Theft of heavy equipment from construction sites is a silent epidemic. In their 2012 Equipment Theft Report, the National Insurance Crime Bureau (NICB) and the National Equipment Register (NER) conservatively estimate the value of heavy equipment stolen from construction projects exceeds $300 million annually. Other crime reports estimate the value of stolen equipment to be at least $400 million annually.

The value of stolen construction equipment increased dramatically during the economic recession. While the number of reported heavy equipment thefts has decreased in the past two years, theft of construction equipment remains a major problem. Overall, recovery of stolen heavy equipment is consistently reported at a paltry 20%.

Heavy equipment theft from construction projects is more than an inconvenience and nuisance. CFMs should consider such consequences as productivity delays, increased operating costs from idle crews and equipment, and project schedule delays.

According to NICB and NER, the average direct cost of a stolen piece of equipment in 2012 was $17,400. After factoring in the costs of insurance deductibles and rentals to replace the cost of stolen owned equipment, it is evident that there are many indirect costs associated with the theft of heavy equipment.

Scope of Problem
Frederick Community College
Looking For New Adjunct Faculty

FCC’s Building Trades Program has four career pipelines for our credit courses: HVACR, Welding, Electrical, and Carpentry. We also offer many continuous learning and exam preparation courses. FCC is actively recruiting faculty for three specific classes for the fall semester:

**BLD 109 FUNDAMENTALS OF HVACR** – It meets Mon/Wed from 6 - 9 pm from Aug 25 to Dec 12. The pay for adjunct faculty is $676 per credit hour, and this is a 4 credit hour course. This course covers fundamentals of heating, cooling, ventilation, humidity control, and basic refrigeration. It includes EPA CFC certification. The class is comprised of a lecture and a lab section where students receive hand-on experience.

**DO IT YOURSELF: PLUMBING FOR HOMEOWNERS** – It is scheduled for Saturday October 11 from 9 am to 2 pm. We pay an hourly rate for the CL courses. This course teaches homeowners how to unclog a toilet, unclog a garbage disposal, fix a leaky faucet, shut off water at the main valve, and install new plumbing fixtures.

**MD HOME IMPROVEMENT EXAM PREP** – It is scheduled for October 9 through November 6 on Thursdays from 6 to 9 p.m. This course is for individuals planning to sit for the MHIC exam. It covers laws, regulations, Home Improvement Law, Door-to-Door Sales Act, business and employee laws.

If you would like to become a building trades instructor at FCC, please apply online at [https://jobs.frederick.edu/applicants/jsp/shared/search/SearchResults_css.jsp](https://jobs.frederick.edu/applicants/jsp/shared/search/SearchResults_css.jsp). The job listings are in no particular order, but we have listings for Carpentry, Welding, Electrical, HVACR. There are no options for plumbing or home improvement, so just use the HVACR link or carpentry link, respectively, and contact the program manager to let her know the for which you applied to teach.

If you have experience in any of the trades we teach (other than for the classes listed above), we encourage you to apply as we typically schedule our faculty a semester in advance.

Contact FCC’s Building Trades Program Manager, Carrie Wyrick for additional information or to schedule a visit to tour the Monroe Center. She can be reached via phone (240-629-7985) or email CWyrick@frederick.edu.

**Frederick Community College Seeks Partners For Student Internship Program**

If your company can provide FCC building trades students with a valuable on-the-job learning experience, we would like to partner with you! Internships are an optional course for our building trades students in HVACR, Welding, Electrical, and Carpentry. The internships are typically 90 hours long over the course of a semester, with the specific work schedule to be agreed upon by the employer and student. There are guidelines for both the student and employer to follow and a Memorandum of Understanding to be signed by all parties. Partner companies are not required to pay interns (though students greatly appreciate it!), but we do need our students to be covered under workman’s compensation.

If you are interested in partnering with FCC to provide internship opportunities for students, please contact FCC’s Building Trades Program Manager, Carrie Wyrick. She can be reached via phone (240-629-7985) or email CWyrick@frederick.edu.
Architect’s Corner

Specifying Products/Materials that are New on the Market or Untested for the Application? Avoiding Exposure on Green Projects.

One of the biggest drivers of disputes on green projects post-completion, is the failure of environmentally-friendly products or systems to perform as intended, expected and/or advertised. Because Architects have the primary responsibility for specifying products, materials, and components of systems, Architects face liability for those product or system failures. New products, materials, systems and software are appearing on the market at a rapid pace, and, as a consequence, are not fully field-tested or vetted.

Architects should be wary of specifying products and materials that have not been used on other projects. If the Architect specifies a new product or material, the Architect should be aware of similar products that would achieve the owner’s sustainable project goals in the event that such product is not readily available. Without appropriate and available substitutions, the desire to specify new products that make cutting-edge claims regarding performance should be avoided for one simple reason: even if the manufacturer warrants the product's performance, the risk of failure has other consequences to the project – including delay to project completion, incompatibility with other products or components and subsequent loss of the project’s green certification.

Green building is no longer a trend – it is the norm. Managing risk is key.

Tracy L. Steedman, Esquire
LEED A.P. B.D+C
Niles Barton & Wilmer LLP
www.nilesbarton.com

As one of the first attorneys in Maryland to become a LEED Accredited Professional, Tracy has counseled architects, owners and contractors on green project issues. Tracy also speaks frequently on the topic and has been widely published. Niles Barton is a member of MCN, the USGBC and the AIA. Tracy mentors new lawyers and is a Division Chair in the ABA’s Forum on the Construction Industry.

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Owner’s Rep Repertoire

The Wizard of Oz, Dorothy & Her Crew; Hiring Toto!

The expectation of every owner preparing to embark on the journey of design and construction is a quality project that is at or under budget and built on time. I am not sure I have ever been in an interview where the general contractor or construction manager doesn’t reassure the owner that every one of its projects are always well built, on time, and under budget. But we know that this isn’t always the case; so the challenge for the owner is how to make sure the project is of quality construction, at or under budget, and meets or beats the schedule.

Three critical questions face the owner at the beginning of any project. What delivery method is best for my project; which design team is best for my project; and, which contractor is best for my project? If the owner makes the right choice of delivery method, design team, and contractor; the project will be successful. This article will scratch the surface of delivery methods.

There are three basic delivery methods with variations on each.

Design-Bid-Build: This is the traditional delivery method that intuitively seems to make sense but in fact, from the owner’s perspective, is the fraught with the most risk for most projects. Here, the design team fully designs the project, completes the construction documents (drawings and specifications) and then the owner bids the project to a group of general contractors (GC’s). Under this approach, a contractor has to assume that it must submit the lowest responsive price in order to obtain the work.

Any architect will tell you that drawings are never perfect. Contractors will confirm that. In order for a contractor to submit the lowest price on bid day, he must only bid what is on the drawings and in the specifications. Costs to adjust for ambiguities, errors, and omissions cannot be included because the competition is not going to include it. Those costs will be grist for lucrative, non-competitive change orders after the contract is signed. It is not unusual for a contractor to bid a job with no fee, and then “buy” his fee out of subcontractors by asking the subs to do the job for something less than the subs’ bid prices. In short, this approach sets up a series of adversarial relationships prior to the time construction starts. Projects built on adversarial relationships are often not successful in terms of quality, budget, and schedule.

Design-Build: This delivery method is touted as one stop shopping for the owner, as they enter into a single contract with the design builder for both design and construction services. This is a preferred method in other parts of the country, but doesn’t seem to be as prevalent in this area. I liken this to the Wizard of Oz where the design builder does most of his work behind the curtain while the owner (Dorothy and her crew) accepts what is produced without much input. This delivery method can be tweaked to make it more transparent (hire Toto) but except for very specific projects that lend themselves to this approach, the owner may not come away with a good experience. If the owner chooses design-build as the best delivery method for the project, the design team and contractor should have extensive experience with the delivery method and, it should be an open book.

Construction Management at Risk (CM at Risk): For me, this is the best delivery method of the three for most projects, although there are a few chunks in its armor. Philosophically, it is in direct contrast to design-bid-build in that the team of designer, construction manager (“CM”) and owner are formed as early in the process as possible; thereby creating a group that works collaboratively to provide the owner with a successful project. The issue of fees, profit, and costs are addressed at the beginning of the project; eliminating the root cause of most construction projects.......money.

The design team is chosen based on experience with similar projects, fees, and “fit”. Fees should not be the only consideration when choosing a design team. The interview process is very important.

The construction manager is selected based on

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Making Maryland Magnificent

**CURTIS ENGINE**

Combined Heat and Power Solution for New Maryland Casino

The new Horseshoe Casino Baltimore, slated to become Maryland's second largest casino, will open its doors in August. A significant portion of the $442 million development’s electrical and thermal energy needs will be provided by a combined heat and power (CHP) system. Curtis Engine & Equipment, a generator specialist in the Baltimore area, is providing the CHP plant and paralleling switchgear using MTU Onsite Energy, a worldwide leading producer of diesel and gas-fueled power generation systems. Combining the MTU Series 4000 CHP system along with a complementary diesel-powered Series 1600 emergency backup generator set, this end-to-end power solution is the first of its kind in the US.

“Our customers require flexibility, reliability and efficiency and we recommend MTU Onsite Energy products to meet those requirements,” said Gary Farmer, Power Systems Engineer at Curtis Engine & Equipment. The design of the CHP plant will allow the owner to realize operational cost savings that will offset capital costs and result in a payback period of just a few years.

Enterprise Electric of Baltimore, MD, the facility’s electrical contractor, has worked with Curtis Engine & Equipment on many previous projects and was familiar with their abilities and commitment to quality. The combination of a new client and new technology was a key reason Enterprise insisted on using a trusted and valued team member. Operating since 1944, Curtis Engine’s experience with diesel and gas engines and CHP plant design and operation made them the logical choice for equipment and service at the Horseshoe Casino Baltimore.

