



Los Angeles Painting & Finishing Contractors Association

December/January 2012

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LAP&FCA Holiday-Charity Event An Overwhelming Success!

"How To Put Fun Back Into The Workplace" topic for January 10 Membership Meeting

The 20th Anniversary LAP&FCA Holiday-Charity Event was a sparkling affair for all of those chapter members, friends and guests who attended and for many of Los Angeles' children in need whose smiles will be a little brighter on Christmas morning, thanks to the generosity of everyone who brought in so many gifts to be donated.

The beautiful Vista Ballroom was filled to near capacity with all segments of the industry in which LAP&FCA members work being represented. Among the special guests

were: Steve Havens (LMCI Industry Liaison), Oscar Meier (LAUSD Apprenticeship Advisor), Jesus Fernandez (Director DC#36 Apprenticeship), Wiley Zagajeski (LMCC Administrator), Marci Sanchez (Vice President ATPA) and so many of the Chapter's Associate member companies: Colors In View, Dunn-Edwards, Glidden Professional, H&E Equipment Svc's., Rainguard International, Sherwin-Williams, Morgan Stanley Smith-Barney, and Vista Paint.

An extraordinary holiday buffet received rave reviews and entertainment provided by the truly talented Generation 3 band kept members on the dance floor until closing.

Looking forward to the new year and LAP&FCA's first Chapter Membership Meeting, the lively topic of "How To Put Fun Back Into the Workplace" will be conducted by Harold Gidish of H&E Equipment Svc's. and fellow chapter Associate Members. The Beckham Grill in Pasadena will host the meeting.



Pat and Steve Edgar, Alma Serrano and Veona Gibson of El Santo Nino, Richelle and David McLean holding some of the hundreds of gifts donated by LAP&FCA members, friends and guests at the Holiday-Charity Event on December 3.

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President's Corner

We all have an extraordinary opportunity for 2012 to learn how to better improve the way we do business and at the same time, to have fun at the exciting social events planned at two premier PDCA Expo's held in nearby Valencia and Las Vegas.

The 2012 PDCC Expo is being held from January 25-28 at the beautiful Hyatt Regency in Valencia, conveniently located off the 5 freeway. The resort hotel places guests within walking distance of the area's best shopping, dining and entertainment. A full array of educational seminars, committee meetings discussing issues related to your business, and the camaraderie experienced and knowledge gained from fellow professional painting contractors is just too beneficial to pass up.

The 2012 PDCC Expo is being hosted by LAP&FCA and we have many exciting events planned including featured keynote speaker, Dave Berg, who was the co-producer of the Tonight Show with Jay Leno for 18 years, The O'Reilly Factor and NBC News. Dave has also worked as a reporter, anchor, executive producer and bureau chief for various television news organizations.

He has written for such publications as Reader's Digest, National Review, Christianity Today, The Washington Times, The Daily Caller and Crisis magazine. He covers a range of topics, including his experiences at the Tonight Show. His signature topic is: How to Communicate Your Ideas as Well as the Best Guests on "The Tonight Show." Dave will be speaking at 3:30 p.m. on Thursday January 26.

Expo attendees will be treated to a true adventure on Thursday evening when they board one of the vintage Santa Fe Trains at the Fillmore Western Railway in the charming city of Fillmore. Many major motion pictures have been filmed aboard the trains including the recent "Water for Elephants". A three course dinner and a "Wild West Show" will insure that this will be an event to remember.

The National PDCA Expo will follow at the Planet Hollywood Resort and Casino in Las Vegas from February 19-22. The special PDCA Union Contractor program will be held on Monday February 20, beginning at 9:15 a.m. and concluding at 11:30 a.m. The program geared toward PDCA union contractor members has been coordinated by LAP&FCA for the past several years and the timely and important topic of Training will be addressed at the national level by LMCI Industry Liaison Steve Havens and locally by Las Vegas apprenticeship representatives and in Southern California by our own Director of



Steve Edgar

Apprenticeship Jesus Fernandez.

