

## LEGALLY SPEAKING *Continued from pg. 3*

29. Carrier's obligation to purchase vehicle and pay all expenses.
  30. Carrier's right to employ helpers.
  31. Carrier's obligation to file all state, federal, and local tax returns and to cover carrier's employees, if any, for unemployment tax and worker's compensation purposes.
  32. The fact that the Publisher files 1099 for carriers; the fact that the carrier signs IRS form W-9 before contracting.
  33. The fact that the carrier files a Schedule C return as a self-employed businessperson.
  34. The fact that the Publishing Company withholds no taxes of any kind from monies due carrier under the contract.
  35. Carrier's right to determine sequence of route delivery.
  36. A stated term in the carrier's contract.
  37. The fact that the carrier purchases a business license.
  38. Language in a carrier recruitment ad that indicates independent contractor status.
  39. A contract provision that prohibits carrier from using the logo or trademark of the Publishing Company.
  40. The fact that carriers receive no "training" as to "how to" deliver newspapers.
  41. A contract provision requiring the carrier to indemnify the Publishing Company.
  42. The fact that carriers are unsupervised or unmonitored while they deliver newspapers.
  43. The fact that carriers perform all of their contract services away from the premises of the Publishing Company.
  44. A contract provision indemnifying the Publisher from the carrier's telemarketing efforts.
- Be it resolved: you will perform the above-described audit before April 1, 2004, and hopefully before you must defend a lawsuit on independent contractor status.



### Address Change . . .

Please send all address changes and corrections to Secretary-Treasurer Carol Moseley at P.O. Box 520, Roanoke Rapids, North Carolina 27872. You can call Carol at (252) 537-2505, or e-mail carolmoseley@charter.net

### Deadline . . .

The next issue of your MACMA Bulletin will be mailed in April. Please forward any news about personnel changes, promotions, retirements, awards, article ideas, or other matters by March 15th. And don't forget: If you have news, I have space. bhoward@news-record.com

# MACMA BULLETIN

January/February 2004  
www.midatlanticcma.org



**President:** Jim Purdon  
The Burlington (NC) Times-News  
**1st Vice President:** Tim Howard  
The Greensboro (NC) News and Record  
**2nd Vice President:** John Hollenberger  
The Fredricksburg (VA) Free Lance-Star  
**Convention Secretary:** Earle Woodward  
The Item, Sumter, SC  
**Secretary/Treasurer:** Carol Moseley  
The Daily Herald, Roanoke Rapids, NC

-----"TO EXCHANGE IDEAS, ASSIST EACH OTHER, GET BETTER ACQUAINTED"-----

## PLAN TO ATTEND THE 2004 MACMA CONFERENCE AGENDA OF EVENTS & SESSIONS

### SUNDAY, MAY 2:

8:00 am Golf Tournament,  
Tanglewood Park (Lunch provided)

6:00 pm Reception  
Dinner on your own

### Things to do

Warhogs Baseball 7:00 pm  
Images for Eternity:  
West Mexican Tomb Figures  
Museum of Anthropology, Wake  
Forest University 10 am-4:30 pm  
Hot Jazz, Rhythm & Blues  
Adams Mark Hotel 9:00 pm

### MONDAY, MAY 3:

7:45 am Kick-off Breakfast  
Jon Witherspoon, *Winston-Salem  
Journal* Publisher

9:15 am Vendor Coffee Break

10:00 am Price Does Matter – "The  
Cost/Value Equation," Jerry Kackley

11:15 am MACMA Business Meeting

12:00 pm Lunch

1:30 pm Acquisition Programs That  
Work – "Life After Telemarketing,"  
John Murray

2:15 pm Legal Issues

3:00 pm Vendor Coffee Break

3:45 pm Horizon Watching – "Best  
Practices for Improving New Start  
Retention," Ed Rose

4:45 pm MACMA Promotions Voting

6:00 pm Game Night  
Food – North Carolina Barbecue  
Buffet  
Games – Foosball, Pool Tables,  
Golden Tee Golf, Poker, Trivia  
Counter Top, Air Hockey, Driving  
Games, etc. . . .

