HUBLICATION OF THE WALL AND CEILING ALLIANCE

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CA

Protect Your Company from Costly Class-Action Wage-and-Hour Lawsuits PAGE 6

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THE **PRESIDENT'S** CORNER

From One Member to Another

Nancy Brinkerhoff Board President

Before WACA came about, the drywall and plaster assocations were divided. We needed to bond together. And we had to attempt this unity during a difficult time in the country's economy.

WACA, from its early formation to today, was and is a much-needed collaboration within the wall and ceiling industry in Northern California. I joined WACA right at the beginning. My main purpose for joining was to build my network of business owners that could make a change in our drywall and plaster union community. However, I discovered, en route to building that network, we had other beneficial opportunities as members. Side-by-side negotiation training with our union partners and strategic planning sessions with fellow competitors to strengthen our Northern California marketplace were part of those membership advantages.

Since WACA launched, the association has enhanced membership offerings by providing excellent networking and access to educational resources. WACA is consistently delivering useful industry information, not to mention promoting members' construction work. Additionally, I've been able to introduce my company nationwide through WACA's national affiliations. As a result, my business has grown significantly since I joined this association.

Even with all these opportunities, the number of friends I've made is the greatest asset I've gained

being a WACA member. Yes, they are my competition. But the mutual respect we've formed and our open communication have given us the influence to persevere and succeed. We speak about concerns in our market and how to retain market share. Sometimes it's comforting to know we're not facing similar issues alone and can reach out to our WACA community for support.

Being a business owner requires using extensive information, such as collective bargaining, new product availability, training, peer-to-peer networking, and so on — all necessary for a successful business operation. If you're not a member of this solid association, you're missing out! For these reasons, I'd absolutely recommend WACA to another contractor. Not only does WACA provide vital information to contractors that helps their business, but WACA has also become a trendsetter at the forefront of our industry. I envision that our thriving membership might someday see cutting-edge standard testing on construction products — giving us even more of a competitive edge.

From one WACA member to another, I say take advantage of WACA's great resources and advance your company in our competitive industry!



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Wall And Ceiling Alliance 5726 Sonoma Drive Pleasanton, CA 94566 Office: (925) 600-0475 Fax: (925) 600-0618 communications@wallandceiling.org www.wallandceilingalliance.org

The Wall And Ceiling Alliance (WACA) serves and represents signatory wall and ceiling contractors in Northern California's 46 counties. Our primary goal is to represent and negotiate labor agreements for our contractor members. WACA organizes and steers the committees that negotiate the collective bargaining agreements with the unions.

WACA provides resources that assist members in operating a successful business. Among the services and activities provided are educational forums, technical assistance, government advocacy, labor relations, industry promotion, marketing and networking opportunities.

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CONTRACTORS: Protect Your Company from Costly Class-Action Wage-and-Hour Lawsuits

by Roger M. Mason, Esq., and Kurt E. Wilson, Esq.

Wage-and-hour lawsuits against California contractors are rising at an alarming rate. Plaintiffs' attorneys are aggressively prosecuting employers, filing lawsuits claiming one or more violations of California wage-and-hour laws, including:

- 1. Failure to provide employees with required rest breaks or meal periods
- 2. Forcing employees to work "off the clock"
- 3. Failing to reimburse employees for work-related expenses
- 4. Failing to provide check stubs that include all information required by the Labor Code
- 5. Incorrectly classifying employees as exempt or as independent contractors

hese lawsuits are particularly painful (meaning expensive) because they are often brought as a representative or class action, whereby one or more current or former employees represent a class of all similarly situated employees. Using the representative or class-action procedure, plaintiffs' lawyers are extracting large settlements by suing contractors who have a compensation policy or practice that violates the law and/or by falsely claiming such a policy or practice where there are few or inadequate time sheets and policy documents. Plaintiffs' claims are not limited to alleged unpaid wages but include statutory penalties, attorneys' fees and interest that can amount to several times the alleged unpaid wages. The plaintiff can sue on behalf of all employees going back four years. The more current and former employees who are impacted by the alleged violation, the greater the contractor's exposure. The cost to defend these lawsuits, including attorneys' fees, lost employee time, lost management time and, ultimately, settlement, can be devastating and sometimes a death knell for a company.

