

The Contractors Critic

Reporting on Safety, Productivity and Honesty in the Construction Industry

LEONARD S. FIORE, INC., AN ABC MEMBER

Questionable Work & Safety Troubles

Workmanship, or lack thereof, a pounding headache for Fiore client

Poor workmanship and construction delays caused by Leonard S. Fiore, Inc. stalled an Allport, Penn. High School construction project, the *Clearfield Progress* reported.

The resulting problems proved a headache for both the school district board of directors and for the architects and project

managers.

While the West Branch Area High School may look okay to passersby, the internal condition is a different story, school officials claimed, according to an April 19, 2005 *Progress* news story.

“Prior to last night’s buildings and grounds committee meeting, a few board members took the

opportunity to walk (around) the project site with architects and project superintendent. At the meeting, it was time to discuss the many problems they observed,” *Progress* reporter Jaime Bumbarger told readers.

Called to explain the construction problems to the board were Robert Marz of Roth Marz Partnership, James Vizzini of CJL Engineering and Greg Butterbaugh of Quandel, all

Workmanship, cont'd pg 2

Fiore’s so-called ‘Safety Day’

Having probably been embarrassed by revelations by *Contractors Critic* and others that it has been cited more than 130 times for safety violations, Leonard S. Fiore staged a so-called “Safety Day,” a business-friendly publication reports.

Some 240 construction workers, supervisors and subcontractors attended a one-day event held at

Bishop Guilfoyle High School Jan. 17, 2005 on whose board of trustees Guilfoyle alumnus Michael A. Fiore executive just happens to be a member, the bi-weekly *Pennsylvania Business Central (PBC)* newspaper reported.

It would be ungracious, perhaps, but not unreasonable to suspect a little “you scratch my back, I’ll scratch yours” going on

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Fiore exposes its clients to questionable subcontractors.

Details on page 8. More details in next issue.

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Workmanship

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representatives of the construction-related companies involved in the project.

Discussions developed during both this meeting and at a meeting held on May 17, 2005 tracing much of the trouble to Fiore, although the architects and the managers took most of the heat for the chaos at the high school.

"There has been a lot of finger-pointing as far as who is responsible for the problems with the building project at West Branch High School," the *Progress* re-

ported. "... (T)he architect, who has been bearing the brunt of the complaints, was again on hand and again taking the heat."

The poor craftsmanship was reflected in many of their ugly and faulty workmanship decisions including the elimination of an outside marquee, placement of inside lights and switches and visibly uneven and cracked floors, the board members pointed out.

Because the West Branch dispute is holding up payments to his company, Architect Marz was put in the unpleasant position of

having to defend the work of other companies, or rather beg forgiveness for it.

When one school board member accredited the troubles at a May 17, 2005 meeting to poor design, project manager Butterbaugh disagreed.

"We're having contractor issues, not design issues," Butterbaugh said.

"Instead of pointing the finger at the wrong party, (Butterbaugh) suggested the board take the issues up with the contractors," mentioning Fiore specifically.

"The general trade contractor, Fiore, is one contractor with which the district has had problems." Mr. Butterbaugh said they (Fiore) "have yet to touch a punch list for the administrative sections, which was scheduled to be completed" that day, Bumbarger reported.

"(S)ome contractors have lived up to their end of the contract, but others have reneged," the *Progress's* story of the meeting stated.

"The time for work on the classroom section punch list has already expired. Yet, the Fiore crews are not working nights or weekends in an effort to get the work done," Butterbaugh told the board.

"Contractors such as these are the ones, he said, the board should be going after, and in some cases, the board has. Bonding companies have been contacted in some instances, and in others payments have been withheld."

Poor craftsmanship was reflected in many of Fiore's ugly and faulty workmanship decisions including lights, switches and visibly uneven and cracked floors...



Conflict denied as Fiore director runs for office

Cranberry, Pa. Township board of supervisors chair John Skorupan is running for office, but denies conflict of interest, local press reports.

Skorupan, 53, is serving his first six-year term as a supervisor, the last three years as chairman, *Cranberry Journal's* Kathryn Sheranko reported May 11, 2005.

A resident of Cranberry

for 19 years, Skorupan is employed as the director of business development for L.S. Fiore, a general contracting company based in Altoona.

