

Blueprint[®]

Commonwealth Contractors Group Self-Insurance Association • Vol. 4 • No. 3 • December 2002



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From The Trenches

Sara Cline, Board Member
Commonwealth Contractors
Group Self-Insurance Association
Vice President - G. L. Cline & Sons, Inc.

Our company, G. L. Cline & Son, was started by my father-in-law in 1950. We are very proud to have been in this unforgiving business for 52 years. We are a small general contractor who through the years has built everything from churches, small shopping centers, banks, convenience stores and residences.

We had the opportunity and elected to join Commonwealth Contractors in 1988. We have been very pleased with this decision. Since joining CCGSIA we have received numerous, substantial premium refunds through their dividend distributions.

I would like to discuss briefly the subject of payroll audits. My experience over the last twenty-five years, which is how long I have been in the office, has been that if you have everything ready for the auditor when he or she gets to your office, it is much less painful. Taking the time to prepare for the auditor's visit will be beneficial and, in the



long run, save you and the auditor time. I suggest that you pay particular attention to insurance certificates, 941's and your state unemployment reports. I also make the effort to recap the earnings of each employee for the time period requested, breaking out overtime and regular time along with the classification of each employee. Don't forget, you get a 33% reduction of overtime versus regular time.

On another subject, Commonwealth Contractors has an excellent web site (www.ccgisia.com). Perhaps you need topics for safety meetings. Links are available for that and they also have links to Virginia Workers Compensation Commission, Bureau of Insurance, OSHA, various insurance agencies and A.M. Best.

Finally, I would like to say I am very proud to serve on this board. We have some very responsible and forward looking individuals on the board. ■

Welcome New Members

Since the April 1 start of Commonwealth Contractors' new plan (policy) year, we are pleased to welcome 217 new members generating over \$3.4 million in pro-rata premium. The addition of these new members brings our total membership to 1031 as of October 31, 2002.

The 217 new members are categorized as:

- Carpentry Contractors = 49
- Roofing Contractors = 28
- General Contractors = 18
- Miscellaneous Contractors = 122



Workers' Compensation Claims – Additional Defenses

William K. Willis

Executive Vice President - Landin, Inc.

In this issue of the *Blueprint* we will continue to explore the compensability defenses noted in Section 65.2-306 of the Virginia Workers' Compensation Act, i.e., that portion of the statute which addresses "when compensation not allowed for injury or death." In part one of our review we looked at the "willful misconduct" and "self-inflicted injuries" defenses, and in this issue we will look at two more defenses, those being the "employee's attempt to injure another" and the "employee's intoxication", both valid defenses to a workers' compensation claim.

The first defense we will look at is the "employee's attempt to injure another." Over the years we have received claims in which employees have attacked fellow employees, as well as management, with knives, 2 x 4's, nail guns, bricks and even a vehicle. More often than not, however, it is with the fist or the foot. In almost all of these instances they were not covered claims as they did not arise out of the employment – they merely occurred while in the course of the employment. You will recall from



previous issues of the *Blueprint* that for an injury to be compensable it must both "arise out of and in the course of the employment." Of course, if an employee just happens to be an innocent by-stander and is injured as the result of a melee

between fellow employees then that employee could be covered for any injuries received. Additionally, management or supervisory personnel who are attacked could be covered if the employee was the aggressor and the attack was job related. Also keep in mind that if employees are engaged in "horseplay" that is condoned by management, there is a very good likelihood the Commission would hold the employer responsible for any injuries received.

In regard to the defense of "the employee's intoxication", this may well sound like a no-brainer; however, there are examples of employees "under the influence" being injured and receiving benefits. Citing from case law, "Code 65.2-306 provides that compensation may not be awarded for an employee's injury that was caused by his intoxication. The party asserting this defense bears the burden of proof, but a rebuttable presumption arises that the employee was intoxicated at the time of his injury, if a positive test result is

presented from a certified laboratory. However, the employer must prove by a preponderance of the evidence that the employee's intoxication caused the injury. The mere fact that a laboratory result showed the presence of alcohol in the claimant's body does not prove causation. In order for intoxication to preclude receipt of workers' compensation benefits, it is necessary to establish that the injury would not have occurred but for the intoxication."

