

Summer 2019

# The SubAla Insider



[www.SubAla.org](http://www.SubAla.org)  
Like us on Facebook



P.O. Box 381236  
Birmingham, AL 35238  
Tel 205.981.0086  
Toll Free 800.239.4744  
Fax 205.981.9588  
[www.SubAla.org](http://www.SubAla.org)

## OFFICERS

Mark Bratton  
President

John Till  
1st Vice-President

Bob Baker  
2nd Vice-President

Bobby Dobson  
3rd Vice-President

Brian Atkins  
Past President

## BOARD OF DIRECTORS

L.F. Chip Pierce  
Larry Argo  
Ty McConnell  
Bruce McCrory  
David Richard  
David Allen  
Tyler Kime  
Steve Miller  
Bobby Reuse

## BOARD OF TRUSTEES

Derek Thomas  
Marty Robbins  
Russell Grimes  
W.E. (Chip) Braswell, Jr.  
Conrad Watson

CHIEF EXECUTIVE  
OFFICER  
David Feemster

CHIEF FINANCIAL  
OFFICER  
Donna Feemster

COO & GENERAL  
COUNSEL  
David Campbell



SubAla's Industry Awards Banquet honors members of the state's construction community for their contribution towards excellence in our industry. This industry-wide event includes all facets of the construction sector, including architects, engineers, general contractors, subcontractors, suppliers and vendors, who are interested in recognizing excellence in construction. Additionally, special recognition will be given to State Legislators for their support of our industry. The event will be held on Thursday evening, October 24th, at The Florentine Building in downtown Birmingham. The occasion will start with a cocktail hour and then move into dinner and the award presentations. The award recipients will be announced in September.

### DATE

Thursday, October 24, 2019

### LOCATION

The Florentine Building  
2101 2nd Avenue North, Birmingham, AL 35203

5:30-6:30 Social Hour

6:30-7:15 Dinner

7:00-8:30 Awards Presentation

For more information on available sponsorships and registration please visit our website, [www.subala.org](http://www.subala.org), or contact Jennifer Davis (205)981-0086.



# SAFETY BUZZ

SAFETY ZONE



WITH ROBERT MOORE



## **INJURY TRENDS THE FIRST HALF OF 2019**

As of June 30th we had good news showing we were trending in the right direction regarding frequency of claims and severity of injuries. The total incurred losses and claims filed for the month of June were the lowest of the months YTD in 2019. Those injuries reported represent only 11% of the total claims reported and only 5% of the total incurred losses YTD. We, however, had a rough first half of the year. For reference, in April (our worst month) total incurred losses equaled 38% of the losses for the year and the top 10 claims driving the losses were not unique. The claims consisted of multiple falls (4), strains (3) and struck or injured by claims (2).

The 10 most severe injuries in the first half of 2019 account for 50% of the total incurred losses for the period. That stat clearly illustrates the need for your crews to follow through with safe-work practices for every task. Statistically, the difference between a serious injury and minor injury is miniscule.

So what else can we learn from the data:

- 44% of injuries occurred on a Monday or Tuesday
- 4 claims occurring on a Monday represented 25% of the total incurred losses for 2019 YTD!
- 4 claims occurring on a Tuesday represented 16% of the total incurred losses for 2019 YTD!
- Trades incurring the most severe injuries were varied (Electricians, Roofers, HVAC, Metal Fab, Mechanical)
- 24% of the claims were filed 6 or more days after the incident!
- 32% of the total incurred losses involved workers on the job for 2 to 5 years
- 27% of the claims filed involved workers on the job from 5 to 10+ years

We have got some ground to make up in the second half of 2019. I hope that the information above will help all of our members refocus their efforts on preserving their greatest assets—their employees.

Sincerely,

**Robert Moore**

*Loss Control Manager*

WorkersFirst CompFund

## **MEMBER SPOTLIGHT**

### *A brief history of The Garrison Steel Group*



Founded in 1992, City Metals Erection Company was a small steel erection outfit and the basis for what eventually became known as Garrison Steel.

In the beginning it was a partnership between James Daniel and John Garrison. In the late nineties John purchased James' shares and the name was changed.

From 1992 until 2004 the Company was located in East Birmingham focusing on erecting steel and becoming one of the first erection companies in the United States to become AISC Certified.

Even in the early days Garrison erected many exciting and notable projects including Bryant Denny Stadium, UAB's Lister Hill Library, Barbers Motorsports Park, Auburn Basketball Arena and Regions Field among others.

In 2004 John purchased a steel fabrication facility in Pell City, Alabama and ventured into the fabrication business. This move had to be made carefully due to the fact that Garrison had primarily erected steel for other fabricators up until this point and maintaining that business was critical for the strategic plan going forward. John was able to convince his customers, now also competitors, that they could trust him and that he would deal honestly as he always had. Some, understandably had tough questions but most trusted and continued to work with him. Garrison Steel Fabricators is now AISC certified and fabricates approximately 7000 tons of structural steel per year.

Some notable turn key fabrication and erection projects that Garrison has completed are the Madison Trash Pandas Stadium, The Jay and Susie Gouge Auburn Performing Arts Center and The UAB Collat School of Business.