Some other top 2012 Expo Activities:

More than 30 educational opportunities including:

- Accelerated Accreditation
- Live demonstrations
- Up close and personal tour of Hoover Dam
- Fantastic daily events with Glidden and Sherwin-Williams
- Free You Tube Videos for all attendees!

The Planet Hollywood features eleven restaurants and bars, a pool, casino and more, along with a wide range of rooms and suites. PDCA is offering a special rate of \$129.

Wishing the Happiest of Holidays, good health and prosperity in 2012 from
LAP&FCA Board of Directors and Staff.

CALENDAR

WHEN

WHAT

WHERE

| | | |
|------------------------------------|--|-----------------------------------|
| January 10 11:30 a.m. | Chapter Membership Meeting | Beckham Grill Pasadena |
| January 10 10:45 a.m. | Associates Meeting | Beckham Grill |
| January 10 1:30 p.m. | Board of Directors Meeting | Chapter Office |
| January 19 | LMCI Roundtable | DoubleTree Hotel Commerce |
| January 25-28 Hosted by LAP&FCA | 2012 PDCC Paint Expo <i>Take the Express to Success</i> | Hyatt Regency Valencia |
| February 19-22 February 20 | National PDCA Expo Union Contractor Program | Planet Hollywood Las Vegas |
| April 7 | Day At The Races Derby Day | Santa Anita Park Club Plaza |
| May 2-4 | National Issues Conference | Capital Hilton Washington DC |
| May 3-5 | PDCA Western Conference of Councils | Palm Springs Hilton |
| May 15-19 | FCA Annual Council | Hilton Hawaiian Village Hawaii |
| June 21-23 | PDCC Mid-Year Board | Bahia Resort San Diego |



LEGISLATIVE NEWS



STATE

LAP&FCA Is A Member Of The CILC

By virtue of being a member in the Painting & Decorating Contractors Council (PDCC), LAP&FCA is a member of CILC and is an active participant in the annual "Day At the Capitol" in Sacramento. The Construction Industry Legislative Council (CILC) is a consortium of construction trade associations in California. CILC was formed in 1947 to provide legislative and regulatory analysis and information to its member associations, as well as legislative advocacy. CILC represents construction companies involved in all trades, big and small, union and open-shop.

CILC focuses on business needs by working on legislative needs and regulatory work. CILC's work has included actively co-sponsoring or lobbying legislation to cap retentions, pay if paid, workers compensation reform, immigration reform, business wrap coverage reform, construction defect liability, and many other bills before California's Legislature.

Every spring, CILC has a "Day At The Capitol" conference that includes networking, breakfast, panel discussions, guest speakers, and lunch with a keynote speaker. After lunch, attendees head to the State Capitol for afternoon appointments with their respective home district

The best way to cheer yourself is to try to cheer somebody else up

Mark Twain, American author and humorist, 1835-1910

Senate and Assembly Legislators. CILC actively participates in Contractor State License Board activities to promote guidance and opinion to the CSLB and CILC members. CILC serves construction associations as an "information hub" and a forum for bill analysis and political situations.

Only One Job Killer Survives
Governor Edmund G. Brown Jr. concluded his work on legislation, vetoing two more CalChamber-opposed "job killer" bills in addition to two earlier vetoes and signing one "job killer" bill into law.

When the "job killer" list was released on May 25, 2011, there were 28 bills on the list. Two more bills were added subsequently, but following the June 3 legislative deadline for bills to pass the House in which they were introduced, the list of active job killers was reduced to 18.

In June one "job killer" passed the Legislature only to be vetoed by the Governor by the end of the month. Another "job killer" was amended to remove opposition (and later was vetoed by the Governor). The "job killer" provision is a third bill that was amended, but the CalChamber still opposed the legislation which ultimately was vetoed by

the Governor.

