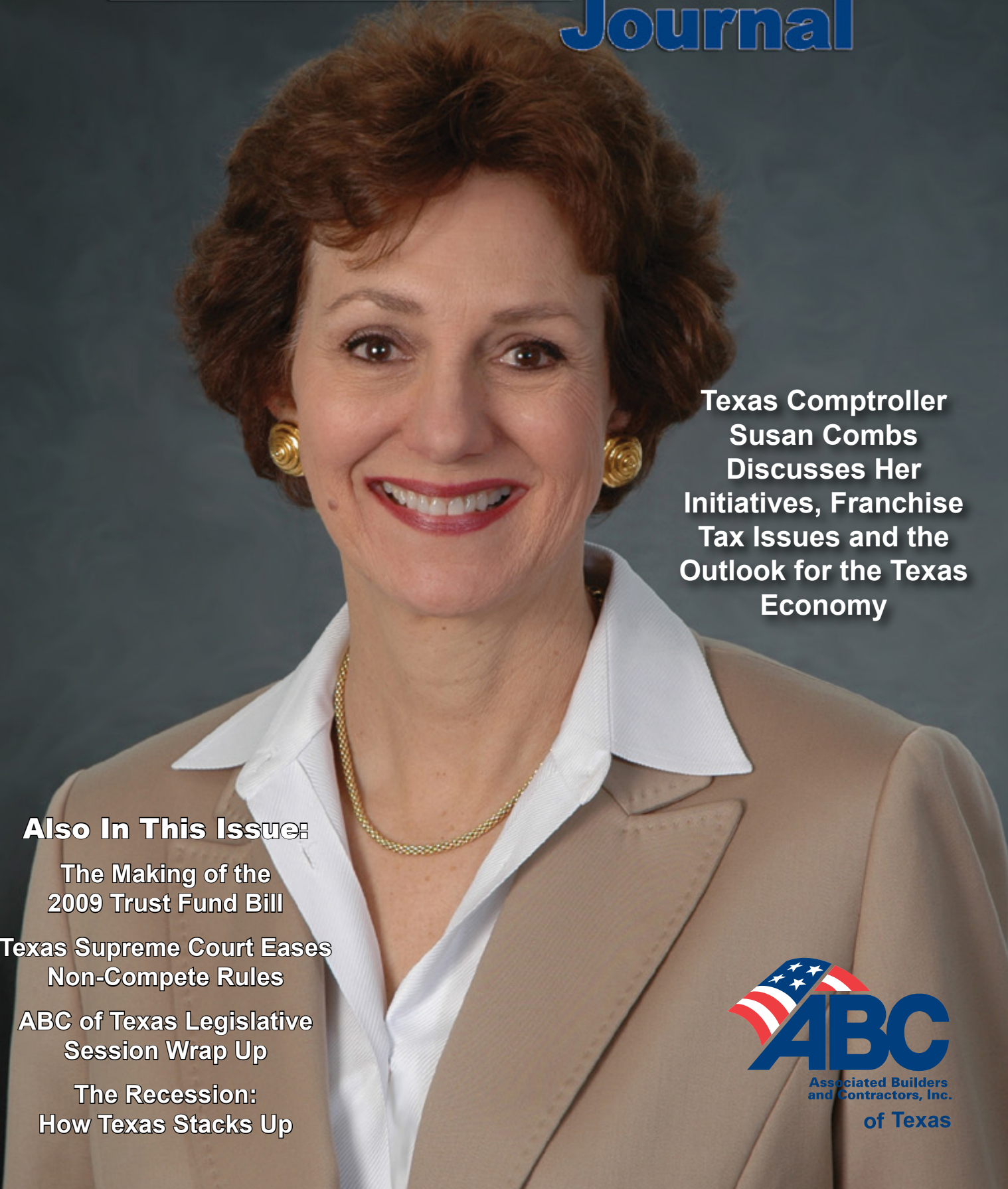


July 2009

Texas Named 2008 Most Innovative Magazine by
Associated Builders and Contractors

MERIT  **SHOP**
Journal



Texas Comptroller
Susan Combs
Discusses Her
Initiatives, Franchise
Tax Issues and the
Outlook for the Texas
Economy

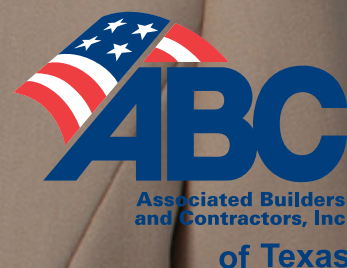
Also In This Issue:

The Making of the
2009 Trust Fund Bill

Texas Supreme Court Eases
Non-Compete Rules

ABC of Texas Legislative
Session Wrap Up

The Recession:
How Texas Stacks Up





CHAPTER CONTACT INFORMATION

ABC OF TEXAS

Jon Fisher, President
P.O. Box 1891
Austin, Texas 78767-1891
ph (512)470-5756
www.abctexas.org

CENTRAL TEXAS CHAPTER

David Ford, President
3006 Longhorn Blvd., Ste. 104
Austin, Texas 78758
ph (512)719-5263
www.abccentraltexas.org

GREATER HOUSTON CHAPTER

Russell Hamley, President
3910 Kirby Dr., Ste. 131
Houston, Texas 77098
ph (713)523-6222
www.abchouston.org

SOUTH TEXAS CHAPTER

Steven Schultz, President
10408 Gulfdale
San Antonio, Texas 78216
ph (210)342-1994
www.abcsouthtexas.org

SOUTHEAST TEXAS CHAPTER

John Bernard, President
PO Box 1566
Nederland, Texas 77627-1566
ph (409)724-7886
www.abcssetx.org

TEXAS COASTAL BEND CHAPTER

John Taylor, President
PO Box 2584
Corpus Christi, Texas 78403
ph (361)289-5311
www.abctcb.org

TEXAS GULF COAST CHAPTER

Terry McAlister, President
PO Drawer 2650
Freeport, Texas 77542
ph (979)233-1616
www.abctxgulfcoast.org

TEXAS MID COAST CHAPTER

Kathy Autry, President
116 Jason Plaza
Victoria, Texas 77901
ph (361)572-0299

TEXO CHAPTER

Raleigh Rousell, President
11101 Stemmons Freeway
Dallas, Texas 75229
ph (972)647-0697

REGION 3 REPRESENTATIVE

April Brown, Regional Political Mgr.
2904 Windsor Rd., Ste. B
Austin, Texas 78703
ph (512)517-5661

ABC Texas Merit Shop Journal
3910 Kirby Drive, Suite 131
Houston, Texas 77098

(877)577-6ABC www.abctexas.org
Publisher: Associated Builders & Contractors of Greater Houston
Exec. Editor: Jennifer Woodruff
Assistant Editor: Meghan Stephens
Account Manager: Janice Peters
Contributing Writers: Jon Fisher, Mike Toomey, Meghan Stephens
Graphic Design: Jennifer Woodruff

July 2009

Texas MERIT SHOP Journal

Defending the Rights of Merit Shop Contractors



5 The Making of the 2009 Trust Fund Bill

Think getting a bill passed by the Texas House and Senate is easy? ABC Member, Ben Westcott discusses his experiences and challenges with crafting the Trust Fund Bill for the 2009 Texas Legislative Session and the steps he and ABC took to ensure the bill's passage.

7 Texas Supreme Court Eases Non-Compete Rules

Learn about an important case that signals a willingness by the Texas Supreme Court to broaden its consideration of what constitutes an enforceable non-compete agreement.

