

Includes 2010 ECAO Annual Report

The Ontario **ELECTRICAL CONTRACTOR**

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Volume 48 • Number 3 • Summer 2010



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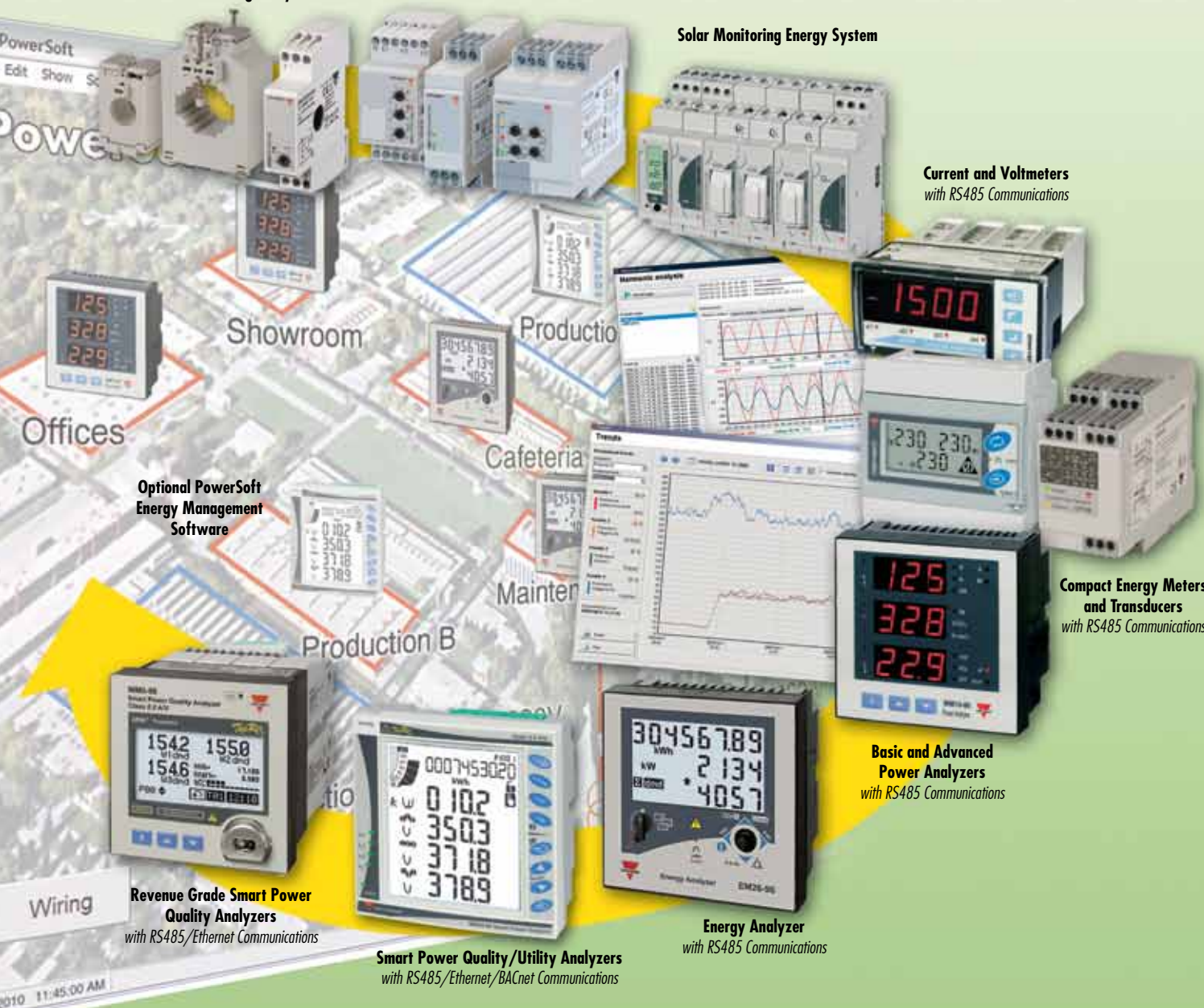
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Ontario Passes OHSA Violence & Harassment-Related Provisions Into Law

Statutory provisions requiring “kinder, gentler” workplaces, have been recently passed in Ontario. On December 15, 2009, Bill 168, the Ontario government’s detailed proposal to amend the Ontario *Occupational Health and Safety Act (OHSA)* to require worker protection from violence and harassment, and establish new specific worker rights relating to violence, received Royal Assent. As such, Ontario workplaces will have until June 15, 2010, to ready their workplaces, policies, programs and practices to ensure compliance with these provisions. Bill 168 received robust debate, and was amended slightly before passage. This article provides highlights of new employer obligations and worker rights as they were amended and passed into law. The amendments contain seven key areas – mandatory new employer policies, required programs, required training, required risk assessments, worker rights, obligations to respond to domestic violence in the workplace, and employer reporting requirements - each of which is detailed in turn below.

1. Obligation to Prepare Written Violence And Harassment Policies

Where more than five workers are regularly employed at a workplace, Ontario employers will now be required to prepare and post a workplace violence policy. The specific definition of “workplace violence” enacted after debate has been slightly amended. “Workplace violence” under the OHSA for purposes of employer obligations and exercise of worker rights means:

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- (b) attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to a worker;
- (c) statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

The third prong of the definition, defining violence as statements or behaviours threatening violence, was added after committee hearings into the amendments to the OHSA.

With the passage of Bill 168 the OHSA will also require employers to prepare and post a written policy respecting workplace harassment at every workplace where more than five workers are regularly employed. “Workplace harassment” is defined to mean “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.” This very broad and encompassing definition of “workplace harassment” remains unchanged from the date that Bill 168 was first introduced in April 2009.

2. Workplace Violence and Workplace Harassment Programs

Employers are to develop and maintain programs to implement both the workplace violence policy and the workplace harassment policy. Employers need to be aware that the specific and detailed requirements to prepare violence prevention programs and workplace harassment programs differ significantly under Bill 168.

Workplace violence programs require the following:

- measures and procedures to control risks identified in a violence risk assessment (discussed below);
- measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;
- measures and procedures for workers to report incidents of workplace violence to the employer or supervisor; and
- the means by which the employer will investigate and deal with incidents or complaints of workplace violence.

The program required to protect workers from workplace harassment may be more limited. Minimum mandatory requirements are that the program:

- include measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor; and

set out the means by which the employer will investigate and deal with incidents and complaints of workplace harassment.

3. Risk Assessments for Potential Workplace Violence

Bill 168 requires that employers assess risks of workplace violence that may arise from the nature of the workplace, the type of work, or the conditions of work. No assessment is specifically required under the OHSA for risks of workplace harassment. The employer's risk assessment is required to take into account:

- that would be common to similar workplaces; and
- circumstances specific to the workplace.

Once complete, the employer must advise the joint health and safety committee, health and safety representative, or workers directly (if there is no committee or representative) of the results of the assessment and provide a copy of the assessment in writing. Workplaces must be reassessed for risks of workplace violence as often as necessary to ensure that the policy and program continue to protect workers from workplace violence.

4. Required Worker Training Respecting Violence and Harassment

The amendments require that employers train workers in the contents of workplace violence and workplace harassment policies.

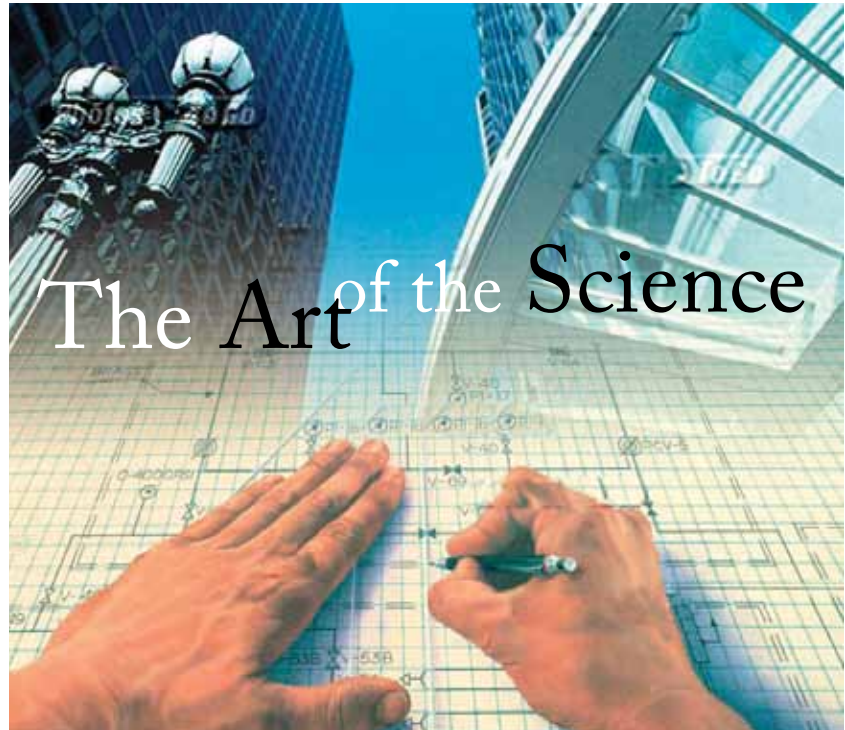
The employer's obligation to provide information and training under section 25 OHSA and a supervisor's duty to advise workers of any potential hazard under section 27 OHSA will also include a new and rather controversial obligation. The amendments will require the employer and supervisor to provide information, including personal information, related to risks of workplace violence from a person with a history of violent behaviour (for example a patient,

customer or another worker) if the worker can be expected to encounter that person during the course of their work, and there is a risk of violence likely to expose the worker to physical injury. Disclosure of personal information must be limited to

that information reasonably necessary to protect the worker from physical injury.

