



The California

Contractor

News for the Western Regional Master Builders Association

March-April 2014

Volume 39 No. 2

CSLB clarifies new law requiring replacement of plumbing fixtures

Building permits issued for property maintenance and repairs do not trigger new requirements

To dispel confusion over the new state Civil Code law (Senate Bill 407 (2009)) that became effective January 1, 2014, for replacement of outdated plumbing fixtures with water-saving models, the Contractors State License Board (CSLB) offers the following clarification for contractors.

The new law requires anyone applying for a building permit that will alter or improve a single-family residence built in 1994 or earlier to replace all plumbing fixtures with water-saving designs. Replacement is a condition of receiving final permit approval from a local building department. The law also requires, by 2019, water-conserving plumbing fixtures in multi-family dwellings or commercial properties when specific renovations are made.

Although not a legal opinion, the California Building Officials (CALBO) group has interpreted “alterations” or “improvements” to mean any construction to an existing structure that enhances or improves the structure. Construction that is related to repairs or

maintenance of the structure is not considered to be an alteration or improvement.

Following is a list of permit types that CALBO considers to be repair or maintenance, and do not trigger the requirements of SB 407:

- Electrical service change out
- HVAC change out
- Re-roofing
- Sewer line replacement
- Siding or stucco
- Site work: retaining walls, fences, walkways, etc.
- Water heater replacement
- Window replacement
- Other repairs as determined by the state Building Code

It is feared that property owners and licensed contractors who misunderstand the law may end up paying for new fixtures that are not required, or may avoid pulling building permits altogether to avoid the possible triggers to SB 407.

Since this is not a legal opinion, CSLB encourages licensed contractors to verify requirements with their local building department before taking any action on a project.

For more information on SB 407 requirements, please read CALBO’s Legislative Analysis and the Tri-Chapter Uniform Code Committee guidelines.

At A Glance

Reconnect with your customers

Law Talk: Liability for employee vehicle use

Did you hear?
It’s a drought!
Let’s conserve water

Have a blast using compressed air safely

Money management techniques

How not to fall off a truck

... and more

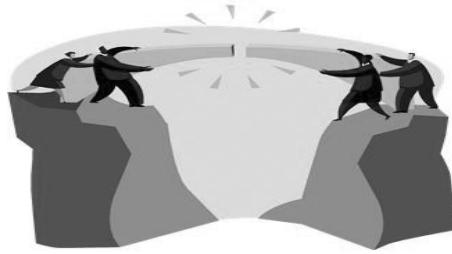
Reconnect with your customers

By Kate Marsden

Nearly all business people know that they should keep in contact with old customers and clients, but many of them never do - or the contact is so infrequent it doesn't work. Find some new ways of getting in contact and you might be surprised what a difference it can make to your business.

There are still businesses out there that do not store contact details for all their current customers and clients. There are even more that completely ignore customers once they have stopped being an active customer. If someone has bought from you once they are far more likely to do it again - but it is up to you to keep reminding them that you are there. Conversion rates are far higher from old customers (assuming you have not disappointed them) and yet too often businesses spend longer trying to cold-sell than keeping in contact with old customers.

This applies just as much in Business to Business sales. Firstly many businesses let the salesman own the contact details. But if your salesman leaves and



forgets to pass those contacts to you, you can never contact those old customers again. However big or small your business is, make sure the business holds the contact details not individuals. Secondly in business to business sales, people move on all the time, so it is even more important that you keep in contact with all your past customers - you never know where they may pop up in the future.

If you're afraid of seeming too pushy, here are some tricks to help:

- Always let old customers know any significant change - new products, changes in pricing, awards and so on - that could be just the thing they were waiting for to rebuy from you.

- Use big events like Christmas and birthdays to remind them where you are. Just remember to make it personal - no one feels good when they get a company christmas card that has obviously been sent to hundreds of people.

- Consider offering something just to existing and old customers that you wouldn't offer to a new customer - and make sure they know what they are getting. Lots of people do customer offers, but don't actually make it clear what they get that a new customer wouldn't.

- Don't fall into the trap of thinking that they already know about you. They may, but these days there are so many people to choose you need to be top of peoples' minds.

