



August 2023 Bulletin

Please pass me along to other stations!
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ASSOCIATION CONTEST

CONGRATULATIONS TO THE JULY 2023 CONTEST WINNER, C&S FOREIGN CAR SERVICE, MAMARONECK, NY. Please read through this bulletin for your chance to win!!!

Call the office or email cobalde@ssdgnny.org with the correct answer to the trivia question and you will be entered in the monthly drawing for a chance to receive a free month's dues; a value of \$45.00.

ATTORNEY'S CORNER

EVERGREEN CLAUSES

I wrote a column some time ago concerning Evergreen Contracts. Seems that there is a number of members who have forgotten what an Evergreen Contract is and why you should not sign one especially since the vendors have added onerous venue provisions.

First a few definitions:

What is an "Evergreen Contract"?

An evergreen contract is one that automatically renews after its initial term expires. The parties agree that the contract rolls over automatically and indefinitely until one gives the other notice to terminate it.

What is the term of an Evergreen Contract? Are there any limits?

One of the details that the parties to an Evergreen Contract sign off is the term, or the length of time the contract will remain in force. If neither party terminates it on the expiry date, they are all bound to abide by the contract policy for another similar duration. For example, if you have a 5-year uniform contract and you miss the termination date, it continues for another 5 years!

Is there an advantage to an Evergreen Contract?

An evergreen clause provides convenience for either party because they don't have to renegotiate the terms of the contract on the expiry date, but one party may feel stuck and unsatisfied. In a case where a dissatisfied party forgets to cancel the agreement when it expires, they will be locked in for another period of time.

What is venue? What do venue clauses mean in an Evergreen Contract?

Venue means the location of the court or tribunal, such as arbitration, that would hear any dispute about the contract. Sounds simple, doesn't it? After all it's a New York contract and you would expect any dispute to be heard by a judge in New York State. Well, hold on!

How would you like your New York dispute heard in Maricopa County in Arizona? A lawsuit in that county is served by mail, often to one of your old addresses. But that's not fair you say!

Some clauses that I have seen:

The parties to this contract agree and covenant that this contract shall be enforceable under the laws in Arlington, Texas.

If legal action is necessary to enforce this contract, *the exclusive venue* shall be in Tarrant County, Texas.

Each of the parties hereto hereby *irrevocably waives*, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Can I cancel an Evergreen Contract?

Sure, let me count the ways:

They can end the same way they are drafted—through the mutual agreement form of the parties involved.

If the parties want to make changes to the original agreement, they can draft a new contract, which outlines the alterations. This new contract voids the original one.

The other option may be for one party to default on the agreement. Although this is an undesirable choice, it still nullifies the contract, but you will end up in court outside of New York State with a claim for damages (lost profits).

In short, my advice then is the same as now – don't sign an Evergreen Contract but if you must, do not under any circumstances agree to venue outside of the State of New York. Call the Association to review the proposed contract.

Vincent P. Nesci
General Counsel Service Stations Dealers
and Automotive Services of Greater NY, Inc.
Direct; 914-645-7530

August 2023 Bulletin



NYVIP3 MESSAGE No. 286

SUBJECT: NYVIP3 COMMON ISSUES

****Alert Common Initial NYVIP3 Unit Set Up Mistakes****

After surveying, it was determined almost all the issues being reported with NYVIP3 setup are linked to steps not being performed in the correct order as outlined in the installation instruction manual that is provided with the equipment.

Whoever is charged with setting up your NYVIP3 equipment **MUST** read and follow the NYVIP3 Installation instructions **STEP-BY-STEP** to ensure proper NYVIP3 CVIS initialization. By not following instructions and simply plugging in all the components into their appropriate location and supplying power will create a cascading number of issues that will need to be resolved.

The following is a list of common errors associated with failing to go **step by step** through the setup of the unit. Each of these can be corrected by redoing the instructions for that component.

Bar Code Reader

- Will not scan at all
- Incorrectly reading the Barcode
- Wireless pairing issues throughout the day
- Wireless pairing needed every morning

Sticker Printer

- Inoperative
- Printing in the wrong area
- Unnecessary stock being fed each time a certificate is printed
- Inventory accountability numbering issues.

IMClean Scan Tool

- Inoperative
- Will not connect during inspection
- Will not complete the initialization

NOTE: Wired IMClean OBD scan tool includes only the 12-volt cigarette lighter power supply and does not require the 110 volt power supply to perform the initialization or inspections.

AUTO SHOP OWNER WHO PAID WORKER IN 91,500 OILY PENNIES ORDERED TO PAY NEARLY \$40,000 MORE

ATLANTA – The owner of any auto repair shop who paid a former employee with 91,500 oily pennies has been ordered by a judge to pay nearly 4 million more cents.

A federal judge ruled that Miles Walker, who owns A OK Walker Autoworks in Peachtree City, Georgia, owes \$39,934 to nine workers for unpaid overtime and damages.

