C, where I succeeded George Pierson as General Counsel, and learned about the mining industry. Almost all of Kvaerner's projects were outside the U.S, and I negotiated contracts in such far-flung places as the Philippines, Thailand, Chile and South Africa. Most recently, I served for the last 10 years as Senior Vice President and General Counsel for Sundt Construction, Inc. in Tempe, AZ, truly the capstone of my career. One of the highlights of my

tenure with Sundt that I am most proud of was to be one of the founding organizers of the Construction Industry Ethics and Compliance Initiative (CIECI), a non-profit association of leading construction companies devoted to promoting ethical business practices and sharing best practices in compliance.

Having recently retired from Sundt, with which I still maintain a consulting relationship, I am looking forward to the next chapter in my life. I have had the extraordinary good fortune to be married for 28 years and counting to my best friend and soul mate, Paula, who shares my love of travel, motorcycling, skiing and scuba. We moved from Arizona to South Carolina, and plan to give retirement a chance and indulge ourselves in these activities for a while. After getting some of that out of my system, I want to develop a construction mediation and arbitration practice.

I am truly honored and thrilled to have been deemed worthy of being a Fellow in the ACCL. I have had the privilege of working and interacting with many of the Fellows over the course of my career, and I look forward to renewing those friendships and making new ones.



Denise Puente – In the mid 1950s, my father decided to take a year off and travel to New Orleans from his home in Lima, Peru. His initial plan was to spend the year working and studying and then return home. However, as happens with most people who travel to New Orleans, he fell in love with the City and its people. He liked it so much he actually proposed to my mother in a letter asking her to join him in his “temporary” adventure. She came the next year, stepped off the plane and walked down the aisle the next day. Needless to say, their plan to eventually move back to Lima was derailed as everyday life and three children got in the way. Since all of our family lived in Peru, my brother and I spent many summer vacations getting to know our cousins and aunts and uncles. We were exposed to great cuisine and stunning places like Machu Pichu – all before the internet and the Discovery channel so

we always had interesting “what I did for summer vacation” stories when we returned to school in the Fall.

While I was in college, I belonged to a foreign exchange club, AIESEC, that raised internships with local companies. After graduating from college, I took a year off and went to work for an insurance company in Switzerland and got the opportunity to travel around southern Europe. This was a terrific experience as I not only got to travel to beautiful cities and villages but I also got to spend time with locals and appreciate their culture. Unlike my father, I didn’t stay in Europe but instead returned to the U.S. and went to law school at LSU. Upon graduation, I started at Simon, Peragine, Smith & Redfearn, the same firm I am still with today. I was very fortunate to find a great firm with great people at such an early stage of my career. Geography played a great part in my becoming a construction lawyer. Our firm was not sectionalized so I had the opportunity to work in all different areas with all different lawyers in the firm but the partner across the hall from me and the attorney next to me practiced primarily construction law, so naturally I gravitated to them. After spending 27 years practicing construction law and dealing with the local construction bar, I must say I am glad there were no offices available near the tax partner!

My interest in travel continues today. For the last 10 years, my sister and I have taken our mother on an annual surprise trip as her Mother’s day gift. It is a surprise because we never tell her where we are going until we arrive at the airport. We don’t pick exotic places, instead we select places that she would never guess where we are going. We have been to places as varied as the Mall of America in Minneapolis, Newport, Rhode Island and Santo Domingo, where Columbus landed. This year’s adventure took us to Pittsburgh.

Under great pressure from my firm to try and get a better rate for the firm’s credit line, I married my husband, Herb Blum, a commercial banker. Besides getting free checking, I have him to thank for our two sons. Truth be told, there have been

occasions over the years (especially in the teenage years) that thanking him was not the first thought to cross my mind. Herb grew up in Morgan City, Louisiana, a small town about 80 miles west of New Orleans. He comes from a large family so my kids have lots of great memories of large family gatherings which still continue on today. Each year Herb and I participate in the Krewe of Cork Parade, which has no floats and parades only through the French Quarter. The only vehicle in the parade is a golf cart which dispenses wine when our goblet gets low. Herb doesn't get to play golf as often as he would like so I think this may be his way of getting close to a golf cart.

