VOLUME 11 ISSUE NO. 5 — SEPTEMBER/OCTOBER 2026

MERIT SHOP CONTRACTOR WISCONSIN

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Associated Builders and Contractors
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Merit Shop Contractor Wisconsin is published six times annually by Associated Builders and Contractors of Wisconsin, Inc. (ISSN# 10642978)) 5330 Wall St., Madison, WI 53718. Periodicals Postage Paid, Madison, WI and other additional mailing offices. (UPS 340-650). Subscription price is $50 per year.

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FROM OUR PRESIDENT

The Human Investment

ABC MEMBERS SPEND A LOT OF TIME TALKING ABOUT THE THINGS WE'RE BUILDING, and this is frequently an exciting conversation. But behind every successful project is something even more important: the people who build it.

That makes Human Resources a critical part of every merit shop contractor's success. Whether your company has a dedicated HR department or those responsibilities are added to other roles, the challenges are increasingly complex. Recruiting and retaining employees, managing benefits and unemployment claims, keeping up with changing labor laws, developing leaders and navigating new technology all compete for our attention.

This issue of *Merit Shop Contractor* is dedicated to helping you tackle some of those challenges.

Several of our attorney members weigh in on current topics. Doug Witte answers important questions surrounding unemployment compensation, an area where understanding the rules can help employers avoid costly mistakes. Jon Anderson and Tom O'Day provide an update on the National Labor Relations Board and the many changes employers should be watching.

Technology is also changing the HR conversation. Kristen Wright of Arcoro looks at how artificial intelligence can reduce administrative work and give HR professionals more time to focus on higher-value responsibilities. Sarah Fecht of Best Self Leadership takes that conversation one step further with an important reminder: AI isn't replacing HR. Instead, it is challenging us to become more human.

At ABC we are ready to embrace the improvements technology brings, but we know that relationships are still key. It is still our people running each jobsite, building projects, creating workplace culture, and requiring safety and supports to make their work successful.

Technology can help us process information, automate repetitive tasks and work more efficiently. But it cannot replace the relationships that make a company successful. Employees still want to know that their work matters. They want opportunities to grow. They want good leaders, clear communication and a workplace where they are treated with respect. Those are human responsibilities, and they remain at the heart of a strong merit shop culture.

The articles in this issue are a great place to start, but I also encourage you to continue the conversation at ABC of Wisconsin's HR+ Conference, October 1-2 at the Glacier Canyon Conference Center in Wisconsin Dells. The annual conference is built for professionals supporting the business side of construction, with HR at its core and additional topics including accounting, leadership, marketing, payroll and technology.

It is an opportunity to step away from the day-to-day demands of the job, learn from experts and, just as importantly, connect with other ABC members who are dealing with many of the same challenges. Those conversations and relationships are one of the greatest strengths of our association.

> AT ABC WE ARE READY TO EMBRACE THE IMPROVEMENTS TECHNOLOGY BRINGS, BUT WE KNOW THAT RELATIONSHIPS ARE STILL KEY.

ABC of Wisconsin is also here as a resource throughout the year. We offer a First Call Free Legal Hotline to help you troubleshoot questions. We also have a full library of HR documents, guidance for union-related conversations and more available on our website, available with a member login. If you don't have a login, use the QR code here. We want you to have access to everything we can provide!

Our industry will continue to change. Regulations will change. Technology will change. The expectations of our workforce will change. Our ability to adapt while continuing to invest in people will be one of the keys to remaining competitive.

— Kelly Tourdot, President

A BETTER WAY TO MANAGE H

By Kristen Wright – Arcoro Chief Marketing Officer

HOW TOP CONTRACTORS ARE USING AI TO ADD EFFICIENCY

Construction HR teams are stretched thin, and the numbers back it up. In an Arcoro survey of nearly 350 HR professionals, 42% said time-consuming administrative tasks are holding them back, and 73% named finding the right employees as their top challenge. Those two problems are connected. When HR staff spend their days on manual data entry, paper onboarding, and payroll reconciliation, little time is left for the recruiting, retention, and leadership work that solves the labor shortage.

The good news is that a group of contractors has already found a way out. The survey identified companies with integrated HR technology, structured leadership development, and dedicated HR leadership, and those companies are growing faster than their peers and retaining talent at meaningfully higher rates.

Their playbook is not complicated. It comes down to three moves: reducing administrative burden, improving visibility into the workforce, and starting to put AI to work in ways that make both of those things easier.

Start by Connecting the Systems You Already Have

The single biggest driver of administrative drag is disconnected software. Nearly every construction company already owns HR technology. Payroll tools reach 89% of respondents and time tracking reaches 84%, but for most firms those systems do not talk to each other. Only 5% of companies surveyed have achieved full integration across their HR technology stack. Meanwhile, 46% report only partial integration, and 26% have no integration at all.

That integration gap has a real cost. When systems do not share data, HR staff end up entering the same employee information into multiple places by hand, a task that eats hours every week and introduces errors that surface later in payroll or compliance reports. Contractors who have connected their core systems describe a different experience: less duplicate entry, cleaner records, and more time for the strategic work that actually moves the business forward.

For a company still running on spreadsheets and disconnected point solutions, the highest-leverage first move is to connect payroll and time tracking so hours flow automatically into pay calculations. That integration alone can save a typical HR team five to ten hours per week — time redirected toward recruiting, training, or keeping up with a growing workforce.

Once that foundation is in place, the next step is extending integration to recruiting and benefits administration. Linking an applicant tracking system and benefits platform to the core HR system creates one complete employee record from the first job application through retirement, and that unified record is what makes accurate reporting possible in the first place.

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> WHAT TIES ALL OF THIS TOGETHER IS A SIMPLE IDEA: BEING SMART ABOUT HR TECHNOLOGY IS NOT ABOUT BUYING MORE SOFTWARE. IT IS ABOUT CONNECTING WHAT YOU HAVE.

Build Visibility Through Onboarding and Metrics, Not Guesswork

Reducing administrative work only helps if the time saved gets reinvested in visibility, meaning a clear, current picture of who is on the team, how they are performing, and where risk is building. Two habits separate the contractors who have that visibility from those who do not: structured onboarding and consistent metrics tracking.

Turnover in the first 90 days is where this shows up most clearly. Across the survey, 61% of respondents said fewer than 5% of new hires leave within their first 90 days, but that average hides a sharp divide. Companies with an informal, manager-driven onboarding process, or no formal process at all, cluster in the 11 to 30% turnover range. Companies with a structured or automated onboarding program consistently report turnover below 5%. The process itself, not the company's size or trade, is what predicts whether a new hire sticks around long enough to become productive.

