The Executive Committee of MICA is scheduled to meet on August 10, 2013, at the Eagle Ridge Resort and Spa, in Galena, Illinois. Eagle Ridge is the site of our 2014 annual spring convention of MICA. The Executive Committee and Board members will be attending this meeting and will be promoting the property at our fall business meeting. If you have never been to Eagle Ridge, you will find the resort to be most relaxing and picturesque. The property is located on 6,800 wooded, rolling acres in the northwest corner of Illinois just six miles from the historic town of Galena.

President Ben Pfister has invited the Board of Directors and his Executive Committee to attend the meeting so that they can plan the fall business meeting of MICA. This year, the Board has approved a pre-meeting educational seminar in conjunction with the fall business meeting. The Board will finalize the agenda for this seminar. There is no charge to attend the seminar but space is limited. Be sure to register early for the seminar.

The Board and Executive Committee will have several items to discuss. The main purpose of the meeting is to set the budget and technical program for the annual fall business meeting of MICA. This year’s fall business meeting is scheduled for October 16 & 17, 2013, at the Embassy Suites Downtown Omaha. The venue was well accepted by the members, and we have renewed our contract with the Embassy Suites for two more years. The room rate for this year is $154 per night, single or double occupancy.

The Board will be reviewing several technical topics for presentations but is open to suggestions from the general membership. If you have a topic that you feel would be of interest to the membership, please contact President Pfister or the MICA office. Ben can be reached at 316-264-2363. Ben is open to your suggestions and input, so please call him with your ideas. He will be delighted to visit with you!

For the past four years, we have held a table top display show for our associate members during our fall business meeting. The displays have been very well received by both the contractors and associate members. During their spring meeting, the associate members discussed ways to improve the table top show. These suggestions will be reviewed by the Board and Executive Committee at the planning meeting. We will keep you informed of the Board’s decision on the format for the mini tabletop trade show for this fall’s business meeting. This year the manufacturer member firms will participate in the tabletop show.

The Executive Committee has several items of business to conduct in addition to setting the technical program for the fall business meeting. President Pfister will have the Committee review ongoing operating policies of MICA and review the budget summary from the spring convention. We will share the fall business program with you next month.
PRESIDENT’S MESSAGE

TO: THE MICA MEMBERSHIP

HELLO MICA FAMILY!

By the time you read this, we’ll be in the middle of the hottest part of the summer. In Wichita, we play the game “how many days will it be above 100 degrees?” In 2011, we had 53 days above 100 and in 2012, only 36. Unfortunately, in this game everyone loses! During the MICA meeting in June, Gary Auman talked at length about protecting workers from heat related illness. If you haven’t already, now is definitely the time to implement an enhanced program to protect your field employees! Gary addressed several new requirements that have come into play over the last year. If you didn’t get to hear Gary speak at the Safety Round Table discussion or the general session about this topic, please consult your local safety council or visit OSHA’s site at https://www.osha.gov/SLTC/heatillness/. And yes, there’s even an app for that.

Does your crew have access to cool, clean drinking water? Have you trained them on how much they should be drinking per hour? Have you made shade available to them for rest breaks? Have you trained them on how to identify the symptoms of heat illness? Have you provided them NOAA’s heat index chart so they can determine when the heat index is in the danger zone? Want to really stir the pot? Ban energy drinks; the caffeine and other “nutrients” act as diuretics and accelerate dehydration. There’s always plenty to learn from the MICA meetings.

I’ve asked the Executive Committee and the Board of Directors to meet in early August at Eagle Ridge Resort (site of the 2014 Spring Convention) to organize and plan our Fall Business Meeting. I welcome your thoughts and ideas for topics. MICA goes to great lengths to ensure that every member of MICA learns something new. We had some great ideas and preliminary discussions at the spring meeting, and I’m confident you’ll want to attend. Please continue to read the MICA Messenger and check the website for details in the coming months.

I’m not going to pretend to be an expert or even a mediocre writer, so I want to leave you with a quote from John Maxwell, who “IS” an expert author and speaker on Business Management and leadership. This quote reminds us to stay agile, open to change, and not to get too comfortable:

“Most people want their lives to keep improving, yet they value peace and stability at the same time. People often forget that you can’t improve and still stay the same. Growth means change. Change requires challenging the status quo. If you want greater possibilities, you can’t settle for what you have now…. Achievers refuse to accept the status quo.” - John C. Maxwell.