He also serves on the Southwest Butler County YMCA advisory board and is a past advisory board member for his alma mater, Penn State University, Beaver campus.

"Though possible,

Conflict cont'd, pg 3

Conflict

Cont'd from pg 2

Skorupan says a conflict of interest has never existed between his professional and governmental roles," Sheranko reported.

Aside from treading lightly between the two, he says his experience with development has helped the township achieve a more streamlined development process and opened more lines of communication between staff members and developers, her report continued.

"There are certainly challenges for the future because of our growth," he says, adding that, if re-elected, he would work toward continuing forward progress made in the last six years, including that of the parks, traffic and comprehensive plan.

The community atmosphere of urban areas and accessibility of parks remain memorable and, since the completion of the municipal center and with the coming of the traditional neighborhood along Rochester Road, Cranberry is working toward attaining the same, Skorupan says.

Fiore's workmanship a problem on multiple school projects

The work problems at the West Branch Area School District are apparently part of an ongoing problem Fiore has working on schools. The *Critic* has reported in the past on other instances involving Leonard Fiore, which caused delays and/or added costs on school projects.

In 2004, a small Pennsylvania school district was forced to make major academic year schedule changes due to "unspecified problems" in a construction project in which Leonard S. Fiore was the named general contractor, the *Altoona Mirror* reported.

Although "unspecified," the problems were severe enough to disrupt schedules at Claysburg-Kimmel High School and Elementary School, the *Mirror* reported in August.

"The last day of school and graduation will be pushed back a week to June 9 and 12, restively," district Superintendent James O'Harrow told the public.

The district did not at first anticipate further problems, but as the summer wore on and the "unspecified problems" with the construction remained unsolved, opening days for the next school year at the two schools were shoved back to Aug. 31 and then to Sept. 7, the school district announced.

The school district's sports

schedule for the Claysburg-Kimmel Bulldogs remained on track, but district officials still felt compelled to apologize for the "inconvenience."

Apologies notwithstanding, the delays hit the already disadvantaged school district hard.

Claysburg is a small town in rural Blair County, Pa. The most recently available audit statistics show a 2001-2002 district budget of \$7.6 million, down from \$7.9 million in 1998-1999.

Thus the repeated change order bills from L. S. Fiore the district recently shelled out sting all the more.

Extra charges district officials recently approved for Fiore included "\$10,335,75 to repair the existing fascia in the gymnasium" and \$8,513 "to change the glazed block at the exterior restroom to epoxy painted regular block," and additional sums to "replace rotten floor boards at the gymnasium."

Fiore pays for damage to floor at another school district

Leonard Fiore will have to pay for extensive damages suffered at the Huntingdon Area High School construction site, the *Altoona Mirror* also reported on July 22, 2004.

School projects cont'd pg 10



Safety

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at the Holidaysburg, Pa. school.

Fiore presenters divided the attendees into two groups to participate in a dozen "sessions" ranging from in "ditch digging" to first aid.

PBS quotes L.S. Fiore safety director Eugene Hadden as telling its staff reporter that, "Construction work can be dangerous if workers don't know and follow safety standards and regulations." True enough.

But Hadden added the incongruous comment: "This program (at Bishop Guilfoyle) is an important part of maintaining our enviable safety record."

An enviable safety record, dear reader, is zero accidents, not 5

"Blowback," government agencies sometimes call it.

One example of the continuing OSHA violations against Fiore was a "repeat" violation at on a job at Huntington (Pa.) High School, OSHA reported.

OSHA inspectors found a Fiore employee "using a Jilti TR-25 hammer gun connected to an extension cord that was plugged into an existing outlet with no ground faulty circuit interrupter in the system" on Feb. 5, 2004.

Innocent sounding, maybe, but it carried a fine of \$1,200, partly, as the inspector noted in his report, because "The employer has previously cited for a violation of this or similar

Fiore's 2005 OSHA violations

Since the start of 2005, Leonard Fiore has managed to garner three serious and one other citation along with \$4,625 in fines from OSHA.

The earliest 2005 citation happened on May 11 at a Wal-Mart Super Center being built in State College, Pa. OSHA investigators cited Fiore for breaking "Electrical, Wiring Design and Protection" safety laws. OSHA initially listed three violation items- two serious and one other violation, but later deleted one serious offense and knocked the initial fine of \$3,250 down to \$1,950.

