This year’s 2015 Fall Business Meeting of MICA is scheduled for Wednesday, October 21, and Thursday, October 22, 2015, in Omaha, Nebraska. Board and Committee members should plan to arrive on Tuesday, October 20, 2015. The site of this fall’s meeting is the Embassy Suites Downtown Hotel in Omaha. This will be our ninth year at this hotel. The hotel is located across the street from the Old Market area. The Old Market area has numerous restaurants and bars for your entertainment pleasure. The hotel provides complimentary shuttle to and from the airport for those of you who will be traveling by air.

The past several years we have combined an educational seminar with the fall business meeting. This year the Board decided to host a half-day educational seminar on “The Dos and Don’ts of Fall Protection”. Separate registration information is available for this program. If you wish to attend this seminar, you need to register as soon as possible. Space is limited, and registrations are taken on a first come, first served basis.

This year’s fall business meeting will include updates and discussions on several topics crucial to your business operations. The technical sessions will include presentations on company usage of credit cards to aid company profitability, identifying customer differences and improving your actions for improved sales effectiveness, confined space standards and their impact on your company safety programs, OSHA updates and an Asbestos Primer, and a panel discussion on how contractors can aid manufacturers in product development and innovation. We will focus on providing the membership with new insights on these issues as we continue to help you to improve in your industry and in your businesses.

OSHA issued the Confined Spaces in Construction final rule on May 4, 2015. The rule provides construction workers with protections similar to those manufacturing and general industry workers have, with some differences tailored to the construction industry. These include requirements to ensure that multiple employers share vital safety information and to continuously monitor hazards as a safety option made possible by technological advances after the manufacturing and general industry standards were created. So what does all of this mean for your company and your workers? Gary Auman, MICA’s legal counsel, will explain the confined space in construction final rule to you in terms that you can understand and apply to your particular company. This standard has far reaching implications to you and your company even when you do not think you are working in a confined space area. This is a do not miss session for you and your key safety professionals.

Do your new workers know how to identify asbestos containing material? Do your workers need to know anything about asbestos? Our industry awareness of asbestos containing material has gone through a revolution since 1968, but we still are required to identify hazardous material in our work environment. As part of his OSHA update, Gary Auman will include a refresher on our responsibilities in identifying and reporting hazardous materials in the workplace. We will have an industrial hygienist provide us with a refresher on the types of asbestos containing material that we may see in the workplace.

Are you looking for ways to make your company more profitable? We will have a presentation on the value that commercial and purchasing card programs can bring to your business and how these programs can help increase your company’s profitability. This presentation will also provide you with an understanding of how you can adopt these programs into your personal life.

Does your business involve any sales activities? Do you need to understand how your customers think and act? If so, then you need to attend the presentation on sales-development that is designed to enhance your success in communication skills and sales effectiveness. This 90-minute workshop presented by Carew International, Inc., combines both interpersonal and functional skills into a strategically focused experience, which is customized to your business reality. The first part of the pro-

(Continued on page 5)
PRESIDENT’S MESSAGE

TO: THE MICA MEMBERSHIP

Hello MICA!!!

I hope everyone had a great summer! It always seems like summer goes so fast. As much as I like summer, I have to say that I’m really looking forward to autumn and its cooler temperatures. Autumn is just a great time of the year with the kids back to school, football and the MICA Fall Meeting.

Last month I talked about how it is important to know the signs of heat related illness and the best way to prevent it, and I referenced some websites for information and tools. Well, according to the National Oceanic Atmospheric Administration, July 2015 was the warmest month on record dating back to January 1880. You can learn more at www.noaa.gov to read the article that was published on August 20, 2015.

Did you know that September is National Preparedness Month (NPM)? It was started in 2004 by FEMA as its national annual preparedness outreach. NPM is managed and sponsored by FEMA’s Ready Campaign. The Ready Campaign, in conjunction with the Ad Council, aims to educate and empower Americans during NPM and throughout the year to prepare for and respond to all types of emergencies, including natural disasters and potential terrorist attacks.

