



PRESIDENT'S UPDATE

In preparation for writing this note, I dug out last Summer's edition of Accolades to see what inspiration I could glean from Dave's column. Dave's letter commented on the Board gathering in Denver and his trip to Tucson with Mary Jane and Donna Passons to plan the Annual Meeting. Last summer's issue also featured reports on Frank Riggs' trip to the Normandy beaches, Joe McManus and Don Marston's trip to Dublin, John Bulman, Judith Ittig, and Ava Abramowitz's trip to Vienna, and Tom Abernathy's trip to Southern Italy and Greece. What a difference a pandemic makes! Since March 13th, my biggest trip has been the one time I traveled across the Golden Gate Bridge

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(which used to be a twice-daily event). So, you'll note the absence of travelogues from this issue.

But, life goes on, albeit without planes and trains, and with many fewer automobiles. The Board will meet virtually in late August, at which time the Membership Committee (Anne Gorham, Albee Bates, Helmut Johannsen, Steve Lesser, and Allison Snyder) will present its report on this year's slate of New Fellow nominees to the Board for consideration. We owe a huge debt to these five Fellows for shouldering this enormous task and responsibility, and I look forward to the report.

Jim Schenck, our Program Chair for the 2021 Annual Meeting, is also working hard—likely harder than any of his predecessors—having produced two “Zoominars” to date (Remote Mediation and Remote Depositions), as well as planning and re-planning the annual meeting program, as we remain flexible in developing a program without knowing what the world will look like next March. The Board will consider Jim’s programing and speaker suggestions at our August meeting.

Speaking of Fellows who have performed great service to the College, we are coming to the end of Charles Sink’s tenure as Editor of our Journal, and John Ralls has agreed to take over the reins at the end of this year. As Charles puts the final touches on his final edition, I know he would join me in encouraging each of you to work with a more junior lawyer on publishing an article in next Spring’s Journal. And, thank you, Charles, for the countless hours spent cajoling us into writing, and then turning our doggerel into eloquent scholarship. You have set the bar high for John.

Sadly, to steal a phrase from John Hinchey, this summer has also marked the induction of three Fellows into the “ACCL Eternity Division” — Geoff Keating, Bob Meyers, and Harvey Koch. Two were Founders; the third was in our 6th class of inductees. Each was a giant among us, and each a warm, welcoming soul who truly valued his friendship with his Fellows. The glow of our “Mere Mortal” Division has dimmed a bit with their passing.

Finally, ever the optimist, I remain hopeful that we will be able to gather in Charleston in March, and that, by then, social distancing will be little more than a defining characteristic of 2020. Rest assured that we are planning for other contingencies. In the meantime, please continue to stay safe and well. For those of you with family members working in health care or other front line occupations, please give them our heartfelt thanks and know that they are in our prayers.

Enjoy the rest of the Summer!

- *John Heisse, President*

FUTURE MEETINGS OF INTEREST

HOLD THESE DATES for future ACCL Meetings:

32nd Annual Meeting

March 18-21, 2021

Belmond Charleston Place
Charleston, South Carolina

MENTORSHIP CORNER - JOHN HEISSE

In a follow-up on the Special Mentorship Edition of ACCoLades, we are introducing a new feature to ACCoLades – Mentor’s Corner. Our hope is that each month we can feature advice from mentors and mentees, who share examples of successful (and less than successful) mentoring strategies to remind all of us how important mentoring is to the professional growth of up-and-coming lawyers. This month, Barbara Werther celebrates two of her mentors and describes what they did that was particularly helpful to her.

Barbara Werther – In my experience, mentors have been critically important to my growth in the traditional “man’s world” of construction and government

contracts I entered as a law clerk in 1976. I have been blessed to have had the benefit of at least four key mentors—all men—over a 40-year career. I would like to focus on three of them.

Interestingly, one of my present mentors is not a construction lawyer, per se, but more of a business lawyer, a consigliere, a capo di tutti capi, and he is not even Italian—not by a long shot. But he is my “go to” person, especially about anything having to do with New York City, and certainly about the law in general. He is in his late-70’s, but has a spring in his step and a highly active mind. He is the smartest and most sensible person I know. He always has time for me, even when he is swamped. He is passionate, brilliant, considerate, insightful, collegial, thoughtful, and charitable.

Our relationship started in 2002 when we represented the same client—he in New York City and me in D.C. We quickly discovered we were simpatico in many ways, but most importantly, in our ability to strategize matters for the best interests of the client. Over time, our mentor-mentee relationship

naturally evolved. He is a great listener, but an even better questioner, and can get to the heart of a matter, including the motivational complexities of the players, at light speed.

By 2005, our shared client had gotten into a bit of a dust up on a project in D.C. Although my mentor was only an observer, he guided me in selecting the arbitral panel, teaching me the life lesson that matching the right panel of arbitrators to the case is the best service I could give my client. He was right, and we ended up with the “Dream Team” of Holt Gwyn, Allen Gibson and Judith Ittig (chair). Since then, I have meticulously researched any proposed arbitration panel, and my mentor’s lesson has paid off every time.

