

THE HISTORY OF THE
AMERICAN COLLEGE OF
CONSTRUCTION LAWYERS





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AMERICAN COLLEGE OF
CONSTRUCTION LAWYERS

16
THE FIRST SIXTEEN YEARS

BY THE COLLEGE HISTORIANS

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WITH THE ASSISTANCE OF

Overton A. Currie (deceased 2005)
(Posthumously through his writings, notes and memories)

B. C. Hart
James J. Myers
Carl M. Sapers
Stanley P. Sklar
Gregory W. Hummel
Joseph A. McManus, Jr.
John F. McGuinn
Robert A. Rubin
James P. Groton
Robert L. Meyers, III
Jesse B. ("Barry") Grove
J. Bert Grandoff (deceased 2006)
A. H. ("Nick") Gaede

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I INTRODUCTION

This History of the American College of Construction Lawyers traces the evolution of the College from its conception in 1988 through its sixteenth year of existence through the 2006 Annual Meeting. Its purpose is to capture the essence of our Fellowship and to describe how the College has grown and matured into its current form, guided by its core principles of professional excellence and personal collegiality. It is our hope and intention that this History will be of interest and value to our Fellows, old and new, and will assist and guide our leadership and Fellowship as we move forward in time.

We believe we are a rare business and professional organization in that, when participating in the affairs of the College, we strive to remove ourselves from the world of professional competition and immerse ourselves in an environment of sharing among our peers. Maintaining this characteristic as our Fellowship has grown fourfold has been and will continue to be a challenge.

We list below the College presidents over the first sixteen years, and we recognize, acknowledge and appreciate their leadership and contributions to the College:

Overton A. Currie, 1988-1991 (*deceased 2005*)

B. C. Hart, 1991-1992

James J. Myers, 1992-1993

Carl M. Sapers, 1993-1994

Stanley P. Sklar, 1994-1995

Gregory W. Hummel, 1995-1996

David R. Hendrick, 1996-1997

Joseph A. McManus, Jr., 1997-1998

John F. McGuinn, 1998-1999

Robert A. Rubin, 1999-2000

James P. Groton, 2000-2001

Laurence Schor, 2001-2002

Robert L. Meyers, III, 2002-2003

Jesse B. ("Barry") Grove, 2003-2004

J. Bert Grandoff, 2004-2005 (*deceased 2006*)

A.H. "Nick" Gaede, 2005-2006

II

OUR MISSION AND PURPOSE

The American College of Construction Lawyers is a national professional organization (with international participation). Its secretariat and executive director are now located in Austin, Texas. The College was conceived in 1988 and was founded in 1989. Since then, the College has grown from its initial core of barely 20 construction lawyers who met 17 years ago in Chicago to create the College into a group of highly dedicated construction law professionals numbering, at the end of its Sixteenth year, 142 lawyers from throughout the United States and several foreign countries. Its fellows are generally considered to be among the best and the brightest of the construction bar.

The mission and purpose of the College is to facilitate and encourage the association of outstanding construction lawyers bonded by common professional interests and ideals and committed to service to the construction industry for the benefit of all of its participants. The Fellows are dedicated to professional excellence in the specialized practice of construction law and strive to improve and enhance the practice and understanding of construction law. Further, the College is committed to “give back” to the industry we serve. Our goal is to exemplify, develop and promote the positive role of lawyers as “friends of the project” adding benefit and value to the business of construction.

The College provides a forum for the exchange and development of ideas and experiences relating to the practice of construction law through association in an environment of intellectual and professional stimulation and good fellowship. We pride ourselves on our collegiality and unpretentious approach in the exchange and development of ideas by true experts in construction law.

These purposes are accomplished by such endeavors as:

- ◆ Exploring and analyzing subjects of importance to the practice of construction law and, if appropriate, developing positions regarding such issues;
- ◆ Creating a body of professional and scholarly published materials dealing with construction law;
- ◆ Providing educational programs and resources for its members and other professionals involved in the construction industry;
- ◆ Encouraging dialogue between the College and other professional and industry groups serving the construction industry, nationally and internationally;
- ◆ Promoting the highest standards of professional and ethical responsibility among those practicing construction law;
- ◆ Exploring and developing alternative methods for reasonably and efficiently preventing and resolving construction industry disputes and controversies;
- ◆ Communicating with legislative, administrative, regulatory and other government agencies and bodies on subjects of interest and importance to the practice of construction

II OUR MISSION AND PURPOSE

law and to the construction industry;

- ◆ Participating actively in the work of construction industry research organizations;
- ◆ Helping the industry develop and improve methods of risk allocation, construction project delivery, dispute avoidance and dispute resolution;
- ◆ Helping the industry develop and implement usage of construction contract documents that facilitate communication and common understanding of the roles and responsibilities of all members of the construction project team; and
- ◆ Developing creative approaches to the delivery of construction law services, so that the legal profession can effectively and efficiently meet the changing needs and expectation of the industry.

III

OUR FELLOWSHIP

The ACCL Fellowship currently includes 142 Fellows elected to membership, representing over 35 states and including five Honorary Fellows and five international Fellows from Canada, England and France.

Each of our Fellows was selected on the basis of his or her demonstrated skill, expertise, and accomplishments and high standards of professional and ethical conduct in the practice or teaching of construction law. Each became a member of the College through a rigorous selection, nomination and election process.

To be eligible for nomination and election, an attorney must be engaged in the active and continuous full time professional practice or educational endeavor devoted primarily to construction law. Professional expertise and accomplishment and extensive experience in the practice or teaching of construction law are required. This experience must be coupled with significant and outstanding service and contribution to the practice of construction law, as evidenced by teaching and lecturing, authorship of books, articles, program materials or other scholarly publications, and/or substantial participation in or leadership of professional or industry organizations concerned with the practice or application of construction law. Nominees must have demonstrated a commitment to “give back” to the construction industry that we serve and to the construction law community through their scholarship, leadership, and other contributions to benefit the industry and the practice of construction law on a “not for personal profit” basis. Any nomination must also be supported by a demonstration that the nominee observes the highest ethical and professional standards of practice. Such nominees must command the professional respect of their peers and hold promise to contribute meaningfully in support of the mission of the College and work within the collegial framework of the Fellowship.

Additionally, the College has recognized and invited into the Fellowship several “Honorary Fellows” who, by their contributions to and accomplishments in the profession, have attained a high degree of respect and eminence as judges, as scholars, or in other roles in the profession or public service related to the practice of construction law.

The College has grown deliberately but conservatively from year to year, guided by the principle that only the most expert and collegial lawyers should be elected as Fellows. Our Fellowship is drawn from all sectors of the construction industry, ranging from those who represent owners, contractors, designers and insurers, to those who serve as “in house” counsel to construction related businesses and organizations, to those that serve as distinguished jurists and educators. We all truly look forward to and value the opportunity to gather with old friends among the Fellowship and to make new ones, whether at the Annual Meetings, by participation in committee activities or other involvement, or simply through the exchange of e-mails on the College LISTSERV. While Fellows are expected to maintain their commitment to expertise and excellence, they also must “check their egos at the door” in order to fully participate in this collegial and accomplished group of legal professionals.

As “friends of the project,” our Fellows always seek to advance not only professionalism in the practice of construction law, but also to contribute positively to the construction industry.

The College, in that sense, is a “think tank,” affording our Fellows an opportunity to share knowledge, experience and expertise and to engage in open and creative exchange and dialog about our industry and profession. The ACCL’s influence in the construction bar and in the construction industry grows each year. Since our inception, the College has been able to exert significant influence on such diverse aspects of the construction industry as (1) the resolution of industry wide controversies relating to the review and approval of shop drawings, (2) the form and process of dispute avoidance and resolution methods employed by the industry through involvement with the American Arbitration Association and the International Institute for Conflict Prevention and Resolution, (3) the interstate ramifications on the practice of construction law, and (4) the development of industry standard contract documents by involvement with the American Institute of Architects and the Engineers Joint Contract Documents Committee.

IV

OUR ORIGIN - "IN THE BEGINNING"

By Stanley P. Sklar

Charter Fellow and one of the "Chicago Trio"

At a recent Annual Meeting, I became concerned that with the growth of the College we may be in danger of losing the history of its origin. Many Fellows do not know how we came to be and what caused this organization to evolve from a vague concept of Stan Sklar and Steve Stein, later joined by Greg Hummel, and ultimately grow into a very special group of highly dedicated professionals whom some would call the best and the brightest of the construction bar. The pride we all feel at what the College has become started as a dream nurtured to life by the group affectionately known as the "Chicago Trio", a title bestowed upon us by Overton Currie at the organizational meeting of the Founding Fellows.

Actually the idea had been in the back of my mind for several years, but never became a reality until the American Institute of Architects published the 1987 edition of its contract documents. At that time, Greg Hummel was organizing a National Construction Institute sponsored by the American Bar Association to introduce these documents to the Construction Bar. Greg invited me to participate, representing the interest of the lowly subcontractors (a first, I might add, since subcontractors at that time suffered from the Rodney Dangerfield complex of getting no respect), and we asked Steve Stein to weigh in on the design professionals' side. The speakers for the Institute met for a planning session in Scottsdale, Arizona, at The Registry Hotel in early 1987. There we experienced not only rain in this supposedly dry climate, but a certain sense of exhilaration since all the invited speakers were truly experts in their areas and there was really little to "bone up on" since each knew the subject matter so well.

After one rehearsal (marked more with the interchange about issues than an actual rehearsal), Steve Stein and I were sitting in The Registry lobby remarking about the enormous intellectual stimulation which we were getting, not from preparing our respective presentations but from the conversations amongst the presenters on legal issues that were of great concern to us and this fascinating industry. Incidentally, Greg Hummel, as the moderator, was beside himself at times since the speakers would go off on our separate tangents while he valiantly tried to get us back on track. I mentioned to Steve then that, having recently been admitted to the American College of Real Estate Lawyers, I regretted



*Stan Sklar, Steve Stein, Greg Hummel
The "Chicago Trio"*

that no similar organization existed for construction lawyers. Steve and I also remarked to each other that once we completed the circuit of cities, the troupe would be disbanded and this marvelous sense of camaraderie and expertise would be lost and the experience would become but a memory. I asked Steve if he thought we could create an organization that would keep this "experience" alive.

When we returned to Chicago, Steve and I met and discussed the steps we should take. We did not want to use our respective firms' letterhead, as we wanted a more neutral messenger. At that time, Steve was Director of the Chicago Construction Law Institute, which was affiliated with the Chicago Kent School of Law. He appointed me Assistant Director of the Institute at no compensation – a practice that still continues to this day, of course, and the Institute became the vehicle for our idea. We decided to create, since none existed, Construction Law Institute stationery and to get the approval of Chicago-Kent to use its name to invite the most prominent construction lawyers we knew to a "steering committee" meeting to discuss the possible formation of such an organization dedicated to construction lawyers.

Starting in June, 1988, Steve and I compiled a list of 25 nationally recognized construction lawyers, developed the Construction Law Institute concept further, and established and finalized the relationship with the Chicago-Kent School of Law. By later in the year we were ready to "go public," and on December 6, 1988 we invited the compiled list of construction attorneys to come to Chicago for an organizational meeting on May 5, 1989, to see if our idea made any sense. Looking at that list now makes me wonder how we were so presumptuous, but among the original 25 were Overton Currie, B.C. Hart, Jim Myers, and Carl Sapers, to name a few. Of the 25 invitees, only three could not make the meeting but two of them expressed an interest, and all the rest of the invitees committed to come to Chicago at their own expense to be "present at the creation."

On May 5, 1989, this group which came to be known as the Steering Committee met at my firm with Steve and I then presiding. Prior to calling this first meeting to order, Steve and I stood outside our conference room and wondered what we had gotten ourselves into. There could not have been a room or a building big enough to hold the egos of those attending: There were Overton Currie, already a legend, Carl Sapers, defender of the design profession, B.C. Hart, the consummate diplomat carrying out the construction law tradition that he and his brother had started, Jim Myers, distinguished international construction lawyer and past chair of the ABA Public Contract Law Section, and other luminaries of the construction bar, and . . . US! We called the meeting to order and experienced the overriding characteristic that has permeated this group to this day and what has caused the College to flourish: every single one of the invitees had "checked his ego at the door" as we all recognized that we were the best and the brightest and we were equals among equals. At the conclusion of the meeting, the group voted overwhelmingly to proceed with the organization of the College. At the conclusion of this first organizational meeting, we had a dinner at the Hotel Nikko in Chicago with invited spouses and friends.

Back in Chicago, Steve and I then proceeded to create the corporate structure of the

American College of Construction Lawyers (the ACCL is still an Illinois corporation). The Steering Committee expanded the list of potential members who were invited to our "Inaugural Meeting" of the College which was to be held on September 23, 1989 at Greg Hummel's office in Chicago. Our group then gathered for dinner at the Four Seasons Hotel. With Greg's active participation in these organizational efforts, the "Chicago Trio" was born. At this Inaugural Meeting we ordered "special" Steering Committee hard hats for each attendee (I wonder how many of the organizational hardhats still exist?). Overton Currie was working the room as always and handing out copies of his book, "Common Sense and Construction Law", duly autographed (in response to an inquiry as to what was in the many boxes Overton brought, someone said it was probably his resumes). At that meeting, Overton Currie was elected as our first President, B. C. Hart as President-Elect, and Jim Myers as Secretary. Dave Hendrick was our "Thomas Jefferson" who created the original Bylaws, with the assistance of a drafting committee comprising Larry Schor, Fred Lyon, and Carl Sapers. Carl served as our grammarian and experienced and critical editorial eye (at that time we had no Mabry Rogers to fly-speck our work product). At this meeting we wrestled (and we still do) with the size of the organization. Consistent as ever, Jim Myers wanted a small, truly expert, collegial group. The approach we then decided to pursue, and which still is our guide, is that the College should be allowed to grow with no predetermined numerical limit, "truly expert and collegial" being the critical criteria. Entertainment for this first inaugural dinner was Overton and his video camera, where he proceeded to interview not only the Steering Committee but also the waiters and hostesses of the Four Seasons Hotel who did not realize they were being preserved for posterity.

At first, Chicago was the "headquarters" of the ACCL and Steve Stein's wife, Susan, its first administrator. Bob Smith's secretary was our Annual Meeting coordinator. After Jim Myers' term as president, the College moved its operations to the office of a professional administrator in Washington, D.C.

As they say, "the rest is history" and our influence in the Construction Bar grows each year. Fellows of the American College of Construction Law, we are and will continue to be the "best and the brightest," and those who are elected to Fellowship will continue to "check their egos at the door" as they join this truly elite group.



OUR EVOLUTION

(A) DOES SIZE REALLY MATTER?

A question that has engaged the Founders and the Fellows from the outset and as the College has grown is whether there should be a cap on the number of Fellows. This was first manifested by a recommendation that was made by the original “Membership Committee” Chair Steve Stein, at the First Annual Meeting in 1990, that “the overall limit of membership in the College should be 1 / 20th of 1% of those lawyers licensed to practice law in the Untied States” which was then estimated to be in the order of 320 individuals. While not formally adopted, this set the tenor of the “cap on size” debates that have ensued since.

The big concern is whether, as the College gets larger, the collegiality of the Fellows and even the opportunities for collegiality will disappear simply because “size does matter”. Generally, increasing size of an organization tends to breed “cliques,” which we have historically avoided. We aspire to come together annually in an environment in which everyone knows each other on a “first name” basis. We are particularly concerned about the opportunity the future generations of Fellows, those who are as much as thirty years or more younger than some of the Founders, will have to mix with and both share with and learn from each other, as the smaller College originally afforded. Also, we are concerned not only that the new Fellows feel comfortable and welcomed into the College, but that their spouses and significant others enjoy the experience as well – the true secret of our ongoing success as an organization!

Still another concern related to the size of each entering class of new Fellows was their assimilation into the College. Simply put, the number of new Fellows inducted at an Annual Meeting should allow the opportunity for those new Fellows to meet the others and be comfortably absorbed. Indeed, on several occasions, most recently in President Nick Gaede’s administration, the College created a new Fellows orientation and assimilation committee to aid in this transition.

Inevitably, as the College continues to grow, the opportunities for new Fellows, and younger Fellows, and even older Fellows, to participate meaningfully in committee meetings and in programs becomes less and less. Originally, our “committees” met around a conference room table and engaged in a free wheeling discussion of substantive issues and concerns and the entire College convened at the Annual Meetings sitting around a “U-shaped table” allowing discussion without microphones. At the social functions it was possible to actually have social exchanges with virtually all attendees. Our current size does not allow this level of intimacy and informality in our dealings.

Since one of the primary goals of this College was to maintain the collegiality and professional intimacy of the original College, there have always been proponents of either “no growth” or “very slow growth.” On the other hand, there has been a “pro-growth” contingent as well, believing that meritorious lawyers deserve to be in the organization and

to benefit from it, irrespective of size, and that such growth and infusion of younger lawyers is required to assure an institution that will continue upon the retirement of the Founders and Fellows who joined in the early years. In this regard, there has even been an issue about whether senior lawyers who were not invited to join during the first seventeen years of the College should be invited to join at a late stage of their professional careers.

There have not been any definitive answers to these growth issues. Instead, the College has grown fivefold from the original twenty four Steering Committee members to a current membership of 142, almost triple the size of the original group of fifty six Founding Fellows. It is obvious that those who would have capped the growth at a level approximating the size of a mid-size law firm have not succeeded. We have continued to add classes of deserving new Fellows over the ensuing seventeen years averaging just over seven per year (including honorary and international Fellows) and ranging from a high of ten in 2005 to a low of three in 1998.

There have been several member surveys and “straw polls” regarding this topic over the years. Many of the surveys and discussions from the outset have led in the direction of setting a target size of around 175 as optimum, although none of the surveys and discussions in long range planning or other analyses of the operational aspects of organization has identified any reason why this number really is optimum. We are now approaching that size. Inevitably the debate will go on. Moreover, it is safe to say that within the next few years nature will intervene on the issue of whether or not a cap on the number of Fellows is appropriate or necessary and accelerated the need for planning for the growth, future leadership and future direction of this College.

~: ANECDOTES ~:

RE: “HAZING OF NEW FELLOWS”

“For lack of a better reference for this letter, I have referred to our task as “Hazing of New Fellows.” I did not participate in the fraternity system since during the 1970’s “revolution” at the University of Wisconsin, fraternities were much frowned upon. However, it is my understanding that new fraternity members were made to feel part of the group by intense activities with more senior members of the fraternity. I gather that our assignment is to do likewise, but without the discomfort accompanying the collegiate fraternal rites.”

Steve Stein letter to Bob Rubin, April 30, 1996

(B) ANNUAL MEETING CONCERNS

The dilemma faced by the Founders and all succeeding annual meeting planners and program planners was how to achieve the proper balance between valuable substantive programming and opportunity to form and reaffirm the friendships and to enjoy the collegiality which has made this College special to so many of the Fellows and their spouses. Since the College has only one formal meeting per year, that meeting frequently serves as the only opportunity for people to see old friends and make new ones. The educational programs and committee meetings both fostered the discussion of hot issues of the day and facilitated the sharing of knowledge among the Fellows who brought their different perspectives as a result of the differences in their practice emphasis - from the perspectives of the designer, to the general contractor, to the subcontractor, to the bonding company. However, the more these formal programming activities consumed the limited meeting time, the less the opportunity for socialization and relaxation among friends. It is fair to say that from the 8th to the 14th year our annual meetings were very heavily programmed. Friday's formal programming started at 8:00 a.m. and, when the Overton Currie Lecture was added at the end of that day, did not end until 5:30 to 6:00 p.m. Saturday was equally jammed with programming until the ritual afternoon escape to play golf or tennis, or just play. Despite the positive and valuable experience of sharing and exchanging ideas at committee meetings, luncheon meetings such as the Professors Committee and other special committees, Hot Tips and lectures, we were missing opportunities for merely mixing and talking in a more relaxed atmosphere. However, and despite the multitude of discussions over the years, there were always proponents of different elements of our programming who did not want to see those elements dropped or modified.

As a result, we have had committee meetings as short as thirty minutes and as long as two hours. The committee meetings initially were discussion groups where Fellows participated, but have, to a great extent, become forums for additional programming featuring speakers and relatively minimal opportunity for participation by the Fellows. This has created an issue, in itself, for the Fellows.

We recognize that there is no easy answer here as we look back on the issues of the day that have driven many of our meetings and our desire to "be out front" on other issues and have an opportunity to review and discuss them while the College membership is together. Ultimately, the leadership will have to determine and set the tone on a year-by-year basis in an effort to anticipate the needs and interests of the Fellows and reflect the sense of the College on this important matter at the annual meetings. Open dialogue is essential to respond to the perceived interests of the Fellowship, and as the College continues to mature and evolve the functions and purposes of gathering every year may change. But hopefully it will never deviate from the collegial and intellectually stimulating atmosphere, with egos held in check, which has marked it from the outset.

~: ANECDOTES ~:

RE: THE “WARM WEATHER” TRADITIONS FOR ANNUAL MEETINGS:

“Early in the College’s history it was decided that the Annual Meeting:

- 1. Would be held in the last half of February;*
- 2. At a warm weather resort with golf facilities; (the spouses were heavily involved in deeming a warm weather location essential).”*

Summary of poll to members regarding location of annual meeting (2001), resulting in overwhelming reaffirmation of the original inclinations to warm weather locations – to the continuing chagrin of Jim Wulfsberg and other skiing enthusiasts

(C) DIVERSITY IN THE FELLOWSHIP

The College has been committed from the beginning to principles of diversity in its membership. This commitment is manifested in several ways.

WOMEN FELLOWS

The College recognized from its inception that women and minority lawyers had only recently constituted a significant proportion of law students and of lawyers practicing in the construction law field. The immediate problem confronting Founders was that there were not many women and minorities who practiced construction law and few of those had been afforded an opportunity to rise in the leadership of the then primary service organizations such as the ABA Forum Committee on the Construction Industry or other American Bar Association committees that focused on construction. From its Inaugural Meeting, the College sought to balance its interest in and commitment to full opportunity of minorities and women as Fellows in the College with its commitment to experience, excellence and expertise, criteria by which all should be measured equally. Among the original fifty six Founding Fellows of the College were only four women, Ava Abramowitz, Deborah Griffin, Betty Hum and Mary McElroy.

Originally, the membership requirements prescribed by the bylaws required that nominees must have engaged in the practice of law for at least fifteen years. Recognizing the fact that otherwise qualified women and minority attorneys might not be able to meet the fifteen years of practice criteria due to their relatively late entry into the profession and the practice of construction law, the bylaws were amended early on to allow the Board of Governors, “by vote of at least two-thirds of its members, [to] elect Fellows who have been actively and continuously engaged in the full time practice or teaching of (construction) law for a combined total of at least ten (10) years.” This permitted departure from the more

rigorous fifteen year requirement otherwise applicable for nominees meeting all other the criteria for Fellowship.

This exception was designed and intended to last five years, through 1994, at which time it was presumed that the numerical proportions of women and minority lawyers entering the practice of construction law would have become more balanced. Of course, the nature of the practice and the industry our Fellows serve has been somewhat less encouraging to women and minority participation than other sectors of the business world, and this itself also tends to reduce the number of women and minorities electing to enter the practice of construction law. It was a goal from the beginning of the College that those women and minority lawyers who were “qualified” would become Fellows of the organization. The College has been relatively successful in achieving this goal. Based upon this commitment and, at least in part, on this shorter practice duration requirement, our women Fellows have grown to number 17, more than four times the original number and twice the relative percentage – and the College is much the better for it! The College has also included its women Fellows in leadership positions, as chairs of committees and task forces, as well as in service as Governors on our Board.

GEOGRAPHICAL DIVERSITY

After several years of nomination, election and induction of new Fellows into the College, it became quite clear that the Fellowship was concentrated significantly in several major areas, namely Atlanta, Washington, D.C., Chicago, Minneapolis/St. Paul and Northern California, with the balance of the Fellowship made up of residents of less than half of the states. Upon the initiative of Harvey Koch and the request of the Board, the Past Presidents’ Council undertook to expand the geographical diversity of our Fellowship to include, ideally, Fellows from all states. This task, of course, was complicated by the fact that the criteria for nomination and election to Fellowship remained constant regardless of the residence of the particular nominee. Furthermore, we found that while some prospective candidates for Fellowship were well known for their accomplishments as construction lawyers in a particular state or region, they were not necessarily known well by any of the Fellows outside of that area and, since the area was already under-represented by Fellows to begin with, the process of nominating and seconding became a challenge.

Nevertheless, the Past Presidents’ Council solicited from the entire Fellowship potential candidates for nomination in a number of unrepresented states. These suggestions were further evaluated by the Past Presidents’ Council to determine which of the candidates appeared to be the most qualified for nomination to election into the Fellowship. Upon the completion of this process, the Past Presidents’ Council sought out Fellows who had any knowledge of or familiarity with some of these candidates to see whether they would be willing and interested in nominating them for Fellowship. As a result of this effort, over the next several years, the College made great strides in achieving its goal in broadening its geographical diversity and working toward its goal of representation among the fellowship from each state in the Union.

We currently have Fellows representing 35 states.¹ We shall continue to strive toward our goal and should always be vigilant to identify construction lawyers residing in these unrepresented or under represented areas of our country meriting nomination and election. However, we also must be aware of the inherent difficulties in the nomination, seconding and election process where the nominees are from remote geographical locations and are simply not familiar to most of our Fellows. The value, of course, of such geographical diversity is that our Fellows will have a ready resource for expert legal and construction industry input from virtually every area of our country.

(D) INTERNATIONAL FLAVOR

The membership of the American College of Construction Lawyers is comprised primarily of construction lawyers residing and practicing within the United States. However, we currently have five “international” members, two from Canada, two from England, and one from France. Each has been nominated, elected and inducted under the same stringent criteria and process as applies to candidates from the United States. Since their election to Fellowship, each of these international Fellows, by their participation in and contribution to the College, has clearly demonstrated the propriety of his or her election as well as the value of international fellowship.

On several occasions the College has extensively surveyed whether we should encourage a broader international participation in our fellowship. Indeed, we have debated whether we should pursue international participation in the same manner in which we had attempted to broaden the geographical diversity of the College within the United States, by identifying particular attorneys practicing construction law and known to some of our Fellows in various areas throughout the world. This debate, in its several iterations, has generally come to the same conclusion, namely: that we are in fact the “American” College of Construction Lawyers and that the emphasis ought to be on those practicing and residing within the United States. Consequently, at least up to this point in our history, while we welcome nomination or election of qualified Fellows residing and practicing in other countries, we still require that they meet the stringent standards and submit to the established processes by which regular Fellows are nominated, elected and inducted into the College.

We have found that more expansive membership on the international level is hindered by the fact that in most other countries there is not a fully developed “construction” bar comprised of attorneys who devote the bulk of their professional time to the practice of construction law. Further, until more of our Fellows have had opportunities to become personally and professionally acquainted with international lawyers residing in other countries, it will be difficult to muster the necessary support for nomination, seconding and election of international members unknown to most of the existing Fellows and who practice in locations and within legal systems unfamiliar to them.

¹ The states unrepresented currently are Alaska, Arkansas, Delaware, Idaho, Iowa, Kansas, West Virginia, Michigan, Montana, New Hampshire, Nevada, North Dakota, Oklahoma, South Dakota, Wyoming, and (in terms of location of actual practice) Vermont.

However, apart from actual foreign membership, on the international front, we do enjoy a significant relationship and connection with the Canadian College of Construction Lawyers, which was formed after our College was created and was modeled in substantial part after our College. This relationship is more fully discussed in Part VII(E) below.

Additionally, with the assistance of our international Fellows, several trips abroad have been conducted allowing our Fellows to meet with and learn from, and of course get to know better personally and socially, our counterparts from around the world. These were:

(1) An ACCL Delegation of seven Fellows and their spouses, led and organized by Jim Myers, traveled to London, Warsaw and Prague in April-May 1992 to engage in meetings and work sessions with construction lawyers, engineers, architects and others involved in the construction industry, coupled with social and cultural activities, to learn how the rest of the world deals with construction law.

(2) Again in July 2000, a delegation of more than a dozen Fellows and various and sundry family members and friends traveled to London to participate in a wonderful program assembled by Humphrey Lloyd involving a "business" meeting at the Inner Temple, Gray's Inn, a guided walking tour of "Legal London" and a reception and dinner in the Old Hall, Gray's Inn with counterparts from the English Bar, with Fellows Jim Groton and Bob Rubin leading the panel discussion.

(3) The following year, in November, 2001, in coordination with the "Global Construction Superconference" in London, the College again organized contemporaneous meetings with our British and French colleagues. Humphrey Lloyd graciously organized a gathering for dinner and discussion at the historic Royal Courts of Justice with the British TECHBAR members. Fellows Larry Schor and John Hinchey lead the discussions. Two days later, Marc Frilet organized a meeting with the members of the French construction bar, in Paris, at the Paris Bar Association building near the Palais de Justice. That meeting was followed by a dinner at the prestigious restaurant "La Tour d'Argent," overlooking Notre Dame de Paris and the Ile de la Cité. The discussion topic in both London and Paris was "Primary Construction ADR Methods in Current Use -- What's Working, What's Not." The Fellows then toured Paris, followed by a wonderful tour guided by Marc Frilet and his wife, Edith, in Provence and a visit to the Frilets' village house there.

(4) Most recently, the College participated in a joint luncheon, organized by Bob Meyers, with the London TECHBAR (our English counterparts) in May, 2003, at the International Dispute Resolution Center, in London, for those Fellows attending or participating in the "Global Construction Superconference."



Nick Gaede, Hon. Humphrey Lloyd, and Roy Mitchell

 ∼: ANECDOTES ∼

RE: INTERNATIONAL FLAVOR: At the 2000 dinner with the High Court of Justice Technology and Construction Bar in the Old Hall at the Inner Temple, Gray's Inn in London, the Bar Chairman, David Friedman, made a toast to the ACCL Fellows present:

He started out his toast with the following joke about three American lawyers who were discussing with their English friends the controversial subject of American contingent fees. The first American lawyer said "my firm charges only a very modest contingent fee of 15%." The second American lawyer said: "My firm is even more generous -- we charge only a 10% contingent fee." The third American, a Texas lawyer who represented only oil companies, said that "My contingent fee percentage is even lower -- I only charge 1% -- but on all the future revenues of the oil company."

At the conclusion of David Friedman's remarks Jim Groton, leader of the ACCL group, returned the toast. After thanking the English hosts for their generous hospitality, he continued: "I was interested in the way David Friedman prefaced his remarks, because I've always been curious about the different customs of speakers from countries around the world when they introduce their talks. For example in Japan it's the custom for the speaker to be very humble and start his speech with an apology. On the other hand in the United States speakers usually preface their remarks with a joke. I've often wondered what the custom is in England, and now David has provided the answer: In English legal circles it appears to be the practice to begin with a joke, but the essence of the joke is about how very humble and modest American lawyers are."

Jim Groton Notes



RE: THE VALUE OF HAVING INTERNATIONAL FELLOWS:

"Larry, as it is Bastille Day I salute a Revolutionary, knitting through the sound of the tumbrils but also a Charter Member of the Silvio Berlusconi Supporters Club. Humphrey"

Honorable Humphrey Lloyd e-mail to ACCL LISTSERV, July 14, 2003

(E) THREE MISSES AND YOU'RE OUT

When the College was founded, the Fellows decided that this group would not be "another bar association" with multiple meetings and continuous committee activity. The primary result of this decision was that there would be one meeting of the entire College per year. Commencing about the eighth year, the Board and Officers discussed the importance of Fellows attending the annual meetings and whether it would be appropriate for an organization that seemed to thrive on the participation of the Fellows to impose a penalty or even expel Fellows who did not attend the meetings. While most of the Fellows gave attendance at the annual meeting very high priority, there were some who, once inducted,

seemed to appear infrequently, if at all. More was expected of our Fellows.

After due consideration, and recognizing that trial schedules, family emergencies and illnesses were frequently beyond the control of the individual Fellow, the Board decided that there should be a sanction only for chronic, unexcused failure to attend the annual meetings. During the presidency of Bob Rubin, the Board adopted a bylaw that provided for the expulsion of a Fellow who missed three consecutive annual meetings and, while there would be flexibility, it would be limited. As contract lawyers, of course, we provided for both a “notice” and “appellate” procedure and allowed for properly excused absences. We initiated the practice of having the incoming President write a “sorry we missed you” letter to those Fellows who missed the preceding meeting and a “warning” letter to those who missed two meetings, reminding them of the “three misses equals expulsion” rule. We also provided a way in which the expelled Fellow could appeal to the Board and seek reinstatement. A letter had to be sent by the Fellow to the Officers and Board, essentially apologizing for missing the three prior meetings, explaining the reasons for the absence, and requesting reinstatement. This history records the fact that the one Fellow who sought reinstatement had his appeal denied.

(F) THE SECRETARY AND TREASURER - ONE AND THREE YEAR TERMS OR TWO AND TWO YEAR TERMS

Today, the College has designated the Secretary and Treasurer to each have two year terms each expiring in alternating years. This was not always the case. Under our original bylaws, the term of the Secretary and of all the other officers was one year, but that of the Treasurer was three years. The problem created by these one year and three year terms was that, every three years, the terms of these experienced Officers would expire at the same time, while only one could be nominated to the next higher office, President-Elect. Although our bylaws do not mandate that the President-Elect position must be filled by either the Secretary or Treasurer, the strong presumption has been that such Officers would continue to rise through the ranks or “chairs.” But the original scheme, every three years, would have left one of these two Officers essentially out of office and off the Board with no ready avenue for further elevation at a later time.

This collision became quite real as Larry Schor’s Treasurer term came to a close and both the Treasurer and the then Secretary were eligible to be elevated to President-elect. Carl Sapers suggested that the terms of office for both Secretary and Treasurer each be for two years, with each office term ending in alternate years to eliminate the problem of having to choose between eligible Officers and to benefit the College overall. This bylaw change was effected in 1998, to create the situation that we have today.

(G) LIMIT OF NUMBER OF FELLOWS FROM A SPECIFIC FIRM

The College started with a Steering Committee of 24 construction lawyers and was formally formed by 56 Founding Fellows in 1989 in Chicago, Illinois. Among this original group, no single law firm was represented by more than two attorneys. A concern of the founding group was that no one firm be dominant in the early years in setting policy or practices so as to insure both a geographic equalization of strengths as well as a distribution of influence. However, it was obvious that there were at least several law firms with a large number of “construction lawyers,” generally concentrated in Atlanta, Chicago and Washington, DC. It was felt that something would have to be done to protect the fledgling organization from being dominated by or a reflection of any one firm. Therefore, the bylaws originally limited to two the number of Fellows from any one law firm or organization. Even though the bylaws specifically provided that the Board could override the limitation on the suggestion of the New Member Nominating Committee that it do so, this simply was not done – the two lawyer limit was the rule.

Ultimately, the merit and necessity of this limitation became legitimately debatable, since a number of otherwise qualified individuals could not become Fellows simply because of this “two members per firm” rule. It took almost ten years, from the original meetings in 1989 until 1998, to see changes in what had been a hard and fast rule for the College. In 1998, during the term of John McGuinn as President, the bylaws were changed to read that once a Fellow attained the age of 65, that Fellow would no longer be counted towards the “two person per” firm limitation. This then opened the door to additional nominations of qualified and deserving attorneys from a firm even though two attorneys were already Fellows as they rose to senior status. The bylaws were further changed in 2002, to allow three members from a single firm under any circumstances, with the age rule still being in effect. And, of course, in this era of consolidation and merger, this rule has never been applied where the number limit was exceeded as a result of merger or consolidation of law firms, each having Fellows in the College.

(H) COMMITTEES AND TASK FORCES

Given the original concept and mission of the College, there were initially only a few “standing” committees formed to address substantive issues of concern to the industry and the practice of construction law, including those dealing with construction contracts, dispute resolution, legislation, construction systems and education. However, as the College grew and matured, it became apparent that there were a number of other substantive issues and areas of concern to our Fellows that warranted examination and analysis. Sometimes these issues fell within the established committees’ areas of focus, but often they did not. Consequently, there have been several new substantive standing committees created to address particular ongoing needs, such as international, construction finance and insurance related issues.

However, with a few exceptions, the Board found that most issues were better addressed

by a focused effort pursued by a “task force” established for a particular purpose and staffed by Fellows with specific interest and expertise. Thus, while the number of standing committees has actually reduced over the years, the ongoing efforts of the College are now pursued by these specialized “task forces” which exist for a specific defined purpose and then cease to exist upon accomplishment of their respective purposes. The entire range of standing committees and task forces of the College and their scope and leadership is set forth in Table 3 in the Appendix.

~: ANECDOTES ~:

RE: “HISTORY” COMMITTEE” – “TAKE ONE!”

“Dear Jim: I receive my appointment to the ACCL History Committee with a great sense of pride and honor. I want to assure you that the History Committee will be the most effective and important committee of the entire College. I have always said that the principal purpose of the college is so that we can meet periodically and remind each other how great we are. What better way to do so than in an organized disciplined way through the auspices of the History Committee. As you suggested, I will be contacting Susan (Stein – our then administrator), Bob (Peckar –the then chairman of the Publicity Committee) and David (Hendrick – the then chairman of the Protocol Committee). Yours sincerely in service, Robert L. Meyers, III”.

Bob Meyers’ letter to Jim Myers (then President), March 13, 1992

RE: “HISTORY” COMMITTEE” – “TAKE ONE – PART TWO!”

“Dear Bob (Peckar) and David (Hendrick): As you can see from the attached correspondence, I have been recently appointed (sic) the ACCL History Committee. In this capacity I need your help. While I intend this committee be the best in the entire College, I want to assure you that I will not intentionally tread the turf of each of your important committees, Publicity and Protocol. Obviously, your lesser committees would have to give way to the all important History Committee since the History Committee will be the resource for the self aggrandizement that we all so richly deserve and for which we eagerly yearn. I suggest that Publicity will merely be a function of making known our History, and Protocol will be a function merely of putting into action the very grand traditions of our group as developed throughout history. The relative positions of importance of our respective committees being thus clearly established, I look forward to working with each of you. Sincerely, Robert L. Meyers, III.”

Bob Meyers’ (as the appointed chair of the newly formed “History” committee) letter to Bob Peckar (as the chair of the Publicity Committee) and David Hendrick (as the chair of the “Protocol” Committee). March 13, 1992

~: ~:

RE: THE HISTORY PROJECT AND COMMITTEE REDUX:

“Subject: Historians

I knew there was a reason for keeping a file draw in my basement with the beginnings of the group.”

Stan Sklar e-mail to David Hendrick, August 8, 2001

(I) LOCAL GATHERINGS

As the College continues to grow in size, we are increasingly challenged to maintain the intimate and collegial atmosphere that marked its early years. The Fellows residing in the Atlanta area have evolved a regular practice of meeting as a group in various social settings to encourage this atmosphere. This started with a “local” induction of Atlanta Honorary Fellow Judge Frank Hull after her judicial obligations precluded her attendance at the annual meeting at which she was to have been formally inducted. This proved so enjoyable that several other social functions have ensued, ranging from a gathering at a restaurant or a Fellow’s home for dinner, to joining Joe and Patty Canterbury in a celebration of their son’s debut as an executive chef at an Atlanta city clubs. In the future, the Atlanta group will seek also to involve Fellows from the neighboring states of Alabama, Tennessee, Florida and the Carolinas. This effort is providing a prototype for similar activities in other geographical areas in which several or more Fellows reside.

(J) THE NEXT GENERATION OF LEADERSHIP

During the first decade of existence of the College, most of the Officers and Governors were drawn from the ranks of the Founding Fellows or Fellows inducted during the early years of the College. Thus, the leadership of the College had been steeped in the purposes and principles upon which the College was originally founded, and the direction of the College reflected those values and principles. Another ongoing concern is that, as the College matures and expands by addition of younger Fellows, the leadership necessarily will have to be drawn from these inductees who did not experience the early history of the College and its formation or know and understand its underlying core principles, purposes and objectives. We are now evolving into the next generation of leadership of the College. On the current sitting seventeen member Board of Governors for the 2006 -2007, six Governors were inducted within the last five years, eleven were inducted within the last ten years, and only four of the current members of the Board have been Fellows since the beginning of the College. This transition is evidenced by a number of instances in which issues that have been fully debated and resolved in earlier years are being raised and debated anew by the Officers

and Governors who were not involved in the College at the time of the earlier debates.

One of the purposes of preparing this History is to preserve and provide some of this original perspective and heritage for the benefit of future leadership as a reservoir of our “institutional memory.” This is not to say that “the old guys (and gals) always know best,” but it does afford the insight and benefit of their College experiences to our newer Fellows. Also, one of the principal purposes and functions of the Past Presidents’ Council is to add the depth of knowledge, experience and perspective that has been developed over the entire span of the College’s existence and leadership. As this trend continues, the baton will be passed entirely to Fellows who were not involved in any way in the formation of the College. It is our hope and expectation that they will draw guidance and counsel regarding the core values and principles upon which the College was originally founded, maintain and develop them and reflect in the leadership of the College the special relationships and experience they created.



“Old Guys Rule” - Geoff Keating

~ ANECDOTES ~

RE: BOARD OF GOVERNORS’ MEETINGS – AND MINUTES!

At one board meeting, then Governor Mabry Rogers was pursuing his customary “flyspecking” of the minutes of the last Board meeting, prolonging the agenda item that usually takes seconds to accomplish. One of his fellow Governors offered that “Mabry if you keep this up and continue being such a pain in the ___, you will likely never hold another elective or appointive office in this organization!”

Mabry’s reply: “Well, that is precisely my plan!”

The unwritten minutes of a Board of Governors’ meeting in 1997-98 2002



Mabry Rogers, Bruce Schoumacher, and Larry Schor

VI

OUR TRADITIONS AND RULES -
THE CHARACTER OF THE COLLEGE

The current character of the College was formed, in great part, on the basis of a number of traditions and unwritten (until now, of course) rules which have developed over the years of our existence. These rules, guidelines and traditions greatly influence, if not govern, our ongoing actions and decisions, and aid in conveying “why we are what we are.”

While not rising to the level of formal bylaws these College “Traditions and Written (formerly unwritten) Rules” have been adopted by resolution of the Board of Governors. However, on rare occasions, deviations to even these adopted “traditions” and “unwritten rules” have been approved by the Board for appropriate purposes, as the College is a living organization and nothing is necessarily “cast in stone.” These policies, traditions and guidelines must stand the test of time and reevaluation in responding to issues that have arisen over the years – and will arise in the future. But, in their currently adopted form these rules and traditions are set forth below.

(A) ACCL TRADITIONS

The Board’s adopted traditions and formerly “unwritten” rules and policies are set forth below:

(1) GENERAL

- The College does not endorse.
- The College does not sponsor.
- The College does not affiliate.
- The College does not take external positions on controversial issues.
- No Fellow speaks for the College or purports to convey a College position to outsiders.
- Only the Board and the Executive Committee may commit the College to anything, including hotel reservations, and then only in accordance with the bylaws and rules.
- Logos, stationery and the like may be used only in accordance with the bylaws and rules or with prior Board approval.²
- Publicity shall be sought or facilitated only with the approval of the Board or the Executive Committee.
- The College is participatory for all Fellows.