The need for contractors to take immediate steps before a lawsuit arises and to put in place policies, procedures and documents designed to prevent these costly lawsuits cannot be over-emphasized. For example:

1. A daily time sheet, filled out and signed by each employee, confirming

and documenting hours worked, meal period(s) and rest breaks

- 2. An Acknowledgment of Time Sheet Policy, signed by each employee
- 3. An Acknowledgment of Rest and Meal Periods Policy, signed by each employee
- A properly drafted employee manual, acknowledgment of receipt signed by each employee
- 5. Training for foremen and superintendents on employee rights respecting meal periods, rest breaks and off-theclock work

An easy-to-correct, but often-overlooked, basis for a class action is noncompliant check stubs. California Labor Code Section 226 requires that check stubs show:

- 1. Gross wages earned
- Total hours worked by the employee (if all hours worked are shown on the check stub, a separate "total" need not be added)
- 3. The number of piece rate units earned
- 4. All deductions
- 5. Net wages earned
- 6. The inclusive dates of the pay period



- 7. The name of the employee and the last four digits of his or her Social Security number or an employee identification number
- 8. The name and address of the legal entity that is the employer (a mailing address should suffice)
- **9.** All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate

Far too many employers fail to include the address of the legal entity that is the employer or simply list the pay period end date without showing the beginning pay period date. Simply reviewing your check stub to ensure that it accurately reflects the legal name of your business, including an address, and the beginning and ending dates of the pay period could save you from hundreds of thousands of dollars of penalties. Section 226(e) renders it virtually impossible for an employer not to be held liable if its check stubs are noncompliant and entitles each employee to penalties of up to \$4,000. In addition, the Private Attorney General Act (PAGA) arguably provides for another \$200 per pay period per employee for up to one year. These damages and penalties alone can force you to engage in painful settlement negotiations despite having complied with the substantive requirements of the Labor Code.

Even in situations where you comply with the law, provide the required breaks and forbid off-the-clock work, disgruntled and dishonest employees can falsely claim that they work off the clock and do not get proper meal and rest breaks. Proving that the employees are lying using the litigation process is expensive and disruptive to your business. Properly documented policies can be an effective deterrent to this kind of claim.

When confronted with a wage-and-hour lawsuit, one of the first things to do is to craft and implement policies to prevent further exposure. However, it is always better to do this proactively — without being required to do it while defending a wage-andhour lawsuit.

A wage-and-hour lawsuit is a disease on your business. Treatment is expensive and painful, and if left untreated, it could be fatal. But this kind of business disease is largely preventable by crafting and implementing the appropriate policies and documentation. Every employee is a potential wage-and-hour lawsuit. Employees in the construction industry are becoming more and more aware of employee compensation rights and more and more willing to consult with a class-action wage-and-hour attorney to look for ways to cash in with a wage-and-hour lawsuit. With the proper documentation and policies in place, contractors can better defend and maybe even prevent these lawsuits.

Roger Mason is a shareholder with Sweeney, Mason, Wilson & Bosomworth, a professional law corporation. Since 1983, Roger has successfully advised employers in all aspect of Labor and Employment Law, including proper employment documentation; employee leaves of absence; wage-and-hour matters; employee discipline and termination; and avoiding discrimination, retaliation and sexual harassment claims.

Kurt Wilson is a founding member of Sweeney, Mason, Wilson & Bosomworth. Kurt represents corporations and individuals in commercial, employment and trade secret disputes, including through jury trial, court trial, binding arbitration and/or mediation. Kurt focuses in commercial and employment litigation and has practiced law for over 25 years.

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- 2015 - **CONSTRUCTION EXCELLENCE** AWARDS SHOW

June 4, 2015 at 4 p.m. Castlewood Country Club

Pleasanton, California

The Construction Excellence Awards show honors wall and ceiling contractors who have performed extraordinary work in our community. The program recognizes technical merit and skilled workmanship of both large and small companies.



Award categories include exterior and interior for retail, residential, commercial, project of the year, green, exterior insulation and finish systems (EIFS) and institutional projects.

HOW TO REGISTER

Register online by visiting the event calendar page on our website: www.wallandceilingalliance.org.

Tickets to the show, which include cocktail hour and dinner, start at \$55 for the early-bird rate. After May 24, event tickets are \$70. Early registration is recommended to secure your seat and early-bird rate.

Sponsorship Opportunities Available

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To sponsor, visit our website by going to the event calendar page and downloading the event sponsorship form, or contact Carmen Valencia-Castillo at (925) 600-0475 or carmen@wallandceiling.org.

