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Reflections on Two Years as ASM President

By Sara A. Stafford

Our final issue of *The Professional Contractor* for 2010 also marks my final column as president of the Associated Subcontractors of Massachusetts, as my two-year term comes to an end.



What a memorable two years it has been!

Just as I took office, the heady economic boom came crashing to an end, setting off what was to become the worst recession in decades. Little did we know then just how deep the recession would become, how long it would last, and how devastating it would be to the construction industry, in particular, triggering 30 percent unemployment and higher. Only now, two years later, are there signs of turnaround, as unemployment levels off and hospitals and universities announce plans to resume building – music to our ears.

Many ASM members have struggled through this challenging time, and ASM, like most associations, has felt the effects as well. But challenges often bring out the best in people, and it has with ASM, too.

We have used the time to boost programs and services for members, making ASM an essential business ally throughout the recession. We have also used these two years to prepare for the future – taking advantage of downtime in the industry to construct new offices that will allow us to take on the additional staff we've needed for years, once the economy rebounds.

Most important of all, we took the opportunity to make the case for "prompt pay" in the industry, which is all the more important at a time when businesses are

squeezed and jobs are at risk. The result was Massachusetts' new Prompt Pay law, which took effect in November and is the most significant construction legislation in decades. It is also ASM's biggest victory ever, and one that makes us very proud.

As 2010 comes to an end, we take pride in what we have accomplished as an association, and we take pride in the resiliency of subcontractors. We have survived the worst, and are ready to move forward once again. Perhaps the greatest symbol of hope and possibility is the project featured in this issue, the new wing at the Museum of Fine Arts. Completed largely by ASM members, the new wing epitomizes not only the cultural stature of our region, but also the expertise, professionalism, and can-do spirit of Massachusetts' specialty trade contractors.

The new MFA is all about the future – and what better place to begin ASM's own future, as we hold our ASM Biennial Dinner Gala and Elections there in April.

It has been a great privilege to serve as president of the Associated Subcontractors of Massachusetts during these past two years of challenge and triumph. I hope you will join us on April 5 at the new MFA as we celebrate the achievements of our association and our members, and pass the gavel to ASM's next president, David Cannistraro. ▲

Sara A. Stafford is president and owner of Saugus-based Stafford Construction Services and 2009-10 president of the Associated Subcontractors of Massachusetts. She can be reached through ASM at 617-742-3412.



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A Fond Farewell to the Dean of the House

Rep. David L. Flynn

By Christina P. O'Neill



David Flynn stands in front of the ladder truck dedicated to him by the town of Bridgewater, at a surprise retirement party thrown for him in October. Flynn was responsible for appropriating the funds to buy the truck.

Photo used with permission of the *Bridgewater Independent*.

On election night last month, Rep. David L. Flynn (D-Bridgewater) showed up at the headquarters of Angelo D'Emilia, the newcomer Republican who will succeed Flynn when he retires in January. As reported by Gatehouse News media, Flynn not only wished D'Emilia well, but remarked to the assembled crowd that D'Emilia will have many difficult votes ahead of him in the near future. Flynn promised to give D'Emilia advice and support through the rough patches, particularly on pieces of legislation that Flynn had worked on that have yet to pass. This, despite the fact that D'Emilia had just snatched the race from the Democratic candidate that Flynn supported. D'Emilia called Flynn a "class act."

Flynn, a Navy veteran and former Golden Gloves fighter, took his first public office in 1957, a year before graduating from Bridgewater State College. He served as park commissioner from 1957-1960, and then held the posts of Town Moderator (1969-1976) and the town's Overseer/Chairman of

Public Welfare (1964-1967) before joining the legislature (1964-1972). His chessboard-style career earned him the soubriquet of "earliest-serving" member of the Legislature rather than the longest-serving. But it was his expertise that earned him the appellation "Dean of the House."

"He was a very smart, progressive guy," says former Massachusetts Gov. Michael Dukakis, now a professor at Northeastern University. When Dukakis came to office in 1974, "one of the things we found that was maddening was hundreds of millions of dollars in federal infrastructure [aid] was unused." A total of \$600 million of federal money for state construction projects languished. Dukakis asked Flynn to leave the legislature to become commissioner of central services for the state, then assistant secretary of administration and finance. In the 1970s, the state started the Consolidated Construction Program of the Commonwealth of Massachusetts.

For his part, Flynn says, "it was the responsibility of government to

Editor's Note:

Rep. David Flynn (D-Bridgewater) was the sponsor and leading legislative advocate of ASM's Prompt Pay bill, which was signed into law on Aug. 10, 2010. The bill was one of his top priorities in the last formal session of his legislative career. ASM expresses deep appreciation to Rep. Flynn for his critical role in the passage of this important legislation, which represents the most significant change to construction law in decades. We honor him with this brief account of his extraordinary career.

get as much work out on the street as possible." And he did. At any given time, his department had 800 projects on tap and had to issue monthly reports on all of them. "David is a very talented manager, and every dime of that money was committed, thanks to him," Dukakis says. Flynn demanded performance accountability and expected deadlines to be met – and they were.

At the time, inflation was rising so fast that projects with a five-year timeline from preliminary design to finish often had difficulty getting financing to cover increased costs. On half of the projects, the cost increased so much that the state couldn't appropriate enough to go forward. Working with unions and other interested parties, Flynn and his team managed to pare many of those five-year timelines by as much as half.

Flynn's work on passage of the Prompt Pay act earlier this year, in recessionary times, "will save a lot of small businesses." He credits many different parties with making the bill happen.

State Rep. David Nangle (D-Lowell)

says Flynn also pays attention to the everyday concerns of constituents. Throughout his career, Flynn has made a point of showing up in his district office at 6 a.m. so constituents could visit with him between work shifts.

"He's like a throwback, an old school politician," Nangle says. "The most important thing to him was his community, his constituents. He taught me way back that if a constituent calls you, they've hit the wall. You make sure you follow through [for them]."

It isn't always easy. Back in the old days, Flynn says, "you used to be able to call Brockton Edison and get someone a job." Of his service as overseer/chairman of Public Welfare for Bridgewater in the 1960s, at a time before the federal government took over welfare, he opines that the system worked much better then, "because the local administrators knew the people, and so knew what the real needs were."

Over the past year, he's been cautioning anyone who would listen that difficult budgetary times call for concessions on all sides. And for the construction industry, crumbling infrastructure poses an insidious challenge. "It's not as glamorous as building a tower," he says. "The number one problem is deferred maintenance." With much of the state's infrastructure having been built in the first half of the 20th century, "the chickens have come home to roost," he says.

In 2005 and 2006, Nangle recalls, Flynn established an emergency funding plan for critically-needed school construction, providing about 70 percent state reimbursement for construction of the new Bridgewater-Raynham high school, which replaced a 1960s-era building that was badly out of date. He also was instrumental in authoring legislation that would give local communities the right of first refusal on surplus land.

State Rep. James Fagan (D-Taunton) cites Flynn's ability not only to speak eloquently, but to speak forcefully and meaningfully about critical issues, without being swayed by popular or media opinion. "If you don't know where Dave Flynn stands on an issue, it's because you haven't been listening," Fagan says. He commends Flynn for the decisions that have helped raise the standing of Bridgewater State College, now Bridgewater State University, and for standing by constituents in need.