Attorneys for Walker agreed to the payments to settle a civil lawsuit brought by the U.S. Labor Dept. that accused Walker of retaliating against former employee Andreas Flaten in 2021.

After Flaten filed a complaint with the agency saying Walker owed him a final \$915 paycheck, the employer dumped that amount in oil-covered pennies in Flaten's driveway. The mountain of loose change came with a pay stub signed with an expletive.

The Labor Department said further investigation found that Walker's business had also violated overtime provisions of the federal Fair Standards and Labor Act.

The judge on June 16 signed a consent order in which Walker agreed to pay nearly \$8,700 more to Flaten in owed overtime and damages. Eight other workers are to receive amounts between \$14,640 and \$513 within the next year.

"The court has sent a clear message to employers such as Miles Walker who subject employees to unfair wage practices and outright intimidation and retaliation," Tremelle Howard, the Labor Department's regional solicitor in Atlanta, said in a statement.

Walker's attorney, Ryan Farmer, said the conflict with Flaten doesn't reflect his client's "true character as a businessman." "Mr. Walker is like many other small business owners in America – he wakes up every day doing everything he can to put food on the table," Farmer said in an emailed statement. "Unfortunately, emotionally charged decisions can come back and bite you in the rear end."

As seen in The Associated Press June 20, 2023

REFERRALS

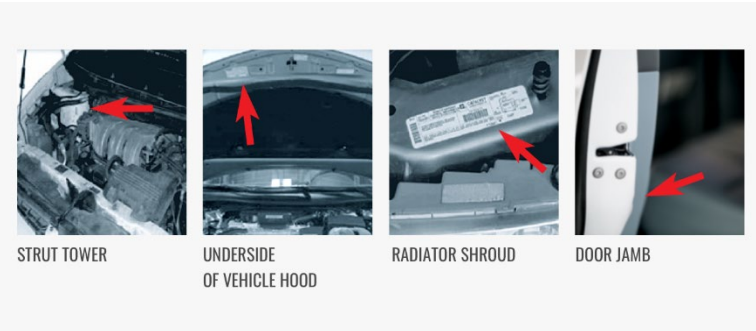
If you know of a station that needs our services and is interested in becoming a member, refer them to us and upon signing you will receive a \$50.00 Amazon gift card. If you know of someone interested, please contact our Sales Representative Bill Griese at 914-227-0144.

August 2023 Bulletin

USING THE VECI LABEL TO GET THE RIGHT CATALYTIC CONVERTER

STEP 1 – LOCATE THE VEHICLE EMISSIONS CONTROL INFORMATION LABEL

To determine which catalytic converter to use on a vehicle, it is necessary to determine the specific emissions system installed by the OE manufacturer. This information is provided on the car's **VEHICLE EMISSIONS CONTROL INFORMATION (VECI)** label located in the engine compartment in a visible location – usually on the hood underside, strut tower, radiator shroud, fan shroud, or firewall.



STEP 2 – DETERMINE THE EMISSIONS CERTIFICATION

A vehicle is a California Emissions Certified model if the VECI label references California, 50-State, CARB, or ARB. This is vital information if regulations in your state mandate replacement converters be CARB compliant.

STEP 3 – LOCATE THE ENGINE FAMILY NUMBER

The EFN, also referred to as the Engine Family Number, Emission Family Number, or Test Group Number, is prominently located on the VECI label, along with other important emissions specifications. This information is vital when looking up parts in the application catalog to ensure proper fit and when navigating state-mandated aftermarket replacement converter regulations.



All OBD applications in the **WALKER® CALCAT® CARB-COMPLIANT CATALOG** reference an EFN. Be sure to verify your EFN to avoid misapplication of the replacement catalytic converter. If the label is missing, it is necessary to contact the OE dealer for the information, or to order a new Emission Control Information Label.

Determining the proper replacement converter for a particular vehicle takes a little research.

The **WALKER CALCAT CATALOG** specifically indicates which converters are legal for use in CARB-compliant states (California, Colorado and New York) and on which vehicle models they can be installed.

SEARCH BY EXECUTIVE ORDER NUMBER - CALIFORNIA

Search California Air Resource Board's Aftermarket Converter Database by vehicle or by executive order number by visiting <https://ssl.arb.ca.gov/AftermarketParts/catalysts>.

As reported by Walker Emissions Control

SSDGNy is a member of TST. Because you are members of SSDGNy, you are automatically able to receive certain benefits from that organization.

This means:

- Discount - Live Seminars
- Discount - Yearly Big Event & Trade Show
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- Watch Members Only Videos
- Discount - Tools and Equipment
- Access to Members only Store
- Discount - Training Materials (Books)

WELCOME NEW MEMBERS

716 Parts Nation Inc.
Buffalo, NY

August 2023 Bulletin



PREVENT HEAT ILLNESS AT WORK

Outdoor and **indoor** heat exposure can be dangerous. Nearly **3 out of 4 heat illness fatalities** happen during the **first week of work**. New and returning workers need to build tolerance to heat by taking frequent breaks and working shorter shifts in the heat to start.

