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THE CONSTRUCTION USER

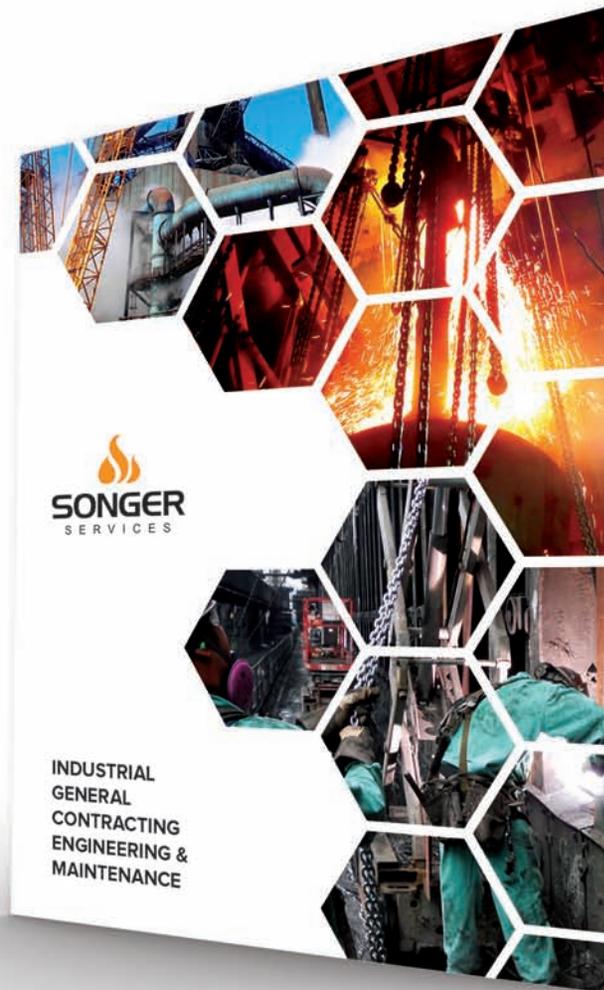
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TOP 50 NMA CONTRACTORS

Page 22

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PUBLISHED JULY 2016

Get Engaged!



by **JAKE LOCKLEAR**
TAUC PRESIDENT
PRESIDENT AND CEO, APM

“The dream that someone else will fix our problems (for example, that the government will bail us out) is a fantasy. We must take ownership of our challenges and find solutions.”

I HAVE JUST RETURNED from another outstanding TAUC Leadership Conference, this one in Naples, Florida (see coverage beginning on Page 14). There were many great themes throughout the week, the most prominent being Taking Ownership, delivered by our final keynote speakers Leif Babin and Jocko Willink, authors of *Extreme Ownership*. Reflecting on the conference and the challenge to take extreme ownership, I was even more encouraged about the opportunity we have to do just that in our industry. The dream that someone else will fix our problems (for example, that the government will bail us out) is a fantasy. We must take ownership of our challenges and find solutions.

In order to take ownership, we must **get engaged**. We can't sit on the sidelines hoping someone else wins the contest for us. We have a vehicle in TAUC to aid us – our contractors, our labor partners, and our customers – in taking extreme ownership of our challenges. As we continue what TAUC has built over the past few years, I encourage all of us to take advantage of these three opportunities.

First, we lead businesses that are responsible for the health and welfare of the men and women who work in the building trades. I do not take that responsibility lightly, and I know you don't either. Our Environmental Health and Safety and Industrial Relations Committees are vital to our fulfillment of this responsibility. Our core value is making sure our craftsmen and women go home safe to their families. If you share this passion for our craftworkers, **get engaged**.

Second, TAUC prides itself on being the voice of union construction. We have a unique opportunity to influence and advance our industry. I know this first hand. I spoke up during a pension presentation at a similar leadership meeting a few years ago. Next I was asked to serve on a committee that recommended multiemployer pension reform. Then we reignited our Government Affairs Committee, and with the help of many of our Local Employer Organization (LEO) members, we made pension reform a top priority. In December 2014 that reform was passed in large part, but there is still work to do. I encourage you to step up, speak up, and **get engaged** in the issues that are vitally important to our industry.

And third, our customers face harsh realities in the business world. There is the constant desire for increased productivity, reduced cost, and near-perfect on-time delivery. We at TAUC have the opportunity to hear from our customers, understand these realities, and collectively work on solutions that meet our customers' needs. I cannot stress enough the value of having so many of our customers attend our Leadership Conference each year, so that we can both speak with and learn from them. I encourage you to **get engaged** with our customers – thank them for taking the time to help us help them.

As you can see, there are a number of opportunities to get engaged. But engagement is more than just doing – it's also about having a passion for what you are doing. And that passion comes from answering a question. “Why?” Why do I want to engage? Why should I have a drive to take

extreme ownership? Without making this article too personal, allow me to share with you my “Why?”

How is a lawyer from Texas the next President of TAUC? I have asked myself that question as well. I grew up outside of Houston, Texas, along Highway 225, home of the ship channel refineries. Shell Oil built my hometown of Deer Park. Both my grandfathers, after returning from the Navy, worked for the same chemical plant, Ethyl Chemical Corporation, for 25 and 43 years respectively. Many of the fathers in our community worked the plants. And like my parents and grandparents, many of them sacrificed for my friends so we could go to college, to be the first in our families to have degrees. After college, I returned home, worked briefly for a law firm in Houston, then got the opportunity

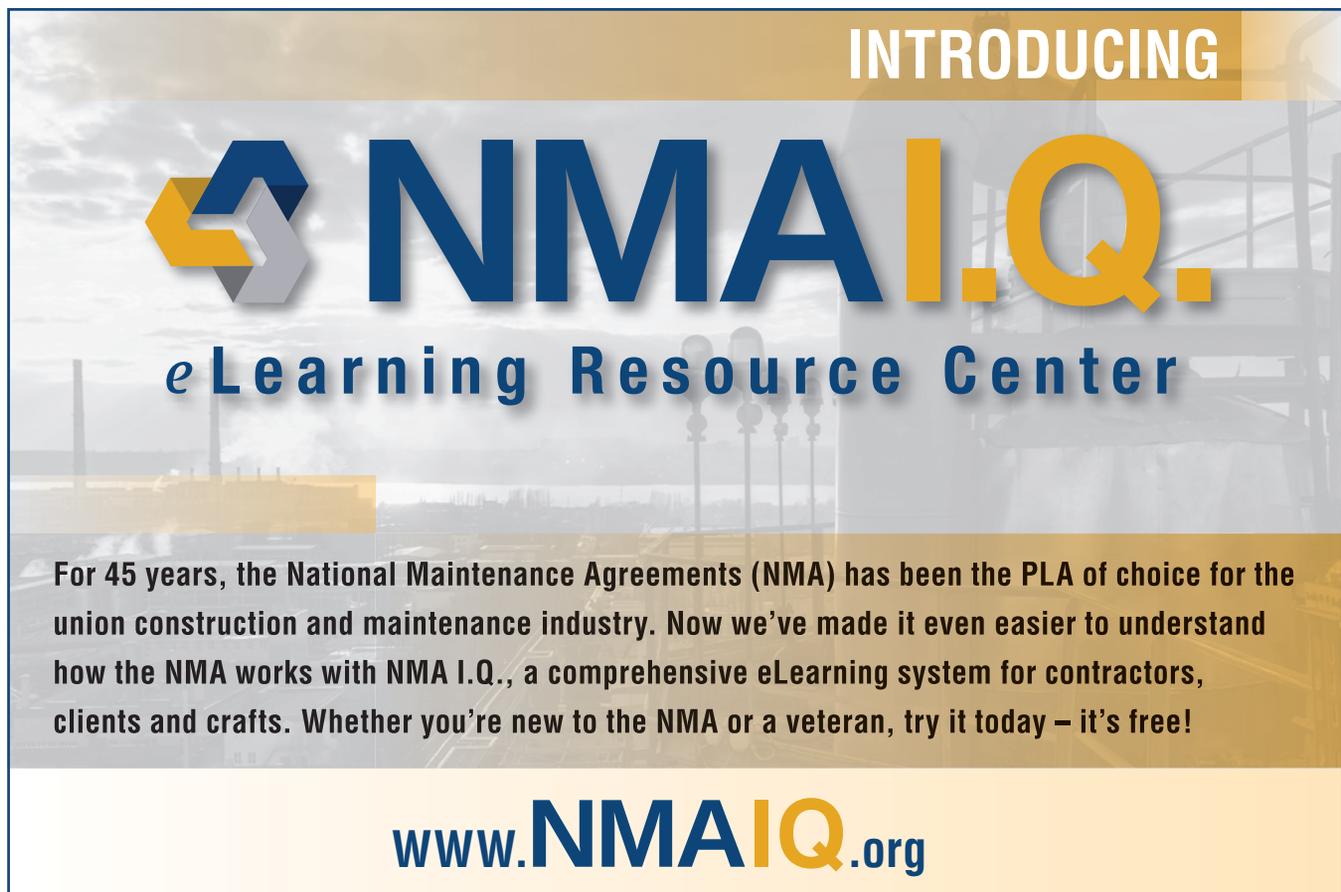
to go in-house for APM, headquartered in Pasadena, Texas. I returned to the ship channel, working with and serving the same blue-collar, hard-working men and women who raised me and invested in me. Rick Rives, the former President & CEO of APM, invited me to attend a TAUC Leadership Conference almost 10 years ago. As I mentioned above, later I spoke up at another TAUC meeting and ... that is how a lawyer ended up being the President of TAUC.

As I close this article, I would like to give a couple of thanks.

First, thank you to Tom Felton. Tom has led our Association with a poised, wise hand these past four years. Tom is very approachable and always available, and he values straight talk – open, honest communication. And I am thankful that

Tom included his wife Amy as part of our TAUC team. They are a great example of family teamwork in our business lives.

Finally, thank you to Steve Lindauer and the TAUC staff. Our TAUC team performed another outstanding job in again delivering a world-class conference. Beyond that, this team has opened doors for members of our Association to be engaged in a wide range of issues that affect our industry. Just as an example, the next week following the Leadership Conference, our TAUC team hosted some of our members in Washington, D.C. attending the Quality Construction Alliance, working with other associations to advance our interests before Congress. The TAUC team exemplifies taking extreme ownership and **getting engaged.** 



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Less Kirk, More Spock

by STEPHEN LINDAUER

AT THIS YEAR'S TAUC Leadership Conference (see coverage beginning on Page 14), Boilermakers International President Newton Jones delivered a compelling presentation on his efforts to change the fundamental culture of not just his own organization, but the entire union construction and maintenance industry. His message was clear: if we want long-lasting success and growth, the bad attitudes and behaviors of the past must be rejected once and for all.

President Jones screened a powerful documentary the Boilermakers recently produced. It's an unflinching examination of how the negative actions of a few people in the past tarnished the reputation of the union and cost it millions of dollars in lost opportunities.

At one point in the film, a business manager recalled visiting a local paper mill to convince the plant manager to use Boilermakers on an upcoming project. The plant manager reached into his desk drawer and took out a "star ball" – a small chunk of sharp metal fragments welded together to resemble a star. He said he had pulled it out of his tire more than fifteen years ago, when members of various crafts picketed the mill for using non-union labor. Some of those union members also scattered hundreds of star balls across the employee parking lot, damaging dozens of tires. The plant manager told him he kept the jagged hunk of metal in his desk drawer to remind him of that terrible experience, and how he never wanted to relive it again. Needless to say, the Boilermakers didn't get the job.

That anecdote really hit home with me. In one way or another, all of us in the industry have had

to deal with similar "star ball" moments over the years. Years and even decades after contentious labor-management clashes, some companies still hold an institutional grudge against unions – even though in many cases, all of the people involved in the original dispute have long since retired! We continue to pay the price for actions we had nothing to do with. At times it seems as if we're fighting with ghosts. How do we convince owners that our industry has changed? There's no magic bullet, of course, but I'd like to offer a few suggestions.

***The numbers are
on our side – they
show that we offer
the safest,
most efficient and
highest quality service
in the country.
The data
is out there just waiting
to be used.***

Like that paper mill manager, many owners' resistance to union construction is rooted in strong, deep emotions. At some point in the past, they (or someone they knew) experienced pain or anger when they dealt with organized labor, and it has stuck with them. The worst thing we can do is try to convince these owners that they shouldn't feel what they're feeling or that they are somehow mistaken.

I'm probably going to step on a few toes here, but so be it. We need to take a long, hard look at how we promote our industry. Imagine you're an owner who has experienced trouble with unions in the past, or at the very least has heard "war stories" about such incidents. How do you think you would feel if, every time you received a magazine from one of the unions, you saw page after page of articles talking about "union pride" and "solidarity" and "fighting for our rights"? How would you feel seeing countless pictures of union members (mostly men) standing together, arms raised and fists clenched, celebrating a legal victory over an employer? Would that make you more or less likely to want to hire them?

