



The California

Contractor

News for the Western Regional Master Builders Association

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October, 2007

At a Glance

Law Talk: Action on breach of warranty looses

Use good sense to avoid burns

Buying prescription drugs online: What you should know

... and more

Western Regional Master Builders Association Members

We have been officially notified that the State Compensation Insurance Fund has terminated its long standing relationship with Western Regional Master Builders Association and its administrator, Western Insurance Administrators Inc. Whatever their reason for taking such action, we can assure you that it had nothing to do with our groups loss ratios or yours. In fact, our loss ratios have been at historic lows.

We are at this time meeting with other carriers who are interested in writing our group program at rates lower than the State Fund. We will keep you apprised of our progress, so that either you or your agent/broker can get you a competitive quote prior to your policy's renewal date. We are hopeful to have more information to you by the time that you receive your next newsletter, if not sooner.

Thank you for your past support of this program and your attention to workplace safety and accident prevention.

Sincerely,

WESTERN REGIONAL MASTER BUILDERS ASSOCIATION
301 East Ocean Blvd., Suite 1970
Long Beach, CA 90802

(800) 823-4038

Small businesses may suffer from relationships with bankers

Most small businesses fail to develop their side of their relationship with commercial bankers, and this undermines both their ability to raise capital and the services they receive. In a just released paper, John I. Todor, Ph.D., managing partner of The Whetstone Edge, LLC, interviews R. Blake Hendrix about the proactive steps that the small business person should be taking to improve their lot.

"More than 70% of small businesses fail to develop their side of their relationship with commercial bankers and this undermines both the funding and financial expertise they receive," says R. Blake Hendrix. In a just released paper, John I. Todor, Ph.D., managing partner of The Whetstone Edge, LLC, interviews Hendrix about this statement and probes to find out what proactive steps the small business person should be taking. This interview is available now at www.thewhetstoneedge.com/papers/clients.pdf.

"Relationships are critical to business" says Todor. He cites a recent study by the Economist Intelligence Unit where over 90% of business executives believed that customer relationships, not products or services, were the key to competitive differentiation in today's marketplace. "But relationships" he adds, "are

about the interactions between two parties and both parties must be actively involved for it to produce mutual benefits." However, "much of the advice and strategies are directed at only one side--what the business should do to cultivate better relationships with their customers."

In the interview, Todor questions Hendrix about the ideas in his new book "Accounting, Finance and Presentation for Small Business." In particular, he queries him on the client's role in building mutually productive and profitable relationships in a B-to-B environment.

Hendrix, a former commercial banker and now a consultant to small

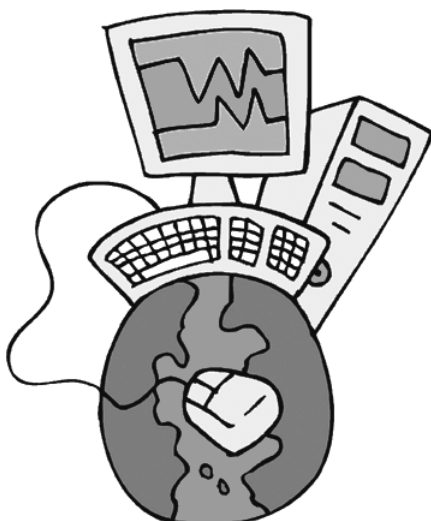
businesses, explains in down-to-earth terms how many clients take a self-defeating approach to working with vendors and service providers.

"Two clients with essentially the same profile on paper can end up with dramatically different financial packages as well as the guidance and expertise they get from a bank" Says Hendrix. He points out that the difference is in the relationship, and the client can do a lot to tilt the scale in his or her favor. "That's why I wrote this new book" adds Hendrix.

The complete interview is available for free at www.TheWhetstoneEdge.com/papers/clients.pdf.



Your Association can now be reached online at:

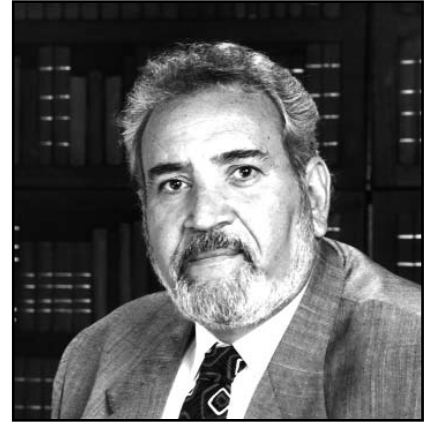


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LAW TALK



By Sam K. Abdulaziz
Abdulaziz, Grossbart & Rudman



Action on breach of warranty looses (The importance of documentation)

Lawyers have a saying that the three D's are very important in a contract. Namely, Document, Document, Document. This is highlighted by the case we are going to discuss. The major issue in the case was about what made up the contract.

