Indulge yourself in luxury at the Omni Interlocken Resort. Come prepared for some special pampering during your stay. We have reserved a block of rooms at the Omni. Our convention rate is $189 per night plus tax, single or double occupancy. It is highly suggested that you book your hotel reservations now!

Call the reservations office at 800-843-6664 and ask for the Midwest Insulation Contractors Block. Please note that we have blocked a limited number of rooms. If you wait until the last minute to reserve your room, you run the risk that our block will be filled, and the hotel will not have any additional rooms available. As we have stated in the past, if you reserve your hotel room now, you can always cancel it later, but you may not be able to reserve a room if you wait too long. We will be monitoring our block and making room adjustments accordingly. Our block of rooms will be released on May 16, 2019, but if you wait until May 16th, the block of rooms will be filled, and we may not be able to accommodate your needs.

The Board of Directors is most excited about the technical topics and speakers for the spring convention. The topics and speakers were selected to help educate and inform you on a variety of industry topics pertinent to our current business climate. We are going to have presentations that cover a wide array of topics that will help you grow your knowledge as a business professional. Our opening keynote speaker is Kelli Poole. Kel-

(Continued on page 5)
PRESIDENT’S MESSAGE

TO: THE MICA MEMBERSHIP

At my last writing, I made reference to the miserable cold and snow.

Well, it looks like now that has given way to flooding misery and loss of property and the terrible job of clean up in parts of our southern states. I would suspect that the snow melt and spring rains will soon affect the rest of our region.

I spent a week in Omaha the first week of March taking care of our youngest grandson and had the pleasure of running my son’s snow blower twice and dealing with the atrocious pot holes that the long winter has blessed Omaha with.

I have stayed in contact with numerous people in the Omaha and Fremont area, and just west of Omaha the damage to roadways, bridges and property is astounding. At one point, Waterloo, Valley and Fremont were islands and the only way people could get around was by boat.

I have a foreman that lives in central Saunders County, and the only way he could get to work was to drive 40 miles south to Lincoln then take the interstate to Omaha. This added a total of 3 to 4 hours to his normal day. It will take several years for all of the damage to be repaired. The losses to agriculture are still being added. Grain bins have been destroyed with the loss of last year’s crops, and there has been the loss of newly born calves. One hog farmer was only able to find 14 of the 600 head alive when he returned home.

It appears that the flooding is moving down stream to the Mississippi River spreading the agony south. With the snow melt yet to come in Minnesota, Wisconsin, and Michigan, it’s going to affect almost everyone in our region. Our thoughts and prayers go out to all in our MICA family, friends and neighbors.

On a lighter note, it looks like our spring meeting is lining up to be a good one. We will have a speaker on the impact to our Work Comp Insurance with 30 states legalizing medical marijuana, another speaker on the challenges of hiring the millennials for our office and field labor force, and a third speaker on fall protection and leading edge.

Kelli Poole will be our key note speaker. Kelli is an expert in wildlife conservation and management. She has worked in Tajikistan assisting their government with the management of the Marco Polo and Ibex big horn sheep. I believe she will be a very interesting and compelling speaker for all of us.

Please keep those ideas coming for future programs to your MICA Board. If you have attended a meeting with a program speaker that impressed you, please share that information with any board member or the MICA office.

I would assume that by now most of you are up to 8 or 10 flights of stairs a day and are doing your stretching when you are done. Great job to all!

Be sure to make your reservations for June in Bloomfield.

Scott Weekley, MICA President
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li Poole is an expert in wildlife species conservation and management. Her work is as varied as her travel locations. She has worked in the Pamir Mountains in Tajikistan, where she assisted in ground surveys of Marco Polo and Ibex sheep. This involved spotting and stalking animals to classify their age and sex. While in Tajikistan, she skinned and harvested trophy animals and trained young women as guides for hunting high alpine ungulates.

During her time in the Rocky Mountains of Colorado and Montana, Kelli has conducted surveys of the Gunnison Sage grouse, deer and elk for the Colorado Parks and Wildlife in Monte Vista, CO. She has set camera traps for Lynx, vaccinated prairie dogs, and collected data on Highlands Bighorn sheep herds. This work involved 6+ miles daily hikes and “four wheeling” in the mountains. One of her more memorable adventures involved an 80-mile, 6-day mountain goat surveys in the Pintler Mountains for the Montana Fish Wildlife and Parks in Butte, MT.

