

ALABAMA PROPANE GAS ASSOCIATION NEWS



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Holiday Season
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*Kentucky Lawsuit Against
A Propane Marketer...
Marketer Lost!*

(A must read article on page 16-17)



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ALABAMA PROPANE GAS ASSOCIATION NEWS

VOL. 64 NO. 6

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President's Message



Jason Gamble

Hopefully, everyone has had a good fall fill season, and with the recent cool mornings, the phones are ringing as well.

The association recently had their fall board and committee meetings on October 6th in Prattville. The meetings were originally scheduled for the 13th but were rescheduled to allow the membership to

discuss the training requirements that the Alabama LP Gas Board is working on before their meeting on the 8th.

During the Safety and Education committee Mark Nelson gave an update on the progress of the Rules and Regulations committee concerning any requirements. There was a lively discussion among the S&E committee members and guests. The original draft from the LP Gas board was determined to be too encompassing and not an

option. Through the discussion among the committee, it was proposed to have an option for "on the job" training or CETP for new employees with a proctored exam to be giving. This issue was discussed at the LP Gas board meeting with it going back to the Rules and Regulations committee for further research.

The Convention committee also met to start discussing our joint convention with Louisiana. There will be a joint committee meeting soon to finalize the details.

I would like to encourage the membership to attend committee and board meetings in the future to help guide the association.

I have spoken with a couple of customers that read per-simmon seeds. If you don't know the old wives tell, you can split a seed in half and it will either have an image of a knife, spoon or fork. The spoon represents a wet, cold and snowy winter. Both of the customers have spoons. Let's hope this old wives tell comes true!!!❖



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Applications open on August 15. Completed applications must be submitted by February 15 of the following year.

Successful applicants will be notified by May.





by Mark Nelson, Administrator

The Alabama LP-Gas Board held its regular quarterly meeting on October 8, 2015. Among the actions taken by the board was the approval of 164 new permits of various classifications. The largest number of permits approved were 142 Class F permits for retail cylinder filling stations. The approval of the permits at this board meeting raises the number of completed Class F permits in the state to just over three hundred. With almost another one hundred Class F permit applications in process, the final number of retail cylinder filling stations will be in the neighborhood of four hundred. Board Inspectors have worked extremely hard during a hot summer to get all the necessary practical evaluations and equipment inspections completed to minimize interruption of service for these locations. Many of you in the industry have also worked to assist Class F permit applicants in an effort to streamline the transition, and for those efforts the board and staff are very grateful.

The board approved changes to Alabama Administrative Code 530-X-2-.04 Procedures for Liquefied Petroleum Gas Filling Stations. The approved amendment requires personnel filling cylinders to deny service to any customer refusing or lacking the means to transport a cylinder(s) in accordance with LP-gas codes adopted by the Alabama LP-Gas Board. The amendment also details the requirements of mobile units specially designed for cylinder filling.

The board also approved a repeal and replacement of Alabama Administrative Code 530-X-2-.05 now entitled Reporting Incidents / Vehicle Accidents / Complaints. The rewrite of the regulation clarifies how to report incidents, vehicle accidents, and complaints. It also clarifies that incident scenes shall not be disturbed by a permit holder except as directed by emergency or law enforcement responders at the scene or by a representative of the Alabama LP-Gas Board. The old version of the regulation was considered ambiguous and difficult to enforce. The intent of the new regulation is to provide clarity for permit holders dealing with incidents. These regulation changes are available for view on the board's website at <http://lpgb.alabama.gov>.

Other board action included the acceptance of settlement agreements incorporating fines for various code violations over the previous quarter. Of the four settlement agreements approved, three included cylinder filling stations operating without the appropriate permit which is a number far less than I expected in the transition to the Class F

permits. With it being the end of the fiscal year, a comparison of fine totals below for the past three years is revealing:

- FY 2013 \$ 49,442
- FY 2014 \$ 34,415
- FY 2015 \$ 16,970

It is easy to notice a marked improvement in the number of code violations cited over the three-year period. Such evidence demonstrates that the LP-gas industry in Alabama is moving in a positive direction toward safety and overall awareness. Thank you for your efforts in this achievement.