The second citation took place June 7 at the Beaver Avenue Parking Garage, also in State College. The company was cited this time for the failure to observe "Fall Protection Systems Criteria and Practices." They were cited for one serious violation of federal safety rules and initially fined \$1,375.



Leonard Fiore has been cited for a total of 135 safety violations, with fines surpassing \$178,500

accidents and the 130-plus citations Fiore has been nailed for avoidable injuries and dangerous work practices — many of them classified by OSHA as "serious" and carrying penalties as high as \$25,200.

It is instructive to note that among those invited to "Safety Day" were the suppliers and subcontractors — a sure indication that L.S. Fiore has been trying to rehabilitate its image with suppliers and subcontractors which might be leery of involving themselves with an accident-prone company.

(OSHA) standard...."

In an explanatory sheet entitled: "Electric Safety on Construction Sites" Assured Grounding Programs and Ground Fault Circuit Interrupters," provided to Fiore at the time, OSHA reminded, "Electric shock, and too often fatalities, occur on construction jobsites when temporary power systems are in use. All construction workers who operate power tools should receive training in the systems which safeguard them from electrical hazards."

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OSHA Violations

The following is a list of Occupational Safety and Health Administration (OSHA) violations involving Leonard S. Fiore, Inc. The listing only represents violations incurred in the past 20 years. *The violations listed reflect initial citations and fines; the amounts may have been reduced or bargained down at later dates.* For more information see the OSHA website at: <http://www.osha.gov>

Inspection #	Date	Location	Violation(s)	Fine
112986666	6/7/05	Beaver Avenue Parking Garage, State College, PA	1 serious	\$1375
112987524	5/11/05	Wal-Mart Super Center, State College, PA	2 serious, 1 other	\$3250
112663703	4/12/04	1576 Spring Valley Rd., State College, PA	1 other	\$975
112663489	2/20/04	332 East Park Ave., Ste. #1, State College, PA	1 serious	\$1,600
112663455	2/5/04	2400 Cassady Ave., Huntingdon, PA	1 repeat	\$1,200
112900162	7/11/03	1576 Spring Valley Rd., State College, PA	1 serious, 2 repeat	\$12,200
112986146	4/28/03	Off Pollock Rd., University Park, PA	1 serious, 1 other	\$1,625
305834558	10/22/02	1300 Fox Hollow Rd., State College, PA	1 serious	\$1,300
112993308	6/26/02	1930 Cliffside Dr., State College, PA	2 serious	\$3,250
112662846	5/20/02	1281 Shortlidge Rd., State College, PA	1 serious	\$2,800
304185788	1/14/02	Garvey Manor, Hollidaysburg, PA	2 serious, 2 other	\$1,950
112662606	12/4/01	North Atherton St., State College, PA	1 serious	\$900
112994314	10/31/01	Off 17th St., Huntingdon, PA	1 serious	\$1,300
112994843	7/20/01	North Atherton St., State College, PA	1 serious, 1 repeat	\$22,800
303705297	2/21/01	5990 Route 6n, Edinboro, PA	1 serious	\$1,625
303343313	2/14/01	Central High School, Mill Mall, PA	2 serious, 2 repeat	\$15,000
112659750	2/7/01	243 South Allen St., State College, PA	1 repeat, 1 other	\$8,000
303705115	2/01/01	5990 Route 6n, Edinboro, PA	1 serious	\$875
112902093	8/25/00	103 Innovation Blvd., State College, PA	1 other	
112901996	7/27/00	500 Porter Rd., State College, PA	1 repeat	\$4,000
112895198	11/23/99	Pennsylvania State University, State College, PA	1 other	
110030186	7/16/99	140 West 3rd St., Williamsport, PA	1 serious, 2 repeat	\$25,200
116203647	4/21/99	Shield Building, University Park, State College, PA	2 serious, 2 other	\$1,950
116202987	4/5/99	29th St. & Blair Ave., Huntingdon, PA	2 serious, 1 repeat	\$5,600
301042735	1/22/99	Bus Transit Center, 3rd St., Williamsport, PA	2 serious, 2 other	\$2,600
116201229	11/9/98	Nittany Mall, State College, PA	2 serious, 1 other	\$3,025
116199167	6/19/98	Park Forest Middle School, State College, PA	1 other	
109024588	8/15/94	Curtain & University Park Dr., State College, PA	1 serious	\$1,300
109022475	5/2/94	Off Shorlidge Rd., State College, PA	1 other	\$500
109027615	6/28/93	461 Beaver Ave., State College, PA	1 serious	\$975