² In the “for your information” category, the ACCL has licensed and authorized production of a line of very attractive informal wear (shirts, hats, jackets, etc) by Land’s End bearing the “ACCL” logo (reference logo number 9952934). Purchases can be made by phone (1-800-338-2000).

(2) LISTSERV

- LISTSERV postings shall be restricted to (i) College business, (ii) matters of professional interest to the fellowship and (iii) requests for assistance in professional matters and responses to same.
- Responses to LISTSERV requests should be kept confidential on request, but can be disseminated within the College otherwise.
- LISTSERV is not to be made available to non-Fellows for electronic or other use.

(3) NOMINATIONS

- A Fellow may only “nominate” one person per year—but may “second” more than one nomination.
- The nomination season opens after the Annual Meeting and closes on June 1.
- The Membership Committee may receive late arriving materials in its discretion.
- Seconds from non-Fellows are not accepted.
- “Courtesy seconds” are discouraged.
- It is not appropriate for the nominee to complete the nomination form, as that is the responsibility of the nominator, and it is not appropriate for the nominee to contact current Fellows to seek seconds or other support.
- Capacity for collegiality is a threshold requirement.
- Re-nomination should take into account the reason(s) for prior failure, in particular the need for longer experience.
- It is wise to check with the Fellows in a Nominee’s home town prior to nomination.
- All inquiries from outsiders seeking membership will be responded to with the standard form letter or referred to the current chair of the Membership Committee.

(4) THE MEMBERSHIP LIST

- It is for the private use of the College and the Fellows, although the names of the members can be had from the public side of the website.

(5) BOARD MEETINGS

- Past Presidents are ex officio and have a standing invitation to attend.
- Fellows residing in the city of the meeting shall be invited.
- Task Force Chairs and Committee Chairs shall be invited if they have Board reports to give.
- Any Fellow may attend.
- Only Board Members vote.
- There will usually be a dinner associated with the Meeting for all invitees.
- Spouses/companions are welcome at the dinner preceding or following the Board Meeting.

(6) ANNUAL MEETINGS

- Promotional materials are banned.
- Event attendance is limited to Fellows, companions, family members and authorized guests, no press.
- Committee Chairs and the Fellow in charge of organizing the event may invite guest speakers.
- The Officers and Board Members of the Canadian College of Construction Lawyers will be invited as authorized guests, but will pay registration fees and their own costs.
- Only the Executive Committee may authorize guest attendance (beyond a Fellow's companion) at the formal dinner, and that will not usually happen except for notables and CCCL invitees.
- Committee Chairs may propose guest attendance at the Friday night dinner for Executive Committee approval which will normally be given for speakers.
- Guests should be advised in advance that the Annual Meeting is not to be used to sell services.
- Guest speakers are not usually compensated, although Committee Chairs may propose travel and lodging defrayment to the Executive Committee.
- Approved guest speakers are not charged registration fees, but will pay hotel, travel and other costs for themselves and their companions unless the Executive Committee has approved defrayment (normally restricted to honored guests, notables and the Currie Lecturer).
- President's suite is 'comped'.

(7) THE WEBSITE

- The goal is to become a "paperless College."
- Fellows shall submit photographs and keep bios updated.

(B) OUR ANNUAL MEETING TRADITIONS

(1) "PHENOMENAL" ATTENDANCE

As has proven to be the case, interest in the College's annual meeting has remained high throughout the program years and the attendance has been the highest percentage of membership that all of the College's professional staff, who also manage other associations, have ever seen. All the Fellows clearly recognize the value and the social uplift gained by attending these meetings. The Fellows are to be congratulated for this as the College has clearly benefited by the great attendance at our annual meetings.

~: ANECDOTES ~:

RE: ANNUAL MEETINGS – TOO GOOD AND TOO MUCH FUN TO PASS UP

“The College’s staff report that registrations for the meeting now stand at 101, plus spouses and guests. This is far and away the highest we’ve ever had, not only in absolute numbers but also in percentage of our membership attending.”

Jim Groton e-mail to Steve Stein, February 20, 2001

~: ~:

RE: ACCL WEBSITE USAGE – WE ARE STILL NOT QUITE THERE!!

“Pictures of the 2002 ACCL Annual Meeting have now been posted on the www.accl.org website. Please let me know if you have misplaced your username or password. I believe that most of these pictures were taken by Messrs. McManus and Meyers. Steve”

Steve Nelson e-mail to ACCL LISTSERV, April 14, 2002

(2) OVERTON CURRIE LECTURE SERIES

While there may be some legitimate debate on the topic of who is the “father” of construction law as a specialty area of legal practice, there was no debate that Overton Currie should be elected to become our first President when the College was formed. This was done by acclamation.

In recognition of the distinctive role that Overton Currie played in the creation, inspiration and growth of the College and his always recognizable speaking style sprinkled with poetry and mixed with “down-home southern” colloquialisms, the College instituted the “Overton Currie Lecture Series” to become an integral part of our Annual Meeting format on an alternating year basis. Each of these lectures was intended to be a “centerpiece” of the program in which our invited lecturer would share with our Fellowship unique perspectives pertinent to our service to the construction industry. The funding to support this lecture series is generated by voluntary contributions from Fellows and their firms separate and apart from dues that pay for the financial operations of the College. The commencement of the Overton Currie series marked the year that our distinguished colleague became an “Emeritus” Fellow at his request.

Initially, the lecture was viewed as an opportunity to learn from the distinguished and accomplished members of the “other” professions involved in the construction industry on topics essential to the industry and the professions that serve it. We started by looking outside of our Fellowship to other professions for our invited lecturers.

Our inaugural lecture in this series was conducted at our Annual Meeting at the Westin La Paloma Resort in Tucson, Arizona, in 1999, by Professor Henry Petroski of Duke University. It was entitled “Structural Failures: Historical Perspectives and Future Challenges” which has come to be known as the “bridge” lecture. This first lecture taught us several valuable lessons. First, the lecture should not be incorporated as a part of the annual “Black Tie” dinner, as many of the “captive audience” (i.e. spouses and significant others) were not enamored with the highly technical topic. Second, we learned that this lecture should not follow the pre-dinner cocktail reception, especially when it was extended due to an effort to track down and formally photograph almost everyone in attendance (see photos in Part 7, below). And, third, we learned that we should make sure that the “high tech” presentation of our lecturer actually works!

Disheartened but not dissuaded by this first effort, we next invited distinguished Professor Spiro N. Pollalis, professor in design technology and project management at the Graduate School of Design, Harvard University, to give the second Currie Lecture at the 2001 Annual Meeting at the Arizona Biltmore, in Phoenix, Arizona. His presentation was a fascinating treatment of the trends in usage of electronic media in the design and construction processes and will be long remembered for his line that “a paperless project is as valuable as a paperless bathroom.” Based on our “lessons learned”, this time the lecture was given before the cocktail party Friday night and not as part of the program for the formal dinner. However, while very well received, it was presented after a full and intensive day of educational programming before an exhausted audience.

After discussion and review of the intent of the lecture, we recognized that we could benefit as much or more by tapping the high level of experience, expertise and professionalism among our own colleagues. Consequently, the third Currie Lecturer, at our 2003 Annual Meeting at the La Costa Resort in Carlsbad, California, was our distinguished colleague and Past-President, Carl Sapers, speaking on “The Role of the Design Professional in 21st Century Construction”. Carl’s lecture was typically engaging, erudite and entertaining and should be on the required reading list for any construction lawyer aspiring to become a true professional. However, again, it was crowded in at the end of a long day of programming which was unfair to both Carl and the Fellows.

For our fourth Currie Lecture, we selected one of our distinguished “international” Fellows, His Honour Humphrey John Lloyd of London, England, to present a talk entitled “Relatively Clean Fingernails.” This lecture explored different views of ethical practices among the various project participants, the lack of clarity about ethical principles and practice in the construction industry, and the propriety and need for industry-wide standards of ethics serving the interests of all affected by construction work. Based on lessons learned by our prior Lecturers, this time we dedicated a prime time slot to this lecture at the Friday luncheon to allow proper time and attention to his presentation. Even this time, and despite best efforts, “Murphy’s Law” intervened and we experienced audio system difficulties. We intend to get it right someday.

~: ANECDOTES ~:

RE: GUEST LECTURER - An Apt Point By Guest Lecturer

"A paperless project is as valuable as a paperless bathroom."

Prof. Pollalis, Lecturer at Overton Currie Lecture at 2001 Annual Meeting



RE: "GUEST LECTURERS" – Overton Currie Lectures

"Subject: Paper Clips

I thought that you guys would appreciate my note to Henry Petroski. Besides this gives me a chance to wish you Happy New Year: 'Henry, you may recall me from the American College of Construction Lawyers. In case you hadn't seen this: Definition of the week: Paper clip: The larval stage of coat hangers. Happy New Year, Paul'"

Paul Lurie e-mail to Chris Noble and Jim Groton, December 29, 2000, following up on the "Bridge" Lecture



RE: "LESSONS LEARNED" Re Dinner Speakers And Photo Procedures At The Annual Meeting – Continued. . .

"I think we all learned from the "[name omitted]" presentation never to schedule a speaker again during the Saturday evening program, no matter how scintillating... for a dinner with spouses – that was overly long, and was complicated by our trying to take the 10th anniversary photographs between cocktails and dinner."

John McGuinn e-mail to Larry Schor, October 5, 2001

"Lesson Learned: Never schedule a lecture on Bridges (or such other technical subject) to occur before the formal dinner including spouses, unless it relates to "Bridges Over Madison County".

Anonymous 2001

(3) THE U-SHAPED TABLE

The Fellows decided early on that the annual meeting programs would not follow the standard seminar or classroom format. We wanted discussion and we wanted to be able

to see each other. The result of this concern was a decision to have a single U-shaped table that faced the podium where the presenters stood or sat. This set up encouraged and facilitated discussion and debate among the Fellows. It was fairly easy to find rooms to accommodate this table when the membership was twenty three or thirty five, or even up to sixty. Conversations could be had among the Fellows without microphones.



Early Annual Meeting set up

However, as the membership grew it was necessary to put one U-table inside another U-shaped table. Most recently, there were three U-tables and we needed a very large room in order to accommodate our set-up. The program planners have wrestled mightily with the desire of the Fellows to see and hear each other, a problem that has become more difficult as their age increases, their eyesight and hearing weakens, and the sides of the tables grew farther and farther apart. So far, through the use of audio enhancement and portable microphones, the College has been able to continue the use of the U-shaped table. Discussion and debate among the Fellows is now not as easy and open as it originally was. It has lost at least some of its early intimacy. Future meetings may have to give up this concept but, as for now, this tradition continues.



More recent Annual Meeting set up

 ∼: ANECDOTES ∼

RE: THE ANNUAL MEETING – A HOMECOMING

“Welcome home. It was good to see most of you at the [College annual meeting]. The attendance has grown to the point that it is hard to even get to personally talk to everyone. Guess I will need to go next year again, to make up for those that I may have missed this year.”

Mike Simon e-mail to ACCL LISTSERV, February 24, 2003

(4) PROGRAM EVOLUTION

In the beginning when the Fellows attending the annual meeting could gather comfortably around the U-shaped table within earshot of each other, our educational programs tended to be presentations by Fellows sharing their particular expertise and experience with their peers. These presentations were more in the nature of discussions and presented some lively debates which highlighted the different perspectives among our Fellowship. As Fellowship grew in number and the annual meeting programs became more structured and formalized, the College reached outward to find speakers meeting two essential criteria:

- a. Expertise on a topic of interest and value to the Fellowship, and
- b. A willingness to join us at our annual meeting without requiring a significant honorarium for their participation.

Some of our invited outside speakers have met and even exceeded our expectations on topics of interest and value. We remember Eric Green of Endispute, at the early stages of mediation as a “hot” topic, and Howard Ashcraft’s panel of experts giving an in-depth examination of electronic discovery. As a general proposition, and owing to the high level of expertise and experience of our Fellowship, we have moved toward increased expertise and sophistication of analyses in our presenters and in the structuring of our programs, with a particular focus on current issues confronting us in our practices. However, we also found on occasion that many of the Fellows themselves possessed as much or more expertise in some of the fields than the invited outside speakers. As a result, the most compelling programs conducted in recent years have often been presented by our own Fellows. Among those that stand out for their level of expertise and sophistication were the program conducted by Greg Bundschuh on sophisticated insurance issues and the program moderated by Jon Wickwire at the twelfth meeting in Palm Beach, Florida, regarding the “Ethics of Scheduling.” Our Fellows come to our meetings expecting to hear and learn things from their peers and outside presenters that are not readily available elsewhere, and the annual meeting programs rarely disappoint.

As an additional inducement for and benefit of attendance at the annual meeting,

Fellows receive “continuing legal education” credits for the entire two days of educational programming for all states requiring such “CLE” This evolved only through the strenuous efforts of the Fellows to communicate with the various state bar associations and assure conformance with required criteria.

(5) SHARING AMONG PEERS – THE “BY-WORD” OF THE COLLEGE

One of the “by-words” of the College has been sharing of information and advice. This exchange is accomplished in many different ways.

~: ANECDOTES ~:

RE: PEER REVIEW PROCESS – CAN BE HARSH IN THIS GROUP. . .

Inquiry: *“Can anyone point me to a narrative description of the [stepped negotiation] process? I have the contract clauses but would like to find some published description.”*

Bob Smith e-mail to the College, December 21, 2001

Peer Response: *“Try page 6-4 of Preventing and Resolving Construction Disputes, CPR 1991, co-authored by one Robert J. Smith... If you need a longer (but probably no more instructive) description, I can probably dig one up from various articles that I’ve written.”*

Jim Groton e-mail response to Bob Smith

~: ~:

RE: ACCL WEBSITE – Hey we are just about getting the hang of this – or maybe not. . . And, don’t get hung up on purely “legal” issues

“Subject: New ACCL Website Feature –

And let us also thank you on behalf of another group – the members of the crowd who forgot their respective passwords some time ago and never got around to asking you what they were. For us also you have expanded our electronic worlds, allowing us perhaps to begin electronically to ‘follow knowledge like a sinking star, to the utmost bounds of human thought.’ Extra credit for anyone who recognizes the quotation.”

Jotham Pierce e-mail to ACCL LISTSERV, January 21, 2003

Reply One: *“Come on, Joe. Everyone knows it’s from “Ulysses” by Tennyson.”*

Joe West reply e-mail to Jotham Pierce

Reply Two: *"I prefer Robert Service myself, e.g. 'a promise made is a debt unpaid, and the trail has its own stem code.' (The Cremation of Sam Magee)"*

Bob Meyers e-mail to ACCL LISTSERV

Reply Three:

"SUBJECT: Poetry contest

I received four correct entries to my quotation – C. Becker, L. Axelroth, J. West and B. Grandoff all identified the reference as from "Ulysses" by Alfred Lord Tennyson.

And Bert submitted the most impressive answer, including the words surrounding the quoted language, and is hereby given the most extra credit."

Joe Pierce e-mail to ACCL LISTSERV

(A) HOT TIPS

Early on, we developed a portion of our annual program which we called "Hot Tips" in which the Fellows contributed case notes and write-ups of situations they have faced and dealt with during the previous year. The Fellows are asked to submit their "Tips" in advance of the meeting to be printed and provided as part of the program materials. This part of the Program has recently evolved from simply a listing of recent and important developments to include a "point-counterpoint" presentation of issues of significance. Hot Tips, thus, now provides an opportunity for Fellows to hear a debate between Fellows to understand more completely the issues and arguments involved, to see if trends were established, and to see where the problem may be going in the future.

As the Fellows became more computer literate, such hot topics, issues and problems were, and are now, raised on the College LISTSERV.

~: ANECDOTES ~:

RE: ACCL TRADITION "HOT TIPS" – OR EVEN "WARM TIPS..."

"Phil: Is there a shortage of "hot" tips or is there reluctance on the part of our fellow fellows to share their superior intellects??? Perhaps we need to lower the standard to "Warm" tips. Joe."

Joe Canterbury e-mail to Phil Bruner and ACCL LISTSERV, January 25, 2003

~: ~:

RE: ACCL "HOT TIPS" – Got to Keep Tabs on Those Canadians!

"Jerry Reiss at one time (not sure of the date) regaled the Fellows by his eloquent dissertation on a Canadian case which pointed out the ultimate power of a court to fashion a remedy not fully consistent with the facts. In the case of Regina v. Ojibway cited in 8 Crim. L.Q. 137-139 (Canada), the court dealt with the accused being charged with having killed a small bird and thus violating the criminal law section of the Small Birds Act. The facts were simple. The accused being without funds and having lost his saddle substituted a downy pillow for the saddle. His pony broke its leg and in accord with Indian custom, he shot the pony to relieve it of its pain. The court then held that he was guilty under the Act, since a horse with feathers on its back must be deemed a bird and "a fortiori. a pony with feathers on its back is a small bird." The court shot down counsel's arguments that the neighing sound could not be produced by a bird, by stating that a bird is no less a bird if it is silent; that iron shoes disqualify it from being a bird, by stating that how an animal dresses is of no concern to the court. At the conclusion of Jerry's presentation, the Fellows were speechless for the first time in their collective professional lives."

Stan Sklar reminiscence

(B) PROFESSORS' COMMITTEE

Another aspect of sharing evolved from the discovery that many of our Fellows are either full time or adjunct law professors, all teaching construction law or aspects of it at the college and law school level. The need for usable teaching materials and sources caused the creation of a "Professors' Committee" where everyone involved in teaching or lecturing is given an opportunity to discuss and share materials, seek input and contributions of others teaching materials, and even to "pan" the use of texts written by others (not Fellows, of course). This loose network of Fellows involved in teaching has proven to be quite helpful both to those who have taught over the years and to Fellows newly engaged in teaching classes at law schools or engineering or architectural schools.

(6) THE SPOUSES (AND SIGNIFICANT OTHERS)

After focusing upon the deeds and interests of the Fellows for the first several years of our existence, the role and involvement of the spouses and "significant others" took on greater significance and prominence in our annual meeting planning and schedules. Even though we only meet as a group on an annual basis, many significant and lasting friendships have evolved among our Fellows and among the spouses. Indeed, contrary to most Bar and Professional organizations, it would appear that one of the driving influences resulting in the exceptionally high level of attendance at each annual meeting is the fact that the College strives to make not only the Fellows, but their spouses, significant others and families welcomed and appreciated as part of our formal and informal activities at the annual meetings.

One of our traditions is that the spouse of the sitting president of the College undertakes the planning and scheduling of the programs and activities for the family members and friends accompanying each of our Fellows. This has become a regular program generally

including a hospitality suite that is open for these friends and relatives while the Fellows are immersed in the official college programming. The College now has an initial welcoming reception on Thursday afternoon, a daily breakfast and “mixer” to allow the spouses and guests to mix and mingle with old friends and make new friends, and a separate spouse and guest room. Programming has evolved into formal day excursions to museums and other points and places of interest at the location of each of our annual meetings and spouses and guests attend them during the official business meetings of the College.

In anticipation of the annual meeting, the spouse of the current sitting President usually writes a letter and formal invitation to all of the spouses and significant others of the Fellows outlining the programs and inviting their participation and attendance at the meetings. Also, we now maintain a comprehensive and current directory of all spouses and significant others of the Fellows.

~: ANECDOTES ~:

RE: SIGNIFICANT OTHERS: at the 2001 Annual Meeting, Eve (Oxford), Jim Groton’s guest, overheard at the Spouses Breakfast:

“Don’t bother to get attached to me – I’m just a date.” (Not long after this the College enlarged its Spouse Directory to include “Guests,” but somehow it took several years for the Directory to recognize Jim Groton’s “guest” and now spouse Eve Oxford and David Ratterman’s “guest” and now spouse Lois Louis.)

Jim Groton Notes

(7) FIGHTING TO BECOME AN ANNUAL MEETING TRADITION

The annual meeting is clearly the highlight event of the year for the College. It was important, therefore, to make sure that the annual meeting was an event where the Fellows could have a good time. To this end, we have experimented in a number of ways to try to find the perfect entertainment medium during our social gatherings that would keep the Fellows coming back to the annual meetings, as certainly has been the case so far.

A relatively new “tradition” is one we adopted from the CCCL (our Canadian counterparts), namely: the Thursday afternoon wine and snack reception. This truly appears to have caught on and is appropriate because, with an early start on Friday morning, most Fellows arrive on Thursday, and this provides an ideal “opening event.”

The tradition that has definitely stuck with us from the beginning is the lead off sports awards portion of the Saturday night black tie dinner owing to our “die hard” golf and tennis enthusiasts. These awards are presented to the Fellows and spouses and guests who have either won it all or lost it all in the Saturday afternoon voluntary tennis and golf events– to a mix of cheers and good natured jeers. The original and long term chair of the golfing

activities was Joe Pierce, who recently reassumed that task, which he has coordinated in an enthusiastic and effective way – an activity essentially akin to “herding cats.” In the hiatus from Joe’s oversight, Harvey Koch applied his courtly and gentlemanly manner and diplomatic skills to accomplish this critical – at least to our committed golfers – function. On the tennis side, we can credit Jim and Liz Myers – principally Liz, we suspect – with planning and implementing the tournament for years based on a complex round robin progression that only the tennis players and advanced mathematicians could understand. The benefit of the tennis tournament is that everyone plays everyone else so that the moans of a player being paired with someone not so good are later changed to sounds of approval as some of the College “aces” play together for what is always a winning effort.

Another highlight of relatively recent vintage for the College has been our exploitation of homegrown talent. Our formal dinners have featured wonderful musical performances by the adult children of Fellows, sometimes accompanied by the Fellows or their spouses. We started with a musical presentation at the 2000 Annual Meeting by Amy Meyers, Bob and Libby Meyers’ daughter, and Dan Sklar, Stan and Sandy Sklar’s son, that thrilled everyone. Amy appeared again, with some of her talented friends, at another Annual Meeting, to present a musical review based upon the life of construction lawyers. This was followed by the son of Paul and Margaret Lurie, Matt Lurie, who appeared with his then girlfriend and performed a modern jazz set to everyone’s delight at the Breakers meeting. Most recently, at the 2004 Annual Meeting, we turned inward to the members and have had singing performances by, among others, Harvey Koch, Bert Grandoff, and a “beach music” review by the quartet of Holt Gwyn, Jules Hoffar, Larry Harris, and Allen Gibson. These talent nights have proved a success and we look forward to what will come in the future as hidden talents of our Fellows emerge.



Stan, Sandy and Dan Sklar with Amy, Libby and Bob Meyers - Biltmore (2000)

During a recent Friday evening informal social event, we had our first Karaoke night under the watchful tutelage and leadoff participation of Bert Grandoff. Bert had been pushing for this opportunity since he joined the Executive Committee and finally got his chance when he was president and no one was left in authority to tell him to wait until next year. Who knew he had such a voice?

In our earlier meetings, we tried bands for dancing after the dinner and presentations were over. However, our then executive director got carried away and booked a 15-piece band that overwhelmed the dinner attendees. After several tries at encouraging dancing after the Saturday night formal dinner, it has seemed that after a long day of educational programming, golf, tennis or touring, new member reception and cocktail party, formal dinner, presentations and inductions, entertainment, or just sitting by the pool, most Fellows simply wanted to mellow out – or retire for the evening. In fact the only successful effort at

dancing occurred at the Friday night informal dinner at the Lowes Ventana meeting, when the Spouses program included “line dancing” instructions, which carried over to the evening gathering.

Our last tradition involves the souvenir group photograph. This was a pretty good idea when there were relatively few Fellows and spouses and guests. However, as the College grew, the difficulty of gathering and organizing the Fellows – and then all of the spouses - and having them all pay attention to a photographer after the cocktail hour had been going on for an hour or so was too fearsome a task for anyone. This problem was multiplied by the fact that people kept drinking while the photo sessions got longer and longer resulting in a really raucous crowd at dinner. While the Tenth anniversary resulting “group” photos of all of the attending Fellows and all of the attending spouses were impressive, the process of corralling and posing all of the “subjects” while extending the “cocktail hour” all in the same night appears to have ended the mass photo “tradition”.



“Team” Photograph of the Fellows - 1999



“Team” Photograph of Spouses - 1999

~ ANECDOTES ~

RE: ANNUAL MEETING: Warm weather sites for meetings are the rule – but Hawaii – a little too far for some of us mainlanders?

“Subject: Hawaii stopped calling!

Hawaii – In your dreams

Alas, we have bailed! Our trusty helpers are seeking commiseration from the Hotel for those of you who wish to maintain your reservations at the coup rate.

Due to an insufficient number of reservations, your College has deemed ‘discretion to be the better part of valor’ and cancelled its plans for an annual meeting extension on the Big Island of Hawaii. It seems that extensions are not a preferred option.

This does not mean that I shall refrain from annually requesting that the ANNUAL MEETING itself should be set in Hawaii on alternate west coast years!! See you at La Costa! Aloha, Ken (Very Blue Hawaii).”

Ken Kupchak e-mail to ACCL LISTSERV, January 14, 2003

(C) NEW FELLOWS FREQUENTLY ASKED QUESTIONS

In 2006, at the request of then President Nick Gaede, a New Fellows Orientation and Assimilation Committee was created and chaired by Holt Gwyn, with David Mockbee, Debbie Ballati, and Janis Abernathy (the better half of Fellow Tom Abernathy) assisting on the Committee. This group was tasked with welcoming and easing the transition into Fellowship of the newly inducted Fellows and their spouses and encouraging their active participation in the College. As part of the New Fellows’ Orientation Package, and drawing upon their own experiences, this Committee prepared the following list of “New Fellows Frequently Asked Questions”, which does a good job of capturing much of the annual meeting social protocol and the essence of the College.

1. Q. How important is my attendance?

A. *Imperative and personally and professionally rewarding.* Your induction is a great event, like nothing you have experienced in any other bar association. Additionally, because of the overriding importance of collegiality among the members, a failure to attend two (2) consecutive annual meetings will result in a written warning, and failure to attend three (3) consecutive annual meetings will result in suspension. Once you’ve attended a meeting, you will not want to miss any future meetings.

2. Q. **Should I encourage my spouse/significant other to attend (they don't like bar functions)?**
A. ***Make them come.*** The College is small enough that you don't get lost in the crowd. The great majority of Fellows bring their spouse or significant other. The Saturday night induction is a very personal and impressive event for each inductee. You want your spouse/significant other to be a part of this event which you will always look back upon as a signature event in your professional life.
3. Q. **Does my induction make me as important as I think I am?**
A. ***No.*** Leave your ego at home. You will have more fun and make more friends if you do. More importantly, when you look at the roster of members you will quickly realize that your ego just might take a beating if you play the ego game. Come to have fun and to make friends with the very best in our field.
4. Q. **What is the attire for Thursday night's welcome reception?**
A. ***Casual, sport coats in the minority, no ties.***
5. Q. **Should I be fashionably late to the Thursday night reception?**
A. ***No. The earlier you arrive the sooner you will start meeting and enjoying new friends and the collegiality of the College.*** But I won't know very many people. If that bothers you, then ask your sponsor to accompany you to the reception to make introductions, but this is not necessary. You will be sought out by members who want to get to know you and your spouse/guest. Also, the Thursday reception is not dinner. If you haven't made advance dinner plans for Thursday, the Thursday reception is a good place to link up.
6. Q. **What is the attire for Friday and Saturday meetings?**
A. ***Casual, coats not necessary, ties would be embarrassing. (As a former ACCL President said to a fully-suited new Fellow: "Lose the tie, or someone might take you for the wait staff.")*** And don't miss the Continental breakfasts – another good time to mix and mingle.
7. Q. **What about free time on Friday afternoon?**
A. ***Friday sessions usually end no later than 2:30 p.m. You will have time to be with your spouse, or for informal events such as golf, tennis, etc.*** If you or your Spouse/Guest plays golf or tennis, you can find a game for Friday as well as for Saturday, which is a scheduled event for both golf and tennis.

Q. **What is the attire, protocol for Friday night's event?**
A. ***Friday evening begins with a cocktail reception at 6:00 p.m., usually outside. At***

about 7:15 p.m., dining begins. The attire is business casual to informal. Many men wear sport jackets, but without ties. New Fellows and their spouses/guest will have a reserved table to promote camaraderie within your entering class.

8. Q. What about the programs?

A. *The programs are timely, and the committee meetings excellent. The questions and interaction among Fellows during the programs and meetings is the most worthwhile, and gives you another chance to get to know more Fellows. Do not miss the programs.*

9. Q. What about Sunday activities?

A. *The session is intentionally brief so everyone can travel with relative ease on Sunday.* Do not miss the annual meeting. It is the first time you will really feel like a “Fellow” and gain a deeper understanding of its history, purpose and governance – by the Fellows, for the Fellows. Enjoy the feeling.

VII

OUR SPECIAL CONSIDERATIONS AND ACTIVITIES

(A) COLLEGE COMMUNICATIONS

Communication among our Fellows on a year round basis and between our leadership and the Fellowship is clearly an important element in achieving our purpose of providing a “forum” for exchange of information. Over the years, however, our approaches have not been consistent about communication either from the College leadership to the Fellows or among the Fellows themselves. Technology has helped the latter (witness the exchange below in the “Antecdotes”), but with regard to the leadership activities we continue to search for effective solutions. Inevitably, most of this information and exchange occurs at the annual meeting.

~: ANECDOTES ~:

RE: TRIVIA: Those darn time requirements under the bylaws – and who expects attorneys (particularly those from Florida) to count anyway

“Oops, because February has that 28 day thing, we may have to re-count. See my earlier e-mail”

Bert Grandoff e-mail to Jim Groton, January 29, 2002

Response: *“Bert – I thought that we learned in the 2000 election that people from Florida don’t know how to count. Please check my math: Isn’t March 3 minus 20 days = Feb 11?”*

Jim Groton reply e-mail to Bert Grandoff and Lynn Kenny

~: ~:

RE: LISTSERV - This here ACCL “LISTSERV” thing, we are beginning to get the hang of it for our dignified and professional exchanges:

(The Starting Shot From ACCL Headquarters :) “Good morning Fellows, The final bill for the Friday night ACCL Board of Governors dinner has arrived. Based on the total number of people and guests in attendance, the total comes out to \$89.33 per person. Please find your name (# of people) and amount due in the alphabetical list below and send payment (with a copy of this e-mail) to . . .”

Bill Seward e-mail on LISTSERV on December 25, 2005

Response One: *“But I sat next to Holt and he ate more than I did--I have Canterbury as a witness.”*

Jules Hoffar e-mail on LISTSERV on December 25, 2005

Response Two: *"I do not know about food, but I can vouch that Holt drank more than Jules and me, as well as all others. This bill needs mediated; Kyle and I will pay our share subject to a reservation of rights."*

Joe Canterbury e-mail on LISTSERV on December 25, 2005

Response Three: *"Holt--no good deed--such as drinking marginal wine to excess--goes unpunished."*

Nick Gaede e-mail on LISTSERV on December 5, 2005

(1) THE PRESIDENT'S REPORT

Those Fellows who have served on the Board of Governors and the Executive Board recognize that the bulk of the work done by the College between annual meetings is carried out by the Officers and Board. A tradition or practice of communication with the Fellows has not taken hold in the College. Starting a few years after the first meeting, those Fellows serving as President wrote letters to the Fellows describing the primary activities in which the leadership was involved and sent them out in July or August. Some of those letters, such as one sent by Greg Hummel, the sixth president, set forth both his aspirations and goals for the College as well as a description of what actions were being taken to try to accomplish those goals. A number of presidents followed with similar mid-year reports. This practice did not continue after about four years.

(2) THE PRESIDENT'S LETTER

As a substitute for the mid-year report, the Presidential letter was drafted to accompany the invitation to Fellows to attend the annual meeting. These letters contained a summary of activities and issues considered by the Board of Governors and provided information and insight into the upcoming program for the annual meeting. The purpose was to encourage Fellows to attend the meeting and to maintain their interest in the College. However, this too has been sporadic and cannot be said to be a tradition.

(3) THE LISTSERV

The internet and the ability of the Fellows to communicate with each other, to pose questions and to seek advice have proven to be a real boon to all. Kudos go to Paul Lurie, a Founding Fellow, whose technological bent and constant pushing and prodding helped form the College LISTSERV tool that has become the most important communication method used

by the Fellows during the year between the annual meetings. This process began in 1996 and by 1999 had evolved into the ACCL LISTSERV that we are so familiar with today. This communication tool has drastically changed the frequency, ease and mode of communication among the Fellows. The exchanges range from College business and matters, to intellectual exchanges, to requests (and numerous prompt responses) regarding experts, consultants, mediators, and arbitrators, to the purely whimsical. It has also sparked interest in topics that had to be added to the annual meeting agenda because of the volume of activity and the amount of interest shown in many of the LISTSERV exchanges. Examples of this include the party appointed arbitrator and his role, the problems faced by College members as a result of State Bar and Court unauthorized practice of law restrictions, which we call the multi-jurisdictional practice issue, and the seeking of advice of or recommendations for experts to assist Fellows in the course of their practice. The Historians' note the disparity between the large number of conventional "letters" written in the early years of the College before our members found the internet (a relatively large number) and the paucity of such "letters" today. The LISTSERV has even replaced telephone communication for the most part because of the ability to communicate with everyone at one time and at any time.

Not only does the LISTSERV afford a tool for the contemporaneous exchange of information, but it also allows keyword searches for retrieval of earlier exchanges on particular topics.

~: ANECDOTES ~

RE: THE ACCL LISTSERV – Why Don't You Say What You Really Mean

"Hugh and others: Never assume good sense on the part of Congress. My wife's grandfather, a newspaper man, once said: "The only way to speak to a Congressman is down . . ." How about the bad sense to give an artist exactly the right which all find so distasteful. You buy a lousy Wyeth for \$600,000 and you are forbidden to paint a black X over it! And Ken's solution won't work since the droit moral is unalienable! All of which proves that it is a wonderful and diverse world in which we live. Carl"

Carl Sapers e-mail to Hugh Reynolds and ACCL LISTSERV

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RE: THE ACCL LISTSERV - Sometimes Our Biases Are Showing.

(Inquiry Re LISTSERV exchange relating to the tendency of owner/developers to remove any waiver of consequential damages in prime contracts) "Generally, they won't even discuss liquidated damages, though if the number were high enough, I suppose they would.

I have been met with four arguments:

(1) No other contractor has ever complained about this;

(2) In practice you will find us to be reasonable people (which has been generally true);

(3) *I'm sure we can find somebody else if you don't want the work;
and, most colorfully;*

(4) *"That's the way the big dogs play."*

I'd be curious as to how others have fared in this context."

Joe Pierce e-mail – ACCL LISTSERV January 18, 2006

Response One: *"Joe, if you are going to play with big dogs you are going to get big fleas.
Ron"*

Ron Martell e-mail – ACCL LISTSERV January 18, 2006

Response Two: *"You mean developers treat contractors like contractors treat
subcontractors?"*

Bill Lyman e-mail – ACCL LISTSERV January 19, 2006

~:~

**RE: NEW TRICKS FOR A LOT OF "OLD DOGS" - The "Electronic Era" Of The College Off
To A Rocky Start**

*"For what it may be worth, coming from one who is only semi (computer) literate, I agree
with Paul's recommendation as to distribution via LISTSERV."*

Bob Meyers e-mail to Paul Lurie, February 12, 2001

(4) THE WEBSITE

As a result of the Herculean efforts of Steve Nelson, the College entered another aspect of the "electronic" era when its website (www.accl.org) became operational in December of 2000. This website is an invaluable resource for the Fellows regarding scheduling, interchange, and information exchange. The College has also sought to reduce its paper work load and to encourage communication and announcements through the use of the College website. This has been only a marginal success because of the tendency of the Fellows to forget how to access the website or forget their password.

For historical purposes, there has been a great debate among the Board members as to what information should be made available on the public side (accessible to everyone) versus the private side, accessible to Fellows only. To date, we resolved that the public side would not contain anything more than a general description of the College and its purpose and a

list of the Fellows with their current addresses and telephone numbers. However, this topic is the object of ongoing debate. No one Fellow would be singled out or individualized in any way on the public side in fairness to everyone else.

The Board has directed that a formal, searchable archival function be added to the website capabilities so that prior historical materials, together with current materials, will be readily available to all Fellows and most importantly, our leadership.

~: ANECDOTES ~

RE: WEBSITE CONSTRUCTION: One Of The Reasons It Took So Long To Get The College Website Up And Running . . .

"Hi Steve (Nelson) – checked the mail today and the check wasn't in it. We'd appreciate it if you could get the process going, frankly we really need the money – I had to buy Roberta a Cartier watch instead of the Rolex she wanted, not only that, we had to fire one of the stable boys. If we don't get paid soon, we may even have to switch from imported to domestic caviar (shudder).

But seriously, . . . we'd like to get paid, but we understand the nature of volunteer-staffed organizations. Thanks Steve."

E-mail from Craig Becker (our Web Master) to Steve Nelson, February, 8, 2001

RE: ACCL WEBSITE: The Delay In Start Up Of The ACCL Website – Continued!

"Craig the Web Guy wanted me to share with you that he used some of the web design money to purchase a new guitar . . . We definitely are going to have to wait until the website is completely finished before ACCL starts any kind of drug screening . . . (just kidding . . . he assures me that he tried marijuana once, but didn't inhale . . .Right . . .)."

Steve Nelson e-mail to Larry Schor, Bob Meyers, Jim Groton, Barry Grove and Paul Lurie, February 25, 2001



RE: ACCL WEBSITE: The Launch Of The ACCL Website – "Abort, Abort!" At Least For Some Of The Fellows . . .

"Dear Fellows,

The responses to my e-mail are heartwarming. . . . I know what some of you are thinking... "I am technologically challenged. I don't even know how to find the ACCL website (www.accl.org), much less log on. But, I am a respected construction lawyer...one of the best. How could I possibly let my weak vulnerable side show? How could I possibly admit that I have never even logged on to the ACCL website, even though it has been out there for almost a year?"

Fear not! Others have summoned the courage to admit that they are powerless over the internet...and the healing has begun. Witness the following un-retouched responses to

yesterday's message...all received within hours of the LISTSERV request that you update your resumes on the web. See. You are not alone. Just take it one byte at a time.

Steve [Nelson]

Response One: *"I am sorry, please don't hate me. I don't know how to get on the website."*

Response Two: *"I am apparently doing something wrong because I do not see the 'directories' link or 'print member resumes.'"*

Response Three: *"Would you please remind me of my username and password. I promise I won't ask again."*

Response Four: *"This is a Return Receipt for the mail that you sent to <deleted>. Note: this Return Receipt only acknowledges that the message was displayed on the recipient's machine. There is no guarantee that the content has been read or understood. (emphasis added . . . don't we all know people that applies to!!!)"*

Response Five: *"Each time I tried it put me back to the beginning."*

Response Six: *"Mr. <deleted> wanted you to know that the American College website is not functioning. He used the same number PIN as his ATM card, which is what he uses for everything, and it won't work. He thought you would want to report this."*

Response Seven: *"Oops, SOS, can you send me mine. Thanks."*

Response Eight: *"Apparently I've lost my notes on getting to the web page, my user name and password, etc. I would appreciate any assistance you can give me. I suspect for some dumb reason I never registered."*

Response Nine: *"Thanks for calling us back. It worked before, but now [my secretary] is gone and I can't get it to work again. Is it www.acclldotorg.com or www.acclldot.org?"*

Response Ten: *Voice message...."Mr. Nelson, this is <deleted>. I am Mr. <deleted>'s assistant. I am calling about your message about the ACCL website. Mr. <deleted> is too embarrassed to tell you that he has never been on the website, doesn't know where it is, his user name, or his password, and it says here on this note...let me see...(fumbling the phone) ...for me to 'discretely' see if I can get this information.'"*

Response Eleven: *"Please send me my password (again, sorry) and I promise not to lose it again."*

Steve Nelson e-mail to E-mail to All Fellows, November 21, 2001



RE: WEBSITE - "Electronic Era" Evolved Slowly For Many Fellows

Outbound: *"Since we only have a 45 minute meeting on March 1, I was not planning on covering the Multi-disciplinary Practice issues. Enron has probably cooled the public discussion about the Professional Service firms. However, the issue is not going away. . . .*

Does anyone want to discuss this issue here on the List or at the meeting? For those of you who dial up to the Internet, remember to have your browser open before you click on the icon. Thanks. Paul Lurie"

Paul Lurie e-mail to ACCL LISTSERV, February 14, 2002

Response: *"I would never open my browser in front of an icon. Shame!"*

Bert Grandoff reply e-mail



RE: ACCL WEBSITE: E-mail Exchange Re Furnishing Information

"David, Do you have a scanned picture of yourself I can put on the American College of Construction Lawyers Web Directory under construction? Please e-mail...any format will do. Or, just send me a picture and I will scan it in. Thanks, Steve."

E-mail from Steve Nelson to David Hendrick, December 8, 2000

"No. I guess I should. DRH"

E-mail from David Hendrick to Steve Nelson, December 8, 2000

"I'm just going to put Larry Schor's picture in for each person who doesn't have one...so I'd get one!"

E-mail from Steve Nelson to David Hendrick, January 14, 2001

"Now that is a creative sanction. DRH"

E-mail from David Hendrick to Steve Nelson January 14, 2001

(B) THE “PAST PRESIDENTS’ COUNCIL”

The College, just like any other professional organization, faced the choice of what to do with the “old dogs” once they had completed their terms on the Board of Governors and run through the “chairs” of all of the Executive offices. If you do not keep them occupied constructively, there is no telling the mischief they can get into. Also, there is a wealth of experience and perspective among that group that, if kept engaged, can pay significant dividends to the organization.

In fact, the College made no choice at all in this area and, instead, left it to those who had been President to decide for themselves if there was a role for them by which the College could benefit from the fact that they were still around and involved. The result has been the formation of an informal “Past Presidents Council” in which most of our prior presidents actively participate. There is a standing invitation to all past presidents to attend any of the Board meetings and, because a number of the presidents were Founders of the organization as well, to provide the perspective of experience and prior treatment of issues that new Board members think may not have been visited before. In addition, the past presidents have been asked to remain active on committees and become involved in substantive issues such as bylaw revisions, memorials for deceased members and, as noted here, the writing of the initial history of the organization. The Past Presidents have also been asked by the Board to address certain issues such as increasing the geographical diversity of the College and examining the proper role of “international” involvement of the College. On their own initiative, the Past Presidents have created and established the “Past President’s Award,” which is discussed elsewhere.

For themselves, the Past Presidents have set a breakfast meeting on the Saturday morning of the annual meeting. They gather to discuss issues arising out of the work they have been doing on their various committees during the course of the year as well as to suggest other activities for the College based on their exposure to new ideas from other organizations to which the Past Presidents belong.

