



ACCoLades

*Collegiality Newsletter of the
American College of
Construction Lawyers*

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Fellows: Welcome to this Special Edition of ACCoLades.

As our nation finds itself acknowledging its tragically uneven record on social justice issues, writers far more eloquent than I, from appellate justices to corporate leaders to ministers of every denomination, have shared inspirational messages about the need to confront and eradicate both explicit and implicit discrimination against all people, but particularly our African American brothers and sisters. As lawyers, we have a special duty in this cause, having been taught how to use the tools in our justice system to advance causes we believe are worth advancing, and how to bring people together to solve disputes. I, for example, am helping to guide a charitable foundation's efforts to support and staff pro bono social justice programs providing legal assistance to African American individuals and businesses through data gathering, impact litigation, start up counseling, and legislative

advocacy. I commend each of you to contribute in whatever way you can to move our country toward real change, whether by providing pro bono services or simply engaging your family, friends, neighbors, colleagues or book club in a meaningful discussion of these issues.

Although I describe this as "simple," meaningful discussions of difficult topics involve listening to others with differing perspectives, and truly listening is not always easy. I have found it difficult in recent weeks to listen to stories of discrimination and confront the fact that I have chosen to ignore those realities, hoping that other well-meaning people were working to address them. And for those of us trained as advocates, real listening can be harder still. I recall from my youth, when I would get into discussions (read debates) with my mother, she would often say, "If you're talking, you're not listening. If you're planning your come-back, you're not listening. Unless you listen you can't

understand the problem and you can't solve a problem you don't understand." (Or something like that—candidly, I wasn't listening very closely. I was a kid, after all.) But, as difficult as truly listening to the viewpoints of others and engaging in a true discussion of these inequities may be, we'll all be better off for doing it.

There is another thing we can each do for the College and for our profession. Although it does not address the urgency of the social justice issues at the heart of the calls for action, it does help plant the seeds for long term change.

As a group, we have taken steps to recognize and promote the need for diversity in our College, and many of you have worked very hard at increasing the diversity of our Fellowship. Notwithstanding those efforts, what diversity we have, quite frankly, is largely geographic and gender-based, and with a few very welcome exceptions, we are not racially or ethnically diverse.

From my vantage point, this appears to be partially a supply problem. I know of far more white construction lawyers than African American, Asian, or Latino ones. I suspect part of this is the result of the fact that until recent times, the skilled trades were largely Caucasian, and hell-bent on staying that way. You can trace my career as a construction lawyer to the fact that my father ran construction for a local utility, and I grew up knowing the industry. If my dad had been a doctor, teacher, or salesman, I doubt I'd be writing this column.

You can also trace my career trajectory to the fact that, shortly before I started law school, I was introduced to a construction lawyer who would become the first of many mentors I've had in our field. But for his faith in me, I may well have taken a completely different path. And, we came from different worlds – he, a New York Jew, and me, a D.C.-born graduate of The Catholic University of America.

Which brings me to the point of this issue of ACCoLades.

I suggest that being a true Friend of the Project requires us to seek out and nurture new talent by mentoring intelligent young people from all groups, but particularly those underrepresented in our area of practice, to help them grow into successful professionals themselves and, hopefully, some day, choose to become construction lawyers.

I suspect that most of us feel comfortable mentoring others who look like us. It is easier to empathize with others from a similar background, whose cultural upbringing resembles ours. But, for example, a first generation college student or first generation professional is far less likely to have had role models whose conduct he or she can observe and mirror, and who can advise him or her on how to succeed in an unfamiliar academic or business culture. Similarly, a bright young African American woman entering a white male-dominated profession, may not appreciate how to navigate the world in which she finds herself. And, conversely, men who were raised in a culture of male privilege may not appreciate the difficulties others face in

interpreting the unspoken “language” of that culture, and thus, the men themselves may need mentoring on how to mentor “others.”