In 2016 Garrison purchased Equipment Fabricators, Inc, a forty-two year old local OEM fabrication facility that specializes in wastewater and pulp & paper equipment. The Company now sends fabricated steel products all over the world.

Lastly, in 2017 Garrison founded a trade training facility teaching NCCER Ironworker curriculum. At the end of 2018 they applied for 501c3 non-profit status under the name Ironworker Skills Institute. ISI is partnered with local high schools so that each student that attends the program receives credit for doing so toward their diploma. As of the end of the 2018/19 school year, 78 students had attended the program producing 28 new steel industry employees in three school years.

In 2017 John Garrison, the Founder and Family Patriarch, handed management of the Companies over to his eldest son. For Garrison Steel the business is a family affair with members of three generations serving in a number of positions besides what they describe as their "Garrison Steel family". Today the Garrison Team totals 162 employees.

The future vision for the Garrison Companies is to be the steel fabricator and erector of choice in the Southeastern U.S. by employing great people who focus on quality, safety and customer satisfaction.

## THE 2019 CHISENHALL AWARD



The Chisenhall Award is the highest award given by the Association. Established in 1971, the Chisenhall Award was named for Herbert Chisenhall who was instrumental in the establishment of ARSM-HACCA, now SubAla, in the early 1950's. The award has always honored association members who exhibit standards of excellence in the industry and contribute to the success and growth of the association. The recipient is selected by vote of a committee of previous Chisenhall Honorees and the identity is kept secret until the presentation is made at the Annual Convention.

We are honored to announce the 2019 Chisenhall Award recipient is Gail Guin Braswell, President of Quality Architectural Metal & Roofing, Inc.

Born and raised in the Magic City, Gail Braswell is renowned in the state of Alabama for her contribution to the construction industry as a successful female business owner.

As a young girl, Gail watched her father run his local subcontracting business, and after graduating from Mountain Brook High School and studying education at UAB, she decided she wanted to own her own business, too. After a stint working for her father, she did just that. Thirty-five years later, Gail is still Owner/President of Quality Architectural Metal & Roofing, the company she runs with her husband, Chip, and her grown son, Chris.

Early in her career Gail served on the Women's Committee for the Alabama Roofers and Sheet Metal, Heating and Air Conditioning Contractors of Alabama (ARSM-HACCA, the predecessor to SubAla), and she was also active in the National Association of Women in Construction.

Gail was the first woman to serve on the Alabama Construction Recruitment Institute Board of Directors, a position she held from 2014 to 2018. Her leadership on the board was instrumental in expanding the program and maintaining efficient operations throughout the state. During her term on the Board, the *Go Build Alabama* program received a national award from the Engineering and Construction Contracting Association.

Since 2017, Gail has served on the board of the Alabama Construction Industry Craft Training Program. Again the first woman to hold this position, she was appointed by Governor Ivey. The program is a coordinated effort between the construction industry and institutions of higher education, and it has awarded millions in grants to train workers for construction jobs.

Gail's newest role of grandmother might be her favorite one yet, and when not at work she can often be found strolling her granddaughter, Sallie (1), around her neighborhood in Mountain Brook. Her entire family—including her husband of 39 years, Chip; her sons, Chris (37) and Joseph (33); and her daughters-in-law—could not be prouder of her commitment to service in the construction industry and the example she has set for women everywhere.

## WELCOME NEW MEMBERS!

Brian's Flooring and Design  
Building Specialties Company, Inc.  
Burks Brothers Construction, Inc.  
Con-Site Services, Inc.  
Cotney Construction Law  
Cox Commercial Interiors  
Intime Staffing  
Luttrell Architectural Woodworks, Inc.  
Morris Builders, LLC  
OnTime Service Mobile, LLC  
P & M Metal Buildings LLC  
Steel Built Systems, LLC



## THE 2019 PRESIDENT'S AWARD



Mark Bratton grew up in the construction industry beginning at age 16 working as an Apprentice Electrician during the summers, school breaks and weekends. During his four years of college at Auburn University, he continued working in the electrical industry every opportunity he had. After college graduation he had logged enough hours to sit for his Journeyman Electrician License exam and eventually the Master Electrician License exam.

After nine years working for a major electrical contractor as an Estimator, Project Manager and eventually Vice President, he decided to open his own business. In the year 2000 Summit Electrical Construction was born. After attending a meeting with two of our board members he was so impressed with the vision of SubAla he joined the association in 2012. He says he only wishes he had known about SubAla when he first started his business, as he could have used the guidance through all the beginning bumps and bruises. Mark now says our industry works harder than any other industry. He wants everyone to encourage membership to be active in the association, not only for the direct benefits of the

membership, but for the greatest benefit of networking and learning from our collective experiences in the industry.

Mark is married to Julie and they have one daughter, Julia Ann.

We appreciate Mark for his work this year and as he continues his presidency in 2019. We are honored to present to him the 2019 Presidents award.