A strong onboarding program does not need to be elaborate to work. A documented 90-day plan that includes job-specific training, safety protocols, and regular manager check-ins is enough to move a company out of the highest-risk category. What matters is consistency: every new hire gets the same experience instead of learning the job by trial and error on a crew.

The second habit, tracking workforce metrics, is what turns onboarding and hiring decisions from instinct into evidence. Time-to-fill, cost-per-hire, turnover by role or department, and training completion rates are the starting set. Only 22% of surveyed companies currently use workforce analytics of any kind, which means most HR teams are making staffing decisions without the data that would tell them where the real problems are. Firms that track these metrics report faster growth, largely because they can spot a turnover spike or stalled hiring pipeline before it becomes a crisis.

Leadership development deserves a place in this visibility push as well. Frontline supervisors and foremen are usually the only regular point of contact between the company and field employees, so their ability to communicate and manage well has an outsized effect on whether workers stay. Firms with a formal leadership training program report significantly lower 90-day turnover than firms with no structured program at all, and 32% of respondents already have one in place. Starting with basics like communication and conflict resolution training for supervisors is a low-cost way to close that gap.

Use AI Where It Removes Grunt Work, Not Where It Sounds Impressive

AI adoption in construction HR is still early. Thirty-six percent of survey respondents report no use of AI at all, and another 29% limit it to small-scale tasks like drafting emails. But a notable group, 17%, has moved to broader use, applying AI to data analysis and policy creation, and that group is more likely to report growing faster than its peers.

The pattern among early adopters is instructive. They are not using AI for everything at once. They are pointing it at the highest-volume, most time-intensive administrative tasks first: screening resumes in minutes instead of hours, flagging which candidates are statistically likely to succeed based on historical hiring data, and surfacing turnover patterns before they turn into a wave of departures. These are exactly the kinds of tasks that eat the administrative hours HR teams say they do not have.

There is an important caveat here, though. AI performs only as well as the data it is working with. Companies with integrated systems and clean, centralized employee records get dramatically better results from AI tools than companies trying to apply AI on top of disconnected spreadsheets and paper files. In other words, the integration work described above is not a separate initiative from AI adoption. It is the prerequisite for it. A contractor still entering time cards by hand is not ready to pilot an AI screening tool, no matter how promising that tool looks in a demo.

Where to Start Improving Your HR Processes

The right next step depends on where your company is today. A firm still relying on spreadsheets and manual processes should focus first on connecting payroll and time tracking and documenting a real onboarding process, since those two changes alone address the biggest sources of wasted time and early turnover. A company that already has basic systems in place and a part-time HR function should turn to expanding integration into recruiting and benefits, formalizing leadership training, and beginning to track core workforce metrics. Companies with a dedicated HR team and integrated technology already in place are the ones positioned to get real value from workforce analytics and targeted AI pilots.

What ties all of this together is a simple idea: being smart about HR technology is not about buying more software. It is about connecting what you have, using it to see your workforce clearly, and only then reaching for AI to handle the repetitive work that clean data makes possible. The construction companies pulling ahead of their peers right now are the ones that treated this as a sequence rather than a shopping list, and it is showing up in their growth and retention numbers.

Learn Your HR Maturity Level

The 2026 State of Construction HR report breaks down HR maturity levels - the progression of an HR department from basic, transactional tasks to a strategic function that drives business value - and offers practical examples of how construction companies can get to the next level.

Download the report and HR maturity assessment to benchmark your HR approach, identify gaps, and explore what higher-performing construction companies are doing differently.

About Kristen Wright

Milwaukee native Kristen Wright is Chief Marketing Officer at Arcoro, helping organizations tackle workforce challenges through smarter technology and data-driven decisions. An experienced HR technology leader, she champions innovation that improves efficiency, enhances the employee experience, and drives business results.

About Arcoro

Empowering the builders of our world, Arcoro is a time tracking and all-in-one HR technology platform purpose-built for the construction industry. As a proud member of the ABC Tech Alliance, Arcoro's solutions help construction companies manage their unique workforce needs, offering the most ERP integrations of any HR software provider. Backed by best-in-class customer support, over 7,000 companies rely on Arcoro to save time, improve accuracy, reduce risk, and lower workforce costs. Learn more at arcoro.com.

