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President,
Dana Kemp
Masonry Concepts

Vice President,
Jeff Barber
John Jackson Masonry

Secretary,
Dennis Withsosky
New Dimension Masonry

Treasurer,
Todd Williams
Williams & Sons Masonry

Immediate Past-President,
Jimmy Smith
Kretschmar & Smith

Executive Director,
Julie Trost

WORDS TO LIVE BY

"There are only two ways to establish competitive advantage: Do things better than others or do them differently."

-Karl Albrecht,
Forbes Top 20 Richest People

NEWS At-A-Glance

Meet Your 2014/15 Board of Directors

MCAC installed a new board of directors at the 153rd State Meeting in Las Vegas on January 21, 2014. I hope you will **join me in congratulating and welcoming your 2014/15 officers:**

- President: Dana Kemp, Masonry Concepts, Inc.
Santa Fe Springs, CA
- Vice President: Jeff Barber, John Jackson Masonry
Sacramento, CA
- Secretary: Dennis Withsosky, New Dimension Masonry, Inc.
San Diego, CA
- Treasurer: Todd Williams, Williams & Sons Masonry, Inc.
El Cajon, CA
- Past President: Jimmy Smith, Kretschmar & Smith, Inc.
Riverside, CA

If some of these names look familiar, that's because they are. Dennis Withsosky extended his service on the board for another 2 years bringing his consecutive total to 12 years. And, Todd Williams returns after completing a 10-year term in 2005. We send a special note of gratitude to the extraordinary dedication of these and all the MCAC officers! Are you interested in serving on the MCAC board? Let us know. We want to hear from you.

5% Retention on Public Works Being Evaded: ACTION NEEDED!

When SB 293 went into effect January 1, 2012, subcontractors received welcome relief with retention on **public** projects capped at 5%. However, a clause in the bill allows that 5% to be exceeded if the project is declared "substantially complex." Since then more and more simple projects have been declared substantially complex. Public entities have found a work-around to the 5% and are taking full advantage of it...and subcontractors...once again. **Help stop this abuse!** Legislators need to see proof that the abuse exists. Please **send copies of bid documents that declare a project "substantially complex"** to the MCAC office.

Scan and Email to: julie@mca-ca.org

or

Fax to: (916) 966-1411

We will share your examples with our government relations partner, the American Subcontractors Association of California (ASAC), to aid in a collective effort on behalf of subcontractors to fight for the retention cap granted in SB 293.

Contractor Registration Fee on Public Works Proposed

Governor Brown's 2014-15 Budget for California includes a proposal to consolidate all public works and prevailing wage enforcement under a single unit. This unit will be supported by a **new registration fee on contractors working on public projects.** This was a Top 20 issue at a January 16 Construction Roundtable that included representatives of the subcontractor and general contractor communities. The deadline for budget passage is June 15, 2014. Thank you Kurt Siggard of CMACN for getting this issue on the radar so promptly.



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"Boys Will Be Boys" Can Cost You

On January 13, 2014 a California Court of Appeal upheld a jury verdict of \$830,000 against a drilling contractor for same-sex harassment of an employee by a supervisor. The verdict included \$150,000 in damages plus \$680,000 attorneys' fees excluding the defending contractor's attorney fees. The case involved an employee that claimed his supervisor regularly called him homosexual slurs such as "queer," "homo," and "gay porn star" among others. Furthermore, the employee testified that altered photos of him performing homosexual acts were posted in the restroom. The employee complained to the drilling contractor's human resources department, the matter was investigated, and the offending supervisor was terminated. Then, the employee sued claiming sexual harassment. The drilling contractor defended by claiming the lawsuit did not meet the definition of sexual harassment. The court disagreed citing that attacks need not be motivated by sexual desire or interest to be considered sexual harassment: "It is enough when sex is used to create a hostile work environment." The employer was held strictly liable for the supervisor's harassment which meant they could not plead ignorance of the harassment and/or use the fact that they took corrective action upon becoming aware as a defense – **because employers are strictly liable for harassment by supervisors.** So, while state law requires employers with 50 or more employees to provide sexual harassment training to supervisory employees every two years, the take away here is that **all supervisors** need to understand the definition of harassment and its potential consequences. For the complete article, visit <http://www.cookbrown.com/doc.asp?id=684>.

