

# THE FLOW

SEPTEMBER 2022

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**September 15th**  
**Next Man Up**  
**Pipe Plug, Trench Shoring,**  
**and Dewatering Class**

**September 22nd**  
**Legislative Night**  
**Aloft Hotel**

**October 6th & 7th**  
**NUCA of Florida**  
**President's Cup Golf**  
**Hammock Beach**  
**Ocean Course**  
**Information on page 12 & 13**



## 2022 OFFICERS & BOARD OF DIRECTORS

### EXECUTIVE COMMITTEE

#### **President**

Mike Kivlin, John Woody, Inc.

#### **President-Elect**

Tim Gaddis, Vallencourt Construction

#### **Vice President I**

Caleb Hurlbert, A.J. Johns, Inc.

#### **Vice President II**

Paul Gilsdorf

#### **Secretary/Treasurer**

Rob Pinkston, Ferguson Waterworks

#### **General Counsel**

Tony Zebouni, Lindell, Farson & Zebouni

#### **Past President**

Marty Adams, TB Landmark

### BOARD OF DIRECTORS

Kirk Blomgren, Petticoat-Schmitt Civil

Chad Cockrell, A. J. Johns, Inc.

Wesley Cook, Florida Roads Contracting

Joe Geiger, Cemex

Billy Hood, J. B. Coxwell Contracting

Valinda Krynicki, United Rentals

Christian Lake, Lindell, Farson & Zebouni

Drew Lane, Advanced Drainage Systems

Chance Leonard, ECS Florida

Rick Parker, Forterra Pipe & Precast

Barry Watson, Fortiline Waterworks

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### PRESIDENT'S MESSAGE

Dear Friends,

September is here and with it comes football, tailgates, and family! I hope you all get a chance to enjoy the season. Hopefully the Jaguars will give us something to enjoy this year. As always, please support our members and sponsors. Without them, we would not be nearly as successful as we are.

The Primary Election cycle has come and gone. Of all of the NUCA of Florida backed candidates, only one did not win their primary. That's a very high success rate! If you'd like a more detailed break down of the primaries, just ask my self or Kathy and we can get you the full scoop. While the primaries are done and NUCA was successful, we still need to support all of the candidates that are running in the general election in November. You can donate to the NUCA of Florida Advocacy Fund, or participate in the Bidding for Benjamins program; \$100 from every bid won to the advocacy fund. Really simple, and every little helps our case in Tallahassee and here with our local politicians.

On August 27<sup>th</sup>, we had our annual NUCA of North Florida fishing tournament. While the weather was warm, there were still a good number of fish caught and fun had by all! Congrats to our winners! We have our next installment of the Next Man Up program scheduled for September 15<sup>th</sup> at the United Rentals Trench Safety Office off of Phillips Highway. We'll be covering Shoring, Dewatering, and Pipe Plug safety. Space is limited so make sure you get your people signed up quick! On September 22<sup>nd</sup>, we'll be holding our Board of Directors and general meetings at the Aloft Hotel off of Southside Blvd. And on October 6<sup>th</sup> and 7<sup>th</sup>, NUCA of Florida will be holding the Presidents Cup at Hammock Beach. We get to play the Ocean Course on Thursday, so y'all get signed up and come have some fun while supporting NUCA of Florida's advocacy efforts.

Once again, thank you to all of our sponsors and members. We truly are blessed to have such a great group supporting NUCA of North Florida. If there is anything that I can do to help you or your business out, don't hesitate to contact me.