In the closing days of the legislative year, four more "job killer" bills passed the Legislature. Of those, only one was signed into law. The proposed laws threatened California employers with new costly workplace and employee benefit mandates, economic development barriers, regulatory burdens and inflated liability costs.
Source: CalChamber 12/17/11

Governor Directs State Agencies And Departments To Identify And Eliminate Unnecessary Legislative Reports

In another move to make government more efficient and reduce unnecessary costs, Governor Brown issued an Executive Order on 12-12-2011 directing the State's agencies and departments to review the approximately 2,600 annual reports they are required to submit to the Legislature, and identify those that are no longer useful or necessary.

"My administration remains committed to keeping the Legislature informed, but churning out 2,600 annual reports - some ordered more than two decades ago - is a waste of time and money." Governor Brown said, "All state agencies and departments have been asked to take a closer look at these reports and will work with the Department of Finance and the Legislature to get rid of those that are no longer needed."

Under the Executive Order, agency secretaries and department directors will prepare a list of all reports that they are required to submit to the Leg-

islature, and identify those that may no longer be of significant value. Each agency and department will report its finding to the Department of Finance. The Department of Finance will then review the findings and work with the Legislature to determine whether specific reports should be discontinued.

Source: *Office of Governor, 12-12-11*

FEDERAL

President Obama Signs 3 Percent Tax Repeal Legislation into Law

In a letter on November 21, 2011 from FCA National CEO Anthony (Tony) Darkangelo:

"We are very pleased to report that President Obama officially signed the 3% withholding bill into law this morning. This repeal permanently gets rid of the burden that was the 3% withholding tax. We are proud of the response from our FCA community. Of the total letters sent to the House Ways and Means Committee, 40% came from FCA members. This is just the beginning of what we can accomplish together. We are very excited to move forward with our FCA community and to continue to build a better future for our families. Our industry, and many other industries, is in your debt for your efforts in combating this issue."

LAP&FCA responded immediately to a call from National FCA for supporting H.R. 674 (which amends IRS Code of 1986 to repeal the imposition of 3% withholding on certain payments made to vendors by government entities) by sending a letter via fax to the Chairman and committee members who sit on the Ways and Means Committee. The Bill passed both the House and Senate and was Signed into Law by the President on November 21.

Legislation to Protect Subcontractors' Payment Assurances on Federal Work

The American Subcontractors Association (LAP&FCA is a member of ASA) supports H.R.3534 (Hanna, R-NY, Mulvaney, R-S.C.) that would protect sub-

contractors' payment assurances on federal work by redefining the "acceptable assets" that can be pledged by individual sureties and requiring those assets to be deposited with the federal government. The legislation would require individual sureties that provide bonds on federal projects to use only assets that can easily be liquidated to quickly fund valid claims. The legislation also would require that those assets be placed in the custody and control of the federal government. Currently, individual sureties only have to pledge "acceptable assets" that can include stocks, bonds, and real property and they retain custody and control of those assets pledged to secure a bond. These types of assets, however, are broader than what would be required of any other person or entity providing collateral to the federal government and can be misrepresented with regard to their value and can be difficult to liquidate in a timely manner. Unlike corporate sureties, which are vetted and authorized to write bonds on federal construction projects by the U.S. Department of Treasury, individual sureties are not required to be licensed in any state or to be approved by the Treasury. "The Security in Bonding Act will protect the construction industry from bad practices that hurt their bottom line and hinder their ability to grow and create jobs,"

Rep. Hanna said. Rep. Mulvaney added, "This legislation will increase transparency and restore the faith of long-overlooked subcontractors and suppliers - who no longer have to fear they will not receive payment to claims they are owed."

Ban on Hand-Held Cell Phone Use by Commercial Truck Drivers Effective Jan 3

Effective January 3, 2012, a new federal rule will prohibit commercial truck and bus drivers from using hand-held cell phones while operating these motor vehicles. The rule issued on December 2, by the Federal Motor Carrier Safety Administration, also applies to drivers of small passenger vehicles used to transport between 9 and 15 passengers. Hands-free mobile devices are exempt from the ban. A driver who violates the restriction could face federal civil penalties of up to \$2,750 for each offense and have his or her commercial driver's license suspended after two or more violations. Employers that allow their drivers to use hand-held cell phones while driving could face a maximum penalty of \$11,000.



