

The Contractors Critic

Reporting on Safety, Productivity and Honesty in the Construction Industry

DELCARD ASSOCIATES, INC., AN ABC MEMBER

Multi-state litigation spree

Delcard irony: 'particles' work sickens hospital staff

A Maryland lawsuit filed in 2004 offers strong proof that doing business with Delcard Associates, Inc., or any of its "identities of convenience," can make you sick.

A Chestertown, Maryland hospital lodged a lawsuit in Kent County Circuit Court on July 27, 2004 over damages to property and injuries emergency room staff allegedly suffered as a result of Delcard's faulty installation of an HVAC system.

The suit contended that cooling air did not flow as specified in plans and

what air that did flow, carried harmful "particles" that made staff sick

Chester River Health Systems, Inc. v. HBE, Inc. and Delcard Associates, Inc., claims improper installation of "humidification equipment/control devices" caused emergency de-

partment employees to become sick.

Worse, the suit further alleges that HBE and Delcard knew the air system Delcard posed "a serious health danger."

Chester River Health Systems (CRHS) demanded that Delcard pay



"employees working in the Emergency Department, began suffering and reporting varying degrees of illness..."

It's not nice to fool Mother Superior – nuns sue Delcard

Nuns in Pennsylvania are suing Delcard Associates, Inc. after shoddily installed waterlines collapsed, flooding them out of their convent and leaving them homeless.

In the matter of *The Sisters of St. Francis of Philadelphia, Inc. v. Delcard Associates*, filed

in the Delaware County (Pennsylvania) Court of Common Pleas, as Civil Action #06-06189, the sisters have demanded a jury trial and at least \$50,000 in damages.

The 10-page complaint was filed May 23, 2006. It is *Mother Superior cont'd on page 2*

\$107,362.93 in damages and a jury trial to decide the issue.

The 'statement of facts' in the complaint is grim reading. A casual *Hospital cont'd on page 4*

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Mother Superior

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still pending

Delcard denies responsibility.

The sisters accuse Delcard of 19 breaches of contract ranging from “(a) failing to perform the construction and/or installation in conformity with the contract, plans and specifications,” to “(s) failing to otherwise exercise the level of care required of a professional in the mechanical contracting industry.

The dispute centers on events that occurred at the Alton, Pennsylvania convent in 2004.

Briefly stated: “The incident at issue occurred June 4, 2004, at the Motherhouse when the lag screws holding connecting pipe hangers to the building structure failed, causing the collapse of the heat pump supply and return loop piping in the basement of the Motherhouse and caused hundreds of gallons of water to flow into the building damaging the building and its contents.”

The installation of the heat pump supply and return loop included 8” diameter steel pipes hanging from the basement ceiling by “pipe hangers,” which consisted of lag screws, threaded rods, steel angle or channel associated hardware.

The lag screws were used to fasten each pipe hanger to the structure. The screws were inserted through the plaster lathe ceiling and threaded into the bottom of the wood floor joist.

“On June 4, 2004, the lag screw – wood joist connection failed, e.g., the lag screws pulled out of the wood joists, causing the collapse of the heat pump supply and return

loop in the basement of the Motherhouse.”

As a result of the collapse the basement was inundated with water and as a result of this, civil engineer for the local department of safety, “or-



Perhaps the worst sin Delcard committed was “failing to advise plaintiff of the inadequacies of the construction and/or installation.”

dered that the building be evacuated and remain unoccupied until made safe and determined to be safe by an independent engineer.”

On the bright side for Delcard, all this happened in June, the middle of summer, rather than the dead of winter when news cameras might have captured the heart-wrenching image of a band of innocent nuns stranded in the street where — with a brutal Pennsylvania wind whipping around them — they prayed for success.

One sin Delcard committed according to a long list of alleged trans-

gressions was “(f) failing to provide plaintiff with construction and/or installation that would keep the heat pump supply and return loop from collapsing and causing water to flow into the building.”

But perhaps the worst sin Delcard committed in the sisters’ long list of alleged legal transgressions was “(h) failing to advise plaintiff of the inadequacies of the construction and/or installation.”

It is not nice to fool Mother Superior, or even try to. For, as the medieval lay singer Marie de France noted: “Such a sin will out.” Any jury shown footage of that dismal scene might be hard pressed indeed to buy Delcard’s denials.

Delcard claimed in court papers that the nuns’ suit was without merit because the Delcard Associates mentioned in the original case filing did not exist.

Delcard Associates asserts in its answer to the complaint that the Delcard Associates, Inc. that existed in Delaware in 1984 (the one which entered into the contract with the nuns in March 1995) was not the same Delcard Associates, Inc. that had existed in Delaware since 2000, because – Presto! Change-o! — the former had been “merged out of existence” in October 1996.

The term, “legalistic niggling,” leaps to mind.

Delcard objected or denied almost all the charges the nuns made. It also gave 15 “new matter” legal reasons which it said barred the nuns’ complaint.

Delcard’s response did not

Mother Superior cont'd on page 3

Mother Superior

cont'd from page 2

please or impress the nuns, the mother superior or their lawyer, Cornelius C. O'Brien III, of the Conshohocken, Penn. law firm of Rogut McCarthy Troy.

The nuns denied each every one of the "new matter" contentions made in documents filed June 22, 2006 by attorney George F. Pallas from the Philadelphia law firm of Cohen, Seglias, Pallas, Greenhall and Furman.