Notwithstanding the challenges they faced, we are fortunate that our ranks include a number of women and minority lawyers who have succeeded and have worked their way to the top of our profession. Suspecting that most, if not all, of them were mentored along the way by others who didn’t look like them, I decided to invite them to share mentoring stories about what worked and what didn’t, what well-meaning assistance was welcome, and what fell flat, and what the rest of us could do to mentor others more effectively.

Below are the contributions of few of our colleagues highlighting one or two of their mentors who made a difference. I’ve asked them to avoid talking about family members or others whose relationship with them would be impossible for an outsider to duplicate. I’ve also asked them not to name names, but instead to focus on what the mentor did (or didn’t do) that was particularly helpful.

So, please read the mentorship stories that follow, digest the common threads as well as the uncommon ones, and commit to looking for, and engaging in, opportunities to mentor others whom you sense would welcome a hand up the ladder of success. It is my hope that this edition of ACCoLades will not be a “one and done,” but serve as the beginning of a continuing discussion, in which we all share our own mentorship stories, as a

regular feature in ACCoLades.

- *John Heisse, President*

The Stories:

Jody Debs:

My best mentor was a crusty male construction leader who had an epiphany later in his career and became a mentor for a lot of women.

He once took me aside and told me never to volunteer to take notes, as I had more to contribute than most of the attendees at the meeting. Women and people of color frequently volunteer to take notes, clean up after the meeting etc., and he was rightfully calling attention to the perception that creates.

He took the time to teach this lawyer about construction and the business aspects and set aside regular sessions where I could ask questions and he could explain.

He always included me in business meetings and publicly acknowledged my contributions.

By making sure I had a seat at the table with a meaningful and acknowledged important role, he created an environment where I was positioned for success. The rest was up to me.

Leslie O’Neal:

I was very fortunate to have several mentors early in my career. Their support and guidance were critical to my success.

Looking back, I think the most important things they did were:

- Having confidence in me—and giving me confidence in myself. They believed I “had what it took” to be a successful construction lawyer. Because they believed I could do the job, I believed it too.
- Promoting me to others—They introduced me to their colleagues as a peer and helped me get involved in the Forum, which was the best thing I did professionally. They helped me get into a leadership position. One of them sponsored me for the ACCL, which has also been a great help to me professionally and personally.
- Following up with me—They called me periodically just to “check in” and see how I was doing. Thinking back on it, I am amazed that these very busy attorneys, who were outstanding leaders in the field, took the time to call me regularly just to chat. This happened not just once, but often over the course of many years.
- Connecting on a personal level — They were always professional, but we became friends. I felt that they were truly interested in me as a person. They taught me a great deal about life, not just law.

Writing this makes me realize that I could do (and should do) more to mentor younger lawyers. These mentors are deceased now, but I should honor their memories by paying it forward with others. I pledge to do that.

Jeff Cruz:

I was lucky to have three mentors. As mentors so often do, mine taught and led by example.

They encouraged me to get out from behind my desk and start attending meetings - every manner of bar association and construction industry organization. They got me to volunteer for anything and everything. Write an article, go to a conference, join a committee, write a book chapter, speak on a panel, work on a treatise, become an adjunct professor.

They showed me the importance of relationships. They introduced me to their peers, welcomed me into their inner circles, and showed me the way to build my own network of colleagues and friends.

My mentors always took me to court, to client meetings, to depositions. (Looking back, I’m sure the firm didn’t charge all that time to the clients. I don’t think we had a code for “carried the litigation bags”). At trials, I enjoyed the view from the second chair, then got sent out to try small cases. Long before I thought I was ready, I got the chance to run a big, complex arbitration. Argue an appeal. Try a case to a jury. Turned out I was ready for these things -- but only because I had the chance to observe up close great lawyers practicing law at the highest level. Every young lawyer who wants the chance to excel deserves that opportunity. The Fellows of this College have the ability to make that happen.

