



NVCAC Annual Golf Outing a Tee-Total Success



By Hessam Nabavi,
Director of Industry Services

It was under the blue skies of the Algonkian Regional Park Golf Course that architects, engineers and officials converged for this year's NVCAC Annual Golf Retreat. The event, held April 29th, showcased the latest and greatest in concrete technology. This highly anticipated event provided an opportunity for members to network with decision makers and discuss hot topics for the industry.

The event kicked off with an educational seminar. "The seminar was very informative. The speaker presented a lot of information in 1.5 hrs. I'm sold on the benefits of concrete over asphalt," said John Michels, an engineer with PB World. This informative seminar was well-liked by many in attendance.

"Thank you for including me on your invitation list for the seminar on concrete," said Suzy Foster of Parker Rodriguez Inc. "As a landscape architect to develop-



Golfers (and engineers) Lisa Kurovill & Ken Ellis hit the fairway. Above, Phil Kresge (left), addresses architects Rick & Joy Ortez during the seminar.

ers, I was impressed (and surprised) to learn about the many green aspects of concrete that were highlighted in your presentation."

Foster gathered beneficial knowledge about concrete including, local materials; lack of petroleum in product which reduces leaching of petroleum elements; reflectivity of heat and the heat island effect; the illuminance value of lighter surfaces and its connection to lower energy for lighting; and the longevity of product life. Porous concrete benefits were also discussed including reduction of run-off; short term storage capacity within concrete (and gravel base if used); filtering of pollutants; and possible recharge of ground water.

"One aspect that was not mentioned and has not really been recognized / quantified by the EPA or regulating agencies is the possible evapotranspiration that pervious concrete would allow," said Foster. "I may not remember my soil chemistry completely but all the surfaces of the concrete aggregate and aggregate base (and undisturbed suitable soil below) will hold moisture after the excess drains away. That moisture will then be evaporated out of the pavement when the weather changes which keeps that moisture on site and serves to cool the air above the pavement. Any chance that your engineers have looked into this and have a value for the capacity of the concrete system to provide Evapotranspiration? I know it's a little 'ethereal' but it's still H2O."

Following the seminar, attendees headed outdoors for a round of golf. HDR engineer Brian Anderson summed up the day. "The seminar was well

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VRMCA
Virginia Ready-Mixed Concrete Association

Welcome to VRMCA Online
Welcome to the Virginia Ready-Mixed Concrete Association's web site - your online source for information on ready-mixed concrete for design professionals, homeowners and managers of businesses in the industry.

Events
Congratulations to our 2010 Mixer Truck Rodeo winners!
The Virginia Truck Center hosted the 2010 VRMCA Mixer Truck Rodeo on Saturday, April 15. And the winners were...
[MORE ...](#)

Registration for the VRMCA Spring Convention is now open!
For more details and registration information, Click [HERE](#).
[MORE ...](#)

2009 Fall Convention Presentations
Presentations from the Fall Convention are available for download.
[MORE ...](#)

Concrete Workshop Presentations
Presentations from "Building Green with Concrete Workshop", June 4th, 2009, WSSD, Gainesville, Virginia.
[MORE ...](#)

VRMCA Spring Convention Presentations
Presentations are available from the 2009 Spring Convention held on May 17 - 19, 2009.
[MORE ...](#)

ACI & Calendar

ACI Class - Hampton, VA (FULL)	4/20/2010
ACI Class - Hampton, VA (FULL)	4/21/2010
SWCAC Meeting	4/21/2010
ACI Exam - Hampton, VA	4/22/2010
NVCAC- Architectural Conc. w/ Colors and patterns	4/22/2010
Meeting with Va. Tech Bldg. Const Dept.	4/26/2010
ACI Class - Warrenton, VA	5/4/2010

[Full Calendar >>>](#)

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VRMCA Honored at Luncheon



VRMCA Executive Director Doug Easter and Annie Pearce, Assistant Professor in the Myers-Lawson School of Construction at Virginia Tech.

