

CWCMA News

September - October 2011

President's Message

Steve Coffeen

Las Vegas Review-Journal



I want to thank all of our members who attended the Northern and Southern sectionals last month. In these times, it is so important to stay abreast of all the changes that are affecting our industry. With support from several of our vendor partners, your association presented these events at no charge to our members, which attests to our commitment to keep you informed.

I especially want to thank Craig Webber and Melvina Ponzio for their commitment and dedication in presenting both of our sectionals.

Craig Webber of the Press-Enterprise brought together various speakers who spoke on relevant topics such as Responsible Couponing, Key Sales Programs, Call Centers and different methods of reaching out to your communities. Melvina Ponzio from the Bay Area News Group presented Digital Support & e-Solutions, Digital Marketing Tactics, Management Inspiration, and the latest on ABC rule changes. Craig and Melvina conducted informational meetings that we need in order to progress and change in this dynamic industry.

Plans for the 93rd Sales Conference are progressing well. Board members from CWCMA and NICE met at Planet Hollywood Hotel and found the facilities to be excellent and very accommodating for our vendors as well as our members. We are delighted with our proposed speaker program, which will definitely keep all of us informed and prepared for the future. Register now for this annual event for only \$ 149. Book your registration now for the limited "Early Bird" fee which allows you to save \$ 50. Do not wait until the last minute to register.

We have big commitments that both CWCMA and NICE have invested in. We will present a first class conference, facility, speaker program and community where we all can be informed and grow as an industry.

See you in Las Vegas.

Conference Information

The registration fee for members to attend the Conference is \$149 for registrations received by February 15th. This "early bird" fee applies to all registrants from a single newspaper where there is at least one paid up member. To check if your newspaper has a paid up member, go to www.cwcma.com, click on "About CWCMA" and then click "Member Directory." The fee for registrants from newspapers without at least one paid up member is \$249. A simple way to avoid the higher fee is to join CWCMA for \$75 prior to registering for the conference. You will become a paid up member, and if you join before December 31st your membership will be paid through December 31, 2012.

Register for the conference online and earn a chance for a free room upgrade to a suite. This applies to online registrations only and registration must be made by January 31, 2012.

Following is the speaker and presentations program. You will not want to miss this program.

Welcome To Vegas - Publisher of *Las Vegas Review Journal* - Bob Brown.

Integrating social media into digital and print verticals - Jim Hart President of Integrated Media Solutions.

Taking advantage of the rapidly evolving mobile, on-demand culture - Wais Asefi - CEO of Textmunication.

Strategic Advertising Strategies - Jason Hicks Vice President of American Communications Group.

Digital Developments - Sean Polay - Director of Mobile Products Dow Jones Local Media Group.

The WINNING IDEA will be presented to the group - speaker to be announced!

Kindle Fire Giveaway! (must be present to win)

Responsible Couponing - speaker TBD

How to combat Irresponsible Couponing (panel discussion) - panel TBD

Independent Contractor Update - Mike Zinser - The Zinser Law Firm.

CWCMA ABC Seminar

Thursday January 26, 2012, 9:00-12:00

The Press-Enterprise 3450 Fourteenth Street, Riverside CA 92501

This seminar is designed for participants to direct questions to the ABC representative in attendance.

It's time to renew your membership.

**Please go to www.cwcma.com to renew.
Click on the link on the home page.**

**Your paid up membership entitles you
to a discount on conference registration.**



CWCMA Spotlight on

David Lack
Circulation Director Southern California
USA TODAY



Personal

I was born in Akron, Ohio and grew up with two younger sisters in the northern Ohio area. I graduated from the University of Akron in 1982.

I am happily married to Kathy whom I met at a Cleveland Browns viewing bar in Northridge, California. We were married in 1997 in Granada Hills, California. Our children are Dylan, age 12, and Kelsey, age 7.

In my spare time I manage a youth baseball team and serve on the board of directors for the local Little League.

In my travels, I have been fortunate to visit Europe, the Mediterranean and Black Seas. I especially like vacationing in Mexico, hanging out with my family and playing catch with my son and daughter on the beaches of Mexico.

