



AMERICAN COLLEGE
of CONSTRUCTION LAWYERS

31st Annual Meeting



February 20-23, 2020

Loews Ventana Canyon Resort
Tucson, Arizona

THURSDAY, FEBRUARY 20, 2020

- 2:00 – 6:00 p.m. Registration Desk Open**
- 3:30 – 4:00 p.m. ACCL Executive Committee Meeting**
- 4:00 – 5:00 p.m. ACCL Board of Governors Meeting**
- 5:00 – 7:00 p.m. Welcome Reception: Wine & Cheese (Casual Dress)**
- 7:00 p.m. Dinner Mixer**
 Fellows and guests are invited to form your own dinner parties with a restaurant list to be provided in advance. Transportation is on your own. (New Fellows have an arranged dinner with the Executive Committee.)

FRIDAY, FEBRUARY 21, 2020

- 7:30 – 5:00 p.m. Registration Desk Open**
- 7:30 – 8:30 a.m. Fellows Breakfast**
- 7:30 – 8:30 a.m. New Fellows Orientation Breakfast**
- 7:30 – 8:30 a.m. Past Presidents Breakfast**
- 7:30 – 8:30 a.m. Diversity Committee Breakfast**
- 7:30 – 8:30 a.m. Special Committee and Task Force Meetings:**
ACCL Journal Committee Professors Committee
In-House Counsel Task Force on Aid to Developing Countries
- 7:30 – 3:00 p.m. Spouse/Guest Hospitality Suite Open**
 The Hospitality Suite will remain open until 3:00 p.m. each day for relaxing and catching up with friends. Breakfast will be served at 8:00 a.m. Introduction of New Fellow Spouses will take place at 8:30 a.m. *See Spouse/Guest Program for details and optional events.*
- 8:45 – 9:00 a.m. Introductory Remarks and Welcome**
 Opening remarks, including introduction of New Fellows.
David G. Lane, ACCL President
Kathleen Olden Barnes, Program Chair
- 9:00 – 10:00 a.m. OVERTON CURRIE LECTURE – River Crossings - How an Obscure Island in the Upper Mississippi River Became a Turning Point in American History**
 Fellows, spouses and guests are invited to join us for the return of the Overton Currie lecture. This entertaining and informative lecture will address river crossings that became navigation points in the course of American history and culture. Along the way, we will travel with heroes and villains and encounter cutting-edge engineering technology. We will navigate through two wars, three Acts of Congress and seven decisions of the United States Supreme Court, exploring what sculpted our nation's first piece of complex construction litigation and, perhaps, its greatest construction lawyer.
Presenter: David B. Ratterman, Louisville, KY
- 10:00 – 10:15 a.m. Refreshment Break**
- 10:15 – 11:45 a.m. PLENARY TWO – How the Construction Sector Can Manage The Risks Associated With Climate Change**
 This session will bring together leading professionals in the design, construction and risk management industries to address the challenges associated with climate change.

The panel will discuss the impact of extreme weather on (1) infrastructure and community facility resiliency; (2) the state of technology, including AI/machine learning and our ability to predict and manage the impacts of extreme weather; (3) related impacts to the substantive legal 'standard of care' applicable to constructors, designers and allied professionals; and (4) current climate litigation, developing theories of designer and contractor liability and the emerging expectations from insurers.

Presenters: Josh M. Leavitt, Chicago, IL (Moderator)
 Lindene Patton, Member, Earth and Water, LLC
 Joel Sonkin, Director of Resiliency, AECOM
 Rich Sorkin, CEO & Co-founder, Jupiter Intelligence

11:45 – 12:00 p.m. ACCL 2020 OUTLOOK AND UPCOMING PROGRAMS/PROJECTS

John R. Heisse, President-Elect, San Francisco, CA

12:00 – 1:30 p.m. Fellows' Collegial Luncheon

1:30 – 2:45 p.m. PLENARY THREE – Demonstrative Evidence: Getting All of Your Bells and Whistles Admitted

Studies document why demonstrative evidence works, but common sense tells us why it is necessary. Today's jurors are accustomed to receiving information in a short format with the help of visual aids. This interactive session will distinguish demonstrative evidence from substantive/admissible evidence that can be provided to a jury for deliberations; address the use of computer graphics and animations at court and in arbitration; and, discuss the limitations on the use of demonstrative evidence. Dan Kruger from ESI will present graphics/animations and the panel will debate the continued relevancy of the limitations on demonstrative evidence in the rules and how animations are used currently in construction trials.

Presenters: Shelly Ewald, McLean, VA (Moderator)
 Jocelyn L. Knoll, Minneapolis, MN
 Daniel H. Kruger, PhD., Engineering Systems, Inc.