Don't get me wrong: I'm not criticizing unions and contractors for fostering a sense of pride and accomplishment about who they are and what they do – far from it. We have an awful lot to be proud of. But we also have to realize that what we do and say can often be misconstrued by others, regardless of our intentions. Sometimes we have to stop and ask ourselves: *Even though my heart is in the right place, how might this action or comment look or sound to a potential client?*

As a certified Baby Boomer, I grew up watching the original *Star Trek* on TV. The show centered around two main characters with conflicting personalities. Captain Kirk was a born leader, but he was also brash, cocky and impulsive. Spock, meanwhile, was cool, calm and devoid of emotion. Kirk was passionate; Spock was logical.

As both individuals and an industry, we need to act a little less like Kirk and a little more like Spock. The old days of strikes and

walk-offs were classic Kirk moments, fueled by righteous anger and a thirst for conflict. It was classic “us-against-them” behavior. If we’re going to convince clients that times have changed, we need to drastically modify our approach. Not only do we want to avoid acting like the old-timers, we want to avoid doing anything that even remotely *reminds* clients of the old-timers. Our industry needs a personality transplant.

So how can we be more Spock-like? Well, for starters, check out some of the articles in this issue. TAUC recently released its highly anticipated second annual Labor Survey – more than 80 pages of charts and data on workforce levels across the country (Page 26). Our cover story highlights the 50 contractors with the most reported NMA work hours in 2015 (Page 22). And Ken Hepburn has contributed a fascinating article on how we can leverage big data and cutting-edge technology to move our business forward (Page 12).

What do all of these articles have in common? They make the case for union construction by using cold, hard facts: data, statistics, numbers. No rah-rah speeches. No rallies. In the twenty-first century, data is power. Want to

convince someone you’re the right contractor for the job? Build the charts. Show them the spreadsheets. Convince them using reason and logic, not emotion and bombast.

You can’t argue with numbers -- and the good news is, *the numbers are increasingly on our side*. More and more metrics bolster our argument that union construction and maintenance offers the safest, most efficient and highest quality service in the country. And if you don’t have the numbers, then go get them. Start measuring everything you can – performance, productivity, customer satisfaction, etc. The data is out there just waiting to be found and collated.

May our industry live long and prosper – and I hope you have a great summer. 



Steve Lindauer is the CEO of The Association of Union Constructors and also serves as Impartial Secretary and CEO of the National Maintenance Agreements Policy Committee, Inc. (NMAPC).



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Don't Be A Mushroom Farmer

by MARK BRESLIN

“As a general rule, the most successful man in life is the one who has the best information.”

— Benjamin Disraeli

MY SCALE TELLS me to drop 10 pounds. Data. My speedometer tells me I'd better work on my lead foot. Data.

My credit card company cuts me off when I buy anything anywhere they don't like. Data.

My pizza joint knows it's me calling when I order take-out. Data.

My search engine knows what kind of dog I own. Data.

My apps have permission to lift about anything off my phone. Um. Data.

We're living in a brave new world of information, sharing and transparency. To be honest, I'm not sure I like all of it, but as a business leader, if I ignore anything that's trending large, it's probably going to be at my own expense. Information availability, transparency and data-driven strategy are at an all-time high and are only going to be more important in the future.

Information availability, transparency and data-driven strategy are at an all-time high and are only going to be more important in the future.

This trend is in direct contrast to the construction business world that I have experienced for the past few decades. The old model of businesses and unions was organizational insularity. People got the information they needed to know – and not much else. Information was held close or controlled. The prevailing data sharing model philosophy was, “Treat your people like mushrooms. Keep them in the dark and feed them bullshit.” This imbalance of information availability empowered those already with the power. No more. And to miss this is to miss your own opportunity.

Every leader in this industry has to understand that information and transparency is expected by clients, prospective employees, current employees, agencies and owners – and just about everyone else. We live in a Yelp world where everyone and everything from hotels to doctors to university instructors are evaluated and rated. Millennials

respond four times stronger to what they read online in reviews than to any other data sources. Employees want – nearly demand – to know the plan of action and purpose of a company. Employers who fail to provide this will be rated at Glassdoor.com (see if your organization is already being rated there). So the question becomes: In an era where data is important but also somewhat overwhelming, what data matters most to you as a leader? I have three key data suggestions for your consideration.

#1: Market Share Data. For those engaged in the union construction industry, the accurate measure of real market share is an absolute. The mushroom theory has been at work in this segment for many years – particularly on what has been fed to the union memberships about their actual at-risk prospects.

I have helped lead an initiative in our market where we hired the economics department of a major university to research, catalogue and filter every single job in a 46-county area for two unions with a combined membership of approximately 45,000 members. It is third-party validated data. It is compelling. It is not mushroom food. It is making a serious difference in the discussion. And the discussion is about action – not about measurement. It is worth the time and money. It is worth having the honest discussion. It is an absolute necessity. Full employment stopped being a valid measure 10 years ago.

#2: Compensation Data. There are more talented people in our industry moving from company to company than at any other time I have ever seen. There are also greater differentials between union and non-union field personnel than at any other time I can recall. This information is powerful if we understand it properly. Appropriate compensation is both a recruitment and retention tool. It can also be a short-term trend that leaves employers overpaying for talent when the market turns. Shortages in PM's, PE's, Supers, Foremen and even high-skilled craft workers are driving more mobility and higher costs. This data should be developed so you know where you are (ideally well above the 50% quadrant, but not at the very top unless you can sustain it long term) and how to structure compensation strategy. Salary surveys, compensation process reviews and other analysis will ensure you are not falling behind (or jumping out too far ahead).

#3: Employee Engagement Data. Information on how your employees see your organization is now incredibly essential data. In 2015, I provided a survey to all of my employees on “Achieving Business Excellence.” I asked them to be anonymously and brutally honest by ranking the organization on a 1-10 scale for these questions and more:

- We have a strong culture that supports our people and focuses on our clients.
- We improve our business operations continuously, always driving for innovation and evolution.
- We encourage staff in risk-taking, creativity and innovation.
- People enjoy the work they do and the people they work with.
- There is a culture of fairness, respect, trust, inclusiveness and teamwork.
- We have a clear and detailed vision for the direction of our company that is well communicated.
- Our key leaders operate as an effective team and exhibit the value system of the organization.
- We do a great job of celebrating both small and big wins.
- We do a great job of praising great individual performance.
- The organization offers you enough opportunities to grow professionally and personally.
- You have an opportunity to make change in your work area.
- We truly focus on creating caring relationships internally and externally.

This data set the benchmark for leadership action. Sometimes leaders prefer to act like the mushroom and purposely feed on bullshit that they want to believe. Bad idea. If you don't ask for the relevant data, you can't improve. We took the top four rankings and discussed these as our competitive advantage. We took the bottom four and worked on action plans to improve them across all departments. What do you think they thought about seeing us take action on their data? Was there buy-in? Commitment? Follow Through? Yes, yes and yes.

Look, data is a double edged sword. A lot of time, it doesn't give us great news, or compels us to change or even challenge long-standing beliefs. But if it's available and we don't use it, then we dumb down our ability to innovate and succeed. And there just ain't much money in mushroom farming anymore. 



Mark Breslin is a strategist and author of several books, including most recently, The Five Minute Foreman: Mastering the People Side of Construction. Visit his website at www.breslin.biz or contact him at (925) 705-7662.



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The Tripartite Transplant: An Unexpected Journey

by BILL CORNELL

WARNING: THIS ISN'T the sort of article you normally read in *The Construction User*. There are no tips on how to increase market share or train apprentices, and I don't have anything new to say about multiemployer pension reform. Instead, I want to tell you a true story – my story – about a life-and-death crisis and how it permanently changed my perspective on my career, my family...and on what's truly important in life. My hope is that it will change the way you think about these things, too.

I've been involved in union construction and maintenance for more than 30 years. Over that long span of time I have made many friends, both professionally and personally. I was fortunate to have a long and fruitful career at McCarl's, one of the country's leading union mechanical contractors. But in August of 2014, everything I had worked so hard for was put into jeopardy. After undergoing a bronchoscopy of my lungs, my doctor told me I had Idiopathic Pulmonary Fibrosis as a result of my rheumatoid arthritis attacking my lungs. The only alternative in order for me to survive was that I would need a double lung transplant — if I was accepted after a weeklong evaluation to determine if I was strong enough medically, physically and emotionally.

I was immediately accepted to be placed on the transplant list and took a crash-course in organ donation. I was literally educating myself on how to survive. The more I learned, the more I realized that – crazily enough – the organ donation process had a lot in common with how our industry is structured! Our tripartite system of



cooperation between unions, contractors and owner-clients was actually a great analogy to understand how the donation process worked.

In this analogy, the owner is comparable to the donor. Just as the owner awards the job to the contractor, the donor is the person who gives the organ(s) to be transplanted. The contractor is similar to the donor's family; the contractor decides to move forward on a job, and likewise the donor family authorizes their loved one's organs to be removed. And finally, the union receives the actual work, just as the recipient has the privilege of receiving the life-saving organ. Together, all three parts of the transplant process must work together in harmony to ensure success – just like on union jobsites around the country.

So in a way, you could say my decades of experience in union construction had uniquely prepared me for this moment. I understood the importance of cooperation, because without it, I wouldn't have had a career. All those years spent in

tripartite meetings, seeking to find common ground between unions, contractors and owners, grew “muscles” that I didn't even know I had until faced with this health crisis. I'm not saying the transplant process was a walk in the park – not by a long shot! – but I really believe it would have been more difficult had I not spent the better part of my life focusing on finding ways to get the job done in tough circumstances.

Rollercoaster Ride

The next several months were among the most difficult of my life. I was put on full-time oxygen on Labor Day 2014. Two months later, after a series of evaluations, I was approved for transplant. Great news – but then I was told that as part of the preparation, I had to have all of my teeth pulled before I could be placed on the transplant list! My teeth were removed the day after Thanksgiving, and I was officially listed for transplant.

After the physical stress on my body, I went through several rounds of mental and emotional stress. I endured three “false alarms” – occasions when I was told there was a suitable set of lungs for me, only to find out later that, for various reasons, the operation couldn't be performed. I was devastated by these constant setbacks and, frankly, thought I was going to die. But then on Christmas Day 2014, I received the best present possible – news that they had found a set of lungs and that this time, the transplant would move forward.

I underwent the transplant on December 26, 2014. It was successful, but there were complications. I

was allergic to the medication they gave me post-transplant to ensure that my body didn't reject the new lungs. I was finally released from the hospital on January 24, 2015. Believe it or not, three months later I walked 90 flights of stairs unassisted, and four months post-transplant, I rode an exercise bike for seven miles! Eight months later, I successfully completed a 5K walk for charity and placed third.

I had "made it." I got the happy ending I and my family so desperately wanted. But I soon realized my story wasn't really over. In fact, it had just begun. There are continuous hurdles to overcome and roadblocks which occur post-transplant but you have to push through them. The transplant experience had changed my outlook on life and work. I now had a new set of priorities.

The Lucky One

Although I was extremely grateful for receiving a new set of lungs, I knew that I had been extremely lucky but I also have to give credit to God for blessing me with new lungs! During my research prior to my transplant, I learned that there are more than 120,000 candidates on the organ donation waiting list – and every 10 minutes, another name is added to that list. Twenty-one people die each day waiting for a transplant. Why? One reason is simple math. Although 90% of Americans support organ donation, only 50% are actually organ donors.

There are several reasons people don't become donors including many myths which are unfounded. For example:

1. **Doctors will not try to save my life if they know I am a registered donor.** This is false. Doctors take an oath to save every patient they can. They have an ethical commitment to save lives if possible.
2. **My religion does not support organ donation.** False, every major religion supports and encourages organ donation.
3. **I am too old to donate organs and tissues.** False; let the medical experts make that decision after you pass away.
4. **My family will be charged for donating my organs.** There is no charge to the family for organ donation.

Many people think the only way to register to become an organ donor is through their driver's license bureau. Actually, the fastest way is to go online to www.registerme.org. It will take less than five minutes to register.

As I continue on my post-transplant journey I will make myself available to people in our industry to provide encouragement to people contemplating receiving a life-saving organ and also encourage other people to become registered organ donors. I am also available to give speeches to unions, contractors and trade organizations regarding my personal miracle story and to provide more education about organ donation.

I can be contacted at CorCon Solutions, LLC 49270 Berkshire Rd., East Liverpool, Ohio 43920; by e-mail at cornellw@comcast.net or by phone at 330.383.9650. 



Michael Pleasant Re-Elected NMAPC President and Labor Co-Chair

Michael Pleasant, Assistant General President of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada (UA), has been re-elected President of the National Maintenance Agreements Policy Committee, Inc. (NMAPC) and Labor Co-Chair of the NMAPC Labor-Management Committee.

NMAPC negotiates and administers the National Maintenance Agreements (NMA), a series of collective bargaining agreements utilized by more than 2,000 industrial contractor companies that employ members of fourteen building trades international unions. To date, the NMA Program has accounted for more than \$370 billion of work and well over 2 billion work-hours for the building trades and contractors.