Herb has been an extremely good sport about being "arm candy" for many professional outings but I think he is especially looking forward to future ACCL meetings and getting to know members and their significant others – as am I. I am honored that I was invited and look forward to participating for many years to come.



Lee Shidlofsky – I suspect I got here by a different path than most. I don't know the logic of CPM Scheduling, the difference between Type I and Type II differing site conditions, or the difference between *Severin* and *Spearin*. And, to me, BIM stands for Body Index Mass. Some would call me an insurance coverage lawyer, not a construction lawyer. I take pride, however, in my niche where I help owners, contractors, subcontractors, and design professionals wring every dollar out of available insurance coverage.

I am a proud graduate of the University of Texas in Austin where I got a B.A. in Government (read: pre-law). After UT, I attended Southern Methodist University School of Law in Dallas. Following graduation in 1997, I worked at the firm formerly known as Zelle & Larson. From the outset, I focused on construction related risks. After three years of working at Zelle & Larson, I decided that I wanted to actually represent the contractors as opposed to the insurance industry. I moved back to that traffic-packed, hippified, blue dot in Texas known as Austin and switched sides of the docket.

I have been a policyholder / construction lawyer for the past 15 years. During that time, I have had the pleasure of working with all of the Texas Fellows and several from outside of Texas. I work alongside more traditional construction lawyers and focus on getting the insurance company to do the right thing. In my spare time, I steal tricks from some of my Texas ACCL colleagues by mediating multi-party construction defect cases. I also write a lot of Amicus briefs, mostly *pro bono*, for construction industry trade groups in an effort to keep the insurance money flowing.

I am married to my high school sweetheart, Becky. We have two boys (ages 13 and 11). When I'm not espousing the virtues of the "subcontractor exception" to exclusion (l), or the pitfalls of exclusion (m), I'm busy shuffling my kids to and from soccer fields and band performances. And, I'm embarrassed to say that I'm probably the World's worst wine collector as I have not fully developed a deep understanding of shelf life or the aging process. My dream is to open up a construction / insurance law boutique in Napa Valley. Alas, there seems to be a dearth of vertical or horizontal construction going on in Napa. And, for some reason, I always seem a bit disoriented. For now, I press on with my boutique firm in Austin.

In addition to being a member of the Forum on the Construction Industry, I am the former Chair of the Insurance Law Section of the State Bar of Texas, a former Council Member of the Construction Law Section of the State Bar of Texas and the current "Insurance Liaison" to the Construction Law Section. What is an Insurance Liaison? It's sort of like being a drummer in a band—I get to hang out with real (or at least more traditional) construction lawyers.

It goes without saying that I'm extremely honored to have been elected to Fellowship in the ACCL. It's as if I just got promoted to be the drummer for the Rolling Stones or The Who. I can't wait to meet everyone in Key Biscayne.



Wendy Kennedy Venoit – I grew up in Wallingford, Connecticut where, coincidentally, I currently live with my husband Michael, my two children Sydney (11) and Lawson (8), and my mother (thankfully in an in-law apartment with a separate entrance), since moving back there 12 years ago (when we thought it would be a good idea to be closer to family, not knowing that my mother would promptly move in).

In school, I had always excelled in math and science, but I was determined from age 14 that I was going to be a lawyer, after being assigned a “what do you want to be when you grow up?” project by my eighth grade teacher, for which I interviewed the general counsel at Insilco Corporation. From that point on, I had a one track mind and that was to go to law school. Of course, as we know, logic -- the purported basis for the practice of law -- is math and so it was a perfect fit for me. I attended the College of the Holy Cross in Worcester, MA -- Go Crusaders! -- where I earned dual degrees in Economics and Spanish, and had four fabulous years as a cheerleader for the Cross. I went straight through to law school thereafter, earning my law degree in 1996 and graduating first in my class (which was really incentivized by my father’s promise to buy me a BMW if I graduated Valedictorian – he never really thought it would actually happen). In all seriousness, my father was my avid supporter through thick and thin – never missing a football game, a tennis match, or an awards ceremony -- and always told me that you make your own luck and that nothing should ever hold you back from being great, most of all fear. (I still miss him and his words of wisdom and encouragement).

