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Greater New York Contractors' NEWS



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SEPTEMBER 2013

President's Message



Al Trudil

Well, summer is coming to an end and boy was it a hot humid start (which was good for business) and a cool end.

ACCA NY held its 35th Annual Golf Outing at the Hamlet in Commack and the committee outdid themselves as always. A great time was had by all. The day started out a little wet but cleared up in time for tee off. Everyone was eager to get out there on the course after having a great breakfast. The cocktail hour and dinner were outstanding. After dinner was an Auction with many wonderful prizes – 50” TV, iPad

Turn to President's Message on page 3

The Greater New York Chapter Presents A Special Membership Luncheon

Grow Your Business Through Email & Social Media!

A dynamic discussion by **Craig E. Yaris**, of *Social Ribbit* (formerly *EsquireTech Solutions*) a Social Media Strategy, Marketing and Education firm.
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PRESIDENT'S MESSAGE *Continued from page 1*

Mini, golf clubs. I wonder what the golf committee has planned for next year to "out do this one". I would like to thank all the volunteers and sponsors who helped make this event so successful. This year we were able to give the Make -A-Wish Foundation a check for \$2000.00 due to our support from our members, thank you.

Our September meeting is in a different location, DiLetto's Restaurant in Westbury. Please also note that this meeting will be during the day, from 12pm-2pm. Craig E Yaris will be speaking on "Growing Your Business with E-mail and Social Media". Hope to see you there.

— **Al Trudil**

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Recent Passings

Dan Berkowitz

Dan Berkowitz, founder and president of Chemical Specifics, Inc (CSI) of Maspeth, NY passed away in July after a long illness. He is survived by his wife Anna, daughter Erica, and son Rick.

Edward J. Franz

Edward J. Franz, Account Executive of the Long Island Systems Branch of Johnson Controls passed away suddenly in May in a single vehicle auto accident. He was 29 years old. Edward is survived by his parents, Edward H. and Joan Franz, and his sister, Theresa.

The Officers, Directors and members of the Greater New York Chapter express sincere condolences to the families, friends and coworkers of both Dan and Edward.

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Editor's Notes by Anthony N. Carbone

Interesting how times change. We are now in a cyclical bull market where some predict the DOW will blast through 20,000. What a change we are witnessing now.

Many HVAC contractors are seeing an upswing in business and funds are flowing through companies. Repairs are being made on pre-existing equipment and with corporate profits flowing, much of the revenue is seeping back into the economy to handle much needed repairs and outright replacements. Why pay tax on corporate profits when reinvesting in the infrastructure of many companies are long overdue?

The availability of new employees with talent is waning; as HVAC companies get busy, they are rewarding the talented employees to maintain their ability to go to market and get

the job done. If the business is out there, the next question is how to get it all done with the best work force.

Some use the expression, "A rising tide lifts all boats" but, some are still wary of what if they load up on labor and the economy is only having a spike. The past recession has made many captains of industries cautious on how much overhead to take on. These are changing times with a new economy of scale to examine.

We, at the Metro New York ACCA, have carefully chosen programs that make sense to all business owners. We hope you join us as we get back into session and bring great ideas to our membership. Your participation, with ACCA can make a big difference in your bottom line.

Our next meeting regarding social media is one you cannot miss. Come hear how your clients are listening and talking about you. — *Anthony N. Carbone*