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*Note distinctive V-shaped radiators and integral load bank mounted on the roof, both improve the operation with the facility loads*

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Heat is captured from the engine’s jacket water and exhaust systems that would normally be wasted, more than doubling the overall energy efficiency of a building or facility

The MTU Onsite Energy genset produces hot water via heat exchangers and electricity via the alternator
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Baltimore Horseshoe Casino
Why LinkedIn Should Be Part Of Your Business Toolbox

Maybe way back in the day, somewhere around 2010, you could get away with building a website and thinking you were on your way to creating a strong online presence. Not so anymore. If you’re like many business people I know, you don’t like social media but you have resigned yourself to it being a necessary evil. Today, your digital presence is a combination of platforms, initiatives and activities. Some are more relevant than others for you and the one we want to dive into is LinkedIn.

In less than 30 seconds, a quick LinkedIn search provides interesting insight (any search is pulled from directly from an individual’s own extended network so within any group the results will vary) and in this search I can see the following:

There are more than 135,000 professionals in the construction industry within 100 miles of Baltimore, MD.

There are more than 45,000 professionals from owner to director level within 100 miles of Baltimore, MD. in the construction industry with the following keywords or titles:

There are more than 44,900 professionals who have the title “president” or “CEO” or “owner” in the construction industry within 100 miles of downtown Baltimore. Your search may show more results if you have a good network.

What’s interesting is that I’m not in the construction industry, but I am able to find a large number of folks who are. It’s the benefit of a good, diverse network.

If so many of your colleagues and competitors are in there, how do you stand out?

Typically, your LinkedIn profile will get an eight-to-ten second glance. That’s not long. Can you tell your story in eight to ten seconds? You can if it’s built correctly. If you are a CEO and all of this makes you a bit crazy and annoyed, please read a post written specifically for you, The CEO May Not Want to Connect.

Let’s take a look at 5 ways LinkedIn helps you build a stronger digital presence.

1. Build out your profile and company page with key information that tells your story, shows your work and shows others that you and your business are relevant. If you’re not showing and telling your story on LinkedIn, your competitors may be. Consider this your drawings.

2. Build up your network. Your network should be diverse and always growing. It’s not always about the numbers. You want to have the right kind of network in LinkedIn. A smart network is one filled with people who are also connected, smart and using LinkedIn for business development, referrals and recruiting. Your network should be working for you, is it? Consider this your team of subcontractors and workers.

3. People go to LinkedIn to research people and companies - you. If you have submitted a bid for a large project and that company goes to LinkedIn to vet you and your company, how will you measure up against similar companies? You should stand out as a leading company to do business with. Do you?

If you don’t think others research you and your business, you may want to ask if they do. You may be surprised. The other day I spoke with the president of a large company who said he doesn’t pick up the phone or return a call without checking that person out on LinkedIn first. If his company is reviewing proposals and eventually doing business with someone, you can be certain that he and his team would go to LinkedIn. Consider this the inspection.

4. LinkedIn company pages act as a mirror. LinkedIn company pages are free — use them to your advantage.

Continued On Page 35
Engineer’s Corner

Go With the Flow: Chilled Beam Technology Offers Life-Cycle Benefits

Chilled beam technology has become increasingly popular in the U.S. as an energy-efficient option with many benefits to building owners and occupants. Rather than controlling space temperature by using only conditioned air, active chilled beam systems use conditioned air supplemented by ceiling mounted chilled water heat exchangers. The chilled beams in each space receive both air ducted from a central air handling unit and water piped from a central chilled water system. The amount of air delivered to each space is reduced to a minimum: often only the amount required for ventilation. The amount of chilled water used by each beam is varied to maintain a comfortable space temperature. The ducted air passing through each chilled beam induces room air to flow through its heat exchanger, cooling the room air as it circulates. Using the water in the chilled beam heat exchanger to remove heat, rather than using conditioned air, is more efficient as water can carry more energy than air.

Many owners are exploring this technology in new buildings due to the lower operating costs. First costs for the entire building, as compared to buildings with traditional variable air volume systems, are similar. While chilled beam systems are more expensive than air-only systems with traditional air diffusers, the investment is often offset due to a reduction in ductwork and air-handler capacity. Mechanical room size and ceiling space may also be reduced.

A First on Campus: Bowie State University

The new Center for Natural Sciences, Mathematics, and Nursing at Bowie State University, designed by Perkins+Will with Mueller Associates, will feature this approach throughout the 149,000-square-foot office and laboratory facility.

Laboratory spaces, typically housing extensive heat-generating equipment, are an ideal environment in which to introduce chilled beam technology. Laboratory air systems impose high energy costs on a building, as the air cannot be recirculated. The air is conditioned, used once, and then discarded. The use of chilled beams assists in reducing the required airflow, and therefore the energy used, because the amount air delivered is only driven by ventilation and not by the need to remove the heat from the equipment.

Increased energy savings are realized if the laboratory airflows are as low as possible and safe, so that the chilled beams remove the majority of the space heat. For the Bowie State University project, the Mueller team is designing a Multiparameter Demand Controlled Ventilation System that samples the air in the laboratories, and then only increases the airflow based on the direct measurement of the carbon dioxide, carbon monoxide, total volatile organic compounds, and airborne particulates. Provided that all of these parameters are below their maximum levels, the airflow remains at the minimum safe quantity.

Now in design, the Bowie State University Center for Natural Sciences, Mathematics, and Nursing will be complete in early 2017. Among the benefits realized early on has been the opportunity to reduce the overall building height by one foot for the second and third floors, for a total reduction of two feet. This is a direct result of the smaller ducts required for the chilled beam system. Lowering the building resulted in an estimated savings of $315,000, offsetting the higher cost of the chilled beam system and lowering the life-cycle cost for the building as a whole.

Of note is the incorporation of the dynamic glazing on the building exterior windows. The window glass is actively tinted in response to the amount of solar glare. With less solar gain in each room, fewer chilled beams are required. The lower building height also led to a reduced cost for this dynamic glazing. This exemplifies the synergistic approach of the design team.

A Comfortable Environment

Building occupants will also benefit from an increased number of temperature control zones. All in all, chilled

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Meet & Greet

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As Maryland’s most awarded contractor, Lewis adds value to its partnerships—a value that begins in the design phase and continues through the ribbon-cutting and beyond. With nearly 50 years of construction management, general contracting, preconstruction, and design/build experience, the Lewis Team provides its clients with that one element so critical to the difference between a “good job” and a “great job”: peace of mind.
Procedures For A MOSH Inspection
Do You Know What To DO?

With an overall increase in activity and inspections, construction companies are beginning to feel a much bigger impact from Maryland Occupational Safety & Health (MOSH) inspections. MOSH is tasked with a very challenging job of keeping Maryland workers. The overall goal is to provide a safe and healthful working environment for all workers, not just construction workers. However, construction companies can sometimes feel they are targeted more often due to the incident rates and visibility of the projects.

We have all heard that construction is an inherently hazardous job…does this have to be the case? Safety professionals and MOSH compliance officers say no, construction workers have every right to expect a safe and healthful work environment. With that in mind, there has been an increase in regulatory inspections. These inspections are one of the biggest tools MOSH uses to meet their goals.

If you own a construction company, or manage a construction company, you definitely don’t want any accidents on your project, which goes without saying. You have developed a safety program, trained your employees and enforced the safety rules to prevent these accidents. What will you do if a compliance officer from MOSH shows up on your site? Have you prepared for that and trained your employees? Preparing for this occurrence can help you greatly and most likely, save you money. These procedures help ensure your rights are protected.

Here are some basic procedures to follow when MOSH comes to your site:

Arrival of the Compliance Officer
• Verify the Compliance Officer’s credentials—look at ID and business card.
• Determine why the Compliance Officer wants to inspect the project, i.e. complaint, accident, programmed, imminent danger, follow-up.
  • If a complaint inspection, ask to have a copy of the complaint.
  • If a programmed inspection, ask for a focused inspection.
• Tell MOSH that your company policy is to contact your Management and SFI Compliance, Inc. prior to starting the inspection. Have MOSH wait in the construction office while you are making phone calls.
• Call your SFI’s MOSH Hotline or your Safety Consultant immediately

SFI MOSH Hotline
• Mid-Atlantic: 202-417-3923 ext. 501
• Email: MOSH@sficompliance.com

Brief your SFI Safety Consultant on the situation, and then ask MOSH if they will speak to your SFI Safety Consultant. We will speak to MOSH and make sure everything is in order before the inspection. If you are a client of ours, we will also come to the job to assist during the inspection.

The following is to be done if a SFI Safety Consultant cannot be at the job when the MOSH inspector conducts the inspection.
• Request an opening conference if the Compliance Officer does not call for one.
• Have the project superintendent and/or the project manager present.
• Take detailed notes of everything discussed.
• Keep all publications and documents given to you by the Compliance Officer and note who gave it to you and the date of its receipt.
• If more than one Compliance Officer is involved, find out if they plan to make the inspection in one group or split into two or more groups to make the inspection. If they want to divide into two or more groups, tell the Compliance Officer you will have an employer representative with each group.
• Be cooperative with the Compliance Officer. At all times prior to, during and after the inspection act in a professional businesslike manner. Never enter into personal arguments with the Compliance Officer.

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Contractors Beware In Settling A Construction Defect Claim Without Insurer’s Prior Consent

A recent decision by the U.S. Court of Appeals for the Fourth Circuit, Perini/Tompkins Joint Venture v. ACE American Ins. Co., 783 F.3d 95 (2013), provides an important reminder for contractors defending against construction defect claims – be sure to get your liability insurer’s consent before entering into a settlement agreement. Otherwise, you risk losing coverage for the claim, which will prevent recovery from the insurer of any settlement amount that you paid.

In that case, developer Gaylord National, LLC hired Perini/Tompkins Joint Venture (PTJV) in 2005 to serve as the construction manager for a $900 million hotel and convention center project at the National Harbor along the Potomac River in Maryland. Gaylord purchased and maintained an Owner Controlled Insurance Program from ACE American Insurance Co. (ACE), which included commercial general liability (CGL) and excess liability policies – both naming PTJV as an additional insured. The project also was insured by a builder’s risk policy.

During construction, a portion of an 18-story, 2,400 ton glass atrium collapsed, causing damage and delaying final completion. Shortly after completion, PTJV sued Gaylord to establish and enforce a mechanic’s lien and for breach of contract, claiming that Gaylord still owed it $79,656,098 because of the alleged late delivery of design documents and changes to the original scope of work. Gaylord countersued, alleging that PTJV failed to properly manage the work and failed to deliver a high-quality project at the agreed-upon contract price. Gaylord sought reimbursement of $64,994,374, which it claimed to have overpaid to PTJV during the project.

