



THE SUBtext

ASA SAN ANTONIO | 13333 Blanco Rd. Ste 306, San Antonio, TX 78216 | 210.349.2105

PRESIDENT'S message

Goodbye 2020 and Hello 2021! The new year has begun, and we are thankful our members are resilient and survived a trying year as essential businesses meeting and exceeding many challenges in our industry. Now is the time to look forward and plan for a successful future. As projects ended in December there is a positive outlook hearing many of the delayed start dates on 2020 construction in our area have regained momentum and there will be cranes in the air.

As we go forward and make resolutions and set goals for our companies, whether it is growth or sustaining a steady workload, what do you see as the goals for ASA-San Antonio to help you succeed?

Will you join us as we continue to make plans for the February 2021 Walk on The Capital? This exercise will have new meaning this year as we all contend with a pandemic but with hope on the horizon with the vaccine our visit to Austin will focus on business laws that affect our bottom line. If you want to get involved please join our government committee to discuss regulatory and legislative strategy for subcontractors.

Do you want to have speakers who will address changes in insurance coverages after COVID-19 including new exclusions?

Do you want information on grant money available to train local workers who are interested in construction through a program established by the City of San Antonio?

Do you want to hear from the San Antonio Economic Development Foundation and how they are making strides to bring businesses and workers into our area to meet the demand of our growth in Texas?

We are looking forward to starting our General Meetings very soon. Watch for information from our Executive Director as we work through outdoor or indoor logistics to follow all local regulations. I look forward to seeing everyone in person very soon and encourage you to communicate with our board members or office team on how we can help and support you as a member of ASA-SA.

#SafeStayStayEssential

Debbie Hannasch
Fire Alarm Control Systems
ASA San Antonio Chapter President

OFFICERS

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Debbie Hannasch
Fire Alarm Control Systems, Inc.

Vice President
Ted Dunnam
ESC Safety Consultants

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Jan Meuth
You Name It Specialties

Victor Ruiz
Markel Surety

Scotty Trawick
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CHAPTER ATTORNEYS

Bethany Beck
Sanderford & Carroll

Tom Walthall
Sanderford & Carroll

CHAPTER HISTORIAN

Greg Kanning
Dumas Hardware

NATIONAL BOARD
Kenneth Moore
KCM Cabinets

ASA CHAPTER STAFF
Jennifer Swinney
Executive Director

Nora Romero
Administrative Assistant



Committee involvement is one of the BEST ways to gain value from your ASA Membership! Please consider serving on an ASA Committee & contact the ASA office or the Committee Chair listed below to find out how you can get involved!

ASA COMMITTEE CHAIRS

Membership

Nick Metcalf
nick@rx-tech.com

Safety Committee

Britt Bulgerin
britt.bulgerin@bigstateelectric.com

Government Advocacy

Ish Gonzalez & Tom Freund
igonzalez@alphaiwp.com
tom@freundenterprises.com

Rodeo BBQ

Mike McGinnis
mikem@lumberhardware.com

Golf Tournament

Jan Meuth & Adam Matthys
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amatthys@chamberlinltd.com

Subfest & BBQ Cook-Off

Mike McGinnis
mikem@lumberhardware.com

Fishing Tournament

Greg Kanning & Ish Gonzalez
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igonzalez@alphaiwp.com

Clay Shoot

Ted Dunnam
& Toby Martinez
tdunnam@escsafety.com
toby@bexarexcavating.com

Pour-Off Committee

Ish Gonzalez
igonzalez@alphaiwp.com

Tailgate Mixer

Mike McGinnis & Toby Martinez
mikem@lumberhardware.com
toby@bexarexcavating.com

The Industry Gives Back

In early December, the Construct A Kids Christmas Gala was held "virtually" online with raffle drawings and a silent auction. Thanks to the support, generosity and enthusiasm of the San Antonio Construction Industry we were able to raise over \$50,000 and collected toys and gift cards for the children in the Bexar County Foster System. On December 4 at the offices of Construction News, the committee gathered for the annual toy drive, and presented a \$25,000 check to Bexar County Child Welfare Board, and additional donations will be made to CASA San Antonio and CASA South Texas. Even with businesses hit hard by the COVID pandemic, the hearts of the construction industry were bigger than ever and they chose to give back and make a difference. Thank you for being part of creating a better future for our city.



