

The Quarterly Magazine of the Associated Builders & Contractors New Hampshire/Vermont Chapter

CONSTRUCTION RESOURCE

 **ABC** New Hampshire
Vermont
Associated Builders and Contractors

Volume 31, Issue 1



MANDATES

INSIDE:

NH SB 274:

A Way to Keep State Construction
Costs Low and Ensure Pathways
into Construction Careers

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ABC values economic freedom within a free-market economy, with open and fair competition and diverse participants constantly striving to achieve the highest levels of personal and company performance.

ABC values the highest levels of personal and corporate standards of behavior characterized by responsibility, accountability and integrity, with demonstrated personal and industry professionalism by all participants.

VISION

The Vision of ABC is an environment in which people and companies succeed based on free-enterprise principles within the free-market system.

MISSION

ABC will continually strive to be the leading voice promoting free enterprise within the construction industry. ABC will promote and defend the merit shop philosophy. This philosophy encourages open competition and a free-enterprise approach to construction based solely on merit, regardless of labor affiliation.

CORE PURPOSE

The Core Purpose of ABC is to advance and defend the principles of the merit shop in the construction industry and to provide members and their employees with an opportunity to succeed.



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Associated Builders and Contractors, Inc. is a national non-profit organization whose mission is to represent the construction industry as a cohesive group of professionals, to serve as their vision and voice, and to pursue quality, common goals, and solutions to industry issues. Construction Resource is published quarterly by the NH/VT Chapter of Associated Builders and Contractors. Subscription rate is \$20 per year.

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From the Chair

Focused Efforts for Strategic Results

Looking forward to a great 2022!

Welcome to the first of four issues of Construction Resource for 2022. My name is Dan Smith, and I will be the chair of the board of directors for this year. It is a pleasure and honor to be able to serve on the board of such a well-respected organization.



Thanks to our outgoing chair Matt Johnson for doing a great job in 2021. Matt's thoughtfulness and legal expertise has been of great value to the ABC members.

My partner, Mike Hulbert, and I are the principals of H. P. Cummings Construction Company. We have offices in Woodville NH and Waterbury VT. We are a medium size full-service CM and general contractor serving Vermont and New Hampshire. It has been an honor to work at this 143-year-old firm for the last 35 years.

H. P. Cummings (HPC) has been involved with ABC off and on for the last 20 years or so, using several of the organization's offering on an ala-carte basis. In 2017 we made the decision to join ABC on a continuing basis and I joined the board.

A big question we at HPC had as I am sure many of you have asked yourself is "Why should my company join ABC? If I do join, what do I get for annual membership fee?" It's easy for many of us to know what that value is, but it's not always easy to put it into words because many of us are contractors, not salespeople. I am pleased to share with you that the chapter developed a great re-

source for us and if you go to the following link, you will find a pdf that summarizes the benefits of being an ABC member. -----

I hope that you can use it when you talk to others about the benefits, we all enjoy from being a member.

Delivering more value for our members is an overarching theme of this year's annual strategic plan. I am pleased to share with you that ABC board conducted its annual strategic planning and came up with some good goals for this year. We are focusing our efforts as follows:

- **LEGISLATIVE ADVOCACY:** Advocacy, be "the voice" of the industry, and influence policies.
- **MEMBERSHIP ENGAGEMENT:** Find ways to engage the majority of members and increase their understanding of the benefits available.
- **WORKFORCE DEVELOPMENT:** To increase the viable pool of industry applicants through an awareness campaign for careers in the construction industry.

- **WORKFORCE EDUCATION:** Provide on-time, relevant education for members in all stages of their career.

The board has realized for several years that our footprint and involvement with Vermont contractors needs to be more substantial. To do this, our chapter has brought on Bryan Kent as our Vermont Regional Director. Based in Winooski, Bryan's role is to listen to the Vermont contractors and make sure we have programs and resources in place to meet their needs.

ABC is a service organization here for the construction industry to provide them with the services they need. I ask our current members, please make sure you are having conversations with us to make sure we have providing what you need, and for those that have not yet joined us please think about becoming a member.

Looking forward to a great (covid free) 2022.

Sincerely,

Dan Smith

2022 Chairman

*New project just completed?
Promotions within the company?
New employees just hired?
Won an award recently?*

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**CONSTRUCTION
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VOLUME 31, ISSUE 1

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NH SB 274: A Way to Keep State Construction Costs Low and Ensure Pathways into Construction Careers

Protection from the Costs of Beltway Politics

Material shortages and workforce challenges already make public construction costs high, but developing federal mandates threaten to push public work projects costs to new heights. Fortunately, SB 274 counters any threats from Washington politics.