A group of VRMCA members, Virginia Tech faculty and selected students gathered in Bishop-Favrao Hall for a luncheon and tour of the VRMCA-sponsored laboratory. VRMCA Executive Director Doug Easter, current Board President Morgan Nelson and incoming Board President Larry Bullock headed the Association contingent, while Virginia Tech Director of the Myers-Lawson School of Construction Dr. Yvan Beliveau and Building Construction Department Head Dr. Walid Thabet led the faculty group.

After touring the lab the attendees enjoyed a fine lunch and much discussion about the future of the School of Construction. VRMCA has the opportunity to work closely with Tech's faculty and students on concrete related subjects, and Virginia Tech also hopes future research projects will keep the lab busy.

Dr. Thabet presented Bullock with a "thank you" plaque for all of VRMCA's efforts, and this plaque is currently displayed in the Charlottesville office. 🚚

NVCAC Golf Outing

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The Stafford County Public Schools Assistant Director holds his prize from the golf tournament.

done, and golf is always fantastic on a day like that. I would encourage you to try to always have it be 75 degrees and sunny! Overall, well done. Keep up the good work, and thank you. This retreat was wonderful. I look forward to it every year."

NVCAC would like to thank the following member companies for sponsoring this year's outing: Lehigh Cement, Lafarge North America, Essroc Cement, Titan Virginia, Virginia Concrete, Crider and Shockey, Luck Stone, DuBrook Concrete, Rowe Materials, Aggregate Industries, Holcim Cement, Grace, Bekaert, Sika.

We are thankful to Phil Kresge, Sr. Director, NRMCA and Educational Committee Chairman, Marc Granahan with Lehigh Cement for making this day a success. 🚚

SAVE THE DATE
September 2010
Hilton Virginia Beach Oceanfront

**Don't miss this industry event being held
 September 12th-14th in Virginia Beach!**

Watch for more information coming soon.



On the Horizon

Calendar of Upcoming Events

JUNE 8, 2010

Building Green with Concrete Workshop

7:00 AM - 3:00 PM
Wetland Studies and Solutions
5300 Wellington Branch Drive,
Gainesville, VA

JUNE 9, 2010

VRMCA Technical Committee Meeting

10:00 AM - 1:00 PM
The Place at Innsbrook
306 Cox Road
Glen Allen, VA

JUNE 10, 2010

NVCAC Quarterly Council Meeting

11:00 AM - 3:30 PM
Sterling, VA

JUNE 16, 2010

SWCAC Meeting

8:00 AM - 9:30 AM
The Roanoker Restaurant
2522 Colonial Avenue Southwest
Roanoke, VA

JUNE 17, 2010

ICF Seminar and Dinner*

Co-sponsored by the SW VA Concrete Council and the Virginia ACI Chapter.
5:30 - 8 PM
Hotel Roanoke
110 Shenandoah Avenue
Roanoke, VA

*Pre-registration required by June 10th.

JUNE 23, 2010

NVCAC Tilt-Up Presentation

11:00 AM - 1:30 PM
Arlington, VA

JUNE 24, 2010

An Afternoon at the Ballpark* NORFOLK TIDES vs. LEHIGH VALLEY

11 AM - 3 PM

*Pre-registration required by June 4th.

Kudos to Our Buddy

By Bob Nablo,
Director of Industry Services

Buddy Murtaugh, longtime Chairman of the VRMCA Blue Ridge Council and Board member of Massanutten Technical Center, has been named "2009-2010 Outstanding Foundation Member of the Year" by the school for his extensive and exemplary service. Murtaugh was honored at the school's Annual Community Leader's Breakfast by W. Marshall Price, Director of Massanutten Technical Center. In his remarks, Dr. Price noted that Murtaugh, Rockingham



MTC Foundation Chairman Pablo Cuevas (left) and Director of MTC Dr. Marshall Price (right) present award to Buddy Murtaugh (center).

"It is a pleasure to know Buddy Murtaugh and we look forward to many more years of a wonderful partnership ..."