Your Board Gives Back

Your ASA Board members each contributed to donate an incredible "Wheelbarrow of Fun" raffle for the Construct A Kids Gala this year! Complete with bar set ups, games, and over \$1600 in gift cards, including \$1000 to Spec's, this amazing raffle raised over \$9,000 for the virtual gala. Thank you to all who purchased tickets, helping to set an income record for this raffle, and congratulations to **K-W Construction**, the lucky winners!



**SAVE
THE
DATE**

We hope to be able to host the 21st Annual Construct A Kids Christmas Gala in person again next year. Save the date for Thursday, December 2nd, 2021, and if you would like more information on how to get involved or donate, please visit www.cack-sa.org

MEMBERSHIP Corner

by Nick Metcalf, Rx Technology

ASA Membership Chair

As 2020 comes to close and we all look forward to a new year, it is good to reflect on the positive things that came out of 2020. In 2020 we saw how big the hearts of our members and the construction industry were. Wow! Talk about stepping up. It makes me feel proud to be a part of this association and industry. We also finished the year on a high note, we added three new members in December, which is a great way to finish off the year. We are currently 161 members strong. Remember, our goal is 200 by December 2021. So tell your friends, clients, colleagues, associates and anyone who could benefit from the association. Have a great 2021 and hope to see you soon at an event.

Welcome to our newest members

Please take the time to meet the newest members of ASA of San Antonio, and let's start building a better future together!

CCS Construction Staffing

Kyle Kahn
13622 Escort Drive
San Antonio, TX 78233
512.662.5885
www.staffccs.com
Trade: Staffing

Garden & Ornamental Design

Gary Blalack
1952 Bentwood Drive
Floresville, TX 78114
210.313.5812
www.staffccs.com
Trade: Structural Steel; Pre-cast Erection

Western States Fire Protection

Clayton Spainhower
141 Windy Meadows Dr.
Schertz, TX 78154
210.967.4731
www.wsfpc.com
Trade: Fire Alarms

Sharp Glass

Sharp Glass LLC
Kyle Sharp
5320 Rittiman Rd.
San Antonio, TX 78218
O: 210.472.0081
www.sharpglass.com
Trade: Glass

ASafety Update

When you think of 2020 & the COVID-19 pandemic, there aren't many positive thoughts that come to mind. However, the one good thing that came out of last year is that for the first time, safety became a priority for everyone! Where safety was once considered a luxury, or an after-thought, now it took front & center stage as the star of the show. So what does that mean for the future of construction, and is the "new normal" really "new"?

For most of our industry, safety has always been a discussion point, and has been taken seriously. The change in 2020 was the definition of "safe" and the measures that were now required to keep employees "safe." PPE now included mandatory face masks/shields and hand sanitizer went from an optional accessory to a sold-out staple. Handshakes were replaced with elbow-bumps, and for many we had to navigate through new technology to host online meetings, as the laptop became the new conference table.

Although it was frustrating, expensive, and for some of us it was uncharted-waters into the sea of technology, we persevered and prevailed, because keeping our employees safe has never been an "option" but rather, a priority. Therefore, a "new normal" isn't really "new" to us – it is just another measure to take to ensure we are doing the right thing. It is another box to check before each task to make sure our employees get home safe to their families. I'm proud to be part of an industry that has been deemed essential, and watching the ASA Members rise to the challenge in the face of this pandemic it's clear to see how we got that classification. #StaySafeStayEssential

Election 2020 & the Lame Duck Session of Congress

by Mike Oscar, ASA National

The Electoral College confirmed the 2020 Presidential Election results, making Joe Biden the President-Elect. While the Democrats will keep control of the U.S. House, the Republicans won 21 of the 38 "red-to-blue" districts the Democrats were eyeing as potential gains, and increased their number in the House by 9, making it the smallest majority in 18 years (222 to 211). With more than 200 House seats, Republicans can make themselves an extremely powerful minority. Finally, the Senate now stands at 48-48.