By Sarah Fecht – Best Self Leadership

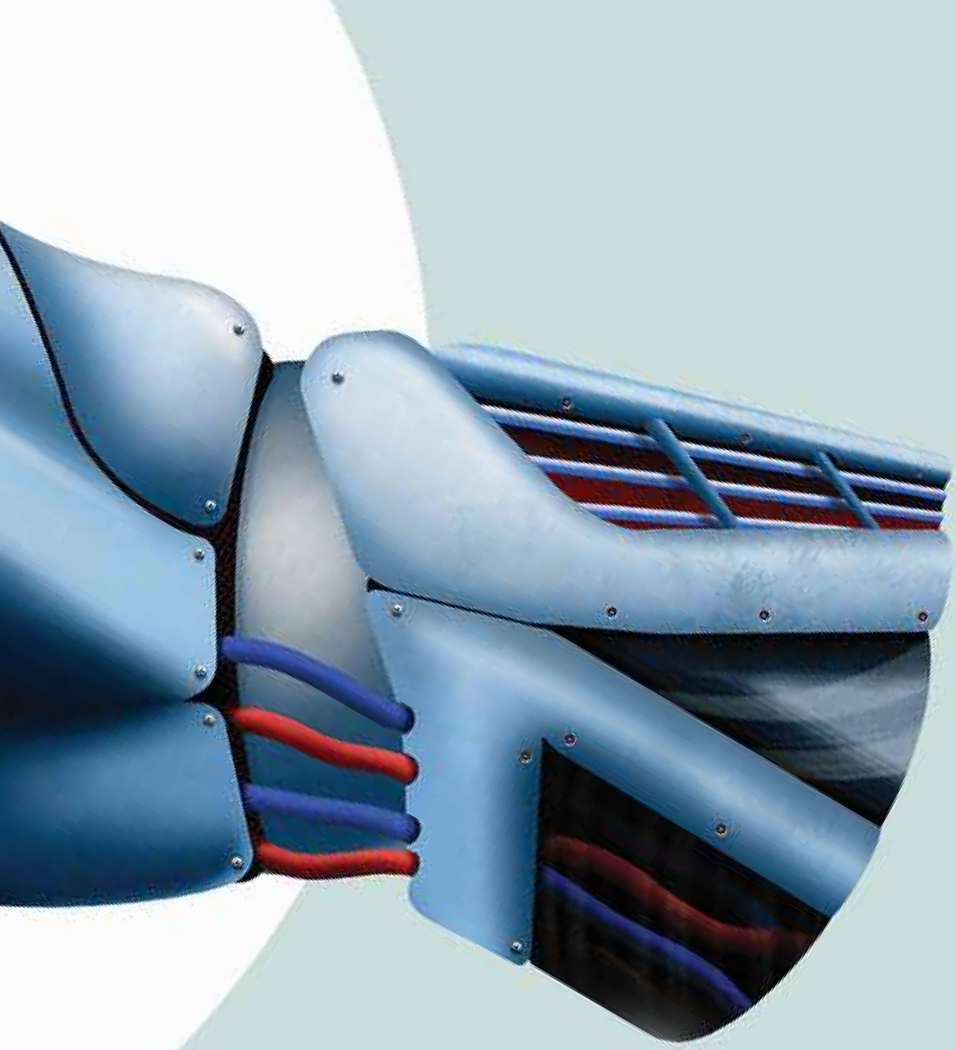
AI ISN’T RE

IT’S CHALLENGING US TO BECOME MORE HUMAN

I grew up with pretty incredible parents. I may not have always thought that growing up, especially when my curfew was always earlier than my friends, but now as a mom of four I understand they were simply trying to protect me. My mother took a break from her teaching career to raise me and my two older brothers before returning to the workplace in an HR role. My dad was an electrician who had a deep understanding of the trades that allowed him to be the General Contractor for multiple duplexes, our primary home, and a cabin in the Northwoods.

My dad has always impressed upon me the importance of the trades and was thrilled to learn my first job out of college would be working for a company that made trusses. I didn’t ruin his excitement by admitting I didn’t actually know what a truss was when the initial offer came in….I soon learned!

Growing up my dad was always busy helping family, friends, and our



> IF AI SAVES AN HR LEADER FIVE HOURS, THE WIN ISN'T CRAMMING SIX MORE HOURS OF TASKS INTO THOSE FIVE HOURS. IT'S USING SOME OF THAT CAPACITY TO WALK THE JOBSITE.

PLACING HR

church with electrical projects. The combined "honey-do" list was never ending. It was obvious to me as a little girl that there will always be a need for skilled electricians. This core belief hasn't changed, even with the evolution of technology and the addition of AI to our tech resources.

AI is here and it's changing the way we work. According to SHRM's 2025 Talent Trends research, 43% of organizations report using AI to support HR-related activities, making a noticeable difference in how we complete tasks. Specifically, the recruiting function has been positively impacted by increasing efficiency and decreasing the time to fill. This is important because the construction industry needs people.

If you currently feel like there aren't enough people to go around right now, you're not alone. In fact, the current data is showing us there aren't enough skilled laborers to meet today's needs, or tomorrow's projected growth. The Associated General Contractors of America's 2025 Workforce Survey found that 92% of contractors with openings were struggling to find qualified workers. And those of you in the industry don't need a statistic to tell you that. You're living it.

So, if AI is helping us get some of our work done faster, what are we going to do with the time we get back? We're not talking about oodles of free time magically being available, but yes, tasks can be accomplished faster. So what is the best use of this freed up time? I would suggest to you that this is where the magic can happen.

Should we add more tasks? No. Should we create more policies? No. Should we generate more procedures? No. Should we get up from

❝

**AI CAN HELP US FIND EFFICIENCIES.
AS LEADERS, WE GET TO DECIDE WHAT WE DO WITH THEM.**

43%

of organizations report using AI to support HR-related activities

Source: SHRM's 2025 Talent Trends research

92%

of contractors with openings were struggling to find qualified workers

Associated General Contractors of America's 2025 Workforce Survey

our desks and talk to our team members? YES! With the time that we get back from AI efficiencies in HR we need to make the team member experience better.

If AI saves an HR leader five hours, the win isn't cramming six more hours of tasks into those five hours. It's using some of that capacity to walk the jobsite. Talk to the new foreman. Coach the struggling superintendent. Ask the employee who has gotten quiet what's going on. Help a manager prepare for the conversation they've been avoiding. This is how we will need to show up as leaders if we want high-performing teams.

I recognize that "make more time for people" can sound almost laughable to a construction leader who already feels like there aren't enough hours in the day. I get it, I really do. You've got a project to finish. A schedule that's slipping. A customer who needs an answer. Someone called in. Someone else quit. There's a safety issue to address. Your phone hasn't stopped ringing, and now I'm suggesting you find time for one more conversation? Yes. I am.

Because that conversation may be some of the most important work you do today. The five-minute check-in with the foreman who is struggling doesn't show up on the project schedule. Coaching a new superintendent through their first difficult employee conversation doesn't get a line item in the budget. Telling someone, "I see how hard you're working, and I appreciate you," doesn't move a project closer to substantial completion.

But those moments matter. They build trust. They develop leaders. They help good people want to stay.

AI can help us find efficiencies. As leaders, we get to decide what we do with them. The danger isn't that AI will make HR less necessary. The danger is that HR will use the time AI gives us to do more administrative work instead of more human work.

When I entered the truss building organization at the ripe young age of 22, fresh off a college campus, I was equipped with lots of knowledge and skills. When the plant manager asked me to go talk to Bubba about his body odor, all that college knowledge didn't feel quite so useful. I should have been prepared or at least felt prepared. I wasn't. Not at all. I stumbled my way through the conversation in the most cautious and mindful way I could, remembering that conversations like these aren't about embarrassment, they're about creating awareness that likely isn't there and then talking through solutions together. I don't remember the exact words I used that day. I do remember realizing that knowing HR wasn't the same thing as knowing how to lead another human being through an uncomfortable moment.

Gallup's research finds that managers account for 70% of the variance in team engagement. Technology matters. The human using it matters more. Here's the reality: AI can draft the performance review and AI can summarize the employee survey. AI can even suggest questions for a difficult conversation. But it can't replace the leader having that conversation. And conversations, especially critical ones, aren't easy.

AI isn't going away, nor should it. There are incredible opportunities ahead for organizations willing to use it well. But as we invest in teaching people how to use the technology, we can't forget to invest in teaching them how to lead the humans using it. We don't just need to teach managers how to use AI. We need to teach them how to lead in a workplace where AI exists.