SB 274 is about ensuring efficient, accountable, and effective construction spending and investment in New Hampshire, free from unnecessary government-mandates—such as anti-competitive and costly project labor agreements (PLAs)—is a win-win for taxpayers and the economy. New Hampshire deserves an inclusive policy that creates the best value for taxpayers and ensures that all Granite Staters have a fair shot at improving and rebuilding their public infrastructure.

If passed, SB 274 will ensure that any state entity awarding a contract for a public works project, shall not “require or give preference,” or “prohibit a bidder, offeror, or contractor in any contractor tier from entering into or adhering to an agreement with a labor organization.” This government neutrality leaves the decision of contractor/labor management agreements between the contractor and their labor force. This is the best way to ensure the best possible price, which comes from fair and open competition on state taxpayer-funded projects.

To fully understand the positive impact of SB 274, we first need to recognize the negative impacts of government-mandated PLAs on the construction industry and taxpayers.

Government-mandated PLAs were first utilized in the early to mid-20th century to

curtail union-led strikes on massive public works construction projects. During that era, the majority of the construction workforce belonged to a union. PLAs were used as a tool to streamline dozens of collective bargaining agreements covering unionized construction workers and warring local unions on an

We need every worker possible to have an opportunity to offer their talents to work on a project. But PLA mandates limit the number of pathways into construction careers.

important jobsite. During this heavily unionized era, granting unionized contractors and union workers a monopoly to build a project in exchange for a no-strike promise via a PLA arguably made sense because strikes were frequent and there were limited alternative sources of construction labor.

In stark contrast, today over 90% of the New Hampshire construction workforce chooses to not belong to a union. PLA mandates unfairly discourage competition from qualified open shop contractors and their employees.

In addition, numerous government-mandated PLAs on local, state and federal projects across America have resulted in litigation, reduced competition, increased costs, needless delays and poor local hiring outcomes and safety records.

We need every worker possible to have an opportunity to

offer their talents to work on a project. But PLA mandates limit the number of pathways into construction careers. PLAs require merit shop companies to obtain apprentices exclusively from union apprenticeship programs. This means craft professionals enrolled in federal-approved apprenticeship

programs other than those offered by the union are excluded from working on PLA projects. This provision also eliminates

Project Labor Agreements should never be mandated by state government; instead, the contractor should be free to voluntarily adopt a PLA if the firm trusts it would help promote economy and efficiency in contracting and help it win the contract and deliver it to the government safely, on time and on budget.

new entrants into the construction industry trained in alternative programs at community colleges, vocational schools, merit-based training programs or employees enrolled in employer craft training programs.

There is more than one way to train a skilled construction workforce, so why should just a

few apprenticeship programs receive preferential treatment? SB 274 protects pathways into construction by ensuring all apprentice programs are given equal opportunity.

Project Labor Agreements should never be mandated by state government; instead, the contractor should be free to voluntarily adopt a PLA if the firm trusts it would help promote economy and efficiency in contracting and help it win the contract and deliver it to the government safely, on time and on budget.

In the federal infrastructure money, we have seen language encouraging government to mandate PLAs. Public construction is expensive enough and we do not need Beltway politics to drive those costs higher. We need to protect small businesspeople and New Hampshire tradespeople from Washington politics. We need SB 274.

SB 274 ensures lower costs for taxpayers more construction career pathways for jobseekers.



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K-1, K-2, K-3 – Oh My!

KELLI D'AMORE, NATHAN WECHSLER & CO., P.A.

If you have been frustrated with the IRS over the past few years, this is not going to help. If you have a passthrough entity (Partnerships & S-Corporations) you are probably familiar with Schedule K-1 you receive from the business for your personal tax reporting. Beginning with 2021, the IRS has introduced Schedules K-2 and K-3 which are each about twenty pages long and are looking for details of foreign activity at the company level for use in preparation of tax returns at the individual shareholder/partner level. It may seem that the foreign reporting element would not apply, but if one shareholder or partner has investments with foreign tax credits, that would be enough to require the passthrough entity to comply.

These schedules are complex and will be a burden for taxpayers (and CPA's!) to complete. Another IRS requirement with seemingly little to no value for taxpayers. Having to become familiar with these new schedules is one thing, but the kicker is that the IRS will not have these forms ready for electronic filing until March 20th for Partnerships and mid-June for S-Corporations – in both cases after the March 15th due date of these returns!