8 Berry's Term As ABC Of Texas Chair Comes To An End But Leaves Lasting Legacy

Texas Merit Shop Journal sits down with Roger Berry to discuss his accomplishments as ABC of Texas Chairman and what he sees as the challenges and opportunities that are ahead for the association.

10 One-on-One With Texas Comptroller Susan Combs

Comptroller Combs shares her background and also talks about local initiatives, government views, the State's economy and goals as Texas Comptroller.

12 Great Job, ABC of Texas Members!

ABC of Texas President, Jon Fisher summarizes the recent Legislative Session and the status of ABC of Texas' eight legislative priorities.

15 Waivers of Sovereign Immunity in Construction Law

Learn about recent decisions by the Texas Supreme Court which make significant clarifications in the existing Sovereign Immunity law.

16 Lone Star State's Recession Remains Relatively Mild

The economic slowdown has given new meaning to the old adage "Thank your lucky stars you live in Texas," but we're not out of the woods yet. Learn what the rest of 2009 may have in store.

17 Initiatives Around the State

Learn about ABC Chapter Initiatives in your area.



INDEX OF ADVERTISERS

ABC Merit Choice	20
Alpha Building Corporation	9
Industrial Specialty Contractors.....	11
Industrial Foundation of America.....	6

Marek Brothers Systems, Inc.	9
Morrison Supply Co.	13
RepconStrickland.....	2
SpawGlass Construction	17
Wolfenson Electric, Inc.	19



Turnarounds and revamps with special emphasis on HF Alky Units.



Complete critical project execution.



Rapid response to your piping needs for turnarounds and grass roots projects.

RepconStrickland companies support the

Associated Builders and Contractors of Texas

“Get Into Politics or Get Out of Business”



Turnaround/revamp services for the Caribbean and surrounding areas.



Answering your erosion, temperature and corrosion resistance operational demands.

TIGER TOWER SERVICES



Expert response to your-turnaround, single tower or critical emergency needs.



Premier welding services unlike any other.



REPCONSTRICKLAND

A group of independent specialty companies serving the energy industries.

Toll free: 1-800-478-6206 • www.repconstrickland.com

1605 South Battleground Road, La Porte, TX 77571, Phone: 281-478-6200, Fax: 281-478-6206

Continually Improving, Re-defining And Expanding Our Services For Industry.

2009 BOARD OF DIRECTORS

Roger Berry - Chairman
SpawGlass Construction Corp.
Chapter: Greater Houston

Andy Koebel - Vice Chairman
Kunz Construction Co., Inc.
Chapter: South Texas

Christina Stone - Treasurer
Gaughan, Stone & Thiagarajan
Chapter: Greater Houston

Lawrence Wilcox - Secretary
Large & Sons Foundation Drilling
Chapter: Texas Coastal Bend

Kathleen Acock
Alpha Building Corp.
Chapter: South Texas

Harley Blackburn
Browning Construction Co.
Chapter: Central Texas

Buck Blevins
Infinity Construction Services
Chapter: Texas Gulf Coast

Lisa Budnick Cobler
Tri-Construction Co.
Chapter: Texas Gulf Coast

James Fair
Williams Scotsman
Chapter: TEXO

Mike Gremillion
Industrial Specialty Contractors LLC
Chapter: Greater Houston

GPaul Holliman
Holliman Consulting Group
Chapter: TEXO

Bob Parker
Repcon, Inc.
Chapter: Texas Coastal Bend

Tony Pieprzyca
Hart Company
Chapter: South Texas

Mark Roach
Dealers Electrical Supply
Chapter: Texas Coastal Bend

Chuck Swallow
TDIndustries
Chapter: Central Texas

Todd Traugott
Don Krueger Construction Co.
Chapter: Texas Mid Coast

Jim Ulmer
Rogers O'Brien Construction Co.
Chapter: Central Texas

Mike Weaver
Weaver and Jacobs Constructors, Inc.
Chapter: Texas Mid Coast

Learn how you can get involved
with the ABC of Texas Chapter, call
(512)470-5756



BERRY

Dear Reader,

The 81st Texas legislation has come to an end...or has it? It appears that Governor Perry will call a special session to tend to some unfinished business. There are still some very important issues which need to be addressed including indemnification and funding issues.

It is truly hard to believe that almost 8,000 bills were filed and reviewed throughout this session. It is a wonder that anyone can keep up with anything or everything that deals with the construction business. I am proud to say that ABC represented its members and addressed over 200 bills which affect our business on a daily basis.

During this session, ABC was able to provide representation and become recognized as a leading association with an opinion which serves our members. This was no small feat, and I would like to thank the following folks for all of their hard work and efforts to reach this pivotal position for our association. The first would be our new State President, Mr. Jon Fisher. I would also like to recognize Mr. Mike Toomey, the State Board of Directors, local Chapter ABC Presidents, Local Chapter Legal Issues and Political Action Committees, and especially those who testified on ABC's behalf at legislative hearings.

It was truly a remarkable session for ABC, and one that we had planned for over the last year and a half. In addition, I would also like to recognize the next ABC of Texas Chairman, Mr. Andy Kobel with Kuntz Construction. Andy has the passion to lead our efforts for the remaining year and into the 82nd session of our great State of Texas legislative term.

With the leadership and experience of our association, the upcoming legislative agenda will be another to remember.

Roger Berry
SpawGlass Construction Corp.
2009 ABC of Texas Chairman
For information about ABC of Texas visit www.abctexas.org

The Making of the 2009 Trust Fund Bill

By Ben Westcott, Andrews Myers Coulter & Hayes, P.C.

Joe the Plumber had recently finished his best project of 2008. Joe had just been paid in full upon turning in his final lien release. Joe thought he had made a reasonable profit on the job and was planning to pay bonuses to his key employees. Then, four months later, Joe received a certified letter in the mail from a bankruptcy trustee that demanded the repayment of his last two draw requests of over \$100,000.00. Joe called his lawyer to see what his obligations were. Unfortunately, and to Joe's utter disbelief, his lawyer told him that Joe would have to pay the money back to the bankruptcy trustee because the general contractor had filed for bankruptcy protection within 90 days of the last two payments to Joe. Joe then asked his lawyer if he could file a lien. Joe's lawyer said no, because Joe had released his lien rights and, on top of that, the time period had passed for Joe to file a lien anyway. The general contractor's bankruptcy ended badly and there was no money left over to pay Joe the Plumber or any of the other subcontractors on this project. Joe quickly discovered that he would never get paid for that successful project as he had no other way to get paid. This story perfectly illustrates why ABC of Texas believe the Trust Fund Bill was necessary.

How did the trust fund bill get drafted? First, ABC of Texas sets its goals for the 2009 Texas Legislative Session early in 2008. These goals were shaped at a meeting of the ABC of Texas Board. Since the idea came from the Houston Chapter, we started drafting the bill in 2008. Leadership on the ABC of Texas Board came from Roger Berry, Chairman of the ABC of Texas Board and a member of the Greater Houston Chapter Board; Mike Gremillion, a member of the ABC of Texas Board and Chairman of the Greater Houston Chapter Board; and Russell Hamley, President of the Greater Houston Chapter.

A bill draft, prepared by my office, was proposed to all members of ABC of Texas in the summer of 2008 for their approval and comments. Jon Fisher, the new President of ABC of Texas and I then approached Associated General Contractors—Texas Building Branch (AGC-TBB) and the Texas Construction Association (TCA) for their support and comments. Although we met some initial resistance to the language in the first draft, we worked hard to educate each group on the necessity and importance of this bill. Initial indications were clear that TCA would support the bill. Specific comments from AGC-TBB included opposition to provisions which would have allowed the re-instatement of liens if payments were withdrawn as



preferential payments in a bankruptcy proceeding. The bill was completely redrafted to attempt to protect trust funds from bankruptcy proceedings and contained provisions dealing with liability for bankruptcy trustees and provisions allowing for the recovery of attorneys fees.