Sincerely,

Mike

Mike Kivlin

## 2022 NUCA of North Florida

### Monthly Sponsors

#### Diamond Sponsor

United Rentals  
Trench Safety  
Fortiline Waterworks  
Sunbelt Rentals

#### Platinum Sponsors

Beard Equipment Company

#### Gold Sponsor

Alta Equipment Company  
Forterra Pipe & Precast  
Nimnicht Chevrolet

#### Silver Sponsor

A. J. Johns Inc.  
ECS Florida, LLC  
Gate Fuel Service  
John Woody, Inc.  
Lippes & Bryan  
Petticoat-Schmitt Civil  
Contractors  
Ring Power Corporation

## CALENDAR OF EVENTS

### September 13th

Executive Committee Meeting

### September 13th

Safety Director's Forum

### September 15th

Next Man Up  
Pipe Plug, Trench Shoring, and  
Dewatering Class

### September 22nd

Board of Directors Meeting  
Legislative Night  
Aloft

### October 6th & 7th

NUCA of Florida  
President's Cup Golf &  
Board of Directors Meeting  
Hammock Beach Resort & Spa

### October 13th

Executive Committee Meeting

### November 8th

Sporting Clay Challenge  
Jacksonville Target Sports

### November 17th

Top Golf  
Fundraiser for  
Seamark Ranch

# The Law and Your Business

## *The Law and Your Business – Non-Compete and Client Lists* *Tony Zebouni, Esq. NUCA NF General Counsel*

There was a recent appellate case out of Miami-Dade County that dealt with a non-compete-non-disclosure agreement issue. A company may have proprietary or trade secrets, and client lists that they would expect to be confidential and should take the proper steps to have personnel with access to that information sign the appropriate agreements to protect their client lists and confidential information. In addition to signing a well drafted agreements, it is important to maintain such information in a separate file marked confidential and even better to have each page stamped confidential-trade secret.

As is usually the case, ex-employees were working for a competitor and a dispute arose regarding solicitation practices. Former employees, all of whom were employed under noncompete and nondisclosure agreements, used the knowledge of their prior employers' s customer lists to operate a new company that provides similar services as the former employer.

As part of the lawsuit a party requested documents containing the names of all customers that one of the parties did business with in 2020 and 2021. The opposing party objected, and the appeal ensued.

Section 90.506, Florida Statutes (2021), governs the discoverability and use of trade secrets in litigation. The statute creates an evidentiary privilege regarding trade secrets, but that privilege is not absolute. The trial court must an inquiry and require the party seeking production to show reasonable necessity for the requested materials. If production is then ordered, the court must set forth its findings.

In this case the party seeking discovery of client lists did not prevail because its attorney could not demonstrate a reasonable necessity for production. Even with comprehensive non-compete and non-disclosure agreements, it is possible for other parties to legally obtain those otherwise confidential records.

*NEXUSVC and FIRST HEALTH SOLUTIONS, LLC*



## NUCA OF FLORIDA CONFERENCE

Last month, NUCA of Florida held the annual conference at the Opal Grande in Delray Beach. The conference started with several committee meetings and a Board of Directors meeting. There was also a welcome & networking reception on Thursday evening. On Friday, there was time to speak with vendors as well as a breakfast with Keynote speaker State Representative Dan Daley. The Board of Directors were also installed. Following breakfast was the Construction Industry Forum with Zack Perconti discussing how Florida will fare with the Infrastructure investment & Jobs act, The next session was on the Future of the Construction Industry Workforce with representatives from CareerSource and Veterans Florida. The final session was on Healthcare, Retirement Plans, Property Insurance Options, NCUA Advantage & Captive Programs. The afternoon was free time until a Beach Bum Happy Hour with Exhibitors and a Kid's Scavenger Hunt. Saturday night was our Black & White themed dinner where the Andrew Scott Johnson Memorial Scholarships were awarded. There was an auction with both raffle baskets and a silent auction. Guests were entertained by a terrific Disc Jockey and a photo booth. Make plans to join us next year for this great family friendly event.



## NOMINATIONS FOR 2023 BOARD OF DIRECTORS

The Nomination Committee of NUCA of North Florida is now accepting applications for the 2023 Board of Directors. You can obtain an application by calling the NUCANF office at 904/296-1230 or sending an email to [nucanf@gmail.com](mailto:nucanf@gmail.com). Deadline to submit your application is October 14th.