The next regular quarterly meeting of the Alabama LP-gas Board will be January 14, 2016, 10:00 a.m., at the AUM Center for Lifelong Learning, 75 TechnaCenter Drive, Montgomery, AL. Check our website at <http://lpgb.alabama.gov> for driving directions. You are invited and encouraged to attend. ❖



A special thanks to Wayne Caylor for serving 12 years as a member of the Alabama LP Gas Board.

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Executive Director's Message



Lisa Hill

Help Customers Pull the Plug and Switch to Propane

If you have propane customers who are still using an electric water heater, you have a perfect opportunity to help them save money and energy, and grow your residential gallons at the same time. You can do it by helping

them switch to a clean, energy-efficient propane water heater, and the Propane Education & Research Council has developed the Pull the Plug on Electric Water Heaters campaign to help.

With the Pull the Plug campaign, you'll have the tools you need to discuss all the benefits of propane water heating with your homeowner customers. The campaign features a video and a radio spot with home improvement expert Danny Lipford and materials you can use to communicate with your customers including a brochure and print ad template. Plus, you can direct your customers to **KnowYourWaterHeater.com** to take a quiz and find out if they need to pull the plug on their water heater. Make this the year you help customers pull the plug once and for all. Go to:



propanemarc.com to download the Pull the Plug campaign materials.

Don't forget that APGA also has a \$200 Water Heater

Rebate as well as a \$100 New Service Outlet Rebate which makes a total of \$300 for a customer switching from an electric water heater to a propane water heater. Please take advantage of this opportunity for your customers! ❖

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Safety & Education

On October 6th, the Association's Safety and Education Committee met. Committee chairman Rick Foster welcomed twenty (20) members to discuss numerous topics. Below are a few of the topics that were discussed.

Required Industry Training and Continuing Education Units

Mark Nelson, Alabama LP Gas Board Administrator, shared a draft document that the Rules and Regulations Committee had completed. The document was drafted in part from the Association's "Career Curriculum and Development Guide", which was approved by the Association's board in 2009. Mark emphasized that additional input and suggestions were welcome. Most committee members supported the required training, but requested a mechanism be put in place to allow new employees to begin working prior to completing all required training. The Rules and Regulations Committee will meet to review all of the suggestions.

2016 Safety and Education Training Schedule

The 2016 Training Schedule was reviewed and discussed. One point of discussion was the fast tracking for bobtail drivers to meet their required training. The employee would come to the Association's training facility for two (2) consecutive four day weeks, during which time the employee would receive all required training and testing. The general consensus of the committee was that this would place too great a hardship on the company and the employee. As a result, no changes were made to the schedule.

2015 – 2016 Rebate Programs

The Association kicked off the Rebate Programs for 2015-2016 on October 1st. The committee agreed upon 275 water heater rebates at \$200 each, 150 log rebates at \$100 each, 150 heater rebates at \$50 each, 15 furnace rebates at \$400 each, 225 new outlet rebates at \$100 each, and 175 regulator rebates at \$35 each. On August 17, 2015, the Board approved these rebates to begin October 1, 2015 and run through

September 30, 2016, or until funds are depleted.

Hazardous Materials Security Plan

This is a reminder concerning security plans. In 2003, 49 CFR 177.80 was updated and required propane companies to have a "Safety and Security Plan" per office. The security plan must be reviewed at least annually and revised and/or updated as needed. Just as a reminder, a plan for training hazmat employees must follow 172.704.



Mike McGough



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AUTOGAS NEWS...



Quick-Connect Nozzle Incentive Program

New quick-connect nozzles make refueling propane autogas vehicles easier than ever. The Propane Education & Research Council's Quick-Connect Nozzle Incentive Program encourages marketers to help fleets make the transition to the new nozzles. The program will provide reimbursement for a portion of the expenses to convert fleets to quick-connect nozzle technology.

What makes quick-connect nozzles better than older equipment?

Quick-connect nozzles for propane autogas fueling operations are safer and easier to use, and they release fewer emissions than older equipment, making them better for the environment.

My fleet customers seem satisfied with the equipment they use. Why should I upgrade the nozzles and connectors?

