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39%

**LOWER
INCIDENCE RATE²**

for fewer worker injuries and
higher morale

90%

**LOWER OSHA
CITATION RATE³**

for fewer project delays and
out-of-pocket costs

18%

**LOWER
EMR⁴**

for savings in workers'
compensation premiums

38%

**LOWER
DART RATE⁵**

for higher employee productiv-
ity and more time on the job

Member firms of Associated Builders and Contractors (ABC) that participate in the Safety Training Evaluation Process (STEP) program are among the safest construction companies in the nation. Make STEP part of your company's strategy to improve safety and productivity.

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¹Figures based on 2007 STEP data compared to 2007 Bureau of Labor Statistics industry averages. ²Incidence Rate represents the number of OSHA recordable incidents per 100 employees per year. ³OSHA Citation Rate represents the number of citations per federal OSHA construction project. ⁴Experience Modification Rate (EMR) (MOD Factor) measures a company's safety performance against similar businesses over the past three years and is one of the factors used to determine workers' compensation rates. ⁵DART Rate represents the number of OSHA recordable incidents that involve "Days Away, Restrictions and Transfers" per 100 employees per year.



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Your resource for construction news.
MERIT SHOP REPORT

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Associated Builders & Contractors is a national nonprofit trade association of general contractors, subcontractors, suppliers, and industry professionals who have joined together to advance the construction industry by aggressively supporting the Merit Shop Philosophy and the Free Enterprise System. ABC of Arkansas reserves the right to review any editorial material for submission in the Merit Shop Report.

Red , White , & Blue

What is Red, White, & Blue?

Red, White, & Blue is a program that allows ABC members to sponsor the association throughout the year, without constant pursuit, for a one year donation of \$850 .

What are the benefits?

- ◆ *Your Company Name / Logo will be represented monthly in the Merit Shop Report*
- ◆ *Hole sponsor sign at all ABC Golf Tournaments (3 tournaments all over the state)*
- ◆ *Signage at State Convention & EIC Banquet*
- ◆ *Wall of Honor display at all events (where applicable)*
- ◆ *Red, White, & Blue features and articles in Merit Shop Report*
- ◆ *Reception at State Convention*
- ◆ *Monogrammed RWB shirt, with ABC logo*
- ◆ *Promotional material in new member welcome tool boxes*
- ◆ *Website Links*

Where does the money go?

- ◆ *This program funds all educational seminars and workshops regarding pertinent information for our members.*
- ◆ *Funds the ABC Safety Committee, this organization serves as a safety resource for all ABC members.*

Examples of these include: Prevailing Wage workshops, OSHA Guideline Seminars, EPA Lead Paint Certifications, Excellence in Construction Winner's Courses, Unemployment Insurance, & more!

Sign me up for this great program!



Arkansas Chapter

If you would like to sign up your company, please contact Danielle at 501.372.2858/ Danielle@abcark.org.

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Chairman's Message

Say you wanna revolution...

turns out, there's an app for that

BY: SCOTT MCDANIEL
Ramson's Inc.

A 1960's civil rights activist once said, "The revolution will not be televised" if he were to see the recent events that unfolded in Egypt, he might back off that statement....At the very least he would give a "shout-out" to facebook. Two powers converged in Egypt; the power of freedom and the power of social networking. Turns out, those powers are the exact same thing.

For those of you who are unaware, social networking (or web 2.0) generically refers to websites whose content is user generated. Examples currently include facebook, twitter, blogs, youtube, myspace, four-square, linked-in and I'm sure many others. These websites were the crucial tool that led the non-violent uprising in Egypt that will (hopefully) usher in a new era of democracy in the Middle East. Through these outlets, the protesters were able to organize their rallies, unify their message and exponentially expand their reach. A month ago there was a facebook page dedicated to a free Egypt...today, there is a free Egypt.

It should go without saying then that social media is a powerful force. It is also a surprisingly easy resource to use.



So, that being said, how much does your company use social media to reach its' clients? If you are not a regular user of web 2.0, here is my recommendation to you:

- 1) Find out as much information as you can about the social media websites that are out there and set up a personal and corporate profile.
- 2) Seek out connections
- 3) Regularly post status updates, pictures, links to informative articles, etc.
- 4) Bite your tongue. People get fired, lose clients, lose friends, etc. on a daily basis for posting ill advised things. Remember, you might think that picture of you dancing around shirtless on top of a piano is funny...the superintendent of the school you are trying to negotiate probably won't.
- 5) Have fun

Social media's power comes from the convergence of the power of connection and freedom. These sites are strong enough to overthrow a government in less than a month; if used intelligently they could surely help your business recover from this economic crisis.