Of course there is no guarantee that if you do this you will get a rush of orders. But many businesses simply do not try or try once a year which is just not enough. And certainly, hour for hour of your time, you'll get better results from your old customers than someone who has never used you.

Take action now and find a reason to connect with your old customers this week.

Spring clean the office for improved efficiency

Your house and yard get a sprucing in spring -- why not do the same for the place where you spend so many hours of your day? Busy workdays often mean office organization gets short shrift. Your cleaning staff may handle the day-to-day vacuuming and wipe-downs, but there are plenty of other areas to keep neat and tidy. Getting rid of clutter and streamlining your space will put a spring in your step.

1. Schedule a clean-up day for your whole office in advance. Make sure you have adequate waste receptacles and recycling bins for going through old files, magazines and desk junk. Order lunch

in, and encourage everyone to work together to tidy their areas.

2. Cleaning will be much easier if you have everything you need. Make sure you have enough supplies for everyone: bags, cleaning cloths, glass sprays, wipes, and compressed air for keyboards and computers. Have a shredder available for confidential documents -- make sure it's heavy-duty enough to be used all day.

3. Donate old (working) electronics and usable office supplies to a nonprofit organization. Schools and daycares often greatly appreciate paper, even if it has a logo or letterhead on it. Electronics

that no longer work or are sadly outdated can be recycled through an e-waste program -- search online to find one in your neighborhood. And don't forget to recycle those old paper products!

4. Clean the electronics you're keeping. Wipe down your computer with a soft cloth, and use cotton swabs and compressed air to get crumbs, drips and fingerprints off your keyboard. Use compressed air to get the dust out of your connectors and ports, and then clean and check the lengths of all cables and power cords for frays, nicks, hot spots and other areas that could be a danger.

5. After the cords, check other items that could be a safety issue. Test your office chairs and tables for wobbly legs, loose screws or nuts. Inspect ladders and step-stools. View your supply room and kitchen with a critical eye: Are there heavy things stored where they could pose a lifting or falling risk? How about slippery steps, loose floor tiles, ripped or frayed carpets that could pose a tripping hazard? Cords that aren't neatly tucked away?

Streamlining your office is a good way to improve efficiency -- and make your workplace safer in the process.



LAW TALK

By Bruce D. Rudman
of Abdulaziz, Grossbart & Rudman



Employer liability for employee's personal use of vehicle

While our practice generally stays away from employment law, two recent cases came to our attention and because a number of our clients either require their employees to use personal vehicles while conducting business, or actually provide company vehicles to their workers, we thought these issues were important enough to make sure that our clientele knew of their potential liability for their employees' actions even when off work.

Two recent cases came from different districts of the Court of Appeal approximately two weeks apart from each other. One came from the Second District which governs a large part of Los Angeles and Ventura County, and a second came from the Fifth District and concerns events that occurred in Kern County. Each appears to reach a different result, but a distinction can be drawn from the facts of the two cases.

In the first case, *Moradi v. Marsh USA*, the Court of Appeal found that an employer, March USA, a very large insurance brokerage, was liable for injuries to a motorcyclist involved in a vehicle accident with an employee who was running personal errands on her way home from work. Indeed, she stopped for frozen yogurt and was on her way to take a yoga class, which admittedly are events that had nothing to do with the workplace, but employer liability was found to have arisen. In the *Moradi* case, the employer required the employee to use her personal vehicle to travel to and from the office and make work related trips during the day.

There are some important maxims of law that were considered in the case. The first is the theory of 'respondent superior,' where employers are held liable for negligent acts of their employees that occur during the course and scope of their employment... It is the extension and exceptions to this rule that creates issues such as in these two cases.

On the date of the incident, the employee used her personal vehicle to transport herself and co-employees to a company sponsored program. When the program was over, she returned to the office. At the end of her workday, she planned to stop on the way home for frozen yogurt and thereafter to attend a 6:00 p.m. yoga class. Her office was in downtown Los Angeles and her home was in Woodland Hills, about 30 miles apart. All three of her ultimate destinations were within two miles of her home in Woodland Hills. While making a left turn into a parking lot, the employee hit Mr. Moradi who was driving a motorcycle. Moradi filed an action against the employee and against the employer.