In early 1997, Craig Podesta (Podesta) contacted a nursery about purchasing Howard trees. Stuke Nursery Co. Inc. (Stuke) sent a written purchase proposal to Brititalia Ventures (Brititalia, who was Podesta's farming company), which was dated February 19, 1998. The proposal required each of the categories of 14,000 Howard trees to be sold, and it listed the sale conditions. Brititalia submitted a check to Stuke for over \$175,000, with a note indicating that

February 19, 1998, invoice was paid in full. Stuke delivered 14,000 trees to Brititalia in April along with delivery receipts that were signed by Brititalia's orchard foreman.

Later, it turned out that approximately 5,000 of the 14,000 trees that were delivered, were not Howard trees. Not surprisingly, a lawsuit came about.

The parties argued back and forth over discussions and papers and whether all or any part were part of the contract, and more specifically which papers were part of the contract. The parties also argued as to whether the course of conduct between the parties themselves were part of the contract.

The jury found for

The important lesson of this case is to let people know that if something is important to you, put it in writing. It will then be very hard for the other side to argue differently.

Brititalia based on the agreement of the parties. The jury found that there was an agreement between the parties as well as an implied warranty. Brititalia was

awarded a substantial reward.

The court was required to determine the "meaning" of the contract. Or at least what made up the contract.

Stuke claimed it was not responsible for any harm because it limited its representations regarding the trees and it eliminated any implied representations for any particular purpose. Stuke stated that the sale of the trees was "as is."

The Appellate Court agreed that some of the Stuke documents did encompass "other" documents and did contain certain warranty disclaimers and "as is" provisions. However, the court also stated that the jury could reasonably find that those were not the actual contract documents. More impor-

tantly, the court held that there was evidence that Stuke had assured Podesta it had corrected its problems at its Nursery and Stuke had acknowledged its responsibility for delivering trees of the correct type.

The court found that there was substantial evidence to support the jury's findings. This included the back and forth discussion of things that were and were not in writing during the course of the parties conduct.

The important lesson of this case is to let people know that if something is important to you, put it in writing. It will then be very hard for the other side to argue differently. It is hard to have a judge or jury determine that if a contract specifically calls out "red," that what the parties really meant to say was that it should have been "green."

Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for 30 years. He has written a book called "California Construction Law" which is updated annually. He represents numerous construction trade associations and contractors. He appears at Contractors State License Board meetings and has argued a number of cases before the appellate courts, including the California Supreme Court dealing with the "Pay-If-Paid Clause." Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients. The documents are of a general nature and are intended to highlight areas of the subject matter and should not be used as a substitute for specific legal advice. You should seek the aid and advice of a competent attorney and/or accountant instead of relying on the presentation and/or documents. Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at info@agr-law.net. On the Internet, visit our Website at www.agrlaw.net

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Collecting Your Money Through The Use Of Mechanics' Liens, Stop Notices, Bonds and Prompt Pay Laws

A Half-Day Breakfast Seminar
By Sam K. Abdulaziz

Sam Abdulaziz is an acknowledged expert in the field of mechanics' liens, stop notices and bond rights. He has been giving lectures in this area for many years, and his book on the subject is updated annually. His lectures and workshops have been attended by REGULATORS, as well as LEGISLATORS, and have been approved for continuing education for attorneys. The lectures are spiced up with "REAL WORLD" examples just for contractors, subcontractors and material suppliers. At this very time Sam is representing many construction associations and exchanges before the California Law Revision Commission to make sure lien rights are not curtailed.

The mechanics' lien issue was an important part of Sam's successful argument to the California Supreme Court on the "Pay if Paid" clause. This will be discussed at the workshop.

This workshop is important for both the contractor and any members of the staff who are involved in handling collections, including liens, stop notices and bond rights. If you pick up just one pointer from Sam during this workshop, it will make your attendance worthwhile.

Any of you that have been to Sam's seminars know how informative and entertaining they are. Those who have not, do not know what they are missing.

The cost for the seminar is \$95.00 for the first person from each company and each additional person from the same company is only \$60.00. All of this must be prepaid. **Instructional materials and flow charts will be distributed. Both clerical personnel and contractors should attend.**

To register, please fill out the bottom portion of this form and send a check in the appropriate amount to: Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458. Or you can fax your registration with Visa or MasterCard payment to us at (818) 760-3908. If you have questions, please contact us by email info@agrlaw.net or phone, (818) 760-2000. Check-in and breakfast for each seminar will start at 8:30 a.m. and the seminar begins at 9:00 a.m.*

DATES AND LOCATIONS

- | | |
|--------------------------------|--|
| <u>RIVERSIDE, CALIFORNIA</u> | - MISSION INN
December 10, 2007
3649 Mission Inn Avenue, Riverside, CA 92501 |
| <u>STUDIO CITY, CALIFORNIA</u> | - SPORTSMEN'S LODGE
December 11, 2007
12825 Ventura Blvd., Studio City, CA 91604 |
| <u>LONG BEACH, CALIFORNIA</u> | - HOLIDAY INN - LONG BEACH AIRPORT
December 12, 2007
2640 Lakewood Blvd., Long Beach, CA 90815 |

REGISTRATION FORM

Company name	Number of attendees
Names of ALL attendees	
Email address (confirmations will only be sent by email)	Phone #
Address (street, city, state, zip)	Amount paid
Riverside (12/10/07) Studio City (12/11/07) Long Beach (12/12/07)	
Location of seminar - City (check one)	
I am paying by check _____ or credit card _____ Visa _____ or MasterCard _____	
Credit card number	Expiration Amount charged
Signature	Print Name

Attention California attorneys! Sam Abdulaziz certifies that this activity has been approved for 2.5 hours of California MCLE credit by the State Bar of California.