Mr. Pleasant, who has served as NMAPC President and Labor Co-Chair since 2012, was re-elected to a third two-year term by the Committee on June 1.

"I am honored that the NMAPC Labor-Management Committee has once again placed its trust in me, and I look forward to continue leading our organization," Pleasant said. "Our primary goal remains unchanged: to ensure that the NMA Program delivers the highest quality service to the entire tripartite community comprised of labor, contractors and owner-clients. When the NMA Program succeeds, the entire industrial construction and maintenance industry succeeds."

The Distributed 5D Data Disruption Has Begun

How augmented reality, “LivingBIM” and other smart tools will change our industry

by **KENNETH HEPBURN**

MANAGING PARTNER, NEXT DIMENSION TECHNOLOGY PARTNERS

THE DISTRIBUTED DATA disruption began on Tuesday, May 24, 2016.

That was the day Next Dimension Technology Partners demonstrated the world’s first commercially available wearable augmented reality device development kit -- the truly awesome Microsoft HoloLens -- to participants of the inaugural Construction Innovation and Technology Task Force (of which TAUC is a member) in Washington, D.C. Participants also had an inspiring virtual reality experience with the HTC Vive virtual reality headset, literally moving around inside a BIM at almost exact 1:1 scale.

At last, after nearly two years in the space, I was able to bring together building information modeling (BIM), geospatial awareness, wearable human machine interface (HMI) technology and augmented reality (AR) into a singular experience, one that soon will radically transform the way we consume, create and distribute data in the field. The 2D data we now use every day will now begin to move out of the office and off of our thin, flat computer screens to become 4D interactive data that is intuitively actionable in the field.

But it doesn’t stop there. Because the fourth dimension is commonly accepted as time in scientific circles, it should be considered that 3D data (a model) that is geospatially, socially *and* chronologically relevant



Microsoft HoloLens

represents the *fifth dimension or beyond*. This 5D data will be socially and bidirectionally distributed in ways that will create “LivingBIMs” that are continually updated in real time, as work is performed. Smart tools will “talk” to devices and share simple data such as tool torque or crimp psi, which becomes incredibly valuable when integrated into as-built models and scans.

Skanska predicts that augmented reality “will be the next big step for the industry in the next couple of years.” And this next dimension of data and distribution will radically increase the productivity, safety and quality of human work, as illustrated by the following manufacturing case studies:

- Boeing: 30% reduction in assembly time; 90% reduction in error rate.
- Newport News Shipbuilding: As-built inspection “completed in hours instead of days.”

- SRI International: 68% reduction in errors; 47% gain in efficiencies.

While it’s easy to understand the inherent manufacturing efficiencies of repeatable processes, automation, assembly lines, working in controlled environments, etc., it takes some imagination to see how this new era of distributed 5D data will radically transform the construction industry. Here are a few abbreviated examples of the major components:

Augmented Reality: A layer of information placed over our real-world view through optically transparent lenses. If we accept the maxim that a picture is worth a thousand words, then what is the value of a 3D model, or hologram, that is floating in *real* space, exactly where it is supposed to be and with all the visual information that a worker needs to *instantly* and *exactly* understand something? Currently, we all know the deciphering and interpretation of 2D drawings

can easily absorb significant man-hours gathered around the plan table.

Geospatially Aware Devices: Microsoft's HoloLens is a shining example of one of the most critical components of the next paradigm of technology: the wearable HMI, or human machine interface. These devices, which allow for hands-free communication, the passive capture-transmission-display of information, and accurate 3D mapping of where you are in space, will redefine how we communicate at work. Imagine: A line worker climbing a pole triggers the HoloLens to display notes and diagrams left there in "the cloud" by a colleague who didn't have the right supplies to finish the job. Sound good?

Smart Tools: There is a whole new generation of cordless but digitally connected power tools coming to market. For the first time, a hand drill can record torque and rpm data and share it via Bluetooth. When these tools talk to a wearable HMI, this torque/speed data becomes relevant in space – and therefore highly valuable to inspectors, owners, insurance companies, and building and plant maintenance, repair and operations (MRO) personnel. Additionally, safety benefits are inherent to tools with these kinds of sensors, even when not connected to a data network. For example, a large 1/2-inch drill with a 4-inch holesaw has the ability to cut its power when it senses the tool rotating -- just before the operator gets his or her wrists injured.

BIM: Building information modeling (3D models of entire buildings and all of their components) is rapidly replacing or augmenting 2D plans and elevation drawings for architects and engineers, but is rarely used by construction companies beyond marketing collateral. This is about to change. Suddenly, with the advent of wearable HMI such as HoloLens, software companies are waking up to the possibility of having several users in the field for every one they currently



Kenneth Hepburn

house in an office. You can bet this will be a huge driver not only for BIM kingpins like Autodesk, but also for a whole new crop of scrappy tech startups and Silicon Valley companies just now grasping the sheer enormity of the technologically neglected construction industry.

Of course, BIM is also the root of the term "LivingBIM" and will be the initial, if not the enduring, framework of the cloud-hosted data disruption for the construction industry.

LivingBIM: LivingBIM is a new concept that I stumbled upon after spending thousands of hours immersed in the world of the emerging technologies experienced in D.C. and discussed here: augmented reality, wearable human machine interfaces, building information modeling, Industrial Internet of Things, and smart tools. It is the logical extension of the imminent merging of all of the above. LivingBIM will be a live, connected data repository that exists in the cloud and will change the way we work. Through persistent and synchronous data transfer between devices, this organic process will close the chasm between as-designed and as-built models. Data will be created and edited mostly passively, by many workers in various fields, and simply as a result of doing their work.

The consumption and creation of content for construction-AR-wearable applications will create a virtuous cycle that passively and continuously contributes to and refines data models. LivingBIM will become the operating system for the next 50-plus years of a building's lifecycle.

Safety: Most importantly, there will be incredible advances in both passive and active safety features that become incorporated into devices and software. One simple example is that the sensor in a device knows whether the wearer's head is 5 or 6 feet off the ground, or on the ground. In the event of a fall, a device can signal the worker to confirm that they are OK. Absent such confirmation, the device can contact a supervisor or even dial 911 and report the exact coordinates of a worker in need of medical attention.

Individually, these new technologies represent enormous shifts in how the construction industry operates. Collectively, they create unprecedented improvements to worker performance, work quality, and safety -- and all much sooner than you think.

For more information, check out Next Dimension Technology Partners' website at www.nextdtech.com.

Questions?

Comments?

We want to hear from you!

E-mail Executive Editor

David Acord at dacord@tauc.org.

Let him know what you thought about this issue, or suggest an idea for a future article!

Jake Locklear Elected President of TAUC

Richard “Jake” Locklear, President and CEO of APM (Atlantic Plant Maintenance, Inc.), was elected President of The Association of Union Constructors (TAUC) at the group’s annual Leadership Conference, held May 3-6 in Naples, Florida. He succeeded Tom Felton, President of MC Industrial, who was honored with a special plaque and ceremony.

“We lead businesses that are responsible for the health and welfare of the men and women who work in the building trades,” Mr. Locklear said. “I do not take that responsibility lightly, and I know our members don’t either.”

He added that TAUC has “a unique opportunity to influence and advance our industry,” and encouraged members to “step up, speak up, and get engaged in the issues.”

Mr. Locklear began his APM career in 2005 as the first General Counsel for the business, and has led multiple functions in that role, including Legal, Human Resources, Compliance, Risk and Communications. In 2007, he was named Secretary to the APM Board of Directors, and in 2010, he was promoted to Vice President of the business. In 2010, he joined TAUC’s Labor Committee. In 2012, he was named to TAUC’s Board of Directors. In 2015, he was named First Vice President for TAUC and Chairman of the TAUC Government Affairs Committee. He also served as TAUC’s Representative to the National Coordinating Committee for Multiemployer Plans’ (NCCMP) Retirement Security Review Commission.

Mr. Locklear holds a Bachelor of Arts in Political Science and History from Stephen F. Austin State University in Nacogdoches, TX, and a Juris Doctor from the University of Texas School of Law in Austin, TX. He lives in Manvel, Texas with his wife and three children. 



Jake Locklear

New TAUC Board Members, Committee Chairs Announced

TAUC Governing Members elected two new members of the Board of Directors and appointed a new Executive Committee at the 2016 TAUC Leadership Conference, held May 3-6 at the Ritz-Carlton Golf Resort in Naples, Florida.

The new Executive Committee consists of Jake Locklear (APM), President; Steve Johnson (GEM Industrial), First Vice President and President Elect; Justin Bruce (Bruce & Merrilees Electric Co.), Second Vice-President; Chuck Binkowski (Barton Malow), Treasurer; and Bill Treharne (Midwest Steel), Secretary.

In addition, the following members’ names were placed into nomination by the nominating committee and subsequently elected to serve on the Board of Directors: Chris Buckman of BMWC Constructors and Chad Cotter of MC Industrial.

Outgoing TAUC President Tom Felton also thanked outgoing board members Ken Perry of Fluor Constructors and Bill Kroeger of AGC of Missouri for their service and presented them with commemorative plaques.

In committee news, TAUC is pleased to announce that Scott Fisher, Vice President of Labor Relations for AGC of Michigan, has taken over as Chairman of the TAUC Local Employer Organization (LEO) Committee, succeeding Bill Kroeger. Also, Steve Johnson of GEM Industrial is the new Chairman of the TAUC Government Affairs Committee, succeeding Jake Locklear. 

TAUC Labor Committee Changes Name

The TAUC Board of Directors in May 2016 approved a name change for the TAUC Labor Committee. Going forward, it will be known as the TAUC Industrial Relations Committee.

Committee Chairman Jacob Snyder of Enerfab Power & Industrial announced the name change on May 5 at the 2016 TAUC Leadership Conference in Naples, Florida.

The new name more accurately reflects the goals and purpose of the committee, which is comprised of contractor representatives. The previous name also caused some confusion, since there are no labor union members on the committee.

For more information about becoming involved with the TAUC Industrial Relations Committee, contact Mike Dorsey, TAUC Senior Director of Industrial Relations and Development, at mdorsey@tauc.org or 703-524-3336 x122. 

The United Association Safe, Productive and Cost Effective Construction

Project owners have choices, that's why the UA's training and certification programs produce craftsmen that are the most highly skilled and hardest working building tradespeople in our industry today. They're committed to our Standard for Excellence program, a labor-management agreement to uphold the highest industry standards for quality in the workplace.

Owners today also want safe jobsites, and they are demanding that their contractors place a priority on safety. The UA Standard for Safety creates a workplace culture that puts safety first and is intended to help meet the contractor's responsibilities to provide a safe work environment.

At the UA we know a safe workplace is also a productive workplace. That's what keeps our contractors profitable and their owner's projects on time and within budget.

Learn more at: ua.org



**UNION PLUMBERS,
FITTERS, WELDERS AND
SERVICE TECHNICIANS**

They fought for our country.

Now they deserve our thanks—and their shot at the American dream.

Over the last decade, more than 2 million men and women have served and sacrificed for our nation. Now, they're coming home and will be fighting for jobs.

This is why the United Association (UA) created the *Veterans in Piping (VIP)* Program, an award-winning training program that equips transitioning military service members with today's sought after skills, including welding, and heating, ventilation, air-conditioning and refrigeration (HVACR). Once training is completed, VIP graduates are immediately placed into solid private-sector jobs with good pay and benefits.

Because it offers real help to veterans in real time, UA VIP is recognized as one of the best veteran assistance programs in the country, winning praise from Congress, the U.S. Department of Labor, the military and media. In 2011, the Military Officers Association of America honored the UA VIP Program by giving UA General President Bill Hite its Distinguished Service Award.

UA VIP is provided to transitioning active-duty military and veterans either on military bases or at local UA facilities around the country. A nationwide training initiative with all military branches, this program provides services at no cost to veterans or the military—the UA and UA contractors pay all costs.



**UNION PLUMBERS,
FITTERS, WELDERS AND
SERVICE TECHNICIANS**



Learn more about how we're helping veterans build a strong future at www.UAVIP.org.

Safety Award Winners Honored at Leadership Conference

TAUC ON MAY 4 announced the winners of the annual Thomas J. Reynolds Awards for Excellence in Construction Safety and Health during a special ceremony at the 2016 TAUC Leadership Conference at the Ritz-Carlton Golf Resort in Naples, Florida.

The awards were created in 1983 by TAUC's predecessor organization, the National Erectors Association (NEA), to recognize and commend the exceptional efforts made by members to prevent the occurrence of serious injury - or worse - on the jobsite. Winners are recognized for achieving a zero DART (Days Away, Restricted or Transferred) rate in one of four categories. Participants who achieved a DART rate of 25 percent or below the BLS National Average in 2015 received a Certificate of Achievement to acknowledge their accomplishments.

This year, 102 contractors received Thomas J. Reynolds Safety Awards. These winners amassed more than 119 million work hours with 193 DART Cases in 2015. The average DART Rate of these TAUC members was an astounding .320 for 2015, well under the BLS National Average of 2.0.

A complete list of winners and certificate recipients can be found on the following page.

