

Lone Star Review

2019 Great Western Summit

The Texas Circulation Management Association (TCMA) will once again co-host a combined audience development/circulation summit with the Cal Western Circulation Managers Association (CWCMA) and the Northwest International Circulation Executives (NICE) in June, 2019 at The Linq Hotel in Las Vegas, Nevada. Building on the success of the 2018 meeting with the three associations is the stated goal for this group. The Single Copy Major Metro Conference (SCS) will precede the Great Western Audience Development Summit (GWADS) as they did in 2018. The registration fee for the summit will include the SCS meeting at no additional cost. And as an added bonus all **TCMA newspaper members** will receive an early bird registration discount when registering for the 2019 GWADS.

You may ask, “Why have a TCMA conference in Las Vegas?” Good question. All across the nation circulation sectionals have experience a decline in conference participation. TCMA has seen the decline, too. But a few years ago, our association was contacted to be a participant in a joint conference and TCMA declined. In 2018, by joining our focus with other circulation associations we have experienced together with this group the largest circulation conference in America. Our business partners can see more people in one location. This year, the number of speakers/presenters provided a vast spectrum of print and digital topics. The experience of sharing of ideas with other newspaper professionals from the western half of the USA proved to be worth the cost to attend.

I hope you will seriously consider being a part of the 2019 GWADS. There will be something for everyone from small to large newspapers! Join or renew your 2019 TCMA membership now to save on your 2019 GWADS registration.

Inside this issue

- Zinsergram..... 2
- Renew Your 2019 Membership... 3
- Lone Star Review Sponsors 4



Great Western Audience Development Summit

"Where Great Western America & Canadian Media Companies Unite"



Independent Contractor Status

Former NLRB Counsel Richard Griffin (Obama appointee), in a strategy of legal adventurism, took the position that mis-classifying someone as an independent contractor was an independent, stand-alone violation of the National Labor Relations Act. A case brought by General Counsel Griffin pursuing his theory, *Velox Express Inc.*, is currently pending before the NLRB. The NLRB, because of the importance of the issue, invited interested parties to file amicus briefs. Significantly, the President Trump's newly appointed General Counsel, Peter Robb, parted company with former General Counsel Griffin. General Counsel Peter Robb argued that misclassifying an employee as an independent contractor, standing alone, does not violate the Act. *Velox Express, Inc.* is a case to watch. Its potential impact on newspaper distributors is huge.

Unions hate independent contractor status. The National Labor Relations Act was specifically amended by the 1947 Taft-Hartley Amendments to expressly exclude independent contractors. U.S. Supreme Court Decisions have made clear that the NLRB is to use the usual common law test to determine independent contractor status. No Court Decision has ever held it was an independent violation of the National Labor Relations Act if, after litigation, individuals were found to be employees instead of independent contractors. That issue has always been decided on a case-by-case basis. This writer predicts that the current NLRB will reject the assertion that classifying someone as an independent contractor is independently, stand-alone a violation of the National Labor Relations Act.

NLRB Quickie Election Rule Update

In December 2017, the NLRB invited comments regarding whether the Quickie Election Rule promulgated by the Obama Board, effective April 14, 2015, should be retained, modified or rescinded. The comment period was extended to April 2018. The Board has yet to release its Decision or findings.

It has been reported that the NLRB has placed this issue on its agenda as a "long-term" action item. In a recent speech to the ABA's Labor and Employment Conference in San Francisco, NLRB Chairman, John Ring indicated that the NLRB will engage in rulemaking to change the Rule but will do so by issue by issue rather than taking on the entire Rule at once. Chairman Ring said the first of a series of proposed rules will be issued this winter.

In the last 12 months, many newspaper newsrooms have been unionized. A factor in union success has been the Quickie Election Rule which, on average, gives an employer only 23 days to react to the filing of an election petition. On average, an election is held within 23 days of the date of the filing of the petition. Prior to the Quickie Election Rule, employers had, on average, 42 days. As you can see, an employer's chance to plan a counter strategy has been cut in half. Hopefully the new NLRB will change that.

Uber Drivers Must Arbitrate Individually

In a closely-watched case called *O'Connor v. Uber Technologies*, the United States Court of Appeals for the 9th Circuit decided on September 25, 2018 that an Arbitration Clause that waives class actions and reserves to the Arbitrator the determination of whether a dispute is properly arbitrable will defeat class action certification and require the granting of an order compelling arbitration. The court placed reliance on a U.S. Supreme Court Decision in a case called *Epic Systems*, which ruled that class action waivers contained in Arbitration Agreements did not violate the National Labor Relations Act and were therefore enforceable.

Survey Says

In October, TCMA members were sent a Survey Monkey three question survey to see if there was any interest in having a state-wide conference. The respondents gave their views on the location of a conference and if they would likely attend. Members were asked what topics they would like to have discussed or presented at a meeting. You can view the results of the survey by clicking [here](#). The topic discussion question will be used to provide suggested topics and presenters for the 2019 meeting.

After the results were tabulated, the TCMA Board of Directors voted to once again join in partnership with the Cal Western Circulation Managers' Association and the Northwest International Circulation Executives to host a summit in Las Vegas, Nevada, in June 2019. Our participation with this group in 2018 was a success by joining forces to produce the largest circulation/audience development summit in America. This year, the total attendance was around 185 including newspaper members and business partners. This conference had the largest number of business partners in one location.

The partnership is building on the success of the 2018 summit by reducing the summit by one day to hopefully, attract more attendees. In addition, the Single Copy Major Metro meeting is returning in 2019 as a pre-summit meeting of single copy managers. Your registration fee includes both the single copy meeting as well as the summit. More details as the event nears.

To encourage your participation, TCMA is offering to our newspaper members an early bird discount on the Great Western Audience Development Summit registration fee. Only TCMA will offer this discount provided your membership for 2019 is paid and you register online. Again, additional information will be posted and provided as the summit nears. I hope you will make plans to be in Las Vegas next summer to attend the summit.

2019 Membership

TCMA By-Laws require the Secretary to mail membership renewal notices each November for the following year.

Separate Membership renewal notices will be emailed soon. A special offer will be made to our Vendor members this year to cover membership, a newsletter ad and web site link for 2019 with one payment. Look for the Vendor US Mail to arrive in early **January, 2019**. Access for the an online form for vendors will be available soon.

Renew your 2019 TCMA membership or join TCMA now to **receive a discount on the 2019 Great Western Audience Development Summit in June 2019. The discount will only be available to TCMA members who register on the TCMA web site. Join or renew today and save on your conference registration. This is a TCMA offer available to our newspaper employee members.**

Don't forget! You can [renew online](#) and use your credit card to pay for your membership and other services provided by TCMA. Click the link below, enter your name, credit card information to renew. You will be presented a receipt and a Certificate of Membership will be mailed to you.

PayPal has a new feature allowing TCMA to send you a customized invoice with a link to the TCMA PayPal site to pay your invoice. If you are interested and would like a special invoice please let our Secretary know at tcma@texascma.org



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