

The Contractors Critic

Reporting on Safety, Productivity, and Honesty in the Construction Industry.

INTERSTATE PLUMBING AND AIR CONDITIONING, INC.

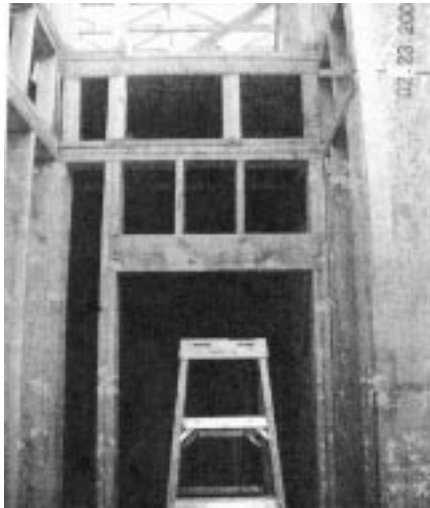
OSHA Violations, Liens & Litigation

OSHA busts Interstate for serious ladder safety dangers

Fall dangers are one of the primary causes of serious injury and death in the construction industry. That is why conscientious contractors take every possible precaution to make sure that their workers are fully protected when working at any high of consequence.

Interstate Plumbing and Air Conditioning of Nevada, failed to adequately protect its workers from serious fall dangers in February 2009, at a construction site at 1850 Semli Drive in Reno, according to OSHA documents released under the Freedom of Information Act.

On February 23, 2009, Nevada OSHA employees inspected the Parkview Terrace construction job in Reno. At that time, Interstate Plumbing and Air Conditioning had 19 of its 500 employees working on the job. During their 2-hour walkaround, Nevada State OSHA inspectors saw an Interstate



An Interstate worker was using a six foot ladder to access a work place that was 11 feet from the floor. The worker had to climb to the top of the ladder, grab the ledge above him with his fingertips, and pull himself up the rest of the way.

In addition to this OSHA violation, Interstate has been cited for at least 46 violations of federal safety law and fined over \$34,000.

See OSHA history, page 3

Ladders safety
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DOL thwarts Interstate's visa worker scam

The United States allows importation of foreigners to perform work in this country only under certain circumstances, namely that the hiring employer can prove there are no citizen workers available to perform the needed work. This is called "labor certification."

Unfortunately, unscrupulous employers circumvent these regulations and improperly obtain labor certification, in order to hire low-wage foreign workers who are unfamiliar with American worker protection laws, safety requirements, and wage requirements.

According to an United States Department of Labor Administrative Law Judge opinion, Interstate Plumbing and Air Conditioning itself attempted to improperly obtain labor certification in order to hire cheap, timid foreign workers. In the case captioned Interstate

Visa worker scam
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Additional copies of the *Contractors Critic*, Interstate Plumbing & Air Conditioning, Issue #1 can be requested by contacting LASER, Inc. at (530) 846-6352 or laserinc@laser-inc.com

This issue is also available online at www.laser-inc.com.

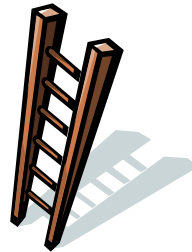
Visa worker scam cont'd from front page

Plumbing and Air Conditioning worker climbing up and down a ladder that was far too short, endangering the worker as he attempted to climb to and from the second floor where he was working.

Interstate Plumbing and Air Conditioning was forcing the worker to use a ladder of only 6 feet to climb up to a work place that was fully eleven feet off of the ground floor. The worker had to climb to the top of the ladder,

their stories.

Interstate Plumbing and Air Conditioning tried to excuse the use of unsafe ladders by claiming they had been using a longer ladder owned by one of their subcontractors that had left three weeks ago. The OSHA records, released under public records act requests, do not say why Interstate Plumbing and Air Conditioning did not simply obtain and use a safe ladder as part of their routine company equipment supplies.



Why didn't Interstate just obtain and use a safe ladder as part of their company's safety equipment and supplies?

and then grab the ledge above him with his fingertips, and then pull himself up the rest of the way.

After the Nevada OSHA inspector warned Interstate Plumbing and Air Conditioning of this plain safety danger, Interstate Plumbing and Air Conditioning tried to substitute a 10 foot long ladder.