"There are so many stories about him," says Nangle. "He had so much information and he's a representative second to none. I'm going to miss him, He's going out on top." ▲

Christina P. O'Neill is custom publications editor for The Warren Group, publisher of The Professional Contractor.

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SJC Targets Property Owners and Snow Removal Contractors

By James Coderre, CPCU

In a much-anticipated decision, the Massachusetts Supreme Judicial Court recently ruled on a case that will have a significant effect on how matters involving slips and falls on snow and ice are decided in the Commonwealth. The ruling in *Papadopoulos v. Target Corporation* is one to which property owners and snow removal contractors should pay close attention.

Massachusetts courts have long held that property owners were not liable for injuries caused by their failure to remove a “natural accumulation” of snow and

ice. Otherwise known as the “Massachusetts Rule,” it drew on our common experience with New England’s cold, snowy winters. It was understood that naturally occurring snow and ice was not a property defect from which guests to the premises needed protection. Many subsequent court decisions clarified what was a “natural” versus an “unnatural” accumulation. These court decisions served to strengthen the “natural accumulation” defense for property owners and snow removal contractors. Many of the cases brought by plaintiffs were dismissed before trial because their falls were determined to have been caused by a “natural accumulation.” Property owners and snow removal contractors

generally held the upper hand in these cases.

The *Papadopoulos* case started out no differently. The judge in the underlying matter held that Target Corp. was not liable to Mr. Papadopoulos because he fell on a natural accumulation of snow and ice. During the appeals process, the Supreme Judicial Court opted to hear argument on the natural accumulation rule itself.

The court reviewed the natural accumulation doctrine and how several other jurisdictions (including New Hampshire and Rhode Island) treated the issue. Taking their cue from other states, the court abolished the natural accumulation doctrine, and adopted the “reasonable person” standard instead. The court clarified that a property owner has a duty to exercise reasonable care to prevent the occurrence of defective or dangerous conditions on their property. That includes the presence of snow and ice:

“If a property owner knows or reasonably should know of a dangerous condition on its property, whether arising from an accumulation of snow or ice, or rust on a railing, or a discarded banana peel, the property owner owes a duty to lawful visitors to make reasonable efforts to protect lawful visitors against the danger.”

The legacy of *Papadopoulos* will significantly affect the outcome of slip and fall cases involving snow and ice. Plaintiffs alleging injury no longer have the legal hurdle of trying to prove that they fell on “unnatural” snow and ice. Instead, arguments will focus on whether efforts made by the property owner and/or snow removal contractor were reasonable. In addition, the decision is retroactive. This allows people who may have given up on their cases the opportunity to file them

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Building Information Modeling (BIM):

Are You Managing the Risk?

By Bernard K. Quinlan, CIC, CRM, CPCU

Building Information Modeling (BIM) is an integrated technology for creating a three-dimensional model of the physical and functional as-



pects of a building, from design through operation. Used by all project participants, BIM facilitates the early recognition of potential problems and conflict areas,

thus reducing or avoiding rework and changes. The result is improved efficiency and cost savings. This new technology also enables greater use of prefabrication and offsite fabrication.

Together, these factors should reduce the frequency and severity of workers' compensation and general liability claims. However, the mitigation of traditional claim exposures will be offset to some degree by new risks and exposures:

- More extensive involvement by contractors and subcontractors in the design process creates exposures not covered by commercial general liability (CGL) insurance. The CGL policy responds to claims arising from bodily injury or property damage caused by the contractor. However, economic losses resulting from project delay due to design errors would not be covered by the contractor's CGL policy. Participants in BIM projects should consider purchasing contractor's professional liability insurance to address this type of exposure.
- Multiple parties utilizing the model (design professional, contractor and subcontractors) present additional exposures to loss. What if a subcontractor employee's computer is stolen, and an unauthorized party gains access to the model? What if a subcontractor's employee accidentally transmits a virus to the design professional and other contractors?

What if the contract has a confidentiality provision, requiring notice of breach? What if the breach results in a substantial delay in the project? A cyber liability policy can respond to these exposures.

- Contract provisions dealing with warranties or guarantees for BIM projects must be carefully reviewed to consider how subcontractors can limit their exposure. Subcontractors should also attempt to negotiate limitations for design liability in their contracts.
- Surety underwriters may consider additional factors when underwriting a bond for a BIM project. Does the contractor have BIM experience?

What is the BIM experience of other team members? Are the parties managing the risks associated with BIM?

Insurance coverage and other risk management tools are available to deal with the developing and changing exposures presented by BIM. Contractors should consult with their legal advisors and insurance providers to understand and address the distinctive and evolving risks associated with a BIM project. ▲

Bernie Quinlan is a principal with Sullivan Group (www.sullivangroup.com), located in Needham. He can be reached at 781-449-8323 or bquinlan@sullivangroup.com.

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Doing it Right for 125 Years:

Coghlin Electrical Hangs Tough

By Micky Baca



Coghlin Electrical Contractors Inc. has been around for 125 years in a business in which only “the tough-minded survive,” says owner and company president Sue Mailman. She intends to be among the survivors for years to come.

As the fourth-generation head of the Worcester-based family business, Mailman has plenty of experience to draw on. She has worked for the firm for 25 years, taking the helm as president in 2002.

Coghlin Electrical was started by Mailman’s great-grandfather in 1885 and has spanned a world of industry changes since one of its first major jobs as a contractor on the first Shredded Wheat cereal plant in Niagara Falls, at the turn of the 20th century. The contract was for \$200,000 (substantial at the time), Mailman says, and Coghlin Electrical had a few dozen employees.

The plant closed years ago, but Coghlin Electrical continues to be part of major projects throughout New England, including the rebuilding of the fire-ravaged Malden Mills in Lawrence in the mid-1990s, the construction of Worcester’s Medical City in the late 1990s, multiple UMass Medical School projects, and the Worcester Trial Court, completed in 2007.

A union shop, the company now has some 190 employees in the field and another 60 in offices, Mailman says, with annual revenue of \$47 million. It is currently in the midst of a \$15-million contract for a semiconductor chip manufacturing facility for GlobalFoundries in Malta, NY, and a \$14-million contract for site electrical, telecom, security, and audio and visual at the state psychiatric hospital now under construction on Belmont Hill in Worcester. Other current clients include Intel, EMC Corp., and Saint Gobain in Milford.

The key to Coghlin Electrical’s longevity is fundamental, Mailman says. The

company keeps up with the latest industry trends, offers a broad array of services, and, most importantly, maintains the business values and principles that have set it apart for more than a century. “We value integrity and long-term vision,” Mailman says. “We hire the best people and invest in the people we have.”

Her company’s philosophy, she says, is grounded in honesty. “We are true to our word. If something isn’t right, we’re going to fix it.”

Considered a mid-size contractor, Coghlin Electrical’s edge is its ability to provide technical installation “from one end of the job to the other,” Mailman says. It was an early participant in building telecommunications infrastructure, cultivating that capability in the 1980s before many of its competitors.