After a three year stint working in Manhattan and learning more than I thought I ever wanted to know about insurance coverage, I relocated back to Connecticut (where the practice of law purports to be far more “civilized”) to marry my spouse of 14½ years, Michael, who will tell you in all sincerity that he fell in love with me when we met in 7th grade homeroom. (It just took him a whole lot longer to tell me that). That relocation not only gained me a new husband, but brought me to

Pepe & Hazard where I met a group of fantastic and very skilled construction lawyers who were passionate about what they did and didn’t seem to mind that I swore like a truck driver. In fact, they seemed to welcome it. Most importantly, however, I met my mentor and very good friend Lou Pepe who not only showed me how to be a great trial lawyer (he had that skill down pat), but more importantly, taught me patience and maturity, which, remarkably, took longer to learn than how to cross-examine a delay expert. I was also taken under the wing of another partner in the firm, who promptly invited me to second chair a significant international arbitration in London (which was my first foray into international construction arbitration, but was by no means my last).

Sadly, the Pepe & Hazard name is no more, but I have the honor and privilege of continuing to work with many of those same colleagues at our new home (relatively speaking, since it has been 4 years since the merger) at MDM&C.

Over the years, I have had the honor and privilege of working with an appearing before many members of the College, all of whom have impressed me with their skill, wit, collegiality and sense of humor. This is an amazing group of attorneys and I feel privileged to be part of it and look forward to “paying it forward” in the future.



Barbara G. Werther – I am grateful to everyone who selected me as a Fellow, and special thanks to those who reached out to me with very kind words. It is an honor to be included in the ACCL. I know my friend and mentor, Jules Hoffar, would be very proud, and I credit him for taking me under his wing starting in 1985 until his untimely death in 2008.

My path is not conventional. While in law school, at GW, in 1976, I landed a part-time clerkship at a firm then known as Sellers, Conner & Cuneo in Washington D.C., where I had the privilege of working with many of the “founding fathers” of government contracts. A history and sociology major from Penn, I had no idea I would love the

technical aspects of government contracts. In 1978, after graduating, I joined the firm, but in 1981, moved to Pettit & Martin where Dave Anthony let me try subway car cases for Rohr Industries against WMATA. Poor Judge Steele at the ENGBCA saw me many times present such fascinating topics as “Subway Car Temperature Controls” or “Destination Sign Curtains,” which I took very seriously but am certain he slept through. Then, in 1982, Tom Wheeler (now Judge Wheeler), introduced me to my first construction case. While I could not attend the trial in Oklahoma because I had my first child that week, Sydne, I was hooked on construction. In 1985, I made a deal with Bob Watt and became Watt Tieder’s first woman partner in 1987. I also had two more children, Jesse and Mike, for a total of three in five years. By 1998, I moved on to Arent Fox and then, in 2002, to Thelen, where I had the privilege of working with Fellows Andy Ness, John Heisse, and Robbie MacPherson, among others. Sadly, Thelen collapsed in 2008 through no fault of the construction group. Our construction group of 40 then moved to Howrey, which also met its demise – again through no fault of the construction group -- in early 2011. Another mentor, John Wolf at Ober|Kaler, asked me to join my former GW classmate Joe Kovars and others, which I did in February 2011. Ober|Kaler has given me every opportunity to pursue my career in construction, and I am forever grateful.