CRAB FEED at Castagnola's

Our 2015 Crab Feed launched the first members' meeting of the year. Over 150 guests joined us on February 12. With great weather by the bay and a Pier 39 visit by local famed athlete Joe Montana, WACA provided attendees the picture-perfect San Francisco setting.

Two new members attended the Crab Feed, Artisan Plaster Supply and California Bank of Commerce, and were given a warm welcome by their fellow WACA members. Artisan Plaster Supply is based in Oakland and imports plasters of genuine seasoned slaked lime and fine Carrara marble aggregate from Trieste, Italy. The California Bank of Commerce is based in Lafayette and is our first lending affiliate. Labor representatives Sam Robinson and Walter Robinson, with Hod Carriers Local Union 166, and Tony Hernandez, with Carpenters Training Committee for Northern California, also joined our Crab Feed festivity. During the dinner raffle, Board President Nancy Brinkerhoff gave away a whopping \$1,000 in gift cards. Two \$200 and six \$100 gift cards went to eight lucky winners. Dinner was followed by cheesecake and coffee as guests continued to mix and socialize in the dining area and out on the balcony.

Other WACA board members present included Vice President Jim Ruane, Secretary/Treasurer Tim Stiller, John Sytsma and Don Archuleta. We are thankful for our valued members' event participation.



A special thank-you to our new associate members for joining us at the Crab Feed!





... defined by the company we keep."













CALENDAR OF EVENTS 2015

JUNE 4, 2015

WACA Construction Excellence Awards Show Castlewood Country Club Pleasanton, California

JULY 31, 2015 WACA and WCB's Wall & Ceiling Expo Alameda County Fairgrounds Pleasanton, California

SEPTEMBER 11, 2015 WACA Golf Tournament Poppy Ridge Golf Course Livermore, California



- ★ Artisan Plaster Supply
- ★ California Bank of Commerce
- ★ Creative Ceilings & Drywall
- ★ Olea Plastering
- ★ SRJ Drywall



Patrick J. Ruane, Inc.



n the early 1900s, construction had begun on the New York Stock Exchange, the nation's first Rose Bowl game was played, and the Wright brothers successfully tested their airplane at Kittyhawk. People went to great lengths to achieve their dreams in this era, including two young brothers with the last name of Ruane. During this time, they set out from their home in Ireland to America. Upon arriving in San Francisco, they joined the Plasterers and Shophands Local Union 66.

Patrick and Malachy Ruane might not have known then that they would eventually create their own plaster company in 1940 — or that the following family generations would someday operate the company that helped shape "The City by the Bay," with buildings such as the Golden Gate Theater, Coit Tower and San Francisco City Hall.

Jim Ruane Sr., nephew of original owner Patrick and son of subsequent owner Malachy, started out driving trucks and running scaffolding in the summers of the mid-1960s. He has been the company president since 1975. Now the company, as a modern, full-service lath, plaster and drywall contracting firm, influences the contemporary California urban landscape. Its services include historical renovation; Venetian, Japanese and synthetic finishes; acoustical plaster systems; structural fireproofing; in-house casting; metal stud framing; and documentation services. The firm's employees vary in number from approximately 50 to 75, depending upon how complicated the current projects are and how many projects are being carried out simultaneously. Jim Ruane Jr., Malachy's grandson, follows the family tradition of working in the business as senior estimator and project manager.



50 United Nations Plaza, San Francisco, California.

"With our experience, we're noted as experts in the plaster field," Jim Ruane Sr. said.

"We believe that challenges bring opportunities. Many people don't understand the complexity of plaster materials and waterproofing details, but that's where we come in. Patrick J. Ruane, Inc. has an experienced, long-term crew and staff that's very hands-on. We handle our own estimating and project management from onset to completion," he added.

Those skills can be seen in Yosemite National Park's Ahwahnee Hotel, as one example. The interiors of the luxury destination hotel and national historic landmark required the contractor to research the original materials used and to formulate and manufacture the base coat and finish materials in-house to duplicate the original textures. Work was performed in numerous guest rooms, hallways, meeting rooms and large public places. Every detail required considerable skill to refinish this building.

Today, more than 30 landmark and award-winning structures have been brought to life by the efforts of Patrick J. Ruane, Inc. The firm's leadership and personnel continue to reach for new horizons, just as their founders did before them. Among the firm's wall and ceiling accomplishments are the interfaith Stanford Memorial Church in the South Bay and various projects in Southern California, such as the glamorous Regent Beverly Wilshire in Beverly Hills. The firm's proven ability to use both traditional methods and the latest techniques has helped the company extend beyond the boundaries of the Golden State.

