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## 4<sup>th</sup> Annual Sporting Clay Shoot Dec. 7<sup>th</sup>

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SEE DETAILS & SIGN-UP Page 9



*YOU ARE INVITED TO A CHRISTMAS PARTY  
December 7<sup>th</sup>, 2018 6:30 PM  
Green Island Country Club  
Greater Columbus Home Builders and the  
Columbus Board of Realtors Christmas*

*\$25.00 Tickets are limited  
Purchase from GCHBA or CBOR*

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**President** - Bradley Jones      **Sec./Treasurer** - Jamie Herndon  
**Vice President** - Robert Watkins      **Associate V.P.** - Kyle Albright  
**Past President** - Mike Socci

**Local Directors:**

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Casey Carver  
Bill Hart  
James McVay  
Steve Anthony  
Chris Jones

**Associates**

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Wimpy Dennis  
Jay Roberts  
Tommy Boyd  
Ralph King

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Johnny Cargill

**HBAG Alternate Directors**

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Carson Hinton

**Executive Officer**

Mary Mardis

**NAHB Life Directors**

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Johnny Cargill

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Dave Erickson  
Craig Greenhaw

**NAHB Alternate Director**

Tommy Hinton

**Harris County Representatives**

Craig Greenhaw  
Don Bowles

**Columbus Board of Realtors**

Jackie Leonard

**COUNCIL/COMMITTEE**

**Chairs:**

**Ethics**

Tommy Hinton

**Government Affairs**

Craig Greenhaw

**Membership**

Robert Watkins



## President's Letter

Merry Christmas!

We had a great November meeting at Rose Hill Seafood where we installed the 2019 board of directors. It was another great event with good food and great fellowship. I would

like to thank Liberty Utilities and Synovus for sponsoring the meeting. I know our association will continue to prosper under the new leadership.

This year we have decided to partner with the Board of Realtors for our Christmas party. You may purchase a ticket for the event at the GCHBA office. It will be held at the Green Island Country Club, and we will have dueling pianos and other live entertainment throughout the evening. Thank you to Robert Watkins and Jackie Leonard for getting the Realtors and Homebuilders back together.

We will be having our Fall/Winter fundraiser December 7th at Big Red Oak Gun Club. This will be our 4th annual sporting clays event. Don't hesitate in purchasing your team of four shooters to include a round of 100 target sporting clays, 25 target five stand, delicious lunch, door prizes, and cash payouts to the top shooters. You don't want to miss it!

I would like to thank the members for entrusting me to lead the association over the past year. I would also like to thank Mary Mardis for all that she does for the association. Mary has been the E.O. for us the past 16 years and has excelled in everything that she has done. Thank you for all that you have done for GCHBA and its members over the years. You will surely be missed!

Thank you,  
Bradley Jones

**Mission Statement**

The Greater Columbus Home Builders Association is a nonprofit trade association representing the construction industry in Muscogee, Harris, Marion, Chattahoochee, Talbot and Taylor Counties since 1947.

We benefit our members by providing continuing education and political advocacy and promoting innovative building practices. We benefit our community by providing desirable places to live, work and play.

Our members are committed to upholding ethical and professional standards while advancing the quality of life in our community.

**Important Notice**

Dues payments to your local association are not deductible as charitable contributions for federal income tax purposes. However, dues payments may be deductible as ordinary and necessary business expense, subject to an exclusion for lobbying activity. Because a portion of your dues for 2018 is used for lobbying by NAHB (19%) and by HBAG (77 %), the amounts are not deductible for income tax purposes.



You made  
a **LASTING**  
**IMPRESSION**  
on me.



My **dad** said our builder came up with the idea to use **BRICK** on our house. He said it would *last longer* and *look cooler* than the other houses on our street.

That was a **BOLD DECISION** -  
*and it turned out to be the right one.*

Thank you *for making me feel as invincible as our house.*



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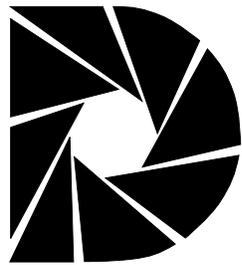
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# UPCOMING EVENTS

**Dec. 4, 2018**

Officers & Board Members  
4:30 p.m. Executive Committee  
5:00 p.m. Board Meeting  
GCHBA Office

**Dec. 7, 2018**

Sporting Clay Shoot  
8:00 A.M.  
Big Red Oak Plantation  
Gay, GA.