While AGC-TBB was reviewing the changes, we were in the process of getting a bill drafted by Texas Legislative Council through a potential House author (State Representative Wayne Smith). Once that bill was drafted, AGC-TBB objected again to provisions dealing with liability and attorneys fees. We consulted through ABC of Texas to determine if we wanted to eliminate those provisions. Once the decision was made to strike those provisions and seek consensus among the industry, Colin Parish of Representative Wayne Smith's office was able to get the bill quickly redrafted (third draft) and filed. Eventually, AGC-TBB voted to support the bill as revised.

Although it was a lengthy and difficult process, I believe this consensus among our industry groups may have been the most important aspect of the process. While all this was happening, Mike Toomey, ABC of Texas' long-time contract lobbyist, suggested some other groups that needed to be informed of our initiative in case they had problems (banks and business attorneys). This is a good strategy because anyone reacts more favorably when consulted early than when they discover something on their own.

What is the purpose of the trust fund bill? The purpose of the bill is to prevent bankruptcy trustees from having the right to take back payments that rightfully belong to the contractors who received the payments for their work. The bill also cleans up some illogical case law that says the trust fund statute does not apply to bonded projects. The revisions also

(Continued on Page 6)

make sure that parties who did not perform the work do not get to take the money and use it for some other purpose or satisfy some other debt.

How did we get the support we needed in the Legislature? Jon Fisher recommended State Representative Wayne Smith (Baytown) and State Senator Mike Jackson (La Porte) to file the bill based, in part, on their expertise, experience and their commitment to the construction industry. Picking authors is part skill, part luck. In this case, there were very good reasons to pick these authors due to their past support of ABC of Texas issues. ABC met with Senator Jackson, Representative Smith, and their staffs on several occasions to discuss, review and finalize the bill for filing. Both of these willing and able public servants and their staffs (specifically, Colin Parish of Rep. Smith's staff and Beth Shields of Senator Jackson's staff) were instrumental in this process. This bill would not have been possible without them. The organized, informed and willing participants in the ABC of Texas Legislative Day on February 2, 2009 were also a key component in this process.

What happened once the bill was filed? HB 1513 and SB 1137 were filed in February 2009. Hearings were held in March and

May, 2009 to take testimony in support of the bill. Jason Walker, a shareholder in Andrews Myers Coulter & Hayes, PC and Richard McCormack of JC Glass took the time to head to Austin to present valuable and much-needed testimony in support of the bill in the House. I went to present testimony, if needed, at the Senate Committee hearing. We also had several meetings with other members of the Legislature which Jon Fisher spearheaded to make sure that our position was understood and appreciated as necessary for the construction industry. It is important to realize three things in the Texas Legislature—time is your enemy, you are competing with some 7,000 other bills to get time in front of committees in both houses, and you are competing with all the bills reported from committee to be recognized by the Lieutenant Governor in the Senate and to be set on the House Calendar by the House Calendars Committee. The bill was passed by the Senate exactly the same as the House version on May 19. Had it been different, it would have had to go back to the House for concurrence, or worse, appointment of a conference committee. It is easy to see why time is so critical. Had the bill been delayed just a few days in each house before passage, it would not have passed!

So after all this, did the bill become law? The House passed the bill in late April and the Senate passed the bill in mid-May, 2009. The bill was signed into law by Governor Rick Perry on June 19, 2009.

Closing thoughts: I have had the opportunity to spend time over the last two years with many intelligent, caring and hard working people who are affiliated with ABC of Texas, who serve this great State of Texas, and who support the well-being of the construction industry. These people are to be congratulated for their efforts in making this bill possible and I personally want to thank them for allowing me to be involved in the process as well.

A copy of HB 1513/SB 1137 can be found at: <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB1513>.



About the Author:
Ben Westcott is a shareholder in the law firm of Andrews Myers Coulter & Hayes, PC in Houston, Texas. Mr. Westcott's practice focuses on transactional and dispute resolution aspects of construction law. For more information go to www.lawamc.com.



Texas Supreme Court Eases Non-Compete Rules

by Bob Kilgore, Tuggey Rosenthal Pauerstein Sandoloski Agather LLP

Continuing a trend that started two years ago, the Texas Supreme Court has issued another decision that makes it easier for employers to enforce non-compete agreements in our state. Specifically, in *Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding*, 2009 Tex. LEXIS 124 (4/17/09), the Court held that an implied promise to provide confidential information to an at-will employee can give rise to an enforceable non-compete agreement.

Non-compete agreements in Texas are generally not enforceable because they are considered a restraint of trade. However, a non-compete clause is enforceable if it is ancillary to or part of an otherwise enforceable agreement at the time the agreement is made, and if the non-compete is limited as to time, geographical area and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the party seeking to restrain competition.

In *Alex Sheshunoff Management Services, L.P. v. Johnson*, 209 S.W.3d 644 (Tex. 2006), the Texas Supreme Court ruled that an express promise to provide confidential information to an at-will employee, in exchange for the employee's express promise not to disclose or use such information, will create an enforceable non-compete covenant, provided: (1) the employer makes good on its promise to provide the confidential information, and (2) the limitations as to time, geographic, and activities to be restrained meet the dual tests of reasonableness and no greater restraint than necessary.

How does the Mann Frankfort decision make it easier for employers? When Mr. Fielding was employed by the accounting firm, he signed an at-will employment agreement in which he agreed "not to use or disclose at any time... any secret or confidential information or knowledge obtained by [him] while employed" by the firm. Mann Frankfort did not make a reciprocal promise that it would provide confidential information to him. However, the parties agreed that if Mr. Fielding left the firm and took any clients with him, he would

have to "buy" the business at a price set by the firm. After Mr. Fielding left the firm, he sued his former firm and asked the court to declare that the client purchase agreement was a de facto non-compete agreement and was not enforceable because Mann Frankfort never expressly agreed to provide confidential information to Fielding as part of his employment at the firm. Citing the *Sheshunoff* case, the trial court and the court of appeals agreed with Mr. Fielding: the mutual promises had to be expressed, and nothing could be implied. When the Supreme Court got the case, it decided the lower courts got it wrong.

The Mann Frankfort decision takes the *Sheshunoff* rule a step further. Now, an implied promise to provide confidential information can be ancillary to an otherwise enforceable agreement at the time the agreement is made.

How do you know if there has been an implied promise to provide confidential information? The answer is in the circumstances or facts of the case. Take Mr. Fielding as an example. He could not perform the work he was hired to do without Mann Frankfort providing him with confidential information such as client financial and tax records, billing information, and client lists. In addition, he could not have acted on his promise to refrain from disclosing confidential information unless the firm provided him with it.

Practical considerations: The Mann Frankfort case does not mean all non-competes will be enforceable, just that all of the facts and circumstances arising from the agreement will be important considerations in determining whether an implied promise supports the agreement. Also, employers will still need to demonstrate that truly confidential information was provided. Although a customer list was referenced in the decision as being confidential, an employer will still need to prove that it rises to the level of a trade secret or proprietary information.

Finally, an employer who wants to enforce a non-compete will still need to prove the reasonableness of time, geographic scope, and activity to be restrained, and the limitation will still have to be no greater than is necessary to protect the goodwill or other business interest at issue. Nevertheless, Mann Frankfort definitely signals a willingness by the Texas Supreme Court to broaden its consideration of what constitutes an enforceable non-compete agreement.