With the two Georgia Senate seat runoffs: Sen. Perdue (R) v. Jon Ossoff (D) and Raphael Warnock (D) v. Sen. Loeffler (R) not scheduled until January 5th, the Senate will have to wait until then to organize and determine leadership posts, along with committee chairs and ranking members. If the final Senate makeup is 50-50, then the Vice President would be the tie breaking vote.

Based upon the election results noted above, and as we enter 2021, we will continue to monitor and update you on how critical issues such as energy and infrastructure funding, corporate tax rates, Buy American Hire American, the Affordable Care Act, worker classification enforcement, cannabis legalization, and more will impact you and the construction industry.

In the interim, as members of Congress return for the "lame duck session," we anticipate a very busy legislative agenda addressing our key issues such as enacting additional COVID-19 funding legislation, along with passing the FY21 appropriation funding bills, the National Defense Authorization Bill (NDAB), and the conference report on the Water Resources Development Act. On the NDAB, we will be working to ensure H.R. 2344, the Small Business Payment for Performance Act, which would compel agencies to be accountable for changed work they order by funding their own construction projects in a timely manner, instead of diverting that financial burden to the small contractors, remains included as an amendment to the final bill.

Additionally, we'll be working to ensure final passage of the Construction Procurement Improvement Act (reverse auction), which passed the Senate unanimously on December 19, 2019. Currently, the legislation awaits final consideration in the House Oversight and Reform Committee.

Finally, we'll be working on the introduction of the Small Business Protection Act of 2020, which would attempt to eliminate the unfair competition our members face with the federal government and Federal Prisons Industries.

We will continue to update you on our legislative and regulatory efforts, and please feel free to join our Government Relations Committee to add your voice to our agenda.

LEGAL CORNER

Bethany Beck, Partner at Sanderford & Carroll / ASA Chapter Attorney

Contract terms often impact the outcomes of legal disputes *more than laws on the books*. Judges and arbitrators will usually give substantial weight to contract terms because they are *specific* to the parties involved. As Texans, we like to think of our state as the “Wild West” and we do not like being told what to do – unfortunately this means there are no laws here that require contracts be “fair” or that they are entered into “in good faith” – only that they are not illegal (no contracting for murder, guys!).

While contracts have become increasingly long and complex, the attorney fee clauses are usually relatively simple and easy to modify. In addition, there have been recent trends in contracts that hurts the ability of subcontractors and suppliers to ensure they are paid. Here's how it works:

- **General Rule:** If the contract has no terms about attorney fees, the rule that will usually apply in a contract dispute is essentially: whoever wins the fight on an affirmative claim (think “offense” in sports) *also* wins reimbursement of the money they spent on attorney fees.
- **How it Works:** If you have an affirmative (“offense”) claim against someone, like a claim for payment, but they do not have an affirmative claim against you (basically they are “defense” only) – then you have the potential of winning your fees, but you have no downside risk of them potentially recovering their fees against you *because their position is “defense” only*.
- **Recent Trend in Contracts:** More and more contracts modify the “general rule” to not only allow your customer/opponent to make you pay their fees for “defense only” situations, they go even further and waive your right to recover your fees *even if you win*.
 - o **Example of one-sided terms:** “In the event of any action to enforce or defend any claim arising in connection with this agreement, [Contractor Name] shall be entitled to recovery of all reasonable and necessary attorneys' fees, experts' fees, and court costs.”
 - o **Example of terms in action:** You have a claim to recover payment of \$30,000 for amounts owed to you for labor and materials on a project, and it costs \$20,000 in fees to you to pursue a lawsuit and win on that claim, but it also costs \$20,000 to your customer/opponent to defend it. Even if they lose, you pay their \$20,000 legal bill plus you do not get to recover money for your \$20,000 legal bill, even though you with the \$30,000 principal debt. So you're out \$40,000, recover \$30,000, and end up further behind than where you started.
- **How to Fix It:** A reasonable approach would be to ask your customer to simply make the terms mutual (or at the very least, force them to say out loud they want a completely one-sided deal, in which case you may have bigger decisions to make about them). The negotiation point should be “if it's good for the goose, it's good for the gander.”
 - o **Example of mutual terms:** “In the event of any action to ~~enforce or defend any~~ recover any valid claim arising in connection with this agreement, ~~[Contractor Name]~~ the prevailing party shall be entitled to recovery of all reasonable and necessary attorneys' fees, experts' fees, and court costs.”