~: ANECDOTES ~:

RE: PAST PRESIDENT’S COUNCIL – TRADITIONS

“A tradition was started for the Past Presidents Council when Stan Sklar decided to order some pens with the inscription “Past Presidents Council-American College of Construction Lawyers. The next year, he was accosted by Bob Rubin and others claiming they had lost their pens and wanted replacements and the then newest Past President asked “where’s my pen? “This was then followed up by a unanimous vote that the medallion being unsuitable for everyday use, the pens would be a suitable substitute and thus another tradition was born.”

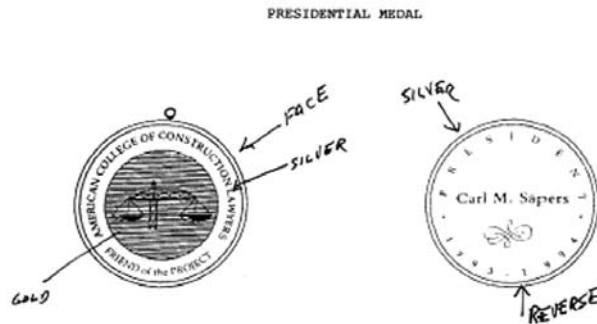
Stan Sklar reminiscence

(C) THE PRESIDENTIAL MEDALLIONS

Who are those guys walking around with what looks like the “Croix de Guerre” around their necks on those fancy green ribbons? Thanks to Carl Sapers, a Past President and one honored by the architects of this Country with his own medallion from their organization the AIA, the Past President is awarded the College’s own medallion. The design, prepared by Mr. Sapers, our own “renaissance man”, features the logo of the College and, we trust, is only taken out of its box and worn once a year at the Saturday night black tie dinner at the annual meeting. If you want to know who the Past Presidents are, you merely need to look at their smiling faces.

~ ANECDOTES ~

“Knowing that we are getting to that point where forgetfulness becomes the norm and not



wanting to be the only one with an Past President Medallion, consider this an alert to remind those of you who can remember where they put it, to pack your medallion for the induction dinner. See you then.”

Stan Sklar e-mail to Hart, Myers, Sapers, Hummel, Hendrick, McManus, McGuinn, Rubin and Groton, February 18, 2005

(D) THE PAST PRESIDENTS’ AWARD

The annual meeting at the Biltmore in Coral Gables, Florida, in 2004, saw the first Past President’s Award conferred. The Past Presidents have participated with many of the Fellows who have been in and out of the leadership, but who have not had the opportunity to serve in an executive office. This award was conceived by the Past Presidents to recognize such Fellows whose contribution to the College has truly been extraordinary in the benefits gained by the College. The Past President’s Council decides when the occasion arises for such special



Paul Lurie

recognition and is not bound by any periodic requirement to give such an award. They contribute from their own funds to an award to thank a Fellow for making contributions that made and make a Fellow's experience in the College better.

The first and, to date, only such award was given to Paul Lurie of Chicago, Illinois. Paul's continuing interest in the College, his service on the Board of Governors, his continuing effort to keep the Fellowship abreast of developments regarding the unauthorized practice of law and arbitration related issues, and, most importantly, his initiation of the College LISTSERV, made it obvious who the first recipient of this award had to be. In addition to a framed certificate, the award consists of a crystal vase engraved with the recipient's name and a notebook for personal use.

PAUL M. LURIE

WHEREAS Paul M. Lurie of Chicago, Illinois has been a Fellow of the American College of Construction Lawyers since its inception in 1989 and was integrally involved in the founding of the College, and

WHEREAS, Paul has served the College in a variety of capacities, notably as an active and enthusiastic member of the Board of Governors and its various committees and serving as its representative to American Arbitration Association's National Dispute Resolution panel, and

WHEREAS, Paul has exemplified the motto of the College, as a true "Friend of the Project" throughout his distinguished professional career, and

WHEREAS, the Presidents of the College have been aided immeasurably over the years by Paul's able assistance and conscientious commitment to the College, and

WHEREAS, the Past Presidents in particular recognize Paul's extraordinary foresight and initiative in guiding and leading us into the information and technology era, most importantly by persuading us to adopt the ListServ, which he then set up and maintained without cost to the College, a system through which the Fellows have been able to communicate effectively and efficiently with each other throughout the year, and

WHEREAS, Paul has shared his encyclopedic knowledge, scholarship and skills unstintingly with his Fellows, keeping the Fellows informed on current matters of vital interest, particularly in the areas of arbitration, mediation, dispute resolution, and the unauthorized practice of law, and

WHEREAS, Paul has generously and consistently acted to "give back" to the construction industry and to the practice of construction law, and all of our Fellows are better practitioners of construction law as a result of Paul's contributions; and

WHEREAS, Paul's actions embody the concept of "fellowship" that is at the heart of this College,

NOW THEREFORE, Those of us privileged to have served as former Presidents of the American College of Construction Lawyers are pleased to present their initial Past Presidents Award for Exemplary Service to the College to Paul M. Lurie of Chicago, Illinois.

Effective this 28th day of February 2004, in Coral Gables Florida at the Annual Meeting of the American College of Construction Lawyers,

Attested: Overton A. Currie, B.C. Hart, James J. Myers, Carl M. Sapers, Stanley P. Sklar, Gregory W. Hummel, David R. Hendrick, Joseph A. McManus, Jr., John F. McGuinn, Robert A. Rubin, James P. Groton, Laurence Schor, and Robert L. Meyers III

(E) THE CANADIAN CONNECTION

Most Fellows are probably not aware that the Canadian College of Construction Lawyers (the “CCCL”) began in 1997 after the idea was brought to them by the American College’s then only Canadian Fellow, Don Marston. The Canadian College bylaws and many of their other practices including annual meetings,



*Seated (L-R): Hon. Loren Smith (U.S. Ct. of Fed. Cl.), Hon. Frank M. Hall (Eleventh Circuit Court of Appeals), Rt. Hon. Beverley M. McLachlin (Supreme Court of Canada), Hon. Humphrey John Lloyd;
Standing: the leadership of both ACCL and CCCL*

hot tips (theirs are Scholarly Papers) and related social activities mirror those of this College. Starting at the annual meeting in 2000, this College invited the officers and the executive board of the Canadian College to attend our meetings and they have been eager to do so. This is easily understandable as our meetings are in warm places usually at the end of February and they live in Canada.

The Canadian College annual meeting is held the last week-end in May and the officers and Governors of the ACCL, as well as other members who wish to attend their meetings, are invited. A number of College Fellows have attended their meetings and find the conviviality and collegiality to be beneficial from many standpoints.

A culmination of the relationship between the Colleges so far was the first combined annual meeting held in conjunction with the ACCL meeting in 2004 at Coral Gables, Florida. There were joint programs and presentations, the highlight of which was a combined judicial panel in which presentations and discussions took place about a number of interesting topics (*see photo above*). John Hinchey headed the committee that coordinated the joint meeting for the ACCL. Those who attended were given a glass computer mouse pad showing the logos of both Colleges as a memento of this joint meeting.

While this joint effort was a resounding success and will likely be repeated in the future, there was general College consensus that, given the interest of preserving our own internal identity and collegiality, the Colleges should usually conduct their own annual meetings and only occasionally join together in a consolidated meeting.

~: ANECDOTES ~:

RE: CANADIAN CONNECTION - The Growing Close Relationship Between The ACCL And The CCCL . . .

Out Bound Correspondence: *“Larry Schor has asked me to circulate this Annual Meeting*

invitation to CCCL officers.”

***Lynn Kenney e-mail to Barry Grove; Bert Grandoff; Bob Meyers; Jim Groton; Larry Schor,
November 29, 2001***

Inbound Correspondence: *“Re: CCCL Letter a simply lovely letter.”*

***Bert Grandoff Reply E-mail To Lynn Kenney, Barry Grove, Bob Meyers, Jim Groton, Larry Schor,
November 29, 2001***

(F) THE ACCL “GIVE BACK” TO THE CONSTRUCTION INDUSTRY

(1) THE AMERICAN ARBITRATION ASSOCIATION CONNECTION

The relationship between the College and the American Arbitration Association has not always been a smooth one, although many Fellows serve as AAA arbitrators, others try numerous cases under AAA Rules and Administration, and still others serve on important AAA committees, such as their Large Complex Dispute Resolution Committee.

The AAA-ACCL relationship began when the Private Dispute Resolution Committee began to invite an AAA representative to attend the College's annual meeting. This became an annual event and has developed into a discussion session of such importance that the AAA has sent some of its higher ranking officials to the PDR committee meetings. Some Fellows were troubled by the fact that other organizations, such as the International Institute for Conflict Prevention and Resolution were not accorded the same attention, in favor of the AAA, and, as a result, the “automatic invitation” ended. However, there is still a very close relationship between many of the Fellows and the AAA.

While this relationship has been ultimately beneficial in many respects and lead to significant improvements in the AAA arbitration process, the AAA has not fully addressed some of the more important concerns that the College has expressed to them. The primary issue here has been that of the “National Panel”. The ACCL has urged the AAA to establish a national panel of the most experienced arbitrators so that, upon request, a party can have access to select such an arbitrator for major disputes. In addition, many of the College Fellows have offered to be assigned to that national panel. To date, and despite many promises, we do not believe this panel is fully functioning as it should. There is also ongoing dialog regarding the concerns of the College regarding the arbitration administration process and again, while some progress has resulted, there remain many concerns and complaints by Fellows engaging in AAA arbitration.

~: ANECDOTES ~:

RE: "ADR" IN TEXAS: Fellows' View Regarding The Modern Trends In ADR

"Back when I started out in Texas, whenever you had a dispute you strapped on the "guns" and went to court to convince the Jury of our "peers". Back then– and even now – "real men (and I guess that includes women today) didn't arbitrate" in Texas.

Bob Meyers at the Board meeting in Dallas December 2005

~: ~:

RE: IT TAKES TWO TO ... Joe Canterbury, Explaining Why He Was Unable To Reach Settlement Of One Of His Cases In Mediation

"They wouldn't pay what we wouldn't take."

Jim Groton Notes

~: ~:

RE: A CONSTRUCTION SEMINAR SUBJECT "PROJECT ADVOCACY"

"My, My! Doesn't this look familiar?"

LISTSERV e-mail from Stan Sklar, September 28, 2001

"New name, same problems – but it does demonstrate the continuing and perhaps building determination to change the mechanism for dispute resolution. Saaaayyyy, maybe, just maybe this can be the cause celeb for Meyers" administration. A/k/a THE YEAR OF THE SOLUTION . . . on second thought that's probably too tough and way too much work. How about . . . THE YEAR OF THE SEARCH FOR THE SOLUTION . . . suggestions are welcome and in fact solicited."

Bob Meyers' LISTSERV response, September 28, 2001

"Bob, The traditional Jewish New Year greeting is Shana Tovah ... say you have a good new year. My Brother in Israel says that people there are saying, Shana Tovah Zotier... may you have a better year. I wish the same to your administration."

Paul Lurie LISTSERV response, September 28, 2001

"How about: Avoiding Asset Dilution, Mind Pollution & Management Revolution with the MERE SOLUTION." . . . or, Don't agitate, mediate, or litigate – cogitate on something higher by trying the SOLUTION by Meyers. Copyright JFC 9/91 (user fees \$500.00 per publication,

but 2 % discount for ACCL use)."

Joe Canterbury LISTSERV response, September 28, 2001

"Joe, I have heard the Irish were good drinkers, dancers, and fighters, but I have never known till now that you were a good rapper.. . . Great stuff, and I'll use it if I can round up the \$500.00 (less 3%)"

Bob Meyers' LISTSERV reply, September 28, 2001

(2) THE AMERICAN INSTITUTE OF ARCHITECTS CONNECTION

As all Fellows know, many construction contracts are written using the forms developed by the American Institute for Architects. One of our Fellows, Howard Goldberg of Baltimore, Maryland, has served as Documents Counsel to the AIA for many years and reported to us on the developments of the 1997 forms, the recently issued Design/Build forms, and the current intended issuance of the 2007 forms. Howard's reports are given in the Documents Committee meeting or as part of either the formal educational program or the Sunday annual business meeting. As a result of our connection through Howard to the AIA Documents Committee, the ACCL has been able to have input into the contract document language and to have the AIA forms modified when our objections have been both strong and well presented. A good example of the working relationship the ACCL has created with the AIA was a meeting in December 1996, one year before the issuance of the 1997 forms, in San Francisco where the representatives of the ACCL Documents Committee met with Howard and representatives of the AIA Documents Committee. Eyes were opened for both sides about the different perspectives on the need for certain language modification as a result of that meeting. This mutually beneficial relationship continues.

~: ANECDOTES ~:

RE: LAWYER JOKES – VS. A/ES

"Dear Bob: This is just a reminder that as the Chairman of the ACCL Cultural Committee, it is your obligation to see that we have enough jokes of at least equal intensity and quality about engineers and contractors as they have about lawyers. Looking forward to seeing you in Palm Springs!"

Jim Myers facsimile to Bob Meyers, February 16, 1992

(3) SYMPOSIA

As early as 1994, the College presented its first symposium on what was then a Hot Topic in the construction industry. Fellow David Ratterman of Louisville, Kentucky was then and is now counsel to the American Institute of Steel Constructors. He had presented a program in 1993 on the issue of who had the ultimate responsibility for the design of structural steel connections: the erector or the structural engineer. This topic and other issues concerning shop drawings and their relationship to ultimate design responsibility, were highlighted in a “National Shop Drawing Symposium” conducted by the ACCL at Georgia Tech in Atlanta, Georgia on September 30-October 1, 1993. David Hendrick chaired this effort for the College, with the aid of Co-Chair Ken Cushman. The symposium which was co-sponsored by a number of other industry trade and professional associations, including AIA, ABC, AGC, ASCE and AISC, involved featured plenary speakers presenting various perspectives on the issues from the interested segments of the construction industry and included a number of our Fellows. The first day involved plenary sessions of general applications followed, on the second day, by breakout workshops dealing with the particular specialty trade areas. It was well attended and a success and reported upon by national construction industry publications including ENR. The product of the workshops suggested balanced and reasoned solutions regarding allocations of risk and responsibility and planted the seeds of significant industry changes regarding the allocation of risk and responsibility for shop drawing preparation and review.

A second symposium entitled “Building the Future” was presented in November, 2006, at Princeton University, regarding “Transforming Global Engineering and Construction”. Phil Bruner led and chaired the effort, with the assistance of John Hinchey and Katherine Gurun, for this exclusive gathering of invited senior executives of owners, designers, builders and their counsel to deal with the myriad of issues arising out of the globalization of the construction business. The College may well forge a future ongoing symposium relationship with Princeton, or other premier educational institutions.

Another symposium is being contemplated regarding the “Building Information Modeling” and “4D” and “5D” project modeling integrating not only full project design, but also cost and scheduling. A firm date has not been set as it appears to be the consensus of the Board of Governors that two years are needed to bring all the details together.

(4) A SCHOLARLY JOURNAL

Whether the College should issue a Journal has been an issue of discussion since the founding of the College. The initial conclusion of the founding Fellows was that we would not do so because so many of us were involved in writing for other journals and we wished to avoid competition by the College with publications for which our Fellows wrote and, in some instances, from which they earned income. But times – and leadership – changes. The College opinion on this issue changed in calendar year 2005 and a “juried journal”, entitled the “Journal of the American College of Construction Lawyers” to be edited by Adrian Bastianelli

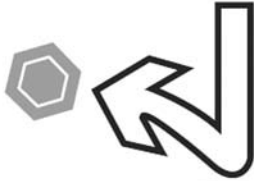
assisted by an editorial board of Fellows, chaired by Fellows Nick Gaede and Carl Sapers, will be published by the College through West Publishing.

(5) THE ADVERTISEMENT CAMPAIGN

In an effort to “position” the specialized abilities of accomplished “construction lawyers” in the industry marketplace, several of our Chicago Fellows lead by Paul Lurie commissioned preparation of the advertisement below.

This ad was actually placed in the Illinois Real Estate Journal, and several other Illinois publications. With the blessing of the Board in 2002, it was made available to the entire College for use as a handout, whenever a Fellow was speaking on behalf of the College and for placement in local publications read by industry participants. While a creative and novel concept and a substantive presentation of the reasons to engage specialized construction lawyers generally and Fellows of the ACCL specifically, there has been little follow up on this marketing effort to determine whether and to what extent it may have influenced construction industry participants to use construction lawyers.

WHY USE A CONSTRUCTION LAWYER?



The financial risk of modern construction demands that the parties have clear contractual agreements that address inherent risks in the construction process. Achieving this result requires sound business strategies and skilled negotiation. If disputes develop, the parties want a resolution which makes business sense. *Construction Lawyers are best able to provide this counsel simply because:*

EDUCATION – Their three-year post graduate law school education combined with participation in continuing legal education programs keeps them current on developments and trends. **KNOWLEDGE** – They understand the business of design and construction. They are familiar with how courts and arbitrators interpret construction industry-specific contractual language under legal precedents. **EXPERIENCE** – They have highly developed skills in creative advocacy, negotiation, contract drafting, as well as the experience to achieve the client business objectives through the use of negotiation, mediation or arbitration, and, if necessary, litigation.

ACCL

The American College of Construction Lawyers

THIS ADVERTISEMENT IS SPONSORED BY THE AMERICAN COLLEGE OF CONSTRUCTION LAWYERS, A NON-PROFIT ORGANIZATION DEDICATED TO THE ADVANCEMENT OF THE CONSTRUCTION PROCESS. FOR FURTHER INFORMATION CONTACT US AT WWW.ACCL.ORG

(6) LIAISONS WITH OTHER ORGANIZATIONS

During the early years of the College, Stan Sklar and a few others favored the establishment of formal “liaison” relationship with other professional Colleges and industry professional and trade associations also involved in construction industry related issues and concerns. A number of our Fellows already had ongoing relationships with some of these organizations that would afford an entree for establishing such formal liaison relationships.

However, Larry Schor and others did not favor the establishment of these liaisons. In the view of this group, the College, as a small group (particularly in its early years), must be concerned not to be overwhelmed with non-Fellow representatives of such “liaison” relations attending ACCL meetings. Also, the ACCL may not have the same priorities or interests as these organizations. Further, the ACCL should be cautious about sending individual Fellows as “liaisons” to such other organizations with at least the apparent authority to speak on behalf of the College on matters about which there may not be a consensus among the Fellows. Moreover, the College then could not afford and should not ask our individual lawyers to incur expenses to attend meetings of other organizations on a quasi-mandatory basis.

The Board initially created a new committee to examine and report back on this vital issue, chaired by Stanley Sklar. The Board Meeting minutes in the early years reflect the “intense” discussions and the ultimate decision of the Board at that time not to form official liaisons with other Colleges or construction organizations. For the record, however, there is currently at least one exception to this rule that just simply evolved, namely a designated representative, or “liaison”, to the American Arbitration Association and its National Construction Dispute Resolution Committee, multi-organizational and multi-disciplinary groups that definitely impact the practice of construction law and serve the construction industry. This single exception proves the rule otherwise – at least so far. The issue will, and should be, re-examined periodically by the College. This, indeed, is currently happening with the recent formation of a task force, chaired by Jim Groton, to explore formation of a formal alliance relationship with the Construction Industry Institute.

Another “outreach” activity that has been pursued by the College, as part of our ongoing “give back” to the industry, related to the education of architectural and engineering students in the basics of construction law. As an extension of the College’s “Professors” Committee and under Larry Schor’s leadership, the College contacted and coordinated with student chapters of AIA and AISC to provide educational programs by Fellows. Several dozen presentations were given over a five year period at various colleges and universities.

VIII

THE FIRST SIXTEEN YEARS IN REVIEW -
EACH PRESIDENT'S PERSPECTIVE

(A) THE “OVERTON YEARS” 1989-1990

PRESIDENT: OVERTON A. CURRIE, ATLANTA, GEORGIA

Prepared by David R. Hendrick and Larry Schor

The College rose out of a vague dream of Stan Sklar and Steve Stein – later joined by Greg Hummel –that began to take form in 1988. This core group became known, affectionately, as the “Chicago Trio” (not to be confused with the “Chicago Seven” or the Chicago Bears), a title bestowed upon them by Overton Currie at the first organizational meeting of the College.

As discussed in Stan Sklar’s article on “In the Beginning” in Part IV, the College grew out of what was originally known as the “Construction Law Institute” created under the auspices of the Chicago-Kent College of Law. The initial two members of the Chicago Trio were Stan Sklar and Steve Stein, who pooled their collective experience in compiling a list of 25 construction lawyers of national repute and inviting them by letter in December 6, 1988 to attend a conference in Chicago to see if the concept of a “College” for construction lawyers made any sense. The stated objective was to “discuss the formation of, and to form, an organization such as the American College of Construction Lawyers.” This formative meeting, essentially our “constitutional convention,” was scheduled for May 5, 1999, in Chicago, Illinois. The letter that began it all was:



**CHICAGO
KENT**
COLLEGE OF LAW

Construction Law INSTITUTE

77 South Wacker Drive
Chicago, Illinois 60606

RECEIVED DEC 09 1988

December 6, 1988

Steven G.M. Stein, Esq., Partner
Greenberger, Krauss &
Jacobs, Chtd.
Director

180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
(312) 346-1300

Stanley P. Sklar, Esq., Partner
Pretzel & Stouffer, Chtd.
Associate Director

1 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
(312) 346-1973

Mr. David R. Hendrick
Suite 1410
230 Peachtree Street
Atlanta, Georgia 30303

Dear David:

Construction lawyers are specialists - but the rest of the bar does not recognize that fact. We even have trouble identifying construction law specialists outside our own jurisdictions. One step towards the specialist recognition we deserve is to form an organization the membership in which is limited to sophisticated and experienced construction law practitioners. We therefore propose that such an organization - which we have given the working name of "American College of Construction Lawyers" - be formed.

The proposed organization would differ from the many other organizations which offer continuing legal education in the construction law field (the Forum Committee on the Construction Industry, the ABA's Real Property, Trust and Probate's Subcommittees on Construction, and various state and local bar organizations). It would have limited membership based upon certain standards and its educational programs would be geared to advanced practitioners.

IIT/Chicago-Kent College of Law's Construction Law Institute has agreed to allow us to organize the American College of Construction Lawyers under its auspices and would provide limited sponsorship if the American College maintained a relationship with the school.

Mr. David R. Hendrick
December 6, 1988
Page 2

The formation of such group is not without precedent. The "American College of Real Estate Lawyers" was formed approximately eight or nine years ago and has several hundred members. Similarly, divorce lawyers needed an organization to both enhance their recognition in the legal community and to distinguish themselves as specialists. The "American Academy of Matrimonial Lawyers" was formed as a result.

We have practiced construction law for many years and have had an opportunity to identify most of the practitioners with outstanding reputations. We consider you to be one of them. We invite you to a convention on May 5, 1989, at Chicago, Illinois commencing at 9:00 a.m. and ending at 4:00 p.m. to discuss the formation of, and to form, an organization such as the American College of Construction Lawyers. We have invited 23 other construction lawyers (list attached) who represent owners, contractors, subcontractors and design professionals.

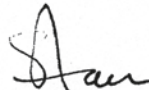
As our initial contribution to the effort, our firms have agreed to host this convention with a cocktail reception the night before the meeting and our working breakfast and lunch. We request that you pay your own air fare, hotel and other costs.

We will hold our convention only if a strong response is received. Please call or write either of us as soon as possible with your views and comments.

Sincerely,



Steven G.M. Stein,
Director,
Construction Law Institute
Partner,
Greenberger, Krauss & Jacobs, Chtd.



Stanley P. Sklar
Associate Director
Construction Law Institute
Partner,
Pretzel & Stouffer, Chtd.

:vad
enclosure

After the initial positive response from the persons receiving the original letter from Stan and Steve, the following letter further advancing the plans for creation of a yet to be fully defined organization of experienced and accomplished construction lawyers was sent to that group and a few additional candidates suggested for inclusion:



Construction Law INSTITUTE

77 South Wacker Drive
Chicago, Illinois 60606

Steven G.M. Stein, Esq., Partner
Greenberger, Krauss &
Jacobs, Chtd.
Director
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
(312) 346-1300

January 20, 1989

Stanley P. Sklar, Esq., Partner
Pretzel & Stouffer, Chtd.
Associate Director
1 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
(312) 346-1973

Re: Proposed American College of Construction Lawyers

Gentlemen:

We are extremely pleased at the response we received to our letter of December 6, 1988. Almost without exception, those who responded were enthusiastic and committed themselves to attend the proposed convention on May 5. They are:

| <u>NAME</u> | <u>ADDRESS</u> |
|--------------------|---|
| Arthur T. Kornblut | Kornblut & Sokolove Suite 1000 Two Wisconsin Circle Chevy Chase, Maryland 20815 |
| James J. Meyers | Gadsby & Hannah One Post Office Square Boston, Massachusetts 02109 |
| Stanley P. Sklar | Pretzel & Stouffer One South Wacker Drive, Suite 2500 Chicago, Illinois 60606 |
| Steven G.M. Stein | Greenberger, Krauss & Jacobs, Chtd. 180 North LaSalle, Suite 2700 Chicago, Illinois 60601 |
| Michael S. Simon | Brener, Wallack & Hill 210 Carnegie Center Princeton, New Jersey 08543-5226 |

January 20, 1989
Page 2

| | |
|---------------------------|---|
| David R. Hendrick | Hendrick, Spanos & Phillips 1410 Peachtree Center Tower 230 Peachtree Street, N.W. Atlanta, Georgia 30303 |
| Steven M. Siegfried | Siegfried, Kipnis, Rivera, Lerner & De La Torre, P.A. Suite 300 1570 Madruga Avenue Coral Gables, Florida 33146 |
| James Acret | Suite 1030 12400 Wilshire Boulevard Los Angeles, California 90025 |
| James H. Wulfsburg | Lempres & Wulfsburg 300 Lakeside Drive, 18th Floor Oakland, California 94612-3524 |
| B.C. Hart | Hart, Bruner & O'Brien 1221 Nicollet Mall, Suite 700 Minneapolis, Minnesota 55403 |
| Joseph McManus, Jr., Esq. | Lyon & McManus 1710 Rhode Island Avenue, N.W. Washington, D.C. 20036 |
| Leslie A. Nicholson, Jr. | Shaw, Pittman, Potts & Trowbridge 2300 N Street, N.W. Washington, D.C. 20037 |
| Ronald E. Martell | Moore, Costello & Hart 1400 Norwest Center St. Paul, Minnesota 55101 |
| Fred Lyon | Lyon & McManus 1710 Rhode Island Avenue, N.W. Washington, D.C. 20036 |
| Morton J. Fisher, Jr. | Frank, Bernstein, Conaway & Goldman 300 East Lombard Street Baltimore, Maryland 21202 |
| Overton A. Currie | Smith, Currie & Hancock 2600 Peachtree Street, N.E. Atlanta, Georgia 30043-6601 |

January 20, 1989
Page 3

C. Bennett, Jr.

Bennett, Thomas & Feldman
9000 Glenn Lakes Tower
9400 North Central Expressway
Dallas, Texas 75231-5027

Alex A. Marzek

Chicago Title & Trust Company
Two North LaSalle Street
Chicago, Illinois 60602

Gregory W. Hummel

Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601

The only people who responded, but could not attend, were Justin Sweet, who will be out of the country, and Robert Rubin and Jerry Reiss who could not make that date. We have not heard from the following:

Alan B. Stover
Joseph M. Corwin
Howard P. Kamin

Carl M. Sapers
John B. Tieder, Jr.

Based on the response thus far, we feel that it is appropriate that we begin planning for the May meeting. Accordingly, we contacted the Nikko Hotel in Chicago and we have arranged for dinner, at our firms' expense, the night of May 4. We also requested that Nikko set aside a block of twenty rooms for the night of May 4. We hope to wrap up our agenda early enough on May 5th for you all to catch a flight without the need for staying over another day.

We will be preparing a tentative agenda for you to review and will forward it to you sometime in February. We are also gathering materials which might serve as a guide to the organization of the College and hope to have a list of those materials ready for you sometime in April.

We would appreciate if those of you who have not responded would do so as soon as possible. Although we no longer doubt that we will be able to hold our meeting, we would appreciate knowing the number of attendees as soon as we can.

January 20, 1989
Page 4

We will be communicating with you again in February.

Sincerely,

Stanley R. Sklar

Steven G.M Stein

enclosures

In a third letter dated March 6, 1989, from Messrs. Sklar and Stein to the 21 construction lawyers who had responded favorably to the December 6, 1988 letter, the agenda for the May 5, 1989, meeting was further developed and assignments made for preparation for this meeting to be held in Chicago and centered at the at the Hotel Nikko.



**CHICAGO
KENT**
COLLEGE OF LAW

Construction Law INSTITUTE

77 South Wacker Drive
Chicago, Illinois 60606

Steven G.M. Stein, Esq., Partner
Greenberger, Krauss &
Jacobs, Chtd.
Director
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
(312) 346-1300

March 6, 1989

Stanley P. Sklar, Esq., Partner
Pretzel & Stouffer, Chtd.
Associate Director
1 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
(312) 346-1973

Re: Proposed American College of Construction Lawyers

Gentlemen:

As we described in our letter of January 20, 1989, the response to the proposed American College of Construction Lawyers has been so enthusiastic that in our view it constitutes a preliminary vote that the ACCL should be created and organized.

To that end we are requesting by this letter that the following individuals, working in tandem, prepare suggested approaches to the various problems with which we will be confronted on May 5. They are as follows:

1. Purpose of the Organization (Messrs. Currie and Hart)
2. Organizational Structure (Messrs. Meyers and Nicholson)
3. Committees (Messrs. Hummel and Smith)
4. Administration (Messrs. Stein and Sklar)
5. Legal Requirements (Messrs. Siegfried and Hendricks)
6. Membership (Messrs. Wulfsburg and Acret)

The more specific issues included within each of these designations are set forth in the enclosed agenda. We request that the designated individuals also lead our discussions concerning these issues at the May 5th conference.

March 6, 1989
Page 2

You should begin to make your reservations at the Hotel Nikko (312-744-1900) now. Reservations must be made before April 13, 1989 in order to receive the special corporate rate. Please call us if you have any questions. We look forward to seeing you all on May 5.

Sincerely,



Steven G.M. Stein



Stanley P. Sklar

:vad
enclosure

The initial organizational meeting in Chicago on May 5, 1989 was hosted by Stan Sklar's law firm. Twenty-three of the twenty-five invited attorneys paid their own way to Chicago to participate in this effort and to exchange ideas on these concepts. This began our tradition that continues even today of commitment by the Fellows to attend each of the annual meetings of the College, routinely achieving extraordinary participation at all of our meetings. Surprisingly, in a group certainly not lacking in egos (though generally well deserved and hard earned) every single one of the distinguished lawyers attending had "checked their ego at the door," recognizing that there was no need or purpose to try impress each other or to engage in posturing. This was highly energizing and refreshing to those in attendance. Together with our continuing spirit of collegiality this core principle of sharing among peers is what has caused the College to develop and flourish.

The discussions that ensued at that organizational meeting were wide ranging and explored the potential roles and purposes that such a "College" should and could serve – and, as importantly, should and could not serve. The group discussed and preliminarily developed the "purposes of the organization", the membership criteria and procedures, organizational and committee structure, leadership and governance, legal formation and requirements, and, to make it really official, "dues and initiation fees". At the conclusion of the organizational meeting, the vote was overwhelmingly in favor of proceeding with the organization of the "American College of Construction Lawyers". From the outset, the College Founders determined that it would be something different from and more than an attorney advocacy group, trade association or another bar group encumbered and hampered by formal committee and political structures. At the conclusion of this organizational meeting in May of 1989, the "college-in-formation" elected Overton Currie by acclamation to serve as its initial "President." The attendees then enjoyed dinner at the Hotel Nikko with invited spouses and friends.

This initial group of twenty-four became the ad hoc "Steering Committee" to guide the

College through its formation. This Steering Committee consisted of: Richard Alexander, C. Pete Bennett, Overton Currie, Jim Diepenbrock, B. C. Hart, David Hendrick, Greg Hummel, Art Kornblut, Fred Lyon, Alex Marzek, Ron Martell, Jim Myers, Joe McManus, Les Nicholson, Joe Pierce, Carl Sapers, Larry Schor, Steve Siegfried, Michael Simon, Stan Sklar, Bob Smith, Steve Stein, Alan Stover, and Jim Wulfsberg. (the "Steering Committee" members are noted by an asterisk in the listings in Table 1 in the Appendix). The plan that evolved at this organizational meeting called for reconvening, again in Chicago, for our "Inaugural Meeting" on September 23, 1989. This time the meeting was to be hosted by Greg Hummel's firm and centered at the Four Seasons Hotel. The list of construction lawyers to be invited to this Meeting was expanded beyond the Steering Committee, based upon additional input at and after the May meeting, first to 35 identified candidates, then to 47 candidates, and ultimately to a total of 56 candidates for "Charter" membership as "Founding Fellows".

Acting in their host capacity, Stan Sklar and Steve Stein sent out a letter of invitation dated July 25, 2006, to all identified candidates. This letter was as follows:



**CHICAGO
KENT**
COLLEGE OF LAW

Construction Law INSTITUTE

77 South Wacker Drive
Chicago, Illinois 60606

Steven G.M. Stein, Esq., Partner
Greenberger, Krauss &
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Director
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
(312) 346-1300

July 25, 1989

Stanley P. Sklar, Esq., Partner
Pretzel & Stouffer, Chld.
Associate Director
1 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
(312) 346-1973

Joseph F. Canterbury, Jr., Esq.
Canterbury, Stuber, Elder & Gooch
5550 LBJ Freeway
Suite 800
Dallas, Texas 75240-6217

Re: American College of Construction Lawyers

Dear Joe:

We are pleased to inform you that you have been nominated to become a Charter Member of the American College of Construction Lawyers. This organization was formed on May 5, 1989 at a meeting of the Steering Committee, which met in Chicago, Illinois. The Steering Committee was composed of 23 lawyers from throughout the United States. Your selection was made pursuant to the procedures agreed to at that meeting. Approximately 40 Charter Members have been nominated.

The ACCL is intended to be an organization with a select and limited membership of lawyers who devote substantially all their time to construction law matters. As more fully set forth in the minutes of the Steering Committee's meeting, membership is limited to individuals who (1) have practiced more than 15 years, during 10 of which the nominee devoted at least fifty percent of their time to construction law matters, (2) have Martindale Hubbell "AV" ratings, and (3) who devote a substantial amount of time to the advancement of construction law.

At the Steering Committee's meeting, we scheduled a Charter Member's organizational meeting and officers inaugural dinner for September 23, 1989 in Chicago, Illinois. We have chosen the Four

Joseph F. Canterbury, Jr., Esq.
July 25, 1989
Page 2

Seasons Hotel as the hotel for accommodations and for the dinner. We will be having our business meeting on Saturday, an agenda for which will follow shortly, at Rudnick & Wolfe's office at 203 North LaSalle Street in Chicago.

In considering whether to accept the nomination as a Charter Member, we strongly suggest you carefully review the correspondence which preceded the Steering Committee meeting on May 5 and the minutes of our May 5 meeting. There is a substantial financial commitment - \$500 initiation/first year's dues and dues of \$250 per year thereafter. In addition, we hope you will make a substantial commitment of time and energy to the organization.

The Four Seasons Hotel is located in the heart of Chicago's "Magnificent Mile" shopping district and is among the newest and finest hotels the city has to offer. We plan to have activities available which would make the accompaniment of your spouse or companion on this trip enjoyable for you both. We will provide further details at a later date.

Sincerely,

Steven G.M. Stein

Stanley P. Sklar

In keeping with our later traditions, a formal invitation to the September 23, 1989 "Inaugural Meeting", to be conducted at the Four Seasons Hotel in Chicago, was again extended from the Chicago Trio to all candidates for Charter membership.

The Steering Committee
of the
**AMERICAN COLLEGE
OF
CONSTRUCTION LAWYERS**
Cordially invite you to attend its
Inaugural Dinner
Saturday, September 23, 1989
Cocktails at 7:30 p.m.
and
Dinner at 8:30 p.m.
at the
Four Seasons Hotel
120 East Delaware Place
at 900 North Michigan
Chicago, Illinois

Please respond to Valerie (312) 346-1300 by
September 10, 1989.

The critical tasks regarding formal formation of the College were assigned and assumed by the Steering Committee to plan for and shepherd the College through the Inaugural Meeting. A total of 44 "Charter" members actually attended this Inaugural Meeting of the "American College of Construction Lawyers". The first issue of the ACCL "Hard Hats" was given to this group of Charter Members to commemorate the occasion.

At this meeting in September, 1989, Overton Currie's election was formalized, by acclamation, as our first President, B.C. Hart was named as President-Elect, Jim Myers was the first Secretary and Greg Hummel the first Treasurer. The initial bylaws and charter were adopted. Among the more memorable comments, observations and recommendations made during this meeting were (most of which were either recorded for posterity by Overton's video camera recordings or by Jim Groton's detailed notes of the meeting. Were:

- "Look at everyone agreeing." (an observation by Jerry Reiss);
- "Are we going to just another bar association? Bar groups generally promote lawyers; the ACCL, by contrast, should promote better ways to help the construction industry." (Jim Myers);
- "Is this going to be one of those exclusive organizations, if so I am in." (Bob Cushman);
- "The ACCL should be part of the construction industry" and "not the Bar." (Unattributed);
- "We should give something back to the industry which has helped to support us." (Unattributed);
- "We should define the role of the construction lawyer in the industry." (Unattributed).

The College conducted its "Inaugural Dinner" at the Four Seasons Hotel and our new leader, Overton Currie exuded his charm and aptly demonstrated the erudition and facility with the English language (at least we thought most of it was English) which, of course, is what would be expected by one who managed to earn two Yale Doctoral degrees, one in law and one in divinity. Overton's musings, over the course of the evening, ranged from the invocation, to several Irish or English "toasts", and to a substantial extemporaneous recitation from Keats, which he never failed to bring back to its initial theme regardless of the rambling path pursued. The entertainment for this Inaugural College dinner was none other than Overton, and his video camera, and his "man on the street" interviews of not only the steering committee attendees, but also the waiters and hostesses of the Four Seasons Hotel who did not realize their views were being preserved for posterity. This video is now ensconced in the College archives, and on several occasions has been played at subsequent annual meetings.

The initial ACCL roster of "Fellows" based on those invited to attend this meeting numbered 56 "Charter Members" – or as later and currently referenced - "Founding Fellows" (the full roster of the Founding Fellows" is shown in the listing in Table I). Following up on this Inaugural Meeting, Overton wrote in his distinctive and inimitable style to all the Charter Members of the College stating as follows:

Steve Stein and Stan Sklar created the dream – and by dedication and excellence and hard labor with other surpassed all expectations in giving birth to our comprehensive, clear and challenging charter and committees for our American College of Construction Lawyers.

These strong positive feelings of appreciation are universal. Today members will elect officers, approve bylaws, and hear committee reports regarding performance of the purposes of the College. Hopefully, you and I and others working with Steve, Stan and our group can implement and enhance the worthy goals of The College.

As we move toward the challenge of making The College deserving of the efforts of our founders, Stan and Steve, may I confirm my belief each and all of us enjoy our professional calling and know, “You must give to get.” Your enthusiastic participation and professional and personal sharing of your life, talents, time, thoughts and experiences are some of the “fuel” our College seeks and needs to enjoy achieving the worthy possibilities of our “journey” together.

Our purposes are to encourage association of outstanding lawyers distinguished for their skill, experiences and high standards of professional conduct in practice or teaching and who are dedicated to excellence in the specialized practice of construction law. We are to enjoy good fellowship, strive to nurture, inspire, enhance, and exchange views, create, publish, educate, and encourage dialogue and explore alternative methods to resolve disputes while also communicating between ourselves and others in private and governmental positions as appropriate.

This summary of our worthy mission requires worthy work to build these plans into practical realities –a Construction Lawyers’ Temple of Humanity – aware we are finite and limited but seeking infinite and enlarged service, success and satisfaction reflecting the ideals and goals we want for our clients, selves, families, firms and profession.

Hopefully (references made to poems and other inspiration quotations in Overton’s construction law manual) ...I Believe, If, and Desiderata will help inspire you and me to seek to reach for the Sky and Work to Enjoy Achieving the Worthy Goals of the College of Construction Lawyers as we talk and share our “love and efforts” for law to find the Light flowing from Life and Law as The Streams of Time and Experience Flow On, On, On ...

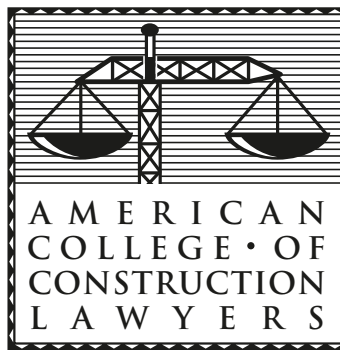
Overton sincerely meant these thoughts and shared these high goals for all of us and we can do no less than to strive mightily to achieve those goals and to maintain the high standards of not only the College but our profession and of the industry that we serve.

The formal formation and creation of the College then culminated with its incorporation. The corporate structure of the ACCL was created in Illinois, its birthplace, and it is still an Illinois corporation. Initially headquartered in Illinois, and then in Washington, D.C., the College currently calls its “home” Austin, Texas, under the capable stewardship of our Executive Director Donna Passons and her colleagues.

Perhaps in reaction, if not overreaction, to the several organizational meetings held in the

northern, windy city of Chicago, the Founding Fellows (urged on by their spouses) reached a consensus on having the annual meetings in February, but in a warmer location - even though Jim Wulfsberg lobbied hard to get us to go skiing. But warmth overcame snow and lead to the tradition of alternating generally between wonderful warm weather resort locations on the east side and the west side of the country. At least part of the reason for the consistent attendance of over 90 % of our Fellows at each subsequent Annual Meeting is most certainly this attraction in midwinter when the Fellows residing above the frost line are looking for an early thaw. The First Annual Meeting of the ACCL was then scheduled to occur on February 23-25, 1990, at the Ritz Carlton Resort at Laguna Niguel, California.

Later in 1989, under Overton's stewardship, the College commenced what would become a tradition for a number of years of conducting the Fall Board of Governors meeting in San Francisco in December. This was in order to coordinate with the "Superconference" generally conducted San Francisco in December, which involved the attendance and participation of a number of our Fellows. Public announcements of the formation of the College were finalized and a College "Logo" was approved - which still today marks the ACCL:



Among the ideas spawned at this first Board meeting was the need to prepare, maintain, update and complete a "Directory of Fellows" and the concept of a "people-to-people" type interchange allowing a delegation of our Fellows to engage in international professional interchange in construction law. This effort, undertaken by Jim Myers, eventually led to the trip by an ACCL Delegation to London, Warsaw and Prague in April-May 1992 on which 6 ACCL Fellows and their spouses ventured abroad to learn how the rest of the world deals with construction law.