There are some important maxims of law that were considered in the case. The first is the theory of "respondent superior," where employers are held liable for negligent acts of their employees that occur during the course and scope of their employment. This theory is well established and does not raise many eyebrows. It is the extension and exceptions to this rule that create issues such as in these two cases. Because accidents often happen when employees are en route to and from work, the courts had come up with the "going and coming" rule where employers were generally exempt from liability for negligence committed by their employees while on the way to and from work. In these situations, employees were said to be outside of the course and scope of employment during their daily commute. The courts held that the employment relationship was "suspended" from the time the employee leaves the workplace until he or she returns to the workplace and that while commuting, the employee is not rendering a service to the employer.

But, the courts also made an exception to this "going and coming" rule where the employees' use of his or her own car gives some incidental benefit to the employer. The inquiry was on whether there was some benefit derived by the employer. The exception has been referred to as the "required-vehicle" exception. Now, there have been a number of cases in the workers' compensation area of the law holding employers liable for

Please see LAW TALK, page 6

Do your part to conserve water

Office buildings use an average of 14,695 gallons per day of water. Your workplace may not be in a large building, or there may be other special circumstances, but these tips will help you evaluate where adjustments could be made.

Remember, water savings often bring energy savings, too. This simple checklist can get you on your way to reducing your water use and improving the efficiency of your facilities.

Bathrooms & restrooms

- **Repair Leaks!** A leaking toilet can waste more than 50 gallons of water each day, and a dripping faucet or showerhead can waste up to 1,000 gallons per week!
- Showerheads, faucets and toilets that must be replaced due to normal wear-and-tear should be replaced with low-volume models, which are widely available.
- Low-volume showerheads use only 2 gallons of water each minute; older models may use as much as 3 gallons per minute.
- Replace faucets that use as much as 2.5 gallons per minute with those which use only 1.5. In most cases, low-volume faucet aerators can be installed when the entire faucet does not need replacing.

Water use in toilets can be reduced by:

- Installing toilet tank water displacement devices, such as toilet dams, bags, or weighted bottles.
- Retrofitting flushometer (tank-less) toilets with water-savings diaphragms, which save one



gallon (20%) per flush.

- Replacing toilets with low-volume models. Toilets can use as much as 4.5 gallons per flush, while low-volume toilets use only 1.6 gallons per flush. An average savings of about 20% of the total water use in schools was possible through this one water conservation action.

Water use in urinals can be reduced by:

- Setting urinals with programmable automatic flush valves to a water saving mode that flushes the urinal after more than one use.
- Replacing urinals with low-volume models. Urinals can use as much as 5 gallons per flush, while low-volume urinals use only 1 gallon per flush.

These Water Conservation at Work suggestions are more than just a good idea. Low-volume water fixtures are also required by most local building codes.

Building maintenance

- Check the water supply system for leaks, and turn off unnecessary flows.
- Shut off the water supply to equipment and areas that are unused.

- Discontinue water circulation pumping in areas not in use.
- Read water meters monthly. Compare the results to the same month of the previous year. This will help to identify leaks as they occur, as well as monitor your conservation efforts.
- Check the pressure. Where system pressure is higher than 60 psi, install pressure-reducing valves.
- Consider using water-efficient ice machines.

Heating/cooling

- Reduce excessive blowdown! Many cooling towers operate below the suggested levels of total dissolved solids (TDS) unnecessarily. Adjust boiler and cooling tower blowdown rate to maintain TDS at levels recommended by manufacturers' specifications.
- Consider using ozone as a cooling tower treatment to reduce water used for make-up.
- Shut off water-cooled air conditioning units when not needed, or replace water-cooled equipment with air-cooled systems.

Cleaning

- Instruct cleaning crews to use water efficiently for mopping.
- Switch from "wet" carpet cleaning methods, such as steam, to "dry," powder methods.
- Change window cleaning schedule from "periodic" to "as required."

Kitchen

- Turn off the continu-

ous flow used to wash the drain trays of the coffee/milk/soda beverage island. Clean thoroughly as needed.