About the Author:
Bob Kilgore is a partner in the law firm of Tuggey Rosenthal Pauerstein Sandoloski Agather LLP. He is Board Certified by the Texas Board of Legal Specialization in the field of Labor and Employment Law.

WHO ARE YOU REALLY HIRING?

Let Industrial Foundation of America provide you with the facts regarding your potential employees' background to help you make a smart hiring decision. IFA is a non-profit member-owned corporation dedicated to bringing you quick, accurate information regarding workplace safety. We pride ourselves on providing your company with unparalleled customer service and background information you can trust.

- Industry Safety Reports
- Criminal Records
- Motor Vehicle Records
- Immigration Status Reports
- Education Verifications
- Credit Reports

Please call 1-800-592-1433 or fax 1-800-628-2397 for more information regarding additional services, price listings and membership details.



Since 1960
Industrial Foundation of America
402 East San Antonio Avenue
Boerne, Texas 78006
Email: ifasmith@gvtc.com www.ifa-america.com



Berry's Term as ABC Texas Chair Comes to an End but Leaves Lasting Legacy

by Meghan Stephens, Assistant Editor

objectives that Berry set out to fulfill during his tenure. The new position stirred up controversy within the association and across the state, as it required a dues adjustment for all Texas chapters as well as comprehensive bylaw revisions. Berry served as a mediator between ABC's eight Texas chapters during the revision process. He remained constantly open to suggestions but adhered firmly to the established bylaws of the State chapter—all while hurdling various obstacles largely due to budgeting for the new, much-needed position. "Each chapter takes on the personality of its Board of Directors, and Board leadership changes hands annually. When these changes are made, the goals of the chapter and the direction that it takes are also altered. With the help of a full-time President, we now have the capacity to address these changes directly and attend to any concerns," Berry explains.

In addition to the major structural changes that were made with the addition of a State President, Berry emphasized the importance of taking an absolute stance on proposed legislation, influencing the State Chapter's heavy involvement in the 81st Session of the Texas Legislature. "We set out to take action and respond to challenges, to either support or put a stop to proposed legislation. The State chapter took on eight legislative issues to focus efforts on, and if any legislation was presented that affected these objectives, we took a position. Previously, the State chapter was taking a 'scatter shot' instead of applying a clear focus. This time, we set priorities. Instead of dealing with dozens of issues at once and only giving each a fraction of our attention, we focused on priority issues first, though we did not limit our involvement as new legislation arose," Berry elaborates. "Chapter legal issues committees took the helm, studying, reviewing and analyzing the various bills in order to enhance comprehension of critical issues. Legal issues committees then recommended courses of action, which were the basis for ABC of Texas' chapter votes. We began to get recognition as a State chapter, to the extent that ABC has become a true influence in the legislative process."

Roger's efforts have paid off big for ABC, and the value of the ABC State President has been shown by his affect in the legislature. "If I hadn't believed in the necessity of this position so strongly, it may not have been realized," he says. "The appointment of Jon Fisher as the ABC of Texas President has been very successful, and ABC now has a daily presence in the legislature that we have never enjoyed before. Today, we are able to take the offensive as a chapter to push issues and champion topics that affect our industry." Under Berry's guidance, ABC of Texas has put forth an effort to form alliances with organizations such as the Texas Association of Business and Texans for Lawsuit Reform. These important alliances, based on the Merit Shop philosophy of ABC, came to fruition along with ABC's increasing influence in

ABC State Chairman Roger Berry, with SpawGlass Construction, will hand over the reins of the ABC Texas Chapter to his successor Andy Koebel, with Kunz Construction, this month. Texas Merit Shop Journal sat down with Roger to discuss his two-year term as Chairman, including his experiences, triumphs, challenges and what he sees as the future for the Chapter.

As former ABC Greater Houston Chapter Chairman, Berry didn't hesitate in the decision to move forward in ABC Leadership. Although he remembers some initial concern about dealing with multiple chapters simultaneously, he cites this as nothing more than an inherent challenge of the State Chapter. Two years ago, Berry felt that ABC's Texas chapters were looking for a change, and he didn't let any challenges overcome his objectives. "Sometimes, we get set in our ways. Change is not all bad," he laughs.

Berry's first year was indeed a year of change, led by a new direction for the State chapter. "It was full of exciting, tense moments," he says. One of Berry's biggest accomplishments as ABC State Chairman was the establishment of a President's role for the State chapter, followed by the subsequent appointment of Jon Fisher to the new position. Fisher was found to best represent the position and beliefs of ABC.

The decision to hire a State President held daunting implications, and was only one of three primary

the Texas Legislature, which Berry says is a relationship that will continue to develop to the advantage of the association.

As State Chairman, Berry provided skillful leadership, utilizing open lines of communication between chapter members whose combined experience contributed guidance to the new ABC State direction. "We all study government in college, but until you get involved, it's impossible to understand the Legislative process. I'm amazed at what I've learned about timelines, deadlines, and the extensive process surrounding how bills are passed and killed. ABC is becoming a strong political association on the State level, and we need continued support from local chapters. We ask for members to get involved with local representatives and share their opinions," says Berry.

Berry warns that it can be difficult to take your personal feelings out of the equation when serving as ABC of Texas Chairman – but whether or not he is for or against a proposition, it comes down to the vote of the Board members. "I always support the vote of the association," affirmed Berry. "Be open-minded, heed the local chapters, present all of the information, and encourage a discussion before going to a vote. Many times, there is not enough dialogue. The more open analysis, the more informed decision we'll make as a whole," Berry advises. He also encourages setting higher levels of accountability for Board members, which induces involvement and active participation in discussions. When offering advice to the future Chairman, Berry refers to the balancing act of managing his company as well as serving ABC of Texas. "Making sure that your company comes first while balancing daily activities and state activities is difficult," he admits, explaining that it's always tough to balance time efficiently between business, ABC, and family. "At the end of the day, it's fun working with good people towards a common goal, in a situation where egos don't get in the way."

This summer, as Berry's term comes to an end, both he and ABC of Texas are confidently looking towards the future. "We can always improve as an organization, and these past two years served as a giant step. Now, we will work on refining and sharpening our presence in the Texas Legislature. We're continuously learning to do things better." - MS

MAREK
FAMILY OF COMPANIES
Commercial Interior Specialists

Helping General Contractors meet today's challenging construction needs with ingenuity and integrity.

Six Locations To Conveniently Serve You!

Houston (713) 681-2626	Dallas (972) 393-4343
Atlanta (770) 973-2218	Harlingen (956) 412-9339
Austin (512) 312-2756	San Antonio (210) 657-4437

www.marekbros.com

40 ALPHA
BUILDING CORPORATION
First Choice For Facilities Renovation & Construction
1969 - 2009

Celebrating 4 Decades of Construction Excellence

Alpha Building Corporation began business in 1969, organized by people who instilled the practical logic that continues today: the client must come first, be served honestly, promptly, and with responsibility.

As the Job Order Contractor for seventeen universities, three cities and two school districts, we know that the construction services we perform are small contributions to their great achievements.

JOC, CMatRisk or Design/Build - Alpha is your first choice for facilities renovation and construction.

Corporate Headquarters: 24850 Blanco Rd., San Antonio, TX 78260
210-491-9925 www.alphabuilding.com



One on One With...
**TEXAS COMPTROLLER
 SUSAN COMBS**

As Texas Comptroller of Public Accounts, Susan Combs serves as the state's chief financial officer. She manages the state's treasury operations to monitor Texas' fiscal health, guides legislative decision makers by estimating state revenues and ensures state taxes are collected fairly and efficiently to fund vital programs and services for the people of Texas. Her previous public service includes two terms as the state's first woman Agriculture Commissioner, as well as four years in the Texas House of Representatives.