2:45 – 3:15 p.m. In Memoriam: Tribute

Fellows, spouses and guests are invited to celebrate the lives of our departed Fellows and their contributions to the profession, the industry and to the College.

3:15 – 3:30 p.m. Refreshment Break

3:30 – 4:30 p.m. COMMITTEE PROGRAMS:

DOCUMENTS

Committee Chair: George J. Meyer, Tampa, FL
Vice-Chair: Christine M. McAnney, Atlanta, GA

How Do They Keep All of the Balls in the Air? Our experienced panel of in-house counsel will discuss how they manage the large volume of contracts that must be negotiated and administered. How is the level of involvement of the legal department determined for the negotiation and management of any particular contract? How is the process of negotiating contracts managed? What do they love/hate in the language of their contracts? What are their most successful negotiation techniques and what are the best techniques used by their negotiating counterparts? The panel will address these and other questions in this interactive presentation.

Presenters: Christine M. McAnney, Atlanta, GA (Moderator)
 Robert Preston Brown, Atlanta, GA
 W. Stephen Dale, New York, NY
 Brad A. Gordon, Providence, RI

FRIDAY, FEBRUARY 21, 2020 (Continued...)

PUBLIC CONTRACTS – Year in Review

Committee Chair: James F. Archibald, Birmingham, AL

Vice-Chair: Joseph C. Kovars, Baltimore, MD

Jim Nagle, nationally recognized attorney and thought leader in government contract law, will present a high-level, expert briefing on the past year's legal developments in government contracting. Mr. Nagle will address new and changed statutes, regulations, case law and other developments in government contracting during 2019. Stay abreast of all the important changes that can sneak past you during a busy year! This informative and lively presentation will conclude with a discussion of what's happening in the public contracts industry and the impact on 2020.

Presenter: James F. Nagle, Seattle, WA

4:30 – 5:30 p.m. COMMITTEE PROGRAMS:**INSURANCE**

Committee Chair: Jocelyn L. Knoll, Minneapolis, MN

Vice-Chair: Daniel S. Brennan, Chicago, IL

A CATASTROPHIC FAILURE ON A MEGAPROJECT: WHAT IF THE WORST HAPPENS? – Explore key issues that arise when a catastrophic failure occurs on an under-construction megaproject – before the responsible party is identified. Insurance coverage issues, surety issues, implications of government investigations and financial and reputational burdens will be addressed.

ADR / INTERNATIONAL

ADR Committee Chair: Adrian L. Bastianelli, Washington, DC

Vice Chair: Thomas J. Stipanowich, Malibu, CA

International Committee Chair: Wendy K. Venoit, Boston, MA

Vice Chair: Helmut K. Johannsen, Vancouver, BC

WHAT'S NEW PUSSYCAT IN INTERNATIONAL ADR? – The ADR and International Committees have teamed up again to present a high-level discussion of current issues in international ADR. The panel will bring you up to speed on the results of the 2019 Queen Mary Arbitration Study, scheduled to be published in mid-November 2019, the Singapore Convention on Mediation and other recent happenings in International ADR.

Presenters: Adrian L. Bastianelli, Washington, DC (Moderator)

Albert Bates, Jr., Pittsburgh, PA

Thomas J. Stipanowich, Malibu, CA

6:00 – 10:00 p.m. Cocktails, Dinner & Dancing (Casual Dress)