If they like the equipment they're using now, they will love the new equipment. Quick-connect nozzles make filling up with propane autogas just like their experience with gasoline or diesel. The quick-connect nozzles...

- May be used one-handed.
- May not require protective eyewear or gloves.
- Can't be cross-threaded.
- Release fewer emissions per connection.

What's more, propane marketers who have switched their bi-fuel customers to the quick-connect nozzles have seen an immediate increase in propane autogas use.

What qualifies as a quick-connect nozzle?

The EN 13760 tank side connector and the corresponding hose end connector on a UL-listed dispenser.

Who is eligible for the incentive?

Incentives are available to propane retailers who upgrade existing equipment used by propane autogas fleet customers. New autogas refueling sites are not eligible.

How much can I get?

- \$50 per tank side connector replaced.
- \$500 per hose end connector replaced.
- Limit 25 tank side connectors and two hose end connectors per fleet.
- Limit \$40,000 per propane company per year.

How can I apply?

Apply online at www.propanecouncil.org/quick-connect-incentive. Be sure to include all required documentation.

2016 APGA Training Schedule

APGA is pleased to offer the following training courses in 2016. Please review the list below and watch for course registration forms to be distributed to you approximately 30-45 days prior to the course date.

Training is vital to the protection of your customers, your employees and your business. Take a proactive step and be sure that you provide the best training possible to your employees.

DATE	COURSE	COST	LOCATION
1/19/16	Hazardous Materials/Security Awareness-New Hires	\$50	Prattville
1/20/16	Hazardous Materials/Security Awareness/Bobtail Refresher	\$50	Prattville
2/2/16	Hazardous Materials/Security Awareness-New Hires	\$50	Cullman
2/3/16	Hazardous Materials/Security Awareness/Service Refresher	\$50	Cullman
3/1/16	Fire Safety Analysis	\$25	Prattville
3/2/16	Fire Safety Analysis	\$25	Cullman
3/3/16	Dispensing Propane Safely	\$25	Cullman
3/8/16	Dispensing Propane Safely	\$25	Prattville
4/5/16	Hazardous Materials/Security Awareness-New Hires	\$50	Prattville
4/6/16	Hazardous Materials/Security Awareness/Service Refresher	\$50	Prattville
4/13/16	Hazardous Materials/Security Awareness-New Hires	\$50	Cullman
4/14/16	Hazardous Materials/Security Awareness/Bobtail Refresher	\$50	Cullman
4/19-21/16	Basic Principles & Practices	\$80	Prattville
4/26-27/16	Propane Delivery Operations - Bobtail (PART 1)	\$80	Prattville
4/28/16	Cylinder Delivery Operations (must take Bobtail Part 1 as well)	--	Prattville
5/3-4/16	Propane Delivery Operations - Bobtail (PART 2)	--	Prattville
5/16-18/16	Designing & Installing Exterior VDS	\$80	Prattville
5/18/16	PERC Residential/Commercial Sales	FREE	Cullman
5/19/16	PERC Residential/Commercial Sales	FREE	Prattville
5/24/16	Office Place Security/Safety Training	\$25	Prattville
5/25/16	Office Place Security/Safety Training	\$25	Cullman
6/7-9/16	Placing VDS and Appliances into Operations	\$80	Prattville
6/14/16	Dispensing Propane Safely	\$25	Cullman
6/16/16	Dispensing Propane Safely	\$25	Prattville
7/12/16	Hazardous Materials/Security Awareness-New Hires	\$50	Prattville
7/13/16	Hazardous Materials/Security Awareness/Bobtail Refresher	\$50	Prattville
7/19/16	Hazardous Materials/Security Awareness-New Hires	\$50	Cullman
7/20/16	Hazardous Materials/Security Awareness/Service Refresher	\$50	Cullman
7/26-28/16	Installing Appliances & Interior VDS	\$80	Prattville
8/16/16	PERC Autogas training	FREE	Prattville