TAUC would like to thank the generous sponsors of this year's awards luncheon:

- Ironworkers Management Progressive Action Cooperative Trust (IMPACT)
- BMWC Constructors



- CR Meyer and Sons
- Bruce & Merrilees Electric Company
- Pioneer Pipe
- Shelby Mechanical
- Enerfab Power and Industrial
- Kiewit Power Constructors
- Environmental, Health and Safety Solutions
- J.J. White Incorporated



Who Was Thomas J. Reynolds?

The Thomas J. Reynolds Safety Award was named in honor of a long-serving member of TAUC's predecessor organization, the National Erectors Association (NEA). A U.S. Navy veteran, Thomas J. Reynolds spent more than

forty years in the construction industry, starting out as a union ironworker, boilermaker and millwright. From 1955 to 1976 he held a variety of high-level safety positions at Bethlehem Steel, culminating in his appointment as Supervisor of Plant Protection and Safety at the company's Burns Harbor, Indiana facility. He went on to

serve as Corporate Manager of Safety for Morrison Construction Company for many years.

In 1980, Mr. Reynolds assisted in writing proposed construction safety standards for OSHA. In 1986, he was invited by Labor Secretary William Brock to join OSHA's Advisory Committee on Construction Safety and Health, becoming the first NEA member to participate on this prestigious panel. The appointment was a fitting capstone to a career dedicated to advancing worker safety. Over the past three decades, the Thomas J. Reynolds Safety Awards program has become a widely recognized standard of excellence in the union construction industry. TAUC is proud to continue Mr. Reynolds' legacy.

Thomas J. Reynolds Awards

Recognizing Excellence in Construction Safety and Health

CATEGORY ONE

Over 1 Million Hours Worked Without a DART Case

- AmQuip Crane Rental LLC
- BMWC Constructors, Inc.
- Corval Constructors, Inc.
- Kiewit Power Constructors Co.
- Solid Platforms, Inc.

CATEGORY TWO

500,000 - 1 Million Hours Worked Without a DART Case

- Advanced Industrial Services, LLC
- Amex Nooter LLC
- Gallagher-Kaiser Corporation
- Ideal Contracting, LLC
- Piping & Equipment Company
- Ryan & Associates, Inc.
- The State Group Industrial (USA) Limited
- Walbridge Aldinger Company

CATEGORY THREE

100,000 - 499,999 Hours Worked Without a DART Case

- Anderson Electric, Inc.
- Central Rent-A-Crane, Inc.
- Chemsteel Construction Company
- Cornerstone Services Group, LLC
- Dearborn Mid-West Company
- EMCOR Hyre Electric Co. of Indiana, Inc.
- Fisher Tank Company
- Grand River Construction, Inc.
- GVH Environmental, Inc.
- Henderson Services, LLC
- Madison Industrial Services Team, Ltd.
- MC Industrial
- Mecon Industries, Inc.
- Monarch Welding & Engineering, Inc.
- New States Contracting, LLC
- Niles Industrial Coatings
- Norris Brothers Company, Inc.
- Power Process Piping, Inc.
- Pritchard Electric Company, Inc.
- Rand Construction Company
- Sargent Electric Company

- Simakas Company, Inc.
- Stevenson Crane Service, Inc.
- Thatcher Foundations Inc.
- The Pangere Corporation
- Thermal Solutions, Inc.
- United Construction Company, Inc.

CATEGORY FOUR

Less than 99,999 Hours Worked Without a DART Case

- Custom Service Crane, Inc.
- Delta Nooter
- Douglas Steel Erection Company
- Fuellgraf Electric Company
- ISS Insulation Services & Solutions
- Michigan Mechanical Insulation, Inc.
- Scheck Technical Services, Inc.
- StructSure Environmental, LLC

CERTIFICATE OF ACHIEVEMENT WINNERS

In addition, 54 companies received Certificates of Achievement for posting a DART rate of 25% or more below the national average, as calculated by the Bureau of Labor Statistics. Those companies receiving certificates were:

- Abel Construction Company, Inc.
- Alberici Constructors
- AMS Mechanical Systems, Inc.
- APi Construction Co.
- Argus Contracting, LLC
- Atlantic Contracting & Specialties, LLC
- Atlantic Plant Maintenance
- Atlas Industrial Contractors, LLC
- Avalotis Corporation
- Babcock & Wilcox Construction Co., Inc.
- Barton Malow Company
- Ben Hur Construction Company
- Bowen Engineering Corporation
- Brand Energy Services, LLC
- Broadway Electric Service Corporation

- Bruce & Merrilees Electric Company
- C.R. Meyer and Sons Company
- Chapman Corporation
- Chellino Crane
- Cherne Contracting Corporation
- Commercial Contracting Corporation
- Construction & Turnaround Services, LLC
- Day & Zimmermann NPS, Inc.
- Enerfab Power & Industrial, Inc.
- George V. Hamilton, Inc.
- Graycor Industrial Constructors Inc.
- Gribbins Insulation Company
- Hayes PMC
- Industrial Contractors Skanska
- J.J. White, Inc.
- JH Kelly, LLC
- Kelley Steel Erectors, Inc.
- Lytle Electric Company
- M & O Insulation Company
- Matrix North American Construction Inc.
- McCarl's Inc.
- McClure Company
- McGraw/Kokosing, Inc.
- Morrison Construction Company
- NAES Power Contractors
- Nooter Construction Company
- Performance Contracting, Inc.
- Performance Mechanical, Inc.
- Pioneer Pipe, Inc.
- RMF Nooter, Inc.
- Scheck Mechanical Corporation
- Shelby Mechanical, Inc.
- Somerset Steel Erection Company, Inc.
- Stevens Engineers & Constructors, Inc.
- StructSure Scaffold & Insulation, LLC
- Superior Construction Company, Inc.
- The Boldt Company
- Triangle Enterprises, Inc.
- Vertical Access Solutions, LLC

Chris Link Named TAUC Craftperson of the Year

by DAVID ACORD



CHRIS LINK HAS been named the 2016 TAUC James J. Willis Craftperson of the Year.

The award, which recognizes outstanding labor-management cooperation and quality craftsmanship in the union construction and maintenance industries, was presented at a special ceremony on May 5 at TAUC's annual Leadership Conference at the Ritz-Carlton Golf Resort in Naples, Florida.

Chris Link is a lineman and member of the International Brotherhood of Electrical Workers (IBEW) Local 351 in Hammonton, New Jersey. He was nominated by Matrix NAC for his outstanding leadership and planning on the Atlantic City Electric (ACE) 67 Rebuild, which spanned nearly 23 miles in Galloway Township, New Jersey.

The ACE 67 project was incredibly complex. Chris coordinated and oversaw the removal of more than 200 wood electrical poles and eight miles of wire, as well as the installation of 198 new replacement steel monopoles, each one averaging 90 feet in length. Eight miles of new 3 phase 1590 ACSR conductor for the 69kV circuit was also installed, along with eight miles of OPGW static wire and underbuild.

"Chris coordinated significant amounts of work zone safety with both local police and work zone subcontractors, because the project needed to go through many busy roadways located in residential and commercial neighborhoods," Matrix NAC said when it nominated him for the award. "He also provided excellent leadership skills on ACE 67 by laying out the work ahead for the line crews and scheduling the civil subcontractors in a timely manner which led to the project completing safely, ahead of schedule and under budget."

"Chris is the kind of guy that looks at a job and says, 'Wow, this can be done,'" said Mike Kleva, Construction Representative for Atlantic City Electric. "Everybody else was saying, 'You guys will never get that job done.' Chris accepts that challenge and figures out a way that he will get it done, and he puts that confidence into the guys that he is leading."

"It's a team concept, and he knows how to get everybody to work together as a team to move the project forward and make sure it's successful," added Lonnie Stephenson, International President of the IBEW.

“He cares about his people,” said Brian Jopling, Project Manager for Matrix NAC. “He makes sure they’re using the right tooling. He wants to make sure these guys are going back home to their families at the end of the day.”

“I’m happy when something is being built, and it’s a job well done,” Chris said. “It’s no one person. I’m nobody without a team of good guys around me...Once you get into this trade, it’s a family, and from there on, it becomes who you are.”

Safety is always the top priority for Chris, and he is well aware of the stakes every time a lineman climbs a pole. “Firemen run into a fire, but a lineman has that fire in his hands a lot of the time,” he said.

Perhaps Ed Gant, Business Manager for Local 351, put it best. “People trust Chris,” he said. “They know he will not put them in jeopardy. Being a lineman is a very dangerous job description.”

About the Award

The James J. Willis Craftperson of the Year Award honors outstanding labor-management cooperation and quality craftsmanship in the union construction and maintenance industries. It is given to building trades members who have a gift for recognizing the vision of a project and can bring that vision to fruition in a professional manner. Apprentices, journeymen, foremen and general foremen from all crafts are eligible for nomination. The recognition program was originally created in 1989 as the Craftsman of the Year Award.

TAUC changed the name in 2008 to memorialize James J. Willis, Sr. He was a dear friend and supporter of TAUC and an authentic leader within the union construction industry for more than five decades.

Jim started out as an apprentice ironworker in 1945 at the age of just 16 and eventually rose to the rank of First General Vice President within the international union. He also served as President and Labor Co-Chairman of the National Maintenance Agreements Policy Committee, Inc. (NMAPC) from 1988-2000.

Jim was hugely influential within the union construction industry, and his steadfast commitment to fairness and cooperation was legendary. It is fitting that the award bearing his name honors a union worker who demonstrates unparalleled leadership and professionalism, because Jim exhibited the same qualities throughout his life.

The James J. Willis Craftperson of the Year Award recognizes five categories of achievement:

- Safety and Health
- Schedule and Budget Productivity
- Cost Savings
- Innovation
- Outstanding Craftsmanship

Projects must be completed in the calendar year of the award. Nominations are forwarded to our judge’s panel to be evaluated and ranked in each category. This year, the members of the James J. Willis Award Task Force were: Joe Lasky, Scheck Industries; William Kroeger, AGC of Missouri; and Jacob Snyder with Enerfab Power and Industrial. 

Craftperson of the Year Nominees

CHOOSING THE CRAFTPERSON of the Year is a tough job, because we receive so many incredible nominations from our contractors. TAUC would like to honor this year’s runners-up for the prestigious award. We salute their hard

work and dedication to safety, and wish to thank the nominating contractors, their labor partners and the owner-clients for assisting in the nomination process.



First Runner Up

Tim Kennedy, a Steamfitter with Local Union No. 638, was nominated by Durr Mechanical for his work on the PSEG Dry Sorbent Injection System Installation in Bridgeport, Connecticut.

Tim’s expansive industry knowledge and ability to engineer and deliver effective onsite solutions to unexpected problems helped bring this project in on time. His meticulous attention to detail resulted in substantial cost savings while enhancing the safety of workers, helping foster a worksite without incident or injury.



Honorable Mention

Richard “Tim” Beck, a Laborer with Local Union 1392, was nominated by The State Group Industrial USA Ltd. for his work on the Century Aluminum Bridgecrane Modification & Repair project in Hawesville, Kentucky.

Richard’s attention to detail and masterful coordination of complex activities across crafts and between multiple stake holders, allowed crews to make upgrades and repairs without impacting Century Aluminum’s production schedule. Most importantly the work was completed without injuries or incidents.

Thank You to Our Sponsors



Tip of the Spear

by SCOTT FISHER

MY NAME IS Scott Fisher, Vice President of Labor Relations, Safety & Health, and Workforce Development for the Associated General Contractors (AGC) of Michigan. I was elected Chair of TAUC's Local Employer Organization (LEO) Committee at our most recent meeting in May, succeeding Bill Kroeger of the AGC of Missouri, who did a wonderful job over the past three years.

I look forward to representing my fellow regional union contractor trade associations as a member of TAUC's Board of Directors. My immediate objectives as the new LEO Committee Chair include recruiting more LEO groups into our ranks and improving the overall value of being a LEO member. I take this new role on with much enthusiasm, but also with steadfast determination, knowing that the only way to make our industry better is to start at the local level. And who better to implement those necessary changes but grassroots organizations like ours, who serve as the "tip of the spear" for union construction and maintenance?

I'd like to take this opportunity to tell you a little bit about myself. I have been involved in the construction industry for almost fifty years, beginning as a carpenter apprentice, then journeymen and foreman before moving to work for the Carpenters Union full time. I spent a total of seventeen years with the Carpenters, holding several appointed and elected positions including that of Secretary-Treasurer of the Michigan Carpenters' Council. Beginning in 1990 I worked in several managerial positions with the Michigan Department of Labor's Bureau of Construction Codes.

In January of 2009 I joined the staff of AGC of Michigan as their Director of Labor Relations, and in

2012 the scope of my role increased to also include Safety and Health and Workforce Development. I currently negotiate and administer over forty collective bargaining agreements with eight different trades, and serve as a trustee on thirteen multi-employer pension, health care and apprenticeship funds.

