



# THE READY-MIXER



Virginia Ready-Mixed Concrete Association Newsletter

May 2009

## VRMCA 2009 Spring Convention “Means Business”



VRMCA members and spouses have completed another very pleasant two-day stay at The Homestead in Hot Springs. The theme of the Spring Convention was “We Mean Business” with all of the sessions set up to provide very useful information to help our members now, in today’s economy.

“We received many positive comments about all of the speakers and sessions, especially the session by John Kruchko about the Employee Free Choice Act,” said Amy Shaw, Director, Meeting and Convention Services for VRMCA. “And, it was a real treat that Republican Gubernatorial candidate Robert (Bob) McDonnell was available and able to speak to our group at the welcome reception, which kicked off the Spring Convention, on Sunday evening.”

*(continued on page 7)*

## PCA Expects Stimulus To Boost Concrete Consumption in 2010

Although all market segments and all regions are expected to record significant declines in cement consumption during 2009, stimulus program-related spending and a stabilizing economy in 2010 will lead to stronger gains, according to the most recent economic forecast from Portland Cement Association (PCA).

PCA expects cement consumption to decline 17 percent during 2009 to 77 million metric tons. Viewed in context of 10 percent and 15 percent declines in 2007 and 2008, respectively, this reflects a peak to trough drop in volume of nearly 45 million metric tons—the worst in U.S. history. However, the weakness is expected to be concentrated during the first half of 2009, and by 2010 with a stabilizing economy and job creation, consumption will grow seven percent to

a level of 83 million metric tons.

“Weakness in near-term cement consumption will largely stem from declines in the private sector in residential and non-residential construction,” Edward Sullivan, PCA chief economist said. “By the second half of 2010, stimulus spending should enter a phase that includes more traditional infrastructure projects that carry higher cement intensities.”

In addition, Sullivan expects housing starts to stabilize in the second half of 2010, although nonresidential construction, which will drop more than 27 percent in 2009, will continue to decline in 2010.

According to PCA, the potential for a large volume increase in cement consumption for 2011 could be amplified by enactment of a new surface transportation law. The current law expires

September 30, 2009.

With the Obama Administration’s commitment to infrastructure improvement as well as the likelihood that unemployment will be at extremely high levels at the time of the legislation’s negotiation, a large increase in infrastructure spending is expected to be incorporated. This could contribute to cement consumption reaching 97 million metric tons by the end of 2011.

“Unemployment is expected to peak during the first quarter of 2010 to levels in excess of 10 percent. This will lead to public sentiment for additional stimulus and more traditional, job-generating infrastructure spending. This suggests a significant increase in funding for the next transportation bill, possibly 40 percent,” Sullivan said. ❖

**Virginia Ready-Mixed Concrete Association**  
600 Peter Jefferson Parkway, Suite 300  
Charlottesville, VA 22911

Phone: 434-977-3716 Fax: 434-979-2439  
E-mail: [easter@easterassociates.com](mailto:easter@easterassociates.com)  
<http://www.vrmca.com>

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## 2009 VRMCA ADVISORY COUNCIL REGIONALS

**Larry Bullock**  
VRMCA Advisory Council Chairman  
Boxley  
Roanoke, VA  
Phone: 540-777-7600  
lbullock@boxley.com

### BLUE RIDGE

**Buddy Murtaugh Jr.**  
Chairman  
Rockingham Redi-Mix  
Harrisonburg, VA  
Phone: 540-433-9128  
buddy.murtaugh@conmatgroup.com

**Allison Carrigan**  
Secretary/Treasurer  
Lafarge North America  
Baltimore, MD  
Phone: 804-201-1015  
allison.carrigan@lafarge-na.com

### HAMPTON ROADS

**Bill Denison**  
Chairman  
Titan Virginia Ready-Mix  
Norfolk, VA  
Phone: 757-533-7164  
wdenison@titanamerica.com

**Lee Flemming**  
Secretary/Treasurer  
Lafarge North America  
Chesapeake, VA  
Phone: 757-647-9409  
lee.flemming@lafarge-na.com