*We wish you a very  
Merry Christmas!*

## PERMIT INFORMATION

### October

#### MUSCOGEE COUNTY SINGLE FAMILY

|                      |                      |                           |                           |
|----------------------|----------------------|---------------------------|---------------------------|
| <u>Oct. 18</u><br>20 | <u>Oct. 17</u><br>21 | <u>Jan-Oct. 18</u><br>218 | <u>Jan-Oct. 17</u><br>184 |
|----------------------|----------------------|---------------------------|---------------------------|

#### HARRIS COUNTY SINGLE FAMILY

|                      |                      |                           |                           |
|----------------------|----------------------|---------------------------|---------------------------|
| <u>Oct. 18</u><br>22 | <u>Oct. 17</u><br>15 | <u>Jan-Oct. 18</u><br>196 | <u>Jan-Oct. 17</u><br>169 |
|----------------------|----------------------|---------------------------|---------------------------|

## Thank You for Renewing

### Welcome New Member:

Climate Control - Brian L. Trevathan, Whitecap HD Supply - Adam Jones

### Builders:

Flowers, Johnson, Inc. - Mac Flowers, Mordic Builders, Inc. - Buddy Mordic, Grayhawk Homes Inc. - David Erickson, Lucas R. Construction - Ron Lucas, WLB, LLC - Austin Gower

### Associates:

REW Materials - John Cochran, CSG Res Affiliate of Housing Authority of Columbus, GA - Sabrina D Richards, Columbus Board of Realtors - Lorri Edwards, Rose Anne Erickson Realty, LLC - Rose Anne Erickson, Southern States Bank - Brad Arnold



## International Builders Show Feb. 19-21, 2019 Las Vegas!

The Builders Show heads back to Las Vegas February 19th -21st for another extraordinary event. Register now at [www.buildersshow.com](http://www.buildersshow.com)

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# Awards Banquet at Rose Hill Seafood - 2019 Installation



Buddy Mordic, Craig Greenhaw, Cathy Williams and Mike Socci were presented Spike Awards by Pres. Bradley Jones



Bradley Jones awarded Mike Socci the Sidney Land Membership Plaque for producing the most new members in 2018.



Our 2019 President Robert Watkins is sworn in by Bradley Jones



Bradley Jones thanks Ralph King, Mike Socci, Wimpy Dennis, Scott Sawyer, Dusty Worsley and CJ Tinney for being Shining Stars.



Past President Mike Socci thanks President Bradley Jones for leading us through a most successful 2018.



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# Appeals Court Clamps Down On OSHA Investigations

Chris Walker, J Smith Lanier Advised

In a significant victory for employers, a federal appeals court recently limited OSHA's ability to expand accident investigations beyond their original and intended scope. The 11th Circuit's decision in *United States v. Mar-Jac Poultry, Inc.* will immediately aid those employers with operations in Florida, Georgia, and Alabama, but could also be of benefit to employers across the country. What do you need to know about the October 9 decision?

OSHA Arrives For Inspection, But Wants To See More An accident at your workplace occurs, and the Occupational Safety and Health Administration (OSHA) comes to investigate. Once at your facility, however, the OSHA representatives tell you they want to expand their inspection to cover your entire facility, top to bottom. What authority does the agency have to expand its inspection, and under what circumstances can it do so? Those are the questions that were presented in the Mar-Jac case.

The case began on February 3, 2016, when a Mar-Jac Poultry employee was injured at the company's Georgia processing facility while trying to repair an electrical panel. Because the employee was hospitalized, Mar-Jac reported the injury to OSHA. The agency sent an inspection team to the facility within a few days.

While Mar-Jac was subject to a Regional Emphasis Program (REP) for poultry processing facilities—and thus subject to random inspections based upon neutral selection criteria—OSHA's investigation stemmed only from the accident. During the investigation, OSHA found three potential violations relating to the accident during its limited inspection. Further, after reviewing Mar-Jac's OSHA 300 logs for three years, the agency came to the conclusion that the injuries reported on those logs suggested possible violations of OSHA standards related to ergonomic hazards, biological hazards, struck-by hazards, and more.

Citing these additional factors as a justification, OSHA requested to inspect the entire facility for hazards and not just the area of the accident. Mar-Jac refused to permit an expanded inspection, and OSHA went to court to resolve the dispute.

OSHA Turns To Court For Authority To Expand Investigation In March 2016, OSHA sought a warrant from a federal magistrate judge to expand the inspection to Mar-Jac's entire facility, contending that probable cause existed for such an expansion. OSHA had two main arguments to push for a warrant. First, it noted that agency inspectors had personally witnessed hazards related to the electrical accident, and a review of the OSHA 300 logs showed hazards common to poultry processing facilities. Second, it pointed out that the REP granted it the right to conduct the inspection. The magistrate judge agreed with these arguments and granted the warrant.

But Mar-Jac moved to quash the warrant, and, after an evidentiary hearing, the magistrate judge changed his mind. He determined that probable cause did not exist to expand the scope of the inspection based upon the injuries reported in the OSHA 300 logs, and that and the authority set forth in the REP—permitting a randomized, neutral inspection—did not lead OSHA to select Mar-Jac for an inspection. A federal district judge in Georgia upheld the magistrate judge's recommendation to quash the warrant, and OSHA appealed the case to the 11th Circuit Court of Appeals.