5. New Worker Rights to Refuse Work for Workplace Violence

The amendments contained in Bill 168



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clarify the right to refuse work for conditions in the workplace that constitute “workplace violence.” Historically, it has not been entirely clear that a worker may refuse work for workplace violence. The OHSA is now amended to permit a worker to refuse work if “workplace violence is likely to endanger himself or herself,” in addition to other grounds upon which a worker may refuse work. There is no amendment to the OHSA to permit a

worker to refuse work where they believe that workplace harassment is likely to endanger the worker.

Notably, Bill 168 changes the obligation of a worker to remain near his or her workstation until an investigation is completed. Once the amendments contained in Bill 168 take effect (six months after receiving Royal Assent), the work refusal provisions in the OHSA will require that the refusing

worker remain in a safe place “that is as near as reasonably possible to his or her workstation and available to the employer or supervisor for the purposes of the investigation.” As such, this change will apply to all work refusals, not just those exercised on the new ground of workplace violence. This change was not amended from the April 2009 introduction of Bill 168.

Bill 168 does not alter the limited right to refuse work for those employed in certain occupations such as police officers, firefighters, health care workers and workers in correctional institutions.

6. Employer Obligations to Respond to Domestic Violence

The most novel and controversial provisions of the proposed Bill 168 amendments to the Ontario OHSA are those related to domestic violence. The original proposals in the Bill 168 from April 2009, have passed without amendment. The OHSA will now require an employer to take every precaution reasonable in the circumstances for the protection of a worker if the employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace. Ontario will be the only jurisdiction in Canada to have OH&S provisions specifically requiring that the employer react to domestic violence. No specific reasonable precautions have been outlined. Ordinarily the obligation to take every precaution reasonable in the circumstances requires that the employer have regard to available standards, guidance from public organizations, and engage in creative solutions to protect workers from novel or complex workplace risks.

7. Reporting Workplace Violence to Ontario Ministry of Labour

The amendments now require that employers prepare a notice under section 52 OHSA in the event that a worker is disabled from their regular duties, or requires medical attention, as a result of workplace violence. These provisions are added to section 52 of the OHSA.

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Some Practical Advice Concerning the Construction Lien Act

By Kenneth P. Eccleston

As a supplier of construction services and materials to the construction industry, the provisions of the *Construction Lien Act* can operate as a significant tool in effecting recovery of receivables owed to a contractor. Companies supplying services and materials to the construction industry should make themselves aware of the tools available to them under the provisions of the *Construction Lien Act* in order to maximize their prospects of recovery of receivables. This article will briefly canvass the circumstances under which both construction liens and claims under the trust provisions of the *Construction Lien Act* can be utilized in order to maximize recovery of outstanding receivables.

Who May Lien

As a general rule, a supplier of services or materials, whether a contractor, subcontractor or supplier, which supplies services or materials to a project undertaken by a contractor, subcontractor, or owner is entitled to a lien upon the interest of the owner in the project lands for the value of the services and materials supplied.

A supplier is not permitted to register a lien against lands owned by the Crown. In an instance in which the Crown is owner, or where premises are a highway or public street owned by municipality or railway right-of-way, a supplier may provide notice of lien in accordance with the terms of the *Construction Lien Act*, R.S.O. 1990, Chapter C.30 as amended (the "Act") and the lien then creates a charge against holdbacks required to be maintained.

Holdbacks Required to be Retained

The holdback required to be retained by an owner or contractor is 10 per cent of the value of labour, materials and services supplied by the contractor or subcontractor. This basic holdback is a fund which is then available to satisfy the claims of unpaid contractors, subcontractors or suppliers which have provided labour and materials to the project. There exists under the Act, two types of holdback; basic holdback and finishing holdback. An owner or contractor is required to retain holdback until the time

within which a contractor, subcontractor, or supplier may register a claim for lien has expired. This applies to both basic and finishing holdback.

Time Within Which a Supplier/ Contractor May Lien

A supplier or contractor must preserve its claim for lien by registration in the appropriate land registry office within 45 days of the earlier of (i) the date on which the supplier or contractor last supplied services or materials to the project, or (ii) the date on which the certificate of substantial performance or declaration is published, or (iii) the date on which the contract for services (in this case the rental contract) is completed or abandoned.

With respect to services and materials supplied by a supplier or contractor after certification or declaration of substantial performance or in the circumstances where there is no certification or declaration of substantial performance, a supplier or contractor must preserve its claim for lien by registration in the

appropriate land registry office within 45 days of the earlier of (i) the date on which the contractor last supplied services or materials to the project, or (ii) the date on which the contract for services is completed or abandoned.

A subcontractor or material supplier must preserve its claim for lien by registration in the appropriate land registry office within 45 days of the earlier of (i) the date on which the contractor last supplied labour and materials to the project, or (ii) the date on which the certificate of substantial performance or declaration of the subcontract is published, or (iii) the date on which the contract is completed or abandoned.

Form of the Lien

In the case where the lien attaches to the project lands, the claim for lien must be registered in the appropriate land registry office with the information required by

Section 34(5) of the Act, together with a sworn affidavit of verification.¹ In the case where the lien does not attach to the project lands, as in the case of Crown lands, by giving a copy to the owner of the project lands together with the affidavit of verification of lien claimant, agent, or assignee. In the case where the claim is in respect of highway or public street owned by a municipality, a copy of the claim and affidavit must be delivered to the clerk of the appropriate municipality.

Commencing the Action

A lien claimant must commence an action to enforce its claim for lien and register a certificate of action within 45 days following the 45-day period within which the supplier or contractor was required to register its claim for lien. This then provides a total of 90 days within which to commence the action and

¹ This has now been modified by the introduction of electronic registration of claims for lien.

thereby 'perfect' the lien claim, assuming the claim for lien was registered within the prescribed time. In the case where the lien does not attach to the project lands, again as in the case of Crown lands, a lien claimant must commence its action within the 45 days following the 45-day period within which the supplier or contractor was required to provide notice of its claim for lien.

What is Sheltering?

A claim for lien that has been registered within the 45-day time period, may be sheltered by a pre-existing claim registered in respect of the same improvement within the 45-day period for which an action has been commenced, thereby not requiring another action to be commenced. It should be noted that the sheltered claim may only be asserted against the defendants, and in respect of the relief stated in the lien under which it is sheltered.



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Priorities

A lien enjoys priority over all judgments, executions, assignments, attachments, garnishments and receiving orders, except those executed or recovered before the time when the first lien arose. This priority arises on the date on which labour or materials are first supplied to the project lands. Mortgages or other instruments affecting the owner's interest in the project lands that are registered prior to the first lien for labour and materials arises have priority over those liens. However, a lien enjoys priority over a mortgage taken for the purposes of financing the improvement to the project lands to the extent of any deficiency in holdbacks required to be maintained by the owner under the Act. A special priority is enjoyed by the lien of a worker, often as represented by a union, and enjoys priority over every other lien of contractors belonging to the same class for the amount of 40 regular-time working days wages.

The Leasehold Lien

Section 19 of the Act deals with circumstances in which the lien of a contractor or supplier attaches to leasehold interests. Pursuant to Section 19(1) where the owner of the project, as that term is defined by the Act, is a tenant, the interest of the landlord may also be subject to the lien where:

- (i) the supplier or contractor provides the landlord with written notice of the work performed or materials supplied before the supplier or contractor does so, and;
- (ii) the landlord does not provide written notice in response, within 15 days of receipt of the contractor's notice which states that the landlord does not assume responsibility for the work being performed or materials supplied by the contractor or supplier.

Otherwise the lien attaches to the leasehold interest of the tenant and does not

extend to the registered interest of the landlord. In accordance with Sections 19(3) and 19(4) of the Act in the event the landlord moves to terminate the lease of the defaulting tenant for failure to pay rent, written notice of the termination setting out the amount of unpaid rent must be provided to all registered lien claimants, who may pay the arrears of rent and then add that amount to their lien claims. Otherwise the lease is terminated and the lien as it applies to the leasehold interest would also terminate.

The Trust Fund and Trust Claims

The first aspect of the trust claim is that it does not bind the land as a construction lien claim does. The trust action is a claim upon a specific fund by parties who are specifically entitled to make claims to that fund.

Part II of the Act provides that all amounts received by an owner other than the Crown or municipality that are to be used to finance improvements, constitute a trust fund for the benefit of contractors, subcontractors and suppliers which have provided labour, materials and services to the project. All amounts owing to or received by a contractor or subcontractor in payment of labour and materials provided to the project constitute a trust fund for the benefit of the subcontractors and suppliers of labour, materials and services to the project.

An owner, contractor, or subcontractor may become liable under the Act for a breach of trust where funds which were received in payment of labour, materials and services provided to the project are used for any other purpose other than payment of unpaid subcontractors or suppliers which have provided labour and materials to the project or are used for purposes inconsistent with the trust created by the Act. In addition to the corporation being liable for a breach of trust, any directors, officers and persons who have effective control of the corporation, who acquiesce in or participate in conduct by a corporation which constitutes a breach of trust, may also become liable.

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The trust claim does not require registration as does a construction lien. One of the advantages to the trust claim is that it continues to exist, even after a party's lien rights have expired.

The purpose of the trust provisions of the Act are to isolate and protect funds in the hands of an owner or contractor for the benefit of those who supplied labour, materials or services used to build a particular project from creditors other than the contractors, subcontractors or suppliers for whom the funds are intended. In other words, the funds flowing from a mortgagee to an owner or from the owner to the general contractor, or from the general contractor to the subcontractors and suppliers which are paid as a consequence of the supply of services and materials to a project are in turn trust funds for the benefit of those persons who supplied services and materials to the project.

Holdback funds which an owner or contractor is required to retain under the Act are also impressed with a trust. However, there is a prior claim to such funds, by those who have properly registered liens in accordance with the provisions of the Act. If there are holdback funds remaining in the hands of an owner or contractor after the claims of all lien claimants have been satisfied, then these funds are available to all proper trust claimants who failed to protect their lien rights by registration of a lien under the Act.