The Sisters of St. Francis of Philadelphia sought to amend the complaint to correct the minor discrepancy, whereupon the paperwork flowed like the rivers of Babylon.

Answers to New Matter were followed by Amended Answers to New Matter which were followed by Petitions for Leave to Amend Petition which were followed by Petitions for Leave to Amend Complaint to Name Defendant Delcard Associates, Inc. which was followed in turn by an Answer to Petition for Leave to Amend Complaint followed by Letters of Rogatory which were followed by petitions for issuance of subpoenas.

If a verdict in your favor is heaven and a verdict against you is hell, then *The Sisters of St. Francis of Philadelphia, Inc. v. Delcard Associates, Inc.* is still doing penance in purgatory, which in this case is located in the Superior Court of Delaware.

That court approved the nuns' petition for issuance of subpoenas on Jan. 23, 2007.

Where the case goes from there – if anywhere, and for how long – God only knows (*Case #07M-01-090*).

Delcard's name-switch defense

One possible defense Delcard might offer the judge for its double-talk response to the nuns' lawsuit in Pennsylvania nuns might be its checkered history of ownership.

Delcard Associates, Inc. was one of several construction companies that reportedly was swept up in the mid- and late 1990s by the electric and gas utility giant Conectiv, according to Contractor magazine.

As Contractor magazine explained in an Aug. 1, 2000 article about ownership trends in the gas and electric industry Conectiv sold its mechanical division back to the "original owners, Delcard Associates" of Wilmington, Delaware.

The Robert Mader article announced Delcard, which Conectiv bought up in 1996, would go back to using its original name.

Other publications covering the HVAC industry during 2000 reported that utility companies that had been experimenting with the then-fashionable trend of consolidation were reversing course and divesting themselves of the companies they had acquired.

Delcard claimed in court papers that the nuns' suit was without merit because the Delcard Associates mentioned in the original case filing did not exist.

"Utilities and their holding companies may be finding that they can't run HVAC contracting and service for profit, or to any other advantage," Jim Norland reported in the Aug. 4, 2000 issue of Air Conditioning Heating & Refrigeration magazine.

It specifically identified Conectiv as one conglomerate ready to chuck its unprofitable money-losers, naming Delcard as a good example.

Dun & Bradstreet described Delcard Associates, Inc. as a firm worth \$2 million and annual sales of some \$31 million – but with trend sales at that time of only a little over \$28 million.

CEO Richard Trembl's, "It wasn't me, it was the other guy," alibi is a ploy many a cop who has picked up shoplifters and kid window-breakers in the past would instantly recognize.

Delcard states something that more closely approximates the truth

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Name-switch

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elsewhere on the Delcard website.

On its web site's "About Us" page, Delcard brags lengthily about its long, continuous existence since Oct. 30, 1984. And this near quarter-century life has been a happy one, to judge by the grinning Trembl and employees pictured on the page.

- ***Delcard's 'About Us' page currently states:*** Delcard Associates, Inc., was founded October 30, 1984. The company started in a one-office facility 225 square feet. Their business plan for projected growth was to do a \$5 million dollar volume after five years. That goal was attained in three years.

- ***But Delcard's "Answer and New Matter" court pleading filed June 22, 2006 states:*** It is denied that "Delcard Associates" is a corporation. To the contrary, no such entity exists in the state of Delaware. By way of further denial, Delcard Associates, Inc. is a Delaware domestic corporation that was incorporated on June 23, 2000.

- ***Delcard's 'About Us' page currently states:*** In October 1994, Delcard Associates moved their operation to a larger location . . . In 1996, Delcard Associates expanded to start fabricating pipe and plumbing work.

- ***But Contractor magazine's Aug. 1, 2000 article reported:*** *Electric and gas utility Conectiv has sold the Mechanical Division of Conectiv Services back to its original owners, Delcard Associates, Wilmington, Del., and Frey Lutz Corp., Lancaster, Pa. Both will operate the companies under their original names. Delcard was purchased in 1996.*

- ***Delcard's 'About Us' page currently claims:*** *Delcard Associates is considered the Wilmington market's #1 Mechanical Contractor.*

- ***Industry expert familiar with current Wilmington market specifically:*** *Number what? One? Furthest thing from the truth! No way. You kidding me?"*

With this evidence in full view here, one has to now consider this question: if the people at Delcard Associates are so comfortable with shading the facts to a judge and to the public, how facile is it with the

Name-switch cont'd on page 5

Hospital

cont'd from front page

reader might reasonably wonder why this filed as a civil case and not as a criminal matter.

Here are some of the details.

According to the complaint, on or about July 24, 2000, Chester River Hospital, (formerly known as Kent and Queen Anne's Hospital) hired HBE & Delcard perform additions and alterations to the hospital emergency department. HBE subsequently let a subcontract to Delcard to install the HVAC system.

The parties allegedly met on Nov. 15, 2001 to discuss how the job was progressing and HBE told hospital representatives that some work remained to be done on the HVAC system, "including overall system balancing and the installation of the humidification equipment/control devices."

However, hospital reps were assured, the remaining items could and would be taken care and that the emergency room would be ready for use by December 2001. The remaining installation and "balancing" of the system was left to be done by Delcard.

"Balancing" meant making sure that "air flows, as specified in the design drawings were actually flowing through various duct or out-specified diffusers with a certain tolerance."