Kelli holds a B.S. in Fish and Wildlife Ecology and Management from Montana State University, a general biology degree from Colorado Mountain College, and a degree in Painting and Drawing from the College of Visual Arts in St. Paul, MN. When she is not outside in the mountains, her hobby is painting wildlife scenes. Kelli will share her experiences with us during her keynote presentation on, “Conservation and Management of North American Species”.

Safety in the workplace is an essential factor for all organizations. We, at MICA, continue to stress this important aspect for any successful company. One major area of safety in our industry is fall protection. Fall protection continues to be a high priority area for OSHA. Fall protection at leading edges on roofs is one aspect of fall protection that receives a lot of attention. Ms. Allison Miles, a Certified Safety Professional and Senior Loss Control Consultant for CRS Insurance Brokerage in Denver, Colorado, will address this issue and the complexities of recognizing the multiple hazards that may be encountered. She will speak to the challenges of having the correct equipment and qualified people to perform the work as it pertains to our industry.

Six years have passed since Coloradans voted to legalize recreational marijuana use, but many are still wrestling with how it impacts individuals and communities. The state’s employers face some of the toughest questions:

- Can I enforce a drug-free workplace policy that includes marijuana use?
- What if my employee is injured while under the influence of marijuana?
- Should I treat the use of medicinal marijuana differently than recreational marijuana?

These issues are not unique to Colorado. The use of medical and recreational marijuana is becoming more prevalent as more and more states pass laws legalizing its use. Operating a business and working in a state that has legalized medical and/or recreational marijuana can be challenging. The challenges are strategic in nature and affect the type of insurance coverage...
FUTURE MICA MEETING DATES

62nd Annual Spring Convention — June 17—20, 2019, Omni Interlocken Resort, Broomfield, CO.

Fall 2019 Annual Fall Business Meeting — October 16 & 17, 2019, Embassy Suites Downtown, Omaha, NE.

2020 Winter Board and Committee Meetings — January 2020, Site To be Determined.

63rd Annual Spring Convention — June 22—25, 2020, In Region. Site Under Consideration.

Fall 2020 Annual Fall Business Meeting — October 20 & 21, 2020, Downtown Omaha, NE.

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.
necessary for a business and the establishment of appropriate hiring practices. We will have a presentation that will help provide guidance for business owners who currently are, or will be, facing these workplace challenges.

Human Resource personnel and business owners are faced with the challenges of hiring young professionals into the insulation profession for craft laborer and management positions. **Ms. Robyn Kavanagh**, Director, Human Resources with PCG, leads the human capital programming and initiative development for PCG. With oversight of HR Administration, HR Compliance, Recruitment, Drug Testing and Diversity and Inclusion, she is passionate about establishing and maintaining a proud culture and driving results through a people-centric model. Robyn will discuss her firm’s approach to the many challenges of managing a cohesive workforce of new hires to seasoned employees.

**Gary Auman** will provide an update on OSHA requirements that will include a presentation on the ever changing landscape of OSHA. **Ms. Dana Vlk**, NIA President for 2019 – 2020, will give us an update on our industry activities at the national level.

We will have a **union contractor forum**, an open shop contractor forum, and an **associate member forum** all running simultaneously. This approach allows more of the members to participate in craft issues without being part of a formal committee. You will have the opportunity to interact with other MICA members with similar business concerns.

The New/Young Professionals Committee was established to give those individuals who are new to the insulation industry a forum to meet and discuss issues unique to their position in the industry. **Rudy Nigl** with L & C Insulation and a member of the Board of Directors, is serving as this year’s chairperson of the committee. This committee will meet on Monday afternoon, June 17, 2019, as part of this year’s spring convention. **If you are new to the industry; within 5 years, or under 40 years of age, you qualify for participation in this committee.**

If you are interested in participating, come to the June convention. Be sure to contact Rudy Nigl by email at rudyn@lcinsulation.com., or the MICA office at mica@micainsulation.org, and let us know of your interest and that you will be attending the June meeting.