- Adjust ice machines to dispense less ice if ice is being wasted.
- Presoak utensils and dishes in basins of water, rather than in running water.
- Replace automatic shut-off spray nozzles, which can use as much as 4.5 gallons of water each minute, with low-volume nozzles using 2.0 gallons per minute.
- Turn off food preparation faucets that are not in use. Consider installing foot triggers.
- Do not allow water to flow unnecessarily. Consider using automatic shut-off faucets at bar sinks.

Dishwasher hints

- Wash only full loads in the dishwashers.
- Replace the spray heads to reduce flow.
- Turn dishwashers off when dishes are not being processed.
- Reuse the rinse water from the dishwasher as flush water in garbage disposal units.

Outdoor water use

- Apply water, fertilizer, or pesticides to your landscape only when needed. Look for signs of wilt before watering established plants.
- Water early in the morning or in the evening when wind and evaporation are lowest.
- Install an automatic rain shut-off device on sprinkler systems.

Please see WATER, page 7

Compressed air hose safety

Compressed air is a very useful thing, but it can be dangerous and must be used in a safe manner. Here are some tips when using compressed air.

- Keep air hose off the floor where it is a trip hazard and subject to damage by trucks, doors, and dropped tools. During a recent audit of our facility we found many unused air hoses laying across the floor, many attached to a self-retracting reel.
- Prevent sharp objects from rubbing against the hose. Be especially careful if the hose gets wedged in a corner or hung around a machine. Always go to the point where the hose is stuck and guide it. Don't pull on the hose trying to free it.
- Prior to use, ensure the quick-



connect is properly seated and there is no apparent damage to the hose or fittings. Weak points may swell like a balloon and burst, throwing pieces of hose in every direction. This may also cause the hose to thrash about dangerously.

- If your area doesn't have a self-retracting reel, always coil the hose—without kinks—and hang it over a broad support, not over a hook, nail, or angle iron, when not in use.

When using it to blow dust and debris:

- Ensure you are wearing goggles or a face shield to protect your face and eyes. Air in excess of 30 lbs. can blow an eye from its socket, and/or rupture an eardrum.
- Always utilize a OSHA approved air nozzle that reduces our 90 lb. air down to a safe level for such use.
- Never aim the hose at yourself or someone else.
- Never use compressed air to clean off your body. Air pressure against the skin may penetrate deeply to cause internal hemorrhage and intense pain.

5 THINGS YOU NEED TO KNOW ABOUT HEALTH CARE REFORM 2014

Small Business

- Must notify all employees of Health Insurance Exchange within 14 days of hire.
- Small group insurance may be purchased within the exchange or outside the exchange.
- All employees can apply for individual coverage on the exchange and may be eligible for subsidy.

Individuals

- March 15, 2014 is the deadline for Individual open enrollment.
- October 1st is the next Covered California Open Enrollment
- Guaranteed Issue Health Insurance.

For more information or quotes, call your Health Care Reform experts at I&C Benefits.
Phone: 888-321-0141 Email: vgonzalez@icbenefits.com



We are here to help you navigate your way through the HHR Mandate! Call today to set up a meeting with your employees to inform them of their Health Insurance benefits and options.

Stay on top of your finances

By Emory Norstrom

Many business owners have discovered early on that it can be difficult to learn how to properly use money management techniques. Some people think that money management is a skill that should be already learned or mastered. The reality, however, is that budgeting and financial planning for your business is a lot different from budgeting and financial planning for your personal life. It does help a lot if you have some experience in the latter. Your confidence can take a hard hit if you ruin your finances on accident. In this article, we'll share a few tips you can apply to help you be a better money manager for your business.

Putting your regular expenditures like recurring dues for membership sites, web hosting, and so on, on your credit card can be a good idea. This can make your life easier because each month, you just make one payment to your credit card company instead of making out payments to several differ-



ent companies. But then again, there's a risk to using credit cards because you'll end up paying interest if you don't pay the balance off in full every month. You can continue using your credit card to make it easier on you to pay your bills, but make sure you don't carry a balance on your card to avoid accruing interest charges. In addition to making it simpler for you to pay your expenses and avoid paying interest, you're building your credit rating. You may want to offer payment plans to clients. Besides making it more appealing for potential clients to do business with you, this strategy will have money coming in on a regular basis. Having payments come in regularly even if they aren't in huge amounts is certainly so much better than getting big payments irregularly. If you have steady income coming in, you're in a better

position to plan your budget, get your bills paid on time, and properly manage your money in general. If you're in control of your business finances, you'll feel more self-confident.

