



**SAN DIEGO ROOFING CONTRACTORS ASSOCIATION**

*From the President...*

Dear Members,

As mentioned in the April announcements, it has been two years since we have had an update on employment law.

Specifically regarding marijuana issues and the workplace, now that the recreational law has been in place for some time, what are the issues facing employers?

We will get some very valuable information from the upcoming dinner meeting and perhaps there is even some case law now established to give employers meaningful standards in which to govern their employees.

Looking ahead, I am sure you have all seen our new Roger D. Urbach Memorial Scholarship Program roll-out. Most funding will be generated through our Golf Classic, sponsorship opportunities are being sent out this week so be sure to take a look and sign up for a sponsorship to help fund the new program.

Sid Scott, SDRCA President

**Inside this Issue:**

- Monthly Safety Bulletin
- Monthly Financial Report
- Free Expo Passes
- Roger D. Urbach Memorial Scholarship Program
- Employment Increasing
- Arbitration Final?

*Upcoming Events*

Wednesday, May 15th  
SDRCA Dinner Meeting  
Employment Laws

June 9 - 11, Las Vegas  
Western Roofing Expo

August 26th  
SDRCA Annual Golf Classic  
Funding the Roger D. Urbach  
Memorial Scholarship Program

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**The San Diego Roofing Contractors' Association (SDRCA) has been serving the Roofing Industry for over forty years.**

**Times, techniques and technology has changed, but the SDRCA Core Values, Code of Ethics, Mission and Vision Statement has not.** The 2019 Board of Director Team is committed and dedicated to serving our members and this association with new education, resources, training and savings for the purpose of helping our members continue a tradition of profitability and professionalism in our industry.

**It is the intent of this Association to establish and maintain professional standards and practices in the Roofing Industry through education and public awareness.** Our members are committed to excellence and they use the benefits offered by the Association to help obtain this goal. The SDRCA encourages you to become fully aware of the potential problems of dealing with an unlicensed, uninsured roofer.

The SDRCA was formed in 1957 to preserve and promote the art of roofing application. SDRCA members recognize that after 61 years of innovation in roofing technology and application, the following goals are as meaningful and relevant today as they were yesterday and will be tomorrow.

The SDRCA remains a strong supporter of open competition and the free enterprise system; indeed, this competitive environment led to the success of its members. SDRCA members recognize that the perpetuation of such a healthy business environment is greatly influenced by their own professional conduct. The SDRCA supports the following practices, and encourages them in its members.

#### **SDRCA Member Code of Ethics:**

1. To conduct my business in an ethical manner, so that I will reflect credit and confidence by the public in our industry as well as my own business.
2. To consider my vocation worthy and dignified and thus affording a distinct opportunity to serve society.
3. To hold that the exchange of my goods and service for a fair profit is legitimate and ethical, provided all parties in the exchange are benefited.
4. To elevate the standards of my vocation by exercising a high degree of care in the execution of all work, and correct any defective work as a direct challenge to my ability and integrity.
5. To protect and defend the public from fraudulent and unethical practices affecting our industry.
6. To cooperate with the association in its effort to better conditions in the industry, so that public, management, capital and labor will all mutually benefit.
7. To operate my business in accordance with the rules and regulations of constituted authority at all levels and in a manner which will leave no doubt as to my loyalty to my country and its ideals and fundamental principals.

#### **The SDRCA Mission Statement:**

The mission of the San Diego Roofing Contractors' Association is to establish and maintain professional standards and practices in the roofing industry through education and public awareness.  
Adopted January 1997

***To elevate...To protect and defend...To cooperate...so that all benefit.***

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# Construction Employment Increases in 275 Metro Areas Year Over Year

Demand for construction in most parts of the country appears to be outpacing the supply of qualified workers for hire, the Associated General Contractors of America finds.

*This article originally appeared on the [REMODELING](#) website.*

Construction employment grew in 76% of metro areas analyzed by the [Associated General Contractors of America \(AGC\)](#) from January 2018 to January 2019, according to a [report from the agency](#). Employment grew in 275 metro areas in the past 12 months, while it declined in 39 of the 358 analyzed metro areas, the AGC finds.

“While construction hiring remained very widespread through January, industry employment gains nationally slowed in February—possibly an indication that the pool of qualified workers has dried up in many markets,” the association's chief economist Ken Simonson said in a public statement. “It will be hard to match this level of employment gains when the unemployment rate is setting new lows in much of the nation and job openings in construction are at all-time highs.”