The four steps of NPM are Be Informed, Make a Plan, Build a Kit and Get Involved. This is important for our families as well as our businesses. Ready.gov has a section specifically to help you plan for and protect your business. It is something that many of us probably don’t think about, but up to 40% of businesses affected by a natural or human caused disaster never reopen. For more information, go to www.ready.gov.

The MICA board of directors recently met in Branson, MO, to plan the fall business meeting. Thanks to all those that sent in their ideas and suggestions. I feel that we have a really good fall business meeting lined up. As we have done in previous years, there will be a free seminar the Tuesday before the fall meeting. This year it will be a half day safety themed seminar.

Go Hawkeyes!!!!!

Nathan Heilman
MICA President

Please note below. Our planning meeting in Branson was not all work. The “three amigos” did not involve three people!
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FUTURE MICA MEETING DATES

Fall 2015 Annual Fall Business Meeting — October 21 & 22, 2015, Embassy Suites Downtown, Omaha, NE.

59th Annual Spring Convention — June 20 — 23, 2016, Chateau on the Lake, Branson, Missouri.

Fall 2016 Annual Fall Business Meeting — October 19 & 20, 2016, Embassy Suites Downtown, Omaha, NE.

60th Annual Spring Convention — June 19 — 22, 2017, Location under consideration. San Diego, CA, is a possibility. Contact a member of the Board of Directors with your suggestion.

MICA MEMBER ADDRESS/INFO. UPDATES

Be sure to inform the MICA office of any changes or corrections to your listing for either the MICA Directory, e-mail correspondence or mailing address. Even if you update your company listing on the MICA website, please inform the MICA office of the changes. We try to be as current as possible with your help.

(Continued from page 1)

The fall business meeting will address the above issues and more. We will once again have three concurrent forums dealing with member issues. We will have a union contractor forum, an open shop contractor forum, and an associate member forum, all running simultaneously. This format continues to be overwhelmingly positive. This approach allows more of the members to participate in craft issues without being part of a formal committee. This fall, neither the labor committee nor the merit shop committee will formally meet during the fall business meeting. Rather, we will incorporate these items as discussion topics in our concurrent sessions. This format will give each of you the opportunity to interact with other MICA members with similar business concerns. The associate member forum will give the associate members the opportunity to discuss various industry and association issues.

Last year our associate members classified as fabricators, distributors or independent reps were invited to display their products at our fall business meeting. The table top displays were available for viewing by our membership during our extended Wednesday evening welcome reception. We will continue with such displays again this year for our manufacturer member firms. We will be limiting the size of the displays and limiting the participants to those associate member firms that are classified as manufacturers. These table top displays will be open for viewing during our Wednesday evening reception. Our reception will begin at 5:30 p.m. and conclude at 7:00 p.m. This will still leave you with plenty of time for dinner and socializing with your fellow MICA members.

The discounted room rate at the Embassy Suites is $156.00 per night, single or double occupancy. Included in this rate is complimentary wireless internet in your guestroom. Room reservations are to be made directly with the Hotel. You should call the hotel reservations department at (800) EMBASSY (362-2779) to make your individual room reservations. To receive the contract rate, you need to identify that you are with the Midwest Insulation Contractors Association group. Please reserve your room by September 18, 2015 to assure yourself a room at the hotel at the discounted rate. This is our cut-off date for reducing our room block without any penalty. After this date, our room block will be released. Any room reservations made after that date, will be honored on a space and rate available basis. You will not be guaranteed the $156.00 a night rate. Your cooperation in making this advance registration call as soon as possible is most appreciated.

This year’s program is a must attend for you and your key employees. We have tiered this year’s registration fee to encourage more participation by individual firms. The registration fee (Continued on page 7)
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is $195.00 for the first attendee from a member company. Registration for a second attendee from a given company is reduced to $185. Registration for all additional attendees is $175 per attendee. Please complete the enclosed fall business meeting registration form and e-mail/mail/fax it to the MICA office by October 9, 2015. Your prompt response helps us to plan a more efficient and effective meeting for you. Please note that you can pay the registration fee by credit card or by check.