"For the lolani Palace in Honolulu (another national historic landmark, originally built in 1879 and the only royal palace in the United States), the San Francisco Heritage highly recommended us for this project. So did renowned architects in the area. We flew to the palace and met with facility managers and architects. It didn't take them long to realize they had the right contractor," Ruane Sr. explained.

The company, however, hasn't forgotten its roots with its expansion outside of California. One of its more recent projects is 350 Bush Street in San Francisco, at the site of an old mining exchange and original stock exchange dating from 1923. Work on the project began in October 2014 and has an estimated completion date within the



Porziuncola replica, San Francisco, California.

next several months. "This intricate project involves the documentation, removal and reinstallation of the original entry and trading room cast plaster ceilings as well as new inhouse castings of the originals that are too delicate to be reinstalled. The original architect for this structure was Timothy Pflueger, who just happened to be a neighbor of my Uncle Patrick," Ruane Sr. said.

He added, "Another project of which we are extremely proud is the replica of the Porziuncola adjacent to St. Francis of Assisi church in San Francisco's North

Beach. This project prompted a trip to Assisi, Italy, to measure and document the original structure built in 1209. We worked closely with the general contractor and other subcontractors in the replication of the original run, cast and surface texture plasters."

In discussing the company's strengths, Ruane Sr. summarized the value of being a WACA member: "It's afforded us expanding opportunities with technical issues and compliance. Being a WACA member has given us a much broader and deeper influence in labor negotiations and trust management. And we've received industry recognition through the association. We accepted WACA's 2014 Construction Excellence Award (CEA) for Historical Restoration for our work on the UN Plaza, and the 2014 CEA for Project of the Year – Interior Over \$500,000 for the same project. Another CEA we received was in 2011 for Commercial Exterior, for updating the original 1850s façade of the Casa Grande Museum in Santa Clara County."

WACA, in turn, appreciates the advantage of having Jim Ruane Sr. on board — literally. Ruane was one of the original board directors to create the Wall And Ceiling Alliance and now serves as vice president. His varied board experiences in the industry have contributed to the successful steering and shaping of WACA's labor negotiation committees, among other leading services.

Ruane Jr. added, "I am proud to be part of a family business that has helped build San Francisco. Our employees take great pride in preserving unique and historic structures for future generations."

This year, Patrick J. Ruane, Inc. celebrates its 75th anniversary. And chances are, Patrick and Malachy would be smiling if they could see how far their family business has expanded now.

2015 WALL & CEILING EXPO

July 31, 2015, 10 a.m. to 2 p.m. Alameda County Fairgrounds in Pleasanton *Free admission!*

Registration required. To register, visit the event calendar page on our website, www.wallandceilingalliance.org, and find this event.

- Can't-miss exhibits
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The Wall & Ceiling Expo is one of the few regional programs intended for the wall and ceiling community. The expo is designed to build connections in a face-to-face environment and get the most up-to-date information available in our industry.

Who Should Attend? Architects, designers, building officials, contractors, general contractors, suppliers and dealers, manufac-



turers, specifiers, industry professionals, and field craftsmen, along with construction management students and anyone interested in this field.

If you are part of our Northern California community, you need to attend!

Exhibitor and Sponsorship Opportunities Available. Get your company recognized; booth space is available to demonstrate your products and/or services. This venue is a great opportunity to reach out to people in the wall and ceiling industry. To participate, download an exhibitor and sponsorship registration form by visiting our website at www.wallandceilingalliance.com and find this event on the event calendar page.

If you're interested in partnering with us or would like more event information, email our technical representatives, Ben Duterte at ben@wcbureau.org or Mike Nonn at mike@wcbureau.org, or call (925) 600-0475.

Bear Scaffold and Services

by Mike Peters, President, Bear Scaffold and Services



How does a subcontractor compete in the wall and ceiling business? By learning how to be the best — not only at suspending entire buildings, but also suspending any doubts about even the toughest jobs.

