

Best Practices for New Fellow Nominations:
Preparing and Submitting the ACCL New Fellow Nomination Form

The ACCL Board of Governors (BOG) has produced a “best practices” New Fellow Nomination Form, which is contained in the ACCL Practice and Procedures Manual. The BOG offers the “model form” and this introduction as a recommended procedure for submitting ACCL New Fellow Nominations to the Nominating Committee.

Currently, ACCL New Fellow nomination packages submitted to the Membership Committee vary significantly in detail and content. Experience instructs us to offer detail rather than general statements about a nominee, even when the person is well known to members of the Membership Committee. To that end, the BOG offers the following best practices in submitting an ACCL New Fellow nomination. Attached to this Introduction is a “model” nomination form that incorporates these recommended practices.

1. The ACCL Nomination Form is a key part of the nomination process. The nominating Fellow should not skimp on supplying accurate, timely, and complete information for the use of the Nominating Committee. Every nomination is evaluated as it compares to other nominees, and thus an abbreviated form may not be viewed favorably. If the nominee's CV has not been updated in years, and the form does not reflect updated data, it may be viewed negatively by the Nominating Committee.
2. List graduate degrees/certifications that relate to the practice of construction law.
3. List all employments post law school graduation. Gaps in employment history should be explained.
4. List all state and federal court bar and board admissions and years of admission.
5. List all publications, most recent to oldest. Gaps in years of publications will be apparent.
6. The College considers public presentations, publications, and the teaching of construction law to constitute "give back" to the industry. It is an important consideration in determining admission into the College. List hosting organizations, titles of presentations and written materials produced.
7. List the name, years of membership, and if applicable, leadership positions in appropriate bar association & construction industry committees, forums, etc., including years of membership and service.
8. List with particularity a representative sampling of the “major cases” in which the nominee has participated in a “first chair” position. Each entry should contain the name of the case, file number/designation, a short description of the matter, listing of the arbitrators by name and opposing counsel by name, firm association, and contact

information, including address, e-mail address and phone number. It is important to identify opposing counsel and counsel for related parties. These lawyers are likely to be contacted, so current contact information is essential. Make it easy for the Nominating Committee to make the contacts.

9. List the “Seconding Fellows” by name and include contact information for each. Attach their seconding letters to the nomination form. Do not exceed the number of “seconds” permitted by ACCL By-Laws.

NOMINATION FOR MEMBERSHIP

1. Nominee

John Q. Construction Lawyer
(Name)

1234 Scaffold Place
(Local Address)

Project City, CO 60606
(City, State, Zip Code)

608-123-4567
(Telephone)

2. Educational Background Degree, Year

Undergraduate: Blue Jay State University – B.A. (magna cum laude), 1983

Law School: Gopher State College – J.D. (with honors), 1986

Other: _____

3. Employment history since law school graduation

	Firm name/address	From	To
1.	<u>Gilded & Lilly, LLP</u>	1986 to	<u>Present</u>

4. State and Federal bars to which nominee is admitted

		Date admitted
1.	<u>Nebraska State Courts</u>	<u>September 17, 1986</u>
2.	<u>U.S. District Court, District of Nebraska</u>	<u>September 17, 1986</u>
3.	<u>U.S. Court of Appeals, Eighth Circuit</u>	<u>August 24, 1990</u>
4.	<u>U.S. Court of Appeals, Tenth Circuit</u>	<u>May 20, 1991</u>
5.	<u>U.S. District Court, District of Colorado</u>	<u>May 13, 2009</u>
6.	<u>Supreme Court, State of Colorado</u>	<u>May 13, 2009</u>

