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Mark Your Calendars for  
**ASA-MN's 9<sup>th</sup> Annual General Contractor of the Year,  
Scholarship and Membership Excellence Awards Dinner**  
January 22, 2009 — Mendakota Country Club

Visit us at [www.asamn.org](http://www.asamn.org)



### Business: WTG Terrazzo & Tile Inc.

Founded: 2001 by Wayne Grazzini

Scope: Terrazzo and tile subcontractor serving the Twin Cities and five state area.

Employees: 30

Website: [www.wtggt.com](http://www.wtggt.com)

Delivers quality terrazzo, tile and stone installations that are enjoyed by customers for years to come. Decades of expertise and experience coupled with a team-like office atmosphere and a proven ability to meet the demands of the client position WTG Terrazzo & Tile, Inc. for continued growth and success.

Current projects of interest: Marquette Hotel, Phase II Concordia College

Other group affiliations include: MBEX, BXSP, AGC, CLC, NTMA, MC&MCA, and the NTMA

ASA member contact Tony Grazzini sits on the board of directors for ASA-MN.

You can reach him at 952-746-9060, [tony@wtggt.com](mailto:tony@wtggt.com).

|         |  |
|---------|--|
| ROUTING |  |
|         |  |
|         |  |
|         |  |

**ALSO Coming Up:  
Education: Using the  
Law to Get Paid**  
December 9, 2008,  
8:00-10:00 am



Committed to Quality  
Subcontracting

# SUB-NEWS

## The Voice of Subcontractors

Volume 12, Issue 37

Quarter 3, 2008

### Contractor's Bill of Rights Coalition (CBRC)

The CBRC has continued to meet; members discussed the existing law and possible changes. Slow pay continues to be a major concern but subcontractors are either unaware of, or are reluctant to use remedies available under current law. Member organizations are working on educational programs to ensure that members are aware of alternatives; the ASA is presenting an education event "Using the Law to Get Paid". Chapter Attorney Curt Smith, Moss & Barnett P.A. and Board Member Aaron Dean, Fayanske, Westra, Hart & Thompson P.A. will be presenting. Visit [www.asamn.org](http://www.asamn.org) for a registration form, please RSVP by Dec. 4, 2008.

The group is also meeting with attorneys who actively represent subcontractors to get ideas from them on how to improve the law. Curt Smith and Aaron Dean met with the CBRC drafting group to discuss specific recommendations.

Minnesota lien laws are regarded as being superior to those in many other states. In spite of this, members continue to voice frustration with liens as a payment remedy. Following a discussion of bonding as an alternative, the group decided to meet with representatives of bonding companies to get their input. Executive Director Mike Schmalz has met with Bob Johnson of the Insurance Federation to identify participating representatives which will submit recommendations.

Once we develop our legislative proposal, it was suggested that we enlist the aid of the Attorney General, Consumer Affairs Division, prompt payment will help diminish consumer problems and complaints.

The Minnesota Electronic Security and Technology Association (MNESTA) is the latest to join the CBRC effective Oct. 30. Russ Ernst is the representative for that group.

A general meeting will be scheduled following the development of legislative proposals and the scheduling with affected groups as discussed above.

### URGENT

One of our Central PA Regional members has notified our office of a fraudulent attempt to process an international wire transfer from their operating account.

The requestor faxed an International Wire Transfer Request to the member's bank showing the members' fax number and their signatures requesting a transfer of \$26,746.30 from the member's account to an account in Hong Kong. Everything on this request looks as if it had come from the member's accounting department and the signatures on the request mirrored the member's signature.

A number of red flags prompted their bank to contact them directly regarding this request. Had the member not had a "double notification process" in place, the wire transfer would have been processed without question and they would have been out over \$26,000.

To safeguard your company from this type of fraudulent practice, contact your bank and request either a "double notification process" or "no international wire transfers permitted."



### Welcome New Member

#### Merit Drywall, Inc.

Joyce Mehr, Vice President  
PO Box 847

Monticello MN 55362

763-878-2795

Fax 763-878-2764

[meritdrywall@tds.net](mailto:meritdrywall@tds.net)

[www.meritdrywall.com](http://www.meritdrywall.com)

Framing, drywall, paint and stain

### Thank You Renewing Members

Adjustable Joist Company

Advance Shoring Company

API Group Inc.

