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Air Conditioning Contractors of America
Greater New York Chapter
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Greater New York Contractors' NEWS



www.accany.org

JANUARY 2010

President's Message



Anthony N. Carbone

WELCOME TO 2010. A new decade has begun. With all the holidays behind us and a new year before us, we would like to wish all the members of the Air Conditioning Contractors of America a happy and prosperous New Year.

This year, I have agreed to be an Interim President of the organization to focus on new endeavors and mar-

Turn to President's Message on page 3

January 7th Membership Meeting

New York State Needs Your Money!!!!

**NYS Sales Tax
Audits!**
Will you know what to do?

—See Page 9

**Thursday, January 7, 2010
at the LaGuardia Marriott**

Cocktails — 5:30 pm; Dinner — 6:30 pm

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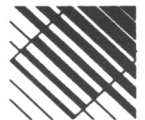
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PRESIDENT'S MESSAGE *Continued from page 1*

keting strategies to bring our organization to new heights for the future. Mike Newman of Standard Refrigerator will begin his two year presidency as of January 2011. We will work closely together this year to collaborate with the board of directors, focusing on the increase of membership within our organization. We will outline our agenda at our board orientation.

With fast changing times and an uncertain economy, many business networking organizations are growing. The reason is that others want to see what the competition is doing and what strategies are working for them. We will be focusing on the programs for our organization that will be most informative and relevant for today's HVAC contractors.

Over the past 6 months of 2009, we had begun to see an upswing in attendance for our monthly meetings. We want to pursue contractors who have not had the exposure to our organization and inform them of the value which membership brings. This is also symbiotic for our suppliers who support us throughout the year.

Programming topics that we have discussed as potential points of interest to today's contractors include service software programs which seem to have the best functioning

program and support. With New York State sales taxes and audits, many contractors are being scrutinized and audited for discrepancies. Also of great interest are electronic marketing and website enhancements, including search engine optimization.

We are looking for your input and certainly your participation. I would not have volunteered for another year as president if I did not think this organization had credibility and offered value to my company or me. So I ask you to help me make this year a banner year of success and triumph. Happy New Year! — **Anthony N. Carbone**

Check the ACCA national website, www.acca.org, regularly for up-to-date information on our industry.

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Geothermal Landslide

By John Ottaviano

From Air Ideal's Blog

<http://airideal.blogspot.com>

In the past year, we have had an onslaught of inquiries regarding Geothermal (also known as Geo-Exchange) HVAC. With the availability of a 30% Federal Tax Rebate on top of local rebates, it is now economically viable to become "green" with your heating and cooling system.

Essentially, Geo-exchange is just that, the exchange or extraction of solar energy that is stored in the earth. The sun's energy is soaked up by the earth year-round and stored

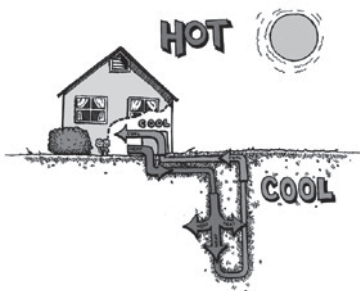
below the initial frost layer. Just 5 feet below the surface, the soil remains a constant 50-55 degrees F year round. A geothermal or geo-exchange system circulates water with antifreeze through a closed ground loop piping system to capture this energy and

return it to a "ground source heat pump" for compression and uses that heat to meet the demand in your building or home. The reverse process moves the heat from your home to the earth to create cooling. Unlike fossil fuel and air-to-air heat pumps, a ground source heat pump can produce 5 times the amount of energy that is consumes with virtually no carbon footprint. A typical fossil fuel furnace can produce only 80% of the energy it consumes in the form of heat and does this while polluting the atmosphere.