The trust provisions of the Act state that monies impressed with the trust may not be appropriated by a trustee to any other use until all of the beneficiaries to those trust funds as specified in the Act have been paid. There are circumstances under which a trustee may make payments from the monies designated as trust funds which will be dealt with later in this article.

The Act sets out two separate tiers of trust claims. Section 7(1) of the Act

provides that all amounts received by an owner constitute trust funds for the benefit of the contractor. This provision permits claims against the owner in respect of trust funds to a contractor who has contracted directly with the owner. The amounts which are deemed trust funds in the hands of the owner include amounts which become payable, but as of yet are unpaid. These funds include amounts which become payable under a contract on a certificate of payment of a payment certifier. Furthermore, where substantial performance of a contract has been certified by a payment certifier, then the balance of any funds payable under a contract are also deemed to be trust funds in the hands of the owner for the benefit of the general contractor.

The owner is in turn deemed the trustee of the fund created by the trust provisions and may not use the funds for any purpose inconsistent with the trust provisions in the Act until the contractor is paid all amounts owed to him or her under the general contract.

Section 8(1) of the Act creates a second tier of trust claims. This section provides that all amounts owing to or received by a contractor or a subcontractor in connection with work or materials supplied to the project constitute trust funds in the hands of the contractor or subcontractor for persons who have supplied services and materials to the project. Whereas Section 7 of the Act creates first tier trust claims between the owner and the contractor, Section 8 completes the circle by allowing subcontractors to make trust claims against the general contractor and material and services suppliers against subcontractors.

This two tiered scheme in the Act has lead the Courts to conclude in many cases that there must be privity of contract between parties in order to assert a trust claim. In other words, a trust claim may only be brought against

a party with whom the claimant has contracted directly.

The Act further provides that a trustee may make certain payments from the trust funds without jeopardy. The first of these is found in Section 10 of the Act which provides that a trustee may make payments under a contract which he or she is required to make without being in breach of the trust provisions. For example, the contractor may continue to pay his subcontractors amounts due under their contracts without fear of being in breach of the trust provisions of the Act so long as those amounts are due under the contract for services and materials supplied to the project.

The Act also provides that in a trust action, the trustee may set off certain amounts against trust funds owing to a trust claimant. The amounts for which the trustee can claim set any and all outstanding debts and claims for damages, whether or not they relate to work on the project. In other words, any claim which the trustee has against the trust claimant may be joined with the trust claim and may be set off against amounts claimed as trust funds in the trustee's hands.

The Act contains effective enforcement provisions. Specifically, Section 13 of the Act provides that every director or officer of a corporation is liable to a trust claimant for the misappropriation of trust funds. This broad liability is further expanded by Section 13(l)(b) to include any person such as an employee or agent of the corporation or other person who has effective control of the corporation or its relevant activities. Under the Act, determining whether a person has effective control of the corporation is a question of fact and the Court may disregard any transaction and the fact that there may be separate corporate entities involved. This latter provision seeks to disregard the form of a transaction and the fact that there may be separate corporate entities

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involved. Consequently, the Court is prepared to lift the corporate veil to impose liability on any party who has participated or acquiesced in a breach of the trust provisions of the Act.

Of particular concern in asserting a trust claim, particularly on behalf of a supplier of materials, is the issue

of being able to adequately trace the improvement to which the services or materials were supplied or installed. A supplier of materials may have a prevenient credit arrangement with a contractor or owner where the contractor or owner simply picks up materials and the supplier is unaware of the location of the improvement in

which the materials are being incorporated or installed.

This issue of 'tracing' the materials and services was dealt with in the case of *Central Supply Company (1972) Limited v. Modern Tile Supply Company Limited et. al.* (2001), 55 O.R. (3d), 783. In that case, Central Supply Company supplied materials to Modern Tile. Unless it was dealing with contractors, the invoices from Central Supply did not refer to a specific work site, improvement or premises where the materials were to be incorporated. The Court of Appeal upheld the trial court's dismissal of Central Supply's claim on the basis that the supply of services or materials was made without the knowledge of, or contact with, the improvement to which the supply was made and therefore no entitlement to a trust claim was created. As a supplier it is therefore important to ensure that delivery documents for materials delivered to a project site are signed by a representative of the customer/contractor to identify delivery to the particular project site. As well, if customers/contractors are picking up materials, it would be prudent to note on the documents the project for which the materials are being picked up so as to allow for tracing as required by the Court in *Central Supply*.

Recent court decisions have imposed onerous and even draconian obligations on a contractor or subcontractor concerning the use of trust funds and what sorts of payments operate to discharge the trust obligations. Although impractical, the contractor or subcontractor is not permitted to make any payments related to overhead from trust funds ahead of payments to subcontractors and suppliers, even in the event that it can be demonstrated that some portion of the overhead relates to a particular project. The implication of applying the trust provisions in such a rigid fashion often results in exposure to breach of trust claims for most contractors and subcontractors engaged in construction today.



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Finally, where more than one person is found liable for a breach of trust under the Act, they are jointly and severally liable. This means that a trust claimant who obtains a judgment may proceed against any one or more parties found liable for the entire amount of the judgment. Consequently, any party which has satisfied the judgment may make a claim for contribution against any other person who was found jointly and severally liable in the trust action.

Judgment Surviving Bankruptcy

It had previously been the case that a judgment obtained by a party for what amounted to a common law breach of trust was within the ambit of matters which fell within Section 178(1)(d) of the *Bankruptcy and Insolvency Act* and therefore was not discharged by a bankruptcy. The question which had previously not been settled was whether a breach of trust created by provincial lien and builder's trust legislation would be entitled to the same treatment. In the case of *Re Zumbo* (2000), 2 C.L.R. (3d) 297, the Court recently held that a judgment for breach of the statutory trust provisions of the Ontario *Construction Lien Act* survives bankruptcy.

In *Re Zumbo*, a subcontractor had obtained default judgment against Mr. Zumbo and his corporations which judgment included a declaration that the defendants had committed a breach of trust under the Act. As a result, Justice Greer held that the judgment survived a discharge from bankruptcy as it fell within Section 178(1)(d) of the *Bankruptcy and Insolvency Act* which states:

178(1) An order of discharge does not release the bankrupt from...

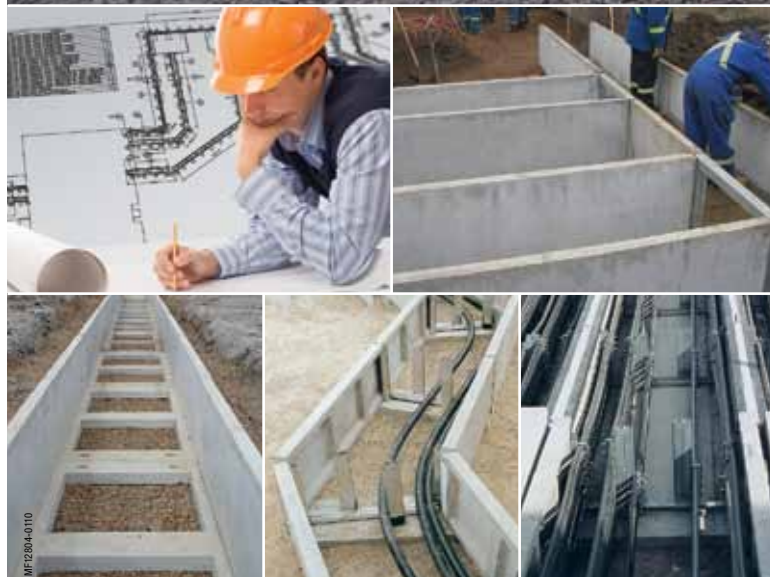
- (d) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity.

In view of the Court's decision in *Re Zumbo*, our firm has adopted the practice of including the following claim for relief in Statements of Claim issued for breach of the trust provisions of the Act:

A declaration that the defendants are in breach of the trust provisions of the *Construction Lien Act*, R.S.O. c.

C-30, as amended and, in the event that the Defendants are or become bankrupt, any judgment obtained against them shall not be released by the discharge of the bankrupt(s) from bankruptcy.

Until recently, our firm has regularly obtained default judgments, which



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include the provision that the judgment survives bankruptcy. However, given the onerous provision of such a judgment, some judges are reluctant to sign the judgment and have required that we provide the defendants with notice of the motion despite the fact that the defendants have been noted in default. The requirement to provide notice to a party in default is contrary to the *Rules of Civil Procedure* and is likely reasonable grounds for an appeal. However, for the time being, it may be prudent and cost effective to simply serve the defendants with notice of the motion from the outset.

Re Zumbo is a relatively recent case and we have found that many trustees in bankruptcy are unaware of it. In these circumstances, we have delivered a standard form letter to the trustee wherein we reference the case. Once the trustee realizes that the judgment may survive bankruptcy, the bankrupt may be more willing to discuss early settlement of the

debt. The trust claim is an alternative remedy to the lien claim and enhances the regular collection action. Where lien rights have expired, the trust claim remains an option to a creditor to whom funds are owing under a contract for the supply of labour or materials to a project and can often be very effective in obtaining payment under a contract.

Entitlement to Information

Any person entitled to a lien or a beneficiary of a trust fund may, in accordance with Section 39 of the Act, require that the owner or contractor provide in writing, particulars of the subcontract within 21 days including the names of the parties to the contract, the contract price, the state of accounts of the contract and a copy of any labour and material payment bond for the purposes of providing notice of a claim under such a bond. A general contractor must provide, within 21 days of written notice, the name of the construction

trade newspaper which the certificate of substantial performance was published. The Act provides for liability for damages for failure of a general contractor to comply.

The entitlement to information is also an effective tool in determining the amounts owed to the customer/contractor at any stage of the project. This enables the credit manager to determine whether there are sufficient funds remaining payable to the customer/contractor to satisfy the receivable owed to the supplier.