5. Publications and papers

	Title	Publisher	Date
1.	<u><i>You've Got a Friend, Or Do You? How Do The Delivery Systems and Party Postures Impact Litigation Strategy and Procedures in Multi-Party Construction Claims</i></u>	Author, American Bar Association,	April 26, 2012
2.	<u><i>Show Me the Money! Prosecuting and Managing Affirmative Claims and Recoveries</i></u>	Author, American Bar Association,	January 2012
3.	<u><i>Risk Limitation Through Contracts, Insurance/Bonding and Evaluation of Claims</i></u>	Author, Power-Gen International,	December 13, 2011
4.	<u><i>What to do When the Money is Gone: How to Get Paid Without Going to Jail</i></u>	Author, American Institute of Steel Construction,	May 2011
5.	<u><i>The Fundamentals of Construction Contracts: Understanding the Issues in Nebraska</i></u>	Author, Lorman Educational Services,	November 17, 2005
6.	<u><i>AIA Contracts</i></u>	Author, Lorman Educational Services,	July 15, 2005
7.	<u><i>Practical Concerns in Prosecuting Pass Through Claims</i></u>	Author, The Construction Lawyer,	Spring 2005
8.	<u><i>Change Orders in Nebraska</i></u>	Author, Lorman Education Services,	February 2, 2005
9.	<u><i>Construction Management/Design-Build in Nebraska</i></u>	Author, Lorman Education Services,	January 18, 2005
10.	<u><i>Construction Contracts: Forms and Substance – The Array of Essential Contract Documents Beyond Design and Construction Agreements</i></u>	Author, American Bar Association,	October 21, 2004
11.	<u><i>The Fundamentals of Construction Contracts: Understanding The Issues</i></u>	Author, Lorman Education Services,	August 6, 2004
12.	<u><i>AIA Contracts in Nebraska</i></u>	Author, Lorman Education Services,	April 21, 2004
13.	<u><i>Solving Water Intrusion and Mold Problems in Nebraska</i></u>	Author, Commercial Real Estate Workshop,	September 5, 2003

6. Presentations concerning construction law topics

	Title	Sponsoring Organization	Date
1.	<u><i>Top Ten Things Every Contractor Should Know About Construction Law,</i></u> <u>Presenter, 2015 Annual Convention of the Associated General Contractors,</u> <u>Nebraska Chapter (February, 2015)</u>		
2.	<u><i>Managing Construction Projects in Nebraska,</i></u> <u>Lorman Education Services</u> <u>(September 2014)</u>		
3.	<u><i>Constructing a Successful, Financial, Insurance, and Legal Team for Your</i></u> <u><i>Business,</i></u> <u>Presenter, Annual Conference of the National Utility Contractors</u> <u>Association of Nebraska (February, 2014)</u>		
4.	<u><i>Lessons Learned, Project Delivery Methods,</i></u> <u>Discussion Panel Member for</u> <u>meeting of The American Institute of Architects - Nebraska (May, 2014)</u>		
5.	<u><i>Project Delivery Systems,</i></u> <u>Presenter to The American Institute of Architects –</u> <u>Nebraska (October, 2014)</u>		
6.	<u><i>Roundtable Discussion Concerning the Construction Market Conditions for the</i></u> <u><i>Rocky Mountain Region,</i></u> <u>Moderator, Engineering News Record (ENR) (June</u> <u>2013)</u>		
7.	<u><i>Roundtable Discussion Concerning ENR Power and Energy for the Rocky</i></u> <u><i>Mountain Region,</i></u> <u>Moderator, Engineering News Record (ENR) (February 2013)</u>		
8.	<u><i>An Owner’s Checklist for Construction Projects, Payment Obligations and Claim</i></u> <u><i>Evaluation,</i></u> <u>Presenter, North Dakota State Water Commission (September 2012)</u>		
9.	<u><i>Roundtable Discussion Concerning the Water/Wastewater Industry,</i></u> <u>Moderator,</u> <u>Engineering News Record (ENR) (June 2012)</u>		
10.	<u><i>You’ve Got a Friend, or Do You? How do the Delivery Systems and Party</i></u> <u><i>Postures Impact Litigation Strategy and Procedures in Multi-Party Construction</i></u> <u><i>Claims?,</i></u> <u>Presenter, 2012 Annual Meeting of ABA Forum on Construction</u> <u>Industry, Las Vegas, NV (April 2012)</u>		
11.	<u><i>Show Me the Money! Prosecuting and Managing Affirmative Claims and</i></u> <u><i>Recoveries,</i></u> <u>Presenter, ABA Tort Trial and Insurance Practice Section Mid-Winter</u> <u>Meeting, New York, NY (January 2012)</u>		
12.	<u><i>Project Execution: Successfully Managing Risks & Uncertainties,</i></u> <u>Presenter,</u> <u>Power-Gen International 2011, Las Vegas, NV (December 2011)</u>		

