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THE COMMENTARY

July 2015 Edition

A Newsletter of the Society For Design Administration

President's Corner

By Penny Nelson, CDFA, President

Has half a year gone by already? Wow, that was quick! It's been a busy quarter for SDA/OC. Aside from our usual lunch seminars, we hosted "A Walk in the Park" at Pavilion Park in Irvine, with ValleyCrest Design Group landscape designer Brett Park. Brett walked us through the park, pointing out points of interest and the design philosophies behind various features. In early May, we held what we hope is an annual **A/E/C Networking Mixer and Recognition** event at the Gensler office in Irvine. Both events were well attended, and quite fun for all participants. Look for pictures of the events in this newsletter.



We have had outstanding speakers so far this year. If you are not regularly attending the lunch seminars, you are missing out on some of the best educational opportunities our chapter provides. Our speakers are experts in their respective fields, and they have so generously shared their time and expertise with us. Here's just a sampling of what we've learned:

CONTRACT CONCERNS: Attorneys David Barker and James Jarden from Collins Collins Muir + Stewart LLP cautioned us on the *Top 5 Contract Concerns for A/E/C Firms*, and how to mitigate potential issues. The top five included: 1) Indemnity clauses - get rid of them if possible, or make them mutual; 2) Consequential Damages - obtain a waiver, make it mutual, or include a limitation of liability; 3) Standard of Care - watch out for hyperbole such as "we're the best!"; 4) Ownership of Documents - don't concede it! Negotiate ownership, or make it mutual; and 5) Additional Services - Tighten your scope, watch your invoicing, and identify why the services weren't included in your original scope.

INTERNET SAFETY: Is your password protecting your valuable information? Do you know the best format to use for the strongest password

(Continued on Page 3)

Upcoming Events

July 2015

July 16 Luncheon Meeting 11:30 am
Farewell to Death By PowerPoint
presented by Rick Altman with
BetterPresenting.com
Lutron Event Center, Irvine

August 2015

August 6 Business Meeting 5:30 pm
Meeting will be held at ValleyCrest
Design Group hosted by Cheryl
Mathes

August 20 Luncheon Meeting 11:30 am
Record Retention presented by
Robin Fortier of Corodata
Lutron Event Center, Irvine

September 2015

September 3 Business Meeting 5:30 pm
Meeting will be held at Douglas
Pancake Architects hosted by
Penny Nelson

September 24 Luncheon Meeting 11:30 am
The Importance of Copywriting
Your Drawings and How To
presented by David Barker,
attorney with Collins Collins
Muir + Stewart LLP
Lutron Event Center, Irvine

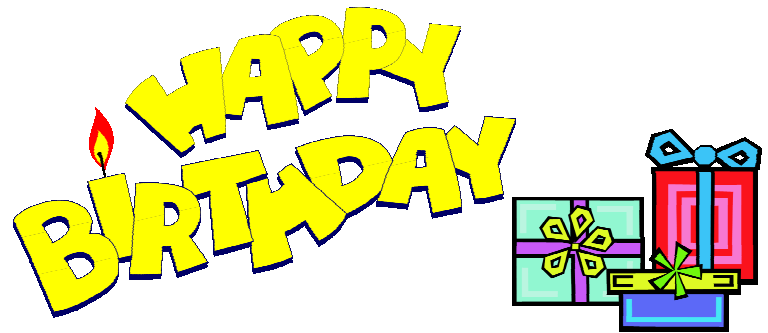
Looking Ahead

Oct. 8-10 EdSymposium15
Golden, Colorado
Look for more information
available soon on the SDA
national web site at
www.sdanational.org.

**Dec. 6 Annual Holiday Brunch,
Installation of 2016 Officers, and
Ornament Exchange**
Location to be announced.

Job Board

Did you know that SDA maintains a Job Board? This includes persons looking for work as well as firms looking for qualified personnel in the A/E industry. Most of the positions are for administrative staff, as AIA maintains its own job board for licensed architects. If your firm is looking for a person with certain qualifications or if you know someone who is looking for a position in an A/E firm, please contact Betsy Nickless by e-mail at betsyn@msa-arch.com.



July 2
July 2
July 28

Penny Nelson
Alicia Igram
Thomas Cannon

September 2
September 29

Aimee Mandala
Nancy Burt

SDA Member Anniversaries

Penny Nelson

July 9

4 years

President's Corner (Continued)

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protection? Chad Gniffke from BriteCity, a local IT consulting firm, showed us how a password made up of four random common words can foil the best hacker. He used an example of “correcthorsebatterystaple” – easy to remember, but difficult for hackers to guess. Believe it or not, this easy-to-use password style is better than the combination of letters, numbers, and symbols you’ve been struggling to remember.

