



# TENNESSEE ASSOCIATION OF ROOFING CONTRACTORS

THE VOICE OF LICENSED PROFESSIONAL  
ROOFING CONTRACTORS

**TARC Newsletter**

**Winter Issue, 2018**

## **PRESIDENT'S CORNER**

*By Bill Kimbrough, Jr., TARC President*

The groundhog saw his shadow, therefore calling of a few more weeks of Winter, but hopefully soon it will start dwindling away to Spring. TARC is already off to a good start for the 2018 year and we have plenty of events coming up.

We held the Mid-Winter Meeting on January 12 at the Cool Springs Marriott in Franklin. The weather tried to keep us down, but that didn't stop us from having excellent speakers! The educational sessions included information ranging from business law to effective communication. Keynote speaker, Greg Hayne, coached us on how to start and maintain an excellent service aspect of our companies.

Everyone, please check to **make sure that your company has renewed your dues** for the 2018 year!

We have a lot of events coming up, not only for TARC, but for the roofing industry in general. On March 6 and 7, the NRCA is hosting a Roofing Day in Washington D.C. It is a great opportunity to speak with members of Congress and their staff as well as have your voice heard!

The TARC Golf Tournament will be held April 19 at The Crossing Golf Course in Franklin. Due to inclement weather we cancelled the reception following the Mid-Winter Meeting, but we will be making it up on April 18. The reception will still be at KINGs Bowl, in Franklin. The spring board meeting will be held before the reception.

The 2018-2019 TARC Scholarship applications are now available online at [tarcroof.org](http://tarcroof.org). These need to be filled out and postmarked no later than May 1. This is a great opportunity for TARC members and their families.

Lastly, the registration for the Summer Convention is now online at [tarcroof.org](http://tarcroof.org). It will be held from June 13-16 at the Hilton Pensacola Beach. We look forward to seeing everyone there!

William "Bill" Kimbrough, Jr.  
TARC President, 2017-2018



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## Mid-Winter Meeting's Snowy Conditions

The Tennessee Association of Roofing Contractors held their annual Mid-Winter Meeting in January at the Cool Springs Marriott in Franklin. Attendance for the meeting was good despite the winter weather.

Gregory Cashion, JD started the educational portion with a *Ten Things Everyone Should Know About Construction* session, followed by a presentation by Heidi Ellsworth, a partner with Roofers Coffee Shop titled *Roofers Coffee Shop: What Can We Do With It?* TARC's General Counsel, Trent Cotney, JD ended the morning sessions with insights into *The Top Employment Issues in TN's Roofing Industry*.

The breakout session, For Foreman Class Level II broke for lunch with TARC members. Everyone enjoyed an Italian buffet, and the foreman had the chance to network with contractors, colleagues and other professionals in the roofing industry.

The second half of the day was geared toward ramping up your company with a *Communicating Effectively* hands-on workshop by Mark Roberts from Dale Carnegie Training of Tennessee. The keynote speaker, Greg Hayne, CEO of Hayne Coaching Group, Inc., gave his

phenomenal two part series about *How to Start (or Grow) A True Service Company*.

If you missed the meeting, please visit our website at [tarcroof.org](http://tarcroof.org) to download the presentations and look for speaker news items coming out soon!

### TARC KINGS Bowl Reception Wed., April 18



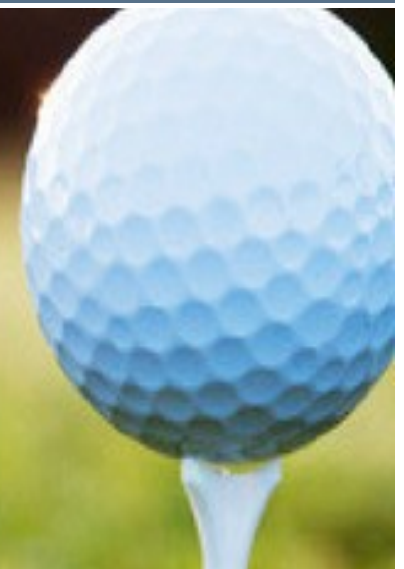
The reception will be in the Whiskey Room at KINGS Bowl on Wed., April 18, from 5:30 – 7:30 PM. This reception has been rescheduled from the Mid-Winter Meeting that was snowed out in January! There is no charge for those who had registered for the Mid-Winter Meeting and already paid in January, but please still RSVP on our website [tarcroof.org](http://tarcroof.org). For those who did not register previously and wish to attend, you may purchase a ticket for \$45. This party includes: bowling, shoe rental, appetizers and two drink tickets! — an \$80 value! No children under 21 will be allowed to attend this event. **Please note that there will be a Board Meeting in the Whiskey Room from 4:00 – 5:00 PM.**