President's Message

Hitting the Ground Running...

BY: BILL ROACHELL



As the new President of ABC's Arkansas chapter, I wanted to take this time to tell you how excited I am to be a part of this association and serving its membership. Before I interviewed for the position, I did some research on the local website and read with great interest the testimonials of Ken Dunk and Leo Anhalt. What was most evident to me in reading those were the pride and passion that they have for ABC! My goal is to bring that same pride and passion to this position.

The first few weeks on the job have been quite busy with lobbyist efforts at the Capital against HB 1013, which is an Act to allow the Contractors Licensing Board to take action against a contractor for knowingly employing a worker without legal authorization to work in the United States. This bill was passed out of the House Committee, and subsequently approved by the full House on February 7, 2011 by a 54 to 39 vote. The bill now goes to the Senate State Agencies and Governmental Affairs Committee in mid February and we feel like we have solid support there to get the bill killed.

One of the highlights of my first week on the job was attending the "Salting" Lunch and Learns in Northwest Arkansas and in Fort Smith. I was amazed at the total havoc that being salted can have on a company and its work-site. Great job by all of those involved!

Over the next few weeks and months, my goal is to get out and visit each and every one of our members, and hear your thoughts about ABC and what we can do better. Because without you; we don't exist. Once again I am very proud to be a part of the ABC team:

Together Everyone Achieves More!

Council News

CENTRAL COUNCIL

The Central Council met on February 2nd to discuss upcoming events and positions. The Council will be hosting a seminar on union ‘salting’ with speaker, J. Bruce Cross on Thursday, February 17th. This is the third seminar of its kind around the state. It’s important for ABC to equip members with the right tools to protect and grow their businesses without unnecessary interpretations.

The Council is looking forward to the next few events coming up in March. On March 10th, the ‘Second Thursday’ networking series will continue at the Crowne Plaza in Little Rock. If you have not experienced this free series, you won’t want to miss this one. The other opportunities for 2011 will be in August and November. Also in March, the Council will host a Member Dinner with speaker Congressman Tim Griffin. Look for more details coming soon.

NORTHWEST COUNCIL

The Northwest Council met on January 12th to finalize our Calendar of Events for the year, in this meeting we determined that more educational events and just a quarterly “fun” event will be the way that we approach this year.

On January 27th we held our first Lunch and Learn of the year and were excited to welcome Bruce Cross of Cross, Gunter, Witherspoon and Galchus along with Billy Witcofski of Wilshire Incorporated to come speak to us on “Salting”. Simplex Grinnell was gracious enough to donate their training facility for this Lunch and

Learn. We had 40 attendees for this very informative event and would like to thank Bruce and Billy for coming and educating us on this extremely sensitive topic.

We are set to have our next council meeting on February 15th where we will be meeting a couple of perspective council members and determining what our “Community Cares” outreach will be for the year.

Shannon Warren
Northwest Council Chairman
SSI of NWA

WESTERN COUNCIL

The Western Region hosted a Lunch and Learn about Union Saltings on January 28th. We had a great turn out. Carter McLeod of Wil-Shar, Inc. shared with the ABC members about Wil-Shar’s experience with being “salted” and all that the company has had to endure because of it. ABC’s Attorney, J. Bruce Cross also made an excellent presentation on how ABC Member Company’s can, and should be, doing to prevent “saltings” and what to do or not do if your company is “salted”.

Western’s next scheduled event is the Fish Fry. It is scheduled for February 24th at the Glass Pavilion on the River Front in Ft. Smith from 6:00 to 9:00PM. We would like to see a great turn out for this event. It is ALL U Can Eat - fish, hushpuppies & fixin’s.

We are beginning to make plans for the Annual Graham Williams Golf Tournament. We would like to extend an invitation to the Western membership to be on the Golf Committee. If you would be interested in being a part of this great event, please contact Serina at 479.287.7614 or Serina@abcark.org.

New Year.

New Leadership.



Steve Thessing & Scott McDaniel

At the January meeting of the ABC Arkansas Board of Directors, the gavel was passed to 2011 Chairman Scott McDaniel. Scott is with Ramsons, Inc. of Jonesboro, AR. Ramsons, Inc., is a family owned and operated general contracting firm that has operated out of Jonesboro for over thirty years. Scott has a passion for government affairs and heads up the chapter’s Legislative Committee.

