Avoiding the Unexpected: 
A Ghostwriter and Her Lawyer Look Back

Justice Department Sues Apple and Publishers

Members Re-Elect Scott Turow; 
Vote to Open Door to Self-Published Writers
LETTERS TO THE EDITOR

Bookstores stimulate sales of books. They enable browsing and encourage impulse buying. The existence of multiple bookstores is to the direct advantage of publishers. Why can’t the major publishers come up with a plan to help bookstores stay in business? A flexible franchise arrangement, perhaps?

—Henry Bauer
Blacksburg, VA

In a recent issue of the Bulletin President Scott Turow suggested that, "The online publication of books, albeit for free, means that first-time authors who can’t interest a traditional publisher will have a chance to disseminate their work." Back in the heyday of the labor movement in the late 19th and early 20th century, under-cutting workers was known as "scabbing" and those who did it were termed "finks." How the hell does Mr. Turow expect me to sell my books in the face of writers who are willing to give their books away? It is understandable that writers who can’t produce work that people are willing to pay for will be unhappy.

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ALONG PUBLISHERS ROW

BY CAMPBELL GEESLIN

Penelope Fitzgerald, a best-selling, prize-winning author of more than a dozen books, died in 2000 at the age of 83. A collection of her essays, reviews and literary criticism has been published under the title The Afterlife.

In an essay entitled "Why I Write," Fitzgerald explained: "I write to make money. I think that, even today, the most widely held view of the writer is of one who created something, and even makes money out of it, starting from almost nothing, using memory, imagination, time, making marks on paper. He begins by dying of starvation in a garret, then he buys himself a word processor and soon he finds himself needing an accountant. In the eyes of the public he must be either a magician or a fraud. But the unfounded reputation does not upset the writer unduly. In a world full of dangers it is comforting to be considered, even wrongly, a crafty so-and-so."

Her novel Offshore won the Booker Prize in 1979.

SURPRISE: The headline ran across the top of a page in The New York Times: "E-Books, Shmee-Books: Readers Return to the Stores." Just before Christmas, reporter Julie Bosman discovered that bookstores were having "surprisingly strong sales."

The American Booksellers Association said that members saw a sales jump of 16 percent in the week including Thanksgiving, compared with the same period a year ago. One surprised bookseller in Connecticut said, "Somehow, this year, people are back to thinking of books as an appealing gift."

BEAUTIFUL BOOKS: British author Julian Barnes once called the prestigious Booker prize "posh bingo." This year his 11th novel, The Sense of an Ending, took the $78,000 top prize. He had been nominated for the award three times before.

The Guardian quoted remarks that Barnes made at the presentation: "Those of you who have seen my book, whatever you think of the contents, will probably agree it is a beautiful object. And if the physical book, as we’ve come to call it, is to resist the challenge of the e-book, it has to look like something worth buying, worth keeping."

HOW IT STARTED: Guild member Vince Waldron screened a couple of episodes of The Dick Van Dyke Show at Hollywood’s Egyptian Theater last fall. It marked the publication of Waldron’s revised and updated Official Dick Van Dyke Show Book. It was the show’s 50th anniversary.

Among the 600 who showed up were stars Van Dyke, Rose Marie, Larry Mathews and the show’s creator, Carl Reiner.

Van Dyke gave an a cappella rendition of the show’s theme song. Then Carl Reiner explained where

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SHORT TAKES

Print Sales Continue to Fall as E-Books Take Off

Sales of print books fell by more than 9 percent in 2011, double the drop in print sales in 2010, according to Nielsen BookScan. Adult fiction and mass market paperbacks took the hardest hit, plunging by almost 18 percent and 36 percent respectively, compared to juvenile fiction and all nonfiction drops in the 3 to 5 percent range.

The demise of Borders and the growth of the e-book market were the main causes of 2011’s print losses, according to Publishers Weekly, with Borders’ bankruptcy proving of little benefit to its surviving rivals. Though sales for brick-and-mortar bookstores were down by less than one percent for the entire year, a somewhat smaller dip than expected, the downward trend accelerated after the last Borders store was shuttered: declines of 6 percent in October and 8 percent in November were followed by a whopping 15.6 percent plunge in December.

E-book sales, meanwhile, continued to soar, increasing by 117 percent in 2011 and earning publishing houses a collective $969.9 million, according to the Association of American Publishers.

Booksellers Remove Amazon Publishing Titles

On January 31, Barnes & Noble announced that it would stop selling Amazon Publishing titles in its stores. The decision was a response to Amazon’s continued push for exclusivity with the publishers, agents and authors it represents, Barnes & Noble said in a statement, adding that Amazon’s actions “have undermined the industry as a whole and have prevented millions of customers from having access to content.”

Within days, Indigo Books and Music, Books-A-Million and the American Booksellers Association’s IndieCommerce website joined the boycott, announcing that they would stop selling Amazon Publishing’s e-books.

Amazon Pulls “Buy Buttons” from 4,000 E-Books

On February 21, Amazon removed all Independent Publishers Group (IPG) e-books from its online Kindle store. IPG, whose contract was up for renewal, had objected to Amazon’s draconian new sales terms. More than 4,000 titles were affected. IPG president Mark Suchomel broke the news to clients in a February 21 e-mail obtained by the online newsletter Publishers Lunch.

“Amazon.com is putting pressure on publishers and distributors to change their terms for electronic and print books to be more favorable toward Amazon,” Mr. Suchomel wrote. “Our electronic book agreement recently came up for renewal, and Amazon took the opportunity to propose new terms for electronic and print purchases that would have substantially changed your revenue from the sale of both.

“It’s obvious,” Mr. Suchomel continued, “that publishers can’t continue to agree to terms that increasingly reduce already narrow margins . . . I’m not sure what has changed at Amazon over the last few months that they now find it unacceptable to buy from IPG at terms that are acceptable to our other customers.”

Amazon’s action was tantamount to saying “take it or leave it,” some critics noted.

“This should be a matter of concern and a cautionary tale for the smaller presses whose licenses will come up for renewal,” agent and former bookseller Andy Ross told The New York Times. “They are being offered a Hobson’s choice of accepting Amazon’s terms, which are unsustainable, or losing the ability to sell Kindle editions of their books, the format that constitutes about 60 percent of all e-books.”

Microsoft Invests $300 Million in Barnes & Noble’s Nook

At the end of April, Microsoft announced that it had acquired a 17.6 percent stake in Barnes & Noble’s Nook e-reader business, which has been turned into a new subsidiary. In exchange for an investment of $300 million, Microsoft bought the right to introduce a Nook app for Windows 8, the upcoming version of its operating system.

The deal places Barnes & Noble, the leading brick-and-mortar bookseller, in a better position to compete in the e-book business against Amazon. Amazon now controls about 60 percent of e-book sales through its Kindle, and Barnes & Noble has gained about 27 percent of the market through its Nook. In the wake of the announcement, the Nook subsidiary was valued at $1.7 billion, more than twice the value of Barnes & Noble stock. Authors and traditional book publishers, take heart.

Swiss Reject Referendum on Fixed Book Pricing

Swiss publishers celebrated last year when their Parliament approved a fixed price system for books sold in German-speaking Switzerland. But when the proposal was subjected to a public referendum in March, the citizens voted it down by a 58 percent majority. Booksellers in Switzerland, as in the United States, are allowed to set their own prices for books; a fixed price system would have forced all sellers, regardless of size, to charge the same price for books.

A number of European countries have laws mandating fixed book prices.

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Re Apple Inc. and the big trade publishers colluding to manipulate the market in electronic books? The U.S. Justice Department seems to think so, and is said to be near filing an antitrust lawsuit. Let’s hope it doesn’t: Putting an end to the deal Apple and the publishers have reached on selling e-books would be grim news for authors and readers alike.

The Justice Department has been investigating whether the publishers colluded in adopting, for the sale of e-books, the same “agency model” pioneered by Apple in selling iTunes. Under that setup, Apple acts as the publishers’ sales agent, taking a cut (usually 30 percent) and leaving it to publishers to set the prices of the e-books they publish.

I have no way of knowing whether the publishers colluded. My friends in publishing insist that price was never part of the discussions, but the Justice Department prosecutors seem to think they have a compelling case. All I can say as an author—and as president of the Authors Guild, the nation’s largest membership organization of professional book writers—is that if the government wants to intervene in the literary marketplace, I hope it will consider the complex ecology of bookselling in the U.S.

Because if we reinstate the status quo before Apple’s agency-model breakthrough, then bookstores and publishers are going to be the first casualties. Right behind them will be readers, who will see the diversity of titles and authors diminish while leading titles get more expensive.

Originally published in Bloomberg View 2012. Reprinted with permission. The opinions expressed are those of the author.

Bookselling Darth Vader

Looming over this whole discussion is, of course, Amazon.com Inc., which I consider the Darth Vader of the literary world. I admire its success in creating a new, wildly successful business model, but it has a deserved reputation as a frequently unscrupulous competitor. Last December, for example, Amazon infuriated retailers for products such as electronics and DVDs when it encouraged its customers to enter brick-and-mortar stores to gather pricing info on items that Amazon then promised to sell them at a discount.

When it comes to books, Amazon has often used its huge market power to further increase its influence. Some analysts project that Amazon will own more than half the U.S. book business across all formats by the end of this year. Not only does Amazon have 75 percent of the market in online sales, but it is spreading its tentacles to other areas. It now owns Audible .com, the largest seller of downloadable audio books, and BookSurge, an on-demand printer of self-published and other books offered by publishers only as individual copies. Last May, Amazon announced it was launching Amazon Publishing, headed by the re-doubtable industry veteran Larry Kirshbaum, to compete hand-to-hand with the publishers.

Competitors fear that Amazon will use its very deep pockets to buy up the most profitable authors, whose success generally supports trade-book publishers’ other titles.
growth of e-books and young adult titles, publishing remains an industry dominated by pessimism and uneven revenues.

Bricks, Mortar, Failure

Chief among the reasons is the death spiral of the traditional brick-and-mortar bookstore. The discounting of bestsellers by the large chains destroyed the financial underpinnings of independent stores, and the rise of online bookselling, led by Amazon, cut the legs off the chains, with Borders Group Inc. closing all of its doors last year and Barnes & Noble Inc. struggling to survive.

Amazon initially achieved e-book market dominance by doing two things: publishing new digital titles at the same time they were released in print, and selling them at a loss—at $9.99, they were often several dollars less than what publishers charged Amazon, which inhibited bookstores and other online retailers from selling e-books.

Without real competition, Amazon has historically made suppliers knuckle under. Last month, it pulled from its site all e-books offered by the Independent Publishers Group, a collection of small publishers, because IPG balked at Amazon’s terms when its contract came up for renewal. In the print-on-demand market, where Amazon’s platform has become the principal sales venue, Amazon has demanded that smaller publishers use BookSurge at higher prices than competitors charge, or else have their “buy” buttons disappear from Amazon.com.

Given all of this, publishers and authors saw a situation approaching where Amazon was the dominant publisher and seller of books, increasing profits by offering fewer titles at higher prices. Enter an unlikely white knight: Steve Jobs.

The iPad—unveiled in January 2010, shortly after Barnes & Noble’s Nook became available—made Apple’s proven iTunes- and apps-agency model for digital content relevant to book sales. Five of the largest publishers jumped on with Apple’s model, even though those publishers knew they would make less money on every e-book they sold through Apple than Amazon was paying them. (Which shows that the alleged price-fixing conspiracy is one of the oddest in history, since it was, by the government’s logic, collusion to lose money.)

Amazon responded with a typical show of power. When John Sargent, the chief executive officer of Macmillan Publishing, went to Seattle in that month to tell Amazon executives about his company’s adoption of the agency model, Amazon pulled the buy buttons for every Macmillan title on its site—not just e-books—for a week. Yet now, it seems, the government is taking Amazon’s side.

Diverse Literary Culture

As someone lucky enough to be a best-selling author, I have personally profited from many of the tactics I am decrying. The heavy discounting of bestsellers meant I sold more books and thus made more money because royalties on physical books are paid as a percentage of the cover price. Even Amazon’s e-book pricing practices were better for me than the agency model.

But I am also a reader who believes that our literary culture and our democracy are at their best with the greatest diversity of voices. This comes from allowing the largest number of authors possible to maintain careers as professional writers.

Physical bookstores offer not simply an intoxicating experience for serious readers. They have an irreplaceable role in introducing new writers. Market research consistently shows that readers are far more adventurous in their choice of books when in a bookstore than when shopping online. In bookstores, readers are open to trying new genres and new authors: It’s by far the best way for new works to be discovered.

Publishing shouldn’t have to choose between bricks and clicks. A robust book marketplace demands both bookstore showrooms to properly display new titles and online distribution for the convenience of customers.
role in broadening American literary culture. They add value for authors with editing and marketing, and most importantly by advancing the money so that writers can write. If publishing ultimately goes under, to be replaced by a model in which authors sell their books directly to the reading public online, it will become a winner-take-all fiasco in which the best-known authors make enough to live between books and new authors have a far harder time breaking in. Not all writers are blessed at self-promotion; ironically, success in an introvert's calling would depend even more on extroverted behavior.

**Competition Is Rising**

That is why the government's apparent decision to sue the publishers and Apple seems so shortsighted. Two years after the agency model came to book-selling, Amazon is losing its chokehold on the e-book market: Its share has fallen from perhaps 90 percent to roughly 60 percent. It has real competitors in iPad's bookstore, Barnes & Noble's Nook, and the partnership between brick-and-mortar bookstores and Google Inc.'s Google Books. Even direct-selling authors have benefited, as Amazon doubled its royalty rates rather than lose titles.

All of this looks like a more robust and competitive market, as opposed to the world we will be left with if the Justice Department paves the way for Amazon to return to its predatory practices.

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**“Through the Looking Glass”— Scott Turow on Proposed Settlement**

On April 12, the Guild released the following statement by Scott Turow on the Justice Department’s Proposed Settlement of its Antitrust Action.

The proposed settlement is a shocking trip through the looking-glass. By allowing Amazon to resume selling most titles at a loss, the Department of Justice will basically prevent traditional bookstores from entering the e-book market, at the same time it drives trade out of those stores and into the proprietary world of the Kindle. The settlement provides a gigantic obstacle to Amazon’s competitors in the e-book business by allowing Amazon to function without making a profit, something that leaves that market forbidding to anyone else who might think of entering, and a bad business for those already there.

Today’s low Kindle book prices will last only as long as it takes Amazon to re-establish its monopoly. It is hard to believe that the Justice Department has somehow persuaded itself that this solution fosters competition or is good for readers in the long run.

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**Doonesbury Takes a Look at Modern Journalism**

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Publishing’s Ecosystem on the Brink

A version of this article was sent to members on January 31, 2012, and can also be found on the Guild’s website, authorsguild.org/advocacy.html. It has been updated for this issue.

Subtlety is out. Bloomberg Businessweek’s January 25th cover showed a book engulfed in flames. The book’s title? “Amazon Wants to Burn the Book Business.” A towering pile of books dominated the front page of The New York Times’ Sunday Business Section on January 29. The pile started well below the fold (print edition), broke through the section header at the top of the page, and leaned precariously to one side. Books were starting to tumble off. “The Bookstore’s Last Stand,” read the headline.

These stories pretty well capture the state of book publishing: This appears to be no ordinary, cyclical crisis that future authors and publishers will shrug off. To understand how the book industry got into this predicament, however, a broader perspective may be needed. Harper’s February cover story provided that by discussing a fundamental shift in the federal government’s approach to antitrust law that has affected bookselling and countless other industries. To our knowledge, it’s a story that hasn’t previously been told in a major periodical.

We’ll get to that in a moment. First, let’s set the stage with the other two stories.

Burning Down the Houses

Brad Stone’s Businessweek article discusses Amazon’s campaign to prevent other booksellers from securing a foothold in the booming e-book market and the company’s furious reaction to Random House’s decision in March 2011 to adopt agency pricing for e-books, as five of the other “Big Six” trade publishers had the previous year. (Before agency pricing, Amazon could sell e-books from Big Six publishers at deep discounts, taking losses at a rate that Barnes & Noble could never afford to match. [See “How Apple Saved Barnes & Noble,” in the Fall 2010/Winter 2011 Bulletin or at authorsguild.org/blog for more.]

Stone writes that after Random House’s agency-pricing announcement,

Amazon could no longer run the best play out of its playbook—slash prices and sustain losses in the short term to gain market share over the long term . . . “For the first time, a level playing field was going to get forced on Amazon,” says James Gray [of UK bookseller John Smith & Son and formerly of Ingram Content Group]. Amazon execs “were basically spitting blood and nails.”

Amazon’s response to Random House’s move was stunning and swift:

The next month, an Amazon recruiter sent an e-mail to several editors at big publishing houses, looking for someone to launch a new New York-based publishing imprint. “The imprint will be supported with a large budget, and its success will directly impact the success of Amazon’s overall business,” read the e-mail, which was obtained by Bloomberg Businessweek.

Even with a large budget, directly affecting the success of Amazon’s overall business is a tall order for a new publishing imprint. Amazon pulled in well north of $40 billion in revenue last year (final numbers aren’t yet in), dwarfing the combined revenues of the Big Six publishers.

Luring a substantial contingent of best-selling authors away from the Big Six seems the only plausible route for an imprint to affect Amazon’s overall business. Amazon needed someone with a substantial industry pedigree to pull this off. In time for last spring’s BookExpo America, Amazon landed just the man for the job: Larry Kirshbaum, formerly of Warner Books.

Just three months after Random House’s announcement, Amazon had all but declared war on the six unruly members of its book supply chain. Jeff Bezos had $6 billion in cash, the patience to absorb losses for years, and a former Big Six chief to lead the fight. The long-running behind-the-scenes battle for control of the publishing industry had finally broken into full public view.

Barnes & Noble’s New Role: The Contender

While Amazon directly threatens traditional publishers with its new imprint, it continues to undermine the ecosystem on which book publishers, and most new authors, depend.

Established authors, for the most part, do fine selling through online bookstores. It’s new authors who lose out if browsing in bookstores becomes a thing of
the past. Advances for unproven and non-bestselling authors have already plummeted, by all accounts. Literary diversity is at risk.

To understand just how precarious things are, realize that last year’s Borders’ bankruptcy represented an enormous reduction in browsing space, shuttering 650 stores. One benefit of the loss of Borders should have been a short-term lift to B&N’s 700 stores and the 1,500 or so remaining independent bookstores. B&N’s sales were indeed up in the nine weeks before Christmas, The New York Times’s Julie Bosman reports. How much? Borders’ collapse led to a bounce of just 4 percent, compared to the prior Christmas. That’s what’s passing for good news in brick-and-mortar book-selling at the moment.