In addition to practicing law, I have been on the Board of the Leukemia & Lymphoma Society since 2006, rode in the Seagull Century (a 100 mile bike ride) for LLS for three years, and competed in the Nation’s Triathlon twice also for LLS. In 2006, I started the annual Woman In Construction conference with many of my “seasoned” women friends in the construction industry to help mentor younger women. I have been an Associate Trustee at the University of Pennsylvania since 1987, am on the Lacrosse Board, and still “play” in annual alumnae games, though I confess to having lost a step (or two). I recently dabbled in coaching boys’ lacrosse (U-13). I compete a horse (Stanley) in a sport called Eventing. In 2012, we won the

American Eventing Championships in Atlanta



(yes we jumped from water to water) and in 2014 we were 4th at the Amateur Training Championships. I also write short stories, and look forward to publishing my first book “soon.” Some of you are in them. Please don’t sue me. As for those three kids, now grown and gainfully employed – they are my highest achievement.

Again, thank you all for the honor of selecting me to the ACCL.

COLLEGIALITY CORNER

Paul Lurie – Mediation as a way to efficiently and quickly settle disputes is not a concept that is universally recognized outside the U.S. I have been working with the Belgian Federal Mediation Commission to improve the settlement process in Belgium. My invitation was based on the Commission's attraction to the Guided Choice process. I was invited to spend the week of September 29, 2014 in Brussels and Ghent lecturing on mediation and meeting with important advocates, mediators and in-house counsel for large companies. This trip coincided with the IBA's publication in Dispute Resolution International of my latest article on Guided Choice. How many Fellows will be celebrating, as I will, the signing of the Treaty of Ghent ending the War of 1812? I spoke on efficient mediation at the ABA Construction Forum, Division 1 luncheon at the October meeting in Chicago, and in December

Steve Nelson and I discussed efficient mediation at the SuperConference in Las Vegas.



Stan Sklar was named 2014 / 2015 Chicago Arbitration Lawyer of the year in U.S. News Best Lawyers. In addition, Stan presented a seminar on Ethics for Advocates and Neutrals in Commercial Arbitration at the American Bar Association Annual Meeting of the Business Law Section. He co-presented with ACCL Fellow, **John Hinchey** at the ABA Arbitration Institute presenting Managing Discovery in Arbitration. He also co-presented AAA Webinars on Arbitration Awards and Motion Practice in Commercial Arbitration. Stan was also voted "Best Commercial Arbitrator for Chicago 2014-2015" by Best Lawyers and recently presented a seminar for the Chicago Bar Association on Ethical Issues for Construction Lawyers.



Bob Rubin – I regret to inform you that my wife, Charlotte, passed away on Oct. 9th after a long illness.



Steve Nelson and **Adrian Bastianelli** will speak on The Art of Negotiation at the upcoming Midwinter Meeting of ABA's Fidelity and Surety Law Committee in New York.



Richard Alexander – Diane and I, along with another couple, spent a wonderful long November weekend in and around Louisville, Kentucky hosted by **David Ratterman** and Lois Louis. Highlights included a tour of a distillery, a visit to Beaver Lake, a day at Churchill Downs, a tour of Louisville Slugger Headquarters, a walk across the bridge from Kentucky to Indiana and the best of food, beverages and conversation. I recommend Kentucky along with David and Lois's hospitality to all!



Howard Ashcraft – I have been appointed a Consulting Professor in the Department of Civil

and Environmental Engineering at Stanford University. I will be teaching a 3 unit course, "Legal Principles in Design, Construction and Project Delivery." Besides the basics of construction law, the course will consider relational as well as objective contract theory, modern developments in collaborative project development, and the interplay between intellectual property and the evolving technological developments in the AEC field. I should learn a lot



Ken Kupchak – Mele Kalimimaka!

For thirty years Patty and I have been planting native trees in the Hakalau Forest Wildlife Refuge on the Big Island. (I am a member of the Board of the Friends of Hakalau.) A few years back we planted a "Personal" tree among the thousands of acres. To our surprise we tracked it down during this weekend's planting endeavor.



This year I was tapped as "Lawyer of the Year" in one of the five categories in which they have recognized me. Yes, in and among hikes, I still practice law.

Hauoli Makahiki Hou.