As his first order of business, Scott recognized and thanked Immediate Past Chairman, Steve Thessing of Nabholz Construction Services. Steve was instrumental in helping set the stage for ABC Arkansas in 2011. “Great things happen when people come together.”

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Large Circulation.

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Invisible

ABC gives you visibi

MERIT SHOP REPORT
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For more information on advertising, contact Danielle at 501.372.2858 or email Danielle@abcark.org

Networking | *Business Development Opportunities*

'Northwest Networking Night'

This is a great opportunity to meet and mingle with like-minded professionals in the construction industry.

February 17, 2011
5:30 ~ 8:30 pm

Buffalo Wild Wings
 6958 W. Sunset / Springdale



Appetizers for Everyone - Co-workers, Clients, Friends!

Register Now or Just Come By!

NO Registration Fee required.

If you have questions, please contact Serina at 479.287.7614 or email Serina@abcark.org.

Free ABC Member Resource

The New ABC Employer Guide for Diversity and Inclusion

Get Your Copy Today!
 Simply request your copy of the *ABC Employer Guide for Diversity and Inclusion* online at www.abc.org/DiversityGuide.

For more information, contact Jen Huber, Director of Initiatives and Diversity at (703) 812-2033 or via email at huber@abc.org.

Western | Fort Smith



Get 'HOOKED' on ABC...
 Come Catch some Fun, Food & Friends!

All You Can Eat...Fish, Hushpuppies & Fixins'

Thursday, February 24th
6:00 ~ 9:00 pm

Glass Pavilion
 (enclosed & heated)
 on the Riverfront /Ft. Smith

\$12 ABC members
\$15 Non-members
- Kid 10 & Under Eat FREE -



If you have questions, please contact Serina at 479.287.7614 or email Serina@abcark.org.

Legal Update

CREATIVE REMEDIES WILL HELP UNION ORGANIZERS

BY: BO LOFTIS

Even more than before the recent recession, entrepreneurial thinking is critical to the success of your small businesses in this economy. But employers beware; the Acting General Counsel of the National Labor Relations Board (NLRB) seems to have adopted this inventive spirit in his bold new push for extraordinary remedies that could provide new tools for unions to use during organizing campaigns.

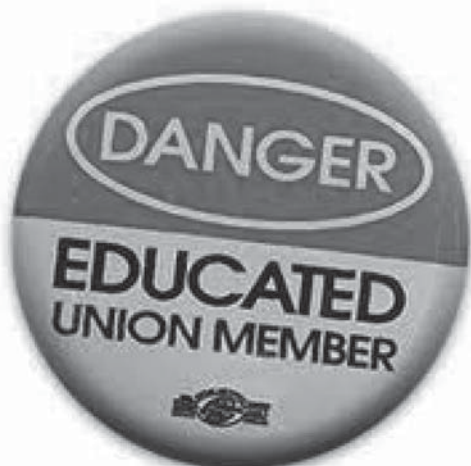
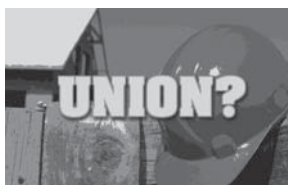
In addition to the conventional approach of pursuing injunctions against an employer for discriminatory discharges that occur during an organizing campaign, the Acting General Counsel recently released a memorandum prompting Regional Directors to direct their attention to violations that often accompany a discrimination charge. Regional Directors are directed to pursue creative remedies for acts such as threats, solicitation of grievances, promises or grants of benefits, interrogations, and surveillance that occur during an organizing campaign. Emphasizing the Board's broad discretion to fashion remedies, the memo suggested several unprecedented remedies that could increase a union's edge in vying for your workforce.

First, the memo suggested increased use of the extraordinary remedy of "notice reading" to employees. Notice reading remedies require a management official or an NLRB agent read the Board's notice to assembled employees. The Acting General Counsel noted in the memo the increased psychological impact that notice reading would have on employees versus merely posting a notice on a bulletin board.

The memo also indicated that another appropriate remedy could be to allow the union access to the company's bulletin boards. Agents may see such access remedies as appropriate where there is a charge that an employer has unlawfully affected communication between the union and employees. The memo states that forcing an employer to give the union access to its bulletin boards bolsters the view "that the union has a legitimate role to play in [employees'] decision whether to seek union representation."

