

THE FLOW

Upcoming Events

**Deadlines are quickly
approaching for
Scholarship Applications
See info on page 6**

**May 26th
Virtual Washington
Summit
Details on page 13**

**May 27th
Jumbo Shrimp Game &
Dinner at Intuition Ale
Works**



**Ticket order
form on page 16**

MAY 2021

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PRESIDENT'S MESSAGE

Hello Members,

Four months of the year are already over; time is flying by!

We had an awesome turnout at our annual golf tournament. I would like to thank all the sponsors and volunteers for helping us put on another successful event. The weather was perfect. Congrats to the Core & Main team on their win.

Baseball is back. Things still are not normal, but we are trying to get there safely. We will be holding our Jumbo Shrimp outing this year on May 27th. There is a sign-up sheet in this edition..

The Florida Legislation has several bills rolling around that we support. The passing of these bills seems to be going in the preferred way of our industry. We will keep you updated on the progress.

Our industry is currently dealing with material price increases. Many of these price increases are substantial. The delivery of these goods is also becoming a problem. There is no crystal ball to tell us how long this will last and when the prices will drop to the normal range. In my conversations with others throughout the southeast, they believe the high price and slow delivery of products will continue throughout the year. But hey, we are all still working and the demand for new infrastructure is still there.

We plan to hold another "Next Man Up" class sometime towards the end of May. Look for an email to come out soon with the details.

Stay Safe and God Bless,

Marty

Marty Adams

madams@tblandmark.com

Time flies like an arrow; fruit flies like a banana.

Anthony G. Oettinger

2021 NUCA of North Florida

Monthly Sponsors

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United Rentals
Trench Safety

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CALENDAR OF EVENTS

May 20th

Board of Directors

May 20th

Next Man Up
Line & Grade class

May 26th

NUCA Virtual
Washington Summit

May 27th

Jacksonville Jumbo Shrimp

June 8th

Executive Committee

June 14th

Safety Director's Forum

June 14th to 18th

Trench Safety Stand Down

June 17th to 19th

NUCA of Florida Conference
The Ritz, Naples

The Law and Your Business

The Law and Your Business- “As Is” Sale and Caveat Emptor Anthony B. Zebouni, Esq. Lindell, Farson & Zebouni, P.A.

Buyer the purchaser of a commercial building (“the property”), sued “Seller” alleging various causes of action relating to Seller's alleged misrepresentation and/or active concealment of the property's physical condition.

The parties executed a purchase and sale agreement (PSA) which contained the following “as is” clause.

[BUYER] HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO . . . MADE OR FURNISHED BY SELLER

PSA permitted Buyer to inspect the property and, if Buyer was unsatisfied with the condition of the property following the inspection, to cancel the contract. Buyer took advantage of this provision and hired an engineer to inspect the property. After the sale, Buyer discovered issues with the property's physical condition, including roof leaks, HVAC failures, and mold growth. A party cannot recover in fraud for alleged oral misrepresentations that are adequately covered or expressly contradicted in a later written contract. The Court considered the doctrine of caveat emptor. The doctrine of caveat emptor that “places the duty to examine and judge the value and condition of the property solely on the buyer and protects the seller from liability for any defects.” There are, however, three exceptions to this doctrine, including: “1) where some artifice or trick has been employed to prevent the purchaser from making independent inquiry; 2) where the other party does not have equal opportunity to become apprised of the fact; and 3) where a party undertakes to disclose facts and fails to disclose the whole truth.”

Unable to establish an exception to caveat emptor, Buyer is left with the PSA's express language providing that Buyer was purchasing the property “based solely on Buyer's own inspection, investigation and evaluation,” and that Seller made no representations regarding the property's condition. By these very terms, Buyer waived any claim of fraud on the undisputed material facts in this case.

The court ruled in Seller's favor, concluding that Buyer's claims were adequately covered or expressly contradicted by the contract. The court also pointed out that the Buyer was to conduct its own inspection of the property and there was no evidence that Seller prevented those inspections. The trial court also found that “Florida law continues to follow the doctrine of *caveat emptor* with regard to commercial real estate transactions.” *Florida Holding 4800, LLC v. Lauderdale Mall Investment, LLC*

GOLF TOURNAMENT HIGHLIGHTS

We had a beautiful day once again for our golf tournament. We had a full field of 144 golfers and 19 vendor showcase participants. Thank you to everyone who came out and golfed or sponsored our event. See list of sponsors on page 9. More photos on pages 10 and 14.

