



**Subcontractors Association of the Metroplex**

**PUNCH LIST**

**The voice of the Subcontractor's Industry**

**Hurricane Recovery and High Demand Worsen Labor Shortage**



**Subbie Sam Says:**

**Stay on top of trends to stay relevant and competitive!**

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It's not just the areas along the Gulf Coast that are feeling the pinch of an even tighter labor market following last year's devastating hurricanes and the rebuilding efforts that followed. Readers are aware of the perfect storm created in Houston by Hurricane Harvey, a state-level immigration crackdown, and the impending end of a federal program that shields some law-abiding young undocumented people from deportation.

Meantime, up in Dallas-Fort Worth, tens of thousands of additional workers are needed to keep up with the demand for new homes throughout the area.

That's no exaggeration.

The Dallas Builders Association estimates that roughly 20,000 new workers would need to enter the market to keep up with current demand. The Executive Officer of the group spoke to the Dallas Morning News:

*"We are 20,000 construction workers short in D-FW despite wages rising 35 percent for most needed trades," said Phil Crone, head of the Dallas Builders Association.*

*"I only see the shortage easing if the demand eases, I don't see that occurring in an impactful way. "More than 92 percent of our members cite the lack of labor as having a significant impact on their business," Crone said. "In most cases that's adding a month and more than \$5,000 to every home built in our area."*

So, too few people are applying for these positions even though the wages are going up, adding to the cost of each home. From a business standpoint, this naturally means this industry, and others, need more authorized workers. But the politics of immigration are much more complicated.

Again, from the DMN:

*"Labor supply won't*

*improve until we have a viable guest worker program," Crone said. "The tone of the administration and the approaching mid-term elections don't provide much hope for that."*

*Builders in Southeast Texas who are scrambling to repair or replace thousands of Hurricane Harvey damaged homes say they can't get the workers needed.*

*"Before the hurricane came, we were already experiencing a labor shortage, particularly in skilled labor," said Dan Bawden, a Houston builder and remodeler. "If you lose your cabinet maker or carpenter, you are in trouble."*

*Bawden said the tight construction labor market in Texas will be even more pinched in 2018.*

*"We are just now beginning to start the flood rebuild process," he said. "People are just now starting to get their FEMA checks."*

Scott Braddock,  
texasgovote.com



**Next Month:**

**SAM talks FMLA!**

**Join us March 1!**

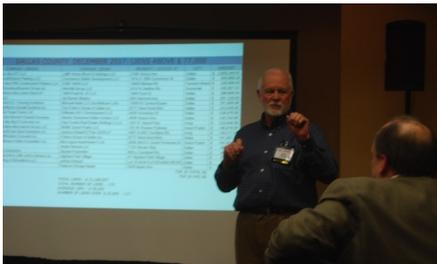
## LEGAL BRIEF



President Gary Ardis and new Board Member George McGraw enjoying dinner and even better



Brian Benitez of Cutler-Smith gives our Legal Minute on weapons in the workplace



SAM President Gary Ardis goes over who is being liened in the area.

### JOINT EMPLOYMENT? YES? NO? I'M SO CONFUSED!

In the construction trades, it is common for subcontractors to utilize subcontractors themselves, to perform work which is necessary but not core to the subcontractor's specific work. For example, a masonry contractor might use a waterproofing subcontractor. It is the very nature of the construction industry that particular work is often delegated to a contractor or tradesmen best-qualified to do the work.

In 2016, however, the United States Department of Labor announced a massive expansion of the use of the "joint employer" doctrine, by which governmental agencies (including, for example, the Wage and Hour Division) might find that, notwithstanding apparent separation of entities by contract or duty, the employees of a subcontractor might well be characterized as being under the "joint employment" of the upstream contractor.

According to the then-Administrator, David Weil, it was going to be the policy of the Department of Labor to find joint employment "expansively," with the intent to interpret contracting and contracting relationships as employment relationships on the broadest basis possible. This policy promised to have serious implications in many industries, but in construction in particular, because of the importance of the subcontracting relationship to construction.

Besides the obvious problems of the policy in wage and hour and Fair Labor

Standards Act enforcement, leaders in the organized labor community were licking their chops at the potential opportunity to combine employee groups, in ways never thought possible, for the purposes of organizing and imposing Collective Bargaining Agreements.

### The Winds of Change

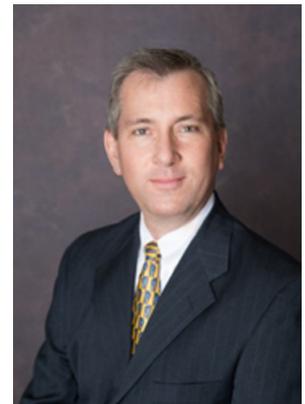
Since the change in presidential administrations, however, the DOL has announced the withdrawal of the U.S. Department of Labor's 2015 and 2016 informal guidance on joint employment and independent contractors - meaning that the DOL is no longer making it a policy to seek out opportunities to impose joint employment, where none should exist. This represents a change in policy, not in the law, but the interpretation and enforcement of labor law by the administrative arm of the DOL can have a huge impact on employers. This is a welcome change!