The parties ultimately settled the dispute in November 2008, with Gaylord paying PTJV an additional $42,301,875 and PTJV crediting $26,157,912 back to Gaylord. Significantly, PTJV did not seek ACE’s consent prior to entering into the settlement agreement with Gaylord. Nevertheless, six months later, PTJV sent a letter to ACE, advising that, to the extent the builder’s risk policy did not cover the claim related to the glass atrium collapse, PTJV intended to seek reimbursement under the CGL and excess liability policies. PTJV’s letter, however, did not mention the Gaylord counterclaim or the settlement at all. Ten months later, ACE issued a reservation of rights letter, citing business risk exclusions, late notice, and voluntary payments made without ACE’s consent as possible grounds for coverage being denied.

PTJV thereafter sued in the U.S. District Court of Maryland for breach of contract, bad faith, and a declaratory judgment. After limited discovery, ACE filed a motion for summary judgment, arguing that PTJV had failed to obtain ACE’s consent prior to entering into the settlement with Gaylord, and that this failure breached the following clauses in the CGL policy:

Voluntary payment clause: “No insured will, except at that insured’s own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.”

-- and --

No-action clause: “No person or organization has a right under this Coverage Part: … [t]o sue us on this Coverage Part unless all of its terms have been fully complied with. A person or organization may sue us to recover on an agreed settlement. … An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant’s legal representative.”

The excess liability policy contained similar voluntary payment and no-action clauses, which are standard in CGL and excess liability policies and, from the perspective of an insurer, designed to protect it from indemnifying an insured for a collusive, overly generous, or unnecessary settlement. According to ACE, because PTJV failed to satisfy the “prior consent” conditions, it could not seek reimbursement for the monies paid to Gaylord.

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Is Your Back End Exposed?

I’m not talking about risks arising during a jaunt to the beach or the latest pants designed for plumbers. I’m talking about protection (or lack thereof) companies have on your back office business systems. After Target® revealed how cyber thieves breached its system through the HVAC vendor, more companies need to take heed and start to cover their back ends against cyber threats. No business is safe from attack and all companies must take steps to shore up their vulnerabilities against the loss of data. Identified below are a few simple steps which should be taken to protect and insulate against unnecessary exposure.

All businesses must first address the biggest threat in the company—their own staff. Essential to fighting the battle against cyber attacks are carefully crafted policies and practices required of all employees. This human element, which may intentionally access a system or negligently leave a door open to unwanted eyes, represents one of the biggest holes in a company’s preventive system. Simple warnings should be found in employee handbooks, employment agreements and in training provided by employers.

One of the other fundamental aspects of data security which is often overlooked are the terms of contracts with subcontractors and vendors who have access to data. It is not enough for a business to implement strong cyber controls; businesses are also responsible for ensuring third-party providers, subcontractors and vendors have reasonable cyber controls. All subcontracts and supply agreements with vendors who will have access to the data should identify, represent, warrant and agree to maintain adequate physical and technological security measures.

Finally, a critical element to any cyber policy is making sure that the development of the policy and its enforcement crosses multiple desks of responsibility in an organization. Developing an effective policy involves IT, human resources, compliance, records management, risk analysis and legal. Internal policies need to touch on the need for protection, obtain buy-in and compliance throughout the organization as well as in supply chains, and make sure that audits and tests of the security are regularly conducted and demonstrated. Effective insurance policies should be in place to address the costs of dealing with a breach and its consequences. Protection is no longer as simple as putting a password on a computer or downloading an antivirus program. Protecting information and data is now an essential requirement for doing business in the United States and globally. There is no doubt that your infrastructure will be compromised; the only question will be whether you have reasonably prepared for it when it does happen.

Donald Walsh is a principal in the law firm of Offit Kurman where he heads the government contract and cybersecurity group. For over 23 years, Mr. Walsh has provided comprehensive and practical guidance for his clients, in a wide range of matters, including commercial and construction litigation, employment law, corporate litigation and business transactions as well as government contracting disputes and administration. He may be contacted at dwalsh@offitkurman.com or 443-738-1583.
Things To Remember About Communication

Conversations between business owners often turn to incidents where messages are either misunderstood, ignored or not even sent have caused significant problems for them and the business. Every business has to be on its toes with its communications of every kind, internal and external. Here is a series of observations about communications and how to make them more successful.

Observation #1: Every vacuum in communications is filled with negative assumptions. People who expect to receive communications (even if they have not communicated those expectations) and do not receive them may assume they are being ignored, or the news is bad or they are receiving bad service. People who ignore communications are perceived to be impolite at best. So keep people informed. Keep customers updated, even though there is not much news. Return calls, texts and e-mails as long as they are not spam or junk. Learn how to say “no” and have it appreciated for its politeness. Nature abhors a vacuum and so do we. Your personal and corporate willingness to go the extra mile to communicate and follow up with people can be a significant differentiator.

Observation #2: A good communications diagram looks like a circle and not a straight line. The corollary to this one is “A message sent is not always a message received.” There are a number of ways to test this observation. Remember the old party game called Telephone? You have a group of people gathered. The first person whispers a short message to the next person so that no one else hears. The next person does the same until it reaches the last person in the group. The first person has written down his or her message. The last person then says out loud the message he or she got. Rarely if ever does the original message survive intact. This is a great example of the risk that is taken in communications—that the message will not be heard properly. This is bad enough when you are using word of mouth to set up a party. What about your new product launch training programs?

Observation #3: The way to test the viability of communications is to ask for feedback and analyze the questions you get. You can follow up the message with asking if it was received and to see if there are any questions on it. If it is a marketing message, you can ask the customers that order what appealed to them about the message. You can ask recipients of marketing messages why they did not order. Of course you cannot test every message. But in testing some of them you are creating a culture in your business that hears the importance of clear communications and works to make sure messages are received and understood.

Observation #4: The best way to get a message heard is to deliver it in a “language” and a medium that the person you want to understand it prefers to receive their information. By language is meant clear wording and meaning and not jargon. By medium is meant the way people who are the target for the message prefer to get their information. The disproportionate burden for creating understanding falls on the sender of the communication.

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1. The Corporate Membership Rewards program is for eligible Commercial Card Clients. Terms, conditions and restrictions apply; for a copy or for more details, call 1-800-300-8054.
2. Actual float time will vary based on the date of the charge, the billing cycle subtotal and the payment date.
3. The number of checks cut will be reduced based on converting suppliers to card payments.

For more information on this effective and efficient member benefit, contact MCN’s Verna Regler at 443-982-7329 or at verna@mdconstructionnet.net.

Gilbane Building Company, a privately-held, family-owned firm, provides full construction management consulting and facilities-related services.
Contact us today to see how we can work together to help your business gain the advantages necessary to prosper and grow in this competitive industry.

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You can get your construction company’s name in the forefront of more owners’ minds and perhaps turn these one-time opportunities into additional business.

**Team based**

A team of experienced professionals — including engineers, estimators, contractors, project coordinators and a CPA — usually performs a cost segregation study. This team examines a building’s walls, floors, ceilings and plumbing, as well as its electrical lighting, telecommunications, heating and cooling systems and surrounding land, to identify the components that will qualify for accelerated write-off periods.

Computer cable, for example, can be depreciated over five years rather than 39 years. Land improvements, such as landscaping and fencing, qualify for a 15-year write-off period.

**Timeliness optional**

Encourage owners to initiate cost segregation studies sooner rather than later. The ideal time is when plans are being drafted to construct, expand or remodel a building. By tracking costs early, it’s much easier for the owner to gather needed data when a project is completed.

Some owners, however, may want to conduct the study after their buildings are completed and occupied. This means that you and the cost segregation team will need to dig into archived files. Owners who start late in the game will still be eligible for identified tax benefits, assuming you can access the documentation they need. Detailed costs are vital to the accuracy of cost segregation studies.

At this point, you may be asking why you, as a contractor, should care about cost segregation studies. The answer is simple: By helping to show owners how they can pay less income tax and, thus, increase their cash flows, you can get your construction company’s name in the forefront of more owners’ minds and perhaps turn these one-time opportunities into additional business.

**Owner driven**

Cost segregation is a tax strategy that allows building owners to maximize their current tax deductions by using shorter lives and faster depreciation rates for qualifying parts of their properties. A cost segregation study is appropriate for property owners who are going to construct, expand or remodel a facility — or who have recently completed such a project or purchased a property.

Property that qualifies for faster write-offs (such as decorative fixtures, security equipment, cabinets and shelves, and carpeting) is often lumped in as part of the building and depreciated over 27½ years for residential property or 39 years for commercial property. That's a long time for the owner to write off the full value of the building on his or her tax return.

A cost segregation study identifies structural components that owners can deduct much faster — typically over 15 years for land improvements and five to seven years for most equipment and furnishings. This process may save owners thousands of dollars in the earlier years of owning or remodeling a property. For example, if $400,000 of assets were reclassified as seven-year vs. 39-year property, the owner's depreciation deduction in the first year would increase as much as 10 times, or about $50,000.

At this point, you may be asking why you, as a contractor, should care about cost segregation studies. The answer is simple: By helping to show owners how they can pay less income tax and, thus, increase their cash flows, you can get your construction company's name in the forefront of more owners' minds and perhaps turn these one-time opportunities into additional business.

Continued On Page 39
Is Growth Crippling Your Business?

“Greed, for a lack of a better word, is good. Greed is right. Greed works.” is one of the most famous lines in movie history courtesy of Gordon Gekko. I have heard so many contractors talk the same way except their focus is growth. Contractors thrive on the concept of growth. For some, it is their sole focus.

Construction company owners are very entrepreneurial people. They thrive by taking calculated risks. Growing revenue is a sign of achievement and source of pride for many owners. The common thought process is that if I can double my revenue, I will double my profits. It is a very simple math problem. My revenue doubles. My costs double. My profits double.

Contractors are often unaware that the most dangerous time in a company’s development is during a period of rapid growth. Most are under the common misperception the greatest risk to their business is when revenue is falling. How can growth be bad for a company? Statistically, the failure rate of construction companies is 3 times greater during an economic expansion as opposed to a downturn. Unrealistic growth plans are the number 1 cause of contractor failure.

