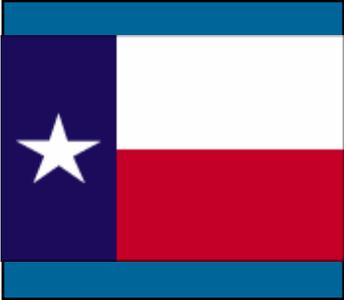


August 2007

TEXAS CIRCULATION  
MANAGEMENT ASSOCIATION

# TCMA Lone Star Review



## Destination Dallas 2008

### Director Call

There are vacancies on your TCMA Board of Directors. The Board consists of a Second Vice-President, First Vice President, President-Elect, President and a Chairman.

A five year commitment is required to advance through the chairs beginning with the Second Vice President. Each member has a specific responsibility associated with each chair.

The First Vice President handles the COTY Competition. The President-Elect handles the Buyer's Guide assimilation and President handles the conference program. The Chairman position is the fifth year and they advise the other chairs with the experience they have gleaned.

The Second Vice President is asked to assist the Membership Chairman with securing new members and promoting attendance to the annual conference.

The Board is looking for senior level circulation executives to serve. Your experience in the newspaper industry is needed to guide TCMA in the coming years. Won't you consider giving your expertise to Texas newspapers that need you? Please consider serving by calling our Chairman, **Lane Aten**, at (956) 430-6296? Or send Lane an e-mail at [laten@valleystar.com](mailto:laten@valleystar.com). He will be happy to answer any questions you may have. TCMA is calling. Won't you answer and serve today?

### Calling New Members

The next issue of the *TCMA Lone Star Review* will contain your membership renewal for 2008. Be sure to budget for your membership dues in planning your expenses for next year.

In the November newsletter there will be details on how you can earn a reduced registration fee to the 2008 Conference in Dallas. We are looking for newspapers to come back home that have not been a part of TCMA in some time. Begin sharing with circulation managers of your acquaintance that are not in TCMA and watch the November newsletter on how each one can reach one.

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In this era when unions only represent 7.4% of the private sector workforce, the unions are trying to organize more and the NLRB General Counsel has instituted new initiatives to try to tip the balance of bargaining power in favor of the unions. This month's column will report on NLRB General Counsel's memo on creative remedies in first time contract negotiations and an update on the organizing campaign of the Teamsters at *Santa Barbara News-Press*.

## 1. **NLRB General Counsel Memo on First Contract Bargaining Cases**

On May 29, 2007, NLRB General Counsel Ronald Meisberg issued a memorandum urging NLRB Regional Directors to seek additional remedies in cases involving the negotiation of a first time contract. In identifying which first contract bargaining cases may warrant the additional remedies, the memorandum states that the focus should be on the effect of the unfair labor practices, whether committed by Employers or by unions, on the bargaining process and the parties' relative bargaining strengths. The focus on the parties' relative bargaining strengths is quite disturbing because the U.S. Supreme Court makes clear that whoever has the greatest power in the relationship is entitled to achieve the best collective bargaining agreement. Arguably, this memorandum is an attempt to help weak unions achieve contracts favorable to the union's point of view.

The additional remedies recommended in this memorandum are as follows:

### a. **Require Bargaining on a Prescribed or Compressed Schedule**

Clearly this remedy is legal adventurism. The memorandum admits that where this type of remedy has been sought in the past, administrative law judges or the NLRB have rejected them. The memo goes on to note that such a remedy has been used in the past against repeat violators in contempt proceedings. Such a remedy would require the parties to meet at certain intervals, for a minimum number of days per week or for a minimum number of hours per week. This is punitive and violates the language of Section 8(d) of the National Labor Relations Act.

### b. **Periodic Reports on Bargaining Status**

Memorandum notes that this remedy may be appropriate where the employer has previously violated a Board Order or Settlement Agreement.

### c. **A Minimum Six-Month Extension of the Certification Year**

When a new union is certified to represent employees, the union has protection for 12 months. That is, there can be no effort by employees to decertify the union before the end of 12 months. The memorandum states, "Regions should routinely seek minimum certification year extensions of 6 months in cases where unlawful bargaining and first contract negotiations disrupted the relationship." What this means is that employees wanting to decertify would have to wait another 6 months beyond the initial 12 months.

d. **Reimbursement of Bargaining Costs**

This remedy, in the past, has rarely been used. This remedy has been limited to cases of unusually aggravated misconduct, where it may be said that unfair labor practices have infected the core of the bargaining process to such an extent that their effects cannot be eliminated by the traditional remedies. Disturbingly, the new General Counsel memo states, "I believe that the appropriate focus should not be on the egregiousness of the violations, but on the effect they have on the bargaining relationship and need for true make-whole relief." Clearly, this is a clue that the General Counsel's office is about to engage in legal adventurism on this issue. The memo admits that the Board has recently ruled that it does not intend to disturb the long established practice of relying on Bargaining Orders to remedy the vast majority of bad faith bargaining violations. In spite of that ruling, this memo indicates that the General Counsel will be seeking these punitive, creative remedies. The memo notes that when the investigation discloses bad faith bargaining from the outset, the General Counsel will seek the negotiating costs for the full period of negotiations, rather than confining the requested order to the 6-month statute of limitations contained in the Act!

For whatever reason, General Counsel Meisberg, appointed by President George W. Bush, has decided to engage in legal adventurism that is clearly designed to try to tip the balance in favor of the union during the negotiation of first time collective bargaining agreements.

