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THE BASESHEET



NRCA



WSRCA

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Letter from the President

Greetings Fellow ARCA Members:

LIKE MANY OF you, my involvement with ARCA started through the golf events. I enjoyed the annual conventions and social events too, where I was able to hang out with fellow roofers and talk about issues and successes, receiving feedback on ideas and hearing about potential problems I might expect in my own company. While starting out as a very low-key participant in ARCA, I found my engagement gradually ratcheting up—I joined the Board of Directors in 2009 and shortly thereafter filled the position of treasurer. From there, I graduated to vice president of the association. For the last ten years, as part of the Executive Committee, I have familiarized myself with the inner workings of ARCA and, despite my shortcomings, you have entrusted me to help guide our association’s efforts for the next year. Thank you for putting your faith in me—I will do my very best to live up to your expectations.

There is a quiet transition occurring within the board of directors—increasingly each year, the “old guard” that has led ARCA to its current stature is transitioning out, while a new, younger demographic has begun taking its place, injecting a different perspective of what people want and expect ARCA to represent. As part of this transition, we welcome **LARRY MILLER** from **GORMAN ROOFING SERVICES** to the executive leadership team. Also, **BEN KELLEY** from **POLYGLASS** and **TRACY WALLIS** from **AMERICA ROOFING** were recently elected to the board of directors and we look forward to their engagement. We encourage all ARCA members to join a committee and get involved. Trust me: you will get more out of this experience than you give.

As an association, we are at a tipping point: we need to continue doing all the things that work and support the roofing cadre—offering our free safety and skills education training, representing the construction and roofing trades at the State Legislature, and staging the various events like golf, sporting clays, and bowling tournaments that stimulate comradery and networking opportunities. But the shifting undercurrent of our association is bringing us into unknown territory due to changes in our revenue structure and the evolving needs of our members. To address these issues, the Executive Committee formed a “Strategic Planning Committee” under the leadership of **JOHN PLESCIA** from **STAR ROOFING** to put together a roadmap for the organization and a succession plan for the executive director position. For over 11 years as ARCA’s executive director, **DUANE YOURKO** has led us through the trials and tribulations of the slower economy and helped right the ship of ARCA with proper management and fiscal responsibility. Now, as Duane looks toward a future retirement, John has assembled a very diverse group to aid in this planning effort and create a map for the future of ARCA. I know they would be receptive to hearing your thoughts on the direction ARCA should take.

For those of you who attended our 50th Annual Expo, I thank you for your participation. We tried a lot of different things this year and most of them were well received. Several events ran beyond their expected times, which caused some compression in the allotment for the next activity. The Expo Committee will be fine-tuning the process for next year’s event at Harrah’s Ak-Chin in Maricopa, September 24–26th. We are hopeful next year’s expo will have increased attendance from many position levels in all companies due to the proximity of the event to the Phoenix valley. Owners, like myself, will be more likely to send salesmen, supervisors, foremen, and roofers to this event because we won’t have to pay for time off and hotel accommodations. Vendors will be excited to meet and show off their products to a variety of new prospects. All around, we are hopeful this event will be huge.

On a final note, on November 1st, we mailed out sponsor and membership renewal invoices for 2020. We do this in advance to facilitate payments for those that have latitude in their budgets to pre-pay. There is no increase in dues or sponsor levels for next year. Please have your accounting departments send these in as quickly as possible so we can start setting up a 2020 budget.

I look forward to seeing many of you at the annual holiday networking event—always a festive and fun-filled gathering—on December 12th, 4:00 pm at the Bluewater Grill.

Sincerely,

ARCA President, Russell Hyman // Gryphon Roofing



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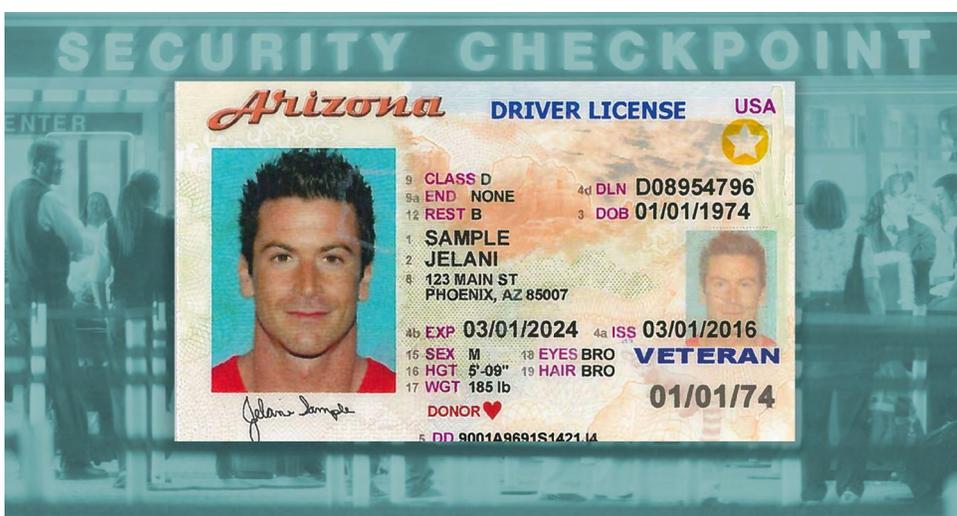
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Reminder To All Air Travelers and Contractors That Work On Federal Buildings And Military Bases

