



THE MONTEREY CURRENT

October, 2015

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*To Benefit...
Participate!*



VACTION PAY ON FEDERAL PROJECTS

On Labor Day, President Obama signed an [Executive Order](#) (EO) requiring federal contractors to offer their employees up to seven days of paid sick leave per year.

NECA's Look Ahead: The EO would grant approximately 300,000 people working on federal contracts that commence after January 1, 2017, the new ability to earn up to seven days of paid sick leave each year. The requirement stipulates that workers will earn a minimum of one hour of paid sick leave for every 30 hours worked. Our first read of the EO is that the requirement extends to all employees, both collectively bargained and non-bargained. The EO breaks long standing federal labor policy by requiring contractors to provide this sick leave in addition to vacation and other fringe benefits already required by

the Davis Bacon Act. NECA will continue to review this EO and will comment on any proposed rules implementing the EO.



NECA ALTERNATIVE DISPUTE RESOLUTION PROGRAM Workers Comp Option

Is your workers' comp insurance up for renewal? If so, you might want to consider the NECA Alternative Disputes Resolution (ADR) Program. Any California NECA Member in good standing may use the NECA ADR program with any participating insurance carrier. The ADR program typically lowers the cost of claims, and over time, reduces the cost of your Worker's Comp Insurance. [For more information, click this link.](#)



NECA CONVENTION MOBILE APP NOW AVAILABLE

Download it from the
App or Play Store

The 2015 NECA Convention and Show mobile app is now available! It can be downloaded for Apple, Android or ChirpE Web. Search "NECA 2015 San Francisco". Thank you to Graybar for sponsoring this App.

For those of you that have not already done so, we strongly encourage all of our members to register themselves and their key managers for the NECA Trade Show which will take place at the Moscone Center in San Francisco on October 4- 6th. The show hours are as follows: Sunday, October 4th 11:30 a.m.—5:00 p.m. Monday, October 5th 11:30 a.m.—4:00 p.m. Tuesday, October 6th 9:00 a.m.—1:00 p.m.



*"Always go to other
people's funerals,
otherwise they won't
come to yours."*

*Yogi Berra
1925-2015*

LOCAL #234 FAMILY PICNIC

Please join the members of Local #234 for their annual family picnic on Saturday, October 10th at the Buckeye Picnic Area of Toro Park. The Health Fair will take place at the BBQ that day as well with flu shots (for adults, seniors and children). Bring your family to our annual union BBQ for a fun time, delicious food, and good company. RSVP by Friday, October 2nd at (831) 633-2311 and let them know how many adults and children will be attending. There is no cost for the BBQ, it is hosted by the Local; however, parking at Toro Park is your responsibility. Parking costs \$8 per vehicle per day.

UL WHITE BOOK ONLINE

It appears that UL is no longer going to print its coveted "White Book" (General Guide Information for Electrical Construction Equipment) for product categories correlated to the 2011 and 2014 editions of the National Electrical Code. Instead, the 2015-2016 UL White Book, is offered in pdf format and can be downloaded for free at: www.ul.com/whitebook

Quickly find, specify, or verify UL Certified products for your projects by using the UL Product Spec, an online tool that has all of the White Book information and more at:

<http://productspec.ul.com/index.php>



Advanced Estimating Workshop

Wednesday & Thursday, November 4-5th

PREREQUISITE: Completion of Basic Estimating of Electrical Construction - Individuals should have a firm grasp of basic estimating principles and experience preparing bids

This course was developed to discuss all phases of the estimating process, this course covers all phases of preparing a competitive bid. Key topics include identifying desirable bid opportunities, analyzing the company's capabilities to insure profitable results, the estimator's role at various stages of the project, writing an effective scope letter, and identifying often hidden costs in the bid documents. Following this class, participants will be able to:

- Discuss the steps necessary to prepare a competitive bid
- Identify the most desirable bid opportunities
- Describe how a company's capabilities can be analyzed to insure profits
- Discuss cash flow and bonding
- Discuss relevant contract terms
- Identify price adjustment techniques, overhead, and profit
- List the documents required to estimate a construction project
- Participants who complete this course will be awarded 12 Continued Education Hours.

