

CWCMA News

May - June 2010

President's Message

Dennis Opsal
USA TODAY



Over the past several years, certain key themes and issues have been part of the ever changing landscape for our industry. New revenue opportunities, expense reduction plans, and new business opportunities are part of our daily activities. These topics have always been the strategies for any business and have become particularly critical in the newspaper business today.

The CWCMA Board Directors and members will be coordinating meetings throughout the upcoming year to address each theme and other major issues facing us all. Meeting agendas will specifically address the latest business trends and real world issues along with solutions and best practices provided from leaders in the industry.

Mark your calendars for the annual Sectional meeting this October. Melvina Ponzio of the Bay Area News Group will be hosting the Northern Sectional on October 15 and Craig Webber of the Press Enterprise will be hosting the Southern Sectional on October 22. These sectionals have proven to be a terrific opportunity to learn new ideas and lately have been the initiation point in development of many new business partnerships.

Planning for the CWCMA sales conference is also under way. The conference will be held in Reno at the Grand Sierra Resort on April 20-22, 2011. We continue to be sensitive to budget constraints for all attendees. Hotel room rates for the conference have been negotiated at just \$69.00 per night. We will have a tightly packed agenda focusing on real world issues facing each of our businesses, including, you guessed it, revenue opportunities, expense reduction ideas and developing new business opportunities.

CWCMA Spotlight on

Joe Robidoux
Vice President of Circulation
Inland Newspaper Division
Los Angeles Newspaper Group



Personal Background

Where did you grow up? Orange County, CA

How many siblings do you have? I am the youngest of five boys and I have one younger sister.

Name of spouse – when and where were you married? My lovely wife Patricia and I were married in Rancho Cucamonga, at The Christmas House Bed and Breakfast Inn.

Names and ages of children: Three children: Christopher, 22, is now in his senior year at the USC School of Architecture; Audrey, 20, will be entering her sophomore year at Dominican University in San Rafael, CA, with a major in Communications. Our youngest, Julia, will be starting second grade this fall.

What are your hobbies and general interests? Raising responsible children, education, learning, reading, cooking and, of course, golf.

Best book read in the past year? So hard to select the best, though I must say, my favorite book, dating back to my teens is “Jaws” by *Peter Benchley*. “Jaws” is the book that sparked my interest in reading. The most recent books I have read are “Swimsuit” by *James Patterson with Maxine Paetro* and “Breathless” by *Dean Koontz*. Currently, I am reading “MBA in a Book, Mastering Business with Attitude” by *Joel Kurtzman with Glenn Rifkin & Victoria Griffith*.

What is your favorite vacation spot? My favorite has to be Hawaii. I find Kauai to be a very relaxing place to visit and it always feels extremely refreshing when I’m there. Other favorites and frequently visited spots would include Cape Cod MA, and Sedona AZ. We have traveled to many spots in Mexico and a few years ago we went to Spain and Portugal. But the trip that is nearest and dearest to my heart is a ten-day Mexican Riviera cruise that Patricia and I took in 2002.

Business Background

Give us a brief synopsis of your total career: My newspaper (circulation) career started when I took a part-time job at the *Orange County Register* while attending college – I needed the money. However, I found I enjoyed many aspects of the job. Within a relatively short period I was offered a full-time district manager slot. After a few years with the *OC Register*, I was approached with an opportunity to expand my professional education and responsibilities at the *Fullerton Daily News Tribune* where my circulation role continued to grow with new challenges and responsibilities. My next endeavor was as circulation director at the *Oxnard Press Courier* followed by a new position at the *LA Daily News* a few years later. Then in 1991 I landed in Pasadena.

As the circulation director of the *Pasadena Star-News* I was given the opportunity to participate in developing the new consolidated operation of the San Gabriel Valley Newspaper Group (*Pasadena Star-News, Whittier Daily News and SGV Tribune*). With the addition of the *Long Beach Press Telegram, the Daily Breeze* in Torrance and *Daily News* in Los Angeles; *Inland Valley Daily Bulletin, San Bernardino Sun* and *Redlands Daily Facts* into the fold, the Los Angeles Newspaper Group was created as it is today.

