



ITEMS

NEWSLETTER

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Court Rules Chinese Foundries Untouchable by US Laws!

Contractors and others may have no recourse against Chinese foundries!!

In a stunning defeat for AB&I and the American foundry industry, the US District Court in San Francisco has recently ruled that Qiaoshan Casting Co., Ltd. and Hua Du City Pin An Foundry Limited, both exporters of Chinese DWV into the American market, cannot be sued in American courts because those courts have no jurisdiction over them.

AB&I sued these foundries for unfair business practices, claiming that they sold their products at below cost to injure their competition. While the court assumed that the allegations against these Chinese companies were true, they also ruled that those companies were not doing business in the United States and, therefore, were not subject to American laws.

Attorneys for AB&I argued that these companies were, indeed, doing business in America, as evidenced by their products being shipped, sold, and resold within California, invoices from these foundries to American companies, and bills of lading showing transactions taking place on American soil.

The Chinese foundries defended their position by claiming to the Court that they were not subject to the jurisdiction of American laws. They claimed, in essence, that since the sales were in China and their business activity was restricted to China, that they should not be deemed doing business in California. These claims were made in spite of the fact that they knew their goods were being shipped to California, would be resold in California, and that they authorized local companies to use their trademarks in order to resell their products. In the end, the Court sided with the Chinese foundries.

While the holding of the Court is only directly applicable to the facts and circumstances of the AB&I case, contractors and others should consider the possible ramifications. What, for example, would be the result of a case in which the claim was for injuries and damages, perhaps as a result of arsenic or asbestos, both proven to exist in some Chinese DWV? What if the product failed, resulting in losses to your customer? With the Chinese foundries' ability to claim lack of

jurisdiction by American courts, who would be left to meet the claims of those damaged? Certainly the engineer, architect, owner, and contractor would be involved, and perhaps the importer (if they were still in business), but with the manufacturer out of the legal picture, the hit on the other parties to the transaction could be devastating.

While we at AB&I are disappointed in the results of our lawsuit, we're also very concerned for the construction industry, if products coming into this country can be installed on jobsites with no meaningful recourse against the companies that make those products. This lack of responsibility is certainly contrary to the American way of doing business. Be careful out there.

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Perspective

The California Recall Is All Well and Good, But Doesn't Go Nearly Far Enough

All the challengers say it's time to clean house. I second that motion.

Let me start with an apology. If I've seemed aloof or out of touch these past few weeks, it's because I've spent a lot of time considering throwing my hat in the ring for governor. Gathering the required signatures didn't seem to be a problem, but my wife and I just couldn't get past arguing about the \$3500.

On the plus side, the retirement plan that goes along with being governor is great, I'd get to live in a big house with servants, and I'd probably get to fly around in a private jet. Still, in the final analysis, I decided that my wife was right and that it just wasn't worth risking our life savings. Damn, I would have made a good governor, too.

The sad reality is that California is in a world of trouble, much more than the average person understands. Our deficit, \$38 billion, is larger than most states' entire budgets. Everywhere you look, the state spends money, from schools that don't work, to aid to illegal immigrants. Some experts say that up to 50% - that's half! - of our population gets money from the state in one form or another, and that train is still going forward full steam ahead. In California, the tail has been wagging the dog for quite some time, but now that tail is throwing Rover into convulsions. Our budget mess is serious and needs to be fixed, but will replacing the governor do the job? Of course not.

What is needed is an overhaul of the state government, top to bottom. The legislature needs to wake up and smell the red ink, and take serious steps at revamping the role of state government. How? I'll tell you how.

The first thing we do is stop killing the goose. California business is the driving force behind tax revenue in this state. When conditions are tough on business, state revenues go down. Business costs increase, profits shrink, layoffs jump, and the money pool going into state coffers diminishes.

Take worker's comp costs. Anybody in business has felt the pinch of these insurance premiums doubling in recent years. The system is too complex, and it's too easy to stay home and collect a check. What do you think happens when a

worker is paid the same to stay home as when he works? The incentives are going the wrong way. What is needed is a fair worker's comp program that makes it better for the employee to go back to work.

At AB&I, we've worked hard to make our workplace as safe as possible, to anticipate problem areas and correct them before they result in injuries. As a result, our record is excellent. Do we get a reward for this outstanding record? No. Our rates have also doubled. These costs could be dramatically lower with some common-sense legislative action. Are we going to get that action? Not with the current crop of lawmakers.

"We're killing the golden goose, and things cannot get demonstrably better until we change our attitude toward business in the Golden State."

The tort system in this state (and others) is way out of control. With trial lawyers being among the top campaign contributors, it's no wonder laws are written that make it more costly to do business in California. We laugh and shake our heads at the McDonald's spilled coffee lawsuit, but the fact is that judges and juries are arriving at outrageous verdicts and granting incredible awards every day to plaintiffs that cost us all money. Business litigation has become a major cost item, driving businesses to other states and even offshore. We're killing the golden goose, and things cannot get demonstrably better until we change our attitude toward business in the Golden State.