After dealing with backlash from the CPA community, the IRS has come to its senses and provided interim relief on February 16th. For 2021, you are only required to include Schedules K-2 and K-3 if any ONE of the following situations apply:

1. The partnership or S Corp has foreign partners or
2. The partnership or S Corp has foreign activity, including Foreign Tax Credits or
3. The partnership had information reported on Line 16 or 20c^A for Form

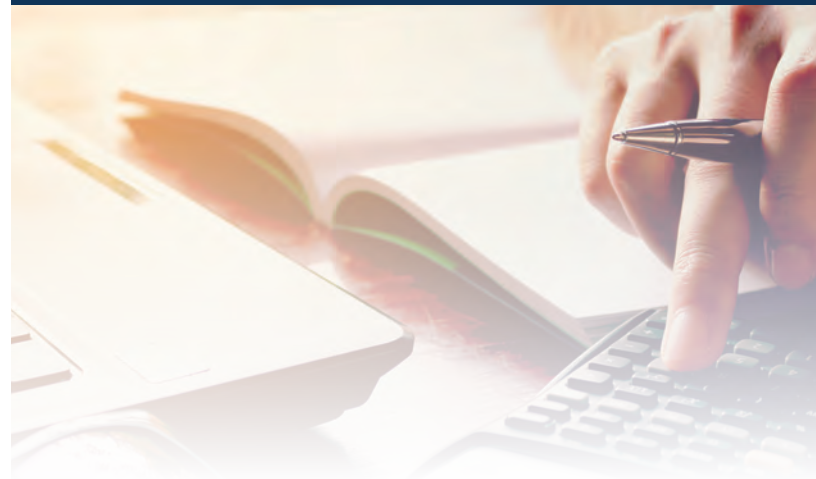
- 1065, Sch K or the S Corp had information reported on Line 14 or 17d for Form 1120-S, Sch K, for tax year 2020, or
4. The partners or shareholders are requesting the information required to be reported on Schedules K-2 and K-3.

It is important to note that this relief is only for 2021. In this current year relief, you are not required to look through to the individuals receiving the K-1's to see if they have foreign activity, but this will be required in subsequent years. If you believe this will impact you, contact your CPA to discuss how this will be handled for 2021. Some firms have chosen to extend all of these returns and others have chosen to file the K-2 & K-3 for all as a preventative measure.

We all hope the IRS will focus on catching up from these past few years and stop creating new filing requirements that they are not equipped to monitor or even accept. Covid has forced us all to have a bit more patience, but patience for the IRS is running thin in the CPA community.

It is not too late to benefit from the ERTC

The Employee Retention Tax Credit under the CARES Act encouraged businesses to keep employees on their payroll by offering a refundable credit that businesses can claim on qualified wages paid to employees. If eligible, the ERTC provides employers up to \$5,000 per employee during 2020 and up to \$7,000 per employee, per quarter during 2021 (only available through Q3). That is up to \$26,000 per employee! This is a refundable tax credit against certain employment taxes – so even nonprofits can benefit from this program.



WHO IS ELIGIBLE? Using 2019 quarters as a baseline for both 2020 and 2021, you would need to show a 50% reduction in gross receipts compared to the same quarter in 2020 or a 20% reduction in gross receipts compared to the same quarter in 2021 to be eligible. If your business was forced to shut down due to a government order, you may also qualify without meeting the thresholds above. This credit is available to small employers only which is defined as 100 or fewer employees in 2020 or 500 or fewer employees in 2021.

HOW IS THE CREDIT CLAIMED? This credit is claimed by filing an amended Form 941 for each quarter impacted. We recommend partnering with a firm that specializes in this area to ensure you are playing well with other government programs in place during this period (PPP, EIDL, R&D etc.). The credits obtained are treated as taxable income, but the benefits certainly outweigh the cost. To date our firm has participated in ap-

proximately thirty claims which have generated credits ranging from \$30k to \$2M and aggregate total refunds of nearly \$13M! If you think you may be eligible, please give us a call to discuss further.

^A Includes: Controlled Foreign Corporations, Passive Foreign Investment Companies, 1120-F, section 250, section 864(c)(8), section 721(c) partnerships, and section 7874



Kelli D'Amore

Kelli D'Amore is a Principal and CPA at Nathan Wechsler & Company, P.A. specializing in construction and nonprofit accounting and taxation.

With more than 20 years serving these sectors, Kelli has developed a strong understanding of the key drivers and business needs of these organizations.