To summarize these two defenses, it would be fair to say that management should not condone horseplay on the job, and management should do whatever is possible to prevent violence in the workplace. Additionally, keep in mind that a positive post accident alcohol or drug test may be used in the defense of a claim, and the Commonwealth Contractors Group strongly recommends that your company have a post accident testing policy in place.

In the next issue of the *Blueprint* we will continue our review of this section of the Act when we discuss "the employee's willful failure or refusal to use a safety appliance or to perform a duty required by statute" defenses, i.e., safety harnesses, hard hats, steel toe shoes, eye protection, seat belts, etc. In the meantime please feel free to contact me should you have questions regarding any workers' compensation issues. ■

Free Drug Testing for Members!

Robyn I. Cagle

Director of Marketing and Sales - Trident National Corporation

The Drug Free Workplace Program (DFWP) provides financial and technical assistance, training, testing services, and treatment assistance for employees. This program is available through Trident National Corporation at no cost for up to six months*.

Businesses who took advantage of the SBA program last year have been very pleased with the results. Here are some comments from the program participants:

"work performance, attention to detail, and general safety awareness have improved"... "In addition, [we] are attracting higher quality applicants..."

"in the first quarter of 2001...39 [of our employees] were new. Only 13% of them completed 90 days. Thus far [in 2002] 32% have made it to 90 days and we are very excited."

"We have noticed a considerable decline in job-related accidents and Workers' Compensation claims. In addition, the

pre-employment testing has allowed us to avoid any potential 'problem employees' and guarantee our customers an adequate and responsible workforce."

There are additional compelling reasons to consider becoming a Drug Free Workplace. For example, in Virginia, through Commonwealth Contractors, you will get a 5% discount on your Workers' Compensation Premium. Preliminary results from our first year

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Financial Strength – Still Outstanding

Stan Adams

President – Self-Insured Concepts, Inc.

Commonwealth Contractors continues its excellent financial position as we progress through our Plan Year that started April 1, 2002. For the six months ended September 30, 2002, pre-tax earnings amounted to over \$5 million thus bringing our accumulated Members' Surplus to the current level of over \$16 million. This current level of surplus is the highest in the history of the Association. The unaudited condensed Statement of Condition of Commonwealth Contractors Group Self-Insurance Association as of September 30, 2002 is to the right:

The current "hard" market in Virginia for workers' compensation insurance has created significant member growth for Commonwealth Contractors Group Self-Insurance Association since April 1, 2002. During this period we have enrolled 217 new members in the Group representing additional premium of \$3,404,711 bringing our total membership to 1031. Earned premiums for this plan year are projected to be over \$21,000,000 for the first time in the

history of the Group with pro-rata premiums of approximately \$20,450,000 on the books as of October 31, 2002. This premium level represents a 33% increase over the previous plan year.

Investment earnings remain strong despite unfavorable market conditions

with earnings for the first six months of \$559,886 derived from funds invested through Trusco Capital Management. At September 30, 2002, Commonwealth Contractors had in excess of \$30,400,000 invested at Trusco. ■

Statement of Condition

As of September 30, 2002

Cash and Investments	\$29,622,938
Board Discretionary Fund	1,541,681
Receivable From Reinsurers	5,202,500
Other Assets	1,347,328
Total Assets	\$37,714,447
Claims Reserves	\$21,312,595
Dividends Payable	95,685
Other Liabilities	264,544
Total Liabilities	\$21,672,824
Members' Surplus	\$16,041,623

Safety Meeting

Bob Sasser

Senior Loss Control Representative – Landin, Inc.

The following is a safety talk from www.Toolboxtopics.com. Landin's Loss Prevention Representatives have been recommending this Website to CCGSIA members as a source of information for safety meeting topics. Remember, many of these safety meetings are also available in Spanish.

HOLIDAY FUN, HOLIDAY STRESS, HOLIDAY ACCIDENTS

All year long you've heard messages that remind you to "work safely...don't take short-cuts... prevent accidents...." To do this, of course, you have to keep your mind on your work. But this time of the year, your mind

may be everywhere else but on your work. You may be thinking....

- What will I buy everyone for Christmas-I hate shopping!
- How will I pay for Christmas-it costs a fortune!
- Traffic is so bad I'm a wreck every time I get where I'm going.
- My relatives and their kids are going to be here for a whole week- lord help me!
- My kids' energy levels and voice levels have quadrupled- give me peace!
- If I hear Alvin & The Chipmunks one more time, I'll smash the radio!