The board meets every other month usually on the third Thursday from 4:30 pm to 6:00 pm. Additional special meetings may be called if necessary. NUCANF has a number of committees. Board members, once elected, are expected to be active members of at least two committees. All members of the Board of Directors are encouraged to promote NUCA of North Florida (NUCANF), our State Association, NUCA of Florida , and our National Association, NUCA. Recruitment of new members is essential to ensure the growth of this association.

Voting for the election of the 2023 Officers and Board of Directors will take place via email. A ballot will be emailed on November 7th. Only one vote per member company.







### **OSHA Announces New Enforcement To Reduce Trench Fatalities**

The Occupational Safety and Health Administration (OSHA) [announced on July 15](#) that its compliance officers will perform more than a thousand additional trench inspection nationwide to reduce the chances of jobsite fatalities. 22 people have lost their lives in trenches so far this year, an unacceptable increase that surpasses all of 2021's accident rate (15 lives lost).

### **Safety Directors Forum: Nov. 17-18 in Denver**

NUCA will be holding its combined Safety Directors Forum (SDF), 811 One Call Meeting, and Damage Prevention Forum in Denver, Colorado this fall. The two-day event on Nov. 17-18 will be held at the Westin Downtown Denver hotel and like last year's event, combine all three NUCA conferences for ease of participation. SDF offers company safety managers to network with other utility construction safety managers from across the country. And like last year's popular event, safety experts will present open-forum discussions on the most important and relevant safety information members need. The 811 One Call and Damage Prevention Forum will focus on damage prevention in the utility construction industry. NUCA hopes to see your safety professionals in Denver! A link for registration can be found at [nuca.com/sdf](http://nuca.com/sdf) or [here](#).

### **Dig This! Podcast: Supply Chain Updates**

NUCA's latest Dig This! podcast is posted and live, ready for your thoughts. This month's podcast segments discuss the supply chain issues affecting NUCA members and their projects.

\*\* Jack Schaller, president of Waterworks at @coreandmain, discusses his company's work to alleviate industry supply chain issues

\*\* Zack Perconti talks about NUCA's work with the White House on supply chain bottlenecks  
Dig This! can be found at [nuca.com/podcast](http://nuca.com/podcast) or on all major podcast services.

### **Member Benefit Alert - Prepare Your Listing for the Annual Buyer's Guide!**

All NUCA Members who have categories on their online profile are listed in the Online NUCA Member Directory. Associate Members are also listed in the NUCA Buyers Guide issue of Utility Contractor. To ensure that your listing is up to date for the November/December issue, please log into your NUCA Member Dashboard by visiting [www.nuca.com](http://www.nuca.com). Please note: Members without categories selected may not be included in both the Buyer's Guide and the nuca.com online directory, so make sure your organizations information is up to date--don't miss out on potential business referrals! For questions about logging in or your NUCA membership benefits, please contact director of member benefits Lauren Hensley at [lauren@nuca.com](mailto:lauren@nuca.com).

### **Trenchless Technology Manual Now Available For Your Project Plans & Client Education**

Trenchless technology continues to expand at a very rapid rate, as more contractors recognize the efficiency and cost-savings that can be recognized in its usage. To help more of its members understand trenchless tech, the National Utility Contractors Association (NUCA) released this spring its updated "Trenchless Construction and New Installation Methods" manual. The 148-page, full-color illustrated manual carefully addresses and explains the most common trenchless installation methods. This manual was written by construction industry experts, describing both the contractors' and manufacturers' perspective with the goal to educate and guide others in choosing the best subsurface method to completing a project. Buy a copy for your local planning engineer to alert them to the cost-savings this technology can deliver. The new manual is available exclusively from NUCA, and can be ordered online for US\$99.95 plus shipping. More here: [nuca.com/trenchlessmanual](http://nuca.com/trenchlessmanual)