This is especially relevant for construction because the promotion from excellent craft professional to foreman or superintendent often means suddenly becoming responsible for people, not just work. The skill set to get work done through others is drastically different than the skill set that made us successful as an independent contributor.

What if the biggest opportunity AI gives us isn't the ability to replace people? What if it's the capacity to actually lead them? When I think back to my childhood, I can still picture my dad heading off to help someone with another electrical project. Family. Friends. Our church. There always seemed to be someone who needed him.

They needed his skills, of course. They needed someone who understood electricity and could solve the problem in front of them. But I understand something now that I didn't fully appreciate as that little girl watching him go.

They trusted him.

They trusted him to show up. They trusted him to know what he was doing. They trusted him to care enough to help.

Technology has changed dramatically since then. The tools available to my dad today would probably amaze the electrician he was when I was a kid. And AI is going to change our workplaces in ways we haven't even imagined yet. But I don't believe the need for that kind of human connection is going anywhere.

My mom's career in HR and my dad's career in the trades may have looked very different, but they taught me something remarkably similar: our work is ultimately about people.

That's the kind of leader I strive to be. Not the leader with every answer, but the one willing to show up. To ask the question. To have the conversation. To notice when someone needs support. To help another person become better at what they do.

AI can help me prepare for that conversation.

It can help me find the data.

It can help me write the plan.

But it can't care about the person sitting across from me.

That's my job. And it's yours, too.

AI isn't replacing HR.

It's giving us an opportunity to become more human.

I hope we take it.

Sarah Fecht

> AI ISN'T GOING AWAY, NOR SHOULD IT. THERE ARE INCREDIBLE OPPORTUNITIES AHEAD FOR ORGANIZATIONS WILLING TO USE IT WELL.

UC BASICS

ANSWERING COMMON UNEMPLOYMENT COMPENSATION BENEFIT QUESTIONS

By Douglas E. Witte – Boardman & Clark LLP

Employers frequently ask how they can cut down on invalid claims and reduce their UC exposure. The first and most important step for employers who want to challenge an employee's eligibility for UC benefits is to respond to all inquiries promptly and completely. Knowing what to say and the issues involved is helpful. The Department of Workforce Development (DWD) has an Employer Handbook available which is a great resource for navigating claims and issues [https://dwd.wisconsin.gov/ui201]. We thought a review of some basic concepts and issues would be helpful for employers as they process UC claims.

How Unemployment Compensation is Funded

Private employers pay contributions to the UC fund at the rate established by DWD under

Wis. Stat. § 108.18. These contributions are credited to an employer's account, after deducting any solvency contribution that must be paid to the UC balancing fund. Employers pay a UC contribution rate ranging from 2.5 to 3.25 percent for their first three calendar years. This amount will change over time based on the size of an employer's UC payroll and the reserve percentage of the employer's account. The employer's reserve percentage is calculated based on benefits paid, contributions made, and an employer's total UC payroll. When benefits are paid to former employees, the employer's account is charged. Employee benefits that are paid from the DWD balancing account are not charged against the employer's account. For example, if an employee is discharged for substantial fault (see below), the employee's benefits are paid from the balancing account once an employee earns wages equal to at least 14 times the employee's weekly benefit rate in covered employment.

Because UC fund contributions are based, in part, on the amount of benefits that the employer's former employees receive, employers should be aware of the amount of benefits former employees receive and strive to ensure that only eligible former employees receive benefits. This will keep the employer's UC contributions lower.

The Department of Workforce Development (DWD) has an Employer Handbook available which is a great resource for navigating claims and issues
dwd.wisconsin.gov/ui201

Common Disqualifications for Unemployment Compensation

Voluntary Quit. If an employee quits work, the employee is ineligible to receive benefits until the employee earns wages after the week in which the quit occurs equal to at least 6 times the employee's weekly benefit rate.*

● Voluntary quit does not apply:

■ if the employee resigned in lieu of being terminated by the employer.

■ if the employee quit with good cause attributable to the employer. "Good cause" includes, but is not limited to, a request, suggestion, or directive by the employer that the employee violate federal or Wisconsin law, or experiences sexual harassment…by an employer or employer's agent or a co-worker, of which the employer knew or should have known but failed to take timely and appropriate corrective action.

■ if the employee had no reasonable alternative because of verified illness or disability.*

■ if the employee terminated work because of the verified illness or disability of a member of his or her immediate family and the verified illness or disability reasonably necessitates the care of the family member for a period of time that is longer than the employer is willing to grant leave.*

■ if an employee is hired to work a particular shift and if DWD determines that the employee terminated his or her work as the result of a requirement by his or her employer to transfer his or her working hours to a shift occurring at a time that would result in a lack of childcare for his or her minor children, provided that the employee is able to work and available for full-time work during the same shift that the employee worked in the employee's most recent work with that employer.

■ if the employee accepted work that the employee could have refused to accept as not "suitable work" within the first 30 days of starting the job.* "Suitable work" means the work does not involve a lower grade of skill than that which applied to the employee on one or more of his or her most recent jobs; and the hourly wage for the work is 75 percent or more of what the employee earned on the highest paying of his or her most recent jobs.

■ if the employee quits to work a comparable or better job that is closer to the employee's home.*

■ if the employee quits due to domestic abuse, concerns about personal safety or harassment, concerns about the safety or harassment of his or her family members who reside with the employee, or concerns about the safety or harassment of other household members; and provides to DWD a protective order relating to the domestic abuse or concerns about personal safety or harassment issued by a court of competent jurisdiction, a report by a law enforcement agency documenting the domestic abuse or concerns, or evidence of the domestic abuse or concerns provided by a health care professional or an employee of a domestic violence shelter.*

■ to employees that quit to accompany spouses when the spouse serves in the armed forces and has to relocate for that service.*

[NOTE: For the exceptions marked with "*", the benefits are charged to the UC fund's balancing account, rather than the employer's account. Employers that elect reimbursement financing are still responsible for these benefit payments].

Examples:

1. If an employee gives the employer a notice of an intended resignation and sets a date for that resignation, and the employer refuses to permit the employee to continue working up until the time the notice would have been effective, the employee will be eligible for benefits

EMPLOYERS PAY A UC CONTRIBUTION RATE RANGING FROM 2.5 TO 3.25 PERCENT FOR THEIR FIRST THREE CALENDAR YEARS.

