METROPOLITAN BUILDERS & CONTRACTORS ASSOCIATION OF NJ MAGAZINE

LEARN MORE ABOUT BECOMING A SPIKE

SEE PAGE 5

THE SAIBER CONSTRUCTION LAW COLUMN BY ROBERT B. NUSSBAUM, ESQ. SEE PAGE 8

5	Sixth Ann	nual Metro Cup
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OnSite / September 2022 Editor: Michele Leppard Layout: Gregory J. Del Deo Printed by U.S. Press, Valdosta, GA

Mission Statement: Metro is a professional organization that shall serve to protect and advance the rights and interests of builders, remodelers and associates in all matters affecting the building and remodeling industries. Metro shall support the business interests of all its member firms, support safe and affordable shelter, and foster the American dream of home ownership.

Vision Statement: Metro is the leading trade association for the construction industry. Metro inspires active membership through professional development and advocacy. We embrace free markets to promote cost effective housing in NJ.



President's Message September 2022

Greetings Fellow Metro Members,

"May not all your dreams come true" -Sadhguru

I always enjoyed organizing things. It started with Legos as a kid. I must have built, took apart, and built the same yellow tractor a hundred times. As I got older it wasn't only things I liked organizing, but events. I would be the guy who picked the movie to go see, find the time and place it was showing, and then be the kid who called everyone up to arrange rides. In both cases it wasn't just the thing or event that was appealing. It was the enjoyment of putting it together, the satisfaction of the completion of the event or the enjoyment of the party, and then the reflections after the fact on the whole process. I got to enjoy "it" three times; before, during, and after. Most importantly, I enjoyed being in the center of it.

Being at the center of something does not always mean one is in control over everything or the integral part like the center of a wheel. One could be in the center of a hurricane where there is no control and quite the different experience of being at the leading edge of the storm. I've just always enjoyed the center as it provides an opportunity to shape and experience most of the action. Most of the time, things work out as planned. However, upon honest reflection, I think this is a false statement. Legos are one thing, given a pretty simple plan that is easy to construct. But as the plans/events get bigger not everything goes according to plan.

I was going to start this article out with Mike Tyson's quote "Everyone has a plan until they get punched in the mouth", but it wasn't the central point I wanted to convey. I've often been asked by my close friends and family, why I consistently put myself in a position (the center) and get beat up. They know the real story about how hard it is when things don't go according to plan, and when the negative surprise happens. Building/organizing is hard work and many times thankless, especially in charity/volunteer capacity. I have family that lovingly ask, why not just let someone else do it, why not just be a participant?

Not to sound like Captain Obvious, but there is nothing

PRESIDENT'S MESSAGE CONTINUED ON PAGE 11



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SPIKE CLUB MEMERSHIP

When you recruit and retain members on behalf of the Federation, you are not only giving back to the industry, you will also be recognized and rewarded through NAHB's Spike Club.

What's in it for me?

As you continue to recruit and retain additional members, you accrue more Spike credits and achieve different levels of recognition.

Builders' Show Closing Concert

Each year, Spikes who have recruited at least one new builder and/or associate member receive two complimentary tickets to the Closing Spike Concert at the International Builders' Show (IBS). In addition, Spikes who have recruited at least five new builder and/or associate members receive an invitation to the Spike VIP section at the concert. Within the VIP section, Spikes enjoy complimentary food and drinks for the duration of the show. IBS brings together building industry professionals from around the globe, and the Closing Spike Concert is a great way to celebrate at the end of the week.

Along with the Builders Show Concert perks, there are annual opportunities for your to win other great awards and competitions.

How to Become a Spike

To become a Spike, you must earn at least six credits. The best way to earn credits is to recruit a new member to the Federation. You can also earn credits for renewals and recruiting new NAHB Council members. You can earn:

- 1 credit for each new builder or associate member you recruit
- 1 credit on the first anniversary of each new member you recruited
- 1/2 of a credit for each anniversary that follows for each of those members
- 1/2 of a credit for recruiting council members to their local association

Once you accrue 6 Spike credits, you officially become a Spike and a member of the Spike Club — a network of Spikes across the nation focused on the growth their associations. As you continue to accumulate credits, your status rises within the Spike Club.