Generally, growth is good. Planned growth is a time tested, excellent business strategy. When expansion is accidental and adequate plans are not in place, growth can put you out of business. Why? Growing your business eats away at your cash flow. Cash flow is the life blood of any contractor. Many contractors never realize just how much cash flow is used to finance a growing company. When a company does not have the balance sheet to support the cash flow, contractors have to seek financing from their bank or worse yet, their bonding company.

When a company is growing, the uncollected receivables will rise putting more pressure on the company’s cash reserves. Contractors universally tell us it is getting harder and harder to secure timely payment from owners, general contractors, and prime subcontractors. In a growth mode, your expenses will dramatically increase; however, some expenses such as payroll and overhead cannot wait until the receivable is collected to be paid.

When you are expanding your business, shortages of key materials and labor are much more likely to appear. The additional labor needed to execute more work also tends to be less productive than your seasoned labor. Less productive labor is a key factor in cost overruns that can dramatically affect your bottom line.

How are you growing? Are you focused upon performing more projects? Is your growth a factor of doing larger jobs? Are you seeking to expand your geographic footprint or moving into a new area of work? All of these are valid strategies but the risks are very different.

The difference between success and failure is planning. Cash management is key. Most contractors do not get paid for 90 days or more from the time of invoice. How much labor will the company have to advance? What type of credit terms can you arrange with your supply houses? How will your overhead get funded? Will you need to expand your overhead to manage your growth? These are some of the most important questions to consider when taking on more backlog.

The very best contractors focus their attention on profitability and managing cash flow. If a receivable does not get paid when expected, where will the necessary cash flow come from to meet your operational needs? The very best contractors are able to anticipate how much cash they will need to finance their growth. A best practice is to have a pro forma cash flow projection done. Be realistic and conservative in your projection. Cash needs are almost always more than first thought and contractors seem to be getting paid later and later.

A key factor in financing your growth is having the necessary credit arranged in advance. Begin discussions with your banker as early as possible to have the necessary availability on your line of credit. Bankers are always more receptive to a client’s need when the client gives them a clear plan of its short term borrowing needs and the corresponding repayment plan. Additionally,

Continued On Page 35
High Risk Employees & Exchanges

One of the reforms under the ACA is the creation of the Exchanges on the State and Federal levels that are required to offer individuals access to health insurance without limitations of pre-existing conditions. These policies are rated strictly on factors such as age, gender, zip code, and smoker status. Clearly, this change is of great benefit to individuals who had no access to other health insurance or were limited to high risk pools and programs… but what about individuals who do have access to group plans? More specifically, what about high risk, high utilizing individuals enrolled under employer sponsored group coverage? Can they enroll in these Exchanges?

The answer, of course, is that they can. But why would they? Their employer pays a portion of their group plan premium, and their group plan is robust and covers all of their required services. What purpose would it serve for that individual to go into the Exchange? For a self-funded employer, removing a high cost claimant from the plan would serve a very useful purpose, both for the plan, and for the rest of the plan’s members.

Can an employer then incentivize high cost plan members to go into the Exchange in lieu of remaining on the group plan?

With other government sponsored health insurance programs, secondary payor laws exist to prevent this very circumstance. Employers are prohibited from incenting or subsidizing employee’s costs for programs such as Tricare and Medicare. Employers certainly cannot pay for Part B or Medicare Supplements or gross-up salaries to cover such costs. These rules were created as a result of employers engaging in those exact practices.

Part of the ACA language prohibits employers from “pushing” employees into a high risk pool. Most would argue, however, that the Exchange is not a high risk pool. The language of the law itself describes the Exchange as a “marketplace.” A marketplace is not a high risk pool, so clearly the Exchange would not be covered under that aspect of the law.

As it stands today, with the ACA, there is absolutely no regulation or law prohibiting employers from incentivizing individuals from enrolling in the Exchange and receiving an opt-out credit as a result. Moreso, since that credit is not pre-tax, and not part of an actual health plan, it would be exempt from IRC Section 125 and Section 105(h) non-discrimination testing. In other words, you could offer credits of what you want, to whom you want.

Even knowing that from a plan perspective, it is completely legal to “dump risk” into the Exchanges, there are still many pitfalls both legal and ethical to such a “strategy.” The messaging to the employee needs to be very specific as to not run afoul or ERISA and Fair Labor Standards. Any employer wishing to attempt to place risk into the Exchange would be best served by consulting their legal counsel as to the language behind the message.

More concerning to a consultant must be the ethical impact of such maneuvering. Placing high risk members into the Exchange is simply transferring risk to a broader pool. The immediate impacts may be positive for the client, but in the long term, it does not have any impact on the overall risk of the entire population, and thus cannot be viewed as a model for sustainability. Essentially, it is a short term solution that will not stem the tide of a larger problem. An employer cannot expect to place high risk employees into the Exchange on a year by year basis, thus eroding the group plan until the loophole is eventually closed.

Employers may not be so concerned about the “larger problem,” but they should be concerned about the cultural impacts of such a program. Employers need to consider the consequences within their organization when the water cooler talk becomes focused on the $25,000 bonus the janitor received for going into the Exchange. There will undoubtedly be a line around the HR department and some very confused and angry employees.

The framework and makeup of the ACA focus primary

Continued On Page 33
What Keeps You Up At Night?

Today managing your corporate risk involves a lot more than buying insurance policies. There are many risks to the health and stability of your business. These are the things that keep you up at night. The concept of Enterprise Risk Management encompasses much more than the traditional risk management model. Companies need to be willing to look at their risk in a much more holistic way than ever before.

Insurance policies are a great way to transfer certain risks, but insurance alone will not fully protect your company. You need to think about everything that can happen that will impair your company’s bottom line. Start with a simple list to get a handle on things you need to be concerned with. Areas of risk can be separated as follows:

**Business Hazard Risks**

This includes many of the traditional risks associated with commercial property & casualty insurance and risk management programs. This includes tort liabilities to third parties, property damage to third parties, injuries to employees, risk of damage to your property, natural disasters, and liability from operations of vehicles, etc. These are only things many companies have contemplated in their risk management program.

**Business Financial Risks**

Includes cash flow, investments, loans, notes, obligations, receivables and payables. What financial scenarios will impair your business? What do you need to get surety

Continued On Page 36

Association Partner - NAWIC

Invest in Yourself

Women in AEC, whether you want to embark on a new career, establish a networking base, be a mentor/mentee, make a difference in your community, continue your education, or invest in great friendships -- NAWIC offers a variety of opportunities--large and small.

**Professional Opportunities**

- Industry speakers
- Mentoring opportunities
- Education of Youth
- Connection with other women in the industry
- Community outreach projects
- Liaison with other industry associations
- Marketing/advertising for your company
- Discounts on goods & services

**Educational Opportunities**

- Leadership development
- Association magazine subscription
- Speakers, tours & seminars - locally & nationally
- Exposure to new skills & technology updates
- Professional certifications, coaching & mentoring
  - Certified Construction Associate (CCA)
  - Construction Document Specialist (CDS)
  - Construction Industry Technician (CIT)
A 401(k) Plan is an immensely powerful tool for employers and employees. As a business owner, a 401(k) plan can help decrease your tax liability while helping your employees save for retirement. It may also foster increased employee loyalty. As an employee, you must diligently plan and save every month to help fund your retirement years. Your company 401(k) plan is a tremendous tool available to you.

As 401(k) Plans are an integral component of one's retirement savings, it is crucial to understand how they work. Let's review a few facts:

**You benefit from tax-favored treatment**

Contributions to your account are made pre-tax and the money will grow tax-deferred until you withdraw from the plan. For example: if you make $100,000 a year, and you put $10,000 a year into your 401(k) plan, you are only taxed on $90,000.

**You might have a ROTH 401(k) option in your plan**

Most company plans offer the option to invest in a ROTH 401(k). These contributions are made on an after-tax basis, allowing you tax-free withdrawals during retirement.

**There are annual limits on how much you can contribute**

The contribution limits are adjusted each year. For 2014, you are able to contribute $17,500 into your 401(k) plan. If you are 50 years or older you can contribute and extra $5,500 a year, making your annual contribution limit $23,000.

**Your employer may match your contributions**

Depending on how your plan is set up, your employer may match a certain portion of what you are contribution to your plan, increasing your retirement savings even more.

**Participation may be automatic**

Some employers may automatically enroll their employees in their 401(k) Plan unless they opt out, to encourage employees to save for retirement.

**You have a wide array of investment choices**

You can chose how to invest your contributions. Be sure to ask your advisor – or us if you need help deciding what investments are most suitable for you.

**There is a 10% penalty if you take your money out early**

Unless there is a special tax law exception or loan provision, you will be penalized 10% on any withdrawals taken out before age 59 ½. This is in addition to your regular income tax that you have to pay on all withdrawals of pre-tax contributions.

**You’re penalized if you take money out too late**

Unless your 401(k) plan provisions state otherwise, you must begin taking Required Minimum Distributions (RMD’s) the year after the year that you turn 70 ½. These distributions are based on your life expectancy and the penalty for not taking them is 50% of the amount you should have taken.

**You have different options when you leave your company**

- You can move the money into an IRA rollover account at a brokerage company
- Move the money into your new employer’s plan. Check with your new company, as not all defined contribution plans allow this move.
- Leave the money where it is.
- Cash out and take the money as a distribution. This is not a good idea as this will trigger income tax and a penalty if your under 59 ½

A 401(k) Plan will be very powerful if set up and used correctly. As an employee, if you are not contributing to your 401(k) plan, I encourage you to begin. If you are
How To Stop Bad Billing Rates From Destroying Your Construction Company

Three Mistakes Contractors Make in Calculating Billable Rates

Many times when I get into conversations with contractors about how they arrived at their billing rates they usually have similar stories. Often I will hear that they used formulas or rules-of-thumb from a trade group they belong to, or a similar organization. Contractors often say those rates were determined years ago, and they use the same approach to this day. I sometimes sense a lack of confidence among contractors when they consider the accuracy of the approach today. Let’s discuss some common billing rate pitfalls to avoid.