Thank you for reading,

Ben Pfister
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ANNUAL PUT-IN-PLACE CONSTRUCTION PREDICTIONS SHRINK TO $913 BILLION

FMI (www.fminet.com), the leading provider of management consulting and investment banking to the engineering and construction industry, releases today its Q2-2013 Construction Outlook. The strength of individual markets is shifting, reducing annual Construction-Put-In-Place predictions to $913 billion, a 7% growth from 2012. This is down nearly $6 billion from the $918,897 million, 8% growth estimated in the Q1’s Outlook. However, FMI does expect growth to return to 8% growth in 2014 with annual CPIP reaching $989 billion.

The major markets adjusted downward with lower expected growth are:

Residential Construction (-1.8%) — FMI continues to forecast a 23% increase in construction put in place for single-family housing. However, multifamily housing has dropped from a strong increase of 42% in 2012 to a current 31% increase for 2013.

Commercial Construction (-0.8%) — The current forecast calls for about a 1% drop in commercial construction from the Q1 forecast. However, this still represents a modest increase of 6%, to $49.8 billion for 2013. One of the contributing factors is that sales for retail and food service businesses is slower than initially anticipated.

Healthcare (-3.15%) — Contributing factors for the decrease include hospital beds per 1,000 people trending downward and shorter patient stays.

Amusement and Recreation (-2.0%) — Given the belt-tightening attitude across the country right now, it will likely be much more difficult to get funding from taxes and municipalities to build new stadiums in the near future.

Sewage and Water Disposal (-3.8%) — Construction for sewage and waste disposal was off 2% in 2012. FMI forecasts another 2% drop in 2013. The ability to fund necessary water infrastructure improvements is central to the decline as many municipal water systems still depend on the tax base for funding.

Water Supply (-3.2%) — Construction for water supply projects will drop 1% in 2013 after dropping 7% in 2012. On the bright side, in March the Senate Environmental and Public Works Committee unanimously approved a Water Resources Development Act, including

(Continued on page 7)
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a measure to create the Water Infrastructure Finance and Innovation Act. WIFIA would provide $50 million per year from 2014 to 2018 to help fund large-scale water infrastructure projects.

While there is no singular reason for the drop in these markets—each is evaluated on its own criteria—there are a few economic concerns that touch all of them.

- The decline in public construction.
- Expectations of more cuts as the sequestration continues.
- Tight lending criteria.
- Consumers cautious about increasing their debt load.

This economic climate will keep the heat on A/E/C industry competition, especially if companies that make their livelihood in government construction start looking for work in the already competitive private sectors.

**MSHA ANNOUNCES RESULTS OF JUNE IMPACT INSPECTIONS**

The U.S. Department of Labor's Mine Safety and Health Administration today announced that federal inspectors issued 157 citations, 10 orders and one safeguard during special impact inspections conducted at nine coal mines and four metal/nonmetal mines last month.

The monthly inspections, which began in April 2010 following the explosion at the Upper Big Branch Mine, involve mines that merit increased agency attention and enforcement because of their poor compliance history or particular compliance concerns. These matters include high numbers of violations or closure orders; frequent hazard complaints or hotline calls; plan compliance issues; inadequate workplace examinations; a high number of accidents, injuries or illnesses; fatalities; adverse conditions such as increased methane liberation, faulty roof conditions and inadequate ventilation, and respirable dust.

"After Upper Big Branch, we undertook an aggressive strategy to compel mine operators to take responsibility for the safety and health of their workers," said Joseph A. Main, assistant secretary of labor for mine safety and health. "The data we've collected from our impact inspection program, which strategically targets problem mines, shows compliance is improving and that we continue to move the mine safety needle in the right direc-
From April 2010 through June 2013, total violations (per 100 on-site inspection hours) decreased 18 percent in coal mines and 18 percent in metal/nonmetal mines; significant and substantial violations decreased 23 percent in coal mines and 37 percent in metal/nonmetal mines; unwarrantable failure violations decreased 45 percent in coal mines and 65 percent in metal/nonmetal mines, and operator-reported lost-time injuries per 200,000 hours worked decreased 9 percent in coal mines and 26 percent in metal/nonmetal mines.