The Phoenix-Mesa-Scottsdale, Ariz., Atlanta-Sandy Springs-Roswell, Ga., Houston-The Woodlands-Sugar Land, Texas, and Dallas-Plano-Irving, Texas, metro areas added the most construction jobs in pure numbers in the 12-month period from January 2018 to January 2019. Chico, Calif., St. Cloud, Minn., Midland, Texas, and Cleveland-Elyria, Ohio, added the highest percentage of construction jobs during the same 12-month period.

San Jose-Sunnyvale-Santa Clara, Calif., and Anaheim-Santa Ana-Irvine, Calif., reported the greatest employment declines in pure numbers during the past 12 months, while Danville, Ill., Bloomington, Ill., and Niles-Benton Harbor, Mich., reported the largest percentage declines in employment in the past 12 months.

This information was provided by:

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## Market Outlook for 2019: Uncertainty is Certain

Jack Loehr, Edward Jones 6050 Santo Rd., Ste. 140, San Diego, CA 92124

### "What Can You Do With Your Tax Refund?"

We're getting close to the tax-filing deadline. For many of us, this means it's that time of year when we get our biggest financial windfall – a tax refund. If you have recently received a refund, or are expecting to get one in the next few weeks, what should you do with it?

Of course, you could just spend the money on something you want, but if you'd like to maximize the financial benefits from your refund, you might want to consider other options, including the following:



**Invest the money.** In 2018, the average tax refund was about \$2,700. For this year, it might be somewhat lower, due to changes in the tax laws and the failure of taxpayers to adjust their withholdings in response. However, if you were to receive in the neighborhood of \$2,700, you'd be almost halfway to the annual IRA contribution limit, which, in 2019, is \$6,000. (If you're 50 or older, you can put in up to \$7,000). If you have already "maxed out" on your IRA, you could use your refund to fill in gaps you may have in other parts of your investment portfolio.

**Pay insurance premiums.** Let's face it – nobody really likes paying insurance premiums. Yet, if you have anyone depending on you, you will certainly need life insurance, and possibly disability insurance as well. And if you want to help protect your financial resources later in life from threats such as an extended – and hugely expensive – stay in a nursing home, you also may want to consider long-term care insurance. Your tax refund could help pay for some of these premiums, boosting your cash flow during the months you would normally be making these payments.

**Contribute to a college fund.** It's never too soon to begin saving for college, which has grown increasingly expensive over the last several years. So, if you have young children, you may want to think about investing some or all of your refund into a college-savings account, such as a tax-advantaged 529 plan.

**Pay off debts.** You might be able to use your refund to pay down some debts – or perhaps even pay off some of your smaller ones. The lower your monthly debt load, the more money you will have available to invest for the future. Keep in mind, though, that you might not want to look at all debts in the same way. For example, putting extra money toward your mortgage might help you pay it off faster, but you'll also be funding an asset – namely, your house – that might not provide you with the same liquidity as you can get from investments such as stocks and bonds.

**Help build an emergency fund.** By building an emergency fund containing six to 12 months' worth of living expenses, you can help yourself avoid dipping into your long-term investments to pay for large, unplanned-for bills, such as a major car repair or an expensive dental procedure. Your tax refund could help build such a fund, with the money ideally being placed in low-risk, liquid vehicles.

Clearly, you can help yourself make progress toward a number of your financial goals with your tax refund – so put it to good use.

*This article was written by Edward Jones for use by your local Edward Jones Financial Advisor.*

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## Performance Bonds

By Patricia Mosteller, Pacific United Insurance

Welcome to the 2<sup>nd</sup> quarter of 2019! Many small businesses in the roofing industry have experienced 10 – 20% growth in the 1<sup>st</sup> quarter of 2019 compared to the 1<sup>st</sup> quarter in 2018.

With the growth comes more companies and government agencies being cautious in who they hire to perform larger commercial jobs and we've seen an increase in requests for Performance Bonds.

This ensures that the contractor has the financial strength for labor, materials, etc in order to complete the project. Many times, this request will come from the building owner, cities and various government entities.

Remember to keep your books up-to-date in order to generate the required financials (P&L statements, Balance Sheets, etc) and have the copy of the contract ready to go in order to obtain the Performance Bond.

Cost is approximately 2 – 4% of the contract value, depending on credit. Collateral may be required as well in order to procure the bond.

Always happy to assist, so feel free to contact me with questions or if I may be of further assistance.

SDRCA Discount Offered as well, 619-274-8146 Direct Line.

