

# THE FLOW

DECEMBER 2024

## Upcoming Events



**Jan. 16th**  
**Officer Installation &  
Annual Meeting**  
**6:00 pm**



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## 2023 OFFICERS & BOARD OF DIRECTORS

### EXECUTIVE COMMITTEE

#### **President**

Caleb Hurlbert, A.J. Johns, Inc.

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#### **Vice President II**

Mike Kivlin, John Woody, Inc.

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Marty Adams, TB Landmark

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Tony Zebouni, Lindell, Farson & Zebouni

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Rick Parker, Rinker Materials

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Dean Vanzant, A. J. Johns, Inc.

Barry Watson, Fortiline Waterworks

Chris Wilson, Martin Marietta Materials

Jon Woodall, John Woody, Inc.

### PRESIDENT'S MESSAGE

Dear Friends and NUCA members,

It's the most wonderful time of the year! Wishing all of you and your families a Merry Christmas. I'd like to sincerely thank everyone and all members for your unwavering support this year. Like we've said many times the association would not be where it is without all of you.

November was election month, and your support had an impact. NUCA endorsed 88 candidates in total and 87 of the candidates we wanted elected were successful in the races. We hope this sets us up for a fruitful 2025. Not only did you have an impact in the elections but we had one of our best Top Golf events to date raising \$14,600.00 for Seamark Ranch. Your gracious donations will make many children and young adults under Seamarks care feel special this holiday season.

November also hosted our 13<sup>th</sup> annual sporting clay challenge, congratulations to our top placing teams and top shooters. Thank you, Mr. Lou, for hosting our "Intro to Finance & Investment Class". I hope that all who attended learned valuable information on how to prepare for the future.

As I am concluding my term, I would like to thank everyone for their support, the executive committee and board of directors for your input and encouragement. We accomplished a lot in this year's elections and look forward to what next year will bring.

Please join us January 16<sup>th</sup> for our installation of officers at Maggiano's for 2025 as we welcome the new year and our new Executive Director, with your steadfast support it will be another good year.

Lastly let us all thank Mrs. Kathy Blackman for her 21 years of service as NUCA of North Florida Executive Director. Mrs. Kathy has been a rock for our foundation for many years and diligently performed for all of us and our industry. Thank you, Mrs. Kathy!

Merry Christmas,

*Caleb*

Caleb Hurlbert

Project Manager, A.J. Johns, Inc.

O: (904)-641-2055 X 119

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Ring Power Corp.  
Synergy Equipment

## Silver Sponsors

Gate Fuel Service, Inc.  
John Woody, Inc.  
Mark Bryan, P.A.  
Petticoat-Schmitt Civil Contractors  
Rinker Materials

# CALENDAR OF EVENTS

## Upcoming Events

Dec. 10th  
Executive Committee  
Seasons 52

Jan. 14th  
Executive Committee  
3:30 pm

Jan. 16th  
Officer Installation &  
Annual Meeting  
Maggiano's  
6:00 pm

Jan. 25th & 26th  
NUCA National Safety &  
Damage Prevention  
Conference  
San Antonio, TX

Feb. 28th.  
Jacksonville Icemen

# The Law and Your Business

## *The Law and Your Business – Warranties, Arbitration or Litigation* *Tony Zebouni, Lindell, Farson & Zebouni, P.A.*

Does your business provide limited warranties for your work? Have you purchased a house with a limited warranty or from a homeowner that had the house built? This is the summary of a most recent local case where there was a dispute as to whether the Osborne's who purchased a house from the original homeowner could sue the developer/home builder for defects.

In December 2012, Drees deeded a built home to the original buyers via a warranty deed. The sale agreement explained that Drees would warrant the Home in accordance with its limited warranty and guide to new home booklet. The Drees PSA contained an arbitration agreement. In 2016 the Osbornes purchased the Home from the original buyers. As part of the purchase, the Osbornes entered into a purchase and sale agreement with the original buyers that included all transferable warranties.

There were defects found in the house. The Osbornes' alleged four claims: a statutory claim regarding building codes and stucco and three negligence claims citing issues with stucco, paint, and windows respectively. None of these claims alleged that any major structural components or load bearing functions had been affected, and the identified elements are otherwise excluded from the Limited Warranty's ten-year structural coverage. Furthermore, the one-year coverage provisions for stucco, paint, and windows expired prior to the Osbornes acquiring title to the property.