Bill Coleman was surprised and honored this past year when his firm dedicated its office building The Coleman Building. Bill served his firm from 1995 until 2010 as "Managing Partner" and also was the head of its Construction Section. In those combined roles he acquired the land, selected the architects, engineers, interior designers and general contractor, and served as the owner's representative until completion and occupation by the firm 15 years ago in 1999. Bill advises when all

was done that *all* of the firm members readily agreed to sign the note with the bank.



Buzz Tarlow – Several Fellows convened in Bozeman, Montana on October 10, 2014, to participate in the 10th Annual Montana State Bar Construction Law Institute. **Jim Scott** presented on risk management with a decidedly Montana twist with a program entitled “Risk Lessons from the Beartooth Mountains”. **John Bulman** presented with General Counsel Brad Gordan of Gilbane Corporation on the Pros and Cons of Litigation and Arbitration. **Lee Davis** gave an interesting presentation on Modular Construction on Large Projects. **Dean Thomson**, performing at his typical impressive level, gave an excellent overview of Coverage for Construction Defects and CGL Policies. I was the moderator of the program and also presented on Ethical Issues in Mediation. The autumn weather was beautiful and everyone enjoyed a nice dinner at a local restaurant the night before and a cocktail reception at Buzz’s house after the program.



George Pierson – After serving as CEO for five years and leading its sale to WSP (for consideration nearly three times the value when I took the helm), I will be leave Parsons Brinckerhoff at the end of 2014. Upon the close of the sale on October 31, I joined the Board of Directors of WSP and will remain on the Board as a non-executive director. As for other plans, I intend to take a short vacation before determining my next career!



Bruce Schoumacher – At last February’s meeting, the arch on my left foot failed, resulting in pain and difficulty walking. I got started on fixing that when we returned home. However, that caused my gait to change causing an impingement in my lower back which was extremely painful and kept me home for three months this summer. Part of that time I could not even sit in a chair, so I slept, worked, read and watched TV while lying on the floor. Then, my right knee cap got out of the

groove, so I am getting treatment for that. Other than that, I think I’m alright.

Despite my health problems, I have been devoting a lot of time to my duties as Chair of the Construction Law Section of the Illinois State Bar Association. In addition, I participated in four seminars this fall. I moderated a seminar on managing building repairs to a Chicago residents association, moderated a seminar for the ISBA on problem construction contract terms, spoke on mechanics lien claims for a seminar of the Illinois Creditors Bar Association and participated in a presentation on professionalism for a seminar on mechanics liens presented by the Illinois Institute for Continuing Legal Education.



Doug Jones – At the end of 2014 I cease to be a partner of Clayton Utz in order to concentrate on my practice as an international arbitrator practising from the addresses below. I will however remain as a consultant to Clayton Utz.

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Bruce Shreves submitted this photo of **Jackie Shreves and Dee Coleman** on New Year's Eve in New Orleans, the night before the big game.



Bill Geisen – I was on the receiving end of a number of selfless assists dished out by a Fab 5 of Fellows to help me score a few points on the University of Kentucky's campus. On October 23, 2014, I was fortunate to have served as Chair and Moderator of a Construction Law Institute at the UK College of Law. The program was a big success primarily due to significant contributions by five of our Fellows. **Anne Gorham** led an interesting discussion about the practical and legal implications of BIM. **Terry Brookie** educated the audience regarding the complexities of determining whether defective work is a covered claim. **Rick Lowe** and **Buzz Tarlow** gave a mind-teasing and entertaining presentation on optimism bias and deception in mediation. **Buck Hinkle** shared some sagely anecdotes from his years as a construction arbitrator. I am both intellectually and athletically challenged; but it's awesome, baby, to have incredibly talented teammates, such as Anne, Terry, Rick, Buzz and Buck, to allow me to make an occasional layup.

EDITOR'S NOTE

We send our condolences to **Bob Rubin** on the recent death of his wife Charlotte, who was a faithful attendee at our Annual Meetings and known and liked by all.

I hope to see you all next month.

Alec Moseley

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