Business

I have worked in the newspaper industry most of my life, beginning with a paper route at the *Akron Beacon Journal*. Later I worked for a newspaper wholesaler and then for *USA TODAY* in Cleveland, upstate New York, and northern New Jersey. I left *USA TODAY* and worked as Single Copy Sales Manager for the *Los Angeles Daily News* from 1988 to 1999, when I returned to *USA TODAY* as Circulation Director for Southern California. I currently hold that position.

The major focus for the next year is to increase revenue streams using our distribution network while maintaining expenses in our core business.

My mentor was my dad, who was a lineman for Ohio Edison Company. On many occasions he would be called in the middle of the night, sometimes during storms. He would go out in the snow or rain to help restore power to parts of the city. His dedication instilled a solid work ethic in me and made me aware that people are counting on me to do my best.

I can be reached by phone at 714.228.7222, Ext. 222 or by email at dlack@usatoday.com. My company Website is www.usatoday.com.

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Legally Speaking

Mike Zinser
CWCMA Legal Counsel



The Zinser Law Firm
Nashville, Tennessee

1. *The Sharon Herald* Gets Independent Contractor Ruling in Pennsylvania

The Sharon Herald, a newspaper in Sharon, Pennsylvania, recently obtained an independent contractor ruling concerning one of the newspaper carriers it contracts with for the delivery of newspapers. The carrier in question began delivering papers in 2001 and was still delivering papers pursuant to that agreement when she filed an unemployment claim against a company that had employed her between January 2009 and September 2010. The Pennsylvania Unemployment Compensation Board of Review held that the carrier performed her delivery services as an independent contractor, which the Board considered to be “sideline activity.”

The Board of Review resolved all conflicts in testimony in favor of *The Sharon Herald*, and found its witnesses to be credible. The Board found that the claimant signed an independent contractor agreement, receives an IRS 1099 form at the end of the year for tax purposes, and works in accordance with the terms and conditions of the independent contractor agreement. Notably, the claimant did not appear at the hearing. This was important because the Board, in a rare move, articulated that “when a claimant signs an independent contractor agreement, the burden then shifts to the claimant to show that she did not work in accordance with that agreement.” The Board found that the claimant, by not appearing at the hearing, failed to meet this burden; as a result, the claimant was engaged as an independent contractor with *The Sharon Herald*. However, the claimant’s sideline activity did not disqualify her from receiving unemployment benefits from the company where she had been an actual employee; it just meant she would not receive benefits through *The Sharon Herald*. Editor’s note: The Zinser Law Firm represented *The Sharon Herald* in this appeal.

2. Victory at *The Meadville Tribune*!

As LawLight readers are well aware, whether newspaper distributors are independent contractors or employees for unemployment benefits purposes is a hot topic, and state unemployment agencies have been quite aggressive in their attempts to re-classify newspaper distributors as employees. In August, *The Meadville Tribune* was successful in persuading the Pennsylvania Department of Labor and Industry to find that a newspaper distributor who filed a claim against the newspaper was ineligible for benefits.

In this case, the distributor signed an independent contractor agreement that reflected the intention to create an independent contractor relationship. The distributor negotiated the fees she would receive for her delivery service, chose her sequence of delivery, hours worked, and had an investment in her business. She determined and was completely responsible for the number and type of vehicles to use, the use of substitutes (how, when and what to pay them), as well as any necessary tools, equipment and supplies. She received an IRS 1099 form, had no deductions made on her behalf, and was not entitled to any employee-like benefits such as vacation, sick leave, health insurance, or retirement/401k plans.

After reviewing the facts in this case, the Office of UC Benefits acknowledged Pennsylvania case law and held that the newspaper distributor was free from direction and control in the performance of her job and was customarily engaged in an independently established trade, occupation, profession or business.

continued on page 7

CWCMA Vendor Spotlight on

Randall Brant
Vice President, Sales & Marketing
ACI – American Circulation Innovations



Personal

My father was in the US Air Force, so although I was born near Pittsburgh, Pennsylvania, we lived in several states including California, Texas, and Ohio. I have one brother and one sister.

Giselle and I met in Denver, Colorado, when we were working for The Denver Post. We have been together eleven years. Giselle has a 28-year-old daughter who is attending medical school in Colorado.