Date: Wednesday & Thursday, November 4-5, 2015
Time: 8:30AM- 4:30PM
Location: NorCal NECA Office, 6300 Village Pkwy, 2nd Floor, Dublin, CA 94568
Instructor: Bob Mooty
Cost: NECA Members \$565, Non-Members \$815

To register, reply with names and e-mails of attendees to [Juanita Mitchell](#) at the Northern CA Chapter at 925-828-NECA (6322)



A WORD TO THE WISE

And the Confusion That Often Follows

John McGill

My grandmother had a favorite saying: 'A *word to the wise is sufficient*', meaning of course that I should shape up or the next time I would be in even more trouble. Regrettably I didn't always understand what I was supposed to do to avoid the "next time". Courts do this *correction with direction* in their decisions too, and sometimes that direction is not clear either. A good example is the latest decision in *Pacific Caisson & Shoring Inc v Bernard Bros. Inc.*

In the first decision in the dispute between Pacific Caisson and Bernard Bros. the court ruled that Pacific Caisson was properly licensed to perform C-12 work notwithstanding that it did not have that specialty license. Pacific had a Class A and Class B license and the court held that was sufficient because the work allowed under those two general licenses included the kind of work that a specialty C-12 could perform. The court then sent the case back to the trial court to determine if Pacific was licensed the entire time it was performing the contract.

That did not go so well for Pacific.

First, recall that in California a contractor must be properly licensed the entire time it is performing work. If you are not properly licensed the entire time then you not only have no rights in court and cannot sue for any payments owed, but you can be required to return (disgorge) all funds that you have already been paid. The Legislature is serious about licensing and contractors should be serious about licensing too.

In the second *Pacific Caisson* matter, Pacific was delinquent in making payments to the Union trust fund. The Fund sued and eventually reached an

agreement that allowed Pacific to pay an agreed amount over time. A Stipulated Agreement was then filed with the court. Presumably, but it's not clear, there was another document, a Covenant Not To Execute, that provided that if Pacific made all payments then the Stipulated Agreement would be dismissed. If Pacific did not make the agreed payments, the Fund could execute on the Stipulated Judgment.

But Pacific did not make payments so the Fund sued. Two years later the Fund notified CSLB that Pacific still had not paid the judgment. CSLB wrote to Pacific saying that its license was suspended because Pacific had not notified CSLB within 90 days of there being a judgment. Sometime after that Pacific and the Fund entered another stipulation for the outstanding payments and CSLB reinstated the license.

Unfortunately the suspension and the reinstatement occurred while Pacific was working on the project for Bernard Bros. Pacific was not paid, it sued Bernard, Bernard defended by saying Pacific did not have the correct license category (the first case) and that Pacific was not properly licensed the entire time of the project (the second case). Pacific won the first round, but Bernard

won the second and the court's decision there is a cautionary tale for all contractors.

First, contractors need to be properly licensed at all times during the performance of a contract; that's the easy rule.

Second, you need to inform the CSLB of any "unsatisfied" judgments entered against you; but what is an *unsatisfied* judgment? A Stipulated Judgment with a Covenant Not To Execute, which is the way these agreements are usually done, should be sufficient to make a stipulated *agreement* not a *judgment*, at least not until the debtor misses the payments and the Stipulated Judgment is enforced. Then it would become an unsatisfied judgment. Typically the Stipulated Judgment is held and not filed until the judgment is not paid. If it is filed with the court, then any Covenant Not To Execute becomes pointless. So beware, you don't want any judgment to be entered, especially if you have a Covenant Not To Execute.

If you do have a judgment entered against you, and if it is related in any way to your contracting business, you must do two things. You must notify CSLB within 90 days of the judgment being issued and you must post a

judgment bond. If you do both things you are compliant and your license stays active. If you don't do both, then once CSLB is notified they will suspend your license. Any projects you are working on at the time are in jeopardy.

Keep in mind too that if you are the qualifier for multiple companies and one license that you qualify is suspended, then all other licenses are also suspended. Any projects under way for those other companies are being performed illegally because there is no active license.

Pacific tried to grab the protection of the substantial compliance exception. For this exception to apply you need to satisfy four factors: 1- you need to be properly licensed prior to the unlicensed activity; 2- you act reasonably and in good faith to maintain your license; 3- you don't know and reasonably could not know that you were unlicensed; and 4- when you find out, you immediately act to correct the license issue. You need to satisfy all four. The court found that Pacific failed the 2d prong because it did not act reasonably.