NEW CALIFORNIA SICK LEAVE LAWS: Did you know that California has new sick leave laws taking effect on July 1, 2015? Erick Becker, a local employment law attorney, briefed us on these new laws (AB 1522) and the potential pitfalls employers face in complying with them. This new law mandates that all employers offer paid sick leave for every employee, at the rate of one hour for each 30 hours worked. There are no exclusions from eligibility, with this law covering all part-time, exempt, non-exempt, temporary, and even seasonal workers. The only eligibility requirement is that the employee must have worked in California for 30 calendar days within the year of hire. For further information about this new law, visit the State of California, Department of Industrial Relations website for FAQs you should know: [http://www.dir.ca.gov/dlse/Paid Sick Leave.htm](http://www.dir.ca.gov/dlse/Paid%20Sick%20Leave.htm).

PROJECT DOCUMENTATION: Mike Murtaugh spoke to us about the importance of documenting the “what & why” of actions as a project progresses from concept through construction. Well-documented actions, meetings, observation reports, RFI responses, and even hand-written notes made during meetings or phone calls are valuable evidence should a lawsuit ever arise from a project. Your documentation, created contemporaneously as the project moves along, provides credible and valuable testimony for your side of the lawsuit.

EDCONNECT15: Our May seminar included several recaps of the EDConnect15 sessions. Although not a substitute for attending the actual webinars, attendees were given brief highlights from the sessions ranging from PowerPoint tips, financial management, onboarding, RFQ/RFP responses and tips for completing the professional liability application each year. “Round-table” questions and answers added even more insights to this month’s luncheon.

There was much, much more presented on these topics. Again, if you’re not attending our monthly seminars, you are missing out! Watch our website for upcoming seminars.

Mission Statement:

The SDA advances management and administrative professionals in the A/E/C industry through education, networking, and resources.

2014 Member of the Year

By Penny Nelson, CDFA

Every year in December we recognize one member who has gone above and beyond in serving our chapter. This is an especially difficult decision, as so many of our members give so much of their time and talents to make this organization so amazing. But as I thought it over, one person kept coming to mind:

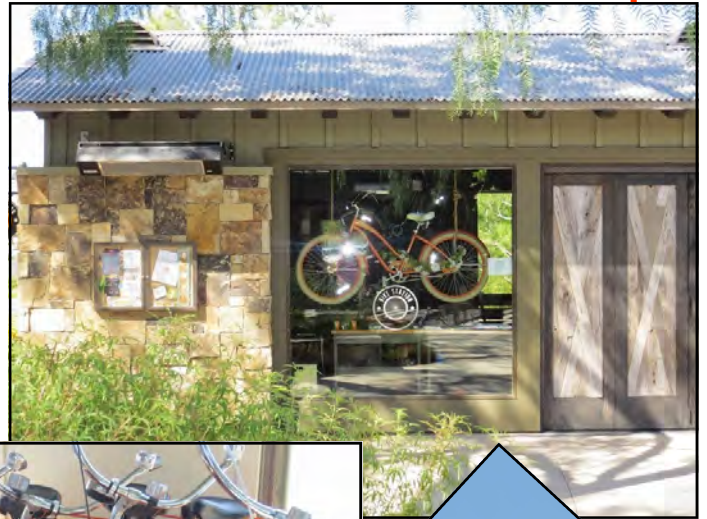
- She's been in the industry for a long time, so she's a wonderful resource for other members.
- She stepped up to the board this year when there was a position to be filled.
- She is always one of the first to volunteer whenever some task needs to be done, and then follows through with it.
- She tracked down our bylaws this year, and helped to get those signed off at National .
- She updated our potential contact lists of the top Architectural and Engineering firms in Orange County.
- She jumped in to order our breakfast for Principal Appreciation when the board member who usually orders it was sick.
- She has kept incredible minutes for us this year, and starting a tracking system for our various board decisions so we're not scrambling at year-end to inform the members of our actions.
- Last, but certainly not least, she always gets us laughing at our business meetings and is just a joy to be around.



That person is Dee Dee Jackson, our chapter Recording Secretary. Dee Dee is also the recipient of the SDA National 'Star Award.' The purpose of this award is to recognize the service and dedication of an individual to SDA. It is given for significant contributions to the membership of a Chapter or the entire Society through participation in and support of its meeting and publications, fundraising, recruitment, or other significant activities. The intent of this award is to recognize individual contributions.

