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NRCA



WSRCA

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## Letter from the President

Greetings Fellow ARCA Members:

If you are like me, you are enjoying what is likely the last of the cool weather we will see until Halloween. This has been quite a wet winter. I saw something the other day that Flagstaff has gotten over 118" of snow this season. Even as I am writing this another winter storm is moving in. The rain for many is like money falling from heaven. However, for me, I could use a little dry weather to get some projects moving and completed.

Many of us enjoyed the ARIF golf tournament about a month ago. For those who do not know, ARIF (Arizona Roofing Industry Foundation) is the charity organization that benefits ARCA members and charities. Every year thousands of dollars are raised to support ARIF's charitable efforts and numerous college scholarships are awarded to ARCA members and their families. I encourage all ARCA members to support ARIF activities so more ARCA members can benefit from the funds raised.

To that end, there are several sponsorship opportunities for the ARIF Sporting Clays tournament that will be held on April 14th. This event is a total blast. I'm not a great shot myself and I will still be out there. I hope to see you there too. Shooters are currently sold out, but contact the office to join the waitlist or [become an event sponsor](#).

On an uplifting note, while we have all struggled with supply chain issues over the past couple years, I am pleased to say most of these issues have subsided and products seem to be available again. It's been a long road and some relationships were likely strained along the way, but now is the time to mend those fences and return to business as normal.

In addition to ARIF spring event offerings, there are several upcoming ARCA events you should plan to attend. The next upcoming event is Riders Rally, which will take place March 25th. As ARCA President, I try to remain objective, but this event is my favorite. Dozens of us from the roofing industry will hop on our motorcycles and enjoy the perfect Arizona weather and breathtaking scenery. This ride will be a poker run starting in Glendale, with a stop at Wild Horse West (near Lake Pleasant) for lunch and then Roadrunner in New River, concluding at Black Mountain Tavern in Cave Creek. Those who want to continue onward will join me for the beginning of Bike Week in Cave Creek. While registration is now closed, there are still many sponsorship opportunities available for this event. If you own a Jeep or ATV, you should mark your calendar and join us for our next ride this summer at the [2nd Annual Riders Rally 4x4 Poker Run in Northern Arizona](#), which will also support the ARIF scholarship program.

When it comes to your ARCA membership, you get out what you put into it. ARCA offer numerous training classes and events for its members. Most training classes are of little or no charge to ARCA members. ARCA events are a great way to meet and network with other members. For a complete list of classes and events, please visit the ARCA Events page. Get involved—many of these activities are just for fun. Consider joining a committee or becoming involved on the Board of Directors as well. ARCA has so much to offer, but you have to take the first step.

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Sincerely,

ARCA President Larry Miller, Gorman Roofing

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# Roof *FAILURES* Failures

By Jerry Brown, WRECORP

**W**E HAVE NOTICED a dramatic increase in roof failures in Arizona over the past decade. These project failures seem to have common issues. We will address each of the issues individually in this series.

## Ponding water: failure to create positive slope of the roof

### NEW CONSTRUCTION

1. Lack of proper slope of the roof. This slope is determined by the design. It is up to the contractor/subcontractor to achieve this slope which is required by code.
2. Lack of proper cricket width. The designer quite often does not dictate the cricket widths. Code states that the roof shall have positive drainage. It is up to the contractor to create the proper width of the crickets to achieve positive water flow to the drain points.
3. Roof top equipment locations retarding or restricting water flow to the drain point. Contractors quite often fail to install crickets on the high side of the unit, therefore ponding issues are created behind the equipment. Mechanical contractors quite often install mechanical equipment in the

cricket valleys restricting or blocking the water flow to the drain point. Contractors will then install the roofing system knowing that the water cannot reach or achieve positive flow to the drains.

4. Drains or scuppers that are not set lower than the finished roof system. Over a short period of time the roof system settles downward and the drains or scuppers remain at the original elevation. This causes fractures in the membrane or a damming effect.

### IBC Chapter 15

**The IBC requires roofs to this general design.** “roofs shall have a design slope of a minimum of one-fourth unit vertical in 12 units horizontal (2-percent slope) for drainage”

**1503.4 Roof drainage.** Design and installation of roof drainage systems shall comply with Section 1503 of this code and Sections 1106 and 1108, as applicable, of and the *International Plumbing Code*.

**1503.4.1 Secondary (emergency overflow) drains or scuppers.** Where roof drains are required, secondary (emergency overflow) roof drains or scuppers shall be provided where the roof

perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. The installation and sizing of secondary emergency overflow drains, leaders and conductors shall comply with Sections 1106 and 1108, as applicable, of the *International Plumbing Code*.

**1503.4.2 Scuppers.** When scuppers are used for secondary (emergency overflow) roof drainage, the quantity, size, location and inlet elevation of the scuppers shall be sized to prevent the depth of ponding water from exceeding that for which the roof was designed as determined by Section 1611.1 Scuppers shall not have an opening dimension of less than 4 inches (102 mm). The flow through the primary system shall not be considered when locating and sizing scuppers.

**1503.4.3 Gutters.** Gutters and leaders placed on the out side of buildings, other than Group R-3, private garages and buildings of Type V construction, shall be of noncombustible material or a minimum of Schedule 40 plastic pipe.

**1503.5 Roof ventilation.** Intake and exhaust vents shall be provided in accordance with Section 1203.2 and the manufacturer's installation instructions.