"These impact inspections are a critical part of MSHA's enforcement efforts to make sure mine operators take seriously their legal obligation to ensure that miners go home safe and healthy at the end of their shift," added Main. "MSHA will continue this increased scrutiny at mines that warrant it, which is adding to the safety progress we are making in the mining community."

Since April 2010, MSHA has conducted 629 impact inspections and issued 10,640 citations, 980 orders and 45 safeguards.

U.S. DEPARTMENT OF LABOR ANNOUNCES AVAILABILITY OF FUNDS TO IMPROVE PERFORMANCE AND REDUCE IMPROPER PAYMENTS IN THE UNEMPLOYMENT INSURANCE PROGRAM

The U.S. Department of Labor announced the availability of funds for states to improve program integrity, performance, and technology infrastructure systems for the Unemployment Insurance program. The grants are intended to accelerate actions to reduce UI improper payment rates; provide an opportunity for modernizing UI tax and benefits systems, and enable the design of technology-based tools to prevent, detect and recover improper UI payments.

"The unemployment insurance program is a lifeline to people who have lost a job through no fault of their own," said Eric Seleznow, acting assistant secretary of labor for employment and training. "We have a responsibility to ensure this program is run efficiently and effectively so that this critical safety net continues to be available in the future."
In Fiscal Year 2011, ETA provided $192 million in supplemental grant awards to 42 states for integrity activities. In FY 2012, a total of $169 million in supplemental grant awards was provided to 33 states for the prevention, detection, and recovery of improper UI benefit payments. The FY 2013 funding provides an opportunity for states to go beyond improper payments to focus on additional UI technology system improvements, data exchange enhancements for UI for Ex-military Service members, and integration of state UI, Employment Service, and Workforce Investment Act IT systems.

In order to qualify for FY2013 funding, states must implement or commit to implement a set of core integrity strategies. The core strategies include a business process analysis for state workforce agencies with improper payment rates above 10 percent and for agencies identified for poor performance concerning first payment and appeals timeliness; the implementation or expansion of the State Information Data Exchange System; the implementation of a state-specific prevention strategy for reducing improper payments; and a commitment to maintaining a state integrity cross-functional task force.

In addition, states committing to implement all of the core activities, or have already implemented the core activities, will be eligible to apply for technology infrastructure project funding. These funds will be used to modify and/or develop one of the core UI benefits or tax and benefit system designs; design additional core UI tax and/or benefit systems using open source components that are exportable to other states; and implement technology-based tools designed to prevent, detect or collect/recover improper UI payments.


Remember, as a MICA member, you are entitled to the member discount when purchasing the electronic version or hard copy of the manual. Just go to the “members only” portion of the MICA website (www.micainsulation.org) to get your discount code. Using the code, you will get a $25 savings off the hard copy (regular price $125) and $40 off on the electronic version (regular price $195). The annual subscription renewal fee on the electronic version is $50.
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FUTURE MICA MEETING DATES

Fall 2013 Annual Fall Business Meeting — October 16 & 17, 2013, Embassy Suites Downtown, Omaha, NE.

57th Annual Spring Convention — June, 16 — 19, 2014, Eagle Ridge Resort, Galena, Illinois. [Please note that the convention will begin on the Monday after Father’s Day. This slight change in the schedule is the direct result of member feedback to the Board].

Fall 2014 Annual Fall Business Meeting — October 22 & 23, 2014, Embassy Suites Downtown, Omaha, NE.

58th Annual Spring Convention — June, 2015, Under Consideration. Send your suggestions to the MICA office.

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.
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FMI RELEASES A STUDY ON THE EFFECTIVENESS OF INCENTIVE COMPENSATION

FMI, a leading provider of management consulting and investment banking to the engineering and construction industry, announces the release of its 2013 study on the effectiveness of incentive compensation in the U.S. construction industry. The report is based on the survey results from 224 top executives.

Of those studied, 88 percent of the companies are offering incentive plans. However, only 21 percent of those offering the plans consider them to be working "very effectively." To help answer why, the study looked at the seven critical issues providing best practices for each.

Discretionary vs. Structured
The executives of companies offering structured plans state that having a structured incentive plan is not only more fair to their participants, but also easier to administer if the incentives are awarded on results of data the company readily tracks and makes available for their employees.

