



The Tool Box

Serving the Electrical, HVAC & Plumbing Industries Since 1912

Volume 2, Issue 64 November 7, 2005

SUPREME COURT ISSUES FINAL RULING IN CASE INVOLVING SCOPE OF CONTRACTOR'S COMMERCIAL GENERAL LIABILITY INSURANCE

The South Carolina Supreme Court recently ruled on the petition to amend its prior decision in the case of *L-J, Inc. v. Bituminous*. Although the Supreme Court again concluded that the contractor's commercial general liability policy did not provide coverage for the construction defects at issue in the case, such conclusion was apparently based on a technicality in the underlying lawsuit. Despite its finding of no coverage, the Court did acknowledge—citing a case from New Hampshire—that the continued exposure of a structure to harmful elements does ordinarily constitute an "occurrence," thus giving rise to the possibility of insurance coverage, where the exposure is caused by the insured, and damages result from the exposure.

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 and, therefore, that coverage for the damage existed under the CGL policy. In its surprising initial 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, therefore, no coverage existed under the policy.

On rehearing, the Court was asked to decide whether L-J was entitled to coverage—even for damage to the work itself—since that work was installed on L-J's behalf by a subcontractor. The Court, however, refrained from ruling on this issue, since it found the element of "an occurrence" was missing, and without an occurrence there can be no coverage in any event. The basis for the Court's finding was that the allegations of the Complaint and the testimony of the expert witnesses established only that the contractor's defective work caused damage to the work itself. The Court ruled that in such instances where the damage is only to the work itself rather than damage to other property, a CGL policy will not cover the damages.

So even though the Court perpetuated its negative ruling based upon a technicality in this particular case, the case implies that there would be coverage where the work of the insured contractor has caused damage to property other than the work itself such as exposing the structure to deterioration through continuing exposure to harmful conditions (e.g. improper flashing leading to moisture intrusion into the building envelope). (Continued on Page 8)

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2006

WINTER

RETREAT

MYRTLE BEACH

MARRIOTT

RESORT at

GRANDE DUNES

MARCH 2-5, 2006

MAKE YOUR

HOTEL

RESERVATIONS

NOW!!

(See details page 5)

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

WELCOME NEW MEMBERS

A & T PLUMBING, INC. — ALAN KINARD — COLUMBIA
 B & W MECHANICAL CONTRACTORS — TOM DEER — N. CHARLESTON
 FIRST CAROLINA INSURANCE ASSOCIATES, INC. — JULES MCMILLAN — CHARLESTON

EMPLOYMENT OPPORTUNITY

5+ Years Experienced Commercial HVAC Service Technician
 Pre-Employment Drug Screen Required — Good Driving Record — Good Attitude
 Bear Mechanical Services, LLC Is an Equal Opportunity Employer

Bear Mechanical Services, LLC

Contact: Dennis Anonie or apply in person
 Address: 203-A Dooley Road, Lexington, SC
 Phone: 803.356.3466
 Fax: 803.356.3822

WEEK OF NOVEMBER, 2005 – DECEMBER, 2005

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

“Tool Box Talks”**Safety Tips**

Do you use “*Tool Box Talks*” to record your OSHA Training Onsite? Are you paying for them? Would you like to save money and get them FREE in both English and Spanish? If so, go to <http://www.toolboxtopics.com/Construction/index.htm>. As you look thru this site, you will find much more information that will be beneficial to your company’s safety program.

This Helpful Safety Tip has been provided by Mel Rosas with Reliable Safety Solutions.