The Limited Warranty contained a separate arbitration agreement. It provided in relevant part:

**IF HOMEOWNER COMPLAINS OF ANY MATTER REGARDING A DEFECT, PROBLEM OR DIFFICULTY OF ANY KIND RELATING TO THE HOME WITHIN THE COVERAGE OF THIS LIMITED WARRANTY, THEN ALL SUCH DISPUTES SHALL BE RESOLVED BY DISPUTE RESOLUTION PURSUANT TO THE ARBITRATION OF DISPUTES PROVISION CONTAINED IN THE DREES PURCHASE AND SALE AGREEMENT.**

The Limited Warranty was broken down into one-year and two-year coverage provisions and a ten-year structural coverage provision. The ten-year structural coverage only applied to major structural defects. For an issue to qualify as a major structural defect with conditions. Stucco, paint, and windows were all mentioned as being covered under the one-year coverage provision.

To determine whether a dispute must be submitted to arbitration, the scope of the arbitration provision governs. The Limited Warranty by its terms was transferable "to all subsequent homeowners who acquire title within the warranty periods specified.". Because the Osbornes purchased the Home four years after the original buyers, they were only assigned the ten-year structural coverage of the Limited Warranty, which was the sole remaining warranty.

Under the Limited Warranty's arbitration agreement, the parties agreed to arbitrate "any matter regarding a defect, problem or difficulty of any kind relating to the home within the coverage of this Limited Warranty. Only claims within the coverage provisions of the Limited Warranty would be subject to arbitration. However, no coverage provision is at issue here.

The claims were either excluded by the Limited Warranty or outside the one-year period of coverage. Further, none of the claims constituted a "Major Structural Defect" as defined by the Warranty. Based on the Warranty provisions, the claims are outside the scope of the Warranty's arbitration clause.

Because the Osbornes' claims are not within the scope of the Limited Warranty's arbitration provision and the Osbornes have not otherwise agreed to arbitrate their claims, this case would have to be tried in court.

*WILLIAM J. OSBORNE and AMANDA L. OSBORNE, Appellants, v. DREES HOMES OF FLORIDA, INC.,*

## **2024 CLAY SHOOT ANOTHER BIG SUCCESS!**

We started our clay shoot bright and early with registration opening at 7:30 am. We continued our streak of beautiful days for this event.. Both morning and afternoon teams enjoyed spending time together over lunch. Morning Teams awards were presented prior to the afternoon teams heading out. See morning team results on page 6 and afternoon team results on page 11. Photos are on pages 12 & 13.

The afternoon group had to contend with a bit more of a breeze but that did not seem to impact their scores as J.B. Coxwell the first place team from the afternoon shoot also ended up as the top overall team for the day with a score of 374. This was the second year in a row for J.B. Coxwell taking the top honors.

Thank you to everyone who purchased raffle tickets. Congratulations to the big winner Steve Fuller who won the \$1,000 cash prize.

Our shoot has gotten extremely popular. This year we were sold out in two days. We thank all of our sponsors. Please be sure to see the list on page 9. We appreciate everyone who came out to shoot. Most importantly, thank you to our awesome registration helpers the day of the shoot, Molly Berry, ATS, Valinda Krynicki, United Rentals Trench Safety, Rick Parker, Rinker Materials, Ashton Milam, United Rentals Fluid Solutions and Ashton Thigpen, TB Landmark. A shout out to Marty Adams Chairman of the Clay Shoot and members of the Clay Shoot committee for their help in planning the event and helping recruit sponsors.

We are always looking for feedback for things that you liked or ways to improve this event. Please let Marty or Kathy know if you have any suggestions or if you would like to serve on the committee.

We have already booked our event for next year. Mark your calendars for election day, Tuesday, November 4, 2025.

**2024 CLAY SHOOT MORNING RESULTS**



**1st Place Team:  
Nextran  
Score: 358**



**2nd Place Team:  
Atlantic Pipe Services  
Score: 336**



**3rd Place Team:  
Case Power & Equipment  
Score: 334**



**Top Shooter:  
Jimmy Murphy, Ring Power  
Score: 98  
Top Shooter Runner-up  
Jason Johns, Cemex  
Score: 97**



### **Congress Returns For Lame Duck Session, Leadership Contests**

Congress returned to work on Nov. 12, seeking in the lame-duck session a final answer to the FY2025 continuing resolution legislation that expires Dec. 20. Congress will be in session until that date, taking off a week during Thanksgiving.