### NORTHERN VIRGINIA

**Kevin Terry**  
Chairman  
Virginia Concrete Company  
Springfield, VA  
Phone: 703-354-7100  
terryk@vmcmail.com

**Sean Murnane**  
Secretary/Treasurer  
Grace  
Spotsylvania, VA  
Phone: 540-273-7607  
sean.murnane@grace.com

### RICHMOND/CENTRAL VIRGINIA

**Wayne Bracey**  
Chairman  
Ready Mixed Concrete Co.  
Richmond, VA  
Phone: 804-355-7851  
Wayne.Bracey@rmcc.com

**Allison Carrigan**  
Secretary/Treasurer  
Lafarge North America  
Baltimore, MD  
Phone: 804-201-1015  
allison.carrigan@lafarge-na.com

### SOUTHWEST

**Frank Caldwell**  
Chair  
Chandler Concrete of Virginia, Inc.  
Roanoke, VA  
Phone: 540-345-3846  
frank.caldwell@chandlerconcrete.com

**George Kuhn**  
Secretary/Treasurer  
Marshall Concrete Products  
Christiansburg, VA  
Phone: 540-382-1734  
gkuhn@marshallconcrete.com

**Visit the Virginia Ready-Mixed Concrete Association Website at [www.vrmca.com](http://www.vrmca.com)**

# Annual NVCAC Golf Retreat: "Let's Learn and Play"

By Hessam Nabavi  
Director of Industry Services

The annual Northern Virginia Concrete Advisory Council golf retreat has become a tradition of success. A great number of architects, engineers and officials come together to learn and play. This is a very high profile event that many of the participants are looking forward to participating in each year. It also provides an opportunity for NVCAC members to network with the decision makers, talk concrete and have fun. This year's outing took place in the beautiful Algonkian Regional Park Golf Course on April 23rd. We appreciate Marc Granahan, educational/ golf committee chairman with Lehigh Cement for the great job he did in organizing this event. As always we are very thankful to Phil Kresge, Sr. Director, National Resources with National Ready Mixed Concrete Association.

"This year of more interest to me was the topic of Green Infrastructures," said Aref Etemadi, Deputy Director, Town of Leesburg. "As you know we all are on the campaign to be green and found this seminar interesting with regards to the contributions that concrete can make toward reaching these goals and have passed it along to my capital improvement office for consideration. The talks about reduction in heat and lighting requirements were very interesting to me and are something many do not consider. I am also intrigued with pervious concrete concept and found it to be beneficial in use of our capital projects. The golf outing is also very fun and the networking helps many disciplines to mingle and learn from each other while having a good time."

Engineer, Michael Stansbury, Business Development Manager, Cates Engineering, said, "I believe we have played in your golf outing event for something like 5 years now, and I felt that the pre-golf seminar was the best one yet. It was very practical and informative. I think that could be seen from all the good follow up questions. You could really tell that the speaker knew what he was talking about. Even though our area of expertise would be more in the structural concrete for buildings, I still

found it interesting and informative as we sometimes have discussions on building projects that contain parking garages, and what to do at the lowest level (BTW, we always push for concrete. The three and one pairing is a great idea. For next year, see if you can Ready-Mix something that cuts down on the wind. It doesn't compliment my nasty slice.)"

"The seminar was good," said Scott Horan, Chief Facilities Officer, Stafford County Public Schools. "I always want to hear more about specific topics and would have liked to have more info and a bit longer presentation. Golfing was great."

Architect, Jeff Wilburn with Heffner Architects thought the seminar was very informative. "I was especially glad to learn about the sustainable qualities of concrete as compared to asphalt. And the discussion on pervious concrete was equally informative. As always the golf too was fun."

"The golf retreat this year, like previous year, was a great experience," said Engineer Kundan Patel, of HDR. "The event has two purposes, 1) Education & 2) Networking through the social medium of golf. Your guest speakers are always educational with topics of current trend in the industry. The format of the presentation is also very good and of course the golf, lunch and refreshment are great too. All in all the whole experience is very enjoyable and I hope you continue this event, year after year!"