<http://www.ReliableSS.com>

~~~~~  
 ~~~~~**BABY CONGRATULATIONS**~~~~~

Daughter (Carolyn Anna Braswell) to Robert & Carol Braswell (L. R. Gorrell-Charleston)
 Granddaughter/Great-granddaughter (Madison Kailey Miller)
 to Richard & Florence Miller, Jr./Richard & Doris Miller, Sr. respectively (City Plumbing-Florence)
 Grandson (Hugh Lanier Smith) to Brian & Kay Smith (Smith, Kesler & Co., P.A., CPA-Gaffney) &
 Son to Hugh & Jenny Smith (Control Management-Columbia)

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

~~~~~  
 ~~~~~**CONCERNS**~~~~~

Edward Gibbs (Son of Fred & Brenda Gibbs) Bear Mechanical, Lexington
 George Lanier Shealy (Father of Jimmy & Jake Shealy) Shealy & Sons Electric, West Columbia
 Gloria Hill (Wife of Bob Hill) Hill Electric, Anderson
 Preston Mitchell (Father of Tommy Burkett) Burkett Electrical Systems, Columbia
 Lois Duke (Mother of Bob Duke) Honorary Life Member, Greenville
 Estelle Purvis (Mother of Darlene McGee) Bryce Mechanical, Florence
 Richard Miller, Sr., City Plumbing Co. of Florence, Florence
 Mildred George (Mother of Robbie Stephens) Temporary Services, Spartanburg

~~~~~  
 ~~~~~**SYMPATHY**~~~~~

Emmie White of Hemingway (Sister of Montez Self) Self’s Heating & Air Cond., Camden
 Clarence Evan Putnam-Piedmont (Brother of Ray Putnam) Peritus Engineering, Greenville
 Jo Kirkman (Wife of Raymon Kirkman) Cullum Mechanical Construction, Charleston
 Don C. Shinall of Cedar Bluff, Va. (Father of Steven Shinall) SCnet Solutions, Sumter



**MCASC EXTENDS THANKS
 DURING THIS SEASON
 of THANKS-GIVING**



- PARKING IS COMPLIMENTARY.
- CHECK IN TIME AFTER 4:00PM.

CHECK-IN TIME AFTER 4:00PM:

Accommodations prior to that time will be handled on a space available basis. Luggage storage is available.

CHECK-OUT TIME IS 11:00AM

Please check the type of accommodations desired. ALL ACCOMMODATIONS ARE SUBJECT TO AVAILABILITY AT CHECK-IN.

NAME _____

NAME(S) OF ADDITIONAL PERSON(S) SHARING ROOM: _____

STREET ADDRESS _____

CITY _____ STATE _____
 ZIP CODE _____ PHONE (DAY) _____

GROUP/ORGANIZATION: Mechanical Contractors Association of SC
 DATE(S) March 2-5, 2006

SPECIAL REQUEST _____

Reservations must be received by: January 31, 2006
 After the above date, rooms will be confirmed on a space and rate available basis. Group rate available 3 days before and 3 days after the conference based on space and rate availability.

SMOKING _____ **NON-SMOKING** _____

ARRIVAL DAY/DATE _____

TIME OF ARRIVAL _____

DEPARTURE DAY/DATE _____

OF ADULTS OVER 17 YEARS _____

| NO. Rooms | TYPE OF ACCOMMODATIONS | RATE |
|-----------|---------------------------------------|---------|
| | Single: One (1) person | \$99.00 |
| | Double: Two (2) persons, One (1) Bed | \$99.00 |
| | Double: Two (2) Persons, Two (2) Beds | \$99.00 |

For all reservations, please list each guest's name where provided. Suite rates are available upon request. Please contact the hotel directly at (843) 449-8880.

Reservations must be accompanied by a guarantee for first night's lodging via check or credit card.
 Fill in American Express, Diners Club, Carte Blanche, VISA, MasterCard or Discover Card information below. You will be charged for the first night's lodging unless reservations are cancelled 7 days prior to arrival.

CARD TYPE _____ EXP. DATE _____

CARD NUMBER _____

SIGNATURE _____

Advance Deposit. Please include one night's room plus 10% tax. Deposits are refundable if cancelled 7 days prior to arrival.