Later in his administration, President Currie continued to advocate the possibility of inducting an "honorary" foreign fellow from time to time or otherwise inviting selected international lawyers to our meetings to discuss the practice of construction law in other parts of the world. This concept was also later fully realized.

At the First Annual Meeting of the College, the Fellows convened in Laguna Niguel, at the Ritz Carleton Hotel. The Program, coordinated by Bob Smith, focused on two symposiums, one dealing with the newly promulgated "National Association of Attorneys General" ("NAAG") "Model Design and Construction Documents," led by Larry Schor and Greg Hummel, and another dealing with "Improving Dispute Resolution in the Construction

Industry” led by Carl Sapers, James Myers and Chris Noble. The Board also addressed the issue of who had authority to “speak” for the College, and directed development of a “policy” regarding issuance of ACCL announcements. Because of the fact that the current sitting officers had only been in place for six months at the time of the First Annual Meeting, the same slate of officers was nominated and elected to serve their terms commencing from this First Annual Meeting. Similarly, because there had been no time, let alone, no process and mechanism yet in place for nomination and election of new Fellows pursuant to the procedures in the newly adopted bylaws, no new Fellows were elected or inducted at this First Annual Meeting. At the formal Saturday night dinner, the College began its “black tie” (at that time optional) formal dinner and invited Bob Langford, General Counsel of the Guy F. Atkinson Company to present a dinner speech of “no more than 30 minutes” After several tries to find the ideal dinner speaker – an industry related speaker interesting enough to entertain and engage all in attendance, including spouses, after a long day of educational programming, a cocktail reception, and dinner with wine and ceremonial trappings – the “dinner speaker” concept was abandoned.

Following up on the Annual Meeting program, one of the first tasks tackled by the College was to analyze and comment upon the newly issued National Association of Attorneys General (“NAAG”) construction contract documents. Because these documents appeared to present the antithesis of the approach of the College, in seeking to pit each party against the other in an adversarial manner virtually from the outset, the College strongly opposed usage of these agreement forms. Ultimately, at least in part as a result of the efforts of the College and Larry Schor speaking at a NAAG meeting, these documents were quietly withdrawn from the market place.

The balance of the year was spent simply getting the procedures and process in place for the operation of the College, including the first round of nominations of proposed new Fellows and the election and induction of those elected as our first new class of Fellows. The first New Member Nominating Committee, chaired by B.C. Hart, struggled with issues confronting most of their successors in an effort to carefully review and cull a group of 16 total nominees, each appropriately nominated and seconded by Fellows, in order to selected 8 for actual nomination. These names were submitted to the Board of Governors.

Setting another tradition that was followed for a number of years, the Board conducted its first mid-year meeting in August, 1990, in Chicago to coordinate, schedule wise, with the ABA Annual Meeting in which many of our Fellows were involved. The December Board meeting was again conducted in San Francisco.

The Second Annual Meeting of the College was coordinated and chaired again by Bob Smith and conducted in the lavish environs of The Phoenician Resort, in Scottsdale, Arizona. After successive meetings at the Four Season (Chicago), Ritz Carleton (Laguna Nigel), and now The Phoenician, we had set a standard of luxury (and of the tariff) that would be hard to match – but that was a challenge to which the College has risen each year thereafter. It was at this meeting that we initiated the perennially popular part of the “Hot Tips” Program, lead by Joe McManus, which afforded any and all Fellows the opportunity to share professional

experiences and recent developments with the Fellowship. The formal programs were guided discussions lead by the Documents Committee and its Chair Larry Schor, regarding several newly issued industry standard documents from AGC, EJCDC and ABC, and by the Legislative Committee and its Chair Art Kornblut, regarding recent legislative developments regarding “site safety” issues. The Meeting featured the first induction of the newly elected Fellows at the Formal Dinner on Saturday Night. At the close of the Annual Meeting, the baton of leadership was passed from our initial distinguished leader, Overton Currie, to his equally distinguished successor B. C. Hart. The College was off to a tremendous beginning.

AN ODE TO OVERTON – OUR INSPIRATIONAL LEADER

The best way to try to capture the essence of Overton is through his own words - letting him explain himself through his many writings. Make no doubt about it, Overton was a worthy adversary, but in a way described by William Shakespeare and as often quoted by Overton: “And do as adversaries do in law. Strive mightily, but eat and drink as friends.” Overton’s enthusiasm for life, for law practice and for his brothers and sisters in the construction bar was boundless as he best expressed himself in his “Dollars & Sense Construction Law” manual – a “classic” in the annals of construction law tomes - in the short essay entitled simply “Enthusiasm”.

Enthusiasm is the greatest business asset in the world. It beats money and power and influence. Single-handed the enthusiast convinces and dominates where a small army of workers would scarcely raise a tremor of interest. Enthusiasm tramples over prejudice and opposition, spurns inaction, storms the citadel of its object, and like an avalanche overwhelms and engulfs all obstacles. Enthusiasm is faith in action; and faith and initiative rightly combined remove mountainous barriers and achieve the unheard of and miraculous. Set the germ of enthusiasm afloat in your business; carry it in your attitude and manner; it spreads like a contagion and influences every fiber of your industry; it begets and inspires effects you did not dream of; it means increase in production and decrease in costs; it means joy and pleasure and satisfaction to your workers; it means life real and virile; it means spontaneous bedrock results – the vital things that pay dividends.

Enthusiasm was great, but Overton realized that that alone would not carry the day and that hard work was at the core of what we do and he expressed most succinctly “the best way to better your lot is to do a lot better.”

Overton was always a strong believer in the human spirit and that good comes from doing good. All of these varied thoughts seemed to come together in his short essay on the human spirit.

*The Humanity of Law, Lawyers and Law Firms – A “Gumbo” of Pictures,
Poems, Quotations, Letters and Updates Symbolizing Better Than Words
Alone the Power of Positive Attitudes and Appreciation, Beauty and Backbone,
Courage and Courtesy, Dedication and Diligence, Faithfulness and Fairness,
Gratitude and Generosity, Honesty and Happiness and Our Hope For All of
This For You Plus Continued Success, Service and Satisfaction as the Streams of
Time and Life Flow On, On, On ...*

Finally perhaps we get a glimpse of the Overton we knew and some understanding of why we loved him from some short poems that he wrote while preparing once again to give a seminar on construction law.

POEM OF A TEAR OR WATER FALL

By

Overton A. Currie

*A single tear was as mighty as a mountain water fall
Hard rocks and hearts were touched and merged and married
Light and floating and bursting bubbles magnified the light
Soon this life flowed into a steady stream and then a stagnant pond
Tears and mountain water falls were memories asking questions:
Why? When again? What Power gives birth to a Tear or Water Fall?
Moment, Mountain and Memories return so I can Climb and Cry and Live and
Love Again.*

Not bad for a plain old construction lawyer from rural Mississippi. To know Overton even better ask a more senior member of the College (old timer) to relate to you one of his great stories like “big dog little dog”, “Yankee Lady”, “the paint specification”, “the lawn mower contract”, etc. We all will miss Overton, certainly those of us privileged to know him well – but even more so those who were denied the opportunity to meet one of the great construction lawyers and raconteurs of the Bar.

*This “Ode” was respectfully submitted in loving memory of Overton A. Currie by
his devoted friend and self-appointed acolyte, Robert L. Meyers, III.*

~: ANECDOTES ~:

RE: THE OVERTON WE KNEW AND LOVED:

"Dear Jim: I agree with everything that Overton said in his letter of September 16, whatever it was."

Bob Meyers letter to James J. Myers, September 23, 1991



RE: CLASSIC OVERTON

"Dear B.C.: Best wishes to each and all of you for continued success, service and satisfaction for as long as the streams of time and life flow on, on, on . . ."

Overton Currie (Chairing the 1992 Officers Nominating Committee) letter to B. C. Hart, January 13, 1992



RE: "OVERTON-ISMS" – Only Overton Could "Link" Construction Law With Dante, Homer And Cicero:

"As Dante points out, just as a raging inferno may burst from the tiniest spark, so may some seemingly unimportant detail of a project grow into a costly major problem . . ."

Homer was certainly correct, too, as to the importance of using foresight to avoid problems rather than hindsight to analyze what should have been . . .

Finally, Cicero's statement may be the most basic of all – USE COMMON SENSE no matter what the task . . ."

Overton Currie's Welcome to Attendees of "Arbitrating & Mediating Construction Claims" Seminar, Atlanta, GA, October 27, 1989



RE: OVERTON ON "CONSTRUCTION LITIGATION"

"Let us all please remember Overton Currie's five most important things to consider in litigating a construction claim:

The Law

The Facts

The Facts

The Facts and

The Facts"

Ron Martell e-mail to ACCL LISTSERV, January 16, 2003



RE: OVERTON REMEMBERED

"Dear Joe: A belated (but just as sincere!) thank you for honoring Overton at the American College at the Doral. It meant so much to him and I was very touched by your thoughtfulness. . . It was good for both of us to see all of our good friends of so many years."

Lavona Currie (Overton's wife of over 50 years and friend to many Fellows) note to Joe McManus, April 10, 1998, after we honored Overton at the annual meeting and dedicated the "Overton Currie Lecture Series"



A Overton Currie, Libby Meyers, Lavona Currie, and Bob Meyers (1994) **B** Lavona Currie, Overton Currie, Jean Hart, and B.C. Hart (1994)

(B) THE "SECOND YEAR" 1991-1992 (INCLUDING 1992 ANNUAL MEETING)

PRESIDENT: B. C. HART, MINNEAPOLIS, MINNESOTA

As I embarked upon my presidential year, I felt inspired to set forth the grand goals and enduring purposes for which our College was formed. Unquestionably, our first president Overton Currie had performed that feat, without enunciation, simply by his exemplary personal and professional life.

Unfortunately, I feel neither qualified nor entitled to speak or write for him. Lacking the required qualifications I could venture to derive the goals and purposes of The College by recalling how the three Chicago founding fathers formed The College and how it has grown in selective size and prestige since its formation. By deductive reasoning, I can only conclude that the founding fathers took a first-cut selection of nationally prominent construction law specialists from across the United States who proved to be the proper nucleus of the great American College of Construction Lawyers as it has evolved to its present national and international status.

As the Second College President I recall that I had the following goals:

1. To foster a feeling of unpretentious fellowship among the original selected group of construction law specialists;
2. To develop a sophisticated and entertaining annual educational program tailored exclusively to construction law;
3. To encourage unselfish exchange of ideas on developing law governing the construction industry
4. To attract and select highly qualified new members who would appreciate and enhance our goals as an organization of construction law specialists; and
5. To select suitable settings for our annual and special meetings.

After devoting my own labored efforts to set forth the Goals and Purposes of The College, I found to my embarrassment that the goals and purposes of The College were already set forth surpassingly well in Section 2.2 of our Bylaws.

THE YEAR IN REVIEW

It must have been a wonderful year but I can't remember why! Unlike Bert Grandoff, who has given us a splendid exemplar of how to recapture highlights of a presidential year, I am obliged to rely almost totally on the voluminous paper trail provided by our superb history task force of Larry Schor, Jim Groton, Stan Sklar, John McGuinn and Bob Meyers, led

admirably by David Hendrick.

Proceeding upon the hypotheses of my favorite axiom that "history is a lie agreed upon", I hereby invite all, except those whose memory runneth to the contrary, to record my College presidential year as follows:

At this second annual meeting there were only four standing program committees reporting - the ones for ADR, Documents, Legislative matters and Education/Liaison. The Construction Systems Committee and Committee on Committees had no reports.

The spouses/guest program featured visits to the Desert Botanical Garden and the Heard Museum.

At a meeting of the Board of Governors in mid-November 1991 in San Francisco, I mailed a memo to Board Members and Officers deploring the fact that only a bare quorum of 12 members attended and half of these in attendance left before we were able to conclude our meeting agenda. Thereafter Board Meeting attendance did improve.

In mid-December 1991, future College President, Carl M. Sapers, always wise, direct and emphatic, emphasized the importance of Board Meeting attendance by writing to me, "It is simply unfair, in light of those of us who make a special trip to those Board Meetings, to have these Board Meetings truncated. . . . (I)t seems to me evident that we have a full day's work at a Board Meeting, particularly taking into account committee reports."

NEW MEMBER NOMINATIONS

In early December 1991, James J. Myers prepared and circulated an invaluable outline of College Membership Guidelines and Procedures together with a Time Schedule and forms for Nomination of Proposed New Members.

COLLEGE ADMINISTRATIVE STAFF

A letter from Bob Smith to Steven G. M. Stein dated December 20, 1991 reported the impending departure of College Administrator, Valerie Dolasin.

ACCL HARD HATS

ACCL Hard Hats with ACCL logo offered for sale at \$25.00 each, with Fellow's name on the back. This was an idea suggested by Stan Sklar as a way for members to advertise the ACCL when they visited construction sites.

ACCL AD HOC LIAISON COMMITTEE

In a letter to this Committee dated January 13, 1992, Stan Sklar reminded Committee Members of a Board decision to establish criteria as to the principal conditions and limitations of associates of the College with other organizations. Stan listed the following five questions for consideration:

1. Is it more important for us to affiliate with a group or is it more important to the group to have our name associated with the group?

2. Do we want to have a formal affiliation or can we poll our members for their memberships and use that connection as an "informal" affiliation?
3. What prestigious groups do we want to be affiliated with?
4. Do we want to have a representative of the College attend meetings of the group or is mailed information sufficient?
5. What criteria should be used?
 - A. National organization
 - B. Educational programs presented
 - C. Industry wide v. specific constituency represented
 - D. Financial commitment to affiliate
 - E. Time commitment to affiliate
 - F. Use of our membership list

By mid-January 1992 the College Board had named and appointed chairs and members for all administrators and special committees. Policy for Endorsement Sponsorship and Participation. At the Board Meeting held at Boca Raton Resort and Club on February 21, 1992, the Board considered and discussed a policy for endorsement, sponsorship and participation in seminars and programs on construction law and related topics.

PROPOSAL FOR SPECIAL PANEL FOR COMPLEX CONSTRUCTION CASES

In a letter to Michael Hoellering, Esq., General Counsel and Vice President of the American Arbitration Association, Carl Sapers made the following prophetic prediction about the prospects for the College's proposal to offer the expertise of ACCL members as arbitrators on a special panel for large and complex cases:

"The enclosed article suggests that the NCDRC takes a rather dim view of the efforts of the American College of Construction Lawyers. If the paragraph in the third column is correct in substance and flavor, perhaps we are "batting our heads against a brick wall." I would appreciate your candid evaluation of the situation.

As I noted in my last letter to you, the annual meeting of the ACCL will be held in the third week of February. If a cooperative effort with the AAA is to be of little avail, I think we should think about other possible affiliations."

As recently as the meeting of the College at Coral Gables, Florida on February 24, 2004, speaking at a meeting on Alternative Dispute Resolution, I recall Carl Sapers expressing the view that after more than ten years of trying to persuade the AAA to establish a special panel of College members to arbitrate large and complex construction cases, he had concluded that such efforts by the College had proven to be futile.

MY PERSONAL TRIBUTE TO OVERTON

At the Second Annual Meeting when I followed Overton as our founding president, I tried to pay adequate tribute to him and to his brilliant career. Perhaps fortunately, I have preserved

no record of my remarks. Lacking that text, I quote below from my letter of condolence to Overton's lovely and gracious wife, Lavona.

"March 2, 2005

Dear Lavona,

It was dramatically appropriate that we learned of Overton's passing at the final formal dinner of The American College of Construction Lawyers' 16th Annual Meeting in Tucson, Arizona. He was, appropriately, our Founding First President.

There are no words adequate for us to express our sympathy and sorrow for you and your children and grandchildren at this sad time.

You have bravely and graciously endured so much. Thankfully the long, difficult vigil is over and Overton is at peace with his God. Assuredly Overton has earned the place we all wish for him and for you and yours.



B.C. Hart and Overton Currie

I won't say prayers for Overton. His dedication and service to God and to many others position him far above my poor powers to communicate on his behalf. I choose instead to invite you, all of your children and grandchildren, as well as his multitude of friends and admirers to join me in celebrating his many-faceted illustrious life.

As a husband, father, grandfather, scholar, lawyer, lecturer, minister, professor, author and prominent citizen, Overton has had few peers. He has become an icon, a model,

a mentor and a beloved friend. I shall always cherish my long friendship with Overton, with you and with all that you have meant to me.

Jean and I, as well as Overton's multitude of friends and admirers, wish to thank you for sharing this magnificent man with us.

With great sympathy!

Clarence & Jean"

It is inadequate but it does convey my own personal feelings and admiration for our first president.



A The "Presidential Medallion" - Front Row: Jim Myers, B.C. Hart; Back Row: Greg Hummel, Stan Sklar **B** B.C. and Jean Hart (1994) **C** Bob Meyers and B.C. Hart

(C) THE "THIRD YEAR" 1992-1993 (INCLUDING 1993 ANNUAL MEETING)

PRESIDENT: JAMES J. MYERS, BOSTON, MASSACHUSETTS

Shifting into its third year, the College moves forward in Fellowship, in industry give back, and in consolidating a firm base for the future.

The College thrived in its infancy in the first two years under the wise and colorful leadership of Overton Currie and B.C. Hart and many other hard working fellows. The Fellows were steeped in fellowship and excited about their new organization and colleagues and its enormous potential in years to come. By February of 1992, the College was entering its adolescent period. The basic organization had been established and questions as to consolidating our gains and looking ahead dominated College thinking. Jim Myers was elected third President of the College at the annual meeting in February 1992. There was much to be done and many directions to be identified and implemented. While a fledgling organization, the College was becoming recognized in both legal and construction circles as the finest collection of construction lawyers in America, and perhaps in the world.

The interaction and mission of the College with construction industry organizations and the future course of the College itself were still being debated and addressed. The other Elected Officers for the year were Carl Sapers, President Elect; Barry Grove, Secretary; and Greg Hummel, Treasurer. Bob Rubin and Bob Smith were appointed as co-chairs for the 1993 annual meeting.

The new President, Jim Myers, was installed on February 22, 1993. The Nominating Committee was Overton Currie as chair, and Bob Meyers and Jerry Reiss. The College at this point had 70 fellows, 7 new fellows, and 1 resignation (Milton Lunch).

Substantive Committees and Task Groups were continued, revised and created under new leadership as follows:

Alternative Dispute Resolution Committee

Chair: Carl M. Sapers / *Vice Chair:* James P. Groton

Documents Committee

Chair: Laurence Schor / *Vice Chair:* Mary J. McElroy

Construction Systems Committee

Chair: Robert A. Rubin

Legislative Committee

Chair: Arthur T. Kornblut / *Vice Chair:* R. James Diepenbrock

Shop Drawings Task Force

Chair: Kenneth M. Cushman / *Vice Chair:* Stanley P. Sklar

Education/Liaison Committee

Chair: Michael S. Simon / *Vice Chair:* Betty L. Hum

Membership Committee

Chair: Carl M. Sapers

Long Range Planning Committee

Chair: James J. Myers

Finance Committee

Chair: Gregory W. Hummel

Executive Committee

Chair: B. C. Hart

Annual Meeting Arrangements

Chair: Robert J. Smith

Annual Meeting Program

Chair: Robert A. Rubin

Hot Tips Program

Chair: Joseph A. McManus, Jr.

Cultural and Historical Committee

Chair: and Entertainer Robert L. Meyers, III

Following up on the College's Session on shop drawing responsibility at the last Annual Meeting, and in coordination with the American Society of Civil Engineers (ASCE), the ASCE Committee on Quality in the Civil Engineering Profession held a meeting at the Ritz Carleton, Rancho Mirage immediately following the College meeting. The College supported and endorsed the ASCE meeting concerning responsibility for design drawings. A number of College fellows attended and assumed leadership positions, principally Bob Rubin and Bob Smith, both being graduate civil engineers and lawyers and active in both organizations.

The College was still developing a protocol for inviting speakers to our annual meeting and compensating or reimbursing them. At the new Board of Governors meeting on February 23, 1992, in addition to committee reports, major matters considered and decided were the number and reimbursement of non-college speakers at the next annual meeting, and the preparation of guidelines for college endorsement and sponsorship of other organizations and events.

After the Annual Meeting in February of 1992, the next meeting of the Board of Governors

was convened at Thelen Marin in San Francisco on August 9, 1992. All the planning, efforts, committee activities and reports and final and administrative business were presented and discussed. Thelen Marin was a wonderful host and the Fellows and spouses enjoyed a fine dinner in beautiful San Francisco.

We were just beginning to develop our criteria and procedures for nominations of honorary fellows, and the discussion at the meeting helped to advance our ideas. Newly inducted President Jim Myers reported on his developing plans for the next annual meeting at the Ritz-Carlton Hotel at Rancho Mirage, California. Our Treasurer, Greg Hummel, reported on the continuing financial solvency of the College and the Board discussed and decided the setting of dues and fees for the next year. In our usual collegial style, the Board members and spouses and friends enjoyed a lovely dinner together in San Francisco.

The next meeting of the Board of Governors was a “fly-in meeting” on November 14, 1992 at the Hilton Hotel at the O’Hare Airport in Chicago. To avoid confusion, the “Nominating Committee” became the “Officers and Governors Nominating Committee,” and the composition of the committee was modified. As was each year in the history of the College, 1992 was a busy and productive year for the young College. College parliamentarian David Hendrick undertook to straighten out all the bylaws, appointments, committees, ad hoc activities and the evolving general administration of the College. The College had still not settled on a permanent administrator, but the search continued. In the absence of a permanent college administrator, Susan Stein graciously agreed to act as College Administrator for up to twelve months, while a permanent arrangement for an administrator was sought.

As the College was becoming known throughout the legal and construction communities, the College received numerous inquiries about the College from lawyers and construction industry people. We would, of course, reply to these inquiries, but because different Fellows were sending replies, the description and information were not always uniform. Accordingly, we launched a drafting project whereby one uniform statement of what the College was and what it stood for. An acceptable uniform description of the College, its goals and principles was prepared and approved for use in replying to correspondence.

The College also received many inquiries of lawyers wanting to join the College. In these instances, we explained our criteria and nomination process – it is not an organization you can “join” – it is an honorary institute that requires that at least one of our Fellows to vouch for a potential Fellow’s qualifications with two seconds. A uniform written response to all interested inquiring lawyers was also proposed and approved.

After the annual meeting in California, the College felt a need to clarify the difficult area of engineering responsibility for shop drawings. At our 1992 annual meeting, and the back-to-back ASCE meeting, several distinguished engineers spoke on shop drawing responsibility, offered suggested solutions and generally examined the subject. A report on the proceedings at Rancho Mirage was generated and then discussed by the Officers and Board. A National Shop Drawing Symposium was proposed which would be led by ACCL and include American Society of Civil Engineers, American Institute of Architects, American Institute of Steel Construction, and the Alliance for Construction Excellence. The conference

was to be held under the auspices of a national engineering school.

After consideration of a number of universities, the Committee selected both MIT and Georgia Tech as possible host university. After comparing the two possible choices, Georgia Tech was selected as host university. This National Symposium was a Herculean effort. David Hendrick took the lead role for the College and devoted many hundreds of hours to organizing and preparing for the National Shop Drawing Symposium. David was the key College fellow in organizing and bringing to fruition what came to be known as the National Symposium on Shop Drawings and Technical Submittals. The Symposium was ultimately presented on September 30 and October 1, 1993 at Georgia Tech in Atlanta. Lead by ACCL and supported by engineering and construction organizations, the Symposium did much to clarify and define responsibility in this heretofore murky area of construction law.

In fact, the shop drawing responsibility problem was so prevalent that one of our Fellows, Robert Rubin, commenced an action to challenge and clarify a policy memo from the N.Y. Education Department concerning the unlawful delegation of design responsibility.

The Ad Hoc Liaison Committee with Other Organizations, chaired by Stanley Sklar, was tasked with continuing to define the College's relationship with other organizations, to establish liaison with other construction industry organizations and develop criteria for endorsement/sponsorship of conferences, seminars, studies, and publications.

As the College became more and more well known nationally, and gained in prestige, requests that the College endorse various legal and engineering and construction conferences, such as the National Site Safety Conference, increased rapidly. After investigation of the contents and the quality of this program, the College endorsed the National Site Safety Conference. The need for the College to establish criteria for sponsorships or endorsements increased accordingly. Again, our Education Committee Chair Michael Simon marshaled his forces and the Committee submitted proposed draft guidelines for sponsorships or endorsements which the College ultimately adopted.

Many of the College Fellows were active advocates and arbitrators in construction arbitration under the auspices of the American Arbitration Association (AAA). AAA officials were aware that College Fellows were the finest group in the construction law field. The College had established what became a continuing special liaison with the American Arbitration Association. Discussions with AAA led to a proposal by AAA for a pilot arrangement whereby the College would provide AAA with a list of its Fellows willing to undertake to serve as special arbitrators, and AAA would put their names forward in especially large complex construction arbitrations. The pilot program with AAA was then launched.

College President, Jim Myers was elected to the Board of Directors of the American Arbitration Association, strengthening college ties with AAA. He and several other College Fellows went on to serve on the AAA's National Construction Dispute Resolution Committee (NCDRC).

The College was beginning to blossom and reach out to construction lawyers in other countries. In April and May of 1992, a delegation from the College consisting of Messrs.

Currie, Hummel, Sklar, Stein, Meyers, Rubin and wives traveled to London, Warsaw and Prague, arranging meetings with construction lawyers and construction-related organizations in each city, at which construction practices and problems were discussed.

President Jim Myers led discussions at the Board meetings in 1992 to address the lack of Fellows from 22 states. Everyone felt that the College must be a truly national association. In our third year, the College membership included Fellows from 28 of the 50 states. This was in itself a significant achievement. However, new nominations for fellowship seemed to be focusing on those 28 states and few, if any, nominations came from the 22 "unrepresented" states. Accordingly, a long-term effort was made to identify qualified fellow candidates from the unrepresented states and propose them for fellowship. The Past Presidents Committee undertook to seek out qualified candidates in the 22 unrepresented states and propose them for membership.

An important Bylaws change was made whereby each Fellow's nomination was limited to only one candidate for membership each year, (not applicable to Honorary Fellows).

The Education/Liaison Committee chaired by Mike Simon took responsibility for making education credits available for College fellows from states requiring CLE credits. An investigation of CLE credits for educational programs at College functions, accreditation of College educational programs, and the availability of CLE credits to our Fellows ensued. A procedure for assuring these credits was implemented. In a similar vein, College presence at the American Counsel for Construction Education meetings began.

Under the leadership of Bob Rubin, Chair of the Construction Systems Committee, the College established a liaison with the Building Futures Council (BFC), a multi-disciplined "think tank" of construction professionals from all phases of the industry. Through a joint task force, the College and BFC undertook to study contracting alternatives to the traditional lump sum competitive bid, such as design-build or privatization in the public sector. The task force work was ongoing, but a preliminary conclusion indicated that restrictive state procurement laws and practices were the greatest barrier to use of alternate construction methods on public projects.

Rapidly growing in popularity and use as a dispute resolution method in construction were Dispute Review Boards. The Private Dispute Resolution Committee (PDR) led by the venerable Jim Groton held a meeting at Thelen, Marin in New York City in November 1992 inviting all Fellows, and conducted an in-depth discussion of Dispute Review Boards, procedures, techniques, and the proposed AAA's NCDRC draft Dispute Review Board Rules, as well as the ASCE procedures and new proposed American Arbitration Association Dispute Review Board procedures. Valuable insights into the formation, operation and usefulness of such boards were gained by all participants. During the same meeting in New York, the Committee reviewed the pilot program whereby College Fellows served on a special list of arbitrators for large, complex AAA Construction arbitrations and discussed the program with AAA officers in conjunction with the American Arbitration Association, the Committee also conducted an advanced mediation training session for fellows attending.

The Fourth Annual Meeting in 1993 took place on February 19-21, at the beautiful white

marble Ritz-Carleton Hotel at Rancho Mirage, California. Fifty nine Fellows attended the meeting. The focal points of our meeting were on three important state-of-the-art plenary programs, our traditional "Hot Tips" session and, of course, the important Committee meetings.

Because of the skyrocketing popularity of mediation as a dispute resolution technique in construction litigation and arbitration, the College invited Eric Green, President of Endispute, a professional mediator and law professor, to conduct an advanced mediation workshop, incorporating techniques for breaking deadlocks. Eric conducted an animated and useful session, bringing the Fellows up to date on the state-of-the-art of mediation in construction disputes.

Next, the increasing use of graphics in courts and in arbitration led to the College program demonstrating state-of-the-art animated graphics for use in construction litigation and arbitration. Larry Anderson, Senior Managing Engineer of Failure Analysis Associates Inc. conducted the demonstration, which was useful to the Fellows as construction lawyers as well as highly entertaining.

Lastly, Program Chairman Jim Wulfsberg chaired an interesting session offering the insider's view of "What Every Lawyer Should Know About Construction Insurance." Guest speakers in the program were: Robert Siegfried, Vice President of Sedgwick James Insurance; William Carrick, President of Omni Insurance; Donald Preston, President of Health Professional Liability Insurance; and Phillip Barry, Alexander and Alexander.

Joe McManus was in charge of the annual "hot tips" program. Joe worked diligently to expand the number and quality of the hot tips throughout 1992. Joe's efforts and organization elevated the fledgling hot tips program to new levels of Fellow participation and valuable information.

And, of course, we had our traditional Saturday afternoon break for our golf and tennis tournaments, followed by a cocktail reception and black tie dinner at which we inducted our new fellows, and new President.

With this meeting, at our formal dinner on Saturday evening February 20, 1993, Jim Myers' term as President ended, and the traditional gavel was passed to Carl Sapers.



A Joe McManus, B.C. Hart, Bob Rubin, Jim Myers, and Stan Sklar (2000) **B** Susanna Foder, Jim Myers, and Libby Meyers (1994) **C** Carl Sapers, Joe Canterbury, Jim Myers, Hugh Reynolds, and Ken Cushman (1994)

(D) THE "FOURTH YEAR" 1993-1994 (INCLUDING 1994 ANNUAL MEETING)

PRESIDENT: CARL M. SAPERS, BOSTON, MASSACHUSETTS

The year of my presidency began inauspiciously at Rancho Mirage, California. For reasons clouded over by the passage of time, the center piece of the Rancho Mirage annual meeting, "What Every Construction Lawyer Should Know About Construction Insurance," ended up a mess of broken shards. The fellow who was to coordinate couldn't make the meeting; his distinguished list of insurance executives never showed up; and I, with the help of a few other shameless fellows, attempted to salvage a program on a subject about which I knew very little.

My inept efforts should have aborted my promotion to the presidency, but the train was moving, I was aboard, and no one dared to stop the forward motion.

After our election, the new Board of Governors told the annual meeting that it intended over the ensuing year to encourage contacts with construction lawyers in other countries. It would institute a spring planning meeting and it would undertake a comprehensive bylaws review.

At the annual meeting one fellow complained that our choice of hotels in the three hundred dollar a night range was excessive and she asked that we plan to locate future meetings at sites less extravagant than the Ritz Carleton chain. (There were more than a few complaints about our treatment at the hands of the Ritz Rancho Mirage and the Fellows complaint resonated among Board members.)

At our first Board meeting a committee was appointed to invite distinguished foreign construction lawyers to the 1994 Annual Meeting; another committee was charged to bring back recommendations for improving the College bylaws; and another committee was to develop a plan to reach out to find members in states without current representation.

In response to the request that we find less expensive annual meeting sites, we were able to book the Arizona Biltmore for an average room price of \$225 for 1995 and the Stouffer Vinoy in St. Petersburg, Florida for 1996 at an average price of \$210 per room, proving, if the matter was in doubt, that construction lawyers retained keen negotiation skills.

An executive committee/planning meeting was held in Chicago at the end of March which gave us a head start on the year ahead. By that time the initiatives described at the 1993 Annual Meeting were energetically underway: the standing committees were scheduling mid-year meetings with a modest subvention from our treasury and Dave Hendrick was working with Georgia Tech to develop a symposium to explore issues arising from the delegation of design responsibility. Mind the Kansas City disaster was fresh in our minds and this was a great unexplored frontier in the industry.

Susan Stein, who had shepherded the College from her home in Chicago, indicated that 1993-1994 would be her last year as our administrator. We were grateful for Susan's service, but saw her decision as an opportunity to put the College on a firmer footing for the future. We decided to interview several firms in the Washington, D.C. area which offered administrative service to non-profits and chose Resources for Group Management. At the same time we engaged an independent accounting firm, Stokes & Company of Washington, to give our financial statements an annual review. Susan and Marianne McDermott of RGM worked closely during the transition and it was nearly seamless.

We held the usual two mid year Board meetings and many in leadership positions in the College played significant roles in the October Georgia Tech symposium. In fact most of the useful planning and organizing was done by our fellows. Significantly, all the elements of the building industry participated in the symposium. It was generally acclaimed as a serious and probing inquiry into the way elements of structures were designed and how responsibility should be allocated.

The 1994 Annual Meeting was scheduled for Naples, Florida in the third week of February. Nearly all of the objectives set out at the beginning of the year had been achieved. Judge Humphrey Lloyd of the United Kingdom and Kaori Kashiwagi, Esquire, of Japan prepared thoughtful and penetrating papers on the practice of construction law overseas. The College was launched on a new international course.

The College by laws were revised and simplified. In particular the secretary and the treasurer would each be elected for two year staggered terms with the probability that, upon completion of the two years, the incumbent would advance to President-elect.

While symbols and trappings may seem unimportant, it was noteworthy that the College, having stabilized its governance and administration, could now deal with these less important matters. A descriptive motto, "Friend of the Project" was added to our letterhead and we adopted a President's medal as a modest reward for those who undertook to lead the College.

In addition to Messrs Kashiwagi and Lloyd, the great teacher and practitioner of structural engineering, Mario Salvadori presented a witty and instructive paper at the Annual Meeting. On Saturday a group of fellows presented their ideas on a rational allocation of responsibility in the construction process. There was not unanimous agreement on many of the points raised in that session, but I think that everyone left the meeting believing that an allocation in which the stronger party burdened a weaker party with inappropriate responsibility was the wrong direction.

When my friend Stan Sklar fastened my President's medal around my neck at the banquet on Saturday night, I could not help but reflect that we had all had a very successful year, the College had been strengthened and had taken great steps forward.



A Jim Groton, Carl Sapers, and John McGuinn (1992) **B** Jeanne Forneris and Carl Sapers (1994)
C Overton Currie, Jim Myers, B.C. Hart, and Carl Sapers (1993)

(E) THE "FIFTH YEAR" 1994-1995 (INCLUDING 1995 ANNUAL MEETING)

PRESIDENT: STANLEY P. SKLAR, CHICAGO, ILLINOIS

My year as President started with a detailed set of instructions from Carl Sapers, my predecessor suggesting the format for the Saturday night induction of new Fellows. This protocol began under the aegis of Jim Myers who has given our first President, Overton a set of instructions which Overton, Bless his soul, proceeded to totally ignore and we had our first ad hoc induction ceremony. By the time I was to be installed as President a clear procedure had been established with Carl, ever the planner, ending by stating that "At the end of the induction ceremony, I then turn the gavel over to you. You should then bestow upon me my President's medal." However, Carl never did tell me which hand to use to accept the gavel and which to use to present him with the President's medal.

Joe Canterbury was appointed Secretary since Greg Hummel could not make the meeting and Joe took the minutes of the Board of Governors meeting which was transcribed in his best Texican. There was some discussion of the Fifth Annual Meeting, and a report from Bob Smith, the Treasurer that we were in "good shape." There was some discussion about converting from a cash basis to an accrual basis which only served to confuse and confound the Board, so we remained on a cash basis.

Bob Meyers Nominating Committee presented the proposed slate of officers, with me ascending to the office of President, Greg Hummel the President Elect, Bob Smith the Treasurer and David Hendrick as Secretary.

I presented a proposal to consider a relationship with Shepards/McGraw Hill concerning publication of the proceedings of our Annual Meeting. Thus began an ongoing effort on my part to establish such a relationship which to this day remains unfulfilled. Similarly, the late but great entrepreneur Bob Cushman approached ACCL to consider a more formal relationship with the Annual Superconferences, which to this day also remains unfulfilled even though many of our Fellows are active participants in the conference.

On February 20, 1994 Carl presided over the Business Meeting and the first order of business was to correct the minutes of the 1993 Business Meeting to indicate that my son, Steve was incorrectly listed as President-Elect and Howard Goldberg not Larry Goldberg was nominated to the Board of Governors. He announced that the 1995 Annual Meeting would be held at the Biltmore Hotel in Phoenix, Arizona.

Changes to the By Laws including formalizing the requirement that there be 4 meetings of the Board of Governors annually, that Fellows may nominate only one individual per year but there would be no restriction for seconding nominees.

This also marked the beginning of the annual Sklar/Schor debate about limiting the

number of inductees per year and the eventual size of membership of the College. Board then agreed to a "modified cap of not less than 5 or more than 10 lawyers be accepted into membership each year."

Jim Groton reported on behalf of the Dispute Resolution Committee that the AAA has established a Blue Ribbon Panel with 24 Fellows on the panel to deal with this experimental program. Larry Schor and Howard Goldberg reported on behalf of the Documents Committee regarding the ongoing revisions to the AIA A201 General Conditions which are expected to be issued in 1997. Mike Simon reported on behalf of the Education Committee about the disappointing responses from various colleges across the country who had been contacted about having Fellows speak to their students about issues relating to construction law. Bob Rubin reported on behalf of the Construction Systems Committee and their ongoing efforts to coordinate with the Building Futures Council study relating to procurement regulations through out the United States.

It was also at this meeting that a Historian was being considered for the College.

Following the Business Meeting, I presided, having accepted the gavel from Carl with the correct hand. It was generally agreed that the 1994 Annual Meeting was a "great success" but that for future meetings a formal attendance list with spouse or guests be prepared. First Timers would have a colored name badge identifying themselves, continue the practice of special programming for spouses and guests and that the President's Reception to honor new Fellows be continued. Unfortunately the suggestion that we invite "leaders from organizations in other areas of construction law" has not fulfilled its expectations. The discussion about Honorary Fellows concluded that foreign speakers should not automatically be given such status.

We once again reviewed participation in the Superconference and declined a more formal role. We memorialized our motto "Friend of the Project" so that it would appear on our stationary. There was some discussion about having mid year meetings of the Committees and inviting Committee Chairs to the Board meetings held at that time. Regrettably this process has never realized its potential.

On March 4, 1994 I "drafted" Bob Rubin, Jim Myers, Bob Meyers and Chris Noble to assist in the preparation for the 1995 Keynote program. It was entitled, Project Delivery Systems – A Bird's Eye View of the Year 2000 and beyond." I then "drafted" the late Ken Cushman to organize a session entitled, "Windows to World Construction, Part II – What's New in the Western Hemisphere."

On August 4, 1994 we had a Board of Governors Meeting at the Plimsoll Club in New Orleans. The proposed program for the 1995 was reviewed.

The topics were Emerging Trends in Project Safety (Abramowitz), Windows on the World of Construction – Canada and Mexico (Ken Cushman), Project Delivery Systems (Rubin, Myers, Meyers and Noble), Hot Tips (McManus).

The Membership Committee reported that there were 16 candidates and 9 were nominated for membership. Betty Hum was appointed Chair of the Task Force on Women and Minority Issues in Construction. Jim Myers reported on the Task Force on Certification of Construction

Specialization.

The Board of Governors Meeting on November 13, 1994 was held in conjunction with the Superconference in San Francisco. At this meeting a proposal for amending the By Laws was presented establishing the "15 year requirement" for membership and to provide for suspension of Fellows who fail to participate in the annual meetings for an extended period of time. Greg Hummel, Chair of the Nominating Committee reported that 8 nominees were provisionally elected to Fellowship. They were Howard Ashcraft, Harvey Koch, Tim O'Brien, Leslie King O'Neal, Steve Phillips, Dave Ratterman and Jim Scott.

There was an extensive discussion about "re-invigorating" the Committee structure, which continues to this day. There were reports from Ron Martell on behalf of the Private Dispute Resolution Committee and its ongoing efforts with the American Arbitration Association, Betty Hum on behalf of the Task Force on Women/Minority Issues, Jim Myers on behalf of the Task Force on Certification and Stan Sklar on behalf of the Ad Hoc Study Committee on Standing Committees.

Finally it was reported that the Annual Meeting, our Sixth Year was progressing well and we all looked forward to the meeting at the Arizona Biltmore. Jim Myers was coordinating speakers for the Project Delivery portion and had received commitments from Henry Michel, Chairman of Parsons Brinckerhoff, Major General Charles Williams of the Toll Road Investors Partnership and Mitchell Becker, General Counsel for United Infrastructures, Inc.

On January 7, 1995, the Officers and Governors Nominating Committee reported the following slate:

President Elect: David R. Hendrick

Secretary: Joseph A. McManus, Jr.

Board of Governors: James P. Groton
Mary J. McElroy
Steven G. M. Stein
J. Bert Grandoff

On February 17, 1995 the Sixth Annual Meeting commenced with a series of snafus on the part of the Arizona Biltmore. Among the snafus was their failure to have a Presidential Suite for me and poor Bob Smith who arrived late at night was put in a room with bed that was several inches short so his feet hung over. But being in construction we were used to such unforeseen conditions and inadequate site conditions and as such we moved on to have an excellent meeting. Henry Michel regaled the Fellows with his perceptive and thought provoking comments about the future of construction and submitted a paper entitled "Pointing to the Year 2000." Major General Williams discussed the future of public transportation and private initiatives. Jumping ahead to 2006, his comments were most perceptive given the recent long term lease of the Chicago Skyway to a private group and the ongoing discussions for a similar program for the Indiana Tollways. Joe Canterbury did an

excellent presentation of a topic that most of us thought we knew – Conventional Delivery Systems, but Joe made us think carefully about the future of conventional delivery systems. Susanna Fodor discussed the Design Build Delivery System which seemed to be taking hold for future projects and Bob Wallick revisited Construction Management. As noted, Henry Michel and Major General Williams took the helm for their session on Pointing to the Year 2000. They were followed by Bob Rubin on enhancing all forms of delivery systems by the use of Partnering, TQM and ADR. Chris Noble discussed greater integration between designers and contractors, with Mitch Becker discussing build to own/operate/transfer and public private partnerships. Luther Cochrane concluded with a discussion of modernizing the conventional delivery systems.

At the Induction Dinner, I was pleased to pass the Presidential gavel to the second member of the Chicago Trio as the incoming President. I do recall when thanking all of the speakers, Larry Schor was frantically waving to me since I had “missed” General Williams but thanks to Larry, the oversight was quickly corrected and the new Fellows were formally inducted. It should be noted that Greg had been suitably briefed so there was no need for the formal protocol which Carl had prepared for me.