Join me in congratulating Dee Dee on these well-deserved honors!

Pavilion Park Tour



More Pavilion Park Photos



Construction Defect Litigation

Contributed by Betsy Nickless

In *Beacon Residential Community Assn v. Skidmore, Owings & Merrill LLP* (2014) 59 Cal.4th 568, the California Supreme Court issued a broad ruling creating potentially extensive liability for architects who are the principal designers of residential projects. The Court held that such design professionals owe a duty of care to purchasers and can be liable for negligence even when they do not build the project and do not exercise control over construction decisions.

Beacon Residential Community Homeowners Association sued two architectural firms, Skidmore, Owings & Merrill LLP and HKS, Inc., over alleged construction design defects. The Homeowners Association claimed that the architects violated building codes by approving substandard windows and a building design that lacked proper ventilation, subjecting the units to periods of unsafe temperatures. While acknowledging that the developer made the final decisions on the architects' recommendations and that contractors had control over the construction process, the Court concluded that design professionals could be directly liable to future homebuyers, because it was foreseeable that purchasers would suffer injury as a result of an architect's negligent design. The Court noted that the developer relied upon the architects' specialized training and professional judgment and that the architects applied their expertise throughout the construction of the project, conducting inspections, monitoring contractors' compliance with plans, and altering design requirements as issues arose.

In so holding, the Supreme Court narrowed and limited the Court of Appeal decision in *Weseloh Family Ltd. Partnership v. K.L. Wessel Construction Co., Inc.*, (2004) 125 Cal.App.4th 152, a case regularly relied upon by design professionals in support of their argument that they do not owe a duty of care to homeowners because they lack contractual privity with plaintiffs. The Court distinguished *Weseloh* on the grounds that the defendant design professional's limited role in that case was so minor and subordinate to another professional in the same discipline as to foreclose liability to third parties.

Following *Beacon Residential*, it is important to distinguish between principal and subordinate design professionals in assessing potential liability. A design professional owes a duty of care to homeowners when he or she is the *principal* design professional on the project. On the other hand, subordinate design professionals such as, for example, consulting engineers, do not owe a similar duty of care to third parties.

Under the Court's analysis in *Beacon Residential*, design professionals, like subcontractors, are on the hook for construction defect claims, and it will be more difficult for principal design professionals to extricate themselves from lawsuits at the demurrer/pleading stage or via summary judgment motions. *Beacon Residential* solidifies the rights of property owners to bring claims directly against design professionals for construction deficiencies. Additionally, in those circumstances where the design professional's indemnity obligations are not controlled by contract, the decision supports the right of builders and developers to bring claims for equitable indemnity against design professionals.

The author: *Allison Martin is a partner in the Newport Beach office of Newmeyer & Dillon, LLP, focusing her practice on construction defect litigation. She has extensive experience representing developers throughout the State of California in matters involving construction deficiencies in residential communities. Allison can be reached at Allison.martin@ndlf.com.*

Five Ways to Make Your Employees Love You

Contributed by Betsy Nickless

As the U.S. job market springs back to life, small businesses may have a hard time holding on to their best and brightest employees. Those employees may start getting job offers elsewhere or, worse, start actively seeking out new employment opportunities.

How can you keep your star employees happy and situated, when there may be temptations to leave?

1. Understand what they want—and don't assume it's more money.

Some employers may assume their best employees want higher pay—and yes, that's certainly a reason some leave. But don't assume that is everyone's reason. A 2013 study by Accenture found the top reasons people leave their jobs include: having responsibilities that don't match their job description or pay level, uninteresting work, long and inflexible hours, and not feeling valued by their supervisor. Pay is just a piece of the puzzle.

2. Conduct "Stay Interviews."

You need to know what makes your employees tick, and everyone is different. So, ask them. "Stay interviews"—occasional one-on-one meetings with key employees to understand their professional goals and needs—are a good way to ensure your employees aren't secretly sending out their resumes.

You need to ask the right questions, though, writes John Sullivan on recruiter network Ere.net. You want to find out what your employees like (and love) about their job, but you also want to uncover what they dislike (or hate) about it. He suggests keeping stay interviews under one hour and asking questions like:

- What attributes do you like most and least about your current job?
- If you could redesign your current job into your dream job, how would you redesign it?
- What could your manager and colleagues do differently to make your job more fulfilling?

