

Wisconsin Chapter NECA
2200 Kilgust Rd.
Madison WI 53713



September 2009

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Inside this issue:

Killer Jobs Seminar	2
Economic News	2
Attorney Andersen's Letter	3
October 2009 Calendar	3
New Portability Form	4
Tom's Code Corner	4
Manpower Statistics	5
Man-hour Comparison	6

Learn to Manage Payments

The Wisconsin Chapter is holding a new seminar in October, "Managing Payment: Bonds, Liens, and Other Collectibles". In this tight economy, profit margins are stretched as thin as possible, and prompt payment can become even more important to ensuring a viable project.

Learn how to optimize your collections and accounts receivable processes to better capture your funds as they are due to you. This seminar will explore a contractor's right to payment, contract payment clauses and what they mean, and will discuss strategies you can use to better manage the collection of your receivables. 

The instructor for the seminar is Marvin T. Fabyanske, founder and a shareholder in the law firm of Fabyanske, Westra, Hart & Thomson, P.A. Through his experience and national reputation as a construction law attorney, Mr. Fabyanske has become an authoritative speaker and author. He is a member of the American Bar Association's Forum on the Construction Industry, and the Arbitration Committee of Tort & Insurance Practice Section (past chairperson), a Founding Fellow of the American College of Construction Lawyers, and a member and Past President of the Association of Construction Professionals.

The seminar will be held Monday, October 19, 2009 at the Hilton Garden Inn, Wisconsin Dells, from 8:00 a.m. to 4:30 p.m. The cost, \$325, includes all course materials, continental breakfast, lunch and breaks. The registration deadline is October 2, and attendance is limited to 25 people. A registration form for the seminar is included with this newsletter. Please contact the Chapter Office if you have additional questions.

New Meeting Notifications

The Chapter will soon begin sending e-mail notifications of the monthly Division meetings to members in lieu of a fax. This has been discussed and wholeheartedly embraced at the last couple of meetings in each area, and will streamline the process on our end. In order to get started, though, we need to make sure we have your e-mail address. If you get a call from Tavia at the Chapter Office, please get her your address so you won't miss a notice, and thanks in advance for your assistance!

The number of newly laid-off workers filing for unemployment benefits dropped in early September to the lowest level since July. The Department of Labor says it is evidence that the number of job cuts is slowing.

The decline was the third in the past four weeks, dropping to 563,000 for the period, however, that is still significantly higher than the 325,000 four-week average

during a typical healthy economy.

The economy is showing positive signs. The

Federal Reserve announced recently that production in the nation's factories, mines and utilities increased for the second straight month in August; however, the recovery is not yet spurring increased hiring. Experts believe that the recession has ended; however, recovery will be a very slow process. In fact, the jobless rate is now expected to peak sometime early next year around 10% nationally, up from the current 9.7%.

Some good news: Wisconsin was one of the three states that saw the largest drop in unemployment claims for the four-week period. It's a positive sign in the midst of a still stagnant economy.



Killer Jobs Seminar

The Wisconsin Chapter hosted the MEI Seminar, “**How to Avoid Killer Jobs by Improving Estimating Accuracy**” on Wednesday, September 2 in the Wisconsin Dells.

Dr. Perry Daneshgari, President of MCA, Inc., created the seminar specifically for electrical contractors based on his research of construction sites. He identifies a “Killer Job” as one that single-handedly erases most of the profits earned on all other jobs (collectively) throughout the year. As many an unfortunate electrical contractor has found out, these jobs are often difficult to control and sometimes very difficult to see where they went wrong. He stressed that estimators need to understand their crew's productivity for a specific job. Productivity as a team is considerably more important than individual productivity, and he introduced methods to help spot trouble spots on projects as they occur and work with field staff to resolve these issues before they get out of hand. He noted that field personnel should be trained to maintain an organized construction site, with materials and tools carefully organized, thereby reducing the amount of time searching for materials and tools by the crew. Each project is different, and special considerations should be recognized during the estimating process wherever possible. He noted that one hour spent on pre-planning a project can save 17 hours of productive time on the job.