SATURDAY, FEBRUARY 22, 2020

7:00 – 12:30 p.m. Registration Desk Open

7:00 – 8:30 a.m. Fellows Breakfast

7:00 – 8:00 a.m. 2021 Annual Meeting – Planning Committee Meeting

7:00 – 8:00 a.m. Membership Committee Meeting

- 7:30 – 3:00 p.m. Spouse/Guest Hospitality Room Open**
Breakfast served at 8:00 a.m. The hospitality suite will remain open until 3:00 p.m.
See Spouse/Guest Program for details and optional events.
- 8:00 – 9:30 a.m. PLENARY FOUR – P3 Success in the U.S. – Why Has It Been So Hard and What Can We Do About It?**
Recently, prominent P3 players have withdrawn from bidding for P3 and design-build projects, citing unacceptable project losses and levels of risk transfer in P3 and/or design build contracts. The plenary will open with an examination of the challenges the industry has faced in the implementation of P3 in the U.S. and Canada, using several P3 project case studies – the Long Beach, CA Courthouse P3 Project, the terminated Denver International Airport’s Terminal Renovation P3 Project, the Virginia High-Occupancy Toll Lanes P3 Projects and the Eglinton Crosstown LRT P3 Project in Ontario, Canada. The panel then will address the ingredients of a successful U.S. P3 project with a focus on risk transfer and how it is handled, particularly in a design/build context. The session will close with a discussion including the Fellows in attendance about ways the ACCL and the industry should respond to these critical industry issues.
- Presenters: Gregory W. Hummel, Chicago, IL (Moderator & P3 Task Force Chair)*
Frank J. Baltz, Bethesda, MD
Jody K. Debs, Denver, CO
Michael C. Loulakis, Reston, VA
Caryn Maxfield, Vice President for Strategic Projects, The Walsh Group
R. Bruce Reynolds, Toronto, ON
Aaron Toppston, Senior Development Manager & Director of Analytics, The Walsh Group
- 9:30 – 9:45 a.m. Refreshment Break**
- 9:45 – 11:00 a.m. PLENARY FIVE – The Clamor for Government Mandated Registered Apprenticeship Training Programs to Solve the Skilled Labor Shortage in our Industry – A Tale Full of Sound and Fury, Signifying Little**
As seasoned construction law practitioners, we are all acutely aware of one of the biggest challenges our industry faces – the growing shortage of skilled construction labor due to an aging, retiring workforce, with an insufficient replacement rate by younger workers entering the building trades. According to a recent study, by 2020, the nation will experience a shortage of approximately 5 million workers with technical certificates and credentials. There has been a tremendous amount of publicity about governmental efforts to overcome this problem, mostly through the promotion of expanded apprenticeship opportunities. In this program we will provide an overview of those efforts and – please don’t shoot the messenger - will explain why they are largely misguided and are destined to fail. Finally, we will argue in favor of much bolder, even revolutionary, approaches to meet and overcome this challenge.
- Presenters: Eileen M. Diepenbrock, Sacramento, CA*
Christopher C. Whitney, Providence, RI
- 11:00 – 12:00 p.m. HOT TIPS/HOT TOPICS**
Committee Chair: William G. Geisen, Covington, KY
Join us for another entertaining and interactive discussion of hot topics and trends in the construction industry – in our new format. This year, our *new* Fellows will select and present the hot topics. The discussion will be moderated by the Committee Chair. As always, we will save time to discuss any additional tips or topics provided by the Fellows.
- 12:00 p.m. Adjourn Saturday Sessions**

SATURDAY, FEBRUARY 22, 2020 (Continued...)

12:30 p.m. AFTERNOON ACTIVITIES BEGIN

12:30 – 5:15 p.m. **Arizona-Sonora Desert Museum Excursion**

The Desert Museum is ranked on TripAdvisor as one of the Top 10 Museums in the country and the #1 Tucson attraction. Unlike most museums, about 85% of the experience is outdoors! The 98-acre Desert Museum is a fusion experience: zoo, botanical garden, art gallery, natural history museum, and aquarium. Stroll along 21 interpreted acres with two miles of walking paths through various desert habitats. Look for 242 animal species and 56,000 individual specimens of plants. Enjoy one of the world's most comprehensive regional mineral collections. Beyond merely an attraction, the Museum's conservation and research programs are providing important information to help conserve the Sonoran Desert region. Reserve your spot on the registration form. Cost is \$65 per person and includes climate-controlled transportation to and from the Museum and a boxed lunch. *Advance registration is required on the registration form.*

12:30 – 5:15 p.m. **Sabino Canyon Excursion**

Located on the northeastern edge of Tucson as part of Coronado National Forest, Sabino Canyon is one of the city's most popular hiking destinations. This comes as no surprise given the diverse hiking opportunities, convenient location, and gorgeous scenery, not to mention the spectacular views of Tucson's sunsets. With a variety of terrain including a paved path for the lighter option, or miles of rugged ground to explore, Sabino Canyon is a must see for both tourists and locals alike. Transportation will be provided to and from the Sabino Canyon Recreation Area. You will be free to explore the miles of hiking trails on your own or travel throughout the area on the air-conditioned shuttle which affords visitors a close-up of the stunning canyon views. Park and trail maps are available at the Visitors Center. Please pay attention to the maps as trails vary in difficulty from "easy" to "advanced." It is recommended that you wear shorts, thick socks, comfortable hiking shoes, a hat and sunscreen. Please carry plenty of bottled water and a light rain coat. Cost is \$15 per person. *Advance registration is required on the registration form.*

12:30 p.m. **Golf Tournament (Shotgun Start)**

The golf tournament will be held at the Mountain Course at the Loews Ventana Canyon Resort with a shotgun start at 12:30 p.m. The fee is \$110 per golfer and includes green fees, cart, balls and prizes. Lunch is on your own. The ACCL golf committee will assign players to foursomes and communicate the pairings prior to the event. Fellows, spouses and guests are welcome to play in this golf tournament. *Advance registration is required on the registration form.*