# SAVE THE DATE

## *Subcontractors Association of Alabama*

Presents



AVONDALE BREWING COMPANY

**WEDNESDAY, SEPTEMBER 25, 2019**

# SPECIAL THANKS TO OUR CONVENTION SPONSORS!

**W**e are grateful to our friends who are sponsoring the 2019 SubAla and WorkersFirst convention. We are thankful for their interest in supporting us. Without the generous financial support of all our sponsors, we would not be able to host this type of first-class event. Please take advantage of this opportunity to socialize with representatives of these fine organizations and thank them personally for their support.

## **PLATINUM – \$2,500 and up**

Midwest Employers Casualty Co.  
Wilson & Berryhill, PC  
WorkersFirst CompFund  
York Risk Services Group

## **GOLD – \$1,500-\$2,499**

CMI, LLC  
Marathon Electrical Contractors, LLC  
Morgan Stanley  
Roofers Mart Southeast, Inc.  
Summit Electrical Construction, Inc.

## **SILVER – \$750-\$1,499**

Baker Donelson Bearman Caldwell &  
Berkowitz, PC  
Brasfield & Gorrie, LLC  
Carr, Riggs & Ingram, LLC  
Mingledorff's, Inc.  
Ogletree Deakins Nash Smoak &  
Stewart, PC  
Parkes Mechanical & Metals, Inc.  
Weathertech Distributing Co., Inc.

## **BRONZE – \$749 or less**

ACEngraver.com  
Carlisle Medical, Inc.  
Graybar Electric  
GulfCoast Supply & Manufacturing  
Jett Medical  
Johnstone Supply  
Miller Development Group  
ServisFirst Bank  
V & W Supply, Inc.  
Wittichen Supply Co.

## **WORKERSFIRST BROKER PARTNERS**

Cobbs Allen  
J. Smith Lanier & Co.  
The Prewitt Group





## **RECENT ALABAMA CASE LAW INVOLVING PRIME CONTRACT LANGUAGE AND PAID IF PAID CLAUSES**

As you are aware, the language in our subcontracts controls everything. Making sure that unfair and/or detrimental language is modified before signing a subcontract is of the utmost importance and will affect the outcome of any issues that might arise during construction. Two of the most important issues that surface in almost every subcontract are the Prime Contract's flow down clauses and payment terms. Below, attorney and SubAla member, Larry Logsdon, has provided updates on recent case decisions that will impact SubAla members in both of these areas.

### **Specifications in Subcontract Control Over those in Prime Contract**

*Peachstate Roofing, Inc., v. Kirlin Builders, LLC* 2018 WL 3097326 (M.D. Ala. June 22, 2018).

The court considered a dispute between a roofing subcontractor and general contractor and conflicting contractual provisions in their subcontract and the prime contract. In play was a subcontract "flow down" provision saying the subcontractor would be bound to the general contractor to the extent the general contractor was bound to the owner in the prime contract. Also pertinent was the subcontract provision saying that its terms would govern any inconsistent provisions between the subcontract and prime contract. The court, relying on this inconsistent provisions clause, found that the subcontractor was not bound to follow certain roofing specification requirements that were undisputedly contained in the prime contract because they were not included in its subcontract.

Although the court ruled in favor of the subcontractor in this matter, other judges or arbitrators might see things differently in other cases and hold the subcontractor to the prime contract's requirements. Because of that it remains absolutely critical for subcontractors to review the specifications and requirements in both the subcontract and prime contract, carefully add exclusions and limitations to its scope of work and clearly make changes to the subcontract to ensure an understanding of its requirements.

### **Surety Entitled to Rely on "Pay if Paid" Clause in Subcontract**

*Keller Construction Company of NW Florida, Inc. v. Hartford Fire Insurance Company*, 2018WL 5306918 (Ala. Civ. App. Oct. 26, 2018).

This case showed the importance of not agreeing to "pay if paid" clauses in a subcontract. Here the court considered a subcontractor's claim that it should be entitled to recovery for retainage and extra work from a general contractor's surety bond. In response, the general contractor's bonding company argued that the subcontractor's recovery should be denied because the subcontract contained a "pay if paid" clause and the owner had not paid the general contractor. The court sided with the surety and found that the surety could rely on the subcontract's "pay if paid" clause because owner payment to the general contractor was a condition precedent to entitlement to payment to the subcontractor. The court found it persuasive that wording in the subcontract stated that the surety was a "third-party beneficiary" of the "pay if paid" clause in the subcontract and that the surety was entitled to assert the "pay if paid" clause in the subcontract as a defense so clauses like this should be excluded from a subcontract. Importantly, the court did not appear to consider whether the subcontractor performed its work properly, completed the extra work or otherwise did anything wrong. Instead, the court just looked at whether the owner paid the general contractor.

In order to avoid unwanted outcomes or disputes such as those in the cases above, SubAla members should contact SubAla General Counsel, David Campbell, and request language that can address these and other potential subcontract issues prior to signing.

*Larry Logsdon is an attorney and member of the firm of Wallace, Jordan, Ratliff, & Brandt, L.L.C. located in Birmingham, Alabama. SubAla is proud to have Larry and Wallace, Jordan, Ratliff, & Brandt, L.L.C. as members of our association. Larry can be reached at ll@wallacejordan.com or 205.874.0341.*