There is a bright spot, however. Barnes & Noble, led by William Lynch, has exceeded all expectations in the past two years with its launch of the Nook. B&N’s 300-member Silicon Valley office, after giving Amazon’s Kindle developers a two-year head start, beat Amazon to the tablet market by fully 12 months, and introduced what’s generally seen as the state-of-the-art e-ink reader, the Nook Simple Touch, eight months ago.

B&N, in other words, has been out-engineering Amazon. In the process, B&N has seen its e-book market share climb from zero, two Christmases ago, to roughly 27 percent today.

B&N remains vulnerable, however. The engineering race against Amazon continues, and Amazon has leverage for acquiring content for its Kindle that B&N can’t match. And, critically, one tool that should help B&N, our antitrust laws, is instead poised to undo it.

This brings us to an unlikely tale of books, chicken, beer, and a Silicon Valley gentlemen’s agreement.

The Backstory: Amazon, Chicken Processors & Silicon Valley

Harper’s cover art rivals BusinessWeek’s: an enormous businessman wearing a gray pinstriped suit is preparing to literally eat the competition, a jumbo handful of gray-suited men and women. In the article, “Killing the Competition: How the New Monopolies Are Destroying Open Markets,” Barry Lynn views the state of book publishing through a different lens.

Lynn makes the case that Amazon’s dominance isn’t just a story of an industry disrupted by online commerce and digital upheaval, it’s about the abandoning of New Deal era protections of retailers in 1975 (promoted by backers as a means to fight inflation, says Lynn) and what he portrays as a 1981 shift in the Justice Department’s interpretation of antitrust law based on “Chicago School” theories of efficiency and consumer welfare. The upshot appears to be that non-consumer markets (business-to-business markets and labor markets) are often insufficiently protected from monopolies.

To a chicken grower, for example, the relevant market isn’t restaurants or household consumers of chicken; it’s the market of chicken processors. Through a variety of machinations, including long-term contracts and the physical placement of processing plants (think baseball, before free agency), chicken growers now routinely have a market of only one processor to sell to.

Chicken growers own their land, buildings, and equipment, and all of the debt and risk that go with them, but these entrepreneurs have no real control over their economic lives. Growers buy their chicks and feed from their poultry processor, for example, and processors often require growers to make new investments in buildings and equipment. The processors, Lynn seems to suggest, have something much better than mere capital: the economic power to dictate how others use theirs.

It’s not just chicken growers who face constrained markets, Lynn writes. In free-wheeling Silicon Valley, computer engineers and digital animation workers employed by Apple, Google, Intel and Pixar, among others, were subject to a secret agreement not to bid on each others’ employees, according to a Justice Department lawsuit filed, and settled, in 2010.

It’s even hit beer. The 1,750 U.S. microbrewers may appear to operate in a competitive environment, but they nearly all sell through two distributors: ABI and MillerCoors control 9 percent of the distribution market.

For book publishers, the relevant market isn’t individual readers (direct sales are few), but booksellers, and Amazon has firm control of bookselling’s online future as it works to undermine bookselling’s remaining brick-and-mortar infrastructure. Amazon controls every growing segment of the industry: online physical books, downloadable audiobooks, online used books, and e-books. Amazon commands about 75 percent of the online market for print books, and 60 percent of the e-book market (a percentage that decreased from Amazon’s reported 90 percent two years ago, as a result of agency pricing).

Lynn reports on a conversation with the head of one of the largest publishing houses in the U.S.:

He explained that Amazon was once a “wonderful customer with whom to do business.” As

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For the Record

Marshall Cavendish Books Back on Barnes & Noble’s Shelves

Adapted from an April 4, 2012, authorsguild.org post.

Here’s some welcome news: Barnes & Noble has agreed to our request to bring Marshall Cavendish children’s books back to their stores’ shelves. By our count, more than 250 authors and 150 illustrators have been affected.

How these books got pulled in the first place is a lesson in how exclusive content agreements have begun balkanizing the book marketplace.

In December, Amazon Publishing purchased Marshall Cavendish’s children’s book list, more than 450 children’s and young adult titles. The next month, Barnes & Noble announced that it would not be stocking any Amazon published titles in its stores. B&N released a statement from Jaime Carey, its chief merchandising officer, saying that it would not stock books published by Amazon, “based on Amazon’s continued push for exclusivity with publishers, agents and the authors they represent.”

With this announcement, B&N pulled Marshall Cavendish children’s books from its shelves. For Debby Dahl Edwardson, the timing could not have been worse or more devastating. Her most recent book, My Name is Not Easy, had been selected as a 2011 National Book Award Finalist. This sort of recognition can transform an author’s career, and authors typically visit countless bookstores to make the most of such opportunities. Ms. Edwardson, however, found her opportunity drastically curtailed. Barnes & Noble removed her book from its shelves (including from the shelves of its store in Fairbanks, Alaska, the one nearest the author’s North Slope home) about two months after the National Book Awards ceremony.

As we’ve made clear over the last several years, we’re very concerned with Amazon’s rapidly growing dominance of bookelling. Exclusive content is a big part of that story. With $9 billion in cash, Amazon can afford to cut more deals as it did with DC Comics to acquire exclusive e-book rights to titles, as it tries to gain the upper hand in the e-reader and tablet market.

So we’re sympathetic to the position of brick-and-mortar booksellers, even the largest of them: this isn’t a fair fight, by any stretch. Still, it’s essential that authors and readers not become collateral damage. The authors and illustrators who signed contracts with Marshall Cavendish had no way of anticipating that the publisher would assign their contracts to Amazon. For these authors to lose their vital showroom presence in Barnes & Noble stores was clearly unfair and harmful. Children’s books, especially picture books, need to be seen to be appreciated by readers.

We fear that more and bigger battles in bookselling and book publishing loom in the months ahead. For the sake of authors and readers, we hope those fighting it out will avoid using access to vital literary marketplaces as a weapon.

Unfortunately, this seems unlikely. Amazon is seizing an ever-growing share of the bookselling market, but it’s after far bigger game. Deploying some of its cash to buy publishers with deep backlists is an inexpensive way for Amazon to ensure that its Kindle Fire is an essential device to many readers, who then can be sold movies, TV shows, and music through the platform. Amazon’s history suggests it won’t be shy in these efforts.

Meanwhile, Barnes & Noble isn’t backing down. Its executives made clear to us that it is making this exception because it announced the policy after Amazon announced its purchase of the Marshall Cavendish titles. For any new Amazon acquisitions, Barnes & Noble’s policy is to ban the books from their shelves.

For now, however, some good news for Marshall Cavendish authors and illustrators.

We’ll keep you posted on any developments.
Annual Meeting

The Authors Guild held its annual meeting on March 28, 2012 at the Scandinavia House in New York City. Guild President Scott Turow called the meeting to order and received approval of the minutes of the 2011 annual meeting.

The first order of business was the election of new Guild council members and the adoption of an amendment to the Guild’s constitution. Director of Legal Services Anita Fore and Staff Attorney Michael Gross served as tellers and inspectors for the balloting. Mr. Turow then asked Executive Director Paul Aiken to give his report on recent Guild developments and activities.

Mr. Aiken announced that 2012 is the 100th anniversary of the Authors Guild, which was originally formed as the Authors League of America in 1912, and that we are looking into holding a celebratory event at the Library of Congress in conjunction with the Copyright Office later in the year.

Mr. Aiken reported that membership in the Guild has held steady over the past few years at around 8,500 members. Several initiatives are in the works for the coming year, which we hope will increase membership. Among other things, the Guild is working on a new member service and an e-book version of Backinprint.com, the Guild’s longtime print-on-demand reprint program for members with out of print books. A new staff member has recently been hired to research and supervise this program, which should be launched by the end of the year. Mr. Aiken also spoke about Booktalk Nation, a Guild initiative launched last fall that is open to members and nonmembers and which aims to help authors and independent bookstores boost book sales.

Jan Constantine, General Counsel, reported on a range of legal matters, including the freelance electronic database class-action lawsuit, which began in 2001. As of August 2011, the case is in the hands of mediators who are attempting to find a resolution that all three categories of writers involved in the suit will accept.

Ms. Constantine also reported on the Google Books lawsuit. While the proposed settlement ultimately fell through in September 2011, the Guild’s work continues. Recently, Google filed a motion to dismiss the Authors Guild as an associational plaintiff. The Guild, of course, is disputing this; a judge will decide at a hearing in the near future and Mr. Aiken will be giving testimony on the matter this spring. Judge Denny Chin will hear motions on the case at the end of May and provide a response in July; oral arguments will take place in September. Judge Chin’s decision may not be issued before next year’s annual meeting.

Peter Petre, Guild Treasurer, provided the Treasurer’s Report, noting that the Guild’s finances are stronger than they have ever been, with revenues of $3.6 million and expenses of $3.2 million in 2011. The coming year promises to be busier than ever, with expenses increased as a result, but we are in a good position to take on new initiatives. Mr. Petre added that the Guild’s finances remained healthy throughout the recent economic downturn.

Sidney Offit, President of the Authors Guild Foundation, gave a brief report on the Foundation, which is preparing for the Authors Guild Benefit on June 4. This year’s Benefit will be a special centennial celebration, with Calvin Trillin as host. Mr. Offit thanked the Guild staff for the work it had done over the previous year, on multiple fronts.

Mr. Turow turned the meeting over to Mr. Aiken for an extended report on the HathiTrust lawsuit. Mr. Aiken explained that the lawsuit was brought by the Authors Guild in September 2011, along with individual authors and several other writers’ organizations from around the world. At issue is the use of the digital scans of five to six million books created by Google, copies of which were given to several university libraries. The libraries pooled their scans into a single database, dubbed HathiTrust, which is controlled by the University of Michigan. The Guild filed its lawsuit after the University of Michigan announced a new plan to make the full, scanned text of several ‘orphan works’ available to faculty, students and staff of the university and other participating schools via the HathiTrust website. The Guild has two concerns: first, the idea that a university, rather than the courts, can determine orphan status, and second, whether the university should be allowed to possess these unauthorized scans at all.

When the first list of “orphans” was released, the Guild began researching titles, quickly finding living writers, several works with easily traceable estates, and four books that are currently in print. Following the lawsuit announcement, and the Guild’s publicizing of its findings, the University of Michigan put the project on hold. However, the lawsuit continues, fo-
cusing on the question of whether copyright law allows the university to own these digitized copies in the first place. Our lawsuit requests an injunction, not damages, and asks that the scans be held by a trustee until Congress can decide whether the university may have them. A hearing will be held at the end of May.

Mr. Turow then spoke about the Guild’s overarching mission, which he described as “defending the livelihoods of American authors,” particularly those who are not household names. Noting that intellectual property laws were included in the U.S. Constitution in order to provide incentives for a broad class of people to write and to benefit from their writing, he pointed out how developments such as the University of Michigan’s “orphan works” program pose obstacles to authors’ survival and success. He also pointed to Guild services such as Sitebuilder, Backinprint.com and the forthcoming e-book program, and the Authors Registry, as crucial to sustaining this broad class of writers.

Mr. Turow also spoke about the long-range threat to American literary culture presented by Amazon. While acknowledging the value and ingenuity of Amazon’s marketing and many of its programs, which have increased book sales overall and helped writers self-publish their work more easily, he emphasized that Amazon makes business decisions based on profit-maximization, rather than with any the goal of supporting the profession of writing. It demonstrates this with hardball tactics such as removing “Buy Buttons” to punish publishers and distributors that don’t agree to their terms.

In addition, said Mr. Turow, Amazon poses a serious threat to independent bookstores. Although many stores have instituted methods for selling e-books, it is impossible for most booksellers—whether brick-and-mortar or online—to compete with Amazon, whose capital reserves permit it to sell e-books at a loss in order to increase sales of the Kindle. Though the accelerating growth of the e-book market is an exciting development in publishing, independent bookstores are closing left and right, largely as a result of unfair competition. The Guild is concerned about the long-term effects this will surely have on emerging authors.

Mr. Turow then spoke about the Department of Justice’s potential lawsuit against five publishers over the question of price fixing in the e-book market [The suit was filed April 11; see Mr. Turow’s column on page 5, and his comments on the suit April 12 on page 9.]. He argued that the Department of Justice’s investigation is misguided, recalling the tactics that Amazon used in signing agreements with the Big Six publishers, when e-books were first becoming popular, and the more attractive alternative offered soon after by Apple. The Guild, he clarified, is not against low prices for books, but rather is in favor of a fair and healthy market. The agency model is one of the few counters to Amazon’s increasingly anti-competitive practices.

Mr. Turow also noted a recent decision by Barnes & Noble to stop carrying Amazon Publishing titles in its stores. Unfortunately, this decision affected almost 500 children’s books published by Marshall Cavendish, a publisher bought by Amazon just prior to Barnes & Noble’s move. Though the Guild sympathizes with Barnes & Noble’s position, we also see the interests of affected authors as paramount, and were successful in persuading the company to exempt Marshall Cavendish titles from its new policy. Those books are again being sold at Barnes & Noble stores. [see page 10.]

Mr. Turow concluded by emphasizing the importance of a diverse literary culture and the Guild’s disappointment in Amazon’s vision of the future for books and writers. Mr. Aiken echoed this sentiment, underlining the necessary cultural and economic roles played by brick-and-mortar bookstores.

The floor was opened for questions and a discussion of the limited use the Guild has made of social media to date followed. Mr. Aiken announced plans already in the works to improve on this front.

Mr. Turow called for the voting results from the tellers and inspectors. The proposed slate of council members was returned, with 1,000 votes being cast. Three new council members were elected: Ann Patchett, Richard Russo, and Hampton Sides.

Ms. Patchett is the author of six novels, including Bel Canto, which won the PEN/Faulkner Award. She lives in Nashville, Tennessee, where she is the co-owner of Parnassus Books.

Mr. Russo is the author of a short story collection and seven novels, including Empire Falls, for which he won the Pulitzer Prize for Fiction. He writes frequently for film and television (including two adaptations of his own novels), and currently teaches at Colby College. He lives in coastal Maine.

Hampton Sides is the author of Ghost Soldiers, on which the 2005 film The Great Raid was based, Blood

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Opening Lines

The Harmonist’s Solo

BY NICHOLAS WEINSTOCK

For every author, the act of book writing is a departure from the more customary effort toward group harmony. Privately and independently, we remove ourselves from the daily pull of social consensus in order to put pen to paper—fingers to keyboard, manuscript to publisher—and in doing so, set ourselves and our voice apart.

For Suzzy Roche, 55, this is not a metaphor but the literal altering of a decades-long profession. "I've been performing steadily for 35 years, in one way or another, and the constant was always working with my sisters and harmony-related," she considers. "With The Roches, I was always trying to see what we could say and how we could say it together. I'm generally more of a team player. I work well with others. This book thing," she laughs, "is something new."

In the mid-1970s, Suzzy joined her two older sisters, Margaret and Terre, to form The Roches, a wittily offbeat vocal group with a devoted cult following and a near-nonstop tour schedule. Starting out in the Greenwich Village folk scene, the group produced everything from a Christmas collection to children's music, over time releasing 13 albums and performing in countless far-flung locales. As recently as five years ago the group was touring the nation as a beloved trio—with the youngest sister reliably serving as the group's bonding agent.

"People often thought I was the lead in the band," Roche recalls, "but that's completely inaccurate. There was no leader. We used to joke among ourselves that we were Ghidorah, the three-headed monster. My sisters are intense, wacky and wildly talented—more so than I am. My role was often to be like the glue. When the three elements were balanced, that's when the group worked best; so a lot of my efforts went to trying to balance us. It's like herding cats," she says, "but I loved it."

Nonetheless, in addition to her music career, now Roche realizes she was always a closeted fiction writer. She spent her spare time at home writing and collecting short stories. Having quit high school at 16, then begun college and quit after a year to start touring with her sisters, as an adult Roche found herself signing up for writing courses whenever she could. "To the 20-year-old kids who were going to the college," she surmises, "I was always the old lady in the back of the class who would mysteriously come and go."

Then a book editor in New York, a friend of a friend, read one of Roche's short stories, which had appeared some 20 years ago in a modestly published anthology of fiction by musicians. The editor approached her with the recommendation that she develop the five-page tale into a novel.

"And I thought: ding!" Roche recalls. "Mainly because I knew what the end of the novel would be. I had already written it in the story. And I'd always thought that if I were to try and write a novel, I'd better know where it's going. And I had that. So I was off."

Not long before, the Roches had been asked if any or all of them would consider writing a children's book; when Suzzy's sample material was selected as a promising start to the book, she landed an agent, Gail Hochman—whom she now told about the novel. Roche was envisioning a moral, spiritual and humorous tale of a naïve girl entering the music business and surviving it, barely, with her soul intact, based on "shards of truth" from her own experience in the industry but overwhelmingly made up. She vowed that she would send Hochman her first draft of the manuscript within the year. Five months later, she did so. After a round of revisions, Hochman sent it out—to the immediate interest of several publishers. And this

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When Is an Author Not an Author?

BY JESSICA R. FRIEDMAN

You are a full-time author. Many years ago, on the advice of your accountant, you set up a Subchapter S corporation of which you are the sole shareholder and president. You receive a salary, which, among other things, enables you to have a pension plan. All publishing contracts since the corporation’s formation have been made in the corporation’s name, including the contract for your very first book, which was executed on January 1, 1980. You know that Section 203 of the Copyright Act of 1976—the current statute—permits the termination of a grant made by the author after January 1, 1978, 35 years from the date of the grant. You would like to start that process for that first book. What do you need to do?

Before you do anything, take a look at Section 203(a) of the Copyright Act, “Conditions for Termination.” That section says, “In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions . . .”

The first thing to note is the phrase “any work other than a work made for hire”: works made for hire are not eligible for termination under Section 203. (Section 304(c), which applies to works written before January 1, 1978, says the same thing.) Under Section 101 of the Copyright Act, “work made for hire” includes “a work prepared by an employee within the scope of his or her employment.” If you are an employee of your own corporation, and if you wrote that first book and your other books “in the scope of your employment” for the corporation, those books are works made for hire, and you cannot legally terminate any publishing contract that you entered into after you formed the corporation.

How do you know whether you are an employee and whether you wrote the books “in the scope of your employment”? In a 1989 case called Committee for Creative Non-Violence v. Reid, the Supreme Court laid out certain criteria for determining when someone is an employee as opposed to an independent contractor for copyright purposes. These criteria include whether the person received a salary, paid vacation and benefits; whether the company had the right to control the manner in which the work was done; and whether the company could assign projects. But some of these criteria do not really fit a situation in which the company and the employee are one and the same.

Even if you are undeniably an employee, the question of whether you wrote a particular book “in the scope of your employment” depends on what your job was. A self-employed author is not likely to have written a formal job description, but other documents may provide evidence on that point, for better or worse. For example, a designation on your W-2 that the payment is an “author salary” and a certificate of incorporation that describes the company’s purpose as “author services” would tend to support the conclusion that you were employed as a writer and that, therefore, you wrote the books in the scope of your employment.