This is a surprising notion by the Board because it actually gives union control of your property, but the General Counsel did not stop there. The proposed access remedies can get even more insidious. The general counsel instructs regional directors to pursue, in severe cases, additional remedies such as granting the union physical access to "nonwork" areas of your facilities during employees' "nonwork" time. The memo also instructs directors to consider giving the union prior notification about any communication made by the company to the employees about organizing and equal time and facilities to respond.

Finally, the memo suggested a "names and addresses" remedy that would require you to provide the union with an updated list of employees' names and addresses for a longer and earlier time period than would typically be required.



This imaginative approach to remedies will add powerful tools that help unions in their efforts to organize your employees. To ensure that none of these remedies are leveled against your company, be vigilant to ensure that your supervisor and managers are properly trained in order to keep from committing any unfair labor practices during an organizing campaign.

Bo is an attorney with Cross, Gunter, Wither- spoon & Galchus, P.C. in Little Rock. He provides legal counsel for labor relations, employment, Workers' Compensation and commercial law. For questions e-mail Bo at bloftis@cwg.com.

LEARN HOW TO NOT BE A VICTIM OF 'SALTING'

SPEAKER: ATTORNEY J. BRUCE CROSS

February 17th
11:30 to 1:00
ABC Training Facilities
4421 W. 61st St., Little Rock 72209

No Cost to ABC Members
\$10 per person for non-members
Limited to the First 50 RSVPs!

Lunch will be provided for ALL

RSVP to danielle@abcark.org or
501.372.2858.

Tax Tips

Form 1099 Reporting Requirements

BY: COLIN GORMAN

The Form 1099 reporting requirements, included as a “payfor” in the Patient Protection and Affordable Care Act, will require the tracking of payments for goods and services as well as for payments to corporations and individuals.

“In particular, businesses will have to issue Forms 1099 for goods purchased after 2011, regardless of the corporate form of the vendor,” National Taxpayer Advocate, Nina Olson, stated. “The Office of the Taxpayer Advocate is concerned that the new reporting burden, particularly as it falls on small businesses, may turn out to be disproportionate as compared with any resulting improvement in tax compliance.”

Prior to the signing of the Patient Protection and Affordable Care Act in March 2010, payments to corporations were generally exempt from the Form 1099-MISC filing requirement as was the reporting of the purchase of goods. Starting in 2012, business payments to a single entity of \$600 or more, including corporations and payments for the purchase of goods, will be required to be reported on Form 1099-MISC.

This change in the law will significantly increase the forms required to be filed by each business. Do you spend \$600 or more at Office Depot? You’ll need to get their employer identification number so you can send them Form 1099-MISC. Do you spend \$600 or more with American Airlines? Same deal.



EGP PLLC
Certified Public Accountants & Consultants

“This will add an untold number of 1099s to the mix, and it’s going to be a recordkeeping burden for the purchaser,” said Benson Goldstein, senior technical manager at the American Institute of CPAs. “What if they have multiple locations, and the purchaser is buying from many different vendors? There’s a lot to be worked out, but it will be a very burdensome task not only for the business community but also for the IRS itself.”

The provision would apply to businesses of all sizes, charities and other tax-exempt organizations, and government entities, Olson noted. These would include 26 million non-farm sole proprietorships, 4 million S corporations, 2 million C corporations, 3 million partnerships, 2 million farming businesses, 1 million charities and other tax-exempt organizations, and probably more than 100,000 federal, state and local government entities, according to the report.

The good news is that many influential people in the Obama administration and Internal Revenue Service have acknowledged the tremendous burden this would cause small business, the government, and taxpayers. Repeal of this law is in the works but it is not guaranteed.

EGP, PLLC is an accounting firm specializing in construction, manufacturing and distribution, banking, and litigation support and valuations. The firm performs audits and reviews, prepares company and individual tax returns, assists management with monthly financial statements, and analyzes and implements tax saving strategies. Members of the firm also provide financial planning services. For more information, email CGorman@egpcpas.com or call 501.847.1568.

Pursuant to IRS Circular 230, this letter is not intended and cannot be used to avoid IRS penalties or promote, market, or recommend to another party any transaction or matter addressed herein.

Construction Headline

INDUSTRY OPPOSES PROPOSED OSHA INSPECTION RULE

The Occupational Safety and Health Administration (OSHA) released a proposed rule that would change how it operates its On-site Consultation Program for all work-sites, including those with Safety and Health Achievement Recognition Program (SHARP) status.