## Spring Reception & Golf Tournament: April 18—19

# SPRING GOLF TOURNAMENT

## APRIL 18 - 19, 2018

The Crossing Golf Course  
750 Riverview Dr. | Franklin, TN 37064



## TARC Member Spotlight: All in the Family

Imagine working a full time job during the day, raising three boys and four girls, and spending your nights bending sheet metal in your basement to install the next morning onsite? That's just what Robert Smith, Sr., did to get Donelson Roofing Company, Inc. started over half a century ago. Somehow through all of that, Robert Smith, Sr. found the time to contribute to his hobbies of fishing and hunting.



Now, Robert Smith, Jr. runs Donelson Roofing, along with his mother, Evelyn Smith, his brother Danny Smith and sister Lynn Williams, his son Michael and nephew Brandon Smith. Donelson Roofing is truly a family operated business! The company has since moved out of the basement and into a nice facility in Mt. Juliet and has become an area leader in single-ply and metal roofing. Donelson also offers precision metal fabrication services ranging from custom industrial, commercial and metalworking projects.

After high school, Robert Smith Jr. served in the air force for four years. He was in his mid-20s., when he came home to work for the family business, first working under his dad as a superintendent, then contracting, to eventually taking over the company. Robert has also been a huge part of the Tennessee Association of Roofing Contractors, serving on various committees, and holding offices such as Treasurer and leading as a three-time President.

"The roofing business has seen a lot of changes during the 61 years that we've been in business," Robert Smith, Jr. reflects, "both in the Donelson Roofing and in the industry overall. Some of the changes in the industry have made owning a roofing industry just so much harder."

When Donelson Roofing first started in 1957, the company employed just three employees, then it grew to 50 at one point. Robert explained how he tries to keep the business smaller for several reasons. First being the employment issues. The work is there, but there aren't enough qualified roofers who can pass the required drug testing and immigration issues for employment.

The other factors include regulation changes with background checks, safety regulations and the amount of

money spent toward the required equipment to satisfy the safety regulations. He noted, every year more and more regulations are put into place.

Donelson Roofing is known around town for some of their larger jobs, including the Opryland Hotel Convention Center. Robert notes that one of the most memorable jobs for him was roofing the historic Nashville State Prison before they finally closed their doors in the 1990s. "As we were up on the roof working one day I saw James Earl Ray sitting in a chair by a guard in the prison yard. My crew and I also witnessed a stabbing in the yard from the roof on a separate occasion during that job. The experience was very surreal," Robert reflects.

In 2005, Robert Smith, Jr. took over the company when



his father became ill and the family members took on more responsibilities running the business. His brother Carl ran the sheet metal shop before his passing in 2011, his brother Danny runs the crew and his sister Lynn

manages all the office administration, payroll and anything else that needs to be done. "Working with family has its pros and cons. Delegating is hard to do and you can never get out! However, when working with family, you know that they have your back and everyone works."

Robert's mother, Evelyn, at 86, still comes to work too. Robert picks her up every morning and brings her to work. "She answers the phone and sets up new jobs for until her grandson Brandon takes her home. We bicker a lot about her using the stairs."

The Tennessee Association of Roofing Contractors remains an important component to Robert. Donelson Roofing relies on the Associate Members for needed materials. Not only this, "meeting colleagues and sharing experiences helps me in my own business. You find out that colleagues may have that one experience that you haven't and wouldn't know what to do in. It is nice to be able to bounce ideas off of one another."



## NRCA Applauds New Expensing Rules for Roofs in New Tax Law

By Duane Musser, VP of Government Relations, NRCA



NRCA is extremely pleased that the Tax Cuts and Jobs Act expands the definition of qualified real property eligible for full expensing under Section 179 of the tax code to include improvements to nonresidential roofs. This is a major victory for NRCA, as it is the result of years of efforts to educate

lawmakers regarding the economic benefits of improved tax treatment of roofs.