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OSHA Violations

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Inspection #	Date	Location	Violation(s)	Fine
102604725	5/31/90	277 West Beaver, State College, PA	4 serious, 2 willful, 2 other	\$20,700
102869005	7/27/89	126 High St., State College, PA	3 serious	\$1,260
100396845	4/28/89	Martin St., Bellwood, PA	3 other	
000745737	4/26/89	Penn State Campus, Altoona, PA	5 serious, 1 other	\$1,610
100931666	11/22/88	Route 144 & Route 150, Bellfonte, PA	10 serious, 1 repeat, 1 other	\$5,900
100392463	7/29/88	Martin and Herman Dr., State College, PA	1 other	
000765214	7/15/88	400 Block, S. Allen St., State College, PA	8 serious, 1 repeat 3 other	\$11,800
000765545	11/4/87	1300 Fox Hollow Rd., State College, PA	1 serious	\$210
000817361	12/5/86	VA Hospital, Altoona, PA	1 other	
000810986	10/22/86	120 Burrowes St., State College, PA	1 serious, 1 repeat	\$2,000
000810648	7/9/86	Route 26 & Porter Ave., State College, PA	1 repeat	\$480
000810531	6/25/86	Off N. Atheraton St., State College, PA	1 serious, 2 other	\$160
100414937	5/22/86	Pollock Rd., State College, PA	2 other	
002815744	10/1/85	Furnace St. Exit, Cumberland, MD	1 other	
000603852	8/29/85	216 W. College Ave., State College, PA	1 other	
000607838	7/5/85	Off Route 322e, Lewistown, PA	1 serious, 3 other	\$360
000607887	6/27/85	206 W. College Ave., State College, PA	1 other	
000607721	5/15/85	Route 322 & Pollak Rd., State College, PA	1 other	
002830842	3/18/85	Furnace St. Exit, Cumberland, MD	1 serious	\$280
001147081	8/9/84	Owen Illinois Glass Container Div., Brinkville, PA	DEATH, 1 serious	\$640
001144518	7/12/84	Airport Rd., State College, PA	1 willful	\$8,000
001117597	6/15/84	Orchard Park Lots 71 & 72, State College, PA	3 serious, 2 other	\$1,170
001139567	4/23/84	Hastings & Bigler Rd., State College, PA	3 other	
001764521	4/12/84	North Ashwicken Ct., State College, PA	1 serious, 3 other	\$180
000191759	3/7/84	Navy/Marine Corps Reserve Ctr., Edensburg, PA	1 other	

Total proposed fines surpass \$178,500

136 total OSHA violations, 65% serious, repeat or willful violations

5 accidents occurred within the last 3 years alone!

From the docket

The following lawsuits are just a sampling of Leonard S. Fiore's voluminous and varied legal problems.

Kathleen Green v. John C. Haas Associates, L. S. Fiore and Leonard S. Fiore, Inc., Case #2004-304; Filed 1/29/04, Centre County (Pa.) Court of Common Pleas

Attorneys for the plaintiff, Kathleen Green, requested a summons be issued in the recently filed civil action against Fiore.

Johnstown Housing Authority v. Leonard S. Fiore, Inc., Case #2000-46; Filed 6/5/00, Cambria County (Pa.) Court of Common Pleas

Fiore was the general contractor in the \$1.6 million "South Fork Development," which called for the construction of 15 three-bedroom homes for low income buyers in South Fork, Pa. The project commenced in September 1995 with completion slated for February 1997. When new residents moved in they discovered alleged "nail pops" in resilient tile floors and other damages.

The housing authority conducted an inspection in November 1999 which produced an expert opinion that concluded it would cost approximately \$14,590 to fix the damage. The housing authority sued Fiore, alleging breach of contract and negligence. Fiore denied the allegations in a 50-point letter, and asked the court to dismiss the charges. Other factors, including the actions of persons not employed by Fiore, contributed to the damages, they claimed.