Under the proposed changes, any allegations of potential workplace hazards or violations from any source, including state or local health departments or the media, could terminate an onsite consultation visit and turn it into an enforcement visit. In addition, OSHA would be able to inspect all sites in an industry when “workplace accidents occur that generate widespread public concern about a hazard or substance,” even if those sites were exempt due to their status in the On-site Construction or SHARP programs.

Currently, On-site Construction and SHARP jobsites can be exempt from inspections for up to two years with a possible extension of up to three years, but in the proposed changes, OSHA suggested limiting that time frame to one year with an extension of up to two years.

Associated Builders and Contractors and the Coalition for Workplace Safety filed comments opposing the changes, saying they would step up enforcement on responsible employers that make a good-faith effort to comply with a complex regulatory system instead of focusing on recalcitrant employers that knowingly ignore safety precautions.

www.abc.org

Grassroots Participation



Legislation:

- **Budget cuts:** Speaker Boehner and Majority Leader Cantor are committed to putting a halt to the expansion of government and out of control spending. They have committed to holding a vote on one measure that cuts spending each week.
- **Health Care:** The House has already passed a bill fully repealing the Patient Protection and Affordable Health that became law last March, though a Senate vote on a similar measure failed to garner the support required to pass. The Senate and the House may work together to repeal the 1099 reporting form that places a tremendous paperwork burden on small businesses. The Senate passed

an amendment repealing the 1099 requirement as part of their consideration of the FAA Reauthorization bill. However, at this time, it is unclear if the underlying FAA bill will pass.

- **Tax Reform:** The Bush 2001/2003 tax cuts that were extended in December of 2009 are set to expire again in January of 2012. Congress will be working to reform the tax system so those cuts do not expire.
- **Regulatory Reform:** The REINS Act is legislation that is proposed to require Congress to vote on and approve or disapprove any regulation with an economic impact exceeding \$100 million.

Regulation:

The Department of Labor has launched several rulemakings and policy initiatives carried out under “Plan, Prevent, Protect”

What’s in Store for 2011

2011 will be a busy year for Congress and the Obama Administration and we wanted to keep you informed of what lies ahead for the construction industry on the legislative and regulatory fronts.

The makeup of the 112th Congress is vastly different from than that of the 111th Congress. The GOP has gained control of the House of Representatives and is dedicated to their “Pledge to America.” However, we expect some action on the initiatives listed this year:

	<p>VEGETATION Erosion Control Matting Silt Fence & Inlet Protection Stormwater Compliance</p>	
<p>ASPHALT Geogrids Geotextiles Paving Fabrics</p>		<p>CONCRETE Welded Dowel Assembly Curing Compound & Blankets Forming & Shoring Rebar & Tools</p>

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and “We Can Help” Programs. Below you will find Obama Administration proposed initiatives impacting the construction industry:

- **Injury Illness Prevention Program:** Referred to as “I2P2” by Occupational Safety and Health Administration (OSHA), this would require all employers, regardless of size, to “find and fix” workplace hazards.

- **“Right to Know” under Fair Labor Standards Act:** Wage and Hour Division (WHD) plans to require that employers provide workers with information about their employment status, including exactly how their pay is calculated.

- **New Form 1099 Requirements:** This is a provision in the Patient Protection and Affordable Care Act will significantly increase the amount of paperwork businesses will have to file with the Internal Revenue Service (IRS).

- **Three Percent Withholding:** Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) requires that three percent of payments for goods and services made by federal, state and local governments and their agencies be withheld from government contractors.

- **Green House Gas Emissions:** Environmental Protection Agency (EPA) regulations to curb greenhouse gas emissions stand to be highly detrimental to job growth in the construction industry. The EPA has moved forward pushing costly and burdensome regulations on business owners.

- **NLRB Rulemakings and Decisions:** The National Labor Relations Board is now stacked with a pro-labor majority, and has begun to issue formal regulatory proposals. For more information on regulations that affect the construction industry please go to www.abc.org/rulemakings, or you can email regulatory@abc.org.



THE TRUTH ABOUT PROJECT LABOR AGREEMENTS

Support open competition for all construction jobs. Say “NO” to union-only project labor agreements

Help ABC in the Fight Against Union Only Project Labor Agreements

ABC National’s Open Competition Committee (OCC) needs your financial support to fight against discriminatory and costly government-mandated project labor agreements (PLAs) that effectively deny you the right to work on public works projects.