Your Board of Directors is very conscious of meeting costs and again has attempted to make this meeting most affordable. The registration fee is the same cost as last year. Your Board wants this meeting to be an educational and informative meeting that is cost effective for you. We look to the fall meeting as an opportunity for you to bring one or two key employees to this meeting. It is an excellent chance for you to expose your key people to the benefits of participating in MICA activities. We hope that you take advantage of this low-cost, educational experience.

Make a concerted effort to inform one or two potential member firms about the fall business meeting. Invite them to attend, encourage them to join, and share your registration material with them. The cost is minimal and the first-hand look at MICA is the best way to promote the benefits of belonging to MICA.

The fall business meeting is designed to help you to become a better, more educated business professional. We have designed a program that not only addresses problems but also provides you with solutions. Do not miss this opportunity to come together to share business concerns with your fellow MICA members. Make your plans now to attend the 2015 Annual Fall Business Meeting this October in Omaha!

FALL PRE-MEETING FALL PROTECTION SEMINAR

At our summer planning meeting, the executive committee agreed to “think safety” by putting together a half-day training session on fall protection. This session is designed to educate the owner, the project manager, the supervisor and the worker in the field in the recognition of fall protection hazards. The Board has asked Mr. Mark Damon, a leading expert in fall protection, to provide an in-depth presentation for both contractor and associate members on this topic in a half-day session preceding our fall business meeting. The Board is sponsoring this seminar as one of the many benefits that come with your membership in MICA. This free seminar will be held on Tuesday, October 20, 2015, from 1:00 p.m. until 5:00 p.m. at our fall business meeting hotel, the Embassy Suites Downtown, in Omaha. Separate registration is required for this seminar. If you are interested in registering for this free educational seminar, please complete the registration sheet that was
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mailed to all MICA member firms and send it back to the MICA office. Space is limited and registration will be taken on a first-come, first-served basis. The number of attendees per company may have to be restricted, depending on the overall interest shown by the membership.

Mark S. Damon, President of Damon, Inc., has been directly involved in fall protection and fall protection training since 1975. He has worked with such great companies as Rose Manufacturing Company, Miller Safety Products, and Capital Safety (DBI Sala). Mark was also a trainer for Capital Safety (DBI/Sala). He has performed fall protection training for many companies, including: Boeing, Spirit Aerospace, Peter Kiewit, PepsiCo, Frito-Lay, NCRA Refinery, Raytheon, Kansas City Power and Light, OSHA, Harley Davidson, BP Amoco, Cargill, and 3M.

Mark also produced a top selling fall protection training DVD entitled, "How Safe Is That Safety Belt?" Mr. Damon was a manufacturer's representative of safety equipment from 1987-2011. From 2000-2011, he served as President of Process Marketing Group, St. Louis, Missouri. Mark was Vice President of Day Star Corporation, a distributor of safety equipment in Kansas City, Missouri from 1981-1987. Before joining Day Star, Mark was Vice President of Rose Manufacturing Company, a manufacturer of fall protection equipment. While with Rose, Mark served on the OSHA Committee responsible for the revision of fall protection standards, and worked with the United States Navy to develop their fall protection standards. He has served on an ANSI subcommittee for fall protection standards and has taught at the OSHA training institute on fall protection. Mark has also served as an instructor for the OSHA 500 and 501 courses. Mark graduated from the University of Missouri-Columbia with a B.S. in Marketing in 1972, and received his MBA from the University of Missouri-Kansas City in 1976.

Mark was trained in fall protection by Clarence Rose, the true pioneer in the fall protection safety industry. His unique style and sense of humor can easily reach your worker so they can better understand the fall hazards they are exposed to, and how.

The seminar is free, but travel and lodging is at your expense. Space is limited so do not delay in registering. Lunch is not provided during the seminar. There are several restaurants within walking distance from the hotel. General registration for the seminar will continue until the class is filled.

