

THE FLOW

Upcoming Events

Feb. 7th & 8th
**NUCA of Florida
Legislative Days
Tallahassee, FL**

Feb. 10th
**Annual Meeting &
Installation of Officers
Aloft Tapestry Park
6:00 pm**

Feb. 25th
**Jacksonville Icemen
Veterans Memorial Arena
Ticket Order Form on
Page 13**

April 5th
**Golf Tournament
St. Johns Golf &
Country Club
Registration & Sponsor Info
Page 9 & 10**

FEBRUARY 2022

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PRESIDENT'S MESSAGE

Dear Friends,

February is already upon us, and it finally feels like winter (at least as I'm writing this). Enjoy it while it's here! As always, thank you to our monthly sponsors! Without you, this great organization would not exist.

NUCA and businesses across the country got a big win in Washington with the Supreme Court striking down the Biden Administrations vaccine mandate. We all know that COVID is a terrible thing and we all have a part to play in protecting ourselves, but mandating away a persons' choice and freedom is not the correct solution. Our own Lauren Atwell gave testimony to Senators, helping them understand why the mandates were not good for our industry. Just another reminder that NUCA is here to help.

Be on the look out for registration emails from Kathy. We've got NUCA of FL Legislative Days on February 7th and 8th. We had to move our Officers Installation night to Feb 10th, but y'all should be good and ready to get together by then. February 25th will be our first get together with the Jacksonville Icemen! Its been a long time since I've been, but if you've never checked out a hockey game, you really are missing out. And, stretching into March and April we have the ASJMF Tournament at Lake Okeechobee and our annual golf tournament in April. Fun times with NUCA of North Florida!

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

Mike Kivlin

2022 NUCA of North Florida

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CALENDAR OF EVENTS

Feb. 7th & 8th
NUCA of Florida
2022 Legislative Days

Feb. 15th
Executive Committee

Feb. 25th
Jacksonville Icemen

March 2nd to 5th
NUCA National Conference
San Antonio, TX

March 10th—12th
NUCA of Florida
Bass Fishing Tournament

March 15th
Executive Committee Meeting

March 24th
Board of Directors
General Membership Meeting

April 5th
Golf Tournament
St. Johns Golf & Country Club

The Law and Your Business

The Law and Your Business – Stop Work Orders and Delay Damages ***Christian Lake, Esq., Lindell Farson & Zebouni***

During the course of construction work, unexpected issues can arise that can grind work to a halt and result in a stop work order. In addition to the inconvenience of demobilization and delays, stop work orders often create additional costs relating to things such as demobilizing, and then remobilizing, workers, increased cost or unavailability of materials in today's world of supply chain issues, and potential additional monthly insurance premiums for prolonged delays. With that in mind, it is important to know your rights when a stop work order is issued.

Recently, in *Sarasota County v. S. Underground Indus., Inc.*, a Florida Court dealt with a case involving a stop work order issued by Sarasota County to a contractor installing piping underneath the intracoastal waterway. In that case, a nearby homeowner complained that the vibrations from the drilling associated with the pipe installation had damaged his home. The County immediately issued a stop work order under a provision of the contract that allowed the County to do so to correct safety issues. Southern Underground Industries, Inc. ("SUI") then retained an engineer to inspect the damage to the home. The engineer determined that the damage was merely cosmetic and that monitoring the vibrations would prevent future damage.

SUI had an insurance policy to cover any homeowners' claims related to its drilling and also offered to fix the cosmetic damage to subject home by paying a contractor selected by the homeowner. The homeowner rejected SUI's offer and filed a claim on SUI's policy after being denied a warranty from the County. Despite the existence of insurance adequate to compensate the homeowner for any damage relating to the pipe installation and a determination from an engineer that the drilling caused only cosmetic damage and that there were no safety concerns with continuing drilling, the County kept the stop work order in place for 71 additional days as it tried to appease the homeowner.

SUI then requested compensation from the County for the increased expenses it incurred due to the stop work order. SUI based this request on a clause within the contract which allowed SUI to request and increase in the contract price if where the County suspends work under the contract. The County denied that request and SUI filed suit.

The Court awarded SUI damages under the contract in the amount of the increase in contract price attributable to County-imposed delays. The County tried to set off those damages by arguing it was entitled to liquidated damages under the contract since the County did not issue a final acceptance of SUI's work until over two years after the contractual completion date. The Court rejected the County's argument for liquidated damages since that delay in final acceptance was caused by the homeowner's lingering claim for damages relating to the drilling and the County had possession and use of the installed pipes before the contractual completion date.