The evaluations from the seminar were overall very positive, and Dr. Daneshgari is available to participants for follow up questions, if necessary.

Become a Better Listener

It takes concentration and determination to be a good listener, however, it is a skill that is well-worth cultivating. Here are some tips to keep in mind:

- 1) Pay attention – Give the speaker your full attention, and give them time to express themselves. Don't work on your rebuttal to their statements or your opinions.
- 2) Show that you are listening – Nod, smile, or use small verbal words to encourage them to continue speaking. Make sure your posture is open, don't cross your arms or scowl.
- 3) Provide feedback – paraphrase what the speaker has just said to reinforce the idea in your mind and to reassure them you were listening and heard the message correctly.
- 4) Defer judgment – don't interrupt the speaker, allow them to finish their message before you add your comments.
- 5) Respond Appropriately – Be candid in your response and treat their statements with respect even if you do not agree.

Life loves to be taken by the lapel and told, "I'm with you kid. Let's go."
-Maya Angelou

From the Desk of Attorney Randy Andersen



PREFERENCE CLAIMS IN BANKRUPTCY

It is bad enough receiving a notice from the bankruptcy court indicating that someone who owes you money has filed a bankruptcy petition. To make matters even worse, electrical contractors sometimes receive a letter from the bankruptcy trustee, a few weeks later, demanding repayment of amounts previously paid by the debtor.

The Bankruptcy Code permits the trustee (or in some cases the debtor itself) to recover payments made to a creditor within the 90-day period preceding the filing of the bankruptcy petition. The policy behind this rule is to remedy a situation where the debtor “prefers” certain creditors by making payments to them just before filing for bankruptcy, and to diminish the advantages that a creditor might gain by pursuing aggressive collection actions on the eve of the bankruptcy filing. If “preferential” payments are made within the 90-day period, the creditor can be forced by the bankruptcy court to “repay” those payments to the trustee or the debtor in possession.

What is the preference? Section 547 of the Bankruptcy Code defines a preference as:

1. A payment on an antecedent (as opposed to a current) debt;
2. Made while the debtor was insolvent;
3. Made to the creditor within 90 days of the filing of the bankruptcy petition;
4. That allows the creditor to receive more on its claim than it would have otherwise received through the bankruptcy proceeding.

For “insiders” who have a special relationship with the debtor, the preference period is one year (as opposed to 90 days for non-insider creditors).

An electrical contractor who receives a letter demanding repayment of a payment received prior to the bankruptcy filing should not automatically jump to the conclusion that the payment was a “preference” which will have to be repaid.

For example, payments to a fully secured creditor (such as a creditor who holds a mortgage or a construction lien) normally aren’t considered preferences.

Likewise, a “contemporaneous exchange for new value given” is not a preference. A payment which is made at the same time the product or service is provided is an example of a “contemporaneous exchange.”

Payments made “in the ordinary course of business” are not preferences. Whether a payment is “in the ordinary course of business” depends on how soon the payment was made after the product or service was provided, the past practices followed between the debtor and the creditor, and the practices followed in the industry. Whether a payment was made in the “ordinary course of business” has been the subject of much litigation in bankruptcy courts around the country.

Another defense to a preference claim may exist if the creditor extended additional credit to the debtor after the payment was received.

There are a number of other possible defenses. Not every payment

(Continued on page 6)

October 2009

October 1

La Crosse Membership

October 7

Madison Membership
Janesville-Beloit Membership

October 8

Indianhead Membership

October 12

Kenosha-Racine Membership

October 14

Fox Valley-Northeast Joint
Membership

October 19

Managing Payment Seminar
Wisconsin Dells

October 22

Wisconsin Valley Membership

Upcoming Meetings

November 9

Managing Field Productivity
Seminar
Madison

January 29-30, 2010

NECA Winter Meeting
Holiday Inn, Manitowoc

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www.kayandandersen.com

The Wisconsin and Milwaukee Chapter Board of Directors and the IBEW State Conference met recently in Madison to continue their general industry discussions. At that meeting, some minor clarifications were made to the portability reporting procedures (portability itself remains the same). An employer is required to notify the host local union when they bring employees into the local under portability. Employers are asked to please notify the home local of this at the same time, thereby allowing both business managers to be aware of the situation. Also, employers are to notify the host local union (and copy the home local) when those reported employees are laid off, pulled, or re-assigned within the local union. A revised portability form was mailed along with a letter detailing those clarifications. We ask for your diligence in reporting your portability.



