

Misclassification of Subs

As of January 2015, it became more dangerous for employers who misclassify their workers as subcontractors in Florida. Florida's Department of Revenue has agreed to work hand-in-hand with the Department of Labor (DOL) to identify private employers that misclassify their workers as subcontractors. While the classification of a worker as a "subcontractor" is an attractive choice because employers do not need to withhold or pay any taxes on independent contractors, the misclassification—whether or not it was done



purposely or by honest mistake—has far-reaching and costly consequences, ranging from penalties to class action lawsuits for unpaid benefits and overtime.

On January 13, 2015, the Florida Department of Revenue signed a Memorandum of Understanding (MOU) with the Department of Labor promising to facilitate an information exchange of all types of misclassification on subcontractors/independent contractors with DOL. The MOU was signed to take an

active stance on wage and labor enforcement among private employers and is aimed to identify those employers that are trying to evade state and federal wage and tax laws. For instance, if the Florida Department of Revenue identifies an employer that misclassified workers as subcontractors, the department will share this information with DOL, who will then start its own investigation to determine if that employer has also evaded federal wage and hour laws.

For employers it is imperative to understand that an honest mistake will not shield them from severe penalties imposed by either state or federal agencies. If an employer makes a mistake in misclassifying its workers as subcontractors, they will be heavily fined if a state or federal agency determines that the subcontractor should have been classified as an employee.

To avoid severe penalties, it is important that all employers immediately re-evaluate their relationships with their subcontractors to ensure compliance with

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Member News

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Coastal Construction was given the "National AGC Safety Award" at the AGC National Convention in March for companies with over 500,000 man hours worked in the last year.

Congratulations go to Dave Wessin, Coastal's Vice-President of Safety and the entire Coastal Construction Safety Team.



AGC National Convention
Seattle, WA

Construction will soon begin on the Icon Las Olas, developed by Related Group with **Moss & Associates** as the general contractor.

The 45-story Icon Las Olas will be situated directly on the New River and will be the tallest building in downtown Ft. Lauderdale; comprised of 272 units, two restaurants, a seven-story indoor garage, and an oval swimming pool that echoes the shape of the tower.



Icon Las Olas

Miller Construction Company has completed the Transal Logistics Center in Doral for Gibson Development Partners delivering 218,000 sq ft of high-efficiency industrial space on a fast-track schedule.



Transal Logistics Center

INSIDE:

Annual CASF Clay Shoot Pictures

Focused on Providing Solutions

Each month Construction FOCUS features a CASF member company, selected by drawing a business card from among those attending the monthly networking breakfast. The next breakfast, sponsored by Miller Construction Company, will be held on Thursday, April 16, 7:30 a.m. at the Courtyard by Marriott-Cypress Creek in Ft. Lauderdale.

Titus Construction was founded in 2008 by President and Owner Bill Hassel. Although he came from a general contracting background, Bill found a new opportunity in self-performing framing and drywall. In 2009, Nate Pardue joined the company as both Vice President and



Co-Owner and since then he and Bill have continued to grow a successful business with an outstanding team. Titus Construction Group is a commercial framing, drywall, insulation, acoustical ceiling and EIFS contractor. Their project portfolio includes the 26-story New River Yacht Club in downtown Fort Lauderdale, Royal Caribbean's 130,000 square foot crew training facility

located on the FIU Campus, the luxurious 400 Sunny Isles condo and the reconstruction of the iconic Citrus Bowl located in the heart of downtown Orlando.

A few years after its inception, Titus was able to quickly earn the confidence of their customers allowing them to take on multi-million dollar contracts. In fact, two years ago Titus expanded their operations to Central Florida opening a regional office to service the needs of its new customer base. Now with two locations (Central Florida and South Florida) and over 30 employees, Titus serves the construction industry with the intent to meet or exceed their customers' expectations, deliver projects on time and within budget, while also maintaining a high level of quality and

safety.

