



Vol. 44, No. 4

(518) 869-9800

October 2026

### **NESCA Trade Show Coming October 1<sup>st</sup>**

It's Show time! Business owners, managers and supervisors involved in the commercial construction industry who wish to learn about the latest in construction products and services will have the opportunity to engage in some one-stop shopping when NESCA hosts its 45th Annual Trade Show on Thursday, October 1, 2026, at the Albany Marriott on Wolf Road. The Trade Show, which will be held from 5:00 - 8:30 p.m., will expose general contractors, subcontractors, design professionals, facilities managers, developers and others to a wide variety of products and services in virtually every trade category. Specialty gas and welding products, rigging products, water & sewer products, power tools, aerial lifts and scaffold, acoustical products, insulation systems, concrete accessories and products, insurance and bonding services, building materials, fasteners, and equipment rentals are among the many products and services that will be on display at the Trade Show.

All available exhibit space has been sold out for the Trade Show, and total attendance is expected to top 500. NESCA members who have attended the Trade Show in the past know that it is much more than just a trade show, it is an industry event calculated to bring the various segments of the commercial construction industry together for an evening of business networking. Not only that. In addition, we will once again be holding a silent auction, the proceeds of which will be donated to the U.S. Marine Corps Toys for Tots Campaign. A festive atmosphere, great food, interesting door prizes and a chance to raise money for Toys for Tots will make this Trade Show one you won't want to miss! While taking in the exhibits, attendees will be treated to a variety of hors d'oeuvres, carving stations and other great food provided by the Marriott. Door prizes will be given away by exhibitors, and a "Super 50/50" drawing will be held, with a guaranteed payout of more than \$1,000 to the winner!

NESCA's condensed 3 ½ hour format, unlimited food and bar, exciting prizes and the chance to see the most complete line-up of construction industry products and services available, has made this the premier commercial construction trade show in Northeastern New York. To register to attend the Trade Show, contact the NESCA office at (518) 869-9800.

### **Governor Signs Construction Reporting Pay Act**

On September 9, 2026, Governor Hochul signed The Construction Reporting Pay Act (A6950/S9843) as Chapter 291 of the Laws of 2026. The legislation adds Sections 196-e and 224-g to the New York Labor Law and creates new reporting-pay and scheduling-pay obligations for construction employers operating in New York. The law takes effect on December 8, 2026. The legislation is intended to provide construction employees with greater scheduling predictability and reliability while reducing the economic impact of last-minute cancellations and work stoppages. As a result, construction employers may be required to compensate employees even when little or no productive work is ultimately performed.

New Labor Law Section 196-e generally provides that a construction employee who reports for work at the employer's request or permission must be paid at least four hours at the employee's promised hourly rate. Accordingly, if an employee reports to a jobsite and is subsequently informed that no work is available, the employer may nevertheless be required to provide compensation.

The Act separately addresses construction projects covered by New York's prevailing wage laws. For covered prevailing wage projects, Labor Law Section 224-g generally requires that a laborer, worker, or mechanic who reports for work be paid at least four hours at the applicable prevailing wage rate, including supplements, for the employee's regularly scheduled classification of work.

The Act also creates scheduling-pay obligations when work is canceled with little advance notice. Under Section 196-e, a construction employee who is scheduled to report to work generally must receive two hours of pay when the employer cancels the shift with less than twelve hours' notice. Likewise, for covered prevailing wage projects, Section 224-g generally requires payment of two hours at the applicable prevailing wage rate, including supplements, when a scheduled shift is canceled on less than twelve hours' notice.

The Governor signed this legislation with the promise of a Chapter Amendment to address existing collective bargaining agreements, and to provide later notice provisions when shifts are cancelled due to inclement weather.



## PRESIDENT'S MESSAGE

On September 14<sup>th</sup> NESCA held its 42<sup>nd</sup> annual Golf Outing at Shaker Ridge Country Club. 256 golfers participated in the morning and afternoon flights, and as promised by Mr. Roger Jones, the weather was perfect! Thanks again to our many sponsors who make it possible for NESCA to add all the extras that make this tournament special. Thank you also to our Golf Committee, chaired by Brian Carmer for making the NESCA golf outing bigger and better every year.