Wait a second. Did you say heat pump? Those things don't work when it gets below freezing, right? WRONG. As previously explained, this is not an air-to-air source heat pump. The history of air-to-air heat pumps in the northeast has been that they were unable to produce high enough discharge air temperatures when the outdoor ambient temperature dropped below freezing. However, we aren't using air as our heat exchange medium anymore, remember! We are using a constant ground temperature of 50-55 degrees F,

even when it is freezing outside. So we don't have the same fluctuations or temperature minimums as an air-to-air heat pump. In fact, we have left over heat which can be used in an add on heat recovery coil called a "de-superheater" which can be used to preheat your domestic hot water heater or for radiant floor heat. You may need back up hot water heating capability in the winter (usually in the form of an electric immersion heating element), but, depending upon the size of your home or building, your primary hot water heating could be satisfied by a de-superheater in the summer. You are simply putting part of the rejected heat in the hot water and the rest back into the ground from whence it came!

There are 4 main types of geothermal heating and cooling. The first type is called "open loop" which pulls water from an open well to be used in your system and then returns it back to the aquifer via a rejection well, a standing column well or a leeching field. We don't advocate this type of system because of the brackish nature of water and the associated minerals and alloys contained in the earth. This type of system is less expensive, but does not have the longevity of system life as does a "closed loop" system. It may also cause cross contamination of the aquifers if one of them contains surface pollutants. There are 3 major types of closed loop systems including vertical loops, horizontal loops and pond/lake loops. Essentially, all 3 types use a closed and fused polyethylene piping system with a flow center (or pump) to circulate the heat exchange medium (water with methanol or another antifreeze) through the ground loops and through your ground source heat pump. We advocate vertical loops bored to a depth of about 200 feet with one vertical bore per ton. A vertical system requires the least amount of acreage for the best heat exchange. There is significant cost in drilling the vertical bores and filling them with a thermally conductive grout (called Betonite), but there is better heat transfer and less property and excavation required than horizontal loops, which lie just below the frost line at 5 feet. If you have a pond near your home or building, this can also be utilized by sinking a system of closed loop "slinkies" to the bottom to utilize the water and ground temperature below the freezing surface. For a more in-depth discussion of this process and a geothermal installation, see this October 2009 article in Popular Mechanics. •



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Motor Oil Can Be A Slippery Slope

By Kelly Hiner
Enterprise Fleet Management

In every vehicle, motor oil undergoes thermal breakdown due to high operating temperature. When this occurs, the oil becomes less effective as a lubricant and needs to be changed. A good lubricant prevents various parts of the engine from rubbing together and wearing out.

However, choosing the best motor oil has gotten more complicated with the advent of synthetic motor oil. Consisting of artificially-synthesized compounds designed to produce the ideal lubricant, synthetic motor oils have become a popular subject of debate among mechanics, fleet managers and even the general public.

The main question revolves around whether or not the more expensive lubricant and its enhanced performance capabilities are the best choice for the vast majority of vehicles on the road today.

One of the most important things to remember is that the best resource for service intervals is the vehicle's owners manual. Keep in mind that many manufacturers have extended intervals for fluid services based on more advanced fluid technology, as well as to be more environmentally friendly.

Also, don't wait to find out that your vehicle's warranty is voided because the manufacturer required one type of oil

and you put in another. Information about the manufacturer's lubrication recommendations can be found in your vehicle's owner's manual.

Basically, conventional motor oils are derived from petroleum and synthetic oils are manufactured from chemicals, meaning that each has an impact on the environment in terms of creating pollution. While there is some evidence that synthetic oils last longer before they need to be drained and replaced and that they have lower viscosity, there is considerable debate over whether or not synthetics are worth more than three times the cost of petroleum.

There is little disagreement that synthetic motor oil or a synthetic blend is especially good for turbocharged and high output engines, where uninterrupted lubrication is very important. In addition, manufacturers for many European and high performance vehicles, such as BMW's and Chevrolet Corvettes, require synthetic motor oil only.

According to information posted on *Wikipedia*, the Internet's free encyclopedia, Historically, "synthetic lubricants were invented for high temperature gas turbine/jet engine applications where traditional mineral-derived lubricants provided inadequate performance. In the mid 1970s, synthetic motor oils were formulated and commercially applied for the first time in automotive applications."