# SAFETY NEWS

By Jeff Blomgren  
Safety Director at Petticoat-Schmitt Civil Contractors

## WHY?

When I am faced with a member of our team that has a problem with compliance, I'm always curious why they choose to circumvent the regulations that are intended to promote their own safety and the safety of others. When we use the word "RULE" we are independent thinking people who are free to choose, and the word "RULE" seems to invite resistance. Guidelines, on the other hand, implies advice, recommendations, or instructions and are not expected to be the hard and fast, must do items. Rules are explicit regulations or principles governing conduct within a particular activity. Any "Pirates of the Caribbean" fans recall the negotiation with Captain Barbossa when Jack Sparrow cites the Pirate Code. A list of rules that pirates must adhere to, but Captain Barbossa says that, "They're more what you'd call guidelines, than actual rules" which implies that there is flexibility to interpret rules as more like situational decisions that are made on the basis of convenience. "I'll obey if it fits within my area of activity as long as it's convenient." If we adopt the attitude that rules are merely guidelines rather than principles of conduct, we are compromising our own safety and the safety of others. It's a character decision. Am I making decisions based on my own idea of just what's good for me, or am I making decisions that I clearly understand as rules of conduct that are meant for me to be able to do what I love to do safely? Make good choices!





## **WELCOME NEW MEMBERS**

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

### **J. Howard Construction Inc.**

Contact: Justin Howard, President

86164 Hampton Bays Dr.

Fernandina Beach, FL 32034

Office: 904-849-8153

Cell: 904-556-4478

Email: [justinh@jhowardconstruction.com](mailto:justinh@jhowardconstruction.com)

### **Truemont Materials**

Contact: Josh Combs, Site Develop. Consultant

4169 CR 15A

Green Cove Springs, FL 32043

Office: 904-385-8383

Cell: 904-607-7491

Email: [josh.combs@truemontmaterials.com](mailto:josh.combs@truemontmaterials.com)





# NUCA★STAR

SAFETY TRAINING AWARENESS RECOGNITION

All NUCA members want to send its workers home safely every night. By participating in the NUCA STAR program you can reach those safety goals and raise the bar on safety best practices in the utility construction industry over time.

The STAR Program has been developed as a tool to aid NUCA members in evaluating, updating, and recognizing their safety program and practices. Companies who volunteer to participate in the evaluation process should see lower incident rates and accidents across the board.

## KEY EVALUATION AREAS

**Leadership + Culture + Procedures + Records & Database Management**

For more information contact:

Mike Flowers - Director of Safety, Education, & Training

mike@nuca.com | #703.358.9300

[www.nuca.com/nucastar](http://www.nuca.com/nucastar)

[www.nuca.com](http://www.nuca.com) | #WeDigAmerica | #WeDigSafety







**NOT A GOLFER?**  
Pamper yourself at the  
luxurious on-site spa at our  
reduced service rate.



**EVENT DATE:**

October 6-7, 2022

**EVENT LOCATION:**

Hammock Beach Golf Resort & Spa

200 Ocean Crest Dr.

Palm Coast, FL 32137

**BOOK ROOM**

NUCA FL has secured discounted one-bedroom  
suites and 3-bedroom suites with rates good pre  
and post event.

**2022 PRESIDENT'S CUP, CORNHOLE, & BOARD MEETINGS**

# **SPONSORSHIP KIT**

Come network with industry colleagues,  
mingle with **NUCA of Florida** board members  
and leadership at a reception, try your hand  
at Cornhole, after you join your peers on the  
greens for the President's Cup.

**SCHEDULE**

**THURSDAY, OCTOBER 7**

President's Cup Golf Event, Ocean Course:

Registration @ 10 a.m.; Shotgun Start @ 11 a.m.

Reception & Awards Ceremony: 6 p.m. - 7 p.m.

Cornhole Tournament: 7 p.m. - 9 p.m.

**FRIDAY, OCTOBER 8**

Executive Committee, Board & Committee Meetings:

9 a.m. - 2 p.m.

