



**CONTROVERSIAL PROPOSAL:** John S. Martel of Farella, Braun & Martel, left, and solo practitioner Ralph Alldredge

have the task of handling the nation's first joint operating arrangement involving a weekly and a daily newspaper.

RUSS CURTIS / THE RECORDER

# When 1 and 1 Is Less Than 2

## Opponents Claim Newspapers' JOA Will Amount to Monopoly

BY SIGRID BATHEN  
RECORDER CAPITAL CORRESPONDENT

MANTECA, Calif. — A proposed "joint operating arrangement" between the failing News and the hardy Bulletin in this San Joaquin County community has generated one of the most heated debates over free enterprise in the newspaper business since the operational merger of San Francisco's major dailies more than two decades ago.

The proposed agreement — which has received national publicity and is expected to be filed imminently with the U.S. Justice Department — would be the first use of a joint operating arrangement (JOA) involving a weekly and a daily.

Opponents, mainly outspoken San Francisco Bay Guardian Publisher Bruce Brugmann, say the agreement will stifle true competition and deter smaller papers from taking on larger publications in cities across America.

Opponents say the 1970 Newspaper

Preservation Act, under which the JOA will be filed, was designed to save competing dailies in metropolitan markets and was never intended to apply to small publications.

Determined to block the Manteca JOA, Brugmann has formed the Committee to Preserve the Free and Independent Press in California and is making the rounds of professional newspaper groups with a resolution demanding that hearings be held on the proposed arrangement.

Thus far, he has failed to get his point across to mainstream editors and publishers. The California Newspaper Publishers Association board of directors, of which he is a member, narrowly opposed his resolution: 13 to 10, as did the board of the California Society of Newspaper Editors, 7 to 1.

The resolution has the support of the Association of Alternative Newsweeklies, Brugmann said, which includes 10 California weeklies with a combined circulation of more than 1 million.

But Brugmann, who has long battled the 24-year-old Chronicle-Examiner JOA, and opposed the 1970 law, is undeterred by the lack of widespread support. He says he formed the irreverent Bay Guardian (controlled circulation of 65,000) 22 years ago "expressly to compete editorially with the dominant newspaper combine" of the Chronicle and Examiner.

Brugmann contends that the proposed Manteca JOA, if approved by the Justice Department, would carry a tenuous legal principle to an absurd extreme.

"This is brutal stuff," says Brugmann. "This proposal would allow the big out-of-state daily to merge like a cat with a canary with the small, locally owned paper. It's another weapon for the monopoly press to wipe out what little competition exists in most California and American communities.

"It's tantalizing," he added. "It guarantees [the failing paper] a small profit forevermore. And it guarantees that an

SEE PAPERS' PAGE 7

# apers' JOA Sparks Charges Of Monopoly in Manteca News

CONTINUED FROM PAGE 1

ever-larger chunk of money from Manteca, in the form of monopoly advertising charges, will go on a conveyor belt forever to corporate headquarters in Georgia."

The farming community of Manteca, with a population hovering around 40,000, is a most unlikely location for litigation with national implications for the economics of newspaper competition.

Rapidly growing as a suburban enclave for workers in Modesto, Stockton and some nearby Bay Area communities such as Fremont and Livermore (San Francisco is about an hour away), the town for decades only had one newspaper — until 1977, when a wealthy local developer decided to start the Manteca News.

Antone E. Raymus, owner of Raymus Development and Sales, has sunk untold millions into the newspaper, which is published twice weekly and has never made a profit. His competitors say he has spent \$10 million to \$12 million over the past decade to keep the ailing weekly alive.

Raymus says his only intent when he formed the News in 1977 was "to give the local community a local newspaper with local news."

The longtime family-owned Bulletin, founded in 1908 as the "Irrigation Bulletin," was sold in 1972 to the Savannah, Ga.-based Morris Newspaper Corp., which owns newspapers and television stations in nine states. After purchase by the chain, Raymus said he "didn't feel the community was getting local news."

"[The Bulletin] was a completely different paper, no longer a local paper giving service, [such as] news of clubs," said Raymus, who was born in Manteca 71 years ago and attended local schools. "It was a disaster. We shouldn't have gotten into it, but we felt something was needed. My attorney tells me I have to get out of it, and this [the JOA] is the only way."

"I hope this thing works out," he mused. "I planned to do a job for my community, and I took a big loss. Our intentions were good, and we hope to keep our paper. It hasn't worked out the way I thought."

Raymus blames Darell Phillips, a former Modesto Bee sports editor and a member of the Murphy family that had owned the paper, for many of his troubles. Raymus hired Phillips, who had been with the Bulletin from 1959 until 1965 when he was hired by the Bee, to start the News in 1977.

Disagreements over editorial content and management of the paper began almost immediately. "We didn't see eye-to-eye on running a newspaper," Phillips said cryptically.

Phillips said Raymus was more interested in a forum for his conservative viewpoint than in publishing a newspaper to compete with the Bulletin, whose daily paid circulation is 6,500 (The News goes free to 19,000 homes on Wednesdays and to 5,000 paid subscribers on Fridays).