When Coghlin Electrical split into two companies in 2000 – the contractor arm, which Mailman operates, and a manufacturing outfit run separately by her cousins as Coghlin Cos. – Coghlin Electrical kept the “geeks” to support its IT focus and launched Coghlin Network Services. It began partnering with Cisco to expand its data center work, Mailman says. Its role in the construction of the data center for the State Street Bank in Grafton four years ago was a major milestone.

“We are a little bit more than [a] vanilla contractor,” Mailman says. “When you’re in a secondary market like Worcester, you’ve got to be pretty broad. We’re not in the downtown Boston market, where you can focus on just one thing.”

Coghlin Electrical’s niche is high-end, technical contracting, including co-generation, medical, manufacturing, high technology, security and telecom.

William Kearney Jr., senior project executive for construction management firm Gilbane Building Company – which oversaw the Worcester Trial Court project and is the contractor for Worcester psychiatric hospital – calls



Coghlin Electrical a professional operation with “high integrity and quality work” that meets all project requirements of cost, schedule and teamwork. “They are great planners and have excellent suggestions on the latest products in their industry,” Kearney adds. “They always have their client’s interests in the forefront. I think the world of Sue Mailman and her company.”

Looking back on the challenges her company has faced, Mailman doesn’t single out a project, but rather the overall market ups and downs as the toughest ordeal. “It’s often tougher during busy times when people are jumping ship to work for someone else,” she says.

She counts herself fortunate to be busy in the current climate, in which there is so much competition and low-balling by

contractors and increased demands by savvy customers.

Her company has grown steadily over the years, Mailman says, weathering the tough economy of the 1970s and 1980s with 30 to 60 electricians on board. It reached a major milestone in the late 1990s, cresting at 100 electricians with

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The Next Generation Business Management Solution for Service and Specialty Contractors

By Laurie McCabe

Regardless of which segment of the construction industry you're in, having the right technology solutions to manage your business is critical to surviving and thriving through shifting market conditions. Contractors depend on business management solutions for the core accounting and construction-specific workflows they need for day-to-day operations and strategic planning. Many service and specialty contractors have additional requirements to manage and balance construction and service operations.

Being able to quickly see where projects are in terms of labor, supplies, deadlines and costs is critical to making good decisions. Armed with the right information, at the right time, you can operate more efficiently and profitably in order to prevent small problems from becoming big ones.

But many service and specialty contractors are relying on technology and software solutions that haven't grown with their businesses. They stick with a solution even after they've outgrown it, making up for shortcomings with inefficient, time-consuming workarounds. This may satisfy day-to-day needs, but it doesn't provide the agility needed to get you ahead of the curve and operate more profitably.

If you see any of these symptoms in your business, it may be time to upgrade your software.

- Wasting time entering data twice, because one system doesn't talk to another.
- Losing time and productivity because field personnel can't enter hours, check inventory or complete work orders from a job site.

- Spending too much time on workarounds to complete a task, such as keeping track of multiple inventories, allocating and dispatching service personnel, or setting up a piece of equipment in the system.
- Difficulty getting a real-time view into operations, leading to time-consuming efforts to generate accurate reports.

While this may not seem like the best time to invest in your IT, planning ahead can provide big returns when the economy turns around. And in the meantime, you'll know that your business will be operating more efficiently.

If you deploy technology strategically to automate and streamline your service operations and business functions, you can run more efficiently and productively. The result can be a real competitive advantage and improved customer service.

Finding the Right Tools for the Job

To leverage technology for competitive advantage, service and specialty contractors need a complete solution with construction-specific functionality. Most construction business management solutions provide an accounting core and construction-specific workflows in areas such as purchasing, job costing, time and materials invoicing, scheduling, service scheduling and management, change orders and payroll. But integration between different modules and functions is often weak or lacking.

An integrated solution connects disconnected "silos" of information to integrate and facilitate workflows across the business, helping to streamline operations, automate processes and run the business more productively and efficiently.

When evaluating new solutions, look

for a strong, construction-specific financials foundation, the specific functionality your company needs, and strong integration across functions. Some of the key areas that should be assessed include:

What database and platform is the solution built on? A high-performance database such as Microsoft SQL Server and the .NET platform provides the foundation for a unified solution that can scale to accommodate additional processes, workloads and users. With a centralized database you enter data once, and it shows up in all the modules. This provides a single view of data across functions, and makes data retrieval, querying and reporting much simpler.

What is my "must-have" functionality? This varies from company to company. If your business, for example, does both service and construction work, you must have the ability to share information between these operations to effectively manage and trace inventory. If services are your bread and butter, enabling dispatchers to view and manage multiple tasks at once may be your top priority.

How easy is the solution to use? Is the information you need at your fingertips, when and where you need it? Visual tools can help users come up to speed quickly, and make it easier to get work done. Solutions that have the same look and feel throughout make it simpler to share across modules. The fewer clicks needed to get to repetitive tasks, the better. Shortcuts can help users move quickly from one task to another, saving time and boosting productivity.

Also consider the resources that the vendor can provide to support you through implementation and beyond.



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Summary and Conclusions

Over the past two years, business conditions have been particularly challenging for construction firms. Business is likely to return gradually, and competition will continue to be intense. Construction companies must use technology to operate in a more efficient, nimble manner to win their share of this business, and deliver it at a profit.

If you've identified workflow obstacles and impediments that are preventing your business from getting ahead, consider taking the time now to build the technology infrastructure that will enable your business to get off the treadmill and not only survive, but to thrive and grow in the future.

Editor's note: this article was written on behalf of Sage, a leader in construction-specific technology solutions, and developer of Sage Timberline Enterprise, a product that helps companies improve productivity and efficiency across their operations, through an integrated approach built on a Microsoft platform. For more information, visit www.sage.com, contact productinfo.cre@sage.com, or call 800-628-6583. ▲

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The Battle Over Reporting Uncertain Tax Positions

In a stare-down with taxpayers, the IRS blinks.
And for now, an extra burden on small businesses is averted.

By William F. Rucci, Jr., CPA, MST

With its long-held mission to improve tax compliance and administration, the IRS routinely issues new reporting requirements designed to “increase the transparency and efficiency” of examining corporate tax returns.



But recently, the IRS had to admit that it had gone too far.

The episode began in January 2010, when the agency announced plans to develop a new schedule to be filed with corporate returns. The idea was to require some businesses to divulge more information about their “uncertain tax positions” – those grey-area items on a financial state-

ment that corporations are permitted to recognize as a benefit in their financial report, so long as the company’s interpretation can be considered “more likely than not” to prevail if challenged.

In practice, many companies are already required to analyze their uncertain tax positions, and document them in their financial statement work papers under the generally accepted accounting principles laid out in an accounting industry standard known as FIN 48.

But what the IRS was proposing would require some corporate taxpayers to report those same uncertain tax positions – and the interpretations behind them – in far greater detail, and include them as part of their annual corporate tax returns.

In sports parlance, it would be like

handing your playbook to the other team.

The IRS said the new reporting requirement was needed because tax issues had grown more complex, and that creating a new ability to perform “smart” audits would make their jobs more efficient.