Today, the most common points of discussion regarding motor oil choices focus on the following:

1. Synthetic oil versus conventional petroleum oil versus blends.



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2. Higher viscosity oil versus modern low viscosity (5W-20) oil and engine wear.
3. Oil analysis and its use in vehicle maintenance by the average user.
4. The myth about factory “break-in oil” and when to do the first oil change.
5. Following the vehicle’s oil life monitor for Oil Change Interval versus changing oil based upon mileage or time criteria.

Proponents claim synthetic lubricants are more efficient, causing less wear and tear on internally lubricated components, reducing the incidence of oil oxidation and sludge formation and allowing for extended drain intervals. Synthetic lubricants are being used more frequently in today’s vehicles, not only in engines but in transmissions and differentials as well.

As the debate continues over petroleum-based versus synthetic, some interesting new alternatives derived from vegetable products also are being developed. For example, a pilot project at Purdue University has produced motor oil from canola crops. Early indications are that it can outperform both traditional and synthetic oils in terms of performance and production price, as well as being more environmentally friendly.

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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.entreprisefleet.com or call toll free 1-877-23-FLEET. •



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In Memoriam

Ann Gottlieb

Co-Founded ABCO Refrigeration Supply Corp.

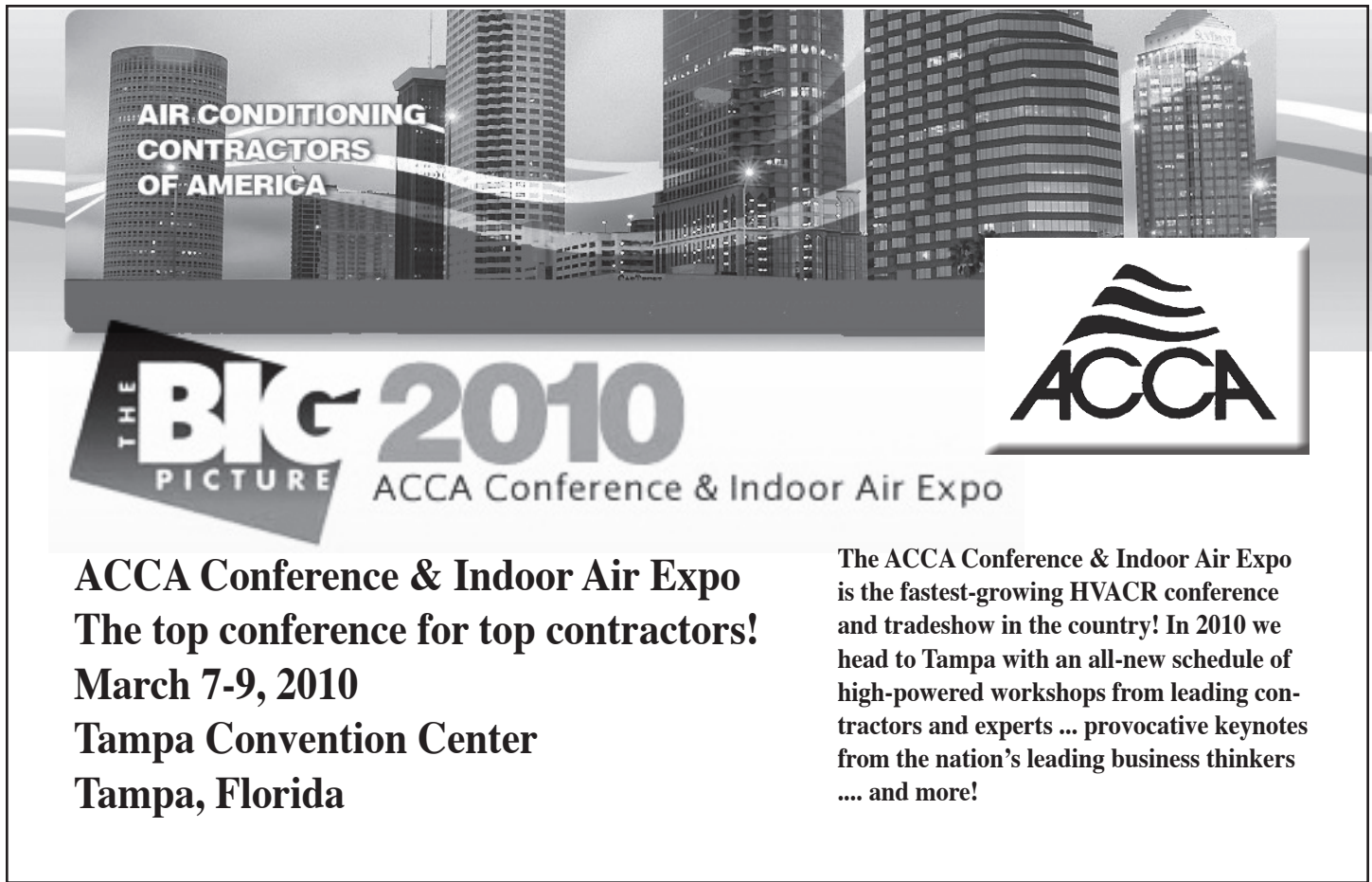
Ann Gottlieb passed away peacefully and with dignity at her home on November 20, 2009 after a long battle with cancer.

