



The Tool Box

Serving the Electrical, HVAC & Plumbing Industries Since 1912

Volume 2, Issue 57 April 11, 2005

Insurance Coverage for Construction Defects Threatened by Recent Opinions of South Carolina Supreme Court

A construction contractor's commercial liability insurance ("CGL") policy has long been the source of recovery for parties seeking to recover damages for construction defects. However, after the recent decision of the South Carolina Supreme Court in *L-J, Inc. v. Bituminous Fire and Marine Ins.*, Opinion No. 25854 (S.C. Sup. Ct. filed August 9, 2004) (*rehearing pending*) that may no longer be the case.

The facts of the *L-J* case are as follows. L-J, Inc., a road building contractor, built roads for a subdivision development in the low country. Much of the road construction was performed by subcontractors of L-J. Several years after the roads were completed, the Developer of the subdivision claimed the roads had failed due to severe deterioration and cracking. The Developer sued L-J for breach of contract, breach of warranty and negligence. L-J settled with the Developer and then sought indemnification from its insurance carriers on the applicable commercial general liability ("CGL") policies in place during the period of damage. Bituminous and three other insurers issued CGL policies to L-J during the applicable damage period. The other three insurers contributed to the settlement, but Bituminous refused. L-J and the three contributing carriers brought a declaratory judgment action against Bituminous seeking a determination that the CGL policy issued by Bituminous covered the damage and, therefore, that Bituminous should contribute its proportionate share towards the settlement.

The trial court agreed with L-J and ruled that coverage existed. Bituminous appealed and the South Carolina Court of Appeals affirmed the lower court finding that the damage was an "occurrence" under L-J's CGL policy. In a surprising decision, the South Carolina Supreme Court reversed the Court of Appeals and held that the damage complained of by the Developer was not an "occurrence" under L-J's CGL policy and that no coverage existed under the policy. The Court cited the reports and testimony of expert witnesses attributing the road failure to faulty workmanship and improper design as the basis for its finding that the failure of the roadway was not an occurrence. The Court stated "[W]e find that all of these contributing factors are examples of faulty workmanship causing damage to the roadway system only which does not fall within the contractual definition of "occurrence" under Bituminous's CGL policy." The Court concluded that L-J's CGL policy was not intended to cover economic loss suffered by the Developer due to L-J's (and L-J's subcontractors) faulty construction.

This opinion has received some strong criticism from construction and insurance industry experts. The opinion has not been officially released for publication and is subject to being revised or withdrawn by the Court. A petition for rehearing has been granted by the court with arguments on the matter set for April 19th. Should the Court's decision in this case stand, it appears that with respect to construction defects, a contractor's CGL policy will only cover bodily injury or damage to the property of others—not to the work itself—caused by the construction defect. This would result in a substantial decrease in the scope of coverage previously thought to exist under standard CGL policies.

Reprinted with permission from Chuck McDonald, Esquire of Robinson McFadden.

INSIDE THIS ISSUE:

City Plumbing Co. Mechanical Article	2
April Birthdays	2
Projects to Bid	3
New Members	3
Forecast, 17th Annual	4
Bryce Golf Tournament	4
14th Annual Santee Golf & Fishing T'ment	5
14th Annual Santee Registration Form	6
Epting Distributors, Inc. Associate Article	7
Area Meeting Calendar	7
Winter Retreat Results	8
Misc. News Info	8

THANKS TO ALL WHO ATTENDED AND SUPPORTED THE WINTER RETREAT IN PINEHURST!!

LOOK FOR UPCOMING DETAILS ON THE SUMMER CONVENTION

MARK YOUR CALENDARS NOW JULY 21st-24th

SAWGRASS MARRIOTT

PONTE VEDRA, FLORIDA

PROJECTS FOR BID & BID FORECAST

MECHANICAL CONTRACTORS ASSOCIATION OF SOUTH CAROLINA
P.O. Box 384, Columbia, South Carolina 29202 · 1504 Morninghill Drive, Columbia, South Carolina 29210
PHONE (803)772-7834 · FAX (803)731-0390 · E-MAIL: mflowers@mcasc.com WEBSITE: www.mcasc.com