Charles and Lynn Ertter, d.b.a. as C&L Installers v. Leonard S. Fiore, Inc., Case #1999-1122; Filed 4/12/99, Cambria County (Pa.) Court of Common Pleas

The Ertters sued Fiore for allegedly failing to pay a balance of \$28,120 owing on the installation of carpeting and ceramic flooring. The matter was settled out of court for an undisclosed sum, according to a civil discontinuance request filed Aug. 17, 1999.

Leonard S. Fiore, Inc. v. Lott Constructors, Inc., et al; Case #97-3251; Filed 1999; Centre County (Pa.) Court of Common Pleas

Fiore filed this suit in 1999 in the Centre County (Pa.) Court of Common Pleas in connection with a matter entitled *Ben B. Floyd, trustee v. Leonard S. Fiore, Inc., in re: H.A. Lott, Inc., debtor* in the US Bankruptcy Court, Southern District of Texas, Houston Division.

This comical, "falling out among thieves" tale traces its roots to a construction project launched in Dec. 21, 1993 by a Texas corporation, operating under the business alias, Lott Constructors, Inc. (LCI), but authorized to do business in Pennsylvania.

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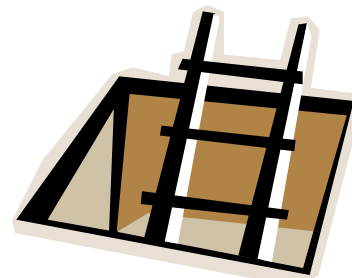
Safety

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Other recent OSHA violations that have marred Leonard Fiore's safety record include one in April 2004 for failure to observe stairway and ladder regulations at a job site in State College, Pa. The company was fined \$975. (*Inspection #112663703*)

On February 20, 2004, Leonard Fiore was cited for safety violations of "electrical wiring design and protection" rules. After the inspection, OSHA issued Leonard Fiore another fine, this time \$1,600. (*Inspection #112663489*)

During the previous year, Leonard Fiore was cited by OSHA again during a July 11, 2003 inspection, OSHA inspectors issued Fiore a humongous \$12,200 fine for two serious and one other violation of safety rules. The citations were for violating excavation and ladder rules. (*Inspection #112900162*)



Fiore sub files Ch. 11 bankruptcy

In the last issue of the *Contractors Critic* on Leonard S. Fiore, we cited information that appeared to link the company with a financially and legally troubled firm, Bay Harbour Electric, Inc. The *Critic* warned that a link could spell problems for construction customers.

Bay Harbour, the *Critic* noted, has had a checkered career (details of which can be found in other *Contractors Critic* publications). And as of our last issue, the company had lost its bonding capabilities in Pennsylvania and was having work trucks repossessed, presumably for nonpayment.

As an update to that information, the *Critic* has learned that Bay Harbour filed for bankruptcy on July 14, 2005 in U.S. Bankruptcy Court, Western District of Pennsylvania. Listed among their top twenty creditors is Atlantic Mutual Companies, Bay Harbour's bonding company.

The *Critic* will report more information on the bankruptcy in the next issue.

From the docket

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The project in question was a \$36.2 million deal with the Pennsylvania Department of General Services to be the general contractor in the construction of the so-called "Academic/Athletic Convocation & Events Center" at the Pennsylvania State University" in State College, Pa.

Work began in the project, but "on or about June 19, 1995, an involuntary Chapter 7 bankruptcy petition was filed involving H. A. Lott, Inc. (HAL)," an entity apparently significantly linked to Lott Constructors. A month later, Ben B. Floyd was appointed trustee.

Floyd as trustee alleged that LCI had HAL pay two invoices totaling approximately \$203,664 to subcontractor Fiore, and further asserted that this constituted a fraudulent conveyance of funds.

Floyd claimed that after filing for bankruptcy and using LCI as a conduit, HAL had improperly funneled the funds to Fiore "with the actual intent to hinder, delay or defraud its existing or future creditors." Floyd asked the federal court to block the transfers. Fiore then hired a lawyer to defend itself.

On May 10, 1999, a federal judge dismissed the trustee's issue whereupon Fiore instituted the matter in an effort to recover the \$6,514 it claimed to have spent on defending itself.