We will recognize those companies that participated in our twelfth annual **“Best Practices in Safety” Award**. This award was established to formally recognize our member firms’ efforts in safety and safety practices. This year, we again will use the grading system that recognizes each applicant’s achievement in developing a quality safety program. On our second day of meetings, representatives of the participating firms will meet in a **roundtable discussion on safety**. They will share with us their efforts in promoting safety and establishing best practices in safety.

The Board of Directors feels that each presentation will add value to your understanding of the technical topics discussed. You will come away from the convention more informed and better prepared to successfully manage your business. It is the Board’s intent to make this convention attractive to our membership in its location, cost and program content. In this light, our registration fee has been adjusted to encourage additional member participation. The registration fee is $625.00 for the first attendee from a member company. Registration for all additional attendees from a given company is reduced to $600. The registration fee is $1,200.00 for the first member and spouse registered from a member company. Registration for all additional registered couples from a given company is reduced to $1,150.00. This year we have included a children’s registration for the **Welcome Reception and Farewell Brunch** events only. The fee is $40.00 to $80.00 per child. The Board is delighted to offer this incentive for multiple attendees from member companies. The benefit of joining an association comes from participating in association activities.

The twenty-first annual **“Mick Van Horn Memorial Golf Tournament”** is set for Tuesday afternoon, June 18, 2019, at The Omni Interlocken Golf Club. We have a lunch cookout beginning at 12:00 p.m. followed by a shotgun start at 1:00 p.m. Enjoy golf as it was meant to be played at this stunning, links-style course. The Vista nine sits atop the highest point between Denver and Boulder, delivering breathtaking views of Denver and the Front Range. Each golf cart is equipped with the GPS system. The system takes the guesswork out of the yardage, but it does not hit the ball for you. You still need to bring your swing! As you would expect, there is plenty of water on the course, so you have a great chance to win the coveted “Fish Award” that was a favorite trophy of Mick’s. The course is located only minutes from our hotel, and the hotel does provide a complimentary shuttle to the course. We still have the four-person scramble format for you to enjoy. This year’s fee is $150.00 per golfer, which includes a lunch, cart, green fees, complimentary use of practice and range area, and of course, prizes. Please read the golf registration carefully. Payment for golf must accompany the registration fee. Please complete the golf portion of the registration form as fully as possible, especially the handicap information. This is essential for us to properly match the foursomes. **You need to register for the golf tournament by May 25, 2019.**

The entire program also affords you ample time for fun and relaxation and to interact with your fellow contractors and distributors. We have the traditional opening evening Welcome Reception. This year’s reception is sponsored in part by the contributing associate members. We will feast on hors d’oeuvres, libations, and renew friendships. Our gala dinner and dance will be on Wednesday evening. This year’s gala is **cas-**
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Your cooperation in completing the pre-registration material early and making your hotel reservations early is most appreciated. Your promptness helps us to plan a better, more efficient and effective convention for you. We ask that you complete and mail your registration material along with payment to the MICA office no later than May 18, 2019. It is MICA’s policy to refund 90% of your registration fee if we are notified prior to June 1, 2019. Once we have committed to the hotel with meal guarantees, we are then obligated to pay these guarantees. We will work with you on refunds if you inform us on a timely basis. Your help and understanding on this matter is most appreciated.

Now is the time to plan for your participation at MICA’s 62nd annual spring convention. Make your hotel reservations today by calling The Omni reservation line at 800-843-6664. Please join Scott, Paula, the entire Board of Directors and fellow MICA members in Broomfield, CO, June 17 – 20, 2019, for our annual spring convention and be a part of “Healthy Workplace; Healthy People”.

### MICA SAFETY PROGRAM REVIEW AND AWARD

This article was written by Gary Auman, MICA Legal Counsel, Auman, Mahan & Furry

MICA has always understood the importance of safety on the job site. As a result of this, MICA implemented a safety award program seven years ago. The MICA Board asked me again to prepare some comments for your consideration as to the value of participating in our safety award program. If you don’t have a good plan for getting a job done, the outcome is going to be less than satisfactory. I believe, as you should that this applies to safety - good safety performance starts with a good safety program.

I titled this article as I did because this is more than a safety award program; it is a safety program review. Try to analogize having your safety program reviewed annually to other things that you do in your life to ensure that your company’s equipment operates as intended. For those of you who passed your fiftieth birthday, I am sure that you have been advised by your family physician to have an annual or bi-annual physical. Your doctor recommends this, because he is aware that as you get older you become more prone to some of the physical problems that are connected with aging. You take a physical to make sure you have an early warning of anything that needs to be addressed before it becomes a significant problem.