"Delcard was not able to balance the air-flow system prior to the December 2001 move noting that outlets had not been installed on the system, and that ducts had been left open and/or not completed, which allowed uncontrolled air to flow out into the

Hospital cont'd on page 5

Hospital

cont'd from page 4

area beyond the current Emergency Department space, circuit court documents assert.

“Despite the inability to balance the HVAC system, a fact that was not conveyed to the Hospital, HBE permitted the Hospital to move the Emergency Department, which occurred on Dec. 4, 2001, and affirmatively warranted that it was safe to do so.”

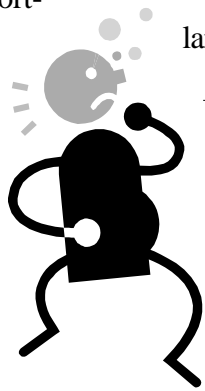
As is so often the case, it took but a few days for Delcard’s airflow feces to hit the faulty fans, according to the lawsuit.

“Between December 4-11, 2001, employees working in the Emergency Department, even for only a few hours a day, began suffering and reporting varying degrees of illness, varying from irritation of eyes, throat, nose and skin to minor breathing difficulties.”

Events quickly progressed from bad to worse, catching up with Delcard and HBE at an alarming pace.

“On December 17, 2003, HBE subcontractors working in an attached, but as of yet unused, ambulance bay began scraping off spray-on insulation so that various hangers could be attached and extended down from the roof. The insulation particles were allowed to remain on the concrete floor, crushed into finer particles as workers walked over it, and sucked up into the HVAC system.”

In further alterations made the next day; HBE “or its subcontractors” failed to make important modifications in the return air system. This allowed a greater amount of “fine insulation particulate



Name-switch

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truth in its supplemental invoices?

Moreover – looking at how easily Delcard became Conectiv only to become Delcard again and then deny in court papers to being any of the above – anyone thinking of contracting with this group should be sure to find out which of the above entities they will have to argue with or sue if trouble erupts.

On the other hand, maybe they should just get Delcard Associates, Inc. to sign the contract as “Delcard Associates and the Other Dude, Inc., a legal partnership.

back into the system than was flowing out of through the supply ducts, and created a negative pressure zone between the new Emergency Department and the surrounding Hospital.”

Fire officials and the Maryland Department of the Environ-

humidistat.”

HBE promised on December 20 to hook everything up properly. On December 28, investigators discovered that HBE and Delcard had still not fulfilled their promises to hook up the humidifier properly. Another subcontractor

HBE shut the emergency room down January 16, 2002 to conduct a thorough review and sealing of the entire building ... around the Emergency Department.

ment were summoned to the hospital December 20, 2001 “due to the number of complaints and reports of illnesses.”

The HVAC system was shut down. Safety workers came in. They found construction debris and crumbled-up ceiling insulation was being “tracked into the Emergency Department.”

The same day, the hospital hired the private investigative services of Datanet. Datanet found that “the HVAC humidifier was neither hooked up to the ducts nor connected to a

tor was brought in to do it right.

Things got worse and worse as the probe proceeded.

“Fine particulate was observed to be still circulating around the Emergency Department” in part due to a hole in the wall of a treatment room, investigators reported on December 29, 2001.

In a January 3, 2002 report, further problems emerged. “Missing dampers and wrong types of diffuser grills in various rooms of the Emergency Department” were found. Delcard or

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Hospital

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HBE was ordered to come back to make further adjustments to the HVAC system, the suit stated.

HBE shut the emergency room down January 16, 2002 “to conduct a thorough review and sealing of the entire building envelope around the Emergency Department, which identified holes above the ceiling and uncovered additional problems in the hallway of the yet-to-be-completed new nurse’s station.”

More trouble was reported on Jan. 21, 2002. Attempts were made to correct all this but apparently were unsuccessful for “Subsequently, an HBE mechanical engineer visited the site to inspect the HVAC system” – Delcard’s work – only to find more “discrepancies between plans and the installed equipment. The discrepancies included the installation of the wrong type of humidistat, which permitted severe swings of humidity to occur throughout the day.”

From December 18, 2001 onward, hospital employees began reporting illnesses with symptoms similar to those reported above, but with greater severity and frequency.

As a result of the air quality problems, the hospital was forced to pay more than \$107,300 in workers compensation benefits to 13 injured or ill employees.

For its part in this construction snafu and embarrassing health debacle, Delcard Associates, Inc. was sued for the \$107,300 amount for negligence by failing to:

- install all necessary outlets in the system

- install ducts, or failing to leave them open in the HVAC system
- initially balance the system
- install dampers in certain areas,
- connect the HVAC system to the humidifier, and by
- installing the wrong types of diffuser grills in certain areas and by
- installing equipment, including a humidistat that were not pursuant to plans and specifications

What with Delcard’s 1) poor performance on a project involving a hospital emergency room where lives are at stake every day and 2) its apparent attempts to hide it, 3) and when caught failure to fix the alleged errors. It looks like Delcard’s owners managed to hit the Big Trifecta of safety screw-ups.

Delcard’s response to some of the charges was quite short – for lawyers, anyway.

Their answer to the multiple allegations brought in U.S. District Court for the District of Maryland, (Northern Division), lawyers craftily responded: “Delcard is without knowledge and information sufficient to form a belief as to the truth of the allegations....”

Last seen, Delcard appeared to be in the process of transferring the case from that federal court to another court, as a September 14, 2004 “notice of removal” suggests.

Perhaps Delcard is searching for a court far, far away from the hospital in Chester River where people are still coughing and hacking.

