



ACCoLades

*Collegiality Newsletter of the
American College of
Construction Lawyers*

Issue #47 April 17, 2019

PRESIDENT'S UPDATE

Spring Greetings!

We on the Board of Governors still pleasantly recall our 2019 annual meeting at the Vinoy Resort in St. Petersburg and want to express our thanks to Alida and Doug Oles for their efforts in arranging such an enjoyable experience for all attendees. Thanks also to Terry "Boiler-Up" Brookie and to Donna, Bill and Missy for their hard work to facilitate the educational program, meals and weekend events.

At our Sunday business and Board meetings we welcomed John Bulman as our new Secretary and Eileen Diepenbrock, Kathy Barnes, Tim Thornton and Jim Schenk as new Board members. We shall miss

the fellowship of Jenny Fletcher, a 5-year member of the Executive Committee, and Shelly Ewald, Robyn Miller, John Ahlers and Frank Elmore as retiring Board members, all of whom provided exceptional service to the College over the past three years.

The Board of Governors is scheduled to meet in Baltimore on May 11 to begin planning the February 2020 meeting at the Lowes Ventana Canyon Resort in Tucson. Kathy Barnes convened a planning meeting in St. Petersburg and received considerable, helpful input from a number of Fellows. She has since developed plenary session and committee meeting program options for consideration by the Board.

The Board also will take up other agenda items including, among other things, annual meeting cost concerns. Comments on Board actions will be included in my next ACCoLades message.

John Heisse will report on membership committee activities, including nominations received as of the meeting date. The deadline for submitting complete nomination packages for the 2020 class of new Fellows is the following Wednesday - May 15 - not June 1, as in the past. The Board meeting to elect new members is scheduled for August 3 in Denver.

Val McWhorter has been in contact with committee leaders and others as part of a process to develop the 2019-2020 leadership rosters for consideration by the Board at its meeting.

We on the Executive Committee and the Board of Governors look forward to serving you over the next year.

- *Dave Lane, President*

FUTURE MEETINGS OF INTEREST

HOLD THESE DATES for future ACCL Meetings:

31st Annual Meeting

February 20-23, 2020

The Loews Ventana Canyon Resort
Tucson, Arizona

COMMITTEE REPORTS

The Documents Committee - The Documents Committee devoted most of its energy this past year to the preparation of the panel discussion that was presented as Plenary Six at this year's Annual Meeting of the ACCL. Particular efforts were made by Lynn Axelroth and Jim Scott, each of whom undertook research to identify empirical data to support the program and to shed new light on certain aspects of the topic.

In preparing for the Plenary Session, Jim Scott corresponded with the Construction Industry Institute (CII). The CII expressed interest in the topic addressed by our Plenary Session, and also indicated that certain studies and other endeavors of the CII might benefit from ACCL participation or collaboration

in some way. It may be that the ACCL will not want to proceed with what the CII envisions or proposes, but we believe this warrants further investigation and discussion. Jim Scott may make the initial contact to get a further understanding of CII thoughts on this subject, and will report back to George Meyer of the Documents Committee.

At the suggestion of George Meyer, the panelists for our Plenary Session may prepare an anthology of our thoughts on the topic, with the hope that it be published in the Journal of the ACCL.

In addition, the Documents Committee has continued to liaise with the P3 Task Force. Members of the Committee have participated in the P3 Task Force and have contributed to the written product that the Task Force intends to turn into a White Paper. Those efforts will continue.

The Insurance Committee - The Insurance Committee is putting together the following information to be posted on the ACCL website as resources for members:

1. Links to insurance-related websites that focus on construction insurance (such as IRMI); and
2. Contract provisions to deal with condo conversion.

The Public Contracts Committee - The Public Contracts Committee reported that it arranged for Jim Nagle to deliver a Government Contracts Year in Review presentation during the 30th Annual Meeting, and thanked Mr. Nagle for his excellent presentation. The Committee also is continuing its efforts to encourage Fellows to write articles about public contract issues for the ACCL Journal.

The Membership Committee - At the Annual Meeting, the John Heisse reported on the selection of Allison Snyder and Albee Bates to join Eileen Diepenbrock and Robert Preston Brown on the Membership Committee and asked the Fellows to submit all Nominating Committee materials to him by May 15.

The Officers and Board Member Nominating Committee - At the Annual Meeting, Doug Oles reported on this Committee, which was chaired by Jenny Fletcher, and

which put forward the following names to fill the spaces of retiring Board Members John Ahlers, Frank Elmore, Shelly Ewald, and Robyn Miller:

Kathleen Barnes
Eileen Diepenbrock
Jim Schenck
Tim Thorton
John Heisse, President Elect
John Bulman, incoming Secretary

No other candidates were nominated.

A vote was taken, and the slate was elected by unanimous acclamation.

The In-House Committee - At the Annual Meeting, the In-House Committee was opened by Kevin Colby, as Chair, and Brad Gordon, as Vice Chair.

The first course of business was a Safety message followed by a reminder of our anti-trust/anti-collusion statement. We then opened the floor to the Members for discussion on points of interest. There were six significant discussion points raised by the Members. Those points are as follows:

1. Guided Mediation: Robyn Miller raised a request by a Fellow, Paul

Lurie that the Committee review the pamphlet regarding Guided Mediation authored by Paul Laurie, Mark Becker, Dean Thompson, and Bill Geisen. The Committee agreed to review the pamphlet and comments were in fact sent to Paul on March 15th.