Artcraft Inc.

Carciofini Company

CECO Concrete Construction

Cedarleaf Cedarleaf & Cedarleaf Inc.

Claude M. Anderson Electric Co.

Cobb Strecker Dunphy & Zimmermann

Collins

Commercial Flooring Services

County Materials Corporation

Dispatch Trucking LLC

Electrical Builders

Empirehouse

Fabyanske, Westra, Hart & Thomson P.A.

Gilbert Mechanical Contractors Inc.

Goldleaf Financial Ltd.

H & B Specialized Products Inc

Haldeman-Homme Inc. (continued on page 2)



## Leading Industry Organizations Affirm 'There's a Better Way To Negotiate Contracts'

On Nov. 5, the ConsensusDOCS coalition, which includes ASA and 21 other leading construction industry organizations, published *ConsensusDOCS Procedures*, a document that describes how the coalition collaborates to develop model construction contract documents that advance the project's best interest. The *Procedures* are the product of the coalition's experience in balancing diverse interests, which includes designers, owners, contractors, subcontractors and sureties (DOCS). ConsensusDOCS launched the initial suite of 70+ ConsensusDOCS documents in 2007, a first-of-its-kind building information modeling addendum in June 2008, and is currently developing other documents. The *Procedures*:

- Affirm ConsensusDOCS' commitment to "a transparent and efficient consensus decision-making process."
- Invite all potential stakeholders in collaboratively producing standard contracts.
- Establish stakeholders' right to have a voice in ConsensusDOCS contract deliberations.
- Ensure that ConsensusDOCS timely responds to new case law developments and emerging industry issues.
- Establish a minimum five-year drafting cycle, and a process for revising documents sooner, if needed.

Establish structures for ConsensusDOCS document development and marketing, including advisory councils and an executive director.

"Early on, ConsensusDOCS made a decision that its process for developing contract language for the industry would be transparent and inclusive," said ASA Executive Vice President E. Colette Nelson, who chairs the ConsensusDOCS Business and Marketing Advisory Council. "The *ConsensusDOCS Procedures* describe how the ConsensusDOCS' mission of collaborating in the best interest of a project materializes at the operational level. The *Procedures* guide the ConsensusDOCS coalition, but their collaborative approach may also inspire others to rethink the old, stereotyped 'push risk to the weakest

## Member News and Notes

"WTG Terrazzo & Tile, Inc. is pleased to announce the addition of Ryan Yoder as Project Manager / Estimator. Ryan has extensive experience in many flooring applications such as ceramic/porcelain tile & stone. He is a graduate of South Dakota State University with a degree in Construction Management. His service oriented personality, and knowledge & experience on the industry, will help continue WTG's continued efforts to give our clients/customers the highest quality products and service."

*(Continued from page 1)*

Harty Mechanical  
 HLB Tautges Redpath LTD.  
 Homeco Insulation Inc.  
 John A. Knutson & Co. PLLP  
 Klamm Mechanical Contractors Inc.  
 Kraus-Anderson Insurance  
 Langford Tool & Drill Company  
 Lloyd's Construction Services  
 Mavo Systems  
 Max Steininger  
 MCI Paint & Drywall  
 Medina Electric  
 Merit Drywall  
 Minnesota Elevator  
 Minnesota Insurance Brokers  
 Molin Concrete Products Co  
 Moss & Barnett P.A.  
 Nadeau Excavating Inc.  
 National Fire Sprinkler Assn

NewMech Companies Inc.  
 North Country Concrete  
 Northland Concrete & Masonry Co.  
 Parsons Electric LLC  
 Premier Restaurant Equipment Co.  
 Protouch Painting  
 Ramsey Excavating Co.  
 RJ Ahmann Co.  
 RJF Agencies Inc.  
 Safegate Airport Systems Inc.  
 St. Paul Linoleum & Carpet Co.  
 Structural Wood Corporation  
 The Blue Book Of Building & Construction  
 Tri-State Drilling Inc.  
 Twin City Tile & Marble Co.  
 VIRACON  
 Wenger Corporation  
 Willis Of Minnesota  
 WTG Terrazzo & Tile