1. Failure to update rates for changes in labor burden and overhead

The first mistake is avoiding what was discussed above: failing to update rates for changes in labor burden and overhead over the years. It is not so much that the original frameworks were wrong in approach, but that they have not been adequately updated to reflect the current operations of the company. For purposes of this post I am defining labor burden as any variable cost immediately connected to labor, such as Social Security taxes and overhead, and other costs that are not directly linked to the specific contract.

Relative to labor burden updating, the biggest impact area concerns workers’ compensation rates and to a lesser degree, general liability rates. Depending on the type of construction work – for instance, roofing – you can have significant and wide-ranging rates depending on the specific type of work being performed.

In addition to rate differences within policies, depending on work type you can experience significant rate changes with each new policy year. If you are using one rate for each employee and not updating for each year’s change, you are not accurately accounting for the impact of this cost. Other costs in this area include Social Security and Medicare payroll taxes, state and federal unemployment taxes, and union costs if applicable. These costs do not typically fluctuate as much but certainly can, especially the unemployment rates.

2. Failure to recognize actual utilization of employees

The second general mistake is failing to recognize the actual utilization of employees. Utilization relates to the billable or chargeable percentage of all time incurred by an employee.

Even if you have the mentality that all time is billable, that still does not make it so. Every employee is going to have some time, like vacations, holidays and training that needs to be recaptured in their rate at a minimum. For instance, if you assume your employees’ billable hours are equal to the hours they are paid for, you are going to arrive at a billable rate that is too low.

Our burdened rate calculator (which you can download for free at http://bit.ly/HourlyRateCalculator) is designed to bring this issue to light.

3. Failure to reflect overhead in the rates

The third primary mistake is not accurately reflecting the overhead of the business. Some of these types of costs, like health insurance, cell phones and vehicle costs, may be able to be assigned to specific employees. Other general overhead costs like rent, office salaries, utilities, data processing and others can’t be assigned to specific employees. This is where a proper amount of information needs to be shared with those responsible for putting together bids and managing jobs.

Steve Ball, CPA, CVA, CCFIP, is director of Gross Mendelsohn’s Construction & Real Estate Group. He is passionate about helping contractors become more profitable. Steve provides audit, review, compilation, tax, business valuation, succession planning and consulting services for construction contractors. Contact Steve at 410.685.5512 or sball@gma-cpa.com.
Prescriptive Residential Deck Construction Guide - 2012 IRC Version

One of the most common projects in the residential market is “Deck Addition”. Whether you are a contractor, architect, or an engineer, odds are that you have had a proposal at some time to design or build a wood deck for an existing residence.

Of course, all services rendered to a client have to be in compliance with local code requirements and permitted by local building officials. It can become a bit confusing and time consuming to find the appropriate submittal materials and construction details. At this point, we should all remember that there is always a “go-to” person that we can refer to who is not only inexpensive, but in some cases, free. One of the greatest “go-to” guys, or in formal language “experts”, is American Wood Council, AWC.

I have personally been a member of AWC for several years and have always learned from their publications and webinars. In May 2014, I attended a webinar that was titled "Prescriptive Residential Deck Construction Guide - 2012 IRC Version". This event saved hours of research time and flipping through code books and manuals as it presented a step by step procedure of a wood deck design per the latest edition of the International Residential Code, IRC 2012.

The design guide discussed in this presentation is a free download available in AWC's website under Design for Code Acceptance section.

Although this document is intended to be used as a reference, it does not wave your responsibility for the project. This design guide (DCA-6) contains references to the building code requirements that can be used to develop a submittal package to be presented to the building official for permitting purposes. You may also use its suggested construction details and specifications for your project.

Our staff at Deihimi Engineering will gladly be at your service to provide a submittal package if an engineering review and seal is required.

Amir Deihimi, P.E.
Deihimi Engineering, PLC
202-681-2647
amir@deihimiengineering.com

References:
International Residential Code, 2012
American Wood Council, DCA-6
Getting Paid On Time: The Prompt Pay Act

Contractors in Maryland have available statutory remedies for non-payment. The Maryland Code contains a Prompt Pay Act (the “Act”). Md. Code Ann., Real Prop. § 9-301 et seq. (Repl. Vol. 2010). The Act entitles a contractor or subcontractor that performs work or furnishes materials for a property under a “contract” to prompt payment. The Act is a corollary to Maryland’s mechanic’s lien law. The Act requires payments from an “owner” of “undisputed amounts owed under a written contract” within thirty days after the occupancy permit is granted or the owner takes possession of the property or within seven days of the date required for payment under the written contract. If the contract is not with an “owner,” payment must be made to contractors or subcontractors within seven days “after receipt by the contractor or subcontractor of each payment received for its subcontractors’ work or materials.” Under the Act, the “undisputed amount” is defined as “an amount owed on a contract for which there is no good faith dispute, including any retainage withheld.” What constitutes “good faith” is undefined in the Act, but likely relates to the validity of the disputed amounts or whether the monies were withheld for an improper purpose.

The Act does permit an owner or contractor to withold “retention proceeds” if called for in the parties’ written agreement. This exception for retainage would only apply to contracted amounts over $250,000.

The importance of the Prompt Pay Act is that it provides a mechanism for the recovery of attorney’s fees, interest and costs on the outstanding amounts. The Act provides: “If a court determines that an owner, contractor, or subcontractor has acted in bad faith by failing to pay any undisputed amounts owed as required under [the Act], the court may award to the prevailing party reasonable attorney’s fees.” The Act also permits the Court to allow for an injunction to prevent future violations.

The Act is subject to a number of exceptions. The Prompt Pay Act does not apply to: a) a contract for the construction and sale of a single family residential dwelling; b) any transaction under the Custom Home Protection Act; or c) a home improvement contract by a contractor licensed under the Maryland Home Improvement Law.

If applicable, the Prompt Pay Act can provide a means to recover the attorney’s fees and cost of collection that may not otherwise be available in a breach of contract action where fees and costs are not addressed in the parties’ agreement.

Mr. Robert S. Campbell, Esq., is providing a presentation on payment systems for the construction industry on August 26, 2014, at 7:00 a.m., at the offices of PESSION KATZ P.A., 901 Dulaney Valley Road, Suite 400, Towson, Maryland 21204. Mr. Campbell can be reached at (410) 769-6140 and rcampbell@pklaw.com.

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2014 Blue Book Network Showcase on October 23rd at M&T Bank Stadium.
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More Details Coming Soon.
Ed and I are seeing an improving merger and acquisitions market for well-run contractors to sell their businesses. (We recently closed on a general contractor acquisition, a pool contractor, and have active negotiations on a commercial HVAC contractor in process). From these experiences we are seeing three specific ways construction contractors can improve their value before and during a sale period.

1. Obtain maintenance and repeat work. Maintenance work tends to be smaller dollar values and often harder to get than new construction – at first. Maintenance work often has higher margins in the long term as you are not reselling 100% of your work every day. Plus it has the advantage that margins are much more stable over time than large competitive bid new construction work. Companies with a high concentration of maintenance work, maintenance contracts and repeat work are worth more than competitive bid new construction contractors with the same profitability. Better yet, they sell quicker too.

2. Develop a marketing system and management system that is not all you. I once had an owner of a good small sub-contracting firm get upset (actually I was “fired”) because I did not recognize his importance to the business. Frankly I did recognize his importance as he was the business but we were trying to reasonably discount this fact since he did not want to stay with the company long term after the sale. Companies where all sales relationships and all decisions must be made by the owner are worth far less (if they can be sold at all) than those with employee sales people and managers who will be staying around after the sale. Similarly if you have key people and systems but all your key people are retiring the day you sell you still have a sales and management continuity problem that needs to be addressed sooner – not later.

3. Make profits now. People buy businesses because there is “potential”. If there is no potential there will not be a sale. But, buyers pay for what is proven today and yesterday. Technically they pay for what the business will make in the near future so you really need recent profits (not profits in 2007) and a decent pipeline. This means that you should cut costs to the bone for two years prior to your sale and through the sale period. You should make capital investments to protect your business but do not overinvest. The fact of the matter is most problems can be solved if there is enough profit. Get profitable and be as profitable as possible.

The three ways to improve value listed above; increase maintenance work, develop marketing and management systems that are not reliant on you, and be profitable today, all can significantly increase your business value and should be utilized by all contractors that are contemplating a sale of their business.

Gregory Caruso, Esquire, CPA, CVA is a Principal at Harvest Business Advisors in Columbia, Maryland. He regularly works with contractors, subcontractors, suppliers, and engineering companies with 20 to 200 employees. He has been involved in more than 50 sales transactions as a business broker, and hundreds of management buy-outs, family transitions, and sale transactions as a business valuator, lawyer and principal. www.harvestbusiness.com, gcaruso@harvestbusiness.com, 410-507-5441. © 2014 Gregory R. Caruso gcaruso@harvestbusiness.com
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(No Charge For Direct Connect Registrants)
Direct Connect: 5:00 – 7:30 p.m.

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- How To Build A Strategic Network
- The Who & Why Behind Who You Connect With
- Why Company Pages & Groups Are Important
- How To Use LinkedIn for Business Development & Recruiting

LinkedIn presentation provided at no charge for Direct Connect registrants.

Event Sponsors:
Maryland Construction Network (MCN) is proud to welcome PK Law Attorneys Robert S. Campbell and James R. Benjamin as our presenters for this educational program.

Topics To Be Covered Include:

- Statutory Remedies
- Recovery Without A Contract
- Enforcement Of Judgements
- Protect Yourself From Payment Disputes
- And: Much, Much, More!

For additional information regarding the event's speakers, itinerary, menu, etc., please see the reverse side of this registration form.

Tuesday, August 26th 2014 ~ 7:00 a.m. - 9:00 a.m.
The Offices of Pessin Katz Law, P.A.
901 Dulaney Valley Road, Suite 400; Towson, MD 21204
Early Registration Pricing - $30 ~ MCN Members | $40 ~ Non Members

Space Is Limited To The First 40 Paid Registrants!
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Networking? Naturally!

Reservations made after August 19th are subject to availability and are $40 for members and $50 for non members.

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Email: ____________________________________  Credit Card Billing Address Zip Code: __________

Register Online and Learn More About MCN at www.mdconstructionnet.net

Or forward this completed registration with payment to: Maryland Construction Network (MCN),
3928 Norrisville Road, Jarrettsville, MD  21084 no later than Tuesday, August 19th.
Reservations made but not cancelled by end of business Tuesday, August 19th are non-refundable.