### TUESDAY, MAY 4:

7:45 am Hot Ideas Breakfast

9:15 am Using ABC to Grow Your  
Business, Jeff Walsh

10:15 am Vendor Coffee Break

11:00 am MACMA Business Meeting

11:30 am Thinking Like Radio, Lisa  
Fields

12:15 pm Lunch with Skip Prosser,  
Wake Forest University Basketball  
Coach

1:30 pm Building Readership and  
Circulation (Breakout Session)

1) "One at a Time" Building Single  
Copy Sales

2) "It's All About Service" Home  
Delivery Sales

3) "Building Readership through  
Third-Party Programs"

3:15 pm Awards Ceremony

Lodging information:  
Adams Mark Hotel  
425 North Cherry Street  
Winston-Salem, NC 27101  
www.adamsmark.com  
Reservations 1-800-444-ADAM

## LEGALLY SPEAKING: Litigation News From L. Mike Zinser, MACMA General Counsel

This time each year, with all the best intentions, most of us resolve to improve ourselves—exercise more, eat better, watch less television—that sort of thing. Of course, by February these vows are usually forgotten!

Let's do better in 2004 with our "business" resolutions. Resolve in 2004 to perform an independent contractor audit. This will be the single most valuable thing you will do. Perform a check-up on the following:

### 2004 Circulation/Independent Contractor Audit

A. District Manager Evaluation Form: Make sure it is independent contractor friendly. Make sure it does not document that you are giving the DM a bad review because he does not exercise enough control over the carriers. This is "back door" evidence of employee status.

B. Customer Service Communication: Review the communication from customer service employees. Do they tell the public about contractor status? What about complaint messages? Do they merely pass along subscriber requests or do they bark orders? Do you train customer service reps on independent contractor status?

C. Terminology on Forms: Are you still using worn out phrases like "subsidy" or "transportation allowance?" Instead, have you considered using the term "rate adjustment?" Do you

(Continued on page 3)

## MACMA MARKETPLACE



Polybags Motor Route Tubes Carrier Bags  
1-800-325-0216 Fax (573) 581-8711

### LOWER POLY BAG COSTS

...we're not kidding!  
Jim Greer & Jim Kiernan  
call 'em 800-634-0017

**PDI  
PLASTICS**

### THE PISA GROUP, INC.

The Newspaper Contact Center Company  
JOHN PISA  
President  
2120 Collier Corporate Pkwy. • St. Charles, MO 63303  
Office 636.940.2200 • Fax 636.724.6911 • Toll Free 888.940.2200  
www.thepisagroup.com

### HOT OFF THE PRESS PROMOTIONS

#### "THE UMBRELLA KINGS"

For Pricing & Information  
800-203-5304 ext:222 fax: 386-255-1539  
www.hotoffthepress.com

#1 Supplier of Premiums & Promotions to the Newspaper Industry

### METRONews

NEWSPAPER TELESERVICES  
Eric Southward Vice-President  
972-227-6170 Fax 972-218-9609 918 N. Dallas Avenue  
www.metro-news.com erics@metro-news.com Lancaster, Texas 75146

### PICK A CARD ANY CARD

Your Logo Here  
PROMOTIONAL PHONE CARDS  
CALL Jerry Weinerth 800 329-0210  
www.APHONECARDGUY.com

"Your Total Newsrack Source"

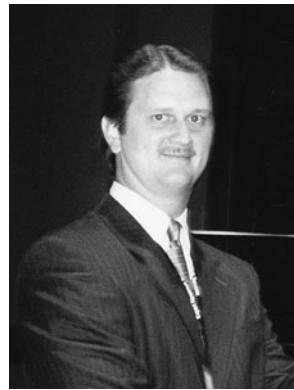
### CONTACT THE EXPERTS... EXPERT NEWSRACK SERVICES

P.O. Box 2249 Thomasville, NC 27361  
(336) 472-1178 • Fax (336) 472-3900



Drop in cards as low as \$11.88 per M (call for custom quote), rack cards, specialty products and much more...  
Your image is our business.  
PRINTSouth • ImPRESSION, Ink • Adventure Services  
1049 Jenkins Road • Charleston, SC 29407  
Ph 843/800.556.7081 • Fx 843.766.1654 • www.theprintinggroup.com

## FROM THE PRESIDENT: Jim Purdon



Hello all. In this period of winter and bad weather, I hope you are all having good luck with your carrier force and delivery staff in getting the newspapers delivered. Of course, we all know that skill, more than luck, plays a large part in our daily operation. With so many skilled circulation professionals in MACMA, it's hard to imagine having to turn to sources outside the organization for advice and training.