JOBS TO BE BID THROUGH THE MCASC BID PROCEDURE.
ALL MECHANICAL CONTRACTORS WHO ARE NOT MEMBERS OF THIS ASSOCIATION BIDDING ON THESE ADVERTISED JOBS ARE INVITED AND URGED TO UTILIZE THE MCASC BID PROCEDURE PUBLISHED HEREIN.
INFORMATION PUBLISHED BY THE MECHANICAL CONTRACTORS ASSOCIATION OF SOUTH CAROLINA

NOTES:

1. ALL JOBS LISTED WITHOUT REFERENCE TO THE MCASC FOUR-HOUR DESIGNATION ARE EITHER ZERO OR TWO-HOUR BID JOBS.
2. ALL ASPECTS OF THE MCASC FOUR-HOUR BID PLAN APPLY TO JOBS DESIGNATED AS EITHER ZERO OR TWO-HOUR JOBS WITH THE EXCEPTION OF TIME & BID PROCEDURE OFFICE/SIGNATORY GENERAL CONTRACTOR INTERFACING.

*MCASC BID PROCEDURE SIGNATORY GC'S INDICATED WITH "O"

PIEDMONT AREA

CHAIRMAN DESIGNATING COMMITTEE
DAVID BISHOP
TEL: (864) 578-7252 FAX: 578-341

NO JOBS LISTED

MIDLANDS AREA

CHAIRMAN DESIGNATING COMMITTEE

NO JOBS LISTED

PEE DEE AREA

CHAIRMAN DESIGN. COMMITTEE
WILLIAM L. SELF
TEL: (803) 432-8519 FAX: 432-3845

PAUL PREVATTE
G'TOWN, HORRY & MARION
TEL: (843) 272-4915 FAX: 272-6071

JIMMY LEE
FLO, DAR, DIL, C'FLD & M'BORO
TEL:(843) 669-8243 FAX: 673-0826

NO JOBS LISTED

COASTAL AREA

CHAIRMAN DESIGNATING COMMITTEE
RON RUNYON
TEL: (843) 556-5636 FAX: 763-3091

NO JOBS LISTED

GET YOUR CALENDARS OUT AND MARK IT FOR THE 14th ANNUAL
SWATTER—SNAGGER—SHAGGER
GOLF AND FISHING SCHOLARSHIP TOURNAMENT
JUNE 3, 4, 5, 2005
(see details and registrations on Pages 5 & 6)

WELCOME NEW MEMBERS

BARTSCH ELECTRIC, INC. — PETER BARTSCH - SPARTANBURG
COLONIAL SUPPLEMENTAL INSURANCE - KELLY FARLEY — KENNESAW, GA
DESPORTES RISK MANAGEMENT CO. — BOBBY DESPORTES — BLYTHEWOOD
JOHNSON CONTROLS, INC. - MIKE PITTS - GREENVILLE
JOHNSON CONTROLS, INC. — DAVID MCKENZIE — COLUMBIA
JOHNSON CONTROLS, INC. — BO NUTTING — CHARLESTON
JOHN J. KIRLIN CO., INC.—CAROLINAS DIVISION — DENNIS BRUNINK — WEST COLUMBIA
LOVE CHEVROLET — JOHN MYRICK — WEST COLUMBIA
NASH & POWERS INSURANCE — KEVIN WOOD — GREER
SUNBELT MARKETING, INC. — TIM RAMSEY — LITHIA SPRINGS, GA

WEEK OF APRIL, 2005 – MAY, 2005

DAY	JOB NO.	4/HR	LOCATION	NAME	BID DATE	TIME
No Jobs Listed						

SEVENTEENTH ANNUALGEORGE W. BRYCE, JR. MEMORIAL GOLF TOURNAMENT

THE SEVENTEENTH ANNUAL GEORGE W. BRYCE, JR. MEMORIAL GOLF TOURNAMENT
WILL BE HELD ON FRIDAY, MAY 20, 2005 AT OAKDALE COUNTRY CLUB IN FLORENCE, SC

