

# THE FLOW

SEPTEMBER 2018

## Upcoming Events

Sept. 20th & 21st

**NUCA of Florida  
Texas Hold'em & President's  
Cup Golf Event  
Villas of Grand Cypress, Orlando  
Details on page 5**

Sept. 27th

**Networking Event  
Blackfinn  
6:00 pm**

November 6th

**Sporting Clay Challenge  
Jacksonville Clay Target Sports  
12125 New Berlin Road**

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### PRESIDENT'S MESSAGE

Dear Friends,

I hope everyone is doing well! Thank you to all our monthly sponsors for your continued support. Without you, this organization would not be as great as it is today.

Last week, members of the executive committee met with Mellissa Dykes, Deryle Calhoun, and John McCarthy of JEA. They have taken the items that we had presented to them at a previous meeting to heart, and are actively trying to make changes to work with our organization and other contractors around town. We will be meeting quarterly with these, and other representatives at JEA to maintain a continued dialogue about these items and to partner with JEA in the future. Once again, this is a great example of what our organization can do when we work together!

On August 16<sup>th</sup>, the Young Professionals of our industry gathered at Top Golf for our second Meet & Greet. The next Meet & Greet will be held on October 18<sup>th</sup> at 6 PM at Intuition Ale Works. It is vital to our industry and organization to get some new people involved, so spread the word! On August 21<sup>st</sup>, we had a lunch and learn session that focused on Lien Law in the state of Florida. A special thanks goes out to the team at Regan, Whelan, Zebouni, & Atwood for putting the program together, Flagler Construction Equipment for sponsoring the lunch and to Petticoat-Schmitt Civil Contractors for the use of their training facility. Our annual Fishing Tournament was held on August 25<sup>th</sup>. It was a beautiful day, and the turnout was great! Thank you to all our sponsors and participants, and congratulations to all our winners!

On September 21<sup>st</sup>, NUCA of Florida will hold its annual President's Cup Golf Tournament at The Villas of Grand Cypress in Orlando. There are plenty of sponsorship and playing opportunities available, so sign up now! Our next local Board of Directors and General Membership meeting will be held on September 27<sup>th</sup> at Blackfinn.

As always, please continue to support our members and associates. If there is anything I can do to help you out, please do not hesitate to give me a call.

Sincerely,

*Mike*

## 2018 NUCA of North Florida

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## CALENDAR OF EVENTS

**Sept. 11th**

**Executive Committee**

**3:30 pm**

**Sept. 20th**

**NUCA of Florida**

**Board Meeting**

**Orlando**

**Sept. 21st**

**NUCA of Florida**

**President's Cup**

**Golf Tournament**

**Sept. 27th**

**Board of Directors**

**Blackfinn**

**4:30 pm**

**Sept. 27th**

**Networking Meeting**

**Blackfinn**

**6:00 pm**

# The Law and Your Business

## Florida's Indemnity Statute May Not Apply to Utility Work

By Rebecca Ross, Regan Whelan Zebouni & Atwood. P.A.

On April 25, 2018, a Florida appellate court determined that Florida's Indemnity Statute section 725.06 for construction contracts did not apply to utility work. The *Blok Builders, LLC v. Katryniok* case involved a BellSouth project to improve its telecommunications services. As part of the Project, BellSouth contracted with Mastec to perform all work necessary to provide access to the underground lines located in neighborhood easements. Mastec then contracted with Blok to perform the excavation work. After Blok performed excavation work near a driveway in one of the neighborhoods, the driveway suddenly collapsed while a homeowner was walking on the driveway, which caused him to sustain serious injuries. The homeowner sued Blok, Mastec, and BellSouth for damages due to his injuries. Mastec and BellSouth crossclaimed against Blok for contractual indemnity.

The contract between Blok and Mastec contained a provision requiring Blok to indemnify Mastec for Mastec's own negligence. The contract also incorporated the terms of the prime contract between Mastec and BellSouth. Blok argued that the indemnity clause in the contract was invalid because it did not comply with Florida statute section 725.06, which requires a monetary limitation on indemnity clauses in construction contracts. The court, however, found that the statute did not apply to the contract because it was an excavation contract, which did not involve the construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance as specified in the statute. Similarly, the prime contract involved the laying and maintenance of utility lines; not the construction of a building or structure. Further, the court said that there were no terms in the Mastec contract that required Blok to indemnify BellSouth nor did the incorporation of the prime contract do so because the prime contract only required Mastec to indemnify BellSouth, not its subcontractors. Thus, depending on the scope of work, the contractual indemnity requirements in Florida statute section 725.06 may not apply to utility contracts.



