



## **CASE Risk Management Program Makes Great Strides in a Short Time**

With a successful Convocation, a new website and new publications in the works, the Risk Management Program which formally got started last Summer is in full swing. The lofty goals of reducing claims against structural engineering firms, and arming its members with the latest loss prevention techniques, are now on the radar screen and being approached. The train has left the station. The initial fund raising was very successful, with almost all the major structural engineering firms contributing. What is more important is that it signaled those firms' commitments to long-term risk management/loss prevention. Skyrocketing insurance premiums have forced the industry to action and the industry has responded. Now the work begins to raise the bar for structural engineering work, and alert clients and insurance companies what they can expect from RMP firms.

You can check out the website at [www.acec.org/rmp](http://www.acec.org/rmp). On it you will find loads of information specifically for structural firms, and links to other sites that also share RMP's risk

management bent. The site is intended to be a portal to all kinds of risk management information. When it is done, if you are faced with a lawsuit or just interested in improving the quality of work coming out of your firm, this is the site you will want to turn to. Eventually, there will be sources of expert testimony, sample of testimony itself and lists of lawyers and insurance companies with positive reputations in the engineering community.

Additionally, CASE RMP intends to be very active in the hunt for tort reform on the national and state levels. Only when unscrupulous lawyers and plaintiffs know they cannot sue everyone in sight and hope for a settlement is when the RMP's goal has been met. RMP will be joining with the U.S Chamber of Commerce's Institute of Legal Reform, the American Tort Reform Association and others to lobby legislators and policy makers on the seriousness of this issue. The goal is an unfettered market where the top priorities are getting structures designed and built; not how to protect oneself from liability claims. ■

### **Recruit For Design & Construction Jobs At AECWorkforce.com**

If you're looking for qualified candidates to fill design and construction positions, AECWorkforce.com can help.

AECWorkforce.com is an Internet recruitment service, exclusive to the design and construction industry.

ACEC members receive an extra 10 percent off the membership fee!

Go to [www.aecworkforce.com](http://www.aecworkforce.com) today! ■

### **Look for Two CASE Webinars Early Next Year**

Responding to demand, ACEC in combination with CASE will present two seminars – one on the Coordination and Completion document and one on Special Inspections. Professional development hours will be given wherever the appropriate jurisdiction permits it. A webinar is an online seminar where you dial in by phone to hear a live speaker and look at the graphics he is using on the Internet at the same time. ■

### **OSHA Proposes Voluntary Protection Program for Construction**

The last of three new Voluntary Protection Programs (VPP) initiatives first raised by OSHA two years ago was unveiled by OSHA Administrator John Henshaw at the 20th annual Voluntary Protection Programs Participants' Association (VPPPA) Conference in Las Vegas.

VPP for Construction (VPPC) joins "VPP Corporate Pilot" and "OSHA Challenge Pilot" (both launched last May) as the newest member of OSHA's premier cooperative program that recognizes and promotes effective health and safety management systems.

"The construction industry has not been able to take advantage of the benefits of VPP participation, mainly due to eligibility requirements since VPP was originally designed for fixed workplaces," Henshaw told the participants. "We've learned a great deal from our ongoing relationships with the construction industry, labor, and VPPPA, and OSHA has crafted a program we believe will maintain VPP's high performance standards while,



at the same time, respond to the industry's unique needs. We believe our proposal has the potential to significantly contribute to reductions in injuries, illnesses and fatalities in one of the nation's most hazardous industries." For more information go to [www.osha.gov](http://www.osha.gov). ■

## House Legislation To Curb “Junk” Lawsuits; Opens Potential For Tort Reform

The House of Representatives passed legislation this week that seeks to curb so-called “junk” lawsuits in a move that could set the stage for substantial progress on tort reform a key ACEC legislative initiative when the new Congress convenes next January.

The Lawsuit Abuse Reduction Act (H.R. 4571) would establish mandatory sanctions for filing frivolous lawsuits in violation of Rule 11 of the Federal Rules of Civil Procedure. The Act would abolish Rule 11’s current “free pass” that allows lawyers to avoid sanctions by simply withdrawing frivolous claims within 21 days after a motion for sanctions has been filed.

The measure also prevents so-called “forum-shopping” of cases by requiring that personal injury cases be brought only where the plaintiff resides, where the alleged injury occurred, or where the defendant’s principal place of business is located. Additionally, a “3 Strikes and You’re Out” provision is included that mandates a one-year suspension of a law license to practice



in a federal court after a lawyer has filed three or more frivolous lawsuits in the same federal court.

“There are too many frivolous lawsuits in America,” said House Majority Whip Roy Blunt (R-MO). “Skyrocketing liability costs are shutting down small businesses and putting workers out of jobs. Lawsuit abuse also drives up prices for consumers.” ■

## Deal Breakers!

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A Deal Breaker is a client-written clause that is so onerous that you must insist it be deleted from all contracts. If your client refuses to delete or substantially modify such a clause, seriously consider refusing the project. One such clause is liquidated damages. Another Deal Breaker is a client-drawn Warranty clause that requires you to guarantee a technical result or condition.

Many provisions may be either Deal Makers or Deal Breakers. For instance, a badly worded indemnity that is not limited to your negligence is a Deal Breaker. On the other hand, a well-worded insurable indemnity may be acceptable to you. A mutual indemnity or one in which your client indemnifies you is desirable.

Depending on how they are worded, the following clauses can be either Deal Makers or Deal Breakers:

- Assignment
- Certifications, Guarantees, Warrantees
- Indemnities
- Insurance
- Opinion of Probable Construction Cost
- Stop Work Authority

## Happy Thanksgiving!



## Good Things Come To Firms That Are Peer Reviewed

The Organizational Peer Review—ACEC’s paramount quality management tool—provides design firms the opportunity to review management practices through the eyes of objective, experienced colleagues.

An ACEC Organizational Peer Review is confidential, voluntary, and cost effective. To date, over 1,100 firms have experienced the benefits of a Peer Review.

Register today! For more information, contact Kevin Wilson at [kwilson@acec.org](mailto:kwilson@acec.org). ■