This writer believes this is in clear violation of U. S. Supreme Court precedent, which stated:

It is implicit in the entire structure of the Act that the Board acts to oversee and referee the process of collective bargaining, leaving the results of the contest to the bargaining **strengths** of the parties...the Board's remedial powers under Section 10 of the Act are broad, but they are limited to carrying out the policies of the Act itself. One of these fundamental policies is **freedom of contract**...what the Act as presently drawn does not contemplate is that unions will always be secure and they will achieve agreement even when their economic position is weak, or that strikes and lockouts will never result from a bargaining impasse. It cannot be said that the Act forbids an employer or a union to rely ultimately on its economic strength to try to secure what it cannot obtain through bargaining.

Any Employer who is newly organized and negotiating a first time contract should read GC Memorandum 07-08 which is available on the NLRB website ([www.nlr.gov](http://www.nlr.gov)).

**Legally Speaking**  
By L. Michael Zinser

# TCMA Conference is Your Best Bargain

Far too often newspapers are cutting expenses for travel and training. If there was ever a time to be networking and sharing ideas, **it is NOW**. Every circulation executive and manager is challenged to do more with less. The days of easy circulation gains are just a memory. We now have to struggle for new subscribers as individuals have a myriad of choices for their news consumption. The Internet, free publications, cable TV news are just a few of the competing forces we face daily. And how do we keep the subscribers we already have?

These are all topics that have been discussed at recent TCMA Conferences. Over the past few years our speakers have addressed these and other issues. In fact, many of our speakers or presenters have spoken at the Newspaper Association of America's Marketing Conference. Our attendees have heard them for a fraction of the cost.

Here is a sampling of the **registration fees to** circulation meetings in the next few months.

## **Southern Newspapers Publishing Association Annual Conference**

Greenbrier, West Virginia	Member price	\$675.00
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## **NAA Subscriber Acquisition/Retention Conference**

Chicago, Illinois	Member price	\$395.00
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## **NAA Marketing Conference**

Orlando, Florida	Member price	\$835.00 (early registration)
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Attending a TCMA Conference is a bargain! Our registration fee has always been under \$250. A few years ago, your Board changed the meeting dates to the spring and changed the program to a two day agenda instead of three days. Attendees can arrive on Monday afternoon for an opening session, a full day of meetings on Tuesday and a half-day session on Wednesday morning. Our presentations are geared for the front line circulator and the executives for formulating circulation strategies that work. The sitting President is responsible for the program and this year, Randy Schawe, is already at work lining up speakers for the meeting.

Don't forget the networking that takes place at a TCMA Conference. Stories abound of the insights that have been shared one-on-one with other circulation managers. Ideas that have worked in one market can certainly be adapted to work in your market. There is plenty of time to meet other newspaper professionals to share ideas. Members have recently shared increased circulation as a result of ideas introduced at a TCMA Conference.

As you plan your budget for 2008, be sure to budget funds for travel to Dallas next May. Be creative in your approach. Plan how you will travel to Dallas. If necessary, double up on your accommodations to minimize expenses. TCMA secured the same hotel rate for a single, double, triple or quad occupancy at the hotel. Your registration fee will include all your meals. Show your publisher why it is vitally important to be in Dallas next May.

Now is not the time to retreat from learning new ideas. Together we must look for innovative and smart ways to grow our circulation. Will the industry we chose to work for soon be just be a memory? I do not want it said that it was our generation that lost the daily newspaper because we were not willing to fight to save it. Will you be in Dallas next May? I will look for you.

*Editor, J W Smith*

## Arnold Joins TCMA Board

**Mike Arnold**, City Circulation Manager with the *Corpus Christi Caller-Times*, has agreed to serve on the TCMA Board of Directors. Mike will be filling the vacancy in the Second Vice President position.

Mike is no stranger to TCMA and has been an active participant for several years. He has attended the spring seminars and annual conferences. Mike was active in helping to host the 2003 Conference when it was held in Corpus Christi.

## COTY Packets Coming

The 2008 Carrier of the Year applications and instructions are arriving in your mailbox or will soon be. There is also a link on the Carrier of the Year (COTY) page on the TCMA web site.

Included with the applications are the deadlines for the upcoming competition.

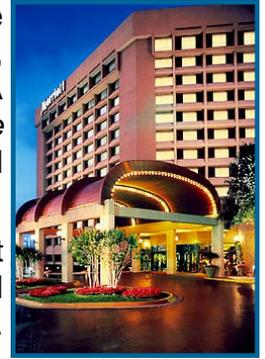
Does your newspaper have an on-going carrier recognition program? The TCMA COTY award program recognizes the best of the best. Each year you have the opportunity to nominate your carriers. They are on the front lines every day in all kinds of weather delivering newspapers to our subscribers. In some cities carriers are delivering multiple products.

All it takes is 10 minutes to complete an application and submit it to TCMA. We'll read every application and then select finalists. You will be notified if your nominee is selected as a finalist. Then you submit a short video about the carrier. The winners will be honored at a dinner at the 2008 Conference in Dallas. The Zone Manager for each COTY winner in their respective category will also be invited to attend the conference and their registration cost will be complimentary.

Don't delay! All it takes is just 10 minutes to nominate a carrier. Every newspaper has some deserving carriers that need to be recognized. Watch your e-mail for a link to the TCMA web site where you can view some of the winning carrier videos from the past few years.

## Dallas 2008

Make plans NOW to be in Dallas on May 5-7, 2008, for the 2008 TCMA Annual Conference. *The Dallas Morning News* will be our host newspaper.



We will be meeting at the Marriott Quorum Hotel where we met in 1997. This hotel has been completely renovated from top to bottom and promises to be an excellent site for our conference.

Go to the Conference page on the TCMA web site for links to the hotel and a link to the Dallas Convention Bureau. This will be an excellent city for you to bring your spouse and spend the weekend before the conference. Shopping, activities, and fine dining abounds at the nearby Galleria or the Frisco area just minutes away.



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