OSHA patiently pointed out that ladder was still too short to safely allow workers to climb up and down from that work area unless it was legally secured. At first the affected workers admitted they used the too-short ladder and had to jump from area to area, but later changed

Interstate Plumbing and Air Conditioning provided safety training records to OSHA, but the records failed to verify that all of the workers using the unsafe ladder scheme had been properly trained on ladder safety. In fact, Interstate Plumbing and Air Conditioning's own records showed they had punished workers for using the unsafe ladders, even though Interstate Plumbing and Air Conditioning apparently failed to supply safe ladders.

Nevada OSHA recommended issuance of a "serious" citation against Interstate Plumbing and Air Conditioning, and proposed a \$1,625 fine.

Interstate's OSHA safety record

Above is a partial listing of OSHA violations issued against Interstate Plumbing & Air Conditioning. The violations and fine amounts reflect initial penalties and may have been reduced or bargained down at a later date.

Date	Inspection #	Location	Violation(s)	Fine
6/4/09	313438517	Las Vegas	1 serious	\$4,500
2/23/09	312958937	Reno	1 serious	1,625
1/14/09	312896814	Las Vegas	1 other	
11/6/08	312282700	Henderson	2 other	
11/5/08	312282056	Henderson	1 serious	5,000
2/19/08	311639132	Henderson	2 serious, 3 other	3,750
6/12/06	309940867	Las Vegas	2 other	
11/14/05	309406973	Las Vegas	1 serious	1,500
10/24/05	309405942	Las Vegas	1 serious, 1 other	1,275
4/12/05	308694603	Las Vegas	1 other	
3/3/05	308692789	Las Vegas	3 other	
11/1/04	308212794	Henderson	1 other	
3/23/04	307582569	Las Vegas	1 serious	2,125
1/12/04	307115824	Las Vegas	1 other	
10/10/03	307110627	Las Vegas	1 other	
8/21/03	306789959	Henderson	1 other	
7/14/03	306787466	Las Vegas	1 other	
11/19/02	305704975	Las Vegas	1 repeat	200
10/3/02	305700593	Las Vegas	2 other	
7/15/02	305695512	Henderson	1 other	
7/11/02	305459414	Las Vegas	2 other	
7/10/02	305695488	Las Vegas	1 serious	4,125
5/30/02	305454753	Henderson	1 other	
5/7/02	305452690	Las Vegas	2 other	
2/20/02	305004699	Las Vegas	1 repeat, 2 other	5,000
12/18/01	305001299	Las Vegas	1 serious	1,875
11/29/01	304998792	Las Vegas	3 other	750
11/27/01	304998925	Las Vegas	1 other	
7/23/01	304643794	Henderson	1 serious	2,250
9/22/01	304426638	Las Vegas	1 other	750

Court cases and liens involving Interstate

In the brutally competitive world of construction, some contractors genuinely attempt to “partner” with their clients and fellow contractors. Some construction companies can honestly state that they have never taken legal action against any of their construction clients. They try to settle contract disputes informally. They have always resolved disputes by compromise, discussion, and in the toughest situations, by a mutual agreement for arbitration.

Interstate promises “complete customer satisfaction,” but they have filed liens and lawsuits against clients and third parties.

Yet some contractors are still playing hardball. They submit low-ball bids, and then insist on change orders. When the client, or another contractor, is late with payments, some contractors promptly slap a lien on the clients’ properties, and

Court cases
cont'd on page 4

Course cases

Cont'd from page 3

ask the courts to begin foreclosures and to have the sheriff auction the property.

One clue to a contractor's approach is to review their record on filing liens against construction clients, even when the actual dispute is with another contractor. All too often filing of a lien means that a court suit will swiftly follow. A contractor's litigation history is another clue to their business practices.

But Interstate Plumbing and Air Conditioning cannot honestly state it has never taken legal action against a customer. Although Interstate Plumbing and Air Conditioning promises "complete customer satisfaction" on their web site, to the contrary, Interstate Plumbing and Air Conditioning has filed many liens, and court suits against their own clients and many hapless third parties.



Buyer beware: Interstate files liens against many construction clients

When a construction company files a lien against their own construction clients' properties, it can turn into a nightmare. An active lien can encumber a property, preventing the owner from selling or leasing it, or financing loans and using the lien property as collateral. In some instances, banks can terminate loans

when liens are filed against the subject property. And in some cases, hard-nosed construction contractors follow up on their liens by suing their clients.

