



TO: Minnesota Attorney General's Advisory Task Force on Worker Misclassification

RE: Comments of Minnesota Newspaper Association on Worker Misclassification Issues

The Minnesota Newspaper Association (MNA) is a voluntary nonprofit trade association that acts on behalf of all general-interest newspapers and most of the special-interest newspapers in the state. It is the principal representative of the organized press in Minnesota, with approximately 300 newspaper members. MNA through its members represents a large percentage of Minnesota's professional news organizations and journalists.

MNA submits these comments in order to provide the Task Force with information about the way in which newspapers use independent contractors, and how important they are to the operation and viability of contemporary newspaper businesses.

Without question, virtually every newspaper in Minnesota relies to some extent on independent contractors to perform many functions related to the collection and preparation of news and advertising, and to the distribution of the printed publication. In order to better illustrate this, MNA reached out to newspapers throughout the state, requesting examples of their experience with independent contractors. Below we have summarized a representative cross-section of their responses. In those responses, there are occasional references to "freelancers," which is the term often given to reporters and photographers working in journalism as independent contractors.

Steve Jameson

Publisher, The Free Press (Mankato)

We have a big group of freelance writers and photographers that work with us - we have more than 40 freelancers that we work with. Some of them are retired journalists looking for extra money. Some of them are Minnesota State University students looking to hone their writing or photography skills. Some only write one story per month and some write one or more stories per week. Some of our freelance sports writers work during a specific sports season. It is up to each individual. We don't ask them how long it took them to write their story or take the photos (and for most of them, it is only an hour or two of work.) They bill us for each piece, and we pay them as a contractor. It is a good relationship that works well for The Free Press and for our freelancers.

The Free Press in Mankato is one of only three newspapers in the state that still prints a physical paper seven days per week. We couldn't deliver these papers without our independent contractor carrier and hauler force. We have 65 independent contractor carriers that have negotiated contracts on file with us to deliver our newspapers nightly. Most of them only work 2 or 3 hours per night. These are primarily folks with full time day jobs who like to contract with us to make extra income. Some are students who do the work to help pay for college.



Each route is different, and each contractor chooses how to get their papers delivered. Some even sub-contract routes to friends and relatives and work as teams to complete their routes. As long as they are delivering our papers per contract, they are free to choose how they do that.

The current independent contractor laws work in our industry so it doesn't make sense to make changes that would negatively impact newspapers and those that contract with us. Nobody is being taken advantage of.

Around 80% of our contractors and freelancers are retired people who like to take on jobs at their convenience. If we had to manage all of these people as employees, we simply could not. We'd have to switch our newspaper delivery to mail carrier. Sixty-five people would lose their contracts and the income that goes with it. Instead of 40-plus freelancers, we would have to cut back on the news and events we cover, to the detriment of our readers and those freelancers.

The reclassification of independent contractors and freelancers in the newspaper business would absolutely create a problem for both newspapers and the Minnesotans who work with us as independent contractors.

Chad Koenen

Owner and Publisher of the Frazee, Henning, Sebeka, and New York Mills Newspapers

The use of independent contractors is instrumental in helping the newspaper industry function on a daily and weekly basis. My wife and I own and operate four small weekly newspapers in rural Minnesota, and we rely on the contributions of independent contractors to cover the events in our community, which has worked out well for both the independent contractors and our business.

Currently we have independent contractors who cover a variety of work as they are able and willing to do it. For example, the weekly newspapers in our county have an independent contractor/reporter who writes stories about our county government for each newspaper in our county. They work out specific agreements with each newspaper individually. This arrangement has worked wonderfully for a number of years for everyone involved. It fills a big coverage gap in our communities, as our county seat is about 45 minutes away from the offices of most of the newspapers; it has allowed us to keep our residents informed about the happenings in our county government, decisions that affect our everyday life.

