



News & Notes

*Collegiality Newsletter of the
American College of Construction
Lawyers*

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PRESIDENT'S UPDATE

Dear Fellows:

I trust that everyone had safe travels back from our fantastic March meeting, and I hope that even those of you in the Northern climes are starting to experience a beautiful Spring. I'm reflecting once again on what a fun time we had in Amelia Island, and what an excellent and substantive meeting we enjoyed. Thanks go out once again to now past President Holt Gwyn, First Lady Beth Boulton, and Program Chair John Heisse. 2018 Program Chair John Bulman and I are working hard to duplicate the super meeting they organized this year. In that regard, NOW IS THE TIME to offer up

suggestions for 2018 programs. If you have ideas or want to participate, please reach out to John Bulman or me. We have ideas in the works for a bleeding edge technology session; an inside counsel panel; an ADR focused session; a Foreign Corrupt Practices Act and investigations topic; and some "Ted-type" talks on interesting issues. This is just coming together and we will look to involve a number of you who would like to contribute. Let me know also if your spouses have any suggestions for spouse activities or group leisure activities.

I wanted to remind everyone about our upcoming Board meetings which have been organized in locales where we have fellows located nearby, with the hope that any of you who can will

participate in our social activities. We will be in Minneapolis on June 2 & 3; Ogunquit, Maine (easy driving distance from Portland or Boston) on August 18 & 19; and Washington DC on November 10 & 11. Any of you who can join us are welcome. The format is a Friday night event, usually cocktails and dinner; Board meeting Saturday; and a dutch treat dinner Saturday evening.

On a personal note, it has been warm enough here in Georgia for me to get my garden started. Yesterday I planted 14 tomato plants, 30 assorted pepper plants, and various herbs. I usually wait until “tax day” to plant cucumbers and maybe a few other things. As some of you know, I live adjacent to a forest so I am gearing up for my yearly fight with the “critters.” I am certainly glad that I do not have to try cases against any of them because they always win!

If any of you are traveling this way, please be in touch. I will take anyone who has time out for a round of golf, a drink, or a meal. In the meantime, be well and happy, and “a friend to the project!”

Warmly,
Jenny

FUTURE MEETINGS OF INTEREST

HOLD THESE DATES for future ACCL Meetings:

February 22 – 25, 2018
29th Annual Meeting
Monarch Beach Resort
Dana Point, California

COLLEGIALITY CORNER

Terry Brookie- I saw a picture and Gregory [Cokinos] has a messy desk. I suspect it is still a mess.

Don Gavin- I have left my position as a Partner in the firm of Akerman LLP and formed Gavin ADR, LLC where I will continue to serve as an Arbitrator – Mediator and provide ADR counseling. A number of Fellows were extremely helpful in the decision making, illustrating what a tremendously valuable resource this group of friends are.

Christine McAnney was named a “Groundbreaking Woman” by Balfour Beatty US. The article explained how Christine joined Balfour Beatty Infrastructure in 2005 as the company’s first female executive.

Her piece of advice to women considering entering into the field of construction is to “Don’t let anyone tell

you that you can't...Show your capabilities, and people won't treat you any differently. I believe that the more women who show up in construction roles, the easier it will be for women in the industry in general."

Balfour Beatty US further explained how Christine is a remarkable example of what women can achieve in construction with passion, resolve and perseverance.

Jim Schenck- I was thankful for the chance introduce our North Carolina Construction Professionals Network Institute at the Annual Meeting. Many people asked me how I got involved, and whether I was there at the founding of the group. Almost, but the founding attorney was actually my partner and our fellow Richard Conner. I thought I would share the following introduction that Richard wrote, particularly since he could not be at the meeting:

"CPN of North Carolina, Inc. is a statewide organization of business and professional leaders who are involved with design, construction and related services. CPN was created through the efforts of a few dedicated individuals engaged in construction law, construction management, design, construction, project development and finance and dispute resolution.

CPN's founders perceived a need for a statewide organization that was more than another business development networking group. CPN was to be a "resource" comprised of leaders from all of the various disciplines supporting the industry, rather than an organization of persons or firms promoting a limited special interest. Out of such an organization would develop working fellowships between persons experienced in the construction industry that would promote communication and a sharing of visions, skills and information. The diversity of disciplines and businesses within the membership of CPN makes it unique among construction industry associations."

Jim Nagle- Ann and I went on the first ever Star Trek cruise in January and hobnobbed, in appropriate Star Trek attire, with Capt. Kirk (William Shatner), counselor Troi, Tasha Yar, and numerous other actors from the various series while drinking Klingon blood wine and eating Targ. I am now beginning a push that at one of our upcoming ACCL meetings, our Sunday night banquet should be themed in accordance with either Star Trek, Jane Austen, or Harry Potter.