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■ **NOBIS GROUP** is pleased to announce that Adam Roy, LSP, CHMM has been named an Associate of the firm. Roy, a Senior Project Manager with Nobis Group, is a credentialed Licensed Site Professional and Certified Hazardous Materials Manager experience with more than 20 years of success leading the investigation, cleanup, and redevelopment of numerous contaminated industrial, institutional, military, municipal, and Superfund sites throughout the eastern United States.



Adam Roy

“Adam has proven himself to be expert at guiding clients and their projects through complex environmental regulations and review processes with a focus on delivering solutions that have greatly protected public health and our communities. His leadership and success have played an important role in Nobis’ growth over the years and it’s now very rewarding to see Adam mentoring other Nobis professionals to provide this same high caliber level of service and expertise to our clients,” stated Pete Delano, PE, Senior Vice President at Nobis Group.

Nobis Group also announced the appointment of Chris Adams, PE and Pete Delano, PE to the company’s Board of Directors. Adams joined Nobis Group in 1999 and brings 24 years of design, construction, and management related industry experience. He serves as Vice President of Operations where he oversees Nobis Group’s resources with a focus on tech-



Chris Adams



Pete Delano

nical growth, process efficiency, technology integration, and overall project delivery excellence. Delano joined Nobis Group in 1995 and serves as Senior Vice President of Marketing & Sales where he’s responsible for shaping and leading Nobis Group’s overall strategic growth and business development initiatives. Delano brings 36 years of management, executive, and business development industry experience.

■ **Leadership at THE ROWLEY AGENCY** is proud to announce the promotions of Joe Ralbovsky and Matt Becker each to the titles of Vice President and Shareholder.

Joe joined The Rowley Agency in 2003 and has done an outstanding job on every aspect of their business. His loss control activities have become legendary throughout New England and his common-sense solutions to issues, speaks to his professional standing in the insurance industry and the agency.



Joe Ralbovsky

Matt joined The Rowley Agency in 2009 and his book of business began to grow exceptionally fast, and we all knew he would be successful. Then in 2020, with the untimely, tragic passing of Dan Duhamel, Matt was thrown into a leadership role where he has done an outstanding job guiding the firm’s benefits department to new heights.



Matt Becker

■ **TFMORAN** is honored to be voted as 2022 Best of Business in the Engineering category by New Hampshire Business Review readers. 2022 marks the 10th consecutive year TFMoran

has received this award. The BOB Awards honor the “Best Of Business” in New Hampshire in over 90 business-to-business categories. According to NHBR, more than 4,000 people cast their votes in the survey.

“It is a great honor that we have now won for the past ten years in a row!” said Robert Duval, president of TFMoran. “I believe this remarkable degree of community recognition is a reflection of our core values: focusing on client service and delivering the right engineering solution for every project.”

■ **DECCO, INC.**, a leading mechanical contractor supplying specialized construction, maintenance, and piping fabrication services throughout New England, has announced the relocation of its corporate headquarters to 1900 Southwood Drive in Nashua, New Hampshire.

“We are proud of our involvement in the vaccine development and support of the booming life sciences market across the globe that are delivering lifesaving and altering medicines and therapies.” Kyle

careers in construction, expanding our services, recruiting, and retaining premier talent, being a leader in the industry with a safety-first culture and delivering superior quality, all while supporting the communities in which we live and work.”

DECCO, Inc. has achieved the Accredited Quality Contractor credential from Associated Builders and Contractors. Only 229 of the nation’s elite merit shop construction contractors earned the credential in 2020.

Launched in 1993, ABC’s AQC program provides recognition to world-class construction firms that have documented their commitment in five areas:

- Quality
- Talent management
- Craft and management education
- Community relations, inclusion, diversity, and equity
- Safety performance - in earning the AQC credential, each member company commits to world-class safety by achieving Gold, Platinum or Diamond level in ABC’s STEP Safety Management System.



DECCO's new Nashua HQ

Reagan, Owner, Chairman & CEO, DECCO, Inc. “This year, DECCO has added over 30% to our office and field staff supporting growth and expansion of services as we develop new client relationships and explore new markets and geographies. We are focused on promoting



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DECCO has been named an Accredited Quality Contractor achieving elite status in Safety, Education and Culture.

ALPINE ENVIRONMENTAL

promotes long-time employee, Keith Adams, from Operations Coordinator to Training Superintendent to expand their field training program. Adams, who has been with Alpine for over 20 years, brings a wealth of experience and knowledge to this position and will also act as the company Safety Officer, responsible for regular safety update sessions for all crews.



