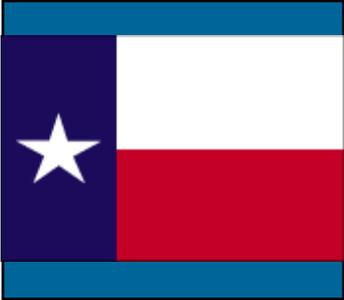


November 2007

TEXAS CIRCULATION  
MANAGEMENT ASSOCIATION

# TCMA Lone Star Review



## Destination Dallas 2008

Randy Schawe, TCMA President is working to complete the lineup of speakers for the ninety-fourth TCMA Conference to be held in Dallas, Texas, next May.

We will hear from some of the “regulars” that have spoken to us at past conferences with industry trends, but Randy has some special surprises to bring some fresh new ideas to our Association. There will also be a panel discussion regarding the future of the circulation department in our newspapers. Never in the history of newspapers have we seen such a rapid decline in circulation numbers as more and more newspapers are “pulling back” in their distribution areas. This discussion promises to be valuable to every size newspaper as we look to tomorrow. This one discussion will certainly be one you will not want to miss!

Our host newspaper, the Dallas Morning News, has planned some exciting entertainment for the group during the President’s Dinner. This will be the third year for the Vend-O-Rama that has been a huge success.

Plan now to be in Dallas May 5-7, 2008. This is your Association. Support it by making the effort to attend the Conference. If you know of a vendor who is not a part of TCMA, contact me at [tcma@texascma.org](mailto:tcma@texascma.org) and I’ll invite them to join us in Dallas.

### Excellent Opportunity

Would you like to save \$50 on your 2008 Conference Registration fee? Just sign up a new member to TCMA for 2008 and your registration fee for the conference will drop \$50. The details about this exciting offer were sent earlier this month with the membership renewal notices.

All you need to do is sign up a non-TCMA member from your newspaper, a vendor with whom you do business who is not a TCMA member or a circulation professional from another newspaper. Be sure to include your name and newspaper on the application. The new applicant will return the application with their \$50 membership dues. A certificate for \$50 will be mailed to you. Submit the certificate with your conference registration later this spring when the conference materials are mailed.

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# THE ZINSER LAW FIRM

## TCMA Legal Counsel

The National Labor Relations Board is a tremendous impact on the workplace. The President of the United States appoints its Members. Presently there are three Republicans and two Democrats on the Board. The Chairman is Robert Battista. His term expires at the end of this year. Another Republican's term also expires at the end of this year. There appears to be a big push to try to get some key things decided before the end of the year.

Let me tell you about a few of those cases:

### **1. NLRB finally decides Dana Corp. case**

On September 29, 2007 the NLRB, in a three to two decision, ruled that whether or not voluntary recognition is pursuant to a neutrality or card check agreement, "no election bar will be imposed after a card-based recognition unless (1) employees in the bargaining unit receive notice of the recognition and of their right, within 45 days of the notice, to file a decertification petition or to support the filing of a petition by a rival union and (2) 45 days pass from the date of notice without the filing of a valid petition." If a valid petition supported by 30% or more of the unit employees is filed within 45 days of the notice, the petition will be processed.

This is clearly the Board majority expressing a preference that employees have the right to exercise their choice in collective bargaining representation by the preferred method of a Board conducted election. The requisite showing of interest in support of the petition may include signatures of employees obtained before as well as after the voluntary recognition. The Board also ruled that a collective bargaining agreement executed on or after the date of voluntary recognition will not bar a decertification or rival union petition unless notice of recognition has been given and 45 days have passed without a valid petition being filed

Strangely, the Board did apply its new rule to case at hand. They applied the new rules prospectively only. Apparently this is so because the parties had executed a contract while the case had been on appeal for many years.

### **2. Dues check-off in a right to work state**

In another three to two Decision (Liebman and Walsh dissenting), the NLRB concluded that the Employer did not violate the Act by unilaterally ceasing dues check-off after the parties' collective bargaining agreement expired. This particular case had been remanded to the NLRB from the U.S. Court of Appeals for the 9<sup>th</sup> Circuit in 2002. The case has been sitting at the Board since that time.

The NLRB based its finding on the particular circumstances of this case in which the dues check off clause in the contract contained language limiting dues check off to the duration of the collective bargaining agreement. The NLRB had relied upon long-standing precedent that involved ceasing dues check off in the context of an expired contract that also had contained a union security clause. Nevada is a right to work state and the contracts at issue did not have union security clauses.

NLRB Chairman Battista wrote that the contract was clear that the duration of check off was co-terminus with that of the collective bargaining agreement. Chairman Battista wrote that even if the parties, unlike here, failed to express this intention in their contract, he would include dues check off among the class of mandatory subjects that are excluded from the unilateral change doctrine which do not survive contract expiration. He stated that dues check off is a form of economic weaponry where the Employer cuts off the automatic flow of funds in order to persuade the union to agree with the Employer on outstanding contract issues.

Finally, still pending is *The Register-Guard* (Eugene, Oregon) email case. This is a dramatically important case that will affect all industries. At issue is whether unions have the right to use your email system (your private property) to organize your employees. Let us hope that Chairman Battista can get to that case before the end of 2007.

## Thank you Vendors!

On behalf of the Board of Directors for TCMA, we would like to thank every vendor in TCMA. We especially appreciate the vendors who support TCMA by including a business card ad in the newsletter and/or a web site link on the TCMA web site.

Our vendors allow TCMA to hold conferences that are second to none in the industry. It is their generous support that makes our Association a viable one. Let me encourage you to support our vendors. Give them an opportunity to show you their products when you are purchasing supplies for your department. If you do not actually do the purchasing, please advise your purchasing department of our vendors' supplies.

## COTY

The 2008 Carrier of the Year competition is heading into the judging phase in order to determine the winners.

This year, twenty-six applications from seven newspapers were received. There were two newspapers participating for the first time this year.

The finalists will be selected in mid-December and their respective newspaper's circulation management will be notified. They will be asked to prepare a short five minute video (DVD) of their finalist that will be viewed by the TCMA Board of Directors at the February 2008, board meeting.

If a board member has a finalist in the competition they are ineligible from voting on the category or categories in which they have a finalist.

Once the selection process is complete, the winners will be notified and invited to Dallas to attend a dinner held in their honor where they will receive their reward, a proclamation from the Governor of Texas and a check for \$300. All finalists receive a check for \$200.

Go to the TCMA web site to see an imbedded YouTube video of last year's winners.

## 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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