Dangerous heat exposure can occur indoors or outdoors, in any season. Employers can keep workers safe by following these simple safety practices:

- **Follow the 20% Rule** — on the 1st day, don't allow employees to work more than 20% of a shift at full intensity in the heat. Increase their time by no more than 20% a day until they are used to working in the heat.
- **Provide cool drinking water** – encourage workers to drink at least one cup every 20 minutes, even if they are not thirsty.
- **Rest breaks** — allow workers time to recover from heat in a shady or cool location.
- **Dress for the heat** — have workers wear a hat and light-colored, loose fitting, breathable clothing if possible.
- **Watch out for each other** — encourage workers to monitor themselves and others for signs of heat illness.
- **Look for any signs of heat illness**, including fainting, dizziness, nausea, and muscle spasms, and act quickly — when in doubt, **call 911**.
- **Offer training** on the hazards of heat exposure and how to prevent illness.
- **Develop an Emergency Action Plan** on what to do if a worker shows signs of heat-related illness.

To learn more about heat illness prevention and first aid, visit www.osha.gov/heat.

CLASSIFIEDS

For Sale: You can be your own boss! Est. shop that specializes in trailer repair, snowplow and salter sales, parts and repair. We also offer vehicle up-fitting. We sell and install numerous truck bodies. The shop is geared towards landscapers and contractor's needs. The service center has an excellent reputation that repairs all makes and models of box trucks, utility trailers landscape and boat trailers. Welding and fabricating repairs/parts as needed. We have the ability to make hydraulic hoses that we make on site. The showroom is fully stocked with inventory. The shop can fit 4 vehicles inside. Shop equip. includes: 2 post lifts, torches, welder, tire changer, balancer, band saw, drill press, work benches & more. There is also a private office. We are an authorized BOSS snowplow, Ramp Rack, Buyers and Woolwax dealer. Motivated to sell IMMEDIATELY due to relocating out of the area. Great opportunity to get in now during the snow season. Please call 845-590-5800 for more information.

For Sale: Pwrsprts Dlrshp for sale, Motorcycles, ATVS, UTVS, Snowmobiles, Generators/power washers. Parts / Service dept. 8500 sq. ft. building on 8 acres. Rent or buy. Kawasaki and Arctic Cat, Kymco, Generac generators. We are located on the Newburgh/Marlboro NY, RT 9w. High traffic road. Check our website bigboyztoysny.com Call Tony 845-781-3082 cell



TRIVIA QUESTION

What is the first step when using the VECI label to get the right catalytic converter? Call the office or email cobalde@ssdgnny.org with an answer for a chance to win a free month's dues.

I hope you enjoyed reading this month's bulletin. If you have any questions, feel free to call the association. We are here to help you and your industry.

Regards,

Carla Obalde

Operations Manager

August 2023 Bulletin

AUGUST TRAINING PROGRAMS

1. APEX - Joe's Garage Online To register go to: APPEX Joe's Garage

Part 10: Wednesday, August 30

Road Testing - How to do it Profitably; How to do it Safely

Taking a customer's car for a test drive may be the only way to know what's really wrong – but how can you learn what you need in a safe and productive manner? Learn how to maximize your road test procedures and what you should remember to protect your team.

2. CARQUEST TECHNICAL INSTITUTE - Go to Ctionline.com

Diagnosing Hybrid Motors & Inverters

Sessions: 08/01/2023 | 7PM - 9PM EST 08/03/2023 | 7PM - 9PM EST

Location: Virtual

Duration: 8 hrs

Type: ILT

Class Code: ATV-5202-8VC

Instructor: Brandon Steckler

3. Snap On Training - Go to www.snapon.com/EN/US/Diagnostics/National-Online-Training

August 1- The Power of OBD-II Information Part 1, August 8 - The Power of OBD-II Information Part 2

4. Dorman "Mastering the Technology" All Day Training Event & Trade Show!

Saturday, September 23rd, 2023, 8:00am to 6:00pm ATC (Warminster Campus), 900 Johnsville Blvd, Warminster, PA 18974

4 Plus Top Instructors!

with Dorman's lead trainer "G" Jerry Truglia, with Pete Meier, Kenneth Zanders, and two Spanish Classes with Oscar Gomez

Special Keynote Speaker: Carm Capriotto from "Remarkable Results"

For more info email: drestucci@dormanproducts.com

"CAN BUS Communication" 2023 - Instructor Ken Zanders

"Advanced Automotive Labscope's"- Instructor Pete Meier

"Advanced Driveability Diagnostics"- Instructor "G" Truglia

Spanish Classes:

"Electrónica Automotriz Para los Vehículos de hoy" -Instructor Oscar Gomez

"Pensamiento Crítico - Estrategias de Diagnóstico 2023" Instructor Oscar Gomez

ONLY \$199.00

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and since you are SSDGNY's members you get this discount!*

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