Q: Could you briefly describe your background before coming to the Comptroller's office?

A: After graduating from Vassar College, I worked in international advertising in New York, in the financial markets on Wall Street and for the federal government before returning to Texas to obtain a law degree from the University of Texas School of Law. I served as an assistant district attorney in Dallas, where I built a reputation as a tough prosecutor of child abuse cases. In addition to my duties as Comptroller, I run a ranching operation in Brewster County on the same ranch owned by my great-grandfather more than a century ago.

Q: What are some of your local government-focused initiatives at the Comptroller's office?

A: We expanded the Local Government Assistance Division to include economic development and launched the Texas Ahead Website in May 2008 as a one-stop portal to give businesses, global partners and local governments a wealth of economic development tools and resources. Key among these is the Texas EDGE Data Center that puts key economic development information at users' fingertips. Texas EDGE provides governments, developers and businesses across the state with data and analysis useful in revenue planning, financial analysis, economic forecasting, site-location decisions and other issues affecting trade and industry growth.

Our office also recently issued Texas Works, which examines a serious imbalance existing between the demand for skilled workers and the state's ability to supply them. Texas Works offers an in-depth study of this issue with recommended steps to ensure our state's young and growing population is one of the world's strongest and most highly skilled work forces.

Q: Do you view government as a friend or foe?

A: Government is certainly not the solution to every problem, but at my office, we really want to inject truth into an old phrase: We're from the government, and we're here to help. That means responding to taxpayer requests and issues in a timely manner, executing rules and policies fairly and recognizing constructive input.

When dealing with taxpayer dollars, our processes must be sound and innovative to meet the state's growing needs at a time of economic uncertainty. We know every new agency responsibility won't be accompanied by more money and employees. Because of that, our office always approaches issues creatively, embraces innovative solutions and streamlines processes in a continual effort to do more with less. We believe our office is only a friend to Texas if we offer exceptional service at a good value.

Q: Can you give us an update on the revised franchise tax?

A: During the latest session, the Legislature reassessed the threshold for applying the franchise tax, taking into account firsthand reports received from constituents as well as a study conducted by the Business Tax Advisory Committee. For reports due in 2010 and 2011, taxable entities with total revenue equaling \$1 million or less will owe no tax. After 2011, the threshold will be \$600,000 or less. This change will shield some 37,000 businesses from paying the next round of franchise taxes, ensuring that Texas remains a viable incubator for small businesses.

For businesses seeking to change the way the franchise tax is assessed, our office encourages taxpayers to contact their state legislators directly. The Business Tax Advisory Committee, which prepares an assessment of the tax for the Legislature before each regular session, also appreciates taxpayer feedback. To contact the committee, taxpayers may contact Mike Reissig at mike.reissig@cpa.state.tx.us.

Q: The national economy appears to be faltering. What is your view of our state's economy?

A: The Texas economy, the world's 12th-largest, continues to fare better than those of many other states. However, Texas is feeling the effects of the worldwide recession.

According to the National Bureau of Economic Research, the U.S. economy peaked in December 2007 and has been in recession since then. Nevertheless, Texas fared well in fiscal 2008 (Sept. 1, 2007 – Aug. 21, 2008), when its gross product expanded more than twice as fast as the nation's (4.2 percent versus 1.9 percent). Texas' economic growth thus far in fiscal 2009 has been much slower. The Comptroller's office estimates that the Texas gross state product will expand by just 1.8 percent throughout fiscal 2009. The U.S. economy, by contrast, is on track to shrink by 0.9 percent over the fiscal year.

From a big-picture perspective, Texas has so far fared strongly in light of difficult circumstances. We have a diverse economy that is underpinned by fiscally responsible policies. No state will be unscathed by current economic forces, but the diversity of the Texas economy is helping us weather these tough economic times better than most.

Q: Can you explain your focus on transparency and office efficiency?

A: From day one, I've wanted the Comptroller's office to run simpler, smarter and faster, and with as much transparency as possible. Keeping that in mind, we're working to accomplish these goals:

- Perform mandated duties in a transparent, fair manner and encourage transparency throughout Texas government. Key to this goal is the "Where the Money Goes" online expenditure database, which allows any site visitor the opportunity to examine state agency spending — down to the pencils.
- Use the latest in information technology to deliver more information using fewer resources.
- Keep checks out of the mail by emphasizing the importance of electronic funds transfers and direct deposit.
- Collect economic data important to Texans and use the Internet to deliver those numbers to citizens who need them.

INDUSTRIAL INSTRUMENTATION AND ELECTRICAL SERVICES

The Value of High Standards

Our clients are demanding and their standards are high. So are ours, because high standards attract the best people, and high standards challenge them to learn and grow.

That's why so many of the world's leading industrial facilities count on ISC, where NCCER-certified men and women set high standards of their own, and constantly challenge themselves to get even better.

If that sounds good to you, call ISC -- whether you're planning a job or looking for one.

420 Dickinson Ave.
League City, TX 77573
281-338-2000

6350 Walden Road
Beaumont, TX 77707
409-842-3500
www.iscgrp.com

ISC



Great Job, ABC of Texas Members!

by Jon Fisher, ABC of Texas President

While the mainstream press reports on all the things the Texas Legislature did not do, my conversation with a member of the Texas House the last week of the session really sums it up. He asked me, "Well, did we do any harm?" After reflection, I responded, "Not yet!"

It is important to remember that Texas is governed by a Constitution written by those who had just experienced an unfavorable governing experience—post-Civil War Reconstruction. By limiting our Legislative Sessions to 140 days every two years, these writers had no intention of creating a system to deal with the many things that get dealt with today. They wanted a two-year state budget and little else.

We got our two-year budget, and the Legislature did no great harm. That is a win for Texas!

As all of you are aware, for business to thrive, we have to have a stable and predictable environment in which to predict our costs. Thus, business usually strives for the status quo with incremental adjustments to correct problems encountered. Quantum leaps are seldom good for our bottom lines.

In one of my former jobs, I worked for a leader who said, "We judge our success by how slowly we lose." Well, this session we lost nothing. We protected free enterprise, the merit shop philosophy, and the construction industry generally. Additionally, we made an incremental gain in the construction trust funds statute.

Going into the session, we identified eight legislative priorities. Two of those evaporated for different reasons—one because we could not find consensus within the industry for our initiative, and another because the group proposing an initiative decided to not pursue legislation this session. Thus, we were left with six priorities—Immigration (defensive); Alternative Delivery Systems (initiative); Indemnification/Workers' Compensation/Third Party Liability (defensive and an adopted initiative); Trust Funds (initiative); Prevailing Wage (initiative); and Trades Legislation (defensive).



IMMIGRATION

ABC of Texas was active with the Texas Employers for Immigration Reform (TEIR). I served on the Executive Committee and participated in weekly conference calls to discuss strategy and actions. TEIR led opposition to proposals that would have made employers responsible for enforcing immigration laws, amongst other bad ideas. Immigration is a federal issue, and the Texas Legislature, as a whole, agreed. It did not hurt that the anti-immigration crowd reacted negatively to a key legislator's attempt at a compromise proposal. I was the final witness in a late-night hearing before the House Committee on State Affairs which did not recommend a single immigration bill for passage.

