



New England Real Estate Journal

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President's Message

Advocacy is Top Priority

By David G. Cannistraro

In our ongoing efforts to improve the membership experience, ASM recently asked its members to complete a survey rating the importance of the benefits and services we provide to our members. We were not surprised that “advocacy” once again topped the list in importance, as it has for 60 years. Though advocacy, itself, is difficult to value, the outcome of ASM’s legal and legislative efforts has undeniable value – directly affecting a company’s bottom line.

Take the Construction Prompt Pay Law that passed in 2010. Now nearly two years later, new payment procedures are well established, and are speeding up the flow of payment on construction projects – most notably, payment for change orders, which has long been one of the greatest challenges for subcontractors.

Following up on that success, ASM is now pursuing new legislation to address the last and most important payment on a project – retainage, usually 10% of the contract and often not released for 6 months or more after completion. ASM’s message is simple – that the amount held for retainage is too much, and it’s held for too long. Our bill would cap retainage at 5%; and call for final release within 30 days of substantial completion, except for amounts to cover incomplete or defective work, or claims.

We see this bill is the “missing piece” to the Prompt Pay law; and like Prompt Pay, it would apply only to projects over \$3 million in value. While we face opposition, we believe that it is based largely on reluctance to change, as with Prompt Pay. To date, 29 other states have adopted laws setting restrictions on retainage in private construction, including Connecticut, which has exactly what we propose – with no harmful effects. We continue to reach out to our opponents in an effort to reach common ground on the bill.

In the legal realm, we are currently working to protect subcontractor payment bond rights on public projects. Recently, the state’s Supreme Judicial Court took a case on appeal, where a lower court had ruled that it is permissible for a subcontractor to waive its payment bond rights. ASM filed an amicus brief in the case urging the SJC to overturn the lower court decision, because we recognized the potential disaster for subcontractors if waiver of bond rights is allowed, and becomes the norm. A decision in the case is expected in about 3 months.

These are just a few of our advocacy initiatives – with still more in the works. If you are a subcontractor, I urge you to join ASM and be part of our efforts to improve industry practices and business climate for all of us.

ASM Annual Golf Tournament July 23 at Pinehills

Plymouth, MA – ASM will host the 17th Annual Golf Tournament on July 23th at Pinehills Golf Club for members, guests and colleagues. Enjoy an exciting day of golf, food, festivities, contests and prizes on Pinehills' two championship golf courses designed by Rees Jones and Nicklaus Design.

As an added attraction this year, ASM will introduce a special appearance by two national long drive champions!

The event also serves as an important fundraiser for the organization, directly supporting the ASM Scholarship Awards and the education and advocacy programs of the association.

For registration and sponsorship information visit ASM's website or contact Cathy at 617-742-3412.

ASM to host Safety Roundtable

On Wednesday, May 23, ASM will host David Tibbetts, Senior Construction Safety Officer at Harvard University for a Safety Roundtable presentation on *"Job Hazard Analysis – the Harvard Way"* at Eastern Insurance in Natick, MA. Tibbetts will cover the proper way to conduct a "Job Hazard Analysis," which is one of the most effective ways to prevent accidents on the job site.

The program is free and open to interested subcontractors. For more information visit www.associatedsubs.com or call 617-742-3412.

2012 ASM Scholarship Winners Selected

ASM has chosen this year's Scholarship Award winners! The three deserving recipients will be recognized at the Golf Tournament on July 23. Congratulations to our winners: **Sierra Wilbar** of Foxboro, sponsored by Southeastern Metal Fabricators; **Dominic Cauteruccio** of Holbrook, sponsored by Capone Iron; and **Catherine McQuestion** of Waltham, sponsored by NB Kenney Co. All three recipients demonstrated superior academic achievement as well as outstanding community contributions to their communities.

ASM Calendar of Events

ASM Safety Roundtable

Job Hazard Analysis – the Harvard Way

Wednesday, May 23

10:00 AM – 12:00 NOON

Eastern Insurance, Natick

ASM Legal Briefing

How Not to Get Caught Holding the Bag

Wednesday, June 13

8:00 – 10:00 AM

Westin Hotel, Waltham

17th Annual ASM Golf Tournament

Monday, July 23

Pine Hills Golf Club, Plymouth

Tee-off 12:00 NOON