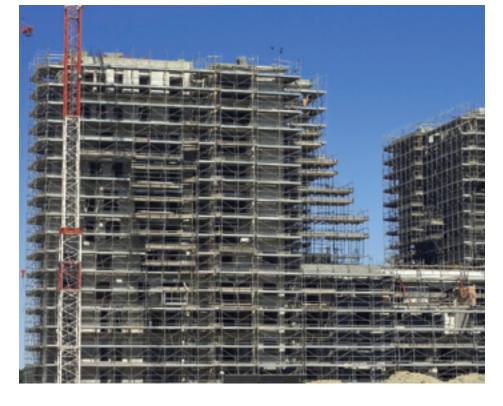
B ear Scaffold and Services is only in its Anning-Johnson Company, J&J Acoustics, Bayside Interiors, Daley's Drywall, California Drywall and other big WACA members. For one of our first jobs, we had over \$1 million in contracts on the Levi's Stadium, the home of the San Francisco 49ers, with several different contractors including Bayside and California Drywall.

We're a scaffolding company. We also do stair towers, or primary access stair towers as they're known, that go up the whole structure for workers to have access on and off each level. Bear Scaffold does shoring as well, occasionally suspending entire structures up in the air for our clients. A large part of our construction effort focuses on building huge decks, like we did for the Levi's Stadium. They're also called "dance floors," with some in excess of 80 feet wide by 150 feet long while standing over 100 feet tall. We'll get those assembled just so contractors can access and work on the ceilings. It's pretty wild when you see them all built. You have to crane your neck back to see just how tall they are when you're looking all the way up at them. Currently, one of our jobs is with Balfour Beatty on 995 Market Street in San Francisco. It's a nationwide contractor, and its Northern California division has a project in San Francisco that's one of the tallest scaffold jobs in the city right now. It's over 200 feet high and has been engineered from scratch.

The bulk of our work is really throughout Northern California. About half our work tends to be in San Francisco and the rest throughout the Bay Area. Silicon Valley, specifically, with the construction of all the schools, hospitals and high-tech companies, is more and more a major contributor to our business. However, we've worked in Redding, Sacramento and Fresno, and as far south as Paso Robles doing the major shopping center and movie theater there.

Our business is expanding beyond its current reach. Recent special projects include the Levi's Stadium and the Avaya Stadium, the home of San Jose Earthquakes, which opened in March. We have worked on the Facebook campus in Menlo Park and on multiple jobs for Google, the Apple Campus and LinkedIn, where we provided primary access stair towers. Bear Scaffold is currently helping over 100 construction projects move forward in Northern California. We operate with a lean count of roughly 35 employees, who are all union — an extraordinary assembly considering the project-to-employee ratio.

Our success and longevity can be summed up briefly: We've done well because we don't say no. The big contractors aren't known for liking *no*. They want to hear *yes*. We might not be yes men, so to speak, but we find solutions and focus on safety first, above all. With that, we ensure the yes. These compa-



nies know, either from previous experience with us or from our reputation with other firms, that we absolutely work to provide the yes.

Even more important in the equation is our service. When it comes down to it, everyone's got the same 12-foot plank, the same cross, and the same or similar equipment. But we sell service. We're big on that. In



fact, 75 percent of our business is repeat business. We'll bid some new work here and there, but it's mostly repeat. With some companies, we've had more than 80 jobs with them. So again, they know the quality of work they'll get from us.

Adaptability might be another reason why our business has done so well. "No job is too large or too small" is part of the philosophy making up the company's success. We've executed every type of project, from a \$1,500 job intended to allow a contractor to change a single light bulb to providing scaffolding for \$1 million subcontracting jobs on massive \$1 billion projects in the heart of Silicon Valley.

And the most important reason why Bear Scaffold has succeeded in the business? Our employees — the staff. We have the best people here, which are reasons that should give us many more years in the industry to come.



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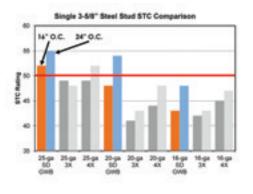
WCB Fire and Sound Transmission Class Recap

On February 19, the Wall and Ceiling Bureau (WCB) held a fire and sound transmission class at our office in Pleasanton. The workshop was instructed by industry experts Ben Shafer, acoustic systems specialist at QuietRock by PABCO Gypsum, and Don Pilz, research and development manager at CEMCO, and covered the basics and the latest in fire and sound. The class was designed for estimators, project managers, field employees and anyone interested in learning more about fire and sound transmission.

This was a two-part workshop on "Building Noise Control: Noise, STC, and Other Exciting Things!" and "Why Sound Ratings and Fire Ratings Go Hand in Hand." The guest speakers discussed topics such as the similarities and differences between sound walls and fire walls, the pros and cons of different types of fire stopping for head-of-wall joint protection, and how sound is measured and relates to building noise control in practice. The effects of various acoustic treatments and how certain design issues can adversely affect noise control performance in buildings were also reviewed in the class.