# REGISTER TODAY!



*Don't Miss  
this Epic Duo Event!*

*Texas Hold'em & Presidents Cup Golf Event!*  
SEPTEMBER 20-21, 2018 • Villas of Grand Cypress • Orlando, FL

**NUCA**  
NATIONAL UTILITY & CONSTRUCTION CONTRACTORS  
OF FLORIDA

Join us September 20-21 at the Villas of Grand Cypress in Orlando for the NUCA of Florida Texas Hold'em and Presidents Cup Golf Tournament Events. The Texas Hold'em fee of \$100 includes a reception, poker tournament, beverages, appetizers, and a chance to win a \$500 gift card! The Presidents Cup Golf Tournament fee of \$150 includes the Thursday night reception, Friday breakfast, Awards Luncheon, golf fee, cart, drink tickets and cash prizes!

*Participate in both events for only \$225 and support the NUCA of Florida PAC.  
Reserve a golf foursome for \$750 and get a Hole Sponsorship too!*



## **GOOD TURNOUT FOR TOP GOLF EVENT**

Our young professionals group had a recent gathering at Top Golf. We had rented two bays and some complimentary food and drinks were provided. There was some good opportunities for networking among some of our younger members.

If there is anyone at your company who you think might be interested in joining this group, please send their name and contact info to Kathy at [nucanf@gmail.com](mailto:nucanf@gmail.com).

A special thank you to John Woody, Inc. for sponsoring this event. Looking for information on the next meeting coming up in October. If your company is interested in sponsoring the next Young Professional meeting, please let Kathy know.



## LUNCH & LEARN

On August 21st, a legal lunch and learn was held at Petticoat-Schmitt Civil Contractors. The presenters were Attorneys Rebecca Ross and Jeff Regan from Regan, Whelan, Zebouni & Atwood. The main topic was Lien Law and they provided a very informative power point presentation. If you would like a copy of the power point, send an email to [nucanf@gmail.com](mailto:nucanf@gmail.com).

Thank you to Flagler Construction Equipment for providing lunch. If there is a topic you would like to see presented as a Lunch and Learn, please let Kathy know .



RWZA | LAW  
Regan Whelan Zebouni & Atwood







### **OSHA RELEASES SILICIA RULE FAQ**

To provide guidance to employers and employees regarding the Respirable Crystalline Silica Standard for construction, OSHA has released a set of 53 frequently asked questions. NUCA was involved in the creation of this FAQ and will continue to advise OSHA on improving the workability of this rule. Read the FAQ [here](#) and our 3-page overview [here](#).

### **MEMBER BENEFIT: GROUP HEALTHCARE PLAN**

Don't wait until the end of the year to renew. Now's the time to get your group insurance quote from Compass Risk Management. Call the office at 703.358.9300 or [Email Kimberly Carter](#) for more information.

### **REGISTER NOW FOR NUCA'S 2018 SAFETY DIRECTORS FORUM**

NUCA's two-day Safety Directors Forum will be held in Las Vegas on November 7th & 8th. The Forum offers the unique opportunity for utility construction safety managers from across the country to network, discuss important safety issues in an open forum environment, and hear and take part in presentations from safety experts. Go to [NUCA.com](http://NUCA.com) for additional information.

## **Save the Date**

**NUCA's Annual Convention  
March 14-16, 2019**

**Naples Grande Resort  
Naples, FL**





## **2018 FISHING TOURNAMENT RESULTS**



We had another great turnout for our tournament this year at the Northeast Florida Marlin Association in St. Augustine on August 25th. There were over 100 people registered to participate and we had 9 kids 13 and younger registered. Grill Billy's provided a wonderful BBQ of turkey and brisket. Michael Costello from Associated Construction Products and John Ellis from Legacy Engineering managed the weigh in. Our fishing Chairman, Ashton Milam, Thompson Pump & NUCANF President, Mike Kivlin, John Woody, Inc. were our announcer and handed out the door prizes and awards. A special thank you to Ed Porter, Barco Duval and Mike Costello for their help with setting up. Congratulations to the winners of this year's tournament.