Take advantage of this free seminar offering in conjunction with our annual fall business meeting. The fall business meeting will be held on Wednesday and Thursday, October 21 & 22, 2015. Save yourself time and travel by registering and attending both the seminar and fall business meeting.
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FMI’S Q3 NONRESIDENTIAL CONSTRUCTION INDEX SHOWS NONRESIDENTIAL CONSTRUCTION SECTOR REMAINS OPTIMISTIC DESPITE DROP IN OVERALL ECONOMY

The nonresidential construction sector continues at a steady pace, a slight decline notwithstanding, according to the FMI Nonresidential Construction Index Report (NRCI) for Q3 2015. The Index reflects the observations and sentiments of a sampling of construction industry executives nationwide.

FMI’s NRCI for Q3 2015 dropped 1.3 points to 63.6 from the previous reading of 64.9 in Q2. The index paints a mixed picture of the current state of the nonresidential construction sector. On one hand, the NRCI component for the overall economy dropped 6.3 points to 70.6 points this quarter. While down from its peak, this component still indicates that panelists contributing to the index remain bullish about the economy. Similarly, indicators for the economies where panelists do the most business stood at 73.3, indicating a strong outlook despite a slight 3.4 points slip from last quarter.

“The construction industry continues to proceed on the recovery track, although it is showing signs of a minor deceleration,” said Chris Daum, president and senior managing director of investment banking at FMI. “Despite the decrease in projected backlog and the squeeze from rising material costs, executives in our industry are still bullish and hold positive outlooks overall.”

Highlights from the NRCI point to diverse forces driving the industry as we enter the last quarter of the year:

- **Panelists’ Construction Business.** Panelists’ views on their businesses are solidly positive with little changed from the last quarter.
- **Nonresidential Building Construction Market.** Although the nonresidential building construction market where panelists do business slipped 1.4 points to 75.0, this NRCI component remains in the optimistic range.
- **Expected Change in Backlog.** The measure of expected change in backlog dropped 3.1 points this quarter to reach 68.8, while current backlog remains at a solid 10 months.
- **Cost of Construction Materials and Labor.** The cost of labor continues to rise, though not greatly changed from the last quarter, at 12.5. Materials costs continue to be high, but slightly lower than last quarter. Both labor and material costs act to hold down the overall NRCI as costs increase.
- **Productivity Low.** The productivity component stands at 47.6, the lowest since 2008. Executives surveyed report difficulties in maintaining productivity while squeezed by rising material and labor costs.

**International Debt Impacts**

The NRCI Q3 report tallies executives’ opinions on the potential impact of the Greek debt crisis on their businesses. A third of respondents indicated no immediate or long-term impact was likely for their businesses, 25% were unsure and only 2% surveyed expected they would have to adjust their strategic plans to deal with the uncertain economy.

**Business Changes Since Recession**

All sectors within the construction industry continue their recovery since the financial crisis, with companies making numerous adjustments to their businesses in the intervening recession. The NRCI Q3 report summarizes how business adapted during the recession. Among the strategies employed, greater selectivity regarding projects and clients tops the list, followed closely by greater use of technology for their businesses to drive productivity, stronger risk management, heightened productivity, and incorporating global geopolitical and economic conditions in decision making.

**OFCCP POSTS NEW SECTION 503 CHECKLIST TOOL**

OFCCP has posted a new interactive tool that contractors may find useful. The Checklist for Compliance with Section 503 of the Rehabilitation Act of 1973 was developed by the Department of Labor’s Office of Disability Employment Policy, in coordination with OFCCP. The Checklist is designed to help contractors assess their compliance with the affirmative action program (AAP) requirements of Section 503 by answering a series of “yes/no” questions about their company’s practices and policies.

Contractors are not required to use the Checklist, and using the Checklist does not ensure compliance with the Section 503 regulations. However, using the Checklist may help a contractor enhance its awareness of its AAP obligations and alert it to potential compliance problems that may need correction.

