



Vol. 43, No. 3

(518) 869-9800

September 2025

Young Professionals Donate \$1,800 to Ronald McDonald House



Matthew L. Schunck, MBA, CIC from Ten Eyck Insurance and Nate Pannucci, CPA from Teal, Becker and Chiamonte, CPAs, PC hand over \$1,800 check to Ronald McDonald House representatives.

In early August, NESCA's Young Professionals Committee presented the Ronald McDonald House Charities of the Capital Region with a check for \$1,800 to enable the organization to purchase a new stove and commercial vacuum cleaner.

Since 1982, the Albany Ronald McDonald House has served more than 17,000 families from across the country and around the world. The House is the cornerstone of RMHC of the Capital Region, providing a home away from home — free of charge — for families with children facing serious medical issues. Staffed primarily by volunteers and supported entirely

by generous donors, the Ronald McDonald House offers much more than home-cooked meals and a comfortable place to stay. They help families face the burdens of childhood illness in a loving, compassionate environment where they can rest without having to worry about anything but their child's recovery.

NESCA's Young Professionals, established in 2013, is a group of "younger" (roughly 21-40) NESCA members, 2nd generation company owners, and young management-level employees of NESCA members who want to become more active in the association, gain exposure within the construction industry and business community at large, and network with other young professionals involved in the commercial construction industry. Since its inception, the Young Professionals Committee has engaged in several community service projects at Northern Rivers, and has made donations to the Wounded Warrior Project and the Regional Food Bank of Northeastern New York, all from funds raised in connection with NESCA Young Professionals Mixers.

Mark Your Calendar!!

**NESCA's 44th Annual
Trade Show
Sponsored by Marshall & Sterling Upstate**

**Thursday, October 9, 2025
The Century House
Route 9, Latham
4:00 – 8:30 p.m.**

***See the latest in construction industry
technology, equipment, products, and
services while networking with
construction industry peers!***

More information to come!



PRESIDENT'S MESSAGE

Hopefully, everyone had a safe and enjoyable summer and I look forward to seeing everyone at our upcoming events this fall.

During the summer months, NESCA officers, committees and staff have been busy planning the coming year's activities including upcoming membership meeting programs, educational seminars and courses, young professionals' activities, legislative initiatives, and special events.

Speaking of special events, NESCA has two of its most popular events coming up in September and October. On September 8th NESCA will hold its annual golf outing at Colonie Golf & Country Club in Voorheesville. This event sold out in a matter of weeks, and we have a total of 248 golfers participating in the morning and afternoon flights. The Golf Outing is an excellent opportunity to connect with fellow members and their guests, and everyone always has a great time. On October 9th, NESCA will hold its 44th annual Trade Show at the Century House in Latham. The Trade Show offers our

members, particularly our suppliers and service providers, the opportunity to exhibit your products and services to the leading general contractors, subcontractors, developers, A/E firms and owner representatives in the Capital Region. Over the last 43 years, the NESCA Trade Show has grown into one of the most focused construction industry trade shows in the Northeast. In recent years Trade Show attendance has been fantastic with an average of more than 500 attendees representing 150 companies coming through the doors. I hope all NESCA members are making plans to attend.

Members were recently alerted to the fact that NESCA's legislation that would clarify retainage on private commercial projects is limited to no more than five percent (5%), and which was passed by the Senate and Assembly in June, will soon be delivered to the Governor for her consideration. All members were asked to prepare a letter of support for this legislation on your company letterhead, and to send it back to the NESCA office. A sample letter was included for your convenience. The plan is for NESCA's lobbyist Greg Serio to hand-deliver our members' support letters in bulk to the Governor as a means of showing how widespread the support for this bill is. This legislation will significantly benefit all subcontractors and suppliers engaged on private commercial and industrial construction projects located in New York State. The more letters of support we can generate from our members, the greater the chance Governor Hochul will sign our bill. So, if you haven't done so yet please take a few minutes of your time to send NESCA your support letter.

Finally, I'd like to thank the more than 80% of NESCA's members who

have already paid your 2025-26 membership dues investment. And I encourage those who haven't yet paid your dues to do so as soon as possible so that NESCA may continue to provide our many member benefits and services to all members.