The foregoing represents only some answers to commonly asked questions about the *Construction Lien Act* and is not meant to be exhaustive of the rights available under the Act. It is important for credit managers to both be aware of the Act and to structure their credit monitoring procedures to take full advantage of the collection tools afforded by the Act within the stringent time limits so prescribed.



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2010 ECAO Annual Report

Capacity and
Capability



2010 ECAO ANNUAL REPORT

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ECAO

**ELECTRICAL CONTRACTORS
ASSOCIATION OF ONTARIO**

Representing the interests of the electrical contracting industry



Upcoming Events



Check out our upcoming events.
2010 Industry Conference - ECAO
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[Click here for more information](#)

Welcome to the ECAO

The Electrical Contractors Association of Ontario was founded in 1948 to serve and represent the interests of the electrical contracting industry. Over its history, ECAO has been committed to addressing the needs of the industry by providing a variety of services directly to the membership, and by making representations on behalf of the entire industry to government and industry colleagues. Its success has been due to the support and active participation of the industry.





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Search the ECAO directory by geographical area and specialization.



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Latest News

Latest News relating to the electrical contracting industry.



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Who We Are:

The Electrical Contractors Association of Ontario (ECAO) represents approximately 1,000 unionized electrical contracting firms, the majority of which are small to medium sized, family owned and operated businesses in Ontario.

ECAO represents only bona fide electrical contractors, primarily through its 13 area ECAs, who have a contractual relationship with the IBEW.

Membership in ECAO also affords membership in the Canadian Electrical Contractors Association (CECA) and affiliation with the National Electrical Contractors Association (NECA)

What We Do

- Present a favourable contractor image to our customers and industry colleagues
- Provide information to keep members current on industry and business trends
- Increase member capabilities by developing, promoting and delivering training to advance their technical and business management skills
- Promote the safe use of electricity
- Work co-operatively with others in construction to provide satisfactory customer service at a profit
- Maintain economically sound labour/management business relations
- Liaise with governments on matters of mutual interest or concern
- Work with other government organizations to be a good contributing corporate citizen

President's Report

There can be little doubt the economic downturn has been a difficult time for every one of our members. ECAO had predicted a drop of 20 per cent to 16 million work hours for 2009 compared to 20 million in 2008. Our total numbers did not reflect quite as negatively as we held up at 17 million work hours. However, these hours were not evenly distributed with large infrastructure projects masking the real impact of the recession on the average contractor.

In his 2009 report President Fred Black commented about the pace of change and how, among other things, the Canadian dollar had gone from par in 2008 to 80 cents in 2009. As I write this today in 2010 the Canadian dollar is above par with the U.S. dollar and climbing. Who says there is ever such a thing as stability?

Last February your Board conducted an environmental re-assessment of our strategic plan recognizing the economic recession was shifting unionized electrical contractor work away from our traditional industrial sector. Real growth potential has shifted to the commercial sector where we have not been well represented nor competitive for some time. Further the short-term Government stimulus programs were being focused on institutional projects.

Changes to the focus of our strategic plan were necessary. The need to bargain changes to the No-strike Protocol and the Principal Agreement in order to be more competitive were identified as a main priority. Having been a participant in the recent collective bargaining process I believe we made significant strides in meeting those objectives. Indeed at the time of writing this report four areas – Quinte-St. Lawrence, Georgian Bay, Oshawa & District and Central Ontario – have successfully negotiated minor construction agreements aimed

specifically at the small commercial sector where most of the recovery is expected to take place.

We also undertook to help our members become more efficient and effective when dealing with WSIB. Wide distribution of the ECAOs WSIB Contractors Manual and more intense lobbying of the WSIB Chairman are among those efforts. Our major initiative to deal more efficiently with WSIB was to introduce an ECAO funded one-year pilot program with TEKSmed. TEKSmed ensures your injured workers get early access to any required medical assistance, deal with the WSIB bureaucracy on your behalf and get your workers back to work quickly at reduced lost time costs to you. This is an excellent program without any additional costs to our members in the first year, but it does require you to actually sign up before you can be covered.

ECAO committed to efforts to ensure members were made aware of, qualified for and competitive in the emerging green construction, energy conservation, and renewable energies marketplace. In order to meet the anticipated demand for renewable energy installations and the need for appropriately skilled labour, ECAO worked quickly with its industry partners to develop and implement solar training and certification programs, while also lobbying for this work to be done only by certified electricians. On the flip side ECAO continues to promote energy conservation capabilities through the Energy Efficiency Contractors Network.

There are new opportunities to significantly impact the capabilities of our workforce. The government has finally passed legislation creating a new College of Trades. ECAO has supported this undertaking from the outset and views the College as an excellent opportunity for more industry driven training in response to specific industry driven emerging marketplace requirements. It will be important for our members to become involved with the College in general and the Electrical Trade Board in particular to ensure our training needs are recognized and addressed.

The good news for 2010 is things appear to be getting better. A recent Ipsos-Reid study commissioned by the Ontario Construction Secretariat indicated over half of the contractors surveyed expect to



conduct more work or much more work in 2010 compared to 2009. Most new work is expected in the commercial sector, followed by the industrial and then institutional sectors. GTA contractors were the most optimistic, while in London and Northwestern Ontario construction contractors were not so positive.

ECAO is focusing its energies to helping make sure 'more work' for our members can be realized. Our undertakings are intended to either increase capacity through new types and areas of work or to increase our capability by improving our skills and becoming more competitive. We have even attempted to organize this year's Annual Report to give you the full impact of these activities in both words and pictures. "Capacity and Capability" will remain the focus of ECAO for the foreseeable future. Change, at an ever increasing rate, is a fact in our business lives more than ever before. We will continually investigate new market opportunities and take steps to remain in a competitive position to be qualified responders to those opportunities.

On behalf of the members of the Board of Directors and myself, I wish to sincerely thank all the volunteer members of our committees and our staff for their dedicated efforts on our behalf. If you have not already done so please go to www.ecao.org and check the names and affiliations of our many committee volunteers. These people work with the support of their companies to help improve the working environment for all of us. Likewise of our staff who operate a very efficient organization to the betterment of its members. Please tell them thanks the next time you see them.



2010 ECAO ANNUAL REPORT

Executive Vice-President's Report

This year I want to do something a little different and talk about your staff team at ECAO.

I am very proud of our team because, despite an economic downturn, we continued to create and deliver an exciting range of programs helping to improve both the capacity and capability of our members.

Consistently over the years ECAO has successfully devoted 60 to 70 per cent of its budget to member services, programs and products intended to enhance the capabilities and capacities of our membership. We employ a small, highly talented core staff of full-time generalists who appreciate the issues faced by our members and the range of appropriate association responses. Our staff has been very successful in supporting both your Board of Directors and their committees to identify issues, define the scope and scale and, frequently, to engage and co-ordinate a wide range of industry experts. We use experts where necessary to assist us on specific issues with the intention of either increasing the capacity for or improving the capability of our members.

We were diligent in our efforts to communicate with you, our members, keeping you informed on issues directly affecting you and your operations, your association's actions and programs and to garner your opinions and feedback. Of course we also did a particularly good job at telling the general public through multi-media approaches about all the excellent reasons why they ought to engage the expertise of ECAO members.

We have an excellent team, an exceptional mix of skills and are excessively passionate about delivering quality services on your behalf!

One of the major capacity and capability elements of labour negotiations is to be able to assure our client base and the rest of the

industry we will be on the job throughout the bargaining process. This year we were able to preserve the certainty of the No-Strike/No Lock-out Protocol while at the same time reducing the uncertainty related to post negotiations wage adjustments which were our nemesis back in the last round. Our new Joint Proposal minimizes the impact of post negotiation wage adjustments by reducing the number of comparator trades from 25 to 8. The renewal of the Joint Proposal also focused attention on the problems faced by our members in areas where we were losing work such as the minor construction commercial sector. This focus flowed into the actual 2010 negotiation process where a number of areas, including Quinte-St. Lawrence, Oshawa & District, Georgian Bay, and Central Ontario, were able to negotiate effective agreements for small ICI work.

The economic presentations by both the IBEW and ECAO economists during bargaining pointed directly to these markets as the source of real economic recovery from the recession once the government stimulus programs end.

ECAO's labour relations policy will continue to be to try to increase capacity by pushing for more competitive agreements across the province focused on those markets that are going to lead the recovery.

We reacted in less than six months, in partnership with the IBEW, to increase capacity and capability by building training and certification programs in the solar photovoltaic field. The provincial government has declared its intention to become North America's green energy leader. They have developed the "Feed in Tariff" (FIT) program guaranteeing a fixed rate of return for green energy. This program put pressure on the supply of qualified contractors and workers but our new training and certification initiatives directly address this concern. We have positioned ourselves to be qualified for the work and are lobbying to have only certified electricians deemed capable of safely performing it.

The Energy Efficiency Contractor Network (EECN) has now trained over 125 contractors and continues to fulfil its commitment to the Ontario Power Authority to train contractors in their capacity building



program. The OPA recognizes the unique position of contractors as a delivery channel in this small- to medium-sized sector.

We need to remember conservation and renewable energies are closely related business opportunities and both provide excellent growth opportunities for our members. In fact, Minister Duguid recently commented that the least expensive and most economical form of energy is a kilowatt saved!

During the update of our strategic plan last February the association recommitted to reducing the number of ECAs in the belief that broader based geographic units are more efficient and effective thereby making us more competitive. This objective got an unexpected boost from a decision by the International office of IBEW to merge local 353 Toronto, local 1739 Barrie and local 894 Oshawa. However, while this mirrors what we were hoping to achieve in our strategic plan, the fact the proposal has not been formalized and is currently under review at the Labour Relations Board precludes our being in a position to assess its immediate effectiveness.