Our next big event will be the 45<sup>th</sup> annual NESCA Trade Show which will be held on October 1<sup>st</sup> at a new location, the Albany Marriott on Wolf Road. For those of you who haven't attended in the past, this is a chance for suppliers and service providers to exhibit their products and services. It's also a great opportunity to gather new ideas, see the latest and greatest in the market, and network with other business professionals. All of our exhibit space was sold out in a matter of days, and we anticipate having upwards of 500 attendees.

In addition to the Trade Show, NESCA has a lot more in store during

October and November. On October 15<sup>th</sup> we will hold a regional membership meeting for our Mid-Hudson members at Coppola's Italian American Bistro in Hyde Park. Then on November 12<sup>th</sup>, we will have our first Capital District membership meeting of the year at the Italian American Community Center. Finally, on November 19<sup>th</sup> we will hold a regional membership meeting for our Binghamton area members at McGirk's Irish Pub in Binghamton.

In the next couple of months, NESCA will also be offering several courses and seminars of interest to our members including a 7-week Supervisory Training Program (STP) course on "Planning & Scheduling" and our ever-popular "Notary Public Review" class. Be on the lookout for registration material for both of these valuable educational programs.

*Jeffrey Orvis, President*

## IRS Updates "No Tax on Overtime" Guidance

On August 6, 2026 the Internal Revenue Service issued updated guidance addressing the federal "No Tax on Overtime" deduction. The new guidance is contained in Fact Sheet FS-2026-13, which revises the FAQs previously issued in FS-2026-01 in January.

The updated guidance includes a dedicated section addressing employer information and requirements, providing additional direction to employers on their responsibilities related to the overtime deduction.

Employers should review the revised FAQs to understand how the changes may affect payroll, employee reporting and compliance obligations as the deduction is implemented.

## NESCA NEWSLETTER

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(518) 869-9800 [www.nesca.org](http://www.nesca.org)

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## Dues are Due

If you have not yet remitted your company's 2026-27 NESCA membership dues, please do so as soon as possible. Please be advised that members who have not paid their membership dues by September 1<sup>st</sup> could have all rights and privileges of membership suspended by the Board of Directors, to include the right to participate in any program, service or benefit provided by NESCA.

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## COUNSEL'S MESSAGE

The onset of inflation, and significant increase in the debt incurred by the Federal Government, has provided a foundation for the onset of serious financial difficulties for businesses and the construction industry in the foreseeable future.

Historically, when those circumstances arise contract payments owed to contractors and subcontractors frequently become significantly slower or, in some instances, may become diverted for some other purpose.

As many NESCA members are aware, many years ago New York State enacted Article 3A of the New York State Lien Law which classified contract funds paid to an owner, contractor or subcontractor for the improvement of private or public real property as constituting trust funds paid or held by a party recipient of those funds (legally designated as the trustee), to be held on behalf and for the benefit of contractors, subcontractors and materialmen providing work, labor and material on a construction project.

Under Article 3A, §§ 70-79a sets forth definitions of what constitutes contract Trust Funds, the entities which become Trustee's of those trust funds, their respective obligations as trustee for distribution of those trust funds and enforcement of violations of the trustee's obligations.

The Trust assets are defined as funds actually received by the Owner, Contractor or subcontractor or any legal right to pursue funds due or earned or to become due or earned. The contract funds received under Article 3A of the Lien Law are held in trust and cannot be used for any other purpose except trust purposes until all claims of all beneficiaries have been settled. The contract funds received by the Trustee must first be used to pay subcontractors, materialmen, certain taxes and insurance costs.

Importantly, it must be recognized that only after beneficiaries of the trust funds are paid or satisfied, may the funds be utilized for a purpose other than the defined purpose of the trust fund. Even though trust funds are paid to the contractor as part of its contract amount, the contractor does not own the funds nor have any rights to them until the beneficiaries of the fund are paid.

The trustee contractor cannot use the funds to pay its general overhead costs, cannot use the contract funds to pay an obligation on a separate and distinct project contract and the Federal government cannot seize the trust funds to satisfy a tax obligation unrelated to the project. It is also noteworthy the trust funds are not considered part of a contractor's bankruptcy estate for distribution to non-beneficiaries.