In your business, I would be surprised if any of you do not perform preventive maintenance on the equipment that you depend on to be successful as a contractor. In addition, you most likely perform other preventive maintenance such as tire rotation, etc., in order that you can avoid any significant problems.

Well, your safety program is also an integral part of your business. It too can deteriorate with age and lack of use. It too needs preventive maintenance to avoid catastrophic failure. When a safety program fails you, someone can get seriously injured or killed. Or, you can be confronted with an OSHA inspection and find out through the citations issued that your safety program is not what you thought it was and is not as effective as it needs to be.

You could pay hundreds or even thousands of dollars to have a safety consultant review your safety program. Through the MICA safety program review and awards opportunity, you can have portions of your safety program reviewed, and receive written comments from individuals who have a wealth of experience in dealing with safety issues. You will receive valuable feedback from the reviewing panel with regard to those aspects of your program which are in the competition, and you will receive recognition from MICA for your achievement in developing a quality safety program.

When you look at the MICA safety program review and awards opportunity, you have to agree that there is absolutely no reason why you should sit on the sidelines while other members of MICA, some of whom are your competitors, take advantage of this MICA member benefit. Take a few minutes, pull out the application, complete it, and send it in to MICA’s general counsel along with your check for $100.00 made payable to MICA. Be sure that it is received in time for the review committee to take a look at it and provide you with their valuable comments concerning the effectiveness of your safety program.

**REMEMBER — The application submittal deadline is April 16, 2019.** Your completed application form must be received by the end of the business day on April 16th. The application form is available from the MICA office. Just call or e-mail us, and we will send you a copy of the application form.
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U.S. JOB MARKET STUMBLES IN FEBRUARY, UNDERCUTTING FORECASTS

By David Reaves, Senior Economist, Dodge Data & Analytics

BEDFORD, MA - March 15, 2019 - According to the most recent report from the U.S. Bureau of Labor Statistics (BLS), non-farm payrolls added a lethargic 20,000 jobs in February, falling far below the consensus prediction. This latest release stands as a startling contrast to the robust 304,000 new jobs reported in the first month of the year. January’s remarkable growth was further revised upward to 311,000 (+7,000), as was December’s employment count (+5000). While February’s release marks the smallest monthly gain since September of 2017, which was heavily impacted by major hurricanes, the three-month average for job growth remains at a healthy 186,000. Obviously, such volatility brings a certain level of fear and trepidation to the forefront, but the overall health of the U.S. economy remains largely intact. Nevertheless, economists generally agree that 2019 will see slower growth both for jobs and the overall economy than in the prior year.

A combination of forces was at play in reducing February job growth. First off, after jaw-dropping January numbers a pullback in February was anticipated. While the size of the adjustment was underestimated, the movement was expected. Unseasonably warm weather played a role in boosting January’s employment numbers, while contrasting heavy snowfall in February played a role in the month’s low employment figure. The magnitude of the drop from January may speak to the fact that the economy is decelerating as the last year’s government stimulus fades and historically low unemployment rates continue to cause difficulty in filling open positions.

There were several positive takeaways from the report. First, the unemployment rate fell to 3.8% from 4.0% the month before. January’s unemployment rate was a result of the large number of government workers temporarily displaced during the government shutdown. As those workers returned to their jobs, February’s rate responded accordingly.

The tight labor market has led to pay increases as employers are forced to compete with one another. In February, average hourly earnings for all employees on private nonfarm payrolls rose by 11 cents to $27.66, following a 2-cent gain in January. Over the year, average hourly earnings have increased 3.4%.

Despite the steep drop off in employment gains, there was some strength evident across individual sectors. The professional/business services (+42,000), healthcare (+16,000), and wholesale trade (+11,000) sectors led the month’s meager job gains. On the other hand, manufacturing employment gains were only up 4,000 after increasing by an average of 22,000 per month in 2018. Continued weakening of the global economy and trade disputes with China likely played a role in this slowing.