BEGINNING OCTOBER 1, 2020 a “REAL ID” will be needed to board a plane, enter restricted federal buildings or access military bases and will serve as a driver’s license. ADOT is urging all that require the new ID to not procrastinate —get it early and avoid the anticipated high demand in the months leading up to implementation

A real ID compliant license will have a little star on the upper corner of it.

Arizona residents can visit ServiceArizona.com and make an appointment to get the ID at one of eight MVD offices across the state. Residents will have to show an MVD representative

one document to establish birth, such as a birth certificate or a U.S. passport.

They will also need one document to confirm Social Security information, such as a Social Security card or a W-2.

Residents will need two forms to establish proof of residency, such as a bank statement, utility bill or voter registration card.

In addition, driver license holders can visit 24 third-party driver’s license providers throughout the state. The same documentation will be required.

The new travel ID cards will cost \$25 and will expire after eight years. 🏠

Instructors Needed for ARCA Academy

Applicants must possess a willingness to share knowledge and expertise in the following subject matters:

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- Flashings
- Coated Polyurethane Foam
- Metal
- Insulation
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- Decks and Coatings
- Wind Uplift
- Estimating
- BUR and Equipment
- Markup and Profit
- Roof Coatings
- Plans and Specifications



For more information, contact Education and Career Development committee chair **JERRY BROWN (WRECORP)** at jerry@wrecorp.com or 623 878-7117.

LEGISLATIVE UPDATE

STATE OF ARIZONA

It is that time of year when proposed bills that will be introduced for next January's legislative session start emerging. So far, nothing inflammatory for business and/or the construction industry has come up specifically. It is much easier to kill legislation than to introduce and seek passage. Year after year, over 2,000 new bills are introduced with around 300 eventually being ratified so the percentages work in favor of opposing versus favoring passage on any issue. ARCA's legislative priority will be to seek expansion of the "proportional liability" language—which was enacted last session for residential roofers—and make it applicable to commercial contracts.

FEDERAL

DOL releases final overtime regulation. The Department of Labor released the final overtime regulation to update the earnings threshold necessary to exempt executive, administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime pay requirements. The final regulation updates the salary threshold for administrative, executive, and professional employees to \$684 per week, or \$35,568 per year, which replaces the current threshold—\$455 per week, or \$23,660 per year—that has been in place since 2004. This differs from the previous proposed rule, which was slightly lower, with a level of \$679 per week or \$35,308 per year. Also, the highly compensated employee threshold will go to \$107,432, which is an increase from the current 2004 threshold of \$100,000. Employers may count a portion of certain bonuses and commissions toward meeting up to 10% of the standard salary level, recognizing evolving pay practices. This regulation will take effect January 1, 2020.

Legislation to create new reporting requirements for small businesses. The Senate Judiciary Committee is considering the True Incorporation Transparency for

Law Enforcement Act (S. 1889) and may approve the bill by the end of this year. This legislation is designed to enhance law enforcement efforts aimed at reducing criminal activity and terrorism by creating new reporting requirements for certain corporations and limited liability companies. Under the bill, businesses with fewer than 20 employees would be required to register with the Financial Crimes Enforcement Networks and the definition of beneficial ownership would be expanded from having 25% ownership interest in a business to include any individual who "receives substantial economic benefits from the assets of" a business. The bill also would require states to collect the beneficial ownership—name, date of birth, address, driver's license number of anyone with an ownership stake—of small-business owners at incorporation and require annual and periodic updates of that information. It is estimated to create a new reporting burden for more than 5 million small businesses. Failure to comply with the legislation would result in up to three years in prison and \$1 million in fines. NRCA is working with allied organizations to oppose this bill because of the burdensome reporting requirements imposed on small businesses.