Our organization first became a member of the NEA – The Association of Union Constructors in 1999 through what was known at the time as the AGC's Detroit Chapter. I began getting involved with the LEO Committee in 2013. Attending LEO Committee meetings gave me a unique opportunity to meet with other LEO executives from across the country. Our roundtable discussions have always been interesting, frank and honest, covering anything newsworthy going on in our respective areas. We talk about the good, the bad and the ugly in order to help one another with problems we have either already faced or will face in the future.

Participating in TAUC's LEO Committee also provides a national perspective to what we sometimes view as only local or regional issues, and it also leverages the decades-long relationships that TAUC has cultivated with the unions at the international level. By participating in TAUC as a LEO member, we have the unique opportunity to interact one-on-one with the presidents and senior executive teams of 14 building trades unions. As an example, at our meeting in 2015, I was able to converse with the General Presidents of the OPCMIA and the BAC about a situation in Michigan that was quite troublesome. Since that time our relationship with the local leadership (and their relationship with each other) has greatly improved. More recently

I was able to have an honest and frank conversation with the leadership of the Operating Engineers at the 2016 TAUC Leadership Conference. I'm certain I would not have had such opportunities if I did not participate in this association. Participation in this organization has also provided me with an opportunity to talk about the challenges our association is facing in Michigan, and ways in which we can strengthen our working relationship.

TAUC's LEO Committee offers its members the best of both worlds: the opportunity to network and learn from their peers from across the United States, and access to union decision makers at the national level -- not to mention TAUC's 2,000-plus union contractor firms.

We cannot rely solely on solutions percolating from the "top" (Washington) or from "our front door step" (our local regions). It will take perspective and leadership from both of these worlds to meet in the middle and make things happen. The TAUC LEO Committee provides that crucial middle ground – a place where we can come together, roll up our sleeves and get things done. I look forward to working with my fellow TAUC LEO members, and hope others will join us as we take labor management co-operations to a new level and work together to solve our common problems and work to make union construction the choice of owners across this great country. 



Scott Fisher is the TAUC LEO Committee Chair and Vice President of Labor Relations, Safety & Health and Workforce Development for the Associated General Contractors (AGC) of Michigan.

Top NMA Contractors & Owners

THE NATIONAL MAINTENANCE Agreements Policy Committee, Inc. (NMAPC) is proud to showcase the top signatory contractors and owners that utilized the NMA in 2015.

Below and on the facing page are the top 50 signatory contractors that performed the most construction and maintenance work hours under the NMA last year. Work hours data for both 2015 and 2014 are based on cumulative totals as of June 15, 2016. TAUC Governing Members are denoted by an asterisk and blue row.

Together, these 50 contractors performed almost 28 million work hours under the NMA program in 2015. For assistance in reporting work hours, please feel free to contact the NMAPC office at (703) 841-9707 ext. 118 and speak to Manager of NMAPC, Database and Technology Systems Ben Cahoon.

On Pages 24 and 25 you will find a listing of the top owners that utilized the NMA, as well as breakdowns of NMA work hours by craft, industry and state.

Top 50 NMA Signatory Contractors Ranked by 2015 Work Hours

Ranking						
2015	2014	Change	Contractor	Website	City & State	Work Hours
1	1		Enerfab Power & Industrial, Inc.*	www.enerfab.com	Cincinnati, OH	2,976,040
2	16	+14	Babcock & Wilcox Construction Co., Inc.*	www.babcock.com	Barberton, OH	1,604,304
3	2	-1	Chapman Corporation*	www.chapmancorporation.com	Washington, PA	1,445,279
4	4		Sterling Boiler & Mechanical, Inc.	www.sterlingboiler.com	Evansville, IN	1,253,797
5	5		Solid Platforms, Inc.*	www.solidplatforms.com	Portage, IN	1,117,072
6	42	+36	Day & Zimmermann NPS, Inc.*	www.dayzim.com	Lancaster, PA	970,344
7	3	-4	Graycor Industrial Constructors Inc.*	www.graycor.com	Oakbrook Terrace, IL	833,575
8	6	-2	Matrix North American Construction Inc.*	www.matrixnac.com	Canonsburg, PA	747,532
9	27	+18	Superior Electric Great Lakes Co.	www.seglc.com	Troy, MI	744,879
10	17	+7	Industrial Contractors, Inc.(ND)	www.icinorthdakota.com	Bismark, ND	712,000
11	31	+20	AZCO Inc.	www.azco-inc.com	Appleton, WI	623,450
12	8	-4	BMWC Constructors, Inc.*	www.bmwc.com	Indianapolis, IN	620,722
13	N/A		Barton Malow Company*	www.bartonmalow.com	Southfield, MI	615,633
14	14		Turner Industrial Maintenance, LLC	www.turner-industries.com	Baton Rouge, LA	605,131
15	7	-8	Superior Construction Company, Inc.*	www.superior-construction.com	Portage, IN	597,819
16	12	-4	RMF Nooter, Inc.	www.rmfnooter.com	Toledo, OH	579,371
17	11	-6	GEM Industrial Inc.*	www.rlgbuilds.com/companies/gem-inc	Walbridge, OH	554,228
18	28	+10	Nooter Construction Co.*	www.nooterconstruction.com	St. Louis, MO	551,959
19	36	+17	Weldtech Services Inc.	www.bhienergy.com	Billings, MT	522,642
20	105	+85	J.H. Kelly, LLC	www.jhkelly.com	Longview, WA	505,494

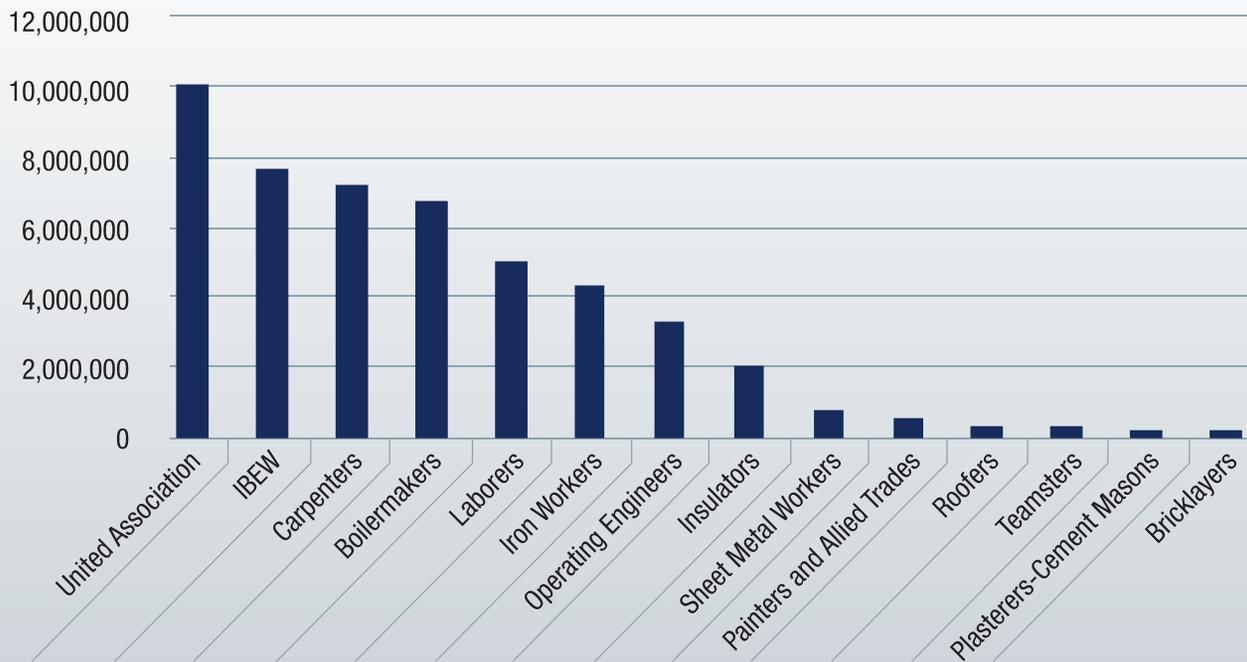
Ranking						
2015	2014	Change	Contractor	Website	City & State	Work Hours
21	21		C.R. Meyer and Sons Company*	www.crmeyer.com	Oshkosh, WI	461,066
22	15	-7	Alberici Constructors*	www.alberici.com	St. Louis, MO	432,655
23	49	+26	International Industrial Contracting Corporation*	www.iicusa.com	Sterling Heights, MI	428,632
24	475	+451	The Boldt Company	www.theboldtcompany.com	Appleton, WI	421,975
25	22	-3	Pioneer Pipe, Inc.*	www.pioneerpipe.com	Marietta, OH	408,621
26	58	+32	Brand Energy Services, LLC	www.beis.com	East Hazel Crest, IL	403,203
27	41	+14	J.J. White Inc.*	www.jjwhiteinc.com	Philadelphia, PA	395,589
28	43	+15	Motor City Electric	www.mceco.com	Detroit, MI	388,520
29	18	-11	McCarl's Inc.*	www.mccarl.com	Beaver Falls, PA	380,966
30	57	+27	Broadway Electric Service Corporation	www.besco.com	Knoxville, TN	358,200
31	50	+19	O'Connor Corporation	www.oconnorconst.com	Canton, MA	350,935
32	95	+63	Minnotte Contracting Corporation*	www.minnotte.com	Pittsburgh, PA	339,419
33	34	+1	API, Inc.	www.apigroupinc.com	New Brighton, MN	326,948
34	76	+42	Bowen Engineering Corp.	www.bowenengineering.com	Indianapolis, IN	304,314
35	32	-3	McAbee Construction, Inc.	www.mcabeeconstruction.com	Tuscaloosa, AL	300,844
36	134	+98	Chellino Crane Rental*	www.chellinocrane.com	Joliet, IL	298,928
37	48	+11	Morrison Construction Company*	www.mcco.com	Hammond, IN	295,904
38	53	+15	N.B. Processing Inc.	www.northernboiler.com	Muskegon, MI	295,398
39	20	-19	Cherne Contracting Corporation*	www.cherne.com	Eden Prairie, MN	283,627
40	94	+54	Aristeo Construction	www.aristeo.com	Livonia, MI	278,894
41	N/A		Piping & Equipment Company	www.pipingequ.com	Wichita, KS	278,082
42	25	-17	Monarch Welding & Engineering, Inc.*	www.monarchwelding.com	Warren, MI	275,533
43	45	+2	SESCO Construction Inc.	www.sencoconstruct.com	Robinson, IL	268,809
44	23	-21	Lakehead Constructors, Inc.	www.lakeheadconstructors.com	Superior, WI	268,571
45	70	+25	Lytle Electric Co. Inc.	www.lytleelectric.com	Robinson, IL	264,988
46	39	-13	The Jamar Company*	www.jamarcompany.com	Duluth, MN	263,519
47	30	-17	Shelby Mechanical, Inc.*	www.shelbymechnical.com	Cinnaminson, NJ	263,505
48	172	+124	Amex Nooter LLC	www.amexnooter.com	Tinley Park, IL	259,903
49	37	-12	Construction & Turnaround Services, LLC*	www.inservusa.com	Tulsa, OK	255,551
50	N/A		Ray Angelini Inc.	www.raiservices.com/	Sewell, NJ	250,830

* denotes a TAUC Governing Member

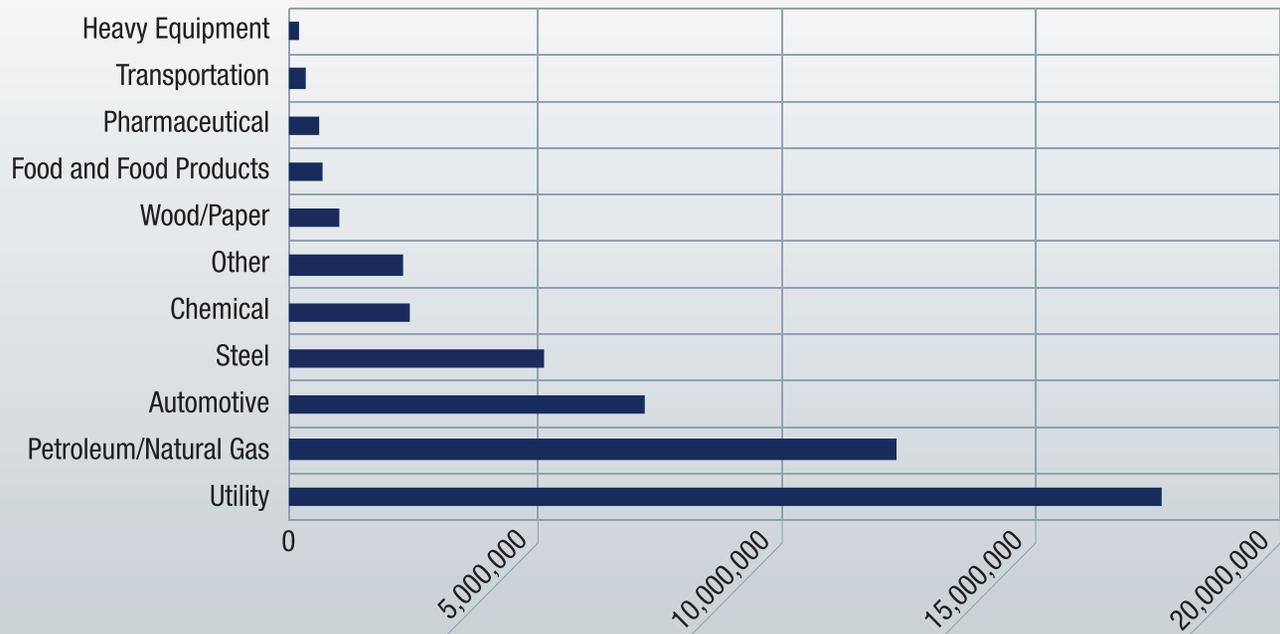
Top 10 NMA Owner-Clients Ranked by 2015 Work Hours