MCAC Moves to the Cloud: The Transfer

Last year the board of directors authorized the decommissioning of the MCAC *Microsoft 2003 Exchange Server in favor of moving to "the cloud." The board asked me to share the association office "cloud" experience to provide some insight to members who might be considering their technology options.

Day 1 of the MCAC official migration to cloud computing and I am thrilled with the transition. Fearing the inevitable headaches and downtime that accompany any major technology change, I was dreading move day. Turns out, that dread was misplaced. The move (transfer of data from old server to cloud service) occurred overnight and I arrived the next morning to business as usual...with very minor tweaks requiring my attention. Success!

Day 7 in the cloud finds us experiencing some hiccups with QuickBooks on all but one computer in the office. See I knew it! Here it comes...the headaches. Ok, so maybe it's not quite so dramatic and, to be fair, I was warned that QuickBooks could present some challenges since it is a "database" as opposed to a "file." We are working out the kinks but, overall, this move has been a very positive experience so far. Stay tuned for more on our cloud saga. I will share our vendors and costs in the next edition.

**As of April 8, 2014, Windows XP, Office 2003, and Exchange Server 2003 will no longer be actively supported. <http://www.microsoft.com/en-us/windows/enterprise/endofsupport.aspx> and <http://www.leverageitc.com/2013/12/are-you-ready/>*

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Lien Checklist Available Online

Legislative changes implemented between January 2011 and July 2012 (AB 456, 457 and SB 185) have impacted subcontractor lien rights and filing requirements. To ensure your lien, stop notice, and bond rights are protected, a checklist is available on the MCAC website at <http://mca-ca.org/news/Subcontractor-Lien-Protection-Checklist.9.3.13-00173959.pdf> for use with each project. The checklist includes deadlines, suggested actions and links to relevant forms and laws. This checklist was created by McLennon Law Corporation and is available to MCAC members as a result of MCAC membership in the American Subcontractors Association of California (ASAC).

Post Your Cal/OSHA 300A Log – February 1 to April 30

California law requires employers to post the Cal/OSHA Form 300A from February 1 to April 30 of the year following the year covered by the form. The form must be displayed in a conspicuous area where notices to employees are customarily located. A copy of the form must also be made available to employees that move from worksite to worksite and to employees that do not have a fixed establishment to which they report. Upon conclusion of the required posting time, the form may be taken down and should be kept on file for five years following the year to which it applies.

Welcome New Colleagues

At the end of last year, we had some new colleagues join our masonry industry affiliates and we want to extend a warm welcome to...

Margy Ashby, Executive Administrator of the MCA San Diego. Margy brings years of construction organization management experience to the chapter and is fitting right in.

Lyn Oleson, Program Director of the Masonry Industry Training Association (MITA). Lyn has hit the ground running and is very capably navigating the complexities of apprentice training in California. Welcome ladies!

Calendar of Events blue underlined = web link

- February 27, 2014 – MCAC Board of Directors Conference Call
- March 5, 2014 Harassment Prevention Webinar presented by the California Employers Association 12pm-1pm \$65
- March 13, 2014 – Division of Occupational Safety & Health Advisory Meeting re Definition of "Repeat Violation":
10am – 3pm Oakland State Building 1515 Clay St., Suite 1304, Oakland, CA
- March 19, 2014 Seven Costly Mistakes As Seen By the DLSE Webinar presented by the California Employers Association 12pm-1pm \$65
- March 27, 2014 – MCAC Board of Directors Conference Call
- April 2, 2014 – California Subcontractors Legislative Conference:
Hyatt Regency, Sacramento, CA - \$150 1st person / \$75 next 2 ppl
- April 10-13, 2014 – CMAACN Annual Meeting:
Omni La Costa Resort & Spa, Carlsbad, CA
- April 24, 2014 – MCAC Board of Directors Conference Call
- May 8, 2014 – MCA San Diego 16th Annual Golf Tournament
Temecula Creek Inn Golf Course, Temecula, CA - \$150 by 4/10; \$165 after 4/10.
Contact Margy Ashby (619) 593-9988.

If you have any items to add to the MCAC Calendar of Events, please submit them to julie@mca-ca.org.