On the other hand, a W-2 that identifies your salary as payment for serving as a “corporate officer” might support an argument that you were employed as a corporate executive, not as a writer. In that case, you could argue that the books were not written “in the scope of your employment,” and, therefore, the books were not works made for hire. Evidence that you performed executive functions, such as strategizing about developing new series, seeking reversion of certain titles, and deciding what to do with those reverted titles and that you complied with corporate formalities, would tend to support that argument, depending on how much time you spent on those functions, and whether the salary seems disproportionate to that effort.

Ironically, however, even if the books you wrote were not “works made for hire” for your company, you still might not be able to terminate that first publishing agreement (or any publishing agreement made by your corporation), because all your publishing contracts are in the name of the corporation, while Section

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Books That Cross Borders: When Does the First Sale Doctrine Apply?

John Wiley & Sons, Inc. v. Supap Kirtsaeng
U.S. Court of Appeals for the Second Circuit

In the fall of 1997, Supap Kirtsaeng left his native Thailand and moved to upstate New York to pursue a mathematics degree at Cornell University. He would later move to California to pursue his doctorate. In the fall of 2007, Kirtsaeng began selling textbooks online to help subsidize the cost of his education. The only problem was that the books he sold weren’t simply those he had accrued throughout his years of study.

Kirtsaeng’s friends and family regularly shipped him foreign edition textbooks that had been printed outside the U.S. He then sold the books on commercial websites like eBay.com. With the money he made from these sales, Kirtsaeng would reimburse his friends and family for their costs, keeping the rest for himself.

Some of the texts Kirtsaeng sold online were published by John Wiley & Sons, a publisher of academic and scientific materials, including textbooks. Wiley owns an Asian subsidiary that manufactures its foreign edition texts. These foreign editions, intended solely for international markets, are marked with a legend designating they are to be sold only in a particular country or region. While foreign edition content is often similar to domestic edition content, internationally-bound books often differ in quality, including thinner paper, fewer colors, and lower-resolution graphics.

In September 2008, Wiley filed an action against Kirtsaeng in the Southern District of New York, claiming copyright infringement, trademark infringement, and unfair competition. Wiley prevailed in district court, and Kirtsaeng was held liable for willful copyright infringement of eight works; the court imposed damages of $75,000 for each instance of infringement. Kirtsaeng appealed the ruling, and the United States Court of Appeals for the Second Circuit agreed to hear his appeal.

Kirtsaeng did not dispute the facts of the case, but sought to defend himself by invoking copyright law’s “first sale doctrine.” The first sale doctrine, codified in Section 109 of the Copyright Act, provides that “the owner of a particular copy ... lawfully made under [the Copyright Act] ... is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy.” It is important to note that this right of disposal is limited to the particular copy or copies purchased, and does not at all limit the copyright owner’s right to publish and sell a new edition. (This is known as the distribution right.)

The first sale doctrine is based on the idea that the first sale of a particular copy of a book is sufficient to compensate the author and publisher for their labor. Thereafter, the purchaser of the book is free to dispose of the volume as he wishes.

The first sale doctrine is based on the idea that the first sale of a particular copy of a book is sufficient to compensate the author and publisher for their labor. Thereafter, the purchaser of the book is free to dispose of the volume as he wishes. He can lend it freely to a friend, store it safely and watch its value rise, or use it for kindling on a cold night—all without permission from the author or publisher. Among other things, the first sale doctrine allows the second-hand book industry to flourish (well, to exist, at least).

Fair enough. But for Kirtsaeng to successfully invoke the first sale doctrine, he would have to show that the particular copies he re-sold were “lawfully made” under the Copyright Act. The bump in the road, of course, was that these copies were manufactured abroad. The Second Circuit would thus decide a question never before presented to it: Does the first sale doctrine apply to copies manufactured outside the United States?

What makes this such an interesting question of law is that the first sale doctrine is seemingly in tension with another section of the Copyright Act, Section 602, which provides that “importation into the United States, without the authority of the owner of copyright under this title, of copies ... of a work that have been acquired outside the United States is an infringement of the [copyright owner’s] exclusive right to distribute copies.” The main tension between Section 602 and the

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CENSORSHIP WATCH

BY ANITA FORE

Tucson Deep-Sixes Latino Studies Texts. During the first few weeks of March, political news junkies followed the media’s call-and-response to a Fox News breakout over Breitbart.com’s supposed bombshell video of a pre-President Barack Obama hugging the late legal genius, critical race theory scholar, and former Authors Guild council member Derrick Bell, one of the original shepherds of the 1960s school desegregation strategies, at a 1991 Harvard University protest.1

An earlier outbreak of what may develop into a full-blown Republican backlash against critical race theory came to a head in Tucson’s public schools this past January. Empowered by Arizona state legislation signed into law by Republican Governor Jan Brewer in 2010, state school superintendent John Huppenthal, also a Republican, officially suspended the Mexican American Studies program taught in Tucson’s schools—a program his predecessor had called "anti-white"—and ordered instructors to physically remove books used in the curriculum. Educators were required to scrap the classes or risk losing out on $14 million in state education funds.

After initial resistance, Tucson’s local school board caved and pulled the texts, boxing and storing all copies of Critical Race Theory by Richard Delgado and Jean Stefancic, Chicano! The History of the Mexican Civil Rights Movement by Francisco Arturo Rosales, 500 Years of Chicano History in Pictures by Elizabeth Martinez (ed.), Message to Aztlán by Rodolfo Corky Gonzales, Occupied America: A History of Chicanos by Rodolfo Acuña, Pedagogy of the Oppressed by Paulo Freire, and Rethinking Columbus: The Next 500 Years by Bill Bigelow and Bob Peterson (eds.). According to the Los Angeles Times, students in a district that is predominantly Mexican-American can no longer receive dedicated classroom instruction in history, literature and culture from a Chicano perspective. Critical race theory, the principal topic of at least one of the textbooks sent off to storage in Tucson, is an investigation into the places where race, law and power converge to shape policies and practices in American society. But educators such as Mansfield Middle School teacher Rene Martinez cannot engage in an exploration of even a simplified version of its tenets to help his seventh and eighth graders understand some possible motivations for the government’s eradication of their lesson plans. “My students asked me, ‘Why are they getting rid of this class? Can you explain?’” Martinez told the LA Times. “We do our best to explain the history of the law, but it’s hard to comprehend how we’ve come to this point.”

Superintendent Huppenthal invoked Arizona statute HB 22812 to do away with the program. That law prohibits any lesson plans that:

1. Promote the overthrow of the United States government
2. Promote resentment toward a race or class of people
3. Are designed primarily for pupils of a particular ethnic group
4. Advocate ethnic solidarity instead of the treatment of pupils as individuals

The decision is left to the discretion of the state superintendent or board of education, and any school that doesn’t straighten up and fly right within 60 days of being told to pull the plug could lose as much as 10 percent of its monthly share of state money. Although Arizona paid $110,000 to an independent auditor to evaluate Tucson’s compliance with the statute and although auditors found no violation, Huppenthal ignored the results and pressed for suspension.

Huppenthal characterized the Mexican American Studies program as an “indoctrination” of Tucson students and claims the objectionable books “repeatedly reference white people as being oppressors.” Huppenthal’s predecessor, Republican Arizona Attorney General Tom Horne, who had complained that the lessons being taught were “anti-white,” according to the New York Times, derided them as “ethnic chauvinism” and a “radical separatist agenda” during an interview with Anderson Cooper3. According to Huppenthal, “If all you’re teaching these students is one viewpoint, one dimension, we can readily see that it’s not an accurate history, it’s not an education at all.” Instead of recommending an even broader curriculum as an alternative, Huppenthal’s solution to what he perceived as a problem was to bring the weight of the law to bear on

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1 foxnews.com/on-air/hannity/2012/03/08/exclusive-breitbartcom-unveils-unedited-video-obama-and-radical-professor

2 azleg.gov/legtext/49leg/2r/bills/hb2281s.pdf

3 youtube.com/watch?v=nw3k8uVFWA

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A Ghostwriter's Tale

BY KAREN KARBO AND ERIC RAYMAN, ESQ.

Karbo: The Writer's Tale

The Author had been given my name by a mutual friend, an agent. He was looking for someone to ghostwrite his book. Those weren't his words, which should have been my first warning. He was actually searching for a dedicated stenographer, someone who could write down every interesting thing he said, from which an amazing book would miraculously sprout. But the agent, who knows that, as Gertrude Stein once famously said, "remarks are not literature," pressed him into hiring a ghost. Me.

We signed a standard collaboration agreement, provided by my agency, which stipulated that I would be paid half of my fee on signing, and half when the book was accepted by the publisher. I was thrilled to be a part of what I was sure would be an epic tale. I published my first novel in 1990 and over the last 22 years have published 12 more books and believe me, the rich ore that is my fascinating life (I grew up in suburban Southern California) is running dry. But this man had a fascinating story. He also had no clue about the challenges of writing a full-length narrative, nor was he interested in learning. But that was okay. That was my job. I was the Writer.

During the first six months of our collaboration I spent hundreds of hours interviewing him. He said repeatedly how the book was going to be perfect. I thought this was mere enthusiasm, but as the interviews ended and the writing began, and I started to feed him chapters for his comments, I began to realize that he wasn't being funny or facetious. He meant it. He believed we were going to work so hard, that when we submitted the manuscript it would be flawless and unimpeachable; like an algebra test, we would get 100.

I told him that we would submit a solid draft, but that it was only a draft, and that not only was I expecting editorial comments, but I was looking forward to them. I spoke to him about the importance of getting a fresh read from his editor, who would be able to tell us what to leave in, what to leave out, whether the pacing was working, whether any parts were confusing. But he stood firm: The book would be perfect. I said it didn't work that way. We left it at that.

The Author's editor was an esteemed veteran; shortly after the Author made his deal with his publishing house I had a meeting with this editor, during which we discussed, very generally, what the challenges of this particular book would be. After I submitted the manuscript on behalf of the Author, we didn't hear anything for first one month, then two. We waited and waited.

Finally, after 10 weeks, the editor called the Author. They had a long conversation, to which I was not privy. He called him, not us, which I accepted. He was, after all, the Author. I was the Writer, in his employ. A few days later the Author received the editor's letter via snail mail; he turned it over to me so that I could begin the revisions.

It was single-spaced and a page-and-a-half long. I have friends who've won Pulitzers who routinely receive nine-page editorial letters and other friends who've sold completed novels and embark on page-long editorial letters to us, modesty of the editorial comments put us not far from the unrealistic perfection the Author had envisioned.

But the Author was not happy. He resisted the editor's queries, suggestions, and implied criticism; and, he added, he had reread his book and now he didn't like it.

I wasn't surprised. I knew this moment well. It was the literary Walk of Shame. Two months after you manically crash the deadline late one night, convinced you've written a masterpiece, you reread the thing in the harsh light of day and realize it sucks and that you

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should just apply to bartender school. I tried to console the Author, telling him that this was a completely normal reaction, indeed, part of the book-writing life. I told him that we would have plenty of opportunity to revise and that, as we all learned in middle school, “writing is rewriting!”

He wasn’t having any of it, and our relationship began to erode. He simply couldn’t believe that a flawless, compelling narrative could not be constructed in a single draft from his sitting on the couch holding forth. He was now communicating directly with the editor, and refused to share their conversations with me. This created a near impossible situation. I’d say, “Here he says we need to flesh out that time you did such and such,” to which he would respond, “When I talked to him, he said not to worry about that.” I could

“He said repeatedly how the book was going to be perfect . . . As the writing began . . . I began to realize that he wasn’t being funny or facetious. He meant it. He believed we were going to work so hard, that when we submitted the manuscript it would be flawless . . . like an algebra test, we would get 100.”

—Karen Karbo

We turned in two more drafts. Finally, we submitted what I was told was the final revision to the editor. A week passed, then two. After four weeks I e-mailed the Author to see whether he’d heard anything, and it appeared that he had, as he was working on the book, by himself, “night and day.” I knew this could not be good, and sure enough, when the manuscript was accepted a few weeks later, the Author refused to pay me the remainder of my fee.

I had been under the impression that our collaboration agreement protected me against this kind of thing, but it turned out that all it did was set out in legal terms what happened if there was a dispute. I imagine the Author was hoping I would just go away. As the attorneys in my family made clear to me, going after the Author would cost money, perhaps as much as I was owed. But I had worked extraordinarily hard on this book, and had done everything the Author had asked of me. I called the Authors Guild, who gave me the name of a lawyer, Eric Rayman.

Rayman: The Lawyer’s View

Many brilliant actors can’t write; neither can some (most) political figures nor any of the micro celebrities enjoying their temporary fame. These people can, however, attract an audience of readers, and a book publisher will want their story and want it told in the first person. Such Authors need Writers.

The Author signs the contract, gets the advance, has his or her name on the book, does the speaking tour, and signs copies of the book for friends and well-wishers. He or she is the Author in every way except one—actually writing the book. Depending on what they agreed to, the Writer may go completely uncredited, a nameless, ghostly figure hovering over the project, or she may be acknowledged on the cover as having written the book “with” the Author. Even though the readers of this article are mostly members of the Authors Guild, some of you may also have been, like Ms. Karbo, a Writer.

Often these Author-Writer arrangements work very well for both parties. Publishers, for example, have long perpetuated the fiction that presidents write their own memoirs. Publishing lore holds that Ulysses S. Grant was the last president who actually wrote his own. In Another Life, a memoir of his years at Simon &

Eric Rayman is a lawyer with Miller Korzenik Sommers, a firm that specializes in intellectual property matters. Like the contracts say, Mr. Rayman represents publishers, authors and writers in any and all media, throughout the universe, in perpetuity.
Schuster, Michael Korda recalls the story of Ronald Reagan's appearance at a press conference shortly after the publication of his presidential autobiography, _An American Life_, written by Robert Lindsey. Lindsey's name did not appear on the cover or the title page. According to Korda, Reagan called out to the press cheerfully, "I hear it's a terrific book! One of these days I'm going to read it myself."

At other times, unfortunately, the Author-Writer relationship does not proceed as felicitously. When an Author retains a Writer, whether to ghost or collaborate openly on his book, the contract between them will spell out the financial arrangement, state whether the book is a work for hire, what credit, if any, will be given the Writer, and all other points of agreement between them. It's a prenuptial agreement and, as such, its real purpose is to script the divorce, in the event there is one. In particular, it should address what happens to the Writer if the Author rejects the Writer's work and refuses to pay for it.

Sometimes, the Author rejects the Writer's work because it is too good. In the case described by Ms. Karbo, the Author and Writer spent months together. The Author talked and the Writer listened and probed. The Author dished out millions of words, and the Writer processed them in her brain, produced coherent thoughts and literary sentences that sounded just like the Author. The Author, perhaps sincerely or perhaps because he didn't want to write another check to the Writer, looked at the manuscript and said, those are my words. Why should I pay someone else for them?

**Choice of Law/Exclusive Jurisdiction**

During the drafting and negotiation of the collaboration agreement, that clause on the last page droning on about where and how disputes are to be resolved seems like unnecessary lawyer's boilerplate. When there's a dispute, however, this clause kicks in.

Did the contract select the state whose law would apply? Did the contract identify the place where any dispute would be heard? New York is the headquarters for all of the major U.S. book publishers. The courts in New York have decided more book disputes than any other courts, and since New York law implies obligations of good faith and fair dealing on both parties and does not allow for punitive damages in contract disputes, the parties are often willing to agree that New York law will apply to it.

Selecting the state law to apply is one issue; agreeing on where to hear the dispute is another. For the Writer to bring an action against the Author, she has to do it where she can get what lawyers call personal jurisdiction over the Author. If the Author lives in California, and the Writer in New Jersey, it may be not be possible to get jurisdiction over the Author in New Jersey, and it will be expensive and inconvenient for her to sue him in California. Nevertheless, that may be what she has to do. Publishing cases generally involve relatively modest amounts of money, and the cost and inconvenience of fighting a war on a distant shore can increase the pressure to settle. A contract can specify not only the applicable law, but where any disputes will be heard. Pay attention to this clause.

**Mediation/Arbitration**

Mediation is a nonbinding process that the parties can use to resolve their dispute. The parties must agree to it; it can't be forced on either party. If mediation is required by the contract, then to be acting in good faith, each party must give it a try. The mediator is generally someone trained to resolve disputes, provided by one of the professional arbitration associations. One literary agency's standard collaboration agreement proposes that the book's editor serves as the mediator, but I think it unlikely that any editor would want this thankless task and would more likely decline than accept if asked. The Author and Writer will also have to pay a fee to the mediator for his or her services. Mediation can be conducted by phone or in person, but bringing everyone together in a room, devoting the time and effort to resolve a dispute, is generally more effective.

**Arbitration**

Arbitration is a binding process, and like mediation, can only be employed if the parties agree to it by con-
tract. Once they’ve agreed to submit a dispute to arbitration, trying to make an end-run around it by bringing an action in court is usually futile.

Whether a mediator, arbitrator or judge hears the dispute, how do they decide what the Writer is entitled to?

In this case, the Writer performed her job and turned in an acceptable manuscript, implicitly confirmed by the editor’s minimal comments and requests for changes. After the Writer finished, or thought she had finished, the Author decided that he didn’t want to pay the Writer. There are different ways the contract could address this issue. From the Writer’s perspective, it seems obvious that if she delivered a complete work, she should get the full payment called for in the contract. In the real world, when a dispute like this occurs, that’s probably not going to happen. Letting the Author decide what to pay or whether to pay her isn’t going to be fair either. The collaboration agreement can provide that the parties submit the manuscript to a third party to determine how much of the Writer’s work appears in the final manuscript accepted by the publisher. Either party can resort to track-changes software to highlight how much or how little of the Writer’s actual expression has been used. The agreement should be specific as to whether this determination applies to Writer’s full fee or only the amount remaining to be paid and could also indicate whether the determination is a subjective one, taking into account the quality of the work, or is based simply on a page count.

Of course, not all the problems that the Writer encounters can be addressed in a contract. Years ago, Authors Guild member Patricia Bosworth was asked by McCall’s to ghost a piece about the actress Anita Colby. In the 1930s Colby, known as “The Face,” was reported to be the highest paid model in the world, getting an astonishing $100 an hour. She once appeared on the covers of 15 magazines in a single month, and then she went to Hollywood and appeared in nine unforgettable movies. She worked for David O. Selznick, dated Clark Gable (“He had cold hands,” she said) and married a wealthy businessman, Palen Flagler. Throughout her life she was a devout Catholic.