Federal budget. In late September, the House and Senate approved a continuing resolution to extend the current levels of government funding beyond the Oct. 1 start of the new fiscal year until Nov. 21. The resolution was necessary to avoid a partial government shutdown as lawmakers have failed to approve the appropriations bills needed to provide annual funding allocations for federal agencies. Members of Congress are now focused on finishing as many of the appropriations bills before the new deadline, although a further extension is a possibility. Lawmakers are struggling to find areas of compromise regarding spending levels for various federal agencies, as well as controversial policy riders some want to see included in the appropriations bills. Efforts to finalize the federal budget for fiscal year 2020 are expected to be especially complicated by continued partisan differences regarding immigration policy and border security issues. 🏠

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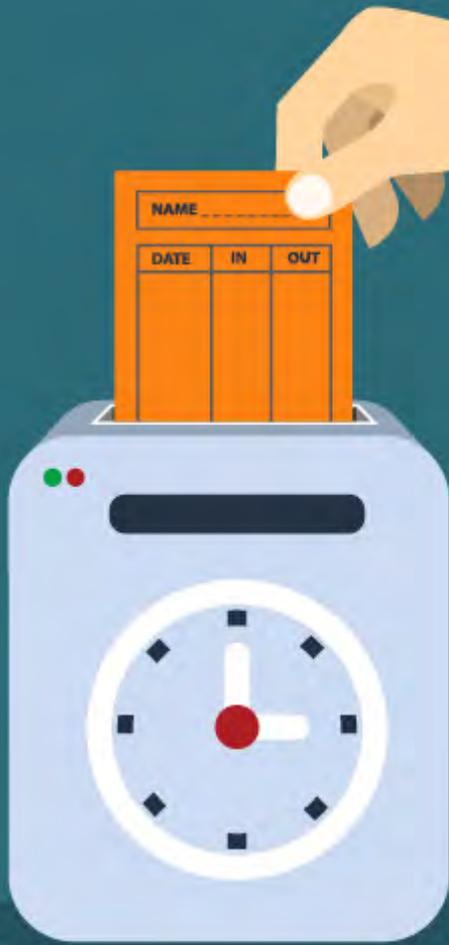
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Labor Department Imposes Higher Overtime Exemption Levels



The 50% increase in salary level goes into effect January 1 and will affect 1.3 million workers.



By Jamie Hanson, Lang & Klain, P.C.

THIS WEEK, THE U.S. Department of Labor (DOL) issued a long-awaited rule that, starting January 1, 2020, will increase by nearly 50% the minimum salary

requirement for overtime-exempt employees.

If your company has salaried employees who earn less than \$684 per week, you will want to prepare for this change.

See: [Final Rule: Overtime Update](#)

Under the current rules, the minimum salary level to qualify for the overtime exemption is \$455 per week (\$23,660 per year). After the new regulations kick in on January 1, the minimum salary level for qualifying for the exemption will increase to \$684 per week or \$35,568 per year. Above that pay level, eligibility for overtime will vary based on job duties.

While substantial, the hike is roughly half the increase that the DOL proposed in 2015 and was blocked by a federal court ruling.

The new regulation will also increase, from \$100,000 per year to \$107,432, the minimum salary for “highly compensated employees.”

In both instances, the minimum salary will be reviewed periodically for updating.

The proposed increases can have a significant impact on companies that have managers, professionals and administrators who are truly exempt under the current regulations but are making between \$23,660 and \$35,568 per year.

WHAT TO DO

While you are waiting for the new rules to go into effect, you should consult with your

accountant or payroll service to explore ways to cut your losses.

- Audit your exempt employees’ workloads to determine your likely overtime exposure.
- Recognize which employees’ work weeks can be capped at 40 hours.
- To avoid excessive overtime for reclassified positions, consider the cost of additional full-time or part-time employees.
- Consider whether current exempt positions are accurately classified.
- Review your exempt job descriptions to make sure they accurately describe the duties performed and discretion used.

The new regulations do not require that employees earning a salary of less than \$35,568 per year be paid on an hourly basis. Employees may continue to be paid on a salary basis, but the employer will be required to pay overtime on the salary if the employee works over 40 hours per week.

Companies should consult their employment attorney regarding overtime requirements and methods of calculating overtime for nonexempt salaried employees. 



Construction Industry has been Facing “Limiting Factors” Since Recession

Source: NRCA

SINCE THE GREAT Recession, the U.S. construction industry has experienced a significant labor shortage.

“The labor shortage, specifically in the residential construction side, has been kind of a uniquely post-Great Recession experience,” says Rob Dietz, chief economist at the National Association of Home Builders.

The construction industry lost about 1.5 million jobs during the financial crisis and has not yet gained back those jobs, according to news.yahoo.com.

Dietz says there has been “a whole set of limiting factors” for the construction

industry during the past 10 years, including lack of labor, material issues, and legislative issues.