VISIT [WWW.NUCAFLORIDA.ORG](http://WWW.NUCAFLORIDA.ORG) OR

**CLICK HERE TO REGISTER OR SPONSOR**



Questions? Contact Kari Hebrank at 850-224-1585 or email [khebrank@carltonfields.com](mailto:khebrank@carltonfields.com).



# CORNHOLE & GOLF SPONSORSHIPS

<b>Golf and Cornhole</b> Save by registering for both events!	\$325 each
<b>Cornhole Tournament</b>	\$150 each
<b>Presidents Cup Golf Tournament</b>	\$250 each
<b>Foursome and Tee Box Sponsorship</b> Save \$150	\$1,000 each
<b>Golfing Survival Bag</b> Includes 4 free throws, mulligans, free "throw & kick" tickets, snacks, golf towel, sleeve of golf balls, and drink tickets.	\$50 each
<b>Golf Tournament 4 Free Throws</b>	\$25 each
<b>Hole-in-One Sponsorship</b> Sponsors will be recognized on signage located at the registration desk and at the luncheon following the tournament and on the website.. The "Hole-in-One" Sponsor will also be permitted to display their company's promotional items at the event and will be recognized in all promotional mailings and in the Ditchmen. Sponsors also receive two complimentary golf registrations.	\$2,500 each
<b>Bloody Mary Bar Sponsor</b> Sponsor will be recognized on signage at President's Cup event, on promotional materials, on the website and in the Ditchmen.	\$2,000 each
<b>Golf Beverage Cart Sponsorship</b> Sponsorship will be recognized on the beverage cart, at the registration desk, on promotional materials, on the website and in the Ditchmen.	\$1,500 each
<b>Foursome Golf Only</b>	\$800 each

<b>Foursome Golf and Foursome Cornhole</b>	\$1,100 each
<b>Cigar Bar Sponsor</b> Sponsor will be recognized on all event signage, on promotional materials, and in the Ditchmen.	\$1,500 each
<b>Eagle Sponsorship</b> Sponsors will be recognized on signage at the registration desk, at the luncheon following the tournament, on all promotional mailings, on the website and in the Ditchmen.	\$1,000 each
<b>Birdie Sponsorship</b> Sponsors will be recognized on signage at the registration desk, at the luncheon following the tournament and in the Ditchmen.	\$500 each
<b>Cornhole Sponsorship</b> Sponsor will be recognized on signage at the Cornhole event registration desk, on promotional materials and in the Ditchmen magazine.	\$500 each
<b>Par Sponsorship</b> Sponsors will be recognized on signage at the registration desk, at the luncheon following the tournament and in the Ditchmen.	\$400 each
<b>Longest Putt Sponsorship</b> Sponsors will be recognized on signage located at the registration desk, on the skills contest sheet and in the Ditchmen.	\$275 each
<b>Closest-to-the-Pin Sponsorship</b> Sponsors will be recognized on signage located at the registration desk, on the skills contest sheet and in the Ditchmen.	\$275 each
<b>Longest Drive Sponsorship</b> Sponsors will be recognized on signage located at the registration desk, on the skills contest sheet and in the Ditchmen.	\$275 each
<b>Sponsorship: Tee Box</b> Sponsors will be recognized on signage located at a designated tee box.	\$250 each
<b>Advocacy Contribution</b> Keep us at the table in Tallahassee, advocating for your industry issues!	\$25 each

VISIT [WWW.NUCAFLORIDA.ORG](http://WWW.NUCAFLORIDA.ORG) OR

[CLICK HERE TO REGISTER OR SPONSOR](#)



Questions? Contact Kari Hebrank or Rebecca Brown at 850-224-1585 or email [khebrank@carltonfields.com](mailto:khebrank@carltonfields.com).