There are hundreds of other examples of the anti-business bias among our state legislators, resulting in programs ranging from the misguided regulatory environment to high taxes.

However you feel about the recall, the sad reality is that changing a leader here and there will not really fix all that much. What we need is a change in attitude in Sacramento, a change away from professional politicians and toward public servants. Today's politicians are constantly running for office, constantly raising money, cobbling together voter blocks from diverse special interests by granting them access to the public purse. Instead of leading, our current political officials too often pander to their single-issue constituents, following the cash-lined path to re-election.

It seems to me that, while money and influence peddling always played a role in politics, it's worse now than ever before. It's harder to find genuine statesmen, officials who make decisions based largely on the public good. Today, so much regulation and legislation is enacted to appease a voter group, at tremendous expense to all of us.

I was in my doctor's office the other day, and he was lamenting the burden that the new Privacy Act has laid at his doorstep. This act was intended to prevent companies from selling or sharing private information they may have on customers, such as health records. Sounds like a good idea, right? Well, in their wisdom, the legislature made it a requirement that every customer or patient had to sign a form acknowledging their right to privacy, and that the business had to keep that form for a specified period of time. My doc says riding herd on that form will cost his office \$20,000 a year. Couldn't the same thing have been accomplished simply by making it an offense for a company or business to share or sell private information? Why the form? Keeping that form seems silly and wasteful to me, another example of a good idea gone bad at the hands of bureaucrats. If that requirement is costing my doctor 20 grand, multiply that by the millions of businesses and doctors to arrive at an estimate of the law's true cost. It's ridiculous.

Governor Wixson would raise all of these issues, and many more. I'm sure if I had just one term in office, I could turn things around. We'd clean house, at both the executive and legislative levels. If only my wife would shake loose with that \$3500...



Leading Economist Sees Changes Ahead for American Manufacturers

Michael Evans, chief economist for the American Economics Group, Washington, DC, wrote a recent article in *Industry Week* (July 2003) in which he predicts a steady decline in American manufacturing over the coming decades.

US manufacturing employment has declined at the rate of 2000 jobs per day for the past three years. Some people blame the recession, but Evans sees the problem as much deeper. The larger reason for the reduction in the manufacturing workforce is that companies are moving production overseas, or going out of business due to foreign competition. Few, if any, of these lost jobs will return when the economy picks up, predicts Evans.

In fact, Evans predicts that 25% of current manufacturing employment will go away by 2010, for a net loss of about 4 million jobs. Most of these jobs will reappear in Latin America, China, and India.

So what will people in manufacturing do when they lose their jobs? The answer, says Evans, is simple. They'll go to work in lower-paying service jobs. Who will be able to pay for the goods and services America produces? Fewer and fewer people, says Evans.

Evans predicts that wages and buying power for the average American will shrink in the coming decades. Workers will become

poorer, pointing to a slower growth rate and increasing unemployment, similar to what has happened in Germany and Japan.

On the other hand, as companies move production overseas for lower labor and other costs, profits should rise and, along with them, stock prices. In other words, income growth will shift away from labor toward capital, rewarding workers less, but investors more.

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Evans also predicts an unrelenting increase in imports as a proportion of total GDP. Since costs in many parts of the world are so much lower, import prices will fall and US inflation will remain low. As a result, interest rates will remain low, fueling homebuilding and real estate values. Workers who own their own homes will be able cash in their equity during times of

need, softening the blow that comes from the lower incomes earned in the service sector.

Because of the continuing shift to overseas production, says Evans, US productivity rates will continue to improve, remaining at or near 3% per year. That 3% is also the long-term expected growth rate in the GDP, meaning that the employment picture will not measurably improve (most economists think that 3.5 - 4% GDP growth is the lowest rate at which employment will also increase).

Evans does not see an increase in unemployment, however. Instead, he predicts that manufacturing jobs, where the average workweek is 41 hours, will be replaced by service jobs, where the average week is just 32 hours. Also, many of the self-employed will work relatively few hours.

Evans writes that unemployment will likely remain at or near its current level of 6% for several years, something that keeps downward pressure on wage rates.

In the very long run, wage rates and other business expenses will rise around the world and the drain on US jobs will come to a halt. With over 2 billion people in China and India to be absorbed by their economies, however, that stabilization will not come for many decades. In the meantime, says Evans, manufacturing will continue to be a decreasing proportion of the US economy.

How One Job Loss Ripples Though Bay Area Economy

Taken from KPIX/KCBS TV and Radio

Mark Eddy personifies what's wrong with the Bay Area as well as anyone. He had a job at United Airlines, the company lost money, and he got laid off.

"It was a great job," Eddy said. "I was hoping to stay there and make a career out of it."

