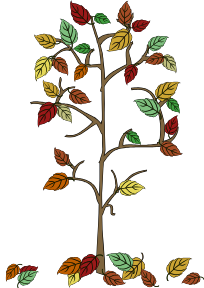


# SMRCA Roving Roofer

September  
2011



Volume 23  
Issue 3

## SMRCA BOARD OF DIRECTORS

### President

**Roger LaDuke**  
LaDuke Roofing &  
Sheet Metal

### Vice President

**Daniel E. Casey**  
T. F. Beck Company

### Treasurer

**Brian Moore**  
Schreiber Corporation

### Secretary

**Brian Sylvain**  
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### Directors

**Paul Schick**  
Newton Crane  
Roofing, Inc.

**Anthony Schena**  
Schena Roofing &  
Sheet Metal Co., Inc.

## Michigan Court of Appeals Expands Contractors Construction Lien Priority

### BACKGROUND

The Michigan Construction Lien Act has always provided protection to contractors, builders, and suppliers involved in development projects. The Act was designed to protect a contractor's right to payment for wages and supplies. The Act protects these rights by giving priority to a construction lien made by a contractor who has already commenced work on a project. The construction lien will receive priority over a bank or other lender's mortgage lien or other interest on real property so long as the contractor had already made visible improvements on that property before the bank lien was filed.

Recently, the Michigan Court of Appeals was faced with a slightly different issue: whose lien takes priority when one contractor began work on a job site before the bank filed a mortgage lien, but two other contractors, who now wish to foreclose on their construction liens and take priority over the bank, began work and filed their construction liens after the bank's lien was filed?

### CASE SUMMARY

On August 2, 2011, the Michigan Court of Appeals issued a decision (*Jeddo Drywall, Inc. v. Cambridge Investment Group, Inc.*) that expands the priority of contractor's liens to allow a contractor's lien to take priority even if it was filed after a bank's mortgage lien, if certain criteria are met.

The court ruled that two construction liens filed in 2006 and 2007 by Jeddo Drywall, Inc. and Stock Building Supply (who provided labor and materials on a single lot in a subdivision), took priority over a mortgage lien from a lender, AmTrust Bank, which was filed in 2005. The court gave priority to the construction liens, even though Jeddo Drywall and Stock Building had not provided any work or materials on the property prior to the bank's mortgage lien, because a different contractor had already made the "first actual physical improvement" on the "same project" in 2002.

The "first actual improvement" is any actual physical change in real property as a result of labor provided. This includes any improvement that can be visibly seen by a person inspecting the property, but does not include activities such as surveying, planning, or preparation of drawings. In this case, the previous contractors had cleared and graded the entire

subdivision in 2002. The court held that was sufficient to qualify as the "first actual improvement" because it would put the bank on notice that there may have been a construction lien.

The court also held that Jeddo Drywall and Stock Building were working on the "same project" that commenced with the clearing and grading of land in 2002. Although Jeddo and Stock worked on just one lot of the subdivision, while the prior work included the grading and clearing of the entire subdivision, the court held that the improvements were a "continuous development project." This was despite a change in ownership and a significant time gap between improvements. If a project is conceived as a whole and the developments continue as planned from the time of the first actual improvements through the time that a contractor provides labor and material, the court will view that entire process as the "same project."

### RESULT

The extension of construction lien priority by the Court of Appeals is good news for contractors. When a contractor begins work on a site where construction is already underway, they should now be aware that they may be able to take priority over a previously filed bank lien. The two key factors to look for are whether the first actual physical improvement occurred before the bank lien was filed, and whether the contractor's work is being conducted on what is considered to be the "same project" as the previous work. If both of those qualifications are met, a contractor's construction lien should take priority over a previously filed bank lien.

Finally, in order for a construction lien to take priority, a contractor must also be sure to meet all of the other applicable requirements under the Michigan Construction Lien Act. This includes, but is not limited to, the requirement that a construction lien be foreclosed on within 90 days of the stoppage of work on a site.

*Any questions or comments regarding this article may be addressed to **Mark Stasa at Kerr, Russell & Weber, PLC** (Attorney's for the SMRCA/RIPF).*

*Please note that you should also consult your attorney concerning the application of the law to your specific situation.*



**SOUTHEASTERN MICHIGAN ROOFING CONTRACTORS ASSOCIATION**

**3560 E. Nine Mile Road, Warren, MI 48091 (586) 759-2140 Fax (586) 759-0528 www.smrca.org**

### SMRCA Golf Outing 2011

The SMRCA Annual Golf Outing was held on Tuesday, May 18, 2010 at Twin lakes Golf Club located in Oakland, MI. Even though it was a chilly day everyone had a great time golfing and socializing.