Pacific argued that it did not believe the Trust Fund payment was part of its "construction business" and so it did not believe it needed

to advise CSLB of the stipulated judgment. The court disagreed and found that because the owners were experienced contractors they were expected to know the CSLB rules and therefore they acted unreasonably. Assuming the owners presented credible evidence of their belief, the decision seems a bit harsh. Contractors are expected to know the law, but even the court could not cite to a case that had decided this issue.

But there is that case now and if you are reading this you are aware that a judgment, stipulated or otherwise, can't be ignored. You need to notify CSLB and you need to post a judgment bond. A word to the wise.

Bio: John McGill is an attorney and represents contractors and suppliers throughout the Bay Area and Northern California in both private and public work disputes and transactional matters. He is the author of California Contractor's DESKTOP GENERAL COUNSEL What You Need To Know About California Construction Law. Second Ed. Contact: 925-952 5403 or 707-337-1932. Email johnmcgill310@gmail.com



NATIONAL MULLIGAN DAY

Each year on October 17, people all across the country celebrate National Mulligan Day.

In a game, a mulligan happens when a player gets a second chance to perform a certain move or action.

This day was created as a day for giving **yourself** a second chance or, as some people call it, a “do-over”.

According to the United States Golf Association (USGA), there are three different stories explaining that the term derived from the name of a Canadian golfer, David Mulligan, one-time manager of the Waldorf Astoria Hotel in New York City, who played golf in the 1920's. A different, later etymology gives credit to John A. “Buddy” Mulligan, a locker room attendant at Essex Fells C.C., New Jersey in the 1930's. Yet another story according to

author Henry Beard, states that the term comes from Thomas Mulligan, a minor Anglo-Irish aristocrat and passionate golfer who was born in 1793.

According to the USGA, the term first achieved widespread use in the 1940's



UPCOMING CLASSES OFFERED THROUGH THE JATC

CPR/FIRST AID

Since First Aid/CPR language has been added to the Inside Agreement and will now be a requirement, the JATC has decided to offer it more regularly. The classes will now be offered monthly. Roni Jane Sudyka will be the trainer and the class is always well received. Blood borne pathogens will also be covered. The next class is scheduled for Saturday, October 3rd at the Training Center. Please call Stacy to sign up and to inquire about the additionally scheduled dates.

NFPA 70-E

An NFPA 70-E class with Instructor David Martinez is scheduled for Saturday, October 17th from 8am to 2pm. David will be teaching the standard for electrical

safety in the workplace. Call Stacy at (831) 633-3063 to reserve your place

CALCTP

California Advanced Lighting Controls Training Program (CALCTP) with Instructor Stephen Slovacek is looking for participants. This class is a total of 50 hours: 10 hours of lecture and 40 hours of lab. The class schedule will be coordinated with those in attendance. **YOU MUST BRING PROOF OF COMPLETING THE ONLINE COURSE TO THE FIRST CLASS OR EMAIL TO stacy@tricityjatic.org.**

Students will not be allowed to attend the class if they have not completed the online coursework. Go to bit.ly/IBEW234CALCTP to get started today. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.

CALCTP-AT

The JATC is also taking sign-ups for the California Advanced Lighting Controls Training Program-Acceptance Testing (CALCTP-AT) with Instructor Stephen Slovacek. This class is a total of 24 hours. The class schedule will be coordinated with those in attendance. The prerequisite for this class is completion of the 50 hour CALCTP. An application form must be

completed prior to starting class. To register for this class there is a \$225 application/record maintenance fee. Go online to goo.gl/qkW7AI to complete an application and pay the application/record maintenance fee. There is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.

NEC GROUNDING AND BONDING

NEC Grounding and Bonding, with instructor David Martinez will be held on the third Tuesday of each month. Drop on in! You are welcome to attend one class or as many as you like. This is a (3) hour class. The next class is scheduled for Tuesday, October 20th at 5:30 p.m.

EVITP

EVITP 3.0 Class Electric Vehicle Infrastructure Training Program (EVITP) 3.0 with Instructor Stephen Slovacek. This class is a 35 hour course. It is a prerequisite for EVITP that you are a California Certified General Electrician. As a bonus, there is a \$125 stipend available upon successful completion provided by the Monterey Bay LMCC.