CHECK ENCLOSED _____ AMOUNT \$ _____



8400 Costa Verde Drive, Myrtle Beach, SC 29572
Phone (843) 449-8880 Fax (843) 497-1447
www.myrtlebeachmarriottresort.com

MCASC 2005 COURSE REGISTRATION

COMPLETE AND FAX OR MAIL TO MCASC
 P.O. BOX 384, COLUMBIA, SC 29202
 TELEPHONE #: 803-772-7834 FAX #: 803-731-0390
 EMAIL: mflowers@mcasc.com WEBSITE: www.mcasc.com

NAME: _____ **COMPANY:** _____

ADDRESS: _____ **PHONE:** _____ **FAX** _____

CITY: _____ **STATE** _____ **ZIP** _____ **EMAIL ADDRESS:** _____

NAME ON LICENSE: _____ **LICENSE NO.:** _____ **STATE** _____

Payment Method

Please Invoice

Check Enclosed for \$ _____

NOTE:
 WE OFFER A DISCOUNT
 IF YOUR COMPANY REGISTERS
 THREE (3) OR MORE
 FOR THE SAME COURSE.
 SEND 3...THE 4TH IS FREE

NOTE:
 All Courses Will Be Held At
 The MCASC State Office
 Training Facility
 1504 Morninghill Drive
 Columbia, SC

NOTICE:
 ANYONE FAILING TO WITHDRAW FROM A COURSE
 TWO WEEKS PRIOR TO ITS START WILL BE BILLED
 FOR THE ENTIRE COST OF THE COURSE.
 NO EXCEPTIONS.

PLEASE PLACE A CHECK BESIDE EACH COURSE YOU WISH TO REGISTER FOR:

NC, GA & AL APPROVED
 Measuring & Maximizing
 Employee Productivity
 October 5, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

NC, GA & AL APPROVED
 The 3 Things Contractors
 Must Do To Succeed &
 101 Ways To Do Them
 October 19, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

NC, GA & AL APPROVED
 Surviving An OSHA Inspection
 October 26, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

NC, GA, & AL APPROVED
 Hydronic Systems One
 November 2, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$ 50.00 Non-Member: \$ 100.00

NC, GA, & AL APPROVED
 Effectively Communicating
 With Today's Workers
 November 9, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

NC, GA & AL APPROVED
 How To Identify, Meet & Exceed
 Customer Needs
 November 16, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

NC, GA, & AL APPROVED
 Hydronic Systems Two
 November 30, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$ 50.00 Non-Member: \$100.00

NC, GA, & AL APPROVED
 Steam Systems
 December 7, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$50.00 Non-Member: \$100.00

NC, GA, & AL APPROVED
 Management Skills
 For New Supervisors
 December 14, 2005 - Columbia
 Time: 9:00 AM - 4:00 PM
 Member: \$175.00 Non-Member: \$225.00

**Associate Member:
Loveless Commercial Contracting, Inc.**

Loveless Commercial Contracting, Inc. is a licensed general contractor in South Carolina and North Carolina. They were founded in 1986 and offer design/build and traditional construction contracting. Their experienced team of professionals works with every phase of building, from preliminary design through final completion.

Loveless specializes in industrial work and offers extensive experience with cast-in-place, tilt wall, structural steel, freezer panels and pre-engineered steel. They employ over 40 qualified craftsmen and do their own foundations, slabs, structural concrete, steel, pre-engineered steel, masonry, light gauge metal studs, drywall and finishes. Additionally, they are capable of medium range site packages with their own forces and equipment.

They are the only local contractor with a Somero Laserscreed and material topping spreader with in-house capabilities to do super flat floors.

Their good safety record is not only a value to their clients, but also a credit to their valuable employees. Each of their team members is committed to providing a quality well-built project as evident by their long history of satisfied and numerous repeat customers.

Please visit their website at www.lovelesscontracting.com.