The dark horse of this latest employment release was certainly the construction industry. After adding a whopping 53,000 jobs in January, the industry saw a 31,000 drop-off in February. A huge portion of this can be directly attributed to poor weather conditions. Most construction job losses came from the heavy & civil engineering category (-13,200). Heavy & civil engineering includes road building, which would clearly be derailed by inclement weather. While the weather and adjustment from a strong January are leading causes in the construction decline, the U.S. and global economies do show signs of slowing. Weaker housing starts, permits, and sales also contributed to the general uncertainty and possible slowing economic growth as we move through 2019.

PLUG-IN ELECTRIC VEHICLE MANUFACTURER CROSSES 200,000 SOLD THRESHOLD; TAX CREDIT FOR ELIGIBLE CONSUMERS BEGINS PHASE DOWN ON APR. 1

WASHINGTON – The IRS announced today that General Motors, LLC has sold more than 200,000 vehicles eligible for the plug-in electric drive motor vehicle credit during the fourth quarter of 2018. This triggers a phase out of the tax credit available for purchasers of new General Motors plug-in electric vehicles beginning Apr. 1, 2019.

Qualifying vehicles by the manufacturer are eligible for a $7,500 credit if acquired before April 1, 2019. Beginning Apr. 1, 2019, the credit will be $3,750 for General Motors’ eligible vehicles. On October 1, 2019, the credit will be reduced to $1,875 for the next two quarters. After March 31, 2020, no credit will be available.

The plug-in electric drive motor vehicle credit was enacted in the Energy Improvement and Extension Act of 2008 (Continued on page 15)
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Taxpayers who have already filed for tax year 2018 but qualify for this expanded relief may claim a refund by filing Form 843, Claim for Refund and Request for Abatement and include the statement “80% Waiver of estimated tax penalty” on Line 7. This form cannot be filed electronically.

Today’s expanded relief will help many taxpayers who owe tax when they file, including taxpayers who did not properly adjust their withholding and estimated tax payments to reflect an array of changes under the Tax Cuts and Jobs Act (TCJA), the far-reaching tax reform law enacted in December 2017.

The IRS and partner groups conducted an extensive outreach and education campaign throughout 2018 to encourage taxpayers to do a “Paycheck Checkup” to avoid a situation where some might have had too much or too little tax withheld when they file their tax returns. If a taxpayer did not submit a revised W-4 withholding form to their employer or increase their estimated tax payments, they may have not had enough tax withheld during the tax year.

Additional information
Because the U.S. tax system is pay-as-you-go, taxpayers are required, by law, to pay most of their tax obligation during the year, rather than at the end of the year. This can be done by either having tax withheld from paychecks or pension payments, or by making estimated tax payments.

Usually, a penalty applies at tax filing if too little is paid during the year. This penalty is an interest based amount approximately equivalent to the federal interest on the amount not paid in a timely manner. Normally, the penalty would not apply for 2018 if tax payments during the year met one of the following tests:

- The person’s tax payments were at least 90 percent of the tax liability for 2018 or
- The person’s tax payments were at least 100 percent of the prior year’s tax liability, in this case from 2017. However, the 100 percent threshold is increased to 110 percent if a taxpayer’s adjusted gross income is more than $150,000, or $75,000 if married and filing a separate return.

For waiver purposes only, today’s relief lowers the 90 percent threshold to 80 percent. This means that a taxpayer will not owe a penalty if they paid at least 80 percent...
WAREHOUSE STARTS INCREASE IN NUMBER AND SIZE: BIG IS IN

By Kim Kennedy, Director of Forecasting for Dodge Data & Analytics

The number and size of commercial warehouses breaking ground has soared in the current economic expansion – and the energy behind the upsurge has largely come from online shopping, or e-commerce. Retail sales via online shopping bypasses brick and mortar retail establishments but requires large and highly sophisticated distribution centers to ensure quick and reliable product deliveries. This has created a need for construction of new, larger and technologically advanced warehouses and distribution centers – making million square foot and larger warehouses a growing phenomenon in the market.

During the current economic expansion, total warehouse construction starts increased from a 2010 low of just 49 million square feet (msf) following the Great Recession to just under 300 msf in 2017. And while starts pulled back slightly to a preliminary estimate of 283 msf in 2018, the size of commercial warehouses continued to grow last year.