## SMRCA Golf Outing Thank You's

Thank you to all the prize contributors, sponsors and attendees that made the SMRCA Golf Outing a huge success!

Special thanks are extended to RCI—Great Lakes Chapter for sponsoring the Putting Competition; Roger LaDuke, LaDuke Roofing & Sheet Metal; Stacy Foley, Crane Roofing, Inc; Sue Baumberger, Johns Manville and Savannah Hadley, SMRCA.

ABC Supply  
ALCO Products, LLC  
Atlas EPS  
Atlas Roofing Corporation  
T.F. Beck Company  
BeneSys, Inc.  
Division 7 Roofing Solutions, Inc.  
Edw. C. Levy Company  
Environmental Industrial Services, Inc.  
Firestone Building Products  
Firestone Metal Products  
GAF Materials Corporation  
Garwood, Buda, Knight & Associates, Inc.  
Hy-Tech Products, Inc.  
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JR Enterprises  
MacQueen Insurance  
MWA, Inc.  
M.W. Morss Roofing, Inc.  
National Ladder & Scaffold Company  
National Roofing & Sheet Metal Co., Inc.  
North Coast Commercial Roofing Systems, Inc.  
North Roofing Company  
L.T. Ollesheimer & Son, Inc.  
RCI  
Roofers Union Local #149  
Roofing Industry Promotion Fund  
Roofing Products of Michigan, Inc.  
Schreiber Corporation  
SMRCA  
Sullivan, Ward, Asher & Patton, P.C.  
Uniflex Industrial Roof Coatings  
Valenti Trobec Chandler, Inc.

## Deepest Sympathy

Our deepest sympathy's are extended to family and friends of:

Edward M. Casey (past owner of T.F. Beck Company)

George "Bill" Daniels (father of T.J. Daniels, Bright Roofing)



## Anniversary Wishes

**Jerry & Barb Kjerrumgaard**  
*Roofing Products of Michigan, Inc.*

September 9

**Mary Jo & Ken Dietrich**  
*T.F. Beck Company*

September 26



**Chuck & Dee Rosa**  
*Schreiber Corporation*

October 16

**Steve & Lisa Yontz**  
*ABC Supply*

October 17

## Congratulations!



Congratulations to Patrick and Jenny Casey (T.F. Beck Company) who were married on May 21, 2011.

## Birthday Wishes

**Jason Emery**  
*Schreiber Corporation*

September 4

**Heather Hadley**  
*SMRCA*

September 21

**Terry Kiciak**  
*TK Roofing Products and Marketing*

October 13

**Pat Fritch**  
*Roofing Products of Michigan, Inc.*

October 16

**Stacy Foley**  
*Crane Roofing, Inc.*

October 20

**George Schena**  
*Schena Roofing & Sheet Metal Co., Inc.*

November 13

**Jim Coppens**  
*Mid Michigan Roofing*

November 15

**Brian Moore**  
*Schreiber Corporation*

November 29

**Roger LaDuke**  
*LaDuke Roofing & Sheet Metal*

December 13

## 2012 SMRCA Golf Outing



The 2012 SMRCA Annual Golf Outing will be held on

**MONDAY, May 21, 2012**

At Twin Lakes Golf Club

Mark your calendars!!

## Roofers Union Local #149/RIPF 26th Annual Scholarship Grant Program Winners

In an effort to promote excellence in the roofing industry, Roofers Union Local #149 and the Roofing Industry Promotion Fund are working together to offer scholarship grants to worthy individuals.

This year the program offers four scholarship grants in the amount of \$1,000.00 each, to those eligible individuals who are attending or planning to enroll at an accepted college or university.

Scholarship Grants are possible through contributions by Roofers Union Local #149, the Roofing Industry Promotion Fund and the participating roofing contractor employer of the recipient's parent or guardian.

The winners are:  
Meghan Carroll, J.D. Candler Roofing Co.  
Mallory Gilliam, Schreiber Corporation  
Erin Novelly, Dave Pomaville & Sons, Inc.  
Hailie Swan, Royal Roofing Company



Pictured left to right: Doug Stiff (Governor), Mallory Gilliam, Meghan Carroll, Erin Novelly, Hailie Swan and Bob Peterson (Governor).