Rank	Owner	Work Hours
1	General Motors Company LLC	4,099,752
2	SUNOCO	2,415,483
3	American Electric Power	2,181,631
4	BP Products North America, Inc.	2,150,073
5	Ford Motor Company	2,031,590
6	ArcelorMittal	1,338,917
7	CITGO Petroleum Corporation	1,201,165
8	United States Steel Corporation	1,103,523
9	Consumers Energy	986,520
10	Marathon Petroleum Company LP	940,073

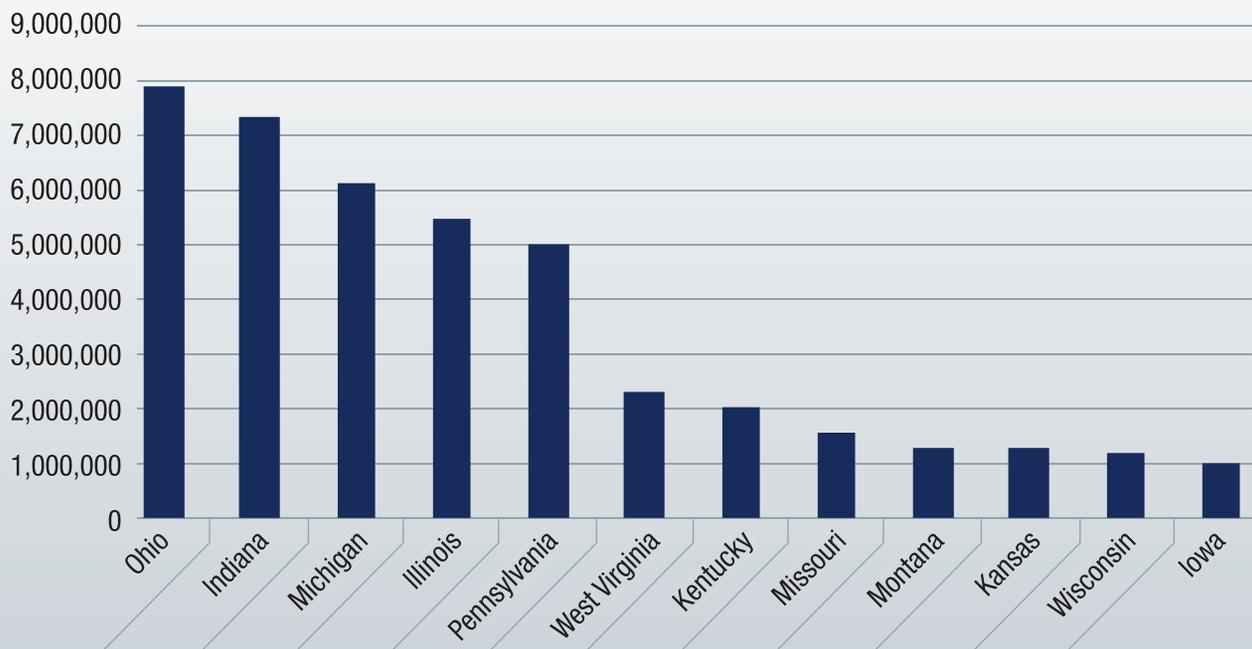
2015 NMA Work Hours by Craft



2015 NMA Work Hours by Industry



Top 12 NMA States Ranked by 2015 Work Hours



Industry Less Optimistic About Growth, Split on Labor Supply Levels

CONTRACTORS, LABOR REPRESENTATIVES and owner-clients in the union construction and maintenance industry are less optimistic about growth opportunities in 2016, and remain split over whether there are enough qualified union craftworkers to meet potential demand.

These are just two findings of the wide-ranging new 2016 Union Labor Supply Survey report released in May by TAUC. The report was produced in conjunction with the Construction Labor Research Council (CLRC). It is designed to give construction professionals an in-depth understanding of the current state of union labor supply in the construction and

maintenance industry throughout the United States.

The report is available as a free PDF download at www.tauc.org/laborsupply.

This second annual report builds on last year's landmark initial study, providing even more detail, data cuts and historical analysis. TAUC and CLRC utilized a rigorous scientific methodology to analyze nearly 800 responses to a multi-question survey sent earlier this year to a cross-section of contractors, union representatives and owner-clients. The large sample size and carefully worded questions combine to make this one of the most useful labor supply reports available, and the only union-specific

study focusing on construction and maintenance.

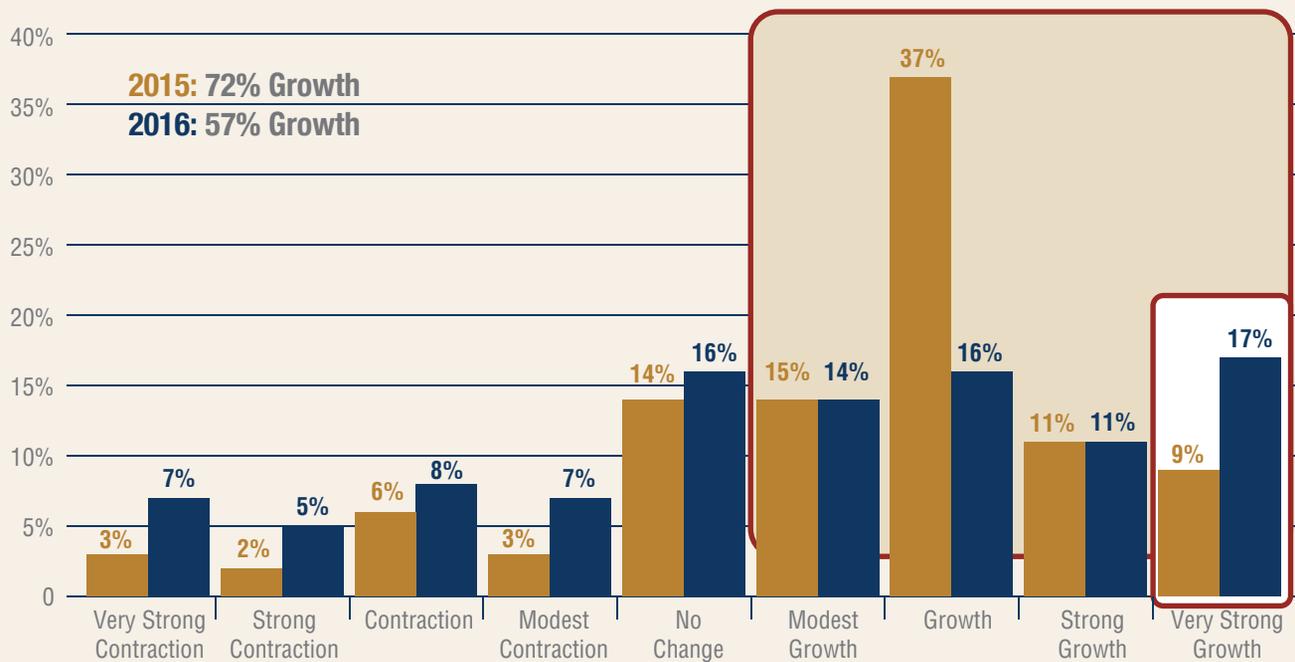
In addition to overall findings, the study also features numerous data cuts based on several demographics, including respondent categories, geographic regions and specific industries. Data are presented for each of 14 crafts individually, as well as aggregated, including both actual 2015 staffing levels and projections for 2016.

Highlights of the study include:

Outlook Less Optimistic for Growth

- This year, just over half (57%) of all respondents said they expect

Detailed overall growth/contraction projections in construction and maintenance work opportunities: 2015 vs 2016



Very Strong Contraction = -10% or greater; **Strong Contraction** = -7% to -9%; **Contraction** = -4% to -6%; **Modest Contraction** = -1% to -3%; **No Change** = 0%; **Modest Growth** = 1% to 3%; **Growth** = 4% to 6%; **Strong Growth** = 7% to 9%; **Very Strong Growth** = 10% or greater.

the industry to grow to varying degrees. That percentage is down significantly from the 72% who expected overall growth in 2015. However, there are bright spots. For instance, 17% projected “very strong growth” of 10% or more in the construction and maintenance industry; that’s almost double the percentage from last year (9%). The percentage of those expecting “strong growth” of 7% to 9% remained unchanged from last year at 11%.

- Labor remains more optimistic about growth than other sectors. Over 75% of union representatives projected growth in 2016, compared to just over 60% of contractors/subcontractors.

Industry Still Split on Labor Supply Levels

- Just over half (52%) of all respondents said they had experienced a union craft labor shortage in the previous year (2015). This was the same percentage that reported a shortage in 2014.
- Union/labor respondents reported the lowest shortage rates (41%) and the highest surplus rates (27%).

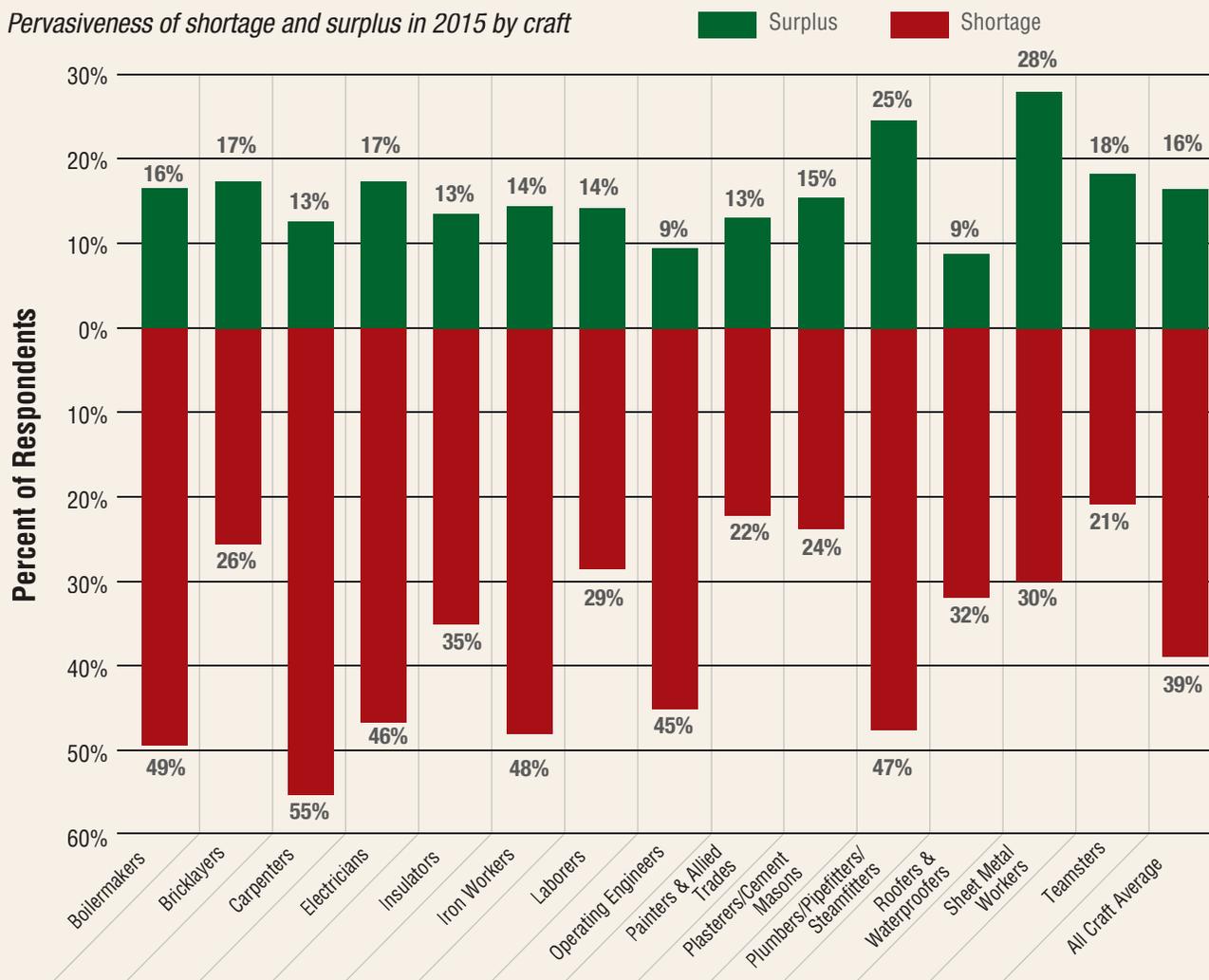
Construction managers reported the highest shortage rates (77%), followed by owner-clients (66%) and contractors/subcontractors (62%).