13. *Construction Insurance and Types of Policies*, Presenter, I-DAY CPCU Society, Omaha, NE (November 2011)
14. *What to do When the Money is Gone: How to Get Paid Without Going to Jail*, Presenter, North American Steel Construction Conference, Pittsburgh, PA (May 2011)
15. *Focus on Making Your Company Profitable – Getting Paid for the Work You Do*, Presenter, Assured Equity Management Corp, Denver, CO (April 2011)
16. *Claims, Bonds and Getting Paid*, Presenter, Associated General Contractors Nebraska Chapter, Lincoln, NE (February 2011)
17. *Managing Claims and Disputes*, Presenter, Associated General Contractors Nebraska Chapter, Omaha, NE (January 2011)
18. *A General Overview Regarding the Formation of Joint Ventures*, Presenter, Gene Lilly Surety Bonds, Omaha and Lincoln, NE (September 2009)
19. *Ten Things Every Contractor Should Know About Construction Law*, Presenter, Associated General Contractors Nebraska Chapter, Omaha, NE (October 2006)
20. *Force Majeure, Escalating Contract Price Clauses, Changes in the AIA Contract Documents*, Presenter, NECA, Omaha, NE (July 2006)
21. *The Fundamentals of Construction Contracts: Understanding the Issues in Nebraska*, Presenter, Lorman Educational Services, Omaha, NE (November 2005)
22. *Design Build*, Presenter, Associated General Contractors Nebraska Chapter 2005 Fall Meeting, Lincoln, NE (October 2005)
23. *AIA Contracts*, Presenter, Lorman Educational Services, Omaha, NE (July 15, 2005)
24. *Change Orders in Nebraska*, Presenter, Lorman Education Services, Omaha, NE (February 2005)
25. *Construction Management/Design-Build in Nebraska*, Presenter, Lorman Education Services, Omaha, NE (January 2005)
26. *Holding the Owner Accountable for Harming the Subcontractor: Practical Concerns in Prosecuting Pass Through Claims*, Presenter, ABA Forum on the Construction Industry, Tampa, FL (October 2004)
27. *The Fundamentals of Construction Contracts: Understanding the Issues*, Presenter, Lorman Education Services, Omaha, NE (August 2004)
28. *Mold is Gold*, Presenter, Commercial Real Estate Seminar, Omaha, NE, May 2004)

29. AIA Contracts in Nebraska, Presenter, Lorman Education Services, Omaha, NE (April 2004)
30. Construction Defects, Change Orders, Presenter, Nebraska State Bar Association, Lincoln, NE (March 2004)
31. Liens, Workmen's Compensation, Presenter, NECA, Omaha, NE (January 2004)
32. Solving Water Intrusion and Mold Problems in Nebraska, Presenter, 2003 Annual Real Estate Seminar, Omaha, NE (September 2003)

7. Memberships in professional organizations

	Name	Dates of Membership	Offices Held
1.	<u>ABA Forum on the Construction Law</u>	<u>1988 – 2015</u>	<u>Forum Chair 2004-05</u>
2.	<u>ABA Public Contracts Law Section</u>	<u>1988 – 2015</u>	<u>Chairman 1995 - 1998</u>
3.	<u>Nebraska State Bar Association</u>	<u>1986 – 2015</u>	<u>Constr'n Law Section</u>
4.	<u>Colorado State Bar Association</u>	<u>2009 – 2015</u>	