A hearing was scheduled for September 14, 2006 in the same Maryland federal court on that matter.

As of Feb. 1, 2007 and after 72

court appearances, the matter remains pending, according to the federal case tracking system.

The Contractors Critic is actively seeking further court documents in that bizarre case to determine the suit’s current status and location available (*Case #14-C-04-006076*).

Also being sought is further information on the status of three lawsuits against Delcard Associates that also appear to stem from the incidents described here.

All three allege the victims sustained painful and permanent injuries from breathing the particles released into the air because of Delcard’s improper actions.

The lawsuits, *Katherine and David Simmons v. HBE Corp. and Delcard Associates Inc.*, and *Christine and Michael Worth v. HBE Corp. and Delcard Associates Inc.*, originated in Kent County, Maryland. Documents show all three have been removed to U.S. District Court, Maryland, Northern Division (*Case # CCB 05-05-00100 and 05-CV-00102, respectively*).

The third lawsuit – first filed in a batch of three, along with Simmons and Worth, bearing consecutive case identification numbers – was *Sharon and Bill Dempsey v. HBE Corp., and Delcard Associates, Inc.*, filed in the Kent County (Maryland) Circuit Court.

Documents show the Dempsey case, too, was shuttled off to the same federal court, but no federal case number for that suit was immediately available (*Case #41-C-04-006221*).

Pictures tell tale, Delcard nailed in NJ labor case

One employee's complaint led to a New Jersey regulatory agency investigation in 2002 that proved Delcard Associates had systematically swindled unsuspecting workers out of tens of thousands of dollars in wages.

The New Jersey Department of Labor ultimately levied payments and fines totaling nearly \$100,000.

The case was brought against Delcard as a result of a complaint Pedro Concepcion filed April 19, 2001, government records show.

Conectiv Services/Delcard Associates, Inc. was found to be guilty of violating three areas of reporting law for which it was fined and assessed \$96,487.84.

Investigators discovered that Delcard had either failed to pay workers at all or paid them late on heating ventilation and air-conditioning work in Ewing, N.J.

Dept. of Labor administrative de-

tectives also learned and proved that when Delcard did pay wages, they calculated them at rates far below the prevailing rate they were legally obliged to pay and by this device manipulated the amounts paid downwards.

Dept. of Labor investigators further found that Delcard failed to keep records of pay transactions, or hid what records it did keep, a tactic that is blatantly unlawful.

One can easily picture the scene. Just visualize it the dirt, the dust, the electrical lines strung everywhere and pipes piled up.

It's payday and the worker is anxious to get home. A suddenly friendly foreman or mysteriously palsy manager calls the worker — him or her — aside and says something to the effect that a deal could be struck that would be beneficial to both of them.

"Look, Pedro (or Carol), you like working here and we like your work, but this is cash out of my own pocket.

"If the government got its bite it would only come of your share anyway. Besides, it reduces my bookkeeper's workload. We all benefit."

Knowing that to refuse such a proposal would endanger his or her job, the worker goes along.

Other cases involve not telling the worker anything. Period.

"Edna, it's a cinch. They don't speak English very well, can't read or write, and they probably wouldn't wise up to the action 'til the job is over, anyway."

Concepcion's individual real-life case, as it was memorialized in the "Audit Narrative Report" that one of the investigators jotted down went like this:

"Mr. Concepcion indicates he Delcard nailed cont'd on page 8

DoL ruling goes against Delcard on pay-cheating

A Pennsylvania judge's ruling in a worker's pay dispute with Delcard Associates, Inc. may set a legal landmark for others.

In the matter of the state *Department of Labor and Industry, Bureau of Labor Law Compliance v. Vincent Ganc*, Senior Judge Emil Narick filed his legal opinion May 13, 1999.

That opinion was not a very high one for the Department of Labor, case papers show.

Briefly, the legal opinion said Ganc was involved in a state sponsored Apprenticeship program in 1994. In the program, rules for pay scales were legally set and approved by the state Ap-

prenticeship and Training Council.

Ganc filed a wage protest on December 30, 1994. He subsequently pled his case to two Bureau of Labor Law Compliance inspectors.

When Ganc had not received a decision on his case after a month, he wrote for one. He got no answer.

On June 19, 1996, he had a lawyer complain. More than two months later, on August 21, 1996, the director of the Bureau of Labor Law Compliance replied to the lawyer saying, "the Department elected not to pursue Ganc's protest because the Department felt that the situation was

adequately addressed by Delcard."

In other words, the director thought that since Delcard said it had not done anything wrong it must not have. Ganc appealed September 27, 1996.

The appeal hearing before a Prevailing Wage Board hearing officer resulted in the board deciding that "the Department committed an error of law when it refused to fully investigate and hold a hearing on (Ganc's) wage protest."

The department appealed to the Commonwealth Court of Pennsylvania and it is here where the courts ruling becomes humorous reading if it isn't *Pay-cheating cont'd on page 8*

Delcard nailed

cont'd from page 7

worked as a Sheet-Metal Mechanic on the College of NJ project, and provided pictures to bolster his contention.

(So, Concepcion apparently wasn't the patsy they took him to be.)

"Concepcion also completed an Affidavit and MW-15."

Conectiv Services/Delcard Associates, Inc. was found to be guilty of violating three areas of reporting law for which it was fined and assessed \$96,487.84.

(And he knew how to keep his own records and fill out regulatory reports.)