Do not forget to pay your taxes on time. In general, small businesses pay taxes on a quarterly basis. When it comes to taxes, you want to make sure you have accurate information, so it's a good idea to consult with someone at the small business center in your town, city, or county or even with someone from the IRS. You can also work with a professional to set up payments and plans for ensuring that you are meeting all of your obligations and following the letter of the law. The only way you won't get that dreaded visit from the IRS is if you're paying your taxes.

Every adult should learn the proper way of managing their money. Your confidence and your business will sure be given a huge boost if you become skilled at managing your finances properly. Use the tips in this article to help you get started. Developing proper money management skills not only will help boost your business but boost your self-confidence as well.

Law Talk: Minor stops did not change the 'incidental benefit'

Continued from page 3

injuries to workers that occurred to and from work when the personal vehicle must be provided by the employee. What had never been decided before the Moradi case was whether the employer was liable to a third-party when the employee was required to drive a vehicle to and from work and an accident occurs during the commute while the employee was pursuing a

personal matter. The Court found that the minor stops for yogurt and to attend a yoga class did not change the "incidental benefit" to the employer of having the employee use his or her personal vehicle to travel to and from the office and other work-based destinations. The Court held that these minor deviations were not so unusual or startling that it would be unfair to include liability to the employer for injuries caused by the employee in using the

required vehicle.

Following the Moradi case, if one requires an employee to use their personal vehicle for business purposes, they can be held liable for injuries to others caused by that employee while driving to and from work or for other personal reasons that are incidental to driving to and from work.

Now, as mentioned above there was another case that came out of the Court of

Appeal from a different district. In that case, Halliburton Energy Services, Inc. v. Department of Transportation, which was a combination of three separate lawsuits (six persons claimed injuries), Halliburton had an employee named Troy Martinez who was required to use a pickup truck to drive to and from work and for business purposes. Mr. Martinez had the option of using his personal

Please see VEHICLE, page 8

SAFETY ... IT PAYS



You don't have to fall off a truck

Falling while getting into or out of heavy equipment, a truck or tractor cab, hooking up air and electrical lines, or mounting or dismounting trailers is a sure way to get seriously hurt. An insurance industry study showed that falls from vehicles produced injuries that were almost 25% worse than other types of injuries.

Even an ankle sprain can play havoc with your ability to use the clutch. Minor injuries can cost you big in terms of lost income and downtime. The biggest single cause of falls from a vehicle is driver error and failure to follow the THREE-POINT rule.

What can you do to avoid falls?

No matter what type of access system your vehicle has available, use the THREE-POINT system to significantly reduce the chance of a slip or fall. The THREE-POINT system means three of your four limbs are in contact with the vehicle at all times—two hands and one foot, or two feet and one hand.



The THREE-POINT system allows a person to have maximum stability and support, thereby reducing the likelihood of slipping and falling.

DO'S:

- Wear shoes with good support - not sandals, bare feet or high heels.
- Exit and enter facing the cab.
- Slow down and use extra caution in bad weather.
- Get a firm grip on rails or handles with your hands.

- Look for obstacles on the ground below before exiting.

DON'Ts:

- Don't climb down with something in your free hand. Put it on the vehicle floor and reach up for it when you get down on the ground.
- Don't rush to climb out after a long run. Descend slowly, to avoid straining a muscle.
- Don't ever jump out. You may land off balance or on an uneven surface, and fall.
- Don't use tires or wheel hubs as a step surface.
- Don't use the door frame or door edge as a handhold.
- Don't become an injury statistic.

The professional driver or operator knows all the do's and don'ts of getting in and out of vehicles and practices the Three Point Rule every day.

The only person who can prevent a fall is you!