Loving and devoted mother of Lawrence Gottlieb, Lisa Senter (Michael), Lynne Blumenstock (Steve) and Jon Gottlieb (Janet) and cherished grandmother of Andrew Senter, Victoria Senter, Alexa Blumenstock, Sarah Gottlieb, Sophie Gottlieb, Hannah Blumenstock, Joshua Gottlieb and Rosie Gottlieb, Mrs. Gottlieb (nee Lowenstein) was the beloved wife of Jules A. Gottlieb for 51 years until he predeceased her in 2000. Together Mr. and Mrs. Gottlieb founded ABCO Refrigeration Supply Corp. in 1949 and today their family continues to operate the multistate air conditioning and refrigeration wholesale distribution company. Mrs. Gottlieb was a valued member of the Board of Directors of ABCO at the time of her death.

Philanthropic and socially concerned, Mrs. Gottlieb for many years also served actively and enthusiastically on the Boards of Long Island Jewish Hospital Medical Center, the Samuel Field Y in Queens, and Temple Beth Israel of Port Washington, NY. With her husband, she was instrumental in the creation of the Ann & Jules Gottlieb Women’s Comprehensive Health Center of Long Island Jewish Hospital Medical Center in 1996, which was one of the first centers in the New York City area dedicated to the multifaceted medical treatment of women.

Mrs. Gottlieb, a past president of the Service Guild of Long Island Jewish Hospital Medical Center, also was actively involved with AIPAC and its Long Island Council, the United Jewish Appeal, and the Planned Parenthood of Nassau County to which she recently donated a “PlanVan” mobile resource center to help the organization expand accessibility in poorer communities.

A resident of Floral Park when she died, Mrs. Gottlieb also had a home in Boca Raton, FL and for many years had lived with her family in Manhasset, NY. Services were held on Tuesday, November 24, at Riverside-Nassau North Chapels, 55 North Station Plaza, Great Neck, NY.



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January 7th Membership Meeting

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**IS YOUR COMPANY PREPARED
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At our January 7th Meeting, John DeLillo CPA & Michelle DeLillo CPA will be speaking to members about basic sales tax regulations including use tax, credits and sales tax audits.

This is an extremely important topic for every business owner. Don't miss it!

**Thursday, January 7, 2010
at the LaGuardia Marriott**

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Federal Law Mandating Paid Sick Leave Forecasted for the Future

DOES YOUR COMPANY PROVIDE EMPLOYEES WITH PAID SICK DAYS? If not, you soon may be required to. Legislation is currently pending before Congress which would require most employers to grant seven (7) days of paid sick leave to all full time employees. If passed, the Pandemic Protection for Workers, Families, and Businesses Act ("PPA") would be a temporary law that expires two years from enactment, with the potential of becoming permanent.