2010 is the last year of the current strategic plan. We have met the majority of our stated goals and objectives but now it is time to begin turning our thoughts to a new plan. ECAO will undertake to ensure all members have an opportunity to provide input to the planning process if they wish to. Formal considerations will begin in the fall.

Finally, I hope you will agree this year's new look annual report presents the work of the ECAO in a unique and informative fashion. It was indeed a year of many challenges and changes. ECAO reacted as required and is pleased to present our activities as they directly relate to increasing your capacity and capability.



2010 ECAO ANNUAL REPORT

June 2009 – June 2010

During the 12 preceding months the ECAO has focused efforts to assist its members through a major economic slowdown. Projects, programs, lobby efforts, seminars and training initiatives have all been intended to help increase our skills, improve our abilities to compete, and broaden electrical involvements so we can expand the range of work we are qualified to do.

The Board of Directors thanks the staff team and member volunteer committees for their help in achieving its objectives. The committee structure and mandates are outlined in detail on our website www.ecao.org along with the names and company affiliations of our volunteers. The ECAO committees currently include:

1. Contractor and Industry Standards
2. Human Resources Development
3. Member Services



4. Public Relations and Communications
5. Electrical Trade Bargaining Agency
6. Power and Utility Sector

While not all committees deal with every

issue there is always significant crossover when moving any initiative through from concept to delivery.

This year's annual report summarizes the actions of your association over the past year highlighting the interdependence between capacity and capability. In order to successfully increase work capacity we must also ensure we have the capability to do the work. For example, new markets in alternative energies require new skills while growth in the commercial sector requires improvements to our ability to be competitive.



Infrastructure Health and Safety Association (IHSA)

- Worked with WSIB to establish an eight member (four labour/four management) Electrical Advisory Council in the new IHSA
- Four Working Groups covering the four electrical rate groupings established to advise the advisory council
- Focus is to advise IHSA on reducing sector workplace injuries to zero

Political Affairs

- Successfully lobbied with the IBEW for an amendment to the Labour Mobility Act covering the updated Agreement on Internal Trade. Amendment ensures the RED SEAL program is the common standard for trades including Electricians



TEKSmed

- Costs saved through facilitated faster response to medical services resulting in quicker return to work
- TEKSmed manages employers WSIB claims
- ECAO reserve fund covering year one program costs for ALL members but still requires each member to sign-on

2010 ECAO ANNUAL REPORT



College of Trades

- Bill 183 creating the College of Trades was passed. All trade journeypersons, apprentices and persons employing same will be members
- Industry member Appointments Council being established by government to appoint College, Divisional and Trade Board members as well as providing interim governance
- College will determine training ratios and requests for compulsory certification.

Future Building Trade Exposition/Skills Canada Ontario Apprenticeship Competitions

- Future Building was held April 13 to 15 in Hamilton. Over 5,000 students attended and experienced hands-on electrician demonstrations
- Skills Canada Ontario held its annual apprentice competitions in Kitchener, May 17 to 18 for the Provincials and May 21 to 22 for the Nationals. Over 12,000 young persons were expected to attend



Joint Electrical Promotion Plan (JEPP)

- JEPP re-engineered province-wide marketing program to regional level focusing on community involvements and outreach
- Using radio ads, billboards and outreach initiatives to increase consumer confidence and awareness
- Continues marketing and advertising effectiveness research along with consideration of new market development
- Currently studying the potential renewable energy market
- Continue to produce a variety of courses including: electrical estimating, project supervision, and fire alarm installation

2010 ECAO ANNUAL REPORT

CFAE Fire Alarm Instructors Conference

- First conference held in October 2009 in Toronto
- 65 per cent of provinces fire alarm instructors in attendance
- 2010 conference being planned



National Electrical Trade Council (NETCO)

- The National Electrical Trade Council (NETCO) is a joint Labour-Management partnership of the IBEW Canada and the Canadian Electrical Contractors Association (CECA)
- Co-ordinates electrical skills development and public policy at national level
- Co-ordinates specific research related to labour market needs and barriers to training
- Provides opportunities for national training directors to meet and exchange information

Solar Photovoltaic Strategy

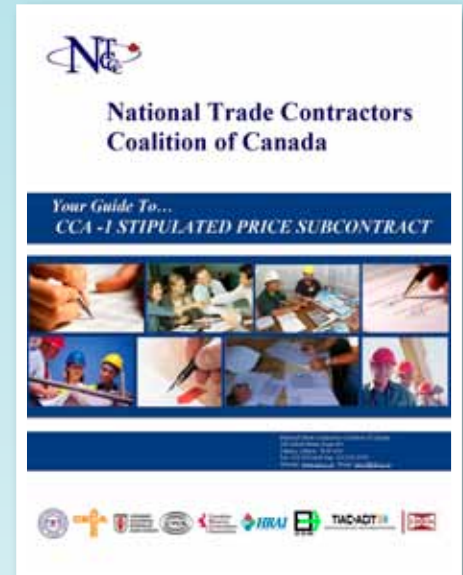
- National program launched through NETCO in Dec 2009 to co-ordinate workforce skills development and regulatory issues related to renewable energy sources
- Establishing national standards for PV installation that focus exclusively on the additional competencies required by electricians
- ECAO established provincial training and certification programs in partnership with IBEW
- Lobbying for PV work to be performed only by qualified electricians



2010 ECAO ANNUAL REPORT

Canadian Electrical Contractors Association (CECA)

- Co-produced and distributed the Guide to the CCA 1 – Standard Subcontract.
- Developed a provincial licensing directory for contractors working outside of their home province
- Is currently developing the Canadian Electrical Installations Standards (CEIS), based on the NEIS in the U.S. This project is being managed for CECA by the Canadian Standards Association (CSA). The first release of the CEIS is expected in September 2010
- Sole distributor of National Electrical Contractors Association (NECA) publications in Canada. Electronic downloads are now available on the CECA website at www.ceca.org



Member Communications

- Established an Editorial Advisory Board for *The Ontario Electrical Contractor Magazine*
- Updated website to provide current and relevant information to members
- Continued successful program of electronic two-way member correspondence

Industry Conference

- 2010 Conference and Annual General Meeting in Kingston, June 23 to 27
- Opportunities to interact and exchange ideas with fellow electrical contractors
- Seminars aimed at improving business in a bad economy
- Seminars informing on alternative energies
- Electrical industry product exposition



2010 ECAO ANNUAL REPORT



Member Recognition

- 2009 Douglas J.B. Wright Award winner for contributions to the electrical contracting industry is: Gary Carr, Robertson Bright Inc
- 2009 R.H. Carroll Safety Award winners include:
 - Advantage Electric Thunder Bay Ltd.
 - Aecon Industrial
 - Earl Carr Electric Canada Ltd.
 - Gemor Electric
 - K-Line Maintenance & Construction Ltd.
 - S & T Electrical Contractors Limit
- 2009 Educational Scholarship winners to children of ECAO members were Jordan Calabrese, Toronto, and Brad Ferguson, Whitefish



Member Services

- Over 25 different services available to ECAO members at discounted rates can be accessed through the ECAO website
- New initiative – Classified ads on the ECAO website allowing member to member sales of their equipment, etc.
- Regular online surveys of membership to evaluate quality of existing products and services
- Produced *An Administrative Guide to the Ontario HST for Electrical Contractors* in response to federal and provincial tax changes

2010 ECAO ANNUAL REPORT

Associate Members' Executive Council

- Promotes better relations between electrical contractors and their support service providers
- Co-ordinates the production of the annual calendar
- Participates in the Product Exposition at the annual conference
- Provides sponsorships and information sessions at conferences
- Contributes articles to *Electrical Contractor Magazine*



Electrical Trade Bargaining Agency (ETBA)

- The "Joint Proposal" – no strike/ no lockout protocol – was renewed with significant changes to the post negotiations wage adjustment formula
- If other trades settle higher than the electrical - now eight comparison trades, down from 25, and an adjustment maximum of 50 cents spread equally between year two and year three of the contract
- Collective Bargaining – Many local area ECA's able to successfully negotiate to be more competitive in the Minor Commercial Construction market and to reduce the cost of apprenticeship by prorating apprentice benefits where needed and promoting pre-apprenticeship programs
- Ontario Labour Relations Board (OLRB) – ETBA successful in its case against V K Mason and LU 303, IBEW who attempted construction of a co-generation plant under a separate, non-ICI collective agreement
- ETBA awaits a decision on the three year old "Over 50" grievance. ETBA position - Older Employees clause is unlawful as it requires employers to make employment decisions on the basis of age
- Inside/outside jurisdiction is still an issue with IBEW at OLRB. Five such cases in the last three years, none has a decision
- Electrical Trade Joint Board (ETJB) – Primary activity was negotiations on renewal of the Joint Proposal (no strike/no lockout protocol). Ongoing negotiations for modifications required to the collective agreement for renewable energy projects, particularly solar farms and rooftop installations
- Produced the *Preventing Workplace Violence & Harassment under Bill 168 – A Guide for Electrical Contractors*