ALTERNATIVE DELIVERY SYSTEMS (ADS)

ABC of Texas worked with Associated General Contractors-Texas Building Branch (AGC-TBB) and the Texas Society of Architects to craft a bill that would not be vetoed as the 2 previous initiatives in this area had. Kathleen Acock of the South Texas Chapter appeared to testify in the Senate. Unfortunately, the fight over Voter ID doomed this bill. It was set on the Major State Calendar—a priority setting—after the Voter ID bill. When the Democrats "chubbed" (delayed with frivolous debate) the House Local and Consent Calendar over the Memorial Day weekend, the deadlines in the House took over. We lost the bill.

INDEMNIFICATION/WORKERS' COMPENSATION/THIRD PARTY LIABILITY

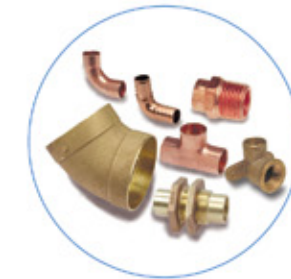
Our primary goal was to defeat the Entergy bill which would have prevented a premises owner from acting as its own general contractor for purposes of workers' compensation. Bob Parker of the Coastal Bend Chapter testified against the bill in the Senate on the Saturday over Memorial Day Weekend. This bill narrowly passed the House and died only because Senators Joan Huffman and Tommy Williams secured enough "blockers" in the Senate (it takes two-thirds of the Senate or 21 votes to bring up a bill—eleven Senators can block it). ABC of Texas also ended up supporting an Indemnification Bill that was a compromise among AGC-TBB, the Texas Construction Association and the Texas Civil Justice League. Bob Parker testified for this bill in both houses. That bill suffered the same fate as the ADS Bill.

TRUST FUNDS

We were able to secure passage of a bill that should assist in keeping construction trust funds from being recalled as preferential payments in bankruptcy proceedings. Ben Wescott of the Greater Houston Chapter was our issues leader, and he exhibited much patience and flexibility in dealing with the groups

(Continued on page 14)

MORRISON
SUPPLY COMPANY



Wrot & Cast Copper



NIBCO® DURA-PEX®
Piping System

NIBCO®
AHEAD OF THE FLOW™
www.nibco.com



TOLCO® Pipe Hangers
& Supports



Commercial Valves

Commercial/Residential Plumbing

Pipes • Valves • Fittings

HVAC

Waterworks

877.709.2227

70 locations throughout Texas

www.morsco.com

whose support we needed to secure passage. Jason Walker and Richard McCormack, both of the Greater Houston Chapter, testified for the bill in the House. Ben Wescott appeared to testify in the Senate. Even unopposed, the bill passed in the last 2 weeks of the session! That serves to demonstrate the incredible competition that exists in this process for attention to legislation (see article on page 5 of this issue). Our legislative sessions are not designed to pass bills—it is amazing the Legislature gets so much done in the short time allowed.

PREVAILING WAGE

We received a hearing on our bill late in the session. Chuck Swallow of the Central Texas Chapter testified at this House hearing. There may be an interim study to see if we can get some incremental improvements in the process.

TRADES LEGISLATION

We were able to prevent the passage of bills regulating cranes and crane operators, sheet metal workers, roofing contractors, fire sprinkler technicians and disaster remediation contractors. We worked with other groups that had witnesses against these bills, but I was the only person testifying against the disaster remediation contractor bill, urging changes to make sure that regular contractors were not required to register. Bills that were not opposed by ABC of Texas passed in the area of plumbing and electrical apprentices. We were successful in securing an amendment to the electrical apprentice bill that recognizes National Center for Construction Education and Research (NCCER) programs used by ABC Chapters and allows NCCER craft training programs to qualify as apprenticeship programs.

Of course, other issues come up during a legislative session that require attention. Among those were the all-out assault on tort reform and favorable court decisions launched by the personal injury trial lawyers, an opportunity to make changes favorable to Career and Technical Education (CTE) in our public education system, and a couple of initiatives on health insurance preference for public works contracts.

ABC of Texas was a consistent and active participant in the joint efforts mounted by the Texans for Lawsuit Reform and the Texas Civil Justice League to preserve recent tort reforms and protect

favorable court decisions. The Entergy bill was mentioned earlier in this article. Other failed personal injury trial lawyer initiatives included “phantom damages,” mesothelioma causation, arbitration restrictions, prohibitions on the use of multi-district litigation panels, etc. ABC of Texas expended considerable effort attending association leader meetings with key Senators and Representatives. I attended all but two meetings; due to a scheduling overlap we had to split forces, and one meeting was delayed by the legislator and subsequently took longer than planned. The tort reform community, which included the above two groups and many business groups, was united and focused all session. Defeating all of these initiatives was an incredible feat!

“ABC of Texas was a consistent and active participant in the joint efforts mounted by the Texans for Lawsuit Reform and the Texas Civil Justice League to preserve recent tort reforms and protect favorable court decisions.”

ABC of Texas was also a major player in a group organized to pursue improvements for CTE in our public education system—Texas Employers for an Educated Workforce. We were able to produce an invited Op-Ed piece for the Austin American Statesman (where I was listed as a co-author representing ABC of Texas), have a hearing on a comprehensive CTE bill (thanks to Kim Bernard of the Southeast Texas Chapter for testifying), and secure favorable

changes to the Public Education Accountability Bill (HB 3). This will be discussed at greater length in my end of the session report.

We were also able to end the session without any new health insurance preference provisions in state law.

Thanks to everyone who participated in our grassroots efforts through VoterVoice—it definitely had a positive effect. And, special thanks to all the Local Chapter Presidents and other Local Chapter staff who were instrumental in securing key contacts with legislators at critical points in the process. Last, but certainly not least, thanks to a supportive and involved Board of Directors who kept us on course and provided the support necessary for the success of ABC of Texas this legislative session. The Executive Committee also provided critical input on very short notice. - JF

Waivers of Sovereign Immunity in Construction Law:

Recent Decisions by the Texas Supreme Court

by Todd Hunter, Hunter and Handel, P.C

Sovereign Immunity is a prevalent issue in Construction Law contexts because governmental entities often enter into construction contracts to maintain infrastructure and improve the services it provides to citizens. In recent years, the Texas Supreme Court has preferred to defer to the Legislature whenever possible on the issue of waiving sovereign immunity, reasoning that “the legislature is better suited to address the conflicting policy issues involved in both the establishment and the waiver of immunity.” However, the Court has also retained some authority to “define the boundaries of the...doctrine and to determine under what circumstances sovereign immunity exists in the first instance.” Justice Johnson has pointed out that sovereign immunity was originally developed as a common law concept “without any legislative or constitutional enactment.” As a result, the Supreme Court has the ability to “modify or abrogate such immunity by modifying the common law.” In two recent cases, the Court has exercised this authority to find a waiver on the part of the government independent of any legislative enactment.

In the first case, Reata Construction Corp. v. City of Dallas, the Court upheld and refined the well-established proposition that a governmental entity waives its right to immunity by filing a suit or asserting a claim against an individual. The court restricted the waiver, though, limiting the waiver to claims that are “germane to, connected with, and properly defensive...” to the claims brought by the sovereign.

In that case, the City of Dallas intervened in an action where it was named as a responsible third party and asserted affirmative claims of its own against the litigants. The trial court denied the city’s assertion of sovereign immunity as a defense to the claims asserted against it by the parties, and the city appealed. In affirming the trial court and finding a waiver of immunity on the part of the city, the Supreme Court relied on the basic concept of fairness: “In this situation, we believe it would be fundamentally unfair to allow a governmental entity to assert affirmative claims against a party while claiming it had immunity as to the party’s claims against it.” But, the court limited recovery on the part of the individual to an offset against the city.