How do I view my Spike credits?

Spike credits and information on the members you recruited can now be accessed on nahb.org. Login to your profile and click on the top right-hand corner of the screen to find "My profile". Your Spike credits can be viewed under the "Memberships Tab" and the information on your recruited members can be found under "Spike Referrals".

For more information about Spike Club Membership visit nahb.org



Growing Our Strength Through Member Recruitment, Retention, and Involvement

Recruiting new members to the Metropolitan Builders Association is recognized and rewarded through the Spike Club. Those who participate are called Spikes, and they are among the most valued members of the association. Before becoming a Spike, you are a Spike candidate. That means you have earned between one and five credits. Once you earn your sixth credit, you become an official NAHB Spike! Spike credits are earned by recruiting and retaining Builder and Associate members.

MICHELE'S EO PERSPECTIVE



We are more than halfway through the year and already planning for 2023 to keep the momentum rolling. There has been so much excitement circulating this year at Metro, NJBA and NAHB. We are all focusing on increasing our membership through more membership drives and

consistent engagement to help us further strengthen the Association's culture of membership. The 2022 Membership drive not only helps reward Metro, but it also rewards our members by offering them Bonus Spike Credits for referrals. When members recruit and retain members, they are not only giving back to the industry, they will also be recognized and rewarded through NAHB's Spike Club. To become a Spike, you must earn at least six credits. The best way to earn credits is to recruit a new member to the Association. You can also earn credits for renewals and recruiting new NAHB Council members!

- 1 credit for each new builder or associate member you recruit
- 1 credit on the first anniversary of each new member you recruited
- ¹/₂ of a credit for each anniversary that follows for each of those members
- ½ of a credit for recruiting council members to their local association

Become a Spike Club member and watch your status rise. Receive free tickets to the closing concert at the International Builders Show. Recruit more and receive an invitation to the Spike VIP section at the concert. Be a super-recruiting Spike and receive a chance to win an all-inclusive trip. Being a Spike Club member is a Big Deal!

We held our July Membership Meeting at Four Sisters Winery, for a wine tasting extravaganza and delicious dinner. The July Membership Event was hosted by the Retention Committee, chaired by Tammy Murray of Andersen Windows & Doors and Brian Maffia of General Plumbing Supply. Lastly, we have two big general membership events coming up! Grillin N' Chillin will be held at the Raritan Inn at Middle Valley (Bill Asdal's place) on September 15th and the Annual Metro Golf Cup will be held at the Royce Brook Gold Club on October 6th. This year, we added a Golf Clinic for those who want to learn the game of golf. Come out and support the industry, and build relationships with your fellow members. Metro is a big supporter of members doing business with members. So let's get to business.

See you all at the next event.

Michele Leppard, EO mleppard@metrobca.org Office: (973) 887-2888 x 1 Cell (201) 463-5543

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THE SAIBER CONSTRUCTION LAW COLUMN

By Robert B. Nussbaum, Esq.

In New Jersey, the "economic-loss doctrine" bars tort claims when the plaintiff's only damages are economic in nature because, when parties enter into a contractual relationship, a contractual remedy flows from contract, not tort. The doctrine also applies when parties do not have a contractual relationship with each other but have separate contracts with a third-party -acommon occurrence in the construction context where many parties - general contractors, subcontractors, suppliers, design professionals, and the like may directly contract with one party but not with all parties involved with a project. The doctrine prevents a party from bringing a tort action for what is more properly a contractual claim. Crescent University City Venture, LLC v. Trussway Manufacturing, Inc., a case recently decided by the Supreme Court of North Carolina, provides a good illustration of how the economic loss doctrine works.