“

IF AN EMPLOYEE QUITS WORK, THE EMPLOYEE IS INELIGIBLE TO RECEIVE BENEFITS UNTIL THE EMPLOYEE EARNS WAGES AFTER THE WEEK IN WHICH THE QUIT OCCURS EQUAL TO AT LEAST 6 TIMES THE EMPLOYEE’S WEEKLY BENEFIT RATE.

until the time that the resignation would have become effective.

2. If an employee requests a layoff and the employer grants it, the layoff is considered a discharge and not a voluntary quit because it is the employer’s choice whether or not to lay off the employee.

Misconduct

Misconduct is defined as:

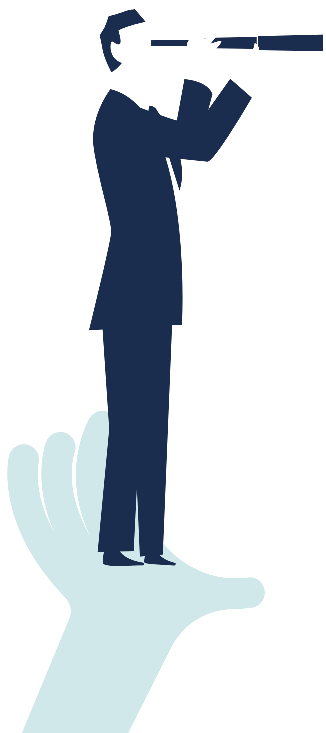
One or more actions or conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which an employer has a right to expect of his or her employees, or in carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional and substantial disregard of an employer's interests, or of an employee's duties and obligations to his or her employer.

In 2015, for the first time, the statute provided specific examples of misconduct including the following:

● Violation of an employer’s reasonable substance abuse policy concerning the use of alcoholic beverages, use of a controlled substance or use of a controlled substance analog (a substance substantially similar to a controlled substance) if the employee: 1) had knowledge of the alcohol beverage or controlled substance policy; and 2) admitted to the use of alcohol beverages, a controlled substance, or controlled substance analog, refused to take a test, or tested positive for the use of such substances in a test used by the employer in accordance with a DWD-approved testing methodology;

● Theft of an employer’s property, services, money (of any value), and felonious conduct connected with the employment, or intentional or negligent conduct by an employee that causes substantial damage to the employer’s property;

● Conviction of a crime or other offense, while on or off duty, that precludes the employee from performing his or her duties for the employer;



● One or more threats or acts of harassment, assault, or other physical violence instigated by an employee at the employer’s workplace;

● Absenteeism on more than two (2) occasions within the 120 days before the date of termination, unless permitted by the employer’s employment manual of which the employee acknowledged receipt, or excessive tardiness in violation of the employer’s policy, if the employee does not provide notice and one or more valid reasons for the absenteeism or tardiness;

■ While employers may be more generous in establishing their standard for discharge for absenteeism for unemployment compensation denial purposes, an employer may not be more restrictive than the “2 in 120” default standard.

■ Although employers are free to adopt a “zero-tolerance” attendance policy and discharge employees for that reason, not every discharge qualifies as misconduct for unemployment insurance purposes. However, absenteeism (including one absence regardless of the employer’s absenteeism policy) may constitute “misconduct” if the facts satisfy the general “misconduct” standard in the law (see above).

● Falsifying the employer’s business records, unless directed to do so by the employer; or,

● For employers certified or licensed by a governmental agency, a willful and deliberate violation of a written and uniformly applied standard or regulation of the federal, state, or tribal government, which standard has been communicated by the employer to the employee and which violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency, unless directed to do so by the employer.

Substantial Fault

Substantial fault is defined to include acts or omissions of an employee over which the employee exercised reasonable control, and which violate reasonable requirements of the employer. Substantial fault does not include the following:

● One or more minor infractions of rules unless an infraction is repeated after the employer warns the employee about the infraction;

● One or more inadvertent errors made by the employee; or,

● Any failure by the employee to perform work because of insufficient skill, ability, or equipment.

Subsequent cases have made it clear:

● A single inadvertent act is not substantial fault.

● Multiple inadvertent acts may not be substantial fault. The Wisconsin Supreme Court held that eight cash handling errors in twenty months were “inadvertent errors.” They

EVENT REMINDERS

ABC Wisconsin
Associated Builders and Contractors

- **Qualified Rigger & Crane Signal Person Training**
  Sept. 7, La Crosse
- **Center for Apprenticeship Excellence Grand Opening**
  Sept. 15, Madison
- **Lead with Impact**
  Sept. 15, Live-Online
- **Building Your Business Beyond Word of Mouth Webinar Series**
  Sept. 16, Live-Online
- **10-Hour OSHA Construction Safety & Health Outreach**
  Sept. 17, Appleton
- **Transition to Trainer**
  Sept. 18, Madison
- **Qualifed Rigger & Crane Signal Person Training**
  Sept. 21, West Bend
- **Networking Social**
  Sept. 23, Green Bay
- **FA/CPR Training**
  Sept. 25, Milwaukee
- **FA/CPR Training**
  Sept. 28, West Bend
- **FA/CPR Training**
  Sept. 30, Eau Claire
- **Construction Owner Legacy Planning**
  Beginning Sept. 30, Live-Online
- **HR+ Conference**
  Oct. 1-2, Glacier Canyon Conference Center, Wisconsin Dells
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 1, Eau Claire
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 1, Sheboygan
- **Qualified Rigger & Crane Signal Person Training**
  Oct. 5, Eau Claire
- **Qualified Rigger & Crane Signal Person Training**
  Oct. 5, Green Bay
- **Executive Leadership Intensive: Lead with Confidence**
  Oct. 8-9, Madison
- **FA/CPR Training**
  Oct. 9, La Crosse
- **FA/CPR Training**
  Oct. 9. Green Bay
- **Project Coordinator Series**
  Beginning Oct. 13, Madison
- **Construction Inclusion Week Event**
  Oct. 13, Milwaukee
- **Networking Social**
  Oct. 15, La Crosse
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 15, La Crosse
- **Build the Connection: Networking and Speaking with Confidence**
  Oct. 15, Madison
- **FA/CPR Training**
  Oct. 16, Madison
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 16, Milwaukee
- **Trenching & Excavation Competent Person Training**
  Oct. 23, West Bend
- **Member Lunch**
  Oct. 28, Lake Geneva
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 29, Green Bay
- **10-Hour OSHA Construction Safety & Health Outreach**
  Oct. 29, Marshfield
- **Plan & Specifications Reading**
  Oct. 29-30, Green Bay

abcwi.org

were accidental oversights and the result of carelessness. The employer's prior warnings were not determinative as to inadvertence. The employee went months between errors. Inadvertent errors such as these were excluded from the definition of substantial fault.