When Bosworth met her, it was to ghost a piece entitled, “Why I Waited Until I Was 56 to Get Married.” She visited Colby’s home—“complete with chapel”—and interviewed her for the story. Colby told Bosworth that she and Flagler drank champagne when they got engaged, and that she was still a virgin when she married. Bosworth handed the piece in and McCall’s was so pleased that they promptly paid her fee, then showed the piece to Colby. “She freaked,” Bosworth recalls. “‘You wrote I drank champagne,’ she cried at me over the phone. ‘But you told me that,’ I said.

“‘I know, but it makes me sound like a drunk . . . I will not let this be published.’” Furious that McCall’s had paid Bosworth, Colby sent her own fee back and never spoke to Bosworth again.

**Checklist for Author-Writer Collaboration Agreements**

- Is it a work-for-hire or jointly owned copyright?
- What is the credit provision for the Writer? No credit? “Author with Writer?” “Author and Writer?”
- Are the payment provisions clear? Does the Writer participate in any way in the royalties? Does the Writer participate in the subsidiary rights?
- If the Author terminates the agreement, are there provisions in it that determine whether the Author is obligated to pay additional compensation to the Writer? Do they depend upon a subjective determination of how much of the Writer’s material is used in the book?
- Is there a confidentiality provision in the agreement? What can the Writer say about her participation in the project?
- If there’s a dispute between the Writer and Author, where will it be heard? Is there a jurisdiction that the parties have agreed upon? Do the parties agree that disputes between them will be submitted to mediation before going to court or arbitration?

**Karlo: The Settlement**

In the end, it took five months to reach an agreement with the Author. Because the original agreement included a paragraph for nonbinding mediation and, if that didn’t work, binding arbitration, Eric Rayman and I slowly wended our way in that direction. I haven’t had much experience with legal wrangling and was astounded when the Author’s attorney responded to our request for mediation by saying the Author shouldn’t have to pay me because he’d fired me over text (channeling his inner eighth-grader, apparently). This despite the fact that I could easily have proved him wrong by providing the original text messages with the help my phone provider.

As the date for mediation drew closer (the mediator was chosen by Mr. Rayman and the Author’s
attorney, from a roster provided by the American Arbitration Association), the Author’s attorney changed his argument; now, it seemed, the Author had rewritten most of the book, and that’s why he shouldn’t have to pay me. A week before the mediation we received a galley, and it appeared that the Author had added or changed almost nothing.

The mediation took place in New York. Mr. Rayman and I were in one room, the Author and his attorney were in another, and the mediator shuttled between us. In the end, I received 80 percent of my fee, which I was willing to call good. I can only assume the Author was outraged at having to abide by the contract, but I’ll never know for sure. I’m confident that I could have prevailed in arbitration and won an award of 100 percent of my fee, but chasing it would have cost more than what I was owed. The good hard lesson I learned is that a contract doesn’t allow you the kind of protection you imagine it does. On the other hand, mine did give me the confidence to proceed, and to fight (with the help of my attorney) to collect what I was rightfully owed.

Along Publishers Row
Continued from page 2

the idea for the show came from: “I was going home to New Rochelle [from Manhattan] and I said to myself, ‘You have a wife and two children, and you work in town doing a musical variety show. And when you get home, you tell your wife about what happened at the office. When you get to the office, you tell what happened at home.’ And I said, ‘That’s the show!’”

TIME OUT: Colin Meloy of Portland, Ore., is taking time out from his rock band, the Decemberists, to write a trilogy of children’s novels. His wife, Carson Ellis, is the illustrator. The first volume came out in October and is entitled Wildwood. It’s for ages nine to 12 and, according to The New York Times, “brims with grimly comic violence.”

Meloy’s “literary move is only the latest proof that children’s books are no longer the sole preserve of children’s book authors,” commented The Times, “as everyone from Margaret Atwood to Cal Ripken Jr. to Desmond Tutu has shown in recent years.”

Maile Meloy, Colin Meloy’s older sister, said, “I feel like everyone I know is writing one.” She is a novelist who has also written a book for children: The Apothecary.

Meloy said his trilogy, entitled “The Wildwood Chronicles,” will not be “something I’m doing on a whim, sort of a vanity project, like Madonna writing a picture book.” The first volume had an initial print run of 250,000 copies.

NEW PROJECT: The Immortal Life of Henrietta Lacks was on the paperback bestseller list for more than 30 weeks (and sold more than 1.25 million copies) when Crown Publishers announced that the author, Rebecca Skloot, is writing a new book about the bonds between people and animals. Skloot is a veterinary-technician-turned-author.

FICTIONAL LOCALE: Russell Banks, 71, set his novel, Lost Memory of Skin, in Miami. It is about a colony of homeless men living under a highway. A reporter for The New York Times paid him a visit there. Banks told him, “If you think about it, all of Miami is artificial. The whole place is one big work of fiction.”

CAN YOU BELIEVE IT? Five million copies of the “Pretty Little Liars” books have been sold since book No. 1, Unbelievable, was published in 2006.

PW said that author Sara Shepard’s Ruthless, No. 10 in the series, went on sale in December, and Pretty Little Secrets came out in January.

MISTAKE: Lauren Myracle is the author of Shine, a young-adult novel about a gay teenager who is the victim of a hate crime. Her book was nominated as a finalist for a National Book Award—and then withdrawn. It was replaced by Franny Billingsley’s Chime.

“The whole thing is a regrettable incident, and I wish it hadn’t happened,” Harold Augenbraum, the foundation’s executive director, told The New York Times.

How did the mistake occur? Augenbraum said that it was an “internal question.”

“Believe me, it won’t happen again,” he said.

OLD TRICK: Author Patricia O’Brien published five novels, but when her agent, Esther Newberg, sent out her sixth, a historical novel titled The Dressmaker, more than a dozen publishers turned it down. O’Brien’s previous novel, Harriet and Isabella, hadn’t sold well.

Newberg suggested that they try a pen name. The manuscript, written by “Kate Alcott,” sold in three days.

The New York Times account said, “Mrs. O’Brien and Ms. Newberg had cannily circumvented what many authors see as a modern publishing scourge—Nielsen BookScan, the subscription service that tracks book sales and is at the fingertips of every agent, editor and publisher—with a centuries-old trick, the nom de plume.”
REAL ROLE: Actress Rooney Mara went beyond the call of duty for her role in the American movie version of The Girl with the Dragon Tattoo. The multiple piercing of ears, eyebrow and nipple were real, not movie makeup. PW's comment: "Ouch."

DISASTER: Leora Tanenbaum, author of Taking Back God and three other books, responded to an article in The New York Times about how Amazon publishes without providing many publishers’ services by writing a letter to the editor. “This new method of delivering written work [without the traditional editing] may benefit some writers,” she said. "It may disadvantage many publishers and literary agents. But it is disastrous for all readers.”

OPENING UP: In October three publishers said that they would allow their authors access to their book sales data online, “a move that appeared to challenge Amazon and its continued efforts to woo authors,” The New York Times reported.

The publishers were Random House, the Hachette Group and Simon & Schuster. Authors who used Simon & Schuster’s site were instructed not to share the data with anyone other than their literary agents.

Agent Christy Fletcher told the Times, “It’s a growing move toward transparency that the business has been going toward anyway. There’s much more equilibrium. Now everyone’s getting the same information.”

Dave Cullen, author of Columbine, a nonfiction book published in 2009, said that publishers are “opening their eyes. They didn’t realize the frustration that authors have.”

NEW JOB: Dennis Lehane, author of Mystic River and Shutter Island (both of which inspired major motion pictures), is taking on a new job. PW reported that he will oversee a new line of books for HarperCollins.

THINKING SMALL: Where do ideas for a novel come from? Rachel DeWoskin started thinking about her third book, Big Girl Small, because her young daughter was obsessed with the movie The Wizard of Oz. DeWoskin claimed in a Columbia College Today interview that she had seen the movie about “4,000 times” and become outraged about the Munchkins’ portrayal.

In Memoriam

“They are all professionally trained, yet they’re made to lick lollipops.” DeWoskin began researching little people and became even more upset. “We have not managed in America to be sensitive about this issue.”

Judy, the protagonist of Big Girl Small, is “brilliant, snarky and talented to boot.” But she is only 3-foot-9-inches tall. The fictional character says, “My mother’s idea has always been to try to make me feel close to perfect, but how close can that be, considering I look like she snatched me from some dollhouse.”

DARK: Mark Allan Smith’s new thriller is The Inquisitor. The main character, Geiger, tortures people to get information. PW asked Smith how he went about making a character like Geiger sympathetic.

Smith said, “I tried from the start to show (subtly, I hope) the damage he carried around within him. We are all, to one degree or another, damaged people. We all have the internal wounds and dark places to show for it—and I hoped to bond the reader to Geiger by that shared reality.”

BOOKS DEFENDED: Art Spiegelman’s Maus, a graphic novel about the Holocaust, was published 25 years ago. It won a Pulitzer and still sells. The author now is publishing MetaMaus, and he was the subject of an interview with The Guardian.

Asked if he worried about the fate of books these days, he said, “Yes, everybody [in publishing] is panicked, and they aren’t thinking clearly. Yes, books have a function that can be partially supplanted by a little device. But there are other things that can only be experienced from the limitations of paper. Some books want to be petted. The books that have a right to be books make use of their bookishness. Graphic
novels—who knew that term would stick!—continue to do well because they use their bookishness.”

FOR TEENS: Marie Lu, 27, began writing when she was 14 years old. No sales. During her first year in college, her second manuscript got her an agent. Her fourth brought a new agent and some nibbles from publishers. Her fifth is Legend, first in a trilogy that has been optioned for a movie.

PW said she has a “kinetic, special writing style.” Lu told PW: “I see the world as a 3-D map and think about how I would render it.”

Her agent guided her work toward a teen audience. But Lu said, “I write the story as it comes to me—YA is my natural voice, not a conscious choice.”

A MISFIT: Claire Messud is the author of the novels The Last Life and The Emperor’s Children. In an essay in The New York Review of Books, she wrote:

“Art is like life: some fiction writers are familiar to us, in the way some physiognomies are familiar, while others—the misfits—prove always strange. With them, each new creation is like the unfurling of an undiscovered flower, the shape and color and scent of which must surprise. It is naturally safer to be—and to read—writers of the former sort, but infinitely more exciting to encounter the latter. For those of us who also write, the eccentric imaginations are not simply a focus of admiration, but a source of inspiration, even awe.


VOICE DEFINED: Meg Rosoff is an American who lives and writes in London. She is the author of How I Live Now and The Bride’s Farewell. She wrote an article about “voice” for a Guardian series called “How to Write Fiction.”

Rosoff wrote, “Your writing voice is the deepest possible reflection of who you are. The job of your voice is not to seduce or flatter or make well-shaped sentences. In your voice, your readers should be able to hear the contents of your mind, your heart, your soul.”


Thomas Nelson published Billy Graham as well as Heaven Is for Real, a story of a child’s near-death experience. In October, The New York Times said that the book had been on the paperback nonfiction bestseller list for 49 weeks, often in the No. 1 position.

NEW ARM: Amazon added another genre to its publishing arm by launching 47 North, a science fiction, fantasy/horror imprint that publishes works from new and established authors as well as out-of-print titles. PW said the first books on the list were released early in 2012.

METHOD: Alan Hollinghurst’s new novel is The Stranger’s Child. The British author, 57, won the Booker with The Line of Beauty (2004). He was in the U.S. to publicize his new book and was interviewed by Charles McGrath of The New York Times.

Hollinghurst said that he modeled his work habits after those of his friend, novelist Kazuo Ishiguro. “He has his thing he calls ‘the crash.’ He takes a lot of time to prepare a novel, just thinking about it, and then he draws a line through his diary for three or four weeks. He just writes for ten hours a day, and at the end he has a novel.”

Hollinghurst admitted that he had found the Ishiguro method only partly successful—at the end of three or four nonstop weeks of writing he is still years away from being done. He has spent about five years producing each of his six novels.

NEW HIT: In 2007, John Sandford added a wisecracking, skirt-chasing detective to his Prey series (now up to 21 titles). The new character’s name is Virgil Flowers, and he now has his own bestseller, Bad Blood. PW said the book was named the Best Hardcover Novel at the International Thriller Writers Convention.

INSTRUCTIONS: Erle Stanley Gardner once wrote to an editor: “It’s a damn good story. If you have any comments, write them on the back of a check.”

SHOW TIME: Wade Rouse, author of I’m Not the Biggest Bitch in This Relationship, wrote an essay in PW about how he tries to turn his appearances in bookstores into entertainment.

He wrote that, after he does a reading, “I listen to fans. I talk to them. And then I try to inscribe—no matter how long the fan line—something personal, meaningful, or humorous to each person. And I do the same with store stock. I personalize messages to the store and city, knowing that will help sell stock more quickly.”

SENSITIVE: Stephen King once commented about his critics: “I publish a book, I feel like a trapper caught by the Iroquois. They’re all lined up with tomahawks, and the idea is run through with your head down, and everybody gets to take a swing. They hit you in the head, the back, the ass, the balls.”
BOOST: R. A. Salvatore is author of a best-selling hardcover, Neverwinter Saga, Book II. PW said Salvatore has written more than four dozen epic fantasy novels (with more than 15 million copies sold in the U.S.). His publisher plans to increase his sales with social media outreach, a microsite, a consumer promotion and a tour.

MODERN MELVILLE: Nathaniel Philbrick’s new book is Why Read Moby-Dick? He explained one reason to PW: “The fact that Melville pulls back the figurative curtain [chapter 85] in the middle of the novel and tells us the exact time and date at which he is writing this particular chapter about whale spouts has always seemed so wonderfully modern and personal to me. It’s as if he’s inviting us into his study to participate in the act of artistic creation—a kind of time-bound timeless moment.”

I got out my copy of Moby-Dick, read chapter 85, and found the following:

“I had the curiosity to place a mirror before me; and ere long saw reflected there, a curious involved worming and undulation in the atmosphere over my head. The invariable moisture of my hair, while plunged in deep thought, after six cups of hot tea in my thin shingled attic; of an August noon; this seems an additional argument for the above supposition.”

What is the above supposition? Melville wrote, “I am convinced that from the heads of all ponderous profound beings, such as Plato, Pyrrho, the Devil, Jupiter, Dante, and so on, there always goes up a certain semi-visible steam, while in the act of thinking deep thoughts.”

Time out for a cup of hot tea and a mirror.

ABOUT FASHION: Paul Rudnick, playwright (I Hate Hamlet) and contributor to The New Yorker, has a contract to write a novel for young adults. He told The New York Times that it’s about an 18-year-old girl who comes to New York City and encounters the fashion world. A designer “offers her a chance to become not only the most beautiful woman in the world, but the most beautiful woman who has ever lived. And that’s just the first chapter.” He added that the book would explore “the power of duty and the importance the world attaches to physical perfection, something that I’d imagine young women have to deal with 24 hours a day.”

The deal includes an option for a second book that may or may not be a sequel.

MUSIC: Bradford Morrow is a literature professor at Bard College. He’s written more than a half dozen novels and now he has published a collection of stories, The Uninnocent.

He told PW, “I figured that if you can write symphonies in words, it’s a good idea to be able to write sonatas as well.”

GAME-CHANGER: In November, Deepak Chopra became yet another big-name author to sign a deal with Amazon. The title of his memoir is A Tale of Faith, and the sum reported was more than $500,000. Agent Robert Gottlieb negotiated the deal and, according to The Guardian, called it “a game-changer for the industry.”

Thriller novelist Barry Eisler, who has signed with Amazon in a six-figure deal said, “If publishers don’t adapt and start offering authors more progressive terms, their position will continue to worsen.”

Because Amazon has not been allowed to put printed books into Barnes & Noble stores, it has not yet produced a printed bestseller.

RECALL: A week after Assassin of Secrets, a mystery novel by Q. R. Markham, was published, it was re-called because passages were found to have been plagiarized from “a variety of classic and contemporary spy novels,” the publisher said. The New York Times said that bookstores were instructed to return the books, and customers were asked to return books to retailers for refunds. The publisher, Mulholland Books (an imprint of Little, Brown), said, “it is with deep regret that we have published a book that we can no longer stand behind.”

NO JOKE: Back in 1964, publisher (and humorist author) Bennett Cerf said, “I keep telling young writers I meet that if they want the sure road to success, for heaven’s sake, write something that will make people laugh.”

PAPER AT LAST: After spending 70 weeks on The New York Times hardcover fiction bestseller list, The Girl Who Kicked the Hornet’s Nest came out in paperback in February. “While publishers have recently begun speeding up the paperback publication of some books,” the Times said, “the final book in the Stieg Larsson trilogy was... on the lists [as a hardback] for so long that Random House had little incentive to issue it in a less profitable paperback edition.” The publisher said that the series had sold more than 18 million copies in the U.S.

OLD IS GOOD: Guild member Carol A. Butler of New York City wrote in to offer some advice. She says she has coauthored eight books in the last 11 years. Some of her titles are Why Do Bees Buzz?, How Fast Can a Falcon Dive? and The Divorce Medication Answer Book.

Butler said the best coauthor is “a senior citizen or close to being one. I’ve found that younger people are too busy establishing themselves and are easily distracted by situations that older folks take in stride.”
BIO MAN: Robert K. Massie's biography of Peter the Great won the Pulitzer in 1968. His latest biography is of Catherine the Great. The publication sent Charles McGrath of The New York Times to his house in Irvington, N.Y. Massie is 82 years old.

In the lengthy article, Massie's longtime editor, Robert Loomis of Random House, was quoted:

"Bob is not an academic. But I think he's part of a very important group of historians—amateurs in a way—that also includes Edmund Morris and Daniel Boorstin. They're outside academia, and yet they're very, very good, and they've performed an important service in taking their subject out of the classroom and making them available to the rest of us. I never questioned where he got something. He just knew. You develop a nose for that."

ANOTHER WAY: Kazuo Ishiguro is the author of The Remains of the Day and other novels. In an interview with Boom magazine in 1989, he said, "Life is messy. I sometimes wonder, should books be so neat, well formed? Is it praise to say that a book is beautifully structured? Is it a criticism to say that bits of a book don't hang together?

"I feel like a change. There's another side of my writing self that I need to explore: the messy, chaotic, undisciplined side. That undignified side."

EXCHANGE: One aspect of Steve Jobs's life, filled out in Walter Isaacson's biography, concerns his sister, novelist Mona Simpson. Isaacson said they had a "deep affection." But Jobs would berate her because her clothes were not fetching enough. Simpson wrote him, "I am a young writer, and this is my life, and I'm not trying to be a model anyway."

Soon after, Jobs sent her a box of clothes from designer Issey Miyake that included three pantsuits. Jobs told Isaacson, "They were linen pants and tops in a pale grayish green that looked beautiful with her reddish hair."

All this was commented on by Jennifer Schuessler in her New York Times Book Review column on bestsellers.