Do you have a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

Get Your Packer Tickets Here

The Wisconsin Chapter still has some Packer tickets left for purchase by the members. There are 4 outdoor club seats available for each game. Featuring arm rests, cup holders and amenity concession and restroom areas, the club seats are the best in the house! Don't want to leave your seat? There are waiters who will take your order & deliver it to you. The tickets are available at a cost of \$267 each, and will be sold in pairs of two or all four for each game. The games remaining are:

Sunday, October 18 vs. Detroit Lions 12:00 noon

Sunday, December 27 vs. Seattle Seahawks 12:00 noon



All tickets will be sold on a first-come, first serve basis. Don't delay, call Loyal now to purchase your Packers tickets before they are gone, (608) 221-4650.

Poop to Power Plant

Cargill, Inc. recently fired up a new anaerobic digester and generator facility that will turn their surplus into gold. Or something like that. The "poop to power" plant generates 2.13 megawatts, and is located in Hanson, Idaho, an area rich in dairy production and other livestock. Cargill hopes to sell the power to Idaho Power, the state's largest utility.



The plant utilizes turkey litter, cow dung and other animal waste and turns it into power, helping the utilities meet renewable energy standards. They are exploring additional facilities in Washington, Oregon, New Mexico, California, Texas, New York, Indiana and Minnesota, the nation's largest turkey producer. Meanwhile, Minnesota already has an anaerobic digester facility which generates 50 megawatts of electricity from 500,000 tons of turkey droppings. That's enough to power 40,000 homes. It makes sense that this could benefit Wisconsin as well where we also have a ready supply of manure.

Tom's Code Corner

Question: The new manufacturing facility we are wiring is going to have a 480/277 volt service. We will be installing transformers to provide 208/120 volt loads. Are we required to use specific color coding on our branch circuits?

Answer: NEC 210.5 has been revised. It requires the ungrounded conductors of multi-wire branch circuits be uniquely identified. The identification must identify both the system and the phase that supplies the conductor. Color-coding is one method that can be used to identify the ungrounded conductors. The recommended colors are found in Comm 16.210. Once the method of identification is selected, the method must be permanently posted at the distribution system. The revised code now permits "documentation in a manner that is readily available" as an alternative.

NEC 210.4 has also been revised. This new section will now require a "disconnecting" means for each phase leg of a multi-wire branch circuit. This requirement applies even if a single voltage is used in the building. The disconnecting means may consist of a multi-pole circuit breaker or single-pole breakers with handle-ties.

MANPOWER STATISTICS

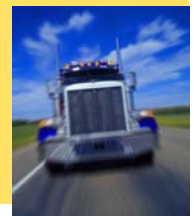
For the Month of -- July 2009

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	7	4	4	17	5	5	3	6	51
Non-NECA	32	8	14	18	9	17	7	14	119
Total Local Contractors:	39	12	18	35	14	22	10	20	170
Traveling Contractors: NECA	8	5	6	2	3	3	5	8	40
Non-NECA	5	8	5	3	1	3	1	1	27
Total Traveling Contractors:	13	13	11	5	4	6	6	9	67
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	52	25	29	40	18	28	16	29	237
Contractors More Than Two Months Delinquent in N.E.B.F.	3	3	1	0	4	0	1	0	12
Total Number of Contributing Contractors in Area:	55	28	30	40	22	28	17	29	249
Employees: NECA	266	50	90	594	207	40	140	140	1527
Non-NECA	221	91	166	77	25	58	54	56	748
TOTAL EMPLOYED:	487	141	256	671	232	98	194	196	2275

Union #	NECA Division Name
14	Indianhead/La Crosse Divisions
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

Trucking company Schneider National has announced it is closing two operating centers, one of them in Green Bay. Approximately 50 jobs will be eliminated in the closing of a fuel and maintenance center in Green Bay, where the company headquarters are located. The other facility to be closed is in Seville, Ohio. Schneider National employs about 19,000 people worldwide.