Joe Jerkowski, President

NESCA NEWSLETTER

*Published monthly by the
Northeastern Subcontractors
Association, Inc.*

6 Airline Drive, Albany, NY 12205
(518) 869-9800 www.nesca.org

JOE JERKOWSKI, President
JEFF ORVIS, Vice President
RICK OTIS, Treasurer
MIKE LOCK, Secretary

DIRECTORS

ERNIE BURKART
GARY DRIZOS
ROBERT GENNETT
JESSE GORMAN
BRIAN BELLAMY
EMMA HECK
ROGER JONES
MIKE MUSCOLINO
PETE RYAN
IAN TOWNSEND

BRYAN BERRY

1st Immediate Past President

ROB KIND

2nd Immediate Past President

WALTER BREAKELL

Legal Counsel

MICHAEL MISENHIMER
Executive Director

TRUST OUR EXPERIENCE Celebrating 50 years
1974 - 2024

BURT
crane & rigging

Beginnings in 1870

Full Service Warehousing now available at our Selkirk location
just minutes from Ports of Albany and Coeymans

• Crane Rentals • Riggers • Erectors • Local & Long Distance Hauling

- Green Island, NY
- Selkirk, NY
- 518-271-6858
- burtcrane.com

MEMBER
Specialized
Carriers
& Rigging
Association

NYS Certified WBE

"BUILDING THE FUTURE - TOGETHER"

Kamco
SUPPLY CORP.
OF NEW ENGLAND

Installation of doors, bathroom partitions & accessories

Commercial doors & frames hardware

Drywall, insulation and framing

Acoustical ceilings, walls & isolation products

Millwork

36 Railroad Avenue • Albany, NY 12205
(518) 729-1122 • Fax (518) 453-9527

10 Silver Circle, Queensbury, NY 12804
(518) 798-7245 • Fax (518) 793-8397

PROTECTING YOUR LEGAL RIGHTS

KEVIN LAURILLIARD
ATTORNEY AT LAW

Construction Law • Employment Law
Corporate Law • Dispute Resolution • Litigation

O'CONNELL ARONOWITZ
ATTORNEYS AT LAW

A full service law firm established in 1925.

54 State Street | Albany, NY 12207
www.oalaw.com
518-462-5601

Going beyond your expectations

TBC
Teal, Becker & Chiaramonte
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Accounting • Auditing • Tax • Consulting
Pension Plan Administration

www.tbccpa.com | 518-456-6663

INSIDE
300
FIRMS

ALBANY BUSINESS REVIEW
BEST PLACES TO WORK
B P I W

TOP
WORK
PLACES
2024



COUNSEL'S MESSAGE

Subcontractors are frequently presented with subcontracts containing a clause waiving damages arising from delay in completion of the contract work. Such clauses are enforceable and places the burden on the subcontractor to demonstrate a legal exception to enforcement exists and is applicable to the facts presented.

In evaluating whether delay damages may be recovered when a No Damage for Delay Clause exists, it must first be determined whether the cause for the delay was contemplated at the time the contract was signed. If the delay was not contemplated, then damages are recoverable as long as the delay is substantive.

If the potential for a delay in contract performance was contemplated under the contract the next analysis is whether there exists a legal exception to the clause. Those exceptions are whether there has been active owner's interference in performance of the contract, abandonment, willful or gross negligence, fraud or bad faith or breach

of a fundamental obligation of the contract.

Generally speaking, meeting the requirements of these exceptions is not easy and amplified contractual language increasing the burden to substantiate the exception makes it exceedingly more difficult.

Damages incurred as a byproduct of an owner's or a third-party subcontractor/materialmen delay, without fault of the claimant, resulting in the acceleration of work in the form of additional labor, additional work hours etc. to meet the contract completion date may be compensable.

There are also circumstances in which a subcontractor may encounter conditions creating constructive acceleration resulting in additional costs for which they may be compensated.

Elements of a constructive acceleration may occur when excusable delay exists, and the subcontractor was ordered to perform additional work impacting the critical path of the work. Did the owner have knowledge of the excusable delay or extra work and that it impacted the critical path? Did the owner fail or refuse to grant the contractor's request for additional time? Was there communication from the owner which could be construed as an acceleration directive? Were there communications alluding to potential assessment of liquidated damages or contractual termination which created an urgency in the contractor to accelerate the work? And did the contractor take action to accelerate the work as a result of the owner's communication? If these facts exist, a claim for constructive acceleration damages may be supportable.

Subcontractors must also be aware that prime contract terms, which flow down to the subcontractor, frequently seek to eliminate entitlement for compensation for acceleration costs. The subcontractor must review their subcontract and demand elimination of provisions requiring out of sequence work or acceleration when the subcontractor did not create the conditions requiring additional work.

