



**January 23, 2006**

### **NECA West's Long Promised Captive Insurance Program is Up and Running!**

At present time the program is well funded and we are meeting all the legal requirements, as well as our partner Discover Re's requirements, to run a successful Captive program. We are also very fortunate to have Karl Huish and his company Tribeca Strategic Advisors as our new administrator. Tribeca is staffed by licensed attorneys, CPAs, insurance and investment management personnel, and manages over 75 insurance companies nation-wide.

### **Workers Compensation Rates Reduce by HALF since 2004**

It's an uncertain market out there for insurance right now -- rates are low, and companies are competing heavily for business. It is important for contractors to remember, insurance has both short-term and long-term costs. Don't be fooled by a company that offers you a short-term solution (a low annual premium) without **ALSO** offering you the long-term protection of an ADR program. The Discover-Re (USF&G) / SCIF NECA West ADR program is the only true ADR program available to NECA members, and our rates are extremely competitive. In fact, the rates for our two most common electrician classes, 5140 and 5190, have already decreased between 17% and 32% since October, 2005.

### **General Liability Program**

NECA West's goal is to provide the best possible coverage for our members. Unfortunately, Alea, NECA West's former General Liability/Package insurance provider, lost their "A" rating last year. We are in negotiations with four potential new carriers, and will notify the membership as soon as we have our new, "A" rated carrier in place.

### **Update on Ongoing Legal Developments**

In August 2002, NECA West entered into a Letter of Agreement with Ulico Casualty Company for the purpose of providing a quality Workers Compensation/ADR Program to NECA Members. Ulico was the underwriter of the program and Arthur J. Gallagher & Co. was its distributor. Gallagher had been the exclusive administrative broker of all NECA West's insurance programs since 1997.

In the early years of our relationship, NECA West was satisfied with Gallagher's services, but Gallagher started ignoring NECA West's needs. NECA West finally terminated the Marketing Agreement with Gallagher in October 2003.

On September 28, 2005, Gallagher's attorneys wrote NECA West attorneys alleging that NECA West's September 27, 2005 newsletter contained defamatory statements against Gallagher and made clear that NECA West only intended to arbitrate its disputes with Ulico and then pursue its actions against Gallagher in court. Gallagher alleged this was a violation of the court's order and that it intended to raise the issue with the arbitrator at the first opportunity and incorporate a libel action against NECA West into the arbitration. NECA West's attorneys responded in a letter dated October 5, 2005 that the threats of a libel action should be taken up with the arbitrator as soon as possible.

On October 19, 2005, Gallagher's attorneys requested a pre-arbitration conference with the arbitrator, Richard Collier. Mr. Collier granted the request and requested briefing from the parties as to the scope of the arbitrator's jurisdiction and as to whether NECA West should be required to include in the arbitration all of its claims against Gallagher.

After two rounds of briefing and a hearing on January 4, 2006, the arbitrator issued his decision on January 9, 2006. He has ruled that Gallagher may participate in the arbitration as a third party beneficiary of the Letter of Agreement between NECA West and Ulico but only as to the services Gallagher was to provide and the fees it was to be paid under that Letter of Agreement; in other words, the almost \$400,000 Ulico paid Gallagher for the period October 1, 2003 through October 1, 2004, which was going to be arbitrated anyway with Ulico. The breach of contract and tort damages NECA West alleged against Gallagher in the San Mateo action will be litigated in that court at the conclusion of the arbitration as will Gallagher's threatened libel action. There is more substance to NECA West's case against Gallagher than just the original monies owed.

The arbitrator has scheduled another hearing with the parties on February 14, 2006 to set the dates for the arbitration.