Pre Registration Is Required! Late Registration Prices Apply After August 19th (And Subject to Availability)

Do you have questions about MCN or need assistance? Contact Verna Regler (verna@mdconstructionnet.net/410.977.8038) at 443.982.7329.
There are a number of factors unique to the construction industry that increase the vulnerability to heavy equipment theft:

1. Many contractors frequently travel into new geographic areas to perform work. This lack of familiarity with the local economy creates vulnerability to equipment theft due to the “unknown unknowns” of crime patterns and theft rings operating in the area.

2. The remote nature of projects makes it difficult to provide adequate jobsite security. This is compounded by the nature of reduced (or zero) project activity on weekends typical in the construction industry.

3. A combination of owned vs. rented equipment may contribute to a mixed sense of responsibility and accountability for property conservation. Assessing loss cost chargebacks for the deductible amount (or the total loss) for preventable thefts is an effective means of increasing accountability among field supervisors to make property protection a best practice in the field.

4. There is a need for better tracking and recordkeeping by contractors to establish where their heavy equipment and trailers are located at all times. One major national contractor shared that it did not know where at least 15-20% of its mobile equipment and trailers were located at any given time.

Improvements in such recordkeeping efforts may benefit project and company profitability through improved capture rate of job costs relating to equipment.

**Physical Site Security Best Practices**

A key to reducing heavy construction equipment theft is increasing physical site security at both centralized equipment yards and remote project sites. A combination of security procedures and best practices is required to reduce vulnerability to equipment theft. Notable examples of such procedures and practices include:

**PROCEDURES**

- Incorporate an evaluation of necessary controls to counter vulnerabilities into the project pre-planning
• Establish formal standardized jobsite security measures and provide training to project staff
• Include project equipment status checks on Monday morning as part of the job startup checklists to quickly detect if any assigned equipment is missing
• Develop procedures for securing equipment at the end of the shift
• Conduct periodic security inspections to evaluate theft risk

PRACTICES

• Use secured lockboxes for keys to equipment and tool storage containers
• Install security screens over windows and reinforced doors and deadbolts on jobsite trailers that house key lockboxes
• Provide perimeter fencing with barriers between fence posts to block egress
• Install fixed lighting and supplement with motion detector security lighting
• Post “no trespassing” signage
• Install video surveillance cameras in high-risk areas
• Use tight vehicle parking formations to encircle vulnerable equipment in the inner perimeter
• Elevate equipment gang boxes and portable equipment from cranes

Insurance & Risk Management Considerations

Contractors Equipment is specialty coverage within the Inland Marine line of insurance. Generally, Contractors Equipment coverage pertains to mobile equipment, machinery, and some tools used in construction operations, including at projects, in storage, or while in transit. (Due to their size, unique markings, and the difficulty associated with loading and transporting cranes, they are generally not as vulnerable to theft and will not be covered in this article.) Mobile equipment licensed for use on public roads may be covered under an automobile policy for physical damage to the unit or under the Inland Marine policy depending on the nature of the unit and the insurance carrier.

Authors’ Note: Contractors Equipment is subject to many types of loss beyond theft, including: fires, vandalism, collision, hail damage, water damage, and flood. However, this article is not intended to delineate all risk reduction and control measures to protect the contractor’s equipment schedule from such losses. In the web resources (on page 23) you will find two risk control tools from two national insurance carriers that highlight recommendations for property protection measures for Contractors Equipment. One example highlights deterrents to theft while the other example presents broader property conservation measures.

TERMS & CONDITIONS

It is important to understand the specific terms and conditions of your company’s Inland Marine and Contractors Equipment coverages, including the following considerations:

• Scheduled vs. blanket limit of insurance – Generally, large value items are itemized and scheduled at a specific value, whereas blanket limits will provide coverage for miscellaneous items. Blanket limits frequently have a maximum value per individual item that can be recovered.
• Deductibles – There is no common deductible level for Inland Marine or Contractors Equipment coverage. This can vary by the size of the account, the total value of insured equipment, the value of individual equipment items, and whether the insurance program structure is guaranteed cost or a loss sensitive program.
• Basis of valuation for claim adjusting – Three primary options exist: actual cash value (ACV), replacement cost, or agreed value coverage. ACV is the most common basis of valuation. It is important to understand that ACV is replacement cost minus depreciation. Coinsurance requirement – Insurance to value is an insurance principle that requires current valuations of the insured property to ensure that the proper level of insurance is maintained at all times.

Although not all policies are subject to a coinsurance provision, the most common coinsurance requirement is 80% insurance to value. In effect, a coinsurance clause is a penalty for not carrying the right amount of insurance. Coinsurance generally
will not apply to rented equipment. Some contractors have successfully negotiated no coinsurance clause on their Inland Marine and Contractors Equipment policies.

- Per occurrence limit – This may be less than the full schedule value because such equipment is not typically subject to the same major or catastrophic losses because of its assignment to various locations.

Segregation of risk is an important risk management principle and CFMs must consider aggregations of heavy equipment and how per occurrence limits may affect where vehicles are housed and stockpiled during non-seasonal use. If your storage area is subject to flooding, then establish procedures to move equipment to a safety zone in advance of rising waters.

RENTAL EQUIPMENT

Since the use of rental equipment is common in the construction industry, it is important for CFMs to understand how rental equipment is considered under their Inland Marine insurance policy and to review rental agreements for insurance requirements.

Specifically, understand the requirements in contracts as to which party is responsible for insurance on a piece of rental equipment. Understand your company’s obligations for deductibles under its Inland Marine equipment policy. Pay special attention to a provision for replacement cost for stolen or damaged equipment your company rents. In those cases, negotiate this provision to ACV, which is generally how your company would be reimbursed for owned equipment insured on typical Contractors Equipment policies.

Evaluate rental companies to determine if they have equipped rental units with a theft deterrent system, are using GPS tracking equipment, or if they participate in the National Equipment Register.

An increasing number of equipment rental companies are either participating in the National Equipment Register or equipping units with deterrent systems. When renting equipment, be sure to request units with such safeguards – especially if you are renting in a remote geographic area with an increased amount of construction activity.

Understand the rental company’s notification requirement in the event the unit goes missing during your rental period. Clarify the procedure for terminating equipment rental, especially the notification requirement for the rental agency to quickly pick the unit up from the project location to reduce unnecessary charges for idle equipment and to decrease the amount of time the equipment sits at the project site.

Additional Risk Management Best Practices

Contractors seeking to be proactive in reducing the likelihood of equipment theft can implement proven risk management best practices:

1. Maintain updated equipment schedules with current valuations to submit to your insurance carrier – Take the time to routinely update equipment schedules throughout the insurance year as new units are added, traded-in, or sold. Work with your insurance agent/broker to maintain updated equipment schedules with current valuations.
2. Improve in-house equipment inventory methods to include visible unit number identification markings, hidden security etchings, and digital photo documentation – Maintain detailed records of the manufacturer, model and year, product identification number, visible company markings, hidden security identification etchings, and the complete transaction history of when and from whom the equipment was acquired.
3. Expand tracking of deployment of equipment to project sites – Recordkeeping relating to equipment deployment is a hallmark of a professionally managed fleet.
4. Install fleet equipment management and monitoring techniques, including GPS tracking and/or theft deterrent equipment on high value

Improved monitoring of equipment inventories increases the likelihood of detecting missing equipment. Speed of reporting is associated with increased recovery of stolen equipment. Improved recordkeeping can also help expedite and maximize recovery from insurance policies.
pieces of equipment – Leveraging technology can significantly increase the recovery rate. (See the data from Lojack in the web resources.)

5. Contact law enforcement and your insurance agent/broker immediately to report any missing unit – Prompt notification of law enforcement can increase the odds of successfully recovering stolen equipment.

6. Send a “flash report” to alert all of your company’s project sites in the geographic area of equipment thefts – Some companies include joint venture partners, subcontractors, and associations located in the same geographic area on flash reports to increase awareness and heighten security in the region.

7. Collaboration with local law enforcement agencies – Contractors entering new geographic regions would be wise to add a requirement to the project start-up checklist to make contact with the local law enforcement agency. It is a best practice to contact local occupational medical facilities for the treatment of injuries and to pre-plan the response and staging of emergency vehicles with local emergency medical services. Similarly, contacting local law enforcement to inquire about any recent or historical equipment theft issues provides useful insight and establishes a local contact. Inquire about providing periodic project patrols after-hours and on weekends as a deterrent.

8. Partner with special investigative units – Check with your insurance company to see what resources and services may be available from its in-house special investigative unit (SIU).

Many carriers have established SIU functions, and some have SIU staff who will offer training or physical security audits. It is common for these SIU staff to have law enforcement backgrounds, which increases the collaboration with local, regional, and state law enforcement agencies.

9. Consider the benefits of enrolling in the National Equipment Register program – At a relatively low cost per unit for registration, a primary benefit is that approximately 20 insurance companies will waive the policy deductible for registered units.

The importance of equipment to production in the field cannot be overstated. The impact of construction equipment theft on a project’s productivity, schedule, and profitability is real. Contractors can take proactive steps to increase awareness of theft prevention measures. Reducing vulnerability to equipment theft requires increased accountability from project supervision.

A careful review of insurance and risk management practices associated with owned, leased, and rented Contractors Equipment can protect contractors from unexpected losses.

Acknowledgement: The authors wish to thank the following professionals for contributing ideas toward the best practices sections on physical site security and risk management: Herb Brownett, CFO, Brubacher Excavating, Inc. (Bowmansville, PA); Rich King, CFO, Schlouch, Inc. (Blandon, PA); Brian Cooney, Executive Vice President of Finance & Administration, Barriere Construction (Metairie, LA); and Bryan Schwartz, Risk Manager, American Infrastructure (Worcester, PA). The authors also wish to acknowledge Marla Redding, Director of Construction Client Services at Murray Securus, for her insights on Contractors Equipment insurance and risk management.

Web Resources


Conclusion
About The Authors:

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Cal is a former member of the CFMA Executive Committee and served as National Secretary for 2009-2010. He co-developed the CFMA CPE course titled Emergency Management Planning. He speaks regularly at CFMA's Annual Conference & Exhibition, frequently presents at CFMA regional conferences, and is an established author for CFMA Building Profits.