Other Factors That Could Deny Employees UC Benefits

■ If an employee:

● fails to make four job search actions per week, the employee is not eligible for benefits that week.

● refuses suitable work, without good cause, UC benefits will be suspended until the employee earns six times his/her weekly benefit rate.

● is not available for work in a week, without good cause, the employee's benefits will be reduced (or eliminated) for the week.

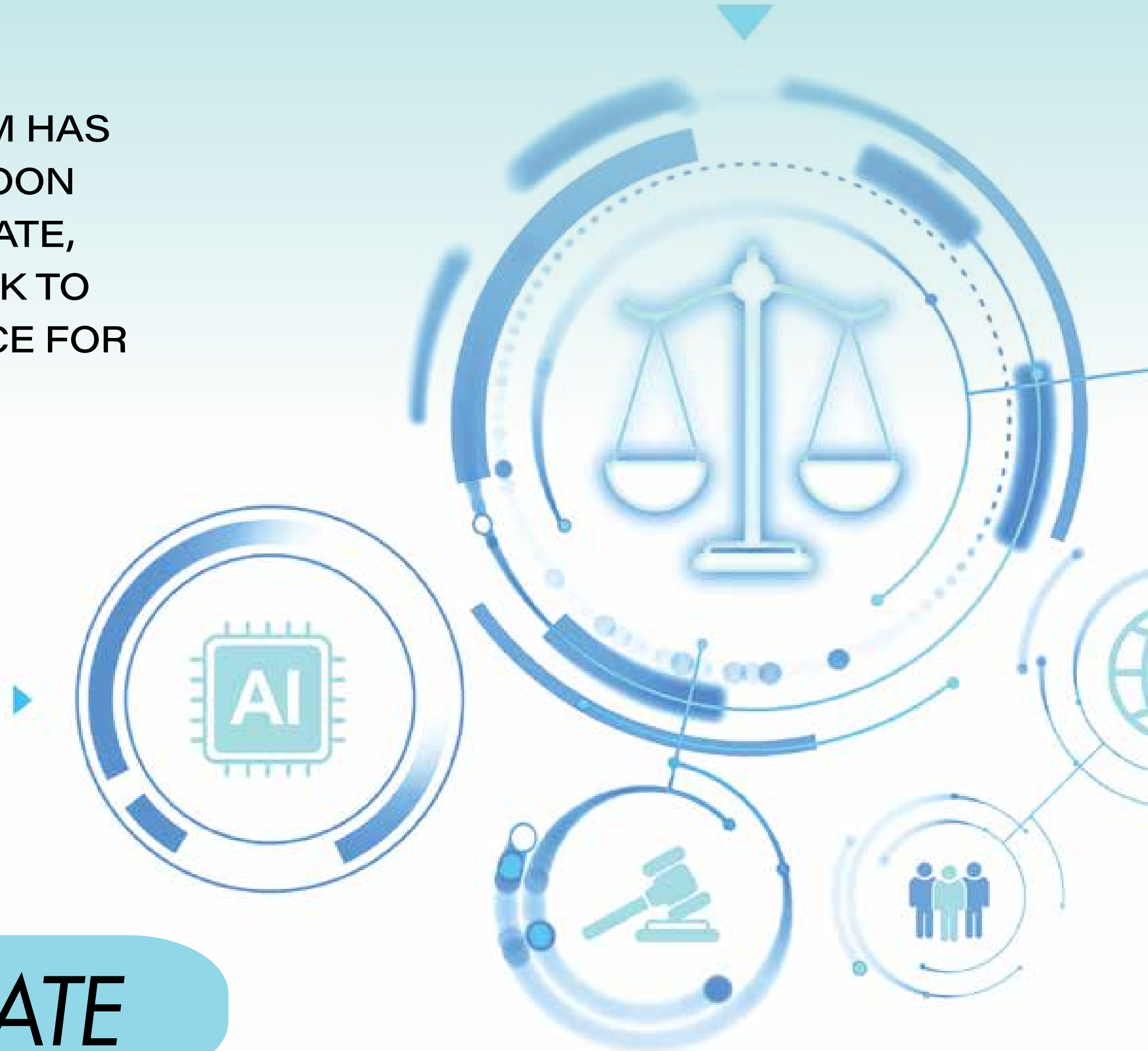
● refuses to take a drug test (or tests positive) as a condition of prospective employment, the employer may submit that information to DWD. If the refusal or failed test results in the employment offer being rescinded, DWD will presume the employee refused suitable work and deny benefits for the week the job was to begin until the employee earns wages in covered employment equal to at least six times the employee's weekly benefit rate. Employees can remain eligible for benefits if they enroll in and comply with a drug treatment program at DWD's expense.

Conclusion

While UC eligibility and benefits can be confusing, having a basic understanding of the process and issues can help you control these costs.

Doug Witte

> THE PENDULUM HAS BEGUN, AND SOON WILL ACCELERATE, ITS SWING BACK TO A BETTER PLACE FOR EMPLOYERS.



NLRB UPDATE

CHANGE IS ON

By Jon E. Anderson and Tom O'Day

The purpose of the National Labor Relations Act (NLRA), protecting rights and remedying wrongs in the labor law world, often gets balled up in philosophical and political debates, clouding the path toward practical compliance and implementation of the law. When new federal administrations are elected in Washington, appointments to the National Labor Relations Board (NLRB) create opportunities for swings of the pendulum that in turn can impact decisions and change long-standing legal interpretations. During the Biden administration, the NLRB and then General Counsel Jennifer Abruzzo impacted national labor policy driving the pendulum swing to a liberal more union-friendly extreme. The pendulum has begun, and soon will accelerate, its swing back to a better place for employers.

NLRB Lacks a Quorum for most of 2025 – New Appointments

During most of 2025, the NLRB did not have a quorum with only two members serving. Labor disputes did not pause because the NLRB was without a quorum. The Regional Offices of the NLRB continued to process cases, but with the lack of quorum, the NLRB was unable to decide cases and was unable to direct further

THE WAY

development of national labor policy. In addition, cases appealed to the NLRB sat there unresolved, creating a huge backlog.

