

November 2001

TEXAS CIRCULATION  
MANAGEMENT ASSOCIATION

# TCMA Newsletter



## Beaumont: Spindletop of Ideas

Twenty-eight days after the attack on our country, **John Whaley**, President of TCMA, used his gavel to call to order the eighty-seventh annual conference of the Texas Circulation Management Association. One of our speakers at the conference, Mike Zinser, rightly said, "The terrorists would win if you did not have your annual conference." Well said, Mr. Zinser! We are proud Texans and more importantly, proud Americans.

Even with the tough-times the newspaper industry is facing these days, 121 circulation newspaper managers and TCMA Associate Members gathered in Beaumont, Texas to proudly hold our annual meeting. **Jeff Reedy**, Operations Director at the Beaumont Enterprise, along with members of his staff, did an outstanding job of hosting our conference.

President John Whaley assembled a program designed to meet the needs of small newspaper attendees as well as hold the attention of major market Texas newspaper managers. The program started with the keynote speaker, **Don Carter**, President of CGL Enterprises. Don spoke on managing and selling: Surviving in Tough, Challenging Times, Our Times. He spoke of the recent tragedy in America. He told the group he had a pre-September 11 presentation and had to change his entire presentation after the attack on America.

Following the keynote speaker, **Howard Finberg**, co-founder of the Digital Futurist Consultancy, gave a presentation. His topic for the morning was centered on how circulation executives should be a part of the newspaper's Internet web site. Following Mr. Finberg's presentation, the members enjoyed a business luncheon. During the luncheon newspaper members sat at tables designated by the counties that make up their regional membership area. They caucused during lunch and selected their new Regional Director for the next two years. (See results on page three.) **Steve Jordan (Houston Chronicle)** was elected by accumulation as the Second Vice-President. **Bobby Perry (Texarkana Gazette)** was elected First Vice-President.

The afternoon session began with a presentation by **Bob Bensman** and **Steve Lucek** from Ver-A-Fast. Their presentation was centered on how newspapers should be developing partnerships with advertisers and local

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## Texas Exception to at-will Doctrine is Narrow

The plaintiffs involved were employed for 20 years prior to their discharge. They alleged that the sole reason they were terminated was because they inquired as to whether they would be committing an illegal act if they followed Frontier's order. The trial court granted Frontier's motion for summary judgment.

The Texas Court of Appeals, sitting in San Antonio, began its opinion by writing that Texas is an employee at-will state. The court continued that "the only judicially-created exception to the employment at-will doctrine recognized by our State Supreme Court is the discharge of an employee for the sole reason that the employee refused to perform an illegal act." The plaintiffs claimed that "public policy prohibits the discharge of an employee who in good faith attempts to find out if the requested act is illegal."

The court expressly rejected this expansion of the Texas Supreme Court's decision. The court wrote that, "Any decision to expand the decision is better left to our State Supreme Court or the legislature." Because the plaintiffs' claim did not fall into the limited exception created by the Texas Supreme Court, the trial court's grant of summary judgment to Frontier was af-

firmed.

## "Silent suffering" is not sexual harassment

Matvia alleged that she was subject to sexual harassment, constructive discharge, and retaliation. In a detailed analysis, the U. S. Court of Appeals for the Fourth Circuit explained why she was not, specifically pointing out that Matvia did not make use of the Company's sexual harassment policy and that there was no tangible employment action taken against her.

The crux of her claim revolved around an incident where her supervisor tried to kiss her. She struggled and got away. She reported the incident and the supervisor was terminated. This was the first reported incident. In filing her lawsuit, Matvia dredged up nine incidents from receiving a hug from the former supervisor to receiving pornographic pictures from him. Matvia had reported none of these incidents. She claimed that she "silently suffered" the advances thus making it "tangible employment action" necessary under Title VII. The court disagreed, writing that "her theory of 'silent suffering' would transform any ordinary employment action into tangible employment action."

The Company had a clear "no tolerance" sexual harassment policy. Matvia alleged that the policy was unclear, but, as Judge

Fox noted, "tellingly, Matvia points to no language in the policy rendering it ambiguous or difficult to follow. Nor does she suggest how the policy could have been made any clearer." Matvia had a duty to make use of the Company's policy, but she did not do so. The court recognized that Matvia's "pick-and-choose method" of analyzing allegedly harassing incidents "would make a mockery of this inquiry and violate the basic tenants of fairness."

## Carpal Tunnel Screening is OK Under ADA

The EEOC brought this action on behalf of 19 workers at Woodbridge, a producer of foam pads used in automobile seats, who were denied employment based upon the results of a test designed to reflect abnormal wrist neurometric readings.

Woodbridge contended that the test was intended to determine those applicants who were more likely to develop carpal tunnel syndrome. The test was tailored for the repetitive motion required for those working on a specific foam line in the one plant in Kansas City. Several applicants were tested, and those applicants with abnormal neurometry readings were not hired for the foam line production position, although they were considered to be eligible for jobs in other areas within the plant.