## Calendar At A Glance

### Education: Using the Law to Get Paid

December 9, 2008, 8:00-10:00 am - Mendakota Country Club

### 9th Annual General Contractor of the Year, Scholarship and Membership Excellence Dinner

January 22, 2009, 5:30 pm- Mendakota Country Club

### Education: "What kind of customers are you really working for?"

February 19, 2009, 2:00-4:30- Roseville

### Networking: Sponsored by The Blue Book of Building and Construction

February 19, 2009, 4:30-6:00 pm - Roseville

### National ASA Business Forum & Convention 2009

March 5-7, 2009 - Nashville, Tennessee

### Education: Proving, Pricing & Defending Differing Site Conditions

April 22, 2009, 8:00-4:00 pm - Mendakota CC

### 10th Annual Golf Tournament

June 15, 2009, 12:30  
Shotgun - StoneRidge Golf Club, Stillwater



## Independent Contractor Exemption Certificate Requirement

A new Minnesota law (181.723) has been enacted to eliminate the ambiguity surrounding employee/independent contractor status. According to the Legislative Auditor in 2005, 14% of Minnesota employers misclassified at least on worker as in independent contractor.

The law requires individuals (not corporations, LLCs or partnerships) who work as independent contractors in the building construction industry to obtain from the Department of Labor and Industry an Independent Contractor Exemption Certificate (ICEC). As of Jan. 1, 2009, for purposes of the state's workers' compensation, unemployment insurance, wage and hour, and occupational safety and health laws, individuals doing building construction work without an ICEC will be employees of the contractor for whom they are working. The law does not apply to the sale of manufacture or construction supplies and most landscaping services.

To obtain an ICEC, individuals must submit an application, pay fees and supporting documents that establish they meet the conditions required to operate as an independent contractor. To operate as independent contractors, individuals must be able to meet the conditions set out in the law's nine point test. An individual, who holds an ICEC, is an independent contractor if he or she:

1. Maintains a separate business with the individual's own office, equipment, materials, and other facilities;
2. Holds or has applied for a federal employer identification number or has filed business or self employment income tax returns with the federal Internal Revenue Service if the person has performed services in the previous year for which the individual is seeking the independent contractor exemption certificate;
3. Operates under contracts to perform specific services for specific amounts of money and under which the individual controls the means of performing the services;
4. Incurs the main expenses related to the service that the individual performs under contract;
5. Is responsible for the satisfactory completion of services that the individual contracts to perform and is liable for a failure to complete the service;
6. Receives compensation for service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;
7. May realize a profit or suffer a loss under contracts to perform service;
8. Has continuing or recurring business liabilities or obligations;
9. The success or failure of the individual's business depends on the relationship of business receipts to expenditures.

An ICEC permits individuals to work as independent contractors. Certificate holders, however, may work as either independent contractors or as employees. Whether a certificate holder is working as an employee or an independent contractor will depend on the conditions of the particular work relationship (see the nine statutory conditions above).

Contractors who employ individuals who do not have an ICEC will face civil penalties if they do not provide workers' compensation and unemployment insurance to these individuals, and do not properly withhold state and federal taxes from their employees' pay.

The Minnesota Department of Labor and Industry is responsible for the administration and enforcement of the ICEC program, and is required to share information with the Minnesota Departments of Revenue and Employment and Economic Development regarding individuals and employers who are found to be in violation of the ICEC requirements. In addition to penalties for failure to provide workers' compensation and unemployment insurance, employers may also be subject to civil penalties of up to \$5,000 per violation for violating provisions of the ICEC laws and rules. Individuals may also be subject to civil penalties if they provide false or misleading information in an ICEC application, fail to meet all requirements of the nine-factor test to qualify as an independent contractor, allow another person to use their ICEC, misrepresent their status as an independent contractor, or alter or falsify an ICEC.

For details about the Independent Contractor Exemption Certificate program, fact sheets, application and requirements, see [www.doli.state.mn.us/](http://www.doli.state.mn.us/) and proceed to the Construction Codes & Licensing section and click the Independent Contractor Exemption Certificate button.

*(Source: Minnesota Dept. of Labor & Industry)*