The Checklist for Compliance with Section 503 of the Rehabilitation Act of 1973 can be found at http://www.dol.gov/ofccp/regs/compliance/ChecklistforCompliancewithSection503_JRF_QA_508c.pdf on OFCCP’s Contractor Assessment Tools and Trackers Web page.
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ILLINOIS CONSTRUCTION COMPANIES, MANAGER FACE NEARLY $2M IN FINES FOR EXPOSING WORKERS TO KNOWN ASBESTOS HAZARDS

The following article describes an asbestos material citation. Gary Auman will provide you with a refresher on your obligations as they relate specifically to asbestos containing material. Attend the fall meeting and hear Gary’s update!

As they did the hard work of removing floor tiles, insulation and other materials at what was once an elementary school, employees of two Illinois companies were unaware that they were exposed to deadly asbestos fibers. An investigation by the U.S. Department of Labor’s Occupational Safety and Health Administration has found that Joseph Kehrer, Kehrer Brothers Construction and a Kehrer-affiliated company, D7 Roofing, which employed some of the workers, violated numerous OSHA health standards related to the dangers of asbestos.

Kehrer Brothers and Joseph Kehrer face $1,792,000 in penalties for willfully exposing at least eight workers to asbestos. OSHA inspectors determined that Kehrer and supervisors of the Albers, Illinois-based company told employees to remove asbestos-containing materials during renovation of the former Okawville school. OSHA also placed Kehrer Brothers in its Severe Violator Enforcement Program.

Many of the workers came to the U.S. to work for Kehrer under the provisions of the H-2B visa program that allows companies to hire foreign workers temporarily. The investigation also found the Kehrer management threatened some workers with termination if they spoke with OSHA inspectors. “Kehrer Brothers Construction brought non-English speaking workers to the U.S. and knowingly exposed them to asbestos,” said Dr. David Michaels, assistant secretary of labor for occupational safety and health. “Kehrer also threatened to fire his employees if they spoke with our investigators. This is outrageous, illegal behavior. We at OSHA will do everything in our power to ensure this employer stops endangering his employees.”

On Aug. 10, OSHA cited Kehrer and Kehrer Brothers for 16 egregious, nine willful and six serious violations. OSHA inspectors also found that Kehrer and the companies failed to warn employees, some of whom spoke only Spanish, of the danger — even though they were aware of the asbestos hazard. They also failed to ensure that workers used appropriate work methods and respirators, and to train them about the hazards of working around asbestos.

Asbestos exposure occurs when workers cut and sand asbestos-containing building materials, releasing asbestos fibers that can be inhaled without proper protection. Asbestos can cause lung disease and mesothelioma, a cancer of the lining of the lung or stomach that is nearly always fatal. Asbestos fibers also remain on clothing and transfer to other surfaces such as upholstery and carpets, creating a danger of secondary exposure for others.

In its citations, OSHA alleges that Kehrer and Kehrer Brothers Construction failed to:

- Provide basic personal protective equipment such as hard hats, eyewear and protective clothing.
- Create a decontamination area for employees to remove work clothing before leaving the worksite.
- Use appropriate work methods to minimize asbestos exposure, such as removing tiles intact and using wet methods to keep asbestos fibers from becoming airborne.

OSHA also cited D7 Roofing for one serious and two willful violations. The willful violations were for not training the workers or informing them about the presence of asbestos-containing material. The serious violation was for failing to conduct inspections as required by law. Proposed penalties total $147,000.

Following its investigation, OSHA made referrals to the U.S. Environmental Protection Agency and the U.S. Small Business Administration. Kehrer Brothers Construction has an extensive prior history with OSHA and has been inspected 11 times since 2007. At the time of the 2015 inspection, Kehrer Brothers Construction and D7 had workers’ compensation insurance through American Zurich Insurance Co.

The company has 15 business days from receipt of its citations and penalties to contest the findings before the independent Occupational Safety and Health Review Commission.