Most of the time, they didn't tell me what to do. But every day, my mentors showed me how to practice law with integrity, kindness, craftsmanship, rigor, patience, determination, humor, and professionalism.

Jenny Wheatley Fletcher:

My first boss during my Summer clerkships threw me into the deep end and showed confidence in my handling of matters far beyond my experience. I was encouraged to adopt an attitude that "I will ultimately be doing this (taking depositions, making court appearances), so why not now instead of later?" I was eager for responsibility and was trusted and supported. Most importantly, he backed my decisions, whether right or wrong, and helped me fix anything that was not perfect. As a mentor now to younger lawyers, I try to do the same -- give responsibility; encourage taking ownership; and always stand behind the outcome.

As everyone reading this likely knows, I then had the great fortune to find construction law as a vocation. It was absolutely my niche and I have loved every minute of serving such a great industry. All of the named partners of Griffin, Cochrane & Marshall loomed large as amazing mentors. I was encouraged to find my personal style and to take from each of them a strength that I could replicate, but without any need to follow a course other than my own. I was included in client meetings early on, and many of those clients were likewise mentors who taught me so much about the business of construction. I was often the

only woman in the room, and I learned that clients will respect good advice and strong performance even if you don't look like a knight on horseback.

My takeaways for encouraging diversity and inclusion through mentorship -- start early; encourage independence; lend unwavering support; back up your team; reward taking ownership even if mistakes are made and help fix the mistakes; applaud individualism and personal style; and be generous with sharing your successful traits for adoption by mentees.

Wendy Venoit:

I was very fortunate to have several important mentors/advocates over the years who taught me not only to be a lawyer, but what it means to be a "professional" in this business. I didn't come from a family of lawyers or construction professionals. So, all I know and have learned came from my mentors and the industry associations to which I belong.

My two primary mentors both had unique and very different styles, but I learned from and tried to adopt the best from each. What made them great mentors, however, was not just their strengths as lawyers and advocates, but their willingness and ability to teach and advocate for me. One of my mentors took me under his wing when I was only a fourth-year lawyer and allowed me to second chair an ICC arbitration in London soon thereafter. That was the start of my "international arbitration" practice. Even though I was relatively junior at the time and had no prior international experience, he taught

me how to manage and effectively present a case in international arbitration. He also treated me as both a valued colleague and a friend. A story from that particular arbitration stands out in my mind and exemplifies the kind of person he is. One of the three arbitrators was a former appellate court judge in the UK. He was apparently not used to seeing females as advocates in the courtroom, and made a comment to my mentor (in front of everyone in the hearing room) that "you have your girls trained well" -- referring to me and my local solicitor while we were both seated at counsel table. Quickly and without any nudging from me, he admonished the former judge (now arbitrator) for the comment and emphasized that I was indeed a valuable member of the legal team presenting the case and should not be referred to as "his girl." It was also this mentor who (successfully) advocated for me to be elevated to equity partnership at Pepe & Hazard when I was only 7-1/2 years out of law school and while I was on maternity leave after giving birth to my first child.

Another great mentor and "second father" to me was also one of the finest trial lawyers I've ever had the privilege of watching and working with over the years. Not only did he teach me the art of effective presentation and cross-examination, but also, and perhaps more importantly, he taught me maturity. By that, I mean he taught me when it is best to use my ears and to say nothing rather than engage a hostile opponent in unproductive "tit for tat" fashion. He also did something quite unusual whenever we tried cases together -- no matter how

large the case, he always offered me first chair. Unlike many senior lawyers whose ego requires them to sit in that first chair seat, Lou happily relinquished it to me, thereby signaling to everyone in the room that I was to be taken seriously and respected. While that should not have been necessary, it sent an important message nonetheless, and was a courtesy that I will never forget.

I could go on and on about the many important lessons and skills that my mentors taught me over the years and the opportunities that they gave me, but we were told to keep this short. I only hope that I can pass on the lessons they taught me, and be a mentor to others in the fashion that they mentored me.