Redi-Mix, and the Blue Ridge Concrete Advisory Council have been active with MTC for many years, and that the Blue Ridge Council is a Platinum member of the Foundation, having been a consistent and generous donor to the school.

Murtaugh is a Vice-President of Rockingham Redi-Mix, and the company has also been a regular donor to MTC's

Home and Garden Show Fundraiser. This year, with Buddy's input, the company donated a significant item to the very successful Live Auction. MTC has also been raising funds to construct a Vet Barn for the Veterinary Assistant Program, and Rockingham Redi-Mix has agreed to donate all the concrete necessary for the project. Dr. Price concluded the presentation by saying that "It is a pleasure to know Buddy Murtaugh and we look forward to many more years of a wonderful partnership with Rockingham Redi-Mix and the Virginia Concrete Advisory Council."

VRMCA also is very pleased with Buddy Murtaugh's long service to the Association, and congratulates him on this fine honor. 🚚

Boxley Buys Trio of Concrete Plants

VRMCA member Boxley Corp. has announced the purchase of three existing ready-mix plants in Wytheville, Marion and Abingdon in an expansion of the company's operations in Southwest Virginia. The 118-year old company has begun operating P&T's Wytheville plant and W&S's Abingdon plant, and has hired all the employees working at those locations. The Marion plant is currently closed.

"We feel like the economy's down now, but it will come out," said Larry Bullock, VP of Concrete Operations. "The opportunity was right in front of us." The two operating plants are expected to produce amounts of concrete about in line with Boxley's other operations, and the Marion plant may reopen in the future if conditions warrant. 🚚



Blue Ridge Council “Rolls Out” the Concrete

Continuing the practice of sponsoring a brief presentation during each regular meeting, the Blue Ridge Council welcomed Kisia Kimmons, Technical Services Engineer for Roanoke Cement, to its May luncheon. Kimmons, a former VDOT employee, spoke to members about the design, cost advantages and placement techniques of Roller Compacted Concrete.

Kimmons has previous experience in asphalt paving, and was quick to point out the financial advantages and placement speed of this concrete product. She also emphasized that Roller Compacted Concrete was not appropriate for every application – especially when the anticipated traffic speeds would exceed 35 mph – but that in the correct scenario this concrete could save the owner both money and time.

Roller Compacted Concrete has an open-graded appearance and can be placed with a modified asphalt spreading machine. It also does not require extensive finishing and can be opened to traffic fairly quickly. The batching of quality RCC mixes at ready-mix plants can be a learning process. The product



is a stiff, zero-slump mix produced with the same basic materials of cement, aggregates and water and it is this low water-cement ratio (generally between 0.33 and 0.43) that gives RCC its high strength. Central Mix plants are best for medium to large scale projects, but transit mixers and tilt-drum mixers can easily handle smaller jobs. 🚚



For coverage in future issues, please send announcements/press releases and accompanying photographs to marci.malinowski@easterassociates.com or mail to: VRMCA Newsletter, 600 Peter Jefferson Parkway, Suite 300, Charlottesville, VA 22911

Submissions may be edited for length. Inclusion is not guaranteed and may be excluded due to space.

Charlottesville CSI Chapter Sponsors Concrete Construction Workshop

A panel discussion of concrete construction techniques and products was recently held in Charlottesville, sponsored by the Central Virginia chapter of CSI. The combined dinner and workshop featured brief presentations on ready-mixed concrete production, concrete foundation and wall construction, colored and stamped concrete, and pervious concrete. Twenty-five CSI members attended.

Bob Nablo of VRMCA moderated the panel, and initiated the discussions by giving a brief presentation on the design and control of ready-mixed concrete.

Nablo made copies of the booklet on Pre-Concrete Placement Meeting Guidelines available, and suggested to the audience that they needed to talk with ready mix producers about local materials before specifying a concrete product. He also recommended that CSI members become familiar with new materials and techniques before using an old design that they might have used years ago.