The protections and requirements of the trust fund are automatic, cannot be waived. The trustee's responsibilities start upon receipt of the first contract payment until the last claimant is paid or until the fund is exhausted. The trust commences the moment trust funds are received by the trustee even though a beneficiary has not yet performed or requisitioned funds.

A beneficiary of the trust retains the right, every thirty days, to either personally review the books and records of the trustee or make written demand for a written verified statement containing the statutorily mandated required entrées mandated by Article 3A of the New York Lien Law.

In the event the trustee diverts trust funds to be used for other than the purpose of the trust the trustee may be held personally liable and be subject to criminal prosecution for larceny. A failure to maintain the books and records required by law to be maintained may result in a legal presumption that the trustee has wrongfully and illegally diverted trust funds.

In closing the membership must be aware the trust fund statutes do not only apply to owners & contractors. A subcontractor also receives project contract funds in trust for the benefit of its sub-subcontractors, materialmen and laborers.

The trust fund record keeping required by law of the contractor trustee also applies to the subcontractor trustee. As with the contractor trustee, the liability of the trustee for diversion of trust funds and failure to maintain trust records also apply to the subcontractor trustee.

In essence all the obligations applicable to a contractor under the trust fund statutes outlined in this column also applies to subcontractor trustees

Article 3A of the Lien Law contains strong protections for Trustee beneficiaries. Actions to enforce the trust can be brought anytime during the construction of the project or up to one year from its completion. An action to enforce the trust must be brought in a

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class action representative capacity but class certification may be waived by order of the court.

The intent of this column is to outline the benefits and obligations of the New York Trust Fund statutes but also to emphasize to our subcontractor membership what its obligations are to its sub-subcontractors and materialmen under those laws.

**Walter G. Breakell**  
NESCA Legal Counsel

## Welcome New Member

### Optimus One, LLC

16 Newell Lane  
Glenmont, NY 12077  
518-209-3575

[cgrieco@optimus-one.com](mailto:cgrieco@optimus-one.com)

Contact: Chistian Grieco

## Calendar of Events

### October 1, 2026

45<sup>th</sup> Annual Trade Show  
Albany Marriott, 5 pm

### October 8, 2026

Board of Directors Meeting  
Italian American Comm. Ctr. 6 pm

### October 15, 2026

Mid-Hudson Membership Meeting  
Coppola's, Hyde Park, 6 pm

### November 12, 2026

Board of Directors Meeting  
Italian American Comm. Ctr. 5 pm

### November 12, 2026

NESCA Membership Meeting  
Italian American Comm. Ctr. 6 pm

## Results of 42<sup>nd</sup> Annual NESCA Golf Outing Shaker Ridge Country Club

**First Place Team** – Josh Parrow, Josh Kirby Joe Vandenburg, Hunter Moffat

**Second Place Team** – Kyle Sumple, DJ O'Connell, Gavin Quinn, Erica Hubert

**Men's Closest-to-the-Pin Hole #4** – Steve Hathaway

**Women's Closest-to-the-Pin Hole #4** – Kelly Moore

**Men's Closest-to-the-Pin Hole #12** – Mike O'Connor

**Women's Closest-to-the-Pin Hole #12** – Karlie Bolen

**Men's Closest-to-the-Pin Hole #16** – Rich McQuillen

**Men's Long Drive Hole #5** – Matt Langevin

**Women's Long Drive Hole #5** – Eileen Venn

**Men's Long Drive Hole #13** – Chad Golas

**Women's Long Drive Hole #13** – Karlie Bolen

**Men's Closest-to-the-Line Hole #18** – Brian McCoskey

**Women's Closest-to-the-Line Hole #18** – Jess Savignano

## NESCA Membership Milestone Anniversaries

**B&B Plumbing & Heating – 10 Years**

**Core Building Materials of Albany – 10 Years**

**ADK Drywall & Taping – 15 Years**

**Adirondack Taping & Supply – 15 Years**

**Zappala Block Co. – 25 Years**

**SNK Enterprises, Inc. – 30 Years**

**BST & Co., CPA's, LLP – 45 Years**

## Mark Your Calendar!

**NESCA Holiday Reception & Dinner**

**Toys For Tots Campaign**

**December 10, 2026**

**Italian American Community Center, Albany**

**Look for More Information to Come!**



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