LEAPING: Graham Swift is the author of Waterland, Last Orders and several other novels. In an essay titled "An Interview in Wands-worth"—part of a collection, Making an Elephant—Swift wrote:

"I have said things like, 'One writes fiction because one doesn't want to write fact,' and I do feel that you need to keep your subject matter at a distance from you, so that your imagination can take flight to it. That's what's exciting, getting from what you know into what you don't know. I really do have a tremendous faith in writing as a leap into the unknown. But it's a leap you take with the rope of the imagination to hang onto."

BEOWULF OFFSPRING: Tessa Gratton's three-book young adult series was inspired when the author did a translation of Beowulf. The series is set in an alternate history in which this country was founded on Norse religions.

PW said that the first book, about two teenagers who search for a missing god, is entitled Weight of Stars.

INSPIRATION: Diary of a Wimpy Kid: Cabin Fever is the sixth in a series of chapter books by Jeff Kinney. The first print run was six million copies.

Kinney told The New York Times, "Looking back, I realize my favorite stories weren't in books; they were in comics. On top of being a history enthusiast, my father was also a comics fan, and he kept his stash in the top drawer of his dresser in easy reach of a kid making a beeline to the bathroom."

Kinney said his favorites were Carl Bark's Donald Duck and Uncle Scrooge comics. "Lately I've been wondering if Mr. Barks has had even more of an impact on my life than I thought." The "Wimpy Kid" books are illustrated with Kinney's own cartoonlike drawings.

BUSY MAN: John Grisham's annual fall book took off at No. 1 on the bestseller fiction lists. The title is The Litigators. Grisham was also executive producer of a TV series based on his 1993 The Firm. Eight installments have been filmed, PW said. A 1989 novel, A Time to Kill, has been turned into a drama and may be headed for Broadway.

TOUGH GALS: Robin Carr's Bring Me Hope for Christmas hit No.1 on PW's paperback bestseller list. The book is the 15th in Carr's "Virgin River" series.

On her website, Carr wrote: "I was always meant to write about women—women who were tougher than the women of their time, smarter and more courageous . . . characters who would never trade places with anyone."

NEW STORE: When its last independent bookstore faded away in December of 2011, Nashville, also known as the Athens of the South, felt bereft. Then in November, novelist Ann Patchett opened Parnassus Books. The author of Bel Canto and Truth and Beauty told The New York Times, "I have no interest in living in a city without a bookstore."

Patchett plans to compete with Amazon by being small and sleek, with personal service, author events and a carefully chosen rotation of books.

While many bookstores are closing, the Times said, "In Fort Greene, Brooklyn, Greenlight Bookstore opened in 2008 and reported sales of
more than $1 million in its first year. The Boswell Book Company in Milwaukee was founded two years ago and has been profitable both years, its owner said.”

On her 15-city book tour for her new novel, State of Wonder, Patchett learned to put “the children’s section as far away from the front door as possible. Hang signs from the ceiling, and customers will buy whatever is advertised on them. And make your store comforting and inclusive, smart but not snobby.”

PROLIFIC: Wyoming Tough by Diana Palmer is a paperback bestseller. The author’s name is Susan Spaeth Kyle, but she thought Diana Palmer was a more suitable name for someone who writes romantic fiction.

Kyle said in PW that she wrote her first book when she was 13 and worked as a journalist for 16 years. Since then she has written more than 115 novels.

NAUGHTY: Titles with dirty words in them often wind up on bestseller lists. In 2005, there was On Bullshit. Then followed Shit My Dad Says. In 2010 there was Assholes and in November Tucker Max wrote a sequel, Assholes Finish First. It made the trade paperback bestseller list, but not in the No. 1 slot.

AGAINST THE LAW: Was it the first illegal book party ever? Last November, a crowd of publicists, agents and writers gathered at a martial arts studio in Manhattan to celebrate the publication of two books about mixed martial arts. The books were Matthew Polly’s Tapped Out: Rear Naked Chokes, the Octagon, and the Last Emperor: An Odyssey in Mixed Martial Arts, and Jim Genia’s Raw Combat: The Underground World of Mixed Martial Arts.

Instead of readings by the authors, The New York Times said that two fighters in a cage punched, kicked and tried to choke each other while guests watched the blood flow. “Usually it’s all criminals at these things,” Genia said.

Mixed martial arts fighting is not allowed in New York after a bill to legalize it failed to clear the State Assembly earlier in 2011.

After the bloody bout, Genia and Polly went into the cage and posed for pictures. Polly dismissed the idea that the authors might fight each other one of these days. He said, “We’ll compete on the Amazon rankings instead.”


“The first thing to do is bring up your nightstand. ‘Ah, yes, of course, he’s on my nightstand.’ The second is to invent your own writer: ‘I haven’t read the new Murakami, but have you read the latest Kobayashi Maru?’ Then pray your interlocutor hasn’t seen Star Trek II: The Wrath of Kahn.”

IN PROGRESS: Padgett Powell is director of the writing program at the University of Florida and the author of five novels, including The Interrogative Mood: A Novel? Every sentence in that book is a question.

In an interview for The Guardian, he was asked what he was working on now.

Powell said, “I am working on a cartoon about the hallowed South, one of its revered literary denizens and his gang of devoted boys, with detours into the narrator’s father’s second world war novel and into a novel by a Hollywood scriptwriter in which the narrator’s father appears. These two books are real. The narrator turns into Ted Turner, and the girl he meets in Walmart turns into Vanna White. The book is a complete mess, so ill-conceived and tortured that it might work.”

WORDS: Winston Churchill once said, “Broadly speaking, the short words are the best, and the old words best of all.”

GIVE THEM PAPER: Adult books are selling as e-books much faster than books published for children under the age of eight. Twenty-five percent of some categories of adult books are now sold as e-books, while children’s books are less than 5 percent.

The New York Times reported that Alexandra Tyler and her husband read on Kindles, but their son, 7, is print all the way. Tyler said, “Somehow I think it’s different. When you read a book, a proper kid’s book, it engages all the senses. It’s teaching them to turn the page properly. You get the smell of paper, the touch.”

Another parent said he believes his son will learn to read faster from print. The bells and whistles of an iPad become a distraction.

FOR CHILDREN TOO: Amazon purchased more than 450 titles from Marshall Cavendish Children’s Books. Jeff Bell, vice president for Amazon Publishing, told The New York Times, “This is our first attempt to get organized around a children’s books strategy. This is a case where there’s a great list of books that have not been digitized.”

Amazon Publishing has a half dozen imprints, including romance, mystery, thrillers, science fiction and foreign language translations. The new children’s titles will initially be published under the Marshall Cavendish imprint.

TOO BAD: The Literary Review’s Bad Sex in Fiction Award was set up by Auberon Waugh in 1993 to discour-
age "crude, tasteless and often perfunctory use of redundant passages of sexual description in contemporary novels."

The prize in 2011 went to the novel Ed King by David Guterson, who wrote the mega-selling Snow Falling on Cedars.

The Guardian quotes an offending passage: "In the shower, Ed stood with his hands at the back of his head, like someone just arrested, while she abused him with a bar of soap, and Diane . . . helped him out with two practiced hands, one squeezing the family jewels, the other vigorous with the soap-and-warm-water treatment. It didn't take long for the beautiful and perfect Ed King to ejaculate for the fifth time in twelve hours while looking like Roman pubic-bath statuary. Then they rinsed, dried, dressed, and went to an expensive restaurant for lunch."

GROUP AID: Milda De Voe is a writer and actress who lives in lower Manhattan. She was the subject of an article in the Columbia University alumni magazine. In 2002 she and her husband had a son and four years later they had a daughter.

De Voe found herself "struggling to make it as a writer and a mom. Both jobs are 24/7, and I didn't know what to do for myself as an artist or for my kids as a mother."

In 2008 she spearheaded an organization for professional writers who also were parents of small children. She called it Pen Parentis.

"After becoming parents, some writers begin to neglect their work, and others begin to neglect their kids," she said. In an essay, she wrote that the mission of her organization was to help writers who "love their children, but couldn't put down their laptop any more than they could ignore their toddler when the kid ran a fever."

Members and guests meet regularly to talk about their children and read excerpts from their writing. Author Frank Haberle was given a fellowship of $1,000, awarded to a writer with young children. The money is to be spent on supplies, office space and childcare.

PIONEER: An exhibit at the Jewish Museum in New York celebrated the 50th anniversary of Ezra Jack Keats's The Snowy Day, which "differed profoundly from virtually all the mainstream American picture books preceding it," The New York Times said. Peter, the little boy hero, is black.

Keats was not. He was born Jacob Ezra Katz and he changed the world of children's books. Jerry Pickney, a prizewinning illustrator, told the Times, "I'm not sure whether someone African-American could have done this at the time. I don't think the field was ready actually to publish African-American artists or writers that way."

The Snowy Day won the Caldecott Medal for 1962. It has been translated into at least 10 languages and sold 3.8 million copies since 2000.

EYE CHANGE: Why did Harry Potter's eyes change from green to blue during the series of popular books? That's just one of many things revealed in Bob McCabe's Harry Potter Page to Screen.

Answer in PW: Actor Daniel Radcliffe became the on-screen Potter, and his eyes are blue.

TRUE CONFESSIONS: Glenn Beck's Being George Washington became a nonfiction bestseller, and he went on the Don Imus show to promote it. Beck immediately complained that Imus had not read his book.

Imus turned to the title page and asked, "Who is Kevin Blafe?"

Beck said, "He actually helps me because I obviously don't sit at a typewriter, Don . . . I don't sit at a typewriter and pound out every letter of the books."

In his New York Times Book Review column about bestsellers, Gregory Cowles commented, "A lot of celebrities don't write their own books, and a lot of talk show hosts don't read them—but an 'author interview' that owns up to both counts? Now that's entertainment."


"It's hard to write a book," Downes wrote. "It's harder to write one with living characters, clever scenes, warmth and wit. And it's harder still when the people you're writing for can't read, or read only a little, when the words you choose must be simple, short and sweet."

Hoban also wrote novels for adults, including Riddley Walker, a "1980 novel about a postnuclear dystopia, Beckettian, Boschian, and Twain-like. Mr. Hoban knew what he was doing."

CONTINUED: George Whitman, who took over the Shakespeare & Company bookstore on the Left Bank in Paris from its founder, Sylvia Beach, died in December at the age of 98. The store was a hangout for James Joyce and Ernest Hemingway and many American literary wannabes.

Whitman was quoted in a New York Times obituary: "I wanted a bookstore because the book business is the business of life." His daughter, Sylvia Beach Whitman, named after the founder, has taken over the store.

HOW-TO: John McPhee, author of many profiles and articles in The New Yorker that became books,
wrote an essay in the magazine entitled: “The Writing Life: Progression, How and What?”

He explained his approach: “You begin with a subject, gather material, and work your way to structure from there. You pile up volumes of notes and then figure out what you are going to do with them, not the other way around.”

Later, he reveals: “To prepare a Profile of an individual, the reporting endeavor looks something like this: [a small diagram shows an X in the center of a circle of eight O’s].

“The X is the person you are principally going to talk to, to spend time with, observe, and write about. The O’s represent peripheral interviews with people who can shed light on the life and career of X—her friends, or his mother, old teachers, teammates, colleagues, employees, enemies, anybody at all, the more the better. Cumulatively, the O’s provide triangulation—a way of checking facts one against another, and of eliminating apocrypha. Writers like Mark Singer and Brock Brower have said that you know you’ve done enough peripheral interviewing when you meet yourself coming the other way.”


“[A good sentence,’ the ebullient critic and novelist Sheed wrote in 1990, is sent into the air like a series of jazz licks.” Then Garner quoted Sheed: “You noodle around with tempo and sound until you get the perfect fit for that particular song, and then, so long as you can sustain it, God is on your side and everything comes easily and even the waiters smile.”

TOOL OF THE TRADE “The story of writing in the digital age is every bit as messy as the ink-stained rags that would have littered Gutenberg’s print shop or the hot molten lead of the Linotype machine,” said Matthew G. Kirschenbaum, an English professor at the University of Maryland. The title of his lecture at the New York Public Library was “Stephen King’s Wang.” King’s first computer was a Wang.

Kirschenbaum collects old computers and hopes to discover “Who was the first novelist to use a word processor?”

Mark Twain was the first to use a typewriter, for Life on the Mississippi, and The New York Times quotes Nietzsche, who typed, “Our writing tools are also working on our thoughts."

One of the earliest bestsellers written on a computer was Tom Clancy’s 1984 The Hunt for Red October. Frank Herbert’s Dune may have been submitted to his publisher in the late 1970s on 8-inch floppy disks.

Kirschenbaum’s Track Changes: A Literary History of Word Processing is due for publication in 2013 or, according to the Times, “as soon as he can finish tapping it out on his iBuyPower 64-bit laptop.”

AMBASSADOR: Walter Dean Myers, 74, was named “the national ambassador for young people’s literature” in January. The prolific, award-winning Harlem author of children’s books will, according to The New York Times, be “a sort of poet laureate of the children’s book world who tours the country for two years, speaking at schools and libraries about reading and literacy.

“As an African-American man who dropped out of high school but built a successful writing career—largely because of his lifelong devotion to books—Mr. Myers said his message would be etched by his own experiences.”

Myers told the Times, “You take a black man who doesn’t have a job, but you say to him, ‘Look, you can make a difference in your child’s life, just by reading to him for 30 minutes a day.’ That’s what I would like to do.”

TIRED WORDS: Michigan’s Lake Superior State University’s annual worldwide survey of words that should be banned because of over-use named “amazing” as its first choice in 2011.

The word-banishment list was begun in 1975. The first list attempted to get rid of: “at this point in time,” “meaningful,” “dialog,” “implement” and “viable.” The Guardian pointed out that all are still in use at this point in time.

In an essay for The New York Times Book Review, Geoff Dyer made an impressive case for avoiding “tireless” and “tirelessly.”

FOR SALE: Almost 10 years after Barnes & Noble bought Sterling Publishing, the major U.S. bookseller has put it on the market. At the time of purchase, publishers were angry that they would have to compete with a bookseller.

Peter Wahlstrom, a senior analyst with Morningstar Equity Research, told The New York Times, “They [Barnes & Noble] need to be very careful where they’re spending their money, and I don’t think they’re seeing the benefits of owning a publishing business.”

Sterling, at the time of purchase, had a backlog of 4,500 titles. It publishes nonfiction, children’s books, crafting, cooking and self-help.

FUNNY SEX: The title of Edmund White’s new novel is Jack Holmes and His Friend. The New York novelist was interviewed by Emma Brockes for The Guardian.

According to White, the key to writing about sex “is to not write pornography, not to try to arouse the reader. But to describe faithfully and realistically what goes on when you have sex, which is usually comic. Henri Bergson says that
comedy is where the material world resists the spiritual impulse. ... It strikes me that sex is often a failure of the body to deliver the promises of the spirit."

White, who lived and wrote in Paris for 16 years, said he believes that French writers do a better job of writing about childhood. "If there's a very innocent girl in a French novel, she loses her virginity by page two so we can get on with the story."

TO TELL TALES: Chris Columbus, director of the first two Harry Potter movies, is writing a trilogy of fantasy books for children. His co-author will be Ned Vizzini.

Columbus told Entertainment Weekly, "I'm not presumptuous enough to say, 'We're going to take on the Potter series,' but I got to see firsthand how that series affected kids and how it got so many hundreds of thousands of kids into reading."

The title will be House of Secrets, and the first volume is due out in spring 2013.

WHY, INDEED: "Why Write Novels at All?" was the title of an article in The New York Times Magazine. The subtitle asked: "The primary purpose of fiction is to make us feel less alone. Will that be enough to save the novel?"

Garth Risk Hallberg suggested that Don DeLillo, Cormac McCarthy, John Updike, Philip Roth and Toni Morrison were being pushed aside by Jonathan Franzen, Zadie Smith, David Foster Wallace and Jeffrey Eugenides.

The idea is that in Franzen's, Wallace's and Smith's writings, "the deepest purpose of reading and writing fiction is to sustain a sense of connectedness, to resist existential loneliness."

Hallberg concludes, "measured in terms of cultural capital or sheer entertainment, the delights to which most contemporary 'literary fiction' aims to treat us aren't an awful lot. It's just that, if the art is to endure, they won't be quite enough."

BUSY: Christine Freeban's latest best-selling paperback novel is Spirit Bound. PW has called her "the reigning queen of the paranormal romance."

Freeban had some autobiographical comments on MySpace: "I have to write every day or I'll drive my family crazy. I first became a published author in 1999 with the release of Dark Prince. Before that I had a wide variety of jobs including being a full-time mom, a martial arts instructor, a telephone operator, and I even worked for a newspaper. Now I'm able to write full time. I usually have three new books released per year."

Freeban has more than 40 books in print.

SHARING: William E. Butterworth III has been writing bestsellers for years and calling himself W.E.B. Griffin. In 2006, he began collaborating on his military thrillers with his son, William E. Butterworth IV. Their first bestseller was The Saboteurs.

Their latest bestseller is Covert Warriors, and the younger Butterworth told The New York Times Book Review, "It's unbelievable what a marvelous relationship we have. We talk every day. We'll Skype for an hour and a half, about anything at all."

Before Butterworth began writing books with his father, he worked for Boys' Life. He said, "They paid me to be 15 years old for 20 years. We got to do adventure stories every month. In a way, it's not so different from what I'm doing now."

WINNER: Jack Gantos, 60, won the Newbery Medal with Dead End in Norvelt. It was announced at the American Library Association midwinter meeting in Dallas.

Gantos was interviewed by telephone from Boston where he lives. The New York Times said he drew upon his own experiences while growing up in a small town in western Pennsylvania. He did research by driving there several times to take photographs and interview relatives and residents. He said he wanted the book "to have the important substance of history in it. I wanted that history to be enlivened by people."

Viki Ash, chairwoman of the Newbery committee, said, "On the surface it's a book that is hilariously funny. But there's a depth to the book as well—[the voice of the narrator, the setting, which is just so vivid, and the unexpected tenderness in this boy, who is kind of geeky. It was the difference between a slapstick comedy and a comedy that has depth and character."

SPELL CHECK: Historical novelist Bernard Cornwell's latest bestseller is Death of Kings.

PW quoted from the book's introductory essay, "Place-Names": "London was variously rendered as Lundonia, Lundenberg, Lundenne, Lundeney, Lundenvic, Lundenceaster, and Lundres."

OH: Mark Twain once said, "I have no respect for a person who can't spell a word more than one way."

BAD HEROES: This same Bernard Cornwell mentioned in an item above, is the author of 53 books. He was interviewed for the Amazon blog Omnivoracious and said, "Flawed characters are more interesting because they are forced to make a choice. A conventionally good character will always do the moral, right thing. Boring."

SUNDAY: Nathan Englander is a novelist whose short story collection, What We Talk About When We Talk About Anne Frank, was pub-
lished in February. He lives in Brooklyn. He talked to The New York Times about his Sunday routine.