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## *Online Registration is Now Open!* Western Roofing Expo 2019

Plan to attend the largest roofing expo presented by roofing contractors for the roofing industry - **June 9-11, 2019 at the Paris Las Vegas Hotel & Casino** - and maximize your company's productivity, efficiency and profitability!

The western roofing industry's largest, most comprehensive event of 2019 — the [Western Roofing Expo](#) — brings you the full range of features to help you promote your products and services, cost-saving resources, vital knowledge, powerful connections and much more. The expansive trade show floor is already completely SOLD OUT with over [200 exhibiting companies!](#)

**EARLY BIRD DISCOUNT: Attendees who register between now and February 28th, will automatically receive a 10% discount on Full Packages.**

**\*WSRCA Member Discounted Prices Available until Expo dates.**

Not a Member? Join today when you register and receive 'Member Only' pricing!

**FREE CONTRACTOR EXHIBIT FLOOR PASS**

[http://westernroofingexpo.com/wp-content/uploads/2019/01/Exhibit Floor Pass 2019.pdf](http://westernroofingexpo.com/wp-content/uploads/2019/01/Exhibit_Floor_Pass_2019.pdf)

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# Arbitration Is Not Always Final

By Bruce D. Rudman, Abdulaziz, Grossbart & Rudman

Most of the time the articles that we publish are about cases that come across our desk in what are called the "advance sheets" from a newspaper or publication that is dedicated to lawyers. In this case, we recently appeared before the Court of Appeal in a matter that resulted in an unpublished case, which means that our case cannot be used as authority in another case, but which was based upon legal precedents set by prior cases before the Court. At issue in the case was whether an arbitrator could properly determine that an entity did not require a contractor's license and award that entity money under a contract, where the contention that was being made was that a license was required.

Without giving away any names, at issue was a company that would assemble and install, including anchoring to a floor, large trampolines for a sports facility. These trampolines were the size of a warehouse. They were assembled and bolted to the floor. The company also assembled some ramps and other miscellaneous work. When the owner of the facility decided that they were unhappy with the work, they filed suit not only for breach of contract, but for disgorgement, seeking all money paid to the unlicensed entity.

The entity filed a Petition in the Court to Compel Binding Arbitration. This was objected to on the licensure issue. The Superior Court had held that the matter could go to Arbitration but then the Court would have the ability to review any ultimate award. The matter went to Arbitration and a retired Judge found that the supplier and installer was selling finished work, and therefore exempt from the license law. It was vigorously argued that the item did not qualify as a finished work. Indeed, just the labor to install the equipment was valued at more than \$30,000, and the labor was not incidental and supplemental to the installation of other types of finished goods such as a refrigerator, washer and dryer, or even a prefabricated all-in-one kitchen unit when it's simply hooked up to water and a drain.

After the Award was issued, our office filed a Petition to Vacate (set aside the Award). We argued that the case law in California, including three prominent decisions, holds that an Arbitrator does not have the power to determine an issue of public policy. More specifically, an Arbitrator cannot enforce a contract that is illegal because it was with an unlicensed person. There technically is also a fourth case, which held the unlicensed person cannot rely on the other cases to set aside an Award when it loses.

Of the four cases, three concerned the contractors' license law. In each one, for various reasons, unlicensed persons were initially allowed to enforce an Agreement through Arbitration. However, awards in favor of the unlicensed persons were reversed in each case. In the fourth case, taking a different slant, an unlicensed contractor lost in arbitration tried to argue that the fact that the unlicensed contracting was at issue should prevent the award against it from enforcement. The Court of Appeal held that the unlicensed person could not avoid the illegality of their contract and therefore an Award against an unlicensed person would be enforced but an Award in favor of an unlicensed person allowing that person to collect would not. It was universally held that only a Court can determine whether a license is required or whether an exemption applies, and not an Arbitrator.

The impact of this case is that if you are in arbitration or litigation with a person that you deem to be unlicensed, you may actually be able to argue the matter twice. If it goes to Arbitration, a court has the power to review the determination in a new Evidentiary Hearing to determine whether the Arbitrator was wrong in awarding money to an unlicensed person. Obviously, if the Court agrees that licensure was not required, then the unlicensed person may be able to collect. But if a license is required, they cannot enforce their improper contract either through the Courts or arbitration.

[Download a PDF Copy of ARBITRATION IS NOT ALWAYS FINAL!](#)

## Thank You to the 2019 Advocate Sponsors

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The SDRCA wishes to Thank our contributing Sponsors. The ability to bring ongoing, valuable educational, social and professional benefits and training is dependent upon our sponsors. We look forward to the new sponsorships and training opportunities 2019 will bring our members.

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