“Today we spend up to 25 percent of our audit time searching for issues rather than having a straightforward discussion with the taxpayer about the issues,” said IRS Commissioner Douglas Shulman in prepared remarks.

But many corporate taxpayers were concerned that it amounted to providing the IRS with an audit road map. The outcry was immediate and severe.

“This is a massive, very important shift,” one tax professional told *The New York Times*. “Corporations have treated



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audits as a game of ‘come see what you can find.’ Now the balance of power will shift to the IRS.”

As is typical of many new reporting requirements proposed by the IRS, a public comment period followed the release of the draft schedule in April. The pushback from accounting and tax professionals, worried companies and industry groups was particularly fierce.

Some accused the agency of requiring accountants to do the IRS’s work for them. Others doubted whether the new requirement would really result in greater efficiency. Still others predicted that once in agency hands, a list of uncertain tax positions would give the IRS an unfair leg up, and hamstringing that company’s ability to negotiate a reasonable outcome to any government audit of its tax return.

When the final version of Schedule UTP was released in October, it appeared as though the volume of negative comments received by the IRS during the comment period had actually produced a more restrained reporting requirement.

The earlier requirement for companies to provide a concise rationale for its positions was gone, as was the requirement for corporate taxpayers to divulge their subjective evaluations and assessments, which had stirred concern about the IRS’s increased access to a corporation’s privileged tax accrual work papers.

The impact of the final Schedule UTP was also softened with a phased-in approach to filing. Whereas the draft version applied immediately to all business taxpayers with total assets in excess of \$10 million, the final version calls for companies with \$100 million or more to file in 2010; companies with \$50 million or more to file in 2012; and companies with \$10 million or more to file in 2014.

Certainly, the new reporting requirement had been scaled back, and it appeared that the IRS had been listening. Yet, concerns still remain. In a recent article in the *Journal of Accountancy*, the American Institute of Certified Public Accountants (AICPA) pointed out that, despite the changes:

- Smaller companies will be disproportionately burdened with the extra work of completing the schedule when it is fully phased in in 2014.
- A potential burden looms in future years on pass-through entities and tax-

exempt organizations.

- The new requirement amounts to duplicative reporting; the information received on the new schedule may not ultimately benefit the government.

Thanks largely to the five-year phase-in of Schedule UTP, the extra burden on small businesses has been averted – for now. But the new requirements amount to a changing disclosure landscape that will undoubtedly come with a host of technical questions and concerns for smaller com-

panies as the tax years roll on.

For companies that may one day exceed the phase-in thresholds set by the IRS, it may be wise to put an analysis of Schedule UTP’s potential impact on your tax planning radar screen. ▲

Bill Rucci is a partner in the Boston-area accounting and business advisory firm Rucci, Bardaro & Barrett PC. For a copy of the latest IRS announcement pertaining to Schedule UTP, contact Rucci at 781-321-6065 or billr@rb-b.com.



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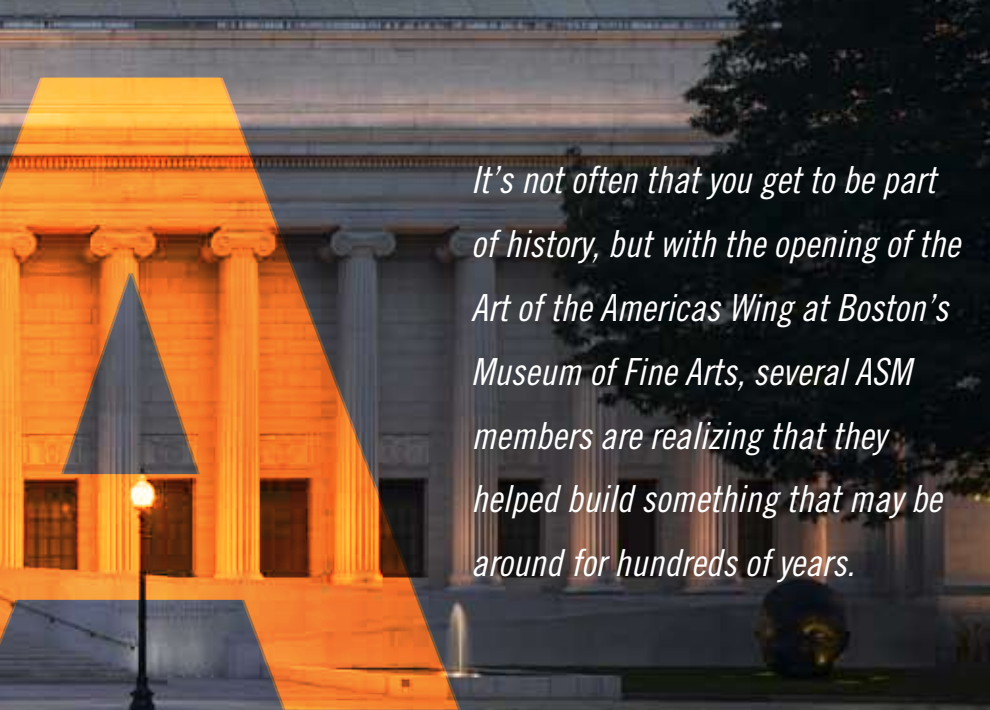
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It's not often that you get to be part of history, but with the opening of the Art of the Americas Wing at Boston's Museum of Fine Arts, several ASM members are realizing that they helped build something that may be around for hundreds of years.



On Nov. 20, the long-awaited Art of the Americas Wing opened, encompassing more than 50 new galleries devoted to the art of North, Central, and South America. This centerpiece to the already world-class museum enables the MFA to display approximately 5,000 works from its renowned American collection, more than double the number previously on view. While all eyes are on the new wing, the museum itself received significant renovations, affecting over 65,000 square feet. Total construction spanned three years.

Led by general contractor John Moriarty & Associates, the approximately 200,000-square foot wing was designed by architects Foster + Partners, and included more than 25 subcontractors, many of whom are members of the Associated Subcontractors of Massachusetts. Other key developers included executive architect CBT/Childs Bertman Tseckares, Inc. of Boston; enabling contractor Skanska USA Building, Inc. of Boston; and George B.H. Macomber Company of Boston, pre-construction services.

Steve Weber, senior vice president at John Moriarty & Associates, was with the project from beginning to end, and attributes its success to a “total team effort.”

“Everyone had the same goal, to construct the state-of-the-art museum that the architects envisioned. By creating mock-ups of both the interior and exterior pieces, we were able to build what everyone agreed upon, and test all the pieces that were to go together,” says Weber. “It was a fantastic accomplishment, and from what I’ve seen and heard it was a total success on everyone’s part.”

Workers are accustomed to doing their job around a building’s daily operations, but this project posed some unique challenges: ensuring a safe environment for not only the MFA’s guests, but also its priceless collection of artwork.

“We never closed,” said Budge Upton, MFA director of project development and construction. The workers maintained

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Top photo: ©The Museum of Fine Arts, Boston
 Middle photo: ©The Museum of Fine Arts, Boston
 Bottom row, from left:
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“certain environmental standards, such as humidity and temperature control, twenty four/seven,” he said.