1st Place Team—Core & Main



2nd Place Team—Sunbelt Rentals



3rd Place Team—ECS Florida



Contest Winners

Longest Drive #2
Closest to the Pin #5
Longest Putt
Skirts for Steak
Wine & Spirits Raffle

Johnny Dykes
Steve Bell
Marty Smith
Barry Watson
Anita Pruitt

FREE MONEY FOR COLLEGE

Do you have a son or daughter currently in college or ready to start college in the Fall? NUCA of North Florida, Inc. has the following scholarships available:

Mike Allen Scholarship is for any high school Sr., High School graduate, Undergraduate College Student or Graduate Student who is the daughter or son of a NUCANF member company employee, and will be enrolling full or part time in an academic institution of higher education, beginning in September. The enrollment may be in any curriculum for any number of years. This may be a four-year college or a community college anywhere in the United States. The Mike Allen Scholarship is a \$1,000 one-time award. Special consideration will be given for those pursuing degrees in a construction related field. You can get an application on-line at the bottom of the page at nucanf.com on the bottom of the home page, click 2020 Application for Students in Undergraduate/Graduate Programs. Call the NUCANF office at (904) 296-1230 if you have questions. **Application deadline is May 31st.**

J. Richard Baker is for Any high school student or high school graduate who is the daughter or son of a NUCANF member company employee, and will be enrolling full or part time in an academic institution of higher education or trade school (such as Welding, HVAC, Plumbing, Electrical, Mechanical etc.), beginning this summer or fall. The enrollment may be in any curriculum for any number of years. The J. Richard Baker Scholarship is a \$2,000 one-time award. You can get an application on-line at the bottom of the page at nucanf.com on the bottom of the home page, click 2020 Application for New College Students. Call the NUCANF office at (904) 296-1230 if you have questions. **Application deadline is May 31st.**

NUCA Scholarships Funded by the NUCA Foundation for Education and Research, four scholarships are available ranging from \$1,000 to \$8,000. Any high school senior whose parent or legal guardian is employed by a NUCA member company in good standing at the time of the application deadline may apply. Student employees, including part-time employees, are also eligible. The applicant must be graduating from high school in 2019 and enrolling full time in an accredited two-year or four-year college or university for his or her freshman year beginning in the fall of 2020. You can get an application on-line at <http://www.nuca.com/scholarships>. **Application deadline is May 22nd.**

Andrew Scott Johnson Memorial Scholarship is also available from our state office, NUCA of Florida. Any seniors in high school or any student pursuing an undergraduate degree are eligible. Previous recipients may reapply. This scholarship is available to all NUCANF member firms. You can get an application on-line at <https://nucaflorida.org/about/asjmsf-scholarship/>. **Application deadline is May 5th.**





White House Announces \$2.25 Trillion Infrastructure Plan

President Joe Biden announced Mar. 31 his administration's massive \$2.25 trillion plan to invest in our nation's water systems, electric power, transportation, broadband, urban transit, and climate change. The plan proposes \$111 billion to improve water infrastructure, including \$45 billion for the Drinking Water SRF, and \$56 billion in grants and loans to state to modernize clean water systems and remove lead pipes. \$100 billion is also proposed for new high-speed broadband internet. The next step for the plan is found in Congress, which is already working on its own infrastructure bills. Read more [here](#).

NUCA-Supported \$30 Billion Clean Water Bill Advances in Senate

\$15 billion for both the Clean Water and Drinking Water state revolving funds, a major conduit of infrastructure funds for water and wastewater project, was passed Mar. 25 in a bill's unanimous 20-0 vote by the Senate's Environmental and Public Works Committee. This big increase from previous Senate proposals, along with the House's \$40 billion proposal, indicates that Congress is serious about repairing our nation's water infrastructure. The bill (S. 914) advances to a Senate vote in April and is strongly supported by NUCA. Read more [here](#).

NUCA Urges Congress To Consider Private Investment Capital for Infrastructure

With infrastructure a top Congressional topic this year, NUCA has approached the House Ways & Means Committee to pass legislation to remove both water and wastewater projects from the limitations for tax-exempt bonds. NUCA has long maintained that while increased public investment in infrastructure is needed, there is also a role for significant investment from the private sector. This may be the year when Congress agrees with us. [Read our letter here](#).

Register Today And Be a Part of Washington Summit: May 26

With infrastructure legislation finally receiving the attention it deserves from Congress, make plans to attend our virtual 2021 Washington Summit on Wednesday, May 26, 2021.

Registration is open, and it's easy to attend--you can do it from the comfort of your own office or jobsite. Join us first on May 5 at 3pmET for the opening Summit training webinar, where NUCA government affairs staff will discuss how to participate in the Summit as a first-timer. We will have another webinar (May 12, 3pmET) on how to prepare for Summit and finally on May 19th at 3pmET via webinar receive NUCA's Congressional Briefing Session on key issues.