As a result of the November election, discussions have begun to extend the FY2025 resolution to a date in March or September 2025 to give the new GOP Congress time to imprint its own priorities on the federal budget. However, with Senate Democrats set to lose control of the chamber, conversations continue today as to whether they will demand full annual funding legislation or seek concessions in exchange for a continuing resolution.

NUCA remains committed to securing sustainable levels of water and other utility infrastructure funding for FY2025, and is confident this industry will prevail in the negotiations ahead to determine the size of the final bill.

### **PHMSA Announces \$196 Million In Pipeline Grants**

The USDOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) announced on Oct. 22 \$196 million in grants to repair and replace ageing natural gas pipes and pipelines.

These resources are part of the NUCA-supported 2021 infrastructure law and are funded through the Natural Gas Distribution Infrastructure Safety and Modernization grant program. The list of awardees includes first-time recipients in Alaska, Montana, Arizona, California, Georgia, Louisiana, Mississippi, Nebraska, New Mexico, North Carolina, Ohio, South Carolina, Tennessee, and Texas. Pennsylvania and Virginia projects are also included. In total, this round of funding will support 60 modernization projects for natural gas pipelines across 20 states. Under this program, nearly \$800 million for 227 projects have been funded since 2022.

### **Save The Date: NUCA Safety Damage Prevention Conference, Jan. 23-24, 2025**

NUCA's annual Safety Damage Prevention Conference (SDPC) offers the unique opportunity for NUCA members involved in safety and damage prevention to hear from experts on a wide variety of topics that impact the industry, and network with others from across the country. This conference also provides an opportunity to address and strategize how members can better navigate complex damage prevention issues. If you're an industry safety professional, mark your calendars for January 23-24, 2025, and plan to attend the SDPC held at the Westin Riverwalk San Antonio, in San Antonio, Texas. Conference registration will open in September.

### **2025 NUCA Annual Meeting & Exhibit: Hotel Room Block & Early Bird Registration**

Fall turns into winter, and winter turns into NUCA's annual membership event! Join us March 18-21, 2025, in sunny Orlando, Florida at the Hyatt Regency Grand Cypress Resort & Spa for the 2025 Annual Meeting & Exhibit! Member contractors & suppliers are invited to join us for the industry's best networking events, new educational sessions, industry awards, and much more. We are honored to announce that Jason Redman, a retired Navy SEAL and inspirational speaker, will be our keynote speaker. Jason's incredible journey is marked by resilience and leadership and his story will motivate and inspire us all. A very special thank you to Gold National Partner Core & Main, our keynote speaker sponsor!

# SAFETY NEWS

By Jeff Blomgren  
Chair, NUCA Safety Director's Forum

## Holiday Hints

Holidays are meant to be filled with fun and family and with activities of the season for all of us, however, there are some safety reminders that can help us enjoy the holiday season and perhaps eliminate some potential hazards. Here are some ideas for have a safe and happy holiday.

### **Decorating Tips**

Check all holiday light cords. Don't string too many together. A good rule of thumb is no more than three strands per extension cord. If you are buying an artificial tree, look for a fire-retardant label. If it's a live tree, make sure its fresh and water it frequently. You can check for freshness by bending the needles up and down and if they fall of the tree is not fresh. When decorating outside be sure the decorations are for outside use. If you are using a ladder, make sure it's placed properly, and use slip resistant shoes. Do not use electric lights on metallic trees. Turn off all lights before going to bed. or leaving the house.

### **Food Safety Tips**

Wash your hands frequently. Rinse vegetables before cooking or preparing raw. Avoid cross contamination by keeping meats and seafoods separate. Cook food thoroughly to make sure internal temperatures are adequate to kill germs. Keep food out of the danger zones. Germs grow rapidly in the danger zone between 40 degrees F and 140 degrees F. Refrigerate or freeze perishable foods within two hours. Thaw your turkey safely in the refrigerator or in a sink of cold water changing the water every 30 minutes.