8 Membership in construction and civic organizations.

	Organization Name	Dates of Membership and Offices Held
1.	<u>TAUC – The Association of Union Contractors</u>	<u>2008 – 2009</u>
2.	<u>*AGC – Nebraska Chapter Associated General Contractors</u>	<u>1995 – 2015</u>
3.	<u>*DBIA – Nebraska Design Build Association</u>	<u>2000 – 2015</u>
4.	<u>RMSA – Rocky Mountain Surety Association</u>	<u>2009 – 2015</u>
5.	<u>Sponsor/Host CEF, Roscoe Pound Elementary School, Ant Hill, NE</u>	<u>2007 – 2009</u>
6.	<u>Director, What's Happening Now Foundation, Bulls Eye, CO,</u>	<u>2009 -2016</u>
7.	<u>Secy./Treas., Tabernacle Unitarian Church, Ant Hill, NE</u>	<u>1998 - 2016</u>
8.	<u>4-H Co-Sponsor, "Ropes and Riggins", Lancaster County, NE</u>	<u>2008 – 2015</u>
9.	<u>Debate Coach for the Allen Overcash High School Debate and Speech Club, Lincoln, NE (approximately 14 teaching sessions per season)</u>	<u>2012 – 2015</u>

9. Major cases/matters which the nominee has been in responsible charge.

Case Name and Number

1. *Northern Wyoming Water Authority v. Never Pay BRI, Inc.*
Private Arbitration under Modified JAMS Rules
(Represented the Water Authority in a 3 week arbitration against a consortium of insurance carriers in a Tunnel Construction Project. Awarded in excess of \$30 million which was approximately 96% of the claim.)

(Arbitration Panel Members)

John W. Hinchey, ACCL Fellow
James Duffy O'Connor, ACCL Fellow
Kenneth C. Gibbs, ACCL Fellow

(Name and Address for Opposing Counsel)

William A. Webster
Robins, Kaplan, Miller & Ciresi L.L.P.
2049 Century Park East, Suite 3400
Los Angeles, CA 90067
310-229-5800

2. *Mid-West Regional Hospital of No-One's Business, Inc. v. ABC Construction Services, Inc.*
AAA consolidated Case Nos. 51 110 Y 00465 08 and Case No. 51 110 Y 00852 08
(Defended specialty subcontractor, in Texas, in defense of a \$20 million claim by Hospital.)

(AAA Panel Members)

Roger Stone, ACCL Fellow
Robert Smith, ACCL Fellow
Francis Croak

(Name and Address for Opposing Counsel)

Dean B. Thomson
Fabyanske, Westra, Hart & Thomson, P.A.
800 LaSalle Avenue, Suite 1900
Minneapolis, MN 55402
612-359-7600

Bill Croke
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 700
Milwaukee, WI 53202
414-287-1422

3. *Great Balls of Fire Electric, Inc., Claimant, and Off Switch Electric Co.,*
Respondent AAA Case No. 77 158 Y 00325 12
(Currently representing Off Switch Electric Co. in arbitration against its
subcontractor, regarding claims and counterclaims resulting from the construction
of the NSA Data Center Project in Camp Williams, Utah. The Claimant is
seeking payment of claims of approximately \$6 million and Off Switch is seeking
counterclaims of \$2.5 million.)

(Arbitration Panel Members)

Ron T. Blewett
James W. Bain
Richard Greenleaf

(Name and Address for Opposing Counsel)

Stanford P. Fitts, Esq.
Strong & Hanni
3 Triad Center
Suite 500
Salt Lake City, UT 84180
801-532-7080

4. *In Re Convention Center Builders, LLC, a Joint Venture, and Exterior Envelope
Services Corporation*
Private Arbitration
(Represented steel subcontractor in 2-week arbitration and a million dollar claim
on Municipal Convention Center. Received 86% of claim in award.)