Josh Lanahan with Advance Concrete spoke about

concrete foundations and walls, and strongly echoed the need for pre-placement meetings. He noted that successful projects usually followed quality planning. Mike Christian of Monarch Concrete talked at length about stained concrete, integral colors, and stamping patterns.

Christian remarked that sometimes the physical dimensions of a plan might not suit the selected stamp pattern, and suggested that sample slabs were always a good idea. Jon Garber of Lineage Architects covered pervious concrete, emphasizing the need for properly engineered designs. He also reminded attendees that pervious concrete should be used as part of a good stormwater handling system.

The discussion was well received, with many excellent questions asked. Panelists agreed on the basics of proper concrete design and installation and the need to make all sure interested parties understand and agree on the details. 🚚

Retaliation Claims on the Rise and Difficult to Defend

By John G. Kruchko
and Kathleen A. Talty*

Move over race and sex discrimination; there is a new leader in employment discrimination claims – retaliation. For the unfamiliar, retaliation claims are premised not on the underlying discrimination but, rather, stem from an employee’s complaint about discrimination or mistreatment and the company’s resulting decision to “retaliate” against the employee for complaining (often via some adverse consequence to the employee, such as termination or demotion). For more than a decade, race discrimination has been far and away the most common basis for charges of discrimination filed with the Equal Employment Opportunity Commission (“EEOC”). That changed in 2009. According to EEOC statistics, about 36% of the claims filed now contain a retaliation allegation, which represents an increase of 70% over the last decade!

Retaliation claims filed by employees can be based on provisions in various employment-related statutes, such as Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), the Family and Medical Leave Act (“FMLA”), or even state statutes, such as worker compensation laws. In the case of retaliation claims filed under employment discrimination law, the remedies available to the successful plaintiff are the same as would be obtained by an employee alleging race, sex, religion, national origin or another form of employment discrimination. However, the EEOC generally performs a more exacting review of retaliation allegations because it suggests a purposeful act by an employer that is designed to intentionally undermine the employee’s rights under the anti-discrimination laws. The EEOC’s heightened interest, coupled with a 2006 U.S. Supreme Court decision (*Burlington Northern & Santa Fe Railway Co. v. White*) that broadened the scope of possible retaliatory acts, has driven (and will continue to drive) the significant spike in retaliation claims. In fact, it is important



“About 36% of the claims filed now contain a retaliation allegation.”

to stress that the EEOC and the courts can conclude there was no actual discrimination, while still finding an employer guilty of retaliation.

A. Recent Retaliation Decisions

Two recent federal court cases reviewed retaliation claims that were filed by terminated employees. One case was filed by an employee who alleged that his termination constituted race discrimination under Title VII of the Civil Rights Act and he also claimed that he was terminated because he had filed an internal complaint, alleging discrimination. The other federal court case was based on a state worker’s compensation statute, which contained an anti-retaliation provision.

In the employment discrimination action, *Popo v. Giant Foods, LLC*, which also included a retaliation claim, the terminated employee had received several promotions before performance issues surfaced when

he was promoted to a grocery store manager position. During one store inspection on June 9, 2003, the employee’s immediate supervisor expressed dissatisfaction with the condition of the store and Mr. Popo took exception to the criticism and left the store. The incident on June 9th had been preceded by several prior exchanges between Mr. Popo and his supervisor in which his less than stellar performance as a manager had been discussed and documented. Later, Mr. Popo wrote to the grocery store’s Human Resources Manager complaining about the supervisor’s treatment of him and claimed that he was being treated unfairly because of his race. Mr. Popo subsequently requested a transfer, which was approved.

However, the employee was advised at the time that his transfer was approved (on August 29th) that the performance standards and expectations for his improvement would remain unchanged at the new store. When Mr. Popo was informed of these facts on August 29th, he became very angry during the meeting with management representatives and began shouting at management personnel. Mr. Popo then

(continued on next page)

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“All employers should train their managers about retaliation and its possible legal consequences to the company.”

tatives and pulled a box cutter from his pants pocket. After the fight was broken up, he was suspended and then terminated. After he was fired, he filed an employment discrimination charge, alleging race discrimination and retaliation. He then filed a lawsuit asserting the same claims.