**1503.6 Crickets and saddles.** A cricket or saddle shall be installed on the ridge side of any chimney or penetration greater than 30 inches wide as measured perpendicular to the slope. Cricket or saddle covering shall be sheet metal or the same material as the roof covering

**Exception:** Unit skylights installed in accordance with Section 2405.5 and flashed in accordance with the manufacturer's instructions shall be permitted to be installed without a cricket or saddle.

**Arizona Registrar of Contractors has required standards dealing with these issues.**

#### **RULE 4-9-108 WORKMANSHIP STANDARDS**

A. A contractor shall perform all work in a professional and workmanlike manner.

B. A contractor shall perform all work in accordance with any applicable building codes and professional industry standards.

C. All work performed by a contractor in a county, city, or town that has not adopted building codes or where any adopted building codes do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards.

#### **1. Ponding.**

Minor ponding (up to 1/2" deep in small areas equivalent to no more than 1/3 of span) is acceptable providing roof is dry within 48 hours after rainfall. Verifiable documentation that the potential problem was first submitted to the responsible party may relieve the roofer of responsibility.

Contractor should make necessary repairs to insure proper drainage.

#### **2. Improper crickets (installed by other trades).**

Roofer will be responsible if the roofer installs roof over improper crickets. Verifiable documentation that the potential problem was first submitted to the responsible party may relieve the roofer of responsibility.

Contractor should install cricket correctly and repair or replace roofing.

#### **RECOVER OF EXISTING ROOFS**

The primary issues that we have observed are that the contractors do not correct the issues of the existing roof systems prior to installation of the new roof system.

1. If the current roofs system is ponding water, many of the contractors do not determine why and do not institute measures that will correct this issue.
2. Roof top equipment is quite frequently not raised and crickets are not installed on the high side of the equipment.
3. Many roofs do not have crickets installed or they are not designed to promote positive drainage. Many of the contractors do not redesign or enhance the crickets to prevent the ponding in the cricket valleys.
4. What to do with roof top equipment that is blocking water. Most of the time this issue is not addressed.
5. Drains that are not sumped below the surface of the existing roof, therefore adding another roof system over the existing roof exacerbates the issue, causing more ponding in front of the drains or scuppers.

#### **TEAR-OFF AND REPLACEMENT**

The issues found in tear-offs are even more challenging.

1. Code requires that when a roofing system is removed, that all layers of the roofing system shall be removed down to the substrate/decking. Quite often in this process the contractor leaves the base layer of the roof system in place, normally because it is difficult to remove. All layers have to be removed and the substrate has to be inspected to insure it is a viable substrate. More times than not the substrate has to be cleaned and a primer must be applied. Quite often the substrate needs to be resecured.
2. Once the existing system is removed the contractor then must apply all of

the protocols, industry standards and codes as if it was a new construction. The required slopes must be achieved, crickets must provide positive drainage and equipment must be addressed to prevent ponding water.

#### *IBC Chapter 15*

**1510.1 General.** Materials and methods of application used for recovering or replacing an existing roof covering shall comply with the requirements of Chapter 15.

**Exception:** Reroofing shall not be required to meet the minimum design slope requirement of one-quarter unit vertical in 12 units horizontal (2-percent slope) in Section 1507 for roofs that provide positive roof drainage.

**1510.2 Structural and construction loads.** Structural roof components shall be capable of supporting the roof-covering system and the material and equipment loads that will be encountered during installation of the system.

**1510.3 Recovering versus replacement.** New roof coverings shall not be installed without first removing all existing layers of roof coverings down to the roof deck where any of the following conditions occur:

1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

#### **Exceptions:**

1. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support, shall not require

the removal of existing roof coverings. in place.

2. Metal panel, metal shingle and concrete and clay tile roof coverings shall be permitted to be installed over existing wood shake roofs when applied in accordance with Section 1510.4.
3. The application of a new protective coating over an existing spray polyurethane foam roofing system shall be permitted without tear-off of existing roof coverings.
4. Where the existing roof assembly includes an ice barrier membrane that is adhered to the roof deck, the of ice barrier membrane in accordance with Section 1507.

**1510.4 Roof recovering.** Where the application of a new roof covering over wood shingle or shake roofs creates a combustible concealed space, the entire existing surface shall be covered with gypsum board, mineral fiber, glass fiber or other approved materials securely fastened

**1510.5 Reinstallation of materials.** Existing slate, clay or cement tile shall be permitted for reinstallation, except that damaged, cracked or broken slate or tile shall not be reinstalled. Existing vent flashing, metal edgings, drain outlets, collars and metal counter flashings shall not be reinstalled where rusted, damaged or deteriorated. Aggregate surfacing materials shall not be reinstalled.

**1510.6 Flashings.** Flashings shall be reconstructed in accordance with approved manufacturer's installation instructions. Metal flashing to which bituminous materials are to be adhered shall be primed prior to installation.