I graduated from Indiana University of PA, near Pittsburgh, in 1981 with a BA and earned an MBA from Purdue University in 1996.

Fitness is my hobby, specifically running, and I play an occasional round of golf. I also enjoy music and collecting LP records. My ideal vacations are snow skiing in Colorado or lying on a beach in Hawaii.

The best book I've read recently is "The Innovator's Dilemma," by Clay Christensen. It's a great read with lessons for industries facing change.

Business

Some people have labeled me "the turnaround guy," because in my 20-plus years in the business I have held leadership positions in print, digital, and niche publishing with top newspapers, including *The Dallas Morning News*, *Detroit News and Free Press*, *Denver Post*, *Salt Lake Tribune*, and *The Pittsburgh Post-Gazette*.

In my work with companies such as MediaNews Group, Hearst, and Gannett, I have worked with daily and non-daily print publications ranging in circulation from 10,000 to 800,000.

My transition to ACI came about when I met Keith Somers, ACI's president, through David Morel, ACI's VP Operations. Our industry is undergoing tremendous change and I see distribution as an area where many new partnerships and operating structures can be created.

ACI has been in existence since 1965 and is one of the nation's largest print media distributors. It is the only company that provides a full portfolio of delivery services, including home delivery, single copy/rack sales, TMC, Sunday select, and Niche publication distribution. We have helped publishers of large metro and smaller community newspapers. By bundling our services, we can provide the lowest cost structure available in the industry.

We are all facing challenges these days. Publishing executives are looking for answers. ACI is focused on growing in the right direction with the best partners and the best people, while maintaining excellence in performance and service.

My email address is rbrant@acirculation.com and our company website is www.acirculation.com I can be reached by telephone at 310.439.4006.

Therefore, she was self-employed, and was denied unemployment benefits.

Editor's note: The Zinser Law Firm, P.C. represented *The Meadville Tribune* in this matter.

3. Freelance Writers are Independent in California

In a recent ruling of the Employment Development Department, freelance writers and photographers of *The Goleta Valley Voice*, *Blue Edge*, and *El Mexicano* were found to be independent contractors for unemployment tax purposes. In making the ruling, the following factors of contractor status were important:

- The Publisher did not control the manner or means of producing the articles or photographs.
- Thirty days' advance written notice had to be provided for termination of this agreement.
- The freelancers were unsupervised.
- The freelancers were paid by the job and retained copyright ownership of their work.
- Both parties to the agreement believed the freelancers were independent contractors.
- The freelance writers and photographers were provided IRS Form 1099 for tax purposes.

Editor's note: Ampersand Publishing, LLC was represented by The Zinser Law Firm.



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Win a free trip to Las Vegas

Cal Western Circulation Managers' Association is offering a free trip to its Spring 2012 sales conference in Las Vegas to someone with a winning industry idea.

This is a great opportunity for any industry employee across the United States to have an opportunity to gain exposure, network among circulation executives, provide our industry with a fresh idea and most of all gain further knowledge on audience development through the use of mobile and digital platforms."

The presentation, which does not have to be new for this event, can cover any facet of our industry: editorial, advertising, circulation, production, interactive, promotional, etc. The winner will deliver the presentation to the CWMCA/NICE delegation on Friday, April 20, 2012 at Planet Hollywood in Las Vegas.

Send ideas to Peter Gutierrez by February 15, 2012. pgutierrez@recordnet.com

WIN A
TRIP TO



You or someone on your staff can win a trip to Las Vegas to present your best idea at the 2012 CWCMA/NICE Sales Conference

THE WINNER WILL PRESENT ON FRIDAY, APRIL 20, 2012

Submit your idea to Peter Gutierrez
pgutierrez@recordnet.com Entry deadline is
February 15, 2012

CWCMA Calendar

CWCMA ABC Seminar
January 26, 2012
Press-Enterprise, Riverside, California

CWCMA Legal Seminar XXXII
February, 16, 2012
Embassy Suites - Walnut Creek, California

April, 18 - 20, 2012
CWCMA/NICE Sales Conference
Planet Hollywood - Las Vegas, Nevada

Do you have a colleague who could benefit from membership in CWCMA?

Membership is open to circulation department management personnel and those employed in allied industries.

Join online at www.cwcma.com

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