Loveless Commercial Contracting, Inc.
1821 State Street, Cayce, SC 29033
Phone: 803.796.5551 Fax: 803.796.5030
Email: info@lovelesscontracting.com

Congratulations to our next Associate & Mechanical Members who will be highlighted in the upcoming issue of "The Tool Box":
Boykin Contracting, Inc. — West Columbia
Corley Security Systems — Columbia

NOVEMBER /DECEMBER 2005 MONTHLY AREA MEETINGS

PIEDMONT AREA

Tuesday, November 8, 2005 @6:30 PM (Workshop 5:30 PM)
 Location: 8345 Taylor Colquit Road, Spartanburg
 Sponsored By: Waldrop Heating & Air Conditioning

Topic: Mike Trammell of Trammell & Co. to lead a workshop entitled "How to Become A Better Contractor Tomorrow Than You Are Today"

PEE DEE AREA

Thursday, November 17, 2005@6:30 PM
 Location: 149 Hunting Inc. Road, Camden
 Sponsored By: Self's Heating & Air Conditioning

Thanksgiving & Christmas Celebration

COASTAL AREA

Tuesday, November 22, 2005 @6:00 PM
 Location: 3325 Pacific Avenue, Charleston (Cullum Mechanical)
 Sponsored By: United Rentals

Topic: Randy Jones of The Chapman Company to present a program on "New Seismic Codes and Requirements"

MIDLANDS AREA

Thursday, December 1, 2005
 Location: N/A
 Sponsored By: N/A

No Holiday Meeting

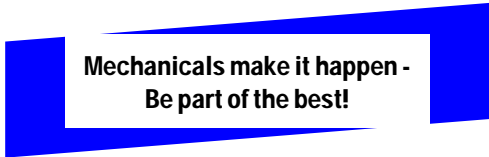


P.O. Box 384, 29202
 1504 Morninghill Drive
 Columbia, SC 29210
 Phone: (803) 772-7834
 Fax: (803) 731-0390
 E-mail: mflowers@mcasc.com
 www.mcasc.com

*Serving mechanical contractors in
 South Carolina since 1912.*

MCASC Executive Board & Staff

- Darlene McGee, President**
- Steve Brewer, Vice-President**
- Henry Poplin, Treasurer**
- Ned Forsberg, Secretary**
- Mike Hough, Associate President**
- Mona Flowers, Managing Director**
- Carol Fore, Administrative Assistant**



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SUPREME COURT ISSUES FINAL RULING....

(Continued From Page 1)

Where that deterioration affects the work-product of the insured, coverage should still apply under the wording of modern CGL policies if the work was installed on the insurer's behalf by a subcontractor.

Controversy remains over the meaning and scope of the Supreme Court's decision in *L-J*. Dan Brailsford filed an amicus (friend-of-the-court) brief on behalf of MCASC and ASAC in support of the petition arguing in favor of coverage for the contractor. For more information on the *L-J* decision or the scope of coverage under a commercial general liability policy contact Dan or Chuck McDonald at 803-779-8900.

A big thanks to Dan and Chuck for all their hard work regarding this case.

EMPLOYMENT OPPORTUNITY

Jennings-Dill Mechanical Contractors, on a direct-hire basis through its staffing partner, Link Staffing Services, is seeking a seasoned **General Manager** for its **Plumbing Division** in Greenville with minimum of following qualifications: A demonstrated successful history of **managing** multiple, concurrent, large-scale **plumbing projects** involving commercial, industrial, and/or institutional projects; A solid foundation with **estimating** large project plumbing costs; Extensive experience **pur-chasing** project-specific plumbing materials of a high-dollar volume; Appropriate certifications & licenses; Excellent people and general managerial skills; Strong computer skills. Resumes/applications will **only** be accepted through **Link Staffing Services**. Applicants **must** provide current or most recent salary, along with salary requirements for their resume/application to be considered. Please fax or email resumes to **Link Staffing Services** at (864) 331-2083 or rdearman@linkstaffing.com (EOE)