He said, "I'm a workaholic. . . . I enjoy working. I like to write; that's what I do. So inevitably I want to work some in the afternoon. . . . Not that many writers really have a good grasp on sanity, but the only way to aspire toward sanity is to build a routine. The hunt for a coffee shop was a really big deal for me.

"During the week, there are deadlines and e-mails and nine devices. It's a constant battle. My right hand is formed into a claw that is literally shaped like an iPhone at this point. But there's less Internet on Sunday. It's a day when there's a little less of that energy invading."

SCIENCE GUESSING: Karen Thompson Walker is author of a novel, The Age of Miracle, in which the earth's rotation slows.

She told PW, "I made things up as I wrote and then filled in the research. Of course we don't actually know what would happen [if the earth's rotation slowed], but after I was done with a draft, I showed it to an astrophysicist who pointed out what felt possible and what was too much of a stretch. It was a fascinating experience, to think about art and science, and the ways in which they do and don't line up."

SPY MAN: Olen Steinhauer is the author of eight spy novels. The latest is An American Spy.

In a profile in PW, he said that a lot of today's spy fiction "is interested in how spies work. I'm interested in how people deceive each other."

He has moved from Hungary to California with his wife and their four-year-old daughter. He's working on his ninth novel, set in the Middle East. He explained how he works by saying, "I write myself into a corner, then get stuck, then get an idea, then change everything. If things went smoothly I'd be worried. . . . The more I write, the more interested in narrative I get."

ALL ABOUT WE: Steven Millhauser's new book is a collection of stories titled We Others.

The Pulitzer Prize-winning author was interviewed for the Columbia University alumni magazine and was asked why "the shifting voices within communities seem so much a part of your work."

Millhauser said, "Community is important to my writing in a peculiar way. I often like to begin a story with a community, either an entire town or a representative group from within the town, and then disrupt it. Sometimes the disruption comes from the outside, sometimes from within the community. I enjoy the clash, the battle of opposed psychologies. My impulse toward this kind of disruption is encouraged by the use of we. The we generally represents the group that will suffer disruption. But apart from that, we is an exciting pronoun, because it hasn't been explored the way I and he/she have been. The possibilities beg to be explored."

LIFE AND FICTION: Håkan Nesser is the Swedish author of several crime novels. In one, Mind's Eye, he has his chief inspector explain how he solved the murders:

"A novel, a film, or a play . . . are nothing but stuffed life. Life that has been captured and stuffed like a taxidermist stuffs a dead animal. They are created so that we can reasonably, easily examine it. . . . If there have to be plots and connecting threads ensuring that stuffed life, the artificial version, hangs together, then of course the same thing must apply to the genuine article, to real life."

RESUME: Jennifer McMahon is the author of a best-selling novel, Island of Lost Girls.

She wrote on her About Me website: "Over the years, I have been a house painter, farm worker, paste-up artist, Easter bunny, pizza delivery person, homeless shelter staff member, and counselor for adults and kids with mental illness."

She lives in Vermont and began writing full-time in 2000. She says she loves a good ghost story.

A ROYAL BIO: Sally Bedell Smith is an American journalist who has turned out biographies of Pamela Harrington, Jack and Jackie Kennedy, Bill and Hillary Clinton and Princess Diana. On the occasion of a new biography of Queen Elizabeth, Smith was interviewed for an article in USA Today.

Smith said that Diana was her most difficult book, but "writing about the queen was fun." Smith said that it was enjoyable, writing about "someone who doesn't have a dark side." No one is allowed to interview Queen Elizabeth, but Smith traveled with the queen both in England and abroad and was allowed unusual access to friends and family. "The more I learned about the queen, the more I admired her."

ADULTS ONLY: J. K. Rowling is following up her Potter series with a novel for adults.

Some agents and editors have had success by publishing books written for adults as YA books. James Patterson, Mike Lupica and Carl Hiaasen are adult authors who have written big bestsellers for children. But only Judy Blume, The New York Times said, has made the transition from YA books to adult novels. Her Summer Sisters was an adult bestseller.

Beth Puffer, director of the Bank Street Bookstore in Manhattan, told the Times, "One of the issues for children's booksellers is going to be whether it's appropriate for children or not. Kids are going to want to read everything she's written."
DEATHS

Charles W. Bailey, 82, died January 3 in Englewood, N.J. The journalist and political novelist was the coauthor of Seven Days in May (1962) and the author of Conflicts of Interest: A Matter of Journalistic Ethics (1984) and The Land Was Ours (1991).

Robert Lawrence Balzer, 99, died December 1 in Orange, Calif. He was the author of California’s Best Wines (1948), Balzer’s Book of Wines and Spirits (1973) and Wines of California (1978). While in Cambodia on assignment he became a Buddhist monk and wrote about that experience in Beyond Conflict (1963).

Emmett L. Bennett, 93, died December 15 in Madison, Wis. The professor at Yale, the University of Texas, and then the University of Wisconsin was author of The Pylos Tablets (1951). It provided the beginning of the deciphering of a Bronze Age Aegean script.

Jan Berenstain, 88, died February 24 in Solebury, Pa. She and her late husband Stan Berenstain were the authors and illustrators of more than 300 children’s books about a family of bears. One title: New Neighbors (1994).

John M. Blum, 90, died October 16 in North Branford, Conn. The Yale professor and presidential historian was the author or editor of 18 books including Roosevelt and Morgenthau (1970) and V Was for Victory (1976).


Bertel Bruun, 73, died September 21 on Long Island, N.Y. The amateur ornithologist wrote or contributed to more than a dozen books including Birds of North America (1966).

Henry Catto Jr., 81, died December 20 in San Antonio. He held many political jobs for Republican administrations in Washington, D.C. and was author of a memoir: Ambassadors at Sea: The High and Low Adventures of a Diplomat (1998).

Tristram P. Coffin, 89, died January 31 in Wakefield, R.I. The folklorist was author of Uncertain Glory: Folklore and the American Revolution (1971), The Old Ball Game: Baseball in Folklore and Fiction (1971) and The Book of Christmas Folklore (1973).

Ruby Cohn, 89, died October 18 in Oakland, Calif. She was the author of Samuel Beckett: The Comic Gamut (1962), and wrote and edited several more books about the playwright.


Arthur Dubin, 88, died October 3 in Riverwoods, Ill. He was the author of Some Classic Trains (1964) and More Classic Trains (1974).


Dorothy Gilman, 88, died February 2 in Rye Brook, N.Y. She was the author of The Unexpected Mrs. Pollifax (1966), the first novel in a 14-book series about a most unlikely spy.

Dulcie Gray, 95, died November 15 in Middlesex, England. An actress on both stage and screen, she was the author of several crime novels, a children’s book and Butterflies on My Mind: The Conservation of British Butterflies (1978).


Florence Parry Heide, 92, died October 23 in Kenosha, Wis. The children’s writer and poet was author of The Shrinking of Treehorn (1971), Treehorn’s Treasure (1981) and Treehorn’s Wish (1984).

Mary C. Henderson, 83, died January 3 in Congers, N.Y. The theater historian was author of The City and the Theater (1973), Theater in America: 250 Years of Plays, Players

Reginald Hill, 75, died January 12 in Cumbria, England. He was the author of 24 crime novels, including A Clubbable Woman (1970) and 30 non-series novels, many written under pseudonyms. Asked in 2007 if his most recent book was his 48th, he said he’d quit counting at 20.

James Hillman, 85, died October 28 in Thompson, Conn. A therapist who wrote bestsellers, Hillman was the author of Suicide and the Soul (1964) and The Soul’s Code (1997).


Russell Hoban, 86, died December 13 in London. The illustrator and prolific author wrote 50 books, including six children’s books starring Frances, a memorable girl badger. His most important book was Riddley Walker (1980).

Paula Hyman, 65, died December 18 in New Haven. She was the author of 10 books including (with two colleagues) The Jewish Woman in America (1976).

Louise J. Kaplan, 82, died January 9 in Manhattan. A psychoanalyst, she was the author of Female Perversions: The Temptations of Emma Bovary (1991) and Cultures of Fetishism (2006).


Charla Krupp, 58, died January 23 in Manhattan. She was the author of the best-selling How Not to Look Old (2008) and How to Never Look Fat Again (2010).

Frederica Sagor Maas, 111, died January 5 in La Mesa, Calif. She was the author of a memoir, The Shocking Miss Pilgrim: A Writer in Early Hollywood (1999).

Allen Mandelbaum, 85, died October 27 in Winston-Salem, N.C. An English professor, he was the author of several volumes of poetry, including Journeyman (1967), Leaves of Absence (1976) and The Savanttasse of Montparnasse (1988). He was also a translator of The Divine Comedy, Homer’s Odyssey and Ovid’s Metamorphoses.

Lynn Margulis, 73, died November 23 in Amherst, Mass. She was the author of Symbiosis in Cell Evolution (1981) and a book she wrote with her son, Dorion Sagan, Microcosms (1986).

Anne McCaffrey, 85, died November 22 in County Wicklow, Ireland. She was the author of more than 20 novels, a series that began in 1968 with Dragonflight and was followed by Dragondquest (1971), Dragonsong (1976), Dragondrums (1979), The Masterharper of Pern (1998).

David Montgomery, 84, died December 2 in Philadelphia. The labor historian was the author of Beyond Equality: Labor and the Radical Republicans, 1862–1872 (1967) and The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925 (1987).

Ulric Neisser, 83, died February 17 in Ithaca, N.Y. The psychological researcher was the author of Cognitive Psychology (1967) and Cognition and Reality (1976).


Carolyn O. Reeder, 74, died January 20 in Glen Echo, Md. She was the author of 10 historical novels for young readers including Shades of Gray (1999). With her husband, Jack Reeder, she coauthored three non-fiction books about the history of Shenandoah National Park: Across the Lines (1998), Captain Kate (2002) and Moonshiner’s Son (2003).

Andy Rooney, 92, died November 4 in New York City. The commentator on 60 Minutes was the author of Air Gunner (1944) and The Story of the Stars and Stripes (1946). Many of his TV commentaries were collected in books.

Annette Sanford, 82, died January 2 in Ganado, Tex. She was the author of two collections of short stories, Lasting Attachments (1989) and Crossing Shattuck Bridge (1999). She also wrote a novel: Eleanor and Abel (2003).

Mildred Savage, 92, died October 7 in Norwich, Conn. She was the author of Parrish (1958), In Vivo (1964) and the nonfiction A Great Fall: A Murder and Its Consequences (1970), which won a Mystery Writers award in 1971.

Josef Skvorecky, 87, died January 3 in Toronto. The Czech-born writer was author of The Cowards (1958) and several other novels including The Engineer of Human Souls (1977).

Ruth Stone, 96, died November 19 in Ripton, Vt. The poet was the author of In an Iridescent Time (1959), Topography and Other Poems (1971) and What Love Comes To (2008).

Wislawa Szymborska, 88, died February 1 in Krakow, Poland. She won the 1996 Nobel Prize in Literature. Her last book of poems to be published in the U.S. was Here (2011).

Simms Taback, 79, died Decem-


**Piri Thomas**, 83, died October 2 in Baltimore. The musician was author or coauthor of four books including *Music in the Western World: A History in Documents* (1984).

**Tom Wicker**, 85, died November 25 near Rochester, Vt. The *New York Times* journal was the author of 20 books, including *JFK and LBJ: The Influence of Personality Upon Politics* (1968) and his detailed account of the Attica prison uprising, *A Time to Die* (1975). Novels included *Facing the Lions* (1973) and *Unto This Hour* (1984).


**Jeffrey Zaslow**, 53, died February 10 in a car accident in northern Michigan. The *Wall Street Journal* columnist was author of *The Magic Room: A Story About the Love We Wish for Our Daughters* (2011). *His The Last Lecture* (2008), which he coauthored with Randy Pausch, sold more than five million copies.

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**BOOKS BY MEMBERS**

**Christine A. Adams** (and R. W. Alley, illus.): *Worry, Worry Go Away!: A Kid’s Book About Worry and Anxiety*; **Henry Alford**: *Would It Kill You to Stop Doing That?: A Modern Guide to Manners*; **Cristina Alger**: *The Darlings: Eric Alterman* (and Kevin Mattson): *The Cause: The Fight for American Liberalism from Franklin Roosevelt to Barack Obama*; **Rudolfo Anaya**: *Billy the Kid and Other Plays*; **Rudolfo Anaya** (and Enrique Lamadrid, transl.; Amy Córdova, illus.): *La Llorona, the Crying Woman*; **John Annerino**: *Arizona: A Photographic Tribute, Centennial Edition; New Mexico: A Photographic Tribute, Centennial Edition; The Virgin of Guadalupe: Art and Legend*; **Rachel Armbruster**: *Banding Together for a Cause*; **Michael Thomas Barry**: *Murder & Mayhem: 52 Crimes That Shocked Early California, 1849–1949*; **Gordon Basichis**: *The Blood Orange*; **Frank Baumgardner**: *Yanks in the Redwoods Carving Out a Life in Northern California*; **Josh Bazell**: *Wild Thing*; **Louis Begley**: *Schmidt Steps Back*; **Marianne Berkes**: (and Jill Dubin, illus.): *Over in the Forest: Come and Take a Peek*; **Maryka Biaggio**: *Parlor Games*; **Carol J. Binkowski**: *Joseph F. Lamb: A Passion for Ragtime*; **Tom Bissell**: *Magic Hours: Essays on Creators and Creation*; **Barbara Blatner**: *The Still Position*; **Andrew Blauner**: *Central Park: An Anthology*; **Francesca Lia Block**: *Pink Smog*; **Mervin Block** (and Joe Durso, Jr.): *Writing News for TV and Radio*; **Karen Blumenthal**: *Steve Jobs: The Man Who Thought Different*; **Hal Bodner**: *The Trouble with Happy*; **Deborah Bogen**: *Let Me Open You a Swan*; **Louise Borden**: *His Name was Raoul Wallenberg: Courage, Rescue, and Mystery During World War II*; **Fergus M. Bordewich**: *America’s Great Debate: Henry Clay, Stephen A. Douglas, and the Compromise That Preserved the Union*; **Judith Boss**: *Deception Island*; **Sandra Boynton**: *Barnyard Dance; Little Pookie*; **Thomas A. Breslin**: *The Great Anglo-Celtic Divide in the History of American Foreign Relations*; **Elise Broach** (and Cori Doerrfeld, illus.): *Snowflake Baby*; **Paula Broadwell** (and Vernon Loeb): *All In: The Education of General David Petraeus*; **John Brockman** (Ed.): *This Will Make You Smarter: New Scientific Concepts to Improve Your Thinking*; **Bill
“The Bull” Gravano, and Me; Lisa Pulitzer and Hipolito Acosta; The Shadow Catcher; Mary Purl: What the Heart Knows; When Hummers Dream; Whose Angel Key Ring; Mary Quattlebaum and Laura J. Bryant, illus.: Jo MacDonald Had a Garden; Diana Raab: Listening to Africa; Poems; Diana Raab and James Brown (Eds.): Writers on the Edge; Patricia Raybon: Bound for Glory: The One Year God’s Great Blessings Devotional; E. S. Redmond: The Unruly Queen; Constantina Rhodes: Invoking Lakshmi: The Goddess of Wealth in Song and Ceremony; Anne Rice: The Wolf Gift; Lewis Richmond: Aging as a Spiritual Practice: A Contemplative Guide to Growing Older and Wiser; Karen Robards: Sleepwalker; Suzzy Roche: Wayward Saints; Carole Garibaldi Rogers: Habits of Change: An Oral History of American Nuns; Josh Rolnick: Pulp and Paper; David Rosenfelt: Heart of a Killer; Marisabina Russo: Peter Is Just a Baby; Arthur Salm: Anyway/* A Story About Me with 138 Footnotes, 27 Exaggerations, and 1 Plate of Spaghetti; Kate Scannell and John Scannell/ A Soldier’s Story: World War II and the Battle at Sessenheim, France; Adele Scheele: Launch Your Career in Biology; Sharing Bali: Skills for Success; Roy Schreiber: Hollywood: Red, White & Blue; Paul Schullery: The Time Traveler’s Wife: Chronicle of a Morlock Captivity; Monte Schulz: The Big Town; Sherry Shahan: Ice Island; Dyan Sheldon: The Crazy Things Girls Do for Love; Chantal Sicile-Kara (and Jeremy Sicile-Kara): A Full Life with Autism: From Learning to Forming Relationships to Achieving Independence; Judy Sierra (and Tim Bowers, illus.): Suppose You Meet a Dinosaur: A First Book of Manners; Daniel Silva: Portrait of a Spy; Anita Silvey: The Plant Hunters: True Stories of Their Daring Adventures to the Far Corners of the Earth; James F. Simon: FDR and Chief Justice Hughes; The President, the Supreme Court, and the Epic Battle Over the New Deal; Marilyn Singer (and Alexandra Boiger, illus.): Tallulah’s Solo; Marilyn Singer (and Brian Biggs, illus.): The Boy Who Cried Alien; Marilyn Singer (and LeUyen Pham, illus.): A Stick Is an Excellent Thing: Poems Celebrating Outdoor Play; Marilyn Singer (and Miki Sakamoto, illus.): Every Day’s a Dog Day: A Year in Poems; R. Sutherland Smith: The Dietary Habits of Blue Closet Trolls; Roland Smith: Eruption; William Jay Smith: My Friend Tom: The Poet Playwright Tennessee Williams; Megan Smolenyak: Hey, America, Your Roots Are Showing: Stephen Solomita: Angel Face; Cathy Cash Spellman: Lak’s Labyrinth; Snowflake from the Hand of God; Eileen Spinelli (and Giuliano Ferri, illus.): Jonah’s Whale; Eileen Spinelli (and Megan Lloyd, illus.): A Big Boy Now; Mary Helen Spooner: The General’s Slow Retreat: Chile After Pinochet; Ann Redisch Stampler: Where It Began; Ann Redisch Stampler (and Carol Liddiment, illus.): The Wooden Sword: A Jewish Folktale from Afghanistan; Eric Stein (and Michael S. Bandly): White Water; Phoebe Stone: The Boy on Cinnamon Street; Ginger Strand: Killer on the Road: Violence and the American Interstate; Peter Straub: Mrs. God; Cheryl Strayed: Wild: From Lost to Found on the Pacific Trail; Whitney Stieber: Melody Burning; Solving the Communion Enigma: What Is to Come; Patricia Tyson Stroud (and Robert McCracken Peck) and Rosamond Purcell, photog.: A Glorious Enterprise: The Academy of Natural Sciences of Philadelphia and the Making of American Science; Kayt Suelz: Dirty Minds: How Our Brains Influence Love, Sex, and Relationships; Mark Sundeen: The Man Who Quit Money; Eric Swan son (and Tsoknyi Rinpoche III): Open Heart, Open Mind: A Guide to Inner Transformation; Victoria Sweet: God’s Hotel: A Doctor, a Hospital, and a Pilgrimage to the Heart of Medicine; James M. Tabor: The Deep Zone; Janelle Taylor: Valley of Fire: Winds of Change; Stephanie S. Tolan: Applewhites at Wit’s End; Patsi B. Trolinger: Thrill in the ‘ Ville; Sergio Troncoso: From This Wicked Patch of Dust; Anne Tyler: The Beginner’s Goodbye; Ellen Ullman: By Blood; Rachel Vail (and Jeremy Tankard, illus.): Piggy Bunny; Denise Vega: Rock On: A Story of Guitars, Gigs, Girls and a Brother (Not Necessarily in That Order); Anna Lee Waldo: Watch the Face of the Sky; Vince Waldron: Official Dick Van Dyke Show Book; Joyce Keller Walsh: Strummin’ the Banjo Moon; Joseph Wambaugh: Harbor Nocturne; Lee Wardlaw: Won Ton: A Cat Tale Told in Haiku; Allan Wargon: David; Nia; Showbiz, and More; Sally Warner (and Jamie Harper, illus.): Ellray Jakes Walks the Plank; Robin Wasserman: The Book of Blood and Shadow; Betty Webb: Desert Wind; Hilary S. Webb: Yanantin and Massintin in the Andean World: Complementary Dualism in Modern Peru; Scott Weidensaul: The First Frontier: The Forgotten History of Struggle, Savagery, and Endurance in Early America; Elizabeth Wein: Code Name Verity; Tim Weiner: Enemies; John Weisman: KBL: Kill Bin Laden; Gary Weiss: Ayn Rand Nation: The Hidden Struggle for America’s Soul; William Wells: Hope’s Road: A Novel; Tim Wend: Summer of ‘68: The Season That Changed Baseball—and America—for Ever; Merry White: Coffee Life in Japan; Katerina Katsarika Whitley: Around a Greek Table: Recipes and Stories; Alec Wilkinson: The Ice Balloon: S. A. Andrée and the Heroic Age of Arctic Exploration; Lauren Willig: The Garden Intrigue; Andrew Wilson: Shadow of the Titanic: The Extraordinary Stories of Those Who Survived; Diane Lee Wilson: Tracks: Ashley Wolff: Baby Bear Sees Blue; Hilma Wolitzer: An Available Man; David Wolman: The End of Money: Counterfeiters, Preachers,Techies, Dreamers—and the Coming Cashless Society; Stuart Woods: D.C. Dead; Taeun Yoo: You Are a Lion! And Other Fun Yoga Poses; Paul O. Zelinsky (illus.) (and Kelly Bingham, auth.): Z Is for Moose
When Is an Author Not an Author?