Under the proposal, employees would be entitled to paid sick time off due to a contagious illness or to care for a child with a contagious illness. One of the motivations for this statute is controlling the spread of H1N1 and other influenza strains by ensuring sick employees can stay home from work without financial sacrifice from loss of work.

Although it provides similar protections as the Family Medical Leave Act ("FMLA") there are a few key differences. First, the leave under the PPA would be paid. Second, the FMLA applies only to employers with fifty (50) or more employees. Third, it is unclear in many cases whether the flu is a covered condition under the FMLA—under the PPA, all pandemic diseases including the flu are covered.

The PPA would apply to employers with 15 or more employees. The paid sick time would apply to the following situations:

- The employee or their child is experiencing symptoms of a contagious illness, such as the 2009 H1N1 virus or other influenza-like illness, including time off for medical and preventive care;
- A health authority or health care provider has determined that the employee's presence at work or the child's presence in the community would expose others to a contagious illness; or
- The employee's worksite or the child's school, child care or early childhood program has been closed due to a contagious influenza-like illness.

Part-time employees would be entitled to a pro-rata share of paid sick days. Employees must have worked for their employer for 30 days before they are covered under the bill.

Although employees would be allowed to determine

when to use paid sick days, the bill gives the Secretary of Labor the opportunity to issue regulations that would permit employers to require employees who request paid sick leave to provide medical certifications.

If the Act becomes law, employers' existing paid time off policies may need to be modified. Employers who already provide seven days of paid sick leave that may be used for the same purposes and under the same conditions as the PPA will not be required to provide additional paid sick time. However, it is unclear what effect the legislation would have on plans that allot a certain amount of time off without specifying the permitted purposes of use.

Now is the time to analyze your current paid time off policy. It is important to know what you already grant employees as far as paid time off, as well as prepare for the future. As always, this office will keep you up to speed on any changes in the law.

You should also be aware that the NY City Council has recently considered a bill containing similar benefits. The Queens Chamber of Commerce and other management groups lobbied successfully against it. No one can tell if it will be introduced at the next session in 2010.

New York Labor Law Increases Punishment for Underpaying Employers

Workers who report they've been underpaid on the job are getting stronger protection against retaliation by their employers under a new state law that went into effect late November. This law expands protections for workers who exercise their rights under New York State labor law. This law increases the minimum civil penalty against employers who retaliate against employees from \$200 to \$2,000 and the maximum penalty from \$1,000 to \$10,000. In addition, the law allows the Commissioner of Labor to award lost compensation to workers who have been victims of employer retaliation.

While New York's labor law has long prohibited employers from retaliating against employees who report violations to the Labor Department, this new law makes punishment more painful for employers. Retaliation occurs when employers take adverse action against employees for filing claims or providing information to the Labor Department about violations. Retaliatory acts can include discharge of the employee, demotion, cutting pay, or reassignment to a less desirable work shift or work duties.

As a review, employers should keep in mind the following important considerations:

- Minimum wage in New York State is \$7.25 an hour;
- All employers must pay overtime for hours worked in excess of (40) hours a week to non exempt employees;

- Overtime is calculated at a rate of 1.5 times the employee's normal hourly rate;

- **Federal** law does not require lunch or coffee breaks. However, when employers do offer short breaks (usually lasting about 5 to 20 minutes), federal law considers the breaks as compensable work hours. These breaks will also count towards overtime calculation;

- **New York** law requires employers to grant at least 30 minutes for the noonday meal. The noon day meal period is recognized as extending from eleven o'clock in the morning to two o'clock in the afternoon. An employee who works a shift of more than 6 hours which extends over the noonday meal period is entitled to at least 30 minutes off within that period for the meal period.