The MACMA website ([www.midatlanticcma.org](http://www.midatlanticcma.org)) now has an "Association Forum" that you may visit to post questions to other members dealing with home delivery, single copy, NIE and many other categories. This type of information sharing is what MACMA is all about.

Also, don't miss the "Conference Info" button on the left hand side of the home page to find out all the latest details of the upcoming conference in Winston-Salem. See you all there soon!

### Our First Amendment Right

*Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation, the publication would be of little value.*

Ex Parte Jackson  
Supreme Court of the United States

## Officers-Directors-Committees

### Officers

President: Jim Purdon  
Times-News, Burlington, NC  
1st Vice President: Tim Howard  
News and Record, Greensboro, NC  
2nd Vice President: John Hollenberger  
Free Lance Star, Fredericksburg, VA  
Convention Secretary: Earle Woodward  
The Item, Sumter, SC  
Secretary/Treasurer: Carol Mosely  
The Daily Herald, Roanoke Rapids, NC

### Directors

2004 - Frank Mastromarino, NC  
2004 - Scott Newcom, SC  
2004 - Thomas Bridges, VA  
2005 - Jim Puryear, NC  
2005 - Fred Greer, SC  
2005 - Ray Bruett, VA  
2006 - Kathy Tolley, NC  
2006 - Gary May, VA

### Committee Chairpersons

Entertainment: Jennifer Davidson  
Promotions: Kevin Hinterberger  
ABC: Brett Ray  
Diversity: Tim Krier  
Legislative: Tim Krier  
Research: Tim Krier  
New Technologies: Dennis Lenart  
Membership: Tommy Bridges  
Training: Frank Mastromarino  
Nominating: Don Wilson  
Bylaws & Resolutions: Danny Allen  
NIE: Gina Rogers  
Audit: Debra Morris  
Membership Roster: Dennis Lenart  
Buyer's Guide: Tim Howard  
NAA Liaison: John Beirne  
Bulletin Editor: Betty Howard

### Vendor Representatives

Gary Finley, Sho-rack

### TO SUBMIT BULLETIN ITEMS:

**Betty Howard** - The News & Record  
200 E. Market Street, Greensboro, NC 27401  
Phone (336) 373-7357 Fax (336) 412-5932  
E-mail: [bhoward@news-record.com](mailto:bhoward@news-record.com)

## LEGALLY SPEAKING: Litigation News From L. Mike Zinser, MACMA General Counsel (Continued from pg. 1)

use an "independent contractor information sheet" to collect information about prospective contractors? Do you use a written carrier handbook? Is the text independent contractor friendly?

D. Independent Contractor Accident Insurance: Are you making this available to your contractors? Is it voluntary? Who pays the premium? Are you doing a good job of explaining its value? These are critical questions to answer.

E. The Written Contract: This is a very key piece of the puzzle. When was this document last reviewed? Are all carriers operating under an effective written agreement? How would your contract stack up under the following factors usually reviewed when analyzing whether a carrier is an employee or independent contractor?

1. Carrier solicitation and delivery to customers outside the strict boundaries of his assigned territory.
2. Carrier's right to negotiate route boundaries.
3. Carrier's ability to charge a subscriber more than the Publisher's suggest retail price.
4. Carrier's right to negotiate the

wholesale rate charged carrier or right to negotiate contract fees paid carrier.

5. The fact that carriers, by contract, are financially responsible for any damages they cause while delivering newspapers.
6. The fact that the carrier's contract compensation fluctuates up and down, depending on the number of newspapers delivered.
7. Carrier investment of time and money to obtain new subscribers.
8. Carrier's right to cancel a subscriber for nonpayment of the bill.
9. Carrier's right to choose not to place newspapers in a tube.
10. Carrier's right to purchase polybags (or any supplies) from any source.
11. Carrier's right to decide if and when polybags will be used.
12. Carrier bears the risk of lost or stolen newspapers.
13. Carrier bears the risk of loss for unsold newspapers.
14. Carrier's obligation to furnish a bond to secure performance.
15. Carrier's right to determine when and how subscribers will be billed.
16. Carrier's right to collect in advance from subscribers.