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Legally Speaking

Mike Zinser
CWCMA Legal Counsel



The Zinser Law Firm
Nashville, Tennessee

This column will share an independent contractor victory, case development concerning smartphone use and a new law that requires lactation breaks.

1. Independent contractor victory at *The Columbian*!

One of *The Columbian's* (Vancouver, Washington) carriers filed for unemployment in Oregon. However, the contractor lived in Washington and delivered papers in Washington. There is also a state statute in Oregon (and Washington) that exempts newspaper carriers from the definition of employment. Under Oregon Revised Statute 657.080, "Employment" does not include service performed by an individual: (1) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; (2) in the delivery or distribution of newspapers whose remuneration primarily consists of the difference between the amount the individual pays or is obligated to pay for the newspapers and the amount the individual receives or is entitled to receive on distribution or resale thereof. Notwithstanding these facts, the Oregon Employment Department determined this carrier to be an employee of *The Columbian* and was eligible for benefits. *The Columbian* appealed.

The Oregon Employment Department conceded the error of its initial administrative decision and issued a new decision cancelling the original employee finding. In this amended decision, the Oregon Employment Department noted that it "had no jurisdiction to issue that decision because the claimant worked as an independent contractor, not as an employee."

Editor's note: The Zinser Law Firm represented *The Columbian*.

2. Smartphone use and overtime laws

Do you give your employees smartphones like a Blackberry, iPhone, or Palm? If you do, you would not be alone. This has become a common practice in the business world, but now employers are starting to realize the consequences of their decision. Across the country, employers are finding themselves under attack in class action lawsuits by non-exempt employees for overtime wages when they respond to calls or emails after work.

AT&T is currently facing two lawsuits. In 2008, AT&T Mobility employees filed suit in New York federal court and claimed that AT&T violated the Fair Labor Standards Act by not paying overtime for smartphone usage when they were not clocked in to the company computer-based timecard system. The employees were a mix of sales assistants and assistant managers, claiming that they had to review and respond to email and text messages, as well as make and receive telephone and conference calls beyond their normally scheduled hours. In 2009, another set of IT employees filed suit in California federal court, claiming that they were required to be on-call 24 hours per day and respond to

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CWCMA Vendor Spotlight on

Roberto Munoz
Home Delivery Regional Manager
PCF



Personal Background

Where did you grow up? Chancay, Lima, Peru

How many siblings do you have? Three

Name of spouse – when and where were you married? Helena Munoz, married in 1999, San Rafael, CA

Names and ages of children: Roberto Jr. (18), Alexandre (11), Rebecca (8).

Did you attend college? Yes Where? University Sanchez Carrion, Huacho, Peru & University Ricardo Palma, Lima, Peru **When:** 1979-1980 & 1981-1985 respectively.

What are your hobbies and general interests? Love visiting new restaurants and trying all kinds of foods. My favorite is seafood. Also, soccer games and good movies.

Best book read in the past year? Freakonomics - *Steven D. Levitt & Stephen J. Dubner*.

What is your favorite vacation spot? Pompano Beach, FL

Business Background

Give us a brief synopsis of your total career:

-*Marin Independent Journal/San Francisco Examiner* as independent contractor- 1986-1989

-Owner of W.M.C. of San Rafael, a janitorial company- 1989 to 1992

-PCF – as independent contractor- 1987 to 1989

-Marriott International- Guest Services- 1999 to 2007

-PCF – Depot Captain, District Manager, District Service Coordinator, Assistant Distribution Manager, Distribution Center Manager, Regional Manager- 1990 to Present.

What lead you to your current job? I love what I do and I enjoy my work. I grew up with PCF and I consider it one of the best companies to work for.

Tell us about your company and the products and/or services you sell: PCF is the leading independent newspaper home delivery and distribution services company in the U.S. and we offer distribution solutions of all types and sizes and great opportunities to reduce your operational costs.

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What is the "Biggest Challenge" you are facing in the next year? Finding a job for my son to help with college expenses.

