

MAKING A FEDERAL CASE OUT OF IT

As you may have noticed, our federal courts have been in the news lately. Both of the district court judges in the Western District of Wisconsin (Judge Shabaz and Judge Crabb) have elected “senior status” and will likely be replaced by Obama administration nominees. The Western District of Wisconsin covers Jefferson County and most of the Wisconsin counties located to the west of it.

Most legal proceedings in which electrical contractors are involved are filed in state court (i.e. circuit court), not federal court. Why? Because the federal courts only accept jurisdiction over certain types of cases.

In general, federal courts can decide cases that involve federal government, the U.S. Constitution or federal laws, controversies between states or between the federal government and foreign governments. A case which raises a “federal question” can be filed in federal court, including claims for money under a federal government program, claims involving the violation of federal laws, and challenges to actions taken by federal agencies.

A case can also be filed in federal court based on “diversity of citizenship” of the parties. Diversity of citizenship exists if the parties to the lawsuit reside in different states. The idea is that to ensure fairness to out-of-state litigants, they can bring their claims in federal court rather than in state court. However, the amount of the claim must be at least \$75,000.00 in order for the federal court to have jurisdiction based on diversity of citizenship.

Some types of legal matters, such as bankruptcy proceedings, must be brought in federal court. However, the great majority of legal disputes are handled in the state courts. Almost all divorce and child custody cases, probate and inheritance issues, real estate questions, juvenile matters, contract disputes, traffic violations and personal injury claims are brought in state court.

With the right case, there can be advantages to filing suit in federal court. For example, federal court cases often proceed to trial more quickly than state court cases. In federal court, the jury pool is selected from a larger geographic area, so there may be less “local bias” among federal court jurors. In some cases, the federal court will follow different rules than the state court (which can be either an advantage or a disadvantage, depending on the case).

A lawsuit which has been filed in state court can in some cases be “removed” to federal court at the request of a defendant. Removal will only be permitted if the federal court has jurisdiction of the subject matter of the lawsuit.

An electrical contractor who is contemplating the filing of a lawsuit, or is facing the prospect of defending against a lawsuit, should consult with its attorney to determine whether the matter could be decided by a federal court. If jurisdiction exists, the electrical contractor should weigh with its attorney the advantages and disadvantages of proceeding in federal court.