Golf Chair: Jotham D. Pierce, Jr., Portland, ME

2:00 – 3:30 p.m. **Tennis Tournament**

Join the Fellows, spouses and guests for tennis. This tournament will be held at the tennis courts on property at the Loews Ventana Canyon Resort beginning at 2:00 p.m. The fee will be \$25 per player. Equipment rental is on your own. The play will be social, mixed doubles, round robin format using four game sets. After each set, the players will change partners for the next set. *Advance registration is required on the registration form.*

Tennis Chair: Mark J. Heley, Minneapolis, MN

7:00 – 8:00 p.m. **FELLOWS AND GUESTS RECEPTION** (*Black Tie Attire*)8:00 – 10:30 p.m. **FORMAL DINNER**• **Recognitions and Awards**

David G. Lane, ACCL President

• **Formal Introduction of New Fellows**

John R. Heisse, ACCL President-Elect

SUNDAY, FEBRUARY 23, 2020

7:30 – 11:00 a.m. Registration Desk Open

7:15 – 9:00 a.m. Fellows and Spouse/Guest Continental Breakfast

8:00 – 9:00 a.m. PRACTICE TRANSITION

Fellows, spouses and guests are encouraged to attend this panel discussion on the opportunities for transitioning Fellows to utilize their legal and other skills to give back through work with charitable organizations; the opportunities available to teach at law schools and architecture and engineering departments; and, becoming a writer – on legal topics or otherwise – and most importantly, getting published.

*Presenters: Ava J. Abramowitz, Leesburg, VA
Jody K. Debs, Denver CO
Robert J. MacPherson, Newark, NJ
R. Harper Heckman, Greensboro, NC*

9:00 – 9:15 a.m. Refreshment Break

9:15 – 10:00 a.m. ACCL BUSINESS MEETING

- Election of New Board Members and Officers
- Committee and Task Force Reports
- Remarks by President Heisse
- Adjourn 31st Annual Meeting

10:15 – 11:30 a.m. Board of Governors Meeting

HOTEL INFORMATION

For the convenience of conference registrants, a block of rooms has been reserved at Loews Ventana Canyon Resort, 7000 North Resort Drive, Tucson, AZ 85750. Please reserve your room by calling the Loews Reservation Center at 1-(800)-235-6397 and asking for the 'American College of Construction Lawyers' group rate (code UTC219) or visit <https://www.loewshotels.com/ventana-canyon/american-college-of-construction-lawyers> to book your reservation online. **To ensure availability please make your reservation as soon as possible. The reservation deadline is January 28, 2020.** After that date, or when the room block is exhausted, the hotel will assign rooms on a space and rate available basis only. The conference rates are \$219.00 plus tax for a standard single/double. The \$29 resort fee is waived for attendees booking in the ACCL room block. A one-night deposit is required at the time of reservation. Please note in the event of room cancellation, the deposit is refundable if notice is received by the hotel at least 72 hours prior to arrival. Cancellations within 72 hours of arrival will incur a cancellation fee of one night's room and tax.

SPOUSE/GUEST PROGRAM & OPTIONAL EVENTS

FRIDAY, FEBRUARY 21, 2020

- 7:30 – 3:00 p.m. Spouse/Guest Hospitality Suite Open**
The Hospitality Suite will remain open until 3:00 p.m. each day for refreshments, relaxing and catching up with friends.
- 8:00 a.m. Breakfast**
- 8:30 a.m. Introduction of New Fellow Spouses**
- 10:00 a.m. Bridge (Optional Ticketed Event)**
Are you a card player? Then come play bridge! You may either suggest a group of four, or we will work to set up a group that you can join. This event is offered at no additional cost, but *please RSVP in advance* so we can be sure to have enough room and teams.
- 10:00 a.m. Mahjong (Optional Ticketed Event)**
Back by popular demand! Put your Mahjong skills to the test in what has become an ACCL tradition. We will assemble groups for those who already know how to play, but there will be basic instruction for those who are new to the game. Games will be supplied according to the number of spouses/guests who sign up in advance and there is no charge for participation. *Advance RSVP is required.*
- 11:45 – 1:30 p.m. Chef-led Demonstration and Lunch (Optional Ticketed Event)**
Bring your appetite and a desire to learn to this deliciously informative session. Attendees will be served each course as the Resort's Chef demonstrates and explains the different ingredients used to create a delicious meal. Each participant will receive a recipe book with recipes of the courses served. Cost is \$95 per person. *Advance registration is required.* (Limited to the first 50 registrants.)
- 2:00 – 4:00 p.m. Instructor-led Line Dancing Lessons (Optional Ticketed Event)**
Giddy up for a good time as your knowledgeable instructors teach you all the skills you need to kick up your heels. This session promises to be fun and interactive. By the end of the session you'll be boot scootin' like a pro! Cost is \$30 per person. *Advance registration is required.*