## Our Newest Members!

Through September 28, 2001

<b>Maurice Barcomb</b>	Paris News
<b>Linda Korn</b>	Wall Street Journal
<b>Micheal Jefferson</b>	Houston Chronicle
<b>Terry Armstrong</b>	Houston Chronicle
<b>Chris Stulka</b>	Kaspar Sho-Rack
<b>David Vana</b>	Kaspar Sho-Rack
<b>Antoinette Tristan</b>	Houston Chronicle
<b>David Linzel</b>	S & G Plastics
<b>Frank Maier</b>	American Press

## TCMA Regional Directors

<b>Ginger Nolte (South)</b>	<b>(361) 886-3612</b>
<b>Dolan Stidom (North)</b>	<b>(817) 215-2204</b>
<b>Gary Wamsley (West)</b>	<b>(915) 687-9002</b>
<b>(Open) (Central)</b>	
<b>Steve Hill (East)</b>	<b>(866) 876-8378</b>

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## Texas Roundup!

### *Houston Chronicle Celebrates National Customer Service Week*

Each year the first week of October has been proclaimed as National Customer Service Week. Subscriber Services celebrated this special week to honor our associates.

We had much to celebrate this year. Our group has made tremendous progress in the past year! Our abandoned call rate continues to drop. We have enjoyed eleven months of keeping the abandoned calls under 2.00%. In August 2000, the abandoned call rate was 3.29%. In August 2001, the rate was .427% or an eighty-seven percent improvement!

A committee of volunteers headed by **Rosa Galvan** and **Gayla Baechtold** have worked hard in the past several months preparing for this momentous occasion. Our contract vendors participated providing an afternoon dessert for our associates.



### *Golfers Contribute to Red Cross*

Prior to the 87th annual TCMA Conference, golfers at the golf tournament contributed to participate in the nine iron shot, the Tiger Drive and purchased mulligans. The teams raised \$180.00, which was donated to the American Red Cross Liberty Disaster Relief Fund.

## TCMA Golf Tournament Winners

### First Place Team: 14 under par

Gary Grosz Kaspar Sho-Rack  
 Wayne Brune Tex-Trude  
 Gene Sanders GP Plastics

### Second Place Team: 8 under par

Gordon Peterson Peterson Promotions  
 Bill Lally Steel City  
 John Crocker Dallas Morning News  
 Craig Yost Houston Chronicle

### Third Place Team: 7 under par

Frank Maier American Press  
 Andrew Douglass Tex-Trude  
 Rocky Swartz Dallas Morning News  
 Steve Ruitenschild K-Jack Engineering



### Individual Winners:

Closest to the pin - Gene Sanders, GP Plastics  
 Longest drive - Bill Lally, Steel City Corporation  
 Longest Putt - Curtis Smith, K-Jack Engineering

## Carrier of the Year Winners



**Myrel Stanley**  
Houston Chronicle

**Under 200**  
**Route Size**



**Mike Gaffey**  
Fort Worth  
Star-Telegram

**Over 200**  
**Route Size**



**Robin Alaniz**  
Houston Chronicle

**Single Copy**  
**Co-Winner**



**Robert Thorp**  
Fort Worth  
Star-Telegram

**Single Copy**  
**Co-Winner**



**Julian McMurrey**  
Houston Chronicle

**District Manager**  
**Contractor**

# *TCMA Board of Directors*

<b>John Whaley</b>	<b>Chairman/NAA Federation Rep.</b>	<b>Dallas Morning News</b>
<b>Paul Jauma</b>	<b>President</b>	<b>Houston Chronicle</b>
<b>Lane Aten</b>	<b>President-Elect</b>	<b>Valley Morning Star</b>
<b>Bobby Perry</b>	<b>First Vice President</b>	<b>Texarkana Gazette</b>
<b>Steve Jordan</b>	<b>Second Vice President</b>	<b>Houston Chronicle</b>
<b>Ginger Nolte</b>	<b>Regional Director (South)</b>	<b>Corpus Christi Caller-Times</b>
<b>(Open)</b>	<b>Regional Director (Central)</b>	
<b>Dolan Stidom</b>	<b>Regional Director (North)</b>	<b>Fort Worth Star-Telegram</b>
<b>Steve Hill</b>	<b>Regional Director (East)</b>	<b>Investor's Business Daily</b>
<b>Gary Wamsley</b>	<b>Regional Director (West)</b>	<b>Midland Reporter-News</b>
<b>Wayne Brune</b>	<b>Associate Director</b>	<b>Tex-Trude</b>
<b>Jeff Hechler</b>	<b>Associate Director</b>	<b>Schermerhorn Brothers</b>
<b>James Smith</b>	<b>Secretary/Treasurer</b>	<b>Houston Chronicle</b>

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## *Membership Renewal Notices*

According to our by-laws, renewal notices for 2002 will be mailed in November 2001.