From the Desk of Attorney Andersen (continued)

(Continued from page 3)

which is received within the 90-day period will have to be repaid.

An electrical contractor who receives a preference demand letter should consult with an attorney to determine whether defenses to the preference claim are available. Normally, a prompt response should be made to the person who sent the letter demanding repayment, setting forth any defenses to the preference claim which may exist. A prompt, well-written response which raises appropriate defenses will in many cases cause the trustee or attorney for the debtor to drop the matter and refrain from filing suit in the bankruptcy court to force repayment of the alleged preference payment.

New Man-hour Comparison Chart

Each month we include the “Manpower Statistics Report” on Page 5 of this newsletter. While this information is helpful, the data may not show the complete picture. We have been asked to provide a simple comparison on the number of hours worked in each local this year vs. the same period last year. That chart detailing monthly and year-to-date hours is found below. Please contact Shari at the Chapter Office (608-221-4650) if you have questions regarding the new Comparison Chart.

Local and Chapter Man-hour Comparison

	Hours Jul-09	Hours Jul-09	2009 vs. 2008	% Change	Hours 2009 YTD	Hours 2008 YTD	2009 vs. 2008	% Change
Local #14	76319	72962	3,357	5%	438032	502026	-63,994	-13%
Local #127	27908	19772	8,136	41%	177829	163855	13,974	9%
Local #158	38713	34087	4,626	14%	278121	404539	-126,418	-31%
Local #159	106982	115210	-8,228	-7%	578209	815751	-237,542	-29%
Local #388	33383	48989	-15,606	-32%	239724	325812	-86,088	-26%
Local #430	18224	20127	-1,903	-9%	121342	141162	-19,820	-14%
Local #577	28498	35232	-6,734	-19%	208320	252231	-43,911	-17%
Local #890	30371	56323	-25,952	-46%	221369	339464	-118,095	-35%
Chapter	360398	402702	-42,304	-11%	2262946	2944840	-681,894	-23%

*YTD numbers are January through July

Experts believe that China could potentially become a huge market for environmentally sustainable “green technology”, with the proper government support. The estimated \$500 billion to \$1 trillion a year market includes options for green technologies covering everything from water, buildings, transportation and other industries. A report issued by the China Greentech Initiative, identified up to 300 potential green technologies, products and services that would benefit users while limiting the effects on the environment and would promote sustainable use of energy, water and other resources. China’s rapidly growing economy and urban areas will require massive increases in the use of resources, and is therefore prime to begin incorporating environmentally friendly technologies where new opportunities arise. Nearly 18 million people migrate from rural to urban areas each year, and it is estimated that by 2050, China will have over 200 cities with populations of over 1 million people. It is a growth pace they cannot sustain without protecting resources, and the new technologies will be the key. This is expected to be a topic of discussion when President Barack Obama visits China in November.





Instructor: Marvin Fabyanske

Managing Payment: Bonds, Liens, and Other Collectibles

**October 19, 2009
8:00 a.m. – 4:30 p.m.
Hilton Garden Inn
Wisconsin Dells, WI
Cost: \$325**

**Please register by October 2, 2009*

Fax Registration Form Back to the Chapter Office at (608) 221-4652

Company Name: _____ Phone No.: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Name(s): _____

If you need hotel reservations, there is a block of rooms reserved under Wisconsin Chapter NECA. **The rate for a room is \$89.99 per night. You may contact the Hilton Garden Inn directly to make your reservations at (608) 253-1100. Rooms will be released after October 18, 2009.**

**Please note: Continental breakfast will be provided at 7:30 a.m. in the meeting room.
Lunch will also be provided.**