



► BLOCK KIDS IS A NATIONAL NAWIC PROGRAM THAT INTRODUCES GRADE SCHOOL CHILDREN TO THE CONSTRUCTION INDUSTRY

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► CAD DRAFTING COMPETITION IS DESIGNED FOR SENIOR HIGH SCHOOL STUDENTS FOR RECOGNITION OF THEIR CREATIVITY AND PROBLEM SOLVING IN PREPARING DRAWINGS



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Newsletter monthly

CORE PURPOSE:

To Enhance the Success of Women in the Construction Industry

President's Message

by Jan Lawrence

Greetings My Friends

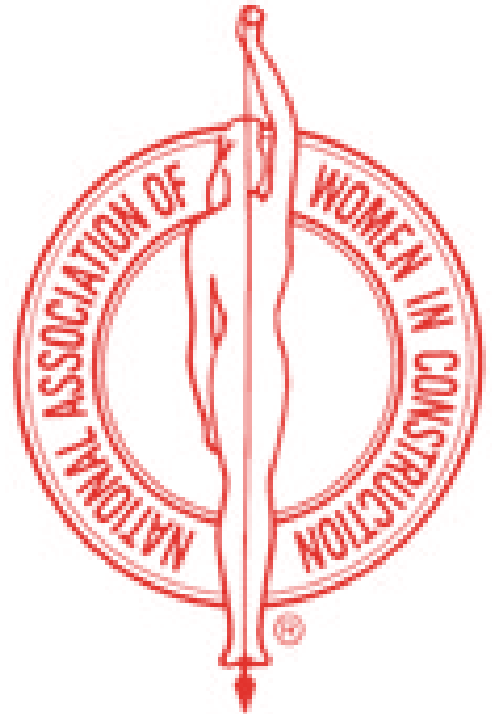
Welcome to a new season of Women in Construction. We are so fortunate to live in an area that is alive with construction and not showing current signs of slowing down. While the rest of the country is struggling we continue to have an abundance of employment opportunities.

Speaking of which, I would like to take a moment to be thankful that we as women live and work in the US. Life in other countries would not give us the chance to work in careers such as construction. I am still amazed at the lack of opportunities for women even in Europe. Here in the US, we can own and run any type of business we choose and we are capable of doing this just as well as our male counterparts. So take advantage of every opportunity knowing that we have struggled to gain this foot-

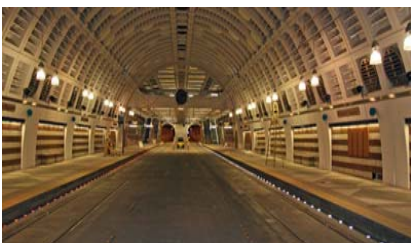
hold and are stronger for it.

We have another interesting speaker this month so I hope you will make this month's meeting. Our meeting will also have more information about the Forum that we will hold here in Seattle in 2009. Come help us plan how to best showcase our region.

The holiday season is beginning and I want to wish you all a Happy Thanksgiving. I hope you will enjoy a short holiday with your friends and family and remember to be safe.



www.nawicpugetsound.org



Upcoming Meeting

On Monday, November 12th, NAWIC will host *Tunnel Challenges and Triumphs* presentation by Ken Fiorentino, Manager of Estimating for Jacobs Engineering in Bellevue.

Jacobs Engineering Group Inc. is one of the world's largest and most diverse providers of professional technical services. Mr. Fiorentino is employed in their Heavy Civil and Tunnel group within the Northwest Region.

This membership meeting is open to guests. Please RSVP at www.nawicpugetsound.org or contact Nicole Lamanna at 425-289-1774 or via e-mail at nicolel@fergusonconstruction.com

Legal-Related News

Affecting the construction industry

By Brenda Molner

This article was developed for informational purposes and should not be viewed or relied upon as legal advice. After Wynne LLP urges readers to consult legal counsel regarding specific legal issues and factual circumstances.



Washington's appellate courts recently issued several opinions that relate to the construction industry. Below is a summary of two of those cases:

Washington Employees Get Paid to Drive to Work

This month some employees' rush hour commutes became a little more tolerable with the Washington Supreme Court's holding in *Stevens v. Brink's Home Sec., Inc.* A divided court held that, under certain circumstances, employees driving company vehicles must be paid for their drive time to and from work. Failure to do so may be a violation of the Washington Minimum Wage Act ("MWA"), RCW 49.46 et seq., and its implementing regulations and can subject employers to claims for unpaid wages, prejudgment interest and the payment of claimants' attorneys' fees and costs.

In *Stevens*, the court focused on the definition of "hours worked" in the MWA's implementing regulation, WAC 296-126-002(8). "Hours worked" mean(s) "all hours during which the employee is authorized or required . . . to be on duty on the employer's premises or at a prescribed work place." The Court examined Brinks' restrictions and con-

trols on its employees' personal activities while they were driving to and from work in company vehicles and determined the employees were "on duty", as defined by the WAC, while they were driving. Brinks' policy required employees to use the vehicles "for company business only" and contained other restrictions and rules related to use of the vehicles.

In light of the *Stevens* ruling, Washington employers should take a careful look at their policies regarding the use of company vehicles, particularly for employees that are allowed to drive company vehicles to their homes.

Lien Claimant Wins the Battle but Loses the War

When the owner of a property that is subject to a lien records a lien bond, the bond becomes security for the lien and guarantees payment of a judgment upon the lien. In the recent Washington Court of Appeals Division I case, *DBM Consulting Engineers v. United States Fidelity and Guaranty Company*, DBM won a hollow victory and learned the hard way that in order to collect a judgment from a lien bond, a judgment for foreclosure of the lien, not just breach of contract against the principal,

must be obtained.

DBM recorded a mechanics lien against a client to secure a debt DBM asserted it was owed under a contract for professional services. The client obtained a lien bond to allow it to sell the property while the claim was pending. DBM sued the client for breach of contract, unjust enrichment and foreclosure of the lien and prevailed at trial. While DBM requested foreclosure of the lien in its complaint, it never pursued the foreclosure claim or obtained a ruling on the claim. When the client failed to pay the judgment, DBM then sued the surety to compel it to pay DBM and the trial court found for DBM. The Court of Appeals reversed the trial court and dismissed the suit finding that because DBM failed to obtain a judgment upon the lien the surety was not obligated to pay under the lien bond statute, RCW 60.04.161.

To add insult to injury, the Court stated in a footnote that because DBM brought a lien foreclosure claim in the original action, but in effect abandoned the claim by not obtaining a judgment on the lien, DBM would be barred by res judicata from pursuing the claim in another suit.

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