Water: Create suggestion boxes

Continued from page 4

- Consider using low-volume irrigation, such as a drip system.
- Avoid runoff! Make sure sprinklers are directing water to landscape areas, and not to parking lots, sidewalks, or other paved areas.
- Adjust the irrigation schedule for seasonal changes. Sprinklers generally do not have to be run as often in cooler weather, or during the rainy season.
- Use mulch around landscape plants to reduce evaporation and weed growth.
- Consider using drought-tolerant, low-maintenance plants.
- Be sure all hoses have shut-off nozzles.
- Use a broom, rather than a hose, to clear sidewalks, driveways, loading docks and parking lots.
- Wash vehicles only when needed.
- Investigate the availability of reclaimed water for irrigation and other approved uses.
- Assign an employee to evaluate water conservation opportunities and effectiveness.

Make it a policy

- Educate employees about the importance and benefits of water conservation.
 - Create water conservation suggestion boxes, and place them in prominent areas.
 - Install signs in restrooms and cafeterias which encourage water conservation.
- Any retrofitting and/or plumbing changes to facilities must be consistent with regulatory agencies. Check with the appropriate agencies before making changes.
- For more than 200 tips on water conservation where you work, visit wateruseitwisely.com/tips/category/office.

Vehicle: If you are providing a company vehicle, you can be liable for incidental actions of employee

Continued from page 6

vehicle (with reimbursement) or being assigned a company truck and he chose the company truck. He was allowed to use the company vehicle to go to and from work and for "personal reasons while traveling to and from work."

Mr. Martinez lived approximately 45-50 miles from Bakersfield, where he worked about 50% of the time. The other 50% of the time he worked on oil rigs for Halliburton at other locations around California. On a particular day in question, Mr. Martinez had been assigned to work on an oil rig near Seal Beach, California, which was approximately 140 miles from Bakersfield. He was assigned there for about three weeks and was staying in a local motel, rather than commuting home while on assignment. But, on a particular day while on assignment in Seal Beach, after his shift ended he drove 140 miles to Bakersfield for the sole purpose of conducting personal business - to purchase a vehicle for his wife. The deal fell through and after stopping for lunch with his family, Martinez began to return to Seal Beach. While en route back to Seal Beach from Bakersfield he was involved in an accident injuring six individuals who each sued Martinez and Halliburton, along with the State of California in three separate actions.

Halliburton filed a Motion for Summary Judgment, asking the court to determine that it was not liable because Martinez was not acting within the course and scope of his employ-

ment at the time of the accident. Contrasted with the Moradi case, Halliburton actually provided the vehicle that was used by Martinez at the time of the accident. However, the evidence offered by Halliburton was that the vehicle was not being used to commute to and from home or for stops that were en route to or from home. The undisputed evidence was that Martinez was not performing his duties for Halliburton at his place of business, or at his assigned workplace. The accident occurred between shifts 120 miles away from his assigned worksite. The court agreed that Halliburton was not liable on the facts before it.

Thus, we have two cases with a very different set of facts. In Moradi, the stop where the accident occurred was within a mile or two of the employee's home. In Halliburton, the accident occurred after the employee drove 140 miles away from his assigned workplace for a purely personal trip and not while commuting to and from work.

The moral of the story of course is that if you are compensating employees to use their personal vehicles or providing a company vehicle, you can be liable for the actions of the employee, including incidents that occur while they are running personal errands while on their way to and from home.

Bruce Rudman has been practicing construction law for 18 years. He has garnered a great reputation in the con-

struction field not only as a litigator but on licensing issues with the CSLB, particularly disciplinary proceedings. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Bruce Rudman can be reached at Abdulaziz, Grossbart & Rudman: (818) 760-2000 or by E-Mail at bdr@agrlaw.com, or at www.agrlaw.com

OSHA CORNER

Please visit the following address on the web to download helpful safety posters, guides and pamphlets for a safer workplace.

<http://www.dir.ca.gov/dosh/PubOrder.asp>



"The CALIFORNIA CONTRACTOR" is a published bi-monthly newsletter of The Western Regional Master Builders Association. Annual subscription is available with membership in the Western Regional Master Builders Association. For membership information, call (562) 296-8854. POSTMASTER: Send address changes to "Western Regional Master Builders Association" at 10701 Los Alamitos Bl. Suite 200, Los Alamitos, CA 90720.