#### SUMMARY

Ponding water as defined is not permitted. Ponding water attributes to deterioration of the roofing system which leads to roof system failure. Code is law and law must be followed. Rules are like codes; they must be adhered to by the contractor 🏠



**Jerry Brown** started in the construction industry in 1967 as a cabinet maker. Was drafted into the army in 1969.

Served in Vietnam 1970/1971. Started in the roofing industry August 1971 working for Hay's Roofing. Served on the Phoenix Police Department from 1972 to 1981 as a patrolman and Special Crime Prevention Unit. Became a contractor in 1982 (Jim Brown & Sons Roofing) along with his brother Ron and father Jim Brown. Joined ARCA in 1985. Started the roof consulting business (WRECORP – Western Roof Evaluation Corporation) in 2001. Became the education chairperson for ARCA in 2012, creating the education program along with the education modules and teaches the classes.

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### OSHA WILL HOLD ANNUAL SAFETY STAND-DOWN

**T**HE OCCUPATIONAL SAFETY and Health Administration's 10th Annual National Safety Stand-Down will be held May 1-5 to raise awareness among employers and workers about the hazards of falls in the construction industry.

OSHA, along with the National Institute for Occupational Safety and Health, the National Occupational Research Agenda, and the Center for Construction Research and Training, among other groups, will lead the effort to encourage employers to pause during their workdays for topic discussions, demonstrations, and training regarding how to recognize hazards and prevent falls.

OSHA also encourages people to use #StandDown4Safety to promote the event on social media, share feedback after their events, and obtain a personalized certificate of participation. [Learn more.](#)

NRCA once again will be holding three fall-protection webinars during the week in support of the National Safety Stand-Down. Stay tuned for more information. 🏠

### OSHA WILL WITHDRAW PROPOSAL REGARDING ARIZONA STATE PLAN

**T**HE OCCUPATIONAL SAFETY and Health Administration will withdraw its proposal to reconsider and revoke final approval of Arizona's State Plan for occupational

safety and health, leaving the state's plan in place, according to [www.osha.gov](http://www.osha.gov). NRCA submitted comments on behalf of its members regarding OSHA's proposal to revoke the state plan that supported Arizona's ability to maintain its state plan, so NRCA is pleased to see it has been resolved without revocation.

The announcement follows OSHA's publication of a *Federal Register* notice April 21, 2022, that proposed reconsideration and revocation because of the Arizona State Plan's nearly decade-long pattern of failures to adopt adequate maximum penalty levels, occupational safety and health standards, National Emphasis Programs and the COVID-19 Healthcare Emergency Temporary Standard.

OSHA accepted public comments regarding the proposal through July 5, 2022. On that day, Arizona submitted a public comment advising OSHA that the state's plan had completed significant actions to address the agency's concerns, including adopting outstanding federal standards and directives; enacting state laws to ensure Arizona's future maximum and minimum penalty levels track with OSHA federal levels; and authorizing adoption of an emergency temporary standard when OSHA or the Industrial Commission of Arizona determines grave danger criteria are met.

Considering Arizona's efforts, OSHA postponed a scheduled public hearing and reopened the comment period until Oct. 14, 2022, to allow stakeholders another opportunity to comment on the proposed revocation.

On Feb. 14, OSHA announced it will withdraw its proposal to reconsider the final approval status of the Arizona State Plan, despite recent public reports of a downward trend in inspections in the plan's enforcement program, which were not part of OSHA's April 2022 *Federal Register* notice. OSHA takes these reports seriously and is working with the Arizona State Plan to address these issues. 🏠

### OSHA BACKS OFF FROM THREATENED TAKEOVER OF JOB SAFETY IN ARIZONA

By Andrew Wenker

**I**N A GOOD-NEWS development for Arizona contractors, in February the Labor Department announced that the Occupational Safety and Health Administration (OSHA) "will withdraw its proposal to ... revoke final approval of Arizona's State Plan for occupational safety and health."

The decision leaves the state plan in place, and worker safety enforcement will remain in the hands of the Arizona Division of Occupational Safety and Health (ADOSH).

OSHA announced its threatened takeover in October 2021, subject to the results of a public comment period that was set to expire July 5, 2022. On that date, according to the Labor Department, the state advised OSHA that it had completed "significant actions" to address OSHA's concerns, and OSHA extended the comment period.

"With today's announcement," the Labor Department's February 14 announcement stated, "OSHA will withdraw its proposal to reconsider the final approval status of the Arizona State Plan, despite recent public reports of a downward trend in inspections in the plan's enforcement program ... and the agency is actively working with the Arizona State Plan to address these issues." 🏠

→ **Andrew Wenker** is a construction and worker safety attorney at Lang & Klain, P.C., in Scottsdale.





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## The Dotted Line—Reviewing construction contracts with recession in mind

*Contractors need to know where they stand on a project long before times get tough.*

By [Joe Bousquin](#)

*This feature is a part of “The Dotted Line” series, which takes an in-depth look at the complex legal landscape of the construction industry. To view the entire series, [click here](#).*

CONSTRUCTION ATTORNEY ERIC Singer is a huge Game of Thrones fan, so it’s fitting that he points to the HBO series’ best known mantra when it comes to a potential recession in 2023: *Winter is coming.*



Construction Attorney Eric Singer

Like the members of the saga’s House Stark who adhere to that motto, Singer says construction

pros today should already be preparing for whatever hardships may come, given predictions of more challenging economic conditions ahead.

Those preparations include reviewing contracts with a potential recession in mind. Critical to the process is knowing what provisions contractors and subs are entitled to, as well as the responsibilities they have to the party on the other side, before a true economic contraction sets in.

“By the time a recession hits, it’s too late,” Singer said.