# 2022

## ***Safety Directors Forum 811 One Call Meeting Damage Prevention Meeting***

November 17–18  
The Westin Downtown Denver  
Denver, Colorado

*Sponsored by NUCA's 2022  
National Partners*

### **REGISTRATION INFORMATION**

NUCA Members: \$295  
Non-Members: \$395

### **HOTEL INFORMATION**

The Westin Downtown Denver  
1672 Lawrence Street  
Denver, Colorado 80202

*Registration includes participation in the  
Safety Directors Forum, and the 811 One Call /  
Damage Prevention meeting.*



## **ONE CONFERENCE FOR ALL**

NUCA's Safety Directors Forum offers the unique opportunity for safety management to network with other utility construction safety managers from across the country. Safety experts will present open-forum discussions on the most important and relevant safety information members sought by industry professionals.

Speakers for this year's event include:

- Dr. Katie Welfare — Construction Safety Research Alliance (CSRA)
- John Olachea — Compliance Assistance Specialist (OSHA)
- Sharon Lipinski — CEO, Habit Mastery Consulting
- Perry Silvey — Safety Manager with BT Construction, Inc.
- Trenching and Excavation Safety Taskforce (TEST) Representative

The 811 One Call/Damage Prevention Meeting will again focus on damage prevention best practices.

For the most up-to-date list of industry speakers, session topics, discussion forums, and event registration, please visit:

**[www.NUCA.com/sdf](http://www.NUCA.com/sdf)**



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Florida Roads Contracting  
Fortiline Waterworks  
Gate Fuel Service, Inc.  
J.B. Coxwell Contracting, Inc.  
John Woody, Inc.  
Komatsu  
Linder Industrial Machinery  
MWI Pumps  
United Rentals Dewatering Installation  
USI Insurance Services, Inc.  
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SCAN FOR INFO





# SEPTEMBER FEATURED SPONSOR



## WE BUILD LIFE CHANGING INFRASTRUCTURE

While many companies have catchy mission statements and tag lines, few embody each word of their promise into their corporate culture. At Petticoat-Schmitt, it's more than just a mission, it's a conviction of the heart, mind and body.

### WE

Every single member of our team is an integral part of our success. From the Laborers, Excavator Operators, and Foremen in the field, to the Project Managers, Estimators, and Support Team in the office – we value the incredible wealth of talent, skill, and experience that makes Petticoat-Schmitt one of the most respected businesses in construction. WE work together with respect for each other and our neighbors to build the roadways, water treatment plants, and communities WE call home. Every ditch WE dig, every pipe WE lay is done to enhance the lives of our team members and the communities WE serve. And our team doesn't just work together, WE play together to support causes that touch our hearts, souls, and our sense of unity.

### BUILD

Each project incorporates an evolution of change. Whether we start with deconstructing something outdated, or creating something new, we BUILD the most utilized yet under-recognized aspects of daily life. And we know that the less you have to think about the work we do, the better.

At any one time, we generally have more than twenty projects underway, but each one receives the attention to detail required to make it safe and successful. As a result, our safety records are second-to-none because we put safety first. With safety as our priority, we BUILD a stronger team and a stronger foundation for our community.

### LIFE CHANGING

Can you imagine if roads were still dirt? If there were no sewers? If the water coming out of your faucet was untreated? Where would you live, work, and play if there were no new subdivisions, business parks, or shopping centers? Every project we complete offers a new and improved, LIFE CHANGING aspect for residents and visitors to our area.

And, we build LIFE CHANGING opportunities for our employees, too. We believe in investing in the lives of each team member by providing on-going professional and skill development, generous compensation, benefits, and incentives, and creating a corporate culture that makes employees proud of the work they do.

### INFRASTRUCTURE

It takes a strong foundation to support any system, whether it be a system of roadways, buildings, organizations or cities. To build life changing INFRASTRUCTURE requires a commitment to everyone involved.

We start by developing our internal INFRASTRUCTURE as we select team members who believe in our Core Values of Accountability, Character, and Team. Through careful resource management, we create a stable environment that encourages quality leadership, innovative practices, and operational efficiency. Then, we put everything in place to reinforce and bolster the goal of creating a safe and comfortable environment where families can grow and businesses can flourish because we know that when we build a powerful INFRASTRUCTURE, we build a powerful community.