The NLRB regained a quorum in December of 2025 with the appointment of James Murphy and Scott Mayer. Consequently, the NLRB began to address and decide cases in early 2026. But the Board did not reverse precedent on cases decided by the NLRB when President Biden, the self-proclaimed most union friendly president, was in office.

As a matter of internal policy, the NLRB does not overrule precedent unless there are at least three members in favor of the action. Although the Board currently has a legal quorum, for most of 2026 it lacked that third member of the five-member board to effect changes. That changed on August 7, 2026, when the Senate passed Senate Resolution 817 by a vote (51-47) largely split on party lines. Senate Resolution 817 included over fifty appointments awaiting confirmation considered en bloc. Two of these appointments involved appointments to the NLRB.

James R. Macy, an attorney who practiced traditional labor law in Wisconsin for years before being appointed to the Department of Labor was nominated by President Trump in April 2026 for a five-year term as a member of the NLRB. Macy's appointment was confirmed as part of S Res 817. Macy's appointment provides the NLRB with the three-member majority it needs to reverse precedent.

Senate Resolution 817 also resulted in the reappointment of David Prouty of Maryland as a member of the NLRB.

A New General Counsel Appointed

Crystal Stowe Carey, formally a management side attorney, was nominated in March 2025 and confirmed by the Senate in December 2025 as NLRB General Counsel. Ms. Carey, responsible for the investigation and prevention of unfair labor practice and the administration of the NLRB's regional offices, took her office in January 2026.

Ms. Carey spoke at a recent national conference in New York City. She stated that she did not issue the traditional General Counsel memo outlining her priorities upon her appointment because she did not want to add to the backlog faced by the regions. Her focus was on operational efficiency and reducing the stress created by the volume of pending cases. She's been quite successful in helping the regions reduce the backlog. In the first six months of her term the backlog was reduced by one-third. In addition, she stated that she did not believe there was a need to issue the traditional General Counsel memo because cases that could bring changes were already in the queue at the NLRB awaiting review and decision. She has also issued guidance to the regions concerning agency investigations, requirements to submit evidence in support of claimed unfair labor practices, as well as directing agencies to work with the parties to find ways for cases to be resolved by settlement eliminating requirements that such settlements contain certain verbiage that often hinders a deal. We expect she will offer guidance concerning employee handbooks soon.

A Perfect Storm of Changes in Personnel and Priorities

With the appointment of Macy, and continued guidance from General Counsel Carey, we expect NLRB will decide cases, create precedent and enforcement policies will be more favorable to businesses going forward, but the change will be gradual as it is dependent on cases presented to the NLRB. Because the cases are already in the queue, the opportunity for meaningful change is coming sooner than later. These cases provide the NLRB with the opportunity to reshape national labor policy and offer relief to employers. General Counsel Carey will also use her influence to shape policy and to bring practical guidance to the regions, to unions and to employers under the NLRA.

The Employer Watch List

The cases listed below are a sample of the cases we believe the NLRB will address in the coming months. Employers should watch for developments in these select areas:

Union Organizing and Recognition –
Cemex Construction Materials Pacific ("Cemex"), 372 NLRB No. 130 (2024):

Cemex forces companies to recognize unions based on signed authorization cards rather than secret-ballot elections. If an employer receives a demand for bargaining under this case, the employer must either recognize the union or file its own petition for election. The idea that a company must file a petition for election is absurd. Under Cemex, an employer faces the prospect of a bargaining order if it declines to recognize a union claiming what you already support and then commits even a single unfair labor practice.

Union Organizing –
Micro-Units: American Steel, ("American Steel") 372 NLRB No 23 (2022):

Micro-units" are small, distinct subsets of a workforce (such as a single department or specific job classification) that a union seeks to represent. In American Steel, the NLRB reinstated a highly pro-union standard, making it significantly easier to form these units. Unions can carve out small-fragmented bargaining units of employees giving them the ability to target the most easily organizable pockets of your workforce rather than have to demonstrate broader support.

Employer's Speech and Campaign Conduct –
Amazon.com Services LLC et. al ("Amazon.com") 373 NLRB No. 136 (2024) and Siren Retail Corp. d/b/a Starbucks ("Starbucks") 373 NLRB No. 135 (2024):

Several 2024 decisions introduced new constraints on employer communications during organizational campaigns. In Amazon.com the NLRB held that mandatory captive audience meetings violate the NLRA if attendance is compelled under threat of discipline. This decision overturned 75 years of contrary precedent. Employers lost an important and traditional tool for getting their message out during a union organizing campaign.

Moreover, in Starbucks the NLRB rejected a categorical rule permitting employers to warn employees about impact unionization may have on the relationship between the employer and its employees including the loss of individualized grievance rights following unionization.

Severance Agreements –
McLaren Macomb, 372 NLRB No. 58 (2023) ("McLaren-Macomb"):

In McLaren Macomb the NLRB discarded years of standard severance agreement language. Holding that the use of routine confidentiality and non-disparagement clauses were unfair labor practices.

Collective Bargaining Agreements and Waivers - Endurance Environmental Solutions, LLC and Teamsters Local No. 100, ("Endurance") 373 NLRB No. 141 (2024):

The NLRB in Endurance reinstated the "clear and unmistakable" waiver standard limiting an employer's ability to rely on traditional "reserved rights" concepts embodied in common management rights clauses found in labor agreements. This significantly curtails an employer's right to leverage its reserved management rights as justification for not bargaining about operational changes.

Workplace Rules and Employee –
Stericycle, Inc. and Teamsters Local 628. ("Stericycle") 372 NLRB No. 113 (2023):

The Board in Stericycle made workplace rules presumptively unlawful if a "reasonable" employee could interpret them as limiting protected activity. This shifted the burden heavily onto employers to justify the rule and created uncertainty.

Broadened Remedies and Damages –
Thryv, Inc. and IBEW, 372 NLRB No. 22 (2022), ("Thyrv"):

In Thryv, the NLRB expanded remedies in unfair labor practice cases to include "direct and foreseeable" financial harms opening the door to consequential damages that are traditionally unavailable in cases brought under the NLRA.

These are just a few examples of the areas and cases we expect the NLRB will address in the coming months. The list is not exhaustive. The queue is ready. The question remains whether the NLRB will expedite addressing the cases or will it wait until after the midterm elections in November. Time will tell.