2010 ECAO ANNUAL REPORT



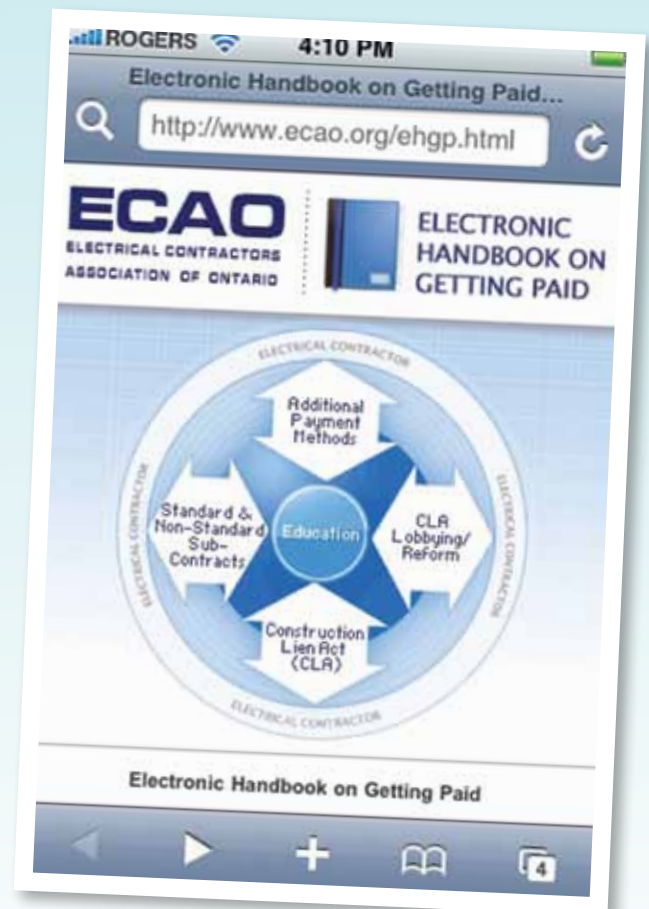
Provincial Licensing of Electrical Contractors

- Electrical Contractor Registration Agency of the Electrical Safety Authority (ECRA of ESA) – Finished 2009 with over 7,000 electrical contractors licensed in Ontario
- Line Contractor Licensing – The high-voltage/line contractors agreed to join the master licensing program on same basis as electrical contractors. Required change to regulations for provincial licensing should be concluded in 2011
- ECRA Board - John Salmon is chair, Fred Black is a director. They also both serve on the ECRA Master Examining Board
- ESA Relations – The Contractor Advisory Council (CoAC) ECAO reps are Joe Kurpe, Sandy Ragno, John Salmon, Dan Toppazzini and Eryl Roberts



Getting Paid

- Construction Lien Act – Issues relating to industrial process work (the “Kennedy Case”), electronic registration of liens promoted by the Ontario Bar Association, and amendments to the Condominium Act facilitating liens against condominium corporations moving ahead to legislation this year
- Other issues, (eg. automatic release of holdbacks) being referred for consultation with a broader range of stakeholders
- Electronic Handbook on Getting Paid (EHGP) – A Non-Payment Registry – a database of non-payment practices of payers in the construction industry now on ECAO website.



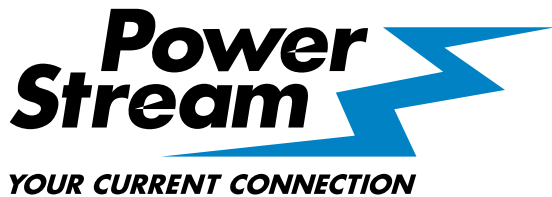
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Utility Competition

- Renewable Energy and New Connections – ECAO working at the Ontario Energy Board (OEB) to get clarification of work related to new connections open to “alternative bids” as opposed to being a monopoly for Hydro One.
- OEB released its clarification of the Distribution Systems Code (DSC), largely in favour of the positions taken by ECAO. ECAO position generally supported by independent power producers and renewable energy companies but contested by Hydro One and the Electricity Distributors Association (EDA).





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Electricians' Self-Assessment Tool - An Invaluable Study Aid

By Bob Nelson

The Electrician's Self-Assessment Tool (ESAT) was developed to do more than just help registered Construction Electrician Apprentices pass the Construction Electrician Certification of Qualification (C of Q) Exam. There are many individuals who take the exam who are not registered apprentices, but fall under the category of Trade Qualifiers.

A Trade Qualifier is an individual who has amassed sufficient practical work experience to meet the established criteria to attempt the certification journey level (Provincial or Interprovincial) examination. The criteria requires relevant on-the-job experience at least equal to, or in excess of, the apprenticeship term.

The Trade Qualifier must provide documentation which verifies competence as attested by a certified journeyperson in the respective occupation. The documentation must also include verification of time employed in the occupation. These individuals may be immigrating to Canada (foreign trained), employed by a company as an electrician's helper, or a technician, technologist or engineer who now must interact with electrical equipment and systems which require the individual to hold a C of Q. They may also be a skilled trades person from a different trade, employed as an electrician, but not previously required to hold a certificate of qualification.

A person attempting certification as a Trade Qualifier need not have completed any institutional training (trade school). Trade Qualifiers who successfully complete the certification examination receive the same Certificate of Qualification (journeyperson certificate) as a registered apprentice.

The C of Q Exam is a multiple choice exam which requires the individual to have a better than average reading ability to be successful.

2008	Number of Exams taken	Number that passed	% pass rate
Apprentices	4,445	3179	71.5%
Trade Qualifiers	2,478	1,179	47.6%
2007			
Apprentices	4,156	2,935	70.6%
Trade Qualifiers	2,151	1,166	54.2%
2006			
Apprentices	4,114	2,682	65.2%
Trade Qualifiers	1,435	963	67.1%
2005			
Apprentices	3,414	2,389	69.9%
Trade Qualifiers	1,452	782	53.9%
2004			
Apprentices	2,958	2,272	76.8%
Trade Qualifiers	1,405	865	61.5%
2003			
Apprentices	2,588	1,430	55.3%
Trade Qualifiers	1,173	378	32.3%

While reading skills are necessary for reading Codes, regulations and job documentation, apprentices and Trade Qualifiers acquire the majority of their skills through on-the-job hands-on training, not from text books. Given this reality, and the fact that they have been out of a full-time institutional teaching environment for more than a year, the pass rate for apprentices is in the mid to high 60s and for Trade Qualifiers in the mid to low 50s.

The statistics above are from the 2003 to 2008 Construction Electrician C of Q Exam.

ESAT can be used by apprentices and Trade Qualifiers to assess their competency to write and pass the C of Q Exam by identifying areas that need additional study or review. These areas could be of a technical, mathematical or reading nature.

ESAT was developed using the National Occupational Analysis for Construction Electricians which lists the competencies a

journeyperson must have acquired during their apprenticeship.

Other areas where ESAT could be an effective tool are:

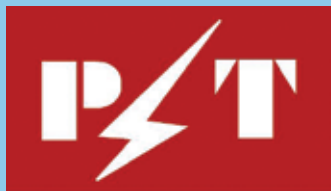
- pre-employment evaluation;
- continuing education for existing employees (since ESAT is revised with every Canadian Electrical Code edition);
- assist Trade Qualifiers, in particular foreign trained individuals, in learning trade terminology, Codes and trade practices which may be different from the environment in which they received their practical experience.

In short, ESAT can be an invaluable educational tool, as well as an exceptional study aid.

Bob Nelson
CSA Standards
Seminar Speaker/Developer, Sales

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Harmonized Sales Tax (HST) in Ontario

What the Change will mean for Contractors and Surety Premiums

On July 1, 2010, Ontario will harmonize the provincial sales tax with the GST. This change will create one flow-through tax of 13 per cent which like the GST, will be applied at the point of consumption.

Surety bonds are exempt from GST which means no tax accrues on surety premiums, but it also means that sureties are unable to claim input tax credits on any GST paid. GST represents a true cost to sureties in a claim situation and as such, some bonding companies have historically charged a premium on the Contract Price inclusive of GST.

On July 1, 2010, the rules of the game for surety companies won't change. Bonding companies remain exposed to GST, harmonized or not and will likely continue to calculate the bond premium by applying the contractor's base rate to the contract price inclusive of the 13 per cent HST.

At first glance this would seem to indicate an eight per cent premium increase but in fact the true increase will be marginal and

the effect of harmonization on the surety industry will be close to revenue neutral. In fact, this change amounts to a shuffling of the deck more than the addition of any cards.

Consider the following:

- Harmonization will decrease construction costs as embedded PST costs are eliminated from post-July 2010 bid prices and now form part of the blended HST. Contractors can recover these amounts through input tax credits which will offset any premium increase resulting from the higher tax rate by lowering the base contract amount upon which the surety premium is based.
- Again, some sureties will likely seek compensation for HST exposure because unlike contractors, they are not GST registrants. Thus, any GST or HST incurred, whether through business operations or claim payments, represents a true cost which is not recoverable via input tax credits.

- Any surety increase should be inconsequential in terms of its impact on the competitiveness of the bid price and on the overall cost of construction. For example, assuming that the "typical" rate for 50/50 performance and payment bonds will be one per cent of contract value, then the impact on contract cost would be eight one hundredths of one per cent, or an increase factor of .0008. The offsetting decrease resulting from the elimination of embedded PST should reduce this number even further making the change insignificant.

The Surety Association of Canada does not involve itself in the pricing of its members' products. Each surety sets its own pricing policies and contractors are encouraged to consult with their own bonding company regarding its plan for dealing with the upcoming changes. For additional discussion on GST/HST and its impact on surety bonds feel free to visit the SAC website at www.suretycanada.com.



ECAO

**ELECTRICAL CONTRACTORS
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*An Administrative Guide to the
Ontario HST for Electrical Contractors*

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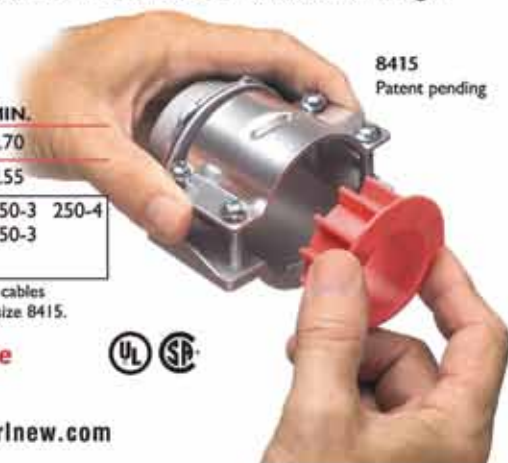
	MAX.	MIN.
Cable O.D.	2.20	1.70
Wire bundle O.D.	2.05	1.55
* Conductor size/ # of conductors (AWG/KCMIL)	4/0-4 300-4	250-3 350-3

* Examples of 3 and 4 conductor cables that can be used with 2" trade size 8415.