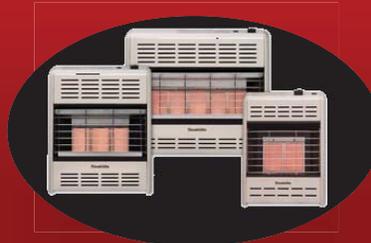
DATE	COURSE	COST	LOCATION
8/17/16	PERC Autogas training	FREE	Cullman
8/30-31 & 9/1/16	Basic Principles & Practices	\$80	Prattville
9/6/16	Dispensing Propane Safely	\$25	Prattville
9/7/16	Hazardous Materials/Security Awareness-New Hires	\$50	Prattville
9/8/16	Hazardous Materials/Security Awareness/Service Refresher	\$50	Prattville
9/13/16	Hazardous Materials/Security Awareness-New Hires	\$50	Cullman
9/14/16	Hazardous Materials/Security Awareness/Bobtail Refresher	\$50	Cullman
9/15/16	Dispensing Propane Safely	\$25	Cullman
9/20-21/16	Propane Delivery Operations - Bobtail (PART 1)	\$80	Prattville
9/22/16	Cylinder Delivery Operations (must take Bobtail Part 1 as well)	--	Prattville
9/27-28/16	Propane Delivery Operations - Bobtail (PART 2)	--	Prattville
TOTAL NUMBER OF COURSES 39			
	Hazmat (1 day)	16	
	Dispensing (½ day)	6	
	Fire Safety Analysis (½ day)	2	
	PERC (1 day)	4	
	Office Safety (½ day)	2	
	CETP Courses	9	

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Apex Propane Opens New Store



South Alabama Gas Celebrates Two Retirements...



(from left: Wayne Caylor, Carl Morris, Mark Burgess)

Carl Morris retires after more than 48 years in the industry

In a day when people change jobs at the drop of a hat, Carl Morris of McKenzie, Alabama exemplified the meaning of staying with it until the job is finished. Carl retired on September 30th of this year from South Alabama Gas with over 48 years in the propane business. What makes his story so remarkable is that he did not start his gas job until he was 29 years old. Now how can that be? Well when “Mr. Carl” retired, he was 77.

It was the love of people that kept him going all those years, endless miles, and cold nights. The propane business never stops - there’s always somebody needing gas. Over the years Carl delivered a lot of gas. The numbers are mind boggling. He is credited with delivering over four and a half million gallons.

Many times these were 75 to 100 gallon drops per stop. Speaking of stopping, he was in and out of his big truck 35 to 40 times a day and safely drove over two million miles. He does admit to two small accidents over the years.

Once he had to hit the ditch to keep a car from hitting him on a gravel road and another time he backed into a tree. Carl says, “neither one of em’ was my fault.” He says he didn’t want to hit the car and that darn tree just wasn’t there the last time they ordered gas.

We all know that over the years many things have changed with commercial vehicles. Many times Carl would give his four year old daughter, Janet Lee, a ride to her “Nannas” in the gas truck. She would stand up on the bench seat beside him. Lots of times he would catch a few calls on the way and Janet loved every minute of it. Hey, back in those days, no child seat, no seatbelt, no problem.

Before being bought out by South Alabama Gas in 1999, Carl worked for National Butane and Frank Chavers. One winter day Frank had a “new man” he wanted Carl to train. So, Carl picked up the new guy the next morning at 7 a.m. About 6 that evening the man asked, “Hey when are we getten’ off?” Carl put him out at 9 o’clock that night and said he could catch the rest of the calls on his way home. There was a note on the office door the next morning saying, “I don’t want the job, and you need to give Carl a raise”. Frank told Carl to never do that again. Put em’ out by 5 so they’ll at least work a week.

Carl said he is looking forward to his retirement and taking it easy. Carl and his wife Joyce enjoy their cows and baling hay. They rolled over 69,000 pounds of hay last week so it looks like they are really slowing down.

So, through the rain, the sleet, and the snow those propane trucks have to go. Carl Morris stayed with his truck and delivered that gas through all those conditions and so much more. Today, we are all grateful to Carl for staying with it until the job was finished.