* * * * * * * * * * *

In the Crescent University case, Crescent was the owner and developer of a project to build multiple student apartment buildings near the campus of the University of North Carolina at Charlotte. In 2012, Crescent contracted with AP Atlantic, Inc., which served as the general contractor for the project. AP Atlantic entered into several subcontracts, including one with Madison Construction Group, Inc., which provided and installed wood framing for the buildings. Madison, in turn, contracted with Trussway Manufacturing to procure the floor and roof trusses for the project. In 2015, after the project was completed and the buildings were occupied by students, occupants reported that their living room ceiling had cracked and was sagging. Initial inspections determined that the floor trusses between apartments were defective. An engineering company hired by Crescent subsequently determined that "the floor-truss defects were systemic and pervasive throughout the project," presenting unsafe defects which needed to be corrected to bring the project back to acceptable standards.

In 2015, breach of contract lawsuits and counterclaims were filed by various parties for various claims, including claims relating to the defective trusses. Several years later, in 2018, Crescent filed suit directly against Trussway for negligence, claiming that Trussway's negligent manufacture of the trusses resulted in Crescent sustaining \$8 million in damages for the repairs it had to undertake to the buildings and for costs relating to relocation of the students occupying the buildings. Crescent's action against Trussway was consolidated with the other actions that had been filed.

Prior to trial, Trussway moved to dismiss Crescent's action based on the economic loss rule, arguing that Crescent's claims against Trussway arose under a contractual relationship, and not because of a violation of any other law or duty owed by Trussway. The North Carolina Business Court agreed and held that "because Crescent has not alleged or forecast evidence showing the breach of any separate or distinct extra-contractual duty imposed by law, . . Crescent may not maintain a negligence claim against it." The Business Court therefore dismissed Crescent's negligence claims against Trussway. Following an appeal by Crescent, the Supreme Court of North Carolina held that the Business Court properly applied the economic loss rule and was correct in dismissing Crescent's negligence action against Trussway.

Although the North Carolina decision is not binding on New Jersey courts, the Crescent case does nicely illustrate how the economic loss rule, which is applicable in New Jersey, prevents parties from disguising breach of contract claims as a negligence or tort claim in order to recover purely economic losses. Instead, the parties are left to their contractual remedies to recover their damages.

* * * * * * * * * * *

Each issue's Legal Construction Column will discuss a recent decision by New Jersey courts or, like here, courts from other states which may be of interest to people in the construction industry.

The information in each article is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. The article is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

For any question relating to this article, please contact Robert B. Nussbaum, Esq. at Saiber LLC at RNussbaum@saiber.com.

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Join NAHB Remodelers Council

To join Remodelers, start locally at Metro. Sign up today! By becoming a member at your local Remodelers Council, you also become a member of the national Remodelers Council.

Cost: \$75 per year

Contact: Michele Leppard, Metro Executive Officer (973) 887-2888 Ext. 1 mleppard@metrobca.org

LET'S CELEBRATE WOMEN IN CONSTRUCTION IN SEPTEMBER AS THEY CONTINUE BREAKING GROUND IN THE INDUSTRY!



By Linda Garvey, Coppola Brothers LLC & Metro PWB Chair

The NAHB Professional Women in Building (**PWB**) dedicates a week (September 12-16) to celebrate women as an important component of the residential construction industry. This week showcases the achievements of women across all facets of the industry and the efforts to promote,

train, advance and add more women in the field. This year's exclusive PWB Week sponsor is Lowe's.

Lowe's has been a big supporter of the NAHB PWB at a national and local PWB council level. Lowe's began to see the opportunities in marketing to females. They did market research and set in motion changes which not only helped themselves, but the remodeling industry in general. As a result, the chain effectively went all in to make their brand more appealing to women, even redesigning the stores themselves, an effort they called a **"differentiation strategy". Brighter lighting and easier to read signage were added**; new merchandise such has home organization materials; shelving and bins; cleaning materials; blinds; outdoor décor, including furniture and making their locations cleaner (especially bathrooms). Lowe's continues to capitalize on the fact women still continue to control renovation and design decisions in the home; with more women working in the construction industry, another market segment to capitalize on.