“The aging existing workforce, which took an enormous hit during the Great Recession with people losing jobs, in some cases leaving the industry and not wanting to come back, means that we really have this large deficit of skilled labor,” Dietz says.

Additionally, young people are becoming more college-educated and less interested in construction industry careers.

“Surveys that we’ve done of young adults, 18-25, construction doesn’t fare very well in terms of an intended career,” Dietz says. “You see stronger attachment to wanting jobs that are less seasonal, less physical, that are in office environments behind screens. That’s a consequence, I believe, of the fact that we’ve got a much greater fare of people going to four-year universities [today](#) than we did 30, 40, 50 years ago.”

Dietz says immigration policies also have affected the labor shortage. The U.S. labor force has grown by almost 30% since 1990, and immigrants account for about half of the net increase; construction has one of the highest numbers of foreign-born

workers. Dietz says there are two factors involved.

“One is the slowdown in immigration—construction, traditionally, going back to the mid-1800s, has been an important source of employment for immigrants,” Dietz said. “The other factor, though, is we are having difficulty in the construction industry attracting that native-born American population, getting young people coming out of high school.”

The opioid crisis is another challenge for the construction industry. Yahoo Finance previously reported on a note from Barclays Research, which found construction workers are nearly six times more likely than other industries to develop an opioid addiction.

Dietz says with various factors affecting the industry, there is not one single remedy.

“It’s going to be a combination of recruiting new people into the industry, people who can become skilled tradesmen and ultimately, small-business owners,” he says. “And it’s also going to need investment in innovative technologies, processes, by which we can raise productivity.” 

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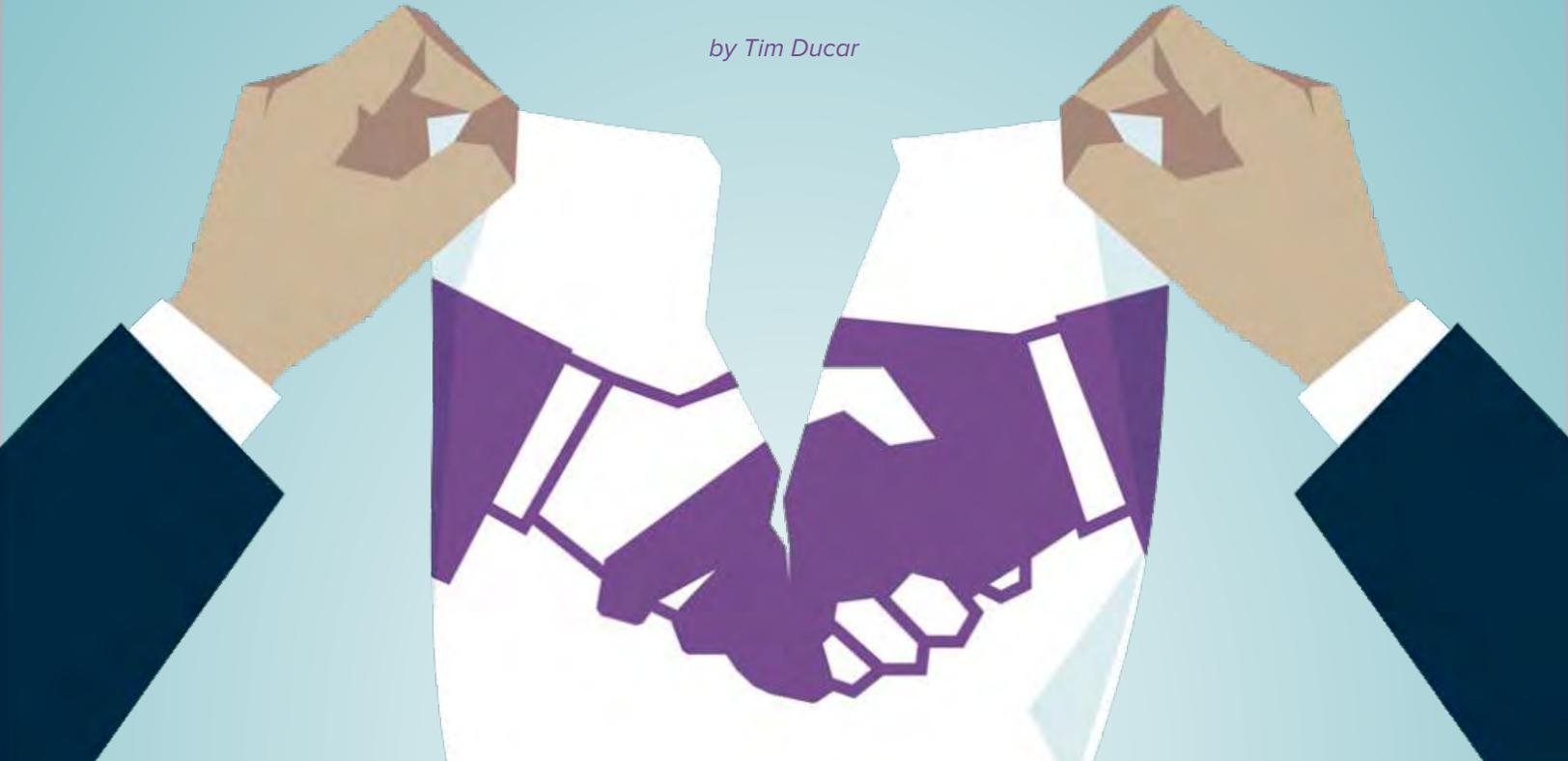
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What are a Contractor's Rights to Cure a Breach of Contract?