Walter G. Breakell, NESCA Legal Counsel

Reminder - COVID Paid Sick Leave Has Ended

Just a reminder to members that July 31st marked the end of mandatory COVID Paid Sick Leave. More than 5 years after it had been enacted, the nation's last remaining COVID mandate sunset on July 31, 2025. New York employers are no longer required to provide additional paid sick leave to individuals impacted by the COVID virus.

NESCA members should not confuse COVID Paid Sick Leave with New York's permanent paid sick leave law, which was also enacted in 2020. The permanent paid sick leave law is still in effect and requires:

- Employers with 4 or fewer employees in any calendar year and a net income of one million dollars or less in the previous tax year must provide each employee with up to 40 hours of unpaid sick leave in each calendar year.
- Employers with 4 or fewer employees in any calendar year and a net income of greater than one million dollars in the previous tax year, or between 5-99 employees in any calendar year, must provide each employee with up to 40 hours of paid sick leave in each calendar year, and
- Employers with 100 or more employees in any calendar year must provide at least 56 hours of paid sick leave in each calendar year.

HH&K
Hinman, Howard & Kattell LLP
ATTORNEYS

*Serving the Capital District
Construction Industry Since 1980*

A full service law firm with emphasis on

- Commercial and Residential Real Estate
- Contract & Construction Law
- Commercial Litigation | Creditors Rights
- Arbitration | Mediation | Bond Claims
- Appeals (Civil & Criminal) | Criminal Defense
- Banking & Financial Services
- Health Law | Matrimonial & Arbitration
- Personal Injury | Will, Trust & Estates

10 Airline Drive, Suite 205
New York, New York 12205
(518) 869-5552 | www.hhk.com

attorney advertising

Gallagher
Insurance | Risk Management | Consulting

The Gallagher Construction team focuses on developing surety, insurance and risk management programs for contractors and subcontractors.

AJG.com | The Gallagher Way. Since 1927.

© 2022 Arthur J. Gallagher & Co. | 42502

CIS
Construction Information Systems, Inc.

**CONSTRUCTION
FINANCIALS MADE EASY!**

**Sage Intacct – Smart
Cloud Accounting**

- ✓ Track Costs & Cash Flow in Real-Time
- ✓ Anytime, Anywhere Secure Access

Talk to Paul Unter today!
518 373-9005 • www.consinfo.com

**L&W Supply is your local resource
for all building materials**

- Drywall & Wallboard • Steel Framing
- Ceilings & Acoustical
- Hollow Metal Doors & Frames
- Architectural Wood Doors
- Commercial Hardware
- Interior Finishing • Fasteners
- Insulation • Tools & Accessories

L&W Supply - Cohoes
36A Green Mountain Drive
Cohoes, NY 12047
(518) 783-6121 / www.lwsupply.com

NESCA Thanks Members for Additional Contributions

Thank you to all members who have paid your 2025-26 membership dues. A special thank you is reserved for the following members who have made voluntary Sustaining Dues, NESCA PAC, and Scholarship Fund contributions:

Sustaining Dues Contributions

Leadership Team (\$500)

Arold Construction Co. ★ Ashley Mechanical ★ Encon Services & Supply
LHV Precast ★ Maximum Security Products ★ New Castle Asphalt
Stone Bridge Iron & Steel ★ Troy Ironworks

Patron Group (\$250)

Absolute Fire Protection ★ Alliance Masonry ★ Alltek Energy Systems ★ BPI Piping
Builders Installed Products ★ CDE Electric ★ Commercial Interiors ★ Warren W. Fane
HMA Paving & Contracting ★ Chip Kronau Construction & Equipment
William M. Larned & Sons ★ Merit Apprenticeship Alliance
John M. Mullins Rigging & Hauling ★ CD Perry ★ Walter S. Pratt & Sons
RBM Guardian Fire Protection ★ Rommel Fence ★ Star Roofing & Restoration
Three D Rigging & Construction ★ E.W. Thompkins ★ Wood Pro 2 Installers

Sustaining Member (\$100)

AFSCO Fence Supply ★ Armistead Mechanical ★ Associated Lightning Rod
Carver Construction ★ Concrete Cutting & Breaking ★ Crisafulli Mechanical
EMCOR Services New England Mechanical ★ EMI Guide Rail
Patrick DiCerbo/Northwestern Mutual ★ GlasSolutions ★ Gorick Construction
Henderson-Johnson ★ K HM ★ Medina Insulation ★ T.P. Monahan ★ N.E.P Glass
Schupp's Line Construction ★ Vamco Sheet Metal