This year, NAHB's PWB Week Daily Themes will **help raise awareness** about women in the construction industry helping spotlight the work and achievements of women. The topics will be: 1.) Supporting the Next Generation Residential Construction Workforce; 2.) Tradeswomen Tuesday; 3.) Women Making an Impact on the Industry; 4.) Prioritizing Diversity in the Industry: 5.) Celebrating PWB Members and Local Councils.

Through organizations like PWB and other similar groups, the numbers of women in construction are edging higher. Of all the people working in construction, women comprise about 10.9%. Even smaller numbers of women are on the front line of a job site – 1 out of every 100 employee is in the field. Considering that women make up 47% of all employed individuals, this means that the construction industry is only benefitting from about 1.25% of women in the workforce. Despite these troubling statistics, many organizations are making efforts to promote women into leadership positions, and women working in the industry are inspiring younger generations to follow in their footsteps. Organization such as NAHB's PWB and other groups such as National Association of Women in Construction, provide the mentorship, marketing and networking opportunities for women who are in this industry.

When COVID-19 hit the economy, 587,000 jobs were lost. Recovery has been fairly steady since emerging from the pandemic as home building and related construction activities play an increasingly important role in the broader economy, more women are capitalizing on job opportunities as well. In fact, a recent report found that construction companies with more women in executive line roles than staff roles experienced above-average financial performance compared to companies that didn't. When 30% or more of the executive-level positions were filled by women, those companies had a 48% likelihood of outperforming their least diverse competitors.

Metro's PWB Council will be celebrating PWB Week on Thursday, September 22nd from 5:00 to 7:00 PM. We will be presenting a panel of five (5) women from different aspects of the industry who will share their stories, how they started, obstacles they faced, how they overcame these challenges, successes, Q&A session, food/beverages and much more. Visit our Metro website for more details and registration information. Hope to see you there!

PRESIDENT'S MESSAGE CONTINUED FROM PAGE 3

wrong with being a participant. There's plenty of enjoyment playing with a toy without having assembled it. One can enjoy going to the movies without organizing a dozen friends to go with you. You can get great value out of being a member of an organization without climbing the leadership ladder. However, sharing an experience is part of the human condition and to me the enjoyment of good companions far outweighs any trials or tribulations.

Seven years ago I had the good fortune of being invited to Grillin' and Chillin' because Tony Volpe from GE Appliances wanted me to share a drink with him and meet MetroBCA. He made the effort and reached out to me. I certainly didn't walk into Bill Asdal's backyard of the Raritan Inn and expect one day to be President. I did however want to share my experience with others and put myself in a position where I could meet others. It was a series of small steps, proverbially the rungs of the leadership ladder, which got me to this point. Along the way, it's been incredibly difficult. NONE of it worked out according to plan.

That's the fun. Life would be so boring if everything worked out according to plan. Getting punched in the face certainly is no fun literally or metaphorically. Fighting a good fight is a life worth living. Giving your best to help shape your own life, your friends, your community, your industry, and your country all is worth it at whatever level of commitment you make. My desire to share the excitement for MetroBCA, the joy of homebuilding, and the thrill of entrepreneurship has will not cease because of the challenges provided, rather the desired outcome.

The reason why Sadhguru gives his blessing "May your dreams not come true", it is because of his follow up statement; "May things that you could never dream of happen to you."

I wish the same for you.



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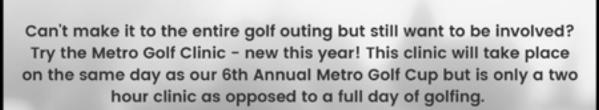
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3:00- 5:00 PM

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2022 CALENDAR OF EVENTS

WEDNESDAY, SEPTEMBER 7, 2022 Sales & Marketing Breakfast 8:30 AM – Florham Park Diner

TUESDAY, SEPTEMBER 13, 2022 New Member Orientation 10:00 AM - ZOOM

THURSDAY, SEPTEMBER 15, 2022 Grillin N' Chillin 5:00 PM – The Raritan Valley Inn

TUESDAY, SEPTEMBER 20 Renovation Banking Summit 12:00 PM – Florham Park Diner Private Room