Skill, teamwork and open communications came together to keep this \$345 million project within budget and delivered on schedule.

“John Moriarty set up a trailer [on the grounds], which eliminated probably 60 percent of the email traffic. The architects were in and out all the time,” said Upton, adding that the result was quick action and expedited solutions.

“It’s a tribute to all the subcontractors and everyone involved,” he said of the project’s successful completion. “Everyone came through with flying colors.”

Here is a spotlight of some of the ASM members and their contribution to the Art of the Americas Wing:

Phoenix Bay State Construction Co.

With all the high-tech equipment involved in today’s projects, some restorations still need a touch of old fashion eyesight and good judgment.

An award-winning historical renovator, Phoenix Bay State Construction Company was called to repair some of the exterior brick and granite of the existing museum, which had become damaged over the years.

“The challenge was finding the right match in brick color,” said Bob Asmar, PBS president. “We pulled out five samples, and [with the team] chose three

shades which were field blended to match.” For each area under repair, the team painstakingly labored over the right mix of brick, varying the percentages of each color as the need dictated.

As Asmar puts it, in restoration, the best compliment is when someone looks at the project then asks, “Well, what did you do?” Achieving that result is what drove the color matching process.

The team also restored ornate cornices and columns on the existing building.

In the new wing, PBS provided and installed masonry petitions and backup walls. “They’re a necessary, but not visible, part of the project. People will never see them,” said Asmar. “Our Local 3 union craftsmen were instrumental in performing this very intricate masonry restoration.”

Overall, it was a special experience, said Asmar. “It’s the MFA, after all; one of the most architecturally significant buildings in the city, and one of the most comprehensive art museums in the world. I’m fortunate PBS was a part of it.”

Archer Corporation

When Steve Farrell’s daughter visits the MFA during her college outings, he gives her some special instructions. “I tell her to take a look at some of the work we’ve done,” he said proudly.

Malden-based Archer Corporation worked with Mark Richey Woodworking to install the millwork and casework of the new wing. “Mark Richey manufactured the

woodwork, and we installed it,” said Farrell, controller of Archer. “We’ve worked with Richey and Moriarty before. We work well as a team.”

One of the most impressive sections they worked on was the 150-seat Barbara and Theodore Alford Auditorium, a multi-tier room with a presentation platform and projection screens. “The walls were wood panel from floor to ceiling. Even the exit signs were carved out of panel, custom done by Richey. It’s exceptional,” said Farrell.

Their project, which spanned about two years, was made challenging due to the delicate environment.

“[Our carpenters would be] working on a wall, and on the other side could be a famous piece of artwork or a glass case. We needed to minimize impact and maintain dust control, so we brought in specialized tools as needed, even did parts by hand if we had to,” said Farrell.

The project gave two of Archer’s employees’ an unusual twist on their job.

“Some display cases were shipped over from Italy, disassembled and ready to be re-assembled, and some of their workers came over as well. They spoke Italian, so we polled our carpenters to see if any spoke Italian. We found two; they stepped up to be interpreters.”

“To know our work is sitting next to famous artwork, and will be there for years to come, that’s the reward,” he reflected.

J&M Brown Co.

J&M Brown Co., Inc. of Jamaica Plain completed much of the electrical work for the new wing and existing museum.

Work included comprehensive new power distribution; life safety; lighting and lighting control systems; and wiring the MFA's new EST bi-directional fire alarm system.

Planning and coordination of equipment was crucial to the project. All equipment – electrical switchgear, massive generator, air handler units, boilers and plumbing skids – was delivered to the basement level of the new building, and transported by rigging.

The project required four power shut-downs to enable cutovers to new systems, which were scheduled overnight, during off-hours for the museum.

JMB also worked on renovating the Fenway entrance, including: fountain lighting, pump control and wind control system; parapet and railing LED lighting; banner lighting; and the fire alarm system.

For the Huntington entrance renovation, JMB provided parapet, facade and entrance LED lighting, and life safety system installations.

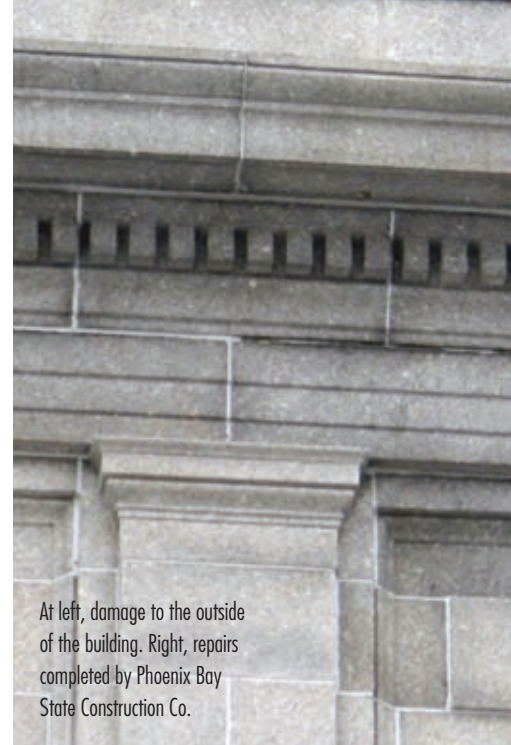
The project incorporated the installation of more than 100 different types of fixtures from various manufacturers, including nearly three miles of specialty museum track lighting from Litelab.

J&M Brown President David Noon said it was “gratifying to have worked with a great project team on the most significant current museum addition and renovation project in the U.S. I attribute the extraordinary success of this project to the close coordination among the entire MFA construction team, headed by Budge Upton, architects Foster + Partners and CBT, general contractor John Moriarty & Associates, and engineers WSP Flack and Kurtz Inc.”

Kenneth Castellucci & Associates

Family-run Kenneth Castellucci & Associates is no stranger to the MFA. The company worked on the MFA's West Wing in in the 1970s. Prior to that, under the leadership of Joseph Castellucci, the company worked on the East Wing in 1952. And before that, Frederico Castellucci was involved with the MFA's original granite work, in 1918.

This time, the Lincoln, Rhode Island



At left, damage to the outside of the building. Right, repairs completed by Phoenix Bay State Construction Co.

company was part of the expansive effort to furnish and install the exterior granite on the new wing, as well as make renovations and upgrades to the Fenway and the Huntington Avenue entrances. They also installed the new granite flooring and limestone wall veneer.

Paramount to the project was a globe-spanning effort to locate the correct stone for each project.

“For the exterior, they wanted a black, volcanic stone. We originally investigated a volcanic rock from Sicily, and then China,” said Michael F. Varone, vice president. When neither proved just right, they returned to Deer Isle, Maine, the source of the granite already in place at the MFA, and settled on that.

Finding the correct interior stone choice was just as careful an undertaking. The stone was quarried in Norway, then fabricated in Italy. Wall veneer was quarried in France, then fabricated in Italy.

“Over a period of 14 months, I took one trip per month to Italy for inspection,” said Varone.

Aside from the family history, Varone was proud to be a part of such a well-organized project.