If you have been issued a stop work order or are facing a claim for liquidated damages under a contract, please contact the law offices of Lindell Farson & Zebouni, P.A.

SAFETY DIRECTOR'S FORUM KICKS OFF 2022

Our first meeting of the year was held on January 10th with our Safety Director's Forum. This meeting was held at the Northeast Florida Safety Council. Our guest speaker was Mike Flowers, Director, Safety, Training and Education. Mike spoke on Workplace Burnout and Safety. Mike is available to provide customized training for your company as well as teach any of the other safety programs NUCA offers.

Brad Martin, Sunshine State One Call was also on hand to answer any questions regarding Sunshine 811. 811 is looking for our input regarding any issues we have with their current Legislation. We are discussing have a zoom meeting to get everyone's input. If you would like to be included, please send an email to nucanf@gmail.com.

There was an open forum to bring up any issues. The next meeting of the Safety Director's Forum will be on Monday, April 11th at 11:30 am at NEFSC. All members are welcome to attend.



WELCOME NEW MEMBERS!

Please join us in welcoming the following companies who recently joined our association.

Atlantic Pipe Services, LLC

Contact: James Oltorik, Business Liaison

1420 Martin Luther King Jr. Blvd

Sanford, FL 32771

Phone: 386-313-9060

Email: joltorik@atlanticpipe.us

Products/Services: Grouting, pressure, Manhole Rehabilitation,
Sewer/Water Maintenance, Storm Drainage



Tim-Prep Inc.

Contact: Michael Stokes

18850 Macclenny Road

Jacksonville, FL 32234

Phone: 904-289-7000

Email: kstokes@timprep.com

Products/Services: Excavation, Site Development, Sewer/Water
Construction, Roadway/Highway/Bridge Construction





NUCA's Position on Employer Mandate Wins: OSHA Vax Mandate Struck Down By U.S. Supreme Court

On January 13, the U.S. Supreme Court blocked the Biden Administration's OSHA Emergency Temporary Standard vaccine-or-test mandate for large employers with more than 100 employees, preventing implementation of a policy which would have forced many employers to either mandate vaccination or face large fines. In the 6-3 decision, the court's majority found that the administration did not possess the legal authority to impose a sweeping workplace vaccine mandate.

NUCA members who had over 100 employees were facing OSHA enforcement of this mandate beginning Feb. 10. NUCA had argued in our replies to OSHA that while we supported voluntary vaccines for employees, we did not support a government mandate requiring them. We believe these mandates were not needed to ensure a safe workplace in our industry. It is heartening to read that the highest court in the nation agreed with NUCA's arguments.

Employers are now released from their obligation to meet any part of OSHA's vaccine ETS, issued on Nov. 5, 2021. [More here.](#)

Infrastructure Caught Up In FY2022 Appropriations Fight

Congressional lawmakers are warning that implementation of last year's massive bipartisan infrastructure law could be held up if lawmakers don't reach an agreement on fiscal 2022 spending by Feb. 18, when the present continuing resolution will expire. Even programs paid for by the USDOT Highway Trust Fund will be affected. In many cases, if a new FY2022 bill is not signed into law the government may be forced to implement the new infrastructure law on a program-by-program basis, with some headed for smooth implementation and others held up until there is more funding certainty.

NUCA is working with senior House committee leadership to alert them that last year's big infrastructure win--and district projects--will be affected by this dispute if not resolved in February.

Take Advantage of NUCA's Virtual Safety Training Programs

NUCA's motto is 'There Is NO competition In Safety' and we are pleased to offer another safety and education training avenue to our members. Through National Partner United Rentals, NUCA is now offering our members virtual training classes for "Confined Spaces in Construction Training" and "Excavation Safety for Competent Person." These live virtual trainings can give members the opportunity to pick from multiple dates while giving them the flexibility of remote training. January to March classes and registration can be found on the NUCA website under "[Event Calendar](#)." Please log into your NUCA membership profile to register for the seminars.

NUCA's Annual Convention & Exhibit: Anirban Basu To Return For Economic Forecast

More than \$200 billion in potential new utility construction industry project resources will be apportioned over the next five years to U.S. states. In his out-of-the-box economic analysis of the utility construction industry, Mr. Anirban Basu will discuss at the 2022 Convention in San Antonio, Texas, the many factors coming into play over the next few years, including the core infrastructure bill and the historic infrastructure systems funding, ongoing supply-chain issues, and other important factors. Registration is now open: [Register now!](#)

Our new mobile-friendly Convention website is also available for your viewing. www.NUCAdigs.com will be expanded with more content as the March 2-5 event draws closer.