THURSDAY, SEPTEMBER 22, 2022 Celebrating Women in the Construction Industry 5:00 PM – IMC NJ Headquarters

THURSDAY, OCTOBER 6, 2022 6 Annual Metro Cup 10:45 AM Registration – Royce Brook Golf Club

> TUESDAY, OCTOBER 18, 2022 Social Media and Law 8:30 AM – Park Avenue Club

THURSDAY, OCTOBER 20, 2022 Reno's Appliance Networking Mixer

THURSDAY, NOVEMBER 17, 2022 General Membership Event & Election of Officers 6:00 PM – Bridgewater Manor

> FRIDAY, DECEMBER 9, 2022 Installation of Officers & Holiday Party 6:00 PM – Bridgewater Manor



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September 20th 12:00 - 2:00PM \$40.00 Location: Florham Park Diner



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Time 5:00 PM to 9:00 PM

Place Raritan Inn - 526 County Road 513 Califon, NJ 07830

Pricing

*Member Ticket (21+) - \$75 *Non-Member Ticket (21+) - \$85 Young Adult Ticket (Ages 13-20) - \$45 Child Ticket (Ages 12 & Under) - FREE

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Bocci Ball Sponsor - \$350 Horse Shoe Sponsor - \$250

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Register Online: <u>https://business.metrobca.org/events/details/grillin-n-chillin-468</u> OR Mail Info & Check to: Metropolitan B&C Assoc. 39 East Hanover, Suite C2 Morris Plains, NJ 07950

If you have any questions please contact: MemberServices@metrobca.org

Metropolitan Builders & Contractors Association of New Jersey

...... NAHB Professional Women in Building Week September 12-16



Celebrating Women in the Construction Industry!

Each year, NAHB Professional Women in Building Council sets aside a week in September to celebrate women as an important component of the residential/commercial construction/remodeling industry. Achievements of women that represent all facets of the industry are showcased, as is the work being done to promote, train, advance and add more women in the field. Join Metro's PWB Council at their September meeting to celebrate this event. We will have a panel of women from various areas of our industry to share their challenges, successes, give advice and answer questions.

Thursday, September 22nd 5:00 to 7:00 PM

Location: IMC NJ Headquarters 333 Thornhall Street, Edison, NJ

Fee: \$25.00

Light Fare and Beverages will be Served! Register online www.metrobca.org

SPONSORSHIP OPPORTUNITIES – We are looking for event sponsors. Three levels: (1) \$100 and (2) \$50 donations. If you are interested, please contact Linda Garvey l.garvey@coppolabrothersllc.com

METRO'S MONTHLY QUOTE

"You can use an eraser on the drafting table or a sledgehammer on the construction site." - Frank Lloyd Wright

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The average age of a construction worker has increased, while the number of workers age 24 or younger has decreased by 30%



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WINE TASTING EVENT

The July 12th General Membership Wine Tasting Event was held at Four Sisters Winery in Belvidere, NJ. This evening was hosted by Metro's Retention Committee, chaired by Brian Maffia of General Plumbing Supply and Tammy Murray of Andersen Windows and Doors. The guests tasted eight different types of wine from grapes grown in their fields and enjoyed a delicious dinner. Take a look at some of the pictures from the evening.



New Member, John Martin of Roxbury High School



Jonni Clause, Dacor presenting the Metro Mission Statement



Tammy Murray, Andersen Windows and Doors, the July General Membership Event Co-host



Brian Maffia, General Plumbing Supply and Cohost of the July General Membership Event



Tony Berardo, Owner of Cross River Design, Tom Trautner, Partner at Chiesa, Shahinian & Giantomasi and Frank Coppola, Metro President and Owner of Coppola Brothers



J. Anthony Vargas, Owner of J.O. Read



Grapes at the orchard



Frank Caccavale and John Martin of Roxbury HS, Greg Koryszewski of QQIC, Ltd. and Bill Meller of Smolin

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