



ZINSERGRAM

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NORTH CAROLINA PUBLISHERS MOBILIZE AGAINST INDEPENDENT CONTRACTOR THREAT

For over a decade, North Carolina newspapers have enjoyed a legislative presumption of independent contractor status under the state's Workers' Compensation law. This is a tremendous advantage for newspapers in Workers' Comp litigation. In fact, since the passage of this legislative presumption, there has been little – if any – challenge to independent contractor status under the state's Workers' Compensation law.

Earlier this year, legislation was introduced into both Houses of the Legislature to not only repeal the legislative presumption, but to also add independent contractor "unfriendly" language to the statutory test for independent contractor status.

Under the leadership of North Carolina Press Association President Regina Glaspie, Publishers mobilized to oppose this legislation. Publishers attended legislation sessions in person, and reached out to legislators via telephone, e-mail, and social media. A full-court press occurred.

At least one newspaper editorialized against the bill, making a First Amendment argument:

At risk of sounding paranoid, it seems the most recent Senate changes to H.B. 42 target only newspaper publishing. In fact, newspapers have been a frequent Senate target in the last couple sessions, including a measure that added a tax on newspaper sales, a move that also impacted newspaper customers. We strongly suspect that the moves are in retaliation for stories or editorials political leaders neither like nor agree with. Such actions are the antithesis of an unfettered press granted by the U.S. Constitution.

On September 29, 2015, the Publishers were successful – the bill died at the end of the legislative session.

As General Counsel to the Mid-Atlantic Circulation Managers Association (a newspaper circulation trade association for North Carolina, South Carolina, and Virginia), I advised and assisted the North Carolina Press Association during this important fight, urging the Publishers to make the First Amendment arguments. Following the recent victory, Glaspie noted, "Thanks for all of your help. You were here with us for our long battle."