TEE-OFF BREAKFAST AT 8:30 AM

SHOTGUN START AT 10:00 AM

NINETEENTH HOLE AND AWARDS AT COMPLETION OF PLAY

AWARDS, GOOD FOOD, GOOD FELLOWSHIP

WE WILL AGAIN THIS YEAR BE FORGOING DOOR PRIZES AND WILL MAKE A CONTRIBUTION TO THE MCASC SCHOLARSHIP FUND. LAST YEAR WE SENT THE ASSOCIATION A CHECK FOR \$1000 WHICH WAS TO BE EARMARKED FOR A TECHNICAL EDUCATION STUDENT IN ONE OF OUR TRADES AND WAS TO REMAIN IN THE PEE DEE AREA. WE WOULD CERTAINLY LIKE TO BE ABLE TO INCREASE THAT AMOUNT THIS YEAR.

PLEASE MAKE PLANS NOW TO ATTEND AND LET'S SWING THE CLUB FOR EDUCATION AND KEEP OUR TRADES ALIVE. PLEASE RETURN THE COMPLETED FORM AND FEE OF \$65.00 BY MAY 10, 2005 TO:

PEE DEE AREA GOLF TOURNAMENT

P.O. BOX 311

FLORENCE, SC 29503

NAME: _____ HANDICAP _____

ADDRESS: _____

PHONE NUMBER _____

COMPANY _____

PLEASE ACCEPT OUR CHECK IN THE AMOUNT OF \$ _____ TOWARDS A GIFT TO THE SCHOLARSHIP FUND.

ONE ENTRY PER FORM. PLEASE DUPLICATE FORMS FOR ADDITIONAL PLAYERS FROM YOUR COMPANY. PLEASE BE SURE TO INCLUDE YOUR HANDICAP. ALL PLAYERS ARE ASKED TO CHECK IN AND PICK UP NAME TAGS BEFORE GOING TO THE DRIVING RANGE OR PUTTING GREEN.

LADIES ARE INVITED TO PLAY AND FOURSOMES WOULD BE APPRECIATED. IF YOU CHOOSE TO BRING YOUR OWN TEAM, PLEASE SUBMIT AND ENTRY FOR EACH PLAYER AND RETURN TOGETHER.

REMEMBER, ALL ENTRIES MUST BE RETURNED BY MAY 10, 2005

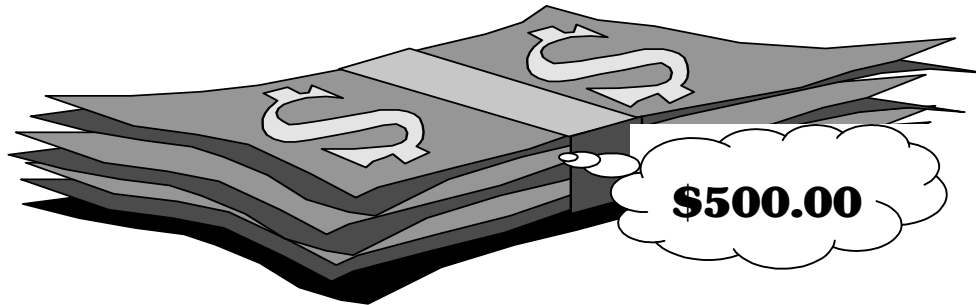
THANKS,

DARLENE MCGEE

TOURNAMENT COORDINATOR

TO AVOID CONFUSION THE MORNING OF THE TOURNAMENT, WE ARE ASKING ENTRY FEES BE SENT ALONG WITH THE FORM. THANKS

How would you like to win



IF SO, THEN MARK YOUR CALENDARS FOR THE...