"The Employer paid Concepcion at a Laborers rate, when he should have received the rate of a Sheet-Metal

Mechanic for all hours worked.

"On the CPR's (Certified Payroll Records) the *proper pay rates were not paid on virtually all of job titles worked*, (emphasis added) based on the Mercer County Wage Determination for 8/21/98 (enclosed).

"There were also numerous Over-

time violations, where employees were either not paid overtime at all or were paid improper OT (over time) rates.

"Audit should also check for any Apprentice violations, based on the en-

closed B.A.T. letter of Feb. 22, '01.

"Conclusion: (1) Pedro Concepcion should receive Sheet-Metal Mechanic rate. (2) A; affected employees should be brought up to prevailing rate, per the enclosed Wage Determination. (3) Employees who worked OT should get proper OT wage. (4) Employer failed to provide proper verification on fringe credit and all fringe credit should be disallowed... Cite Employer for Records Violation, failure to pay prevailing rate (including OT), and do not allow fringe credit to company.

"Also, check for Apprentice violation(s)."

Investigator John Stevens signed this report/statement Nov. 2, 2001 (NJDoL #PC-811-1101-STE).

Pay-cheating

cont'd from page 7

your paycheck involved.

The department argued that it was not required "to hold a hearing for every protest filed by a workman."

"We disagree," the hearing judge said, flatly, and then yanked out the legal language of the labor law that stated the opposite. In addition, he put it in bold type so Delcard and their friendly labor department investigators could not miss it.

"It shall be the duty of and the secretary shall forthwith investigate the matter" when a complaint is raised.

And, "In any such investigation, the secretary shall provide for an appropriate hearing" and duly notified the workmen and the employer of it.

Just to make sure the Department of Labor had gotten the message,

Narick noted in his decision, "The language in the Act is not ambiguous."

Narick also did not care for the department's interpretation of the law, in which the department argued that the (Appeals) Board's interpretation of the statute "elevates the states of the complaining to that of a party allowing the worker to dictate how the Department conducts its investigation."

Apparently, the department felt that it was fine that workers should have rights, but it would be damned impudent of the Appeals Court to make them exercise them.

Besides, the department went on to argue, "it would be unreasonably and excessively burdensome for the Department to hold a full-fledged evidentiary hearing for each wage protest."

Narcik dryly noted that the depart-

ment presented "No evidence of the insufficiency of the Department's resources to investigate all wage protests filed."

It might be worth pointing out here that one way to reduce the number of protests to a manageable level would be to enforce pay rules in the first place. Or as some civil law attorneys have been known to put it: "Create no problem; you got no problem."

The Appeals Board decision reminded the department one last time, "The Board reiterates that the Department is to conduct an investigation, which must include an 'appropriate hearing', to determine whether Ganc was underpaid, and if so, whether the underpayment was intentional" (Case #34 CD 1998).

Multiple lawsuits dog Delcard Associates in multiple states

The multiple identities that owner Rick Treml has adopted for Delcard Associates in multiple states are coming to light as an investigation proceeds into numerous legal problems that have developed around the firm's work quality and business practices.

Delcard Associates, Inc. was originally formed in Delaware in 1985, where it operated as an HVAC firm, before allying itself in the mid-1990s with the mid-states behemoth Conectiv Services, Inc.

Treml remained the main man at the retitled Delcard.

But that alliance did not last long.

In 2000, Conectiv released the firm plagued by legal and profit problems. Treml then resumed using his firm's original name.

Gained in this on-again, off-again corporate switcheroo move was a device Treml could later use to "disassociate" – at least in theory – the "new" firm with the multiplying state and federal lawsuits and legal complaints over unsafe work and hiring practices there were hovering

over the firm.

The Contractors Critic uncovered over 30 legal actions against Delcard filed in district, state and federal courts in four eastern states during the initial investigation alone. The list below is only a partial list of cases involving Delcard, its subsidiaries and its associates.

The various courts include, but are not limited to: the federal U.S. District Court of Maryland; the Court of Common Pleas of Delaware County, Pennsylvania; New Castle County Superior Court in Delaware; as well as other pending litigation in New Jersey.

These cases – some involving allegations over deceptive practices, pay rate manipulations, poor work and multiple safety violations – represent only a first-blush glance at the legally troubles the firm currently faces.

Some of the cases listed may have been consolidated in higher courts.

The Sisters of St. Francis of Philadelphia v. Delcard Associates, Inc.; Case # 07M-01-090, Filed 2/23/2007, Superior Court State of DE

The Sisters of St. Francis of Philadelphia v. Delcard Associates, Inc.; Case # 1566679, Filed 10/24/2006, Court of Common Pleas, Delaware County, PA

Delcard Associates, Inc. v. United States Surety Company XL Rein; Case # CV10416, Filed 8/8/2005, Queen Anne's County Circuit Court, MD

Christine Worth, et al v. HBE Corporation, Delcard Associates, Inc., et al; Case # 1:05-CV-00102, Filed 1/12/2005, U.S. District Court- District of MD, Baltimore

Multiple lawsuits cont'd on page 10

Other filings, suits, arbitrator filings

Delcard Associates and other identities it has functioned under became the subject of several other legal actions between 1996 and now.

Most recently, a civil complaint known as *Butler Balancing Company, Inc. v. Conectiv Services, Inc.; Delcard Associates, Inc., St. Paul Surety*, New Castle County (Del.) Superior Court, #01C-07-133, alleged a breach of contract that resulted in Butler being shafted for \$68,952.31.