by Tim Ducar



YOU HAVE A re-roof customer who has begun complaining about shoddy work. You may be in the middle of the project, or you may not be. If you think you have a right to repair the premises, you may or may not be correct. The Arizona Registrar of Contractors will not hold you accountable if the property owner does not allow you to make repairs, but a Superior Court Judge may hold you accountable.

The owner of the project does not have to let you back on the project if there has been a “material breach” in the contract. Whether the property owner rightfully or wrongfully kept you off the property, and later initiated legal action, allowing the property owner damages for repair and attorneys’ fees and costs, will turn on the answer to the question: who breached the contract? If you materially breached the contract, the property owner may, in many circumstances, keep you from performing repairs.

What is a material breach? There are five factors an Arizona court will take into account:

1. how significant is the claimed damage?
2. can the property owner be compensated for the benefit he is missing?
3. how much will the roofer lose out?
4. what is the likelihood that the roofer will repair any purportedly defective workmanship, taking into account all the circumstances, including any reasonable assurances from the roofer?
5. the extent to which the roofer is acting fairly and in good faith.

When a customer complains, I strongly recommend that you invalidate the potential argument that you did not offer to make any reasonable repairs. Your offer should not have any strings or preconditions attached. You should put your offer in writing (e-mail is fine). I encourage you to be calm and reasonable in your offers — a level head up front will save you time, heartache, and attorneys’ fees later.

Additionally, you should review your contracts and make sure they have a contractual provision that you have an opportunity to repair purportedly defective work. With that provision, it will be much harder for a property owner

to terminate you without allowing you to perform repairs.

Also, make sure you include in your contracts a provision that states the property owner has waived the right to repair if another roofer or professional modifies or repairs your work. That will also allow you a contractual protection that you would not otherwise have and assist in an argument that the property owner has destroyed evidence.

While the aforementioned precautions could mean the difference between “breach” or “no breach”, these concerns are less necessary when it comes to new home builders. With new home builds, Arizona’s Purchaser Dwelling Act provides the roofer with the right to cure its allegedly defective work. 🏠

Timothy D. Ducar is chair of ARCA’s Registrar of Contractors’ Committee. He is an attorney who litigates business, construction, ADOSH and Registrar of Contractor issues. He practices throughout the country. He will provide you written materials that discuss increasing collections at no cost. If he cannot assist you with your particular legal matter, he will refer you to a competent attorney. He can be reached at (480) 502-2119 X3.



EXPO 2019

OVERWHELMINGLY, ATTENDEES AT the 50th Annual Expo & Trade Show have given the event a solid vote of approval. The Expo committee overtly tried to shake up the tried and true event delivery schedule. These renovations were largely successful and favorably received, though we did run into some unforeseeable problems (to be corrected next year). One such obstacle was the disruption of high winds to our sporting events, which caused significant delays in both the sporting clays and golf tournaments. (Leave it to us roofers to place the blame on Mother Nature.)

One change that went over quite well was the limitation of sporting clays and golf tournaments to one day respectively, which relinquished the need for attendees interested in both events to make a painfully difficult decision. Thursday's sporting clays venue had 10 stations in tree-surrounded, undulating terrain—a definite change of pace from our usual grounds, the desert landscape of Ben Avery Shooting Range. This is the second time we have ventured out to the Northern AZ Shooting Range and I'm sure we will return. Friday's golf tournament sold out at 128 players and was held at Continental Country Club. It was a long, windy day, but everyone left smiling.

Hosting the Get Acquainted Party on the Little America property was also a big hit, offering a safe, collegial environment for the several hundred attendees

to network to their hearts' content. **AMERICA ROOFING** took ownership of the cornhole tournament this year and made it into a competitive event—it turned out to be one of the evening's main attractions with attendees gravitating to the area all night, creating a fun and festive environment. As usual, the bar area was raucous, and I have it on good authority that several of our marketers set expense report records for their tabs.