The holidays are a wonderful time for some people and a dreadful time for others. For many, it's a mixture. The experts tell us that even happy, excit-

ing events are stressful to our minds and our bodies.

- Normal routines and schedules are disrupted, which can feel uncomfortable.
- With so much to do, there's a lot of rushing around to get it done.
- Giving presents can be stressful- "Am I giving enough...am I giving too much...?"
- Stores and malls during the holidays are crowded and chaotic.
- Holiday gatherings can be fun, but too much food and drink can take its toll.
- "Ghosts of Christmas Past" can remind us of disappointments and bring on depression.

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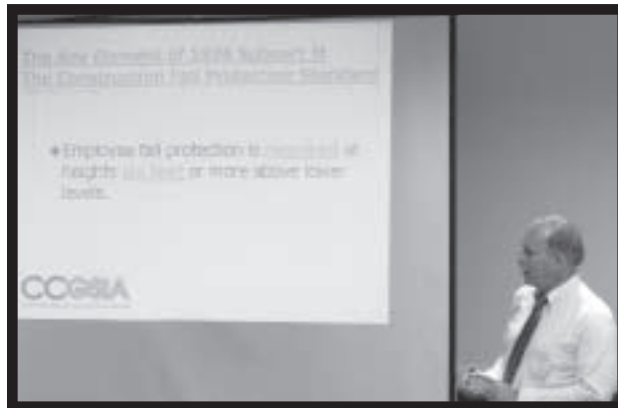
Safety Workshop – On The Road In Tidewater

Bill Deekens

Marketing Director – Commonwealth Contractors Group Self-Insurance Association

Commonwealth Contractors recently held its sixth safety workshop on October 22, 2002 at The Chesapeake Conference Center and had the highest attendance ever to attend such an event. We were pleased to welcome 41 attendees representing 23 Commonwealth Contractors' member companies. These popular seminars, that are Free-To-Members, continue to bring the message of improving contractor safety to the membership at convenient locations and in a relaxed environment. This workshop included a safety consultant from the Virginia Department of Labor and Industry, David Lundt, who gave a presentation on the subject of safe manual lifting. Fall Protection, specifically related to scaffolds and ladders, was discussed, as was the safe use of hand and

power tools and the conduct of safety meetings. Another guest, Robyn Cagle of Trident National Corporation (see separate article on page 2), gave a very interesting talk on new techniques available for drug and alcohol testing which can minimize and very nearly eliminate time away from the job for such testing. Preliminary planning has begun for another such workshop to be held next Spring in the Northern Virginia area. Invitations will be sent to members in that area prior to the seminar. ■



Bob Naujelis, one of Landin's Loss Control Representatives, talks about the OSHA Fall Protection Standard at the recent Safety Workshop.



Robyn Cagle of Trident National Corporation discusses how simple substance-abuse-testing has become.



Commonwealth Contractors' members listen intently to a discussion on conducting Safety Meetings.

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of the program are encouraging. After less than a year's experience participants are reporting the following impact:

- Workers Comp claims decreased in 40% of the companies
- 58% saw a decrease in workplace accidents
- Employee turnover dropped in 57% of the program participants
- 64% of the companies reported improvements in employee moral
- Employee theft decreased in 35% of the companies
- Productivity rose in 61% of the companies
- 53% of the participants experienced a drop in absenteeism

*SBA Grant #SBAHQ-01-0012 – Trident National Corporation 2001-2002

In addition to being free, it is **simple to implement**. Trident provides a turn-key operation tailored to **your** business. Whether urine or oral testing, the services available include: policy development, drug testing, training of supervisors, an employee assistance program for those employees who want to seek help for a drug or alcohol problem, and parent education materials. **You** pick the services you need and want

For more information, send an email to Robyn Cagle at

rcagle@trident-national.com

or phone Trident National Corporation at 804-354-0697 or toll-free at 800-849-2264. ■



Letter From The Workplace

Bill Deekens

Marketing Director – Commonwealth
Contractors Group Self-Insurance Association

Both the Administrator and the Service Company for Commonwealth Contractors receive periodic correspondence from you, our members. Most often this is a request for information or seeking an answer to a safety issue or a billing matter. Often, we hear from members who just want us to know that they are happy to be a part of this organization. As a feature of this and upcoming newsletters, I wanted to share one of these letters with you. ■

On-Line Safety



Another Website that may be of interest to Commonwealth Contractors' members, insurance agents and other interested parties is being highlighted below. This feature has been included in several recent issues of the *Blueprint* and has been very popular.