That sum represented the amount owed to it by the defendant, Delcard, for work on 11 projects, according to a complaint filed July 17, 2001.

The amounts allegedly owed ranged from \$40,297.50 for work at a Delaware Correctional Facility called Smyrna Prison all the way down to \$1,419.50 Delcard/Conectiv owed it for work at the College of New Jersey Science Building, the lawsuit stated.

Last filings in this dispute indicated the parties had agreed on Sept. 21, 2001 to submit the issue to a court-appointed arbitrator.

In 1998, another New Castle County arbitrator ordered Delcard Associates and others pay a total of \$25,000 in the matter of *Jamie Szymanski v. Commercial Net Lease, et al*, civil action #98-C-01-015.

The order, dated Feb. 8, 2000, did not include the arbitrator's fee.

But perhaps the most interesting of the cases so far discovered were the suits stemming from a 1997 automobile accident at the intersection of May

Other filings cont'd on page 10

Multiple lawsuits

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Sharon Dempsey v. Delcard Associates, Inc.; Case # 1:05-CV-00101 CCB, Filed 1/12/2005, U.S. District Court- District of MD, Baltimore

Katherine Simmons v. Delcard Associates, Inc.; Case # 1:05-cv-100CCB, Filed 12/20/2004, U.S. District Court- District of Northern, MD

Katherine Simmons v. Delcard Associates, Inc.; Case # 14-C-04-6222, Filed 12/20/2004, Kent County Circuit Court, MD

Christine Worth, et al v. HBE Corporation, Delcard Associates, Inc., et al; Case # 14-c-04-6223, Filed 12/20/2004, Kent County Circuit Court, MD

Sharon Dempsey v. Delcard Associates, Inc.; Case # 14C04006221, Filed 12/17/2004, Kent County Circuit Court, MD

Chester River Health System, Inc. v. HBE Corporation, Delcard Associates, Inc., et al; Case # 30400010332004, Filed 10/1/2004, Queen Anne's County District Court, MD

Delcard Associates Inc. v. United States Suerty Co. XL Reinsurance; Case # 17C04010416, Filed 9/17/2004, Queen Anne's County Circuit Court, MD

Chester River Health System, Inc. v. HBE Corporation, Delcard Associates, Inc., et al; Case # CCB04CV2948, Filed 9/14/2004, Kent County Circuit Court, MD

Chester River Health Systems v. Delcard Associates, Inc.
Case # 04-CV-02948, Filed 9/14/2004, Breach of Contract, Negligence
US Dist. Court-Dist. Of MD-Baltimore, MD

Sharon L Dempsey, et al v. HBE Corporation, Delcard Associates, Inc., et al;
Case # 14C04006076, Filed 7/27/2004, Kent County Circuit Court, MD

Chester River Health System, Inc. vs HBE Corporation, Delcard Associates, Inc., et al; Case # 14-C-04-00-6076, Filed 4/27/2004, Kent County Circuit Court, MD

Rhonda Woodland vs. Delcard Associates, Inc.; Case # 209010779, Filed 9/17/2002

GBI Inc. vs. Delcard Associates, Inc.; Case # L000102 02, Filed 1/1/2002, NJ

Sharon L Dempsey, et al vs HBE Corporation, Delcard Associates, Inc., et al;
Case # 41C-04-006221, Filed 12/20/2001, Kent County Circuit Court, MD

Delcard Associates, Inc. v. United States Surety Company XL Reinsurance America Inc, et al; Case # 20300042772001, Filed 9/10/2001, Wicomico County District Court, MD

Butler Balanceing Co. v. Conectiv Services, Inc. and Delcard Associates, Inc.;
Case # 01C-07-133, Filed 7/20/2001, Superior Court Civil Justice, DE

Butler Balancing v. Conectiv and Delcard Associates, Inc.; Case # SS0007013301C, Filed 7/17/2001, Superior Court of DE New Castle County, DE

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Avenue and New Castle Avenue in New Castle County, Del.

The matter of *Frederick G. Durham v. Emmett J. Zickgraf, Jr., Delcard Associates, Inc.*, a Delaware corporation now known as Conectiv Services, Inc., New Castle Superior Court, # 97C 12-189, filed Dec.18, 1997 described the accident thusly.

“On Sunday evening December 24, 1995 at approximately 9:09 p.m. Mr. Durham was a passenger in a 1984 Oldsmobile Custom passenger car owned by him and operated by Carol Hall, westbound on May Avenue in the vicinity of its intersection with New Castle Avenue (Delaware Route 9) in New Castle County, Delaware.”

Durham alleged that at that time and at that place one “James A. Bowers, Jr. was operating a 1995 Pontiac Sunfire owned by Robin Bowers, northbound on New Castle Avenue (Delaware Route 9) in the vicinity of its intersection with May Avenue in New Castle County Delaware.”

And it gets even more complicated.

At that same time and at that same place, Zickgraf was said in the lawsuit to be “operating a 1991 Ford Econoline owned by Delcard. Southbound on New Castle Avenue (Delaware Route 9)’ in the vicinity of its intersection with May Avenue in New Castle Count, Delaware.

Well, it doesn't take an expert in the forensics of car crash calamities to figure out we have a three-car collision coming.