Deborah Ballati:

As I look back over my forty-two year career as a lawyer -- the last forty of them at a single firm from which I retired at the end of 2017 -- I have come to realize what a significant role mentors who didn't look anything like me, mostly because they were all male, had in making me the lawyer I became. While one might attribute lots of what happened to me as exceedingly good luck, and I would agree, I have come to understand that there were two or three things that were most significant in our mentor/mentee relationships.

First, the two people who were my most significant mentors shared a trait which my own parents had demonstrated: they had the ability to make me understand and truly believe that just because I didn't look like the standard construction lawyer

of my day, that would not decide whether I could succeed as a construction lawyer; they treated me exactly the way they treated the young male lawyers on the same path, and they expected of me nothing less, and nothing more. Because of that, and because of the grounding in that belief my parents (neither of whom were lawyers) had given me, I had the sense that I could succeed.

Second, and surely more importantly, these mentors taught me, and also "taught" their own clients, that the quality of one's work and one's judgment were the most important things about being a good lawyer, and that good work and good judgment come in all shapes, sizes, genders and appearances. And to confirm that "teaching", my mentors introduced me to their clients, got me launched, and then got out of the way, but always were there in the background as and when I needed them. Because I knew my mentors truly wanted me to succeed, and were comfortable in their own evaluations of me and of themselves, I felt comfortable to be who I was, and didn't try to be someone else.

Because of my own experiences, and especially the fact that school there simply weren't many, if any, female role models in the California construction bar when I graduated from law school in 1975, I have always thought that finding or being a successful mentor is about much more than similarities in external traits. It is about similarities in ethics, integrity and overall approach to the work and the profession.

Robyn Miller:

In 1995 I left private practice after my husband and I had back to back 30-day jury trials while trying to take care of two small children at home. I did not particularly enjoy trial work, so when the opportunity arose to go in-house at DMJM as Corporate Counsel, I jumped. I was in my second week of work when one of the firm's Senior Vice Presidents asked me into his office. He asked me about my "five-year plan." Five-year plan? When I left private practice, my only plan (to the extent I had a plan at all) was "not that."

Subsequently, the Senior VP helped me craft a career plan. He became my mentor and friend.

Early on, he mentored me and one of the female engineers in the office, taking us through a formal mentoring program that he had prepared and used with other mentees over the years. Beyond the formal mentoring, the Senior VP encouraged me to expand my reach outside the firm. He was the first person to emphasize the importance of writing and presenting, asking me to co-write an article with him on the costs of construction litigation and to present the article at the Construction Management Association of America Mid-year Meeting.

The Senior VP would often call me into his office to ask me to evaluate scenarios that required him to make a decision - whether to proceed with a proposal, make changes to the organization of his business group, or make a personnel change. We would bounce around ideas; I would give my thoughts and he would give his. In the

end, the path he charted may or may not have been impacted by my input, but by asking questions, listening to my thoughts and analysis, and (sometimes) critiquing my thought process, he communicated that my thoughts mattered. (I was stunned after one of these sessions to find that consistent with my analysis of risks and reward on a large international pursuit that our marketing and business development team had been working on feverishly for weeks, he put a stop to the pursuit the day before the bid was due.)

When it came to setting strategy, whether a business strategy, claims strategy, or otherwise, the Senior VP was a master. He taught me the value of setting a strategy and sticking to it over the long run unless new facts surfaced suggesting a change in direction. In doing so, he taught me to have faith in my strategy skills, but also to be open to changes in facts that would require me to redirect.