The trade show on Saturday was also a huge success and allowed us to segue right into the Annual Meeting and Casino Night.

We would like to thank all the attendees that helped make our 50th Anniversary event memorable. For those not a part of the Expo Committee there is a plethora of activities happening behind the scenes—before, during, and after each event—contributing to this success. A BIG THANK YOU goes out to the Expo Committee for all their work and dedication. Our co-chairs, **MICHELLE BROWN** from **WRECORP** and **PETE SCHMAUTZ** from **STAR ROOFING** did an exemplary job throughout the year and at the event, and we cannot express our deepest gratitude to them for all their efforts.

PLANNING IS ALREADY starting for the 51st Annual Expo & Trade Show —reserve the date on your schedule to join us at Harrah's Ak-Chin in Maricopa September 24-26, 2020.



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Andy Clarke, Roofing Southwest
 Chuck Chapman, Tecta America Arizona
 Pete Schmautz, Star Roofing



GOLF

FLIGHT A

FIRST PLACE	Charles Demeter
	Dustin Sonn
	Dan Shaffer
	John Buyers
SECOND PLACE	Glen Milum
	Russel Hyman
	Zach Coe
	Gene Pruite
THIRD PLACE	Dave Skierkowski
	Andy Coventry
	Donovan Crandell
	Brad Quinet

FLIGHT B

FIRST PLACE	Larry Miller
	Matt Pribyl
	John Nassivera
	Kevin Looney
SECOND PLACE	Scott Deline
	John Segin
	Mike Griffen
	Gene Pruit
THIRD PLACE	Steve Aguilar
	Victor Rosas
	Seth Winters
	Jason Brown

LONGEST PUTT

Mike Klient

WOMEN'S CLOSEST TO HOLE

Valorie Miller

WOMEN'S LONGEST DRIVE

Mary Coultrap

MEN'S CLOSEST TO HOLE

Glenn Milum

MEN'S LONGEST DRIVE

Donovan Crandell

SPORTING CLAYS

FIRST PLACE

Ron Brown

SECOND PLACE

Lynn Harding

THIRD PLACE

Bill Kelley

HORSESHOES

FIRST PLACE

Dave Skierkoski
 Scott Aguilar

SECOND PLACE

Paul LaNue
 Craig Nelson

CORNHOLE

FIRST PLACE

Chad Urich
 Tim Higgins

SECOND PLACE

Scott Morgan
 Casey Campbell

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Preventing Backovers

BACKOVER INCIDENTS OCCUR when a backing vehicle strikes a worker who is standing, walking, or kneeling behind the vehicle. These incidents can be prevented, but first let's talk about how they occur.

Backover accidents can happen for a variety of reasons—drivers may not see a worker in their blind spot, workers may not hear a backup alarm due to other jobsite noises, drivers may assume an area is clear and not look in the direction of travel, or workers in the area may be helping another vehicle or equipment maneuver around the jobsite and be struck by another vehicle.

While there are many ways to be struck by a vehicle or piece of equipment that is backing up, there are just as many solutions to prevent backovers from happening.

Many employers on larger construction projects utilize a spotter to help them back up their vehicles into position for work or to exit a jobsite. Another approach is to implement a traffic control plan, as used

by McCarthy Building Companies. Their jobsite had a small footprint compared to the size of the building erected. Therefore, a plan had to be enacted to allow zero congestion among delivery trucks, trade contractor vehicles/equipment, third-party vendors, and jobsite superintendents frequenting the workplace.

Many vehicles and equipment are purchased with back-up cameras and video screens in the cab. These devices allow the drivers to see behind them prior to starting in the reverse direction. Other options are proximity detection devices which can alert the driver when objects are directly behind them or on the sides of the cab. Of course, all these solutions would not be worth their cost if the proper training is not provided to employees on a jobsite or workplace. Training employees on backover prevention allows them to understand that vehicles and equipment have blind spots and how to check them. The National Institute of Occupational Safety and Health (NIOSH) provides employers and employees with blind spot diagrams. This information can be useful when instructing employees on the importance of looking out for vehicles and equipment that are backing up. 🏠

Importance of the Data

The 2020 Census will provide a snapshot of our nation—our population, where we live, and so much more.

The results are critically important because this once-a-decade census data helps businesses, researchers, and communities make decisions. The data can help inform where your community needs a new fire department, more funding for school lunches, or new roads.

DID YOU KNOW?

Nevada was the fastest-growing state between 2000 and 2010. In that same time, the overall population of the United States grew 9.7 percent, jumping from 281,421,906 to 308,745,538.

Of course, the census tells us much more than just the population of our country, state, and community. The census produces a wide range of statistics about the makeup of those populations, from ages and races to how many people own a home.