Architect, James Drahiem, Sr. Vice President/ Associate Managing Principal with HDR said, "I always enjoy the VRMCA concrete short seminar and golf outing. The topics always seem to be relevant and I always learn something new about your products. Thank you for your service to the architectural community"

"I would like to thank you and your organization for inviting me to your Golf Retreat," said Frank Lunking, Parson Management Consultants, Dulles International Airport. "I enjoyed the opportunity to increase my knowledge of concrete products and play a relaxing round of golf. I found the seminar very informative and the speaker, Mr. Phil Kresge, knew his subject well. He kept my interest all the time and could have



spoken for much longer if he were given the time! Overall, the event was well organized and a great success. It was a good opportunity to meet other professionals one does not normally meet, and the new venue was a big improvement over previous years. Even the weather cooperated!" ❖

## Boxley's Roanoke Facility Earns Green-Star Certification

National Ready Mixed Concrete Association recently presented their Green-Star Certification to Boxley's concrete facility in Roanoke. While there are over 5,000 concrete plants in the US, Boxley is the only company in Virginia and 1 of 11 nationally to receive the Green-Star Certification award.

"This is another example of Boxley's commitment to the environment," said NRMCA Senior Vice President Gary Mullings. "It is impressive to see Boxley prioritize and address environmental goals"

"The Green-Star Certification is just one of many environmental initiatives we are implementing through out the company," said Vice President Larry Bullock. "It's been a team effort and will benefit us as a company as well as our community at large."

"We want to congratulate Boxley for their hard work and attaining the first Green-Star Certification in the state," said VRMCA Executive Director Doug Easter.

The NRMCA Green-Star Program was designed by the Environmental Task Group of the Operations, Environmental and Safety Committee as a means to support the efforts of the ready mixed concrete industry towards environmental excellence, through the recognition of the use of Environmental Management Systems (EMS) as a tool for environmental benchmarking and continual improvement, and as a means



to recognize those who adhere to essential principals of the environmental and sustainability movement of our industry. The foundation of the NRMCA Green-Star program was created in collaboration with the Environmental Protection Agency's Green Highways Partnership and the 10 Guiding Principles of Environmental Stewardship.

"Boxley has an integrated Environmental Management System that maximizes identification of environmental aspects and impacts along with the setting of environmental goals," said Denise Corrales, chairperson of the NRMCA Environmental Task Group

from member company CEMEX.

The NRMCA encourages all companies to take a closer look at the NRMCA Green-Star Program and its existing Environmental Management System and start the process of becoming Green-Star Certified. Potential benefits of Green-Star Certification include:

- \* Favored Status
- \* Increased Profits
- \* Improved Efficiency
- \* Community Goodwill
- \* Reduction of Liability and Risk

Boxley is working to achieve Green-Star certifications at its seven other concrete facilities by the end of 2009. ❖

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## Blue Ridge and Southwest Councils Help Concrete Canoe Entry

By Bob Nablo  
Director of Industry Services

For the first time in several years the Advisory Council was asked for advice on building a concrete canoe for the annual ASCE Concrete Canoe Contest. In recent years the ASCE has changed the design and construction format in an effort to limit outside help and increase the use of recycled materials for this contest – and to reduce the advantage of schools with unlimited budgets. After getting a late start on design and construction, the VMI engineering students asked for help interpreting the somewhat complex design requirements from the Blue Ridge and Southwest Virginia Advisory Councils.

The idea remains the same – to design, build and demonstrate the feasibility of a canoe made almost entirely of cementitious products. Entries are judged on design, materials used, presentation and practicality, with the contest culminating in actual races.



Winning entries advance to regional and national contests.

Andy Faulconer, Robert Marek and Bob Nablo met with the cadets to discuss materials and techniques, and Faulconer, Marek and Allison Carrigan donated materials to be used in testing the various mix designs. Nablo tried to coordinate industry help without violating the intent of the rules against outside help.

Ultimately, the process was successful...sort of. Operating under the constraints of the military system, the



cadets completed the canoe with only days to spare. The actual contest was held in Norfolk, and unfortunately the canoe was damaged in transit – seriously limiting its “floatability”. The cadets were graded well in design and presentation, but during the races the canoe took on water faster than the students could row! VMI has promised to give next year’s team more time to prepare the entry, and the Council members have offered to help again – perhaps with better results! ❖

## Hampton Roads Council Presents “Afternoon at the Ball Park”

By J. Keith Beazley,  
Director of Industry Services

The Hampton Roads Concrete Advisory Council will host an “Afternoon at the Ball Park” on June 9th. The event is designed so members may invite contractors, architects, engineers, and company members for an afternoon of baseball at the beautiful Harbor Park in Norfolk. Norfolk Tides will play Toledo. This is first time the Council has hosted the event in the afternoon – the event has traditionally been held for a night game for some years. The Council Business Meeting will be held prior to the ball game.

