

THE FLOW

JANUARY 2019

Upcoming Events

**January 24th
Installation of Officers &
Annual Meeting
Maggiano's
6:00 pm**



**ASJMSF Bass
Fishing Tournament
February 28th to March 2nd
Lake Okeechobee
See info at nucaflorida.org**

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PRESIDENT'S MESSAGE

Dear Friends,

Happy New Year! I hope 2018 was profitable for all and that 2019 is looking even better. As always, thank you to our monthly sponsors!

The first quarter of 2019 will be busy for NUCA of North Florida. On January 24th, we will be holding our Installation of Officers meeting at Maggianos. We also will be holding a Safety Directors Forum at the offices of Cecil Powell earlier in the day. On February 21st, we will be holding a Board of Directors meeting at The Main Event of Phillips Highway. This will be a social event and we are encouraging our members to bring some new/younger members to this meeting to get them excited about participating in future events! On February 26th, will be having a Pre-Session Town Hall meeting with the Duval Delegation. This is a great chance to meet with our legislators and voice our thoughts to our local representatives. On February 28th – March 2nd, NUCA of Florida will be participating in the Andrew Scott Johnson Memorial Scholarship Bass Fishing Tournament. This tournament helps raise money for scholarships that are awarded to our members families! The NUCA National Annual Convention goes from March 14th-16th at the Naples Grand. On March 25th and 26th, NUCA of Florida will be walking the halls of the Capitol Building in Tallahassee. And finally, we have our Annual Golf Tournament at Saint Johns Golf and Country Club on April 2nd. This is one of our biggest events and it is always a lot of fun! Sign up quick, because space is limited.

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

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CALENDAR OF EVENTS

January 8th

Executive Committee Meeting

January 24th

Safety Director's Forum

January 24th

**Installation of Officers
Maggiano's at the Town Center
6:00 pm**

February 12th

Executive Committee Meeting

February 21st

**Bowling Night
Main Event
6:00 pm**

Feb. 28th to Mar 2nd

ASJMSF Bass Fishing

April 2nd

**Golf Tournament
St. Johns Golf & Country Club**

The Law and Your Business

Arbitration Required for Construction Defect Claims Even if They Sound in Tort

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

In *Vanacore Constr. v. Osborn*, the homeowners sued the builder to recover damages for alleged water intrusion in their homes and other various construction defects. The homeowners' Complaint asserted claims for negligence, statutory violations of the building code, and violation of Florida's Deceptive and Unfair Trade Practices Act. In response, the builder filed a motion to compel arbitration based on the broad arbitration clause in the parties' contract. In general, Florida courts favor arbitration and will try to resolve disputes in favor of arbitration. Initially, however, the trial court found that the arbitration agreement was unenforceable due to a buy-back provision in the contract, which provided that the builder may, in lieu of arbitration, purchase the property back from the buyer for the original contract price plus closing costs and any upgrades or change orders.

On appeal, the appellate court disagreed with the trial court and held that the builder's motion to compel arbitration should have been granted because the claims raised by the homeowners were based on defects arising from and relating to the builder's obligations under the contract and had a significant relationship to the parties' contract. Additionally, the appellate court explained that the arbitration clause was broadly worded to suggest that the parties intended to arbitrate virtually any dispute between them even if the claims sounded in tort. Further, the appellate court found that the buy-back provision in the parties' contract did not go to the heart of the agreement and, therefore, could be severed. Thus, the appellate court found that the arbitration clause in the parties' contract was enforceable and returned the case to the lower court for an order compelling arbitration and staying the litigation.

SEAMARK TOP GOLF EVENT A BIG HIT!

We had sixty people register to attend our event and we had eight companies sign up to be sponsors at our event at Top Golf on December 6th.. It was a great time to catch up with old friends and to make some new friends. Top Golf provided a great buffet and guests were treated to two drink tickets. With the generous support of our sponsors and golfers, we were able to raise a total of \$9,900. A check was presented to Ryan Schmitt the day of the event.





Seamark Benefit Bay Sponsors

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John Woody, Inc.