Keith Adams

Jim Campbell will advance from Project Manager to Pre-Construction Manager. In this new position, Campbell will coordinate with both Alpine's client service representatives and their clients before work even begins to ensure projects are set up for success. Additionally, he will aid in quality control and managing the Alpine fleet, equipment, and inventory.



Jim Campbell

Tom Bradley will assume the role of Site Superintendent from Site Supervisor. Bradley will take on additional respon-

sibilities as he runs and manages our larger projects from start-to-finish. An industry veteran, Bradley has been working in construction and abatement for over 20 years and specializes in finish carpentry.



Tom Bradley

NORTH BRANCH CONSTRUCTION

Chief Financial Officer, Christopher Galbraith, was recently presented with a Patriot Award for his ongoing support of a company employee, Sandra McNeff, whose spouse was deployed with his National Guard unit to the Middle East in 2021. Mrs. McNeff described Mr. Galbraith's support as essential in helping her navigate day-to-day life as a working parent for almost a year while her husband was deployed. Flexibility in her work schedule, when required, and a helping hand and compassionate sounding board were some of the types of support Mrs. McNeff listed in her nomination submission.

The Patriot Award, presented by Employer Support of the Guard and Reserve (ESGR), a Department of Defense program, recognizes a supervisor/ employer for their support of an



Christopher Galbraith is presented with a Patriot Award

employee's military service or of a military spouse. The Patriot Award reflects the efforts made to support citizen warriors and their families through a wide-range of measures including flexible schedules, time off prior to and after deployment, caring for families, and granting leaves of absence, if needed.

"North Branch Construction is honored to see Chris Galbraith presented with this Patriot Award," said Joseph H. Campbell, President. "It is no surprise that he would go above and beyond to support members of the North Branch Construction team when they need him most, and particularly, when it comes to supporting members of the U.S. Military and their families."

North Branch Construction has donated the proceeds from the firm's annual Safety Fine Program to two deserving non-profit organizations – NFI North, Inc. out of Contoocook, NH, and Families in Transition-New Horizons in Manchester, NH. In 2021, the Safety Fine Program proceeds totaled nearly \$3,500, resulting in a \$1,750 donation to each organization.

North Branch Construction developed its Safety Fine Program fifteen years ago, with the intent to increase hazard recognition, reduce risk of injury, and create an overall safer working environment for all personnel working on North Branch Construction jobsites. At a minimum, the program



North Branch Construction presents Families in Transition with a \$1,750 donation



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North Branch Construction presents NFI with a \$1,750 donation

requires subcontractors, as well as North Branch Construction's own employees, to abide by the OSHA Construction Industry Regulations at all times. When safety violations are observed, it is North Branch Construction's objective to correct them immediately. Consequently, the firm warrants safety fines for any repeat violations. Each year, North Branch Construction donates all proceeds from the Safety Fine Program to non-profit organizations the firm has worked with during that year.

ing 25-unit apartment complex include new kitchens, flooring, appliances, tubs, new bath fixtures, doors, electrical upgrades, attic insulation, a new sprinkler system and patching and painting. Two units will be converted to ADA compliant dwellings. In addition, the interior stairwells will be partially rebuilt to bring up to current building codes. Exterior work will include paving and sidewalks, new siding and insulation, new doors and windows, site utilities dumpster pads and enclosures, and a new



The Harvey Heights property in Meredith, NH

North Branch Construction recently began work conducting renovations at the Harvey Heights property in Meredith, NH. Renovations to the exist-

water entrance for the sprinkler system.

North Branch Construction is pleased to announce the recent addition of Shrika Chikurty and

Mark Condon to the company.

Shrika Chikurty, joining North Branch in the role of Project Engineer, comes to North Branch Construction having recently worked as an Assistant Project Manager for a commercial construction company in California. Ms. Chikurty completed a Master of Construction Management degree at the University of Texas Arlington and also holds a Bachelor of Architecture degree from Jawaharlal Nehru Architecture and Fine Arts University in Hyderabad, India.



Shrika Chikurty

Mark Condon comes to North Branch Construction with over 16 years of experience in commercial construction, starting out as a Laborer. Condon also held the positions of Field Engineer, Project Engineer, Construction Coordinator, Assistant Superintendent and Project Superintendent. Mr. Condon's holds particular experience working in active health care environments performing clean work construction, as well as upgrades to educational facilities and numerous infrastructure projects.



Mark Condon

a 12,000 sf event and function facility, 10,000 sf Tuscan Brands restaurant with extensive outdoor dining, a roof top bar, and fully amenitized pool and sun-deck. The project is expected to be completed in the Spring of 2023.