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

KINDNESS

You might ask what kindness has to do with safety? It's a good question. So many times, doing what we do, we are faced with situations where we must make decisions that affect a person's life. There are people who just cannot work safely. They aren't "accident prone" but their work habits put themselves in a high-risk category. When that happens and corrective action plans are not effective, it becomes necessary to end the work relationship with that employee. When it becomes necessary to separate an employee, how that action takes place determines whether we maintain our efforts at education or not. Even when the employee has not performed well, the employee still needs to be told the reason for the separation. There is still a lesson to be learned. That lesson might provide an incentive for them to correct their behavior in their next vocation. We don't know if we don't try. Empathy is defined as the ability to understand other people's situations.

That doesn't mean being sympathetic to the point of excusing actions that could cause personal harm or the creation of a hazardous work environment for others. In those situations, accountability is necessary for a healthy work environment, but the way we do what we do reinforces our intent to support our cultural efforts and create a safer work environment for everyone. I am reminded by an incident many years ago when I lost focus and was stopped for speeding. The officer approached and asked me if I knew why I was being stopped. I said yes and he told me exactly how fast I was going. He wasn't judgmental or critical. He just stated fact and asked me if I was aware of the speed limit or if I had a reason for going that fast. I did know the speed limit and I did not have a reason for speeding. I was simply distracted. He was understanding and courteous and when he handed me my ticket, he told me to have a safe day and I thanked him. That was 25 years ago, and I haven't had a speeding ticket since.

Holding people accountable for their actions is something that makes a good company a great company because everyone understands the reasons behind the way we do what we do and the consequences of non-compliance. Accountability and kindness, that's also true of what makes a great country.

NUCA of North Florida, Inc.
Cordially invites you to attend the

Annual NUCANF Spring Golf Tournament

St. Johns Golf & Country Club
205 St. Johns Golf Drive (Off 210 West)
Tuesday, April 5th, 2022
12:30 p.m. "Shotgun" Start

\$800 Per Team (4) includes 18 Holes of Golf, Greens Fee & Cart, Boxed Lunch, Beer and water at stops on the course, Format (4-Man Captains Choice), Prize Holes and Door Prizes. Award Ceremony will be held in the Dining Room immediately following the end of play. **Price after March 11th, \$900 per team.**

Please fill out the entry below & mail (OR FAX) with payment to NUCANF by Friday, March 19th.

Name	Company
Phone	Fax

Golfer: _____
Golfer: _____
Golfer: _____
Golfer: _____

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

Visa/MC/AX: _____ Exp Date: _____

V-Code: _____ Zip Code for Credit Card billing address: _____

(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.

Dress Code for Golf Course & Driving Range: Slacks or Bermuda shorts and collared golf shirt for men. No jeans, cutoffs, t-shirts or tennis attire.

Mail or Email this form to: NUCANF, PO Box 16810, Jax, FL 32245,
Ph: 296-1230 Email: nucanf@gmail.com

2022 NUCANF Golf Tournament Sponsorship Opportunities

For all sponsorships, your company will be acknowledged at the awards dinner the evening of the tournament and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

_____ **\$800 Gold Vendor Showcase (limited 18)**

Your showcase includes Domestic beer (or several other options) at your hole, plus a 6 foot table and two chairs and a tee/green sponsorship. You will need to provide anything else that you need. Your company name will be prominently displayed on a sign at the hole. Also available are a bloody Mary Station, Jell-O-Shot Station, Cigar Station, or Hot Dog Station, or Arnold Palmer's Station. First come, first serve based on availability. Holes will be assigned in the order received.

_____ **\$500 Silver Vendor Showcase**

Same as Gold Vendor Showcase but no beer will be provided.

_____ **\$450 Trophy Sponsor (limit one)**

Sponsorship includes signage at event.

_____ **\$450 Registration Sponsor (Limit one)**

Sponsorship includes signage at event.

_____ **\$450 Longest Drive/Closest to the Pin Sponsor (limit four)**

Sponsorship includes signage at the hole.

SOLD

_____ **\$450 Beverage Cart Sponsor (Limit two)**

Sponsorship includes signage at event

_____ **\$450 Dinner Sponsor (limit five)**

Sponsorship includes signage at event

_____ **\$450 Lunch Sponsor (limit five)**

Sponsorship includes signage at event. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

_____ **\$300 Green Sponsor (unlimited)**

Sponsorship includes signage on the tee or green. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

Payment: _____ Check Enclosed _____ Please invoice me for total amount

Charge my credit card:* _____ For total amount

*(Please complete Credit Card Authorization form. A 5% processing fee will be added.)