Almost two years ago, President Obama issued Executive Order 13502, which encourages federal agencies to require the use of costly, wasteful and anti-competitive PLAs on federal construction projects costing more than \$25 million. Final regulations implementing the executive order took effect in May 2010 and every day ABC National has been tirelessly fighting Big Labor’s underhanded strategy of utilizing government cronyism and corruption to thwart competition and regain lost market share from skilled, qualified merit shop contractors like you.

With the merit shop construction community’s leadership, financial support and political activism, we have been able prevent PLA mandates on hundreds of millions of dollars worth of federal construction projects through a variety of effective legal, advocacy and grassroots/public relations strategies.

For example:

- Four distinct Government Accountability Office (GAO) bid protests filed by ABC members – with support from ABC National – prevented federal PLA mandates on four large-scale federal construction projects in New Hampshire, Washington, D.C., New Jersey and Pittsburgh.

- ABC’s effective grassroots campaign prevented a PLA on a Patrick Air Force base project in Florida.

- A robust response from the merit shop contracting community to numerous PLA feasibility surveys issued by the U.S. Department of Veterans Affairs, U.S. Navy and U.S. Army Corps of Engineers have prevented these agencies from successfully implementing PLA mandates, to date.

- ABC National staff has made the case before numerous federal agencies that PLAs will not advance economy and efficiency in federal contracting.

Thanks to efforts like these, federal agencies have yet to successfully implement a traditional government-mandated PLA.

However, some federal agencies, like the U.S. General Services Administration (GSA), have installed discriminatory procurement policies that encourage federal contractors to submit “voluntary” PLAs by awarding contractors submitting PLA offers extra credit in the best value procurement process. This has led to the award of a handful of lucrative federal contracts to contractors submitting “voluntary” PLAs, which forces merit subcontractors into the false choice of losing work or signing a PLA in order to receive subcontracts on federal PLA projects.

(continued on pg. 12)

(PLAs continued)

ABC is working with the newly-elected Congress to expose federal PLA mandates and preferences and end government-mandated PLAs on federal and federally-assisted construction projects by passing the Government Neutrality in Contracting Act in the 112th Congress.

In addition, to date, we have prevented the expansion of Section 7 of the Obama executive order onto local, state and private projects receiving federal assistance.

However, we need your financial support to sustain these efforts. Please consider supporting ABC's fight against discriminatory and costly PLAs by completing this OCC donation form and making a corporate or personal contribution to maintain free and open competition in government contracting in 2010.

If you cannot make a monetary contribution, urge your employees, competitors, customers and colleagues to become engaged in this fight. Whether educating your local, state and federal elected officials or getting involved in ABC's grassroots action team and political activities, together we can end the PLA kickback scheme.

To learn more about how you can help fight federal government-mandated PLAs, contact ABC's Director of Labor and Federal Procurement, Ben Brubeck, at Brubeck@abc.org, or visit www.TheTruthAboutPLAs.com and "Like" our facebook page at www.facebook.com/TheTruthAboutPLAs



ABC Action Alerts: Get Involved!

Make sure to start off 2011 right and make a pledge to ABC to sign up ONE person for action alerts. ABC members can help their chapters and their businesses by getting involved in grassroots activities and by signing up for ABC's Grassroots Action Alerts.

As part of the ABC's Grassroots Chapter Recognition Program, members can earn points for their chapters and help advance the mission of ABC by signing up to receive the Grassroots Action Alerts and then taking the appropriate action when



they reach their inbox, such as calling or sending a letter to their representatives in Congress.

The Action Alerts provide opportunities for members to make their voices heard on ABC's key issues. There is no more influential voice to a representative than those of their constituents. Go to www.abc.org and to sign up to receive alerts.

At Ramsey, Krug, Farrell & Lensing it is our mission that through exceptional people, services and resources we create a competitive advantage for clients by reducing the real cost of risk.

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Safety

Breaking workers' silence on near-misses:

4 ways to do it

How one company got 'em to open up

Picture this: An employee is using a hazardous chemical then suddenly, some of the chemical splashes onto her face, but luckily not in her eyes. What could have been a lifelong injury becomes a near-miss.

The average worker thinks: *Whew, close call. I'm glad nothing serious happened.* But the safety pro thinks: *Something serious did happen. What can we do to keep it from happening again, and who needs to be involved?*

But most workers never report near-misses, so most safety pros don't have the chance to take advantage of the lessons that can be learned from them.