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JOSEPH E. RITCHEY, CRIS, is an Account Executive in the Construction Solutions Practice with Murray Securus in Lancaster, PA. Joe has been with Murray Securus since 2001. He has 35 years of insurance and risk management experience. Joe specializes in insurance/risk management program design and implementation, including large deductible and captive programs.

Prior to Murray Securus, he was Vice President at Aon Risk Services of PA along with positions as insurance producer, manager, and risk consultant.

Joe currently serves on the board of directors for the National Utility Contractors Association of Pennsylvania (NUCA of PA) and is active in numerous organizations, including the ASA and ABC. Joe holds undergraduate degrees in Accounting and Finance from Penn State University.

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contributing, I urge you to increase your contribution percentage by 1%. It will make a tremendous difference on retirement day. As a business owner, it is important to remember that a 401(k) plan is not a one sized fist all approach. It is a customized solution to meet the unique needs of YOU and your company.

Lauren Rebbel
CERTIFIED FINANCIAL PLANNER™
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The Prosperity Consulting Group, LLC is a wealth management firm that is independent of proprietary products with expertise in servicing and advising 401(k) plan sponsors and participants with informed, objective advice and exceptional personal service. If you are interested in learning more about the value we bring to the business owners and companies, please find a moment in your busy day to give me a call.

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beam technology can offer cost benefits, increased flexibility in design, a reduction in air handling capacity and ductwork size, and enhanced indoor air quality and comfort.

Bowie State University, together with its design team, is targeting LEED® Platinum for the new Center for Natural Sciences, Mathematics, and Nursing. The incorporation of chilled beam technology is a critical step toward that goal, in particular in the categories of Indoor Environmental Quality and Controllability of Systems-Thermal Comfort. This forward-thinking approach is clearly in step with the university’s vision for an iconic campus building, showcasing modern, sustainable design and construction strategies.

Darren Anderson, PE, CPD, LEED AP BD+C is an associate with Baltimore-based Mueller Associates, the mechanical/electrical engineer for Bowie State University’s new Center for Natural Sciences, Mathematics, and Nursing.

Scott Mayer
VP, Data Analytics
Workforce Tactix

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on insurance reform and make it a “bill of access” designed to give a greater portion of the population access to the healthcare delivery system in full. As such, it does not address issues such as risk, which means there will be a host of scenarios in which the bill may be exploited for short term gains at the expense of long term success, for the bill, employers, employees, and individuals. While the Exchange may well be a viable option as a dumping ground for high risk members of an employer sponsored group plan, the viability of such a strategy has to be viewed with a great deal of skepticism.

Scott Mayer
VP, Data Analytics
Workforce Tactix

Continued From Page 9

Print-O-Stat, Inc. has teamed up with the Maryland Construction Network to provide the design community with the highest quality training and support by bridging the gap between people and technology. We believe our solutions and superior customer service makes us the perfect total solution provider for all of your software and business needs.

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Continued From Page 5

bidding by the CM of the final drawings and specifications to three or more subs and material suppliers for every facet of the work. The bids are summarized and presented to the owner with recommendation by the CM. Nothing is hidden. The owner pays only the actual cost of the work plus the CM’s fee (usually a negotiated percentage of the actual cost of the work not to exceed a guaranteed maximum price (“GMP”). If the owner and the CM are unable to agree on the GMP, the owner is free to sever the relationship and work with another CM. This is rare but it does happen.

The CM builds the job, and in the vast majority of cases, jobs are completed on time, at or under budget, and the quality of construction is good.

Each delivery method has its place. The nuances of each are many and beyond the scope of this article. Choosing the best delivery method for the owner’s project is critical to the success of the project.

Bob Prout
Prout Consulting, LLC
443-844-1277

Random Thoughts

“Coming together is a beginning; keeping together is progress; working together is success.”

- Henry Ford

“If you’re not making mistakes, then you’re not doing anything. I’m positive that a doer makes mistakes.”

- John Wooden

“By all means let’s be open-minded, but not so open-minded that our brains drop out.”

- Richard Dawkins
Continued From Page 8

Your employees are your best advocates, and since they show up on your LinkedIn company page you want to make sure they understand LinkedIn and how they can play an active role in networking, business development and recruiting (even if those are not their main roles). Today everyone is in business development and recruiting (that’s another article, though). Make sure they look good on LinkedIn too, they represent your company. Bring them up to speed regarding LinkedIn. Tell them why, show them how to use LinkedIn, and tap into their networks. Consider this your construction document.

5. Do something - be proactive. A shovel or crane doesn't produce a result on its own. It needs someone to pick it up and use it. So does LinkedIn. The more effort you put into it, the smarter it becomes on your behalf and the more it pays off in presence and opportunity. Consider LinkedIn a tool, an important tool and recognize if it's not in your toolbox now, something significant is missing.

LinkedIn has changed considerably over time and is no longer a networking site—it's a platform for doing business - furthering your business development efforts, recruiting new talent, subcontractors, partners, and building a company brand. Push your preconceived notions aside and take a fresh look at how you and your company can dig in and build a stronger and more reliable digital presence.

Colleen McKenna, Principal of Intero Advisory, trains and consults on LinkedIn strategy and tactics for business professionals and organizations. Colleen has coached, trained and consulted with more than 6,500 business professionals since 2011 and strives to keep clients thinking more strategically and creatively about how to use LinkedIn for business development, recruiting and brand awareness. She can be reached at colleen@interoadvisory.com or 410-458-6960.

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the contractor should have a long discussion with its bonding agent to address its bonding program. Will bonding be an issue? It is always better to have this discussion in advance as opposed to submitting a bond request to have it declined.

Growth can be great for a business or it can be the reason for a contractor's downfall. How you will finance your growth separates the best contractors from their competition.

Michael Clayton
RCM&D
410-339-5236

MARK YOUR CALENDAR
Wednesday - October 15th.
5:30 - 8:00 pm.
MCN, AIABaltimore, and USGBC Maryland will tour The Maryland Zoo in Baltimore's brand new Penguin Exhibit!

Colleen McKenna, Principal of Intero Advisory, trains and consults on LinkedIn strategy and tactics for business professionals and organizations. Colleen has coached, trained and consulted with more than 6,500 business professionals since 2011 and strives to keep clients thinking more strategically and creatively about how to use LinkedIn for business development, recruiting and brand awareness. She can be reached at colleen@interoadvisory.com or 410-458-6960.

Do you have a plan?
If not, contact Dan Workmeister today.

Consolidated Insurance Center, Inc. works with contractors to advise them about the risks they face and implements plans and strategies to reduce their impact on the business.

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bonding or a line of credit? Do you do business with companies that may pay slow or not pay at all? Are you in violation of any loan covenants? Do you have obligations to pay and don’t have the cash to do it?

Managing financial risk is more than being flush with cash. It means looking at the risk of every transaction you make and what the implications are if the outcome is not what you expected. Growth in revenue does not equal more profit. Poor financial risk management may mean growth results in losses or less profit. It also means pricing your services at a level that will allow you to exceed your expenses, including building-in cost increases in materials, fuel, and labor.

Business Operation Risks

This includes things such as continuity of your business in the event of a sudden loss of a key employee or owner, poor customer satisfaction or bad reviews that cost you current or new business, the reputation you have (encompassing clients, subcontractors, general contractors, suppliers, etc.) within your industry, as well as the quality of your work. It would also include loss of suppliers critical in your business or being forced to go to a greater distance for work or supplies that adds costs to your operation.

If you get bad publicity due some criminal or civil litigation, how is your company operation going to be effected? Can you keep your clients and get new clients? Loss of employees and/or clients will materially affect your results. The way you conduct business and the satisfaction or your clients is a huge risk to your corporate success.

Strategic Business Risks

This includes what work you pursue and where, who your competitors are, alliances that are key to your business, what trade associations and networking groups you invest your time and money on, what outside vendors (legal, insurance, accounting, social media) will provide the best services, will your business expertise be relevant in the future or will you need to change the type of work you offer, and what kind of growth and investment is being made within the areas you work.

These risks are really driven by where you are and where you need to be in the future to have a profitable and viable business. Choosing what you do, where you do it, and who your allies are is extremely important in your strategic risk planning.

Don’t think of risk in terms or insurance. Think of risk in terms of what keeps you up at night. Take away your uncertainty and anxiety by developing a plan to deal with all of the risks your business faces.

Richard Shaw is a Vice President with CBIZ Insurance Services, Inc, and has over 25 experience working with clients to help them manage their risk. For more information about these plans and any other insurance needs, you may contact Richard at rshaw@cbiz.com.

AEC Survey Winner

The Maryland Construction Network (MCN) wishes to thank everyone who participated in our survey to identify the relevant issues of today’s contractors and the current use and trends regarding Architectural, Engineering, and Construction technology. We were very excited to receive a total of 77 responses during the incentive period.

MCN is pleased to announce that Kinsley Construction Company’s name was drawn as our contest winner. Kinsley has their choice of receiving either a complimentary sponsorship for an upcoming MCN Direct Connect or take a 1/2 Skyscraper advertisement on MCN’s website for a year. The retail value of these prizes are $800 & $900 respectively.

An outstanding cross section of the industry submitted their opinions including owners, developers, design professionals, GCs and subcontractors. The information garnered will be used to coordinate future educational programs as well as content for our newsletters and podcasts.

Thank you to all who participated! While the contest is over, you can still help us by completing the survey at http://www.mdconstructionnet.net/aec-innovation-alliance-2/survey/.
PTJV countered that ACE could not deny liability coverage under Maryland law unless it established that PTJV's lack of notice resulted in actual prejudice to ACE. That argument arose primarily from Section 19-110 of the Insurance Article of the Maryland Code, which provides:

An insurer may disclaim coverage on a liability insurance policy on the ground that the insured or a person claiming the benefits of the policy through the insured has breached the policy by failing to cooperate with the insurer or by not giving the insurer required notice only if the insurer establishes by a preponderance of the evidence that the lack of cooperation or notice has resulted in actual prejudice to the insurer.

PTJV also argued that ACE had a like duty under common law principles to prove prejudice before denying coverage.