- An average 39% of respondents experienced a craft labor supply shortage in the previous year (2015), while just 16% reported a surplus.
- 55% of respondents said they experienced a shortage of Carpenters in 2015, the highest of the 14 building trades; they were followed by Boilermakers (49% reported a shortage), Iron Workers (48%) and Plumbers/Pipefitters/Steamfitters (47%).

“This year’s Labor Supply Survey report is second to none in its level of detail and analysis,” said TAUC CEO Steve Lindauer. “We listened to last year’s respondents, many of whom asked for more data. The result is an extremely comprehensive report that will help the entire tripartite community – contractors, labor and owner-clients – prepare for the challenges that await us in 2016 and beyond.”

The complete Labor Supply Survey report can be downloaded today at www.tauc.org/laborsupply.

Pervasiveness of shortage and surplus in 2015 by craft



Extreme Ownership is Required to Win the Battle!

by JACOB SNYDER

WHETHER WE WANT to acknowledge it or not, as union contractors, we are in a battle for market share. By virtue of the bidding nature of our business, when a project is awarded it either goes to a union contractor or an open-shop contractor; those are the only two options available. The troubling part is that we are losing this battle badly.

A couple of years ago, the Construction Labor Research Council (CLRC) conducted a market share study for TAUC along with a couple of other union contractor organizations. The results of the study revealed that the union share

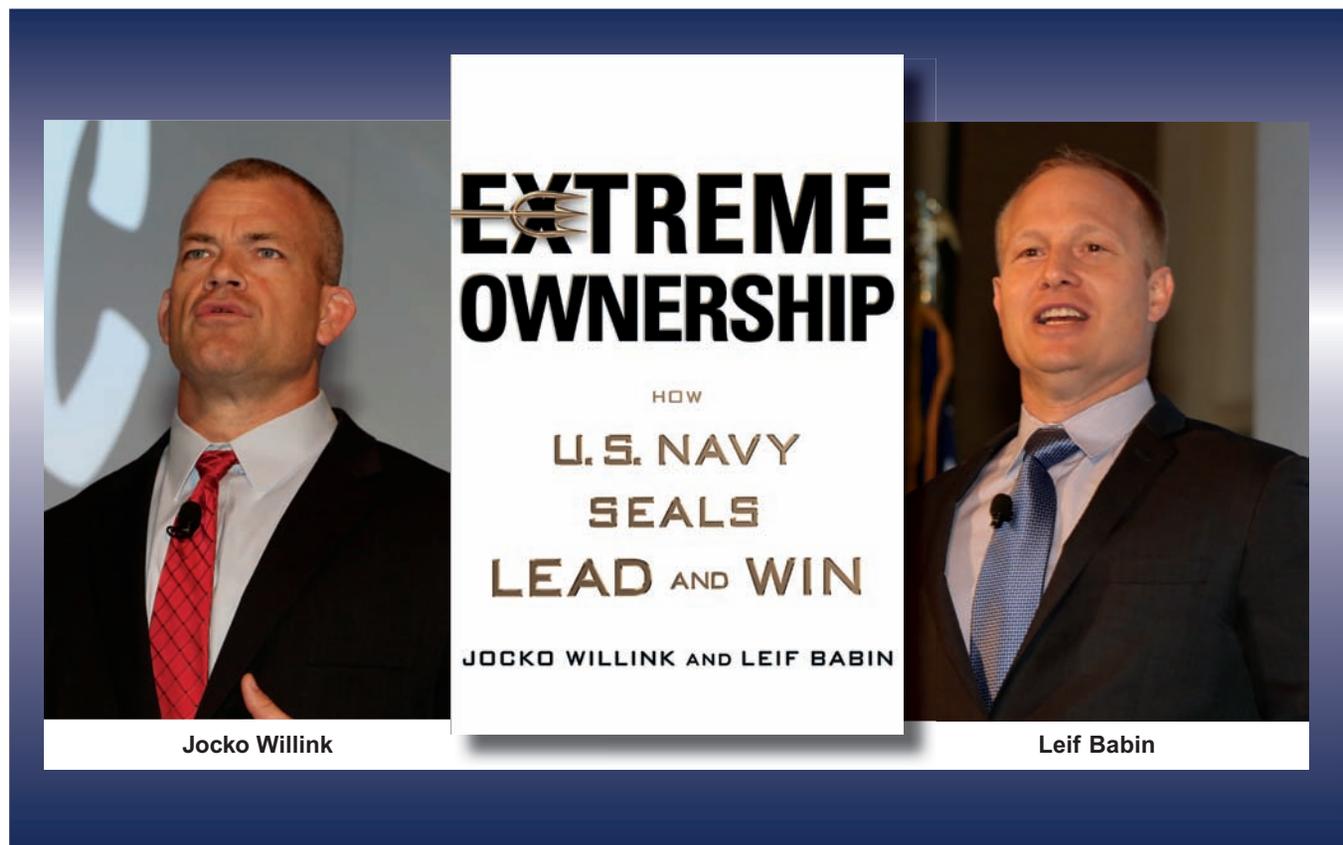
of the construction market was somewhere in the 18%-20% range and in the heavy civil and industrial sectors, it rose to 30%-40%. Any way you look at those numbers, they're bad, as union contractors once controlled the vast majority of construction projects in the United States.

This information is probably not new to you, but the purpose of this article is to ask the question, "What is required of us if we want to win the battle for market share?"

If you attended the TAUC Leadership Conference this year in Naples, you heard from two former Navy SEAL commanders who led SEAL Team Three's elite Task Unit

Bruiser in Iraq. Jocko Willink and Leif Babin wrote a book about leadership based on their experiences called *Extreme Ownership: How US Navy Seals Lead and Win*. The crux of the book is that leadership at every level is the most important factor in determining whether a group or organization succeeds or fails, and that leaders need to take ownership of their role.

We are all leaders in our respective organizations, and therefore we bear the responsibility to take ownership and win not just for our companies and unions, but also for the union construction industry as a whole. Below are three concepts from the



book that can help us as we fight our battle for control of market share.

We must accept that if we are not winning we are not making the right decisions.

This is a tough pill to swallow and requires some serious reflection. To adopt the mindset that an idea you or your team have come up with is failing is tough to do. Further, people are generally resistant to change. But change is required, especially when you're losing.

We work in an industry steeped in tradition and personal relationships. However, if we are going to accept that what we are doing is not working, that means everything is on the table. This might include items such as jurisdiction, union structure, health care, defined benefit retirement plans, referral rules, portability, strikes, and others. Many of these items are considered sacred in our industry, but the fact of the matter is that if we are losing our battle and market share continues to shrink, it won't matter what our positions are, because we won't be in business.

It is time for contractor leadership and unions to accept that we are losing and work together to make different decisions -- which will likely be hard decisions -- for the betterment of the industry.

Good leaders don't make excuses. Instead, they figure out a way to get it done and win.

We work in a difficult industry and that makes it easy for us to find excuses for why we don't get the desired results. I hear things like: "The drawings were late," "We have a transient workforce," "I have to refer that guy or he will file charges," or "The weather didn't cooperate." While all of these things may be true, that fact of the matter is that using them as a reason to not perform is costing us opportunities.

When a contractor fails to perform on a project, whether by their own doing or as a result of shortcomings by the unions, it impacts the ability of other union contractors to get work with that customer in the future. Instead of letting the excuses dictate our future, we have to take ownership of the projects and find ways to win. This takes a serious level of commitment from all levels of leadership with both contractors and unions.

It's not what you preach, it's what you tolerate that matters.

As an industry we do a great job of preaching our message. The message involves things like: "Value on display everyday," "We are the safest workforce in the industry," "Jurisdiction doesn't impact the job," "You will have the qualified manpower you need," and "We are the most productive in the industry."

However, while we are saying the right things, we are often missing the details and follow-through required to live up to what we are preaching. When we tolerate behavior such as bad welds, not tying off properly, having too much supervision, referring new employees off the street to meet labor demand, padding a job with non-productive personnel, or involving the customer in jurisdiction, we are enabling the problems that plague performance and impact our ability to fulfill the promises and claims that we make.

In order to win the battle for market share it will take the combined effort of both contractors and unions. But, it will take more than just cooperating on basic issues to succeed. It will take leaders from both sides on multiple levels willing to take ownership of victory to an extreme -- and that will require courage in the face of opposition, perseverance in the face of adversity, and a willingness to check our egos at the door. 



Jacob Snyder is the TAUC Industrial Relations Committee Chairman and Director of Safety and Labor Relations for Enerfab Power & Industrial, Inc.



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Gambling with Pension Benefits & Industry's Long-Term Viability

by JIM KOLB

PARTNER, SUMMIT STRATEGIES GOVERNMENT AFFAIRS LLC

ON MAY 6, the U.S. Department of Treasury rejected the rescue plan submitted by the trustees of the \$16.8 billion Central States Pension Fund. This was the first proposal submitted under the pension preservation tools authorized by the Multiemployer Pension Reform Act (MPRA).

While Treasury's decision provides a temporary reprieve for the 270,000 Central States participants slated for benefit reductions under the proposal, the rescue plan was the last hope to avoid catastrophic plan failure and to prevent plan participants from being thrown into the Pension Benefits Guarantee Corporation (PBGC), the federal backstop for multiemployer pension plans.

This decision will have significant real-world impacts on union contractors and multiemployer pension plan participants. Treasury's rejection threatens the entire multiemployer pension system, leading to greater uncertainty for the plan trustees, contributing employers, and plan participants.

The reality facing Central States is simple math: it has only half of the resources needed to fully meet its future retirement obligations, and it continues to lose billions every year, as it has far more retirees receiving pensions than it has active participants. Current projections show the Fund will become insolvent by the end of 2025. If this were to occur, it would bankrupt the PBGC multiemployer program.

PBGC, meanwhile, is facing its own solvency crisis. There are serious questions over its ability to protect retirees over the long-term. In a report just issued last month, the PBGC found that its resources are significantly below the amount necessary to cover guaranteed benefits. Despite the doubling in premiums included in MPRA, the multiemployer program is expected to run out of resources prior to 2025.

To address this looming crisis, some in Congress — backed by the Teamsters and pension rights advocates — have called for a Federal bailout of multiemployer pensions. Total price tag: more than \$30 billion. While TAUC has supported such legislative proposals in the past, the likelihood of such a proposal passing in the current legislative environment is nearly zero. Even a compulsive gambler would avoid those odds. Yet, participants in troubled plans are being sold a bill of goods — namely, that they will

not have to face benefit reductions. Those claims have no basis in reality, and put those participants at a much greater risk of much deeper reductions. The political leaders selling these proposals are gambling with the pension benefits and retirement security of multiemployer plan participants.

With the likelihood of a federal bailout of the multiemployer program bleak — to say the least — the PBGC and some in Congress have called for increasing annual premiums paid by multiemployer plans. While there is not a specific proposal to increase premiums, the recently released PBGC report found that “substantial increases in premium revenue will be needed to avoid cuts in multiemployer insurance program guarantees.” The report projects that

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Walking the Talk to a Healthier You

by JOE LASKY, JR., CSP, CHMM

MY WIFE AND I have been on just about every diet you can think of in an attempt to beat the “battle of the bulge.” All of these diets have worked great — until we stopped following them! My cardiologist keeps telling me that the best plan to lose weight is the “push-away” diet. In other words, push your plate away from you after one serving of food. In addition to that, he says a minimum of 10,000 steps a day is also an integral part of that plan.

Many of us would agree that the “health” aspect of workplace safety does play a key role in accident prevention. All of us focus every day on maintaining a safe working environment. This should also entail daily or at least weekly fitness-based activities that incorporate all levels of physical fitness (i.e. walking, running, biking, yoga, etc.). Many companies have wellness programs that are available to employees, but usually only on a voluntary basis. It takes a strong personal commitment to follow through on the programs. Without a doubt, a healthy body is less susceptible to injury or disease – which ultimately affects the “safety” aspect of the workplace by reducing potentially unsafe behaviors.

An interesting article entitled “Fit firefighters less prone to injury – study,” published November 15, 2013 in *Reuters Health* found that “fit” people were less prone to minor traumas and recovered more quickly. The researchers of this study concluded that the findings illustrate the importance of fitness in reducing the risk of injury in physically demanding occupations, such as the fire service, and support the need to provide dedicated resources for structural fitness programming and the promotion of injury prevention strategies to people in those fields. This study could easily translate to the physically demanding requirements of the construction industry.

Construction is a physical and fast-paced industry that requires a lot of coordination and awareness, not to mention heavy lifting, working in awkward positions, sitting for long periods of time, and potentially being exposed to toxic substances. To make matters worse, studies often show that unhealthy lifestyles, unsafe work habits, and inappropriate use of technology are causing an increase in health-care costs, worker compensation costs and absenteeism.