Steve Havens, Industry Liaison LMCI, with LAP&FCA past president Terry Osburn. Steve will be conducting a LMCI Roundtable open to all union finishing contractors in Southern California on January 19 at the DoubleTree Hotel in Commerce.

Court Rules That Withdrawal Liability Is Based on Past Contributions, Not CBA

The Utah Carpenters' & Cement Masons' Pension Trust can collect unpaid withdrawal liability from a defunct company's owner and his other companies even though there was no signed collective bargaining agreement, the U.S. District Court for the District of Utah held December 8 (Trustees of the Utah Carpenters' & Cement Masons' Pension Trust v. Industrial Power Contractors Plant Maintenance Services, D.Utah, No. 2:09-cv-00929-DAK, 12/8/11).

In granting summary judgment for the pension plan trust, Judge Dale A. Kimball said withdrawal liability is based on a company's past contributions rather than a signed written agreement.

Jerry P. Carlson owned several companies, including Industrial Power Contractors Plant Maintenance Services (IPC), and contributed to the Utah Carpenters and Cement Masons Pension Trust on behalf of IPC union employees, even though there was no signed collective bargaining agreement. IPC stopped contributing to the trust in 2003.

In 2007, the trust demanded payment for withdrawal liability from IPC and continued to demand payment for the next two years until the trust sued and filed for a default judgment against IPC, Carson, and Carlson's other companies. The court lifted its previously issued

default judgment so it could decide the lawsuit on its merits, and the trust then filed a motion for summary judgment. Carlson argued that IPC was not liable for withdrawal liability under the Multiemployer Pension Plan Amendments Act because there was no signed CBA.

The court ruled that withdrawal liability does not arise pursuant to any labor agreement, but rather to a company's past payments into a pension plan. The court reasoned that under the MPPAA, IPC "acted as employer" by contributing to the trust on behalf of its employees and thus Carlson's actual signature on a CBA was unnecessary in collecting withdrawal liability. A company "could not be surprised" that after contributing to a pension plan trust for several years, it would be subject to withdrawal liability, the court said.

The court also found that the trust's lawsuit was timely because the statute of limitations under the MPPAA is six years, and the trust began its lawsuit within two years of its cause of action arising. Thus, there was no unreasonable delay in this lawsuit, the court found. According to the court, because IPC's liability was below MPPAA's minimal amount, IPC owed no withdrawal liability until the trust experienced a mass withdrawal in 2006. At that point, the trust timely informed IPC of its withdrawal liability, the court said. The trust then repeatedly attempted to collect the liability until it filed the lawsuit two years later in 2009, the court added. The court further ruled that Carlson and all of his companies were jointly and severally liable for IPC's withdrawal liability

because he owned 100 percent of IPC and all of his other companies.

Source: BNA Construction Labor Report, 12-15-11

FMI Expects Long, Slow Recovery for Construction Markets

FMI's (FMI is the largest provider of management consulting, investment banking and research to the engineering and construction industry) U.S. Markets Construction Overview, which focuses on the U.S. domestic construction market, contains good news and bad news for subcontractors. The good news is that 2012 should bring a 6 percent rise in construction put in place; the bad news is that "total put in place construction volume is pushed out to 2015 before it matches the prior peak of 2007." "This is consistent with our general view of a long and slow recovery of the construction markets," FMI said. "If there is one thing almost everyone can agree on as we approach the end of 2011, it is that the near-term future of America's economy, political structure and consequently, the construction industry appears more uncertain than at any time in recent memory. The uncertainty is altering the way many contractors plan for the future. The radical uncertainty of today's marketplace has increasingly led us to advocate "multiple-scenario" strategic planning as a better model for many of the contractors we work

Editorial Committee

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INFOLINE

Take The Express To Success January 25-28

The 2012 PDCC Expo, hosted by LAP&FCA, will be held from January 25-28 at the Hyatt Regency Valencia.