NRCA members may wish to consider being proactive in informing customers and other industry participants about this provision in the new tax law during 2018. The following is detailed information about Section 179 and the provision to add nonresidential roofs as qualifying property under the Tax Cuts and Jobs Act signed into law Dec. 22, 2017.

### Section 179

Section 179 allows taxpayers to immediately expense the cost of qualifying property rather than recovering such costs over multiple years through depreciation. The Tax Cuts and Jobs Act significantly expands the expensing limits under Section 179, with the maximum amount a business may expense now set at \$1 million and the phase-out threshold increasing to \$2.5 million. These new limits are effective for qualifying property placed in service in taxable years beginning after Dec. 31, 2017, and the amounts will be indexed for inflation starting in 2019.

### Addition of Roofs as Qualifying Property

In addition to expanding the amounts that may be expensed, the Tax Cuts and Jobs Act expands the definition of qualified real property eligible for section 179. As of Jan. 1, 2018, qualifying property for Section 179 includes "improvements to nonresidential real property placed in service after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems."

Given these changes to Section 179 by the Tax Cuts and Jobs Act, qualifying taxpayers (generally small and

mid-sized businesses) may now elect to fully expense the cost of any improvements to nonresidential roofs beginning in 2018 and future years. Essentially, any improvements to nonresidential roofs including full reroofs of existing buildings may now be expensed in the year of purchase by any taxpayer eligible to deduct expenses under Section 179.

Read the full story and copy of the bill on our website at [tarcoof.org](http://tarcoof.org).

# REMEMBER TO PAY YOUR 2018 TARC DUES!



"Okay fine, I'll fix the hole in the roof."

# 2018 TARC'S SUMMER CONVENTION

HILTON PENSACOLA BEACH GULF FRONT



## Surviving Inclement Weather

By Safety Operation Services (SOS)

With the Spring fast approaching it is imperative that we start planning to work safely around one of our biggest adversaries - the weather. Construction job sites are vulnerable to severe weather including thunderstorms, tornados, high winds and even ice and snow. By nature, some job sites (especially roofs), leave us with few choices for storm refuge. This lack of refuge increases the importance of severe weather plans. **Job site Severe Weather Plans should be created to protect employees** when severe weather bears down. See our tips below!

### THE JOB SITE PLAN

- Train all employees to know the job site severe weather plan.
- Have a plan for high winds and tornado, heavy rain and flooding as well as lightning.
- Have a severe weather radio that is available and loud enough to notify job site workers. Purchase a quality severe weather radio.
- Create a severe weather audible job site warning: such as an air horn.
- Identify locations appropriate for storm refuge.
- If no refuge area is available, have a plan in place to evacuate the site.
- Do a head count during storm refuge operations.
- Trenches & holes are off limits as they flood.
- Suspend crane operations.
- Workers atop boom lifts, scaffolds or ladders shall suspend operations.

### SEVERE WEATHER PLANNING

- Know the weather forecast.
- Tune into local radio stations for weather updates.
- Phone employees at other locations that have internet access for weather updates. Check [www.noaa.gov](http://www.noaa.gov) for weather and download the WeatherBug lightning strike app to know when lighting is getting close to the job site.
- Make weather plans before the day begins.
- Review the severe weather plan and possible storm refuge locations with workers.
- Keep supervisors aware of any severe weather warnings or watches.

### AFTER THE STORM

- Perform a head count after the storm.
- Perform a job site safety evaluation to see if hazardous conditions exist.
- Review electrical services / transmission lines and all equipment and machines for damage.

## Employee or Independent Roofing Subcontractor?

By Trent Cotney, PA. Cotney Construction Law, LLP



Throughout the United States, roofing contractors use subcontractors to provide labor on various projects not only as a necessity because of the lack of skilled labor, but also because of the potential to defray liability and

employee-associated taxes and expenses. A recent interpretation letter issued by the United States Department of Labor Wage and Hour Division may have a serious impact on the roofing industry.

The Department has eliminated the prior common law standards that federal courts used to determine if a subcontractor was truly operating as an independent contractor. The old standards were commonly referred to as the “suffer or permit” and “control” concepts. Such standards were broad in scope and vast in interpretation.