The flap was apparently resolved when on Dec. 26, 2000, Fiore submitted a request to the Centre County court asking to dismiss the suit, on the assurances that the matter was "settled." (*Case #97-3251*)

Judith Ann Marks v. Wal-Mart Stores, Inc., (later amended to include) Leonard S. Fiore Construction Co., Case #1997-0557; Filed 1/31/97, Cambria County (Pa.) Court of Common Pleas

Marks, a disabled person, initiated a lawsuit against Wal-Mart and Fiore in which she alleged that she fractured her neck when her three-wheeled Amigo cart tipped over as she exited the Johnstown Wal-Mart store at about 8 p.m. on Oct. 25, 1996. She filed suit, seeking a sum greater than \$25,000 and demanding a jury trial. The defendants denied her claims.

During the course of the suit, Marks' vision was evaluated to determine whether her eyesight was sufficient to negotiate her way. The case was settled out of court, according to an April 29, 1999 statement declaring the case "discontinued, and forever ended."

Bay Harbour Electric, Inc. v. Leonard S. Fiore, Inc., Case #99-GN 3564; Filed in 1999 in Blair County (Pa.) Court of Common Pleas

Bay Harbour Electric sued Fiore alleging that on Nov. 21, 1996, Fiore had subcontracted Bay Harbour Electric to perform about \$427,500 worth of electrical work on Wal-Mart store No. 2540 in Clarion, Pa., but

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From the docket

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failed to pay an outstanding sum of \$15,998 due on the project since June 15, 1998.

Court documents dated Dec. 16, 1999 showed that the matter was settled for an undisclosed sum and discontinued.

Crown American Properties, L.P. v. Leonard S. Fiore, United Foundations; Case #1133 GN 98; Filed 2/23/98, Blair County (Pa.) Court of Common Pleas

It appears Crown American had the Blair County Sheriff's Department serve a summons on Fiore and United Foundations with the next available document showing the parties settled the issue between themselves on Aug. 23, 1998 without disclosing the terms.

Adam J. and Donna J. Craig v. Ambrose Electric Co., Leonard S. Fiore, Inc.; Case #1995-771; Filed 3/1/95, Cambria County (Pa.) Court of Common Pleas

The Craigs sued Fiore and Ambrose Electric for an amount in excess of \$25,000 for injuries Mr. Craig, a tile floor cleaner, allegedly suffered Feb. 19, 1994 when an electrical conduit fell on him while working at a project at the County Market in Richland Township.

A motion filed by the defendants Aug. 26, 1996 asking that the civil suit be dismissed was denied.

Adam Craig and his wife sued Fiore and Ambrose Electric for an amount in excess of \$25,000 for injuries Craig allegedly suffered when an electrical conduit fell on him.

Green Acres Contracting Co., Inc. v. Leonard S. Fiore, Inc., General Accident Insurance Company of America; Case #7721 of 1995; Westmoreland County (Pa.) Court of Common Pleas

Green Acres Contracting accused Fiore of failing to pay \$10,902.40 owing on a \$33,600 contract relating to the construction of Wal-Mart Store #2129 in Clearfield, Pa. in 1994.

Janice A. Calvin, as administratrix for Samuel Calvin v. Leonard S. Fiore, Inc. et al; Case #1993-129; Filed 1/14/93; Cambria County (Pa.) Court of Common Pleas

This lawsuit filed Jan. 14, 1993 in the Cambria County (Pa.) Court of Common Pleas, alleged that on March 18, 1991, 32-year-old Samuel

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Case notes

The following lawsuit listings only provide basic case information.

- *Carpenters Combined Funds Inc. v. Leonard S. Fiore, Inc., Bel-Air Installation Inc., et al; Case #99-MC-331; Filed 10/21/99; U.S. District Court Western District of Pennsylvania*
- *Richard Wonderly v. Fiore's Country Garden Market, et al; Case #CP-98; Filed 1998; Blair County (Pa.) Court of Common Pleas*
- *Mark Ford v. Leonard S. Fiore, Jr., et al; Case #95 CP 1276; Filed 7/11/95; Blair County (Pa.) Court of Common Pleas*
- *Leonard S. Fiore, Inc. v. Charles Rider; Docket #SC 1995 00001290; Filed 5/30/95; Centre County (Pa.) Prothonotary's Office; Case now closed.*
- *Leonard S. Fiore, Inc. v. Porcelain Service Company, Inc.; Filed 3/6/95; Allegheny County (Pa.) Court of Common Pleas.*
- *Leonard S. Fiore, Inc. v. B&B Electric, Inc.; Case #94-AP-00033-JJT; Filed 2/*

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Case notes

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14/94; U.S. Bankruptcy Court, Middle District of Pennsylvania, Harrisburg, Pa.; Stipulation entered 7/5/95.