When this agreement was originally reached several years ago, we spoke with the independent contractor about becoming an employee at one of our newspapers. They immediately rejected that offer, saying they wanted to remain independent so they would be able to work when they wanted. They were retiring at the time and said being an independent contractor would also allow them flexibility to be able to work for other newspapers and businesses as they saw fit.

In addition to our county reporter, our publications use a variety of other community members as independent contractors, who take photographs of specific events and write stories about subjects they are interested in.

These contractors have a variety of motivations, from simply doing work they enjoy on their own schedule, to building a resume. A number of them are retired.



Our freelance writers are able to write stories about subjects they want to, when they want to, and of whatever length they choose. Once they submit their article to us, they are also able to shop the story to other newspapers they feel might be interested in it.

I want to emphasize how important the independent contractors are for small newspapers like ours.

Aaron Becher

Vice President of Newspapers, Forum Communications Company (operates newspapers in 15 MN communities including Duluth, Rochester, St. Cloud, Willmar & Worthington)

Independent contractors fulfill important roles in key areas of our business at Forum Communications Company. We utilize the services of a couple dozen independent contractors to assist with circulation and distribution of printed materials throughout our network. The flexibility extended through these relationships ensure product is delivered during non-peak hours while simultaneously fitting best with the schedules of our independent contractor base. These functions would be more difficult to staff with employees due to the irregular nature of the duties that need to be fulfilled.

All of our Forum Communications newspapers and websites rely on freelance writers and photographers to maintain quality local products. Across the company we work with around 100 freelancers, each having a different specialty or expertise. Given the nature of their work, it would not be feasible to fill these roles with employee positions. As a result, we would see a large decrease in the volume and variety of content we offer, further contributing to the decline statewide in available news and information available to the public

Justin Lessman

Publisher, Jackson County Pilot

In the past several years, it has become increasingly difficult to find qualified and interested people willing to work as full- or part-time employees for our newspaper operation. Accordingly, out of necessity, our newspaper is relying more and more on independent contract/freelance workers to provide news and photographic coverage of our community. This independent contractor/freelancer arrangement is critical to helping our newspaper provide the comprehensive coverage of the community that our readers deserve and expect.

Conclusion

Based on the experiences of Minnesota's newspapers, the state's independent contractor laws are working as intended in our industry. Independent contractors have long been an important part of the news workforce, as utilizing them allows newspapers to engage the right person with the necessary skills and availability to complete each assignment. This is especially critical for small newspapers that would not otherwise be able to provide vital local news coverage without the ability to contract with freelancers. We believe these comments align with the testimony you heard from freelancers, some who were writers and editors, over the course of your meetings. We understand the Task Force has heard about abuses in other industries and appreciate your



review of Minnesota law in this area. We respectfully ask that you take a very focused approach to address those situations in order to avoid unintended consequences for Minnesota's newspapers, the many independent contractors we work with, and the public.

Having followed the meetings of the Task Force, we understand you are reviewing ABC tests used by other states and may recommend Minnesota adopt a similar approach. The MN Newspaper Association has particular concerns about the second factor ("B") used in some of these tests. Given that the core of a newspaper's business is reporting the news, the work done by freelance writers, editors, and photographers could be considered "the usual course of business". As described in the comments above, losing the ability to work with independent contractors would be devastating to Minnesota newspapers and to our communities that depend on trusted local news organizations. MNA hopes we can collaborate with the Task Force and the legislature to ensure any new statutory test or other law changes maintain the ability for newspapers to continue to engage independent contractors.

We appreciate your desire to ensure workers are treated fairly across the economy in Minnesota. With such a complex issue as this is, we ask that you are deliberate in your recommendations to avoid potential harm to Minnesota's newspapers and the independent contractors they work with.

We appreciate your consideration of our views and concerns. If you would like additional information, please contact me and we will be happy to provide it.

A handwritten signature in black ink that reads "Lisa Hills".

Sincerely,

Lisa Hills, Executive Director
Minnesota Newspaper Association