The Court went on to refine its ruling in Reata in Texas v. Fidelity & Deposit Co. of Maryland, where it allowed adverse parties to assert “as an offset, claims germane to, connected with, and properly defensive to those asserted by the governmental entity.” In that case, the Texas Department of Transportation sued Fidelity, claiming damages on a construction related performance bond. The Department claimed immunity from counterclaims, but the Supreme Court held that the state had waived immunity and allowed the adverse party to recover on “counterclaims sufficiently related to that bond enforcement claim”. The court added to the analysis required for this issue set out in Reata.



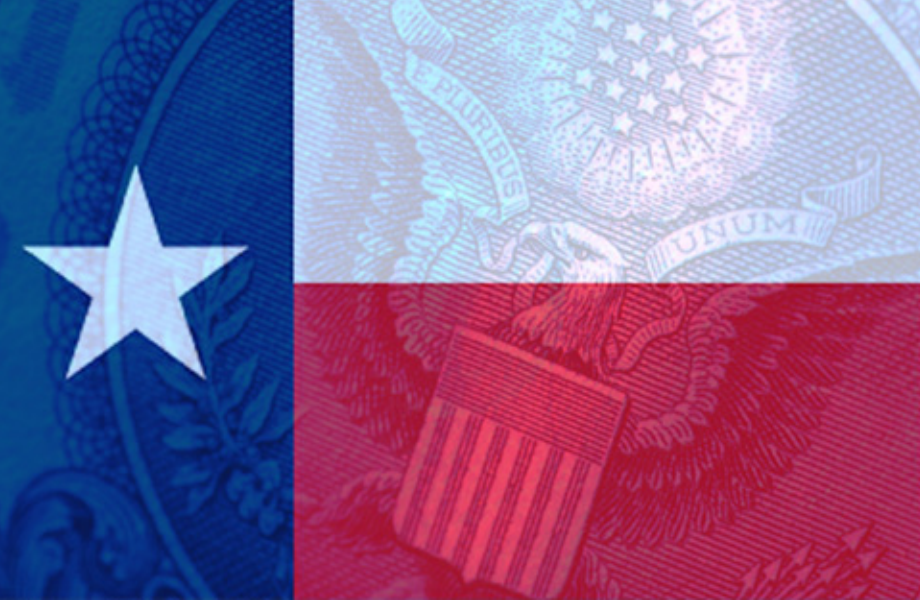
Its decision required courts in the future to “both specify the claims that arise from the State’s suit and limit any recovery to an offset.” This additional analysis is necessitated by the possibility that unless a court specifies which claims arise from the state’s suit, it might not restrict counterclaims to an offset of the government’s claims.

The court’s decisions in Reata and Fidelity are not major changes in existing law. They do make significant clarifications, though. Reata crystallizes the concept of waiving sovereign immunity by filing suit by restricting it to offsetting affirmative claims made by the governmental entity. Fidelity ensures that the decision in Reata is accurately applied by requiring courts to elucidate which claims arise from the State’s suit, and which do not.



About the Author:

Todd A. Hunter, who has served five terms in the Texas Legislature (1989-1997, 2009-1010), is the senior partner in the law firm of Hunter and Handel, P.C. Hunter who was born in Bartlesville, Oklahoma, is a Phi Beta Kappa graduate from the University of Kansas and obtained his law degree from Southern Methodist University in 1978.



Lone Star State's Recession Remains Relatively Mild

by Anirban Basu, ABC Chief Economist

a loss approaching 10 percent. Heavy and civil engineering construction shed 15,700 jobs, building construction was down 15,200 jobs, and the specialty trade contractor segment experienced a net loss of 33,200 jobs. Moreover, after eight years of essentially uninterrupted job creation, Texas' natural resources and mining industry lost 5,800 jobs between April 2008 and April 2009, or 2.6 percent.

Though the recession will persist for several months to come, Texas' mid-term outlook remains reasonably promising and the state remains poised to outperform national economic averages. Out of \$787 billion to be spent as part of the American Recovery and Reinvestment Act of 2009, \$754.5 million were appropriated to the Lone Star State's energy industry. The federal government appropriated approximately \$209 million for the State Efficiency & Conservation Block Grant Program. Among the entities that stand to benefit from implementation of the stimulus package are Texas A&M University, Sysco of Houston and several wind energy producers.



About the Author:

Anirban Basu was named Associated Builders and Contractors (ABC) chief economist in February 2008. His primary responsibility is to provide ABC with timely, comprehensive analyses of important trends in the U.S. commercial and industrial construction industry. Basu produces ABC's electronic economic news report, Construction Economic Update, which includes an analysis of the following federal government economic indicators upon their release: construction spending, employment, producer price index and gross domestic product.



Members of ABC Greater Houston help raise money for the ABC Political Action Committee while getting in a little target practice at the annual Spring PAC Clay Shoot.

GREATER HOUSTON CHAPTER

This quarter, the Associated Builders and Contractors of Greater Houston has been very busy with a variety of activities. In April, the Political Action Committee (PAC) hosted the annual Spring Clays Shoot, a fundraiser that was well-attended by the membership and raised over \$14,000 in support of the PAC. During our most recent PAC meeting in May, the committee screened two runoff candidates for the Houston City Council District H seat. The two candidates were Ed Gonzalez, a longtime police officer and Maverick Welsh, former chief of staff to Councilman Peter Brown. After much discussion and a great presentation by both candidates, the committee decided not to endorse at this time. In the coming months, the committee will be screening the four main candidates for the Mayoral election that takes place this coming November. ABC wants to make absolutely sure that they support those who are looking out for builders and contractors in the current economic environment.

The Political Action Committee traveled to Washington, DC June 23-25 for the annual ABC Legislative Conference. The Greater Houston chapter joined other ABC chapters from around the country to discuss current federal legislation, lobby their Congressman and Senators, and hear from a variety of renowned speakers. The primary focus for the conference is to ensure that Legislators are aware that the Employee Free Choice Act, commonly known as "EFCA", is detrimental to the construction industry. The proposed Act would take away the right for an employee to secretly decide if he/she would join a union. The secret ballot is the staple of American democracy. ABC is confident in our efforts to effectively lobby our Congressman to stop this unfavorable piece of legislation.

On July first, the Greater Houston chapter featured a presentation given by Jon Fisher, President of ABC of Texas. Jon gave an overview of the pivotal 81st Texas Legislative session that took place earlier this spring. Thanks to Jon, ABC was a major player at the Capitol this year. In August, the PAC will have its second annual Red, White, and Blue Summer Cruise that will depart




The TEXO Chapter signs an agreement with the Employer Support of the Guard and Reserves confirming member's support of their employee involvement with the Guard and Reserves.

TEXO CHAPTER


Things are off to a roaring start as the Board, members, and staff get familiar with the new consolidated Chapter. Being new has not slowed down activities in the least. The first quarter

(Continued on page 18)




BUILDING SINCE 1953

General Contractor ● **Construction Manager**
Design-Builder ● **Civil Contractor**



Citation Oil & Gas New Headquarters – Spring, Texas

www.spawglass.com
281-970-5300





ABC Texas Coastal Bend Chapter member, and new Corpus Christi District 1 City Council member, Kevin Kieschnick speaks at a recent Meet the Candidate Forum.



Members are recognized for their golfing skills at the ABC South Texas Spring Golf Tournament.

provided 93 different meetings and/or events in which the membership participated. And participate they did, as nearly 3,000 attended. Highlights included an Economic Summit with top national economists, hosting the Associated School of Construction's Region 5 Student Competition, and a celebration of the consolidation.

Other activities included jobsite safety and storm water inspections by our Safety, Health and Environmental Services Department. They also held training classes at which 500 of our members attended.