The “suffer or permit” standard held that an employer was liable for the workers who performed labor on behalf of the company if the employer had the opportunity to detect that work was being performed illegally or beyond the confines of federal labor laws. The “control” standard was similar and required that Courts examine an employer’s control over the workers performing the labor. Generally, courts would consider a worker an employee when it was apparent that the employer exhibited sufficient control over the worker.

The new standard is known as the “economic realities test.” Federal agencies such as OSHA, EPA, SSA, ICE and many others will be partnering with DOL Wage and Hour local offices in order to prepare for a series of brand new enforcement actions in 2016. Under the new approach, the Department of Labor may have the ability to pursue companies and turn their independent subcontractors into employees for the purposes of fines, citations, and/or legal action. As a

result, employers must have the necessary contractual language in all subcontract agreements to evidence the fact that independent entities are not dependent upon the employer as employees. Similarly, employers should exhibit behavior and institute policies which demonstrate that hired subcontractors are in business for themselves as independent contractors. An employer who fails to show that subcontractors are independent entities may face an enforcement action for misclassifying workers.

Although subcontracts are important, they may not provide the appropriate verification to show that a subcontractor is independent. Federal case law has ruled that the label an employer gives a subcontractor will not be the decisive factor in determining if the subcontractor is in business for himself/herself or simply an employee without the required employment benefits, insurance or payroll tax. Under the new economic realities test, the federal government will examine:

- The extent to which the work performed is an integral part of the employer’s business;
- The worker’s opportunity for profit or loss depending on his or her managerial skill;
- The extent of the relative investments of the employer and the worker;
- Whether the work performed requires special skills and initiative;
- The permanency of the relationship; and
- The degree of control exercised or retained by the employer.

The greater the level of independence, the more likely a subcontractor will be considered independent from the prime roofing contractor. While not definitive, agencies may look to see if subcontractors work for multiple roofers, advertise, run the risk of increased profit or loss

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on jobs, have their own equipment and tools, and provide their own safety and employee training. In the age of increased government interference, roofing contractors must make sure that their policies and practices conform to federal standards regarding the use of subcontractor labor on projects.

*Author's note: The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation. Trent Cotney is General Counsel to the Tennessee Association of Roofing Contractors (TARC), the Florida Roofing & Sheet Metal Contractors Association (FRSA), Roofing Technology Think Tank (RT3), the West Coast Roofing Contractors Association (WCRCA) and a One Voice member of the National Roofing Contractors Association (NRCA). Cotney Construction Law represents the roofing industry. For more information, contact the author at 615-933-2208 or go to [www.cotneycl.com](http://www.cotneycl.com).*

## Why You Struggle To Grow Your Service Department

By Greg Hayne, Chief Innovator of Hayne Coaching Group

If you are trying to start or grow a true service department and are struggling, I have some tips for you. These tips are based on my experiences over the last ten years working as a trainer. I teach best practices to commercial roofing contractors who want to grow their service departments. What I've discovered is the successful companies have some "approaches" to their work that are common. Those that struggle are not taking the same approaches! Let me share with you two of the biggest differences.

The number one thing that has to happen for a service department to grow is this: The owner of the roofing company, "the boss", must be actively engaged and committed to that process. The staff put in place to run and manage the service operations, the people you need to make day-to-day operations run effectively are, by disposition and skill sets, the wrong people to grow it! For instance, one of the things that really makes them effective in their roles includes: a desire and need for "routine". Growth requires change. Change is never routine. Therefore, your staff resists growth initiatives, even when they claim they don't. (There are other reasons, but all support my contention: The people that are well suited to running your department are not well suited to growing it). Are their exceptions? Sure. But if you are struggling to grow your department, you are not an exception! The owner must be actively engaged.



The second major thing that should happen is to understand that the service department is about "service", doing what is best for your customers. The mindset that makes you successful at doing production work (new roofs) effectively, when applied to service work, rarely works well. Construction contracts tend to be structured in such a way that they foster adversarial relationships. You need to be able to assertively

(and at times aggressively) tell a GC to "stuff it" when he asks you to do something stupid. That same approach does not work in a service department, where you must build cooperative relationships with customers. While you may understand that difference clearly enough, what we see roofing contractors actually do is to staff their service departments with people who have fair or even poor "customer service" skills. Hire for customer service skills. Teach them the roofing part. Don't try to do it the other way around!

You address these two things and you will make quicker progress!

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