(Arbitrator)

Mr. David R. Hendrick
Hendrick, Phillips, Salzman & Flatt, PC
230 Peachtree St., N.W. Suite 2500
Atlanta, GA 30303
404-522-1410

(Name and Address for Opposing Counsel)

David W. Mockbee
Mockbee Hall & Drake
The Lamar Life Building
317 East Capitol Street, Suite 1000
Jackson, MS 39201-3410
601-353-0035

5. *Reid Hospital & Health Care Services v. HDR Architecture, Inc.*
AAA Case No. 52 110 Y 00368 08
(Represented HDR in design defect claims made by Hospital in week-long arbitration. Claims asserted were in excess of \$2 million. Panel awarded only 25% of claim.)

(Arbitration Panel Members)

Ronald Deneweth
Patrick A. Facca
Joseph Colagiovanni

(Name and Address for Opposing Counsel)

Gerald L. Stovall
Hall, Render, Killian, Heath & Lyman, P.S.C.
614 West Main Street, Suite 4000
Louisville, Kentucky 40202
502-568-1890

6. *Layton Construction Co., Inc. v. Barclays Capital Real Estate Inc., a Delaware Corporation et al.*
District Court, County of Eagle, State of Colorado
Case No. 09 cv 606, Div. 2
(Represented Electric Company in defense of multi-million dollars of construction defect claims brought by the owner of a resort hotel in Vail, Colorado and indemnity claim by the prime contractor who joined its subcontractors in the action).

(Name and Address for Opposing Counsel)

L. Tyrone Holt
The Holt Group LLC Attorneys & Counselors at Law
1675 Broadway, Suite 2100
Denver, CO 80202
303-225-8500

Steven G.M. Stein
Stein Ray LLP
222 West Adams Street
Suite 1800
Chicago, IL 60606
312-516-2000

7. *The Regents of the University of California v. Fidelity and Deposit Company of Maryland et al.*
Superior Court of the State of California, County of San Francisco,
Case No. 304352 (Consolidated with Case No. 305236)
(Represented supplier/subcontractor, Nebraska Boiler, in defending and
prosecuting claims of \$12 million related to power production and HRSG
performance at the UCSF Facility.)

(Name and Address for Opposing Counsel)

Robert G. Watt
WATT, TIEDER & HOFFAR, L.L.P.
8405 Greensboro Drive, Suite 100
McLean, VA 22102-5104
703-749-1000

8. *Large GC, Inc., Claimant v. ABC Steel Mills, Inc., Respondent*
AAA Arbitration
(Represented general contractor in prosecuting \$6 million in claims and defending
\$20 million in counterclaims by owner on steel mill expansion.)

(Name and Address for Opposing Counsel)

Richard E. Alexander
Stoel Rives, LLP
900 S.W. Fifth Avenue, Suite 2300
Portland, OR 97204-1268
503-294-9287

9. *In Re Big Casino Lien Litigation*
District Court, Clark County, Nevada; Individual Case No. A409180
(Represented trade contractor on multimillion-dollar claims for the Casino/Hotel
and also on separate Parking Garage Project in Las Vegas.)

(Name and Address for Opposing Counsel)

Steven A. Arbittier
Ballard, Spahr, Andrews & Ingersoll
51st Floor, 1735 Market Street
Philadelphia, PA 19103-7599
215-665-8500

Jennifer Fletcher
Griffin, Cochrane & Marshall
127 Peachtree Street, N.E., 14th Floor
Atlanta, GA 30303-1810
404-523-2000

David Dial
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Suite 2700, 999 Peachtree Street, N.E.
Atlanta, GA 30309
404-832-9513

- 10.** *Walsh / II In One Joint Venture v. Lejeune Steel Company et al.*
Circuit Court of Cook County, Illinois, County Department, Chancery Division,
Mechanics Lien Section Case No. 04 CH 887 (Consolidated with 04 L-576 and 04
CH 1092)
(Represented steel subcontractor in prosecuting claims of \$2 million on
Millennium Park Project in Chicago.)