At the height of the last expansion in 2007, the number of groundbreakings for commercial warehouses with at least a million square feet peaked at 23 projects that had a combined square footage of 28.8 msf, or 11% of total warehouse starts. During the past two years, however, those numbers have doubled. In 2017, an unprecedented 46 warehouse projects of one million square feet or more broke ground and in 2018 that figure increased to 48. The aggregate square footage of these large projects totaled 59.0 msf in 2017 and 64.1 msf in 2018. These massive warehouses accounted for a fifth of total square footage started in 2017 and a record 23% in 2018.

Although starts from traditional brick and mortar retail companies establishing or increasing their online capabilities have been a measurable reason for the growth in warehouse starts, many of the largest warehouse starts over the past few years have come from online-only retailer, Amazon. Amazon went on a construction spree in 2017, breaking ground on at least 44 warehouse projects that added a combined 26.4 msf of new space to the warehouse market. Of these, an estimated 11 projects (a combined 11.3 msf) were a million square feet or more. In 2018, Amazon continued to be a major player in warehouse development. Amazon started fewer, but larger projects: a total of 23 projects over the year for an additional 23.5 msf. Of these, the same number as in 2017 (11) were at least a million square feet, but the total square footage added by these projects was 17.8 msf. In fact, the four largest warehouse projects breaking ground in 2018 were all Amazon distribution centers that were more than 2 msf: a 2.68 msf Project Axis Distribution Center in Garner NC, a 2.6 msf Project Rose Fulfillment Center in Spokane WA, a 2.4 msf Project Dylan Fulfillment Center in Tulsa OK, and a 2.31 msf Fulfillment Center in Bessemer AL. Without online retailer Amazon, the commercial warehouse construction market would look very different today.

Amazon’s impressive expansion becomes even more apparent when compared to construction undertaken by other notable retailers. Walmart, the nation’s largest brick and mortar retailer, broke ground on only four warehouse projects in 2017, which in aggregate accounted for just 4.7 msf. Of these projects, two were more than a million square feet including a 2.6 msf warehouse in Irving AL.

(Continued on page 20)
and a 1.3 msf warehouse in its hometown of Bentonville AR. In 2018, Walmart undertook five projects, but they were almost entirely alterations to existing buildings that added no new square footage to the market. Other than Walmart, no other retailer has broken ground on a series of warehouses since the current recovery began. The dollar stores – Dollar General (3) and Dollar Tree (4) – have each built multiple million square foot warehouses over the course of the recovery, but nothing to compare with Amazon’s spree.

In January 2019, four warehouse projects with at least a million square feet of space broke ground, a strong beginning for the year. The Dodge planning database contains a dozen or more of these projects with strong potential to start in 2019. Among them are a 3.35 msf Amazon Air Hub in Hebron KY and three Walmart distribution centers (in Shafter, CA at 1.75 msf, in Thomasville, GA at 1.55 msf, and in Plainfield, NY at 1.1 msf). While warehouse starts are likely to see modest declines this year as the construction market (and overall economy) round the cyclical peak, large projects will nevertheless remain a key part of the mix.

ROBOCALLERS, YOU’RE OUT

By Rosario Méndez, Attorney, Division of Consumer and Business Education, FTC

Most robocalls are prohibited by law, but scammers and dishonest people continue to send them. And even some legitimate companies violate peoples’ privacy rights with illegal robocalls. The FTC announced several victories in the fight against illegal robocalls.

In the first victory, the FTC announced that it stopped the operator of a series of sham charities called “Veterans of America.” That operator sent millions of robocalls to donors and collected more than half a million dollars illegally. The robocalls’ message claimed that the organization was a charity and donations were tax deductible. None of that was true. The FTC stopped him in his tracks, and now he can’t send or help others send robocalls anymore.

In the second victory, the FTC announced that three individual defendants in the case against Point Break Media agreed to a robocall ban, and a ban on helping others send robocalls. All of them were part of a scheme that sent false (and alarming) robocalls to small business owners to get their money.
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OSHA REQUESTS INFORMATION ON THE POWERED INDUSTRIAL TRUCKS STANDARD

The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) is requesting information as the Agency considers rulemaking to update the powered industrial trucks standards for general, maritime, and construction industries. The standards became effective in 1971, and were based on industry consensus standards from 1969. Since then, national consensus standards have been updated several times.