One of my other key mentors, a now-deceased Fellow taught me the importance of building a mentee’s confidence by seeking her input. We worked together for more than a decade, often on bid protests. Even as an associate, he trusted me to work directly with our clients to develop the factual and legal bases for the protest. If we disagreed about the presentation, he listened

as I explained why I had chosen a particular path or a line of questioning. Once we reached a compromise, he would pull out a bottle of scotch, and we would toast each other. Later, when an appellate court adopted my reasoning in overturning an emergency appeal to the District Court, he ran around the firm crowing that the appellate court was “throwing rose petals” on our briefs. His cheerleading boosted my self-confidence considerably.

When I left the firm, he continued to make time for me, listening to the facts of my cases as if the case were a spy thriller, and giving me pointers. This mentor was an advocate, a mediator and an arbitrator, he was superb in everything and had a sense of humor that could light up any setting. To this day, when I am selected as a mediator, I quote him, sometimes with, and sometimes without, attribution. He told me, “Babs, when you mediate a case, and it is late at night, and you can’t remember who told you what, the best thing you can do is start out the day with colored pens. When you’re in one room, tell them you will use an orange pen, then all day,

whatever they tell you, write in orange. In the other room, use a purple pen. Then, tell everyone that if they tell you something in confidence, you will use a red pen, and they should make sure you use the red pen, so you don't reveal something that the party did not want you to reveal." It works. Colored pens will keep you from making a mistake if you are serving as mediator. The parties get into the game of making sure that you are taking notes in the proper colored pen, and it lightens the mood. Of course, he would also say, "just feed them and the case will settle." Good words of wisdom to pass on.

My fervent hope is that I mentor others as effectively and ably as these men mentored me, for I would never be where I am without them. I am forever grateful.

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As I have reflected on Barbara's message as well as those from last month's Special Edition, my take away is that mentoring is really about showing up consistently, listening, challenging the mentee to take a step he or she may not think she's ready for, celebrating the successes (or talking through the

failures) and letting your mentee know that "you have his back." I encourage each of you to double down on mentoring young lawyers, particularly those whose family legacy does not include a host of professionals, to help them grow into what each of you have become. As each of these stories has shown, small acts of encouragement and guidance over a sustained period can leave a lasting mark on a young professional's career.

COLLEGIALITY CORNER

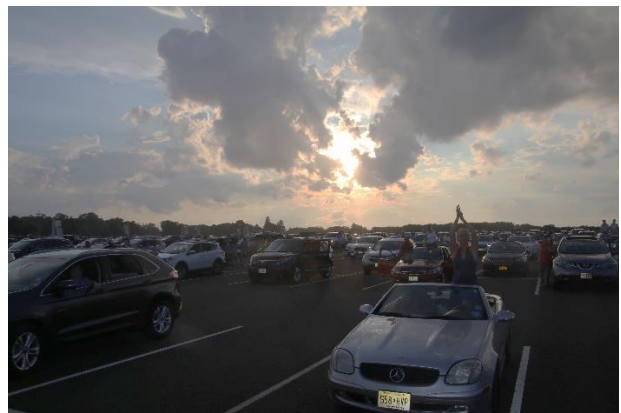
Gerald Kirksey – I was recently honored by the Buncombe County (Asheville, NC) as Pro Bono Emeritus Attorney of the year for 2019 and was elected, for the second straight year, to the North Carolina Pro Bono Honor Society. I volunteer at Pisgah Legal Services and help families with undocumented immigrant parents plan for an uncertain future by preparing healthcare and educational authorizations for minor children so that a trusted friend or family member can authorize healthcare or make educational decisions if the parents are unavailable. I also prepare general powers of attorneys and

travel documents so that the family can, hopefully, be reunited if the parent(s) are deported. Virtually all of the children are U.S. citizens. I have helped approximately 150 families during the past three years and also help coordinate Pisgah Legal's free program to immigrant families. I have trained approximately 40 other attorneys to also serve Pisgah Legal's immigrant clients. Due to COVID 19, my pro bono practice is limited to emergency matters including preparing end-of-life documents for clients.

I am also coordinating, as a volunteer, Manna FoodBank's Latinx Community Emergency Food Distributions to Western North Carolina families and, to date, the program has distributed, with the help of many nonprofit and religious partners, approximately 70,000 pounds of fresh produce, Latinx friendly staples, milk and eggs to over 1000 primarily Latinx households in Buncombe County. Manna FoodBank anticipates extending the program to all 16 Western North Carolina families that it serves. Fathers in many of the families served by Pisgah Legal Services and Manna FoodBank are

construction workers and COVID 19 continues to adversely affect, physically and financially, the Latinx community.

Susan and I celebrated our 50th anniversary in June but our planned family trip to Scotland and Ireland was a COVID 19 casualty. We are well, however, wear masks, socially distance, and hope that our ACCL family will be spared.