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8415
Patent pending



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CABLE TYPE	CABLE RANGE
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AC/HCF	7510AST
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Grow your Wealth and Keep It!

By John Grinton and Brodie B. Christ

As a business owner, or even an employee, you've worked hard to earn your money and your hard work has led you to accumulate some savings. The next challenge is determining how to grow your wealth as efficiently as possible. There are a number of options and strategies customized to your needs so you can do just that.

Big Strategies Made for You

When large multi-national corporations save the profits they have made, they typically invest that money elsewhere. There are three reasons for this:

- 1) **to achieve a greater return** on this under-utilized capital


- 2) **to diversify their risk** so it is not completely tied up in the ongoing success of their business and;
- 3) to allow them to **tax efficiently distribute** their profits at a later date.

The same strategies used by multi-billion dollar companies are also available to you, both personally and if you have an incorporated business. These available strategies include: customized investments that match your risk profile and your investment timeline, distributing wealth to you and your family as you need it and the ability to change your investment plan as your life and business change. And each of these strategies work tax

efficiently so that you can keep more of your money and give less to the tax man.

Why Tax Efficient Investing is Important

The effect of taxes on your savings acts like a small leak in a car's gas tank. Each year a portfolio loses a portion of its earned growth and is unable to use what was lost to increase its performance in the next year. The goal of most tax efficient investment plans is to minimize or eliminate this leakage so the portfolio can continue to compound its returns in future years. The smartest investment plans put control over your tax destiny back in your hands.



Under the Canadian Tax Act, different types of income that mutual funds generate are taxed differently. As such, depending on your personal situation, some income types can be very advantageous or very detrimental to your long-term investment goals and financial objectives. Having choice is important.

At the end of the day, the most important thing is getting the most out of your investments and into your pocket.

The same strategies used by multi-billion dollar companies are also available to you, both personally and if you have an incorporated business.

Choice is Important

There are a number of mutual fund companies that offer products with aspects of tax efficiency. However, one organization called NexGen Financial caters its tax efficient strategies specifically to small businesses and individuals. NexGen's comprehensive and customized solutions can save substantial amounts in tax dollars which will ultimately increase the longevity of your investment portfolio.

Big Business Strategies . . . for Small Businesses

Here are a number of initial strategies that could be used to improve how you use the money that your business has accumulated.

Margins: Are You Being Squeezed?



At one point or another, everyone gets aggressive when bidding a job by cutting it close. Problem is, if you miss anything, the ripple effect can be devastating. You need to know that the estimating tools you use will not only be accurate, they'll get the bid out quickly. AND, you'll be able to use the bid as the basis to manage the job once you've won it.

Accubid's mission is to help you be and stay profitable. If you need to cut it close, let cadLive and our Estimating solutions help you.

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Strategy No. 1: Receive up to \$500,000 of Low Tax Rate Business Income . . . each year

Canadian-Controlled Private Corporations enjoy significantly lower tax rates on the first \$500,000 of business income they earn. Streamlining and properly managing this will have longer term effects on wealth accumulation and distribution.

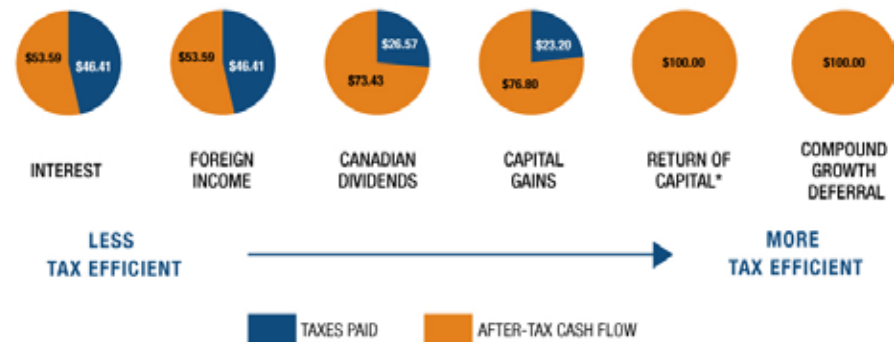
Strategy No. 2: Minimize “Tax Drag,” Maximize Tax Deferral

The longer a corporation or individual can defer taxes, the better it will be for long term asset accumulation. NexGen’s Compound Growth Class is designed to do exactly that: minimize taxable distributions and maximize long-term compounding of growth.

Strategy No. 3: “Half Tax” on Fixed Income Investments

Simply use NexGen Tax Managed Funds for fixed income investments to improve after-tax returns. Choose to receive “half-taxed” capital gains income instead of fully taxed interest income.

After-tax cash flow based on distributions of \$100



* Return of capital distributions are not taxable in the year they are received but typically lead to a higher capital gain when the investment is eventually sold.

Example assumes an Ontario investor in 2010, who is subject to combined federal and provincial income tax rates of 46.41% on interest, 26.57% on dividends and 23.20% on capital gains.

Strategy No. 4: Tax Free Distributions through the Capital Dividend Account (CDA)

The untaxed portion of capital gains earned is placed in a tracking ledger called the CDA. With NexGen, investors can purify their investment income to accumulate a balance in the CDA faster than a non-strategic approach. High income shareholders may receive this income tax free.

Strategy No. 5: Dividend Sprinkling for ‘Big Dividends’

Distribute different types of income to match the tax situation of different shareholders of the corporation, including family members. NexGen Tax Managed Funds allow investors to choose their income preference and the right choices can literally pay big dividends in a tax efficient way.

Strategy No. 6: Selling the Business with Increased Tax Efficiency

Use an investment Holding company to transfer passive investment dollars. This strategy will ensure that the “super” capital gains exemption of \$750,000 is available on the sale of the shares of the underlying operating company.

Knowledge is an Opportunity

The strategies listed above are just a few of the opportunities available to business owners. Simply learning more about these options is one step closer to building personal and business wealth faster and more efficiently. Working with your accountant and financial advisor to turn this knowledge into action is a further step in the right direction.

John Grinton is Senior Vice President, Wellington West Capital Inc. and can be reached by telephone at 1-866-402-5940. Brodie B. Christ is Vice President, Marketing, NexGen Financial Limited Partnership and can be reached by telephone at 1-866-378-7119.

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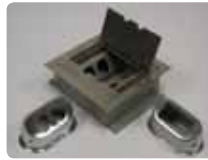


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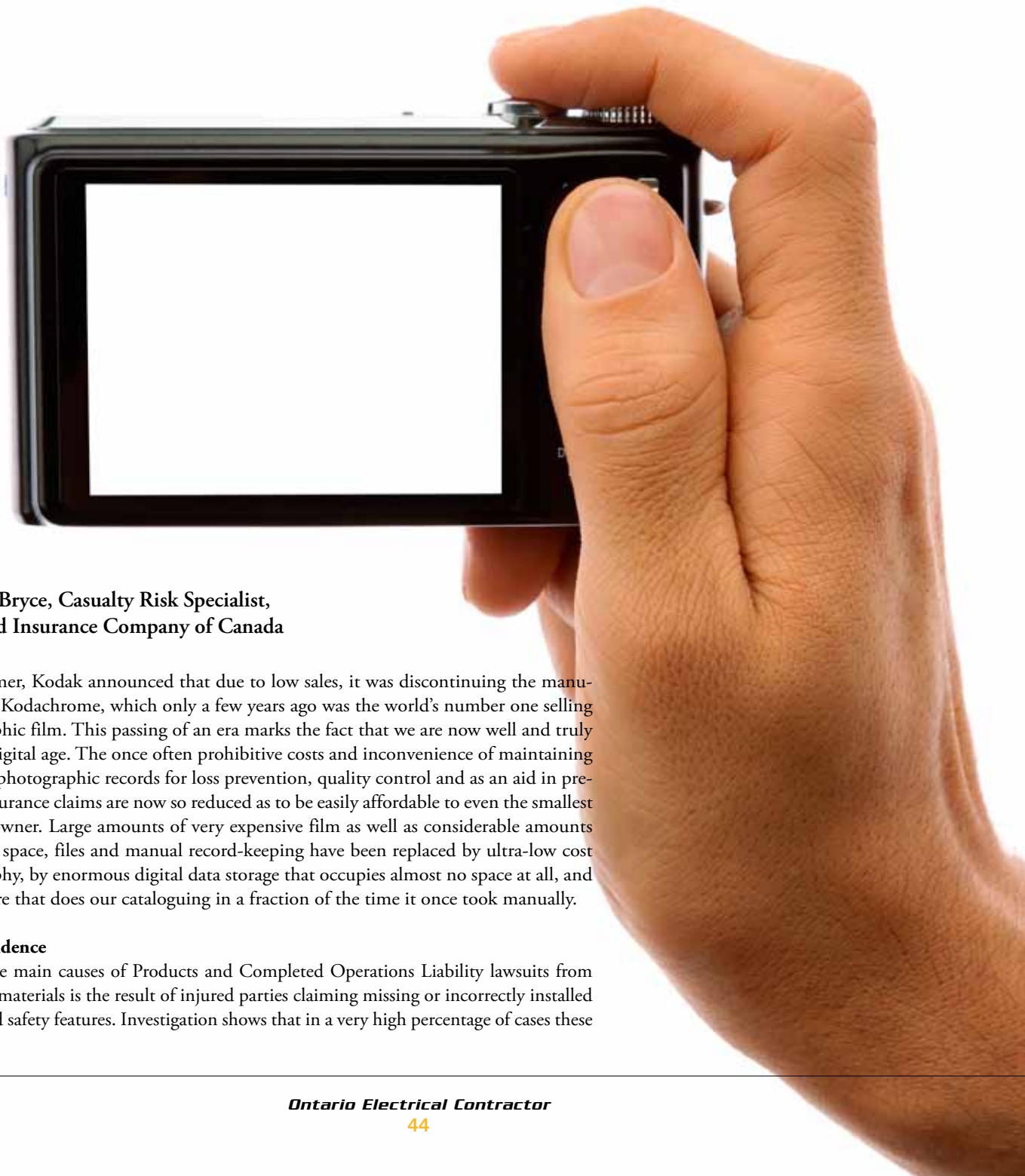
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DIGITAL CAMERAS – A Loss Prevention Tool



**By John Bryce, Casualty Risk Specialist,
Federated Insurance Company of Canada**

Last summer, Kodak announced that due to low sales, it was discontinuing the manufacture of Kodachrome, which only a few years ago was the world's number one selling photographic film. This passing of an era marks the fact that we are now well and truly into the digital age. The once often prohibitive costs and inconvenience of maintaining extensive photographic records for loss prevention, quality control and as an aid in preparing insurance claims are now so reduced as to be easily affordable to even the smallest business owner. Large amounts of very expensive film as well as considerable amounts of storage space, files and manual record-keeping have been replaced by ultra-low cost photography, by enormous digital data storage that occupies almost no space at all, and by software that does our cataloguing in a fraction of the time it once took manually.