Another aspect of wellness is ensuring that you get enough sleep. Lack of proper sleep can lead to reduced productivity, increased on-the-job errors, lack of concentration, fatigue, stress, and rage. One study done by Harvard Medical School in 2012 showed lack of sleep was linked to 274,000 workplace accidents. Other associated diseases/illnesses (i.e. obesity, heart disease, diabetes, etc.) are increasing and adding costs to a company’s bottom line.

While health and fitness is a real concern for many of us, it is difficult to establish a work-based program that meets the diverse needs of a large spectrum of employees. At Scheck worksites, stretching exercises are used in the morning before work begins as a preventative for workplace sprains and strains. This is certainly a good start at incorporating the wellness factor into an existing workplace health and safety program, but there are numerous other ways to achieve this goal. These include, but are not limited to, regularly scheduled exercise; starting out the day with a healthy breakfast; healthy eating habits throughout the

work day; keeping hydrated in hot environments to prevent heat stress; use of adequate sunscreen protection to reduce risk of skin cancer; and yearly visits to your doctor for an annual wellness exam.

At the very least, steps should be taken to reduce employee inactivity, encourage more healthful lifestyle choices, and make overall improvements to benefit employees not just professionally but personally as well. My own personal commitment is to “walk the talk” by exercising more and making more healthful lifestyle choices. Why not join me in making that commitment for yourself as well? Author Darrell Calkins put it this way: “Physical well-being necessitates listening to what you already know and then taking it seriously enough to act accordingly.”

Have a safe and healthy summer! 

Without a doubt, a healthy body is less susceptible to injury or disease – which ultimately affects the “safety” aspect of the workplace by reducing potentially unsafe behaviors.



Joe Lasky is Chair of the TAUC Environmental Health and Safety Committee and Director of Corporate Safety, Health and Environment for Scheck Industries.

Tom Van Oss Honored with TAUC Spirit of Union Construction Award

The Association of Union Constructors (TAUC) honored industry veteran Tom Van Oss with its prestigious Spirit of Union Construction Award, reserved for individuals who have dedicated their entire careers to the advancement of the industry.

Mr. Van Oss, who has been involved with union construction and maintenance for decades, was presented with the award during a special ceremony as part of TAUC's annual Leadership Conference on May 5, 2016 in Naples, Florida.

The TAUC Spirit of Union Construction Award was created in 2007 to recognize individuals who have made a significant impact on the union construction industry throughout their illustrious careers. It recognizes and celebrates a lifetime of achievements. But it's about more than just their career and the titles they've held. It's about the positive impact they've had on the people around them. The Spirit of Union Construction Award recognizes someone who has inspired others to do better, to achieve more than they

thought possible; someone who has reached out and helped colleagues during times of trouble, and never asked for anything in return; someone

whose passion for the industry was evident in everything they did.

View the tribute video to Tom at www.tauc.org.



L - R: Tom Van Oss, TAUC President Jake Locklear.

Gambling with Pension Benefits & Industry's Long-Term Viability

Continued from Page 30

premiums will need to increase to over four and one half times the current rates in order for the PBGC to meet average projected financial assistance obligations through 2035. An increase of that magnitude would have a huge impact on union contractors, driving up their costs and significantly undermining their ability to compete for work.

TAUC is working to oppose such an increase, which would be unfair to contractors participating in healthy plans, and shortsighted and counterproductive to the long-term health of the overall multiemployer pension system. Such a large premium increase would make it harder to get new employers to join these plans, and could lead to contractors exiting pension plans altogether to avoid the premium increases and growing unfunded liabilities. Even worse, such an increase could force others into bankruptcy.

TAUC is also continuing to work with other construction industry trade associations and our building trades partners to urge Congress to enact legislation to strengthen the

multiemployer pension system by authorizing the use of new benefit plan designs known as hybrid or composite plans. Authorizing the use of these plans would provide employers an incentive to stay in the system by allowing trustees to voluntarily develop plans that offer participants lifetime benefits at a predictable fixed cost to employers. The ability to negotiate such benefits would provide joint labor-management trustees the flexibility they need to address instability in the current multiemployer pension benefit model.

One thing is very clear: doing nothing and waiting for more pension funds to fail is a dangerous proposition for the long-term viability of many multiemployer pension funds. The rejection of the Central States' rescue proposal and the pending insolvency of that Fund should drive home the threat of this looming crisis with lawmakers. Let's hope they get the right message from Treasury's decision before retirees, plan participants and contributing employers end up being dealt out of the game.

Court Ruling on Union Enforcement Tactics Holds Key Lessons

by STEVE FELLMAN, TAUC GENERAL COUNSEL

EARLIER THIS YEAR, a federal appeals court ruling brought an end to more than a decade of legal wrangling between an Iron Workers local and several non-union steel erectors in Massachusetts over charges of unfair labor practice. Though neither side came out a clear winner, the court's opinion holds several important legal lessons for the industry about what to do (and not do) when competing for work against non-union competitors.

In December 2004, five non-union steel erectors sued Boston's Iron Workers Local Union No. 7. The contractors alleged that the local engaged in numerous unfair labor practices in order to secure bids for union contractors. They argued that these actions violated the Labor Management Relations Act (LMRA) as well as antitrust laws (See *American Steel Erectors, Inc., et al v. Local Union No. 7 et al*, No.13-1531,13-1665,13-1707, and 13-1714, U.S. Court of Appeals, 1st Circuit, February 25, 2016).

For more than thirteen years, the case bounced back and forth between district and appeals courts. Finally, on February 25, 2016, Chief Judge Howard of the First Circuit Court of Appeals wrote a unanimous decision and ordered the local to pay two non-union steel erectors just over \$290,000 in damages for engaging in unfair labor practices. However, the judge found that some of the local's controversial activities did not violate antitrust laws.

Let's dig deeper into this fascinating case.

Boston Rules

The Court began its opinion by providing a thumbnail sketch of the structural steel industry in the Boston area. When a developer or owner decides on a general contractor, the contractor then solicits bids for a combined fabrication and erection package. It's up to the fabricator to get a bid from a steel erector, package it with its own bid and submit both to the contractor. At the time that the case was filed, there were roughly 20 fabricators in the New England area and 200 steel erectors.

Local 7 had a CBA with the Building Trades and Employers Association of Boston and Eastern Massachusetts (BTEA). BTEA represents hundreds of union contractors, including many union erectors competing with the plaintiff non-union erectors. The Court found that as a general rule, non-union steel erectors paid lower wages than union steel erectors and since steel erection

was labor intensive, non-union erectors were able to submit lower bids to fabricators and increase their market share.

To prevent the erosion of their market, Local 7 negotiated the addition of a "Market Recovery Program" (MRP) to its CBA with BTEA. Under the MRP, signatory erectors agreed to check off a small amount of each union employee's paycheck into a Market Recovery Fund operated by Local 7. The local would identify construction projects that were likely to draw competition from non-union contractors, then notify its signatory union erectors that it would use the Fund to subsidize their bids. In the event that a signatory union contractor got the bid, Local 7 would enter into a job-targeting fund agreement, with the union erector setting forth the term of the MRP subsidy for that particular project.

LMRA Charges

At trial, the Court limited the plaintiffs to presenting evidence regarding only four specific projects. Under the LMRA, it is an unfair labor practice for a union to threaten, coerce, or restrain an employer with the object of forcing the employer to (a) enter into an agreement requiring the employer to cease doing business with another party which is prohibited by Section 8(e) of the National Labor Relations Act, or (b) to cease doing business with another party. At trial, the Court instructed the jury that in order for Local 7 to be liable, the jury must find that the union not only coerced the fabricators not to do business with non-union erectors, but that the union actually coerced fabricators not to do business with the *plaintiff* non-union erectors in particular.

Plaintiffs presented evidence showing that Local 7 repeatedly told general contractors and fabricators working on greater Boston-area projects that unless they hired union erectors, the unions would picket their projects. Further, with regard to the four projects under consideration in this litigation, the fabricators were specifically told by Local 7 not to deal with the plaintiff non-union erectors. The Court described incidents where fabricators hired a plaintiff non-union erector and Local 7 not only picketed the site but demanded that the non-union erector be replaced by a union erector. In several instances, the Court found that Local 7 had disrupted non-union erectors' job sites and damaged equipment.

The Court also found that on the four projects under consideration, the fabricators replaced the non-union erectors

with union erectors for no valid business reason. In fact, the fabricators ended up paying more for the union erectors. Based on these facts, the Court of Appeals found that the jury had ample basis for concluding that there was an agreement between each fabricator and Local 7 that was attributable to Local 7's coercive tactics. The agreement was that the fabricator would oust the non-union erector and hire a union erector as a replacement in order to eliminate union obstacles that had been causing project interference.

Local 7 argued that it was the general contractors who had pressured the fabricators to get rid of the non-union erectors, not the union, but the Court of Appeals found that the record supported the conclusion that it was Local 7 who had done the coercing. It upheld the lower court's original ruling and affirmed the \$290,000 in damages awarded by the jury to the non-union erectors.

Antitrust Issues

The non-union contractors also alleged that there was a conspiracy between Local 7, its signatory contractors, the general contractors and the fabricators to shut non-union erectors out of the steel erection market in the greater Boston area. The Court of Appeals described these allegations in antitrust terms as including:

1. Alleging that there was a group boycott – i.e., an agreement to refuse to deal with the non-union plaintiff steel erectors;

2. Alleging that Local 7's individual agreements with signatory erectors, fabricators and general contractors were unreasonable restraints on trade in violation of Section 1 of the Sherman Act; and

3. Alleging that Local 7 and the signatory erectors, fabricators and contractors were trying to monopolize the market in violation of Section 2 of the Sherman Act.

But the Court of Appeals found that no antitrust violation existed. First, it noted that unions have a

statutory antitrust exemption. As long as the union acts in its self-interest and does not combine with any non-labor groups, the union is exempt from antitrust liability. The Court also described what is commonly referred to as the non-statutory antitrust exemption of certain labor related practices. Under this exemption, activities that are anchored in the collective bargaining process, which concern only parties to the collective bargaining process and which relate to wages, hours, conditions of employment or other mandatory subjects of collective bargaining are not subject to antitrust liability.

Second, the Court of Appeals stated that although certain types of group boycotts were illegal without proof of competitive injury, those types of boycotts involved refusals to deal among horizontal competitors. The plaintiffs' allegations related to an agreement between Local 7 and a group of fabricators, who were not horizontal competitors, and there was no evidence of a horizontal agreement among a group of fabricators or a group of erectors. There was evidence of individual company conduct, but antitrust laws are conspiracy laws and don't apply to a single seller's decision to favor one buyer over another. Although the plaintiffs claimed that the MRP was part of an antitrust conspiracy, the Court ruled that it was part of a CBA and therefore protected from antitrust scrutiny under the non-statutory exemption.

Third, the Court looked at the argument that Local 7, in addition to the collective bargaining agreements, had entered into collateral agreements with groups of fabricators, general contractors and union erectors, to foreclose the plaintiffs' opportunities to compete as steel erectors. The Court recognized that if such collateral agreements could be proven, antitrust liability might exist. However, the Court of Appeals found that there was no evidence of such agreements and noted that the

plaintiff non-union erectors had actually grown in size during the time involved in this litigation.

Fourth, the Court looked at plaintiffs' monopolization claim and again found that there was no substantial evidence in the record that would support such a claim.

Conclusion

So what conclusions can we draw from this case? After more than 13 years of litigation, we know the following:

1. A MRP negotiated as part of a CBA is not a violation of antitrust laws.

2. Although unions can urge contractors to hire union subcontractors, certain union activity designed to coerce a contractor to stop dealing with a specific non-union subcontractor may be an unfair labor practice for which the union may be liable for damages.

3. If you are going to file a plaintiff's antitrust case alleging that there has been a conspiracy to keep you out of the market, you need to have hard evidence of the conspiracy. If your business has grown and achieved economic success during the time of the alleged conspiracy, you will have a hard time convincing a Court that you have suffered an antitrust injury.

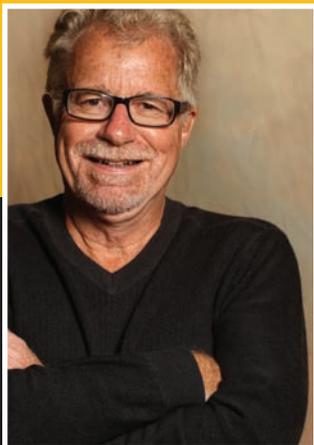
4. Plaintiffs litigated for over 13 years and recovered \$290,713.60 in damages. If the value of the lawsuit to the plaintiffs was that it stopped further union coercion and permitted the non-union erectors to grow and increase market share, it may have been worth litigating. However, if the value to plaintiffs was the \$290,713.60 collected, 13 years of lawyers' fees probably exceeded their recovery.

Until next time – I hope everyone has an enjoyable summer. 



Steve Fellman is a shareholder with GKG Law in Washington, D.C. He is also general counsel to The Association of Union Constructors.

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