On February 19, I presided over the business meeting as my last order of business as President. My President's Report can be summed up with my first comment “The organization was healthy and earning respect in the industry.” Amendments to the By Laws regarding participation in the annual meetings were presented and approved. Bob Smith gave his customary “we are in good shape” financial report and Dave Hendrick was approved as President Elect, Joe McManus as Secretary and Bob Smith as Treasurer. Jim Groton, Mary McElroy, Steve Stein and Bert Grandoff were elected to a 3 year term as members of the Board of Governors. The Documents Committee under Howard Goldberg reported on the A201 revision process, Construction Systems under Bob Rubin reported on its activities to create a model procurement code and the Private Dispute Resolution Committee under Ron Martell reported on its AAA liaison activities. The business meeting concluded and I then became the newest member of the Past Presidents Council with President Hummel wielding the gavel at the Board of Governors meeting immediately following.



A Stan Sklar, B.C. Hart, and Marvin Fabyanske **B** Stan Sklar, Betty Hum, Jim Groton, and Carl Sapers (1992) **C** Stan Sklar, Murray Wright, Steve Stein, Alan Harris, Jerry Reiss, and Greg Hummel **D** Sandy and Stan Sklar, Liz and Jim Myers (1994)

(F) THE “SIXTH YEAR” 1995-1996
(INCLUDING 1996 ANNUAL MEETING)

PRESIDENT: GREGORY W. HUMMEL, CHICAGO, ILLINOIS

My year began at the Biltmore in Scottsdale, Arizona. A year as President of ACCL really kicks off at the Board meeting following the annual meeting of the Fellows on Sunday morning of that particular weekend. At this Board meeting, I presided over our College for the first time. It was a humbling moment. I had succeeded my close friend, Stan Sklar. Stan's piece, "In the Beginning," captures well the origins of the College. I was now entrusted with the leadership of an institution I had helped found. And, in its sixth year, I had the privilege of leading a College well launched by industry giants.

I suggested to the Board that a strategic planning session might help us take stock of our relatively short past and more importantly assist us in planning for our future. Our College had formally existed for six full years. Moreover, it had germinated for over ten years since that weekend in Tucson, when a team from the American Bar Association Real Property, Probate and Trust Law Section held a retreat at the Registry in January 1987 to plan for the National Institute on "New Forms-New Realities: The 1987 AIA Document Revisions." (Again, Stan Sklar's "In the Beginning" tells the story of that weekend well.) My thought in calling for a strategic planning session in the Spring of 1995 was to recreate some of the energy of that weekend long ago, but do so in the context of what work our College might next undertake.

The Board took up my suggestion and we agreed to meet in Boston on April 22, 1995. Reviewing the briefing book for the Strategic Planning weekend was instructive in compiling this remembrance. A few deserve mention, here. First, we discussed the mission and purpose of the College. Jim Groton shared his wonderful notes from the College's early years (1989, 1990 and 1991) in our briefing book. They captured our essence and define us still. So, we reaffirmed the tenets on which we were founded – the highest professional and ethical standards, service to the construction industry in particular and society at large, research and education and promotion of dialogue by and among the many constituencies represented in the construction industry. Second, we explored the idea of outreach. This idea spawned efforts in the international arena and also in the study of project delivery systems and the appropriateness of a project counsel role for construction lawyers. Third, we discussed the possibility of affiliating with a major academic institution. The effort to make such an affiliation was led by Carl Sapers. Although it did not take root in a particular institution, the efforts Carl and others expended reinforced two key characteristics of the College, unrelenting pursuit of excellence and scholarship. As I write today, I am, again, struck by the way we got it right at the founding, at six years out, and now 16 years out. My year swept

forward with Board meetings in August in Chicago and in December in San Francisco. The 1996 annual meeting occurred in St. Petersburg at the Renaissance Vinoy. I reproduce here part of my Annual Report as president of the College:

"The seventh year of the College started in earnest with a strategic planning session in Boston in April, 1995. There, we assembled the officers and most of the Board of Governors for a day-long session of taking stock -- where we have been and where we want to go. We tried to take the long view in our planning. We found our reflections on the founding purposes of the College instructive. In our Bylaws, the purposes are listed as:

- A. providing a forum among its members for exchange of views and ideas regarding construction law;
- B. developing and synthesizing opinions and analyses on subjects of importance to the practice of construction law;
- C. creating a body of professional and scholarly published materials dealing with construction law;
- D. providing educational programs and resources for its members and other professionals involved in the construction industry;
- E. encouraging dialogue between the College and other professional and industry groups serving the construction industry;
- F. promoting the highest standards of professional and ethical responsibility among those practicing construction law;
- G. exploring and developing alternative methods of reasonably and efficiently resolving construction industry disputes and controversies; and
- H. communicating with legislative, administrative, regulatory and other government agencies and bodies on subjects of interest and importance to the practice of construction law and to the construction industry.

As we discussed our purposes, we drew certain conclusions:

- The College is on a firm footing -- today, 95 members strong. The original vision of ACCL as a group where egos could be checked at the door and all could contribute as peers in an environment conducive to intellectual stimulation, professional advancement and genuine collegiality has been delivered.
- The ACCL leadership is committed and we note with great thanks the continuing efforts of our past presidents -- several of whom remain as active as they were during their tenure as President. The Board members also have a record of regular meeting attendance and contribution. The fragile momentum of our early years has been replaced by a steady flow of activities.
- The Boston strategic planning retreat was intended to take stock and consider what we might want to do differently in the future. Consensus did emerge that we should not try to fix what is not broken. Our annual meeting formula was affirmed. The nature and extent of our committees was for the most part affirmed. Two committees, legislation and education, were sunsetted. Their content was absorbed in a new initiative -- the public outreach task force. One of ACCL's former presidents, Carl

Sapers, took charge of that initiative. Its focus has been to explore the formation of a strategic alliance with a major university. Among other things, that alliance would permit the College to:

- ~ have the centerpiece program at our Annual Meeting be made available in another venue;
- ~ consider joint research projects;
- ~ consider jointly sponsored juried publication or articles;
- ~ have meetings on neutral ground with other industry representatives.

We will devote some of our annual business meeting to a discussion of our public outreach initiative.

Our substantive Committees have been busy this year too. One of my specific goals has been to integrate the leadership of the College so it can operate as a team and thereby enable as seamless as possible a transition from one year to the next. To that end, your officers have met, by conference call, between Board meetings, and individual officers have picked up specific functions.

- Stan Sklar and his nominating committee have presented us with an outstanding slate of new officers and governors.
- David Hendrick and his membership committee oversaw the arduous process of culling through candidates for membership and have presented us with seven distinguished new Fellows. David has also helped me on many matters including committee membership and organization. He will make an outstanding President.
- In addition to serving as our Secretary, Joe McManus has led the effort to consolidate and reorganize the Hot Tips portion of the Annual Meeting. For 1996, thirty-seven Hot Tips have already been submitted. I think you will enjoy this year's presentation of this ever-popular program.
- Bob Smith has studied the finances of the College and prepared a long-range financial plan. With our 1996 dues increase and tighter annual meeting expense controls, we should be set on a solid financial footing for the coming years, as a result of Bob's excellent work.
- John McGuinn and several Fellows have prepared an outstanding annual meeting program that builds on last year's successful program, is cutting-edge, and invites dialogue.
- Howard Goldberg has led the Documents Committee in a stand-alone meeting attended by 25 participants -- 21 Fellows and four representatives from the AIA Documents Committee charged with the revision of A201. Through Howard's efforts, ACCL now has a seat at the table where this critical drafting process occurs.
- Jim Groton continues the good work of his predecessors at the rudder of the PDR Committee. Jim held two stand-alone meetings and has extended the dialogue with AAA, Construction Industry Institute and the Federal Judiciary. You will hear more about these initiatives at the Annual Meeting.
- Nick Gaede and Ken Cushman have begun the work of organizing our International

Committee and we expect that committee to be busy with a series of projects in the coming year.

- Your other governors have been busy with a series of tasks. Special commendation is owed to our retiring governors, Howard Goldberg, Barry Grove, Betty Hum and John McGuinn for three years of excellent service.
- Chris Noble has been busy formulating many exciting ideas for the Alternative Construction Systems Committee and one in particular will be featured at our 7th Annual Meeting... I commend to you Chris' attached monograph on Project Counsel that he shared with us at our Boston strategic planning session. We will discuss it at St. Petersburg.
- Howard Ashcraft will tell us how we may be able to continue to expand Hot Tips throughout the year by taking ACCL on-line. ACCL On-line would present the opportunity for a week in and week out dialogue by and among ACCL members cyberspace."

That piece preserves my remembrance of what made and continues to make our College unique. An institution well positioned, today, to carry on its important work.



A Greg Hummel, Charlotte Rubin, Overton Currie, Bob Rubin, Liz Myers (Front), Lavona Currie, David Hendrick (Back), Jim Myers, and Terri Hummel (Standing) B Greg Hummel and Howard Goldberg C Greg Hummel and Marc Frilet (1999) D Jim Groton, Greg Hummel, John McGuinn, Jeanne Forneris, Steve Stein, Larry Schor - Atlanta (1996)

(G) THE “SEVENTH YEAR” 1996-1997 (INCLUDING 1997 ANNUAL MEETING)

PRESIDENT: DAVID R. HENDRICK, ATLANTA, GEORGIA

The president's gavel was passed to me by my predecessor, Greg Hummel, at the Seventh Annual Meeting at the Stouffer Renaissance Vinoy Resort in St. Petersburg, Florida, on February, 25, 1996. No matter how much one prepares for this moment, this is an awe inspiring and humbling experience, given the history of our prior leadership and the credentials and expectations of our membership.

Greg and his distinguished predecessors had done an extraordinary job of creating our College and getting it well on its way. We were now maturing into a larger and more established organization. Our Fellowship had essentially doubled from our initial “charter” membership, to almost 100 Fellows, including 2 Honorary Fellows, drawn from 27 states. The challenge was to maintain our core principles and yet accommodate our increasing size. The sheer energy and enthusiasm of the early stages of our development, evidenced by involvement, contribution and participation of all of our Fellows, was becoming harder to maintain and harness as our group expanded. While our newer Fellows did not have the historical perspective of the Founders, each brought a wealth of experience and expertise to the College together with new ideas and concepts of what the College is and should be. The urge to simply pause and catch our collective breath was there. Nevertheless, we forged ahead with Greg's assistance and wise counsel in his “immediate past president” role and aided tremendously by our other newly installed officers, President-Elect Joe McManus, Secretary John McGuinn, and Treasure Larry Schor, and our Board of Governors, including the four newly elected members, Jeanne Forneris, Chris Noble, Allen Overcash, and Paul Lurie.

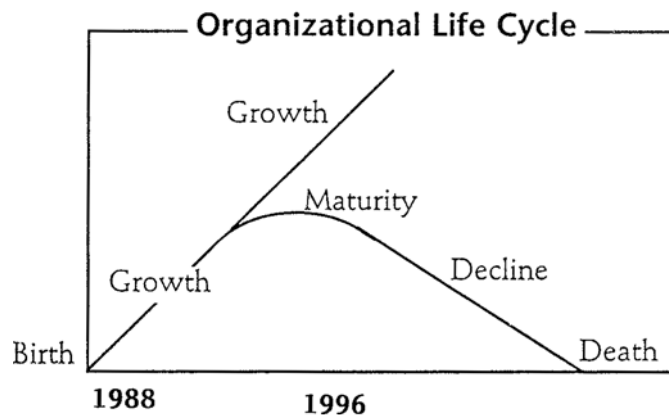
But, first we had to address question of whether, in our new evolving form and size, the original vision was still relevant or even possible. We definitely felt that we were poised to continue to accomplish great things, but what and how was not as clear.

STRATEGIC PLANNING

The Board and leadership had previously had engaged in long range or “strategic planning” efforts, first in Carl Saper's year in Chicago and most recently in Greg Hummel's year in Boston. At these sessions, we engaged in wonderful brainstorming exercises that aided in renewing and refocusing our efforts. However, those meetings focused on broad ranging examination of the role and relationship of construction lawyers, and the College, to the construction industry and its other institutions and organizations. This Strategic Planning meeting was to pick up where the others had left off to focus upon the development

and realization of those roles and relationships by way of identification, prioritization and implementation of the goals and objectives of the College and its committees and task groups.. In my letter of invitation to all members of the Board and committee chairs, I described this objective as follows:

My concern for the College is that we appear to be reaching a critical crossroads as approach the early stages of organizational "maturity". I set forth below a chart that I pilfered from an "AGC" publication, of all things, which I think fairly graphically depicts where we are and what our options are in the next several years.



In my experience, organizations that have reached our size and level of structure and maturity must constantly struggle with complacency. Otherwise, they risk becoming merely a polite "debate society" in which members enjoy each other's company, but accomplishes little. The College was conceived to make a significant difference in the industry we serve and in our relationship with it. In order to stay on the growth curve, we need to re-evaluate our goals, objectives and strategic plans. I believe the time is now!

Consequently, our program will be largely devoted to the strategic planning process for the entire College. [Our facilitators] have suggested that each of us should consider the following questions:

- (A) Where did we start?
- (B) Where are we now and what have we accomplished?
- (C) Where do we want to be in 5 years and 10 years from now?
- (D) What are our guiding or unifying visions, goals and objectives?
- (E) What do we need to do to effectively reach those goals and objectives, on an implementation and prioritization level?

With this charge, sixteen Fellows converged on Atlanta to attend our Strategic Planning Session in April or 1996 which was conducted in the conference center graciously offered by John Hinchey and his firm King & Spalding. John, Jim Groton and I planned and hosted the event. Unfortunately, this date inadvertently coincided with what had become known as

the “Annual Freaknik Street Party” in which thousands of students from the predominantly black universities spend spring break converging upon Atlanta with the result of traffic jams, street parties, loud music, cruising and general gridlock. Nevertheless, not to be dissuaded, we concentrated all activities in one downtown block and advised all attendees to use our subway system from the airport to get to the hotel (which advice most followed, and those that did not just had to hike several blocks uphill once the cabs had gone as far as they could before standstill traffic stopped all progress).

Wedge between dinners attended by all attendees and some spouses, we spent the Saturday developing the following Plan and resulting “Strategic Initiatives”:

1. Develop information technology to benefit members
2. Strengthen committee structures to make them more affective, inclusive and coherent
3. Enhance assimilation of the new members through mentorship
4. Forge the proper strategic alliances with the industry and the academic community
5. Explore alternative revenue sources.

This vision assisted in planning our activities and establishing our priorities for the year and beyond.

My year was made easier and much more productive by the efforts and leadership of our entire organization starting with my fellow officers and the Board, but particularly of our substantive committees and task groups. In order to optimize the performance of the committees, we implemented several measures, including:

1. Encouraging each committee to have at least one mid-year meeting of its members to monitor projects and progress;
2. Requesting development of agendas for all committee meetings;
3. Requesting periodic reports from the committee leadership summarizing projects and progress
4. Encouraging direct communication between leadership and new committee members to assure participation and involvement; and
5. Assignment of all new Fellows to at least one substantive committee or task force or their choice.

While I simply cannot fully recall or summarize the accomplishments and activities of all of these groups, I do want to recognize and acknowledge the following efforts:

PDR COMMITTEE

Led by Chair Bob Taylor and Vice Chair Jim Groton, this committee continued to build upon and expand the ACCL relationship with the American Arbitration Association. The primary focus of this effort was to achieve a more efficient and effective administration of the arbitration process, to upgrade the AAA the panel of construction arbitrators and to improve the Construction Industry Arbitration Rules and procedures for alternative dispute resolution. Their efforts carried them, and a dozen Committee members, to a joint fall meeting with representatives of the AAA at the AAA offices in New York to discuss a wide range of issues

and concerns.

When the AAA determined to resurrect the National Construction Dispute Resolution Committee to address many of these concerns, a number of Fellows were invited to participate as members of this advisory group. This afforded the ACCL with a ready avenue of influence in the ongoing revision and improvement of the rules and procedures of administration by the NCDRC. We added substantial value to AAA's effort to improve the quality and training of its panels and are now recognized by AAA as an ally and valuable resource in this effort.

The College also considered and endorsed the "Declaration of Principles for Prevention and Resolution of Disputes In the Construction Industry" developed by the construction industry Dispute Avoidance and Resolution Task Force ("DART") of which the College was an active participant.

Additionally, under Bob Taylor's leadership, the PDR Committee created a formal "subcommittee" structure in order to encourage a more active participation by its members. These PDR Subcommittees, and their chairs, were:

- Federal Courts, Ron Martell: interfacing with the federal court systems to develop a "special master / neutral" program for construction disputes;
- Construction Industry Trade Associations, Jim Groton;
- ACCL Liaison, Ed Meyerson;
- ADR Contract Clause Drafting, Buck Hinkle;
- Policy and Procedure, Stanley Sklar: developing a compilation of "best practices" for use in ADR processes.

CONTRACT DOCUMENTS COMMITTEE

Continuing under the leadership of Howard Goldberg and new Vice Chair Jeanne Forneris, this group focused their attention on monitoring and providing input to the AIA as it finalized the extensively revised family of construction and design contract documents issued in 1997. Their efforts included a joint meeting of their Committee with representatives of the AIA Documents committee in conjunction with our December Board meeting in San Francisco, attended by more than dozen Fellows to review and comment upon the new 1997 revisions of the AIA documents as well as to preview the significant revisions contemplated for the AIA "design/build" family of documents. This further solidified the relationships between the College and the AIA regarding its ongoing effort to improve these AIA contract documents to meet the changing needs of the industry. Over half of the changes and modifications suggested by the ACCL working group were substantially adopted by the AIA in its 1997 revisions of the AIA Documents.

CONSTRUCTION DELIVERY SYSTEMS COMMITTEE

Chaired by Chris Noble this committee focused on the development and evaluation of the novel and potentially revolutionary concept of "Project Counsel" that had been introduced in the program in the prior annual meeting by Chris. This involved the engagement of a single counsel for a construction project whose task and function was to represent and serve the

interests of the “project” itself, rather than those of the separate participants in the project. This concept was entirely consistent with the “friend of the project” motto of the College and lead to an extensive analysis of the legal, contractual, professional and ethical aspects of such a “project counsel” role. This included observation of several “case studies” of similar applications. Assisting Chris in the leadership of this effort were Project Counsel Task Group Chairs Richard Conner and Betty Hum.

INTERNATIONAL COMMITTEE

Under the leadership of Chair Nick Gaede and Vice Chair Ken Cushman, this recently formed Committee undertook the ambitious tasks of (1) surveying the Fellowship to determine the extent of interest, expertise and involvement in international matters, (2) developing and compiling a data base of international lawyers known to be experienced in construction related matters around the world, (3) developing and preparing a “check list” of issues and considerations for international construction contracting relationships, and (4) identifying and forming liaison relationships with foreign lawyer groups and associations relative to the construction business. A defined goal was to broaden the international relationships of the College, given the globalization trend impacting the industry. This was to include, if appropriate, the identification of and nomination and consideration for election of “international” fellows into the College.

NETWORKING TASK FORCE

Chaired by Paul Lurie, with the assistance of Howard Ashcraft, Richard Alexander and Joe McManus, this group tackled the task of converting the technological “dinosaurs” comprising most of our fellowship into “masters of our technological universe.” This was no mean task, given that Paul’s first survey of the entire Fellowship only found 15 Fellows (out of almost 100) were technically savvy enough to have an e-mail address (or at least know that they had an e-mail address). This was the year of our first “baby steps” into the electronic era toward what we have become today with our “LISTSERV” and “website” capabilities in serving our objective of bringing “ACCL online”. I still can remember the looks of mystification at our Board meeting in Orlando on the faces of most our colleagues as Paul and Howard sought to describe the concepts, capabilities and options confronting us. With some trepidation and based on the recommendations of the Task force, we initiated a private discussion group through “Counsel Connect” which allowed the Fellows a networking capability and which ultimately evolved into our full “LISTSERV” process today. It is hard to imagine that in the last decade we have evolved into an almost “paperless” College. Virtually all of our Fellows, dinosaurs included, are now able to communicate electronically, even though typing is still a problem with many (including the author). As the discussion in Parts VII (A)(3) and (4) regarding the Website and the LISERV make clear this was not an easy transition, but here we are “masters” of at least some of our technical universe.

“HOT TIPS” COMMITTEE

Under the able leadership of new chair David Ratterman, this venerable part of the Annual Meeting Programming was to continue in slightly altered form and format, with the assistance of the newly inducted group of Fellows. This not only afforded an avenue of involvement and participation of our new Fellows but also provided a ready workforce for assembling and organizing this part of the program. Another new approach was institution of a “point-counter point” debate regarding certain of the selected hot tips items.

CLE CREDIT TASK FORCE

Jim Hawkins and Joe McManus continued in this effort to expand and formalize the process for obtaining “continuing legal education” credit (for those fellows in states requiring such) for attendance at the Annual Meeting educational programs. This process, now considered routine and administrative, was originally quite burdensome until this Task Group brought it under control. And, we can all use another reason to justify to our partners, families and colleagues why we should expend the time and funds for participation in our College’s functions – and Annual Meetings!

WBE/MBE/DBE TASK FORCE

Chaired by Betty Hum, this Task Group was “sunset-ed” given the inability to find a meaningful role of the ACCL in these substantive areas. It is certainly a significant area of concern to the construction industry, but unless and until we can define an effective role for the College in this area, there proved to be little for this group to do.

PUBLIC OUTREACH TASK FORCE

This Task Force was originally conceived to essentially supersede the “Education” committee, although that did not happen, as the Education Committee marches on in full health. Under the leadership of Steve Stein and Vice Chair Carl Sapers, this group was created to explore and develop “outreach” activities for the College such as: (1) potential formation of liaison relationships with academic institutions to provide a “neutral” forum for exploration of critical industry topics, (2) establishment of a “strategic alliance” with a selected educational institution or institutions for jointly sponsored research projects, programming and publications; and (3) exploration of publication of a formal “juried” publication of construction law topics either independently or in conjunction with such an institution. Carl and Steve, aided by Nick Gaede and David Ratterman, initiated contacts with several select institutions, including Auburn, Georgia Tech, Stanford, MIT, and University of Illinois, regarding the exploration of such a relationships and its scope, purpose and function. However, this effort revealed that most of these educational institutions were going to be looking for substantial financial commitments from the College, as much as its expertise, in any such alliance type relationship. Oh well, back to the drawing board until our coffers filled up a bit more. While many of these concepts proved valuable and in some cases feasible, they

were ultimately accomplished through other task groups and vehicles once they were further investigated and refined by this Task Force.

CONSTRUCTION FINANCING TASK FORCE

Chaired by Barry Grove, this was created to explore the opportunities for involvement in this vital aspect of the construction industry, both in lending our experience and expertise to address industry issues and concerns and in educating our members regarding this complex and critical aspect of the business of construction. Barry commenced promptly to identify those Fellows who have experience and expertise in this area and to pursue with them the value and input that the College could and should bring to construction financing process.

SPECIALTY CERTIFICATION TASK FORCE

Responding to the trends in many jurisdictions to establish "specialty" areas of legal practice and the interest in recognition of "construction law" as an area requiring such expertise and specialization, this Task Force was asked to monitor and explore developments in this trend and its potential application to construction lawyers. Jim Myers chaired this effort and monitored the potential for this approach to the construction law specialty.

"NEW FELLOW ORIENTATION" TASK FORCE

This group, chaired by Steve Stein and Bob Rubin, was created to assist in assimilating, mentoring and orienting the newly inducted Fellows into the College, a process that had become more difficult as the College grew in size. This Task Force, a/k/a the "hazing of new Fellows" established a "buddy system" assigning each inductee's nominator and another Fellow as their mentor not only to ease their integration and introduction into the College at the annual meeting, but also to continue that relationship for five years, assuring involvement on committees and attendance at meetings.

"NON-DUES REVENUE" TASK FORCE

Larry Schor and Jeanne Forneris, were assigned the task of exploring potential opportunities for the ACCL to earn revenues from publications and other sources apart from dues and fees assessed on the Fellows. Among the options explored were marketing of the annual meeting program materials and Hot Tips materials to law schools, companies and other practitioners, as well as offering separate programs for the "public", and selling mailing lists to selected vendors. Ultimately, upon further analysis of the options and polling of the membership, the Board concluded that such opportunities generally would have required more effort and "commercialization" than we were willing to undertake.

NEW FELLOWS NOMINATING COMMITTEE

Chaired by Joe McManus, and comprising Larry Harris, Jeanne Forneris, Mary McElroy and Steve Siegfried, presented a distinguished group of nominee, all of whom were elected

and inducted at the Annual Meeting, including Steven Arbittier, Philadelphia, Deborah Bellati, San Francisco, Humphrey John Lloyd, London, Mike Nuechterlein, Tampa, Richard Smith, Washington D.C. and Donald Marston, Toronto.

Most significantly, we became an “international” Fellowship with the induction two foreign lawyers not living or practicing in the United States: Humphrey John Lloyd of England and Donald Marston of Canada. Both were nominated and elected under the procedures and requirements applicable to domestic nominees, a significant accomplishment for both of these new Fellows.

Also, this committee grappled with the issues presented by nominations of construction industry “attorneys” who are not actually engaged in the “practice of law” but rather as business executives in construction firms. On this issue, no “hard and fast” rule was evolved or proposed in favor of a “case-by-case” consideration.

OFFICER & GOVERNOR NOMINATING COMMITTEE

Greg Hummel and Dick Alexander, and Richard Conner presented the College with the following slate of nominations for officers and governors:

President: Joseph A. McManus, Jr.;

President Elect: John F. McGuinn;

Secretary: Robert A. Rubin;

Treasurer (continuing in this term): Larry Schor; and

Governors: Harvey C. Koch, E. Mabry Rogers, Gary L. Stone,
and Robert G. Taylor.

THE MEETINGS

The ACCL Mid-year Board of Governors Meeting occurred on a Sunday, August 4, 1996, at the Hyatt Regency, Orlando International Airport, Orlando, Florida, in conjunction with the ABA Annual Meeting. This meeting was most memorable for the “star wars” (at least it seemed to most, including me, at the time) demonstration by Paul Lurie and Howard Ashcraft of the “Council Connect” discussion group system for achieving an e-mail network capability for the College. This was our first baby step into technology, even though most of us failed to understand most of what they were talking about!

The ACCL December Board of Governors Meeting was on Saturday, December 14, 1996, San Francisco, California, in conjunction with the Superconference and was hosted by John McGuinn at the Bechtel offices.

The Eighth Annual Meeting of our College was at the Le Meridian Resort, in San Diego, California, on February 21-23, 1997. Our Program Chair, Bob Meyers, put together a timely and entertaining series of presentations based on the premise that mediation has its place, but every now and then you actually have to go to trial and you better know what to do! This included a very informative “Judge’s perspective” on “cutting edge trial techniques” presented by (now Honorary Fellow) Judge Loren Smith, United States Court of Federal

Claims. The two "Trial Vignettes"—the first with some entertaining and vigorous role playing demonstrating trial techniques by opposing advocates, Fellows Mabry Rogers and Bert Grandoff, and the second featuring an impressive demonstration of special "high tech" computer graphics presented by opposing advocates, Alan Harris and Howard Ashcraft. These trial presentations were then followed by a panel discussion with significant Fellow participation presented by Judge Smith and Fellows Frank McFadden and Jerry Reiss. The Hot Tips presentation, under David Ratterman's leadership, offered a new twist with a "point-counter point" discussion lead by Fellow advocates regarding several of the featured issues.

At the Formal Dinner we inducted our six new Fellows, Stephen A. Arbittier, Deborah S. Ballati, Honorable Humphrey John Lloyd, Donald L. Marston, Michael F. Nuechterlein, and Richard F. Smith, a group that include our first two "international" Fellows, Lloyd and Marston.

At the following Annual Meeting, the Fellows adopted an amendment to the Bylaws based upon the recommendations of the "Ad Hoc Bylaw Review Task Force" comprising Jim Groton, Chris Noble and Bob Meyers. This amendment added language based upon the Strategic Planning Meeting discussion regarding the "purpose of the College" to clarify that the College is not only to serve its members, but also the construction industry generally and to fill a void in the statement of purposes declaring our relationship with the industry. The amendment added to our statement of purpose the clause "to exemplify and promote the positive role of lawyers as "friends of the project," and to make a significant contribution to the improvement of the construction industry." It also expanded the statement of endeavors of the College to include "participating actively in the work of construction industry research organizations", "helping industry develop and improve methods of construction project delivery", "helping the industry develop and implement construction contract documents that will facilitate communications and common understanding of the roles and responsibilities of all members of the construction project" and "developing creative approaches to the delivery of construction law services, so that the legal profession can meet the changing needs and expectation of the industry." We also conducted a straw poll of the Fellows addressing the perennial "growth" and "size" issues. Generally, the significant majority of the responding fellows indicated that the annual induction of five to seven new fellows per year was "about right" and that an ultimate size in the 125 and 175 range. The consensus further was that the stringent standards of the College for membership should never be relaxed in order to achieve any kind of numerical or demographic purpose. A recurrent theme among the respondents was the concern that increased size beyond the indicated range would breed cliques, dilute the collegial atmosphere, and erode the personal "first name" basis upon which this College was conceived and founded.

We then elected and installed the next administration and I gladly handed over the gavel to my successor, Joe McManus, with full confidence that Joe would move the College forward with his able leadership and with the assistance of his new officers John McGuinn, the President-Elect, and Bob Rubin, the Secretary, together with the Board and its newly

elected and installed Governors, Harvey Koch, Mabry Rogers, Gary Stone, and Robert Taylor. As always, we acknowledge the contributions and our debt of gratitude to the retiring Governors after their three years of service to the College, Richard Conner, Nick Gaede, Bob Meyers, and Bob Rubin (of course, the Bobs and Nick did not quite escape entirely, given their later ascension to higher office). At end of the 1996-1997 College year, we now have 92 Fellows, 2 Honorary Fellows, 6 newly inducted Fellows moving us to the century mark.

Then, heaving a heavy sigh of satisfaction over a good year, not to mention of relief as well, I moved on to the best office in any organization, "Immediate Past President". It has been a pleasure and honor to serve this College and its Fellows. I can truly say that I have never been refused a request to help out by any of our Fellows. Thank you for the privilege.



A Joe McManus and David Hendrick (1997) B Emily and David Hendrick C Emily Hendrick, David Hendrick, Steve Stein, and John McGuinn (1992)

(H) THE "EIGHTH YEAR" 1997-1998 (INCLUDING 1998 ANNUAL MEETING)

PRESIDENT: JOSEPH A. McMANUS, JR., WASHINGTON, D. C.

I began my term as president of the ACCL at the Le Meridien Hotel in sunny San Diego, CA. We welcomed into the organization many incredibly talented attorneys from around the country. I was excited about the plans for the year and for the advancement of the College.

The goals of my year included (1) networking and information technology, (2) outreach to construction organizations and (3) insuring the financial health of the College.

We realized the communication was critical among the College Fellows, not only to ensure collegiality but also to trade information, ideas and questions and we could successfully do this only through the electronic media.

We questioned how we could best outreach to other construction organizations. We asked whether we wanted to and if we did, should there be any formal or informal affiliation with others?

In our budget we basically lived from annual meeting to annual meeting, sometimes precariously. And we were struggling with dues increases, annual meeting increases and at the same time how to best insure maximum participation in the annual meeting by the fellows.

Under former President Sklar's guidance we conducted a straw poll of "growth versus collegiality". The results included:

- 125 to 175 was our ideal final size;
- Standards for admission should never be relaxed;
- Five to seven fellows per year is our growth goal;
- Electronic media was the way to communicate;
- Thirty-five of thirty-six responders said that collegiality was important;
- New fellows should be considered for a place on the Board two to three years after admission.

We also conducted under Larry Schor's guidance a "non-dues income survey. The results included:

- Dues were about right;
- No to commercial ventures;
- Consider an ACCL Foundation.

We also surveyed the member's feelings on locations for annual meetings. A few years earlier we had decided that we should alternate East-West locations in sunny climes. The Board had felt strongly that this would maximum attendance, especially with the spouses.

This survey we conducted in the spring of 1997 posed two alternatives: (1) East and West, and (2) West, West East. It was 27 for the first proposition and 28 for the second proposition.

At the spring meeting in New Orleans, Harvey Koch hosted an affair at the Plimsoll Club in the New Orleans World Trade Center. He gave us a wonderful presentation on the 700 ft. M/V Brightfield and its collision with the New Orleans River Walk. We then had to dine at Antoine's. Dave Hendrick proposed an Overton Currie Lecture Series to be launched at the 1999 Annual Meeting. We decided that the Lecture Series should be funded through voluntary contributions. We received Overton's request to be transferred to Emeritus status. At the spring meeting Chris Noble also introduced his "Project Counsel" concepts. The Board also decided that it was necessary to seek geographical diversity so as to have a better presence throughout the states.

At our July meeting, we realized just how much work needed to be done to get us technologically up to date. Only a few members were connected by July 22. Personally, I believe this was most likely due to members' advanced age and the perceived fear that if they even so much as touched a keyboard, their brains would be sucked out of their heads through their fingers! In hopes of curing this terrible paranoia, Paul Lurie and David Ratterman launched Counsel Connect.

During our meeting in January of 1998, we decided to send the "official videotape of the Founders meeting of the ACCL held in Chicago in 1989" to Overton, which is always good for a scare as the years passed.

As my term ended, I bestowed on the new president, John McGuinn, the same gift my predecessor left me: the gift of many things done and many yet to do.



A Nancy and Joe McManus (1994) **B** Joe Pierce and Joe McManus win another golf trophy (1993) **C** Front Row: John McGuinn and Larry Schor; Back Row: Greg Hummel, Joe McManus, and David Hendrick (1997) **D** John McGuinn, Bob Rubin, Joe McManus, and Larry Schor

(I) THE “NINTH YEAR” 1998-1999 (INCLUDING 1999 ANNUAL MEETING)

PRESIDENT: JOHN F. MCGUINN, SAN FRANCISCO, CALIFORNIA

Bob Rubin did me a big favor as I approached my year as President. The favor was a suggestion that, prior to my becoming President, I put together a set of goals that I would seek to achieve during my year as president of the ACCL. I thought Bob's suggestion was excellent, reviewed my own experiences both as a member of the legal team of a substantial organization and as a Fellow with the College and developed my list. Among those things I considered most important, although I had not established a priority:

1. Review the criteria for membership, especially as informally practiced, and gain a consensus from the membership about these criteria. (E.g., in effect permitting current members in the locality of a nominee to influence the decision on the nominee (some might even say they have a “veto”).
2. Maintain active oversight of the substantive part of the annual program to ensure that it meets the high standards of the college.
3. Review work of the Committees – ensure that they are working on matters that give value to the construction industry and/or to ACCL members, and that their work product receives appropriate recognition and distribution. (E.g., ask the Dispute Resolution Committee to prepare and promulgate an arbitration provision for use in contracts which provides that the Chair of the arbitration panel shall be selected from among the members of the College.)
4. Continue efforts to place the College on a solid financial foundation, in part by ensuring that we keep expenses to a minimum.
5. Celebrate appropriately the 10th anniversary of the founding of the College at the next annual meeting, and the “Year 2000”.
6. Select a high quality speaker for the inaugural presentation of the Overton Currie Lecture Program.
7. Review the requiring the suspension of members if they miss 3 consecutive programs – I don't think we should be pushing members out.
9. Determine how we might best use the reputation and brain power of the College to accomplish constructive change in the construction industry or the law – to be proactive, not merely reactive. This will probably be initiated, and likely accomplished, through the work of the committees.

My first Board Meeting took place after the close of our annual meeting at the Doral. A number people were disappointed in that venue because the ownership was getting ready for a big renovation, which had started in some areas and definitely was needed in others.

We faced an exciting year, I thought, as we were about to remedy the situation where the Treasurer and Secretary become eligible to be elevated to the position of President elect and we had not provided for the potential loss of one of those able people who had Board and Officer experience but who might be lost to the College since only one could be chosen as President-elect. One of the first issues that came up in that regard was the proposed change initiated by Carl Sapers, with David Hendrick's support, to modify the Secretary and Treasurer terms from a one-year and three-year term respectively to two-year terms with each elected every other year so that a person would then be able to move up to the office of President-elect from either the Secretary or Treasurer spot. This was eventually passed in August 1998, at our Board meeting.

A second issue that was heavily discussed and had always been somewhat contentious involved the restriction the College had to a two-person limit from any law firm. We initiated discussions about modifications to what had been a basic tenet of the College from its inception in order to assure that no one firm would be able to influence the development of the College. We had found that, for the most part, the policy had worked. We recognized, of course, that there were some lawyers who clearly were eligible for membership in all regards and who could not join because of the limit. Our discussion centered about considering someone who had reached age 65 as being sufficiently senior to allow a third member from his or her firm to be eligible. This policy was eventually adopted together with a later change which increased the limit to three Fellows per firm.

In April 1998, the Board met in Chicago to plan for next year's annual meeting and to consider more of the policy issues that were important. I noted that work was proceeding on setting up a master calendar that could be used by all Officers as they came onto the ladder leading through presidency of the organization. I know I needed a manual which would be a reminder of dates and actions that had to take place and so we worked to develop one during my year as President to help me as well as to help those who would follow me.

We also recognized the unfortunate obligation to start acknowledging those of our Fellows who died. Arthur Kornblut, a founder, had died, and was the first of the founders to do so. We then considered setting up guidelines or policies about committee leadership and discussed whether we needed to have vice chairs for committees and term limits for chairs in order to both encourage new people to become committee members as well as have continuity in leadership. This was eventually adopted although there has not been consistency in application of the changeover in committee leadership from one administration to the next.

We were pleased to see that Dick Alexander from Portland, OR had put together a survey of the fifty states regarding their arbitration provisions and we worked to make this available to all of our Fellows. For the first time, we noted that e-mail was available and discussed distribution of the survey through the e-mail. I noted also that the College was celebrating its tenth year and we looked into mementos of the ten-year history. During the annual meeting, we gave silver plated coasters to each of the Fellows attending and Bob Rubin was able to arrange a front end loader model on a rock to be available for purchase by the Fellows. Most Fellows did that with a plaque showing their name, and the fact that the College was ten

years old.

On August 1, 1998, we were back in Chicago for the summer Board meeting during which a number of interesting issues were discussed and seven new Fellows were nominated for membership. I recall that Marc Frilet of Paris, France was nominated by the Membership Committee and was elected to membership by the Board at that meeting.

Some of the more important items during that Board meeting included an update on the Bierbower case in California. It became clear that multi-jurisdictional practice, as followed by many of our Fellows, could possibly be jeopardized by states not allowing attorneys who have come in for other than court appearances on matters such as arbitration, mediation or meetings, to be accused of practicing law without a license in their jurisdiction.

During my year and for some years earlier, we did not have a separate Program Chair and the Secretary of the College was in charge of planning for the program. We discussed program planning and the first Overton Currie lecture which the College would fund through separate contributions of the Fellows. Jim Groton reported that Henry Petroski of Duke University was confirmed as the speaker. At that meeting, we also unanimously approved the change to the terms of Officers which I discussed earlier.

My last Board Meeting was at the Westin La Paloma in Tucson, AZ and preceded the annual meeting. New Board members were nominated including Dick Alexander, Phil Bruner, Larry Harris and Jim Hawkins. Jim Groton was moved from the Secretary slot to President-elect and Bob Meyers would become the first two-year Secretary with Larry Schor being next in line, as Treasurer, to move up to President-elect while Jim served as President after my term was over. We received a full presentation of committee reports from the six active committees that we had at the time. These included Construction Delivery Systems, Delivery of Legal Services, Documents, Private Dispute Resolution, International Construction Law and Construction Finance. It is interesting for me to see today that of those committees only Documents, PDR and International are still with us.

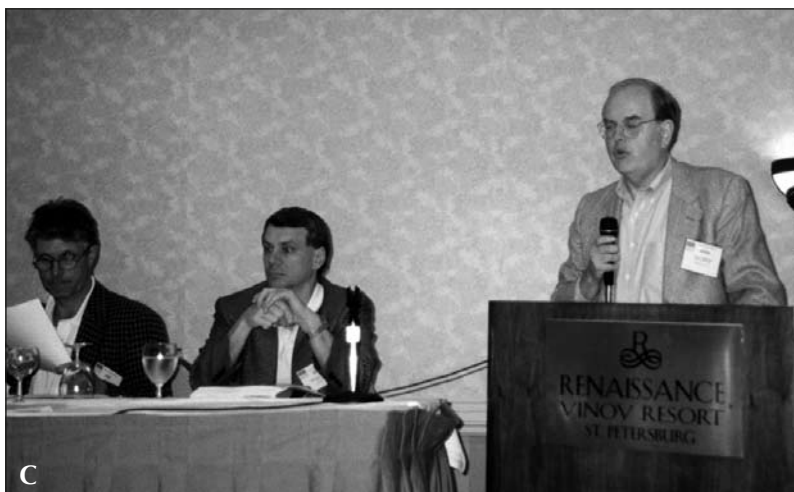
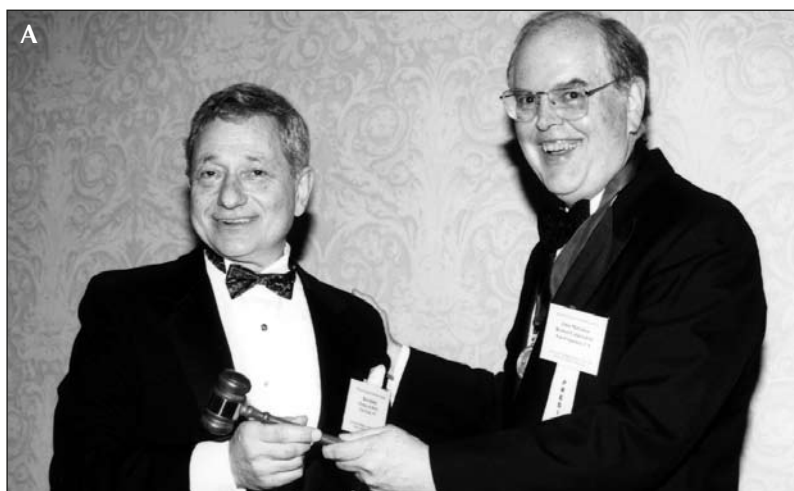
I enjoyed chairing the annual meeting and was also quite pleased that my wife Karen had put together a good program for the spouses which, I believe, served a model for future spouses for future meetings. Karen also saw to it that an ACCL Spouse Directory was finally published, so spouses and significant others could communicate with each other during the course of a year if they wished to do so.

We had three interesting presentations during the annual meeting and they included changing trends in construction delivery and lawyering, chaired by Jim Scott and Steve Siegfried; a presentation by John Miller, then a professor at MIT (and later inducted as a Fellow), on the future of American Infrastructure Development in which he discussed a major trend still in effect today where private entities were taking over for governments that did not have funding and actually financing infrastructure delivery including major toll ways and highways. Finally, we had lectures by Professor Burnell Powell of the University of Missouri, on Ethics for the Construction Lawyer in the 21st Century and from Tom Stipanowich, then a professor at the University of Kentucky and who became a Fellow himself, on Emerging Conflict Management Techniques.