NUCA Chapters will schedule the May 26th virtual meetings with your lawmakers and send those meeting details to you once you register for the Summit. NUCA members can register and attend for free the entire virtual 2021 Washington Summit. [Register here](#).

Trench Safety Stand Down: June 14-18, 2021

NUCA's annual member-wide safety stand down presents the opportunity for employers to talk directly to employees and others about safety around excavations and protecting employees from trenching hazards. This will be NUCA's fifth TSSD event (and our second June Trench Safety Month), so please mark those dates on your 2021 training calendars and plan to participate. Safety is the top priority for everyone!

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

Summer Heat Awareness

Summer happens every year. How amazing is that. Here in Florida, where we are, we get more summer than most of the country and we work in it every day. Even though we are better than anyone at working in the heat, with the exception of people in the mid-east, there are some things we can do to prepare for this annual hazard. We know that we will be working in sun and heat and we will acclimatize, but we need to do some things throughout the day to prevent heat stress and eventually heat stroke. Here are 6 suggestions for working in the heat.

1. Dress right: Wear loose light colored clothing. Wear long sleeves. Use a full brim hard hat with a sun shade. Always wear sun glasses. Use a neck shade or scarf.
 2. Stay hydrated: Drink even if you don't feel thirsty. Avoid sugary drinks. Avoid diuretics like coffee and tea. Your body is losing electrolytes and water every minute and it needs to be replaced. Water is the best thing. Sugar free sports drinks with electrolytes are effective in replacing lost minerals the body needs. There are also sugar free supplements that can be added to water to replace minerals the body needs.
 3. Eat Right: Avoid fatty, greasy foods. Eat light meals during the day.
 4. Sleep: We should all shoot for 8 hours of sleep. Sometimes that's not possible but it should be our goal. Sleep in a cool dark room.
 5. Avoid air conditioning: That sounds not quite right but what it means is that, going in and out of air conditioning actually keeps you from acclimating to the heat.
- Watch for heat stress symptoms: Watch your fellow workers for signs of heat stress or heat stroke. Heat stroke signs are, hot flushed skin, lack of sweating, disorientation and even loss of consciousness. These are life threatening and 911 should be called immediately. Move the person to shade and try to bring down the heat while waiting for emergency responders.

If we prepare for the annual weather event we call summer, we can work safely and do what we do best. Make the world a better place. Happy summer.



Platinum Sponsor—Beard Equipment Company

Vendor Showcase Participants

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ECS Florida, LLC	Vallencourt Construction Co., Inc.

Golf Tournament Photos



JUNE IS TRENCH SAFETY MONTH!

Safety Training and Protective Systems Save Lives



Trench Safety Stand Down Week | June 14–18, 2021

Make plans for your company to participate in this year's NUCA Trench Safety Stand Down Week. Being a part of our popular 5th annual TSSD Week will help educate your employees on trenching hazards at the jobsite.

OSHA's National Emphasis Program on Trenching and Excavation is a high agency priority. NUCA and OSHA have teamed up again this year for our annual trench safety program. More than 32,000 employees on 3,500 jobsites participated in the 2020 TSSD.

Every company or organization that holds a TSSD will receive a certificate of participation, as well as hard-hat stickers for every employee who participated. Recognition will also be given in NUCA publications. Please plan for your company to be a part of this vital industry safety event this year.



Also sponsored by NUCA's Safety Ambassadors Club

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For more details and TSSD materials: nuca.com/tssd #TSSD21 #TrenchSafetyMonth



20 NUCA OF FLORIDA
21 ANNUAL CONFERENCE

JUNE 17-19, 2021

Ritz-Carlton, Naples, FL

DON'T DELAY—Register today by visiting www.nucaflorida.org or
[CLICK HERE TO REGISTER](#)
[CLICK HERE FOR HOTEL REGISTRATION](#)

NUCA
OF FLORIDA

Infrastructure In A New Administration

NUCA'S (VIRTUAL) WASHINGTON SUMMIT

Congress is building again!

The new Congress and Administration want to make infrastructure a priority. So does our industry!

There will be several significant infrastructure resource bills on the Congressional agenda in late May 2021. Your expertise and passion will be vital to making Congress hear our message loud and clear.

Our virtual 2021 Summit will enable you to hold an online meeting with your elected lawmakers and staff right from your office or jobsite. Your NUCA Chapter will arrange these meetings for you.

To register for the May 26 Washington Summit, visit www.nuca.com/summit.