Educational Seminars, Industry Issues discussed, and a special Union Contractor Meeting, round out an exceptional array of programs. An abbreviated schedule:

Wednesday January 25

Morning : Golf at spectacular Robinsons Ranch.

Two 18-hole courses on par with any world-class private club.

7:00 p.m. Presidents Reception

Thursday January 26

Educational programs/Committee Meetings

Noon: Delegates and Spouses Luncheon

3:00 p.m. Opening Business Session
Keynote Speaker is David Berg, Co-Producer of the Tonight Show with Jay Leno for 18 years

5:30 p.m. Board Bus for the Fillmore Train Event. Ride vintage Santa Fe Train while enjoying a three-course dinner and "Wild West Show".

Friday January 27

Morning: Business Session and Educational Seminars

11:00 a.m. Trade Show -

See latest products on display

7:00 p.m. Installation Dinner/Dance

Saturday January 28

8:30 a.m. Annual Business Meeting

12 noon Golf

You may register by calling PDCC (916) 972-1055 and make your hotel reservations at the special Painting and Decorating rate of \$129 by calling Hyatt (661) 799-1234

with." FMI expects government construction spending, particularly for infrastructure, to decline, "possibly sharply" as budget battles continue in Washington D.C. "There is a sense that we are facing a long-term slowdown, while at the same time needs for public construction are on the rise," FMI said. "The budget gap between available or planned funding for public construction projects is large and growing; however, the national political gap is even larger. That is the basis for ongoing unease and sets an unharmonious tone for business everywhere."

"The solutions proposed are akin to looking for a white knight and, lately, that white knight takes the form of P3s (public-private partnerships) and national and state infrastructure banks. A better way to increase infrastructure investment would be for the economy to return to pre-recession spending levels with an improving economy generating greater tax revenues even without raising taxes. The problem is that the desired growth rate the country needs in order to keep up with population growth and to maintain current levels of quality of life, etc., will not occur until we have more jobs like those created by building more infrastructure. Therefore we are caught in a bind with no white knight in sight."

Source: *asatoday*, 12-15-11



The dazzling colors of the Vista Ballroom sparkle for all who attended the LAP&FCA Holiday Charity Event in Huntington Beach at the Hyatt Regency on December 3.



LAP&FCA Associate Members enjoying recent chapter membership meeting at the Beckham Grill. L to R: Tom Parks (Vista Paint), Gene Steen and Yolanda Jones (Glidden Professional), Roger Rivas (Rainguard), Allie Corey (Colors In View), Harold Gidish (H&E Equipment Svc's.), Richard Carson (Vista Paint) and Joseph Gholson (Glidden).

YOU ARE CORDIALLY INVITED TO THE

2012 PDCC PAINT EXPO January 25 - 28



TAKE THE EXPRESS TO SUCCESS!

HYATT

Hyatt Regency
24500 Town Center Drive
Valencia, CA 91355
Reservations: 661-799-1234



THERE'S A LOT GOING ON OVER THE FOUR DAYS, (SEE SCHEDULE ENCLOSED)

HERE ARE HIGHLIGHTS REGARDING THE TRADESHOW:

FRIDAY, JANUARY 27TH PAINT EXPO TRADE SHOW 11AM - 5PM
See the latest in Paint Products, Sundries & Equipment

GRAND PRIZE: GRACO ULTRA 395 AIRLESS SPRAYER

PRODUCT DEMOS PRIZE DRAWINGS LUNCH INCLUDED

SEMINARS & WORKSHOPS 8 - 11AM:

"COMPETENT PERSON FALL PROTECTION CERTIFICATION" "EMPLOYEE PRODUCTION"
"RUNNING A SAFE JOBSITE" W/ CAL OSHA "USING SOCIAL MEDIA TO MARKET YOUR BUSINESS"
"IS YOUR BUSINESS PLAN ON TRACK FOR SUCCESS?" W/ LINNEA J BLAIR
"BENEFITS OF HAVING A VALID CONTRACTORS LICENSE" W/ CSLB

PAINTING & DECORATING CONTRACTORS OF CALIFORNIA 916-972-1055