The Norfolk Tides are the Class AAA affiliate of the Baltimore Orioles and play in the South Division of the International League with the Charlotte Knights, Durham Bulls and Richmond Braves. The franchise was founded in 1969 and became the Farm Team of the Baltimore Orioles in 2007. Famous past players include Darryl Strawberry,

Dwight Gooden, David Wright, and Jose Reyes.

The event will be self-supporting for tickets, food, and drink. The Chairman for the event is Marie Derby, Essroc Cement. Any questions and to make

reservations, contact 757-880-5631, marie.derby@essroc.com. The Advisory Council has a block of Box Seats reserved for the game. Baseball and summertime, what could be better! ❖





# VRMCA 2009 Spring Convention Snapshots From The Homestead Resort





## 2009 Spring Convention

*(continued from page 1)*

While the days were filled with seminars and meetings, evenings offered casual receptions and enjoyable dinners. Members also participated in golf, clay pigeon shooting, hiking and "just relaxing."

A total of 48 golfers braved the cooler temperatures and hit the links at The Lower Cascades Golf Course on Monday afternoon in hopes of winning big. The winning team, with a combined low score of 65, consisted of Scott Finney, Brad Brown, Brian Dulaney and Billy Chenault. Each received a cash award of \$50. The second place team included Tyler Johnson, Ed Wiles, Bob Swope and Stephen Render. Third place went to the team of Terry Crispell, Charlie Windle, Wayne Bracey and Brian DeChirico. And last, but not least, our team with the highest score was the team of Rich Hart, Ron Pfeltz, Duston Carothers and Glenn Webb. In addition

to the team prizes, a competition was held on each golf hole giving even more chances to the golfers to cash in. Congratulations to all the winners!

While the golfers were hitting the ball, there was a clay pigeon shooting contest at The Homestead Shooting Club. Congratulations to Teddy Keller who won first place and a \$100 cash prize and Joe Fidd who came in second and won a \$50 cash prize.

"What another great meeting!" said Teddy Keller, Area Sales Manager for Command Alkon. "I wanted to thank you for all your hard work. . . I go around to other meetings and it is pleasant to see one done correctly."

**SAVE THE DATE** for the Fall Convention taking place at the Hilton Virginia Beach Oceanfront Hotel September 20–22. If you are interested in helping to plan the session topics for the convention, or have any ideas for session topics, please email [amy.shaw@easterassociates.com](mailto:amy.shaw@easterassociates.com) or call Amy at 434-977-3716. ❖



## SU Gets ACI Award

Shenandoah University recently received a 2008 Excellence in Concrete Award for its use of pervious concrete in the construction of the Suzanne White McKown Plaza from the Virginia Chapter of the American Concrete Institute (ACI) of Richmond, Virginia.

The McKown Plaza is an elevated leisure, performance and learning space with a view of the university's soccer field and trees surrounding Abrams Creek. The circular plaza is enclosed by decorative brick, attractive landscaping and patio seating with an armillary sundial at its center.

Design-built by H&W Construction of Winchester, McKown Plaza is named for Trustee Emeritus Suzanne McKown, a generous supporter of the university who currently co-chairs the university's Landscape Committee.

Shenandoah University's Director of Physical Plant Gene Fisher and Project Manager Jeff Davis led the project, working with Crider Shockey Inc. of Winchester, H & W Construction Company Inc. and Ozark Concrete Corporation of Strasburg, Virginia.

"The use of pervious concrete gave Shenandoah University the opportunity to preserve valuable land, replace water back into the ground aquifers, maintain a project that was aesthetically pleasing while continuing to move forward with their 'Green Initiative,'" said Crider & Shockey's Area Sales Manager Duane Laughlin.

According to Laughlin, several aspects of the project presented unique construction challenges. First, the pervious concrete needed to be placed in a radius pattern. Second, due to the elevation of the site, mixer trucks were unable to gain access to the plaza. As a result, the pervious concrete was placed using a TeleBelt conveyor system from below the plaza. Third, a tan/buff color was added to the pervious concrete, so that the plaza floor matched the colors of the rest of the university buildings and retained a natural-looking appearance.

