



News & Notes

*Collegiality Newsletter of the
American College of
Construction Lawyers*

Issue #42 April 26, 2018

PRESIDENT'S UPDATE

Dear Fellows:

If you missed our last annual meeting where Jenny Fletcher did an excellent job presiding at Monarch Beach, CA, I hope you have heard sufficiently positive reports so you will mark your calendars and make sure to attend our next annual meeting in St. Petersburg, Florida on **February 21-24, 2019**. The Vinoy is a newly renovated historic property at a waterfront location in a culturally rich city.

The value of our College is no greater than what we choose to put into it, and the collective talent of our membership should enable us to achieve great things to benefit our practice and our industry. At our last meeting, I therefore encouraged all Fellows to give some thought to how they might make at least modest contributions to College efforts between now and our

next annual meeting. My suggestions included the following:

- a. Identify at least one cutting edge legal issue that you researched during the last year, and draft (or commission) a short article to share the resulting knowledge through the *Journal of the ACCL*.
- b. Identify a well qualified person (preferably in mid-career) whom you could nominate or second for consideration by our Membership Committee (giving special attention to helping us achieve a diverse blend of practitioners from across the United States and its international trading partners).
- c. Contact the chair or vice chair of one of our College committees and volunteer for one of its projects during the coming year. I circulated a one-page

questionnaire at Monarch Beach where every attendee could express interest in one or more of our committees, and the shared burden of our planned projects need not be onerous.

We are also in the process of selecting topics for the 2019 annual program, and the College is fortunate that **Terry Brookie** has agreed to chair that event and help coordinate the input. If you have suggestions for spouse/guest activities in St. Petersburg, they may be directed to Donna Passons or to my wife Alida, both of whom will be active in putting together the social calendar.

You are also probably aware that the Board meets three times during the year and is pleased when Fellows are able to join either a meeting or a Board dinner when the meeting is held in their region. In 2018, the Board meetings will include:

April 28: New York City

August 11: Quebec City
(confidential membership meeting)

November 3: San Francisco

You will note that I have scheduled the Board's important annual membership meeting outside the United States, in the province of Quebec. This should serve as a symbolic reminder that our clients and their industry have an increasingly international focus. I hope

that this year will give all of us increased opportunities both to learn and share in the international marketplace.

On a personal note, I must sadly note the passing on April 8 of **Stuart Gregory Oles**, my father and mentor who began concentrating his practice in construction law almost 70 years ago. The first generation of construction lawyers is now passing away, and we would do well to recall their vision and emulate their best practices.

It is both an honor and a pleasure to preside over a College featuring such an excellent collection of leading professionals. Your officers hope to encourage and facilitate all those who are prepared to contribute their time and other resources to the charitable goals of our College, and our collective achievement will be the sum of what we achieve together as individuals.

Warm Regards,

-Douglas Stuart Oles, President

FUTURE MEETINGS OF INTEREST

HOLD THESE DATES for future ACCL Meetings:

30th Annual Meeting
February 21 -24, 2019
Vinoy Renaissance St. Petersburg
Resort
St. Petersburg, Florida

COMMITTEE REPORTS

Government Contracts Committee -

After a well-received presentation at the Annual Meeting on Emergency Procurements Following Natural Disasters, Jim Archibald and I are already working with Terry Brookie on next year's Government Contracts Committee program. While we have a few topics under consideration, we welcome ideas and speaker volunteers.

- Shannon Briglia

COLLEGIALITY CORNER

Tom Stipanowich - I recently gave lectures at several leading Chinese law schools including Peking University Law School, the University of International Business and Economics (UIBE), and the Chinese University of Political Science and Law (CUPL).

I will be featured as a prominent foreign commentator on a new CCTV Channel 12 TV series entitled "Arbitration in China." The five-part series will reach an estimated 100 million people. The CCTV crew filmed me giving a series of TV interviews, giving talks, meeting with the Secretary General of CIETAC at the famous Chinese Laoshe Tea House and at CIETAC headquarters, walking and bicycling in Beijing's historic district, and touring the Shanghai Bund.

My talk at the Beijing International Arbitration Commission (BIAC), was moderated by the well-known Chinese arbitrator, Mr. Jinzhou Tao and featured commentators Professors Gabrielle Kaufman-Kohler and Helena Chen. The program was simulcast by the Legal Rules and News online and watched by 224,000 viewers!

I was also one of only two foreign speakers at the Shanghai International Arbitration Conference, a multi-day event co-sponsored by the Straus Institute and many other organizations and attended by more than two hundred lawyers, arbitrators and scholars from China and Hong Kong.