Arbitrary Pay vs. Market Value
The compelling reason to use market data is to ensure that the incentives are competitive and meaningful for the participants, while the company can budget for the potential incentive payout, given certain levels of performance above and below target goals.

Balanced Design Based on What Is Strategically Important
Allocate a portion of the incentive to the overall success of the company while another portion of an employee's incentive depends on the individual's achievement of predetermined goals.

Top-down versus Bottom-up Funding Mechanism
Companies using a bottom-up approach establish a fail-safe mechanism to ensure that the owners receive a certain return on their equity before incentives begin to pay out.

Employee Empowerment
Involvement begets commitment. Providing an incentive opportunity to your employees will help them focus on what is important and support their commitment to company success that the vast majority of respondents desire.
Communication and Transparency
If a company does not provide consistent updates, participants will have pre-determined conclusions. A quarterly progress update, along with informal individual performance feedback, not only minimizes potential surprises, but also helps management develop and grow its direct reports.

Clear and Measurable Stretch Goals/Objectives
Establish stretch goals. By stretch goals we mean goals that are more than our best past performance, but not unattainable. Achievement of the target goals (stretch goals) denotes 100% payout of the target incentive opportunity.

INSULATION IS FEATURED TOPIC AT CONGRESSIONAL HEARING

The following article is taken from the “Insulation Advocate” which is an open letter to the NIA membership written by the NIA’s Executive Vice-President, Michele Jones.

The momentum of the past few months has continued forward, and there have been a number of exciting developments in June. In the first weeks of June, NIA launched a far-reaching grassroots effort, asking our members to encourage their Congressional Representatives to support the Mechanical Insulation Installation Incentive Act of 2013, or H.R. 184. In under a month, more than 100 letters have gone to members’ Representatives urging them to lend their support to this crucial legislation by becoming cosponsors, and also asking them to join the High-Performance Building Caucus. Though we are pleased with the response, we need more Representatives to hear from different companies and members in their districts before the August recess. Visit www.insulation.org for more information on the grassroots effort, instructions on how to contact your Representative, and sample letters.

On June 27, NIA Past President Ron King testified before a joint hearing of the Subcommittee on Oversight and the Subcommittee on Energy; both committees are under the Science, Space, and Technology Committee. The hearing, "Green Buildings: An Evaluation of Energy Savings Performance Contracts" focused on assessing the usefulness and impact of Energy Service Performance Contracts (ESPC). An ESPC is an agreement between a Federal agency and an energy service company (ESCO), allowing the ESCO to implement an energy savings project and guarantees that the improvements they recommend will save enough money in energy costs to pay for the project.

Also testifying were Dr. Kathleen Hogan, Deputy Assistant Secretary for Energy Efficiency, U.S. Department of Energy; Dr. Woodrow Whitlow, Jr., Associate Administrator, Mission Support Directorate, National Aeronautics and Space Administration; and Jennifer Schafer, Executive Director, Federal Performance Contracting Coalition.

After hearing about the benefits of mechanical insulation, Paul Broun (R-GA), Chairman of the Subcommittee on Oversight, asserted "I hope our government will start looking more at insulation as a process." Representative Dan Lipinski (D-IL), concurred saying that mechanical insulation "could be very helpful for manufacturers and industries who are trying to boost their competitiveness." We hope to capitalize on this momentum to leverage increased support for our legislative initiatives and express how insulation can be the solution to energy, financial, and environmental concerns. The opening statements of the witnesses, Subcommittee Chairs, and a video of the hearing are available at http://tinyurl.com/ot6denj. Watch your inboxes for a press release with more details on this hearing.

Working in concert with our legislative partners on Capitol Hill, NIA also successfully included insulation language in the Federal Agriculture Reform and Risk Management Act of 2013, commonly known as the Farm Bill. Representative Michael Grimm (R-NY), the sponsor of the Mechanical Insulation Installation Incentive Act in the House, was able to include amendments asking the Department of Agriculture to submit to a cost analysis of how much money they could save through the use of insulation. The Farm Bill passed in the Senate and was expected to pass in the House of Representatives; it failed to get the votes needed. Though the bill did not pass, we are encouraged by the fact that we were able to successfully include insulation language in this legislation.