In 2010, for example, we learned that women made up 50.8 percent of the population. We also learned that the male population grew at a slightly faster rate (9.9 percent) than the female population (9.5 percent) in the decade between 2000 and 2010.

REDISTRICTING

The U.S. Constitution requires that electoral districts be periodically adjusted or redrawn to account for population shifts. Each decade, the census reveals where populations have risen or fallen.

State legislatures or independent bipartisan commissions handle the process of redrawing congressional district lines. The U.S. Census Bureau provides population counts to the states for this purpose.

BUSINESS DECISIONS

The census also collects data that is valuable for businesses, which rely on census results to help make decisions such as where to open new stores, where to expand operations, and which products and services to offer. 🏠



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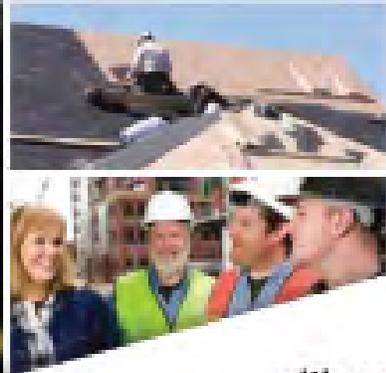
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Tucson, AZ, 85713
Phone: 520.790.5750
Fax: 520.745.5183



RSG
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Join us for the first annual Arizona Roofing Industry Foundation golf tournament at the beautiful Arizona Biltmore Golf Club. The funds raised from this event will go directly to the ARIF Scholarship Fund. We look forward to seeing you on the greens!

We're Golfing for



SCHOLARSHIPS

Friday, January 17, 2020

11:00 AM Check-In | 12:00 PM Shotgun Start

Hole-In-One Sponsored by Midway Commercial/Fleet

\$150
PER PLAYER

Fees Include

Foursome Format Tournament, Driving Range, Green Fees, Cart, Brown Bag Lunch, Dinner & Award Banquet, PLUS Drink Tickets Included for Golf and the Dinner Banquet (2 ea.)

Arizona Biltmore Golf Club
2400 E. Missouri Ave., Phoenix 85016
Appropriate Golf Attire Required—Space is Limited!

\$150
TEE SPONSORSHIP

RSVP Deadline
January 3

How to Register
Online at www.azroofing.org or
Complete the form below

GOLFERS

Golfer 1 _____ Golfer 2 _____
Golfer 3 _____ Golfer 4 _____

Yes, I would like to be a tee sponsor!

(company name)

Yes, I would like provide an in-kind donation for the raffle.

REGISTRATION

- Check Enclosed – Payable to **Arizona Roofing Industry Foundation**, mailed to ARCA, 4745 N. 7th Street, Ste. 102, Phoenix, AZ 85014
- Credit Card – complete form below and fax to 602-335-0118, or scan and email to arca@azroofing.org

Credit Card #: _____ Exp. Date: _____ Billing Zip: _____ CCV: _____

Amount \$ _____ Authorized Signature: _____

THIS IS A PAID ARIF EVENT. CANCELLATIONS AFTER JANUARY 3, 2020 WILL BE NON-REFUNDABLE, SUBSTITUTIONS ARE ALLOWED.

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Compliance with New Arizona LLC Law Calls for Operating Agreement Review

The 2018 Arizona Limited Liability Company Act will have a significant impact on most Arizona LLCs.

Updated September 2019

By [Kent Lang, Lang and Klain, P.C.](#)

FOR MANY YEARS, the limited liability company (LLC) has been the preferred legal entity for most Arizona companies in construction and other industries, given, among other things, the various formalities and filings imposed upon corporations. With relatively minor amendments, Arizona's LLC laws remained largely unchanged after 1992.

However, with 2018 passage of the Arizona Limited Liability Act (ALLCA), Arizona's LLC laws substantially change, and LLC managers and members should prepare to update their operating agreements. For LLCs that do not have an operating agreement, the new law effectively imposes one on them, in ways that may not be to the members' liking.

Effective [September 1, 2020](#), the ALLCA puts in place default provisions that, in the absence of a properly worded operating agreement, can change the way your LLC functions and is governed—with potentially severe impacts on your LLC's members.

The new law includes two important dates:

- The ALLCA applies now to *all LLCs formed in Arizona on or after September 1, 2019*.
- The ALLCA applies to *all Arizona LLCs, regardless of their formation date on or after September 1, 2020*.

If your LLC does not have an operating agreement and you take no action in response to the new law, the ALLCA's default provisions will be imposed on

your LLC, creating a *de facto* operating agreement that may conflict with how your LLC is currently governed and operated.