* Refund Policy: Full refund if requested at least 30-days prior to the date of the seminar. Register early! Space is limited at some locations and have sold out in the past!

Rx for buying prescriptions online

In 2006 there were more than 47 million Americans who had no health care insurance, and that number is rising daily. Simply put, almost 16% of Americans are uninsured.

Even if you are insured, the premium and prescription costs are rising faster than your earnings. In order to reduce medical costs, many people are turning to the Internet to purchase medicines and medical supplies online.

Numerous online pharmacies provide legitimate prescriptions services, but unfortunately, there are also disreputable sites that make purchasing online a risky proposition. Some potential risks include:



sub-standard, outdated or fake products, little or no quality control or purity of ingredients.

There are ways to purchase medicines online safely and securely. Here are some basic do's and don'ts:

DO:

- + Buy only from a U.S. based site.
- + Buy from sites that require a prescription from a doctor or other authorized health care provider.
- + Make sure the site is a licensed pharmacy in good standing. The National Association of Boards of Pharmacy (NABP) at www.nabp.net suggests you look for the VIPPS (Verified Internet Pharmacy Practice Sites) seal, an assurance that the site is meeting all applicable state and federal requirements.

+ Read the privacy and security policies and be sure they are easily understandable.

DON'T:

- + Buy from sites that will prescribe medicine without a prescription.
- + Buy from sites that sell medicines that have not been approved by the FDA.
- + Buy from sites that don't have posted customer service policies.
- + Provide any personal identification such as social security number, credit card or health history, unless you are confident the site will protect them. Make sure the site does not share this information with others without your permission.

If you do have problems with an online site, it is important to report the problems. Taking this action will protect you as well as other consumers. You can report the site and any complaints to FDA at www.fda.gov/oc/buyonline/buyonlineform.htm.

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SAFETY ... IT PAYS

Be alert to burn hazards

In the course of your work, you may be exposed to a variety of different burn hazards. Some burns may be minor while others can cause permanent skin damage or be life threatening. Fortunately, good safety practices and good sense can prevent many burn injuries.

Burns can be caused by a number of sources: heat, electricity, chemicals or radiation. Because there may be many potential burn hazards on your job, be alert to their presence, wear appropriate personal protection, and know what to do if a burn occurs. Proper first aid can lessen the effects of a burn and, in some cases, save a life. Speed is the most important factor in effective burn treatment.

The first action in a burn situation is to stop the heat source or break contact between the heat source and the skin. Because the body holds heat and continues to burn until the skin cools, even with a minor burn, a person can go into shock. For most burns, cool the burn with water. Unless told to by a medical professional, never use butter or ointments, which may seal in heat and cause infection. Never break the blisters; they protect the burn from infection.

If a burn results from a heat/thermal burn, rinse the burn area (without scrubbing) or immerse it in cool water until the pain is gone.

Pat the area with a sterile cloth and keep it dry and covered. For hot liquid drenching, remove the soaked clothing or place the clothed victim in a water bath or shower. Smother any burning clothing by dropping the victim to the ground and rolling the body. Don't peel stuck clothing from a burn area.

For burns caused by electricity, turn off the electric power at the source. Don't touch the victim until all wires are clear. Make sure the victim's breathing and heartbeat are regular and get medical attention immediately.

If the burn is from a chemical, locate the chemical container and follow the label directions for treatment, consult the Material Safety Data Sheet (MSDS) or call the Poison Control Center. Remove any contaminated clothing. If the eyes are affected, flush for 30 minutes. For acid chemicals, immediately flush the area for 15-20 minutes. For dry chemicals, brush the chemical off the skin then flush it for 15-20 minutes. Get professional medical attention as soon as possible.

If you work around heat, electricity or chemicals that could burn, take sensible precautions. Understand the possible health hazards of what you're working with, use all recommended personal protective equipment, and know the location of wash stations and where emergency numbers are posted.

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Your Association is working on bringing you added benefits and services. Some of these services may be available to you through E-Mail and through our website. We are working on compiling a database of all of our members and their E-Mail addresses.

To receive information about these added benefits and services, please supply the Western Regional Master Builders Association with your current E-Mail address. You may either FAX IN THIS FORM, or send it to our mailing address listed above. THANK YOU!

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Membership/Policy number

Owner/Officer Name

E-Mail Address