It's especially aggravating when construction clients face liens that are filed through no fault of their own, but because of a dispute between contractors on the job.

- ***Interstate Plumbing and Air Conditioning v. Solano Arrowcreek, et al***

In this lawsuit, not only did Interstate Plumbing and Air Conditioning file many liens, it followed up by dragging its client, Solano Arrowcreek and many other parties into the courts with filings for foreclosure of the mechanic's liens.

Apparently, Interstate Plumbing and Air Conditioning ended up suing not only the primary land owner to seek foreclosure of their properties, but also filed liens against many of the individual home owners and property owners at this job site, even though these persons and companies had little, if anything to do with Interstate Plumbing and Air Conditioning's construction payment disputes.

Interstate Plumbing and Air Conditioning filed liens against Solano Arrowcreek for \$2,813, \$2,980, \$3,926, \$4,426, \$4,401, \$4,459, \$4,843, \$4,854, \$4,858, \$6,353, \$8,403, \$22,541, \$71,545, and \$32,781, apparently involving several different properties.

Interstate Plumbing and Air Conditioning used different dollar amounts for its liens in different filings made just days apart. These liens were filed not only against the land owners, but also against more than a dozen individual property owners within the project. The properties were the Bella Terra Arrowcreek 32, in the 10200 block of Via Verona, Washoe County, Nevada, and other properties in the 10100 block of Via Como Court, the 10000 block of via Pointe, and the 10000 block of Via Solano.

Interstate Plumbing and Air Conditioning also filed yet another lien for \$17,432 against Solano Arrowcreek and five additional homeowners involving property at Via Solano addresses.

Some of Interstate Plumbing and Air Conditioning's liens were captioned against both Solano Development and Solano Arrowcreek.

Buyer beware
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- ***SDC Park Place***

Other liens showed SDC Park Place as yet another property owner dragged into lien proceedings and a potential court suit by Interstate Plumbing and Air Conditioning in a filing for \$71,545, that also included the Solano entities, including properties in the 1600 block of Commonwealth, Washoe county.

In at least one instance in this series of liens and court actions, Interstate Plumbing and Air Conditioning's lawsuit was later dismissed with prejudice less than two years later, and Interstate Plumbing and Air Conditioning was required to pay their own court costs.

- ***Matt W. Day***

In February 2008, Interstate Plumbing and Air Conditioning filed a lien against hapless property owner Matt W. Day for \$3,872, although once again, their dispute was actually with Reynen & Bardis, LLC.

- ***Foothills Village Owner, LLC***

Interstate Plumbing and Air Conditioning filed mechanic's liens on March 12, 2006 and January 30, 2008, against the owner of Foothill Village for \$30,348 and \$54,540, even though Interstate Plumbing and Air Conditioning's dispute was apparently with another party known as Reynen & Bardis, LLC. This job site included several locations in the 6900 block of Particles Court in Sparks, Nevada.

- ***Reynen & Bardis, LLC***

In March 2008, Interstate Plumbing and Air Conditioning filed a multitude of liens against Reynen & Bardis, LLC.

Interstate Plumbing and Air Conditioning filed liens for \$18,468 and \$31,865, involving a dispute regarding construction work at the 3700 block of Perseus Drive in Sparks, Nevada.

Another lien was filed for \$3,702 in a dispute involving property at 4111 Bootes Court also in Sparks, Nevada.

Interstate Plumbing and Air Conditioning filed a lien for \$19,262 in a dispute involving property at 4101 Bootes Court and 7079 Draco Drive, Sparks, Nevada.

Interstate Plumbing and Air filed a lien for \$9,393 in a dispute involving property owned by Arthur Guevarra in Washoe County, Nevada.

A house construction job that went bad

U.S. Home Corporation v. Interstate Plumbing and Air Conditioning, et al

This federal case began when Kenneth, Anahit, and Ardashes Kabidian sued U.S. Home Corp. and Lennar Nevada, one of the country's largest homebuilders, and others in Nevada Federal Court. The Kabidians charged negligence and breach of contract.

The Kabidian's complaint charged a litany of construction problems at the house they purchased, including water leaks and resulting toxic mold that sickened the family.