One issue that was really troubling to College members at the time was the perceived encroachment into the legal field by major accounting firms. They were hiring lawyers to be on their staff who claimed that they were providing consulting advice and not practicing law. The trend was picking up speed. We devoted sessions, in particular by the Delivery of Legal Services Committee, on the tension between accounting firms and construction lawyers in providing services to construction clients. This problem is not with us today.

I cannot end this chapter without addressing the first Overton Currie lecture which was given by Professor Petroski. Because we were also celebrating the tenth anniversary of the College, we scheduled a number of group photographs, not only of the Fellows but for spouses. This session lasted much longer than anyone anticipated, especially me, and we made the mistake of leaving the bar open while the photography session got longer and longer. This combination, along with the fact that Professor's Petroski's slides did not work, got us off to an unfortunate start in the Overton Currie lecture series. But I am happy to say that, although we started on a down, we have gotten much better at planning and presenting the Overton Currie series as the years have gone by.

As I reflect on my year as President of the ACCL, I am thankful for the opportunity to have been the President of such an organization, to have met and mingled with so many of the Fellows, to have worked as closely as I did with the Officers and Board and to have shepherded the College into its second decade.



A Bob Rubin and John McGuinn (2000) **B** John McGuinn (1999) **C** Joe McManus, Greg Hummel, and John McGuinn (1992)

(J) THE “TENTH YEAR” 1999-2000 (INCLUDING 2000 ANNUAL MEETING)

PRESIDENT: ROBERT A. RUBIN, NEW YORK, NEW YORK

Murphy's Law marked the commencement of my term in office at the 10th Annual Meeting of the College at the La Paloma Resort in Tucson, AZ, despite the best of intentions and lots of hard work by everyone involved in planning the meeting. Perhaps, in retrospect, we tried to squeeze too much into too little time at Saturday's black tie dinner. The group photographs took too long, as did our first Currie speaker. I am still pained at the recollection of standing at the lectern to induct the eight new fellows, looking down the long, narrow room banquet room, unable even to see those at the far end, with a spotlight shining in my eyes, vainly attempting to say something both substantive and personal about each inductee. As, I proceeded, I sensed the unrest of the Fellows, too late and too lengthy. I felt like a deer standing in the middle of the road, caught in the headlights of an oncoming car. At that point, there was nothing I could do about it but just forge ahead. It was certainly not the start of my presidential year that I had hoped for and I only prayed that the year would not get progressively worse from that point on.

Most fortunately, with a lot of help from the members of the Executive Committee, the Board, and the Committee Chairs, the year got progressively better. Mabry Rogers made sure that the Meeting Minutes were entirely accurate, regardless how long it took. A change had been voted on and approved allowing firms to nominate a third Fellow to the College as long as one of their existing Fellows is at least 65 years of age or older. This led to the formation of a Membership Policy Task Force Committee, chaired by Immediate Past President John McGuinn, which conducted a survey among the membership. Highlights of the results of that survey included:

- Fellows overwhelmingly felt that increasing diversity was important. (The Task Force Recommended that the Past Presidents' Council should continue to promote geographic diversity while expanding their efforts to include recruitment of qualified minority and women candidates) (The Task Force recommended that the College should increase from a 2 to a 3 lawyer-per-firm, provided that at least one of the current Fellows has attained the age of 65).
- Less than 50% of the respondents felt that a national presence was important.
- 75% of the respondents were willing to increase the limit of Fellows from each firm from 2 to 3.
- There was notable support for the statement “significant and outstanding service” to the membership criteria.

The year saw a turning point in the College being pulled into the electronic age. Through the tireless and prodigious efforts of Paul Lurie and a committee chaired by Phil Bruner, LISTSERV became an effective means of communication among the Fellows, principally for the purpose of sharing legal information, announcements and exchanging information regarding arbitrators and experts. Although it would be another year or so before the College would have a website, Steve Nelson accepted the challenge to develop a website. Of course, the rest is now history.

Of historical note, this year there was considerable discussion of accounting firms entering the practice of law. Fear was expressed that soon many of us would be working for subsidiaries of the large accounting firms. Little did we then know of the forth coming scandals involving Enron, World Com and others, and the demise of some of the big eight accounting firms, the huge realignments with the industry, and the requirement that accounting firms split off their consulting services.

Fortunately, Murphy did not reappear at the Annual Meeting held at the Ocean Reef Club in Key Largo, FL. A highlight was Charlotte's tour of a local bird sanctuary. Although some of the Fellows were put out at being spread about the premises, distant from the site of the College meetings, by and large the Annual Meeting proceeded without the glitches suffered at the preceding meeting.



A Bob Rubin, John McGuinn, and Carl Calvert (1999) **B** Bob Rubin, Mabry Rogers, Harvey Koch, and Gary Stone (2000) **C** Bob Rubin and Chris Noble (1996) **D** Bob Rubin and Phil Bruner (2000) **E** David Hendrick, Bob Smith, Howard Goldberg, Bob Rubin, Barry Grove, and Joe McManus **F** Bob Rubin, Lavona Currie, and Jim Myers (1992)

(K) THE "ELEVENTH YEAR" 2000-2001 (INCLUDING 2001 ANNUAL MEETING)

PRESIDENT: JAMES P. GROTON, ATLANTA, GEORGIA

By its Eleventh Year the College had achieved a membership of 100 plus Fellows, and a certain degree of maturity. Fortunately the Fellows had lost none of the enthusiasm and collegiality of the beginning years, and attendance at the Annual Meetings still hovered around the 90% mark, an extraordinary record, unmatched by any other organization that I have ever heard of. This was a year of building on the successes of past years.

My sense of the heights that the College had attained during its first ten years was enhanced by my first formal act at the 2000 Annual Meeting as chair of the Membership Committee: The induction of eight new Fellows, who had been proposed by the Membership Committee and enthusiastically elected by the College. Looking back at the "Class of 2000," consisting of Ross Altman, Adrian Bastianelli, Holt Gwyn, Jenny Fletcher, Peter Kennedy, Bill Purdy, Dean Thomson, and Honorary Fellow Loren Smith, I am truly impressed. Each of these Fellows has contributed mightily in subsequent years to the stature of the College.

My other "formal" appearance at the 2000 Annual Meeting was of course my inauguration as President, the highest professional honor I have ever received as a lawyer. (However, my work as a member of the group that combed the archives of the College in preparation for this History gave me a chance to see a letter that gave me a special insight into the workings of the College's "leadership selection process": I spotted a letter from Past President Jim Myers to the Nominating Committee in 1998 which said: "Jim Groton is coming off the Board of Governors this year, and this is probably his last chance to be slotted in for future ACCL presidency." In other words, Jim Myers was saying: "Jim Groton is already 70 years old, and by the time he spends two years as Secretary and one year as President-elect, by the time he becomes President he'll be almost too old to serve.")

Nevertheless, despite being the oldest person ever to become President of this organization, I looked forward with great enthusiasm to serving this institution that I love so dearly.

GOALS FOR THE YEAR

At the beginning of this year I had in mind a few modest goals:

1. Re-emphasize the College's role as primarily a construction industry organization, and not just another bar group, by encouraging further education and exchanges of communication about the industry among our Fellows, and trying as a College to "give back" something to the industry.
2. Encourage the College's work in the field of Dispute Resolution, both in improvements

to the traditional arbitration process, and by encouraging greater cooperation and collaboration among all parties to the construction process.

3. Increase the College's involvement with construction lawyers from other countries, recognizing the increasingly global nature of construction.
4. Following on the previous year's successful implementation of a LISTSERV system, further facilitating easy communication among Fellows by encouraging completion and launching of a College website.

Through enthusiastic and dedicated work by members of the Executive Committee, the Board of Governors, Committee chairs, and many Fellows, considerable progress was made on all of these fronts.

ACCOMPLISHMENTS DURING THE YEAR

1. 2001 Annual Meeting integrated program on the construction industry's reliance on electronic communication. As in most years, the chief work of the year centered around planning for the next year's Annual Meeting, and we wanted the major themes of the meeting to focus on improvements to the construction process. One of our first ideas was to build a program around "The Owner's Perspective on Construction." Another was to explore innovative new project delivery methods such as Alliancing, which encourage cooperation and collaboration on the project. But as we studied developments within the industry we realized the growing significance of electronic communications in the construction process, so, as the major theme of the meeting we enthusiastically embraced the single subject of "Construction in Cyberspace" (for about a minute we even considered the title, "Putting an "E" in Construction"). While Steve Stein, Leslie O'Neal and Jim Scott were putting together a program that covered the many aspects of this theme, we were in the process of trying to select a prominent scholar to be our second Overton Currie Lecturer. We realized that if we could tie our Currie Lecture into the Cyberspace theme, we could integrate every plenary program at the meeting into this one broad and important theme. Through efforts by Carl Sapers and Chris Noble we succeeded in recruiting an ideal Lecturer: Professor Spiro Pollatis of the Harvard Graduate School of design, a pioneer in the exploration of Internet and Technology in design and construction.

The final result of this effort was the presentation of College's first fully integrated Annual Meeting Program in February 2001, with every plenary program and the Currie Lecture all devoted to one theme. By all accounts this comprehensive program was enthusiastically received, and Professor Pollatis received wide applause for his lecture and for his personal participation in all of the College's plenary programs at the meeting (and especially for his witticism: "A paperless project is as valuable as a paperless bathroom.")

2. Inauguration of the College website. In 1999 the Fellows in the College became electronically connected through the LISTSERV masterminded by Paul Lurie. In 2000, through valiant work by Steve Nelson, the College's website was launched. At last the College was accessible to the world at large on the Internet through the Public side of the site, and the Fellows could access vital College information and resources through the Private side

of the site.

3. International outreach. We made a substantial effort to build on relationships established with our International Fellows Don Marston, Humphrey Lloyd and Marc Frilet, by undertaking the following international initiatives:

4. Developing closer ties with the Canadian College of Construction Lawyers. In 1998 the Canadian College of Construction Lawyers, an organization that was admittedly and unabashedly modeled on the ACCL, was formed. ACCL Fellow and Board of Governors member Don Marston was a Charter Fellow of this group. At its first annual meeting the CCCL invited our former president Greg Hummel to speak. In 2000 the CCCL invited Jim Groton to speak at its third annual meeting, held in Banff, Alberta. Jim Scott was also a speaker, and the meeting was also attended by Bob Meyers, Phil Bruner and past president Joe McManus. Jim Groton told the Canadian lawyers: "After taking part in this meeting, even though the faces at this meeting are different (except for our "interlocking governor" Don Marston), this could be the same College that we American lawyers have come to know and love." Following that meeting both Colleges instituted the practice of inviting the officers and leaders of both organizations to attend each College's annual meetings, and began considering the possibility of having a joint meeting (which of course occurred in 2004).

5. Joint meeting with the U.K. "TECHBAR" in London. In connection with the American Bar Association's July 2000 annual meeting in London, Humphrey Lloyd and Jim Myers organized an Anglo-American Construction Law Colloquium between the ACCL and the members of the High Court of Justice's Technology and Construction Bar. This event was held at the Inner Temple, Gray's Inn, and the members of the TECHBAR later hosted us at a dinner in the historic Old Hall at the Inn. At the Colloquium Bob Rubin presented the results of research that he and Jim Groton had been conducting on the similarities and differences between American dispute review boards and English adjudication proceedings. At the dinner toasts were exchanged between the presidents of the two organizations. At this meeting plans were begun for a further visit by ACCL members to London in November 2001 (which was later expanded to include a program in Paris).

In furtherance of our international efforts, at the 2001 annual business meeting we instituted the practice of receiving periodic reports from our three international Fellows on developments in construction law practice in their countries.

6. Commencement of a "Best Practices in Arbitration" effort. As an outgrowth of an intense discussion about problems in the arbitration process that took place during the meeting of the Private Dispute Resolution Committee at the 2001 Annual Meeting, we formed a task force under the leadership of Bob Peckar to gather information on all of the "best practices" that Fellows were aware of that could improve the efficiency and economy of arbitration. (During the course of the next two years, after three drafts, this Task Force had collected and synthesized a 36-page collection of best practices, and was getting ready to produce a fourth draft when Task Force members had the time. Then in 2003 the College of Commercial Arbitrators, an organization to which several ACCL Fellows belonged, undertook as its sole project for the year the creation of the "definitive" work on best practices in arbitration. Since

it was clear that the College of Commercial Arbitrators was willing to devote a major College-wide effort to this project, the ACCL, recognizing the value of the CCA project, and the fact that there is no exclusive ownership in good ideas for improving the arbitration process, agreed to share the ACCL work product with the CCA in order to “jump start” their effort. The final CCA book generously gave thanks to ACCL “which unselfishly delivered its work product to us when our College undertook compilation of a practice guide for all commercial arbitrators,” and “provided a solid and greatly appreciated foundation for [the CCA] guide, thus bringing together the experience and learning of the Fellows of both Colleges.”)

~: ANECDOTES ~:

RE: THE PRESIDENTIAL KISS

“I’ve never been as surprised in my life.”

Jim Groton describing his reaction after having been presented with the Past-Presidents medal by Larry Schor who then proceeded to kiss Jim on both cheeks at the 2001 annual meeting at the Biltmore in phoenix, Arizona

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RE: INTRODUCTIONS: At the 2001 Annual Meeting, after Bob Rubin introduced incoming President Jim Groton with a gracious introduction, Jim replied:

“Bob, that was a much nicer introduction than the one you gave me a few years ago at one of Bob Peckar’s dispute resolution conferences in New York. You were the master of ceremonies, and you introduced me before my talk as ‘the Billy Graham of dispute resolution,’ which pleased me very much. Unfortunately, after I finished my presentation you got up and said: ‘After hearing Jim’s spellbinding speech, I have to amend my previous remarks about Jim: I have decided that he is the Elmer Gantry of dispute resolution.’

“I have to confess that, knowing what a charlatan Elmer Gantry was, I was a bit miffed at Bob’s closing remark, but then I rationalized it by thinking: ‘How can I expect a Jewish boy from Brooklyn to understand the relative merits and demerits of a couple of Southern Evangelists?’”

Jim Groton Notes



A Susan Schor, Jim Groton, Paul Watson, and Dick Alexander (1994) B Jim Groton, Carl Sapers, and Mike Simon (1997) C Bob Meyers, Bob Rubin, Jim Groton, and Larry Schor (2000)

(L) THE "TWELFTH YEAR" 2001-2002 (INCLUDING 2002 ANNUAL MEETING)

PRESIDENT: LAURENCE SCHOR, WASHINGTON, D. C.

I begin my chapter with a personal note, a prerogative of one having held the office, no doubt. As I walked up to the podium at the Biltmore Hotel in Phoenix to begin my Presidential year, I was overwhelmed by a sense of fulfillment of having the confidence and trust of the Fellows.

I knew I had paid my dues as "Treasurer for Life" (about 6 years), as one of the original Board of Governors members, as co-author of the College Bylaws, as Chair of the Documents Committee and as Annual Meeting Program presenter with Greg Hummel. The achievement of being President of the organization that I most admire among the many in the legal profession was a personal goal reached, something that one has forever. My first remarks to the Fellows emphasized the need to continue the practice of serving the College by maintaining a high level of interest and participation and serving the construction industry by speaking and writing on important issues. I also recognized something that had arisen during Jim Groton's year. The founders and old hands took for granted that our "unwritten rules" somehow got passed down to new Fellows—they did not. As a result I repeated the "unwritten rules" and saw looks of surprise and interest on many faces.

The previous night at the Saturday formal soiree I had the pleasure of presenting the President's medal to Jim Groton and, following my own version of French tradition, kissing him on both cheeks, something he swears he will never forget. It was a poignant moment because Jim's wife Lora had died during his year as President and we all had to step up as needed. We all appreciated how my wife Susan assumed the "First Lady" role and planned the activities for the spouses and guests for the Biltmore meeting. I have vivid memories of the long, gold room and the lighting that gave the whole affair a very special feeling. We had a very full house at the Biltmore because the location was one of the favorites of so many Fellows. In fact, the College changed what had been another unwritten rule, not to return to the same hotel for the Annual Meeting. Similarly, I had missed only one meeting and it was at the Biltmore, so I was following the rule personally.

A big change at this meeting was that this was the first time the American College had invited Fellows of the Canadian College of Construction Lawyers to join us. We panicked a bit when we decided to limit the number of invitees to the CCCL Executive Committee and then found that their EC had seventeen people on it. After some international diplomacy, David Kauffman, then President of the CCCL, and I agreed that a maximum of seven CCCL

Fellows would be “manageable”. We organized a few short summaries of current Canadian issues at the Business meeting and, continuing our new venture into international relations, had Humphrey Lloyd report on Great Britain and Marc Frilet on France. This new “tradition” was carried on at my meeting at The Breakers Hotel in Florida and after that, culminating in the first combined meeting of the College’s at Coral Gables, Florida in 2004.

I would characterize my year and Jim Groton’s as ones filled with interesting issues that we tried to bring to the attention of the Fellows and to address as an Executive Committee and Board. I initiated a practice of having our Administrative Assistant Lynn notify all the Fellows of upcoming Board meetings and asking if there were any issues that the Fellows thought should be considered by Board. Nick Gaede told us of a problem in Alabama that was another indicator of the multi-jurisdictional practice battle that still rages as of the publication of this History. The Alabama State Bar wanted to limit out of State lawyers from coming into Alabama for arbitration and other non-court matters. California followed with the dreaded Bierbower case and the battle was on. We knew that the ACCL had to take a stand against State-inspired limits on participation in meetings, negotiation, mediation and arbitration by out of state lawyers because of the “national” practices of most of the Fellows. Paul Lurie assisted mightily, once again, and we culminated our efforts with Bob Meyer’s appearance and presentation before a special ABA Task Force in New York shortly after Bob assumed the Presidency of the ACCL in February 2002.

I tried to assure continuity of knowledge in ACCL governance by appointing Bob Meyers, then President-elect to complete assembly of our version of the “Domesday Book.” Stan Sklar had started to assemble examples of documents to be drafted and obligations to be scheduled during Presidential years with form letters and other helpful hints. John McGuinn continued the work on an official basis. Bob Meyers had a back problem that slowed his efforts—and all movement, in fact—but the Book was improved and passed on to later Presidents.

I also initiated planning efforts toward having the first combined ACCL-CCCL meeting. I appointed John Hinchey to be our delegate while Harvey Kirsch was appointed by the CCCL.

A highlight of the 2001-2002 year followed one of the great tragedies in American history. On September 11, 2001, Arab terrorists from a group named Al-Qaeda attacked and destroyed the World Trade Center twin towers in New York City. At more than 102 stories, these buildings had once been the tallest in the world and were clearly a symbol of America’s strength and financial prowess. As I write this in 2005 with a totally changed world environment, I am proud to note that buildings may be symbols in the United States but the strength is the people—as the terrorists have been taught.

In November 2001, the ACCL participated with our counterparts in London and Paris in joint sessions on mediation and arbitration issues. We convened at the Royal Courts of Justice where John Hinchey and I represented the ACCL and Vivian Ramsey, now an ACCL Fellow, appeared on the British team. Humphrey Lloyd chaired the session. The group enjoyed a catered dinner in the Court afterwards. At the conclusion of the session, we held an ACCL-Paris, France, Construction Bar session at a Paris Bar Association conference center

near the Palais de Justice. The Chair of the Dispute Resolution Panel for the “Chunnel” Project spoke for the French and John Hinchey and I did a reprise for the U.S. Marc Frilet chaired the session and arranged a dinner for the attendees at the Tour d `Argent for those of us lucky enough to attend.

Another significant issue during my Presidential Year was known as “Multi-Disciplinary Practice”. We found that major international accounting firms had begun hiring lawyers in many practice areas, including construction. There was fear that the trend was going to impact many parts of the construction practice and there was a lot of discussion about how to combat it. Paul Lurie suggested that the ACCL advertise directly or support local construction lawyer group advertising in real estate and construction contractor magazines. The theme was “Why use a Construction Lawyer”, emphasizing the experience and expertise in contracting drafting and dispute resolution. A number of Fellows in the Chicago area tried the ad but there was no consensus about whether it worked, so there was no ACCL follow up. As fate would have it, the accounting mega-firms ran into a large number of scandals arising in no small part because they were trying to “do it all” and the problem disappeared.

My Annual Meeting at The Breakers Hotel was full of energetic discussions on a number of issues. Nothing matched the “wedding coup” which netted us about \$4,000. Renowned movie director Francis Ford Coppola (“The Godfather” trilogy) had a niece being married at the Hotel the weekend of our meeting. The niece’s mother decided that they had to have one of our party areas and we sold it to them! Judy Rosenberg, our travel and meeting planner, worked the deal and we did not have to pay a commission.

The Committee meetings were active and interesting. The Documents Committee heard Phil Bruner’s introduction of the Bruner / O’Connor seven volume treatise on construction law to be published later in 2002, Paul Lurie speak on the pitfalls of GMP contracts, Mark Friedlander speak on the Economic Loss doctrine and John Hinchey discuss certain AOD documents. The PDR Committee featured a lively discussion on the use and role of the “party appointed arbitrator” (most of the Fellows were resoundingly against the concept) and a discussion of “best practices” to be followed by arbitrators that the Fellows who act as arbitrators assembled. The ACCL never published its list, however.

The program began on Friday afternoon in a change to the usual schedule and carried over to Saturday morning. We examined the ethics of scheduling and the use of project schedules that could have activity start dates modified too easily, per the panel that was chaired by John Wickwire. The developer of Primavera was a panel member and was challenged by many. He probably will not be back. We also discussed discovery of electronic documents, a topic that both frightens and overwhelms us old timers but is something we all need to know.

We ended the program with a presentation on the \$8 Billion Everglades Restoration Project by Army Corps of Engineers and State of Florida personnel. This project was one of many being initiated across the U.S. to “return to nature” and diminish control over natural rivers and marshland. We then got a first hand view of the project by going on an actual Everglades tour in special tour boats. The alligators kept their distance and we all knew why – professional courtesy.

As my year in office ended I was most grateful for the congratulatory notes and comments I got from so many people for “a good Presidential year”. I knew that I had another year on the Executive Committee as Immediate Post President and then, as the College completed its Fourteenth Year of existence, I would step down, having served in the governance of the College for twelve years.

~ ANECDOTES ~

RE: TAX LAW? WELL WE ARE “CONSTRUCTION” LAWYERS ANYWAY

"There will be no ACCL Foundation to support the Overton Currie Lecture.

After intense consultation with tax counsel and Fellows interested in tax deductions, we decided it was too much work. L. Schor, Treasurer"

Larry Schor e-mail to Executive Committee

RE: THE BOARD DINNER:

"All kidding aside, thanks again. Just tell the Sam's people that we are only partial reprobates and that they will not get stiffed. We'll see what they propose."

Larry Schor e-mail to Betty Hum, January 3, 2001, re arrangements for Board Dinner

RE: THE BOARD DINNER – FOLLOW UP:

"My personal assistant/accountant, Guido, informs me that I have not been reimbursed \$66.50 per person by you for the ACCL Board dinner in August. Can this possibly be correct?"

Larry Schor e-mail to certain Board Members (whose identities will not be revealed), October 15, 2001, re reimbursement for Board Dinner

RE: PRESIDENT SCHOR GETS LUCKY:

(Inbound E-Mail): "Dear Larry or Mr. President, This is your meeting goddess - - - Judi Rosenberg reporting in from ACCL Meeting Headquarters - - - breaking news.

The hotel called me to let me know that there is a (very expensive) wedding in-house the same weekend as our meeting at The Breakers, and they want our Saturday evening reception space (Mediterranean Courtyard) reallllllllllllllll bad. My contact said that he does have a very lovely room set aside for us (and right next to our dinner space) if we decide to give it up for this wedding. So, I said sure, make me an offer, show me the money. He asked me

what would it take to give it up, and I said that I budgeted \$5600 for this reception, and he said he would get back with me. The offer came in at \$3000 and I said I don't think so. But, she still wants the space and I said, ok, \$4000 and it is hers. Just got the word, we will have a \$4000 credit on our Master Account before we get there, she really wants that Courtyard. So, we are now in the Magnolia Room which was our backup if it was raining that evening. She on the other had will still be stuck with the Courtyard even if it is raining, but not our problem anymore.

So I say --- let's go for the box lunches from the hotel for Swamp gate, treat all of the women to a manicure, including me and Lynn, and purchase those books for the Spouse program on Friday. Your Meeting Goddess, Judi Rosenberg"

Judi Rosenberg (College Administrator) e-mail to L. Schor, February 1, 2001

(Outbound E-Mail): *"WA - WA-WA!!!!!! If I recall, the Gold Room at the Biltmore in Phoenix was not our first choice either and it was gorgeous. Is there room for a stage for entertainment and all the events we usually have? Is the room odd shaped so people won't be able to see now that we have almost 200 attendees for Saturday night? Will we still have the cocktail reception in the area you want or, if not, will we have it in a nice spot – not that there are any baaaad spots in the Breakers?"*

Depending on your responses and Treasurer's okay –

- 1. Everglades lunch from Breakers OK*
- 2. History book for all spouses/guests OK*
- 3. Manicure for you and Lynn OK*

Also, Cookies with Friday afternoon break."

Larry Schor (or Mr. President) reply e-mail to Judi Rosenberg



A Larry Schor and Bob Rubin at play - France (2001) **B** "The Larry Brothers" - Larry Schor and Larry Harris (2000) **C** Murray Wright, Mike Simon, Larry Schor, Howard Goldberg, and Ken Cushman (1993) **D** Larry Schor, Susan Schor, Sue Goldberg and Howard Goldberg

(M) THE "THIRTEENTH YEAR" 2002-2003 (INCLUDING 2003 ANNUAL MEETING)

PRESIDENT: ROBERT L. MEYERS, III, DALLAS, TEXAS

THE COLLEGE GOES PUBLIC

March 3, 2002 - It was a bright and sunshiny day at The Breakers Hotel, Palm Beach, Florida, the playground of the rich and famous. On this date The Breakers was housing the not so rich and not so famous, but certainly important members of the American College of Construction Lawyers. The first Sunday, in March, 2002, the last day of the College's 2001-2002 year, and the first day of its 2002-2003 year. The College had just concluded a very successful year and a very successful meeting under its leadership of its then President Larry Schor of McManus, Schor, Asmar & Darden, Washington, D.C. The upcoming year was to be an auspicious year under the controlled and disciplined leadership of its new President, Robert L. Meyers, III who in real life was the PIC of the Construction Practice Team at Jones, Day, Reavis & Pogue.

On the morning of Sunday, March 3rd we held our annual business meeting bringing to a close the 2001-2002 year and preparing to commence the 2002-2003 year. In recognition of our expanding circle of interest and influence we were brought up to date on European conferences by Bob Rubin. We considered the issues involved in multi-jurisdictional practice presented by Nick Gaede; similarly the issues presented by multi-disciplinary practice presented by Paul Lurie and significantly and historically we began the College's history project under the guidance of Dave Hendrick, our President in 1996-97. The history project was to pull together the College archives and prepare and publish a history to date of the College. The last phases of this project are currently underway and this chapter is a part of that undertaking. Also dealt with at the annual business meeting was the confirmation and the election of various officers and directors for the coming year including confirmation of myself, Robert L. Meyers, III, as President and Bert Grandoff continuing as his second year as Secretary and newly elected were Jesse B. (Barry) Grove, III as President-Elect, A. H. (Nick) Gaede as Treasurer and Board members Howard Ashcraft, Jr., Lester Edelman, Hugh Reynolds, Jr., and Robert J. Smith. We all felt comfortable with this slate of officers and directors as the nominating committee contained two of our most senior and seasoned members, Jim Groton and Walter Hannah, ably assisted by the academically astute and agile Phil Bruner.

Already underway was the planning for the joint meeting with the Canadian College of

Construction Lawyers, planned for the annual meeting on February 27-29, 2004 to be held at the Biltmore Hotel in Coral Gables, FL. This was a meeting of first impression for both the American and Canadian Colleges. It was much anticipated and enthusiastically endorsed and being prepared by members of both Colleges with John Hinchey as the chairman of this momentous effort. Our newly elected Fellows also joined us at this annual business meeting and the Fellows were Jeff Ford, Kathryn Gurun, Kyle Hart, James Nagle and Danny Shaw.

The annual business meeting was followed by the first Board of Governors meeting for the 2002-2003 College year. In attendance were the officers and the continuing, as well as new, Board members as follows: Howard Ashcraft, Debbie Ballati, Les Edelman, John Hinchey, Geoff Keating, Don Marston, Steve Nelson, Leslie O'Neal-Coble, Bill Postner, Don Pratt, Hugh Reynolds and Bob Smith. At the meeting we dealt with the usual items of business including committee reports and review of the College finances. Reports were given by the following Construction Delivery Systems Committee, Mark Friedlander, Chair; the Delivery of Legal Services Committee, Paul Lurie, Chair; the Documents Committee, Dick Alexander, Chair; the Education Committee, Stanley Sklar, Chair; the Private Dispute Resolution Committee, Bob Peckar, Chair; the Insurance Industry Committee, Harvey Koch and Debbie Ballati, Co-Chairs; the International Construction Law Committee, Don Marston, Chair; the Hot Tips Committee, Phil Bruner, Chair; the ACCL Networking Task Force, Paul Lurie and David Ratterman, Co-Chairs; and the Past-President's Council, Stanley Sklar, reporting. The finances were reported by the outgoing Treasurer, Barry Grove, and all were pleased that we continued in the black.

Also considered at this Board meeting was the project devised and initiated by Paul Lurie of Schiff Hardin in Chicago. He envisioned an ad campaign with tasteful ads being run in basically local publications that would reach the design and construction industry players commending the use of construction lawyers. The Board considered this to be a good idea in general and authorized Paul to proceed on a limited basis with others authorized to join in if it seemed like a good idea in their local area.

The most important issue facing the members of the College and our profession in general at the time of our annual meeting and shortly thereafter was the American Bar Association effort on multi-jurisdictional practice. An ABA Commission was to study modern law practice and the demand for multi-jurisdictional activities brought about by our business clients. This reality was particularly present and proliferated in the design and construction and related industries. As a consequence, the Board of Governors decided to "go public" and authorized me, Robert L. Meyers, III as President of the College, to appear before the ABA Commission on Multi-Jurisdictional Practice, meeting in New York on March 21, 2002. We developed a position which was that we favored modifications to the unauthorized practice of law rules, to clarify the rules concerning and to create safe harbors for multi-jurisdictional practice in areas other than those covered by pro hac vice rules. We developed written testimony that would make our position clear. The principal author of this work was Nick Gaede and the testimony presented was as follows:

**STATEMENT ON BEHALF OF
AMERICAN COLLEGE OF CONSTRUCTION LAWYERS
TO THE AMERICAN BAR ASSOCIATION
COMMISSION ON MULTI-JURISDICTIONAL PRACTICE**

We believe that the central issues raised by the Multi-Jurisdictional Practice debate is whether the client has the right to select the lawyer or law firm of the client's choice. The American College of Construction Lawyers (ACCL) supports the position that the client should be free to select the lawyer of the client's choice and that that lawyer should be free to represent the client in any jurisdiction, with appropriate safeguards to assure that the lawyer is properly licensed in his/her jurisdiction, that the lawyer's conduct is ethical, and that the lawyer is subject to sanctions for any ethical violation.

The ACCL has approximately 125 members from over 35 states who have devoted a significant percentage of their legal practice in the construction industry for at least 10 years, have contributed to the profession and the industry in meaningful ways, and have been acknowledged by their peers as being among the very best who represent clients in matters related to the construction industry. While most members are in private practice, some of our members are employed by owners, designers, and contractors. Clients represented by our members include owners, private and public, developers, construction lenders, general contractors, suppliers, subcontractors, architects, engineers, surety companies or insurers, among others. The members of the ACCL represent all segments of the construction industry.

The ACCL, as an organization, considers itself a "friend of the construction project." The ACCL does not take public positions in support of any one interest. This statement on behalf of the ACCL is the first time the ACCL has taken a position on an issue in its 13-year history. At our recent annual meeting, the members were unanimous in support of making a statement.

While construction law is generally recognized as being its own area of expertise, lawyers who practice in the construction industry typically address a wide range of legal issues such as contract law, public financing, private financing, project financing, licensing, real estate, bankruptcy, suretyship, insurance, and dispute resolution.

The construction industry has been a leader in developing and sponsoring arbitration, mediation, and other ADR techniques. The members of the ACCL are frequent participants in such procedures, acting as mediators and arbitrators, and representing clients in mediation and arbitration, and serving on dispute review boards and similar bodies. The construction industry has also been a leader in developing standard forms (e.g. AIA and AGC) for use on projects and these forms are frequently employed in many jurisdictions by national clients with offices and projects throughout the United States and its possessions.

There are many significant projects which attract contractors, lenders, general contractors, suppliers, and subcontractors, architects, engineers, or sureties and insurances from a number of jurisdictions. It is common for our members to provide advice to such clients in multiple jurisdictions with regard to contract terms, financing, insurance, disputes and other similar issues. When issues which are primarily local (e.g. licensing, zoning, etc.) arise, our members

routinely seek advice, or advise the client to seek advice, from a local lawyer. However, it is normal for many of our clients to want one or more of our members to be involved generally wherever the project may be being built.

The needs of the clients for whom our members work or represent require that our members provide advice with regard to projects in many jurisdictions. Our members have high professional and ethical standards and believe the proposed amendments to Model Rule 5.5 were not only appropriate, but essential. We join with the Business Sector of the ABA in urging that the "safe harbor" for transactional matters be defined to be based on the experience of the lawyer and the need of the client and not limited to matters for clients located in the jurisdiction of the lawyer or that the position espoused by the restatement of the law governing lawyers be adopted and incorporated.

Subsequently, we learned that the ABA Commission was reporting favorably in support of multi-jurisdictional practice and in favor of creating certain safe harbors to both protect and to limit multi-jurisdictional practice efforts. Unfortunately even though such a report was issued nothing really has happened by the way of implementation by the various states.

The Executive Committee (consisting of Bob Meyers, President, Barry Grove, President-Elect, Nick Gaede, Treasurer, Bert Grandoff, Secretary and Larry Schor, Immediate. Past President) met diligently throughout the year in a once a month conference call covering all the issues facing the College and its members both large and small (issues not members). Among those matters considered and dealt with was the College policy on attendance at annual meetings including the issuance of "two and three strike letters", selection of the Currie Lecture Series speaker, the ACCL/CCCL joint meeting planning and the continuing availability of the ACCL logo shirts and other monogrammed items.

The spring meeting for the Executive Committee and the Board was held on May 18, 2002 in the Dallas office of Jones Day. Present were Bob Meyers, President; Barry Grove, President-Elect; Nick Gaede, Treasurer, Larry Schor, Immediate Past-President, Bert Grandoff, Secretary, and Board members Debbie Ballati, Les Edelman, John Hinchey, Don Marston, Steve Nelson, Leslie O'Neal Coble, Bill Postner, Don Pratt, Harvey Koch and Past-President Bob Rubin. Among the significant announcements was the selection of the New Fellows Nominating Committee consisting of Barry Grove, Chair, and members Steve Nelson, Michael Nuechterlein, Julian Hoffar and Tony Smith. There was also a presentation concerning the College testimony to the American Bar Association Task Force on Multi-jurisdictional Practice. Although it was not known at the time of the meeting, it was subsequently learned that the Task Force had rendered a report favoring the position of the College. Nick Gaede doing a masterful job as Treasurer was able to report a total cash surplus available of \$60,017.00. Educational topics for the 2003 meeting were discussed and Howard Ashcraft was selected to serve as chairman of the program. Among other highlights will be Carl Sapers as our Currie Lecture speaker. Not all of the committees had a report, but of those reporting the impression was that all was running smoothly. For example, Steve Nelson reported that the website is operating under budget (that's the good news), but that it is under utilized (that's the bad news). He encouraged all Fellows to keep their resumes

updated. It was surprising to me that given our membership there would be anyone who would fail to update their resumes but apparently this is an item that needs to be revisited periodically. I suppose there was one milestone in our growth and maturity evidenced at the meeting. We purchased directors and officers liability insurance just in case we did or failed to do something that got us sued. Bob Meyers requested that it become standard operating procedure for committee chairs to submit written reports for every Board meeting. This will help the Board stay abreast of what's happening and will keep the committee chairs and their members more active year around.

The Board meeting was followed by a dinner for Board members, committee chairs and other attendees at the Board meeting as well as all Fellows in the immediate geographic area that wished to attend. This particular dinner was unique in that it was a Texas style barbeque held at the home of Libby and Bob Meyers which was not our usual venue, but a relaxed and convivial time was had by all and no one fell into the swimming pool; well no one whose identity we will reveal at this time.

The August 10, 2002 meeting of the Board of Governors was held in the Jones Day office in Washington, D.C. It went forward without my presence due to one of three separate spinal surgeries, a laminectomy on L4, a laminectomy on L5 and a fusion of L4 and L5. President-Elect, Barry Grove presided and carried forward with a very efficient and effective meeting. Among other things taken up were reports from John Hinchey and others involved in the planning on the status of preparation for the joint meeting with the CCCL to be held at the Biltmore Hotel in Coral Gables, FL in 2004, a report by Larry Schor of an after meeting program to be held in 2003 in Hawaii, being planned by Ken Kupchak, confirmation that insurance coverage had been obtained for officers and directors of the College, and the report on the ad program initiated by Paul Lurie, and the Board did confirm authorization of the ad program on a trial basis.

In September 2002, all of us were saddened by the news of the passing of our dear friend and fellow practitioner in the field of construction law, Ken Cushman, of Philadelphia/New York. He had succumbed to a longtime debilitating cardiac condition. Later in the year in October, we also lost an outstanding jurist and friend to many in the College, Judge Richard Campbell Solibakke.

The December meeting of the College Board of Governors was held on Saturday, December 14, 2002 at the offices of Farella, Braun & Martel in San Francisco following that year's Construction Law Superconference. Our use of offices and other facilities at Farella Braun & Martel was courtesy of Alan Harris and Deborah Ballati, two of our esteemed Fellows. The Board considered and took action on the usual matters of business, but of particular note were the following:

1. The Board confirmed its desire that we seek potential Fellows from overseas provided they meet the same membership criteria as those who might be in the United States or Canada.
2. A discussion was held as to whether or not to continue producing a printed yearbook and resume of membership and addresses of the membership. There was a discussion

of this, but as a preliminary step it was concluded that all Fellows should be encouraged to submit the information to the website for at least inclusion electronically in the public section of the website.

3. Two of our esteemed members, B.C. Hart and Jerome Reiss, were granted Emeritus Fellow status by the Board.
4. It was announced that plans were well underway and gelling with respect to the annual meeting which would be held at the La Costa Resort in Carlsbad, CA. in March. Among other features will be this year's Currie Lecture presented by Carl Sapers, special entertainment to be provided by Amy Meyers and Friends imported all the way from San Francisco, the CLE reporting for programs at our annual meeting would be managed by the Texas Institute of Continuing Legal Education headed by our now Executive Director, Donna Passons. It should be noted that all news was not necessarily good news. The well intended and exciting sounding of a Hawaii post-meeting chaired by Larry Schor and Ken Kupchak was authorized by the Board, but unfortunately had to be cancelled due to non-participation. Apparently the annual meeting followed by an extra meeting at a far off location even as lovely as Hawaii was not that attractive to our members.
5. On the upside, John Hinchey reported continued progress on the planning for the joint meeting of the CCCL, but on a down note I had to announce that the Kellan Co., the ACCL management firm from the beginning days, was proposing substantially higher fees and the Board should consider what our options might be.

It is now February 21-23, 2003, the College is careening down the path to the close of its 2002-2003 year taking place in connection with its 14th Annual Meeting at the La Costa Resort & Spa in Carlsbad, CA on February 2-23, 2003. The meeting was crammed packed with highlights - highlight after highlight after highlight. There were no lowlights. Our spouses and guests were treated to an educational program dedicated to the good health of us all presented by the LaCosta nutritionist. At the same time the Fellows were having their heads packed full with educational stuff from our committee meeting presentations, the Hot Tips presentation chaired by Phil Bruner and assisted ably by Joe Canterbury and a session on the criminalization of construction claims - a study on state and federal False Claims Acts presented by our Fellow, John Clark, of Thelen Marin in Los Angeles and undoubtedly one of our future Fellows, Dan McMillan, of Jones Day Los Angeles. The day was closed by the Currie Lecture presented this year by our Fellow Carl Sapers on the role of the design professional in the 21st Century. On Saturday one of our brighter Fellows, Howard Ashcraft, did his dead level best to educate us of the older generation of the fine art of electronic warfare/discovering electronic data. I, for one, found this to be a life saver because I have been involved in electronic warfare for the past year in a case involving a power plant that did not get finished on time and never achieved its design productivity and dependability. On Saturday night, February 22nd, was the reception honoring our new Fellows and our black-tie dinner featuring the introduction and induction of new Fellows, the recognition

of outgoing officers and Board members, the awarding of prizes for various golf and tennis competitions and the highlight of the year, a musical review based on the ups and downs in the life of construction lawyers written and presented by Amy Meyers joined by two of her talented friends Diana Torres-Koss and Lisa Laird. All of them came down from San Francisco just for our show. These outstanding professionals were joined by two amateurs, Bob Rubin and Bob Meyers each of whom offered enthusiastic but meager performances.

The annual business meeting on Sunday morning, February 23rd, brought to a close the 2002-2003 year for the College. The year ended with the usual committee reports that showed that the current committee structure was alive and well and functioning for the benefit of our Fellows, our profession and our industry. Added to this year's meeting were a large number of ad hoc reports because we had so many projects underway including an advance report on planning for the upcoming joint meeting with the Canadian College of Construction Lawyers to be held in 2004 and the report of the nominating committee and confirming election of new Board members and Officers, Jesse B. (Barry) Grove, President, Bert Grandoff, President-Elect, A. H. (Nick) Gaede, Treasurer and Phil Bruner, Secretary. I happily acceded (or should that be receded) to the office of Immediate Past President and disappeared into the sunset wearing my Carl Sapers designed Presidential Medal.



A Jim Myers, Libby and Bob Meyers (1994) **B** Bob Meyers, Alan Harris, Libby Meyers, and Barry Grove **C** Barry Grove, Overton Currie, Jerry Reiss, Bob Meyers, Ken Cushman, and Joe Pierce (1994) **D** Bob Meyers, Libby Meyers, Stan Sklar, Sandy Sklar, Charlotte Rubin, and Bob Rubin

(N) THE “FOURTEENTH YEAR” 2003-2004
(INCLUDING 2004 ANNUAL MEETING)

PRESIDENT: JESSE B. (“BARRY”) GROVE III, NEW YORK, NEW YORK

“THE YEAR OF THE CANADIANS”

When I arrived to chair my first Board of Governors meeting right after our annual business meeting at La Costa on February 23, 2003, I knew I was in double trouble. While I was a mere Treasurer unable to effectively resist, the Board had decreed that my year would feature the inaugural joint annual meeting with the Canadians, and to make that prospect more terrifying the College was in need of a new Executive Director. Had I known that a “Talent Show” would be added to the mix, I would have stayed in bed. But my fellow officers – Bert Grandoff, Nick Gaede and Phil Bruner – seemed unfazed, especially Bert, and the incoming Directors were enthusiastic for the fray, so we plunged in.