Company Name: _____ Your Name: _____

Phone: _____ Signature: _____

Return with payment to: NUCANF, PO Box 16810, Jacksonville, FL 32245

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NUCA of Florida's Legislative Days Feb. 7-8, 2022 | Aloft Hotel

[REGISTER FOR THE EVENT](#)

[MAKE HOTEL RESERVATIONS](#)

Schedule for Legislative Days:

Monday, Feb. 7

8:30 am - 10:30 am	Executive Committee
10:30 am - 12:30pm	Board Meeting with Working Lunch
12:30 pm - 1:30 pm	Legislative Briefing
2:00 pm - 5:30 pm	Capitol Visits
5:30 pm - 6:30 pm	Reception

Tuesday, Feb. 8

8:00 am - 9:30 am	Breakfast Briefing
9:45 am - 4:00 pm	Capitol Visits

Event Sponsors

Gold Sponsor (\$1,500)



Bronze Sponsor (\$500)



nucaflorida.org



JACKSONVILLE ICEMEN TICKET ORDER FORM

Friday, February 25, 2022

Tickets are \$40 each and include a \$20 food voucher, access to pre-game space to socialize with other guests and an Icemen group gift of the game. Doors open at 6:00 pm and game starts at 7:00 pm. Please provide mailing address for tickets. In order to allow time to mail tickets, please submit your order no later than Friday, Feb. 11th.

NAME: _____

COMPANY NAME: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

of Tickets _____ @\$40/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, Feb. 11th.



**SAVE THE
DATE**

MARCH 10-12, 2022

**22ND ANNUAL
ANDREW SCOTT JOHNSON MEMORIAL
SCHOLARSHIP FOUNDATION BASS TOURNAMENT**

TIME & LOCATION:

MAR. 10-12, 2022

**C. SCOTT
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OKEECHOBEE
CITY ON LAKE
OKEECHOBEE**

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at NUCA FL discounted rate at
Wyndham by Lake Okeechobee by
calling 863-623-4704.



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NUCAadigs.com



Steer Your Way to
Sunny San Antonio
and Maximize Your
NUCA Membership

san antonio ★ texas

NUCA Annual Convention & Exhibit
March 2–5, 2022 | Hyatt Regency Hill Country Resort & Spa



Join Us For NUCA's Premier Event!

You and your guests are invited to San Antonio to attend the 2022 NUCA Convention & Exhibit.


Come to San Antonio, Texas for our association's annual convention and join your fellow NUCA members for our high-octane learning sessions and exhibit hall featuring the latest utility and excavation products and services for contractors. Every NUCA member is welcome to attend.

Our Convention hotel is a family-friendly resort located next to SeaWorld and 20 minutes from the city's downtown Riverwalk. It's a secluded resort with exceptional amenities, comfortable charm, and a rich history of authentic Texas hospitality.

- ★ Industry Hot Topic Sessions
- ★ Exhibits with our National Partners
- ★ Meeting new industry colleagues and old friends
- ★ Engaging education & committee sessions
- ★ Recognition awards & Top Jobs honors
- ★ Memorable team building & live auction events
- ★ 3rd Annual CEO Bobble Head Golf Tournament
- ★ Inspiring speakers, fun social events, and *so much more!*

Registration Is Now Open!

To register, please visit our new NUCA Convention website, NUCAadigs.com.

 **#NUCA2022**

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**Please check with your company's accounts payable
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**If you need another copy of your invoice, please send
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We focus our law practice in the following areas:

- construction law and litigation
- business law and litigation
- real estate litigation

Our firm goals are to create and achieve practical and cost-effective resolutions of our client's legal disputes and concerns. We use our legal and construction industry knowledge, creativity, effective negotiation, and aggressive litigation where appropriate to achieve our clients' goals.

Lippes & Bryan, P.A. and its attorneys will assist you from the beginning of the attorney-client relationship with a thorough review and analysis of your disputes and concerns and possible solutions to them, which can help avoid unnecessary, protracted, and/or costly litigation. Our approach assists our clients in achieving pro-active resolution of their business problems, whether through advice, consultation, and planning, or through negotiation, mediation, arbitration, or litigation. We help guide our clients to legal solutions, whether that involves filing and prosecuting, defending, resolving, or avoiding lawsuits.

At Lippes & Bryan, P.A., you will get quality and personalized representation from its construction industry knowledgeable attorneys, Mark C. Bryan and Harold S. Lippes, who are ready, willing, and able to assist you in meeting the challenges presented to your construction business.

Please inquire about our one hour Florida construction lien and payment bond seminars for your staff, provided at no cost to NUCA members, by calling us at (904) 686-1500.