The Women's Forum, Young Constructors Council, AIA/TEXO Forum, and Safety/Superintendents Forums held regularly scheduled meetings.

TEXO's Education and Research Foundation held three successful fund raising events which netted the Foundation nearly \$56,000 for their scholarship program. Their endowment is now valued at nearly \$800,000.

Things did not slowed down in April, May, and early June. Aside from the regular meetings of all Committees, Forums, and Leadership Groups, the Chapter held their Annual Golf Tournament, Crawfish Boil, and Softball Tournament involving over 900 members. The Chapter also conducted its annual charity event, a "Poker Run". Over 300 motorcycle enthusiasts participated in this event which raised \$42,000 for Scottish Rite Hospital and Happy Hills Farm.

The Chapter signed an agreement with the Employer Support of the Guard and Reserves confirming TEXO's 1900+ member's support of their employee involvement with the Guard and Reserves. The ceremony was held in conjunction with TEXO's Board of Directors' meeting, and included attendance by Texas Workforce Commissioner, Tom Pauken and Texas ESGR Committee Chairman, Dr. Jerry Icenhower.

May 6th was TEXO's Construction Industry Stand Down for Safety. Over 65 general contractors involving nearly 150 jobsites valued at \$4 billion were shut down while employees participated in safety training. This year's Stand Down focused on the Focus Four Hazards: Falls, Struck By, Caught In Between, or Electrocutation.

Of course, these first five months involved a great deal of legislative activity. The Chapter's Vice President of Governmental Affairs, Jack Baxley, played an active role in both ABC and AGCTBB legislative efforts. Jack was ably assisted by many TEXO members throughout the session, and guided by the policies of our Governmental Affairs Committee. Members and staff also visited with U.S. Congressman Pete Sessions.

TEXAS COASTAL BEND CHAPTER

In late March, the ABC Texas Coastal Bend Chapter hosted a "Meet the Candidates Forum" with the Corpus Christi Mayoral and twenty-two of the City Council candidates. Among them was ABC member Kevin Kieschnick, of Prosperity Bank who went on to win his race for city council and helps represent ABC at City Hall.

This spring, the chapter was approached by glass and glazing businesses to help address windstorm code enforcement issues. ABC, along with other trade associations and the City of Corpus Christi, hosted a forum with local contractors, engineers, architects, suppliers, and building code inspectors to discuss windstorm design and building requirements. The chapter hopes to continue to take the lead hosting more forums that will educate design professionals, inspectors, and installers of windstorm requirements.

Also on the windstorm front, the entire Texas coast is breathing a sigh of relief after the legislature passed comprehensive windstorm legislation. It was a polarizing issue that divided coastal and inland Texas and thanks to the help of our local state representatives and senators, Texans and visitors can continue to live and recreate affordably on the Texas coast.

ABC member, State Representative Todd Hunter was a huge ally for the construction industry and business owners across the state this legislative session. Representative Hunter was named chair of the Judiciary and Civil Jurisprudence Committee and helped protect Texas businesses from dangerous personal injury legislation. Representative Hunter also played a critical role in the windstorm debate.

We're half way through the year and the chapter has already exceeded the number of scholarships awarded to students at the Craft Training Center of the Coastal Bend in 2008. To date, the chapter has awarded 25 scholarships to students studying instrumentation fitting, pipefitting, and welding totaling over \$9,000. The chapter recently became an endowment sponsor of Judge Joe A. Gonzalez's "Education is our Freedom" scholarship program that targets at risk young people and students enrolled in local GED programs. Young people enrolled in the program will receive scholarships to local higher education institutions including the Craft Training Center of the Coastal Bend.

Finally, the chapter successfully completed the 21st Annual Golf Tournament attracting over 130 participants with ABC and non-ABC member companies involved in the commercial and industrial construction industry. Currently, the chapter is preparing for the 17th Annual Fishing Tournament, a family fun event for all ages, and the first ever Grillin' on the Playa BBQ Cook-Off benefiting the Corpus Christi Harbor Playhouse.

SOUTH TEXAS CHAPTER

One of the South Texas Board's planning retreat assignments was to improve the chapter's marketing efforts and increase visibility in the local community. The first order of business was for the Board, staff and key volunteers to provide their own definition of ABC. The conversations determined that each person had a different idea of what ABC was all about. If you were involved in education, more emphasis was placed on workforce development efforts. If you had a political interest, the comments addressed ABC's efforts at the local, state and national levels. So the board Marketing Task Force developed a brief elevator speech that told who we were and what we did, and it could be expanded to go into more details – sort of a 30,000 foot view, a 15,000 view and then tree top level. ABC is a professional business association representing the construction industry

through Action in politics, Business development opportunities, and Construction education. This foundation is what the South Texas Chapter's marketing program will be built.

The chapter's education programs continue to help create the workforce of the future. A comprehensive construction education catalogue has been prepared that covers the wide array of education offerings by the South Texas Chapter – from a new hire orientation to upper management education. The catalogues are being distributed at the city's Business Development Center, with local school district counselors and at members' companies. On the "green building" front, all chapter education programs include a component on sustainable/green construction. This can range from a one hour presentation in the smaller classes to full blown courses such as the NCCER "Your Role In The Green Environment." The chapter is also working closely with the local USGBC chapter to develop and host programs designed to increase industry awareness.

Over fifteen South Texas Chapter representatives attended the ABC National Legislative Conference. Key issues discussed with members of the Bexar County Congressional Delegation included ABC's continued opposition to the misnamed EFCA, union-only PLAs and union salting, support for health care reform, repeal of the 3% withholding tax, and green jobs, among other issues. Congressman Lamar Smith was presented with another ABC National Free Enterprise Eagle for his support of ABC issues.

CELEBRATING 50 YEARS OF SERVICE

Proud to be a 2007 Dow Eagle Award Recipient!

Wolfenson Electric, Inc. & Civil Mechanical, Inc.

We stand united in our commitment to quality and safety as full service industrial contractors with over 70 years of combined experience.

2007 HBR Gold Award
Safety Excellence

2007 HBR Best in Category
Safety Excellence

Houston 7902 Cowart Street Houston, TX 77029 Phone: 713-676-1201	Fax: 713-676-0457 Brazosport 430 West Plantation Drive Clute, TX 77531	Phone: 979-265-1831 Fax: 979-265-1573 Fabrication & Support Services 726 Highland Park Drive
--	--	---

I HAVE 6 MONTHS TO

BUILD

A NEW ADDITION ON THE
HIGH SCHOOL, WHILE
JUGGLING

7 OTHER PROJECTS AND
MY DAUGHTER'S SOCCER
SCHEDULE.

**WHO HAS TIME
TO FIND THE
BEST INSURANCE
WITH THE BEST VALUE
FOR MY BUSINESS?**

**FOR ME IT'S
AS EASY AS
ABC.**



MERITCHOICE®
Insurance and benefits.
Exclusively for ABC members.

You wear many hats. Insurance administrator doesn't need to be one of them. Trust your insurance and benefits to the association you trust to make your life easier – ABC. ABC Merit Choice® is your association insurance agency, with the added benefit of human resources consultation – all geared to your construction business. Exclusively for our members, we compare a wide range of cost-effective group plans and benefits packages to find the one best suited to your business. Then we provide personalized and tailored service to manage the details. What could be easier?

There's enough on your schedule. You deserve the best-in-class insurance and benefits, turn to ABC Merit Choice.

For a free consultation on the best insurance and benefits options for your business – contact an ABC Merit Choice representative (no sales pitch, just facts) at 800.621.2993, or visit us online at www.abc.org/meritchoice.