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Other filings

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“At the aforesaid time and place, the Ford suddenly turned left in the intersection of New Castle (Delaware Route 9) and May Avenue, so as to proceed eastbound on May Avenue in the path of the Pontiac. The Ford collided with the Pontiac, after which the Ford then collided with the Oldsmobile. (hereinafter “the collision”).

Must have been quite a bang-up. It took letters (a) through (l) to list the nature of the injuries he suffered, beginning with “cervical strain and sprain” and stretching all the way to “loss of life’s pleasures.”

A jury trial was demanded with Durham demanding an amount in excess of \$100,000.

Carol Hall, driver of the vehicle which Durham said he was a passenger, also sued Zickgraf and Delcard.

Her case was entitled *Carol Ann Hall v. Emmett J. Zickgraf, Jr. and Delcard Associates, Inc. also known as Conectiv Services, Inc.*, CA #97C 07-208.

But her list of injuries was even longer, running practically through the entire alphabet from (a) to (r). Only nine from (s) to (z) were left.

Hall also suffered cervical strain and sprain, but she developed “(m) bilateral entrapment neuropathy (carpal tunnel syndrome)” as a result of the accident, the lawsuit contended.

The suit goes on to say Hall lost her job as a result of the accident and that she, too, suffered “(r) loss of life’s pleasures.”

On the serious side of the issue, however, Hall alleged in her lawsuit that at the time of that Christmas Eve acci-

Multiple lawsuits

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Butler Balancing v. Delcard Associates, Inc.; Case # 01 05897, Filed 1/1/2001, Pennsylvania

Jaime F. Szymanski v. Commercial Net Lease and Delcard Associates, Inc.; Case # 98C-01-015, Filed 2/14/2000, Superior Court of DE New Castle County, DE

Dept. of Labor and Industry, Bureau of Labor Law Comp. V. Vincent Ganc and Delcard Associates, Inc.; Case # 34 CD 1998 Filed, 5/13/1999, Commonwealth court of Pa, PA

Frederick G. Duham v. Emmett J. Zickgraf, Jr. and Delcard Associates, Inc.; Case # 97C-12-189 Filed, 12/24/1997, Superior Court of DE New Castle County, DE

Carol Ann Hall v. Conectiv and Delcard Associates, Inc.; Case # SS0007020897C, Filed 7/23/1997, New Castle County Superior Court, DE

Carol Ann Hall v. Conectiv and Delcard Associates, Inc.; Case # 97C-07-208WTR, Filed 7/23/1997, Superior Court of DE New Castle County, DE

Jay W. McKinney v. NC Builders and Delcard Associates, Inc.; Case # 96C-12-013 Filed, 12/2/1996, Superior Court of DE New Castle County, DE

Queen Anne’s County Board of Education v. Maryland Construction, Inc. and Delcard Associates, Inc.; Case #1033-2004 Filed, 6/26/1995, District Court of MD, Queen Anne County, MD

Delcard Associates, Inc. v. Healy Management Services; Case # 93L-02-042, Filed 3/5/1993, Superior Court Civil Justice, DE

dent “Zickgraf did not have a permanent driver’s license, but merely a temporary license, based upon a prior DUI.”

She also contended that “Mr. Zickgraf is an alcoholic.”

Hall did not specify a specific amount sought in her suit, but included Delcard in the matter of the grounds of “wanton entrustment.”

That would amount to knowingly and recklessly allowing an incompetent person to drive a vehicle.

Finally, in the matter of *Jay W. and Deborah A. McKinney v. N.C. Builders and Delcard Associates*, New Castle Superior Court, #96C-12-013, filed Dec. 2, 1996, an arbi-

trator awarded the former plaintiff \$38,931.28 and the latter plaintiff \$1,500.

The suit alleged that on Friday “April 28, 1995, male plaintiff (Jay) was employed by HMS interiors and was working at the Corestates Building on Beaver Valley Road in New Castle County, Delaware when he tripped and fell over a pipe sticking up out of through the floor and which had been placed there in a negligent and careless manner by the defendants.”

An arbitrator found the plaintiffs’ assertions to be true. He made the awards cited above in an order issued April 17, 1997.

Source Notes

LITIGATION:

Delcard Assoc., Inc. v. Healy Management Services. Case # 93L-02-042, Filed 3/5/1993, Superior Court Civil Justice, DE

Queen Anne's County Board of Education v. Maryland Construction, Inc. and Delcard Associates, Inc. Case #1033-2004 Filed, 6/26/1995, District Court of MD, Queen Anne County, MD

Jay W. McKinney & wife v. NC Builders and Delcard Associates, Inc. Case # 96C-12-013 Filed, 12/2/1996, Superior Court of DE New Castle County, DE

Carol Ann Hall v. Conectiv and Delcard Associates, Inc. Case # SS0007020897C, Filed 7/23/1997, New Castle County Superior Court, DE

Carol Ann Hall v. Conectiv and Delcard Associates, Inc. Case # 97C-07-208WTR, Filed 7/23/1997, Superior Court of DE New Castle County, DE

Frederick G. Duham v. Emmett J. Zickgraf, Jr. and Delcard Associates, Inc. Case # 97C-12-189 Filed, 12/14/1997, Superior Court of DE New Castle County, DE

Dept. of Labor and Industry, Bureau of Labor Law Comp. V. Vincent Ganc and Delcard Associates, Inc. Case # 34 CD 1998 Filed, 5/13/1999, Commonwealth court of Pa, PA

Jaime F. Szymanski v. Commercial Net Lease and Delcard Associates, Inc. Case # 98C-01-015, Filed 2/14/2000, Superior Court of DE New Castle County, DE