- **One Employee Shift.** In some instances where only one person is on duty or is the only one in a specific occupation, it is customary for the employee to eat on the job without being relieved. The Department of Labor allows this when the employee voluntarily consents to the arrangements. However, an uninterrupted meal period must be afforded to every employee who requests this from an employer.

Of course, if you have any questions regarding this article, you can reach me at ABPearl@pmphr.com. A Happy New Year to all ACCA Members! •



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News From National

Reported by Jim Carlson's Committee

Tech Compensation and Benefits Survey 2009 Released

ACCA has released its third technician compensation and benefits survey. The 2009 version builds on previous versions, covering the same questions for benchmarking purposes, as well as highlighting additional responses concerning the current economic conditions.

“When you’re trying to attract and retain the best HVACR talent available to your company, you need to be armed with information about what’s available in the marketplace,” says Hilary Atkins, ACCA General Counsel and author of the report. “This report will allow contractors to size up their own offerings against others in the industry, making for a well-researched strategy for compensating their technicians.”

This benchmarking guide tabulates and analyzes data provided by 443 HVACR contractors nationwide.

This valuable reference allows contractors to better understand how their company’s compensation and benefits policies compare with the industry. The survey covers such items as:

- Annual base salaries for technicians
- Determination of technician compensation

- Benefits offered to full-time technicians
- Technician contribution to healthcare plans
- Annual paid vacation days for technicians
- Company contribution to employee retirement plan
- Medically related benefits
- Bonuses and commissions
- Overtime

These data points are cross-tabulated and compared based on a number of factors, including geography, employee numbers, and sales volume.

This unique data is not available anywhere else in the HVACR industry. Compare your program to other contractors and gain insight into how your company is positioned in the industry.

“Technician Compensation and Benefits, A Benchmarking Guide for HVACR Contractors” (2009 Edition) is now available at ACCA’s online store (in “Business Management -- Industry Statistics & Data”) or by calling 888-290-2220. The cost is \$185, or \$85 for ACCA members. •



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Statement From Stuart S. Zisholtz, Esq.

Insurance Company Trickery

If you have not already found out, consider yourself lucky that you do not know the extremes to which insurance companies go to wiggle out of defending or paying any claims. They are hatching one scam after another. Virtually every claim that is made is viewed as an attempt to defraud the poor insurance companies and to beat them out of the money that they are ripping the public off with outrageous claims and disclaimers.

Recently, a woman slipped and fell on a broken sidewalk in Brooklyn. She brought a routine action against the City of New York that owns the sidewalk and against the owner of the abutting property. The owner of the property passed the summons on to the insurance company and the insurance company promptly disclaimed.

It appears that somewhere in the fine print of the policy the owner issued a "warranty". I have never heard of a "warranty" by an owner of a building. The "warranty" provided:

"...An insured premises, including but not limited to a building, structure and parking lot, are in compliance with all federal, national, state and local codes and/or requirements

as respects fire, life...building construction and building maintenance".

The insurance company, after it received the summons and complaint, trotted down to the Building Department and, behold, found that there were violations against the building that date back a year before the accident happened. The insurance company jumped on the bandwagon and said that the owner of the property breached the warranty in the policy and, accordingly, they disclaimed coverage.

The usual procedure for an insurance company before issuing the policy is to run an inspection. The company makes a list of what it considers to be violations and hazards and issues a statement to the owner telling him that these violations exist and that they had to be cleared up within a certain period of time or the company will cancel the policy.

In this particular instance, apparently the Insurance company decided to provide the owner with fine print and a lot of legal clauses in the policy and stuck him with a situation where he was lulled into believing that he had insurance when in fact all along the insurance company was waiting to disclaim.

Fortunately for this particular owner, the Appellate Court rejected the insurance company's claim by a margin of 3 to 1.

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My suggestion is that you look at every insurance policy that you have and make sure that the policy is clearly understood. You never know when you will be on the receiving end of a claim and find out that you have no insurance coverage. The insurance company trickery is totally out of hand at this point. Be aware and be alert.

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.

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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