In other news, Certified Insulation Energy Appraisers are now eligible to receive credit for a math or science elective toward a seminar or capstone at Thomas Edison State College; this credit may also be transferable to other colleges. Thomas Edison State College has a long history as a national leader in the assessment and evaluation of professional education and training programs. The credentialing review was funded by an energy-related training grant awarded to the New Jersey State Energy Sector Partnership (SESP) Council and overseen by the New Jersey Department of Labor and Workforce Development and the New Jersey Pathways Leading Apprentices to a College Education (PLACE). The SESP Council provided the funding for IEAP credentialing as part of its focus.
on energy efficiency and renewable energy industry training. For more details on becoming a Certified Insulation Energy Appraiser visit http://www.insulation.org/training/.

NIA is excited to be such a prominent part of energy efficiency discussions on Capitol Hill, and we hope that our combined efforts will yield concrete benefits to our members and the industry. We will continue to represent your interests, but there is no substitute for direct action. Now is the time to get involved! Write, call, and email your Representatives! Make sure they understand how important it is to support their constituents and together, we can show our leaders that insulation is a tremendous resource with unparalleled potential to address concerns about energy efficiency, environmental impact, and the economy.

Regards,
Michele M. Jones
Executive Vice President/Chief Executive Officer

DEPARTMENT OF ENERGY RELEASES NEW REPORT ON ENERGY SECTOR VULNERABILITIES

The U.S. Department of Energy released a new report which assesses how America’s critical energy and electricity infrastructure is vulnerable to the impacts of climate change. Historically high temperatures in recent years have been accompanied by droughts and extreme heat waves, more wildfires than usual, and several intense storms that caused power and fuel disruptions for millions of people. These trends are expected to continue, which could further impact energy systems critical to the nation’s economy.

The U.S. Energy Sector Vulnerabilities to Climate Change and Extreme Weather report, which builds on President Obama’s Climate Action Plan, notes that annual temperatures across the United States have increased by about 1.5°F over the last century. In fact, 2012 was both the warmest year on record in the contiguous United States and saw the hottest month since the country started keeping records in 1895. The implications for America’s energy infrastructure include:

- Increased risk of temporary partial or full shutdowns at thermoelectric (coal, natural gas, and nuclear) power plants because of decreased water availability for cooling and higher ambient and air water tempera-

(Continued on page 17)
Thermoelectric power plants require water cooling in order to operate. A study of coal plants, for example, found that roughly 60 percent of the current fleet is located in areas of water stress.

- Reduced power generation from hydroelectric power plants in some regions and seasons due to drought and declining snowpack. For example, earlier spring snowmelts could decrease summer water availability leading to potential hydropower shortages when energy demand for cooling is greatest.

- Risks to energy infrastructure located along the coast from sea level rise, increasing intensity of storms, and higher storm surge and flooding -- potentially disrupting oil and gas production, refining, and distribution, as well as electricity generation and distribution.

- Increasing risks of physical damage to power lines, transformers and electricity distribution systems from hurricanes, storms and wildfires that are growing more intense and more frequent.

- Increased risks of disruption and delay to fuel transport by rail and barge during more frequent periods of drought and flooding that affect water levels in rivers and ports.

- Higher air conditioning costs and risks of blackouts and brownouts in some regions if the capacity of existing power plants does not keep pace with the growth in peak electricity demand due to increasing temperatures and heat waves. An Argonne National Laboratory study found that higher peak electricity demand as a result of climate change related temperature increases will require an additional 34 GW of new power generation capacity in the western United States alone by 2050, costing consumers $45 billion. This is roughly equivalent to more than 100 new power plants, and doesn’t include new power plants that will be needed to accommodate growth in population or other factors.

In addition to identifying critical areas at risk from climate change and extreme weather, the report also identifies activities already underway to address these challenges, and discusses potential opportunities to make the energy sector more resilient. Potential future opportunities for federal, state, and local governments could include innovative policies that broaden the suite of available climate-resilient energy technologies and encourage their deployment, improved data collection and models to better inform researchers and lawmakers of energy sector vulnerabilities and response opportunities, and enhanced stakeholder engagement. These activities will increase the re-
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ASA TO SUPPORT SUBCONTRACTOR IN U.S. SUPREME COURT CASE THAT WILL DECIDE WHETHER SUBS CAN BE FORCED TO RESOLVE CLAIMS IN FAR OFF JURISDICTIONS

The American Subcontractors Association will urge the U.S. Supreme Court to affirm an appeals court’s decision in a case concerning whether construction disputes should be resolved in a local forum or, instead, subcontractors can be forced to take their claims to a far off jurisdiction.