In addition, with the appointment of a new Member to the National Labor Relations Board, change has occurred in the directions of NLRB decisions on combining employee workgroups. The NLRB had previously issued a ruling which found to employers to be responsible, jointly, for certain employment actions, holding that employers could be deemed "joint employers" based only upon "indirect" or "reserved" right of control over workers; a standard like this could very easily be deemed to exist based purely upon the typical rights in a subcontract agreement to dictate schedule, sequence and quality of work.

Not a pretty picture.

Now, the NLRB has reverted to the previously long-standing policy, which required "direct" and "immediate" control over employees of the one company by another company in order for the presumption of "joint employment" to apply.

The previous presidential administration was openly and (some would say) notoriously favorable to organized labor, but the expanded joint employer standard was a remarkable change to long-settled law, and the reversion back to the old standard is an important move to easing uncertainty and preserving fairness for employers.



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## TOPCON 2018 TECHNOLOGY ROADSHOW KICKS OFF

*Topcon Positioning Group announced the kickoff of the 2018 Topcon Technology Roadshow. The expandable semi-trailer truck with a seated theatre room and product showcase area will embark on its tour Feb. 13 – 14, in Mebane, N.C., and then continue across North America stopping in more than 28 cities hosted by Topcon personnel along with dealer representatives.*

The Topcon Technology Roadshow showcases the latest construction, survey, civil engineering, architecture and design technologies in a hands-on educational environment. The free program features live demonstrations and presentations focused on productivity and profitability. The 2018 tour includes a schedule of multiple days in each city, plus a hands-on end-user training day offered from the Topcon Professional Services team.

“This year's tour is more exciting than ever before. We are bringing the scope of Topcon solutions to a multitude of locations with an expanded and convenient schedule along with our The Intersection of Infrastructure and Technology theme — the crossroads where construction productivity is improved by applying advanced positioning technology,” said Scott Langbein, Topcon Positioning Group director of marketing in the Americas.

“Our North American market has many opportunities to address infrastructure demands. With the entire breadth of technology available in the mobile solutions center, Topcon representatives and dealers can identify an attendee's individual needs and cater the learning experience to those business demands — all brought practically to his or her doorstep without

the travel of a traditional user-conference.

“We are excited to offer a new intensive training focus day to the tour throughout the U.S. and Canada. Our multi-day session approach for each stop will provide participants with more in-depth learning opportunities. We are looking forward to another great year on the road interacting with positioning professionals and students,” said Langbein.

*Following the kickoff the tour is scheduled for the following [Texas] stops: Houston, Texas, on April 3 and 4; Austin, Texas, on April 10 and 11; Dallas, Texas, on April 17 and 18;*

*The most up-to-date schedule, and additional information is available at [topconroadshow.com](http://topconroadshow.com)*

*[constructionequipmentguide.com](http://constructionequipmentguide.com)*



January had a great turn out!



January speaker Kristofor Garrett of the Farmers Branch PD speaks on active shooters in the workplace.

## JANUARY GUESTS



Joe Smith of Cornerstone Safety, guest of Cutler-Smith



Andrew Higgins of Patriot Welding, guest of Chaparral Welding & Fabrication



Hugo Trevino of Core Safety, guest of City Wide Mechanical

## 2018 New Members

- Mid South Fire Solutions
- C&C Concrete Pumping
- Patriot Welding

**We love to celebrate our members!**

**Send any announcements and news to [execdir@sam-dfw.org](mailto:execdir@sam-dfw.org)!**



# Subcontractors Association of the Metroplex



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The Subcontractors Association of the Metroplex was founded with the purpose of creating an affordable forum for Subcontractors to exchange information and learn from each other how to be better business men or women.

Sam is a member of the National Subcontractors Alliance, the largest Subcontractors association in the USA, and also a member of the Association of Specialty Contractors where we have a voice in National Legislation. SAM is also a member of the Texas Construction Association, the unifying voice of the trades in the Texas Legislature and as such all SAM members have access to all the benefits of the TCA.

Sam is also allied with the National Federation of Independent Business who has a voice in the Texas Legislature on small business issues.

**Your Source for Subcontractor's information.**

**SUBCONTRACTORS- THE ONES WHO REALLY BUILD THE BUILDING**



**Visit us at:**  
**<http://www.sam-dfw.org>**

## Our Association Leadership

### President

Gary Ardis  
Anderson Asphalt and Concrete Paving  
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### Past President

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### Vice President

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### Treasurer

Carrie Edomm  
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### Board of Directors

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### Committee Chairs

BPI: James Mayhew  
Fundraising: Don Weempe  
Membership: MaryEllen Evans  
Programs: Selena Zarate  
TCA Representative: Paul Holden  
Website: Gary Ardis

### Legal Counsel

Spike Cutler  
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If you're not a member of SAM, you should be.

Contact Angela Zarate for a membership application.

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