Finally, the Senior VP taught me about the importance of tone in communication. Memorably, years after our first meeting, when I had been named as the firm's General Counsel, the Senior VP asked me to write a memo advising employees on a large project rife with claims, that all claims needed to be approved by me and that no one on the project was authorized to settle claims other than me. I dutifully wrote the memo asking the project personnel to please make sure to send all claims to me for review prior to settlement. I sent the memo to the Senior VP for review. His response was swift. "You are not asking them to send you the claims. You are instructing them to send

the claims to you." I had not realized how my instinctive (deferential) writing style undercut my position as General Counsel. His call-out resonates with me today and whenever I see myself using the word "please" when I really mean "just do this" I hear the Senior VP's voice in the back of my head reminding me of his wise counsel.

Patricia Thompson:

My mentors have served as aspirational examples, prodded me to accomplish more than I wanted to or thought possible, generously created opportunities for my success, and steered me away from danger.

I am thankful for the many older colleagues, most of whom were men, who went out of their way to provide the help I needed to become the attorney I am today. Included in this list are those who hired me in 1975 as the first female law clerk in an old-line, large and respected Miami firm, and then hired me into the surety and construction law practice (which I neither chose nor had any interest in). They invested in my career by giving me early and frequent first chair trial and appellate experiences and client responsibilities. They encouraged and financially supported my community involvement, resulting in numerous leadership opportunities and many friends over the years. They asked me to serve on significant firm committees including the firm's compensation committee and board. These opportunities gave me the credibility and confidence I needed to

continue in firm governance in each of my next two firms.

My practice developed a national scope due to my involvement in TIPS—into which I was drafted by a mentor against my will (after all, I was already busy and did not care about the ABA), to speak at a committee program. I was the only woman on the program and one of only a few female attendees. This same mentor continued to encourage me to “volunteer” for more speaking and writing opportunities and (probably) arranged for my appointment to my first leadership position in TIPS. After years of his encouragement and my own hard work, I was elected Chair of the Fidelity and Surety Law Committee. In that role, both male and female mentors counseled and supported me as I navigated the challenges of leading such an organization. Many of these same mentors would later support my nomination to the ACCL.

Finally, as I made the decision to join JAMS, I turned again to the advice and assistance of men and women – most of whom are Fellows - who knew so much more than I ever will about how to serve as a neutral in dispute resolution. As always, they have shared so generously, showing me that mentorship does not only benefit the young, but is a gift we all may give as long as we care to care about others.

An Afterword:

As each of the Fellows who has written for this issue has made clear, being mentored by a role model committed to and

believing in their success helped make them the valued person and lawyer they are today. It also filled their life with meaning, direction, and, for most, joy. If their mentors thought they could succeed, they would do their darndest to prove them right. To a person, if asked, I bet they would agree that, although they could have succeeded without a mentor, the career track would have been bumpier, longer, harder, and most likely would never have led to Fellowship.

Their mentors may no longer be with us, but I venture to say, if we were to ask them about mentoring, they would say something like: “Having served as a mentor to a young lawyer, who had the seeds of success within, made me a better person and a better lawyer myself. It also filled my life with added meaning, direction, and joy.” Looking back, they would say that there was nothing better than watching your young’uns leave the nest and fly. Mentoring let me see them fly every day.

John Heisse has urged us all to seek out young people to mentor. This is a welcome and timely initiative. There is no better “give back”, no better way to pass on our knowledge, and no better means to contribute to a stronger future than serving as a mentor. We Founders may have paved the way, but it is our young associates who will forge the future. As the Fellows stories tell us, we need to seek “mentees” out, nurture them, teach them, coach them, and put them out there, all the time supporting them while they develop for themselves their own wings, the ones that will serve them well as both bumps and laurels decorate their path.

This is no touchy-feely initiative that John is suggesting. Mentoring is hard work. It demands a total commitment to the success of people we can support, but not control. Mentoring is also good business, for us, for our clients, and for everyone's future. The research is done. The evidence is clear. Diverse teams are more creative. Inclusive teams, more effective. If we construction lawyers want to retain a solid role in design and construction, we have to become as diverse and as inclusive as the professions and industries we serve. This initiative encourages us to do just that.

- *Ava J. Abramowitz*