A training opportunity: 4 ways

For Ken Meyer, H& S Director at CDM Construction in Denver, the solution was to develop a specific process encouraging workers to speak up after a close call and use it as a training opportunity after the fact.

1. **Define.** Meyer's first priority was to make sure workers understood the difference between a near-miss and a "good catch". For example: Reminding a co-worker to put on his hard hat is a good catch – and it may even prevent an injury- but it doesn't qualify as a near-miss.

2. **Break down barriers.** Once workers understood what counted as a near-miss, the next step was to make sure they reported them. Meyer identified two

main reasons why workers don't speak up after a near-miss: pride and fear. Employees were embarrassed they'd messed up or were anxious about getting in trouble. So the company instituted a no-name, no-blame policy- unless the worker really broke the rules.

3. **Publicize.** Once workers started reporting near-misses, it was time to start telling others about them. That usually included a toolbox talk on the near-miss and a quarterly newsletter summarizing all incidents. But for especially serious near-misses, sometimes a separate safety meeting was needed.

4. **Show the value.** Finally, Meyer was able to show workers-and upper management- the value of the process by spotting trends in the near-miss reports he received. What's more, workers are now reporting at-home near-misses. That shows the culture is changing. And the company's recordables are at their lowest level in years.



Safety Compliance Alert



Construction Safety Conference

Rescheduled for

February 17, 2011

Northwest Arkansas Community College
Global Business Development Center
Coleman, Peterson Auditorium

It is designed to familiarize construction workers with safe work practices and to encourage employees to work safely on the job.

The registration fee for the half-day conference is \$10.00. For more information on registration or the program content, contact Juanita Matlock, 501-682-9090 or email juanita.matlock@arkansas.gov

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OSHA Makes an Example of Contractors in Enforcing Whistleblower Provisions

Franklin, TX – The U.S. Department of Labor has entered into a settlement with Baton Rouge, LA – based MMR Contractors and Greenville, SC-based Fluor Corp. to resolve findings by the Occupational Safety and Health Administration that companies illegally terminated an employee in Franklin for complaints about safety and health issues.

An OSHA whistleblower investigator found the instrument fitter complained numerous times to his employer, MMR Contractors, and also to Fluor Corp., the general contractor on the worksite, about an unsafe crane lift that exposed workers to possible death or serious injuries from being crushed or struck by the overhead crane load. Shortly after making the complaints, Fluor insisted MMR remove the worker from the Oak Grove Power Plant worksite in Franklin, and MMR promptly terminated the employee. Both companies claimed the employee was terminated for disruptive behavior. OSHA argued the employee’s behavior was excused under the “leeway doctrine” of the Occupational Safety and Health Act.

“Employees must be free to exercise their rights under the law without fear of termination or retaliation by their employers,” said William A. Burke, OSHA’s acting regional administrator in Dallas, Texas. “This settlement underscores the Labor Department’s commitment to vigorously protect those rights.”

In lieu of litigation, the parties resolved their differences through a settlement agreement, which was negotiated by the department’s Regional Solicitor’s Office in Dallas. MMR and Fluor will pay the employee \$17,500 in back wages; purge any reference to his termination from his personal file; provide neutral employment references; and agree not to unlawfully retaliate against the crane operator, or any employee, for engaging in activities protected by Section 11(c) of the OSH Act.

OSHA enforces the whistleblower provisions of the OSH Act and 20 additional statutes protecting employees who report violations of various securities laws, trucking, airline, nuclear, pipeline, environmental, rail, workplace

safety and health regulations, and consumer product and food safety laws. Under the various whistleblower provisions enacted by Congress, employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the employer or to the government. Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the secretary of labor for an investigation by OSHA’s Whistleblower Protection Program. For more information, visit www.whistleblowers.gov.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to assure these conditions for America’s working men and women by settling and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov.

Schedule of Continuing Education

Electrical Course (2008 Code Cycle)
 February 12 - Little Rock
 February 26 - Little Rock

Electrical Course (2011 Code Cycle)
 April 9 - Little Rock

Safety Course

OSHA 10-HR and 30-HR Course
 June 20- 24
 Little Rock

Flexible OSHA 10 & 30-Hour Courses

In February, ACEF began offering its OSHA 10-Hour and OSHA 30-Hour Construction Outreach courses in combination. The first 10 hours of each of the OSHA courses will satisfy the requirements of an OSHA 10-Hour Card and the next 20 hours will complete the requirements for the 30-Hour designation.