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203(a) allows termination only of licenses “executed by the author.”

Why is this a problem? Because in copyright terms, the “author” of a work is the owner of the copyright in that work. If your books were not “works made for hire,” then you, not the corporation, were the books’ legal “author.” And if you personally were the legal author, then the publishing contracts that you signed on behalf of the corporation, in which you represented and warranted to the publisher that the corporation owned the publishing rights, were not licenses “executed by the author” because they were grants to the publisher from the corporation, not from you person-
ally. (In that situation, the corporation was granting rights that it did not own; but to disavow those publishing contracts on the ground that the corporation did not have the right to enter into them would put you in the position of having breached the warranty that the corporation owned the rights.) Section 304(c), the provision for termination of licenses made before January 1, 1978, allows termination of licenses made by people other than the author but that section also would preclude termination of a license made by a corporation.

So, on the facts given at the beginning of this article, you could find yourself in a real catch-22: If all your books were works made for hire for your company, they are ineligible for termination on that account; but if they were not works made for hire, you still cannot terminate the publishing agreements because those agreements are not licenses “executed by the author.”

It is hard to believe that the drafters of the Copyright Act of 1976 intended this result for writers with Subchapter S corporations when they excluded works made for hire from the termination provisions. It makes sense to preclude a full-time Disney employee from claiming the copyrights to books that he wrote for Disney in the scope of his paid employment, or to preclude a freelance writer from claiming copyrights in contributions that she made to Disney projects under a negotiated work-for-hire contract that was fully executed. But an individual author who sets up a Subchapter S corporation does not fit into either of those paradigms. You are still an individual writer, writing on your own. You have simply arranged your affairs so that even though you are not working for a publishing or entertainment company, you can have certain tax benefits that otherwise are not available to individuals.

It also is probably fair to say that you had no idea that setting up the corporation could affect your termination rights, especially if you set up the corporation before the Copyright Act took effect in 1978, so it is not as though you knowingly jeopardized your termination rights and you are now just trying to avoid the impact of your earlier decision.

Unfortunately, whether or not the legal status quo is fair, there is neither any legislative history nor any judicial or administrative decision that offers a way around this conundrum.

The Copyright Office has indicated that it is looking into the issue, but whether it will decide to seek a solution may depend on how many authors—and other creators—actually have this problem. Any author who has a Subchapter S corporation should let the Guild know by contacting staff@authorsguild.org. In the meantime, you should consult your tax adviser about whether it is possible to structure payments you receive from your Subchapter S corporation other than as salary for writing books. Doing that may help to ensure that books you write in the future will be eligible for termination while preserving the benefits that a Subchapter S corporation offers.

Letters

Continued from page 2

about it, but that doesn’t excuse them from undercutting my market by offering their books for nothing. I have managed to make a living writing books for longer than I am willing to admit. Is my hope of continuing to do so to be destroyed by scabs who, out of vanity, will do anything to get published? Rather than commending these people as Mr. Turow has done, he ought to be doing what he can to stop the practice.

—James Lincoln Collier
New York
 Bulletin Board

Bulletin Board announces upcoming contests and prizes in all genres, in addition to fellowships and residencies. Because of the great number of potential listings, we provide only basic information here, and recommend that readers visit the websites of the journals or programs to read the detailed entry guidelines. Unless otherwise noted, dates provided are postmark deadlines.

**Awards and Fellowships**

Yaddo, the artists’ community, offers residencies of from two weeks to months that include room, board and studio. Artists may apply individually or as collaborative teams of two or three. There is no fee for residency. Application Fee: $30 (plus applicable fees for media uploads). Deadline: **August 1, 2012** (for residencies starting in late October through May of the following year). Visit yaddo.org/yaddo/Application Guidelines.shtml for details. Contact: The Corporation of Yaddo, PO Box 395, Union Avenue, Saratoga Springs, NY 12866. (518) 584-0746.

The MacDowell Colony provides time, space and an inspiring environment to artists of exceptional talent. A MacDowell Fellowship, or residency, consists of exclusive use of a studio, accommodations, and three prepared meals a day for up to eight weeks. There are no residency fees. Application fee: $30. Deadline: Rolling deadlines of January 15, April 15, and **September 15, 2012**. Visit macdowellcolony.org/apply.html for application guidelines. Contact: Admissions Director, The MacDowell Colony, 100 High Street, Peterborough, NH 03458.

The John Simon Guggenheim Memorial Foundation awards Writing Fellowships for six- to 12-month periods. Fellows may spend their grant funds in any manner they deem necessary to their work. Deadline: **mid-September 2012**. Visit gf.org/applicants/how-to-apply for application instructions. Contact: John Simon Guggenheim Memorial Foundation, Writing Fellowships, 90 Park Avenue, New York, NY 10016.

The Dorothy and Lewis B. Cullman Center for Scholars and Writers offers up to 15 annual fellowships to people whose work will benefit directly from access to the research collections at the Stephen A. Schwarzman Building at the New York Public Library. A Cullman Center Fellow receives a stipend of up to $65,000, an office, a computer, and full access to the library’s physical and electronic resources. Fellows work at the center during the fellowship term, which runs from September through May. Each fellow gives a talk on work-in-progress, and may be asked to take part in other programs at the NYPL. Deadline: **September 30, 2012**. Visit nypl.org for guidelines and to download the application form, to be posted in mid-June. Contact: The Cullman Center for Scholars and Writers, The New York Public Library, Stephen A. Schwarzman Building, Fifth Avenue and 42nd Street, Room 225, New York, NY 10018. (212) 930-0084; csx@nypl.org.

The Millay Colony for the Arts offers one-month residencies between the months of April and November. Residents get private rooms, studios and all meals. Application fee: $35. Deadline: **October 1, 2012**. Visit millaycolony.org/apply for application guidelines. Contact: Calliope Nicholas, Residency Director, The Millay Colony for the Arts, 454 East Hill Road, PO Box 3, Austerlitz, NY 12017. apply@millaycolony.org.

The American Antiquarian Society, a national research library and learned society of American history and culture, will award fellowships for historical research to writers and journalists whose goals are to produce imaginative, non-formulaic works dealing with pre-20th century American history, including historical fiction, poetry, nonfiction and drama. The stipend is $1,350 for fellows residing on campus (rent-free), and $1,850 for fellows residing off campus. At least three fellowships will be awarded for residencies of four weeks at the Society at any time during the calendar year. Deadline: **October 5, 2011**. Visit americanantiquarian.org/artistapply.htm for application guidelines. Contact: Creative and Performing Artists and Writers Fellowship, American Antiquarian Society, 185 Salisbury Street, Worcester, MA 01609.

The trustees of the Amy Lowell estate administer the annual Amy Lowell Poetry Traveling Scholarship, which awards a stipend of about $50,000 to an American-born poet to spend a year abroad. Deadline (for receipt, not postmark): **October 15, 2012**. Visit amylowell.org/instructions.htm for details and an application form. Send applications to F. Davis Dassori at amylowell@choate.com; for questions, call Laura Reidy, Manager, Trust Administration, (617) 248-5214. Contact: Choate, Hall & Stewart, Two International Place, Boston, MA 02110.

The Thornton Writer Residency provides a semester-long residency at Lynchburg College, including a stipend. It is awarded annually to a fiction writer for the fall term and a poet or creative nonfiction writer for the spring term. The residency includes housing,

Multiple Genres


The Missouri Review's annual Jeffrey E. Smith Editors' Prizes for fiction, poetry and nonfiction award $5,000 and publication in the magazine to three winners. Entry fee: $20. Deadline: October 1, 2012. Visit missourireview.com for guidelines, to download the entry form, or to submit online. Contact: Missouri Review Editors' Prize, 357 McReynolds Hall, University of Missouri, Columbia, MO 65211.

Bread Loaf’s Bakeless Literary Publication Prizes honor works of poetry, fiction, short fiction and creative nonfiction. Winners of the Bakeless Prizes will have their book-length manuscripts published by Graywolf Press. In addition, each winner will be awarded a fellowship to attend the Bread Loaf Writers’ Conference. Entry fee: $10. Visit middlebury.edu/blwc/bakeless_prize for eligibility rules and submission guidelines and deadlines. Contact: Jennifer Bates, Contest Coordinator, The Bakeless Contest, c/o Bread Loaf Writers’ Conference, Middlebury College, Middlebury VT 05753.

The Malahat Review invites entries from Canadian, American, and overseas authors for their annual Open Season Awards. Winners in three categories—poetry, short fiction, and creative nonfiction—receive a $1,000 prize and publication in the spring issue. Entry fee: $40. Deadline: November 1, 2012. Visit malahatreview.ca/contests/open_season/info.html for submission guidelines. Contact: The Malahat Review, Open Season Awards, University of Victoria, PO Box 1700, STN CSC, Victoria, BC V8W 2Y2, Canada.


Sycamore Review offers two prizes, the Wabash Prize for Nonfiction and the Wabash Prize for Poetry. The winner in each category will receive $1,000 and publication in the Winter/Spring 2013 issue. Entry fee: $15/submission. Deadline: November 1, 2012. For submission guidelines, visit sycamorereview.com/contest for full guidelines and access to the online submission manager. Contact: sycamore@purdue.edu or Sycamore Review, Purdue University, Department of English, 500 Oval Drive, West Lafayette, IN 47907.


Fiction

The Iowa Short Fiction and John Simmons Short Fiction Awards are open to any writer who has not previously published a volume of prose fiction. (Writers are still eligible if they have published a volume of poetry or any work in a language other than English.) Winning manuscripts will be published by the University of Iowa Press under the press’s standard contract. Deadline: September 30, 2012. Visit uiowawpress.org/authors/iowa-short-fiction.htm for submission guidelines. Contact: Iowa Short Fiction Award, Iowa Writers’ Workshop, 507 North Clinton Street, 102 Dey House, Iowa City, IA 52242.

Boston Review’s Aura Estrada Short Story Contest awards $1,500 and publication in Boston Review. Entry fee: $20. Deadline: October 1, 2012. Visit bostonreview.net/about/contest for submission guidelines and a link for online entry. Contact: Aura Estrada Short Story Contest, Boston Review, PO Box 425786, Cambridge, MA 02142.

The Calvino Prize is an annual fiction competition sponsored by the University of Louisville’s Creative Writing Program for outstanding pieces of fiction in the fabulist experimentalist style of Italo Calvino. The
winner receives $1,500 and publication in the Salt Hill journal (Syracuse University), as well as an invitation to read the winning entry, all expenses paid (within the continental U.S.), at the Louisville Conference on Literature and Culture Since 1900, held at the University of Louisville every February. Entry fee: $25. Visit louisville.edu/english/creative-writing/contests/calvino-guidelines.html for submission guidelines, and deadlines. Contact: The Calvino Prize, English Department, Room 315, Bingham Humanities Building, University of Louisville, Louisville, KY 40292.

The Kore Press Short Fiction Award offers a prize of $1,000 plus chapbook publication for a short story by a woman written in English. Submission timeline: October 1–October 31, 2012. (Kore Press also offers a First Book Award for Poetry. Entry fee: $20. Submission timeline: July 1–July 31, 2012.) Visit korepress.org/korepressshortfictionaward.htm for guidelines and a link to the online submission form. Kore Press accepts online submissions only. For more information, e-mail kore@korepress.org or call (520) 882-7542.

The Grub Street Book Prize is awarded to a writer outside New England who is publishing his or her second, third (or beyond) book. First books are not eligible. The 2013 Prize is for poetry. Writers whose primary residence is Massachusetts, Vermont, Maine, New Hampshire, Connecticut or Rhode Island are not eligible. The winner receives a $5,000 honorarium—increased from $1,000—as well as a reading and book party at Grub Street’s event space in downtown Boston. Entry fee: $10 (tax-deductible). Deadline: October 1, 2012. Visit grubstreet.org for application requirements. Contact: Grub Street, 160 Boylston Street, Boston, MA 02116. (617) 695-0075; info@grubstreet.org.

Yemassee, the literary journal of the University of South Carolina, presents the William Richey Short Story Contest, awarding $1,000 to an author of a work of short fiction of up to 10,000 words. Entry fee: $10. Deadline: December 15, 2012. Visit yemasseejournalonline.org/fiction_contest.html for details. Contact: Yemassee, William Richey Short Fiction Contest, Department of English, University of South Carolina, Columbia, SC 29208.

Poetry

The Robert Frost Foundation Poetry Award calls for submissions of “poems in the spirit of Robert Frost.” Poets may submit up to three poems of not more than three pages each. A $1,000 prize will be awarded. Entry fee: $10 per poem. Deadline: September 15, 2012. Visit frostfoundation.org/RobertFrost_Foundation/Award_Guidelines.html for more information. Contact: Mark Schorr, Poetry Award, The Robert Frost Foundation, Lawrence Public Library, 51 Lawrence Street, 3rd Floor, Lawrence, MA 01841. frostfoundation@comcast.net.

The winning manuscript of the annual May Swenson Poetry Award receives $1,000 and publication under a standard contract, including royalties. Entry fee: $25. Deadline: September 30, 2012. Visit ussu.edu/usupress/poetry_award for submission information. Contact: May Swenson Poetry Award, Utah State University Press, 3078 Old Main Hill, Logan, UT 84322-3078.

The Ledge Magazine’s Poetry Chapbook Competition will award $1,000 and 25 copies of a published chapbook to the winning manuscript. Entry fee: $18. Deadline: October 31, 2012. Visit theledgemagazine.com/Annual%20Contests.html for full guidelines and prizes with other deadlines. Contact: The Ledge 2012 Chapbook Competition, 40 Maple Avenue, Bellport, NY 11713.

The Perugia Press Prize, for a first or second book of poetry by a woman, awards $1,000 and publication. The poet must be a U.S. resident and have published no more than one book of poems. (Chapbooks and books in other genres do not count.) Entry fee: $25. Submission timeline: August 1–November 15, 2012. Visit perugiapress.com/contest.html for submission details. Contact: Perugia Press Prize, PO Box 60364, Florence, MA 01062.


The Alice James Poetry Cooperative offers two awards to poets at any stage of their careers: the Beatrice Hawley Award and the Kinereth Gensler Award (the latter is limited to entrants residing in New England, New York and New Jersey). The winner of each contest will receive $2,000 and publication by the cooperative and receives a cash prize of $2,000. Entry fee: $28. Deadlines: October 1, 2012, for the Kinereth Gensler Award, and December 1, 2012, for the Beatrice Hawley Award. Visit alicejames.submishly.com/submit for entry requirements. Contact: Alice James Books, 238 Main Street, Farmington, ME 04938.
pricing, and some critics argue that the lack of fixed book pricing in the U.S. has led to the current scarcity of independent bookstores and the demise of the Borders and B. Dalton bookstore chains.

Speaking of indie bookstores, best-selling author Martin Walker recently wrote an article discussing their cultural significance and recalling his experience giving readings at such stores throughout Europe.

"[P]eople of all ages, from teenagers with smartphones to retired folk with hearing aids, come together to attend and pay an entrance fee of $10 and more to do so," Mr. Walker wrote in an article for United Press International. "Those attending all seem to know each other, to love talking about books and literature . . . [T]he bookseller is seen to play an unusually strong cultural role in local life."

Mr. Walker also commented on how books should not be treated like other commodities.

"[B]ooks aren't packets of chips or bottles of ketchup," he wrote. "They are essential aspects of our culture and those who focus on price alone are like Oscar Wilde's people who 'know the price of everything and the value of nothing.'" ♦

MEMBERS MAKE NEWS

Rudolfo Anaya received the 2011 New Mexico Book Award in the Fiction and Adventure/Drama category for Randy Lopez Goes Home. The awards are sponsored by The New Mexico Book co-op and were announced at a banquet in November 2011, in Albuquerque. Anaya was also named “Best Writer” in the December 2011 issue of Albuquerque: The Magazine.


Maryka Biaggio received a La Belle Lettre Award for a novel excerpt in 2006 and a Kay Snow Award in Adult Fiction, sponsored by Willamette Writers, for a novel excerpt in 2005.

Annie Shapiro and the Clothing Workers Strike, by Marlene Targ Brill, was a 2011 Honor Book in the Social Studies/Grade K–6 Novels category from the Society of School Librarians.