### THE WIND BEFORE THE RAIN

Singer said that in his own practice, he’s seen signs that “winter” may already be here.

“To me, the biggest leading indicator in construction is a change in the nature and frequency of claims, which we’ve been seeing,” said Singer, a partner at Ice Miller

in Chicago. “It’s like the wind that blows up before it’s going to rain. You can sort of smell it coming.”

Those claims have come in the form of what Singer calls “late-in-the-game change orders,” which have picked up as projects that kicked off early in the pandemic now approach their final stages.

“What I’m seeing now is contractors getting significantly into a job and realizing they’re losing money, and they try to convert that to a change order,” Singer said. “It’s the contractors that are financially on the margins that are leading those changes. We’ve got a bunch of them.”

Attorney Alex Baghdassarian, a partner at Hanson Bridgett in Los Angeles, has noticed a similar uptick in claims, and a new unwillingness among project owners to accept them as interest rates have increased and capital markets have gotten tighter.

“Previously, when there were changes

or delays on the project, oftentimes owners would be sympathetic and try to resolve the dispute,” Baghdassarian told Construction Dive. “If the contractor was asking for \$100,000 in change orders, they may have negotiated it down to \$80,000 or \$70,000. That is not happening as much.”

Instead, as owners and developers encounter a more challenging funding environment themselves, Baghdassarian said, they’re saying no more often.



Attorney Alex Baghdassarian

“They don’t want contractors to see them as an open checkbook,” Baghdassarian said. “Unless the contractor can convince them these costs are actually driven by something

the owner or design team did, owners are telling contractors they’re out of luck, and that they have to absorb these costs.”

Attorney Adam Richards, a partner at Berger Singerman in Miami, says even though construction activity is still robust in Florida, just the possibility of economic



Attorney Adam Richards

slowing has changed the tenor of recent negotiations.

“We’re not quite sure what’s on the horizon, but regardless, the impact is that everyone starts tightening up,”

Richards said. “Everyone starts thinking about risk aversion.”

## SEEK SHELTER BEFORE THE STORM

Against that backdrop, and as financing becomes tighter amid higher interest rates, contractors should protect themselves by checking up on the financial health of any projects they’re on today. They can easily do so, in most cases, by making a request via the financial assurance clause contained in most standard contracts.

“It allows a contractor to ask the owner for reassurance of its capability to continue

funding the project,” Baghdassarian said. “The contractor should be entitled to confirm whether the loan is still in place, or if the owner-developer is running into any sort of financial issues.”

Those answers should come as a normal course of doing business. If they don’t, that could be a signal tougher times have already arrived.

“If the owner is nonresponsive, that’s a pretty good indication the situation may be more serious than anticipated,” Baghdassarian said.

## GETTING IN LINE

Of course, many contractors and subs get wind of problems on a job in another way: when the checks stop coming, even though they’re still doing work.

Before that happens, contractors need to make sure they’ve already issued preliminary notice to owners of their lien rights to a project, should conditions worsen. That notice not only alerts owners that the property could be used as collateral against unpaid debts if a project hits a roadblock, it also establishes the contractor’s place in line as to who will get paid first.

“The key in terms of enforcement of liens is who comes first in time,” Baghdassarian said. That means if a contractor gave proper preliminary notice to an owner prior to funding being secured for the project, that contractor would come before even a bank or other lender in terms of getting paid.

If you didn’t serve a preliminary notice earlier, do so now so that “the value you add going forward is protected,” Baghdassarian said.

Of course, getting to the point where liens are necessary is never a great outcome. Richards advises to make sure you regularly check in on the health of the job before then.

“With every single payment application, you have an opportunity to reconcile the account, and do a deep dive on the project,” Richards said. “Because the outstanding balance can get too large too quickly if you’re not properly tracking it from the get-go.”

## BEFORE SENDING PAPER, TALK IT OUT

When the wheels do come off a project,

contractors are often in a precarious position between their subs and the owner they’re trying to get money from (and preserve a relationship with).


In that situation, attorneys universally recommend transparency and open dialogue to keep both owners and subs in the loop, even if a lien is unavoidable.

“Sending something in writing that surprises people is never a good idea,” Baghdassarian said. “Before sending a notice, speak to your owner contact and let them know the situation you’re facing with your own subcontractors. If you’re dealing with people who are honest, that’s usually well received.”

Keep in mind, should you need to file a lien to get paid, doing so is only as good as the owner’s solvency.

“If the property is worth half as much as there are lien claims, you can expect that even if you win, even if you did everything right, you’re not going to collect everything you’re owed,” Singer said.

That, ultimately, is the difference between boom times and bust when it comes to construction

“When times are flush, money covers over a lot of problems,” Singer said. “When times are bad and the owner has money concerns, they can’t fund that spread any longer. That will grind a project to a halt.” 