"Most people don't think of concrete as a green solution," said Crider & Shockey's Mid-Atlantic Regional Sales Manager Jack Drumheller. "But Shenandoah University embraced this technology to solve their challenges and created an award-winning project." ❖

**SAVE THE DATE**

**VRMCA FALL CONVENTION**

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## Bob Neal Presents New Laboratory Procedure

By Bob Nablo  
Director of Industry Services

The Blue Ridge Council currently tries to have short, in-house presentations for members during regular Council luncheons, and this month Bob Neal of Lehigh Cement spoke briefly about a new test for water/cement ratios using microwave technology. This was presented as a test that will probably be too time-consuming, too technically difficult, and too expensive to be conducted in the field or done by average technicians. Neal says that he is "completely sold" on the accuracy of the procedure, but feels that it would only be used by ready-mixed producers to check water/cement ratios in their own labs.

Neal's tests were based on a paper by Colin Lobo, Dick Gaynor and Gary Mullings of NRMCA called "Determination of Water Content of Fresh Concrete by Drying in a Microwave Oven." They concluded the study "demonstrates that the microwave oven test for water content is capable of excellent precision, if and only if, the coarse aggregate content



of the concrete and that of the sample tested is determined and suitable corrections to the measured water content are applied." Neal agrees with this assessment, and thus feels that the test has its

most likely application as backup data for producers.

The council thanks Neal for his excellent presentation. ❖

## Blue Ridge Council and ACI Host Surface Defects Seminar

By Bob Nablo  
Director of Industry Services

On May 7 the Blue Ridge Council and the Virginia Chapter of ACI jointly hosted a seminar on Surface Defects in Concrete, presented by Tom Wahl of The SEFA Group. The Council annually joins

with Virginia ACI to co-sponsor a dinner/seminar on a topic of interest, and this year an audience of 65 contractors and industry professionals attended an excellent presentation at a Harrisonburg restaurant.

Tom Wahl is well-known and respected throughout central and western

Virginia as an Examiner for our many ACI Grade 1 classes, but he also presents many lunchbox and dinner seminars for his company and our regional Councils. This year he spoke on surface defects and techniques to prevent or correct them—to a sizeable group that included contractors, builders, testing labs and engineers. The Blue Ridge Council operates on the idea that the prevention of basic concrete installation problems cannot be emphasized too much, and that in an ever-changing industry there will always be new members hearing information for the first time.

Chuck Starnes represented Virginia ACI, speaking briefly on the goals of the chapter, and Buddy Murtaugh, Blue Ridge Council Chairman, introduced the event. Several VRMCA members attended, and helped answer questions after the event. As always, the dinner and seminar were well received and the Council intends to continue the event again next year. ❖





# Termination Decisions Are Never Easy—Be Sure To Clearly State The Reason For The Action

By John G. Kruchko  
& Kathleen A. Talty\*

Employee terminations are difficult human resources decisions. Those decisions can become more complex when the employer attempts to soften the blow and skirts the real reason for the termination action or presents conflicting or contradictory reasons for the termination. For example, an employer has a long-term employee who is simply not performing at expected levels and efforts to remedy the situation have not been successful. Rather than terminating the employee for poor performance, the employer tells the employee that his/her job is being eliminated for cost containment reasons.

While the employer's explanation will mean that the employee is eligible for unemployment compensation and that the explanation will allow the terminated employee to advise prospective employers that his/her unemployment is not attributable to the employee's fault, what happens if the employer fills the "eliminated" position with a younger individual two weeks after the long-term employee was terminated? Will the terminated employee be able to then show that the stated reason, i.e., economic factors, for his/her termination was pretextual and by doing so raise an inference of employment discrimination? Perhaps.

Under evidentiary models developed by the courts which have considered employment discrimination actions, the employee has the initial burden of establishing that he/she is the victim of employment discrimination. The burden on the employee at this point is relatively minor. All that the

employee need show is that: 1) he/she is a member of a protected classification; 2) that he/she was performing satisfactorily in the job; 3) that there was an adverse employment action, e.g. termination; and 4) the employee was replaced by someone who was outside the employee's protected classification.