BOARD UNANIMOUSLY DECIDES TO DECLINE JURISDICTION IN NORTHWESTERN

In a unanimous decision, the National Labor Board declined to assert jurisdiction in the case involving Northwestern University football players who receive grant-in-aid scholarships. The Board did not determine if the players were statutory employees under the National Labor Relations Act (NLRA). Instead, the Board exercised its discretion not to assert jurisdiction and dismissed the representation petition filed by the union.

In the decision, the Board held that asserting jurisdiction would not promote labor stability due to the nature and structure of NCAA Division I Football Bowl Subdivision (FBS). By statute the Board does not have jurisdiction over state-run colleges and universities, which constitute 108 of the roughly 125 FBS teams. In addition, every school in the Big Ten, except Northwestern, is a state-run institution. As the NCAA and conference maintain substantial control over individual teams, the Board held that asserting jurisdiction over a single team would not promote stability in labor relations across the league.

This decision is narrowly focused to apply only to the players in this case and does not preclude reconsideration of this issue in the future.
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NIA’s 2015 Fall Summit and Insulation Expo USA to Be Held October 27 – 28, Near Chicago, Illinois

The National Insulation Association’s (NIA’s) Fall Summit, formerly Committee Days, will take place October 27–28, 2015, at the Donald E. Stephens Convention Center in Rosemont, Illinois, which is adjacent to O’Hare Airport and 20 minutes from downtown Chicago. As part of the 2015 Fall Summit, NIA is collaborating with Reed Exhibitions to host Insulation Expo (IEX) USA, the first North American international tradeshow for the mechanical insulation industry.

For more than a decade, NIA’s Committee Days has been a successful committee-focused event. Now, NIA is excited to announce a value-added and open format to provide even more targeted opportunities for NIA members and mechanical insulation professionals to improve their craft, develop professional networks, and grow their businesses. NIA’s Fall Summit is an annual 2-day event that includes topical speakers, open committee meetings, tailored industry sessions, and networking opportunities to develop new business relationships. NIA’s goal is to provide actionable content that companies can implement immediately to improve their businesses.

NIA’s Executive Vice President/CEO Michele Jones noted, “NIA’s Fall Summit will bring a new format that will focus on member-driven educational programming and increased business networking opportunities together with an opportunity to be with mechanical insulation end users. This is an audience that has been missing from our event programming thus far. We are excited about the collaboration with Reed Exhibitions to launch IEX USA, and by our members’ response to this new opportunity to build their businesses by reaching engineers and mechanical insulation end users. This opportunity serves our mission to increase awareness of our industry’s products and services, and we encourage all members to attend this exciting new industry event.”

At NIA’s recent 60th Annual Convention in San Antonio, Texas, NIA members discussed the new Fall Summit format at each committee meeting and provided suggestions for the event.

NIA was also pleased to have representatives from Reed Exhibitions onsite in San Antonio to share the latest information about IEX USA to Convention attendees. The IEX USA tradeshow will bring mechanical insulation product supply-chain exhibitors, such as manufacturers, distributors, fabricators, and contractors to name a few, together with mechanical insulation end-users, such as engineers, specifiers, plant managers, architects, contractors, building inspectors, and code officials representing the commercial, industrial, and manufacturing sectors. The IEX USA tradeshow will take place every other year.

For more information about exhibiting at IEX USA, please visit www.iexusa.com or contact Reed Sales Manager Mark Swagerty at mswagerty@reedexpo.com or 203-840-5847. Visit www.insulation.org/events/ for more information about NIA’s upcoming events or contact events@insulation.org.
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CALIFORNIA COURT RULINGS SEND CLEAR MESSAGE TO EMPLOYERS WHO MISCLASSIFY WORKERS AS 'INDEPENDENT CONTRACTORS'

Two recent and very significant legal victories for California workers send a strong message to employers nationwide: if you misclassify your employees, you will face the consequences.

Misclassification is a practice used by some employers to cut costs by declaring their workers to be independent contractors — ducking their obligations to pay at least the minimum wage and overtime pay, and legally required contributions to unemployment insurance and workers' compensation funds. These employers also fail to remit payroll taxes, resulting in huge losses to state treasuries, and the federal Social Security and Medicare programs.