17. Carrier's right to choose a substitute.
18. Carrier's right to decide what to pay his chosen substitute.
19. Carrier's right to deliver other publications.
20. Carrier's right to have a voice in the selection of bundle drop points.
21. Carrier's flexibility in meeting delivery deadlines.
22. The fact that carriers set their own working hours.
23. Carrier's obligation to handle subscriber complaints or pay Publisher in the event Publisher delivers a complaint.
24. Written contract indicating an independent contractor relationship.
25. A requirement that the Publisher give at least 30 days advance written notice in the "without clause" termination context.
26. Carrier obligation to purchase all insurance.
27. The fact that the Publishing Company furnishes to carrier no employee-like benefits (e.g. health insurance, vacation, et al).
28. Carrier's right to choose type of vehicle used for delivery.

See more *Legally Speaking* on pg. 4

## MACMA MARKETPLACE



Plastics Corporation  
Dallas Miami

Call Toll Free  
800-527-9459

Save time, money and headaches  
just lean on Hamilton

**HAMILTON CIRCULATION SUPPLIES**

Bill Thomas (843) 249-1270  
Toll Free 1-800-398-2427 • Fax (708) 946-3733



**BELLATRIX SYSTEMS**

The Leader in Single-Copy Sales Technology

Tel: 800-451-9753 [www.bellatrix.net](http://www.bellatrix.net)

**THE TELESPHERE Co.**

Formerly Levis National, Inc. - Serving Newspapers Since 1968

800-884-9511

"We Deliver More Homes To Your Newspaper"

Holly Halat  
PRESIDENT



Dick Levis  
C.E.O.

1. Cold Calling
2. P.L.A. Via Check By Phone Or Credit Card
3. Stop Saver Programs - Conversions
4. Newspaper In Education Experts
5. Latest Predictive Dialing Systems
6. Small Enough To Listen, Large Enough to Produce
7. Deal Only With Company Owners
8. Finest References
9. All Orders Called A Second Time And Verified
10. Over 30 Years Experience
11. We comply with all national and state do not call requirements.
12. Check out our website [www.telesphere1.net](http://www.telesphere1.net)

"We Deliver More Homes To Your Newspaper"



**MARATHON MARKETING CORPORATION**

136 Redleaf Court • Post Office Box 1054  
Kilmarnock, VA 22482-1054 • (804) 435-2744

## MACMA MARKETPLACE

**Sho-Rack Service Center-Southeast**

Rack Refurbishing  
Lake City, Florida  
1-800-527-1134

Graphics that deliver your message

**MDCGRAPHICS™**

A Subsidiary of Motorsports Designs

Vehicle Graphics - Custom Decals - Banners & Signs  
Floor & Sidewalk Graphics - Newsrack Decals  
(336) 454-1181 FAX(336) 454-2222 [MOTORSPORTSDESIGNS.COM](http://MOTORSPORTSDESIGNS.COM)

**WILSON GREGORY AGENCY, INC.**

SPECIALIZED ACCIDENT INSURANCE AND SURETY BOND  
PROGRAMS FOR INDEPENDENT CONTRACTORS SINCE 1923

PHONE: 717-730-9777

FAX: 717-730-9328

E-MAIL: [info@wilsongregory.com](mailto:info@wilsongregory.com)

2309 MARKET STREET

P.O. BOX 8 (17001-0008)

CAMP HILL, PA 17011

Manufacturing quality products since 1898

**SHO-RACK BY KASPAR WIRE WORKS**

Box 1127, Shiner, Texas 77984  
(361) 594-2911 OR 1-800-527-1134  
Fax (361) 594-4264

**G & V Campbell, Inc.**

154 Whitney Street, Eatonton, Georgia 31024  
Phone 706.484.1872 • Fax 706.484.4768

[gvcampbellinc@aol.com](mailto:gvcampbellinc@aol.com)

The source for all of your circulation needs!



Specializing in:  
Imprinted promotional products and  
coordinated incentive programs

Call toll free  
1-800-418-7771

Tel (617) 566-7771 Fax (617) 277-2208

Ken Dantzig  
Jeff Hattem  
PO Box 1711  
Brookline, MA 02146-0014