At the trial court level, the former employee argued that he was terminated, not because of his fighting, on August 29th, but because he had earlier filed an internal complaint of discrimination on June 18th. In order to establish a retaliation claim under Title VII, an employee must establish, among other elements, that there is a causal connection between the protected activity and the adverse employment action. The court found that Mr. Popo was unable to establish the required causal connection. In large part, Mr. Popo's inability to show the causal connection was due to the intervening event, which was the fight that he initiated. The employer's witnesses consistently testified that the reason that Mr. Popo was terminated was due to his threatening and intimidating behavior, which was an expressed violation of the employer's policies.

In the second court case involving a retaliation claim, the employee in *Thayer v. Tyson Foods, Inc.*, sued his former employer alleging that his termination was wrongful because he was fired because he filed for worker's compensation. In this case, the employee, Mr. Thayer, went to the employer's clinic, complaining of wheezing and shortness of breath. The next day, Mr. Thayer was examined by one of the physicians who was on the employer's worker's compensation panel of physicians. At the completion of the medical examination, Mr. Thayer was given two copies of the same document. One was for him to retain and the other was for him to submit to his

employer. Both documents indicated that his illness was not work-related.


However, the document that he provided to his employer was altered. The word “not” appeared to have been scribbled or smudged out on the form. When the employer representative questioned Mr. Thayer about the smudging on the document, he stated that the examining doctor initially thought that his condition was not work-related, but later changed his mind. A subsequent telephone call to the office that had conducted the physical examination of Mr. Thayer determined that the doctor had only concluded that Mr. Thayer's medical condition was not work-related and that the documentation that had been provided to Mr. Thayer had indicated the same. Mr. Thayer was then contacted and notified that he was terminated for falsification of documents, which was a violation of the company's policies.

Mr. Thayer later sued his former employer, alleging wrongful discharge and claiming that he was terminated for filing for worker's compensation. To set forth a claim for retaliatory or wrongful discharge, the court stated that the former employee must establish, among other elements, that Mr. Thayer's claim for worker's compensation benefits was a “substantial factor” in the motivation for his former employer to terminate him. Due to the fact that only four days had elapsed between the date when Mr. Thayer filed for worker's compensation benefits and the date when he was terminated, the district court found that he could establish the necessary causation between the two events and, thus, an inference was created that the filing for benefits was a “substantial factor” for his termination.

Even though Mr. Thayer met his initial burden, the employer was entitled to introduce evidence to show a non-retaliatory

reason for the termination action. In that regard, the employer introduced evidence showing that the reason for Mr. Thayer's termination was because he had falsified the documentation that he had submitted. In further support of the legitimate, non-discriminatory reason for its decision, the employer showed that the document that Mr. Thayer presented to his employer had a smudge on it, that copies of the same document did not contain a similar smudge covering the word “not” and that Mr. Thayer could not offer any explanation for the inconsistent forms. The court ruled that the company established that there was a legitimate, non-discriminatory reason for its actions. Mr. Thayer's wrongful discharge claim was dismissed.

B. Precautions Employers Should Take Now

The two cases discussed in this article illustrate situations in which employers were successful in refuting retaliation claims. However, employers are not always successful. Therefore, it is important for employers to take the necessary precautions before confronted with an actual retaliation claim. For starters, every employer should include in their EEO or non-discrimination policy (usually located in your handbook) a statement that retaliation is unlawful, will not be tolerated by the company, and could lead to discipline or termination. Secondly, all employers should train their managers about retaliation and its possible legal consequences to the company. Similarly, employees should be advised about retaliation and instructed on how to file an internal complaint about retaliatory conduct. Lastly, formulate a plan for investigating internal complaints. An incomplete, *ad hoc*, investigation could very well (standing alone) form the basis of an independent retaliation claim. Demonstrating that you took the employee's allegations seriously and addressed them appropriately is paramount to mounting a successful defense. 

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