Billy Joe Cook retires after 39 years in the industry

We would like to recognize Billy Joe Cook who retired from our Greenville Office September 30th. Billy Joe has one daughter, Gina Buckalew and one son, BJ Cook Jr. and five grandsons. He has been with South Alabama Gas as a service supervisor since 2005 but he has been in the propane industry since 1977. Over the years and through several acquisitions, he has worked for Tri-County Gas, Casey Propane, W&J Propane, Energen, Dowdle, Acme Propane, and South Alabama Gas. Billy Joe has held different positions such as serviceman, Branch manager and service supervisor but most of all he’s been a great friend to all of those he worked with. Billy Joe said, “He has enjoyed his time in the propane industry and has seen many many changes over the last 39 years.” He will truly be missed and we pray he enjoys his retirement.



(from left: Wayne Caylor, Billy Joe Cook, Mark Burgess)

Magic Words to transform your business relationships

Abracadabra!

Imagine that you could wave an enchanted wand while uttering magic words that transform your business goals into diamonds. You don't need the wand and you probably already know the magic words. The sticking point like everything else in life is that it's not what you know that counts, it's what you do with what you know.

Too many business owners are looking for complicated solutions and overlook the simple secrets of business success. Why have so many uneducated entrepreneurs excelled in business? Because they only understood simple things and applied those simple things passionately. Richard Branson is an outstanding example.

One of the purposes of marketing is to build strong relationships with your clients and prospects. You build (or destroy) relationships with what you do and say. Let's explore the language of good relationships. It costs nothing except your attention to the words that you and your team use with clients and prospects - and with each other.

The three most important relationship enhancing phrases are **Please, Thank You, and You're Welcome**. These words seem to be missing in action. Have you noticed that many business owners and managers are not paying attention to the words that their staff uses? Powerful leaders have fostered revolutions with their choice of words. You can shape warmer relationships by using these magic words.

How would you feel as the customer in the following examples?

Open Sesame! Please

The bank teller stated, "Swipe your card and enter your PIN." It sounded like a command - not a request. The word "Please" was sadly missing. You dutifully complied.

There is a subtle difference between the wording of a command and a request. But, there is a world of differ-

ence on the receiving end. One ignites resentment while the other conveys respect.

Shazam! Thank you

You completed your purchase and paid your bill. The seller neglects to say "Thank You." You wait for your change and without thinking you respond with "Thank you" after the seller gives you your change. If you thought about it, you would realize that you just thanked someone for giving you back your own money - yet the seller never thanked you for buying from them - for giving them your money. Who should be thanking who?

Are you truly thankful for the business you receive from your clients? Then demonstrate it. Say thank you - and mean it.

Alakazam! You're Welcome

You thanked someone. What do you expect to hear? Probably, "You're welcome." What do you hear? "No problem."

What's the difference? The first is a positive, cheery and encouraging comment. The second is negative, diminutive and dismissive. Imagine the difference between a doormat that says "Welcome" and one that says "No Problem".

The examples above are from retail yet the lessons apply to all types of business relationships. The principles of building relationships necessitate these magic words at any time. Today, uttering these words are made more powerful because of the apparent drought of their use.

If you want to build stronger and hence more profitable relationships with your clients use these three simple phrases...**Please - Thank You - You're Welcome**. Do that and you'll stand out as extraordinary! Are you ready for more magic words?

Hocus Pocus! Welcome

Welcome to my shop. Welcome to my office. Welcome to my community. Welcome to my favorite restaurant. Welcome your clients as guests. Guests are people that

you are delighted to host. Imagine the magic if you treated your clients like guests instead of intruders. Seed that mindset for your team by placing a welcome mat at your door or hanging a welcome sign on the wall. A host-guest relationship is much stronger than a seller-buyer relationship.

Poof! Congratulations

You could congratulate people on their success, reaching milestones and taking on a new challenge. You might offer congratulations on the birth of a child, a personal achievement or a family event. You have the opportunity of congratulating your clients when they open a new store, launch a new product or win an award.



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Debbie Cannon

Gas Equipment Co. TV - www.youtube.com/GasEquipmentTV

How do you learn about these events? Talk with them often and listen. Engage in conversations that demonstrate an interest in your clients. What a terrific way to build relationships. Review the media and industry publications to search for your clients in the news. Check their websites for announcements and register the names of your best clients on Google Alerts.