If you do have an operating agreement but it fails to address any provision of the ALLCA, by default the applicable new ALLCA provisions will be imposed on your LLC. However, those provisions may be contrary to your LLC's operations and established procedures.

Your operating agreement may or may not adopt some or all of the ALLCA's provisions. That is, the ALLCA permits LLCs to opt out of certain default provisions.

DEFAULT PROVISIONS

Among the more controversial default provisions of the ALLCA are:

- *The creation of fiduciary duties.* The current law does not impose fiduciary duties on LLC members and managers. The new law does, as does a 2019 [Arizona Supreme Court ruling](#).
- *Contributions.* Under the ALLCA, a member's obligation to make a contribution to the LLC is not enforceable unless it is in writing and signed.
- *Distributions before dissolution.* The ALLCA provides a new requirement that all distributions made before an LLC can dissolve and wind up must be "equal in shares among members," regardless of ownership percentages. Failure to address and correct that provision could have major financial and tax consequences—artificially favorable or unfavorable—for the LLC's members.

ALL LLCS IMPACTED

While multi-member LLCs will feel the greatest impact of the new law, single-member LLCs are not exempt, and there are situations in which non-compliant SMLLCs could be adversely affected.

OPERATING AGREEMENT REVIEW

Members and managers should review and, if necessary, revise their operating agreements so that they comply with the new law and avoid any unwanted default provisions that the ALLCA will have automatically imposed on September 1, 2020. If your LLC does not have an operating agreement, you should consider creating a compliant agreement that satisfies the new law and supports your business purposes.

START PLANNING

In prompting LLC members and managers to take another look at their operating agreement, the ALLCA offers a benefit: A well-conceived operating agreement that serves the members' interests can help the business reach its potential.

If you wait to update or create an operating agreement until there is no time for a proper review and update before the new law goes into effect, you may end up hastily copying and pasting into your agreement boilerplate language that does not truly meet your business needs and, in some cases, causes significant problems for you and your members. 

Everyone Has Questions About Safety

ADOSH consultation routinely receives calls and questions regarding the OSHA standards and ADOSH's interpretation of them.

We at ADOSH felt that this was a good time to cover two of the most common questions received to ensure everyone is on the same page:

1. Can I repair my electrical cord?

In general you can repair any cord so long that it is allowed by the manufacturer. If allowed, it will have to follow the same manufacturer's recommendations and limitations for repair and be brought up to the same UL specifications as intended. There are several OSHA Letters of Interpretation that address this question. The links are <https://www.osha.gov/laws-regs/standardinterpretations/2010-04-04> and <https://www.osha.gov/laws-regs/standardinterpretations/2014-04-18-0>

2. We use double insulated tools with two prong cord connectors. From time to time the plug end is damaged and we replace them with a three prong cord end. Is this acceptable?

No, replacing a double insulated tool two prong cord end with a three prong cord end would defeat the tool's safety measure. I assume by stating a three prong cord end would mean that a ground prong was added where the original cord did not require one. This is due to the tool's design as a double insulated tool which does not require a ground prong. There are a few OSHA Letters of Interpretation that address this practice. The links are: <https://www.osha.gov/laws-regs/standardinterpretations/2009-03-16-1>) and (<https://www.osha.gov/laws-regs/standardinterpretations/2003-05-19>)

If you or your workforce have questions regarding these answers, please feel free to email us at comments@azdosh.gov or call us at (602) 542-5795. Our Compliance Assistance and Consultation Staff are ready to help!

UPCOMING EVENTS

NOV 6-7
12:30-5:30P

OSHA 10-HOUR TRAINING IN PHOENIX (SPAN)
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

NOV 6-7
7:00A-12:00P

OSHA 10-HOUR TRAINING IN PHOENIX (ENG)
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

NOV 22
7:00A-3:00P

**ARCA EDUCATION CLASS —
SINGLE PLY & EQUIPMENT**
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

DEC 3
8:00A-4:00P

**TILE ROOFING INSTALLER CERTIFICATION
(PHOENIX)**
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

DEC 5
7:00-9:00A

FALL PROTECTION PHOENIX (ENGLISH)
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

DEC 5
9:00-11:00A

FALL PROTECTION PHOENIX (SPANISH)
ARCA TRAINING ROOM
4745 N. 7TH ST., STE. 103 PHOENIX

DEC 12
4:00-7:00P

**THE ARCA EXPRESS — 7TH ANNUAL HOLIDAY
PARTY**
BLUEWATER GRILL
1720 E. CAMELBACK ROAD PHOENIX

JAN 17
11:00A

ARIF 2ND ANNUAL GOLF TOURNAMENT
ARIZONA BILTMORE GOLF CLUB
2400 E. MISSOURI AVE PHOENIX

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