The District Court agreed with ACE and granted its motion for summary judgment. On appeal, the Fourth Circuit affirmed that decision, analyzing the coverage issue under the laws of Maryland (where the project was built) and Tennessee (where the liability policies were made). Under Maryland law, the Fourth Circuit rejected PTJV's prejudice argument, finding that the requirement for an insurer to prove prejudice before denying coverage – whether derived from statutory or common law principles – did not apply where an insured has failed to satisfy the prior-consent conditions set forth in the no-action and voluntary payment clauses. The appellate court held that the no-action clause provided that PTJV could not sue ACE to recover on the settlement unless it had fully complied with all terms of the CGL and excess liability policies and, moreover, that PTJV could not sue unless the settlement agreement was signed by ACE. The voluntary payment clause, in turn, required PTJV to get ACE's consent before ACE would be required to make a payment, assume any obligation, or incur any expense (such as reimbursing PTJV for amounts paid to settle a claim arising from the glass atrium collapse).

In reaching that decision, the Fourth Circuit concluded that the prior consent provisions in the no-action and voluntary payment clauses were conditions precedent to coverage, meaning that they required certain events to occur (unless excused) before ACE had any obligation under the liability policies. Because PTJV did not obtain ACE's consent prior to settling with Gaylord, thereby failing to satisfy this condition precedent to coverage, ACE did not have to prove any prejudice before it denied coverage.

The Fourth Circuit also concluded that even if ACE were required to show prejudice, it could meet that burden. In particular, the Fourth Circuit found that an insurer is prejudiced if its insured unilaterally settles a claim without obtaining prior consent because (1) the insurer loses its right to investigate, defend, control, or settle the claim, and (2) the insurer would always have the nearly impossible burden of proving collusion or demonstrating, after the fact, the true value of the settled claim.

The lesson from the Fourth Circuit's decision in Perini Tompkins/Joint Venture is clear. A contractor must obtain the consent of its liability insurer before settling a construction defect claim; otherwise, the insurer can deny coverage without having to prove that it suffered any prejudice. Should that happen, the contractor will lose the ability to seek reimbursement for the amount of the settlement, even if that amount otherwise would be considered fair and reasonable.

John F. “Jack” Morkan III is co-chair of Ober|Kaler’s Construction Group and a member of the firm's Litigation Group. Jack's practice focuses on construction contract disputes and alternative disputes resolution (ADR) proceedings. He has litigated matters in state and federal courts throughout the United States and has participated in arbitration proceedings involving application of U.S., international and foreign law.

Jackson B. Boyd is an associate with Ober|Kaler's Construction and Litigation Groups. Jack handles complex civil litigation with a concentration in construction, business and financial matters. In the construction law arena, Jack represents owners, general contractors and subcontractors in contract formation and construction disputes on a variety of private and public projects.
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- Tell the Compliance Officer that you expect him/her to advise the company of all suspected violations and the standard involved. Tell the Compliance Officer that you will be taking notes of all the suspected violations he/she informs you of so that there will be no dispute as to whether the company was informed.

Records Review
- Allow the Compliance Officer to look only at your Site Specific Safety Program.
- Do not volunteer to give or let the Compliance Officer look at any safety inspection reports made by SFI Compliance, Inc., insurance carrier, etc. other than those reports required by MOSH(such as scaffolding inspection forms). This includes not giving or letting the Compliance Officer look at any such reports that have been made on subcontractor’s activities.
- Inform the compliance officer that these reports will be made available by management at a later time.

Walk Around Inspection
General
- Have the company representative accompany the Compliance Officer at all times. Never leave the Compliance Officer to have free and unlimited access to your work without the company representative.
- Control the inspection. Treat the Compliance Officer as you would a guest in your house; they are there with permission and will be expected to follow all instructions given to them and will be required to conduct the inspection in such a manner that it does not disrupt the scheduled work. Remember, it is the company’s construction project, not MOSH’s. The Compliance Officer is to be treated as any other visitor—under your control while on our project. Tell them that you need to take your own notes, pictures, and gather information at the same time.
- Refer all questions the Compliance Officer asks to the Subcontractors Foreman when possible.
- Take detailed notes of everything seen, discussed, and done by the Compliance Officer.
- Take photographs of everything the Compliance Officer photographs. If the equipment, work area, etc., can be photographed from a more favorable position (different angle, greater distance, etc.) photograph it from the different position.
- Do not allow any employee to perform demonstrations for the Compliance Officer. Example—if a truck is idle and the Compliance Officer asks you or an employee to operate it so he can see if the horn or backup alarm is working, refuse to do it. Allow the Compliance Officer to see the work as it is normally being done only.
- Do not volunteer any information. Refer all questions the Compliance Officer asks to the Subcontractors Representative when possible. The Compliance Officer is trained to obtain admissions from companies. Be careful answering questions. When in doubt, ask them to restate the question. Do not admit to a violation. State the facts only, not your opinion. Do not lie to the Compliance Officer at any time.
- Do not issue orders, such as "clean up the trash", during the inspection to have conditions corrected that have not been noticed by the Compliance Officer. The immediate abatement of an alleged violation will not preclude being cited by the Compliance Officer and may alert them to the condition.
- Make sure you fully understand everything the Compliance Officer does or comments on. If you do not understand everything they say and do, ask questions. Insist on having time to record all facts, even if the inspection is slowed down.

Employee Interviews
- The Compliance Officer may interview any employee privately.
- For interviews held with employees in our presence, record the names and companies of all employees interviewed. Record the content of the conversations with the employees.
- We have the right to be in attendance with management personnel.
- Rules for Being Interviewed
  1. Tell the Truth
  2. Make sure you understand the question
  3. Just answer the question, nothing else
  4. Answer based on your knowledge only …don’t guess or speculate

Closing Conference
- Contact your SFI Safety Consultant prior to the
closing conference. Have the designated company representative present for the closing conference.

- Take notes of everything discussed and record what documents were distributed by the Compliance Officer.
- Make sure that no questions you have concerning the inspection go unanswered. If the Compliance Officer feels that violations exist on the project, find out exactly why they feel that way. Tell them that you are noting every potential violation that they advise may exist so there will be no dispute at a later conference or hearing. Hand the list back and ask if that is everything, ask what other items may exist. If they are unsure or do not list any others, tell them that you are noting that no additional items were included in response to your questions.
- Don't give any estimates of abatement time needed to correct any alleged violations.

After the Closing Conference

- Prepare a detailed report of your inspect notes. Include photos and any other relevant information. Send report to your management.
- Keep all notes and pictures taken on file.

After the inspection is complete, you may receive a citation. This can take a week to a couple of months for you to receive. Don’t ignore this when you receive the citation, prompt action is required to stay in compliance with the law.

you might mention that, just last year, the IRS released final regulations on the tax treatment of expenditures related to tangible property. The regulations provide guidance on how to distinguish between capital expenditures and deductible business expenses when acquiring, producing, improving or performing incidental repairs and maintenance of property.

Detail oriented

Contractors, by nature, must be detail-oriented to ensure every specification of a contract is performed correctly. Cost segregation studies are but another chance to show off your attention to, and knowledge of, critical construction details.

Rivka Bier, CPA, MST is a manager at Hertzbach & Company, P.A. in Owings Mills, Maryland, Rockville, Maryland and Arlington, Virginia. She can be reached at (410) 363-3200 or by emailing rbier@hertzbach.com.

Dan Johnson, CSP is the Managing Partner of SFI Compliance, Inc. (www.sficompliance.com) and a Certified Safety Professional. SFI assists companies throughout the Mid-Atlantic with their safety programs, including development, inspections, training and MOSH representation. You may contact Dan at: dan@sficompliance.com.
### Job Opportunities

#### Position Available: Medical Equipment and Furnishings Project Manager - Hobson USA

**Description:** HOBSON USA is in immediate need of a Project Manager for our client located in Baltimore, Maryland. This position requires a multi-tasking, detail-oriented individual who is capable of communicating well with staff of all levels, construction managers and purchasing departments.

#### Position Available: Administrative Assistant (Construction) - Hobson USA

**Description:** HOBSON USA is searching for an Administrative Assistant for our client, a national/international construction company. This position will provide basic administrative support for our client's field office.

#### Position Available: Civil Quality Control Project Engineer - Hobson USA

**Description:** HOBSON USA is searching for a Project Engineer for our Client, a national/international construction company, to perform quality control for a multi-million dollar heavy civil construction project located in Baltimore, Maryland. This position requires an individual who is capable of communicating well with project management staff as well as field personnel.

Please visit the “Now Hiring” page (Opportunities/Now Hiring) on MCN’s website for more information about these and other positions currently available!

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### Coming Soon

#### Tuesday, August 26th – Educational Seminar

**Get Paid On Time! The Perils & Pitfalls To Avoid!**

Pessin Katz’s Towson Office  
7:00 – 9:00 a.m.  
Sponsor: Pessin Katz Law, P.A.

#### Wednesday, September 24th – Direct Connect & Educational Seminar

Direct Connect & “LinkedIn As A Business Tool” Seminar  
Rommel Cranston Construction’s Office  
Seminar: 3:30 – 5:00 p.m.  
Direct Connect Networking: 5:00 – 7:30 p.m.  
Sponsors: Allstate Leasing, EBL Engineers, Rommel Cranston Construction, Safway Scaffold.

#### Wednesday, October 15th – Project Tour & Networking Event

MCN Along With AIABaltimore & USGBC Maryland Present A Joint Project Tour & Networking Event  
The Maryland Zoo in Baltimore's New Penguin Exhibit  
5:30 – 8:00 p.m.  
Details To Follow - Space Will Be Limited!

#### Thursday, October 16th – Educational Seminar

**Unpaid Wage Claims – What Employers Need To Know!**
Pessin Katz’s Towson Office  
7:00 – 9:00 a.m.  
Sponsor: Pessin Katz Law, P.A.  
Details To Follow - Space Will Be Limited!

#### Wednesday, November 5th – Direct Connect & Educational Seminar

Direct Connect & Educational Seminar  
Hosted By MEC² At Their New Facility - The Event Will Take Place Inside GOALS Baltimore Indoor Sports Complex  
Seminar: 3:30 – 5:00 p.m. Presented By Print-O-Stat  
Direct Connect Networking: 5:00 – 7:30 p.m.  