### **Theft**

There are opportunists that would like to deprive you of what you have worked so hard for. Lock you house up when you leave. Use timers on lights to give an illusion of someone home. Do not leave valuables where they can be seen to someone looking into windows. Putting empty electronic boxes and containers out too soon tells thieves what you got for Christmas. Put packaging out the night before pickup. When shopping, park in well lighted areas. Close your car windows and lock your car. Avoid carrying large amounts of cash. Women, keep your purses close to your body and put your wallet in an inside pocket or pants pocket. Watch for deliveries that are scheduled to be dropped off. If you must leave when a package is to be delivered, ask a neighbor to pick it up for you.

We all look forward to the holidays. We grew up anticipating the joy that holidays bring. Be safe and enjoy a very Merry Christmas.





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**Gate Fuel Service, Inc.**

**Sunstate Equipment Co. LLC**

**John Woody, Inc.**

**United Rentals Fluid Solutions**

**National Trench Safety**

**United Rentals Trench Safety**

**Nextran**

# *Commercial Insurance Insights*

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## **Understanding Incurred Loss Retro Plans vs. Guaranteed Cost Plans**

*ℋ*

For utility contractors, the choice between an incurred loss retro plan and a guaranteed cost plan for workers' compensation coverage can have long-lasting financial implications. With a guaranteed cost plan, your premiums are fixed, regardless of the number of claims. This offers predictability but may result in higher costs if your claims history is favorable.

*ℋ*

An incurred loss retro plan, on the other hand, allows for more flexibility. Your premiums are adjusted based on actual losses during the policy period, meaning you could see significant savings if you have fewer claims. However, this also introduces more financial risk, as higher claims could lead to higher premiums.

*ℋ*

For contractors with strong safety programs and a history of low claims, an incurred loss retro plan could provide a financial advantage. But it requires diligent claims management and a thorough understanding of the potential risks and rewards.

**2024 CLAY SHOOT AFTERNOON RESULTS**



**1st Place Team:  
J.B. Coxwell  
Score: 374  
Overall Winner**



**2nd Place Team:  
Petticoat Schmitt  
Score: 363**



**3rd Place Team:  
TB Landmark  
Score: 351**

**Raffle Winner:**

**Steve Fuller, Linder Industrial Machinery**



**Top Shooter:  
Blake Nugent, J.B. Coxwell  
Score: 94  
Top Shooter Runner-up  
Mike Spence, J.B. Coxwell  
Score: 93**



# MORNING SHOOT PHOTOS



# AFTERNOON SHOOT PHOTOS



**NUCA of North Florida**  
**2025 OFFICERS & BOARD OF DIRECTORS**

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**Past President**

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Drew Lane, Advanced Drainage Systems

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### **2025 MEMBERSHIP DUES INVOICES**

**Your company should receive your invoice for your 2025 NUCA of North Florida Membership Dues either by email or via USPS in early December. Payment is due January 31st. If you don't receive an invoice, please email me at [nucanf@gmail.com](mailto:nucanf@gmail.com).**





Register Today



# NUCA

2025 National Convention  
Orlando, FL

March 18-21, 2025 | Hyatt Regency Grand Cypress

## Where Contractors Meet!

NUCA's annual member extravaganza is your gateway to unlocking new business opportunities, expanding your professional network, and gaining cutting-edge industry insights.

Our 2025 National Convention is built to be the utility contractor's best-in-class business and networking experience. Stay ahead of the curve with sessions and meetings featuring industry experts who'll share the latest products, trends, technologies, and regulatory updates. Our popular industry social events return, and we'll cheer on the winner of the first-ever National Equipment Operator Championship!

Enjoy the perfect blend of business and pleasure at the Hyatt Regency Grand Cypress. With its world-class amenities and proximity to Orlando's top family attractions, this venue offers a unique experience for both you and your guests.

Register today and join us in Orlando in March 2025 to imagine the possibilities ahead for your construction business.



### Join Us For NUCA's Premier Event!

- National Partner Networking Events
- Inaugural National Equipment Operator Championship
- Silent Auction & Raffle
- Member & Chapter Excellence Awards
- Industry Committee Meetings
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- Inspiring Speakers, Social and Team Events, And So Much More!



### 2025 Keynote Speaker

**JASON REDMAN**

(Retired) Navy SEAL

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Registration is now open!  
For more information visit

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**#NUCA2025**

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