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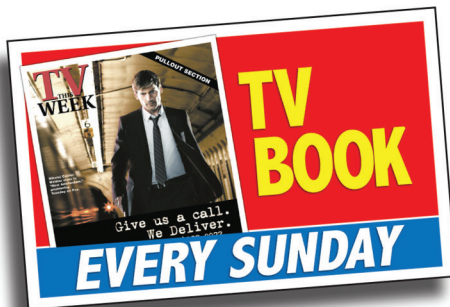
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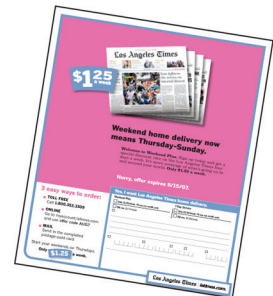


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Through the myriad of changes I've witnessed in this industry are the numerous opportunities that have been created for me to work along side so many talented people. These encounters have allowed me to grow professionally and to gain invaluable experiences in dealing with new ideas, products, and certainly, economic markets.

What lead you to your current job? Basically it is the needs for the business today in shuffling to find the right person for the right jobs at the right time. Our business is changing quicker today then in any time in the past. Because of this need, I find myself where I am today.

What is the "Biggest Challenge" you are facing in the next year? Identifying and successfully applying the newest technologies available that will enable us to grow our business; to, of course, build readership while consistently contributing to our bottom-line; and to recognize when change is an opportunity.

Have you ever had a mentor? What did that person teach you?

Early on in my career, if I thought that an individual was someone I could learn a few things from, I would invite them to lunch. Simply asking questions about how they got to where they were, and how they addressed various challenges was quite an enlightening process.

Jack Koehler from Riverside and John Ardelan in Ventura were two individuals who helped me quite a bit. In 1992 Ron Wood joined the San Gabriel team. I was fortunate to work with Ron through the consolidation effort, and believe that together he and I achieved much success. Ron taught me how to simplify and breakdown major projects and opportunities into smaller workable components. Ron modeled empowerment of one's staff and he refused to enable failure. Those two lessons have served me well. I had the pleasure of working with Ron Wood for 13 years and consider him to be one of my most valuable mentors.

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pages within 15 minutes to fix various problems and were not compensated for their on-call, standby time even though they allegedly counted as hours worked. Other suits in 2009 involved companies like CB Richard Ellis and T-Mobile, who were also sued by employees for overtime wages based on review and response of email and text messages outside of work hours. All of these cases are still ongoing.

If you have a similar policy in place where non-exempt employees are provided a company phone/email device with the expectation that they respond to calls and emails after hours, you too may find yourself subject to a lawsuit by your employees demanding overtime when they use those devices outside their normal work hours. It would be wise to be proactive on this issue and analyze your timekeeping and after-hours communication policies to see if they need to be adjusted to comply with state and federal wage and hour laws.

3.FLSA amended to include lactation breaks

Now that Congress has passed the so-called "Patient Protection and Affordable Care Act," employers are learning about new provisions in the bill that went under the radar. One such provision can be found at Section 4207 of the bill, and is entitled, "Reasonable Break Time for Nursing Mothers." This Section amended the Fair Labor Standards Act by requiring employers with more than 50 employees to provide a "reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express milk." In addition, the employer must "provide a place, other than a bathroom, that is shielded from view and free from intrusion" to perform this task.

Note, however, that this amendment does not require employers to pay employees while they are on their lactation break. Congress said that this new requirement will not pre-empt state laws that may offer greater employee rights. This new requirement does not apply to employers with less than 50 employees if compliance would impose an undue hardship by causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the business. Of course, this criteria is left vague; the Department of Labor has yet to issue any interpretive bulletins or regulations for employers to figure out the best way to comply with this new law.

As a result, this new law will likely result in small businesses facing litigation whereby they must justify the undue hardship they would face if they provided nursing mothers with a lactation break. While this has not been a hot topic of litigation in the past, roughly 25 states already provide lactation breaks; this could change, given the level of national attention this amendment has received.

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.***

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