**Southeastern Michigan Roofing  
Contractors Association is now on  
facebook.**

### Newly Elected RIFP Trustees And SMRCA Board of Directors

The election of the RIFP Trustees and SMRCA Board of Directors for the 2011—2012 terms were held. The election results are as follows:

#### RIFP Trustees



- President **Brian Sylvain**  
North Roofing Company
- Vice-President **Roger LaDuke**  
LaDuke Roofing & Sheet Metal
- Treasurer **Brian Moore**  
Schreiber Corporation
- Secretary **Dan Casey**  
T.F. Beck Company

#### SMRCA Board of Directors

- President **Roger LaDuke**  
LaDuke Roofing & Sheet Metal
- Vice-President **Dan Casey**  
T.F. Beck Company
- Treasurer **Brian Moore**  
Schreiber Corporation
- Secretary **Brian Sylvain**  
North Roofing Company
- Director **Paul Schick**  
Newton Crane Roofing, Inc.
- Director **Anthony Schena**  
Schena Roofing & Sheet Metal

Congratulations and thank you for volunteering your time to help administer the Association.

#### Fun Dates to Remember

- September 5—Labor Day
- October 31—Halloween
- November 6—Daylight Savings Time Ends
- November 24—Thanksgiving Day
- December 25—Christmas Day

### Joint Apprenticeship School Upcoming Classes

Classes offered at the JAC School:

- OSHA 10 hour
- First Aid, CPR/AED
- Hand Signals and Rigging

If you are interested in any of these classes contact the JAC School at 248-543-3847 to make arrangements.

### Industry Schedule of Events

**September 13-16, 2011**  
RCAT 2011 Annual Conference  
Austin, TX  
www.rooftex.com



**October 11-13, 2011**  
Metalcon International 2011  
Atlanta, GA  
www.metalcon.com



**October 26-28, 2011**  
MRCA 62nd Annual National Conference  
Rosemont, IL  
www.mrca.org



### MiRCA Upcoming Convention Locations

Upcoming MiRCA Annual Convention

**2012**

**Otsego Club (Gaylord)**  
July 26—29

**2013**

**Boyne Mountain (Boyne Falls)**  
July 25—28

**2014**

**Crystal Mountain Resort, (Thompsonville)**  
July 24—27

**Mark Your Calendars!**



### 2011 MiRCA Annual Convention Grand Traverse Resort

The 46th MiRCA Annual Convention was held at Grand Traverse Resort in Acme, MI on Thursday, July 28—31, 2011.

The Convention started off with a “Welcome Reception” on Thursday evening followed by a “Cocktail Party” on Saturday evening. The entertainment for Saturday evening was Tommy Tropic the juggler followed by dancing.

Some attendees participated in a friendly euchre tournament on Friday evening.

The kids program was held on Thursday evening, Friday and Saturday mornings and Saturday evening. The kids had fun swimming, playing tennis, video games, making hats and joined the adults for Tommy Tropic’s juggling act—some kids even performed with Tommy.

Educational seminars were conducted on Friday and Saturday mornings. Friday’s seminar was presented by Larry Oxenham, American Society for Asset Protection, “What Every Roofing Contractor Needs to Know About Asset Protection, Tax Reduction and Estate Planning” and Saturday’s seminar was Lessons on Casino Gaming—How to Stay in the Game.

Thank you to the following convention sponsors:

- ALCO Products, LLC*
- Allied Building Products*
- Bornor Restoration, Inc.*
- GAF Materials Corporation*
- Garwood, Buda, Knight & Associates*
- Hoekstra Roofing Company*
- J & L Roofing Company*
- L. T. Ollesheimer & Son, Inc.*
- Michigan Roofing Contractors Association*
- Mid Michigan Roofing*
- National Ladder & Scaffold Company*
- National Roofing & Sheet Metal Co., Inc.*
- North Roofing Company*
- North Coast Commercial Roofing Systems, Inc.*
- Roofing Industry Promotion Fund*
- Stephenson Corporation*
- Thomas Brown & Son Roofing Company*
- T.F. Beck Company*
- Valenti Trobec Chandler, Inc.*

A special thank you to Marc Garwood, Garwood, Buda, Knight and Associates, Inc., for hosting the hospitality suite.

Thank you to those who attended. It was a great convention!

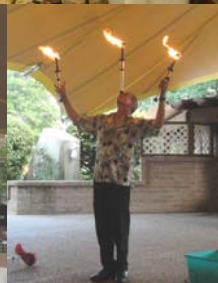
Hospitality Suite



Euchre



Tommy Tropic



Family Fun For Everyone



Saturday Evening



Good Times & Great Friends





Family & Friends



Memories



Dancing



Singing

Laughter



Friendship

Smiles



Fun