WEDNESDAY, MAY 26, 2021



More Golf Photos



The Construction Insurance Market - Higher Rates and Tightened Coverage

By Lyle Hoffman

Commercial Insurance Broker, Insurance Office of America

While there are some connections to the economy – the insurance marketplace ebbs and flows on its own. These ebbs and flows are referred to hard and soft markets; Hard- when insurance carriers are losing money, there is less supply of coverage with and rates increase or Soft- when carriers are competing to write coverage and pricing is reduced. In the Contractor's Liability space, we are in one of the hardest markets in insurance history. Rates are increasing in the 15%+ range, with some auto liability rates shooting up north of 25%.

While rate increases can be tough to cope with, the bigger issue contractors face is the tightening of coverage. Just like many other industries, where if a company's work is not profitable, they can either raise the price of the work they perform or alter the way they work to make it cheaper to perform. Carriers apply the same logic to insurance policies. If a carrier fears that a rate increase will scare off new and existing policyholders, they can and will add endorsements to a policy that exclude coverage. This process essentially makes the policy cheaper to produce.

One of the more recent and most common exclusions that carriers are adding is the CG 22 94 "The Subcontractor Exclusion". The exclusion reads as follows:

Exclusion 1. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

2. Exclusions

This insurance does not apply to:

1. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion essentially omits coverage for subcontractor completed work that you hired them to do. For example, let's say you are hired to do full site prep for a new residential subdivision and you hire a sub to lay and connect the water and sewer. Two years later, there is an issue with the sewer line and a suit is brought against you by residents of the subdivision. Since you didn't install the sewer, your subcontractor is brought into the suit as well. If your subcontractor's insurance denies coverage for whatever reason (residential exclusion, designated ops, etc.), that claim will roll up to you. If this "subcontractor exclusion" is on your policy, your carrier will likely deny coverage, leaving the full cost of legal fees and damages on you.

Moral of the Story: Keep an eye out for exclusions on your own policies and be wary of what exclusions lie on your subcontractor's policies. Deflect your liability by requiring your subs to add you as an additional insured, waiver of subrogation, primary and non-contributory, etc. You can even require your subs to list they have no residential exclusions on their certificate. Finally- Hire a construction focused agent that will work with you on your risk transfer plan and place you with carriers that will step up to the plate when a claim does arise.



JACKSONVILLE JUMBO SHRIMP TICKET ORDER FORM

May 27th

Tickets are \$20 each and include your game ticket as well as a pre-event buffet of fried shrimp, hot dogs, fries, cole slaw, banana pudding and sweet & unsweet tea at Intuition Ale Works. Food service begins at 5:30 pm and lasts until 7:00pm. Game starts at 7:05 pm. Please provide mailing address for tickets.

NAME: _____

COMPANY NAME: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

of Tickets _____ @\$25/ticket Total Ticket Cost _____

Payment: _____ Check (NUCANF) _____ Bill my account _____ Charge credit card*

Credit Card #: _____ Billing Zip: _____

Expiration Date: _____ V-Code: _____

(The V-Code is the last three digits in the signature strip on the back of the credit card (Visa/Mastercard) or the digits on the front on the card for American Express.

Name on card: _____

*A 5% processing fee will be added to all credit card charges.

Please complete and email to nucanf@gmail.com by Friday, May 15th.

PO BOX 16810, JACKSONVILLE, FL 32245 PHONE: (904) 296-1230

New Member Spotlight

Viking Equipment Joins NUCA

Viking Equipment is so please to have joined the NUCA organization. Our Tiltrotator and quick Coupler systems is a welcome addition to the Construction / Utility industry. With Viking being an American company offering our full line of excavator attachments throughout North America, we pride ourselves on driving the industry into a safer more productive environment. Everything we offer helps make the job site a safer place to be. With our exclusive relationship with USI insurance we are the only attachment company that can help lower your insurance expenses.

Visit VikingEquipment.com for our complete line of products.

Viking Equipment Inc started in United States with the goal of providing top quality excavator equipment at affordable prices, while offering superior value to its customers.

Viking offers SMP Tiltrotators and products that are sold throughout the world. Viking's products are available through our e-commerce-based website, our in-house sales professionals, and independent dealer networks who can provide additional application sales and technical service. All Viking employees and dealers share in our core values of providing top quality products with an above expectation customer experience.

SMP is an ISO 9001 manufacturer with research and development based in Sweden. The company meets or exceed most international manufacturing standards and regulations. Their reputation as a leader in quality and innovation is known word wide.

You will see Viking Equipment products in the general construction, railway maintenance, infrastructure projects and the mining industry to mention just a few. Customers rely on Viking Equipment to provide them with consistent and accurate results. Viking customers rely on our products to increase productivity, reduce workplace injuries, and raise profits.

Viking Equipment's mission is to supply high tech, high quality Swedish steel products to the North American construction industry. While offering an outstanding customer experience.



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ALTA EQUIPMENT
COMPANY

UP TIME MATTERS