Larry Schor- Susan and I went to Cuba in February 2017 and it was interesting and educational. Our

overall impression was that the entire country is poor. The socialist agenda to give housing, food and basic education to the masses worked for a while because Russia, then Venezuela, gave money to support the Cuban people. When the Russians left 25 years ago, a deterioration started which apparently has not stopped. Almost every big municipal building is in disrepair and there is no money available for repairs unless some international group donates it. The big highways and avenues are also deteriorating as are many houses that clearly were beautiful in 1960. Our conclusion is that even with their equal opportunity for education and medical care, and with their government monthly stipend of about \$30.00 (equivalent), there is no money to “stay even” in housing, clothing or basic needs, much less for improvement.

Some of our other observations or information we obtained from asking our guides were:

There are relatively few road signs or operating railroads because people took the iron and used it for other reasons such as axles for older cars and trucks;

Cars from the 1950s are really predominate. They have learned to fabricate and repair engine parts;

There is a majority of mixed race people, including the original Arawak Indians, blacks, whites from around the Caribbean and Spain. Batista was mixed-race and was rejected from the yacht club for that reason even when he was the dictator;

Jobs in the arts are created: we saw a choir from the city of Cienfuegos and their whole job was being in the choir. Some of them taught music afterwards. Many were college educated but there are no other jobs. The National Ballet, which we attended, was great.

There is no “spokesperson” for the next generation of leaders because Fidel Castro would not allow it and neither will his brother Raul. The people in their 70s and 80s still defend their decisions to become a socialist country but they admit they “made a lot of mistakes”;

There is no dominant religion in Cuba and religion itself is of secondary importance.

Everyone in our group agreed that Cuba is ripe for development but as long as the US sanctions are in effect and US banks cannot deal with Cuba (we could not use our credit cards but Europeans and South Americans could), they do not have a real chance for change. Cuba must “reopen” to

capitalism of some sort to get out of their present economic doldrums.

Gerald Kirksey- After spending most of last year working on a liquidating Chapter 11 of my largest client, I literally worked myself out of a job when the company's last assets were sold in early November, 2016. I've taken that as a sign that I need to change my career emphasis. Susan and I are continuing to live part-time in Nashville where we are doing volunteer fund raising for Vanderbilt Divinity School and Western North Carolina where I am doing volunteer immigrant outreach and fundraising for Pisgah Legal Center in Asheville. I am even finding time to do some hiking and another TAT is probably in my future!!!

Nonprofits are facing significant funding shortages under the Administration's proposed budget and legal centers serving the poor and immigrant populations are overwhelmed due to recent Executive Orders. I encourage your pro bono work and your financial support!

Ed Cassidy- I have retired from my CFO position at Robins & Morton but am continuing to provide consultative services in connection with a couple of ongoing carry-over matters for the company. My retirement was brief, as I was invited to rejoin the venture

investment firm that I had co-founded back in 2008. I have taken a position as the Chief Executive with a collection of companies that provide vertically-integrated services in the energy management and Internet of Things (IoT) field. This new adventure has me on the road, with my personal headquarters remaining in Birmingham, but the parent headquarters in Nashville, Tennessee and our technology subsidiary in the DC area. I am enjoying the new challenge and being back on the steep learning curve of a new industry.

Howard Ashcraft- Wiley has just published Integrating Project Delivery, which is the first comprehensive text on Integrated Project Delivery. My co-authors were Prof. Martin Fischer of Stanford University, Dean Reed, and Dr. Atul Khanzode. The book is available from Wiley, Amazon and other booksellers. More information can be found at the following link: www.wiley.com/buy/9780470587355

Harvey Kirsh- Following a lengthy and rewarding career as litigation counsel and ADR neutral, I am pleased to announce that, as of April 1, 2017, I will be continuing, on an independent and full-time basis, my specialized practice as an arbitrator and a mediator of construction disputes

and claims arising out of industrial, commercial, institutional, infrastructure, transportation, public-private partnership (P3), energy, and resource projects, both domestically and internationally.

Report of The Professors Committee-

The Professors Committee traditionally starts each meeting with the attendees briefly discussing the courses they are currently teaching. At this year's Annual Meeting, the following schools were represented: Columbia (Bob Rubin), Virginia (Richard Smith), Stanford (Howard Ashcraft), University of Nebraska (Allen Overcash), Pepperdine (John Hinchey) and Arizona State (Mike Holden). After the initial introductions, the Committee members discussed what steps, if any, the ACCL could take to encourage more schools to offer Construction Law courses. One action item from the meeting: the Committee wants to find out how many ACCL fellows are currently teaching construction law courses. If you are teaching a course, please email Professors Committee co-chair Mike Holden at mholden@holdenwillits.com.

EDITOR'S NOTE

It was wonderful to see you all at Amelia Island last month.

Congratulations to all involved for putting on a terrific program. It was also nice once the weather warmed up a little bit!

In this issue you will see a report from our new President, Jenny Fletcher, and a committee report from The Professors Committee as well as the news about the accomplishments and adventures of our Fellows.

Best wishes to all of you for a happy and healthy spring.

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