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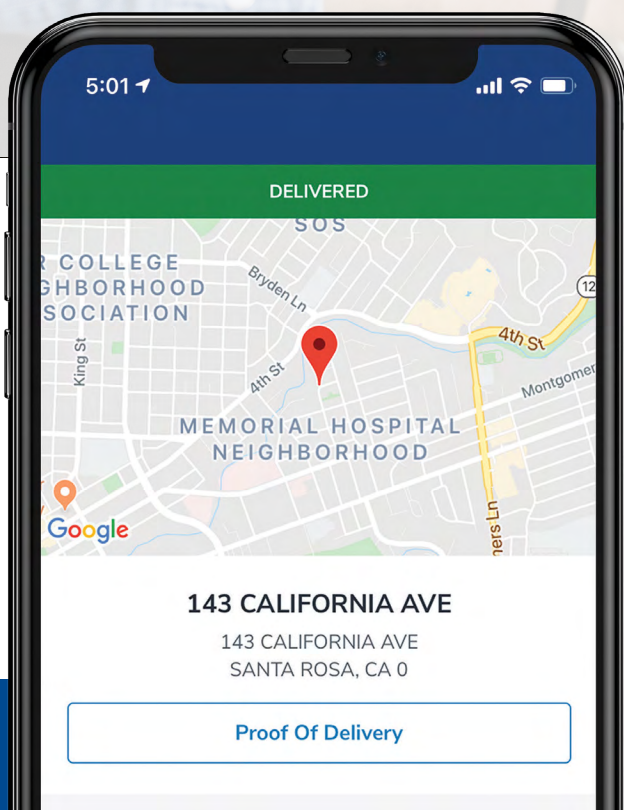
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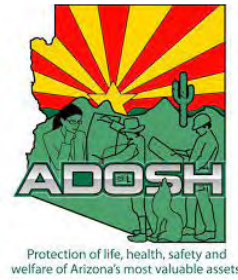
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# ARCA GOLF

## Tournament

Jan 27, 2023

### FLIGHT A

FIRST PLACE	Brian Broderick
Michael Fisher	
Brett Olsen	
Billy Hankenson	



SECOND PLACE	Brian Broderick
Michael Fisher	
Brett Olsen	
Billy Hankenson	

### FLIGHT B

FIRST PLACE	Frank Vanderzee
Frank Neal	
Tom Tourek	
Jim Tourek	

SECOND PLACE	Roger Calderon
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# Boost Profits, Reduce Risk with a Good Construction Contract

*Properly drafted  
contractual provisions  
can be among your  
roofing company's  
best allies.*

By George King

**C**ONTRACTORS AND subcontractors often believe if they just do good work, they will stay out of trouble.

## **Not true.**

Unreasonable owners can drag contractors through lengthy litigation, even over the best work, and aggressive general contractors can beat up subcontractors that are doing everything right, just to squeeze an extra few dollars out of the project or to make up for someone else's delays or mistakes.

You can't protect yourself from every tough owner or GC. But you *can* write contracts that:

- limit risks;
- increase the costs (and decrease the rewards) for groundless claims; and
- defend your business from costly lawsuits.

Before you invest time in drafting a contract, remember that some jobs just are not worth the risk. Customers who want you to achieve the impossible—overnight, on a very tight budget—will be trouble. If you think the customer is destined to be unhappy, you are probably right. Walk away. The profit you might make on the project is tiny compared to what you could spend in a lawsuit or defending an ROC complaint.

This article describes four types of provisions that, in a construction contract, can protect you from costly and business-threatening disputes.

**Contract Provision #1: Attorneys' Fees.** "Winning" a case where you can't recover your attorneys' fees is often hardly winning at all. A good attorneys' fees contract provision can reduce the chances of costly "victories."

Even without a specific contract provision, Arizona law allows the winner in contract litigation to ask the judge to award attorneys' fees against the losing side. However, the award is entirely discretionary. The law allows the judge to award all, part, or none of the winner's

fees. (Note that this law does not apply in proceedings before the ROC, which has no power to award any party its attorneys' fees.)

In a lawsuit, a good contract can remove the judge's discretion to deny fees to the winner. A contract that says that the judge "must" or "shall" award the winner's attorneys' fees requires that fees be awarded. The judge can still reduce the award if the fees aren't reasonable, but there is no discretion to reduce the award just because it was a close case or the losing party might have trouble paying.

On that issue, one of our Lang & Klain contractor clients recently won a case on appeal. Disgruntled homeowners had sued over a \$12,500 bathroom remodel. Our contractor prevailed in the lawsuit but incurred over \$110,000 in attorneys' fees. After the trial judge awarded our client less than half of its fees, based on the homeowners' complaint that they couldn't pay that much, the Court of Appeals reversed, and the trial court reinstated the full fee award—because our client's contract required an award of fees to the winner.

**Provision #2: Damage Waivers.** A good contract can include a list of the types of damages—often covered by insurance—that the parties agree they will not seek against each other.

Generally, there are two types of contract damages: *direct* and *indirect*.

Direct damages are intended to give the damaged party the benefit of their bargain. If a homeowner pays \$15,000 for a new roof, and the roofer takes the money and quits before the job is completed, the homeowner can sue for the money to complete the roof with a new roofer—even if the new roofer will charge more to finish the job.

Indirect damages are damages caused by the breach but go beyond the subject of the contract. A roofer who builds a leaky roof can be sued both for direct damages—the cost to repair the roof—as well as indirect damages, such as water damage inside the home.

A contract can waive the right to recover such indirect damages by waiving “incidental” or “consequential” damages. A well-drafted contract can identify specific categories of indirect damages that are waived, tailored to the particular type of work to be done. For example, a roofing contract could waive claims not only for water damage, but also for expenses like travel and lodging for the homeowners while repairs are being performed. Such a waiver is reasonable because homeowners typically have insurance to cover water damage and associated costs, such as replacement housing, and don’t need to recover those costs from contractors. (A properly drafted “subrogation waiver” can protect your business against claims from the homeowner’s insurance company.)