3. Offer competitive benefits.

Small businesses benefits packages may not be able to compete with all of the traditional benefits offered by large corporations, but small businesses have the advantage of being able to offer their employees extra, more-personalized perks. These might include a four-week paid sabbatical every five years of employment, flexible scheduling, employee incentive trips, or free snacks in the break room.

4. Lead by example—and show gratitude.

If you want your employees to respect you and love their job, you need to show them respect and appreciation first. "It's cheap and easy to say thank you to an employee, whether they're bringing a bit of workplace drama to your attention or solving a long-standing problem within the company," writes

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James Parsons, chief marketing officer of AudienceBloom, on Entrepreneur.com. “A verbal thanks, a kind note or an appreciative email can go a long way.”

Make sure you’ve built a culture of respect, where employees feel appreciated and collegial. The opposite can make employees miserable and only send them fleeing.

5. Give your employees advancement opportunities.

Small businesses sometimes lose valuable talent because their employees don’t feel like they have the professional growth opportunities they would have at much larger firms. Small business owners must think about how to create such opportunities for their best employees. That could mean creating new roles or promotional opportunities for them—and letting them know they will have the opportunity to move into those better positions.

The goal of all these steps—regardless of which you take—is to make your key employees’ jobs so perfect that they would find it very hard to walk away.

Source: The Hartford newsletter, May 2015.

A/E/C Industry Networking Mixer—May 7



Natalie Newman was recognized as SDA's incoming national president.

More Industry Networking Mixer Photos



Internet Initialisms

Contributed by Penny Nelson

Although I've adopted a few initialisms such as BTW, LOL, and IMHO in my own informal writing, I'm mostly ignorant of the alphabet soup current on Twitter and other social media sites. When a reader recently introduced me to the combination DRTL, I realized that this new language represents not just a kind of shorthand, but also a new philosophy of written language. This particular construct, DRTL, seems to me to symbolize the new philosophy: DRTL = Didn't Read, Too Long.

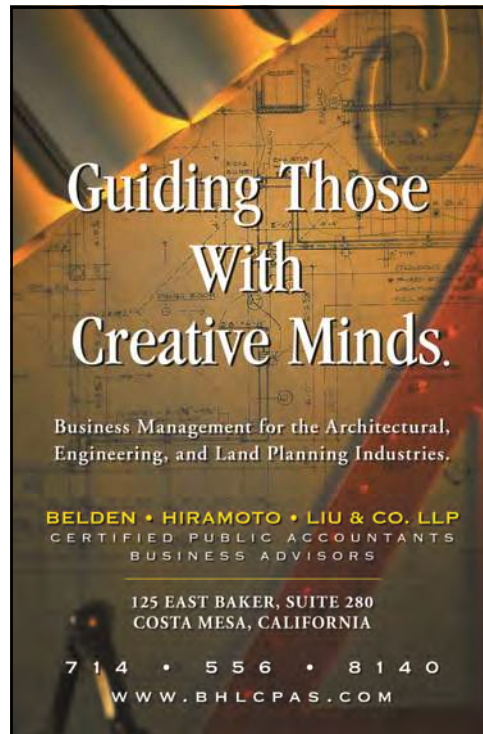
Strings of commonly understood letter combinations such as FYI (For your information), TGIF (Thank God it's Friday), and ASAP (As soon as possible) pre-date the Internet, of course, but they never occurred in the profusion that exists now. Readers who share my lack of currency in Abbreviation-Speak may find the following list useful.

AFAIK: As far as I know	IMHO: In my humble opinion
AIUI: As I understand it	IMO: In my opinion
BTDT: Been there, Done that	IRL: In real life
BTW: By the way	ISTM: It seems to me
F2F: Face to face	JK (also J/K) Just kidding
FOAF: Friend of a friend	LOL: Laughing out loud
FWIW: For What it's worth	OMG: Oh, My God
GAL: Get a life	OTOH: On the other hand
GIGO: Garbage In, Garbage Out	OTT: Over the top
HTH: Hope that helps	STW: Search the Web
IANAL: I am not a lawyer	TIL: Today I learned
ICYMI: In case you missed it	TMI Too much information
IIRC: If I recall correctly	TTYL: Talk to you later
	WYSIWYG: What you see is what you get

Of course this list is a mere scratching of the surface. And I've deliberately left out the ones that contain a gratuitous F. Nevertheless, even a short list may help a few codgers navigate Twitter with a little more comprehension. HTH.

Source: *Daily Writing Tips* posted on Google.

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Orange County

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And thanks to our fabulous proofreader and
photographer,
Betsy Nickless!

The Commentary

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