The U.S. Department of Labor, which has made combatting worker misclassification a major focus of its enforcement efforts, has announced that federal courts have ruled against two Bay Area companies and sided with their employees after investigations revealed that the companies deliberately misclassified the workers as independent contractors to cheat them out of their wages and other critical workplace benefits.

National Consolidated Couriers Inc., based in San Leandro but with clients across the country, has agreed to a court judgment requiring it to pay $5 million in back wages and damages to more than 600 drivers it misclassified as independent contractors, having cheated them out of minimum wage and overtime pay. The judgment reveals that, during the course of the Labor Department's investigation, the employer tried to destroy records showing an employment relationship with its drivers, and had been misclassifying the workers over at least five-year period.

In another major win for workers, a federal judge ruled that drivers for Mountain View-based Stanford Yellow Taxi Cab, Inc. were also misclassified. On its website, Stanford touts it strong relationships with corporate account holders such as Google, and the Four Seasons and Rosewood hotels. In this case, the department had to file suit to stop Stanford Cab from threatening and intimidating its drivers who were cooperating with investigators, including an instance where Stanford fired a worker just days before trial to discourage his witness testimony. The court's decision allows the department to continue with litigation forcing the company to pay nearly $3 million in back wages and damages to dozens of drivers.

"Misclassification is workplace fraud, plain and simple," said U.S. Secretary of Labor Thomas E. Perez. "It hurts workers by denying them a fair day's pay for a fair day's work, and it also undermines the competitiveness of businesses that are playing by the rules. At the Labor Department, through vigilant and vigorous enforcement, we are cracking down on irresponsible employers who game the system and cheat their employees — and that's what they are: not contractors, but employees."

In both the NCCI and Stanford Cab cases, the courts rejected arguments that the drivers were independent contractors in business for themselves as their employers alleged.

In the case of Stanford Cab, the company required drivers to be on the job six days per week for 12-hour shifts but did not compensate them for all of those hours. Stanford also did not allow drivers to change their schedules or operate independently by reaching out directly to passengers. Driver also had to abide by a dress code. They were and are employees under every reasonable interpretation of the law.

Wage and Hour Division Administrator Dr. David Weil, who in July issued official guidance to employers about avoiding misclassifying workers, said that his agency takes this matter seriously.

"We are attacking this problem head on through education and outreach as evidenced by our recent guidance to the employer community," Weil said. "But make no mistake. We are also engaged in a nationwide, data-driven strategic enforcement initiative across all industries to ensure that workers are correctly classified and properly paid, and that those employers who are playing by the rules aren't operating at a competitive disadvantage to those who aren't."

Typically, the Wage and Hour Division finds misclassification in low-wage industries. And while the misclassification of an employee as an independent contractor is not in and of itself illegal under the laws the department enforces, it typically leads to violations of the minimum wage and overtime provisions under the Fair Labor Standards Act which it does enforce.

In Fiscal Year 2014, Wage and Hour Division investigations resulted in more than $79 million in back wages for more than 109,000 workers in low-wage industries such as janitorial, food service, construction, day care, hospitality and garment.

The Wage and Hour Division currently has agreements with 25 states to jointly combat misclassification. The partnerships have led to better information sharing and coordinated enforcement to ensure resources are used strategically, effectively and efficiently to protect workers.

"As these court rulings indicate, the tide is turning against those employers who misuse independent contractor status to take advantage of workers," said Regional Solicitor Janet Herold of the department's Western Region, who litigated both cases. "The courts recognize the nature of this problem and stand ready to ensure that justice is served. America's workforce deserves no less."

The Fair Labor Standards Act requires that covered, nonexempt workers be paid at least the federal minimum wage of $7.25 per hour for all hours worked, plus one and one-half times their regular rate of pay for all hours worked beyond 40 per week. Employers also must maintain accurate time and payroll records.
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