U.S. Home Corporation wasn't going to take a lawsuit lying down. They reacted by cross-suing Interstate Plumbing and Air Conditioning and others charging that they hired Interstate as a subcontractor on the Kabidian's home in Las Vegas and if there were any problems with that job, then Interstate and the other subcontractors should be required to indemnify U.S. Home for the costs of their defense.

The Kabidian's charged a litany of construction problems, including water leaks and toxic mold that sickened the family.

Employers conspire to exploit worker visa law loopholes

The problem of construction companies conspiring with their contractors and subcontractors to circumvent federal foreign worker visa laws has grown to mammoth proportions over the last decade.

This business conspiracy exploits foreign workers and harms the U.S. economy by reducing employment opportunities for U.S. workers.

The abuses are now so widespread and the number of “guestworker” categories being exploited has expanded to such an extent that the situation has become the subject of congressional controversy, federal investigations, which could lead to criminal violations of federal law and a growing number of media exposés.

The problem remained in the shadows for many years for several reasons:

- the number and variety of foreign worker categories and sub-categories is large. Some two dozen now exist, ranging over an alphabet soup

Visa law loopholes
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Interstate visa fraud cont'd from front page

Plumbing and Air Conditioning and Luis Emilio Mendez-Espejel and Elias Guzman-Ricci, the judges ruled that Interstate Plumbing and Air Conditioning had improperly attempted to circumvent the regulations.

Interstate Plumbing and Air Conditioning originally sought to employ alien labor as air conditioning installers. Several U.S. citizens derailed the scam by applying for those jobs, including Espejel and Ricci. The judges found that Interstate improperly failed to show they hired these two American workers for the advertised positions. Instead, Interstate petitioned for the Department of Labor’s permission to import low-wage foreign workers whom published accounts show are too often easily intimidated from expressing their rights.

The Department of Labor denied Interstate’s scheme, but



Interstate Plumbing and Air Conditioning itself attempted to improperly obtain labor certification in order to hire cheap, timid foreign workers.

Interstate Plumbing and Air Conditioning appealed the ruling to an administrative law judge panel.

The judges also ruled against Interstate Plumbing and Air Conditioning, and stated: “(Interstate Plumbing and Air Conditioning’s) ... assertions on rebuttal are inconsistent with prior statements ... There is no credible evidence that the Employer promptly offered either of these positions to the US applicants ... To the contrary the Employer delayed any offer to these qualified U.S. applicants ... labor certification (to import foreign workers) was properly denied.”

Foreign worker categories currently most abused

H-2B: *Temporary workers performing other services or labor, skilled or unskilled*

H-1B: *Specialty occupations in field requiring highly specialized knowledge*

E-1 and E-2: *Treaty traders, investors and their spouses*

L-1A and L-1B: *Allows employers with overseas offices to shuffle “intra-company transferees” both executives and special employees back and forth.*

of designations from E-1 (treaty traders and their spouses) to TN (Canadian or Mexican workers pursuant to North American Trade Agreement”

- the myriad federal and state rules, regulations and procedures that are supposed to govern the process are vague, full of loopholes and purposefully complex as to make them hard to understand and track

- enforcement of those rules that do exist is light to non-existent and the resulting penalties, if any, are mostly aimed at exploited workers, rather than the employers exploiting them

- this “dark economy” is protected and advanced by a small army of consulting firms and Washington lobbyists who are sustained by high fees and a vast treasury of political contributions funneled to federal and state lawmakers and local officials

Abuses are now so widespread that the situation has become the subject of federal investigations, congressional controversy, and a growing number of media exposés.

As the problem has widened and the US economy has collapsed, the number of Americans without jobs has skyrocketed. Efforts are underway to end these abuses and punish those who practice them.

It is important to note that not all of the foreign worker categories are

objectionable, nor have they all been abused to such a grievous extent.

For example, few would complain about those persons allowed to work temporarily in the US under, say, a P-1 visa (internationally recognized athletes); or a P-2 visa (artists or entertainers under a reciprocal exchange program).