14th Annual
MCASC Scholarship Tournament
Swatter-Snagger-Shagger Weekend
June 3, 4, 5 2005 - Santee - Ramada Inn

AGENDA

FRIDAY:

Check In - Ramada Inn	10:00AM* - UNTIL	*Provided room is ready
GOLF: SANTEE NATIONAL (Play Your Own Ball)	11:00 AM - Tee Times Begin (Tee Times To Be Published)	
Hospitality Suite	4:00PM - MIDNIGHT	Room 124
Poker	IT'S YOUR DEAL	Room 220
Prime Rib Dinner	7:00PM	Hotel Pool Side

SATURDAY:

Buffet Breakfast	6:00AM - 9:00AM	Garden Dining Room
FISHING: BILLUPS LANDING	5:30AM - UNTIL	
GOLF: SANTEE-COOPER COUNTRY CLUB	10:00AM - SHOTGUN START	Captain's Choice Format
Hospitality Suite	4:00PM - MIDNIGHT	Room 124
Poker	IT'S YOUR DEAL	Room 220
Swatter-Snagger Awards & Door Prizes	6:00PM	Hotel Pool Side
Seafood Dinner	6:30PM	Hotel Pool Side
Shagging	After Dinner	L T's

SUNDAY:

Buffet Breakfast	6:00AM - 9:00AM	Garden Dining Room
Check Out - Ramada Inn	12:00 NOON	

\$500- Hole-In-One Contest

\$500 will be awarded for each hole-in-one made on Hole #8 (150 yds).

\$500 Angler Contest

\$500 will be awarded to the angler that captures the largest fish (weighed in ounces)
IF their lucky number matches the winning number.



**14th Annual
MCASC Scholarship Tournament
Swatter-Snagger-Shagger Weekend
June 3, 4, 5 2005
Santee - Ramada Inn**



REGISTRATION FORM AND INFORMATION

COST:

Swatter/Snagger - \$225.00/person (double occupancy)

Non-Sportster - \$150.00/person (double occupancy)

NOTES:

- Any singles add \$45.00
- Lounge cover charge waived with room key
- If you choose to go down on Thursday, there will be an additional room cost of \$55.00
 - Please indicate below so we can make the necessary accommodations

Hole Sponsor - \$125.00

Boat Sponsor - \$125.00

****Make checks payable to: MCASC Scholarship Fund****

REGISTRATION DEADLINE: MAY 6, 2005

Below, indicate activities with a ✓ mark

Complete registration form and fax to MCASC at (803) 731-0390

NAME:	HCP	HOTEL THURS.	GOLF FRI.	GOLF SAT.	FISH SAT.	NO SPORT	SPONSOR
1.							
2.							
3.							
4.							

IMPORTANT NOTE: FRIDAY & SATURDAY, Pre-arranged foursomes will be accepted both days provided you have contacted the MCASC State Office & submitted your team by no later than May 6, 2005. If you do not pre-arrange your foursome, & would like to play with a particular individual, please note on form. Otherwise, the Golf Committee will assign teams.

Associate Member: Epting Distributors, Inc.

As a family owned and operated wholesale business since its inception, Epting Distributors has its roots in the Midlands of South Carolina. The initial location was established in Columbia in the spring of 1964 by Bill Epting. It was an outgrowth of Capital Heating Co.; his highly successful residential contracting business.

With the knowledge he had of the needs of the local contractors he formulated a business philosophy that was focused on the growth and success of his customers. That philosophy continues to this day and has served the company well. Currently Epting Distributors has 73 employees staffing nine locations in South Carolina, North Carolina and Georgia.

The company currently markets its residential heating and air conditioning equipment lines, Tempstar and Airstart, along with installation supplies and service parts at all locations.

In addition the company has a separate commercial division that represents products manufactured by Luxaire, ICP Commercial, Reznor, California Economizer and others. The division is headed by Al Carr and has three salesmen with a combined experience of 120 years in the commercial segment of the business.

As the company continues to grow its management and employees remain thankful to our customers for providing us the opportunity to work with great people in an outstanding industry.

<i>Epting Distributors of Columbia, SC</i>	800-849-3045	<i>fax: 803-765-2115</i>
<i>Epting Distributors of Conway, SC</i>	800-849-3046	<i>fax: 843-248-3258</i>
<i>Epting Distributors of Spartanburg, SC</i>	800-849-3049	<i>fax: 864-576-3211</i>
<i>Epting Distributors of Anderson, SC</i>	800-849-3053	<i>fax: 864-226-1042</i>
<i>Epting Distributors of Augusta, GA</i>	800-849-3048	<i>fax: 706-790-0954</i>
<i>Epting Distributors of Charleston, SC</i>	800-948-7150	<i>fax: 843-552-1649</i>
<i>Epting Distributors of Lexington, SC</i>	800-826-0208	<i>fax: 803-356-4680</i>
<i>Epting Distributors of Savannah, GA</i>	800-773-8978	<i>fax: 912-233-9657</i>
<i>Epting Distributors of Charlotte, NC</i>	866-432-5874	<i>fax: 704-940-0945</i>