Our Safety Tip of the Week is courtesy of Joree Felker, human resources/safety director, Herm Hughes & Sons, North Salt Lake, Utah. "When I first started as safety director of a large construction company, I knew that as a small-boned woman it would be a challenge to get big, burly construction workers to comply with rules they'd never had to before. When I got to a job site, I would arm myself with candy bars. If someone had his hard hat on, he got a candy bar. If not, he went hungry. I would not do this at every visit. [As a psychology major, Felker says, she learned about Skinner's stimulus-response theory, which says that intermittent positive reinforcement works best.] I was amazed by the enthusiasm grown men showed for candy bars. I would be sneaky and hide before rewarding people. The men soon policed themselves, and now I have 99 percent compliance without once threatening a negative action. A little sugar goes a long way."

The above "Tip" was taken from the website of *Occupational Health and Safety* magazine weekly E-News. You may not want to pass out candy bars but

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P. O. Box 1216
Gloucester, Virginia 24061

Phone (804) 693-3368
FAX (804) 694-5911

CCGSIA
9620 Iron Bridge Road
Chesterfield, VA 23832

Dear Sir or Madam:

The only way to start this letter is with three words; peace of mind, and that is what our company has had since 1987, when we became a member. We have continued to renew our policy with your Company because we feel that it has been successful in controlling costs for Workers' Compensation. Not only do we feel that we are receiving a rate that is very competitive in today's market, but with dividends based on safety records, the incentive is there to be as safety conscious as possible. We have had a very good relationship and anytime we have had a question, everyone is extremely helpful.

Gene Fornash had helped us set up our monthly safety meetings with information and field guides that we feel have been very useful. We have the job supervisor select a topic and that has him in charge of his own meeting. Our employees seem to get more involved this way. You know you have had a meaningful meeting when people stay and discuss other safety issues and topics.

Eagle Construction Company is a registered Class A VA Contractor, #033885.

Sincerely,
Ken Wiggins



you might see results with compliments and an "at-a-boy" when employees observe company safety rules and policies.

The magazine is a monthly publication containing articles on health and safety issues, and advertisements on health and safety products. Subscription is free to health and safety professionals and others that qualify. Log onto www.ohsonline.com and you can:

- Complete an application form for a free subscription to *Occupational Health and Safety*.

- Search back issues of the magazine for articles of interest on health and safety written by safety professionals.
- Search their product directory for safety products you may need. The listing includes company name, address, contact person, telephone number, e-mail address and a listing of products.
- Complete an application to receive a free weekly health and safety newsletter with updated news, products and events. ■

E-Mail Addresses & Cell Phone Numbers Needed

To allow us to better communicate with all the CCGSIA members, we would like to have you send us your e-mail address as well as your cellular telephone number, if you have one. Please send these via fax to Commonwealth Contractors at (804) 748-4929 or by e-mail to lrpierce@ccgsia.com. Please include your company name and member number.

Commonwealth Contractors Rated A- (Excellent) By: A.M. Best Company

Commonwealth Contractors is pleased to announce that it has recently been notified that the A. M. Best Company has affirmed its rating of A- (Excellent) for Commonwealth Contractors Group Self-Insurance Association for another year.

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Be aware that you may be more likely to have an accident at this time of the year—on the job, at home or on the road. At work, you may be distracted by personal matters or financial concerns and overlook safe work practices. At home, tension between family members is sometimes high, since they too are feeling

both the good and bad holiday stress. Out-of-sort people tend to be accident-prone. You may also find yourself taking extra physical risks—hanging colored lights on the roof, lugging a Christmas tree around, or shoveling snow. And when roads and freeways are jammed with frustrated drivers, the number of auto accidents increases. It's a time to drive defensively. ■

Coming Soon

More Dividends

At its recent Supervisory Board meeting, the Board voted to request approval from the Bureau of Insurance **\$2,150,000** in dividend distributions to be disbursed in February, 2003. Once disbursed, the total surplus returned to members of Commonwealth Contractors GSIA since inception would be over **\$28,000,000**.