Tuscan Village is a mixed-use destination that embodies a live, work, stay, play lifestyle. When completed, Tuscan Village will total approximately four-million square feet of residential, life science and office, hotels, restaurants, and experiential retailers. PROCON was chosen for this project because of its unique design-build process that integrates architecture, engineering, and construction management to facilitate a seamless development process from concept to completion.

"Tuscan Village represents the kind of best-in-class development project that aligns with PROCON's expertise as a design-build company," said John Stebbins, Managing Director of PROCON. "Our team of architects, designers and construction managers can showcase their expertise at designing welcoming space that is both functional and aesthetically pleasing. We are proud to be able to help make Joe Faro's vision for Tuscan Village a reality."

■ New Hampshire Senator Morse joined Joe Faro and the Tuscan Brands Real Estate team, along with the **PROCON** design-build team at a beam-raising ceremony today to mark a significant milestone in the construction of a nearly 300,000 sf development project located at Tuscan Village in Salem, NH. The 5-story building will include a 165-room Marriott soft-brand Hotel, 91 luxury apartments with private underground parking, 30,000 sf of ground-level retail space,





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BankProv was founded in 1828 as The Provident Bank and exists today as the 10th oldest bank in the country. Today, we are an innovative, commercial bank that finds solutions for our business and private clients. We are committed to strengthening the economic development of the regions we serve by working closely with businesses on delivering superior products and high-touch services to meet their banking needs.

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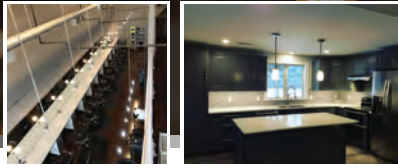
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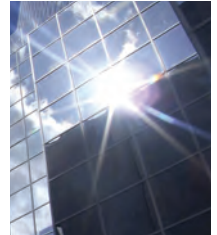
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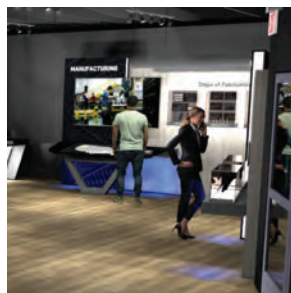
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Concept images courtesy of Sacks Exhibits

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Avoid Roadway Landmines

As contractors you deal with betting on your own company every day. This includes betting that the next project will come through, betting that safety will prevail and betting that your drivers will not crash.

One thing you probably never think about are the landmines that surround your vehicles from the moment you and your employees leave your office until the moment you secure your vehicles at your jobsite. So much can happen on the roadway in between.

Before I go further, let's first discuss how important it is to ensure that your drivers are properly trained, they have a clean motor vehicle record, your load securement policy and maintenance policy comply or are better than all DOT State and Federal Laws. Even better -if you have a GPS system as well as dashcams that are monitored daily, you are now protecting your company and are ahead of the game!

Congratulations to all of you who are utilizing the aforementioned, defense/safety policies and technology. Your company is better positioned to defend against unwarranted and exaggerated insurance auto claims or as what I like to think of as litigious landmines.

What is a Litigious Landmine?

The following scenario will help you gain a better understanding of the proverbial "landmine:"

Your employee, Tom, has been with you for many years and is a responsible and dedicated member of your team. He is proficient at operating your company's excavator. Tom gears up for the day with his helper. Today is like any other in that they make sure the excavator is fully secured and chained properly on the lowbed.

Tom and his helper then drive out of the yard and are on their way to the job. Ten minutes later while approaching an intersection, a car in front of Tom stops suddenly. Although Tom was keeping his distance, the load he was carrying prevented him from stopping on the dime. This caused him to gently bump the back of the other vehicle.

The single occupant of the car meets Tom and his helper who are already standing in front of their truck. The occupant states to Tom that he is running late for his chiropractor appointment. Tom also thought he smelled alcohol on the other driver's breath. The other driver and Tom looked over their vehicles for any damage. There was only a small indentation to the other driver's bumper. Since the other driver said he was in a hurry and there wasn't any damage to worry about, both parties agreed to go their separate ways. As soon as Tom got back into his cab, he immediately receives a call from the project super telling him to hurry up as everyone is waiting for them to start digging. Tom replied that he was on his way and "never" thought about the minor accident that he was just involved in again.

The Landmine Is Set

Three Years later a sheriff serves a summons and complaint to you containing counts of negligence and personal injury from a motor vehicle accident three years prior.