### **REDFISH**

1st Place, Eric Gregory, WMI Pumps, 6.59 lbs  
2nd Place, Mike Murphy, Beard Equipment, 6.32 lbs  
3rd Place, Dakota Davis, United Rentals Trench Safety, 5.45 lbs  
**REFISH MOST SPOTS:** Bob Covert, MWI Pumps, 3 spots

### **FLOUNDER**

1st Place, Flounder, Jimi Bannon, John Woody, Inc., .73 lbs

### **TROUT**

1st Place, Mike Murphy, Beard Equipment, 1.65 lbs  
2nd Place, Mike Murphy, Beard Equipment, 1.38 lbs  
3rd Place, Eric Gregory, WMI Pumps, 1.35 lbs

### **OTHER SPECIES**

1st Place, Blue Bailey, Coastal Utility Contractors, 18.19 lbs, Sting Ray  
2nd Place, Ryn Perez, Petticoat-Schmitt Civil Contractors, 11.00, Sting Ray  
3rd Place, Mark Fletcher, Gate, 5.82 lbs, Jack

### **OFF SHORE**

1st Place, Debbie Liner, Fortiline Waterworks, 17.00 lbs, King  
2nd Place, Scott Liner, Fortiline Waterworks, 13.95 lbs, Barracuda  
3rd Place, Roxanne Rodgers, Fortiline Waterworks, 10.40 lbs, King

### **KID'S TROPHY FOR THE LARGEST FISH & KID'S PRIZE WINNER**

Ryn Perez, Petticoat-Schmitt Civil Contractors

### **GRAND PRIZE WINNER**

Mike Murphy, Beard Equipment

### **FISHING DIVA**

Debbie Liner, Fortiline Waterworks

### **FISHING RAFFLE WINNERS**

Bobcat Fire Pit, Mark Fletcher, Gate  
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# SAFETY NEWS

By Jeff Blomgren

## **Who Is The Real Safety Manager Where You Work?**

Why would we ask such a question? Every company needs a person with a designation of Safety Manager but why? What are the specific duties of a Safety Manager? If we begin to list them we would probably start with compliance. Why do that? Because we need someone who should be familiar with and be a source of information about the safe way any job is being performed, or can access resources that are experts in the field, but, who is the real expert? Is it the person directly in charge of the duties of every member of a crew performing the work? Or is it someone who by education or experience has been given the title of Safety Manager and who may or may not be present at the time the work is being performed?