Such waivers can dramatically reduce risks to contractors and subcontractors. It’s easy to imagine that a mistake in a small roof repair job could lead to tens of thousands of dollars in claims for damage to furnishings, lodging costs, travel, meals, etc.

**#3: Jury Trial Waiver.** While the Arizona Constitution guarantees parties the right to a jury trial, state law allows that right to be waived in a well-drafted contract.

Jury trials have benefits to society, especially in the criminal context. But in a civil case, a jury trial is almost always more expensive, time-consuming, and

uncertain than a trial to a judge. Parties with weak claims often rely on this cost and uncertainty to force an unfair settlement.

A jury trial waiver can reduce the power of threatened litigation. Combined with good attorneys’ fees provisions and damage limitation clauses, a jury trial waiver can convince a disgruntled customer that a lawsuit is not their best option.

**#4: Notice and Opportunity to Cure.** Angry owners and short-tempered general contractors often want to fire contractors, banish them from the jobsite, and get replacements started right away. Meanwhile, good contractors and subs want a chance to stay on the project and fix problems, and the law generally sides with them, allowing them an opportunity to rectify issues themselves.

But that opportunity is not guaranteed.

A well-drafted contract can solidify the right to notice and opportunity to cure. Contract provisions can require the owner or general to provide a detailed notice, together with a clearly defined and reasonable time to cure. Without such provisions, the parties are left to argue in court over what details were required and what was a reasonable time to cure.

**Conclusion: A Good Contract Works.** We have seen how a good contract can stop many problems even before they start. Recently, one of our subcontractor clients accidentally damaged a water heater on a residential project. As soon as they were notified of the issue, our client promptly paid the full cost, about \$4,000, to replace the water heater.

The matter should have ended there, but the general contractor demanded an additional \$21,000. Its demands included 50 hours of time (at an absurd \$250/hour) to “supervise” the water heater replacement, even though the replacement was fully performed by the plumber. The general also claimed profit and overhead on the fully paid plumber’s invoice, plus reimbursement of airfare for interrupting his California vacation to travel to the jobsite.

Our client’s response pointed out the provisions in the client’s contract (drafted by our firm) that barred the general’s overreaching claims. The net result was that, after a few snarky emails, we never heard from the GC again. 🏠



## Filing a Complaint with the ROC

**I**F YOU HAVE a complaint against an unlicensed contractor, you may submit your complaint via the [Unlicensed Complaint Tips Hotline](#).

You can also file a formal complaint by downloading the complaint forms available on the [File a Formal Complaint](#) page on our website.

If you face any difficulties using the ROC website or filing a complaint online, please share your contact information with a member of the ROC Compliance team. The Compliance department can be reached directly at 602-542-1525 or [compliance@roc.az.gov](mailto:compliance@roc.az.gov).

## CONTACT AZ ROC

Questions? Please call the Registrar of Contractors at 1-877-MY-AZROC (1-877-692-9762). AZ ROC’s Phoenix office is also open during business hours, Monday through Friday.

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A hand holding a red horseshoe magnet is positioned on the right side of the image. The magnet is attracting several white paper cutouts of people, which are scattered on the left side. The background is a solid teal color. The text 'What is your' is written in red, bold, sans-serif font above the magnet, and 'Customer Acquisition Experience?' is written in the same font below it.

# What is your

# Customer Acquisition Experience?

By Heidi J. Ellsworth,  
RoofersCoffeeShop.com

**O**VER THE LAST decades, advertising has had various goals; gather leads, brand, educate, change opinions, etc. And every couple of years there is a “new” way of making the most of your advertising dollars. Now with the age of digital, B2B advertising has taken many new and different directions. Everyday on RoofersCoffeeShop.com, I work with advertisers who have varying goals from large numbers of leads to growing mailing lists to educating the contractor.

Too often we are seeing advertising that does not direct the consumer to the advertiser’s end goal, to make them a customer. I am sure you see ads all the time that talk about how great the company or product is but never really ask potential customers to engage. It may seem that if a person likes the ad they would click, but that is not true, they need to be invited.

[According to Google](#), the average click thru rate for banners is 0.06%. And according to a survey from mobile location firm Retale, 60% of clicks on mobile banner ads are mistakes as users encounter the banner ads when checking the news (65%), using social media (50%), playing games (47%), watching videos (45%) and listening to music (45%).

So, if you are engaging in digital advertising, it is critical that you think about what you want from your efforts. Since advertiser’s goals are all different the first step is to decide what is a win. Is it views, clicks, phone calls, downloads, etc. By setting and communicating your goals, you can have a discussion with the online publication whether they are realistic or not.

There also needs to be a strong conversation about how long it will take. In roofing, we deal with roofing contractors who have experienced product and technology failures that have hurt their business. They need to build a relationship with the advertiser, so they can gain trust that this vendor will be with them in the long run.

And as noted above, the placement of your ads is important. You don’t want just “fat finger” clicks from sports or unrelated websites. Getting in front of roofing contractors can only happen in a couple of places so make sure you have the best opportunity not just to brand your company or product but to engage with the contractor through social media, web comments and forums.