Parody: The Art That Plays with Art, by Robert Chambers, was a runner-up in the Georgia Writers Association's 2010 Georgia Author of the Year Awards (GAYA), in the Book of the Year specialty nonfiction category.

Fur, Fortune, and Empire: The Epic History of the Fur Trade in America, by Eric Jay Dolin, received the 2011 James P. Hanlan Book Award from the New England

Annual Meeting

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and Thunder, and Americana. His most recent book, Hellhound On His Trail, is about the murder of Martin Luther King, Jr. and the international manhunt for assassin James Earl Ray. Mr. Sides lives in New Mexico with his wife Anne and their three sons.

The ballot also included a proposed amendment to the Guild’s constitution, which would expand the requirements for eligibility for new members to include those authors who have been published by publishers that are not considered “established” by the current constitution, but who earn sufficient writing income in that regard. The purpose of the expansion is to respond to the changing publishing environment by adding a new category based on income from writing, rather than the type of publisher or number of articles published. Mr. Aiken took questions about the amendment and clarified that the criteria would not affect existing members. The amendment passed with overwhelming support, along with the slate of council members.

After asking if there was any new business, Mr. Turow adjourned the meeting. ♦
Historical Association. The book also received the 2011 Best Book Award from the Outdoor Writers Association of America.

**John Dunphy**'s *Abolitionism and the Civil War in Southwest Illinois* was named one of the best books published in 2011 by the St. Louis Post-Dispatch.

Claire DeWitt and the City of the Dead, by Sara Gran, was nominated for the Hammett Prize. The prize is given annually to a work of literary excellence in the field of crime writing and is sponsored by the North American Branch of the International Association of Crime Writers. The winner will be announced at the Bloody Words Conference in Toronto in June.


Summer Hunger, by Judith Pacht, received the 2011 PEN Southwest Book Award for Poetry.

We Who Dared to Say No to War: American Antiwar Writing from 1812 to Now, by Murray Polner and Thomas Woods Jr., was a finalist for the Freedom Book Club's annual literary award.

**Barbara Ravage**'s article "Stroke Is a Family Affair," originally published in *PrimeTime Cape Cod*, received a Silver medal in the 20th annual National Mature Media Awards, in the Local/State Media, Single Article category.

**Adele Scheele** received *The Los Angeles Business Journal*'s "Women Who Make A Difference" Award, Women & Communication's "Best Presenter" Award, and the American Society Of Training & Development's "Best Presenter" Award.

Fort Mose and The Story of the Man Who Built the First Free Black Settlement in Colonial America, by Glennette Tilley Turner, was the Society of Children's Book Writers and Illustrators' 2011 Golden Kite Honor Book and is included on the National Council for the Social Studies' list of Notable Social Studies Trade Books for Young People. The book was also named an Editor’s Choice by *Booklist*, as one of 10 great black history titles from 2011, and was included in *Book Links* magazine's list of the top 15 multicultural nonfiction books of 2011.

Won Ton: A Cat Tale Told in Haiku, by Lee Wardlaw, received several awards in 2011 and 2012: Lee Bennett Hopkins Poetry Award, NCTE/CLA Notable Children's Books in the English Language, ALA/ASLC Notable Children's Books, CCBC Choices, Librarians' Choices, AISLE Read-Aloud Books Too Good to Miss, Best Children's Book at the Los Angeles Book Festival, School Library Journal Best Books of the Year, Washington Post Best Children's Books of the Year, Forward National Literature Award (Picture Books), CWA Muse Medallion for Best Children's Book, Fancy Feast/Purina 'Love Story' Award, and it was named one of the New York Public Library Best Books of the Year.
Censorship Watch

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the local schools by targeting any course material in which “race, ethnicity and oppression are central themes.” The scope of the state’s prohibition is so broad that even a work such as Shakespeare’s The Tempest could be caught up in its net.

According to Richard Martinez, an attorney for the teachers and students involved in Tucson’s Mexican American Studies program, the curriculum was developed and implemented more than 10 years ago and it has demonstrably enriched the education of Tucson’s students, more than 60 percent of whom are Latino. During an interview with Democracy Now!, Martinez said the suspension is the latest expression of “the anti-Latino perspective that exists in this state.”

Publishing’s Ecosystem on the Brink

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Jeff Bezos’s company became more powerful, however, it changed. “The question is, do you wear your power lightly? . . . Mr. Bezos has not. He is reckless. He is dangerous.”

The head of a small publishing house in Manhattan, Lynn reports, was even more blunt:

“Amazon is a bully,” he said, his voice rising, his cheeks flushing. “Anyone who gets that powerful can push people around, and Amazon pushes people around. They do not exercise their power responsibly.”

Neither man allowed me to use his name. Amazon, they made clear, had long since accumulated sufficient influence over their business to ensure that even these most dedicated defenders of the book—and of the First Amendment—dare not speak openly of the company’s predations.

Lynn then turns to Amazon’s blackout of Macmillan’s buy buttons, just over two years ago:

At the time, Amazon and Macmillan were scrapping over which firm would set the price for Macmillan’s e-books. Amazon wanted to price every Macmillan e-book, and indeed every e-book of every publisher, at $9.99 or less. This scorched-earth tactic, which guaranteed that Amazon lost money on many of the e-books it sold, was designed to cement the online retailer’s dominance in the nascent market. It also had the effect of persuading customers that this deeply discounted price, which publishers considered ruinously low, was the “natural” one for an e-book.

In January 2010, Macmillan at last claimed the right to set the price for each of its own products as it alone saw fit. Amazon resisted this arrangement, known in publishing as the “agency model.” When the two companies deadlocked, Amazon simply turned off the buttons that allowed customers to order Macmillan titles, in both their print and their e-book versions. The reasoning was obvious: The sudden loss of sales, which could amount to a sizable fraction of Macmillan’s total revenue, would soon bring the publisher to heel.

This was not the first time Amazon had used this stratagem. The retailer’s executives had previously cut off small firms such as Ten Speed Press and Melville House Publishing for bucking their will. But the fight with Macmillan was by far the most public of these showdowns.

In the late 1970s, when a single book retailer first captured a 10 percent share of the U.S. market, Congress and the regulatory agencies were swift to react. As the head of the Federal Trade Commission put it: “The First Amendment protects us from the chilling shadow of government interference with the media. But are there comparable dangers if other powerful economic or political institutions assume control . . . ?”

Today . . . a single private company has captured the ability to dictate terms to the people who publish our books, and hence to the people who write and read our books. It does so by employing the most blatant forms of predatory pricing to destroy its retail competitors. . . . [It] justifies its exercise of raw power in the same way our economic autocrats always do: It claims that the resulting “efficiencies” will serve the interests of the consumer.

The book industry is in play, and has been for a while. The good news is that people are finally starting to pay attention.
The first sale doctrine is that while Section 602 grants copyright holders broad control over the circumstances in which their copyrighted material can be imported, the first sale doctrine limits a copyright holder’s control of a particular copy after its initial sale. The Supreme Court first addressed the interplay between these two potentially conflicting provisions in the 1998 case Quality King Distributors v. L’anza Research International. L’anza manufactured hair products in the U.S. and then sold them both domestically and internationally. However, L’anza sold its products to its international distributors at a 35 to 40 percent discount. Quality King had been purchasing L’anza’s products from one of these foreign distributors and then re-importing the products for domestic re-sale. The Court heard the case to decide whether the first sale doctrine applies to imported objects. The Court decided in favor of Quality King, holding that the first sale doctrine effectively limits the controls granted to copyright holders by Section 602.

Kirtsaeng attempted to use this precedent to his advantage, but the Second Circuit was quick to note an essential difference between the two cases: in Quality King, the goods in question were manufactured in the United States, while in the present case Wiley had manufactured the books abroad. Also, in Quality King, Justice Ginsburg issued a concurring opinion explaining that the decision does not “resolve cases in which the allegedly infringing imports were manufactured abroad.”

Moreover, regarding the issue of when copies should be considered “lawfully made” under the Copyright Act, the Quality King opinion considered a hypothetical case quite similar to Kirtsaeng’s: if an author granted exclusive United States distribution rights to the publisher of the United States edition, and also granted exclusive foreign distribution rights to the publisher of a foreign edition, “presumably only [the copies] made by the publisher of the U.S. edition would be ‘lawfully made’” within the meaning of the first sale doctrine. The Court added that “the first sale doctrine would not provide the publisher of the British edition who decided to sell in the American market with a defense.”

The Court heard oral argument in 2010 on another case considering the question, but with Justice Kagan recused, the Court was divided and ended up affirming the Ninth Circuit’s holding that the first sale doctrine does not apply to items manufactured outside the United States unless imported and sold with the copyright holder’s permission. So Quality King provides the extent of Supreme Court guidance on the question. Accordingly, the Second Circuit’s analysis of whether the first sale doctrine applies to works manufactured outside the United States would rely on the text of the first sale doctrine as codified in Section 109, the overall structure of the Copyright Act, and the Supreme Court’s decision in Quality King.

As discussed above, Kirtsaeng could only use the first sale defense if he could establish that Wiley’s foreign editions were lawfully made under the Copyright Act. Wiley argued that they were not: the fact that the Copyright Act is a law applying only to the United States, Wiley argued, favors reading “lawfully made under the Copyright Act” as “lawfully made in the United States.” The Second Circuit agreed that this was a plausible reading of the statute, but not more plausible than an alternate reading that would work in Kirtsaeng’s favor. The phrase “lawfully made under the Copyright Act,” Kirtsaeng argued, could just as plausibly mean “any work that is subject to protection under [the Copyright Act].” Since in some circumstances the Copyright Act does protect works of foreign origin, the Second Circuit concluded it was dealing with an ambiguous statute, and moved on to consider the first sale doctrine’s place in the overall structure of the Copyright Act, particularly its interaction with Section 602.

The Second Circuit concluded that the first sale doctrine is best interpreted as applying only to copies manufactured domestically. This interpretation ensures that both the first sale doctrine and Section 602 retain their full force and applicability. The holding was based on a theory that Section 602, by providing copyright holders with control over the importation of their copyrighted works, is intended to allow copyright holders “some flexibility to divide or treat differently the international and domestic markets” for their works.

If the first sale doctrine applies only to domestically-manufactured copies, the court reasoned, “copyright holders would still have a free hand . . . to control the circumstances in which copies manufactured abroad could be legally imported into the United States.” On the other hand, if the first sale doctrine were to be interpreted to apply to copies manufactured abroad, Section 602 “would have no force in the vast majority of cases.” So, the court held, “lawfully made under [the Copyright Act]” refers specifically and exclusively to copies that are made in territories in which the Copyright Act is law, and not to foreign-manufactured works.”

The Second Circuit then pointed out that this hold-
ing is consistent with the Supreme Court's holding and the hypothetical it discussed in Quality King. The Second Circuit's holding brings it into alignment with the Ninth's Circuit's well-established treatment of the same issue. With the nation's two leading copyright circuits in agreement, it is unlikely the Supreme Court will revisit the issue anytime soon.

In holding for Wiley in this case, it seems the Second Circuit was persuaded at least in part by what it viewed as Kirtsaeng's taking unfair advantage of the price gap between domestic and foreign editions. Events at trial showed Kirtsaeng's PayPal account saw between $900,000 and $1.2 million in revenue.

But beyond the facts of the case, the Second Circuit's decision in Wiley v. Kirtsaeng brings up considerable issues of public policy. One might argue, as Kirtsaeng did on appeal, that this holding provides an incentive to publishing companies to outsource their manufacturing activities to foreign locations. Publishers could then import copies—with the permission of authors—for U.S. sale. Any consumer wishing to resell his copies in the domestic market (to a used book shop, for example) would be infringing on the distribution right and could not use the first sale doctrine as a defense. The Second Circuit justified its decision on statutory grounds and did not much dwell on this policy argument. Nonetheless, it bears consideration.

It seems unlikely that publishers would undertake such a drastic change of practice. For one, it would involve accusing its customer base of illegal activity. As we have seen in recent years, the music industry did not shy away from militating against its clients. But that litigation was largely based on the development and large-scale exploitation of unforeseen technologies. To compare used bookstores to Napster would be futile. On a related note, the first sale doctrine has been established for more than a century. Any attempt on the part of publishers to make an end-run around it would likely meet with severe resistance from the courts and, eventually, Congress.

What seems clear, however, now that the nation's two leading copyright circuits have spoken on the issue, is that the first sale doctrine does not apply to goods produced outside of the United States.

—Ryan Fox
Legal Intern

**Nowhere to Hide**

*Alvin Gore White Jr. v. Lawrence County Jail and Corrections Officer Larry McConohay*

*U.S. District Court for Western District of Pennsylvania*

On November 17, 2010, at around 7:30 p.m., Lawrence County Jail block guard Officer David Martino fell asleep at his desk while manning his post. Relieving Officer Larry McConohay used his cellphone to film Officer Martino sleeping. Officer McConohay then turned and started filming inmate Alvin Gore White Jr., who was incarcerated on C-block at the time, without his consent. Officer McConohay subsequently uploaded the video to YouTube.com.

White filed a lawsuit against the Lawrence County Jail and Officer McConohay in particular, alleging that they had both violated his civil rights, without actually specifying which rights were violated in his complaint, and chose to represent himself in court. In his complaint, White alleged that jail administrators were aware that McConohay posted the video to YouTube and that jail officials required him to give a written account of the events. White further alleged that jail officials had told him that his civil rights had been violated and that Officer McConohay was either suspended or fired for his actions. Finally White claimed he had “mental issues” following the YouTube posting and asked for one million dollars in damages. Both defendants made motions to dismiss, alleging that White failed to plead a cognizable constitutional violation of his civil rights. The defendants also alleged that the

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**Legal Services Scorecard**

From November 24, 2011 through April 1, 2012, the Authors Guild Legal Service Department handled 452 legal inquiries. Included were:

- 63 book contract reviews
- 14 agency contract reviews
- 20 reversion of rights inquiries
- 29 inquiries on copyright law, including infringement, registration, duration and fair use
- 23 inquiries regarding securing permissions and privacy releases
- 54 electronic rights inquiries
- 249 other inquiries, including literary estates, contract disputes, periodical and multimedia contracts, movie and television options, Internet piracy, liability insurance, finding an agent, and attorney referrals
Lawrence County Jail was not a proper defendant and that White failed to plead sufficient facts to establish municipal liability with respect to both Lawrence County and any official capacity claim he asserted against Officer McConohay.

In regard to White’s civil rights claim, the U.S. District Court for Western District of Pennsylvania noted that since White was representing himself and did not have legal counsel, it was obligated to determine what possible claims could be asserted by him against the defendants as civil rights violations. Reading the complaint liberally, the court held that there were two potential constitutional sources on which he could base his §1983 civil rights claim: the Fourth Amendment right of privacy and the Fourteenth Amendment right of privacy. In this case, the court immediately dismissed the Fourth Amendment possibility since an incarcerated person such as White has no right of privacy as a prisoner.

In regard to the Fourteenth Amendment right of privacy, the court pointed out that the Supreme Court had articulated two types of privacy interests under the 14th Amendment. The first is the “individual interest in avoiding disclosure of personal matters”; the second is the “interest in independence in making certain kinds of important decisions.” The court noted that only the former interest applied in White’s case. In this regard, the court looked to past legal precedent, which dictated that “the constitutional right of privacy is not the same as the common law recognized by state tort law. Only the most intimate phases of personal life are constitutionally protected.” Accordingly, the court held that White’s incarceration is a matter of public record, and not an intimate fact about the plaintiff’s personal life. Therefore, the court found, White’s claim necessarily failed, since no constitutionally protected matters were disclosed with the video of him in prison.

The court next dismissed White’s civil rights violation claim against the Lawrence County Jail. Since the jail itself is not a person, but a building, the court determined that it is not the proper subject of a lawsuit.

The court also dismissed White’s case against Officer McConohay, pointing out that White had not specified whether he was suing McConohay in his official or individual capacity. Official capacity claims are a means by which a plaintiff can sue a municipality of which an officer of the law is an agent. Assuming that White sought to hold McConohay liable in his official capacity, the court found that the proper party to sue would have been Lawrence County. Based on past legal precedent, however, the court held that a local government cannot be sued under § 1983 for an injury inflicted solely by a municipality’s employees or agents. Rather, a municipality may be held liable only when a “policy” or “custom,” whether made by a municipality’s lawmaker or other official(s), directly inflicts an injury on the plaintiff. The court also found that the mere identification of a policy or custom is not enough to establish liability. Rather, the court held that White must show a direct causal link between the policy and the constitutional violation of White’s civil rights. The court pointed out that even if White were allowed to amend his complaint to include Lawrence County as a defendant, the complaint would still be subject to dismissal because he could not demonstrate that a county policy or custom was the moving force behind his alleged civil rights violation, as no official county policy or custom had led to White being videotaped by Officer McConohay. In fact, the court pointed out, the officer actually broke jail policy by using his cellphone to videotape on the premises of the jail and was subsequently reprimanded for his actions.

Finally, the court rejected White’s claim that the Lawrence County Jail is responsible for the actions of its employees on the grounds that legal precedent prevents municipalities and local governments from being held liable on doctrines of respondent superior or vicarious liability. Again, the court held that such liability exists only “when execution of a government’s policy or custom . . . inflicts injury.” Ultimately, the court granted the defendants’ motions to dismiss because White failed to plead sufficient facts to establish a valid claim against any of them.

—Michael Gross
Staff Attorney
Opening Lines

Continued from page 13

past January, Wayward Saints was published by Hyperion emblazoned with praise from the likes of Meg Wolitzer and Jane Hamilton.

"It was shocking. It was just so fast—I don’t think any of us expected that," Roche says now. "But that’s how things went with music too. It all happened almost before I was ready. Our stuff for some reason caught on. And we were always in situations we weren’t quite ready for." Then she laughs. "Although I’m 55. If I’m not ready now, then that’s my own fault."

Even more jarring than its speed, as Roche describes it, has been the solo nature of the experience. "I had so much privacy as I wrote the book. Working with The Roches required an enormous amount of togetherness. We spent so much time working on the music, then on the road, always banging ideas off each other and working them out together. Working on a book is such a solitary pursuit. Then it sold, and now it’s out there. It’s completely me, and that’s daunting."

Of course, the risks and rewards of sole authorship become more familiar to any writer as a career progresses, and with her illustrated children’s book, Want to Be in a Band?, due out from Random House next January, Roche is likely to grow more comfortable on stage alone. But not quite yet. Encouraged to celebrate the launch of Wayward Saints with a traditional book party starring her, Roche opted instead to put together a night of music and spoken word, combining readings and songs with authors and musicians who had inspired her during the writing of the book.

"I wanted to do something together with other artists," she explains, retreating happily, for the moment, into the harmony of the choir.
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