OSHA is requesting information on: the types, age, and usage of powered industrial trucks; maintenance and retrofitting; how to regulate older powered industrial trucks; types of accidents and injuries associated with operating these machines; costs and benefits of retrofitting the machines with safety features; and other components of a safety program. OSHA will use the information received in response to this request to determine what action, if any, it may take to reduce regulatory burdens and create jobs while improving worker safety.

Comments must be submitted on or before June 10, 2019. Comments and materials may be submitted electronically at http://www.regulations.gov, the Federal e-Rulemaking Portal, or by facsimile or mail. See the Federal Register notice for submission details.

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Today’s announcement also includes a double victory in the NetDotSolutions case. Three defendants who provided the autodialers used to place billions of illegal robocalls are now banned from supplying autodialers to telemarketers. In fact, those defendants provided the autodialing technology used by robocallers in at least eight prior FTC cases. They also will pay $1.35 million.

And finally, yet importantly, the FTC got a fourth victory in the Higher Goals Marketing case, where seven defendants agreed to a telemarketing ban. These defendants operated a credit card debt-relief scheme, which they started just weeks after the FTC closed a similar operation in the Life Management Services case, and where several of the defendants had previously worked.

The FTC’s work against illegal robocalls continues, and you can help by letting us know when you get an illegal robocall: www.ftc.gov/complaint.

U.S. DEPARTMENT OF LABOR SUES MASSACHUSETTS CONSTRUCTION COMPANY FOR RETALIATION FOR FACILITATING ARREST OF INJURED EMPLOYEE

The U.S. Department of Labor has filed a lawsuit against Boston, Massachusetts-based contractor Tara Construction Inc. and its chief executive officer, Pedro Pirez, alleging that they retaliated against an injured employee by facilitating his arrest.

The Department’s complaint - filed with the U.S. District Court for the District of Massachusetts on February 27, 2019 - states the employee sustained a serious injury when he fell from a ladder on March 29, 2017. He reported his injury to the defendants. The Department’s Occupational Safety and Health Administration (OSHA) made an inquiry into the employer after finding out about the employee’s fall. Reporting an injury to an employer and causing an OSHA proceeding to be instituted are protected activities under Section 11(c) of the Occupational Safety and Health Act (OSH Act), which prohibits retaliation against employees because they engage in such activities.

(Continued on page 30)
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The Department alleges that shortly after the employee engaged in protected activities, the defendants initiated a law enforcement investigation and facilitated the employee’s detainment by U.S. Immigration and Customs Enforcement. Defendant Pirez arranged for the employee to meet him at the Tara Construction office and the employee was arrested immediately after leaving the building. Although defendant Pirez testified to OSHA that he had no idea how law enforcement knew where the employee would be when he was detained, a law enforcement account indicates that Pirez told an officer present at the arrest when the employee would be at Tara Construction’s office. Pirez further advised the officer that he had no objection to the employee’s arrest there. This account is supported by text messages and records of approximately 14 telephone calls between defendant Pirez and law enforcement in the days surrounding the arrest. An investigation by OSHA’s Whistleblower Protection Program concluded that the defendants’ actions constituted retaliation against the employee for protected activity under the OSH Act and would dissuade a reasonable worker from reporting an injury.

“Employees must be able to report injuries and unsafe workplaces without fear that their employers will retaliate,” said OSHA Regional Administrator Galen Blanton. “OSHA enforces the law to protect all employees and level the playing field for law-abiding employers.”

“The OSH Act prohibits retaliation against employees for exercising their workplace rights, regardless of the employees’ immigration status,” said Regional Solicitor of Labor Maia Fisher. “This case demonstrates that through legal action the Department promotes safe and healthful workplaces free from unlawful retaliation.”

The Department’s suit asks the court to order the defendants to comply with the OSH Act’s anti-retaliation provisions, and pay the employee back wages, interest, and compensatory and punitive damages. It also seeks an order requiring that Tara Construction provide a neutral letter of reference, expunge from their files any information regarding the adverse action against the employee in this case, and notify employees of their whistleblower rights under the OSH Act. The Department’s Office of the Solicitor in Boston is litigating the case.

OSHA enforces the whistleblower provisions of 22 statutes protecting employees who report violations of various airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, motor vehicle safety, healthcare reform, nuclear, pipeline, public transportation agency, railroad, maritime, and securities laws. For more information on whistleblower protections, visit OSHA’s Whistleblower Protection Programs webpage.
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