- *Commonwealth of Pennsylvania, Dept. of Transportation, et al v, Leonard S. Fiore, Jr.* Case #1482 C.D. 1989. 6/3/91. Commonwealth Court of Pennsylvania.

- *Leonard S. Fiore Sr., Leonard Fiore, Jr., et al v. Oakwood Plaza Shopping Center*; Case #3094/1989; Filed 2/9/89; New York County (NY) Civil Courts

- *Leonard S. Fiore Sr., Leonard Fiore, Jr., et al v. In Re Take Depositions*; Case #20376/1989; Filed 9/20/89; New York County (NY) Civil Courts

- *Leonard S. Fiore v. Commonwealth of Pennsylvania Dept. of Labor and Industry, Prevailing Wage Appeals Board.* Case #1171 C.D. 1989. 10/6/89. Commonwealth Court of Pennsylvania.

From the docket

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Calvin, an ironworker employed by V.M. Ruggery Steel Erection Co., fell to his death while working on a limestone pulverizing plant being worked on in Edensburg, Pa.

V.M. Ruggery was a subcontractor for Fiore, and was carrying out work on a building for New Enterprise Stone. Calvin's fatal injuries allegedly resulted from "negligence and carelessness" on the part of the New Enterprise Stone and Fiore, the plaintiff claimed.

The wrongful death suit alleged that "Samuel Calvin was on the roof of the building... [when] at or about 11:30 A.M., [Jan. 23, 1991]... [he] fell from the roof of the building to the ground level approximately sixty six feet below." He suffered fatal injuries and was later declared dead at Conemaugh Valley Memorial Hospital. Mrs. Calvin was pregnant with the couple's first child at the time of her husband's death.

A settlement was ordered Aug. 27, 1996 in which Fiore was ordered to pay the widow \$75,000. (Case #1993-129)



Sean Allen, a mailman, sued Altoona Hospital and Fiore for injuries he sustained when a bank of unsecured service boxes (which Fiore detached and failed to remount or post warnings) fell on him.

Sean Patrick Allen, et al v The Altoona Hospital, L.S. Fiore Inc., et al; Case #90 C.P. 2006 ; Filed 2/7/91; Blair County (Pa.) Court of Common Pleas

U.S. Postal Service Carrier Allen sued the Altoona Hospital and Fiore both as a business and as a person, for an unstated sum for injuries Allen sustained Dec. 5, 1988 when a bank of unsecured service boxes, which Fiore detached and failed to remount or post warnings, subsequently fell on Allen.

School projects

Cont'd from pg 3

The high school was renovated in early 2004, when the gymnasium floor suffered damage after plastic protective sheets were blown away during a rainstorm.

After a review of the damage,

the school district superintendent, Harvey Hann, noted that portions of the water-damaged floor would have to be replaced. According to the Mirror, costs for the replacement of the floor were not available, by Hann "indicated that L.S. Fiore would bear the expense."

LASER: Praised by Faint Damnation

Jim Pease apparently never tires of reminding HVAC contractors that the best way to respond to LASER's criticisms is to straighten their act. In a 2003 issue of the ABC of Wisconsin newsletter, Mr. Pease reiterated his expensive advice that, "The best preparation for LASER is for an employer to get its house in order."

"Damned by faint praise" is a timeless expression summarizing the tactic of praising someone so modestly as to cast doubt on both the sincerity and intent of the compliment. How LASER has had the good fortune of experiencing the reverse: it seems we've been "praised by faint damnation."

We point to a recently discovered opinion column by Jim Pease published way back on June 13, 2001 in the Wisconsin-based construction industry news organ, *The Daily Reporter*. (More later on this tardy discovery.)

Officials of the construction companies we report on sometimes criticize LASER. By and large, we ignore them. The occasional complaint is only to be expected, considering the natural antipathy between the watchdog and the watched. After all, the alert bulldog can generally rely on poor reviews from the cat burglar.

If the criticism has merit — happily a rare occurrence — we respond. Otherwise, we ignore them.