"We want contractors and other building industry experts to use this technical information as a reason to interface with technical professionals," Shafer said. "Contractors that have a fundamental knowledge of acoustics can use it as a tool to connect with specialists. Find an advocate at the technical or manufacturing level who can work with the technical industry on your behalf. Connection between contractors and specialists allows progress, and we could all stand to improve how we do things."

In the second presentation, Pilz engaged attendees with topics such as performance issues that can arise from field-installed sealant joints. "If fire-rated walls are required to provide dynamic movement, then sound



walls should be required to provide the same type of movement," he noted. "If there's a separation gap in the sealant joint for fire or sound control, it's workmanship and the contractor who gets blamed first." Pilz emphasized, "When it comes to dynamic movement of a building structure, fire ratings and sound ratings actually go hand in hand and should be treated that way."

The class was well attended, and WCB will consider hosting a similar class next year for members who were unable to attend the workshop.

We want to thank our expert instructors Ben Shafer and Don Pilz for volunteering their time and our WCB team for hosting another dynamic seminar!

Have class suggestions?

Contact the Wall and Ceiling Bureau:

- Ben Duterte, Technical Director, (408) 500-2309, ben@wcbureau.org
- Mike Nonn, Technical Adviser, (925) 337-9706, mike@wcbureau.org

STAY^EKNOW

Simpson Strong-Tie

Luanne Ludovici-Ketchie, formerly with Radius Track Corporation, is now with Simpson Strong-Tie as a coldformed steel specialist covering the Southwest for the Riverside, California, branch, with responsibility for southern Nevada; Southern California; the Central Coast; Arizona; New Mexico; El Paso, Texas; and Hawaii. Luanne will be providing support to the existing Simpson technical sales managers, territory managers and field engineers and will be the primary point person for all of cold-formed steel connection and drywall industry needs. You can reach Luanne at her new email address: lketchie@strongtie.com.

Fraudulent Bonds

A Bay Area agent was arrested for allegedly selling bogus bonds and stealing \$100,000 in premiums. The theft left contractors without coverage and vulnerable to loss, which could have a devastating effect on their business.

Lars Hedegaard, 63, of Danville, was arrested on two felony counts of grand theft. As a licensed agent doing business as Westport & Associates Insurance Services Inc., Hedegaard allegedly issued 14 fraudulent bonds to contractors and collected \$111,365 in insurance premiums, which he failed to send to the insurance company he transacted bonds for and instead used for personal expenses.

The Department of Insurance encourages anyone who may have done business with Lars Hedegaard or Westport & Associates Insurance Services Inc. to contact the consumer hotline at (800) 927-4357 (California Department of Insurance, press release April 7, 2015).

If you have news you would like to share with WACA members and would like to be included in the Stay in the Know corner, please email Julie Dunaway at julie@wallandceiling.org.



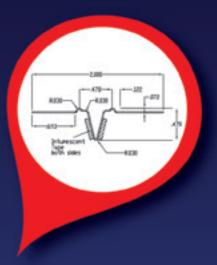
FIRE ALL SOUND 093X CUS

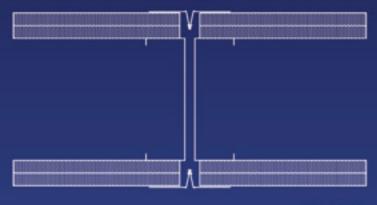
SINGLE STEP APPLICATION

- NO DRYWALL RIPS REQUIRED
- NO SEALANT REQUIRED
- NO MINERAL WOOL REQUIRED

CEMCO's FAS-093X

(Fire Rated Control Joint) is a composite control joint with intumescent tape factory applied to the back side of the control joint. The FAS-093X has been tested according to UL-2079 "Test For Fire Resistance of Building Joint Systems" and is used to relieve stresses of expansion and contraction of drywall interior partitions or ceilings running in a horizontal or vertical direction. The opening is protected by an orange plastic tape to indicate the fire rating this tape is removed after joint compound has been applied and the finish is completed. The section is fabricated from hot-dipped galvanized steel complying with ASTM A653, and ASTM A1003 Grade 33 Type H for 33 Ksi yield strength steel 13 mil thickness.





WW-D-0172

Corporate Headquarters & Main Manufacturing Facility

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