Titus Construction was named as one of the top 100 Specialty Contractors in 2013 and 2014 by ENR Southeast. Part of the reason that they have been able to achieve that success is of course their dedication to customer service as well as their penchant to seek out motivated and ambitious employees that are hungry to learn and grow with the company. Titus also constantly seeks ways to improve the way they work, not only by finding opportunities to improve efficiencies, but also through a process of continuous learning. *"Everyone makes mistakes. At Titus, we know it is not the mistake people remember most, but how you respond to it,"* says Bill Hassel. *"We truly believe that every interaction is an opportunity to surprise and delight the customer, and continuously work with our employees and customers to stay focused on providing solutions."*

Being a member of CASF has helped Titus by providing them, not only with a venue to meet and network with general contractors in the region, but also with informative and educational events such as the Technology Conference and the South Florida Condo Market Outlook Forum.

Titus Construction Group's South Florida office is located at 401 East Las Olas Blvd, Suite 1400 in Fort Lauderdale. For more information on Titus and the services that they provide you may visit their website at www.titusbuild.com.

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Construction Focus is the official publication of the Construction Association of South Florida. Article suggestions and submissions for publication consideration should be forwarded to the Executive Vice President.

Over 150 Compete at Annual Clay Shoot

South Florida Shooting Club, Palm City

Friday, March 13



1st Place
MOSS - 366 pts



2nd Place
Sperry Van Ness
356 pts



3rd Place
FL Builder Appliances
334 pts



Best Individual Score
Mike Little, MOSS
95 pts



Member companies, some with multiple teams, that competed are:

BATEMAN, GORDON & SANDS, INC.
C. DAVIS ELECTRIC CO., INC.
CEMEX
COLLINSWORTH, ALTER, LAMBERT, LLC
DECON ENVIRONMENTAL
FLORIDA BUILDER APPLIANCES
GFA INTERNATIONAL
HYPOWER, INC.
JAMES A CUMMINGS, INC.
L&W SUPPLY
LANGAN ENGINEERING & ENVIRONMENTAL
LINDER INDUSTRIAL MACHINES
LINK CONSTRUCTION GROUP
LOTSPEICH CO OF FLORIDA, INC.
MILLER GLASS & GLAZING
MOSS

MWI PUMPS
NIELSON, HOOVER & ASSOC.
PALLO, MARKS, HERNANDEZ, GECHIJIAN, DEMAY
POOLE & KENT COMPANY
PRINCE LAND, INC.
REDLAND COMPANY, INC.
RIGHT WAY PLUMBING COMPANY
SOUTHEAST MECHANICAL CONTRACTORS
SOUTHERN WASTE SYSTEMS LLC
SPERRY VAN NESS COMMERCIAL REALTY
STRUCTURAL ROOF SYSTEMS
SUFFOLK CONSTRUCTION
SUNBELT RENTALS
TARMAC A TITAN AMERICA COMPANY
TRANE FLORIDA
WAYNE AUTOMATIC FIRE SPRINKLERS
WEITZ COMPANY, LLC
WHITE CAP CONSTRUCTION SUPPLY

ROUTE TO:

Misclassification of Subcontractors

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state and federal laws. Employers should pay keen attention to the following factors that are among those used by the DOL when it undertakes an investigation of potential misclassification: (1) does the employer direct the subcontractor's work; (2) does the employer provide tools to the subcontractor; (3) is the subcontractor paid by the hour; (4) does the employer control the subcontractor's day-to-day activities at the job site; (5) does the employer reimburse the subcontractor's business expenses; and (6) does the employer pay the subcontractor on a W-2 basis. State and federal agencies will also look to how frequently the subcontractor worked for the employer. Usually, the

longer the relationship between the employer and the subcontractor, the more this relationship is akin to an employer-employee relationship.

It is important to understand that a worker is not a subcontractor simply because the parties agree to such classification. The question whether a worker is a subcontractor is based on numerous factors, including the nature of the relationship, the permanency of the relationship, and the degree of control retained by the employer. Employers should specifically define how much control they retain over subcontractors.

The aim for 2015 for every company that has subcontractors in the State of Florida must be to ensure

that their workers are not misclassified as subcontractors; and when evaluating relationships with subcontractors, employers should look to the degree of control they have over their subcontractors.

Lydia Harley, Esq., attorney at the law firm of Kelley Kronenberg in Fort Lauderdale practices in the areas of Employment Law and General Liability. She earned a Master of Business Administration (M.B.A.) from Florida Atlantic University and her Juris Doctor (J.D.) from Nova Southeastern University. She can be reached at lharley@kelleykronenberg.com or by calling 954-370-9970.