(Name and Address for Opposing Counsel)

Steven Stein
Joel J. Rhiner
Stein Ray LLP
222 West Adams Street, Suite 1800
Chicago, IL 60606
312-516-2000

Timothy R. Conway
Conway & Mrowiec
20 South Clark Street, Suite 750
Chicago, IL 60603
312-658-1100

10. Professional or civic awards

	Awards	Date
1.	<u>Who's Who in Construction Law</u>	2005 – 2015
2.	<u>Chambers First Tier Recognition for Construction Law</u>	2005 – 2016
3.	<u>Burton Award Recipient for Scholarly Writing</u>	2012
4.	<u>Super Lawyer Peer Recognition for Construction Litigation</u>	2005 - 2016

11. Teaching activities

	Position	School
1.	<u>Taught various classes for Gene Wright at University of Nebraska</u>	
	<u>Design Build Delivery System</u>	<u>Periodic</u>
	Course	Date
2.	<u>Taught various classes for Tim Wentz at University of Nebraska</u>	
	<u>Construction Management and Contract Interpretation</u>	<u>Periodic</u>
	Course	Date
3.	<u>Taught various classes for Paul Harmon at University of Nebraska</u>	
	<u>Contract Documents and Risk Assessment</u>	<u>Periodic</u>
	Course	Date

12. Other activities relating to the practice of construction law or for the benefit of the construction industry.

1. Co-Chair My Law Firm's Construction Group with responsibility for development of Denver Office Construction Group.
2. Developed numerous client specific in-house training seminars to address topics and issues unique to the client.
3. Work with AGC, DBIA, NECA and MCA in drafting legislation for industry issues and presenting positions before state government officials.

13. Martindale Hubbell rating: AV® Preeminent™ Rated – 5.0 out of 5.

14. Has the nominee spent at least 50% of his/her time in construction law matters during the last 10 years?

▶ Yes

15. Are you aware of any disciplinary or criminal proceedings which have been brought against the nominee? If so, please explain.

▶ No

16. What is your opinion of the nominee's character and professional conduct:

It is a recommended practice to submit a stand-alone letter in addition to this Nomination Form personally stating the reasons for the nomination and why, in your opinion, the Nominee should be accepted as a Fellow into the College.

17. Has the nominee been previously nominated? If so, how long ago? And who nominated?

▶ Yes. 2012. Identify the Nominating Fellow with complete and current contact information.

18. Are there other Fellows in the nominee's firm or business? If so, please list.

▶ Yes. Identify the Fellow(s) with complete and current contact information.

Nominating Fellow

James Duffy O'Connor

(Name)

90 South 7th Street, Suite 3300

(Local Address)

Minneapolis, Minnesota, 55402

(City, State, Zip Code)

612.672.8378

(Telephone)

How long and under what circumstances have you know the nominee?

I have known him personally and professionally for many years. My first introduction was through his speaking and writing. I have had the pleasure of personally observing his work on a professional level for over three years. Please refer to my letter that accompanies this form.

I, James Duffy O'Connor, hereby certify that I have sufficient knowledge of the above nominee's employment history, educational background, professional stature and experience, character, professional conduct, and qualifications to be a Fellow in the American College of Construction Lawyers, to recommend and nominate the nominee to become a Fellow. I further certify that the nominee is eligible to be a Fellow under the current bylaws of the American College of Construction Lawyers.

Date: _____



Attached hereto are six (6) Seconding Nominations from the following Fellows:

**Dean Thomson
John Hinchey
Roger Stone
Robert Smith
Gerald Stovall
David Mockbee**