This will allow a company the flexibility to send some employees for 10 hours and others for 30, depending on the company’s needs. Next course is scheduled for June 20-24.

In-House OSHA Training

ACEF makes it easy for you and your employees. In addition to the already flexible course schedule, ACEF will conduct the OSHA 10 and 30-hour courses for your particular group of employees at a location convenient for everyone.

Call ACEF at (501) 372-1590 or (800) 240-2730 to discuss a course designed for your company.

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If you have questions about any of these great events, please don't hesitate to contact Danielle at 501.372.2858 or email Danielle@abcark.org.

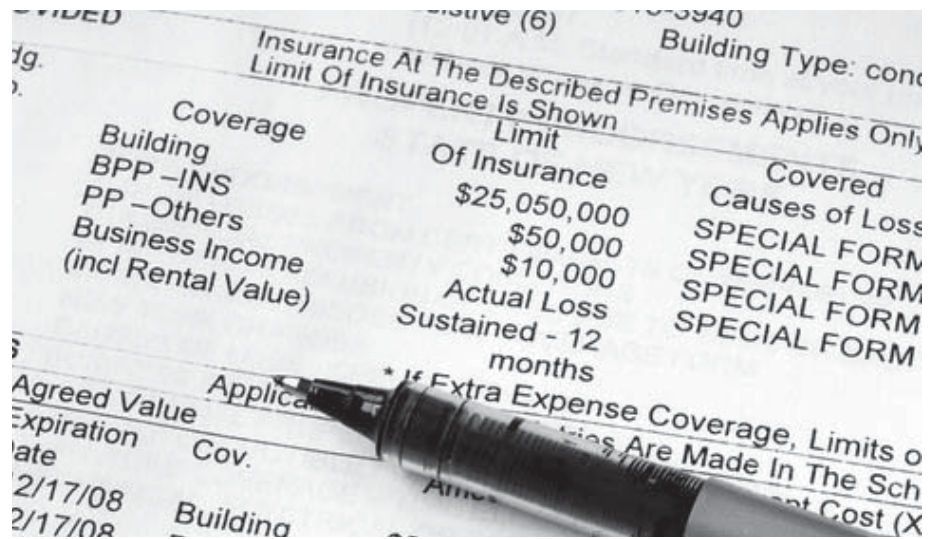
Excellence in Construction & National Awards



Risk Management



BY:MIKE TULLIS



Pay Attention to Workers' Comp Claim Reserve Amounts

Workers' compensation is often one of the larger items in a contractor's budget. Small claims for injuries like cuts or abrasions can influence the cost of coverage, but more impact comes from the larger claims for more serious injuries. This type of loss requires the insurance company to set up a reserve, or estimate of a claim's ultimate cost. The accuracy of a reserve has important implications for both the employer and insurer.

Sometimes, it seems insurers set reserves for a claim too high. Over-reserving unnecessarily inflates the insurer's liabilities and reduces its surplus. This in turn reduces the amount of insurance the company can provide without raising fears about its financial stability. **Over-reserving makes the contractor's experience modifier greater than it should be, resulting in higher premiums.** Also, over-reserving distorts a contractor's loss ratio, which makes the contractor's business less attractive to other insurance underwriters.

Under-reserving can be more threatening to insurers. If the company sets the reserve too low, it may eventually find itself with a large obligation it is not prepared to pay. Also, claim managers tend to focus their attention on large claims and delegate handling of smaller

ones. This means that an under-reserved claim may not receive proper management attention; the company may not apply claim control measures until it is too late for them to make a difference.

Certain types of claims are more likely than others to develop into high-dollar ones. Back and knee injuries tend to be very expensive. Aging laborers who have endured years of stress may need long-term treatment and, in many cases, surgery. Employees who suffer injuries to their feet and hips may also have expensive claims. Other injuries may aggravate conditions such as obesity or spinal problems, making the worker's diagnosis more severe and increasing the disability period. The reserves for all of these types of claims should be reviewed closely to be sure the insurer is not over-reserving to the insured's detriment.

Employers should work with their insurance agent to be sure the insurance company monitors workers' compensation claim activity thoroughly. Claims that fit into any of the types described above need special attention. The art of claim reserving is one of making educated estimates based on evidence and experience. **Employers should verify with their insurance agent that their insurers' claim reserves are realistic so they do not have an unfair impact on their experience modifier.**

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Defined, 'salting' is a union organizing method of having one or more union members join a nonunionized organization as an employee for the purpose of organizing its membership

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