As the employer, you have determined that Tom was involved in the claim. Tom is brought into your office, and he has no recollection of the accident. Now the landmine is about to blowup. Your company has just fallen victim to a M.I.S.T. claim. M.I.S.T., stands for, MINOR IMPACT SOFT TISSUE. M.I.S.T. claims typically occur when the commercial motor vehicle operator fails to report the slightest of accidents and never documents what happened.

The Landmine Goes Off

Little did Tom know that the other party in the mishap took a picture of the lettering on Tom's truck and hired an attorney. The plaintiff's attorney now has a case and can prove your vehicle rear ended his client. The attorney directs his client to seek treatment with a neurologist for his headaches and a surgeon for his back pain.

During the past three years, many diagnostic visits and a few surgeries proved unsuccessful. Further, plaintiff's council negotiated a financial loan with a hedge fund to borrow \$300,000 to cover medical bills and loss wages. This process is called **Litigation Financing** and is designed to achieve larger settlements. To obtain a loan, the plaintiff must prove that the case has merit, and the hedge will be attached to any settlement.

Now with litigation financing involved in the case, the lawsuit against you escalates into a large claim and your defense is weak. If Tom had only taken the time to document what happened on the date of the loss, your company would have had a good defense. With proper accident investigation and documentation, defense council could have revealed that the plaintiff had preexisting back issues from the comments he made to Tom. The smell of alcohol on the plaintiff's breath may have helped with defense too.

The end result is that your insurance carrier will pay a large settlement as nobody bothered to investigate and document the events of the accident that day. Your insurance renewal will not be as pleasant and your company will have lost endless hours of time from having to sit through depositions and the trial.

Lessons Learned and Steps to Take to Avoid Litigation Landmines

Take the right precautions now to not be involved in M.I.S.T claims. Make sure to investigate all accidents and close calls. Invest in decent dashcams and GPS systems. Ensure that your driver selection process constantly monitors motor vehicle records and have all your employees sign off on a comprehensive fleet safety policy. With this in your arsenal, you can disarm landmines before they go off.

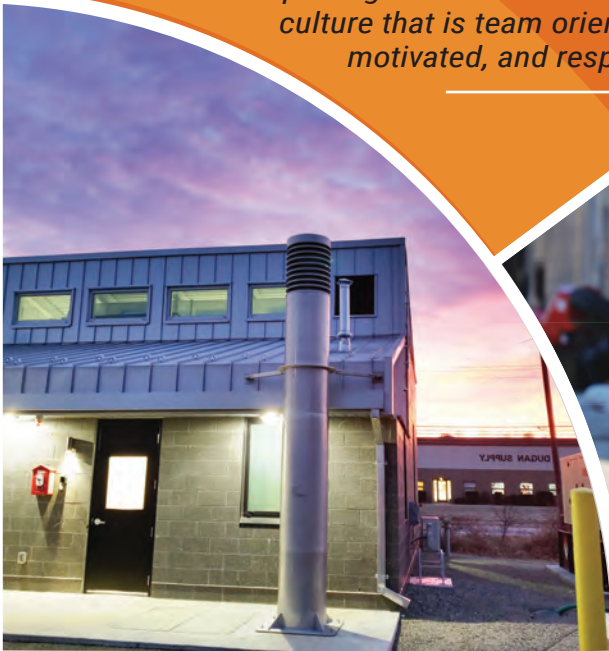


Eric Horner is a partner at The Rowley Agency, Inc. He works with commercial contractors in promoting improved safety cultures, enhanced accident investigation skills and contractor insurance programs."