“Everyone on the entire project displayed the total concept of teamwork,” he said. “Everyone was accessible and accommodating – the subs, general contractor, museum staff. For a project of this magnitude, it went off flawlessly.”

“It’s the MFA, after all; one of the most architecturally significant buildings in the city, and one of the most comprehensive art museums in the world.”

JC Cannistraro, LLC

“Plumbing is one of the first to be there, and the last to leave,” reflected Larry King, project manager at JC Cannistraro LLC, based in Watertown. For the crew, which spent three years at the museum, this gave them the opportunity to appreciate the finished product and the overall high degree of quality.

JC Cannistraro, a mechanical construction firm that specializes in plumbing, HVAC and fire protection, installed a 70,000-square foot mechanical room, several new bathrooms, a new fountain at the Fenway entrance, a large kitchen and several area kitchens, and renovated the main building and loading dock.

Unique for Cannistraro was the opportunity to install a Siphonic Rain Leader system, a technology originating in Europe

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Year In Review: Member Projects Photo Gallery

Every year, ASM members work on thousands of projects, both public and private, all across the region. Pictured are just a few of the projects proudly completed by ASM members in 2010.



Glynn Electric Inc. (Plymouth) recently completed the rehabilitation of commercial rental space for 10 tenants at the **Waltham Watch Factory**, a late 19th-century building that has undergone many additions and modifications as regulations evolved and uses changed.



The work is part of a three-phase project that will include residential units, a restaurant/café and additional commercial space.



Pavilion Floors (Woburn) is proud to present two recently completed projects: The first, **Burton's Grill** at the Northshore Mall in Peabody, required the use of seven different products and methods, including cultured brick and sheet-mounted porcelain mosaics. The



mall entrance (top) has marble flooring, hand-cut to create a herringbone pattern. The kitchen area (left) utilized quarry tile and base with epoxy grout. A complete waterproofing system was installed in all wet areas.

The second project was **Ocean House**, a unique and elegant Victorian reconstruction at Watch Hill on the Rhode Island coast. Pavilion installed 7,000 square yards of custom broadloom carpet and over 36,000 square feet of hardwood floor including a specialty maple in the aerobics room.



Lockheed Window Corp. (Pascoag, RI) was responsible for the complete window installation at Newton North High School, a high-profile and highly successful "CM at Risk" project where they worked with Dimeo Construction and Dorr & Whittier Architects.



Robert B. Our Co. (Harwich) recently completed several projects on or near the Cape Cod waterfront: Harbor Float at **Chatham Fish Pier** (Chatham); **Bass River Park Boardwalk** (Dennis); Versa Lock Retaining wall at the **Harwich Public Safety Facility** (Harwich); and **Uncle Tim's Walking Bridge** (Wellfleet).



Wayne J. Griffin Electric Inc. (Holliston) recently completed work at the **Cambridge Public Library**, which now showcases a 77,000 square-foot, three-story modern addition adjacent to the original structure. One of the most interesting features of this project is its unique exterior wall, comprised of two-layers of insulated glass, called a "double-skin curtain wall," which serves as a heat-regulating system for the entire building. Griffin Electric wired the louvered shades within the curtain wall, programming them to open and close dependent on the location of the sun. In colder months, the sun's heat is trapped within the glass panels, creating an insulating barrier for the building's interior, while in warmer months the panels



block the sun's rays, deflecting heat away from the building.

Additionally, the Griffin team installed a 3,500-amp, 480-volt service and distribution system, fire alarm, security card access and telecommunications systems, switching and dimming systems for the over 100 unique fixtures, and power to the underground parking structure.

Wayne J. Griffin Electric Inc. also recently completed a three-year project at the **Federal Correctional Institution** in Berlin, NH, installing 35kV and 15kV site distribution, emergency generation, interior distribution, power and lighting systems. One of the largest federal facilities in New Hampshire, this new medium security prison will accommodate over 1,200 male inmates and employ approximately 300 individuals in early 2011. All infrastructure work for the stringent security, fire alarm and communications systems was also completed by the Griffin team.



Photo credit: David Ryan Photo



R&R Window Contractor's (Easthampton) work for **Sunovion Pharmaceuticals Inc.** (formerly Sepracor) was a fast-track project that required tight coordination among all departments at R&R Window, from estimating and engineering to fabrication, project management and installation. They also credit glass manufacturer, Solar Seal, and curtain wall material supplier, Kawneer, for the rapid turnaround necessary to satisfy the tight timelines. In the end, Sunovion received a superior product, reflecting R&R Window's continuous commitment to quality workmanship and unsurpassed professionalism.



Court Decision Clarifies Subcontractor's Burden of Proof Under Lien Law

By Emanuel Bardanis, Esq.

Massachusetts' Mechanic's Lien Law, Chapter 254, limits the value of a subcontractor's lien to the amount due or to become due from the owner to the general contractor on the date that the subcontractor liens the job by filing a notice of contract.



It's reasonable to think that at a trial on this issue, the owner would have the burden of proving that no money was due or to become due to the general contractor as a result of prior payments, defective work, or otherwise. After all, the owner, by virtue of its contract with the general contractor, has all of the information regarding payments and problems with the work. But in a recent decision,

National Lumber v. Inman, the Appeals Court placed that burden squarely on the subcontractor and dissolved a lien based on the subcontractor's failure to present evidence of the amount due from the owner to the general contractor. In so doing, the court relied on two principles: first, that a key purpose of the lien law is "the protection of the owners' real estate" against foreclosure; and second, that Massachusetts courts have consistently found that the lien law is to be "strictly construed against the party claiming the lien."

National Lumber has requested further appellate review from the Supreme Judicial Court, which has discretion to hear the matter or not. Unless and until the Supreme Judicial Court holds otherwise, however, the Appeals Court's ruling sets the standard for mechanic's lien trials.

What does that mean for a subcontractor? Among other things, litigation to enforce a lien will require carefully securing all relevant evidence from the general contractor and the owner on issues of payment, work quality and the general contractor's overall compliance with its own contract. Although the lien law contains a number of such traps for the unwary, experienced counsel can help ensure full compliance with its provisions both during the project and in any subsequent lawsuit to secure payment. ▲

Emanuel Bardanis (ebardanis@corwinlaw.com) is a partner at Corwin & Corwin LLP, one of the oldest law firms in New England, dedicated solely to construction law, and counsel to ASM since 1950.



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Member Profile

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the Medical City project. "At that point, our numbers really catapulted," she says.

The Medical City project, now the Worcester Medical Center, was a bitter-sweet win, Mailman recalls. The sprawling complex took Coghlin Electrical's home office of 60 years by eminent domain, forcing the company's relocation to 100 Prescott St. in Worcester. "The only poetic justice was that we got the electrical contract," Mailman says.

Coghlin Electrical's status as a Women's Business Enterprise (WBE) helps it stay competitive. The *Boston Business Journal* recently listed Coghlin Electrical as among the top women-led businesses in the region. It was also listed among the largest women-owned technology companies by *Mass High Tech* magazine in October.

Mailman says she became designated as a WBE in 2003 because "it is what we are." She knows that it can sometimes be the deciding factor between winning a contract and being passed over. Some companies and government agencies actively seek a woman-owned company, but it isn't a common occurrence, she says.