However, in this case, because Mr. Pease's article is so unintentionally complimentary to LASER's goals and services, we think it deserves special mention.

In his article, Mr. Pease first lays out his premise: research organizations — also known as "think tanks" — compile data on specific issues, analyze the data, write reports and distribute them to concerned parties.

Mr. Pease, who is affiliated with construction industry management, concludes that some of these groups are "pro-union," because the final reports issued are not always flattering to non-union construction employers. He calls these reports, "attacks."

You can tell by the title, "Are you ready for LASER?" he is particularly worried about us.

He correctly points out that the information we collect on companies includes:

- complaints, citations, charges and lawsuits involving the employer

- claims that prevailing wage obligations have not been met
- Fair Labor Standards Act, tax, licensing and safety violations
- criminal activities; names and addresses of current and former employees
- past and present clients
- a list of all hazardous or toxic materials used
- copies of all financial statements, profits and losses, liabilities and inventories

“The best preparation for LASER,” Mr. Pease says, “is for an employer to get its house in order.”

of vehicles and equipment

- environmental permits issued to or applied for by the employer
- complaints of poor workmanship, delays, mistakes and overruns on job sites
- breakdowns of all minority employees versus nonminority employees by craft, man-hours, hourly wage, health benefits and pension benefits
- reports of fires, accidents and injuries
- bankruptcies of the employer or any of its owners or officers
- violations of immigration laws

"An example of one of these pro-union research organizations is already operating on the borders of Wisconsin and may soon be operating within the state. It's called Labor and Safety Employer Research or LASER," Mr. Pease warns.

Mr. Pease's implied argument seems to be that the mere act of broadcasting facts taken from the public record to the wider community so informed decisions can be made is somehow reprehensible.

Reprehensible, perhaps, in the same way a watchdog barking at a midnight prowler constitutes a public nuisance because we also wake the neighbors.

"Attacks by these research groups can be very insidious because a targeted employer may not know the attack is occurring," Mr. Pease alleges.

He goes on to claim that, "Organizations like LASER hide behind a shroud of secrecy."

Mr. Pease is not being entirely frank here. He knows that, in the interests and spirit of fairness, accuracy and full disclosure, LASER has a strict policy of

providing notice well in advance of everything we expect to report about the employer. We give the parties ample time to respond and, if necessary, point out any errors that may have been made.

Mr. Pease reveals this later in his article when he advises his construction industry readers to make sure they "Carefully review LASER's correspondence..."

Those most interested in maintaining secrecy are clearly the employers with all those "complaints, citations, charges and lawsuits" hidden in their closets.

And here we'd like to point out the sweet irony of Mr. Pease's accusation. We only learned about his article in May 2003, two years after it was first published in the construction industry newspaper.

Had he followed our policy of open disclosure in the interests of fairness and accuracy, we would have gotten a letter from him and a copy of his article several weeks before June 1, 2001. But that is water under the bridge.

Where we take the greatest pleasure in Mr. Pease's left-handed compliments is in his final recommendation to construction employers on dealing with what he ominously calls, "The threat of LASER."

"The best preparation for LASER," Mr. Pease says, "is for an employer to get its house in order and to avoid the type of conduct that LASER can use in an apparent effort to destroy an employer's reputation. An employer should develop and maintain a serious safety program designed to eliminate violations of all safety laws. Pay practices should be administered to strictly comply with federal and state wage and hour laws and federal, state and local prevailing wage laws. Violations of environmental, immigration, labor and employment, taxation and other business laws should be avoided. And, positive personnel practices that encourage a diverse work force that is treated with respect should be developed and implemented by the employer. If these things are done, LASER won't have anything to write about." (*emphasis added*)

We wholeheartedly agree. It is, indeed all they have to do.

So in the final analysis, it appears LASER may have had some influence upon the construction industry over the last decade — and that impact seems to be for the good. Of that we are proud.

Mr. Pease, we offer you our belated thanks. And, please keep up the good work.

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The information contained in The Contractor's Critic does not reflect a complete history of the business practices of Leonard S. Fiore, 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, honesty, and environmental compliance in the construction industry.

Leonard S. Fiore, Inc. has been given the opportunity to review this material for errors and inaccuracies. As of publication, Leonard S. Fiore, Inc. has not made any specific suggestions or refuted any specific information in this publication.

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

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