2. Contact List: The Members agreed that a formal In-House Member's contact list be created.

3. Contract Review Software: A discussion occurred regarding the use of contract review software. Several Members had experience with such software and discussed the strengths and weaknesses. We agreed to have a Committee Conference call in June to update Members on their latest experiences with the newest software.

4. Market Withdrawals: A general discussion took note of the public withdrawal by several major contractors from the fixed price EPC and Design Build markets.

5. Workplace Violence: A general discussion raised the issue of workplace violence and the measures that companies were using.

6. Cyber Security: The Members also took note that cyber security has increasingly become a focus of our customers.

COLLEGIALITY CORNER



Charles Sink - I regret my first absence from an annual meeting, but the wedding of a close friend from law school forced me to make a painful, but clear-cut choice. The nuptials being in Hawaii had no

bearing! Strictly the bonds of friendship, and the desire to deliver a memorable toast.

Clifford Shapiro - I was sad to miss you all last February, but I will be back next year for sure and fit as a fiddle. In the meantime, all is good. I'm working more as a mediator and arbitrator, and enjoying it very much. I was also recently elected to be a member of the Board of Trustees of the Chicago Architecture Center, which has a wonderful new Center (opened last August) with new galleries and over 85 tours (including the top-ranked river boat architectural tour - which is an absolute must if you ever find yourself in Chicago). But perhaps most importantly, my daughter (and only child) who was so beautifully married last August will graduate and receive her MBA from Cornell next month, which means most of my primary financial obligations are now behind me!

Richard Smith - In case you missed it, UVA won the basketball national championship!

Roberto Hernandez Garcia - I wanted to share that I was inducted as a fellow of the International Academy of Construction Lawyers.

Robert MacPherson - Below are some of the pictures I took at the ACCL meeting:





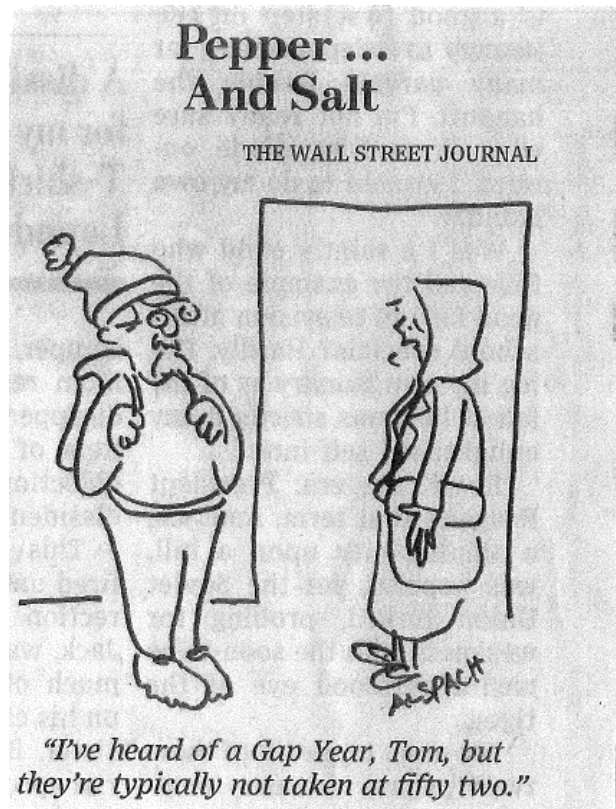
Jim Nagle - The Jane Austen Society of North America has named me as its Traveling Lecturer for the Western United States for the coming academic year. So, I will be going throughout the western United States lecturing about Jane Austen's writings and her life and times during the Regency Period.

John Bulman - I successfully completed the Accelerated Route to Fellowship - International Arbitration Programme with Award Writing Examination. The course and exam took place in Houston in January and is put on by the North American Branch of the

Chartered Institute of Arbitrators headquartered in London. The Chartered Institute was founded in 1915 and is the world's leading qualifications and professional body for dispute avoidance and dispute management.

The exam administrator indicated that I "scored solidly within the pass zone." Faint praise, but sufficient. Now, all I have to do to become a "Fellow" is to survive a 45-90 minute "peer interview" by the Chair of the North American Branch.

Ben Shapiro -



Leslie O'Neal - On March 8, 2019 I received the "Lifetime Achievement Award" from the Construction Law Committee of the Real Property, Probate & Trust Section of the Florida Bar.



David Ratterman - Stites and Harbison, PLLC are proud to announce that the American Institute of Steel Construction recently honored David Ratterman with the 2019 Lifetime Achievement Award at the North American Steel Construction Conference (NASCC) held in St. Louis from April 3 - 5, 2019.

The Lifetime Achievement Awards honor individuals who have provided outstanding service to AISC and the structural steel design/construction/academic

community for a sustained period of years. David spent 30 years as AISC Secretary and General Counsel, serving under four presidents, 15 board chairs, and hundreds of board and committee members

The full press release can be found here:

<https://www.stites.com/resources/press-releases/david-ratterman-earns-2019-aisc-lifetime-achievement-award>

EDITOR'S NOTE

It was great to see so many of you at the Annual Meeting in St. Petersburg. What a beautiful location!

Here we are already into the spring of 2019, and as you can see in this issue, our Fellows are up to a number of amazing things.

Thanks very much for all of these wonderful submissions and keep the *accolades* coming!

John H. "Buzz" Tarlow

jtarlow@lawmt.com

406-586-9714