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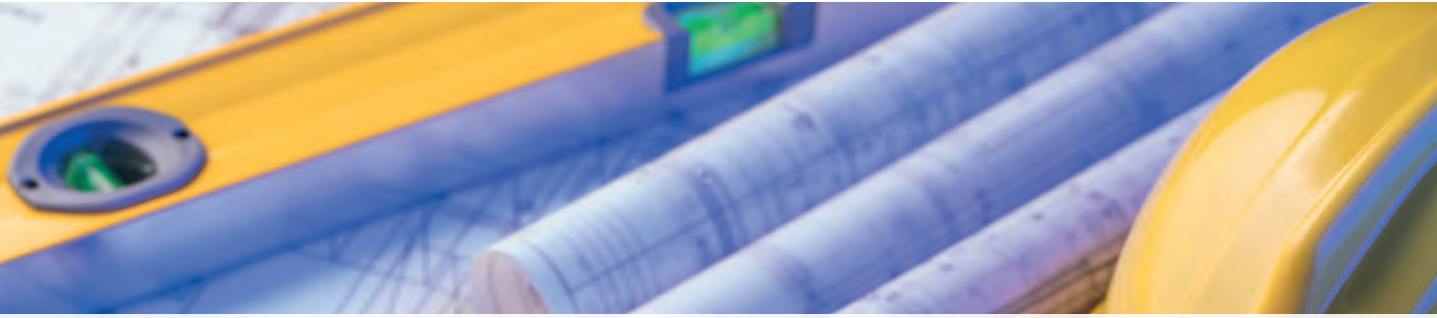
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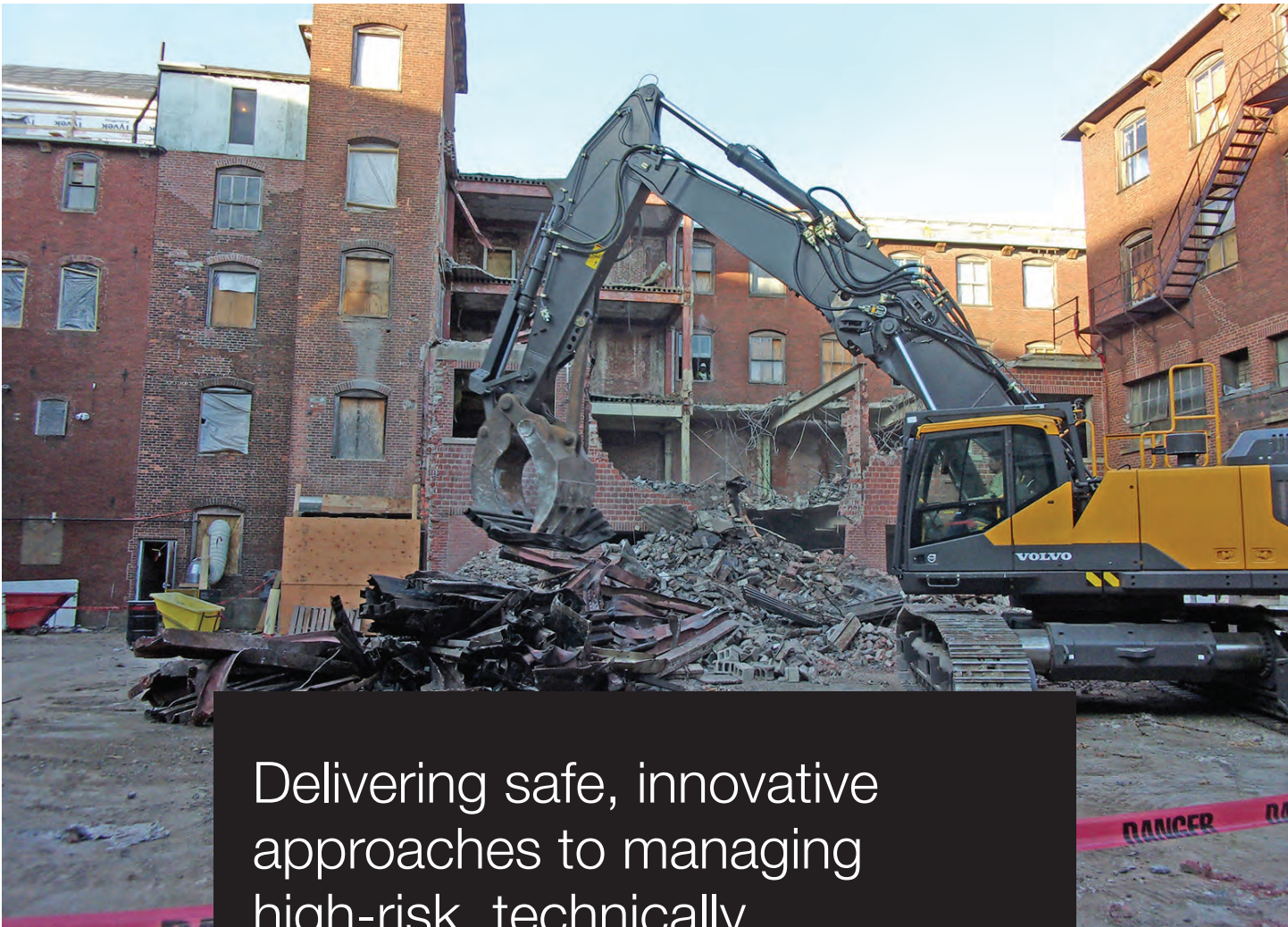
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