She adds that being woman-owned may sometimes be a detriment in the industry "that is still very much a boys' world." Mailman says she is still surprised how few women are in the industry.

Being involved in the community remains a hallmark of Coghlin Electrical, as it was when her father and uncle ran it, Mailman says. She is an active supporter of the YWCA, the United Way and numerous other organizations. She also serves on numerous professional boards, including the ASM Board of Directors, and is part of a professional peer group of contractors from around New England.

With all the changes taking place in the industry, Mailman says, it's difficult to anticipate what direction the contract industry will take. "Whatever that growth is going to be, we're in a position to be a part of it," she says. ▲

Micky Baca is a freelance writer who has reported extensively on regional business.



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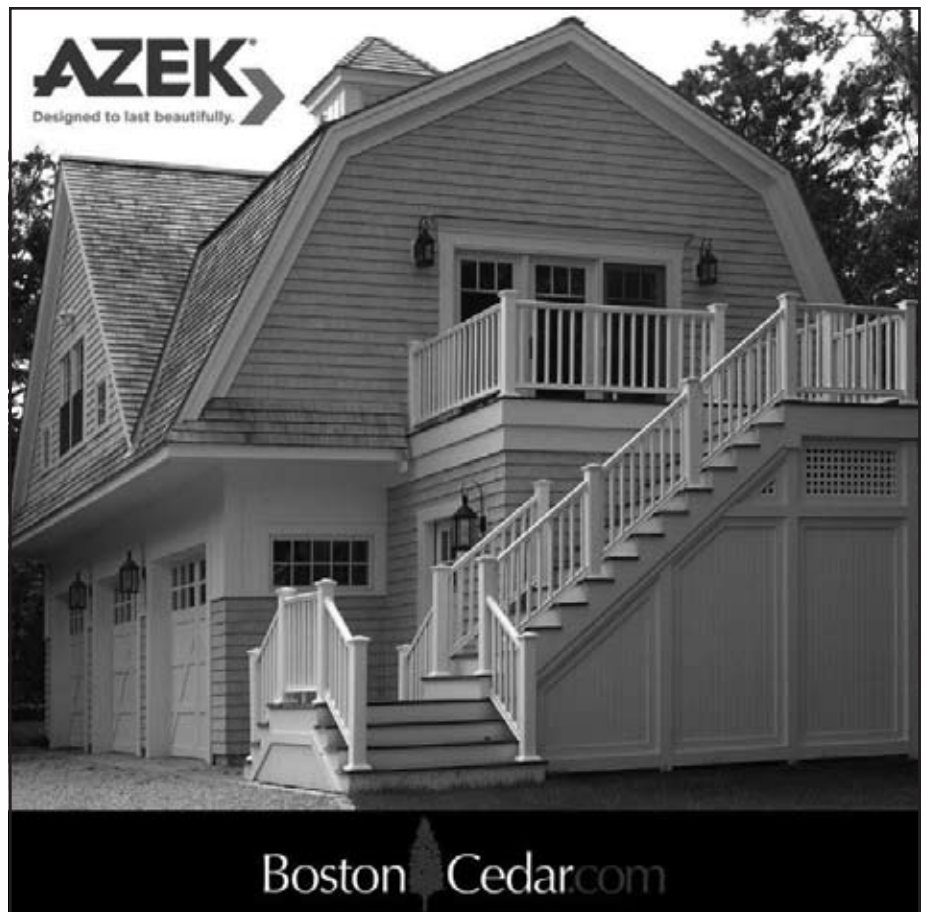
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Members in the News and on the Move

ASM Board Member **Sue Mailman** of **Coghlin Electrical Contractors** (Worcester) and long-time ASM member **Nancy Salter** of **Front Line Inc.** (Hopedale), were both recently named to the *Boston Business Journal's* first list of 100 Top Women-led Businesses. They were honored at a dinner at the Park Plaza Hotel on Dec. 8.

This year eight ASM members appeared in *Engineering News Record's* (ENR) list of "Top 600 Specialty Contractors" nationwide in 2010. Congratulations to them all: **Siemens Industries**; **Wayne J. Griffin Electric, Inc.**; **JC Cannistraro LLC**; **S & F Concrete Contractors**; **Karas & Karas Glass Co., Inc.**; **Central Ceilings**; **E.M. Duggan**; and **Marr Scaffolding**.

Caturano and Company (Boston), a leading regional full-service accounting firm, has merged with **McGladrey & Pullen** and **RSM McGladrey**, nationally recognized providers of assurance, tax and consulting services. Operating under the McGladrey name, but as a separate entity, they will offer clients access to a greater depth of national and international resources and expertise. All three companies are member firms of RSM International, an affiliation of independent accounting and consulting firms.

E.M. Duggan Inc. (Canton) recently announced several promotions and a new addition to the team. Thirty-year industry veterans **Jim Blanchard** and **Steve Hilliger** were promoted, respectively, to vice president of the HVAC division and vice president of the fire protection division. **Len Monfredo**, with over two decades of experience in the building industry, has joined the company as vice president of business development. Together this highly experienced new team will carry on the company's tradition of exceptional service.



Triumph Modular Corporation (Littleton), the Northeast's premier provider of high-quality relocatable and permanent modular buildings, has announced that **Gregg B. Kelly** has joined the company as director of major projects. Kelly brings with him more than 26 years of experience in every phase of modular construction, from design and estimating to project management and site construction. "Gregg's perspective and expertise are a perfect fit for overseeing Triumph's most innovative and involved building projects," said Cliff Cort, president of Triumph Modular.



Paul Palumbo of **Kaplan Career Institute** (Boston) was awarded the "Golden Hammer" award from Habitat for Humanity at their annual luncheon on Oct. 10. A licensed electrician, Palumbo is the program chair of Kaplan's Electrician Program and was instrumental in setting up a program where his Kaplan students now provide electrical services to Habitat homes, at no cost, saving thousands of dollars in the construction of the new homes.




Crocker Architectural Sheet Metal Inc. (North Oxford) recently received the Laurel Award from the Newport Preservation Society in recognition of the company's highly skilled artisanship in the historic roof restoration at The Breakers and Chateau-sur-Mer Mansions (above) in Newport. At right, Crocker Architectural accepts the Laurel Award. Pictured, from left: Jeremy Crocker, Chris Crocker-Lusignan and David Crocker from Crocker Architectural; William Wilson and Pierre Irving from Preservation Society of Newport; and Ralph Gillespie from Crocker Architectural.



Wayne J. Griffin Electric, Inc. (Holliston) recently welcomed Cooper Industries to conduct an on-site trade show and training sessions at their corporate headquarters in Holliston. "Cooper Industries Day" was an opportunity for project managers, estimators, purchasing agents and field staff to learn more about the products Cooper has to offer, and how to use them safely on the job site.






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Focus on Insurance

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now. As long as their cases haven't been decided by the courts and the statute of limitations has not expired, these plaintiffs can come forward and offer new or renewed claims for consideration.