Harvey Kirsh - I have been selected to receive the Ontario Bar Association's 2018 Award of Excellence in Construction and Infrastructure Law. The award presentation is scheduled to take place in Toronto on June 14, 2018. I have also been invited to make a

presentation to the Canadian Bar Association in Halifax, Nova Scotia on April 30, 2018 on the topic "Arbitrating Construction Disputes: What You Need to Know". My current publishing activities include acting as Editor-in-Chief of the Construction Law Letter (a bi-monthly newsletter, now in its 35th year, published by LexisNexis, and servicing the construction industry in Canada); the Construction Law Reports (a monthly topical reporting series, now in its 35th year of publication by Carswell Thomson Reuters); and Kirsh's Construction Lien Case Finder (a 10-volume loose-leaf reporting series, published bi-monthly by LexisNexis since 1992).

Gerald Kirksey - I continue to spend most days working as a volunteer attorney for Pisgah Legal Services in Asheville, North Carolina where I assist undocumented immigrant families plan for possible detention/deportation. I prepare powers of attorney that enable a trusted friend or relative to sell a family's assets and make healthcare and educational decisions for minor children that are usually U.S. citizens. I also assist Pisgah Legal with community outreach and fundraising. A quote from a presentation made to the NC Bar's Senior Division was included in an article in the February issue of the North Carolina Lawyer as well as a link to the complete

presentation to the Senior Division. Below is a link to the quote.

<https://ncprobono.org/pisgah-legal-services-volunteer-shares-importance-pro-bono-status/>.

Susan and I continue to have homes in Nashville and the Asheville area and welcome friends to come for a visit if they are in the area.

Jim Groton - "Interplay Between Frenemies on the Jobsite" is the subject of a program I will be presenting at the DRI (Defense Research Institute) construction law seminar in Nashville on April 26.

I am also one of the authors of the lead article in the Spring issue of *Dispute Resolution* magazine, reporting on the voting at the Global Pound Conferences that endorsed "pre-dispute and pre-escalation processes to prevent disputes" as priority tools to be emphasized to improve dispute resolution in the future.

Buck Hinkle - My corporate and general counsel responsibilities continue at Hinkle Holding Company, LLC, nestled in the bucolic gentle rolling fields of Kentucky horse country and now populated with 2018 foals. My address for arbitration and mediator services has changed to:

Hinkle ADR, PLLC
PO Box 607
Paris, KY 40362
bhinkle@hinkleadr.com
(m) 859-421-1444.

Deb Mastin - I would like to report that during the 2018 Florida Construction Law Institute, the Florida Bar Construction Law Committee awarded me its Lifetime Achievement Award. I am both honored and humbled by the recognition.

Steve Lesser - I am Vice-Chair of the Board of Legal Specialization & Education ("BLSE") for the Florida Bar. I will be Chair the following year. The BLSE governs all 26 Certification Committees in Florida including construction law. Florida has the largest certification program in the US. I also presently serve on the ABA Standing Committee on Specialization.

Deborah Ballati - Ms. Ballati was welcomed to the JAMS panel of neutrals in January.

Throughout her 42 year career as a litigator, she has represented parties in the construction industry, including owners, contractors, subcontractors, sureties and design professionals. She has also represented policyholders in pursuing coverage under all types of insurance policies, including primary and excess general liability, environmental, property, professional

liability and employment practice liability policies.

Ms. Ballati has been a leader in the industry for many years and served as the first female president of American College of Construction Lawyers (ACCL). She is recognized nationally for her expertise and lectures across the country on insurance and construction law.

Ms. Ballati is excited about this new chapter in her career and is enthusiastic about continuing to assist people in resolving their disputes.

Sincerely,

Julie McCool
Assistant Manager, JAMS San
Francisco
Case Manager to Deborah Ballati

William Allensworth - On January 22, 2018 my appointment to the Texas Facilities Commission was approved by the Governor.



It is time to change our newsletter's name to something livelier than "News and Notes."

We are asking you, the Fellows, to participate in a contest by submitting a creative new name for News and Notes to Doug Oles (Oles@OLES.com) and Buzz Tarlow (JTarlow@lawmt.com) by May 11, 2018.

The winning Fellow will be announced on May 18, 2018. The winner will not only receive bragging rights and credit in the June newsletter, but will also receive a free dinner in Bozeman, MT to a restaurant of your choice.*

Please let Buzz or his assistant Jenna know if you have any questions.

**The dinner may only be redeemed on Saturday, June 2, 2018.*

EDITOR'S NOTE

Welcome to a new edition of News and Notes. A couple of items regarding plans for this year's publications. First, the name "News and Notes" is changing. See page 4 above regarding your opportunity to win a fabulous prize by picking the right name for our publication. Second, our publication will now be distributed 5 times a year instead of 4 times. Below is the plan for future issues:

June

This issue will feature any noteworthy news and some general topic that I have not yet thought up.

September

This issue will feature any noteworthy news, including the Fellows' reports on trips, activities, etc.

December

This issue will feature any noteworthy news and announce the newly elected Fellows.

January

This will be a special issue, focusing on the photos and biographies of the new Fellows.

March

This issue will announce any noteworthy news and will feature reports from the committee chairs.

We look forwards to another successful year and the opportunity to spread the good word about Fellows of the American College of Construction Lawyers. In the meantime, happy Spring to you all.

John H. "Buzz" Tarlow

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