Robbie MacPherson - Here are photos from the Southside Johnny & The Jukes Drive In Concert held July 11, 2020 at Monmouth Park in

Oceanport NJ. They sold 1000 tickets, one per car. Each car could have up to 4 people. Car were Socially Distant, parked in every other space and you could only leave your car to go to the porta potty and had to wear a mask.



Sitting in the car with me, left to right, are my daughter Margot, sister Bonnie and brother Jeffrey.

44 years ago, on May 30, 1976, Bonnie, Jeffrey and I were at the Jukes record release party, celebrating the release of the Jukes first Album, "I Don't Want to Go Home" at the now famous Stone

Pony in Asbury Park New Jersey. Margot would have been there but she was only 4. That show was broadcast live on FM radio across the country. Rock n roll will never die.

Roberto Hernández - During my recent trip to the Bedroom to the Kitchen and to the Garden of my home (By the way "Tu casa es mi casa"), I delivered in July 20th to the Publishing House Wolters Kluwer /Bosch, my most recent book: "Construction and COVID-19: legal challenges and opportunities for the Industry." This will be an e-book that will be my second book as sole author, after "Construction Law in Mexico: Perspectives and Challenges" released this year. I will let you know when it comes out.

Also, in the July 2020 edition of Forbes Mexico, COMAD was recognized by this prestigious publication as one of the leading law firms in Mexico, publishing as our iconic case in the first semester of 2020, the Design of Terminal 2 of the Guadalajara Airport, advising CRTKL, the Designer of this fantastic project. I want to thank our fellow Robyn

Miller for her trust to us in this matter which I enjoyed very much.

Doug Jones – I was honoured to receive the Global Arbitration Review award as “Best Prepared and Most Responsive Arbitrator” at the annual GAR Awards held (virtually) during Paris Arbitration Week earlier this month.

It was also my privilege to deliver the keynote address entitled *Let's Get Together: Quo Vadis International Construction Arbitration* at the GAR Live Construction Disputes event held virtually during the same week and attended by over 800 registrants.

Richard Tyler – Susan and I report that, given the COVID-19 impact on travel, our news revolves entirely around family. Our youngest son, Andrew, recently moved to Denver to be with his long-time girlfriend who is working on a PhD in psychiatric pharmacology. Andrew is currently getting a masters in project management, studying for the GRE, and deciding whether to get a masters in mechatronics (advanced robotics) or an MBA.

Our eldest son, Patrick, recently graduated from his emergency

medicine residency at Beth Israel Deaconess Medical Center in Boston. The graduation was conducted via Zoom (this was one of our cancelled trips), which allowed time for faculty/nursing staff comments about the graduating class as well as comments by the graduates. It was a remarkable experience to spend time with such a talented and accomplished group. Patrick is staying on at BIDMC as an Attending Physician and Research Fellow while getting an MPH in data analytics to support his research work.

John McGuinn – We started a remodel of our upstairs bedrooms and bathrooms in early January, which required us to move out for 16 weeks. Well, we all know what happened next. We moved to a temporary house for the 16 weeks, with a commitment from the owner that we could extend on a month-to-month basis, but she decided to move back into her home upon the expiration of the original rental agreement. She couldn't have forced us to move because of the no-eviction rules in Berkeley during the pandemic, but we didn't want to be jerks, so we moved, again, to

another temporary apartment. My negotiating skills, such as they were, have atrophied during retirement and we ended up paying 40% more in rent for 50% less space. The good news is that the contractor finished Tuesday (July 14th), and we can move back home.

The contractor proposed a contract which is the most contractor friendly document I have ever seen. I would have been embarrassed to suggest such terms when I represented a contractor. So, if any of you are interested in seeing such a document, let me know and I will send you a copy.

Carl Ingwalson – Dave Ratterman, who did an excellent presentation at the Tucson meeting, should get a mention for a program, “Monumentality in the Engineering Profession: The Design, Destruction and Redesign of the World Trade Center,” that he did recently regarding the World Trade Center. Among other things, he pointed out that the buildings had been specifically designed to withstand an airplane impact and that part of the design worked.

Ava Abramowitz – Mediate.com has just begun publishing “The

Keys to Unlock Mediation’s Golden Age.” The International Mediation Institute has republished at least one. (Mine. I’m stunned.) Here it is:

<https://www.imimediation.org/2020/06/26/7-keys-data-bring-objective-science-to-mediation/>

Members of the ADR Committee may want to know about them all, especially those that discuss MED-ARB and Guided Choice related issues.

A lot of work went into the effort. Jim Melamed and Michael Leathes were the progenitors of the idea and deserve immense credit for the effort.

EDITOR’S NOTE

It is the best part of summertime in this unusual year of the virus. I hope that each and all of you are having some time to get outside with loved ones (or by yourself as the case may be) to enjoy the wonderful weather.

In the meantime, the ACCL diversity and mentorship program moves forward.

My best wishes to you all.

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