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United Rentals Trench Safety



TOP GOLF PHOTOS





Federal Court Strikes WOTUS Delay

Earlier this month, a second federal judge struck down the Trump Administration's delay of the Waters of the U.S. regulation's effective date after finding EPA and the Army Corps unlawfully cut corners in rushing to prevent the rule from taking effect. WOTUS was already reinstated in 26 states in August due to a separate but similar ruling from a South Carolina judge, strengthening critics' narrative that the EPA is stumbling in its efforts to rein-in Obama-era rules.

NUCA Accepting Applications for Train-the-Trainer,

The CPE and CSE Train-the-Trainer program has trained hundreds of Competent Person trainers for excavations and confined spaces. As boomers retire, a new generation of workers will need to train. Our instructors, George Kennedy and Greg Strudwick are highly respected and experienced industry safety professionals. Training will be held April 8-12, in Coppell, Texas.

Donations need for NUCA Auction

Please consider donating items or cash to our annual auction at our convention. Auction funds help NUCA develop new educational programs, support NUCA's advocacy efforts in Washington, D.C., support our workforce training efforts, and grow our safety programs and other member services. If your company is interested in donating to NUCA's Silent or Live Auctions, please contact [Cheryl Stratos](#).

Safety News

Did you receive the most recent NUCA Safety News sent out on December 14th? There is a lot of great information in each issue. Contact Anne@nuca.com to be added to the distribution list.

NUCA

Naples, Florida

Annual Convention and Exhibit
March 14–16, 2019



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Early Bird Registration Ends December 31, 2018

WWW.NUCA.COM/CONVENTION



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dreams turn into reality and
all your efforts into great
achievements.



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SAFETY NEWS

By Jeff Blomgren

ABCs of Fire Extinguishers

In our industry, there are many locations where fire extinguishers are required. The OSHA guidelines are specific about where these fire extinguishers are needed, such as site fuel locations, trucks, office and shops, machinery and equipment, etc. We all know about the requirement for regular inspections, documented 30 day inspections, tags and stickers. What is not so sure is that everyone knows what kind of fire extinguisher should be used, how to effectively inspect a fire extinguisher or even how to use one. Part of an equipment operator or driver's responsibility is to inspect the fire extinguisher daily as part of his or her required daily equipment inspection. The easiest to look at is the needle in the window. Is it in the green? Is the label legible? Is there a 30 day inspection sticker applied or a tag that can be signed? Is there any obstruction in the hose nozzle? Spiders and mud wasps love that location. If you take it out of the mounting or location and turn it upside down, is there any noise from inside? If there is, it needs to be replaced. Failure in any of these inspection criteria and the extinguisher needs to be replaced.

Is the rating applicable for the use that may be required? Class A-used on combustibles, Class-B used on flammable liquids, Class-C for use on electrical equipment. An ABC fire extinguisher is most common and different weights are required for different applications. Most common is the 5# ABC for field operations although some equipment is too small and a 2 ½# ABC is used. Most often, the 2 ½# ABC is used in our homes.

Fire extinguisher training is required. Most people do not know how to use the fire extinguisher and the use of an extinguisher becomes ineffective. A family visit to a fire department might be something to consider if awareness in the use of a fire extinguisher is needed in the home. There are also trainers available for employee education who will visit your location and train employees. Keep in mind that the extinguisher is intended for very small fires and fires can spread quickly. The fire department should always be the main source of assistance for fires.

Recommendations for the use of the fire extinguisher is the PASS method. P-Pull the pin and keep the nozzle pointed away from you, A-Aim low at the base of the fire, S-Squeeze the lever slowly, S-Sweep the nozzle from side to side.

Fire extinguishers are useful tools but, like anything else, using it properly is the difference between effective and ineffective results.



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In recent years, we played an active role in the "Precast Concrete Structures Association of Florida" with a goal of uniting the efforts of all precasters in our State of Florida, toward more uniform specification and cost saving goals. Already, many achievements have been made through the efforts of our Florida Department of Transportation Liaison Committee. Most notable are the elimination of steps from structures, the reduction of wall thickness on most of their detail sheets, and the elimination of haunches from structures. We are certified producers of Precast structures for both the Florida and Georgia Departments of Transportation.

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