Presto! Happy Birthday

Do you enjoy being recognized on your birthday? Most people want to feel extra special on their birthday. This important date can be stored on your database with a reminder that triggers your birthday wish to your clients on their day. Facebook requires that you state your birthday when you open your account. I know that they make it easy, (almost automatic) to wish people happy birthday, yet I'm still delighted to receive birthday wishes on my Facebook page.

Razzamatuzz! I'm sorry

Don't get defensive on this one. You only need to say "I'm sorry" when you make a mistake. And you will only make mistakes if you are imperfect - like the rest of us. If you are perfect or believe yourself to be infallible then you can expunge this humble phrase from your vocabulary. Of course, believing or acting as if you are perfect is a big mistake which proves the case for imperfection.

When you make a mistake, quickly apologize to your

client. The longer you take to apologize, the more harm you do to the relationship. When something goes wrong and you don't apologize the implication is that your client was at fault. Good relationships are not cemented with assigning blame. They are cobbled on accepting responsibility. Saying that you are sorry demonstrates your accepting of responsibility.

Often "sorry" is all that is needed. People are incredibly forgiving once you say "I'm sorry." When there is a serious financial or emotional cost to your clients then be willing to compensate accordingly. What you are really doing is investing in this relationship and the positive word-of-mouth payback.

Build stronger relationships with your clients by using the magic words that convey trust, respect and warmth. Rehearse your language and start casting your spells.

The last magic word is from our favorite English nanny, Mary Poppins, "*Supercalifragilisticexpialidocious!*"

George Torok is the co-author of the bestseller, Secrets of Power Marketing. He works with SMEs to give them an unfair advantage over the competition. He is available for speaking engagements and media interviews. Call 905-335-1997 Get a free copy of "50 Power Marketing Ideas" at www.PowerMarketing.ca

State Court Jury Determines Propane Marketer Negligent in Cylinder Incident

A Kentucky state court jury awarded significant compensatory and punitive damages against a propane marketer in a wrongful death case arising out of a propane explosion involving an improperly transported 100 pound cylinder. Among other decisions, the jury determined that the marketer negligently failed to comply with its duty to respond to a customer call to its emergency phone line within 60 minutes and that this failure was a factor in the wrongful death.

Underlying Incident.

The C.A. Garner Veneer plant near Smithville, Kentucky was powered in part with 100 pound propane cylinders used in the curing process for making wood veneer. At one point in May 2008, Garner Veneer ran out of propane and called its propane supplier several times requesting a propane delivery, with some of the calls made to the marketer's emergency number. However, the marketer did not respond to the calls. Garner Veneer's plant manager, Rick DeBurger, and assistant manager, Michael Guse, decided they could not wait any longer for a propane delivery. The two managers took matters into their own hands and traveled to DeBurger's home to pick up an old 100 pound cylinder to provide propane for the plant operations. The cylinder from DeBurger's home was owned by the same marketer that supplied propane to Garner Veneer.

The two men disconnected the cylinder but then made a key error when they placed the cylinder in a horizontal, rather than vertical position in the back of their pick-up truck. When the men returned to the Garner Veneer plant, they discovered that a "white mist" was leaking from the cylinder. Guse took off his shirt and wrapped his hand in the cloth so he could reach in to shut off the cylinder valve. As Guse reached in, static electricity from his shirt ignited the leaking propane, severely injuring both Guse and DeBurger. Guse was transported to a local hospital and then airlifted to the University of Louisville Hospital. Guse sustained burns to 75% of his body. After six days in the hospital, Guse passed away from his burn injuries.

Lawsuit.

Guse's estate filed a wrongful death action in Kentucky's Henry County Circuit Court. Plaintiff's lawsuit included a negligence claim, alleging that the marketer breached its

duty to (1) respond to customer needs in times of emergency; (2) warn and properly provide service to its customers; (3) properly train its employees; (4) provide safety literature to its customers regarding the use and transport of 100 pound cylinders; and (5) inspect and replace customers' propane cylinders.

The propane marketer denied the allegations. Specifically, it denied that any emergency calls were placed, arguing that it received a request for propane delivery after hours and it was not an emergency situation. Additionally, it argued that Guse was liable for failing to use reasonable care for his own safety, including being under the influence of alcohol at the time of the incident. The marketer also brought third-party claims against Garner Veneer and co-employee DeBurger alleging that they were negligent and responsible for Guse's death.