The main topic of discussion that day arose from the meeting of the PDR Committee the day before. In response to continuing complaints and war stories from Fellows regarding experiences with AAA, the PDR Committee had invited representatives from AAA to “clear the air.” AAA sent Debi Miller-Moore and Scott Carsello, nice folks who had no idea what was coming. In fact, neither did I. I was astonished at the depth and breadth of dissatisfaction expressed, and afterwards I assured Debi and Scott that the ambush was not pre-planned. Clearly it was time for something constructive to be done, so I delegated. The AAA Task Force was created by the Board that day and the members were Joe Canterbury, Chair, Steve Butler, Ed Meyerson, Don Pratt, Jim Groton, Jim Myers, Mabry Rogers, Steve Arbittier, Steve Smith, Howard Goldberg, Bob Peckar and Alan Overcash. Among them were some real heavyweights with AAA through long and significant service to the organization. As time went on, the heavy lifting was done by a “negotiating committee” consisting of Canterbury, Butler, Meyerson and Pratt.

It turned out that I had delegated well. AAA responded by establishing its own committee to work with our Task Force. John Emmet, EVP & COO, Christine Newhall, Sr. V.P., and Robert Meade, Sr. V.P. were our AAA counterparts. AAA also took the initiative to meet with ACCL Fellows in all regions for informal discussions. Task Force Chairman Canterbury brought all of ACCL’s concerns forward, but concentrated on (1) getting AAA to actually use its national blue ribbon panel, and (2) getting ACCL members who so desired onto that panel. Good progress was made on both fronts, and we were gratified to hear it explained by Bob Meade at our 2004 Annual Meeting.

The Board decided not to have a Spring meeting in 2003, so the main Spring activities were the traditional new member nominating process handled by Bert Grandoff's Nominating Committee and the transition of our business affairs from Kellen Group to our newly selected Executive Director, Donna Passons. Kellen was somewhat less cooperative than we required, so in many ways Donna had to start from scratch. As I watched her do so, I became more and more confident of her ability. Ultimately she put our affairs in order and ran the Annual Meeting without a hitch or flaw to my great relief. Thanks go to past President Bob Meyers for finding and recommending Donna.

The August Board Meeting in New York was largely devoted to the report of the Nominating Committee and planning for the Annual Meeting, although many of the working committees had reports of activities and plans. John Hinchey had actually been working on the joint ACCL/CCCL meeting plans for over a year. In 2003 he formalized his committee and began monthly planning sessions. There were thousands of ideas, suggestions, hare-brained schemes, wishes, wants and no-no's to deal with. John never wavered, never even seemed perturbed. He was doing so well that I went along with his approval of Ken Kupchak's Talent Show idea. Outside of Harvey Koch and Libby Meyers, I was unaware that there was any talent worth showing. Boy, was I wrong on that one.

By the time of our December Board Meeting in San Francisco, new fellows Bill Beadie, Don Gavin, Ty Laurie, Doug Oles, Bruce Shreves, Stuart Sobel and Ed Tricker had been elected and accepted. We were now speeding headlong towards the Annual Meeting. The Boards have always tried to improve our meetings, sometimes in small, meaningful ways, as this Board did by deciding to have a wine and cheese reception on the Thursday of arrival. Thanks to the efforts of Phil Bruner and Jean Van der Lee, another new feature of the Meeting was a Judicial Panel consisting of Rt. Honorable Beverly McLachlin PC, Rt. Honorable Peter Cory QC, Honorable Loren A. Smith, His Honor, Humphrey John Lloyd QC, and Honorable Frank Mays Hull. It was outstanding, and we were honored by their attendance.

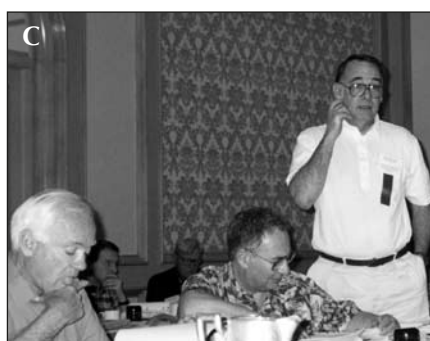
On February 26, 2004 the clan began to gather at the Biltmore in Coral Gables. What followed is largely a blur in my memory. I know there was only one casualty reported: Tony Smith's badly fractured leg resulting from a golf cart encounter with a fixed object. The cart driver remains unidentified, but the other occupants are known. The much anticipated Talent Show was a smashing success. I knew it was going to be OK when Bert (doing his Dean Martin bit) forgot the lyrics. Harvey was Harvey (just call him *sui generis*). The band was great. Andre Simard brought the house down (no amateur there). And Libby dutifully and beautifully played whatever tune was demanded.

The committees, co-chaired with Canadian counterparts, all came through with their usual high value sessions including a number of guest speakers. Joe Canterbury continued the Hot Tips tradition, and for a Hot Project Steve Stein arranged for Cliff Mumm, Sr. V.P. of Bechtel, to fly in from Baghdad to give us an up to the minute report on reconstruction efforts there.

Our formal Saturday night dinner took a little longer than usual in order to accommodate the ceremonies of both Colleges. One of the past presidents asked me for a microphone

slot for reasons undisclosed. This turned out to be the inaugural Past Presidents Award for Exemplary Service to the College given to Paul Lurie in recognition of his yeoman service particularly in the creation of the now popular LISTSERV communication system. The certificate of recognition is reproduced overleaf.

And then it was over. With relief, a great sense of privilege to be there, and conscious of the honor to have been selected to serve, I was able to hand the gavel to President Grandoff and resume my seat for after dinner drinks and more badinage with the judiciary.



A Les Edelman, Barry Grove, Bert Grandoff, Joe Pierce, Walter Hanna, Overton Currie, Don Pratt (1994)
B Helmut Johanson (of the CCCL), and Barry Grove **C** Jim Hawkins, Les Edelman, and Barry Grove (1994)
D B.C. Hart, Alan Harris, and Barry Grove **E** Alan Harris, Mary McElroy, Jerry Reiss, and Barry Grove (1994)

(O) THE "FIFTEENTH YEAR" 2004-2005 (INCLUDING 2005 ANNUAL MEETING)

PRESIDENT: J. BERT GRANDOFF, TAMPA, FLORIDA

It all started off at the Biltmore Hotel in Coral Gables, Florida at the 15th Annual meeting of the College. As President-Elect I was paying close mind to what it takes to produce a successful meeting; it would be my responsibility the next year in Tucson.

The Coral Gables event was a joint meeting of the American College and the Canadian College. . . and what a time it was. President, Barry Grove had appointed John Hinchey as Program Chair. None of us imagined the complexities of organizing two groups of egos, international no less, and making the conference a smooth success. We did some interesting things.

In addition to the invitation and attendance by the Chief Justice of the Supreme Court of Canada and a Judge of the Eleventh Circuit Court of Appeals, the Friday event was a sold out performance of entertainment by singers and musicians of both Colleges with myself as M.C. No one left early that night. It could have gone on for hours more. That's when I decided to "perk things up" for Tucson at the 16th Annual Meeting of the College. The notion was clear, at least to my mind: have more fun, less formal presentations, find free time . . . be collegial!

Planning began with discussions at the Board level. While some doubts were expressed that the plan would be well received, the support was there for a more collegial approach to our next meeting.

Appointing Steve Stein as Program Chair was the first thing. I asked him to get us interesting topics with good presenters, with free-wheeling topics, in a compressed time frame. I asked Ed Meyerson to Chair our traditional "Hot Topics". Then it was time to let them do their jobs and for me to have a site visit at the hotel, meet the convention staff and see for myself what could be done for the fun part of things. That's where Donna Passons came into the picture. A word about Donna is appropriate at this point.

I first met Donna when the College was transitioning from our previous administrator: a Washington, D.C. company which had handled the College's affairs since its inception. It came time for the College to make a change when dissatisfaction was expressed on the service we had received in recent years. Donna was in an awkward spot meeting with the Executive Committee and the conference management company that she was replacing . . . but she handled a very strained takeover just as we had hoped. Our expectations of Donna were met and exceeded by her performance at the Coral Gables meeting.

Our Board met on two occasions during the year; Chicago and New Orleans. As usual,

Fellows in the host city were gracious enough to afford meeting facilities for the Board. In Chicago, Stan Sklar had the welcome mat out at his offices. After our meeting, there was free time to enjoy perfect Chicago weather, visit the museums, walk Michigan Avenue and generally take in the "toddlin' town".

New Orleans was hosted by Bruce Shreves in his office's very pleasant surroundings. Before the meeting that morning, Harvey Koch had made arrangements for coffee and beignets at his office in the same building . . . what a treat that was. Harvey was also our facilitator for a great dinner at Antoine's that evening.

On a special note, Burt Reynolds was dining at Antoine's with friends when I spotted him and asked him to visit us for a moment. He graciously did so. Nancy knew Burt during the time she lived in Miami and they had not seen each other for years. It was a special treat for her and all of us. Burt signed a few autographs and posed for a few pictures before returning to his table. All in all, it was a fine evening.

But back to Tucson . . .

A personal inspection of the Ventana Resort was just what was needed to finalize plans for an entertaining and worthwhile conference. I asked Nancy for her thoughts. In discussions she had with spouses at previous meetings, she convinced me to provide more quality time for spouses, so . . .

"How about a western style dance class in preparation for the planned barbeque buffet, with Karaoke, and dancing for the Friday night festivities?", she said. The hotel suggested a local western style dance instructor who would come to the hotel, meet with the spouses and guests Friday morning following their breakfast, and conduct the dance class. The ladies also had a cooking class for southwestern cuisine that was very popular.

Next thing was to create more free time for Fellows, spouses, and guests. Thus, Steve Stein arranged for the sessions to end Friday at 1PM with free time for all to spend sightseeing, sports, time by the pool, enjoy the spa . . . whatever. The idea was to make this more of a vacation from our day-to-day commitments.

The early weather reports were bad. The one week look-ahead predicted showers and thunder storms from Tuesday through Saturday. We banked our hopes on a wrong forecast . . . it worked. The weather man completely missed. The weather was perfect all week. Even so, because the weather was somewhat cool for the Friday evening festivities scheduled for the Corral, the hotel staff convinced us to bring the party inside . . . it worked fine.

Friday night found the dance floor crowded the entire evening. The ladies did their western line dance and named themselves the "Dancing Nancys" as a token to my wife who had taken ill the previous day and was unable to participate that evening although she was there enjoying the antics. Karaoke was in full swing with solos, quartets and duets performing their favorites. Who could have imagined Hoffer, Harris and Gwynn doing their thing followed by a rousing "YMCA" for the finale.

At the Saturday formal event we were honored to have Madame Chief Justice Beverly A. McLachlin of the Supreme Court of Canada with us to receive her Honorary Fellow plaque. Unfortunately, Judge Hull of the U.S. Fifth Circuit was unable to attend. Nick Gaede

volunteered to have a presentation in her Chambers in Atlanta at a later date.

Six new Fellows were inducted at this meeting, swelling our numbers to 147. In fifteen years we had grown from the Chicago 3 to the Founding 25, to the 147 at Tucson.

New Fellows inducted at Tucson included: G. Edward Cassady, III; W. Kyle Gooch; David Girdon Lane; Robert J. MacPherson; Val S. McWhorter; David Watkins; James Duffy O'Connor; Vivian Arthur Ramsey; Honorary Fellowships – The Honorable Frank M. Hull and the Right Honorable Beverley M. McLachlin.

Looking ahead I have suggested a Construction Symposium to be presented by the College for the benefit of the industry we serve. I asked Phil Bruner to take the lead in developing the format for the Symposium. Phil has organized an excellent committee to return to the Board with a program. Nick Gaede also announced that he has called a meeting for April 2005 to discuss the symposium, along with other long-range planning.

On a sad note, we learned that the mentor of so very many of us, Overton Currie, had passed on. How very coincidental that he should die on the 15th anniversary of our founding, to the day.

Regrettably, Nancy and I were required to return early Sunday morning, causing me to miss the closing Board meeting and business meeting. Nick Gaede was kind enough to step in for me and get it done.

The College has prospered and acquired much deserved respect both in the Bar and in the industry we serve. The future looks good for the College. New Officers and Directors for 2005-06 were introduced at Sunday's general session: Nick Gaede, President; Phil Bruner, Vice President; Joe Canterbury continues as Treasurer and John Hinchey, Secretary.

Looking ahead, Phil Bruner takes over in 2006-07 and Joe Canterbury 2007-08. From this perspective, there are great days ahead. Sklar said it best when he observed at the founding of the College, which this fellowship will be a success as we continue to "check our egos at the door".

Thank you all for the opportunity to serve.

(Editor's note: As if the style did not give this away, this article was written by Bert in its entirety before he passed. Ironically, it proved to be his farewell to the College.)

~: ANECDOTES ~:

Not long after Bert had penned this recounting of his "wonderful year", he unexpectedly died as a result of problems arising after a relatively "routine" surgical procedure. After Bert's passing, his lovely wife Nancy wrote in response to the outpouring of affection and recollections, "you must know how important the college was to Bert". Of course, the converse was also true as Bert was similarly "important" to the College. We feel will miss Bert – for many reasons, but most significantly for his willingness to use his considerable

skills as a trial lawyer to argue forcefully the minority (sometimes minority of one) view but also his tremendous sense of humor and ability to have fun – and lead others along with him like a Pied Piper. In Bert's own words, this comes through loud and clear in his LISTSERV entries below:

FEB. 27, 2001 RE: the minutes of the Board meeting Bert was supposed to have-taken

"My dog ate the minutes..."

NOVEMBER 21, 2001 (from someone in his office)

"Mr. Grandoff wanted you to know that the American College website is not functioning. He used the same number PIN as his ATM card, which is what he uses for everything, and it won't work. He thought you would want to report this."

NOVEMBER, 21, 2001 (later that day)

"I am sorry, please don't hate me. I don't know how to get on the website."

NOVEMBER 29, 2001 (in response to a note Steve Nelson sent to him to the effect that 64 members had downloaded annual meeting registration materials within two hours of receiving a note from Bert that they were available on the ACCL website...and wondering if we had truly entered into a new electronic age in the College)

"What hath God wrought?"



MARCH 14, 2002 (after receiving many replies to his LISTSERV posting seeking help with an issue on plan ownership)

"..[I]s this a great organization, or what!"



MAY 21, 2002 (on reporting on a ruling by the Florida Appellate Court on some arbitration issue, feeling pretty proud of himself for having scooped some of those who follow these issues closely)

"I might have beaten Paul Lurie to this one!"



MARCH 14, 2003 (a note to Joe McManus and Steve Nelson, as part of his plan to review the annual meeting format)

"Have you received the La Costa conference surveys from McManus? When you do, please give me call to discuss our next step. I think we may want to get the info to our survey committee, draft some questions, format them for the membership on the website, then tabulate the responses for distribution to all Fellows." followed moments later with a PS to Steve Nelson *"Stevie (he's the only person who's ever called me that, and I'll miss it),"...Lose all the answers from anyone who enjoys wearing a tuxedo, takes themselves too seriously, or doesn't know how to have fun.. Bert"*.



MARCH 17, 2003 (on reviewing the conference surveys)

"The paltry return on the questionnaire can, may mean a few things, not the least of which is the possibility that the Fellows are generally pleased as is. But I don't think so. I hear too many questions, suggestions and mild disappointment to believe we can't do better. Of course, I can't imagine what we do about the comment 'The cocktails and dinner on Friday nite were too late for easterners.' Maybe this guy can eat earlier on his own ticket and go on to bed!" Bert.



JULY 10, 2003 (in a note to that year's Nominating Committee)

".. Thank you for the effort devoted to this important assignment. I believe the Nominating committee work of the College to be the key to The College's continued success. We are, after all, "known by the company we keep"



JULY 29, 2003 (on the subject of engineers in general)

" Stevie (Nelson), The linear thinking of engineers is their worst problem and holds them back from attaining more than their personal expertise. The Engineers that are able to put aside that "linear" mindset, are the one that become CEO's and make money for the rest of the madding crowd of linear thinking folks. It's the "Dilbert" syndrome... smiling Bert"



A Bert Grandoff and Steve Siegfried **B** Nick Gaede and Bert Grandoff **C** Larry Schor and Bert Grandoff (2001) **D** Harvey Koch, Bert Grandoff, Nick Gaede, Mike Nuechterlein, and Ed Meyerson (1999)

(P) THE “SIXTEENTH YEAR” 2005-2006
(INCLUDING 2006 ANNUAL MEETING)

PRESIDENT: A. H. (“NICK”) GAEDE, JR., BIRMINGHAM, ALABAMA

Like each of my predecessors, being asked to serve as president of the ACCL was a distinct honor and a privilege. Being the first President who was not a founding Fellow, perhaps reflects more on the passage of time than deserved reward. My term began on Sunday at Tucson, but the “baptism of fire” began on Saturday night when I had the pleasure to introduce our new Fellows: Terry Brookie, John Bulman, John Heisse, Charles Seemann, Lorence Slutzky, Deborah Griffin, Kim Hurtado, and John Miller. This was a large, but very talented group—Jo Anne, who regularly reminds me that “you are no Winston Churchill,” said the presentations with pictures were too long. That was not my concern, which was how does one follow Bert Grandoff and his renditions of Miss Cherry Picker at the Las Vegas equipment convention. I learned long ago not to follow Bert to the podium, but there was no other way.

My term ended in Sanibel Island, Florida. We had great attendance as usual; only 14 of our 148 Fellows were absent. The program chair, Pat O’Connor, organized a great program. We discussed, among other things, the new AIA A201 draft and the difference between the conduct of domestic and international arbitrations. Stuart Sobel organized and presented “Hot Tips” in a new format which included short reports on the key developments during the last year by each Committee, plus reports by Jim Nagle on Government Construction Contracts, by Alan Harris on developments related to privilege and experts, and by Paul Lurie on the developments on the MJP and UPL fronts. We learned about techniques of engineers (Dan Cuoco) and architects (Bill Hellmuth) for responses to disasters such as the World Trade Center Twin Towers, and received a humorous and insightful Currie lecture from our own The Honorable Humphrey Lloyd.

We had fun activities for spouses and friends, including a boat and shelling trip, a visit to the Ding Darling Natural Park, and a visit to the Edison-Ford Museum. There were the usual golf and tennis outings, and for the first time in living memory, Joe Pierce did not win a golf prize.

I was blessed with a great Executive Committee—Phil Bruner, Joe Canterbury, John Hinchey, and Bert Grandoff—and Board of Governors—Tom Abernathy, Steve Arbittier, Adrian Bastianelli, Steve Butler, Mark Friedlander, Holt Gwyn, Jules Hoffar, John Petro, David Ratterman, Tony Smith, Richard Smith, Patricia Thompson. At the Sunday business meeting, we reviewed some of the activities of the past year. These included:

- A Board of Governors long range planning session was held at our offices in Birmingham, Alabama on April 22 and 23, 2005. In summary, based on this meeting and prior long rang planning efforts, we discussed at the annual meeting:
 - (1) **Membership** – How many? International? Etc.
 - (2) **Organization** – Committees v. Task Forces, etc.
 - (3) **Affiliations** with CII and others industry groups
 - (4) **Participation in other activities** such as ACCL Journal
 - (5) **ACCL taking position** on issues such as MJP
- At the April, 2005 Board meeting, we authorized Phil Bruner and his Task Force which included, among others, K. Gurun, W. McCallie, L. Edelman, B. Grove, and J. Hinchey to proceed to plan for a possible Industry symposium and to report further to the Board at the August meeting. After reports at the August meeting and the December Board meeting, the Board at the December meeting authorized the EC to proceed to book the Nassau Inn at Princeton University for a symposium on November 2 and 3, 2006. The idea of such a symposium was first proposed by Bert Grandoff several years ago. To be held in cooperation with CII and the Engineering School at Princeton, this should be a great opportunity for the ACCL to show that it is a part of the Construction Industry, not just another lawyer group, and is indeed a “friend of the Project.”
- Also at the April Board meeting, we asked Holt Gwyn to form a task force and to develop orientation materials for our new Fellows and to host a special breakfast for new Fellows at the annual meeting. The idea was inspired in part because of our increased size and in part because the historical materials retrieved for the April 2006 planning meeting made clear that our new Fellows, and indeed all of us, need to know about and appreciate the rich history of the ACCL.
- For a number of years—indeed from our beginning—we have discussed the possibility of a “juried” ACCL Journal. Through the efforts of Phil Bruner—his contacts with Thompson-West Publishing—and Adrian Bastianelli, these discussions became a reality when the Board at its December 2005 meeting in Dallas approved entering into an agreement with Thompson-West to publish an ACCL Journal twice a year. This will be a great opportunity to provide “cutting edge” articles that hopefully will advance construction law, but more importantly serve as a forum to discuss at the highest level issues—not just legal issues—that impact the Construction Industry.
- The history of the ACCL was worked on diligently by David Hendrick and many of our past presidents. Gathering the information and developing a format was an enormous job. In fact, it has taken so long, that as a result, instead of merely reading the musings of my predecessors, I am having to write this report on my term.
- At the August Board meeting in New York (hosted by Barry Grove), we received the report of the New Fellow Nominating Committee—Phil Bruner (chair), Tom Abernathy, Dick Alexander, Alan Overcash, and Patricia Thompson. After appropriate discussion, we elected our eight new Fellows who were inducted at Sanibel: Terry Brookie, John Bulman, John Heisse, Charles Seemann, Lorence Slutzky, Deborah

Griffin, Kim Hurtado, and John Miller.

- The December Board meeting was held in Dallas (hosted by Joe Canterbury). In addition to approving the industry symposium at Princeton on November 2 and 3, 2006, and the ACCL Journal, we had a lengthy discussion about the process we should follow for the ACCL to determine when and how to take positions on issues. The two issues that were discussed were (1) whether to join in an amicus brief of the Boston Bar Association to the Massachusetts Supreme Court urging adoption of rules for MJP that would allow for lawyers not licensed in Massachusetts to participate in mediation and arbitration proceedings in Massachusetts without risking UPL violations; and (2) whether to advise the AIA that the ACCL opposes the proposed changes in A201 as make litigation the dispute resolution process unless the parties elect arbitration. The Board approved joining in the MJP brief and did not approve taking a position with the AIA with regard to arbitration versus litigation. Mark Friedlander opined that the MJP was a fundamental issue for the industry and the ACCL members, but that the arbitration versus litigation issue was not similarly fundamental. The Board agreed. The Board also determined that we needed to appoint a Task Force to review and develop a process on how to best deal with future situations where we might want to consider taking a position as the ACCL. Because he was so eloquent at the Board meeting, I asked Mark to chair and he, along with Hugh Reynolds, Patricia Thompson, Joe McManus, and myself, will be the Task Force.

My term started the weekend our first President, Overton Currie, died and ended at Sanibel where Tom Abernathy, B. C. Hart, and Jim Myers presented a most appropriate memorial to Overton. He was one of a kind, in many ways larger than life, and a true giant of the construction bar. Overton's message that always stuck with me was "The five most important things in any construction case are: the facts, the facts, the facts, the facts, and the law." It was special that Overton's wife, Lavona, joined us for this meeting. As I said in my first remarks as President in Tucson, I, and indeed all of us, owe a great debt to our pioneers—Overton, B. C. Hart, and many others who came before the ACCL was formed; B. C.'s brother, Warren ("Bud") Hart, Max E. Greenberg and John McWhorter to name just a few. They and others unnamed helped to create the practice of construction law as a separate discipline.

We also honored our Fellow, Bob Cushman, who died in 2005. Another unique person—the master marketer—who probably more than anyone else advanced mass education in the construction area with his many books, Forbes Conferences, and Superconference.

Finally, I would be remiss if I did not pay tribute to my wife, Jo Anne, and all of the spouses (and friends) of our Fellows. They supported us during the year and graced us with their presence at our meetings.



A Joanne and Nick Gaede **B** Phil Bruner and Nick Gaede (2006 Annual Meeting) **C** Joe McManus, Nick Gaede, Bert Grandoff, and Steve Stein (1992) **D** Phil Bruner and Nick Gaede (2006 Annual Meeting)

IV

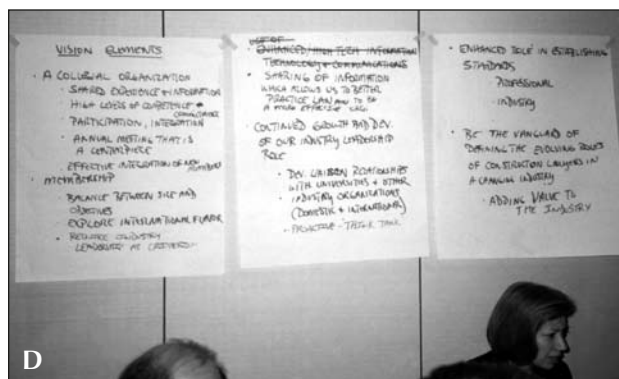
ANNUAL MEETING REMEMBRANCE

IV ANNUAL MEETING REMEMBRANCE



A Howard and Sue Goldberg, and Ava Abramowitz **B** Early Board of Governance Meeting - "Sharing with Our Peers" **C** "The First Three Presidents" - B.C. Hart, Overton Currie, and Jim Myers **D** Steve and Betsy Nelson **E** Ken Cushman, Dick Alexander, and Bob Smith **F** Barry Grove, Jim Diepenbrock, Jerry Reiss, Ken Cushman, and Bill Postner **G** Bob Smith, William Hoeveler, Ron and Sandra Martell, and Barry Grove **H** "1994 Inductees" - Steve Nelson, Frank McFadden, Jeanne Forneris, Larry Harris

IV ANNUAL MEETING REMEMBRANCE



A Chris Noble and Bruce Schoumacher **B** John and Paulette Hinchey, Mike and Michelle Less **C** "The U-Shaped Tables" - Foreground: Jerry Reiss, Ken Cushman, Stan Sklar **D** "Long Range Planning Process" - Atlanta (1996) - Jeanne Forneris **E** Larry Harris, Fielder Martin, Mary Lavon (Harris), and Dannie Martin **F** Frank McFadden, Dick Alexander, Ed Meyerson, and Hugh Reynolds **G** "Long Range Strategic Planning" - Geoff Keating, John Hinchey, Don Marston, Larry Harris, Debbie Ballati, David Hendrick **H** "Class of 1999" - Front: Feilder Martin, Ken Kupchak, Joe West, and Wyatt McCallie; Back: Marc Friteli, Carl Calvert, and Allen Gibson **I** Harvey Koch and Sandy Sklar

IV ANNUAL MEETING REMEMBRANCE



A Ken Kupchak and Don Martston **B** Jenny Fletcher and Bob Rubin **C** "Golf Award" - Harvey Koch and Tony Smith **D** Candy and Ed Meyerson, Joe Canterbury **E** Dan Sklar and Amy Meyers **F** Jim Groton **G** Paul Lurie's son Matt Lurie and friend **H** Larry Schor **I** Front: Jim Groton, Bob Rubin; Back: Barry Grove, Larry Schor, and Bob Meyers **J** "Ancestral home of Marc and Edith Frilet" - Provence, France - Standing: Louis Buchman, Marc Frilet, Charlotte Rubin, and Edith Frilet; Seated: Libby Meyers, Bob Meyers, Eve Groton, Bob Rubin, Jim Groton, Larry Schor, John Hinchey and Paulette Hinchey

V

APPENDIX

TABLE 1

AMERICAN COLLEGE OF CONSTRUCTION LAWYERS
EVOLUTION OF THE FELLOWSHIP
1989 - 2006

THE FOUNDING FELLOWS: 1988-89

Constituted at the Inaugural (Founding) Meeting, September, 23-24, 1989, at the Four Seasons Hotel in Chicago, Illinois. * Denotes member of original "Steering Committee."

Thomas E. Abernathy, IV, Atlanta, GA (*Regular*)
Ava J. Abramowitz, Chevy Chase, MD (*Currently Waterford, VA*) (*Regular*)
Richard E. Alexander*, Portland, OR (*Regular*)
C. Pete Bennett, Jr.*, Dallas, TX (*Currently Phoenix, Arizona*) (*Regular*)
Philip L. Bruner, Minneapolis, MN (*Regular*)
Joseph F. Canterbury, Jr., Dallas, TX (*Regular*)
Luther P. Cochrane, Atlanta, GA (*Currently, Charlotte, N. C.*) (*Regular*)
Overton A. Currie*, Atlanta, GA (*Regular; Emeritus 1997*) (*Deceased 2005*)
Kenneth M. Cushman, Philadelphia, PA (*Regular*) (*Deceased 2002*)
Robert F. Cushman, Philadelphia, PA (*Regular*) (*Deceased 2005*)
R. James Diepenbrock*, Sacramento, CA (*Regular*) (*Deceased 2002*)
Barry J. Donohue, Nutley, NJ (*Currently Westfield, NJ*) (*Regular*)
Marvin T. Fabyanske, Minneapolis, MN (*Regular*)
Morton P. Fisher, Jr., Baltimore, MD (*Regular*) (*Resigned*)
C. Allen Foster, Greensboro, NC (*Regular*) (*Resigned 1998*)
Howard G. Goldberg, Baltimore, MD (*Regular*)
J. Bert Grandoff, Tampa, FL (*Regular*) (*Deceased 2006*)
Deborah S. Griffin, Boston, MA (*Regular*) (*Resigned 1994; Re-elected 2006*)
Harry L. ("Buck") Griffin, Jr., Atlanta, GA (*Regular*)
James P. Groton, Atlanta, GA (*Regular*)
Jesse B. ("Barry") Grove, III, San Francisco, CA (*Currently Scottsville, VA*) (*Regular*)
B. Clarence Hart*, Minneapolis, MN (*Regular – Emeritus*)
David R. Hendrick*, Atlanta, GA (*Regular*)
Betty L. Hum, Phoenix, AR (*Currently Chandler, AR*) (*Regular*)
Gregory W. Hummel*, Chicago, IL (*Member "Chicago Trio"*) (*Regular*)
Howard P. Kamin, Chicago, IL (*Regular*) (*Deceased 1996*)
Arthur T. Kornblut*, Chevy Chase, MD (*Regular*) (*Deceased 1993*)
Milton F. Lunch, Chevy Chase, MD (*Regular*) (*Resigned 1992*)
Paul M. Lurie, Chicago, IL (*Regular*)
V. Frederic Lyon*, Washington, DC (*Regular*) (*Resigned 2001*)
Ronald E. Martell*, Minnetonka, MN (*Regular*)
Alex A. Marzek*, Chicago, IL (*Regular*) (*Resigned 1994*)
Mary J. McElroy, Chicago, IL (*Currently Templeton, CA*) (*Regular*)
John F. McGuinn, Berkeley, CA (*Currently San Francisco, CA*) (*Regular*)
Joseph A. McManus, Jr.*, Washington, DC (*Regular*)
Robert L. Meyers, III, Dallas, TX (*Regular - Emeritus*)
James J. Myers*, Boston, MA (*Regular*)

Leslie A. Nicholson*, Washington, DC (*Regular*) (*Revoked for non-attendance 2000*)
Christopher L. Noble, Boston, MA (*Currently Cambridge, MA*) (*Regular*)
John J. Petro, Columbus, OH (*Regular*)
Jotham D. Pierce, Jr.*, Portland, ME (*Regular*)
Jerome Reiss, New York, NY (*Currently Boca Raton, FL*) (*Regular – Emeritus*)
Hugh E. Reynolds, Jr., Indianapolis, IN (*Regular*)
Robert A. Rubin, New York, NY (*Regular*)
Carl M. Sapers*, Boston, MA (*Currently Cambridge, MA*) (*Regular - Emeritus*)
Laurence Schor*, Washington, DC (*Regular*)
Steven M. Siegfried*, Coral Gables, FL (*Regular*)
Michael S. Simon*, Princeton, NJ (*Currently Trenton, NJ*) (*Regular*)
Stanley P. Sklar*, Chicago, IL (*Member “Chicago Trio”*) (*Regular*)
Robert J. Smith*, Madison, WI (*Regular*)
Steven G. M. Stein*, Chicago, IL (*Member “Chicago Trio”*) (*Regular*)
Alan B. Stover*, Bethesda, MD (*Regular*) (*Resigned 1996*)
John B. Tieder, Jr., McLean, VA (*Regular*)
Robert D. Wallick, Washington, DC (*Regular*) (*Resigned 2000*)
Jon M. Wickwire, Vienna, VA (*Regular*)
R. James Wulfsberg*, Oakland, CA (*Regular*)

* Denotes member of original “Steering Committee.”

1990

No new Fellows were inducted at the First Annual Meeting, February 23-25, 1990, at the Ritz Carlton Resort in Laguna Niguel, California, as the organizational and committees structures had only been adopted as of the Inaugural Meeting in the preceding September.

1991

Inducted at Second Annual Meeting, February 22-24, 1991, at The Phoenician Resort in Scottsdale, Arizona.

Richard D. Connor, Greensboro, NC (*Regular*)
A.H. (“Nick”) Gaede, Jr., Birmingham, AL (*Regular*)
Ronald H. Kahn, San Francisco, CA (*Regular*)
Edward P. Meyerson, Birmingham, AL (*Regular*)
Robert S. Peckar, River Edge, NJ (*Regular*)
Donald O. Pratt, Arlington, TX (*Regular*)
Bruce H. Schoumacher, Chicago, IL (*Regular*)
Robert G. Taylor, Seattle, WA (*Regular*)

1992

Inducted at the Third Annual Meeting, February 21-23, 1992, at the Boca Raton Resort & Club in Boca Raton, Florida.

Susanna S. Fodor, New York, NY (*Regular*)
Walter L. Hannah, Greensboro, NC (*Regular*)
Alan E. Harris, San Francisco, CA (*Regular*)
James L. Hawkins, St. Louis, MO (*Regular*)

Anthony B. Kuklin, New York, NY (*Regular - Emeritus*)
William J. Postner, New York, NY (*Regular*)
Murray H. Wright, Richmond, VA (*Regular*)

1993

Inducted at the Fourth Annual Meeting, February 19-22, 1993, at the Ritz Carlton – Rancho Mirage in Rancho Mirage, California.

John R. Clark, Philadelphia, PA (*Honorary*) (*Deceased 2005*)
Lester Edelman, Falls Church, VA (*Regular*)
John W. Hinchey, Atlanta, GA (*Regular*)
William M. Hoeveler, Miami, FL (*Honorary*)
Allen L. Overcash, Lincoln, NE (*Regular*)
E. Mabry Rogers, Birmingham, AL (*Regular*)
George A. ("Tony") Smith, Atlanta, GA (*Regular*)
Paul L. Watson, St. Louis, MO (*Regular*)

1994

Inducted at the Fifth Annual Meeting, February 18-20, 1994, at the Ritz Carlton – Naples, in Naples, Florida.

John B. Clark, Los Angeles, CA (*Regular*)
Jeanne M. Forneris, Minneapolis, MN (*Regular*)
Larry D. Harris, Washington, DC (*Regular*)
Frank H. McFadden, Montgomery, AL (*Regular*)
Steven D. Nelson, Austin, TX (*Regular*)
Gary L. Stone, Pasadena, CA (*Regular*)

1995

Inducted at the Sixth Annual Meeting, February 17-19, 1995, at the Arizona Biltmore Resort & Spa, in Phoenix Arizona.

Howard W. Ashcraft, Jr., San Francisco, CA (*Regular*)
Timothy M. O'Brien, Minneapolis, MN (*Regular*)
Leslie K. O'Neal-Coble, Orlando, FL (*Regular*)
Stephen M. Phillips, Atlanta, GA (*Regular*)
David B. Ratterman, Louisville, KY (*Regular*)
James J. Scott, Ballwin, MO (*Regular*)

1996

Inducted at the Seventh Annual Meeting, February 23-25, 1996, at the Stouffer Renaissance Vinoy Resort, St. Petersburg, Florida.

Erwin L. Corwin, New York, NY (*Deceased 2002*) (*Regular – Emeritus*)
Buckner ("Buck") Hinkle, Jr., Lexington, KY (*Regular*)
Julian F. Hoffar, McLean, VA (*Regular*)
Geoffrey T. Keating, Washington, DC (*Regular*)
Harvey C. Koch, New Orleans, LA (*Regular*)

Michael I. Less, Memphis, TN (*Regular*)
Roy S. Mitchell, Great Falls, VA (*Regular*)
Thomas J. Stipanowich, New York, NY (*Regular*)

1997

Inducted at the Eighth Annual Meeting, February 19-21, 1997, at the Le Meridian, San Diego, California.

Stephen A. Arbittier, Philadelphia, PA (*Regular*)
Deborah S. Ballati, San Francisco, CA (*Regular*)
Honorable Humphrey John Lloyd, London, England (*Honorary*)
Donald L. Marston, Toronto, Ontario, Canada (*Regular*)
Michael F. Nuechterlein, Tampa, FL (*Regular*)
Richard F. Smith, Vienna, VA (*Regular*)

1998

Inducted at Ninth Annual Meeting, February 12-15, 1998, at the Doral Golf Resort & Spa, Miami, Florida.

Zela G. Claiborne, Berkeley, CA (*Regular*)
Robert B. Flaig, Los Angeles, CA (*Regular*) (*Deceased 1998*)
Mark C. Friedlander, Chicago, IL (*Regular*)

1999

Inducted at Tenth Annual Meeting, February 25-27, 1999, at the Westin La Paloma, Tucson, Arizona.

Carl A. Calvert, Albuquerque, NM (*Regular*)
Mark Frilet, Paris, France (*Regular*)
C. Allen Gibson, Jr., Charleston, SC (*Regular*)
Kenneth R. Kupchak, Honolulu, HI (*Regular*)
H. Fielder Martin, Atlanta, GA (*Regular*)
S. Wyatt McCallie, Englewood, CA (*Regular*)
Hon. Richard Solibakke, Arlington, VA (*Regular*) (*Deceased 2002*)
Joseph D. West, Washington, DC (*Regular*)

2000

Inducted at Eleventh Annual Meeting, February 25-27, 2000, The Ocean Reef Club, Key Largo, Florida.

Ross J. Altman, Chicago, IL (*Regular*)
Adrian L. Bastianelli, III, Washington, DC (*Regular*)
Jennifer Wheatley Fletcher, Atlanta, GA (*Regular*)
Allen Holt Gwyn, Greensboro, NC (*Regular*)
Peter L. Kennedy, Providence, RI (*Regular*)
William R. Purdy, Jackson, MS (*Regular*)
Hon. Loren A. Smith, Washington, DC (*Honorary*)
Dean B. Thomson, Minneapolis, MN (*Regular*)

2001

Inducted at the Twelfth Annual Meeting, February 23-25, 2001, at the Arizona Biltmore Resort & Spa, Phoenix, Arizona.

Richard K. Allen, Boston, MA (*Currently North Springfield, VT*) (*Regular*)
William R. Allensworth, Austin, TX (*Regular*)
Lyn R. Axelroth, Philadelphia, PA (*Regular*)
Stephen D. Butler, San Francisco, CA (*Regular*)
Thomas J. Kelleher, Jr., Atlanta, GA (*Regular*)
Louis R. Pepe, Hartford, CT (*Regular*)
Patricia H. Thompson, Miami, FL (*Regular*)

2002

Inducted at the Thirteenth Annual Meeting, February 28-March 2, 2002, at The Breakers, Palm Beach, Florida.

Lewis J. Baker, McLean, VA (*Regular*)
Gregg E. Bundschuh, Roswell, GA (*Currently Atlanta, GA*) (*Regular*)
David M. Buoncristiani, San Francisco, CA (*Regular*)
William D. Coleman, Montgomery, AL (*Regular*)
Gerald B. Kirksey, Brentwood, TN (*Regular*)
William D. Lyman, Oak Brook, IL (*Regular*)
Patrick J. O'Connor, Jr., Minneapolis, MN (*Regular*)

2003

Inducted at the Fourteenth Annual Meeting, February 19-23, 2003, at La Costa Resort, Carlsbad, California.

Jeffrey A. Ford, Dallas, TX (*Regular*)
Katherine Hope Gurun, San Francisco, CA (*Currently New York, NY*) (*Regular*)
Kyle E. Hart, Minneapolis, MN (*Regular*)
James F. Nagle, Seattle, WA (*Regular*)
Danny G. Shaw, Mandeville, LA (*Regular*)

2004

Inducted at the Fifteenth Annual Meeting, February 26-29, 2004, at The Biltmore Hotel, Coral Gables, Florida.

William M. Beadie, Minneapolis, MN (*Regular*)
Donald G. Gavin, Vienna, VA (*Regular*)
Ty D. Laurie, Chicago, IL (*Regular*)
Douglas S. Oles, Seattle, WA (*Regular*)
H. Bruce Shreves, New Orleans, LA (*Regular*)
Stuart H. Sobel, Miami, FL (*Currently Coral Gables, FL*) (*Regular*)
Edward H. Tricker, Lincoln, NE (*Regular*)

2005

Inducted at the Sixteenth Annual Meeting, February 24-27, 2005, at Loews Ventana Canyon Resort, Tucson, Arizona.

G. Edward Cassady, III, Birmingham, AL (*Regular*)
W. Kyle Gooch, Dallas, TX (*Regular*)
Hon. Frank M. Hull, Atlanta, GA (*Honorary*)
David Girdon Lane, McLean, VA (*Regular*)
Robert J. MacPherson, New York, NY (*Regular*)
Rt. Hon. Beverley M. McLachlin, Ottawa, Ontario, Canada (*Honorable*)
Val S. McWhorter, Vienna, VA (*Regular*)
David Watkins Mockbee, Jackson, MS. (*Regular*)
James Duffy O'Connor, Minneapolis, MN (*Regular*)
Vivian Arthur Ramsey, London, England (*Regular*)

2006

Inducted at Seventeenth Annual Meeting, February 23-26, 2006, at the Sanibel Harbour Resort and Spa in Fort Meyers, Florida.

Terrance L. Brookie, Indianapolis, IN (*Regular*)
John E. Bulman, Providence, RI (*Regular*)
Deborah S. Griffin, Boston, MA (*Regular*)
John R. Heisse, II, San Francisco, CA (*Regular*)
Kimberly A. Hurtado, Waunwatosa, WI (*Regular*)
John B. Miller, Boston MA (*Regular*)
Charles F. Seemann, Jr., New Orleans, LA (*Regular*)
Lorence Harley Slutzky, Chicago, IL (*Regular*)

TABLE 2

AMERICAN COLLEGE OF CONSTRUCTION LAWYERS
THE LEADERSHIP
1989 - 2006

THE STEERING COMMITTEE: 1988-1989
THE “YEAR OF CONCEPTION”

Created at the May 5- 1989 Organizational Meeting, Hotel Nikko, Chicago, Illinois (see indication by “*” in Table 1).