From the perspective of your customer/opponent, the goal of terms like this is to make it *not worth* it for you to pursue your claims, even if they are legitimate claims.

MEMBERSHIP Benefit

National Purchasing Partners is a proud ASA Advantage member. Membership with National Purchasing Partners is included with your ASA membership, and includes deals and discounts from nearly 40 companies. ASA members receive discounted rates on essential products and services from suppliers including:

- Verizon Wireless
- EarthLink
- Staples
- EarthCam
- And much more!



NPP provides fast, friendly and flexible customer service. Membership is free, and there is no obligation to purchase. ASA members are already saving time and money through the NPP program. You, too, can start saving money now!

Go to <https://mynpp.com/association/asa> and click "Join Now." For questions or more information, contact NPP at (800) 810-3909 or customerservice@mynpp.com.

In ASA there is Always Something Awesome

With these crazy times we are living in it's nice to be able to step back and focus on the good things in life, and in ASA there's Always Something Awesome!

Congratulations to Andrew Hutto of Bolero Ventures & his lovely wife on the birth of their new baby girl



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THEY'RE ON FIRE

2020 Was not all bad news. Help us congratulate two of our ASA San Antonio members for recently receiving awards from Honeywell Fire division. Out of 447 fire alarm distributors across the country, **Fire Alarm Control Systems Inc** received a Diamond Award and **J.W. Dielmann Inc.** received a Silver Award. These companies have worked hard to continue year over year growth in the engineered fire alarm systems industry, to stay active with local engineers, and to promote the Honeywell solution. Congratulations and best wishes for continued success in the life safety industry!

FACSSA
FIRE ALARM CONTROL SYSTEMS, Inc. • SAN ANTONIO



Celebrate You

Do you or your company have exciting news that you'd like to share with the membership? Send the details to Jennifer in the ASA Office, and have your good news featured in the next issue of the ASA San Antonio SubText Newsletter!

WEBINAR

Don't miss the upcoming webinars hosted by your ASA National Office. To register visit www.asaonline.com & log in under your account.

Goal Setting and Time Management for Success in 2021

JAN 15, 2021 / 9am-10am CST

Start the new year with your goals and intentions in place. By setting SMART (Specific, measurable, attainable, realistic and timely) objectives with a clear plan of action and holding yourself accountable by tracking them, you will be more likely to get things accomplished. Log in to this goal setting and time management workshop to hit the ground running and get inspired!

What You'll Learn

- Describe a vision/goal in clear, specific, compelling terms
- Identify the steps necessary to transform your vision into action
- Implement time utilization tools.
- You'll be given tools to plan, organize, and manage your time.

We all feel the weight of our endless to-do list, and so little time to do it all. If you want to put an end to the stress and worry of feeling behind or idle, this workshop is for you! With time wasters out of the way, you'll open the path for quicker decision-making, increased productivity and stronger results which will allow you to reach your goals.

Maintaining a Healthy Margin When Your Volume Significantly Increases

FEB 9, 2021 / 11am-12pm CST

How do you manage significant growth without placing your profit at risk? What are some of the secrets to maintaining good performance and what are some of the pitfalls to avoid? This presentation will be a panel discussion on the topic with ASA's own Industry Leaders.

UPCOMING EVENTS

FEBRUARY

TBD - Mini-Golf Mixer
Feb 10 - TCA Virtual Capitol Walk
Feb 23 - General Meeting

MARCH

TBD - Women's Seminar
Mar 10 - ASA Awards Banquet
Mar 17 - Membership Mixer

APRIL

Apr 8 - Spring Golf Tournament
Apr 22 - Fiesta Mixer

MAY

TBD - Baseball Night
May 7 - Subfest & BBQ Cook-Off

JUNE

June 25 & 26 - Fishing Tournament

Thank You to our Newsletter Sponsor



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