Trial.

At the 2014 trial the plaintiff argued that the marketer was negligent for three primary reasons. First, plaintiff argued that the marketer failed to properly respond to emergency calls and if the marketer had responded to the call, Guse and DeBurger would not have attempted to transport and use the 100 pound cylinder.

Second, plaintiff argued that the marketer failed to keep records regarding its former customers. Plaintiff alleged that the marketer had a duty to pick up cylinders and tanks that were not filled within one year. Plaintiff argued that DeBurger's 100 pound cylinder was old and outdated and should have been picked up by the marketer prior to the incident. Plaintiff also asserted that the cylinder lacked a collared valve that would have prevented the incident. Plaintiff presented expert testimony on its first two arguments regarding negligence.

Third, plaintiff argued that the propane marketer failed to provide adequate warnings to customers and warning labels for cylinders. To support this argument plaintiff relied on the testimony of a warnings expert, who testified that DeBurger's 100 pound propane cylinder should have had a large warning label stating it should only be transported in an upright, vertical position.

Plaintiff also asserted at trial that punitive damages were warranted because the marketer's alleged multiple failures

to act with reasonable care constituted evidence of “reckless disregard” for the safety of its customers. Plaintiff relied on testimony that the marketer violated its own policies and also that it did nothing to change its policies after the incident.

In response, the propane marketer asserted at trial that an emergency call was not placed and would not have made a difference in this case. Additionally, it presented evidence that it provided ample warning materials to Garner Veneer and DeBurger regarding dangers associated with propane. It also presented evidence that the subject cylinder had a large warning label citing state law and stating “Do Not Move.” Furthermore, the marketer argued that Garner Veneer, DeBurger and Guse were ultimately responsible for the incident in that (1) Garner Veneer and DeBurger had a duty to provide warning information to Guse regarding propane and failed to use ordinary care for Guse’s safety, and (2) Guse failed to use reasonable care for his own safety when handling the propane cylinder.

Verdict.

The jury’s decision was mixed. The jury determined that the propane marketer failed to use ordinary care in the operation of its business by failing to respond to emer-

gency calls within 60 minutes. However, the jury decided that the marketer did not breach its duty to keep track of old customers and pick up old tanks and cylinders. The jury found Guse and Garner Veneer were also negligent for failing to use reasonable care. The jury’s verdict allocated 40% of the fault to the marketer, 25% to the decedent Guse and 35% to Garner Veneer. The jury determined plaintiff’s total compensatory damages were \$3,180,000 which included \$1,000,000 for Guse’s pain and suffering. The compensatory damages were reduced to \$1,272,000 based on the marketer being 40% at fault. But the jury also awarded \$3,000,000 in punitive damages against the marketer making the total net verdict against the propane marketer over \$4.2 million.

The underlying incident, resulting trial and jury verdict reviewed above underscores the need for propane marketers to be vigilant with respect to risk management efforts, including following company policies and procedures in every respect. An apt risk management quote comes to mind: “A good rule of thumb is to assume that everything matters.” --Richard Thaler.

[Kathryn A. (“Katy”) Regier is a shareholder in the law firm of Schlee, Huber, McMullen, McCarthy & Hansen, P.C., in Kansas City, Missouri. Her email address is: kregier@schleehuber.com.]

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19 Hazardous Materials/Security Awareness for New Hires/CSRs - Prattville
20 Hazardous Materials/Security Awareness with Bobtail Refresher - Prattville

February
2 Hazardous Materials/Security Awareness for New Hires/CSRs - Cullman
3 Hazardous Materials/Security Awareness with Service Refresher - Cullman

March
1 Fire Safety Analysis - Prattville
2 Fire Safety Analysis - Cullman
3 Dispensing Propane Safety - Cullman
8 Dispensing Propane Safety - Prattville

April
5 Hazardous Materials/Security Awareness for New Hires/CSRs - Prattville
6 Hazardous Materials/Security Awareness with Service Refresher - Prattville
13 Hazardous Materials/Security Awareness for New Hires/CSRs - Cullman

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