SATURDAY, FEBRUARY 22, 2020

- 7:30 – 3:00 p.m. Spouse/Guest Hospitality Room Open**
- 8:00 a.m. Breakfast**
- 9:00 – 10:15 a.m. Book Club ("Becoming Mrs. Lewis" by Patti Callahan) (Optional Ticketed Event)**
Start reading the book now so you can discuss it with your friends. *No cost to attend but advance RSVP is required.*
- 10:30 – 11:30 a.m. Native American Storyteller / Lecturer (Optional Ticketed Event)**
Tucson is a city full of history and intrigue. You will not want to miss this session as a Native American Storyteller brings the area's past to life. Stories and songs will be used to tell the tale of a time long gone by. Your Storyteller will also let you know what present day life is like for the Native American People living in the area. This session promises to be unlike any you have ever attended. Cost is \$25 per person. *Advance registration is required.*
- 11:45 a.m. Adjourn to Saturday Afternoon Activities (See program schedule for details.)**

REGISTRATION FORM: ACCL 31ST ANNUAL MEETING

February 20-23, 2020 | Loews Ventana Canyon Resort | Tucson, Arizona

REGISTRANT INFORMATION

Name: _____

Company/Firm: _____

Address: _____ City: _____

State/Province: _____ Zip/Postal Code: _____ Country: _____

Phone: _____ Fax: _____ Email: _____

Special Dietary Restrictions: _____

CONFERENCE REGISTRATION & OPTIONAL EVENT SELECTIONS

Fellows Conference Fee: \$975 \$ _____
 (Does not include accommodations or incidentals. Registrants should pay the hotel directly for these expenses.)

Committee Programs you plan to attend (select one per segment):

Friday #1: Documents Public Contracts **Friday #2:** Insurance ADR/International

Printed Conference Materials: Conference materials on USB are included with your conference registration. Some sessions may have hard-copy handouts onsite. The binder of conference materials is also available for purchase for an additional \$50..... \$ _____

Spouse/Guest Fee: \$495 *Name of Spouse/Guest:* _____ \$ _____
 (Includes food & beverage for hospitality suite, Friday/Saturday/Sunday breakfasts, Thursday reception and reception/dinner on Friday/Saturday nights.)

Friday Spouse Activities:

- Bridge:** Free (RSVP Required) *or* **Mahjong:** Free (RSVP Required)
- Chef-led Demonstration & Lunch:** \$95/person..... \$ _____
- Instructor-led Line Dancing Lessons:** \$30/person \$ _____

Saturday Spouse Activities: (Check event times to ensure you don't double book!)

- Book Club:** Free (RSVP Required)
- Native American Storyteller/Lecturer:** \$25/person \$ _____

Saturday Group Activities: (Please list names below if selecting separate events.)

- Arizona-Sonora Desert Museum Excursion:** \$65/person _____ \$ _____
- Sabino Canyon Excursion:** \$15/person _____ \$ _____
- Golf Tournament:** \$110/person _____ \$ _____
- Tennis Tournament:** \$25/person _____ \$ _____

TOTAL DUE \$ _____

Advance registration is required for all events. Payment is due with your registration fee.

PAYMENT INFORMATION

TOTAL DUE (from front)..... \$ _____

Make check payable in U.S. Dollars to "American College of Construction Lawyers"

Please charge my: American Express MasterCard Visa

Credit Card #: _____ Exp. Date: _____ Sec. Code: _____

Name on Card (Please Print): _____

Billing Address (include zip code): _____

Authorized Signature: _____

CANCELLATION/REFUND POLICY

Refunds less a \$50 processing fee will be granted to registrants who cancel on or before 30 days prior to the first day of the meeting. If notice is received after 30 days and before 7 days prior to the first day of the meeting, refunds will be granted less a \$150 processing fee. *No refunds will be granted thereafter.* In some cases optional event tickets must be pre-purchased or guaranteed by the College on a specific date. Such tickets will not be eligible for refund after that date regardless of when the cancellation notice is received.

To register by mail send the completed registration form & payment to:

ACCL 31st Annual Meeting
PO Box 4646
Austin, TX 78765

Fax to: (512) 451-2911

Register Online at: www.accl.org



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