Before *Papadopoulos*, attorneys defending property owners and contractors had become comfortable with the natural accumulation defense. These cases were often dismissed by summary judgment. After *Papadopoulos*, instead of relying on the law to relieve them of liability, defendants will have to defend each case on the facts, and a judge and jury will now be asked to determine if snow removal efforts were reasonable. The result is likely to be more litigation, with less certain outcomes, along with increased risk and associated costs to property owners, snow removal contractors and their insurers.

After the *Papadopoulos* decision, defending cases of slip and fall on snow and ice may be more difficult, but all is not lost. The court also made clear

that it believes New England property owners can meet the "reasonable person" standard. To do so, the property owner must have an appropriate snow/ice removal plan and must be able to document specific steps taken to remove the snow and ice hazard. While specific action steps to limit exposure haven't changed, the importance of proper documentation of those steps has increased significantly – including precisely what was done, when and how.

Many property owners contract with a snow removal contractor to perform this work. These contracts may include indemnification language and a requirement that the snow removal contractor name them as an "additional insured" on their general liability policies. These provisions are intended to transfer the risk from the property owners to the contractors, and can serve to force snow removal contractors to take over the defense and indemnification of slip and fall claims against the property owner.

Once contractors are brought into these cases, they may be forced to as-

sume the same "reasonable person" standard as do the property owners. It is extremely important, therefore, for contractors to clarify the duties expected of them in the contract prior to beginning the work, and to fully document all steps taken to fulfill their contractual obligations. Their ability to provide documentation may directly affect their ability to defend future slip and fall claims involving snow and ice.

If you have concerns about your preparations for winter weather, you should contact your legal counsel and your insurance carrier's loss control professionals. They can provide you with tips and strategies to help your organization better manage your snow and ice risk. ▲

James Coderre, CPCU, is director of casualty claims for Acadia Insurance Company (www.Acadia-ins.com), sponsoring carrier of the group property-casualty-workers compensation insurance program for ASM members. He can be reached at 888-786-1170, ext. 2501 or james.coderre@acadia-ins.com.

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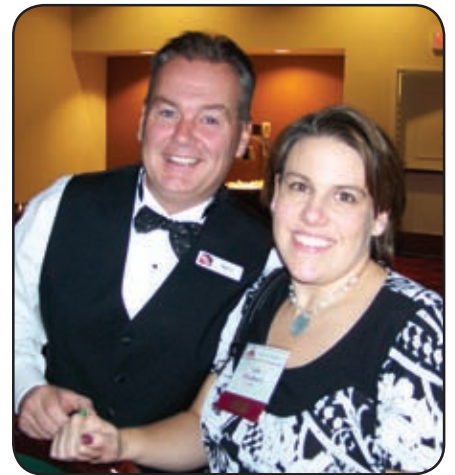
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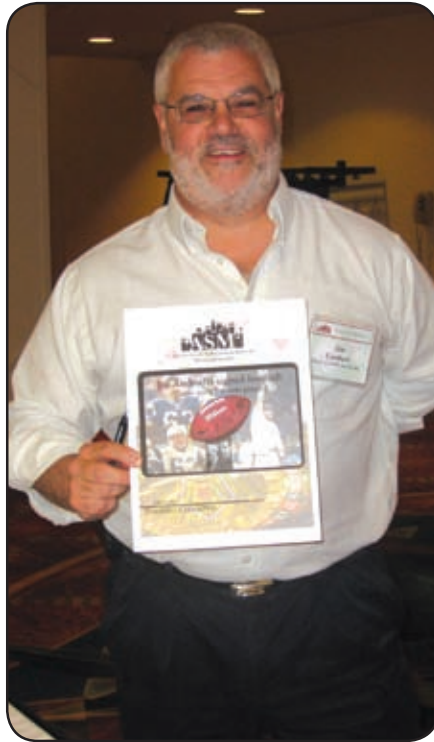




ASM Casino Night Hits the Jackpot

ASM's Casino Night fundraiser on Oct. 29 was a big hit with ASM members and friends, who had a great time "gambling" the night away at Las Vegas East (aka the Newton Marriott), all for a good cause. The dealers kept everyone laughing, the DJ was great, and John Graffeo was just awesome in working magic with his "plain" deck of cards. The highlight of the evening, however, was the raffle, with over 30 terrific prizes, including sports tickets galore, and weekend getaways in Boston, Nantucket and New Hampshire. Special thanks to our Royal Flush Sponsor, Acadia Insurance, and to our 23 other event sponsors, as well as all those who donated raffle prizes for the event. Kudos to Dwight Silvia and ASM's Program Committee for an unforgettable evening! Visit the ASM website for more photo highlights of the evening. ▲





and increasingly used in the United States for major commercial projects with large, flat roofs.

"It's only been used two or three times in Boston," said Keefe of the successful installation.

"The work was challenging because of the architectural details that had to be matched. The finish material had to be right on the button, everything had to line up. The materials used were top of the line; many of the fixtures were brought in from Europe," said Keefe.

"The crew was proud to be there, to be a part of history," he said.

Mark Richey Woodworking

Highly orchestrated coordination and attention to exacting details was the key for Mark Richey Woodworking and Design of Newburyport. The company, which crafts and installs high-end architectural millwork, played a huge role in the construction of the new wing. Efforts included complex framing, custom wall panels and door system, a 20-foot floating credenza in cherry with wall paneling above and around, ticket counters, multi-media equipped information counters,

glass clad doors, offices for staff and much more.

"The space is very easy to look at, yet required complex engineering. In many cases, we had to come up with unique solutions to modern design issues," said Whitney Hammett, project manager.

"We are known for our coordination and service. This project involved us breaking down jobs, engineering it out and coordinating with other subcontractors."

Much of the millwork was built in their shop, then disassembled and shipped as a kit to be installed at the MFA.

"Everyone understood it was a monumental project. We like to be part of the community, and this job was important to the community," said Gregory A. Porfido, chief operating officer.

Chapman Waterproofing

Waterproofing is important in any building, but given the multitude of delicate artworks housed by the MFA, that importance rose to a whole new level.

"Waterproofing was unusually critical in this job," said Scott Packard, vice president at Dorchester's Chapman Waterproofing

Co. "Any moisture in the system would throw off the temperature and HVAC. We needed to make sure that building wouldn't leak, from the foundation to the roof."

To ensure top quality, the team from Chapman used a spray foam application as an insulator and a barrier to air and water. A fairly new concept when the job began, the use of spray foam has quickly become an industry standard.

In addition to waterproofing, Chapman worked on the air vapor barrier and caulking.

"It's probably one of the more expansive, complex jobs we've been involved in, and we've worked on large jobs that are as detailed as you'll find – historical landmarks, the Big Dig," said Packard.

"It's nice to know you've worked on something that your children, and their kids, will walk through in years to come."

Packard attributed the success of the overall project to skills of the people involved. "They're pretty much the 'A' team – the best of the best." ▲

Debbie Swanson is a freelance writer based in Westford.

SAVE THE DATE!

Tuesday, April 5, 2011

6:00 – 10:00 p.m.



Biennial Dinner Gala and Elections



MFA Boston – State Street Corporation Fenway Entrance
Photo credit: Museum of Fine Arts, Boston

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