CONGRATULATIONS TO THOSE WHO HAVE COMPLETED UPGRADE CLASSES

Congratulations to the following individuals who have recently completed classes offered through the apprenticeship program! We appreciate your commitment to the industry!

CPR/FIRST AID W/ BLOOD BOURNE PATHAGINS

- John Aguilar
- Sergio Castillo
- Will Clough
- Bryan Craddock
- Jose Delgado
- Kyle Evans
- Steven Gamez
- Nick Karakas
- Tramaine Lamb
- Cody Mahler
- Mason Miccichi
- Carlos Prado
- Alex Ruelas
- Ramon Kauffmann
- Randy Trybom



GROUNDING AND BONDING

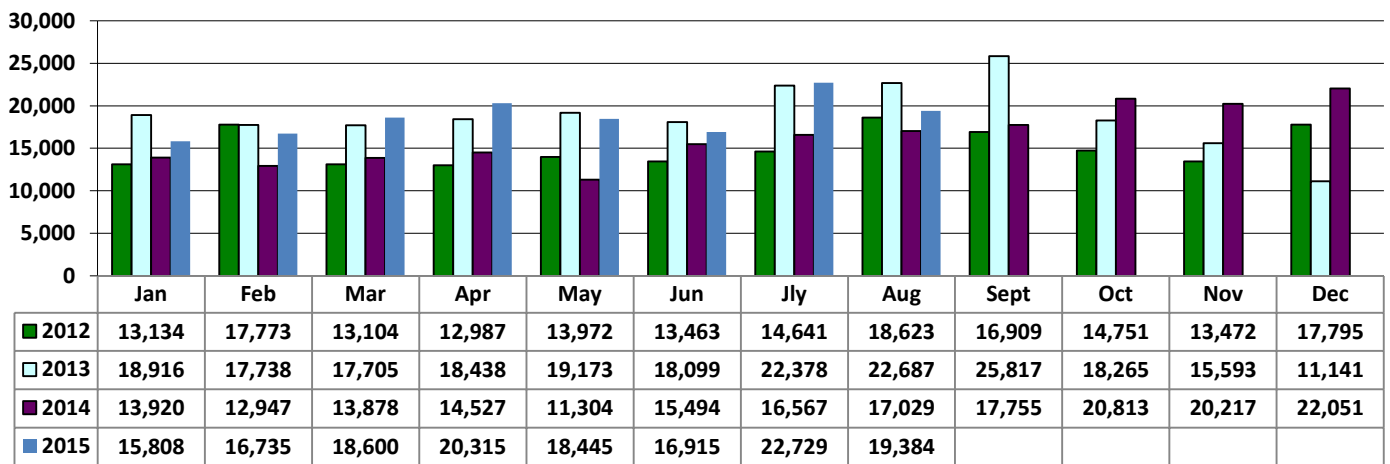
- Bryon Borchard
- Anthony Kalstrom
- Will Nunes
- Ralph Yniguez

LOCAL #234 AVAILABILITY LIST UPDATE

On the Inside Out-of-Work List, there are 9 on Book 1, 14 on Book 2 and 2 on Book 3. For Sound & Comm. there

is 1 on Book 1 and 1 on Book 2. The Local Union has 12 CW's available. There are no Inside apprentices available for work at this time.

INSIDE MONTHLY HOURS REPORT



UPCOMING EVENTS CALENDAR



October 3-6, 2015

National Convention and Trade Show
San Francisco, CA

October 10, 2015

Local Union #234 Picnic
Buckeye Area – Toro Park
Salinas, CA

October 14, 2015

Sound and Communications Steering Committee Meeting
S&C Training Center
San Leandro, CA

November 4-5, 2015

Advanced Estimating Workshop
Dublin, CA

November 11, 2015

Veteran's Day Holiday

November 21, 2015

Applicant Interviews
Castroville, CA

November 26-27, 2015

Thanksgiving Holiday

December 2-4, 2015

Electrical Training Alliance Regional Seminar
Las Vegas, Nevada

December 4, 2015

Chapter Members Christmas Party

December 24-25, 2015

Christmas Holiday