Eddy quickly got another job at a community college, but September 11 and the dot-com bust put a lot of people out of work and they weren't paying as much in taxes, so the college had less money and Mark got laid off again.

Mark likes to play guitar, and he used to buy his music at Manor Music in Pacifica, but

not any more. He doesn't have the cash. People like Mark affect Manor Music's business. "We didn't have to lay anyone off," says owner, Sarah Glew. "One gentleman went back to school, but we didn't replace him."

The guy that Manor Music would have hired would have probably bought lunch at the nearby deli. So Colombo Deli isn't selling sandwiches like before. "It's dead in here," said Emil Colombo.

That's the cascading effect of a bad economy - the domino theory. And the last tile has yet to fall.

They're laying off cops in Burlingame, and it goes back to our friend Mark. With fewer passengers at SFO, fewer people are staying in area hotels, resulting in fewer tax dollars for local services, like cops.

So things could get better as the airline industry improves. But for now, there's the war, and the SARS disease, which are both scaring potential flyers. It's yet another example of the dominos which fall worldwide, and why when they sneeze in Hong Kong, they feel it in Half Moon Bay.

--Mike Sugarman

Reader's Digest is Right: Laughter Can Be the Best Medicine

Recent reports indicate that laughter can have a wide range of beneficial effects on people, causing us to not only *feel* better, but to actually *be* better, too.

Human beings are the only species capable of laughter, and the average adult laughs about 17 times per day. Laughter reduces our stress levels by reducing the levels of stress hormones in our bodies, helping us cope with everything from daily annoyances to serious health problems.

Laughter promotes healing by lowering the blood pressure, and by increasing vascular bloodflow and oxygenation of the blood.

Physical fitness benefits stemming from laughter are also documented. Scientists estimate that laughing 100 times is equivalent to a 10-minute workout on a rowing machine, or up to 15 minutes on an exercise bike. The mere act of laughing exercising the diaphragm, as well as abdominal, respiratory, facial, leg and back muscles.

Another benefit of laughter is that it improves our overall mental health. Pent up negative emotions, such as anger, fear, and sadness, can cause biochemical changes in our bodies that can produce a harmful effect. Laughter provides a harmless outlet for these emotions, and provides a coping mechanism for dealing with difficult or stressful situations.

"You read about all these terrorists -- most of them came here legally, but they hung around on those expired visas, some for as long as 10 or 15 years. Now, compare that to Blockbuster; you're two days late with a video and those people are all over you. Let's put Blockbuster in charge of immigration."

- Unknown

Just for Fun...

The New Employee Handbook

The following are excerpts from the handbook of a leading corporation whose company poster reading, "The Beatings Will Continue Until Morale Improves," is taken to heart every day.

Dress Code:

It is advised that you come to work dressed according to your salary. If we see you wearing \$350 sneakers, we'll assume that you are doing well financially and, therefore, you do not need a raise.

If you dress poorly, you need to learn to manage your money better and, therefore, you do not need a raise.

If you dress in between, you're right where you need to be and, therefore, you do not need a raise.

Sick Days:

We no longer accept a doctor's statement as proof of sickness. If you're well enough to go to the doctor, you're well enough to work.

Personal Days:

Each employee will receive 104 personal days a year. They are called Saturday and Sunday.

Vacation Days:

All employees will take their vacation at the same time every year, as follows: January 1, July 4, December 25.

Bereavement Leave:

There is nothing you can do for dead friends, relatives or co-workers. Every effort should be made to have non-employees attend to the arrangements. In rare cases where an employee's presence is required, funerals should be scheduled late in the afternoon. We will be glad to allow you to work through your lunch hour and leave one hour early, provided your share of the full-day's work is complete.

Truths of Golf...

1. The game of golf is 90% mental, and 10% mental.
2. Since bad shots come in groups of three, your fourth bad shot is actually the beginning of the next group of three.
3. Any change in your grip or swing works for a maximum of three holes and a minimum of none.
4. No matter how badly you're playing, it's always possible to play worse.
5. A golf match is the test of your skill against your opponent's luck.
6. Nonchalant putts count the same as chalang putts.
7. There are two kinds of bounces: unfair bounces, and bounces that go just the way you planned them.
8. You can hit a 2 acre fairway 10% of the time, but a 2 inch branch 90% of the time.
9. Every time a golfer makes a birdie, he must immediately make two triple bogeys to restore the fundamental equilibrium of the universe.
10. Hazards attract, fairways repel.
11. A ball you can see in the rough 50 yards away is not yours.
12. If there is a ball in the fringe and a ball in the bunker, yours is the ball in the bunker.
13. If there are two balls in the bunker, yours is the one in the footprint.
14. To calculate the speed of a player's downswing, multiply the speed of his backswing by his handicap.
Example:
Backswing
30mph x 20 handicap
= downswing 600mph.