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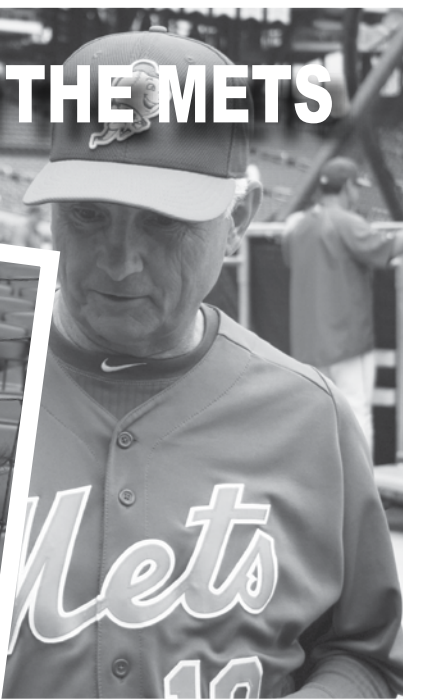
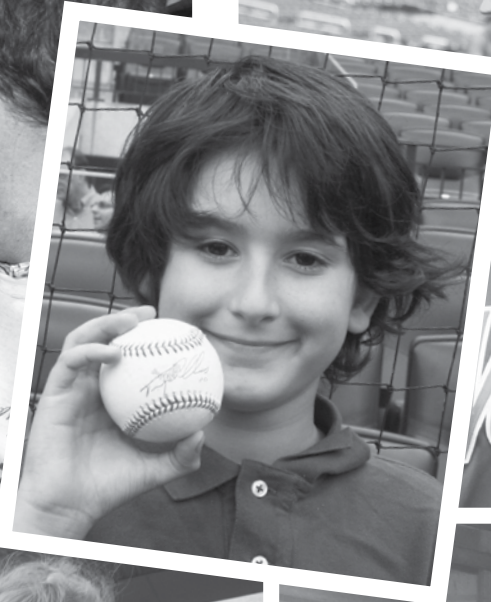
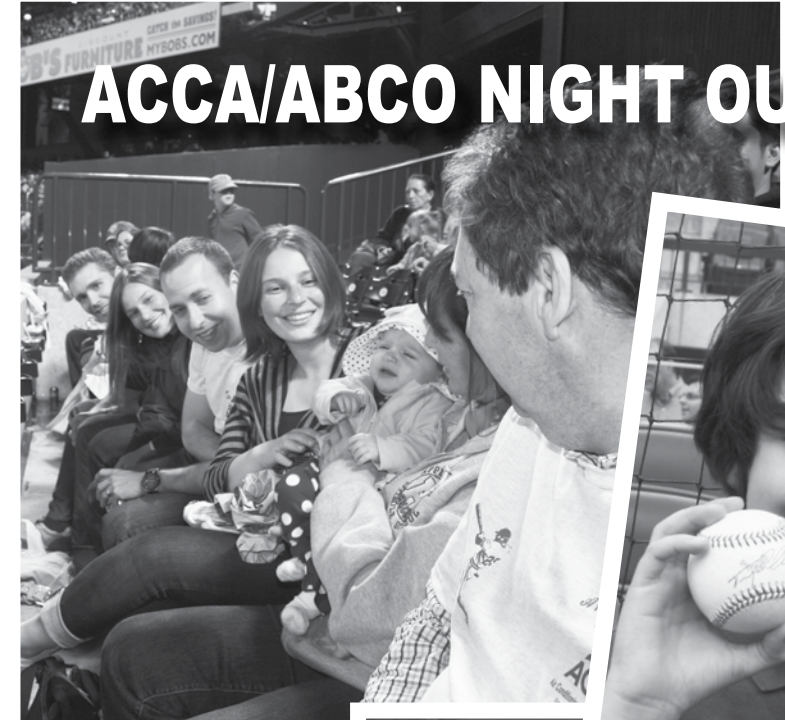


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Maintenance Musts: Stop! Look! Listen!

By Kelly Hiner, Enterprise Fleet Management

Businesses that have a fleet of vehicles need to teach their drivers to stop, look and listen when it comes to proper maintenance and minimal repair expenses. That's because over the last few years there has been a major shift away from generalizing the recommended service intervals for all vehicles to having very specific service schedules from every manufacturer for each make and model. Failing to adhere to specific guidelines established by the manufacturer may prevent repairs from being covered by warranty.

Among the most significant changes, many manufacturers have extended their recommended oil change intervals. Furthermore, some have even transitioned to intelligent oil life monitoring systems that calculate the oil change interval based on specific vehicle driving conditions. Extended oil change intervals mean drivers must take more personal responsibility for regularly checking the engine oil level when refueling. Maintaining proper fluid levels can ensure optimum operating efficiency and maximum longevity of the vehicle, in addition to keeping the manufacturer's warranty in effect.

Ignoring required maintenance can be very expensive. Instead of spending \$50 for an oil change that requires minimal

driver downtime, a business could end up paying thousands of dollars to repair a catastrophic engine failure for a vehicle that has a voided warranty and will be out of service for an extended period of time.

While less frequent oil changes are good for driver productivity and the environment, there may be little to no cost savings because of the added cost of more advanced fluids required to meet manufacturer specifications and/or other required services that still need to be performed according to the maintenance schedule.

Some service interval guidelines are based on how a vehicle is used, particularly for vehicles that spend a considerable amount of time idling. The EPA suggests that one hour of idle time is equivalent to 30 miles of driving, which means engine hours must be considered when determining service intervals for these vehicles.

With these and other changes, it is more important than ever for drivers to strictly adhere to the manufacturer-recommended service intervals that are explained in the vehicle's owner's manual. It is equally important to pay close attention to maintenance indicator lights on the dashboard, especially those that light up when the vehicle is in "park" with the engine running. Drivers should know that amber lights function as service reminders and red lights indicate system failures that require immediate action.

In addition, drivers need to stop, look and listen whenever they notice any type of change in their vehicle's performance. It is much more cost efficient to take a vehicle into a repair shop when a driver first hears a brake squeal than to wait for the brake pads to wear out, resulting in the need for rotor machining or replacing.

Besides helping to control total fleet spend during the lifecycle of a vehicle; proper maintenance can also positively affect the amount of retained equity at the time of sale. Disciplined maintenance, quality repairs, and valid warranties all impact resale value at the end of the vehicle's life cycle.

Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. Visit the company's web site at www.enterprisefleet.com or call toll free 1-877-23-FLEET. •



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Federal Agency Says Criminal Background Checks Discriminatory

The Equal Employment Opportunity Commission, or EEOC, the federal agency tasked with enforcing federal anti discrimination laws, initiated lawsuits against two major Companies. The EEOC charges that these two companies, Dollar General Corp – the largest small-box discount retailer in the United States, and the U.S. unit of BMW, violated Title VII of the Civil Rights Act by discriminating against black job applicants and employees by subjecting them to onerous criminal background checks. Title VII makes it illegal for employers to discriminate against employees or job applicants on the basis of race, color, sex, religion or national origin. Employers are liable under Title VII even if the discrimination is unintentional but has the effect of being discriminatory. Here, the EEOC contends that a strict criminal background policy tends to discriminate against blacks, who are convicted of crimes more often than whites.

For example, the EEOC allegations against BMW were the result of their conducting of criminal background checks on all the employees currently working at the warehouse; some of whom had been employed there for more than a decade. It was the company's policy not to employ anyone with a criminal record within the past seven years. All employees at the facility who had a criminal record within this period were immediately fired. Blacks made up 55% of the employees at the warehouse, yet 70 out of the 88 of the workers fired were black. The EEOC claims that the BMW policy is a "blanket exclusion without any regard for the nature and gravity of the crimes."

The EEOC has recently taken a hard stance on so called discriminatory background checks. Their position is a controversial one, numerous state attorney generals have opposed the EEOC's actions in this matter and have asked the agency to discontinue their case against these companies. More than 92% of employers use criminal background checks when hiring new employees. Such checks can be essential to ensure the safety of your employees and customers, as well as to your bottom line. The EEOC is not claiming that all criminal background checks are discriminatory, only where they cannot be justified with a bona fide business reason. They recommend that employers consider the crime, its relation to the applicant's potential job, and how much time that has passed since the conviction.

If you have any additional questions or concerns regarding your criminal background check policy please feel free to contact me.

New York City Passes Unemployment Discrimination Law

In an effort to alleviate the stubborn problem of long term unemployment which has been plaguing New York City since the start of the Great Recession, the City has passed a law prohibiting "unemployment discrimination." The new law amends the New York City Human Rights Law to protect the chronically unemployed from discriminatory hiring. The new law forbids employers from basing an employment decision with regard to hiring, compensation, or the terms conditions or privileges of employment on an applicant status as unemployed. In addition the law prohibits employment advertisements or classifieds that require current employment as a job qualification. The law applies to businesses which employ four or more individuals, both as employees and independent contractors. Penalties include compensatory and punitive damages, as well as attorney's fees.

If an employer is found to have violated the act, they must show that the policy was based on a substantially job related qualification or that it does not contribute to the discriminatory action. In addition, the law carves out a number of exceptions. For example, employers are permitted to consider an applicant's unemployment where there is a substantially job related reason for doing so. They may also inquire into the circumstances surrounding why the applicant left their former position, and set compensation and benefit levels based on an applicant's actual experience.

Employers who hire employees for positions in New York City should review their policies regarding hiring, job advertisements, and job applicants immediately so as to be in compliance with this new law. If you need any assistance with regards to this or any other employment related matters please contact me at Abpearl@pmpHR.com or (516)921-3400. Similarly, if you send me the table of contents of your employment handbook, I'll let you know if any major topics are missing or need revisions. •



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ACCA Directors at Work at a Recent Board Meeting



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Quality Works



Statement From Stuart S. Zisholtz, Esq.

Recovering Added Costs

Recently, I was contacted by a perspective client who performed work directly for an owner in New York.

The contract between the owner and the contractor contained a specific completion date. During construction, however, the contractor was delayed various times due to changes in the work requested by the owner. The contractor requested an extension of time from the owner which the owner refused to grant. As the completion date approached, the owner demanded that the project be completed on time or cost over run charges would be back-charged against the contractor.

As such, the contractor was required to perform the work in a shorter period of time than the time extension would have granted him and he incurred additional costs and expenses due to the acceleration. These costs included additional workers, overtime, etc.

Now, after the project was completed and approved by the owner, the contractor was seeking the additional costs associated with the acceleration.

The question is - Can the contractor who performed the work and completed the project recover the additional costs

associated with the work even though those additional costs were not signed and approved by the owner?

The general answer to that question is yes. A contractor can recover from an owner the additional costs associated with accelerating the work by showing that the contractor was ordered to accelerate and the owner refused to grant additional time, any delays in not meeting the completion date were excusable and that the Contractor did, in fact, incur additional costs.

In some instances, the contractor may have to prove that he was specifically ordered, directly or indirectly, to accelerate. What constitutes an order to accelerate usually depends upon the facts and circumstances of each case.

Never let your lien time run out.

For a free copy of a pamphlet pertaining to Mechanic's Liens and Payment Bond Claims, kindly contact me or the Association.

Disclaimer- the foregoing statement is for general information and is not intended nor should it be construed or applied to specific instances or specific cases for which the reader is directed to consult his/her private legal advisor.

Stuart S. Zisholtz is a partner in the law firm of Zisholtz & Zisholtz, Mineola, New York, a general practice firm specializing in Construction Law and Mechanic's Liens. He is also a member of the Greater New York Chapter, ACCA. He can be reached at 516-741-2200. •



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