**Section 7. Membership Fees and Dues. All persons submitting an application for membership shall be charged a membership fee set by the Board of Directors. In addition, all regular and associate members shall be charged annual dues in November of each year. The amount of such dues shall be set from time to time by the Board of Directors who may choose to schedule the amount of dues according to the number of members from a given newspaper. Dues shall be paid by January 15 for a member to retain his membership.**

We are always looking for new members. If you are doing business with a vendor who is not a TCMA member, sign them up! When new employees join your newspaper or if you have current managers who are not a part of TCMA, now is the time to enroll them. Applications are on the Web site or call me or your Regional Director and we will see that they receive an invitation and application!—*James Smith, Secretary/Treasurer*



# *Conference Promotional Display Winners*

## Category Single Copy Sales

Under 75,000 Circulation

**First Place**            **Midland Reporter-News**

**Second Place**        **Odessa American**

**Honorable Mention** **Amarillo Globe-News**

Over 75,000 Circulation

**First Place**            **Fort Worth Star-Telegram**

## Category Retention Promotion

Under 75,000 Circulation

**First Place**            **Amarillo Globe-News**

**Second Place**        **Midland Reporter-News**

## Category Newspaper in Education

Under 75,000 Circulation

**First Place**            **Odessa American**

Over 75,000 Circulation

**First Place**            **Fort Worth Star-Telegram**

## Category Promotions

Under 75,000 Circulation

**First Place**            **Amarillo Globe-News**

**Second Place**        **Odessa American**

**Honorable Mention** **Midland Reporter-News**

Over 75,000 Circulation

**First Place**            **Fort Worth Star-Telegram**

## Category Recruitment/Training

Under 75,000 Circulation

**First Place**            **Amarillo Globe-News**

**Second Place**        **Odessa American**

Over 75,000 Circulation

**First Place**            **Fort Worth Star-Telegram**

# Advertising Opportunities

Would you like to reach newspaper professionals with your message? The Texas Circulation Management Association (TCMA) has several opportunities to help you. In addition to our yearly Buyer's Guide, you can advertise in the quarterly newsletter, on our Web site, and

by placing flyers in the newsletter. Here are our current advertising rates:

## Business Card Ad

\$25.00 per issue

## Newsletter Inserts

\$75.00 per issue

## Web site link

\$50.00 per calendar year

For more information, check out [www.texascoma.org](http://www.texascoma.org) and click on the Vendors' link or call James Smith at 713 220 7644.

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*(Continued from page 1)*      *Beaumont: The Spindletop of Ideas*

marketers that will drive circulation numbers up. Bob has developed a relationship with phone companies across America that enabled him to develop the First Contact Program. Bob's company calls new telephone customers to verify phone book delivery and then offers a free sample of the newspaper. Either the newspaper or Bob's company can follow-up with a sales call. Closing rates have exceeded thirty to thirty five percent in markets where the First Contact program is in place.

The fall conference attendees enjoyed the President's Dinner Tuesday evening at the Coushatta Casino sponsored by the Beaumont Enterprise. The Hot Ideas Breakfast was bright and early Wednesday morning. Many ideas were exchanged during the breakfast.

The Wednesday sessions began with TCMA General Counsel, **Mike Zinser**. Counselor Zinser called on District Manager **Gail Mills** from the Corpus Christi Caller-Times, to be a witness in a mock trial regarding the elements of the independent contractor relationship. Gail played her role well under the intense questioning of Zinser.

Following lunch, **John Murray**, Vice-President of the Newspaper Association of America, gave a PowerPoint presentation on Understanding the Single Copy Buyer. This was the culmination of a five market study. Director of Operations for the Dallas Morning News, **Rocky Swartz**, told the attendees how the new Audit Bureau of Circulation's 25% rule can help any size market build circulation.

The final session of the day was a presentation from the Houston Chronicle. **Terry Dole, Don Tyler, and Bobby Garcia** shared experiences on how the Houston newspaper was able to deliver the paper during the June 9, 2001 tropical storm Allison. With the city and surrounding areas flooded and streets impassible, the trio told how round-the-clock communication and the positioning of managers at key distribution/printing facilities allowed for a near 75% distribution of the Saturday, June 10 newspaper. Only the early Sunday edition produced on Saturday was cancelled. All remaining Saturday newspapers were delivered by Tuesday as the flood subsided.

The conference ended with the Carrier of the Year Banquet on Wednesday evening. A patriotic salute to the heroes of the New York World Trade Center and the victims of the September 11 tragedy was presented as a part of the banquet. Awards for the golf tournament and the promotional displays were also presented at the banquet. President John Whaley transferred the gavel to incoming President, **Paul Jauma**. Jauma thanked John for his years of service to TCMA. He also led a standing ovation for the work the Beaumont Enterprise provided in hosting the conference and for all of the conference attendees that participated by proudly showing their support for America by coming to Beaumont.

# In Memoriam

**Vic Callendar**, Honorary Member of TCMA, died March 15, 2001. Vic lived in Borger, Texas.


## 2002 Spring Seminar

May 9-10, 2002

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