Congratulations to our next Associate & Mechanical Members who will be highlighted in the upcoming issue of "The Tool Box":

**B & L Electric Co., LLC — West Columbia
Carolina Filters, Inc. — Sumter**

APRIL/MAY 2005 MONTHLY AREA MEETINGS

PIEDMONT AREA

Tuesday, April 12, 2005 @ 6:00 PM
Location: 575 Woodruff Road, Greenville
Sponsored By: Ferguson Enterprises

Topic: Henry "Hank" Knupp, Rep from Hayes Fluid Controls, to give presentation on Automatic Flow Controls in Hydronic Systems; Election of 2005-2006 Officers

PEE DEE AREA

Thursday, April 21, 2005 @ 7:00 PM (Note Time Change)
Location: Red Bone Alley, Florence Mall
Sponsored By: Eastern Industrial, Cayce Co. & Mueller Ind.

Topic: Vickie Tyner & Kim Gardner, Staff for the Pee Dee Workforce Investment Board, to speak on "Business Services Through The Pee Dee OneStop System" Election of 2005-2006 Officers

COASTAL AREA

Friday, April 29, 2005 @ 7:00 PM Boarding
Location: Patriot's Point, Mt. Pleasant

Topic: Election of 2005-2006 Officers
COASTAL HARBOR CRUISE

MIDLANDS AREA

Wednesday, May 11, 2005 @ 6:00 PM (DATE CHANGE)
Location: 1841 Shop Road, Columbia
Sponsored By: W. O. Blackstone Company

Topic: Year End Statewide Meeting
Special Guest—Governor Mark Sanford



P.O. Box 384, 29202
1504 Morninghill Drive, 29210
Columbia, SC
Phone: (803) 772-7834
Fax: (803) 731-0390
E-mail: mflowers@mcasc.com
www.mcasc.com

*Serving mechanical contractors in
South Carolina since 1912.*

MCASC Executive Board & Staff

Ned Forsberg, President
Darlene McGee, Vice-President
Steve Brewer, Treasurer
Tommy Burkett, Secretary
Billy Starrett, Associate President
Mona Flowers, Managing Director
Carol Fore, Administrative Assistant

**Mechanicals make it happen -
Be part of the best!**

FIRST CLASS
MAIL
U.S. POSTAGE
PAID
COLUMBIA, SC
PERMIT NO 750

WINTER RETREAT GOLF RESULTS

Winning Team: Bill Caldwell, Kevin Wood, Jimmy Champion, Mark Schnetzka

CLOSEST TO THE PIN/LONGEST DRIVE

Closest to the Pin: Hole #5-John Williams; #11-Ned Forsberg
Longest Drive: Hole #4-Scott Stallions; Hole # 17-Blair Jones

ANNOUNCEMENTS

Grandson (Curtis Stephan Turner) to Steve & Ophelia Brewer, Easley Mechanical, Easley on March 22, 2005
Granddaughter (Sullivan Marie) to Johnny & Judy Richards, Gatch Electrical, Charleston on March 22, 2005

SYMPATHY

MCASC would like to extend sympathy to the following families:

Jean Abernathy, Kingsport, Tn., mother of Steve Abernathy, Piedmont Natural Gas, Greenville
Andy Coleman, son of Margaret Ward Heilman, Carolina Insulation Contractors, Florence

CONCERNS

MCASC would like to extend thoughts and prayers to the following families:

Bob Townsend, Past State President, Charleston
Taylor Armstrong, Grandson of Katrina & Jimmy Shealy, Shealy & Sons Elec., W. Cola.
Richard Miller, Sr., City Plumbing Co. of Florence, Florence
Mildred George, mother of Robbie Stephens, Temporary Services, Spartanburg