Appeals Court Concludes That No Probable Cause Existed To Expand Scope In its October 9 decision, the 11th Circuit affirmed the lower court's decision to block an expansion of the inspection. There are three important aspects to this decision.

- First, even though the lower court found that OSHA did not have grounds for a warrant based upon the existence of the REP, it is notable that the agency did not appeal this part of the case. In other words, OSHA itself recognized and acknowledged that it does not have grounds to expand an accident-based inspection simply because an employer is subject to an REP or national emphasis program (NEP).

- Second, the 11th Circuit held that “hazards” and “violations” are distinct concepts. OSHA argued that the existence of injuries on the OSHA 300 logs indicated the presence of hazards at the worksite, which in turn indicated the possibility of violations of the OSH Act. The appeals court rejected this argument, holding that it “is simply not the case that the existence of a hazard necessarily establishes a violation.”

In coming to this conclusion, the court noted that, whether proceeding under the General Duty Clause of the OSH Act or under a specific regulation, OSHA must prove more than the mere existence of a hazard to prove that a violation occurred. In the case of the General Duty Clause, OSHA must prove not only that a hazard existed but that the hazard was recognized, that it was likely to cause death or serious physical harm, and that the hazard was preventable. Similarly, in order to prove a violation of a specific regulation, OSHA must prove that the standard applies, that it was violated, that an employee was exposed to the hazard, and that the employer knew of the hazard.

- Finally, and perhaps most importantly, the 11th Circuit held that the existence of recorded injuries on OSHA 300 logs does not per se demonstrate that the employer likely violated the OSH Act. The agency argued that the number of injuries recorded in the OSHA 300 logs showed that Mar-Jac was failing to take adequate steps to prevent workplace injuries. The 11th Circuit correctly noted, however, that OSHA 300 logs provide little detail about the cause of the injury, and, thus, the “existence of injuries... does not necessarily mean that the injuries were caused by OSHA violations, or justify the issuance of an administrative warrant for evidence of OSHA violations.”

Additionally, the 11th Circuit found that whether injuries recorded in OSHA 300 logs can lead to reasonable suspicion to support a warrant based upon the logs is a fact-intensive inquiry because the logs “can be relevant to whether hazards exist.” In the Mar-Jac case, however, the court found that the logs did not support such a finding. For example, at this specific worksite, the court found evidence of 25 recorded injuries related to possible ergonomics hazards over the course of three years. In a facility of 1,112 employees, however, this did not create reasonable suspicion that ergonomics violations were likely to exist (but might do so in a much smaller worksite).

**Takeaways For Employers** The Mar-Jac decision is a significant victory for employers. You should take away three main points from this decision. First, OSHA cannot expand an accident-based inspection simply because you are also subject to an emphasis program. Rather, there must be probable cause for the expansion. Second, the existence of a hazard does not necessarily imply the existence of a violation. Finally, OSHA cannot expand an inspection simply because of injuries recorded in OSHA 300 logs. Rather, OSHA must provide sufficient evidence that the recorded injuries demonstrate not only that hazards exist at the workplace, but that violations are likely to be found as well.

If you are faced with an OSHA request to expand an accident-based inspection, you should contact counsel to determine your legal rights and reevaluate your response in light of this decision. If you have any questions about this case or how it may affect your business, please contact any member of our Workplace Safety and Catastrophe Management Practice Group or your Fisher Phillips attorney.

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This Legal Alert provides an overview of a specific federal case. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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**\$450.00 Per 4 Man Team**

100 Target Match 25 Shot 5-Stand Warm-up

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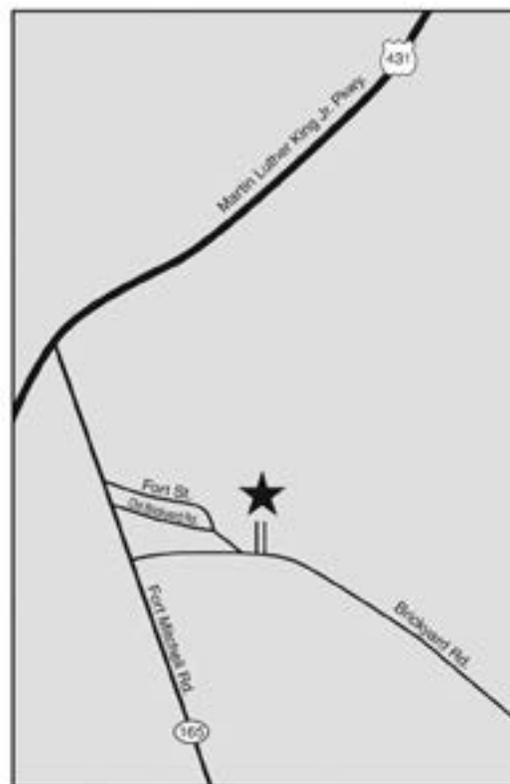
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