Conclusion – The Pendulum will Swing

The NLRA itself has changed little since it became effective in 1935. The core of the act, focused on protecting employee rights to engage in protected concerted activity, to organize for collective action or to refrain from doing so, remains the same and it is not going away. In recent years, the pendulum has swung too far toward restricting employer rights and too much in favor of employee protections. A better balance is needed, and we believe it is coming.

The NLRB with a quorum, and now with a three-member majority, will decide cases with an eye toward providing that balance through creating reliable and predictable precedent. The General Counsel will leverage her years of experience to establish enforcement priorities focused on practical compliance and on the resolution of disputes. Taken together, these developments will offer a refreshing measure of stability and a practical framework that will guide everyone who is impacted by the NLRA. Employers should monitor these developments and engage with their labor counsel to turn the guidance and decisions into practical road maps to strengthen labor and employment policies and programs.

Jon Anderson has practiced labor law for over 45 years. He is the Office Managing Partner of Husch Blackwell in Madison, Wisconsin. He can be reached at 608-255-4440 or at jon.anderson@huschblackwell.com.

Tom O'Day is a partner in the Madison Office of Husch Blackwell LLP. He practices in the areas of employment law and traditional labor law. He can be reached at 608-255-4440 or at tom.oday@huschblackwell.com.

NEW MEMBERS

For membership information contact Bill Stranberg, Membership Director
Associated Builders and Contractors of Wisconsin – 608-244-5883

JULY 2026

• Advocate MD/Kerix Health
Lisa Denson
51 Tower Drive
Sun Prairie, WI 53590
608-268-6211
Description: Associate Member
Sponsor: Jerry Daniels
Beam Club Members-to-Date: 101

• ASAP Heating & Cooling, LLC
Jerry Anding
495 W. Madison Street
Spring Green, WI 53588
608-588-2727
Description: Contractor Member
Sponsor: Kyle Kraemer
Beam Club Members-to-Date: 21

• Borntreger Electric LLC
Moses Borntreger
6073 N. Eagle Road
Janesville, WI 53548
608-921-3125
Description: Contractor Member
Sponsor: John Williams
Beam Club Members-to-Date: 4

• Electrical Resolutions LLC
Michael Hugg
1716 Eder Lane
West Bend, WI 53095
262-622-3859
Description: Contractor Member
Sponsor: Casey Malesevich
Beam Club Members-to-Date: 22

• Jesse James Electric LLC
Jesse Nickel
9548 Bayer Lane
Milis Flatwork
Oconto Falls, WI 54154
920-621-3600
Description: Contractor Member
Sponsor: Jenna Milis
Beam Club Members-to-Date: 12

• Key Light Electrical
Mark Mook
N3185 Trieloff Road
Fort Atkinson, WI 53538
608-618-1452
Description: Contractor Member
Sponsor: Eric Updike
Beam Club Members-to-Date: 1

• Lasche Plumbing and Contracting
Lindsay Bader
W11177 Breyer Road
Columbus, WI 53925
920-210-5833
Description: Contractor Member
Sponsor: Denita Schreier
Beam Club Members-to-Date: 8

• Pellitteri Waste Systems
Andy Schaefer
7035 Raywood Road
Madison, WI 53713
608-257-4285
Description: Supplier Member
Sponsor: San Daniels
Beam Club Members-to-Date: 8.5

• Prestige Mechanical LLC
Jason Czubkowski
944 Kohlwey Drive
Sande Services, LLC
Grafton, WI 53204
414-758-4528
Description: Contractor Member
Sponsor: David Sande
Beam Club Members-to-Date: 1

NEW MEMBERS

For membership information contact Bill Stranberg, Membership Director
Associated Builders and Contractors of Wisconsin – 608-244-5883

- **Pulley Plumbing**
Jennifer Pulley
1113 Graedel Court
Madison, WI 53704
608-446-3332
Description: Contractor Member
Sponsor: Cole McCloskey
Beam Club Members-to-Date: 3

- **Schlachter Electric LLC**
Mike Schlachter
177 Deer Run Drive
Fall River, WI 53932
920-210-4949
Description: Contractor Member
Sponsor: Sam Daniels
Beam Club Members-to-Date: 9.5

- **Synergy Plumbing and Backflow Testing**
Amanda Peterson,
7580 Martha Lane
DeForest, WI 53532
608-628-8613
Description: Contractor Member
Sponsor: Cole McCloskey
Beam Club Members-to-Date: 4

- **Total Dairy Service LLC**
Keith Volkmann
E3902 CTH-F
Kewaunee, WI 54216
920-680-4441
Description: HVAC Contractor
Sponsor: Steve Klessig
Beam Club Members-to-Date: 79

AUGUST 2026

- **Cadence Financial Group, Inc. Dba Breva**
Charles Inokon
119 West 24th St.
310-691-0408
Description: Contractor Member
Sponsor: Josh Levy
Beam Club Members-to-Date: 7

- **Fence Bros., LLC dba Fence Brothers**
Scott May
1258 Sugar Loaf Road
608-792-3545
Description: Contractor Member
Sponsor: Abby Voss
Beam Club Members-to-Date: 5

- **Finno Minnow Dobis Aromis LLC Dba Benjamin Franklin Plumbing**
Anthony Richards
807 Liberty Drive, Suite 104
Verona, WI 53593
608-686-1776
Description: Contractor Member
Sponsor: Sam Daniels
Beam Club Members-to-Date: 10.5

- **JD Construction LLC**
Jake Dolle
337 S Sunny Side Drive
Caledonia, MN 55921
608-769-8328
Description: General Contractor
Sponsor: Abby Voss
Beam Club Members-to-Date: 6

- **OneDigital**
Jason Barrett
2006 American Eagle Drive, Unit 48
Slinger, WI 53086
262-388-9229
Description: Associate Member
Sponsor: Leah Kallas
Beam Club Members-to-Date: 1

- **Max Electric LLC**
Ashlee Brohaugh,
1517 Superior Ave.
Tomah, WI 54660
608-387-1252
Description: Contractor Member
Sponsor: Abby Voss
Beam Members-to-Date: 7

- **Park Bank**
Ryan Smith,
1815 Greenway Cross
Fitchburg, WI 53713
608-278-2801
Description: Associate Member
Sponsor: Dan Bertler
Beam Club Members-to-Date: 78

- **Zaspel Plumbing**
Troy Zaspel
N6807 Jonathan Drive
Pardeeville, WI 53954
608-408-3318
Description: Associate Member
Sponsor: Jack Vogel
Beam Club Members-to-Date: 20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