THE INITIAL OFFICERS AND BOARD OF GOVERNORS: 1989-90
THE “YEAR OF CREATION”

Installed at the Inaugural (Initial) Meeting, September, 23-24, 1989, at the Four Seasons Hotel in Chicago, Illinois.

President: **Overton A. Currie**, Atlanta, GA

President Elect: **B. Clarence Hart**, Minneapolis, MN

Secretary: **James J. Myers**, Boston MA

Treasurer: **Gregory W. Hummel**, Chicago, IL

Governors:

THREE YEAR TERM:

Carl M. Sapers, Boston, MA

Stanley P. Sklar, Chicago, IL

Steven G. M. Stein, Chicago, IL

H. James Wulfsberg, Oakland, CA

TWO YEAR TERM:

David R. Hendrick, Atlanta, GA

Arthur T. Kornblut, Washington, DC

Leslie A. Nicholson, Chevy Chase, MD

Robert J. Smith, Madison, WI

ONE YEAR TERM:

R. James Diepenbrock, Sacramento, CA

Joseph A. McManus, Jr., Washington, DC

Laurence Schor, Washington, DC

Michael S. Simon, Princeton, NJ

1990-91: THE “FIRST YEAR”

Installed at the First Annual Meeting, February 23-25, 1990, at the Ritz Carlton Resort in Laguna Niguel, California.

President: **Overton A. Currie**, Atlanta, GA

President Elect: **B. Clarence Hart**, Minneapolis, MN

Secretary: **James J. Myers**, Boston, MA
Treasurer: **Gregory W. Hummel**, Chicago, IL

Governors:

THREE YEAR TERM:

Carl M. Sapers, Boston, MA
Stanley P. Sklar, Chicago, IL
Steven G. M. Stein, Chicago, IL
H. James Wulfsberg, Oakland, CA

TWO YEAR TERM:

David R. Hendrick, Atlanta, GA
Arthur T. Kornblut, Washington, DC
Leslie A. Nicholson, Chevy Chase, MD
Robert J. Smith, Madison, WI

ONE YEAR TERM:

R. James Diepenbrock, Sacramento, CA
Joseph A. McManus, Jr., Washington, DC
Laurence Schor, Washington, DC
Michael S. Simon, Princeton, NJ

1991-92: THE "SECOND YEAR"

Installed at Second Annual Meeting, February 22-24, 1991, at The Phoenician Resort in Scottsdale, Arizona.

President: **B. Clarence Hart**, Minneapolis, MN
President-Elect: **James J. Myers**, Boston, MA
Secretary: **Carl M. Sapers**, Boston, MA
Treasurer: **Gregory W. Hummel**, Chicago, IL
Immediate Past President: **Overton A. Currie**, Atlanta, GA

Governors:

NEW THREE YEAR TERM:

R. James Diepenbrock, Sacramento, CA
Joseph A. McManus, Jr., Washington, DC
Laurence Schor, Washington, DC
Michael S. Simon, Princeton, NJ

1992-93: THE "THIRD YEAR"

Installed at the Third Annual Meeting, February 21-23, 1992, at the Boca Raton Resort & Club in Boca Raton, Florida.

President: **James J. Myers**, Boston, MA
President-Elect: **Carl M. Sapers**, Boston, MA
Secretary: **Jesse B. ("Barry") Grove, III**, New York, NY
Treasurer: **Gregory W. Hummel**, Chicago, IL
Immediate Past President: **B. Clarence Hart**, Minneapolis, MN

Governors:

NEW THREE YEAR TERM:

Joseph F. Canterbury, Jr., Dallas, TX

Kenneth M. Cushman, Philadelphia, PA
Ronald E. Martell, Minnetonka, MN
Jotham D. Pierce, Jr., Portland, ME

1993-94: THE "FOURTH YEAR"

Installed at the Fourth Annual Meeting, February 19-22, 1993, at the Ritz Carlton – Rancho Mirage in Rancho Mirage, California.

President: **Carl M. Sapers**, Boston, MA
President-Elect: **Stanley P. Sklar**, Chicago, IL
Secretary: **Gregory W. Hummel**, Chicago, IL
Treasurer: **Robert J. Smith**, Madison, WI
Immediate Past President: **James J. Myers**, Boston, MA
Governors:

NEW THREE YEAR TERM:

Howard G. Goldberg, Baltimore, MD
Jesse B. ("Barry") Grove, III, New York, NY
Betty L. Hum, Chandler, AZ
John F. McGuinn, Berkeley, CA

1994-95: THE "FIFTH YEAR"

Installed at the Fifth Annual Meeting, February 18-20, 1994, at the Ritz Carlton – Naples, in Naples, Florida.

President: **Stanley P. Sklar**, Chicago, IL
President-Elect: **Gregory W. Hummel**, Chicago, IL
Secretary: **David R. Hendrick**, Atlanta, GA
Treasurer: **Robert J. Smith**, Madison, WI
Immediate Past President: **Carl M. Sapers**, Boston, MA
Governors:

NEW THREE YEAR TERM:

Richard D. Conner, Greensboro, NC
A. H. ("Nick") Gaede, Birmingham, AL
Robert L. Meyers, III, Dallas, TX
Robert A. Rubin, New York, NY

1995-96: THE "SIXTH YEAR"

Installed at the Sixth Annual Meeting, February 17-19, 1995, at the Arizona Biltmore Resort & Spa, in Phoenix Arizona.

President: **Gregory W. Hummel**, Chicago, IL
President-Elect: **David R. Hendrick**, Atlanta, GA
Secretary: **Joseph A. McManus, Jr.**, Washington, DC
Treasurer: **Robert J. Smith**, Madison, WI
Immediate Past President: **Stanley P. Sklar**, Chicago, IL
Governors:

NEW THREE YEAR TERM:

J. Bert Grandoff, Tampa, FL
James P. Groton, Atlanta, GA
Mary J. McElroy, Newport Beach, CA
Steven G. M. Stein, Chicago, IL

1996-97: THE "SEVENTH YEAR"

Installed at the Seventh Annual Meeting, on February 23-25, 1996, at the Stouffer Renaissance Vinoy Resort, St. Petersburg, Florida.

President: **David R. Hendrick**, Atlanta, GA
President-Elect: **Joseph A. McManus, Jr.**, Washington, DC
Secretary: **John F. McGuinn**, San Francisco, CA
Treasurer: **Laurence Schor**, Washington, DC
Immediate Past President: **Gregory W. Hummel**, Chicago, IL
Governors:

NEW THREE YEAR TERM:

Jeanne M. Forneris, Minneapolis, MN
Paul M. Lurie, Chicago, IL
Christopher L. Noble, Boston, MA
Allen L. Overcash, Lincoln, NE

1997-98: THE "EIGHTH YEAR"

Installed at the Eighth Annual Meeting, February 19-21, 1997, at the Le Meridian, San Diego, California.

President: **Joseph A. McManus, Jr.**, Washington, DC
President-Elect: **John F. McGuinn**, San Francisco, CA
Secretary: **Robert A. Rubin**, New York, NY
Treasurer: **Laurence Schor**, Washington, DC
Immediate Past President: **David R. Hendrick**, Atlanta, GA
Governors:

NEW THREE YEAR TERM:

Harvey C. Koch, New Orleans, LA
E. Mabry Rogers, Birmingham, AL
Gary L. Stone, Pasadena, CA
Robert G. Taylor, Seattle, WA

1998-99: THE "NINTH YEAR"

Installed at Ninth Annual Meeting, February 12-15, 1998, at the Doral Golf Resort & Spa, Miami, Florida.

President: **John F. McGuinn**, San Francisco, CA
President-Elect: **Robert A. Rubin**, New York, NY
Secretary: **James P. Groton**, Atlanta, GA
Treasurer: **Laurence Schor**, Washington, DC
Immediate Past President: **Joseph A. McManus, Jr.**, Washington, DC
Governors:

NEW THREE YEAR TERM:

Alan E. Harris, San Francisco, CA
Edward P. Meyerson, Birmingham, AL
James J. Scott, St. Louis, MO
Steven G. M. Siegfried, Miami, FL.

1999-2000: THE "TENTH YEAR"

Installed at Tenth Annual Meeting, February 25-27, 1999, at the Westin La Paloma, Tucson, Arizona.

President: **Robert A. Rubin**, New York, NY
President-Elect: **James P. Groton**, Atlanta, GA
Secretary: **Robert L. Meyers, III**, Dallas, TX
Treasurer: **Laurence Schor**, Washington, DC
Immediate Past President: **John F. McGuinn**, San Francisco, CA

Governors:

NEW THREE YEAR TERM:

Richard E. Alexander, Portland, OR
Philip L. Bruner, Minneapolis, MN
Larry D. Harris, Washington, D.C.
James L. Hawkins, St. Louis, MO

2000-01: THE "ELEVENTH YEAR"

Installed at Eleventh Annual Meeting, February 25-27, 2000, The Ocean Reef Club, Key Largo, Florida.

President: **James P. Groton**, Atlanta, GA
President-Elect: **Laurence Schor**, Washington, DC
Secretary: **Robert L. Meyers, III**, Dallas, TX
Treasurer: **Jesse B. ("Barry") Grove, III**, New York, NY
Immediate Past President: **Robert A. Rubin**, New York, NY

Governors:

NEW THREE YEAR TERM:

Donald L. Marston, Toronto, Ontario, Canada
Leslie O'Neal-Coble, Orlando, FL
William J. Postner, New York, NY
Donald O. Pratt, Arlington, TX

2001-02: THE "TWELFTH YEAR"

Installed at the Twelfth Annual Meeting, February 23-25, 2001, at the Arizona Biltmore Resort & Spa, Phoenix, Arizona.

President: **Laurence Schor**, Washington, DC
President-Elect: **Robert L. Meyers III**, Dallas, TX
Secretary: **J. Bert Grandoff**, Tampa, FL
Treasurer: **Jesse B. ("Barry") Grove, III**, New York, NY
Immediate Past President: **James P. Groton**, Atlanta, GA

Governors:

NEW THREE YEAR TERM:

Deborah S. Ballati, San Francisco, CA
John W. Hinchey, Atlanta, GA
Geoffrey T. Keating, Washington, DC
Steven D. Nelson, Austin, TX

2002-03: THE "THIRTEENTH YEAR"

Installed at the Thirteenth Annual Meeting, February 28-March 2, 2002, at The Breakers, Palm Beach, Florida.

President: **Robert L. Meyers III**, Dallas, TX
President-Elect: **Jesse B. ("Barry") Grove, III**, New York, NY
Secretary: **J. Bert Grandoff**, Tampa, FL
Treasurer: **A.H. ("Nick") Gaede, Jr.**, Birmingham, AL
Immediate Past President: **Laurence Schor**, Washington, DC

Governors:

NEW THREE YEAR TERM:

Howard W. Ashcraft, Jr., San Francisco, CA
Les Edelman, Falls Church, VA
Hugh E. Reynolds, Jr., Indianapolis, IN
Robert J. Smith, Madison, WI

2003-04: THE "FOURTEENTH YEAR"

Installed at the Fourteenth Annual Meeting, February 19-23, 2003, at La Costa Resort, Carlsbad, California.

President: **Jesse B. ("Barry") Grove, III**, New York, NY
President-Elect: **J. Bert Grandoff**, Tampa, FL
Secretary: **Philip L. Bruner**, Minneapolis, MN
Treasurer: **A.H. ("Nick") Gaede, Jr.**, Birmingham, AL
Immediate Past President: **Robert L. Meyers, III**, Dallas, TX

Governors:

NEW THREE YEAR TERM:

Thomas E. Abernathy, IV, Atlanta, GA
A. Holt Gwynn, Greensboro, NC
Julian F. Hoffar, McClean, VA
John J. Petro, Columbus, OH

2004-05: THE "FIFTEENTH YEAR"

Installed at the Fifteenth Annual Meeting, February 26-29, 2004, at The Biltmore Hotel, Coral Gables, Florida.

President: **J. Bert Grandoff**, Tampa, FL
President-Elect: **A.H. ("Nick") Gaede, Jr.**, Birmingham, AL
Secretary: **Philip L. Bruner**, Minneapolis, MN
Treasurer: **Joseph F. Canterbury, Jr.**, Dallas, TX
Immediate Past President: **Jesse B. ("Barry") Grove, III**, New York, NY

Governors:

NEW THREE YEAR TERM:

Steven A. Arbittier, Philadelphia, PA

David B. Ratterman, Louisville, KY

George A. Smith, Atlanta, GA

Richard F. Smith, Vienna, VA

2005-06: THE "SIXTEENTH YEAR"

Installed at the Sixteenth Annual Meeting, February 24-27, 2005, at Loews Ventana Canyon Resort, Tucson, Arizona.

President: **A.H. ("Nick") Gaede, Jr.**, Birmingham, AL

President-Elect: **Philip L. Bruner**, Minneapolis, MN

Secretary: **John W. Hinchey**, Atlanta, GA

Treasurer: **Joseph F. Canterbury, Jr.**, Dallas, TX

Immediate Past President: **J. Bert Grandoff**, Tampa, FL

Governors:

NEW THREE YEAR TERM:

Adrian L. Bastianelli, III, Washington, DC

Stephen D. Butler, San Francisco, CA

Mark Charles Friedlander, Chicago, IL

Patricia H. Thompson, Miami, FL

2006-07: THE "SEVENTEENTH YEAR"

Installed at the Seventeenth Annual Meeting, February 23-26, 2005, at Sanibel Harbor Resort & Spa, Ft. Myers, Florida.

President: **Philip L. Bruner**, Minneapolis, MN

President-Elect: **Joseph F. Canterbury, Jr.**, Dallas, TX

Secretary: **John W. Hinchey**, Atlanta, GA

Treasurer: **Stephen G.M. Stein**, Chicago, IL

Immediate Past President: **A. H. ("Nick") Gaede, Jr.**, Birmingham, AL

Governors:

NEW THREE YEAR TERM:

Ava J. Abramowitz, Waterford, VA

Patrick J. O'Connor, Jr., Minneapolis, MN

Louis R. Pepe, Hartford, CT

William R. Purdy, Jackson, MS

TABLE 3

AMERICAN COLLEGE OF CONSTRUCTION LAWYERS
COMMITTEE AND TASK FORCE LEADERSHIP
1989 - 2006

CONSTITUTIONAL COMMITTEES

NEW FELLOW NOMINATING COMMITTEE



1990-1991: NEW MEMBER NOMINATING COMMITTEE

Chair: B. Clarence Hart

1991-1992: NEW MEMBER NOMINATING COMMITTEE

Chair: James J. Myers
Jesse B. ("Barry") Grove, III
Michael S. Simon
James P. Groton
J. Bert Grandoff

1992-1993: NEW MEMBER NOMINATING COMMITTEE

Chair: Carl M. Sapers
Joseph A. McManus, Jr.
John F. McGuinn
James P. Groton
J. Bert Grandoff

1993-1994: NEW MEMBER NOMINATING COMMITTEE

Chair: Stanley P. Sklar
Richard E. Alexander
Betty L. Hum
Joseph A. McManus, Jr.
John F. McGuinn

1994-1995: NEW MEMBER NOMINATING COMMITTEE

Chair: Gregory W. Hummel
Richard E. Alexander
Howard G. Goldberg

Betty L. Hum
Edward P. Meyerson

1995-1996: NEW MEMBER NOMINATING COMMITTEE

Chair: David R. Hendrick
Larry D. Harris
Mary J. McElroy
Edward P. Meyerson
Howard G. Goldberg

1996-1997: NEW MEMBER NOMINATING COMMITTEE

Chair: Joseph A. McManus, Jr.
Jeanne M. Forneris
Larry D. Harris
Mary J. McElroy
Steven M. Siegfried

1997-1998: NEW MEMBER NOMINATING COMMITTEE

Chair: John F. McGuinn
A.H. ("Nick") Gaede, Jr.
Jeanne M. Forneris
Allen L. Overcash
Stephen G. M. Stein

1998-1999: NEW MEMBER NOMINATING COMMITTEE

Chair: Robert A. Rubin
Robert L. Meyers, III
Alan E. Harris
A.H. ("Nick") Gaede, Jr.
Allen L. Overcash

1999-2000: NEW MEMBER NOMINATING COMMITTEE

Chair: James P. Groton
Christopher L. Noble
James J. Scott
Robert L. Meyers, III
Alan E. Harris

2000-2001: NEW MEMBER NOMINATING COMMITTEE

Chair: Laurence Schor
Deborah S. Ballati
Philip L. Bruner
Christopher L. Noble
James E. Scott

2001-2002: NEW MEMBER NOMINATING COMMITTEE

Chair: Robert L. Meyers, III
Michael F. Nuechterlein
George A. ("Tony") Smith
Deborah S. Ballati
Philip L. Bruner

2002-2003: NEW MEMBER NOMINATING COMMITTEE

Chair: Jesse B. ("Barry") Grove, III
Michael F. Nuechterlein
George A. ("Tony") Smith
Julian E. Hoffar
Steven D. Nelson

2003-2004: NEW MEMBER NOMINATING COMMITTEE

Chair: J. Bert Grandoff
Howard W. Ashcraft, Jr.
Julian F. Hoffar
Steven D. Nelson
Jotham D. Pierce, Jr.

2004-2005: NEW MEMBER NOMINATING COMMITTEE

Chair: A.H. ("Nick") Gaede, Jr.
Thomas E. Abernathy, IV
Howard W. Ashcraft, Jr.
Allen L. Overcash
Jotham D. Pierce, Jr.

2005-2006: NEW MEMBER NOMINATING COMMITTEE

Chair: Philip L. Bruner
Thomas E. Abernathy, IV
Richard E. Alexander
Allen L. Overcash
Patricia M. Thompson

2006 2007: NEW MEMBER NOMINATING COMMITTEE

Chair: Joseph F. Canterbury, Jr.
Richard E. Alexander
Stephen D. Butler
Hugh E. Reynolds, Jr.
Patricia M. Thompson

OFFICER AND DIRECTOR NOMINATING COMMITTEE



1990-1991: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Stanley P. Sklar
Betty L. Hum
Jotham D. Pierce, Jr.

1991-1992: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Overton A. Currie
Robert L. Meyers, III
Jerome Reiss

1992-1993: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: B. Clarence Hart
Thomas E. Abernathy, IV
Robert A. Rubin

1993-1994: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: James J. Myers
James P. Groton
Michael S. Simon

1994-1995: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Carl M. Sapers
Joseph F. Canterbury, Jr.
Ronald H. Kahn

1995-1996: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Stanley P. Sklar
Jesse B. ("Barry") Grove, III
John W. Hinchey

1996-1997: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Gregory W. Hummel
Richard D. Conner
Richard E. Alexander

1997-1998: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: David R. Hendrick
Mary J. McElroy

Donald O. Pratt

1998-1999: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Joseph A. McManus, Jr.
Joseph F. Canterbury, Jr.
Christopher L. Noble

1999-2000: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: John F. McGuinn
Kenneth M. Cushman
Robert G. Taylor

2000-2001: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Robert A. Rubin
Allan L. Overcash
Alan E. Harris

2001-2002: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: James P. Groton
Philip L. Bruner
Walter H. Hannah

2002-2003: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Laurence Schor
Donald L. Marston
Jotham D. Pierce, Jr.

2003-2004: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Robert L. Meyers, III
Richard E. Alexander
Geoffrey T. Keating

2004-2005: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: Jesse B. ("Barry") Grove, III
Hugh E. Reynolds, Jr.
William R. Purdy

2005-2006: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: J. Bert Grandoff
Julian F. Hoffar
C. Allen Gibson

2006-2007: OFFICER AND DIRECTOR NOMINATING COMMITTEE

Chair: **A.H. ("Nick") Gaede, Jr.**
George A. ("Tony") Smith
Larry D. Harris

STANDING COMMITTEES

CONSTRUCTION INDUSTRY CONTRACT DOCUMENTS

The Documents Committee functions as a primary source of information to the Fellows about the creation of or modification to standard contract forms published and utilized by construction industry organizations. The Fellow who participate in the development and use of standard form contract documents report to the Committee on issues arising in connection with their efforts. The Committee representatives, in turn, report to the College. This Committee also serves as a clearing house for information about new or unusual contract clauses encountered or drafted by the Fellows on their ongoing practice:

| | |
|------------------------------|--|
| Christopher L. Noble | <i>Co-Chair (2006 – ____)</i> |
| Patrick O'Connor, Jr. | <i>Co-Chair (2004-2006)</i> |
| Julian F. Hoffar | <i>Co-Chair (2005-2007)</i> |
| Steven G.M. Stein | <i>Chair (2003-2004)</i> |
| J, Bert Grandoff | <i>Chair (1997-1998)</i> |
| Jeanne M. Forneris | <i>V. Chair (1996-1998), Chair (1998-1999)</i> |
| Richard E. Alexander | <i>V. Chair (1998-1999), Chair (2000-2002)</i> |
| Robert L. Meyers, III | <i>Chair (1995-1996)</i> |
| Howard G. Goldberg | <i>V. Chair (1993-1995), Chair (1996-1998)</i> |
| Laurence Schor | <i>Chair (1990-1994)</i> |
| Mary J. McElroy | <i>V. Chair (1991-1995)</i> |

PRIVATE DISPUTE RESOLUTION

(a/k/a "Alternative Dispute Resolution")

The goal of this Committee is to focus on more efficient mean to avoid and resolve disputes in the construction industry. The Committee explores issues which arise in dispute resolution and will assist industry organizations that are currently developing ideas and procedures in this area. We offer the services of members of the College for service on panels through the offices of the AAA or other neutral dissolute resolution administrations. The PDR Committee also engages in ongoing liaison with various industry organizations dealing with dispute resolution generally, including the AAA, the DPR, CII and other similar organization:

| | |
|-----------------------------------|---|
| Steven D. Nelson | <i>Co-Chair (2006–2007)</i> |
| Adrian L. Bastianelli, III | <i>Co-Chair (2005-2006)</i> |
| Donald O. Pratt | <i>V. Chair (2003-2004), Co-Chair (2004-2005)</i> |
| Steven G. M. Stein | <i>Co-Chair (2004-2005)</i> |
| Allen L. Overcash | <i>Co-Chair (2004-2006), Chair (2006-2007)</i> |
| Edward P. Meyerson | <i>Co Chair (2001-2003; Chair (2003–2004)</i> |
| Robert S. Peckar | <i>V. Chair (1997-1997), Chair (1998 -2001)</i> |

| | |
|------------------------------|---|
| Robert Taylor | <i>V. Chair (1995-1995), Chair (1996-1998)</i> |
| Jotham D. Pierce, Jr. | <i>Co- Chair (1994-1995)</i> |
| Ronald E. Martell | <i>Co-Chair (1994-1995)</i> |
| James P. Groton | <i>V. Chair (1991-1993; 1997-1997), Chair (1994-1995)</i> |
| Carl M. Sapers | <i>Chair (1990-1993)</i> |
| Robert A. Rubin | <i>V. Chair (1990-1992)</i> |

EDUCATION COMMITTEE

(a/k/a “Construction Education” and “Education Liaison”)

The objectives of the Education committee are to enable the College to establish an ongoing relationship by where the College will have direct input with the following:

1. higher educational institutions and associations that are directly involved in teaching the various disciplines involved in the construction industry; and
2. industry-wide associations committee to the overall betterment of the construction industry and process.

This Committee serves as a vehicle by which our College can pass on the benefit of Fellows’ combined expertise as a unified voice to the construction industry as a whole.

| | |
|-------------------------|--|
| Laurence Schor | <i>Co-Chair (2005-06), Chair (2004-2005)</i> |
| Stanley P. Sklar | <i>Co-Chair (2004-06), Chair (2003-2004)</i> |
| Ronald Kahn | <i>Co- Chair (1995-1996)</i> |
| Michael S. Simon | <i>Chair (1991 - 1994)</i> |
| Betty L. Hum | <i>V. Chair (1992 – 1993), Chair (1995-1996)</i> |

CONSTRUCTION DELIVERY SYSTEMS

(a/k/a “Construction Systems”; “Alternative Delivery Systems”, “Project Delivery Systems” and “Project Delivery Methods”.)

(Currently Inactive) This Committee focuses its effort upon (a) exploring the ever-proliferating forms of construction project delivery, with particular emphasis on improving current systems and identifying emerging trends, and (b) developing ways in which construction lawyers can participate more fully and deliver legal services more effectively in the evolving construction industry:

| | |
|---------------------------------|--|
| Mark C. Friedlander | <i>Chair (2002-2005)</i> |
| Steven D. Nelson | <i>Chair (1999 - 2001)</i> |
| James J. Scott | <i>Chair (1996- 1998)</i> |
| Christopher L. Noble | <i>Chair (1994-1996)</i> |
| A.H. (“Nick”) Gaede, Jr. | <i>V. Chair (1994-1995)</i> |
| James J. Myers | <i>V. Chair (1993-1994)</i> |
| Robert A. Rubin | <i>V. Chair (1991-1992), Chair (1992-1995)</i> |
| Gregory W. Hummel | <i>Chair (1991-1992)</i> |

LEGISLATIVE COMMITTEE

(Currently inactive) The goal of this Committee is to review legislation affecting the construction industry probably on a national level. It would also be considered a clearing house for legislation from various states which may be of use to the construction industry.

| | |
|---------------------------|--------------------------|
| Arthur T. Kornblut | <i>Chair (1991-1993)</i> |
|---------------------------|--------------------------|

R. James Diepenbrock
Gregory W. Hummel

V. Chair (1992–1993)
Chair (1990-1991)

DELIVERY OF LEGAL SERVICES COMMITTEE

(Currently inactive) This Committee seeks to develop ways in which construction lawyers can participate more fully and deliver legal services more effectively in the evolving construction industry. Its areas of concern include the scope of construction law services, alternative fee arrangements and new and creative terms of engagement.

Paul M. Lurie
Christopher L. Noble

Chair (1999-2004)
Chair (1997-1999)

INSURANCE/SURETYSHIP

This committee monitors, analyses and reports to the Fellowship regarding recent developments regarding insurance and binding issues relevant to the construction industry.

Dean B. Thomson,
Gregg E. Bundschuh
Patrick J. O'Connor
Patricia H. Thompson
Deborah S. Ballati
Harvey C. Koch

Co-Chair (2005-06), Chair (2006 - 2007)
Co-Chair (2006 – 2007)
Co-Chair (2004-2005)
Co-Chair (2004-2004)
V. Chair (2001-2003)
Chair (2001- 2004)

INTERNATIONAL CONSTRUCTION LAW

This Committee seeks to expand the horizons of the members of the College by monitoring the construction contracting practice, construction delivery system development and dispute avoidance and resolution mechanisms used in other countries. It is charged with the task of defining and implementing the role of the college in connection with the international and multi-national needs of the construction industry. This will include forming and developing liaison and corresponding relationships with international professional organizations and groups of similar interest, conducting educational programs for Fellows regarding the practice of international construction law, and exploring the possible association and fellowship of construction lawyers from other countries in the College.

David M. Buoncristiani
George Anthony Smith
John B. Tieder, Jr.
David M. Buoncristiani
Geoffrey T. Keating
Donald L. Marston
Jesse B. ("Barry") Grove, III
Kenneth M. Cushman
A.H. ("Nick") Gaede, Jr.

Chair (2006 – 2007)
Co-Chair (2006 – 2007)
Chair (2004- 2005), (Co Chair (2005-2006)
Co Chair (2005-06)
Chair (2003 - 2004)
V. Chair (1999-2000), Chair (2000- 2003)
Chair (1999-2000)
V. Chair (1995-1996); Chair (1997-1999)
Chair (1995-1996)

"HOT TIPS"

This Committee enlists the assistance of all newly inducted Fellows to prepare and present the "Hot Tips" segment of the program format for the next Annual Meeting of the College. It also is charged with the responsibility of developing an ongoing method of indexing and cataloging the Hot Tips submissions to facilitate their reference and use by the Fellows.

Stuart H. Sobel
Edward P. Meyerson

Chair (2005- 2007)
Chair (2004-2005)

| | |
|----------------------------------|---------------------------|
| Joseph F. Canterbury, Jr. | <i>Chair (2003-2004)</i> |
| Philip L. Bruner | <i>Chair (1999-2003)</i> |
| Zela G. Claiborne | <i>Co-Chair (1998-99)</i> |
| Mark C. Friedlander | <i>Co-Chair (1998-99)</i> |
| Buckner Hinkle, Jr. | <i>Chair (1997-98)</i> |
| David B. Ratterman | <i>Chair (1995-1997)</i> |
| Joseph A. McManus, Jr. | <i>Chair (1991-19945)</i> |

“CULTURAL AND HISTORICAL COMMITTEE”

This Committee was to preserve the culture and history of the College – including its humorous side.

| | |
|------------------------------|---|
| Robert L. Meyers, III | <i>Chair (and entertainer in residence) (1992-1993)</i> |
|------------------------------|---|

TASKS FORCES

BYLAW/HISTORY/ARCHIVE TASK FORCE

This is a consolidation of the former separate “Task Forces” re “Archiving” and “History” (see below).

| | |
|---------------------------|-----------------------------|
| David R. Hendrick | <i>Chair (2006-2007)</i> |
| David B. Ratterman | <i>Co-Chair (2006-2007)</i> |
| Laurence Schor | <i>V. Chair (2004-2006)</i> |

ARCHIVING TASK FORCE

This Task force was charged with development of procedures and protocols for compiling and maintaining a permanent set of archival and historical documents and resource materials derived from College activities and also develop the necessary capabilities in the website and the LISTSERV to permit topical search and retrieval.

| | |
|---------------------------|------------------------|
| David B. Ratterman | <i>Chair (2005-06)</i> |
|---------------------------|------------------------|

HISTORY

This task group, generally comprising the Past Presidents of the College was charged with the task of gathering and preserving the historical records and documents of the College and of preparing for publication and distribution to our Fellowship a written historical review of the ACCL.

| | |
|--------------------------|-----------------------------|
| David R. Hendrick | <i>Co-Chair (2001-06)</i> |
| Laurence Schor | <i>Co-Chair (2003-06)</i> |
| James P. Groton | <i>Co-Chair (2001-2003)</i> |

ACCL NETWORKING TASK FORCE

This Task Force is charged with responsibility of exploring networking opportunities within the College and of developing and implementing methods to optimize the networking process among and between the Fellows of the College. This includes ongoing and effective communication to the Fellowship of existing professional and liaison relationships of various of the Fellows with established industry and professional organizations such as contractor associations, professional associations, academic institutions, and other groups.

| | |
|---------------------------|-----------------------------|
| David B. Ratterman | <i>Co-Chair (1997-2000)</i> |
|---------------------------|-----------------------------|

| | |
|--------------------------------|--|
| Paul M. Lurie | <i>Chair (1995 – 1996), Co-Chair (1997-2000)</i> |
| Howard W. Ashcraft, Jr. | <i>V. Chair (1996-1997)</i> |
| Richard E. Alexander | <i>V. Chair (1996-1997)</i> |
| Joseph A. McManus, Jr. | <i>V. Chair (1996-1997)</i> |

AMERICAN ARBITRATION ASSOCIATION LIAISON

(Including liaison with the “National Construction Dispute Resolution Committee”)

This Task Group is charged with fostering and maintaining an ongoing liaison relationship with the AAA and its NCDRC.

| | |
|-----------------------------|---|
| Steven A. Arbittier | <i>Chair (NCDRC liaison) (2004- 2007)</i> |
| J. Bert Grandoff | <i>Chair (2005-06)</i> |
| Stephen D. Butler | <i>V. Chair 2005-06)</i> |
| Donald O. Pratt | <i>V. Chair 2005-06)</i> |
| Joseph F. Canterbury | <i>Chair (2003-2005)</i> |
| Donald O. Pratt | <i>Co-Chair (2004-2006)</i> |

CLE CREDIT TASK FORCE

This Task Force evolved out of the “Education Committee” and pursues the objective of obtaining for all Fellows Continuing Legal Education credit, where required by state bar associations, for attendance at and participation in the educational programs of the College.

| | |
|-------------------------------|--|
| Leslie K. O’Neal-Coble | <i>Chair (2003 – 2004)</i> |
| Geoffrey T. Keating | <i>Chair (1998-2000)</i> |
| James L. Hawkins | <i>Chair (1996-1997), Co-Chair (1998-1999)</i> |
| Joseph A. McManus, Jr. | <i>Chair (1995 – 1997)</i> |

CONSTRUCTION FINANCING

(Currently inactive) This Task Group was charged with exploring the potential role of the College in the area of project financing. This included: (1) educational programming regarding construction finance (2) establishment of liaison with construction lender or finance organizations, (3) coordinating this endeavor with complementary activities of other college committees and Task Groups.

| | |
|--------------------------------------|-----------------------------|
| Geoffrey T. Keating | <i>Chair (2003 - 2004)</i> |
| Donald L. Marston | <i>V. Chair (1999-2000)</i> |
| Jesse B. (“Barry”) Grove, III | <i>Chair 1996-2002)</i> |

DELIVERY OF LEGAL SERVICES COMMITTEE

(Currently inactive) This committee seeks to develop ways in which construction lawyers can participate more fully and deliver legal services more effectively in the evolving construction industry. Its areas of concern include the scope of construction law services, alternative fee arrangements and new and creative terms of engagement.

| | |
|-----------------------------|----------------------------|
| Paul M. Lurie | |
| Christopher L. Noble | <i>Chair (1997 – 2001)</i> |

MEMBERSHIP DEVELOPMENT

(Currently inactive)

| | |
|---------------------------|--------------------------|
| Jeanne M. Forneris | <i>Chair (1998-1999)</i> |
|---------------------------|--------------------------|

“PROFESSORS”

This is a loose network of our Fellows who are either full time or adjunct law professors, or teachers of construction law or aspects of it. They exchange information regarding usable teaching materials and resources, as well as suggestions and experiences regarding curriculum and subject matter for use in construction law related programs in law schools or engineering or architectural schools.

| | |
|--------------------------------|--|
| William R. Allensworth, | <i>Chair (2006 - 2007)</i> |
| Stanley P. Sklar | <i>Chair (2003-2005), Co-Chair (2005-06)</i> |
| Steven M. Siegfried | <i>Co-Chair (2004-2006)</i> |
| Laurence Schor | <i>Co-Chair (2001-2003)</i> |

PUBLIC SECTOR OUTREACH

The objectives of this new Task Force are to enable the College to establish an ongoing relationship by where the College will have direct input with the following:

1. higher educational institutions and associations that are directly involved in teaching the various disciplines involved in the construction industry; and
2. industry-wide associations committed to the overall betterment of the construction industry and process; and
3. Legislative, administrative regulatory and other government agencies and bodies of interest and importance to the practice of construction law.

| | |
|---------------------------|---|
| <i>From 1998</i> | <i>Co-Chairs Past Presidents Council)</i> |
| James J. Myers | <i>Chair (1997-1998)</i> |
| Steven G. M. Stein | <i>V. Chair (1996-1997)</i> |
| Carl M. Sapers | <i>Chair (1995 – 1996)</i> |

SHOP DRAWING NATIONAL SYMPOSIUM TASK FORCE

The objective of this Task Force was to organize and conduct a national symposium addressing industry issues relating to the review and approval of shop drawings, delegation of design responsibility and allocation of the risks and responsibilities involved in these processes. The Symposium was conducted in the fall of 2003 in Atlanta, Georgia.

| | |
|---------------------------|-----------------------------|
| David R. Hendrick | <i>Chair (2003-2004)</i> |
| Kenneth M. Cushman | <i>V. Chair (2003-2004)</i> |

SHOP DRAWING TASK FORCE

The objective of this Task Group was to investigate issues and to derive solutions relative to shop drawing review and approval and the allocation of risk and responsibilities relating thereto.

| | |
|---------------------------|-----------------------------|
| David R. Hendrick | <i>Chair (1993-1994)</i> |
| Kenneth M. Cushman | <i>Chair (1991-1993)</i> |
| Stanley P. Sklar | <i>V. Chair (1992-1993)</i> |

ALLIANCE TASK FORCE

(a/k/a “Ad Hoc Liaison Committee”)

Explore and develop alliance and liaison relationships with CII and other industry trade and professional associations.

James P. Groton

Chair (2005- 2007)

MENTORING TASK FORCE

This task group is to facilitate and assist in the welcome and assimilation of newly inducted Fellows and their spouses.

A. Holt Gwyn

Chair (2005- 2007)

AD HOC STUDY COMMITTEE ON STANDING COMMITTEES

(The name of this Task Force is sufficiently descriptive in itself.)

Stanley P. Sklar

Chair (1994)

TASK FORCE ON CERTIFICATION AND SPECIALIZATION

This Task Force is charged with the responsibility of monitoring the general movement toward specialist certification by a number of state bar associations and to explore and define an appropriate role of the College in the development and evolution of such certification programs.

Joseph F. Canterbury, Jr.

Chair (1996-1999)

Laurence Schor

V. Chair (1997- 1998)

James J. Myers

Chair (1993 - 1996)

TASK FORCE ON WOMEN AND MINORITIES

(Currently inactive) This Task Force was charged with the responsibility of monitoring the ever evolving use and development of DBE/WBE/MBE type programs as they bear upon the construction industry on a national, state and local level. This Task Force also was charged with the responsibility of educating the Fellowship regarding these programs, as well as identifying opportunities for constructive involvement and input by the College on the issue of affirmative action programs and their applications to the construction contracting process.

Betty L. Hum

Chair (1994 - 1995)

DESIGN BUILD RISK ALLOCATION AND INSURANCE TASK GROUP

This task group was to explore the recently developed insurance products addressing the particular needs of "design/build" and EPC contractors.

James J. Scott

Chair (1996 – 1997)

ACCL "TAKING POSITIONS"

This Task Group is to develop the criteria, protocols and procedures for determinations of whether and under what circumstances the College should take any position on issues of importance to the industry and the related practice of law, and also establish the process by which such position should be evolved and developed.

Mark C. Friedlander

Chair (2005 – 2007)

Ava J. Abramowitz

Co-Chair (2006 – 2007)

ACCL JOURNAL

This Board is charged with the creation and operation of a juried legal journal featuring articles and information relevant to the practice of construction law.

EDITORIAL BOARD:

Adrian L. Bastianelli

Editor-In-Chief (2006- 2007)

ADVISORY BOARD:

A.H. ("Nick") Gaede, Jr.

Chair (2006 – 2007)

Carl M. Sapers

Co-Chair (2006 – 2007)

TABLE 4

AMERICAN COLLEGE OF CONSTRUCTION LAWYERS
ANNUAL MEETINGS
1989 - 2006

| | |
|------------------------|---|
| MAY, 1989 | ORGANIZATIONAL MEETING <i>Hotel Nikko, Chicago, Illinois</i> |
| SEPTEMBER, 1989 | INAUGURAL MEETING <i>Four Seasons Hotel, Chicago, Illinois</i> |
| FEBRUARY, 1990 | FIRST ANNUAL MEETING <i>Ritz Carlton Resort, Laguna Niguel, California</i> Program Chair: Robert J. Smith |
| FEBRUARY, 1991 | SECOND ANNUAL MEETING <i>The Phoenician Resort, Scottsdale, Arizona</i> Program Chair: Robert J. Smith |
| FEBRUARY, 1992 | THIRD ANNUAL MEETING <i>Boca Raton Resort & Club, Boca Raton, Florida</i> Program Chairs: Robert J. Smith (arrangements) Robert A. Rubin (program) |
| FEBRUARY, 1993 | FOURTH ANNUAL MEETING <i>Ritz Carlton – Rancho Mirage, Rancho Mirage, California</i> Program Chair: R. James Wulfsberg |
| FEBRUARY, 1994 | FIFTH ANNUAL MEETING <i>Ritz Carlton – Naples, Naples, Florida</i> Program Chair: B. James Diepenbrock |
| FEBRUARY, 1995 | SIXTH ANNUAL MEETING <i>Arizona Biltmore Resort & Spa, Phoenix, Arizona</i> Program Chairs: James J. Myers Robert A. Rubin Robert L. Meyers, III Christopher L. Noble |
| FEBRUARY, 1996 | SEVENTH ANNUAL MEETING <i>Stouffer Renaissance Vinoy Resort, St. Petersburg, Florida</i> Program Chair: John F. McGuinn |

| | |
|-----------------------|--|
| FEBRUARY, 1997 | EIGHTH ANNUAL MEETING <i>Le Meridian Hotel, San Diego, California.</i> Program Chair: Robert L. Meyers, III |
| FEBRUARY, 1998 | NINTH ANNUAL MEETING <i>Doral Golf Resort & Spa, Miami, Florida</i> Program Chairs: Howard G. Goldberg Jeanne M. Forneris |
| FEBRUARY, 1999 | TENTH ANNUAL MEETING <i>Westin La Paloma, Tucson, Arizona</i> Program Chairs: James J. Scott Steven M. Siegfried |
| FEBRUARY, 2000 | ELEVENTH ANNUAL MEETING <i>The Ocean Reef Club, Key Largo, Florida</i> Program Chair: Robert L. Meyers, III |
| FEBRUARY, 2001 | TWELFTH ANNUAL MEETING <i>Arizona Biltmore Resort & Spa, Phoenix, Arizona</i> Program Chairs: Robert L. Meyers, III James E. Scott Leslie O'Neil-Coble |
| FEBRUARY, 2002 | THIRTEENTH ANNUAL MEETING <i>The Breakers, Palm Beach, Florida</i> Program Chairs: J. Bert Grandoff Larry D. Harris Richard F. Smith |
| FEBRUARY 2003 | FOURTEENTH ANNUAL MEETING <i>La Costa Resort, Carlsbad, California</i> Program Chair: J. Bert Grandoff |
| FEBRUARY, 2004 | FIFTEENTH ANNUAL MEETING <i>The Biltmore Hotel, Coral Gables, Florida</i> Program Chair: John W. Hinchey |
| FEBRUARY, 2005 | SIXTEENTH ANNUAL MEETING <i>Loews Ventana Canyon Resort, Tucson, Arizona</i> Program Chair: Steven G.M. Stein |
| FEBRUARY, 2006 | SEVENTEENTH ANNUAL MEETING <i>Sanibel Harbor Resort & Spa, Ft. Myers, Florida</i> Program Chair: Patrick J. O'Connor, Jr. |

TABLE 5

IN MEMORIAM



Erwin L. Corwin, New York, NY *(1927-2004)*



Kenneth M. Cushman, Philadelphia, PA *(1937-2002)*



R. James ("Jim") Diepenbrock, Oakland, CA *(1929-2002)*



Robert B. Flaig, Los Angeles, CA *(1941-1998)*



Howard P. Kamin, Chicago, IL *(1930-1998)*



Arthur T. Kornblut, Washington, DC *(1942-1993)*



Honorable Richard C. Solibakke, Washington, DC *(1927-2002)*



Overton A. Currie, Atlanta, GA (1927-2005)



Robert F. Cushman, Malibu, CA (1931-2005)

John R. Clark, Philadelphia, PA (1916-2005)



J. Bert Grandoff, Tampa, FL (1936-2006)