Brugmann said Raymus started the paper "out of spite," and should sell it or hire a professional newspaper consultant to help him run it. "If he folded, then somebody else could come in who was serious about putting out a paper," he said.

One high-placed source in California newspaper publishing, who asked not to be identified, said Raymus was "like a lot of others who start newspapers on an ego trip and find it isn't as easy as they thought."

Since 1979, when Phillips returned to the Bulletin, the two publishers have been engaged in an old-fashioned newspaper feud. The two papers are literally across the street from each other — on Yosemite Street, Manteca's main thoroughfare — and animosity between the two has been keen.



BRUCE B. BRUGMANN: "This is brutal stuff. This proposal would allow the big out-of-state daily to merge like a cat with a canary with the small, locally owned paper. It's another weapon for the monopoly press to wipe out what little competition exists in most California and American communities."

"There were real strong feelings and all those traditional newspaper-feud kinds of things," recalled Michael Dorais, executive director and general counsel for the California Newspaper Publishers Association (CNPA). "It's been very divisive, with ramifications far beyond Manteca."

"You can't have that kind of litigation without it becoming personalized and some level of animosity surrounding it," said San Francisco lawyer Ralph Alldredge, who represented the Bulletin in its successful antitrust suit against the News.

During the lengthy trial, the Bulletin suffered \$160,000 in damages from a fire that was ruled of "suspicious origin," according to the fire department. The paper continued to publish from mobile homes set up on the site. Another fire several weeks later — also ruled to be arson — broke out in the paper's circulation offices across the street, but damage was considerably less than the earlier fire.

In the negotiations for the JOA, Raymus is represented by San Francisco attorney John S. Martel of Farella, Braun & Martel, who defended the San Francisco Chronicle and Examiner in a suit against their JOA in 1981 and is a nationally recognized expert on the Newspaper Preservation Act. He said the Manteca agreement is "still being negotiated among the parties — previous reports of its existence are somewhat exaggerated."

Martel said the JOA application is going to be filed, probably within the next few weeks. He insists the proposed agreement clearly falls within the meaning of the Newspaper Preservation Act, because it will "preserve multiple editorial voices [which would otherwise] be silenced through bankruptcy."

He said the editorial department of the News would remain independent — a requirement of the act — while both papers would be printed at the Bulletin and the advertising and circulation departments of both run by the Morris Corp.

Although complete details of the proposal have not been finalized, Raymus would receive \$120,000 a year or 4 percent of the two papers' gross revenues, whichever is greater. The jobs of The News' editorial staffers would probably remain intact, but layoffs are expected in the advertising and circulation departments.

"There will be separate editorial products, which is something Mr. Brugmann and others tend to overlook," Martel said. "Anyone who reads those two papers can see that they are entirely separate and indeed competing editorial voices. In Manteca it is particularly im-

portant that this second voice be heard. Although the Bulletin covers local news, it is a chain-owned newspaper which focuses more on national news."

Martel said he does not expect any difficulty in obtaining approval of the application once it is filed with the Justice Department. "I don't expect anyone in the community would oppose this," he said. "It's the outsiders who are trying to protect their own interests who will be the most vocal."

The Bulletin is represented by San Francisco solo practitioner Ralph Alldredge, a business lawyer who also represented the paper in its successful antitrust suit against Raymus. Alldredge disputes Brugmann's view that the Manteca JOA would be bad precedent.

"If it does generate a spate of (JOA) applications, that would be good, not bad," Alldredge said. "The people who oppose it start from a wrong premise, that if you don't have JOA's between newspapers in small towns like this as an alternative, you'll have all of these newspapers published and owned independently. In fact, what history tells us is that in these markets there is a tremendous amount of economic concentration without any check or limit whatsoever. "The market just isn't large enough to support two healthy newspaper operations. One wins, and the other loses and disappears. With the JOA, you have that economic concentration but you preserve editorial independence and diversity."

The CNPA's Dorais said he doubts the Manteca JOA, if approved, will prompt a rush of such applications in other communities.

"There aren't that many places anymore where you have two newspapers, so I don't think it's going to open up a floodgate," Dorais said. "What you've got in Manteca is a pretty unusual situation. You have two competing newspapers, which is pretty unique nowadays."

Opponents of the Manteca JOA say it will discourage competition in communities with dailies and competing weeklies. "Why should the government be allowed to come in and essentially license another newspaper because one can't buy another?" Brugmann asked. "There is no reason for a small community to have this media hammerlock from a corporation in Georgia."

He said the Manteca JOA will effectively silence any feisty but perhaps underfunded competition, hobbling "community papers [that] are springing up all over because the dailies are so boring."

"This is exactly what all of us feared when this legislation [the Newspaper Preservation Act] came about in the 1970's," Brugmann added. "This gives another weapon to the local big paper — to either come in and hit you directly, or get a competitor and hit you from the side. "And they're going to the government to do it."

## Expert Analysis and Testimony in Ergonomics and Human Factors Engineering

- Product Liability
- Human Error/Machine Design
- Failure to Warn
- Trip and Fall
- Equal Opportunity for Hiring and Pay

• David A. Thompson, PhD

Stanford, CA

(415) 494-3304