Education of the contractor is valuable in gaining trust which moves them through the process to be a customer. If

they feel you are providing information to help in the decision-making process, they will be more likely to trust the company and the sales person. In developing the ads, straight forward advertising can make a significant difference, but clever fun advertising can also gain the click if the consumer knows why they are clicking. Providing downloadable content (white papers, case studies or tips) is a terrific way of pulling in customers to start the buying process. Here are some pointers:

## 1. Create content for real people based on questions they ask

Track questions that you receive everyday on the phone and during sales calls. Write them down and then commit the answers to a document. A potential educational piece could be offering, “Top twenty technology questions you may be scared to ask.” Create an online digital ad that that reflects they can get the answers without them needing to ask. Then on your landing page, again explain that it is ok to not know all the answers because your company is there to help them. They download the top twenty questions and then your sales team follows up on the information you shared with them. It is just one example but as you develop

informational pieces for our potential customers, make it something that takes care of their pain and helps them get to the answers they need.

## 2. Create the types of content people want and search engines love

Educational information is what people are looking for and search engines love it. Education is key for any consumer today. Just talking about how great your company or product is, does not work. They want to understand what is the best solution. It is not always about price but if it is, they want to know they are getting the best value not just rock bottom pricing that can turn into an unpleasant experience. An educated and happy consumer not only becomes your customer but fills out reviews and referrals. The more meat and the less fluff that you put out there the better.

## 3. Solve the Pain

When the roofing company cannot deliver due to poor processes, there is pain. When a homeowner is unhappy due to a new roof leaking from faulty material, there is pain.

Determine what is causing your customers pain and advertise the solution directly. "Leaking around the vents? Do it right with a Wil-Mar pipe collar. Try one free on us." Make it simple so it grabs attention and solves the pain.

## 4. Look at your Timing

Getting qualified leads is usually about getting in front of the customers at the right time. Roofing usually has down time in the winter to look at fresh solutions and technology. During the spring and summer, it is all about solving their pain and delivering. Understand when the roofing contractor is ready to research or just simply solve a problem to keep business moving.

## 5. Have some fun

Be human. And maybe even a little funny. Try it. Who knows, your audience might love it. Most of all use common sense. You are a consumer too, what would make you click?

One of the most important parts of digital advertising is to be sure that your message is consistent throughout the

process. Whatever messaging you use to entice the click must be repeated on the landing page where they fill out the form to get more information. It is crucial that you don't just send them to your home page and have them search your site for the information. You need a page dedicated to the informational offer and make it strong enough that they fill out the form and read the information.

Customer service and sales needs to understand where the lead came from and use the same verbiage and messaging that was in the ad and on the landing page. If your sales team does not know about the exclusive offer or downloadable article, they will look less trustworthy to the potential customer. Everyone is afraid of being scammed so be sure consistent messaging is strong across the board.

Finally, follow through. Deliver what you say you will deliver in the ad and make it timely. If they are looking for innovative technology, get a demo in front of them asap so they can make decisions. Word will spread and we all know at the end of the day, referrals from friends in the business and online are what really drive continued and scalable sales. 🏠

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## Insure Compliance

**I**NSURE COMPLIANCE LLC is a company dedicated to providing reliable and effective safety compliance solutions to businesses in various industries. With the constant changes and updates in safety regulations, it is crucial for companies to have a trustworthy partner that can help them navigate through these challenges. Insure Compliance LLC has proven to be such a partner, offering customized safety programs, training, and consulting services to ensure their clients' compliance with safety regulations.

One of the industries Insure Compliance LLC serves is roofing. Roofing can be a hazardous profession, with workers exposed to various risks such as falls, electrocution, and material-handling. It is vital for roofing companies to implement safety programs addressing these risks to protect their workers and

comply with safety regulations. Insure Compliance LLC offers a range of safety solutions to roofing companies, including safety audits, site-specific safety plans, and safety training.



Another significant area that Insure Compliance LLC focuses on is OSHA compliance. Recently, OSHA has introduced new regulations related to COVID-19, requiring employers to implement safety measures to protect their workers from exposure to the virus. Insure Compliance LLC has been proactive in assisting its clients in implementing these new safety measures, providing COVID-19 safety training and consulting

services.

In addition to COVID-19 safety measures, OSHA has also updated several regulations related to safety in the workplace. Insure Compliance LLC has been keeping up-to-date with these changes, ensuring its clients are compliant with the latest regulations. They offer customized safety solutions tailored to the specific needs of their clients, ensuring that they are meeting all safety requirements.

In conclusion, Insure Compliance LLC is a valuable partner for businesses in various industries, including roofing, who are looking to ensure compliance with safety regulations. With their comprehensive safety solutions, they can help companies protect their workers and avoid costly penalties for non-compliance. As OSHA continues to introduce new regulations and guidelines, Insure Compliance LLC remains at the forefront, offering up-to-date solutions that ensure their clients remain compliant. 🏠



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## Workforce Recruitment Tools from NRCA.net

The following members-only tools and resources are designed to help you recruit, engage, onboard, and train entry-level and transitioning employees to the roofing industry. They showcase opportunities to work, earn, learn, and advance in the roofing industry; skilled training and certification opportunities; safety and technological advances; and earnings potential, as well as the multifaceted career opportunities available across all sectors of the industry.

- [Find a CTE Partner](#)
- [Recruitment Toolkit](#)
- [Job Descriptions](#)
- [Training and Certification](#)

Another resource, [Careersinroofing.com](#), shows opportunities for success can be found on the roof, in the shop, in the office, and in manufacturing and distribution facilities. A new online job bank has been added to connect members with prospective employees for a wide variety of roofing positions—free—as a benefit of NRCA membership. 