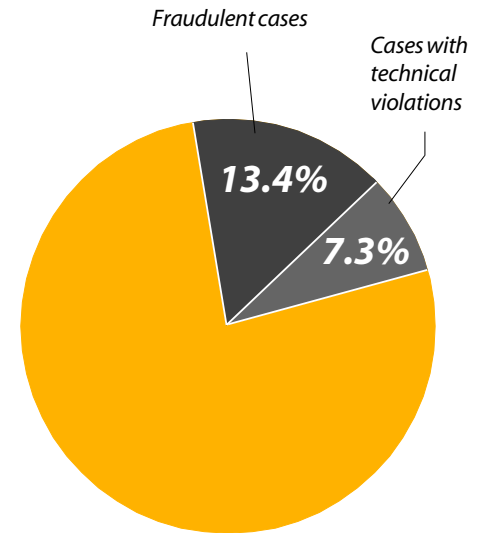
Other visa categories, however, have been rife with exploitation and abuse.

The foreign worker categories currently most abused are H-2B (temporary workers performing other services or labor, skilled or unskilled); H-1B (specialty occupations in fields requiring highly specialized knowledge); E-1 and E-2 (treaty traders, investors and their spouses); and L-1A and L-1B, which allow employers with overseas offices to shuffle “intra company transferees” both executives and special employees back and forth.

The extent to which this has become a profit-center for some can

be measured by a Google search that shows thousands of entries about consultants who either a) help US companies find foreign workers, or b) offer placement services to foreign workers seeking jobs in the US.

Fees charged to foreign workers searching for jobs vary greatly, but a



A Homeland Security report concluded 13.4 % of H1-B visa cases investigated contained fraud and 7.3 % had technical violations.

minimum of \$200 for each search seemed common, as we determined by examining recruiter web sites.

How well organized are these exploiters? Well, they have at least one non-profit professional association. That would be the innocently-named Federation of Employers and Workers of America (FEWA), which claims to be “the national voice of the existing legal guest worker programs community.” Maybe it is, and maybe it isn’t.

Aggravating this egregious exploitation factor are new and/or expanded loopholes added to federal prevailing wage requirements.

Source notes

OSHA

OSHA Inspection #312958937; Open Date 2/23/09; Reno, NV

OSHA history details; Occupational Safety and Health Administration website; www.osha.gov

VISA INFORMATION

“Report: H1B visa program flawed; Homeland Security finds that tens of thousands of visas have been granted under false pretenses”; Matt Wickenheiser; *Portland Press Herald*; 10/14/08

American Welding Society Letter; Dated 9/11/08

Federation of Employers and Workers of America website; <http://www.h2b-fewa.org/>

Sherman, Dunn, Cohen, Leifer & Yellig Letter; Dated 8/20/08

LITIGATION¹

In The Matter Of: Interstate Plumbing and Air Conditioning And on behalf of Luis Emilio Mendez-Espejel and Elias Guzman Ricci; U.S. Department of Labor BALCA Case; Case # 2003-INA-95, 2003-INA-101; ETA Case #P2000-NV-09499813, P2000-NV-09499064

Interstate Plumbing and Air Conditioning v. Solano Arrowhead, et al; Case #CV-03-04151

Kabadian v. U.S. Home, Interstate Plumbing and Air Conditioning; Case #2:08-CV-00626 PMP; Filed in U.S. Federal District Court

LIENS

Foothill Village Owner, Reynen & Bardis; Lien #3629647, #3616758, #3629645, #3629644, #3616760

Matt W. Day, Reynen & Bardis; Lien #3616759

Reynen & Bardis; Lien #3629652, #3629649, #3629646

Arthur Dela Cruz Guevarra; Lien #3629648

Solano Development; Lien #3291098

Jill E. Ransom, Reynen & Bardis; Lien #3616755

Norman Lim, Reynen & Bardis; Lien #3616757

Richard Criss, Reynen & Bardis; Lien #3629653

Jay Johnson, Reynen & Bardis; Lien #3629654

Morgan Langtimm, Reynen & Bardis; Lien #3616756

Kaleb Bartelheim, Reynen & Bardis; Lien #3629650

George Stephens, Reynen & Bardis; Lien #3629651

¹ All litigation and liens filed in Washoe County, Nevada unless otherwise noted.

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The information contained in The Contractor's Critic does not reflect a complete history of the business practice of Interstate Plumbing & Air Conditioning 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, honesty, and environmental compliance in the construction industry.

Interstate Plumbing & Air Conditioning has been given the opportunity to review this material for errors and inaccuracies. As of publication, Interstate Plumbing & Air Conditioning has not made any specific suggestions or refuted any of the specific 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. For past issues of The Contractor's Critic on this company and others, please visit LASER's website at www.laser-inc.com