ASA will file an amicus curiae brief in Atlantic Marine Constr. Co. v. J-Crew Management, Inc., supporting the subcontractor, J-Crew, in a case in which the country’s highest court will determine whether federal courts are required to enforce contractual forum-selection clauses or whether judges have the right to consider other factors, such as the overall convenience of the parties and witnesses and the interests of justice when deciding if venue is proper.

In the construction industry, out-of-state general contractors commonly require their subcontractors to sign forum-selection and choice of law clauses, arguing that it’s more convenient and less expensive for them to resolve disputes in a jurisdiction of their choice.

“The general contractor’s expediency comes at the detriment of its subcontractors, whose places of business, records, and personnel generally are close to the location of the construction project,” said ASA Chief Advocacy Officer E. Colette Nelson. “Forum-selection clauses can chill a subcontractor’s ability to recover claims by imposing significant and unnecessary impediments and financial costs to the recovery of amounts due.”

If the Supreme Court were to require strict enforcement of such clauses, it would undermine subcontractors’ ability to point to state law voiding or making voidable forum-selection clauses in construction contracts that mandate litigation or arbitration in a state other than the state where the project is located.

“Twenty-two states have enacted laws that void, or make voidable, forum-selection clauses in construction contracts that attempt to require litigation outside the state where the work was performed,” Nelson noted.

In the underlying case, the general contractor, Atlantic Marine, hired J-Crew as a subcontractor to work on a construction project to build a child care facility at a military base in Fort Hood, Texas. The subcontract contained a forum-selection clause requiring that all disputes “shall be litigated in the Circuit Court for the City of Norfolk, Virginia, or the United States District Court for the Eastern District of Virginia, Norfolk division.”

J-Crew subcontracted much of its work to predominantly local subcontractors and suppliers, almost all of which were located in the Western District of Texas in or around Killeen, Texas, and near the project. All of the subcontract work was performed in Texas. When the project was completed, almost $160,000 remained unpaid to J-Crew, even though it had timely completed its work.

J-Crew ignored the forum-selection clause and sued in Texas, in the federal district where the project was located. Atlantic Marine moved to dismiss or transfer the case to federal court in the Eastern District of Virginia, relying on the forum-selection clause in the subcontract. J-Crew argued that the U.S. Code provides that if a lawsuit is filed in a proper venue, the court may transfer it to another venue “for the convenience of the parties and witnesses, in the interest of justice.” J-Crew asserted that the trial court had to consider interests of justice and the convenience of the parties and witnesses when resolving disputes over venue, and cited case law that courts must weigh in the decision to transfer “according to the individualized, case-by-case consideration for convenience and fairness.”

In this case, the project, the subcontractor, the subcontractor’s office, project records, personnel, and all of the second-tier subcontractors and non-party witnesses who performed the work were located in Texas. J-Crew argued that convenience and fairness supported litigation in Texas instead of Virginia. In addition, there were at least seven non-party witnesses who were beyond the subpoena power of the Virginia Court and could not be compelled to testify in Virginia. Moreover, because project records were in Texas, there were costs and efficiencies from having discovery in the state where the project and principal witnesses were located.

Finally, J-Crew argued that litigating the dispute in the Western District of Texas was important from a policy standpoint, citing Texas law making voidable any forum-selection clause in a construction contract that provided for venue outside of the state.

The trial court agreed with J-Crew and refused to dismiss the case or transfer venue to Virginia. Atlantic Marine called on the 5th Circuit Court of Appeals to enforce the forum-selection clause, but the appeals court agreed with the trial court’s reasoning. Atlantic Marine appealed to the U.S. Supreme Court, which has granted review.

ASA has retained Kegler, Brown, Hill & Ritter, Columbus, Ohio, to prepare its brief. Firm attorneys Don Gregory and Eric Travers will lead the effort.
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