PAC & Scholarship Fund Contributions

AFSCO Fence Supply ★ Absolute Fire Protection ★ Armistead Mechanical
AMC Construction & Management ★ Architectural Glass & Metal
Arold Construction Company ★ Ashley Mechanical ★ The Asphalt Doctor
Bacon Companies ★ B&B Plumbing & Heating ★ BMI Supply
Builders Installed Products ★ Burt Crane & Rigging ★ CDE Electric
Commercial Interiors ★ Crisafulli Mechanical ★ Cristo Demolition
Patrick DiCerbo/Northwestern Mutual ★ Encon Services & Supply
EMCOR Services New England Mechanical ★ Warren W. Fane ★ William Halpin
Harbour Roads ★ Henderson-Johnson ★ KHM
Chip Kronau Construction & Equipment ★ LHV Precast ★ M.V.P. Construction
Mackey Electric ★ Maeda Construction ★ Martino Tile ★ Maximum Security Products
Medina Insulation ★ Merit Apprenticeship Alliance ★ Metal Supermarkets ★ N.E.P Glass
New Castle Asphalt ★ Northway Tile ★ OGGI Concrete Forms & Accessories
Oneonta Block ★ C.D. Perry ★ Pompa Bros. ★ Rommel Fence
Savignano Construction Services ★ Slavik & Company ★ Star Roofing & Restoration
Stone Bridge Iron & Steel ★ Thorpe Electric Supply ★ Three D Rigging & Construction
E.W. Thompkins ★ Troy Ironworks ★ Valley Sealing and Striping
Welby, Brady & Greenblatt

Calendar of Events

September 4, 2025

Board of Directors Meeting
Century House, Latham, 6 pm

September 8, 2025

41st Annual Golf Outing
Colonie Golf & Country Club

September 18, 2025

Young Professionals Mixer
Trick Shots, Clifton Park, 6 pm

October 2, 2025

Board of Directors Meeting
Century House, Latham, 6 pm

October 9, 2025

44th Annual Trade Show
Century House, Latham, 4 pm

October 21, 2025

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

November 13, 2025

Board of Directors Meeting
Century House, Latham, 5 pm

November 13, 2025

NESCA Membership Meeting
Century House, Latham, 6 pm

November 18, 2025

Notary Public Seminar
Building Industry Center, 12 noon

Milestone Member Anniversaries

Crisafulli Mechanical, LLC
30 Years



When Construction Problems
Require Legal Solutions

New York - Albany: Tel: 518.300.3213
New York - Hudson Valley: Tel: 845.538.8204

Connecticut:
Tel: 203.363.0081

Construction,
Real Estate,
Labor & Employment
and Commercial Law



www.WBGLLP.com

For All Your WBE Building Material Needs



A New York Certified Woman-Owned Business Enterprise

* SHINGLES * INSULATION *
* EPDM * TPO * PVC * TRUSSES *
* METAL ROOFING *
* CUSTOM METAL FABRICATION *
* SIDING * WINDOWS * DOORS *
* SKYLIGHTS * COATINGS *
* PLYWOOD * LUMBER *
* AIR BARRIERS *
* SNOW RETENTION SYSTEMS *

1329 Amsterdam Rd., Scotia, NY 12302

(518) 346-2395

Secure Your Success

Marshall+Sterling provides
customized insurance and
employee benefits solutions and
private client, retirement and
wealth management services.

**MARSHALL
+STERLING**

(845) 454-0800
marshallsterling.com



CRANE & RIGGING SPECIALISTS SINCE 1870

- Crane Service to 330 Ton
- Heavy Hauling to 300 Ton
- Air Dolly Systems
- Warehousing & Storage
- 24 Hour Emergency Response
- Machinery Moving & Installation
- Boom Lengths to 350 Feet
- Forklifts to 80,000 Pounds
- Hydraulic Gantries to 200 Ton
- Plant Maintenance Services
- Three-Dimensional Lift Plans
- Millwrighting & Steel Fabrication
- HAZMAT, MSHA, OSHA Certified Operators & Riggers

WOMAN-OWNED SMALL BUSINESS ENTERPRISE

www.MULLINSRIGGING.COM



1 Pine Street - Green Island, New York 12183
(518) 273-0771 Phone • (518) 273-3780 Fax