Photo Evidence

One of the main causes of Products and Completed Operations Liability lawsuits from work and materials is the result of injured parties claiming missing or incorrectly installed guards and safety features. Investigation shows that in a very high percentage of cases these

A complete photographic record of what the premises (inside and outside) looked like before disaster struck is an enormous aid, both to the insured and to the claim adjuster, in speeding up the preparation of a claim inventory and in coming to a speedy and accurate settlement.

safety features are bypassed or the safety equipment is removed by customers or by other workers themselves (often the very people who sustain injury due to the missing safety device). This is usually because the safety equipment might be difficult or clumsy to work around or because it slows down production and any resulting bonuses. In the past, proving this has been very difficult without a photographic record to offer as defence evidence and only the largest and most solvent manufacturers, dealers and contractors were able to afford the materials or the time needed to create and maintain such a record. However, with the use of an inexpensive digital camera it is now possible for almost anyone to keep a photographic record of every job, showing the condition that the work and materials were in at the time they were turned over to the customer. The record can be captured in no time and can be maintained in the job file or in a central storage place with very affordable off-site backup of the data.

It takes only a few minutes to walk around the completed work or product to create a series of photographs showing exactly what sort of safety and protection was available to the customer at the time that he took delivery or signed his acceptance of the work. This record serves not only as photographic evidence that can be presented in a court but it also doubles as a backup for your quality control program. A review of these photographs by your staff member in charge of quality, soon after they are taken, may also reveal safety items that were perhaps overlooked or poorly installed when the work was being prepared for the handoff... a chance to contact the customer and make corrections before any harm can be done. It can

also help settle disputes over products or features by showing exactly what was delivered and compare this to the specifications in the purchase or work order.

The camera is also an enormously valuable inventory tool for purposes of property insurance. Ask anyone who has had a fire in their home to name

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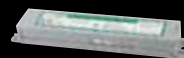


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everything that was in their living room and they are immediately hard pressed to recall the name and model numbers of the TV and stereo, all of the ornaments, books, CDs and DVDs and countless other bric-a-brac and small items that would add up to thousands of dollars to replace. Ask them again when it's now a matter of several rooms and not just the living room. The memory dims even further. The same difficulties are present when an office, factory or other place of business is severely damaged. Many people will say they can hardly even remember what the room used to look like when they are confronted with a burned-out shell.

Take Pictures

Take lots and lots of pictures and, of course, store them offsite in a place that isn't going to burn down at the same time. A complete photographic record of what the premises (inside and outside) looked like before disaster struck is an enormous aid, both to the insured and to the claim adjuster, in speeding up the preparation of a claim inventory and in coming to a speedy and accurate settlement. Photos take away many of the grounds for disputes. They allow all parties to work toward the same common goal of replacing known and identifiable property.


Photographs are great memory joggers too ... much easier to recall what was in this cabinet or that closet or those desks when you're looking at a picture taken at a time when they were in use.

One of the convenient aspects of using a digital camera for these purposes is that much of the work can be done during otherwise slow business periods and it's a self-contained operation. There's seldom any need to bring in a professional photographer and no need to trust the negatives or printing to any outside firm. Cataloguing and editing software, often remarkably sophisticated and frequently supplied with the purchase of the camera, comes in all sorts of forms and all are designed for easy use by people with no prior experience at all in this area. A reasonably good camera that can also take close-up pictures (for capturing serial and model numbers and for recording fine details) is not expensive. A photographic record provides an opportunity to contribute to a superior quality control program as well as potentially saving thousands of times its own cost in claims saving. So why not pick up a new camera for the office, think of all the money it just might save you and "Smile, please!"

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The information provided is intended to be general in nature, and may not apply in your province. The advice of independent legal or other business advisors should be obtained in developing forms and procedures for your business. The recommendations in this bulletin are designed to reduce the risk of loss, but should not be construed as eliminating any risk or loss.

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Industry Briefs

Fluke 1AC-I VoltAlert Voltage Tester Recall

The U.S. Consumer Product Safety Commission, in cooperation with Fluke Corporation of Everett, Washington, recently announced a voluntary recall of the Fluke 1AC-I VoltAlert Voltage Tester. Consumers should stop using recalled products immediately unless otherwise instructed.

The 1AC-I VoltAlert Voltage Tester can fail to give an indication of live voltage, resulting in the operator falsely believing the electrical power is off, posing a risk of serious injury or death from electrical shock or thermal burns.

No injuries have been reported. The Fluke testers look like a pen with a yellow, white and gray body. The testers measure 90 to 1000 volts alternating current (VAC). "Fluke" and the model number are printed on the front of each unit. The recall involves Fluke 1AC-A1-1 VoltAlert tester with the following model and item numbers.

Product Marking	Description
1AC-AI	FLUKE-1AC-I VoltAlert Voltage Tester

The product was manufactured in China and has been sold at industrial distributors and electrical wholesalers from September 2009 through February 2010. Consumers should stop using the recalled product immediately and contact Fluke for a free replacement.

For further information, contact Fluke toll-free at (888) 983-5853 or visit the firm's website at www.fluke.com.

Franklin Empire opens Hamilton Branch

Franklin Empire is proud to announce the opening of their new Hamilton branch (November 2009). This represents their 19th location (including four manufacturing and repair divisions).

Franklin Empire is an independent distributor serving the commercial, contractor and industrial markets across Ontario and Quebec. Best wishes to the Hamilton team of Rob Grant, Greg Boileau, Don MacMillan and Kerry Guild.

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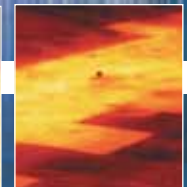
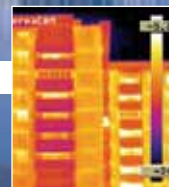
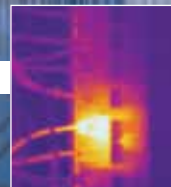
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Toolbox Talks

035: FIRST RESPONSE, MEDICAL

General

Many job sites have a first response team. Its members are trained in first aid and some other skill sets. Not all jobs have such a team, so doing that job may fall to you because of circumstances. Even where such a team exists, you can save precious time by acting before they arrive.

First response chain of authority

If you are untrained in first aid or CPR, your top priority is to find a person who is trained and certified in first aid. A certified person carries a card with an expiration date. You should not attempt first aid unless there is no other choice.

If you are untrained in first aid or CPR, always defer to a trained person.

The first aid trained person who first comes to the aid of the injured worker is in charge until the arrival of the foreman. A first aid trained foreman has the discretion of taking charge, allowing a first aid non-foreman to stay in charge, or appointing another first aid trained person to be in charge. This will continue until the arrival of the first response team.

Report every injury case, no matter how minor, to your foreman.

First response equipment

Know the locations of first aid kits on the job site. Most sites have such a kit in the job site office trailer and inside each company vehicle. If you haven't had first aid training, ask your



foreman to show you some basics about the kit and see if you can register for a first aid class.

If you are working around acids, caustics, or flammables, know where emergency eyewash stations and emergency showers are before starting work in any area. If there is no such equipment, ask your foreman for portable versions.

Know the locations of stretchers, as you may need to transport a co-worker to an awaiting ambulance site.



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First aid treatment

Remember that first aid is not medical treatment. It is merely aid rendered to keep the person alive and to keep the injury from getting any worse, until medical personnel arrive.

Never move the victim of a fall, unless staying in that spot poses a life hazard. Instead, keep that person quiet, still, and comfortable. Don't give the victim anything to drink.

Follow the bloodborne pathogens rules.

Electrical shock

Kill the power, if you can do so quickly. Motors have a local disconnect within sight of the motor, and other devices frequently have a disconnect within sight.

If you cannot kill the power, refrain from grabbing the victim to pull him or her away – you will simply become part of the circuit. Use other methods to disengage the victim from the energy source.

If the victim's clothing is on fire, tell the person to drop and roll. You are going to be dealing with a frightened, probably panicked, individual. You may need to tackle this person to smother the flames. Avoid a full-contact body hug approach, or you also may erupt into flames. A quick way to take a person down is to put one foot behind and push hard at the chest. Once the victim is down, use his or her own body to smother the flames against the ground.

Remove smoldering clothing from a burn victim, and cool the area with clean water until the skin is at normal temperature.

Elevate burned limbs to reduce swelling.

The Red Cross continues to revise recommendations for CPR. Check for current methods.

This Toolbox Talks article is reprinted with permission from 100 Safety Training Toolbox Talks for Electrical Construction Work,

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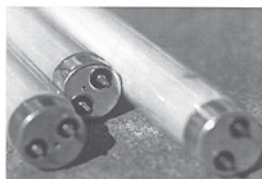
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