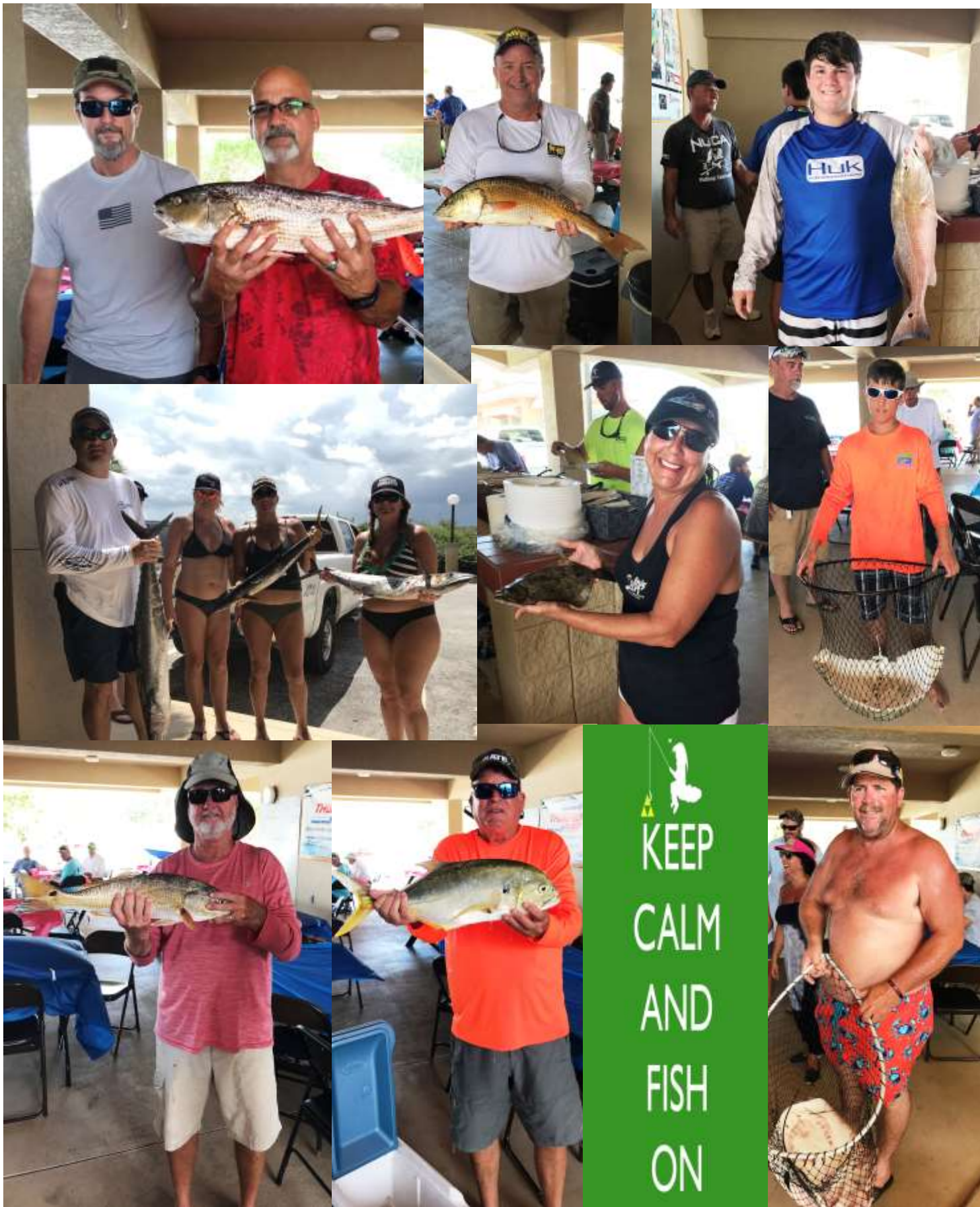
In my over 30 years of experience, I have found that the only time there is a very clear understanding of accountability for safety performance of employees and members of the crew is when the highest levels of supervision understand that the front line supervisor is ultimately responsible for the safety of those working directly under their supervision. Some companies tie the evaluation of front line manager's compensation to safety performance and, I know of some companies that put a 50% value on safety performance directly connected to bonus and raises. So why have a Safety Manager? There needs to be someone who can help train and educate supervisors on how to recognize hazards and to effectively manage people. Someone who is a resource of information in times when there needs to be a clear understanding of the safe way to perform our jobs. The Safety Manager's job is prevention. Establishing those leading indicators that will help companies find ways to heighten awareness and provide the tools supervisors need to fight the battle of preventing injuries and incidents.

For some less enlightened companies the Safety Manager is held responsible for compliance at every location and if there is an incident where safety procedures are not being followed, for example, an employee not wearing safety glasses has an eye injury. Who let him work without those safety glasses? In that case the Safety Manager is left managing the process of investigation, medical treatment, follow-up, etc. and his or her evaluation is based on trailing indicators of negative safety performance. So, we are again, left with the question, Who is the real Safety Manager on your jobsites? The answer is, in the best performing companies in safety, EVERYONE is a Safety Manager!





## FISHING TOURNAMENT PHOTOS



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A.J. Johns, Inc. employees receive continuous training to keep them abreast of our changing industry. Internal job training and employee development brings a special plus to the efficiency of our organization.

Our industry has faced many ups and downs over the years but the most important asset to any company is its employees. We continue to invest in the future of our industry by creating new avenues to increase employment in our industry. All our futures dwell in the minds of the millenniums. We must show them by example that the construction industry does provide a pathway to a successful future. We must invest in our future by investing at grass-root levels to promote our way of life. Besides, "Boots on the Ground" is the only way anything ever got done in the first place!