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[This link](#) takes you to a website that identifies your state legislative district after you enter your address (home, business or both). Once you have identified your district, you can visit the [AZ State Legislature House page](#) to find contact information for members of the House, and you can visit the [AZ Legislature Senate page](#) to find contact information for members of the Senate. Keep in mind every legislative district has one senator and two representatives.

If you have any trouble with this process, please reach out to z—we are happy to assist. 🏠

## IRS shares top things to remember when filing 2022 income tax returns

**F**ILING SEASON BEGAN January 23 and the IRS is reminding taxpayers about several key items to consider when filing their federal income tax returns in 2023, according to [www.irs.gov](http://www.irs.gov).

The IRS offers a checklist that can help many people with efficient tax return processing and refund delivery while avoiding delays. The checklist includes gathering tax paperwork and records for accuracy; reporting all types of income on the tax return; filing electronically with direct deposit to avoid refund delays; and taking advantage of available free resources, among other tips. 🏠

## Amazon Smile

**AmazonSmile** customers can now support Arizona Roofing Industry Foundation in the Amazon shopping app on iOS and Android mobile phones! Simply follow these instructions to turn on AmazonSmile and start generating donations.

1. Open the Amazon Shopping app on your device
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3. Tap 'AmazonSmile' and follow the on-screen instructions to complete the process

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[Click here for instructions.](#)



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Bernadette Broek, 520 409-8225

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### Administrative Assistant for Arizona Construction Trade Association

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- Assisting the Executive Director with overall strategies as set by the Board of Directors;
- Participate in expanding the financial base of the Association with marketing materials, social media presence and other creative sources of revenue;
- Become an integral part of the planning and facilitating of various training/ educational classes, sporting and social events;
- Assist with the files of the Association, documentation is maintained and in good order;
- This position will have some involvement with the Board of Trustees for the Association and Foundation
- Experience with CRM programs and willingness to learn CiviCRM;
- Personal and work record of highly ethical conduct and a commitment to fulfill the mission of the Association;
- Experience with Microsoft and Adobe programs; html coding and social media platforms;
- Familiar in non-profit and/or trade association sector is a plus

**Beyond these objectives, the Administrative Assistant should ideally possess the following professional qualifications and personal attributes:**

**Interested candidates should contact Jen at the ARCA office at 602-335-0133 or [jgeorge@azroofing.org](mailto:jgeorge@azroofing.org).**



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# UPCOMING EVENTS

MAR 23 11:00A–1:00P	<b>WEBINAR POST-ACCIDENT &amp; RETURN-TO-WORK (ENG)</b> <a href="#">REGISTER ONLINE HERE</a>
MAR 23–24 7:00A–12:00P	<b>OSHA 10-HOUR TRAINING IN PHOENIX (ENGLISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX
MAR 23–24 12:00P–5:00P	<b>OSHA 10-HOUR TRAINING IN PHOENIX (SPANISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX
MAR 25 9:30A CHECK-IN	<b>2023 SPRING RIDERS RALLY</b> <a href="#">VIEW ROUTE HERE</a>
APR 5 7:30A–1:00P	<b>TILE ROOFING INSTALLER CERTIFICATION</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
APR 6 9:00A	<b>SPORTING CLAY TRAINING CLASS - SPRING 2023</b> BEN AVERY CLAY TARGET CENTER 5060 W. SKEET STREET, PHOENIX, AZ 85086
APR 13 8:00–11:00A	<b>CPR AND FIRST AID - PHOENIX, AZ (ENGLISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
APR 13 1:00–3:00P	<b>CPR AND FIRST AID - PHOENIX, AZ (SPANISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
APR 14 7:30A	<b>SPORTING CLAYS TOURNAMENT—SPRING 2023</b> BEN AVERY CLAY TARGET CENTER 5060 W. SKEET STREET, PHOENIX, AZ 85086
APR 19 7:00–9:30A	<b>FALL PROTECTION PHOENIX (ENGLISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
APR 19 11:00A–1:00P	<b>YOUNG PROFESSIONALS LUNCH N LEARN - PERSONAL FINANCE WORKSHOP</b> 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
APR 19 1:00–3:00P	<b>FALL PROTECTION PHOENIX (SPANISH)</b> ARCA TRAINING ROOM 3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012
MAY 11 11:00A–1:00P	<b>WEBINAR HEAT STRESS ON THE JOB (ENGLISH)</b> <a href="#">REGISTER ONLINE HERE</a>
MAY 12 6:00A	<b>ARCA GOLF TOURNAMENT—SPRING 2023</b> OCOTILLO GOLF CLUB 3751 S. CLUBHOUSE DRIVE CHANDLER, AZ 85248

# ARIZONA ROOFING CONTRACTORS ASSOCIATION 2023 BOARD OF DIRECTORS

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\* contact info can be found on ARCA Board of Directors list (previous page)

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CHARTER PLATINUM SPONSOR

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### PERFORMANCE ROOF SYSTEMS

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### CLEASBY MANUFACTURING COMPANY, INC.

### D.I. ROOF SEAMERS

### DAS PRODUCTS, INC.

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### HARPER'S ROOFING, INC.

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