Once the employee meets that preliminary showing, the burden shifts to the employer to show that the employment action was based on a legitimate, non-discriminatory reason, e.g. tardiness, cost containment measures, etc. The legitimacy of the employer's explanation, however, can be refuted if the employee can show that the employer's stated reason was not true or pretextual. In the example noted above, the long-term employee could refute the legitimacy of his termination, which was stated as due to economic reasons, by pointing to the fact that barely two weeks after his termination, his supposedly eliminated position was filled by a younger person. In challenging the legitimacy of the employer's explanation, the employee then raises the inference that an impermissible reason, such as age, was the real reason for the employment action.

Those courts that have considered the issue of pretext have said that "pretext can be shown by such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable factfinder could rationally find them unworthy of credence and hence infer that the employer did not act for the asserted, non-discriminatory reason." Inconsistencies and contradictions can be found when the employer fails to follow its stated company policies

or procedures prior to a termination. Pretext can also be found when the stated reason for the employment action is "fabricated" after the termination decision.

One recent court case illustrates such post hoc fabrication by an employer and how its use was fatal to the employer's defense. In that case, the employer argued, in part, that its decision to terminate the employee in 2007 was due to serious work performance issues that dated back to 2005. To substantiate its argument, the employer presented a 2005 performance review which it contended it had given the employee and which outlined the performance deficiencies. The employee, however, testified that the employee's signature on the document was not his own signature and that the copy of the performance review contained other signatures which were different from the ones on his own copy. Moreover, the employee was able to show that an attachment to the 2005 performance review, which listed the specific examples of the employee's performance problems, was not part of the original document that the employee had been given in 2005. In rejecting the employer's argument and ruling for the employee, the court stated that "falsifying or manipulating criteria [is] a disturbing procedural irregularity that may constitute evidence of pretext."

In another court case dealing with the issue of pretext, the court considered the employer's deviation from its normal practices in certain circumstances and found that the deviation represented discrimination against the terminated employee because of his age. In this case, the employee was ter-

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minated, according to the employer, because of the employee's failure to meet expected production goals. The employer utilized a detailed process to determine whether an employee was meeting expected production goals and argued, in this case, that the terminated employee failed to realize the expected criteria.

The employee, however, was able to show that in a number of instances that the employer had considered "extenuating circumstances," such as the pregnancy of one employee, to adjust the required criteria under the production goal process. As a consequence of the adjustments, the evidence showed that younger employees received more favorable treatment despite their performance issues, while the older employee was terminated. As a result of this showing, the court rejected the employer's explanation for its actions and concluded that it had discriminated against the employee because of his age.

Conflicting explanations for an employee's termination are frequently cited as indicators of pretext on the employer's part. However, a recent federal appellate court case points out that an employer's elaboration on the reasons for an employee's termination is

not always the equivalent of inconsistent or conflicting reasons. In that case, the record showed that a new management team was increasingly dissatisfied with the performance of one director. Despite repeated attempts to assist the director to adapt to the new management approach, the director was resistant to change. Eventually, the decision was made to restructure the director's department and the restructuring resulted in the elimination of the director's position. After being advised of the job elimination, the director sued alleging age discrimination.

During the course of the litigation, beginning first before the Equal Employment Opportunity Commission and continuing in federal court, the employer expanded on the reason for the termination decision. Each time that the employer expanded or elaborated on the reason for the termination action, the employer provided greater specificity for its actions. This elaboration was viewed by the employee as changing the reasons for the termination and, therefore, evidence of pretext.

The federal appellate court, however, disagreed with the employee. Rather, the court found that "[p]retext is not shown if the employer does not give inconsistent reasons, but instead merely elaborates on the initial justification for termination." The court

then found that the employer's expansion on the reason for the termination action did not present conflicting reasons. Therefore, there was no evidence of pretext.

These uncertain current economic times have spawned an increase in the filing of employment discrimination charges. Therefore, every employment termination should be approached with the expectation that the decision will be challenged either before an administrative fair employment practice agency or in court, or both. The more that it can be shown that an employment termination is based on objective and specific factors, which are consistently applied, the less likely an employee will be able to successfully show that the employer's stated reason is pretextual.

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John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia; Kathleen Talty is a Senior Counsel with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Ms. Talty at (410) 321-7310 or [jkruchko@kruchkoandfries.com](mailto:jkruchko@kruchkoandfries.com), or [ktalty@kruchkoandfries.com](mailto:ktalty@kruchkoandfries.com). This article is published for general information purposes, and does not constitute legal advice.

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