Butler Balancing v. Delcard Associates, Inc. Case # 01 05897, Filed 1/1/2001, PA

Butler Balancing v. Conectiv and Delcard Associates, Inc. Case # SS0007013301C, Filed 7/17/2001, Superior Court of DE New Castle County, DE

Butler Balancing Co. v. Conectiv Services, Inc. and Delcard Associates, Inc. Case # 01C-07-133, Filed 7/20/2001, Superior Court Civil Justice, DE

Delcard Associates, Inc. vs United States Surety Company XL Reinsurance America Inc, et al Case # 20300042772001, Filed 9/10/2001, Wicomico County District Court, MD

Sharon L Dempsey, et al vs HBE Corporation, et al and Delcard Associates, Inc. Case # 41C-04-006221, Filed 12/20/2001, Kent County Circuit Court, MD

GBI Inc. vs. Delcard Associates, Inc. Case # L000102 02, Filed 1/1/2002, NJ

Rhonda Woodland vs. Delcard Associates, Inc. Case # 209010779, Filed 9/17/2002.

Delcard Associates, Inc. Case # 20300049792002, Filed 9/23/2002, Wicomico County District Court, MD

Chester River Health System, Inc. vs HBE Corporation, et al and Delcard Associates, Inc. Case # 14-c-04-00-6076, Filed 4/27/2004, Kent County Circuit Court, MD

Sharon L Dempsey, et al vs HBE Corporation, et al and Delcard Associates, Inc. Case # 14C04006076, Filed 7/27/2004, Kent County Circuit Court, MD

Chester River Health System, Inc. vs HBE Corporation, et al and Delcard Associates, Inc. Case # CCB04cv2948, Filed 9/14/2004, Kent County Circuit Court, MD

Chester River Health Systems v. Delcard Associates, Inc. Case # 04-cv-02948, Filed 9/14/2004, US Dist. Court-Dist. Of MD-Baltimore, MD

Delcard Associates Inc. v. United States Suerty Co. XL Reinsurance. Case # 17C04010416, Filed 9/17/2004, Queen Anne's County Circuit Court, MD

Chester River Health System, Inc. vs HBE Corporation, et al and Delcard Associates, Inc. Case # 30400010332004, Filed 10/1/2004, Queen Anne's County District Court, MD

Sharon Dempsey v. Delcard Associates, Inc. Case # 14C04006221, Filed 12/17/2004, Kent County Circuit Court, MD

Katherine Simmons v. Delcard Associates, Inc. Case # 1:05-cv-100CCB, Filed 12/20/2004, US Dist. Court-Dist. Of MD-Northern, MD

Katherine Simmons v. Delcard Associates, Inc. Case # 14-C-04-6222, Filed 12/20/2004, County Circuit Court, MD

Larry B Beck vs Chester River Hospital Center Inc, et al and Delcard Associates, Inc. Filed 12/20/2004, Kent County Circuit Court, MD

Christine Worth, et al vs HBE Corporation, et al and Delcard Associates, Inc. Case # 14-c-04-6223, Filed 12/20/2004, Kent County Circuit Court, MD

Christine Worth, et al vs HBE Corporation, et al and Delcard Associates, Inc. Case # 1:05-cv-00102, Filed 1/12/2005, US Dist. Court-Dist. Of MD-Baltimore, MD

Sharon Dempsey v. Delcard Associates, Inc. Case # 1:05-cv-00101 CCB, Filed 1/12/2005, US Dist. Court-Dist. Of MD-Baltimore, MD

Delcard Associates, Inc. v. United States Surety Company XL Rein. Case # cv10416, Filed 8/8/2005, Queen Anne's County Circuit Court, MD

Delcard Associates, Inc.-Defendant. Case # 14C06006801, Filed 7/3/2006, Kent County Circuit Court, MD

The Sisters of St. Francis of Philadelphia V. Delcard Associates, Inc. Case # 1566679, Filed 10/24/2006, Court of Common Pleas, DE County, PA

The Sisters of St. Francis of Philadelphia V. Delcard Associates, Inc. Case # 07M-01-090, Filed 2/23/2007, Superior Court State of DE

ARTICLES:

"Utility's mechanical division sold back to original owners. (Conectiv Services' Mechanical Div. sold to Delcard Associates and Frey Lutz Corp.)" Contractor Magazine, Robert Mader, 8-1-00.

"Utilities struggle with HVAC profit." Jim Norland, 8-4-00, Air Conditioning Heating & Refrigeration Magazine.

Engineering New Record. 2-15-99.

CORPORATE INFORMATION:

Company Report on Delcard Associates, Inc. Dun & Bradstreet. 3-9-07. <http://www.dnb.com>

Delcard Associates, Inc. Website: <http://www.delcard.com>

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The information contained in The Contractor's Critic does not reflect a complete history of the business practices of Delcard Associates, Inc. and/or its related companies. LASER is publishing information that contractors do not and will not publish about themselves. LASER has relied on the public record to present this information to the public in an effort to promote safety, productivity, and honesty in the Construction Industry. Delcard Associates, Inc. has been given the opportunity to review this material for errors and inaccuracies.

As of publication, Delcard Associates, Inc. has not made any suggestions or refuted any of the information in this publication.

LASER, Inc. will continue to seek and publish additional data.

For more information, please contact James Wilson at (530)846-6352 or online at laserinc@laser-inc.com

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